
New Perspectives from the Oldest Profession: Abuse and the Legal Consciousness of Sex Workers in China

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Although prostitution is illegal, millions of women sell sex in China. In the process, they experience significant abuse and harm at the hands of clients, madams, pimps, the police, and health officials. This article examines the legal consciousness of Chinese sex workers through their interpretations of these abusive experiences. It reveals how they think and talk about them, and how their reactions sometimes translate into concrete actions. My evidence shows that sex workers name abuse as harmful, blame others for it, and occasionally make claims. They also have strong opinions about prostitution policies, and the relationship between these regulations and their experiences of abuse. These findings place scope conditions on previous theories of marginalized people and the law, which suggest that powerless individuals perceive a more peripheral role of the law in their lives. In addition, this evidence enriches our understanding of legal consciousness in China by showing how debates around the concept apply more broadly than previously recognized.

Although prostitution is illegal, millions of women sell sex in China. They experience significant abuse and harm in the process. Madams and pimps coerce them into prostitution. Clients rape and murder them. The police extort bribes from them, and beat them in detention. Government health workers forcibly draw their blood for HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome) testing. This article examines the legal consciousness of Chinese sex workers through their interpretations of

I am indebted to the women who shared their stories with me for this project, and to my research partners in China who facilitated access to them. Jon Goldberg-Hiller, David T. Johnson, and four reviewers provided feedback that improved this article in important ways. I am grateful for thoughtful suggestions from Sarah Boittin, Jennifer A. Choo, Jordan Gans-Morse, Matt Grossmann, Miguel de Figueiredo, Rongbin Han, Robert M. Kagan, Amalia D. Kessler, Kevin J. O'Brien, Seung-Youn Oh, Deborah L. Rhode, Rachel E. Stern, Christopher Sullivan, Steven K. Vogel, and Toni Wang. I also wish to thank participants at the 2012 Workshop on Human Trafficking at the University of Goettingen, the 2012 Berkeley-Stanford Contemporary China Network Meeting, and the 2011 Law and Society Association Meeting for commenting on earlier versions of this article. The Charlotte W. Newcombe Doctoral Dissertation Fellowship and the National Science Foundation provided financial support for this article.

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Law & Society Review, Volume 47, Number 2 (2013)

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these abusive experiences. It reveals how they think and talk about them, and how their reactions sometimes translate into concrete actions. My evidence shows that sex workers in China name abuse as harmful, blame others for it, and occasionally make claims. They also have strong opinions about prostitution policies, and the relationship between these regulations and experiences of abuse. The theoretical contributions of this research are twofold. First, the findings place scope conditions on previous theories of marginalized people and the law, which suggest that powerless individuals perceive a more peripheral role of the law in their lives. Second, this evidence enriches our understanding of legal consciousness in China by showing that the concept is of broader relevance in the country than previously recognized. I identify how it manifests itself in ways, and among people, that others have not considered.

In keeping with earlier research, I understand legal consciousness as “thoughts, feelings and behaviors with respect to the law” (Levine & Mellema 2001: 173), and use the concept “broadly to describe the importation of legal principles into everyday life and the transformation that occurs as individuals move toward an understanding of events or experiences as injurious and deserving of redress” (Hirsh & Lyons 2010: 271). This transformation does not require individuals to “interpret their experience as unequivocally unlawful” (Hirsh & Lyons 2010: 271). Instead, it “may also involve moral consciousness or the application of an ‘injustice frame,’ both of which recognize that a particular experience or condition violates some moral if not legal principle” (Hirsh & Lyons 2010: 271).

Marginalized People and Legal Consciousness

In response to abuse, Chinese sex workers talk, think, and act in ways that place limits on the universality of theories on marginalized people and the law. Previous research on marginalized individuals predicts that when they are victims of injustice, they are unlikely to perceive the experience as unjust, attribute blame to those who are responsible, or make claims for redress. Felstiner et al. (1980) penned this process of dispute formation “naming, blaming, and claiming.” Individuals “name” a grievance when they redefine “as unjust or unfair those conditions or practices previously seen as acceptable or tolerable” (Levitsky 2008: 557). They “blame” people for it when they identify others as responsible for their experiences of injustice. These targets must be specific individuals or groups, rather than abstract and impersonal entities, such as “God” or “society” (Levitsky 2008). They “claim” when they specify “some course of action to ameliorate the perceived harm” (Levitsky 2008: 558). The types of resources available to individuals

seeking to make claims include “social movement collective action frames and existing legal remedies” (Levitsky 2008: 558). This research perceives the process of dispute formation as a pyramid. Individuals do not always identify harmful experiences as a grievance. When they do, only a subset will proceed to hold others responsible. Even fewer will take action to seek redress. Challenges to climbing the dispute pyramid include self-blame, as “[p]eople who blame themselves for an experience are less likely to see it as injurious, or, having so perceived it, to voice a grievance about it” (Felstiner et al. 1980: 641). Fear of retaliation and a belief in the futility of complaining also act as obstacles (Bumiller 1988; Merry 1990). In addition, an “ethic of survival” (Bumiller 1988) and a “cult of competence” (Felstiner et al. 1980: 652) may lead individuals to reject victimhood. These are all barriers that marginalized people are likely to experience to a greater extent than ordinary citizens.

Previous research on the legal consciousness of marginalized people also notes that they rarely consider the law as a tool that could improve their situation. In her research on how members of different social groups react to offensive public speech, Nielsen (2004a: 98) observes the “profound harm” that targeted individuals feel in response to it, and even those subjects who do not experience it regularly consider it a “serious social problem.” However, both of these groups nevertheless “often oppose [its] legal regulation” (Nielsen 2004a: 98). Nielsen (2004a: 173) mentions that her findings corroborate those of Ewick and Silbey, who note that powerless individuals are more likely to display an “against the law” dimension of legal consciousness. In this orientation toward the law, “legality is characterized as something to be avoided. Because it is a product of arbitrary power, legality is seen as capricious and thus dangerous to invoke. Rather than conditionally appropriate or useful, in this form of consciousness, legality is condemned” (Ewick & Silbey 1998: 192).

In some ways, Chinese sex workers react to abuse in ways that confirm these findings: they do occasionally blame themselves, express resignation, or reject victimhood. Yet, they also talk, think, and act in ways that previous theories would not predict. They are extremely aware of the injustice of the abuse they experience, and are quick to identify the perpetrators as responsible. They have strong opinions about whether legalizing prostitution would improve or worsen the abuse they experience. They have even occasionally engaged in collective action protests. These findings place scope conditions on previous theories of how marginalized people relate to the law, and suggest the importance of considering that individuals may not all be marginalized in the same ways. A marginalized person who is a lawbreaker, or is engaging in morally questionable behavior, may think differently about the law than one

who is an upstanding citizen. One who is the victim of extreme amounts of abuse may not approach legality in the same way as one who experiences more subtle forms of injustice. Distinct political contexts—living in a democratic or authoritarian regime—could also shape the legal consciousness of marginalized citizens in different ways. Different facets of marginalization, and the environment in which it is experienced, are important to consider when thinking about how the powerless relate to the law.

Legal Consciousness in China

My findings also enrich our theoretical understanding of legal consciousness in China. They show that the concept is more relevant in the country than previously recognized. It manifests itself in places, and among populations, where other scholars have not sought it out. In addition, when sex workers make claims, they do so in ways that speak to a recent debate on rules and rights consciousness in China (Li 2010; Lorentzen & Scoggins 2011; O'Brien 2012; Perry 2007, 2008, 2009, 2010).

Previous China scholars have reflected upon legal consciousness mainly as it manifests itself among individuals who are directly engaging the law in reaction to perceived wrongdoing, either through litigation (Gallagher 2005, 2006; Michelson 2006; O'Brien & Li 2004), petitioning (Minzner 2006; Thireau & Hua 2005), or collective action (Michelson 2008; O'Brien & Li 2006). Instead, I import approaches to understanding how people relate to the law developed in sociolegal research in the United States starting in the 1980s, which recognize the importance of looking outside of the official justice system in order to provide a comprehensive picture of the roles law plays in society. As Felstiner et al. (1980: 631) note, “[t]he emergence and transformation of disputes, especially before they enter formal legal institutions, is a neglected topic in the sociology of law.” Researchers began exploring how ordinary citizens experienced and understood the law (Silbey 2005: 326). Ewick and Silbey (1998) developed a typology of legal consciousness as part of this effort based on interviews that aimed to explore the “common place of law” in the daily lives of individuals. Adapting the dispute pyramid metaphor, Silbey (2005: 332–35) notes that “law and society research has demonstrated that a trial is merely the tip of a giant iceberg of matters that are shaped and interpreted through law” (Silbey 2005: 332), and that “the study of legal consciousness developed in law and society research as an explicit effort to explore the submerged iceberg.” Nielsen, whose research on harassment is part of this effort, calls upon scholars to “continue to analyze rights in social context(s), not just in formal legal institutions. Scholars of rights must continue to go to these social

settings to examine the competing formal and informal systems, institutions, and claims that define rights and produce or minimize their social effects” (Nielsen 2004b).

In keeping with this approach, most of the evidence presented here involves how sex workers think and talk in response to abuse. It would go unnoticed by scholars of legal consciousness focused on specific actions that demonstrate how individuals relate to the law. Yet, one reason the concept of legal consciousness is important to study is due to its “potential for transforming the status quo . . . The hope is that if consciousness of ordinary citizens can be raised, it can transform an unjust social order. The study of legal consciousness fundamentally is the study of what comes before the political opportunities . . . that can lead to powerful social movements” (Nielsen 2004a: 178). These possible links to political change are of particular relevance to observers of China, interested in reflecting upon ties between increased invocation of the law among the citizenry, and more general challenges to the political system. It is thus important to understand the characteristics of legal consciousness in contexts other than actual claims.

I also identify how a previously overlooked type of Chinese citizen relates to the law. Earlier research on legal consciousness in China has examined a variety of different actors. Their grievances might pose a challenge to the state, yet in their daily lives these individuals are otherwise upstanding citizens, such as workers (Gallagher 2005; Michelson 2006; Wong 2011) or peasants (Michelson 2007, 2008; O’Brien & Li 2004, 2006). When the state encourages citizens to “use the law as a weapon” (Gallagher 2005), these are the types of people it has in mind. In contrast, sex workers are the dregs of Chinese society. As lawbreakers, women, and migrants, they are among the weakest and most powerless in the country, and are marginalized on moral, political, and ideological grounds. While workers and peasants form the Party’s bedrock of legitimacy, sex workers represent what it stands against. By providing evidence of this population in various stages of dispute formation, I pull back a curtain to reveal a different type of individual in China who is engaging with the law. Studying workers seeking legal aid assistance, Gallagher (2006: 810) notes that they are “distinct from the general population,” in that they “are part of a small, but increasing, number of Chinese workers who invoke the law.” My findings suggest that number is larger than previously understood.

My findings also enrich our theoretical understanding of legal consciousness in China by contributing to a debate on rules and rights consciousness that has recently emerged among scholars seeking to characterize protests in the country. Some view these protests as evidence of a “nascent rights consciousness” (Li 2010: 47),

which could “evolve into a more far-reaching counterhegemonic project” (Li & O’Brien 1996) (cited in Li 2010: 48), and precipitate “a fundamental breakthrough in state-society relations” (Goldman 2007: 71) (cited in Li 2010: 48). Others understand them as evidence of a “historically-familiar” rules consciousness that “implies a demand to preempt or halt abusive rule-enforcement, but . . . involves no challenge to the legitimacy of existing rules, no demand for rule change or new rules” (Li 2010: 50). Actual claims are a limited aspect of how Chinese sex workers exhibit their consciousness of the law. However, when they have occurred, they illustrate the presence of rights consciousness among this population.

The remainder of this article proceeds as follows. First, I provide background on prostitution in China, and my data collection. I then discuss how sex workers name and blame through their testimonies of abuse. Sex workers describe the incidents and the perpetrators, and also provide thoughtful explanations for why these experiences are unfair: they emphasize their identities as human beings who have rights independent of any involvement in an illegal activity; and they underscore their contributions, as sex workers, to China’s economic growth and its social and political stability. Next, I discuss the ways in which sex workers also talk and think about abuse in more predictable ways, when they blame themselves, express resignation, or reject the notion of victimhood. In addition, I show how these experiences inform sex workers’ attitudes toward prostitution policies, leading them to either support current criminalization policies or advocate for legalizing sex work. I then describe instances during which sex workers opposed to current policies have chosen to make public collective action claims against them. I conclude with a discussion of the implications of my findings.

Prostitution in China

When the Communist Party took over in 1949, it sought to eliminate prostitution, a phenomenon viewed as an incarnation of market capitalism and Western decadence. By the late 1950s, local governments were announcing that prostitution had been eradicated (Hershatter 1997: 304). Historians of the period generally agree that visible prostitution greatly diminished (Henriot 2001; Hershatter 1997). With market reforms in the late 1970s, the phenomenon reemerged rapidly. By some estimates, as many as 20 million women now work in the sex industry (Bell 2007).¹

¹ While men also sell sex in China, this article focuses on female sex workers.

Sex workers span all social classes, from poor migrants earning less than \$1 per transaction, to elite escorts, university students, and kept women who receive thousands of dollars in payments and gifts. In the lowest tiers, they solicit in public spaces such as streets, parks, and worksites. At mid and high levels, they work in hair and beauty salons, bathhouses, saunas, hotels, karaoke bars, dance halls, and restaurants (Pan 1999). In most settings, these women work for pimps or madams. In situations of extreme coercion, most or all earnings might go to these gatekeepers—one interviewee brought in about 10,000 yuan (US\$1,500) a month, but could only keep 500 yuan (US\$75). Setting aside such instances, gatekeepers generally take 10–30 percent of the earnings.

Clients also come from a range of backgrounds. Some are rural migrants. Others are urban businessmen and government officials: networking in China occurs largely in karaoke clubs and other entertainment establishments with hostesses, and frequently involves eating, drinking, dancing, as well as the purchase of sexual services (Uretsky 2008). While a 2006 national survey notes that 6.9 percent of Chinese men aged 18–49 reported purchasing sex at least once in their lifetime (Pan et al. 2011: 1213), the sensitivity of this behavior could have resulted in significant amounts of underreporting.

As entertainment venues are central to professional relationship building, prostitution lies at the heart of an industry that generates significant amounts of revenue for the local economy. Clients purchase sex, but they also pay entertainment venue fees, and purchase food and drink. A vibrant sex industry can help attract investment to an area. For example, in the late 1990s, Taiwanese and Hong Kong businessmen with factories in Zhuhai were said to have threatened to redirect their business elsewhere after the local government shut down its red light districts.² Local authorities quickly allowed the sex industry to return (175). Others have reported similar incidents elsewhere (Zheng 2009: 72). Sex workers also contribute to the local economy. Following a crack-down on red light districts in 1996 in Taiyuan, it was reported that the local economy took a plunge as sex workers concurrently withdrew a total of 400 million yuan (US\$61 million) in savings (Bell 2007). One study referenced reports that the industry based on prostitution contributed about 12 percent to the country's gross domestic product (GDP) in 1998 and 1999 (Zheng 2009: 66). An economist calculated that China's GDP dropped by 1 percent when new regulations in 1999 placed strict controls on entertainment

² "Red light district" (红灯区) is used in this article to refer to areas with high concentrations of prostitution. My use of the term is consistent with that of Chinese and foreign scholars of prostitution in China (Pan 2000; Zheng 2009: 1).

venues that often harbor prostitution (Zhong 2000). Although the accuracy of these estimates cannot be confirmed, they provide a general sense of the overall importance of the sex industry to China's economy (Jeffreys 2012: 4).

The selling and purchase of sex in China is usually subject to administrative penalties, set forth in the 2006 Public Security Administrative Punishment Law, and the 1991 Decision of the Standing Committee of the National People's Congress on Strict Prohibition Against Prostitution and Whoring.³ According to these regulations, sex workers and clients may be fined between 500 yuan and 5,000 yuan (US\$75–US\$750), and/or subject to administrative detention for 5–15 days. They may also be sentenced to reform through education detention for 6 months to 2 years. Repeat offenders may be sentenced to reeducation through labor for up to 3 years (Fu & Choy 2009: 191; Jeffreys 2004: 140). The specific circumstances and gravity of each case determine the chosen sanction (Jeffreys 2004: 140). In practice, the police have significant amounts of discretion in selecting which penalties to apply (Fu & Choy 2009: 193).

Criminal sanctions apply if someone sells or buys sex knowing that they have a serious sexually transmitted disease. They can be imprisoned for 5 years, and fined. A client who purchases sex from a girl under the age of 14 can be fined and imprisoned for at least 5 years. Individuals who organize prostitution can be fined, imprisoned, or sentenced to death.⁴

Accurate enforcement data are unavailable. Official data from China's statistical yearbooks report an annual average of 187,441 cases for "prostitution and going whoring" from 1997 to 2006. These numbers likely underestimate how much enforcement actually occurs (Jeffreys 2004: 97). Fines are applied most frequently, as they help resolve local police budgetary shortfalls. Incarceration appears increasingly uncommon. It is applied to sex workers, who are less able to afford fines, more often than clients (Fu & Choy 2009: 194).

Sex workers are also targeted for government health policies. Sexual transmission has become the most prevalent mode of HIV/AIDS infection in China (Rou et al. 2010). Sex workers and clients are considered vectors that spread the disease to the general population. While official data report that .5 percent of sex workers nationwide are HIV positive, other studies place infection rates as high as 10 percent in some areas (Kaufman et al. 2006: 6). In order

³ These are official Chinese government translations.

⁴ See Articles 358–360 of the 1997 Revision of the Criminal Law of the People's Republic of China.

to monitor and curb spread of the disease, health officials conduct HIV/AIDS testing and safe-sex education programs within sex worker populations.

Data Collection

The analysis presented here is based on data gathered as part of 18 months of field research in red light districts in cities including Beijing, Guangzhou, and Shenzhen from 2008 to 2010. I engaged in participant observation in these neighborhoods. I also carried out over 200 in-depth interviews with sex workers, madams, pimps, clients, police officers, health workers, and other government officials.

In one district, I lived in a hotel that catered mainly to sex workers and clients. I befriended one madam who was an established member of the sex work community. She took me under her wing, and we would frequently stroll around the neighborhood together. These walks signaled to other neighborhood players that I was trustworthy; they also enhanced her status as someone with foreign connections. She ran a small brothel out of her three-bedroom apartment, and allowed me to spend time there, talking with sex workers and clients before and after sexual transactions. As a white foreigner, I occasionally had to correct assumptions that I was a Russian sex worker, although there were no other non-Chinese sex workers in that neighborhood. In another red light district, I became a familiar figure by carrying out health outreach activities. With the support of a local health organization, my research assistants and I distributed health pamphlets and condoms to establish relationships with local prostitution actors. In a third neighborhood, I spent my days at a community sex worker organization. Women would stop by to attend workshops, get condoms, ask advice, and relax, and I eventually became a familiar figure at the center.

Such participant observation provided context that was invaluable to interpreting how sex workers spoke to me about their experiences. In some cases, I witnessed abuse firsthand. In others, I heard sex workers speak about it to others. This research method also allowed me to build strong relationships with the 60 women whose voices appear throughout this article. By the time I interviewed them, I was a familiar, nonthreatening presence. I conducted all interviews in Mandarin Chinese, in spaces that they selected. To increase respondents' sense of security, I did not audio record any of the interviews.

These research methods were adopted to overcome concerns that sex workers would perform in their conversations with me

rather than express themselves genuinely. As a foreigner talking to members of an illegal population in an authoritarian state, sex workers might hesitate to speak openly, and instead say what they think I, or the Chinese government, might want to hear. Becoming a familiar presence allowed sex workers to feel more comfortable talking with me. Observing how they interacted with each other in their own environments enabled me to compare those conversations with the content of my interviews. I was also able to discuss my findings with staff at the community center. Given their years of experience, they provided a valuable sounding board against which to contextualize my findings. In practice, sex workers appeared more likely to decline to answer a question that made them uncomfortable rather than respond in a way that would seem to reflect their understanding of what the state, or the interviewer, would like to hear. For example, sex workers who expressed support for current prostitution policies generally provided thoughtful explanations for their opinions, tied to their personal experiences; they did not appear to be parroting back official policy. Sex workers who made claims that challenged the state rarely did so in a brazen fashion that suggested they were grandstanding in order to impress me. Instead, they appeared to approach such claims cautiously, and sought reassurance that their testimonies would remain anonymous. The combination of participant observation, in-depth interviews, and feedback on my findings from others with deep roots in the communities where I conducted my research provides strong reasons to understand the sex worker testimonies as accurate reflections of their experiences and attitudes rather than tactical responses.

Naming Abuse and Blaming Others

Sex workers experience abuse at the hands of many people with whom they interact in their daily lives. These include actors in the sex industry such as madams, pimps, and clients, as well as state agents such as the police and health officials. The testimonies of abuse that follow provide strong evidence that Chinese sex workers are on the dispute pyramid. In addition to naming abuse and blaming perpetrators, they also provide thoughtful justifications for their indignity.

Pimps and Madams

Sex workers identified many instances of abuse by pimps and madams. In some instances, these gatekeepers are human traffickers who lure unsuspecting girls from rural China into

prostitution. One informant was recruited at age 17 when a madam came to her village offering waitressing jobs in Beijing that paid \$150/month—10 times what she earned as a nanny.

I had no idea that I was being tricked . . . I was clueless. In Beijing, when I asked the madam for money, she told me to let this man take me to dinner . . . I didn't even speak Mandarin.⁵ He took me to a hotel. I had never even used an elevator before in my life. I only realized what was going on once I saw the bed in the room . . . The second time, they put something into my vagina and made me pretend to be a virgin. Afterwards, it felt all rotten inside. I had to go to the hospital, it was all stinky. The third time I tried to run away, but they caught me. I had to continue tricking clients [into thinking I was a virgin]. But afterwards I would always bleed down there. [Later] I ran away . . . and slept in the forest for two or three days . . . That whole time they would get in touch with my parents and say that everything was fine . . . The madam knew my mom (58).

Such instances provide the starkest portrayal of sex workers as powerless victims at the hands of madams with complete control over their lives.

Madams and pimps also abuse women who enter into prostitution by circumstance or choice rather than coercion. This occurs, for instance, when madams control sex worker interactions with clients, require them to accept clients against their will, or reprimand them if they refuse. "In the previous venue [where I worked], the madam required you to accept clients. [Otherwise], she would punish you," explained one woman when asked why she had changed venues (42). Other times, madams forbid sex workers from frequent relations with the same client for fear of losing both.

If the client decides to make her a kept woman, then she will not come to work anymore, and he will not come to the venue. The venue will lose what the client spends on renting a room and drinking . . . In order to keep clients, madams won't let sex workers take off with them whenever they want; they're scared that they will develop too good a relationship (43).

Madams also endanger the health of sex workers. One interviewee recounted how a client offered her 1,000 yuan (US\$150) for sex without a condom—10 times her usual earnings: "if the client leaves [because you won't have sex without a condom], then the

⁵ While Mandarin is the official language, local dialects are spoken throughout China. Her inability to speak Mandarin underscores the extent to which she was uneducated and came from a poor, remote area.

madam will get really mad. [When that happened to me] the boss really chewed me out . . . and deducted 30% of my pay” (48). I witnessed a similar disregard for the health of sex workers in Shenzhen. To thank my subjects, I provided them with a voucher for a health checkup, including an HIV/AIDS test, at a local hospital. When I handed the voucher to one interviewee, her madam grabbed it, saying, “I’ll take that. Young girls don’t need to see the doctor. This is for old women like me” (188). While I remedied the situation by providing both of them with vouchers, the incident provided a valuable reminder of the concrete consequences of gatekeeper abuse: an increased risk of sexually transmitted diseases for sex workers, clients, and their other sexual partners.

Sex workers also blame pimps for not protecting them against the police. One woman, after 6 months in detention, learned that her pimp had been released immediately in exchange for a bribe. She developed a profound sense of resentment against him—as though he had violated an unspoken code that should exist between them. “I came back here [after detention] specifically in order to understand what happened. [I was so angry] that I wanted to set his venue on fire, but then I thought I shouldn’t do anything too extreme, since I have a kid, so I gave up on that plan” (47).

Clients

Sex workers told of countless instances in which clients treated them unfairly. They complained about client attitudes, and described being victims of physical abuse and crimes including robbery, rape, and murder.

Several participants used the analogy of being sold on a market to explain the feeling of madams introducing them to clients, and described the experience as humiliating. When a client rents a karaoke room, a madam sends in a group of women who stand in a line as the client points to his selection. “It’s like the vegetable market; we stand there . . . as if the client were buying food. If the client doesn’t choose you then you can’t take any initiative and you leave. It is really hard to accept that feeling,” explained one informant (10). “It’s a really strange feeling, you just stand there waiting to be ordered (点, as in “order food”) by the client,” described another (44).

Nonsexual abuse includes physical violence and robbery. One interviewee’s friend went home with a client who tried to rob her. She escaped onto his balcony. He grabbed a knife, smashed through the glass door leading to the balcony, and stabbed her multiple times. She jumped off the balcony and survived the fall with only a broken leg (50). Another spent 2 days locked in the trunk of a client’s car—he claimed he was so drunk that he forgot

that she was there (31). One client drugged the same informant and stole 20,000 yuan (US\$3,000) that he had forced her to withdraw from the bank (31). Clients are also known to pay with counterfeit money or not pay for sex (49, 29). One man refused to pay because he had not ejaculated, and locked her up for hours before letting her leave (25).

Sexual abuse is widespread. Several women reported clients who tied them up with karaoke room electrical cords before sex (38, 34). One client made an interviewee beat and whip him against her will (29). He also made her and another woman undress, tied them up to each other back to back, and attached their nipples with clips from which he hung bells (29). Stories of rape also abound. One client drove my informant to a forest outside of Beijing. He raped her and stole the contents of her purse. In an odd show of sympathy, he returned her keys before abandoning her, expressing concern about how she would get back into her house (48). Another interviewee went out to a restaurant hotel with a regular client and his friends. They stayed out late, and then suggested she spend the night with them at the hotel. "They told me to relax, that they wouldn't touch me . . . Later, he forced me to have sex with him. The next morning, one of his friends also forced me to have sex" (40).

Finally, sex workers are targets for murder. As migrants who have often left their families behind hundreds of miles away, it could take months before someone notices their disappearance. The 23-year-old friend of one interviewee was stabbed to death by a client (57). Another informant knew a sex worker found naked and dead under a bridge. The police had posted photos of her in the nearby red light district, hoping that someone might identify her (38). Many unsolved murders in China are thought to involve sex workers (89, 173).

The Police

Sex workers are quick to underscore unjust treatment by state agents. Their narratives convey frustration at how the police are in some cases clients themselves, run prostitution rings, and accept payoffs from brothel managers (188, 89). They also express concerns about other rights violations, including use of condom possession as evidence of prostitution, incorrect detention practices, bribes, forced confessions, and extraction of sexual favors.

China has officially condemned using condoms as evidence of prostitution since 1998, when, in the context of sweeping HIV/AIDS policy reforms, it issued a notice opposing the practice (China Ministry of Health 1998). Yet, enforcement methods appear to disregard these policy changes. Describing the arrest process, one

interviewee explained that “[i]n the police station . . . they will look to see if you have condoms, and will ask you why. The law says it is not a problem [to carry condoms], but the police act differently” (25). Police reports of prostitution arrests, as recounted in the media, frequently note the number of condoms found at the scene (Beijing Aizhixing 2010).

The police take bribes, which they disguise as fines (55). Sex workers can tell the difference because fines are not paid directly to the arresting officer. One sex worker, arrested with several others from her venue, spent the night in detention because she had no money. Her colleagues were released immediately after they paid 3,000 yuan (US\$450) (58). Another arrested informant was offered the choice between a 5,000 yuan bribe (US\$750) and short-term detention. Her husband, who knows she engages in prostitution, wanted to pay the bribe. She refused in order to save money: “it is really not easy to earn this money, it is really hard work, so I told my husband not to bother,” she explained, even though she knew that the conviction record, which disappears with the bribe, results in a harsher sentence in the event of a second arrest (57).⁶

Incarcerated sex workers describe humiliation and abuse when police violate detention procedures. During one roundup, women were locked up for hours without access to food, water, or a restroom (59). Police do not respect time limits for short-term detention. In one instance, they detained a sex worker for 72 hours until her pimp intervened for her release (55). In another, the police forward-dated the arrest date to cover up extending her time in detention beyond legal limits (19). One sex worker described the detention guards as “terribly fierce” women who love to “curse at you” and punish you by making you stand still for hours, “until your legs collapse beneath you” (47).

Sex workers also complain about officers extracting forced prostitution confessions using verbal abuse and violence (48). In describing the police coming to her home and trying to extort a confession, one informant complained about the inappropriateness of their behavior: “They sarcastically asked me how many condoms I use in a day, and how many men I have made love to. They completely mocked me, the police are horrible,” she explained (57). Another interviewee noted how “the police [tried to extort a confession from me] by using really abusive language” (48). In some instances, the police arrest streetwalkers for simply standing

⁶ The husbands of several informants knew their wives were selling sex. None were coercing their wives to engage in prostitution, although such relationships also occur. Rather, the wife presented prostitution to her husband as a short-term solution to poverty. Many more married interviewees hid their employment from their husband. Most sex workers are migrants, whose husbands may have stayed home or migrated to a different city. Dissimulation in these cases is not difficult.

in areas known for prostitution, and pressure them to admit to selling sex (55, 29). One informant described being undressed, made to stand outside in the (Beijing) winter, and doused in cold water (48). Another described being stripped to her underwear, wrapped up with rope, attached to the ceiling in the bathroom so that only her toes touched the ground, and also doused in cold water in the wintertime (19). The cold water method was successful in extracting confessions out of both women.

Police also abuse their power to extract sexual favors. In one instance, a police officer had sex with a woman, beat her, and did not pay. "You just try reporting me to the police," she recounted him taunting, "I am the police" (58). On another occasion, an undercover agent came into a brothel, had sex, left, and immediately returned with another agent to arrest the woman, who had not yet had time to get dressed. He denied that they had sex, and since he had not used a condom she had no physical evidence to substantiate her claim (48).

Finally, police officers engage in random acts of abuse. In one such instance, a group of sex workers encountered an agent on their way to the public restrooms. He asked for their temporary residence cards, which he promptly tore to shreds (15). This incident occurred in the early 2000s when a procedure called custody and repatriation allowed the police to detain people without valid residence permits and return them to their hometown. Such a move would entail total humiliation as local police would be informed of involvement in prostitution and report it back to families.⁷

Health Officials

Sex workers also place themselves on the dispute pyramid in describing state health interventions. They experience humiliation and disrespect in their interactions with public health officials. One official echoed an oft-repeated opinion when he explained to me that sex workers are "the lowest of the low," who "have very high rates of HIV/AIDS infection [because] they are the scum of the earth" (55). Sex workers perceive this stigma and repeatedly use the term "embarrassed" to describe how they experience state health outreach (51).

Aside from pervasive attitudinal problems of disdain, public health institutions also implement programs in ways that violate guidelines and harm sex workers. State-run AIDS outreach programs include "voluntary counseling and testing," which aims to

⁷ The system of custody and repatriation was abolished in 2003.

foster a willingness to seek AIDS-related care. In practice, coercive implementation of AIDS education programs is common. As one health official described it, “what often happens . . . is that the Centers for Disease Control get the police, who go to brothels and force commercial sex workers to participate in trainings” (58). I learned about a variant of this practice in a neighborhood where I inquired about conducting a sex worker survey. The local police arrested women every evening, detained them overnight, and released them the next morning after levying a fine. My contact suggested I ask the police to allow me to carry out my survey every morning before the sex workers left—a practice she had observed health officials adopt in that same neighborhood.⁸

Similarly, health officials appear to disregard regulations when conducting HIV/AIDS testing. Stringent policies require transparency and consent when officials draw blood for HIV/AIDS tests. Health workers are also bound to report results back to tested individuals. However, they do not appear to follow these policies with sex workers. One official offered to assist me in arranging sex worker interviews, and added that he could also conduct blood tests on them. When I asked why they would agree to such tests, he dismissed my concern with a wave of his hand (55). According to one Center for Disease Control (CDC) employee who monitors testing programs nationwide, standard practice is for local CDC workers to arrive at the venue and have the manager instruct the requisite number of women to cooperate. Health workers will then draw blood, most likely without asking for consent. Even if they do, the request is nominal: a sex worker facing the pressure of both her manager and a government official is in no position to refuse. If the local CDC requires sex workers to get tested at their facility, a similar method is employed. In the words of an AIDS nonprofit employee, “they find everyone they can working in [venues], and tell them to get tested. In order to intimidate them . . . they post someone at the front of the place until they go” (78). Often health officials will not even inform sex workers that they are testing for HIV/AIDS (57). Sex workers may not have detailed knowledge of proper outreach procedures. However, those who have experienced it identify it as an unpleasant event in which they participated unwillingly (7, 47, 51, 57).

Explanations of Unfairness

Sex workers provide rich accounts of the abuse they experience. They identify it as unfair, and blame specific actors for it. In

⁸ I declined the offer.

addition, their testimonies underscore how sex workers think carefully about why they are justified in naming and blaming. While recognizing that they are lawbreakers, they also see themselves as human beings who have rights independent of their illegal activities. In addition, they underscore their contributions, as sex workers, to China's economic growth and its social and political stability.

Sex Workers as Human Beings

Some sex workers argue that abuse is unfair because, as human beings, they have certain basic rights unrelated to their lawbreaking behavior. This argument rests on a conception of self that emphasizes a dual identity: as sex workers engaged in an illegal activity, and human beings who have an existence separate from prostitution. This duality exhibits itself, for instance, in the rape incident discussed earlier, when a client and his friends persuaded a sex worker to spend the night and promised not to touch her. After they raped her, the client asked her how much money she wanted. "Thinking about it makes me so furious . . . I didn't want any money," she said, "I just told him I never wanted to see him again" (40). By refusing payment from the rapist, she drew a clear distinction between client behavior that is appropriate and that which is unacceptable; between her identity as a sex worker and as a human being with basic rights.

Relatedly, some informants opposed the idea that a client can do whatever he wants because he is paying. "Some clients will take liberties with you, grope your chest and private parts . . . they assume that since they paid you 100 yuan [15 USD], they can grope away to their heart's content," complained one informant (31). Another expressed a similar attitude in saying that "some people mistakenly assume that since they've spent money, they can do as they please" (43). In rejecting the view that they have fully abandoned themselves to a client because he is paying for their time, these women recognize the existence of an identity that exists separately from their involvement in prostitution.

Other interviewees articulated the notion of dual identities more directly, specifically underscoring their humanity through use of the term "human" (人). "When a client wrongs you, and doesn't respect you . . . it makes you feel really uncomfortable in your heart. We're all humans, but instead [that kind of behavior] makes you feel like you have a lower rank," explained one sex worker (21). "Some clients just don't perceive sex workers to be humans, they force sex workers to drink alcohol . . . and beat them," complained another (7). One interviewee articulated this notion in a particularly powerful manner: "Even though we are sex workers, we are also human . . . we also have . . . rights" (7). These

opinions illustrate how some sex workers recognize that, as human beings, they have certain rights independent of their illegality, and use this language in reflecting upon abuses. They are appealing to a profound conception of humanity that arises in reaction to their experiences of abuse.

Sex Workers as Service Providers

Sex workers also argue that abuse is unfair because through their trade, they contribute to strengthening China's economy, and provide social and political stability by reducing the rate of rape and increasing harmony within the Chinese family. The accuracy of some of these claims may be questionable. However, that concern is secondary to the observation that some sex workers view themselves as playing important roles in larger socioeconomic trends.

Some women recognize the economic importance of prostitution, and have appropriated that information in order to present their engagement in the sex trade as a service to their country. "Prostitution has solved part of the unemployment problem," explained one sex worker (3). The economic contribution is twofold, according to another. First, "entertainment venues promote economic development" (46). Clients purchase sex and also rent rooms and buy alcohol in venues (46). Second, sex workers stimulate the economy through their spending habits: "[We] earn money and then spend it, thus contributing to clothing, food, and housing markets" (46). As evidence of the economic importance of sex worker consumption habits, one informant recounted the impact of shutting down the sex industry: "I heard that during SARS, [this red light district] shut down. Everyone went home. Everyone withdrew their money from the banks, the Beijing banks collapsed . . . The economic impact of sex workers is very significant" (9). Certainly, the impact of millions of migrants suddenly withdrawing their savings would affect the local economy. Regardless of whether the sex worker population of one red light district single-handedly caused the local banking system to collapse, of relevance here is the fact that some sex workers believed this to be true.

Independently and unprompted, several informants told me that sex work benefits society because it reduces the rate of rape and other violent crimes: "When there wasn't any prostitution, there was a lot of rape. Now there is much less rape" (21). The idea underlying this belief appears to be that prior to 1979, a man who "needed" sex had to rape a woman, since prostitution was not readily available.⁹ Now that prostitution and a market economy

⁹ The idea of men "needing" sex biologically was widespread in my research. Many interviewees—both sex workers and others—articulated how "men have certain physiological needs" (49) that explain the necessity of prostitution.

have reemerged, this man will instead purchase sex: “Thanks to us, men do not have to risk committing the crime of rape; they spend a couple hundred and satisfy their needs” (29). The crime reduction argument also seems tied to the idea that a sexually frustrated man needs an outlet, and is thus more likely to commit crimes. In the words of one informant: “In the early 1980s, there was so much crime, such as rape—it was not possible to exchange material goods, you just had to forcefully rob. Now, everyone takes what they need; it is mutually beneficial for both people” (10). Sex workers were not the only informants to present this belief to me as a given—the theory seems to be part of popular culture.¹⁰

Sex workers also speak of their role as service providers within the family. “Sometimes, a man wants to go out and drink,” explained one sex worker. “His wife won’t do that with him. When my boyfriend is in a bad mood, his wife tells him to go out and have fun. Then he comes to find me. The next day, he is in a much better mood” (41). One might expect acknowledgment of the “home-wrecker” attitude toward sex workers, or evasiveness with respect to this issue. That they would instead view prostitution as actively beneficial to a healthy marriage is more counterintuitive. Yet, repeatedly, interviewees explained to me that since older Chinese women are not interested in sex, sex workers fill a void in family relations. “Nowadays, women get old quickly. But a 50-year-old man is full of vitality . . . He doesn’t have a sex life with his wife, so he relies on prostitution to satisfy his physiological needs,” explained one informant (37). “After a wife gives birth, her vagina becomes flabby, it isn’t as tight as a sex worker’s. So it isn’t comfortable for her to make love, and the quality is bad,” explained another (19).

Underlying these discussions of a wife’s lack of sexual desire is the idea that sex workers fulfill a harmonizing role in a married couple’s life. “We can harmonize people’s sex lives,” explained one informant (15). “It’s better for the government not to crack down, because that is the only way things will be harmonious,” explained another (21). “Some families are unharmonious, [because] men have needs,” emphasized yet another (29). This use of the term “harmony” (和谐) carries a great deal of political significance, thus further illustrating the extent to which sex workers view themselves as active participants in the larger project of constructing the modern Chinese nation. The doctrine of “Harmonious Society,” which Hu Jintao introduced in 2005 as a guiding principle of Communist Party policies, is generally viewed as a catch-all propaganda slogan to justify any number of political decisions. It is the

¹⁰ No available reliable data support the argument that the reemergence of prostitution in China resulted in a reduction in rape.

subject of a fair amount of derision within some intellectual circles in China—a censured website is said to “have been harmonized” (被和谐); a popular political satire cartoon features “river crabs” (河蟹), a homonym of the word “harmony.” Yet, the term was not employed ironically when sex workers used it. Instead, it came across as a sincere explanation of the contributions that sex workers make to the well-being of the Chinese family and society. While most people use the term “harmonious society” in jest nowadays, here is a population that uses it earnestly, and is probably one of the last groups that Hu would have hoped would adopt it.

Whether discussing their contributions to economic development, public safety, or the family, sex workers view themselves as actively helping to construct a better modern China. One informant called for the taxation of prostitution, so that she could give something back to her country (25). Another one likened sex workers to soldiers, even adopting a slogan with great symbolic significance to describe their work: “we are in service of the country, in service of society (我们也是为国家, 社会服务). Just like the country cares for our soldiers, we also work for the benefit of the country” (20). This is very powerful rhetoric—most Chinese people hearing it would recognize it as an echo of the popular slogan “in service of the people” (为人民服务). It was the title of a speech that Mao Zedong wrote to commemorate the death of a soldier, and has since become a concept central to the Communist Party of China (CPC). It is displayed prominently at the headquarters of the CPC and the State Council. The military uses the slogan in ceremonial troop inspections. In daily life, this service language has come to be associated with discussions of undesirable jobs. It is used following two sayings that express the notion that no job is too lowly: “regardless of your profession, you can become an expert in it” (三百六十行, 行行出状元), and “a profession is not what distinguishes the lowly from the noble” (职业不分高低贵贱). Used with the service rhetoric, these sayings express the idea that any job provides valuable contributions to society. While usually a reference to menial work such as street cleaning, sex workers have appropriated these slogans to legitimize prostitution. Just as they have adopted the concept of “Harmonious Society” to describe their contributions to the Chinese family, so too are they framing their role in national political and militaristic terms.

Sex worker explanations for the unfairness of abuse recounted here are not limited to the women I interviewed. Instead, they are echoed in the findings of others. In her ethnography of karaoke hostesses in Dalian, Zheng (2009: 238) notes that the women “always insisted, ‘We hostesses are also human beings!’” in response to client abuse. In addition, she notes that “hostesses appropriate the dominant cultural symbols to maintain a sense of

autonomy and dignity,” an observation that also describes the nation-building claims I noticed (Zheng 2009: 5).

The Contingent Nature of Legal Consciousness: Self-Blame, Resignation, Rejection of Victimhood

Sex workers name and blame to an extent that previous literature on marginalized people and the law would not predict. Yet, at the same time, they also think and talk about abuse in ways more familiar to scholars of the legal consciousness of the powerless: they occasionally blame themselves for incurring harm, resign themselves to it, or reject victimhood. Ewick and Silbey (1998: 50) describe how “legal consciousness is neither fixed nor necessarily consistent; rather, it is plural and variable across contexts, and it often expresses and contains contradictions.” Nielsen (2004a: 8) concurs, showing that “legal consciousness is contradictory and contingent,” and Gallagher’s (2006: 787) research on legal consciousness in China also underscores its “contradictory nature.” By showing the simultaneous occurrence of attitudes that appear contradictory, such as sex workers blaming both themselves and others, or both rejecting victimhood and identifying their abusers, I confirm the contingent nature of legal consciousness.

Self-Blame

Sex workers express self-blame when they say that they deserve abuse because they are lawbreakers and are engaged in morally reprehensible behavior. Self-blame combines two types of reactions to harm—excusing abusers and explaining away their behavior (“it is not their fault”) and blaming oneself (“it is my fault”). One sex worker excused abuse as acceptable because clients are drunk when they act inappropriately: “They aren’t normally like that; it’s because they’ve been drinking” (22). Another related personally to such situations: “I can understand that type of behavior, because I often drink also. When people act normally, that won’t happen. It’s because when you drink, you can’t control yourself” (13).

In some cases, self-blame is aimed at sex workers as a group rather than one’s individual self. In one instance, an interviewee blamed other sex workers for instigating violence.

[Everything] depends on the skills of the sex worker. It’s always the same girls who experience . . . violence; it’s a problem of their own abilities. Even bad clients are still human, and if they act even worse, that is mainly because of the sex worker. As long as you don’t provoke clients, and give them good service, then you won’t have any problems (14).

This explanation provides insight into the complex competitive dynamics that exist within communities of sex workers (Zheng 2009).

Sex workers also self-blame when they underscore that they chose to engage in prostitution. This attitude takes as a given the abuses associated with selling sex, rather than distinguishing between aspects of prostitution that are within or without the bounds of the acceptable. One woman described her reactions to being raped as follows: “I chose this profession myself. You should only choose this if you have the ability to cope with this kind of thing. If you don’t have the ability to cope with it, then don’t earn money this way” (14). Sex workers express a similar idea when they explain that since the client has paid money, he can do anything he wants. “I have a work principle,” explained one informant, “when I’ve accepted a client, I won’t oppose him. I view the 100 yuan he spent on me as a license for abuse” (46).

Resignation

When sex workers express resignation to abuse, they take their powerlessness and inability to resist unfairness as an immutable fact of life. Interviewees expressed resignation through repeated use of two terms: give up (让着) and endure (忍). “When clients get into a fit of rage, we don’t push back against them, we just let them have the upper hand (让着客人),” explained one informant (2). “Clients who are drunk, or who are in a bad mood, can easily become conflictual . . . We just give in to them . . . When you come across those types of clients . . . you just have to endure it,” explained another (3). “I’ve encountered clients who get drunk and behave irrationally, fight, and curse . . . I’ll just endure it,” said another interviewee (32).

Rejecting Victimhood

In some instances, rather than express self-blame and resignation, sex workers deny that they are victims of abuse that could be resolved through recourse to the law. Instead, they emphasize the independence they experience through prostitution. Sex workers who reject victimhood emphasize instead the harm that they inflict upon others. “We are really badass. We’re the ones to bully clients,” asserted one interviewee (20). “I am really fierce,” explained another. “Usually I am the one to beat a client. I’ll just give him a beating and whack him in the face. I’ve beaten a bunch of clients, including with a beer bottle,” she continued (15).

These women also underscore the freedom that comes from selling sex. Financial independence is central to this notion of

freedom. Many interviewees viewed prostitution as a way to have an income so as to “not depend on men,” (10) and remarked upon how “gratifying it is” to earn money (3). Indeed, many research subjects cited financial difficulties following divorce as the reason they entered the sex trade. They spoke of the economic aspects of prostitution in ways that signaled control and ownership over their decision. In the words of one informant, “I am no slave to money. I am its master” (42). Other than financial independence, sex workers also viewed their daily routine as liberating. It allows for greater flexibility than working in a restaurant or factory—jobs that are often alternatives to prostitution for unskilled female workers. Aside from increased salaries, “there are no restrictions when you do this job, no rules, you have more freedom. It’s not like a regular job where you get a salary at the end of the month. Here, you can see the money you earn every day” (9). Sexual freedom is another such manifestation of independence: “One really strange and fun thing about this profession is that before I was engaged in it, I would just make love the normal way with my partner. Now, when I go out [with clients] we do things like watch [porn] films, there are so many different ways to make love!” (46). Sexual independence came through clearly in the pricing strategy of one interviewee who, in a blurring of the boundaries between prostitution and sexual needs and desires, explained: “If I like the client, I’ll go with him regardless of money. Us women also have our own needs, we need to have a sex life as well!” (46).

Attitudes Toward Policies

Despite also reacting in more expected ways, sex workers name and blame in response to abuse to an extent that places scope conditions on previous theories of marginalized people and the law. Similarly, sex worker attitudes toward prostitution policies, shaped by their experiences of abuse, also reflect an unexpected consciousness of the law. Sex workers express different opinions about current policies. Some support these policies. Others oppose them. With the exception of trafficking victims who vehemently opposed legalization, I did not detect a clear pattern of characteristics differentiating the two groups. However, regardless of their stance, these women all hold strong opinions on whether or not the law is an effective tool for reducing abuse. These findings contrast with previous research. Nielsen shows that marginalized groups such as women or African Americans who are victims of harassment view it as a serious social problem. Nevertheless, when presented with a proposal to criminalize hate speech, which could provide them with a tool to combat it, Nielsen finds her subjects unresponsive. When

looking at “the attitudes of these groups to a reform that would improve their lives,” she finds that “members of certain groups are apathetic toward law, even when it is proposed to remedy a social problem they view as severe” (Nielsen 2004a: 173). Yet, sex workers in China are anything but apathetic toward the role that the law could play in improving their situation.

Sex workers who support current criminalization policies emphasize the dangers of prostitution, and the disorder that it creates. This argument implicitly assumes that the illegality of the phenomenon reduces its overall occurrence. “I personally think that prostitution should not be permitted . . . It’s just too complicated . . . Ever since I was trafficked into prostitution, I’ve been scared to interact with men. I’m scared of being cheated, I don’t trust people,” explained one interviewee (58). Another trafficking victim also objected to legalization: “Prostitution should not be permitted . . . It’s bad. Those men look down on us, they think that because they have money they can buy everything, do this, do that, do it all” (39). As trafficked women, these interviewees blamed the existence of prostitution for the harm that they suffered, rather than questioned the legitimacy of the policies governing the phenomenon.

Sex workers who argued against legalization used the term “disorder” (亂) to describe their predictions of the consequences of such a policy shift.

[The anti-prostitution policy] is very good. That way, people won’t be too disorderly, and it will not be too easy to become infected with a disease . . . Abroad, sex workers have registration cards, but I wouldn’t like that. That means that throughout their life, they will be labeled as prostitutes. In China, you can just do it for a few years, and then do something else, and no one will know (52).

In this woman’s eyes, legalization would result in being branded a sex worker for life, thus having an impact far more profound than the occasional injustices she currently experiences in the sex industry. Others expressed a strong belief that antiprostitution laws reduce the potential disorder that prostitution can create:

Prostitution should absolutely not be legalized. I do not support legalization . . . The [current] laws make sense. Without laws regulating various professions, [society is] disorderly. Countries have laws for a reason . . . If you permit prostitution, [things] will be disorderly (36).

This emphasis on the disorder that would result if prostitution were legalized accepts the abusive aspects of the phenomenon as a given.

Sex workers who instead support legalization emphasize how criminalization contributes to the abuse sex workers experience in their daily lives. “It would be so much safer if prostitution could take place openly,” claimed one woman (49). “The advantage of legalization is that if you have a problem [you can get help], and you won’t get locked up,” explained a second interviewee (38). “There’s no need to be scared [to report if prostitution is legal], there won’t be any psychological obstacles [to reporting],” said another (53). One sex worker argued that legalization would make prostitution less disorderly: “It is much better if prostitution can be out in the open. It’s so messy when it’s underground. [If it’s legal] it can be regulated, which is better” (56). Another one explained how legalization would make her willing to report wrongful client behavior: “I’ve come across some really bad clients, who make me feel horrible, and though I want to report to the police, I’m scared they’ll just arrest me, so I haven’t reported” (51).

The Tip of the Iceberg: When Sex Workers Claim

Most of this inquiry has explored the “submerged iceberg” (Silbey 2005: 335) of legal consciousness, looking to understand how sex workers think and talk about the law without engaging it directly. These are individuals who know better than to make a legal claim in response to an individual act of abuse. As illegal actors, they assume that, at best, law enforcement will disregard their claims. “The police won’t take our problems seriously,” complained one woman (49). Another one dismissed the possibility of reporting given current policies: “[I wish] we could report bad clients. Right now, a lot of sex workers get robbed and beaten, and are not willing to report it; they keep it to themselves because the police would just ignore them” (51). At worst, sex workers fear that reporting unlawful behavior to the police might instead result in their own arrest for prostitution. One woman summed up this concern as follows: “I’ve been robbed, and raped. But because I am a sex worker, which is an illegal activity, I’ll be arrested, so I am not willing to report to the police. I just have to suck it up” (33). Phrased differently, another interviewee stated that “[all sex workers] are scared of the police, I am also scared of them—because the state does not permit prostitution” (7). One rape victim explained that she “wasn’t willing to report to the police, we can’t let them know—otherwise, they could open a case against us” (48).

Yet, on two rare occasions, sex workers have made their way to the top of the dispute pyramid, and made their claims for policy change public through collective action. In January 2007, more than 2000 sex workers and other entertainment venue employees

protested in front of the Shenzhen City Government building (EastSouthWestNorth 2006). This event occurred 6 weeks after a series of harsh crackdowns in Shazui, a Shenzhen neighborhood infamous as a red light district that attracts thousands of businessmen from Hong Kong and elsewhere in China, had temporarily shut down its sex industry, leaving thousands of migrants unemployed. Protesters clamored for their rights to subsist/live (生存), eat, and work. It was a short-lived protest, quashed within a few hours, as special security forces loaded protesters onto buses headed toward detention centers.

In July 2010, a small group of sex workers in Wuhan organized a protest in favor of legalizing prostitution. On several main thoroughfares, they held up placards calling for the abolishment of laws criminalizing prostitution, and the end of discrimination against sex workers. They asked passersby to sign a petition in support of their cause, and rallied some of them to join their protest. Ye Haiyan, the organizer, posted videos of the event online, as well as a photograph of herself carrying a sign that read, "Legalize sex work, decriminalize prostitution! Sex work is also work!" (Branigan 2010). The protesters fared no better than their Shenzhen counterparts—following the protest, Ye Haiyan was detained for several days and instructed to leave the city (He 2010).

Discussion and Conclusion

Sex Workers and Legal Consciousness in China

Chinese sex worker protests shed light on recent debates on rules and rights consciousness in China. Scholars who contend that protesters in China are exhibiting a familiar rules consciousness underscore how such individuals "frame their demands in terms of the 'legal rights' that are promulgated and publicized by the contemporary Chinese state" (Perry 2009: 19). They know that "'rights' are largely state conferred and transgression beyond the accepted norms is forbidden," and they focus on "restoring what is proper (enforcing policies, dismissing unqualified officials, giving compensation) rather than questioning the regime's legitimacy and ruling ideology" (Wong 2011: 874). Researchers who suggest that a new rights consciousness is emerging identify how Chinese collective action sometimes displays "a combination of awareness of the necessity for protection from *central* rule-making authorities and eagerness to acquire such protection through direct or indirect participation in rule-making" (Li 2010: 54). At its heart, this is a debate about whether claims in contemporary China reflect "business as usual" (Wong 2011: 875), or whether they presage larger scale challenges to state stability.

The Wuhan protest is an example of rights consciousness. The protesters challenged the legitimacy of current prostitution policies, and specifically asked for those regulations to be changed. They were straightforward in their request for changes in rules using the terms “legalize” and “decriminalize.” Much of the rules and rights consciousness debate involves understanding whether claims that at face value sound like rules consciousness are in fact masking broader challenges to the state. In contrast, Ye Haiyan’s protest presents an unambiguous instance of rights conscious behavior.

The Shenzhen protest provides a more typical illustration of the ambiguities surrounding protest language in China, and the extent to which actors are asking for rights that are new, rather than previously granted. The protesters were much less direct in their claims than those in Wuhan. They did not mention the terms “rights,” “prostitution,” or “sex work” in their demands. They said nothing about policy change. Instead, they noted that they “wanted” to subsist, eat, and work. Taken at face value, they were acting in a rules conscious manner: as employees in legally registered entertainment venues, they were simply asking for those venues to be reopened to allow them to earn a living. Yet, as Li (2010: 50) notes in analyzing how Anyuan retirees protest, “[p]ublic pronouncements by the powerless under authoritarian rule . . . cannot simply be taken at face value.” Indeed, these “public transcripts” (Scott 1990) mask a more complex reality. The protesters all work in the sex industry and depend upon it to make a living. When they say they want to subsist, eat, and work, they are in practice asking officials to allow them to sell and buy sex, and otherwise benefit from prostitution. Just like Li’s interpretation of the Anyuan retirees, these protesters “made claims that were seemingly ‘contained’ but in fact were ‘boundary-spanning’ or even ‘transgressive’” (McAdam et al. 2001: 7; O’Brien 2003) (cited in Li 2010: 51). They were “cloaking a daring proactive claim in reactive terms, demanding citizenship rights [they] had never enjoyed” (O’Brien 2001: 429).

In many ways, these collective action incidents are exceptional. Ye Haiyan, the Wuhan protest organizer, is an activist whose controversial approaches for drawing attention to prostitution in China appear unique. According to *The Economist* (October 27, 2012), in January 2012, she provided free sex to migrant workers, and publicized the account online, in order to promote the issue of sex worker rights. She has also been involved in other controversies, such as posing nude with artist-activist Ai Weiwei, in a photograph that led to a pornography investigation (Watts 2011). The Shenzhen protest also appears to have been an anomaly, as no other such incidents have since occurred.

However, the insight that these protests shed on legal consciousness of Chinese sex workers extends beyond the handful of individuals who actually participated. Specifically, the evidence from those sex workers who mainly think and talk about the law, rather than engage it directly, also illustrates the presence of rights consciousness. Indeed, those sex workers who have adopted the concept of “Harmonious Society” to describe their contributions to the Chinese family, and those who frame their role in political and militaristic terms, also “appropriate the terms, constructs, and procedures of law in formulating opposition” (Lazarus-Black & Hirsch 1994: 10), and explain why their abuse transgresses moral boundaries. Gallagher (2006: 792) notes a similar behavior among her legal aid plaintiffs: “the use of state-sanctioned slogans to justify their behavior . . . is more than naivete or ignorance regarding how the system actually works. These expectations are also invoked strategically as part of a legitimating discourse for daring behavior.” Li (2010: 64–65) finds that “[i]n sum, ordinary Chinese people do have rules consciousness, but it is problematic to conclude that they only have rules consciousness and no rights consciousness.” I extend this finding to note that it also applies to nonordinary Chinese people—those who are marginalized, powerless lawbreakers such as sex workers.

Disaggregating Marginalization

Sex workers are among the most downtrodden and powerless in China. Why then do they display consciousness of the law that differs from the predictions of previous research on marginalized people? I suggest that previous research has considered marginalization as a unitary concept, rather than disaggregating it to reflect upon how characteristics of subsets within the marginalized population, and the context in which marginalization occurs, could affect how powerless individuals might position themselves differently in relation to the law. Chinese sex workers differ from other populations who have been the object of sociolegal research on marginalized groups in four ways: they are illegal; victims of extreme amounts of abuse; engaged in morally stigmatized behavior; and living in an authoritarian country.

While previous research has subsumed “illegality” within the broader category of “powerless” and “marginalized” (Lazarus-Black & Hirsch 1994; Levine & Mellema 2001), it has not expressly considered whether or how the act of being a lawbreaker might result in particular manifestations of legal consciousness different from simply being a “have not.” Some marginalized people may avoid engaging the law because it seems distant and irrelevant to their daily existence. Yet, the lives of illegal actors such as sex

workers are completely circumscribed by the law. They are constantly aware that they are transgressing the boundaries of legality when they sell sex. Fear of being caught shapes their every decision of whether or not to engage in a sexual transaction. Even when they are not breaking the law, they worry about whether they might be arrested for simply dressing a certain way, or being in a certain neighborhood or venue. This constant presence of the law in their lives might contribute to understanding the strength of their opinions about prostitution policies, and their willingness to name and blame.

Similarly, previous research differs with respect to the types of injustice it explores. These include experiences of discrimination, tied to issues such as welfare housing (Cowan 2004), sexual orientation (Hull 2003), race (Hirsh & Lyons 2010), gender (Coates & Penrod 1981), and disabilities (Hull 2003). In contrast, Chinese sex workers worry about forced prostitution, rape, murder, and violent treatment at the hands of government officials. When Nielsen's subjects express apathy to proposals of using the law to remedy hate speech, they are reacting to words. When mine express strong feelings about legalizing prostitution, it is their physical well-being that is at stake, in addition to more abstract notions of fairness. The branch of disputing literature that focuses on relative deprivation notes that individuals are less likely to perceive a situation as injurious when they expect it, and it is not out of the ordinary (Coates & Penrod 1981). It notes that "[i]t is when people get less than they have gotten in the past, or less than similar, relevant others are getting, that they tend to feel dissatisfied" (Coates & Penrod 1981: 657). This theory might not apply smoothly to contexts of extreme abuse, which may be too egregious for victims to fail to perceive injustice and blame perpetrators. My findings thus suggest that it may be necessary to consider the extent and type of harm when considering how well theories of marginalization and the law travel to different contexts.

Sometimes, the focus of sex worker discourse is not specifically on the illegality of their actions, but rather on the recognition that they are engaging in behavior that is morally reprehensible. Although previous research has occasionally focused on groups engaged in morally questionable behavior (Hirsh & Lyons 2010), it has not expressly considered morality as a variable distinct from powerlessness in explaining their relationship to the law. Here, I build instead on theories developed in the China prostitution literature which consider the relationship that sex workers have to mainstream morality. Some of this scholarship is based on textual analysis of Chinese regulations, and is thus less relevant as it does not place the sex worker's voice at the heart of its analysis (Jeffreys 2004, 2006). Yet, others have based their analyses on sex worker

testimony. Pan (2000: 96–97) finds that sex workers speak in derogatory terms about their peers, thus illustrating that they have “internalized mainstream prejudices against sex work” (Zheng 2009: 217). I find some support for this argument as applied to sex workers’ reactions to abuse. Specifically, the women who speak out in favor of criminalization appear to have absorbed mainstream moral views on prostitution. The strength of their beliefs may explain why they do not display the apathy of Nielsen’s subjects in response to proposals that criminalize hate speech. Yet, Pan’s theory would also predict that sex workers, so convinced of their status as fallen women, would blame themselves entirely for their transgressive behavior and would be unable to perceive the abuse they experience as anything but deserved. While I did identify feelings of self-blame, they were not all encompassing, and did not prevent sex workers from placing themselves on the dispute pyramid. Thus, my findings do not completely confirm Pan’s theory. Instead, they lend support to some aspects of Zheng’s argument. She finds that “the experience of sex work itself leads hostesses to revise and eventually abandon mainstream moral values . . . Over time . . . these mainstream values are gradually replaced by a new moral perspective that legitimizes and even encourages the sexual commodification of the body” (Zheng 2009: 218). My evidence does not entirely reflect Zheng’s findings. In particular, the transformation over time that she describes does not appear to apply to my observations. I spoke with women who had entered the sex trade only a few months earlier who exhibited no objections to their line of work. I gathered testimony from women who had been selling sex for over a decade, and who talked of prostitution with great disdain. These differences could be tied to distinctions in the types of women upon which we focused. Her subjects were all hostesses in entertainment venues, who may not have perceived themselves primarily as sex workers. In contrast, mine recognized that they were primarily engaged in prostitution, rather than entertaining clients in karaoke venues. Yet, in my research I certainly identified the presence of a moral perspective that legitimizes prostitution. It is those feelings of legitimacy that help us understand how individuals who are morally marginalized from mainstream society would nevertheless name, blame, and occasionally claim.

Finally, these different displays of legal consciousness could be tied to the authoritarian state in which Chinese sex workers live. Levine and Mellema (2001) seek to understand how the law matters in the lives of women working in the street-level drug economy in the United States. They question whether the law is “salient” in their lives, arguing that other concerns, tied to “economic realities, gender hierarchies, peer pressure, fear, [and] the need for personal safety” (Levine & Mellema 2001: 180), overshadow the relevance of

the law in their daily experiences. These women do not fear incarceration. They view it as a cost of doing business. They even view their jail time as an opportunity to “plan future scams, to rest, to get healthy, to get food, to take advantage of social services, and to have a warm bed” (Levine & Mellema 2001: 183). They experience the police “as just another gang, people from whom one can receive drugs . . . and for whom sexual services may be performed in return for leniency” (Levine & Mellema 2001: 195–96). Levine and Mellema’s findings do not travel to China. These differences appear tied to contrasts between the criminal justice systems in the two countries, and weaker rule of law in China. As detailed above, Chinese sex workers have much more negative experiences with the legal system. Incarceration in China generally does not resemble the positive experience of Levine and Mellema’s population. The police in China have too much power for sex workers to relate to them as “just another gang.” In an authoritarian context, the state is too powerful for the law to not be salient in the lives of sex workers. Its omnipresence could result in more thinking and talking about the law than would occur in a democratic environment.

The findings presented in this article both enrich our theoretical understanding of legal consciousness in China, and show that there remains much to be explored with respect to how marginalized people relate to the law. This remains an area rife with possibilities for future exploration, which should continue to examine how different environments and types of behavior shape the legal consciousness of individuals.

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