
Prostitution and Migration in China

From Rehabilitation to Retribution

by

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Abstract: Prostituted women are involved in the exchange between sex and money on one hand, and in the uncontrolled movement of people on the other. As a marginalized sub-group of women, and migrants, they are a paradigmatic figure of those who can pollute the social body, and disrupt a normative order, whereby each person should keep a well-defined place in society, both figuratively and literally. Due to these facts, prostitutes were and are still viewed with a substantial ambiguity. Prostitution in China is not considered criminal conduct but, regardless of the actual circumstances that led them to engage in commercial sex, sex workers can be detained administratively. PRC scholarship has discussed the concept of forced migration as it relates to international law, and prostitution has never been primarily perceived as a form of forced migration. However, ideas about the movement of persons, its voluntariness or lack thereof, have played a certain role in dictating the PRC response to sex work. Over time, welfarist and rehabilitative policies have been replaced by a punitive and vengeance-oriented approach. This article outlines early PRC approaches to prostitution and offers some speculations as to the reasons for their gradual shift.

Prostituted women are a marginalized sub-group of women, and a marginalized sub-group of migrants. Their lives are placed at the intersection of two precise phenomena: the exchange between sex and money on one hand, and the uncontrolled movement of people in large numbers on the other. Therefore, they were and still are a paradigmatic figure of those compelled to leave their place of residence. In the People's Republic of China (PRC), prostitution has never been primarily perceived as forced migration, a concept discussed for the most part by

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PRC scholarship in international law. However, ideas about the movement of persons, its voluntariness or lack thereof, have played a certain role in dictating the response to sex work.

This article describes how legal measures used on prostitution and internal migration have changed over time, moving from the domain of public welfare to that of public security. Two distinct periods can be identified in this respect. A first, and significantly shorter, period began in pre-Communist China and ended around the mid-1950s. During and soon after the civil war, prostitutes were conceived as belonging to the broader group of those displaced by war, famine or natural disasters. The fact they may have been victims of inland trafficking or have embarked upon prostitution to escape utter poverty was openly acknowledged. These variables induced the adoption of welfarist and rehabilitative policies, as prostituted women were first and foremost represented as victims.

Since the late 1950s, the partial success of anti-prostitution campaigns prompted a punitive and vengeance-oriented approach to sex work, whereby prostituted women came to be conceived as deviants. At the same time, restrictions on internal migration were posed, and detention on grounds of internal migration was introduced. After 1978, a rise in prostitution occurred, and the phenomenon was in part linked to internal migration. Migration and prostitution may have been forced upon women by poverty, internal trafficking or a combination of both. These considerations did not cause a reversal of responses adopted in the second half of the 1950s. Engagement in sex work and internal migration were mostly attributed to individual agency, which justified a revival of Mao-era punitive measures and their further entrenchment. As a consequence, prostitutes became a target of different forms of administrative detentive punishment.

Discourses on prostitution have considerably evolved since then, but this subgroup of migrants, be they Chinese or foreign nationals, continues to be viewed with a substantial ambiguity. Prostitution is not regarded as criminal conduct, but prostituted women can be detained administratively regardless of the actual circumstances that drove them to sex work. The balance between protecting the rights of these women, safeguarding public health, maintaining public order and managing migration flows is clearly tilted in favour of the latter.

The first section of this article outlines early approaches to prostitution. Next, I describe the process whereby welfarist measures adopted in the 1950s evolved to administrative detention. A third section compares police responses to prostitution by Chinese women versus prostitution by foreign women. I conclude by offering some speculations on the possible causes of such a shift in response. An in-depth analysis of the broader factors that prompted an increasing punitiveness, as well as an examination of law enforcement campaigns, are beyond the questions addressed in this special issue of “Deportees, Exiles and Refugees”.

The bestowal of rights

Long lines of malnourished people pushing carts loaded with all of their belongings were not an infrequent sight in war-ridden China, where armed conflicts, poverty or epidemics could be stronger than a person’s will to remain in

their home region. Hordes of displaced persons had already swarmed the cities and countryside at times of war and famine, so their existence was by no means a novelty. Nor were they conceived as forced migrants. In the 1940s, this concept had not yet emerged, whether in China or in Europe. Also, while it is true that they were fleeing war or famine, the internally displaced were holders of Chinese citizenship, who remained within the borders of what formally was still China. The solution devised by Communist base area governments to the problem of internal displacement was fraught by a built-in contradiction. Even though the concept of forced migration as such was not adopted by the Communists, contradictions displayed by their policy choices mirrored those that could be observed decades later, in different contexts.

The single biggest ambiguity concerned the category of citizenship, something that obviously still shapes the way migrants are thought of. This category became unusable in practice, because the internally displaced were Chinese citizens indeed. However, citizenship was not a sufficient criterion to decide who could lawfully reside in base areas. A migrant's condition of displacement and destitution did not automatically mean that he or she was entitled to obtain relief. Refugees were virtually made into non-citizens, and left without any protection.

Another significant inconsistency in the way displacees were perceived consisted in attributing agency to them. So-called wanderers (*youmin*) and refugees (*nanmin*) were defined as "people from outside the border area". Their migration to base areas was attributed to their "difficulties living in their place of origin without means of livelihood", a situation caused by natural disasters, war, or persecutions suffered due to their political stance. In short, these persons had no other choice but to move to a more hospitable place. Even so, the prevailing legal fiction was that vagrants and refugees had "*voluntarily migrate[d]*" to base areas (Shanganning Bianqu Zhengfu 1943, art. 2).

These two incongruities led to the drawing of a binary distinction between ethnically and nationally homogeneous persons. In turn, this distinction can be considered as an original feature of early Communist approaches to internal displacement, and more generally to social and political problems (Dutton 2005). Wanderers and refugees constituted an extremely variegated group, which may have included unwanted or even dangerous elements. Disguised among resistance fighters and peasant families, there may have been spies, as well as those who during their period of displacement had eked out a living by pilfering, begging, soothsaying and other similar means (Xibeiju 1941, p. 127). The latter were included in two sub-categories: vagrants (*youmin*) and loafers (*erliuzi*). Women who made a living by providing sexual services in exchange for money or commodities were considered as members of either sub-group of displacees (Zhongguo Renmin Jiefangjun Zhengzhi Xueyuan Dangshi Jiaojiushi, n.d., p. 75). That displacees were "ordinary people (...) embedded in a particular social, political and historical context" (Turton 2003, p. 15) was taken into account. Nevertheless, such considerations did not always work in the displacee's interest.

Prostitutes instantiated destitution, and in this respect they were among those groups favored by CCP policies. However, Communists were averse to their social environment. Due to their trade, prostituted women came into contact with a high

number of men belonging to the most diverse milieus. Thus, they had ample opportunities to acquire information about Communist forces, and perhaps pass them on to the enemy. Besides, they could easily infiltrate women's organizations, slowing climbing their ranks (Jiluyu Bianqu Dangshi Gongzuo zu Bangongshi, Zhonggong Hebeishengwei Dangshi Gongzuo Weiyuanhui 1988, pp. 536-556). Prostituted women were inherently dangerous elements, which could have been used to disrupt Communist base areas from the inside. Such a danger was not just political: commercial sex facilitated the spread of sexually transmitted diseases (Zhonggong Dalianshi Jinzhouqu Dangweishi Bangongshi 1990, pp. 154-155), which could have weakened combat forces and sapped their morale. The economic systems of base areas sustained themselves mostly through the production of tangible goods, and the presence of prostitution placed an obvious burden on the war economy. Exactly as diviners and usurers did, through their occupation prostitutes just moved money around, without creating any new wealth, that is without producing what could be eaten, drunk, worn, lived in or fired at the enemy. Aside from not engaging in productive occupations, prostitutes also had to support those living off them, be they their families or their pimps. All these costs indirectly weighed on hard-labouring peasants and fighters.

In principle, such representations would have been sufficient to either refuse admittance to prostitutes or to expel them from base areas. The discursive strategies and normative values adopted by the Chinese Communist Party, however, induced a will to change prostitutes' social environment, as aversive as it may have been. A prostitute's act of migrating to a base area may have been depicted as voluntary. However, engagement in sex work was constructed as being *involuntary*. Prostitutes were seen as victims of a society premised on income and gender inequality, and the blame for espionage, STDs and prostitutes' unwillingness to take part in production was thus obliquely placed on wealthier social strata. Sex work was considered an unavoidable consequence of those social polarizations that had resulted – for instance – in the sale of women by families driven to absolute poverty. Otherwise, women may have accepted the offer of a seemingly legitimate occupation only to find themselves cheated, abducted and forced into prostitution. If prostitutes were indeed a vulnerable group, they were not the naïve women portrayed in early Communist discourse (Hershatter 1997). Exactly as missionaries, Westerners and the Nationalist government had done before them, the CCP was using a similar set of discursive devices to shape its own subjects and put them to its preferred use.

In the spatial order of Western concessions and Chinese cities, prostitutes had occupied a marginal place, both figuratively and physically. Making a virtue out of necessity, the Communists saw that they were “potentially productive” (Gil and Anderson 1998, p. 131) members of society. Their ‘redemption’ could have also enlarged the party's consensus base. To fulfil their potential, prostitutes needed in the first place to be moved from the margins of society to its core. Therefore, when the moment came to decide who could be allowed in base areas, become a ‘citizen’ and enjoy those rights that came with ‘citizenship’, prostitutes were counted in, given political rights (Shaanxisheng Dang'anguan, Shaanxisheng Shehui Kexueyuan 1986, pp. 415-416), and a second chance too. Their inclusion in the

new order of base areas could be achieved only through their elimination. Migrants could be simply resettled. However, before they could enjoy a life as ‘full citizens’, prostitutes had to become different persons. They needed rehabilitation, as in New China there would be no place for the sexual exploitation of women.

1. Rehabilitation

The commitment to eradicating commercial sex was nothing new. The very same goal had been shared by the Nationalist government, as it constituted an obliged passage along the road to modernity. To reach this goal, both the Nationalists and Communists devised a set of similar legal or quasi-legal institutions.

Under the Nationalist government, rehabilitation of prostitutes went through their registration, compulsory medical testing, arrest and – at least in theory – internment in rehabilitation institutions before they could return to society (Henriot 2001, p. 319). The Nationalists were not seriously committed to eliminating or even reducing prostitution, and on the whole this task had been a marginal component of their criminal policy (Henriot 2001, p. 332). That the PRC placed a greater weight on the issue did not mean that this entity had a higher moral stance than Republican China. In Republican China, prostitution had been a source of revenue. In the PRC, the involvement of organized criminal groups in sex work was seen as a source of political instability, as gangs were rightly or wrongly seen as politically hostile, and linked to foreign espionage organs. The political assassinations that punctuated the first year of the PRC (Dutton 2005) made it clear that all promiscuous places where terrorists may have hidden – brothels included – had to be checked or closed down. Methodologies adopted by the Nationalists were not given up.

As displacees underwent resettlement, prostitutes were instead rounded up, subject to compulsory medical testing, and interned. However, until the mid-1950s the rationale behind these measures was rehabilitative. Surely, prostitutes’ stay in foster homes (*shourong jiaoyangyuan*) amounted to being deprived of freedom. Internment was adopted not only to reform them, but also because after the closure of brothels they had no place where to go. During and after their rehabilitation prostitutes were given an opportunity to recount the story of how they entered or were forced into the trade. They had a chance to tell how it felt to be a prostitute, reflect upon the harm traffickers and pimps had done to them, and describe how their behaviour may have affected society. Most importantly, they could express their hope in a brighter future, and make a plan to change.

All of this took place at struggle sessions (*douzhenghui*), in which prostitutes and the community were meant to hold traffickers and brothel owners accountable for their actions, or at quieter meetings (*zuotanahui*) held among prostituted women. Such dialogues between prostitutes and pimps were not spontaneous. Like actors in a play, prostitutes performed their role of women who fled a childhood of serfdom or a state of utter destitution only to fall into the proverbial fire pit of sex work. Traffickers, pimps and madams – whom they now could openly accuse – presented themselves as exploiters. Neither prostitutes nor their Mas and Pas could depart

from the script and speak words of their own (Hershatter 1997). The entire operation was however orchestrated to facilitate prostitutes' inclusion in the community. Deviating from expected behaviours would have meant refusing an offer to regain a 'normal' life. Such an approach to rehabilitation was highly normativist, and meant to protect the state and society from harms connected to prostitution, namely drug addiction, syphilis, crime, compulsive gambling and espionage (Zhongyang Gong'anbu 1950). However, the plight and material needs of these women were also taken into account. While traffickers, pimps and certain customers were made a target of administrative or criminal punishment, prostitutes were helped reunite with their families, their marriages were arranged or they were given an occupation.

In the early 1950s, prostitutes were no longer regarded as a sub-population of refugees. The end of the civil war allowed a gradual resettlement of this group, and also the adoption of policies specifically targeted at prostitution. At this point in time, the conceptual category of *nanmin* did not cover 'women who engaged in prostitution', and consequently the two groups were conceived of as independent entities. Both groups however were still regarded as recipients of welfare.

2. Campaigns

Endeavours to rehabilitate prostitution took place gradually because, by their own admission, the Communists did not have sufficient information about the cities they came to rule, and they were also plagued by a shortage in police forces. Even so, between 21 and 22 November 1949, Beijing municipality managed to close down 224 brothels in a massive twenty-four hour police operation. To ensure a similar success, other cities had to take a more realistic approach and reduce pleasure houses to a minimum, before launching local campaigns. As a first step, brothels were licensed and prostitutes were registered. The fact that such operations were performed by the police signalled that the issue of prostitution was now conceived in terms of public order, and posed the risk that, sooner or later, the regime's benevolent stance on the problem may have changed. In fact, police investigations revealed that a number of women were migrants, or had started to work in houses of prostitution after escaping natural disasters, war or famine (Zhu 1999, p. 176). At the time this circumstance was not considered relevant (Zhonggong Beipingshi 1949). A nexus between forced migration and prostitution may have been important in the 1940s, but now prostitutes were no longer conceived as a sub-population of refugees because anti-prostitution campaigns focussed on brothels, and hence on residential prostitutes. The authorities were aware of the existence of a number of unregistered and highly mobile prostitutes, but this subgroup was not the initial focus of campaigns. This choice was justified in terms of feasibility. "Prostitution is a social problem that cannot be definitely solved at once", authorities in Beijing acknowledged, "therefore we have decided to concentrate efforts on dealing with visible prostitutes, and hidden prostitutes shall be dealt with separately" (Zhonggong Beipingshi 1949).

The number of registered prostitutes was easier to calculate, as the police had been collecting data about them for some time, estimating that in Shanghai alone

women engaged in sex work numbered between 50,000 and 100,000 (Ditmore 2006, p. 438). Unregistered prostitutes were obviously more difficult to spot. The strategy adopted by Beijing, it was recommended, should have been considered, but could not be mechanically adopted in cities where conditions were quite different. (Zhongyang Gong'anbu 1950). A consequence of such a gradualist and localist approach was that enforcement drives were launched at different times in different cities. Obviously the word – and rumours – about the closure of brothels spread among sex workers, and it is difficult not to imagine they would not try and anticipate police moves by going into hiding or even fleeing to other cities. This is what, for instance, happened in Shanghai. The initial dual focus on both registered and unregistered prostitutes had not led to the expected result, so by the end of 1951, more than two years after the campaign's launch, raids of unregistered prostitutes began taking place (Cong and Chen 1993, pp. 14-30). A loosely similar pattern has been reported for other urban centres. In Xi'an the campaign initially targeted registered prostitutes, while it was suggested that unregistered ones be eliminated gradually at a later stage (Liu 1993, p. 122). In Canton, enforcement campaigns were conducted in close succession, signalling that eliminating hidden prostitutes required a longer time and greater attention (Guan, Wang and Fu 1993, p. 31). In Wuhan, three entire years were necessary to tackle hidden prostitution, as the trade 'never entirely stopped' and even witnessed a rise (Zhang, Tang et al. 1993, p. 147). The closure of brothels led to a rise in hidden prostitution in Qingdao too (Lan 1993, p. 156). There are signs that Fuzhou (Wang and Guo 1993, p. 101) and Kunming (Lu and Sun 1993, p. 182) coped with the same problems, as hidden prostitutes were being discovered as late as December 1955. As admitted by the Tianjin government, the limited capacity of rehabilitation institutions made it impossible to adopt this measure for all prostitutes at the same time. Moreover, "once prostitutes were liberated, there was an insufficient knowledge of their situation after they changed employment, and there were no clear regulations on dealing with covert prostitution" (Han 1993, p. 65). Campaigns wiped out "institutionalized forms of commercial sex" (Jeffreys 2004, p. 165), but the same observation cannot be made with regard to non-institutionalised or hidden prostitution (Henriot 2001, Hershatter 1997, Biddulph 2007). This form of sex work persisted, albeit to an extent not yet known. And it did so after foster homes were being closed or reconverted, and registered prostitutes were being found an occupation. Unregistered ones were subsumed in the social body as they were unreformed women, who could wander from city to city.

The Shift

By targeting pleasure houses, early campaigns had focussed on forms of prostitution which were objectively easier to detect. So-called 'hidden prostitution' was never really eradicated. The gap between the results anticipated for anti-prostitution campaigns and their actual outcomes could and was justified by referring to such structural constraints. As responsibility for designing and implementing crack-down on pleasure houses rested with executive organs, and the police in particular, public security organs enjoyed a position of privilege in

producing discourse on prostitution. A first result was a subtle shift in the way in which prostituted women were conceived. At the end of the 1950-1954 campaign, the persistence of commercial sex was not attributed to destitution, but to a rejection of the normative system whereby women ought to have made a living through means other than prostitution. The resilience of prostitution was thus attributed to women's refusal of revolutionary moral values. Representing prostituted women as deviating from acceptable behaviour induced their removal from the sphere of social welfare and their inclusion in the sphere of public order management. Commercial sex thus found its place in the gray area of deviant behaviours that did not rise to the level of criminal conducts. Soon after these campaigns, prostitution was explicitly considered as behaviour susceptible of causing "harm [to] social order, obstruct production, and easily propagate or harbour counter-revolutionaries and other bad elements" (Shaanxisheng Renmin Weiyuanhui 1956). Prostituted women were also lumped together with so-called hooligans.

A reference to hooligans had first appeared in documents issued by the State Council, who in 1950 had defined vagrants and migrants as

Workers, peasants and other people who before liberation were oppressed and exploited by the reactionary government, landlords and compradores, lost their occupation and land, and have been living mostly on illegitimate ways for more than three consecutive years. They are customarily referred to as hooligans (*liumang*) (Zhengwuyuan 1951)

Living mostly on illegitimate ways referred to living on "theft, robbery, swindling, beggary or *prostitution* and other illegitimate income" (Zhengwuyuan 1951). This provision was nothing new. Very similar conceptions of vagrants and migrants already existed in base areas. The rationale behind them was not punitive. The State Council definition was meant to be used exclusively in allocating requisitioned land to members of disadvantaged groups. This definition, however, was adopted by provincial governments towards the end of anti-prostitution campaign, to single out those who refused social inclusion, preferring instead to live on expedients.

In 1953, the Shanxi Civil Affairs Bureau defined 'vagrants' exactly as it had been done three years earlier, as

[...] those who for three consecutive years have been living mostly on illegitimate means, vagrants (including bandits, beggars, hooligans, *prostitutes* and so on) are those who make their living mostly by theft, robbery, swindling, beggary, gambling or *prostitution* and other illegitimate income (Shanxisheng Renmin Zhengfu Minzhengting 1953)

Both prostituted women and 'vagrants' rose to attention as posing threats to public order, and it was soon pointed out that their behaviour had to be corrected through such means as deprivation of freedom and productive labour (Luo 1954, p. 217). The earlier nexus between prostituted women and vagrants was re-established, but under a scenario in which both groups had become a target of police measures. In fact, certain public security bureaus began counting prostitutes in statistics on offenders (Ruan 2008, p. 163). Elsewhere, prostitutes were included among those who "do not labour, or live on illegitimate ways, harm social order [in ways] *not sufficient for criminal punishment*" (Jiangxisheng Minzhengting 1956),

or detained even after 1956 (Han 1993, p. 69), the year when rehabilitation measures had ended (Dutton 2005, p. 155). An eventual step in the transition towards retribution came in the late 1950s, as legislation on public security offences came into effect. Even before this date, public security organs had been allowed to use the 1943 Police Offence Law (Wang 2009) to identify and punish prostitution, as well as other deviant behaviours. This piece of Nationalist legislation was compatible with the Communists' attitude towards prostitution. It considered prostitution an administrative offence against morality (*fengsu*), which suited both the PRC discourse on commercial sex and the views whereby prostitution did not actually constitute a crime. Illicit sexual acts (*jiansu anchang*) were punished rather mildly, with a maximum of seven days administrative detention (*juliu*), a fine of no more than 50 yuan or forced labour (Weijing fafa, art. 64). The Police Offence Law did not challenge existing institutional arrangements. In fact, the Law centred investigative, "judicial" and enforcement powers in public security organs, exactly as happened in the PRC. Besides, it provided a model the nineteen-year-old Liu Shipu would consult to finalize the draft of the Security Administration Punishment Regulations (SAPR) (Wang 2009). SAPR entered into force on 22 October 1957, listing the sale of sex (*maiyin*) and clandestine prostitution (*anchang*) among those behaviours disrupting public order. These conducts were made punishable by a maximum of ten days' administrative detention (*juliu*), a fine of no more than twenty Yuan Renminbi or a police warning (Quanguo Renda Changweihui 1957, art. 5 (8)). Article 30 of SAPR furthermore allowed to sentence recidivists to re-education through labour. Two months' earlier, prostitutes had been targeted for re-education through labour, using a definition similar to the one the State Council had used in 1950 on migrants:

The following categories of persons need to be sheltered to undergo re-education through labour: [Those] without a legitimate occupation, [those who] commit acts of hooliganism, or commit acts of theft, swindling not subject to criminal responsibility, [those who] violate the administration of public security and are not reformed after repeated education (Guowuyuan 1957).

A punitive turn had taken place, which reflected an ambiguous conception of prostitutes as victims whose existence was nonetheless harmful to public order. A second similar group was internal migrants.

1. Internal migration

Restrictions on internal migration began taking shape in 1953 with the motivation that urban centres could not receive large numbers of rural migrants whose labour force was needed in the countryside, both to fulfil economic planning and to provide raw materials for industrial uses as well as individual consumption (Zhengwuyuan 1953). An interesting phenomenon was the reference to rural migrants as a collective entity: the 'blind flow' (*mangliu*). Clearly, the use of this term made migrants' individual histories disappear, and represented them as threatening elements, who may have submerged cities at any time. Within four years, detention and deportation measures targeted to internal migrants were introduced (Cohen 1968, p. 251). Substantively, 'shelter and deportation'

(*shourong qiansong*) was a form of administrative detention used on those who migrated to urban centres (Neiwubu *et al.* 1963) without an entitlement to urban residential status. The need to sustain economic development by keeping each worker in his or her own place flew in the face of citizenship and the rights that came with it. As Chinese nationals, internal migrants should have enjoyed a right to freedom of movement (Zhonghua Renmin Gongheguo Xianfa, art. 35), freedom of the person (36) and equality before the law (33). Regulations on residence, however, limited their chances to move to urban centres, where they could have enjoyed a better life. Their condition of clandestinity was thus constructed by law. As the allocation of jobs, food rations, education, medical care, housing etc. was linked to residential status, unlawful residents could have easily been driven to poverty and/or homelessness. There was but a short step between this condition and being regarded as a vagrant, who therefore had to be detained and deported to his place of residence. As the power to request the adoption of shelter and deportation belonged to civil affairs organs, enforcement of this measure by the police took place in the absence of any formal accusations, review by a prosecutor and judicial remedies¹. Those imperfect procedural guarantees that were still granted to criminal suspects would be denied to migrants until 2003 (Zhonghua Renmin Gongheguo Xingshi Susongfa 1996, art. 12), when shelter and deportation was abolished.

From the 1950s to the 1980s and beyond, migration was considered a source of social instability and a hotbed of criminality. If first-time migrants were just deported, a second attempt to migrate to cities was to be punished by re-education through labour (Gong'anbu 1981, art. 3(3)). The carelessly simple logic that led to this legal response, that is considering migrants as criminogenic elements, remained unchanged for almost thirty years. A similar trend took place in the case of prostitution.

2. Deportation

Waves of migration had occurred in China due to such push factors as famines, and pull factors as economic development. After 1978, such a pull factor induced an increase in prostitution, with estimates ranging from one to ten million sex workers (Ebenstein and Jennings 2009, p. 84), most of whom moved from poorer inland areas to wealthier coastal cities, (Huang and Lin 1990, pp. 60-63) where they would live without a residence certificate. The earlier link between prostitution and migration came once more to attention, but with a significant difference. This time, both migration and prostitution were represented as a choice: “prostitutes are normally all volunteers (*ziyuan*)” (Yan and Gang 1990, p. 8). The rationale of their choice, the prevailing discourses held, lied in moral bankruptcy and the irresistible lure of wealth experienced by these women, most of whom were found to be unemployed (Da 1990). These and similar representations emerged in a context where the concept of forced migration as it is debated today was virtually unknown. These women – the Central Committee of the Chinese Communist Party

¹ At least until 1990, the year when the Administrative Litigation Law went into effect.

held – were different from those who had practiced prostitution for reasons stronger than their will. Their decision was rather prompted by hedonism, idleness and a love for a decadent and corrupted lifestyle (Zhonggong Zhongyang Bangongting, Guowuyuan Bangongting 1987). Attributing the resurgence of prostitution to individual qualities easily led to the adoption of retributive measures. After all, policies and regulations dating back to the 1950s were the only available means to respond to the problem of prostitution as it emerged at the onset of the reform era.

Slowly, re-education centres to be used on prostitutes began reopening, and administrative detention measures were revived under the name of ‘shelter and education’ (*shourong jiaoyu*). Until the late 1980s, this measure was adopted by the police on an informal basis, in the absence of any regulatory framework, to induce behavioural compliance on the part of prostitutes and avoid recidivism. More substantial changes came in the 1990s. Shelter and education centres established autonomously by provinces came to be regulated by the State Council (Guowuyuan 1993). More importantly, practices until then enacted in the absence of a clear regulatory basis were rationalized, until ‘shelter and education’ became an intermediate punishment between fines and short-term administrative detention on one hand, re-education through labour and criminal punishment on the other (Quangguo Renda Changweihui Fazhi Gongzuo Weiyuanhui Xingfashi 1991, p. 1)². In fact, the Ministry of Public Security had pointed out that shelter and education applied to prostitutes whose acts did not meet the threshold of re-education through labour (Gong’anbu 1989, art. 4; Gong’anbu 1990, art. 1(4)), particularly if they were affected by STDs. The revival of shelter and education allowed to subject prostitutes to various forms of punishments, which could have taken place in more or less short succession. Prostitutes could be detained on public security charges for an initial period of fifteen days. Recidivists could be ‘sentenced’ by the police to a maximum term of two years shelter and education, and to a further term of three years re-education through labour if they did not mend their ways.

Prostitutes were not just the targets of these forms of administrative detention – detention measures used on illegal migrants applied to them, too. Prostitutes’ inclusion in the scope of targets of deportation took place in 1981 (Gong’anbu 1981, Guangzhoushi Renmin Zhengfu 1982). It was argued that they were not residents of those provinces where they lived. These three measures should have worked in close succession. More specifically, prostitutes had to be first deported to their place of residence, then ‘sentenced’ to shelter and education, and then to re-education through labour in case of recidivism.

To add insult to injury, these women could be criminally punished, even though the provision of commercial sex was never considered a criminal conduct. In 1987 the Central Committee of the Chinese Communist Party and the State Council recommended that recidivist prostitutes be punished for the crime of hooliganism, *if they spread sexually transmitted diseases*:

² For a detailed discussion of this measure see Biddulph 2007.

Prostitutes and those who visit prostitutes, who after repeated education do not reform themselves, disrupt public order or have a sexually transmitted disease and harm people's health by prostitution and whoring and constitute the crime of hooliganism are to be sentenced for the crime of hooliganism (Zhonggong Zhongyang Bangongting, Guowuyuan Bangongting 1987).

Some provinces went as far as mandating criminal prosecution for repeated recidivists:

Those committing one of the following acts are to be criminally prosecuted in accordance with the law: [...] continuing to prostitute or to visit prostitutes after the completion of a term of re-education through labour [decided] because of prostitution or whoring (Guizhousheng 1988, art. 3).

Provisions on hooliganism were notoriously broad and vague. Their interpretation had been constructed as to cover various sexual behaviours, none of which corresponded to prostitution (Zuigao Renmin Fayuan, Zuigao Renmin Jianchayuan 1984). The addition of the spread of sexually transmitted diseases may have seemed a marginal development. What on the surface may have been an uninteresting issue, in reality signalled that political power was dictating what prostitutes had to be accused of, encroaching upon the role of public prosecutors and the police as well. Soon, the first reform era campaign against prostitution was launched at the behest of the CCP (Biddulph 2007, p. 137).

Chinese and foreign prostitutes

Representations of prostitution did not make any distinction between migrant and resident prostitutes on one hand, and foreign prostitutes on the other. Such a distinction was however embodied by the law, which allowed a more lenient treatment of lawful residents who prostituted. Habitual prostitutes who had a legitimate occupation could receive a police warning, a cease and desist order, be sentenced to a maximum term of fifteen days of administrative detention or fined (Gong'anbu 1981, art. 3(1); Zhonghua Renmin Gongheguo Zhi'an Guanli Chufa Tiaoli 1986, art. 30). Those who prostituted occasionally, who hence presumably did not draw their entire income from prostitution, were on the other hand exempted from sanctions (Gong'anbu 1981, art. 3(4)). Shelter and education, and then re-education through labour could be used on both habitual or occasional prostitutes in case of recidivism or repeated recidivism. However, these women already had a stable source of income, and in their case leaving prostitution would have been easier than if they had been unemployed.

The case of the unemployed was clearly more difficult, and they were at a greater risk of recidivism and repeated recidivism. All prostitutes were given an opportunity to give up prostitution before re-education could be adopted on them. But to the unemployed and the migrant, this opportunity seemed more theoretical than real. In the early 1980s, labour was still allocated by the state. Being unemployed in a socialist system testified not to idleness or laziness, but to the state and collective sectors' inability to create or maintain a sufficient level of occupation. The administrative allocation of jobs meant that finding a legitimate employment to keep oneself out of prostitution was not easy. Persuasion alone

could not produce job opportunities for these women. Recidivism, and possibly re-education to labour, looked as their likeliest future. The case of those who were trafficked or coerced into prostitution was more difficult, as it underscored the limits of administrative detention, a measure clearly insufficient to address the nexus between prostitution and organized criminal groups.

Such a nexus became even more difficult to address, if one considers the response adopted towards victims of trafficking who were forced into prostitution. Beginning from the early 1980s, foreign prostitutes reappeared in China, and their presence witnessed an increase in the 1990s, posing a conundrum. While their activities were not considered legal, their involvement in prostitution could not be represented as voluntary, as it had been in the case of Chinese sex workers because, by admission of the State Council, foreign prostitutes were trafficked into China (State Council 2007). In principle, victims of trafficking should have been sheltered for education, too, and subject to re-education through labour in case of recidivism. If the Ministry of Public Security mandated that they be “dealt with severely” (*yansu chuli*) (Gong’anbu 1981, art. 4), it subsequently derogated from its own provisions and endorsed the practice whereby “shelter and education is not used on foreigners” (Gong’anbu 1992). In the mid-1980s, forced medical examinations and compulsory medical treatment were mandated on both Chinese and foreign prostitutes, with the difference that foreign prostitutes who were found out to be carriers of HIV/AIDS or other STDs had to be issued an expulsion order (*qiangling chujing*) (Zhonggong Zhongyang Bangongting, Guowuyuan Bangongting 1987, art. 2). The use of this safety measure was very soon extended to all foreign prostitutes, regardless of the results of medical examination. At least in theory, they had to be fined, served with an expulsion order (*xianling chujing*) (Beijingshi Zhengfu, Beijingshi Gong’anju 1985, art. 8), and be furthermore blacklisted (Gong’anbu 1989, art. 1(5)). These measures had to be used also on those women who resided in China illegally. They, too, had to be deported. If their identity was not clear, public security organs had the possibility to detain them for investigation (*juliu shencha*) or order their supervised residence (*jianshi juzhu*) (Quanguo Renda Changweihui 1985, art. 27; Gong’anbu 2001). What is worse, they could not always enjoy the status of refugees. Already in the 1990s, the Ministry of Public Security mandated that foreigners residing in China illegally should be deported on the grounds that United Nations bodies could not interfere in internal affairs. Deportation applied to all foreigners, but only “in principle” (Gong’anbu 1992), thus posing a possibility to make an exception to relevant norms. Decisions pertinent to concrete cases had to be made by provincial level public security organs, while cases that may have had an impact on the PRC’s diplomatic relations were to be decided by the Ministry of Public Security (Gong’anbu 2008). Deportation has indeed been used on a number of illegal immigrants to China (Zhu 2005), who recently have been the target of *ad hoc* local campaigns (Bai 2010). There also exist oblique references to the fact this measure may have been used also on victims of trafficking (Zhongxinshe 2003).

This response involves substantial continuities with the past, as well as elements of novelty. Administrative detention (*juliu*), expulsion (*xianling chujing*) and

deportation (*quzhu chujing*) were introduced in 1964 to counter illegal immigration (Guowuyuan 1964, art. 13). They obviously targeted those behaviours violating immigration law. Prostitution was a different conduct and as such was outside of the scope of expulsion and deportation. In the 1980s, however, these measures were extended to foreigners who prostituted because, in a striking parallel with those Chinese citizens who moved to cities, they were considered primarily as illegal migrants.

Legal reform, a process credited with limiting the state's power and advancing rights protection, has not caused a reversal in the regulatory response to prostitution. All those procedural guarantees provided by the Criminal Law and Criminal Procedure Law do not yet extend to prostitutes, because their behaviour does not constitute a criminal offence. Leaving out prostitution from the scope of proscribed behaviours has not meant abandoning the punitive approach devised in the Mao era. The abolition of shelter and deportation in 2003, and the recent introduction of more lenient controls on prostitution (Jeffreys 2010) have not yet changed the vengeance-oriented approach, whereby prostitutes are regarded as active agents of infections and other social malaises. The use of shelter and education has until today been plagued with problems, ranging from the use of fines in place of administrative detention to the insufficient capacity of shelter and education centres *vis à vis* the number of prostitutes, and their substantial ineffectiveness in curbing recidivism and preventing the spread of sexual diseases (Tucker, Xin and Sapio 2009). These problems should be considered as mismatches between expected and actual policy outcomes. As such, they are likely to induce further changes in the regulatory regime of prostitution, particularly as a more sophisticated policy to curb prostitution is emerging. While women are still the target of punitive measures, greater attention is being paid to such phenomena as trafficking, abduction and the sale of women, activities that can often involve organized criminal groups.

Closing remarks

This article has described how the response to prostitution in the PRC has evolved from rehabilitative to punitive. Such a shift in response can be attributed to the partial success of early anti-prostitution campaigns, and the early involvement of public security organs in controlling sex work. In the first few years of the PRC, the response to prostitution involved elements of rehabilitation, more than retribution. Measures adopted in the 1950s had the aim to foster a greater inclusion of prostituted women, yet from the mid-to-late 1950s a slow transition towards retribution could be observed. Foster homes were reopened under the guise of detention centres. Nationalist legislation was used to model PRC legislation on public security. Coupled with re-education measures adopted before 1949, this process of adaptation accelerated the adoption of punitive measures. The trend towards punitiveness peaked in the early 1990s, when administrative detention measures were rationalized, provided with a regulatory basis and adopted on a national scale. Legal institutions originally conceived to rescue prostituted women have thus produced an opposite effect, generating their continuing exclusion.

The key shift in the regulatory response to prostitution is in part related to migration. At those times when migrants were seen under a more favourable light, prostituted women were made a target of rehabilitative and on the whole more lenient policies. The tightening of controls of internal migration, enacted between the mid-1950s and abolished only in 2003, reinforced this retributive stance. Considerations that the rural work-force was needed if economic development was to be sustained over the long term induced a gradual relaxation of restrictions on internal migration beginning from the early 1990s. Parallel to this trend, measures to control prostitution have been enforced in a more lenient way, and prostitution seems to be mostly ‘controlled’ through the use of fines. In the meantime more sophisticated discourses on prostitution, as well as policies addressing its linkages to organized crime have emerged. But, no substantial change in regulatory trends can thus far be observed, and this sub-group of migrants is still a target of punitive measures. The fact that most prostituted women are unemployed migrants, who furthermore possess a low educational level, has not been sufficient to induce an approach based on prostitutes’ inclusion in society through rehabilitation. Nor have their needs as migrants been taken into account, because migration was and is still conceived as an act involving active agency.

Prostituted women were treated more benevolently insofar as their displacement could be constructed as having been caused by something else than domestic policies, and by something stronger than their individual wills. As long as its existence could be attributed to enemy classes, prostitution was not regarded as a quasi-criminal behaviour but as a form of exploitation and victimization. After early campaigns, this conception lost much of its force, due to the continuing presence of clandestine prostitution. This phenomenon meant that campaign targets could not be achieved as smoothly as had been expected, and that measures to control prostitution may have actually been producing prostitution. The shift in regulation took place precisely at this point. Migration and engagement in sex work were attributed to individual choices. Individuals with their stories and life paths were replaced by the abstract figures of the “seller of obscenity” (*maiyin*), or the “floater” (*mangliu*). Shaped by regulatory norms, these abstract definitions allowed an easier but also a simpler conceptualization of behaviours to be targeted. They left out other variables, such as the actual circumstances that led women to prostitution, and the opportunities they may have concretely enjoyed after deportation of re-education through labour.

Conceptions of prostitutes prevailing in the 1980s, which portrayed these women as being lured to cities by their conscious will to adopt a decadent lifestyle, induced continuity with earlier approaches. Prostitution, on the other hand, could not be eliminated in a fortnight, and in a sense the gaps and unintended results of policies adopted in the 1950s were still visible. These considerations led to a rationalization of existing punitive measures, something credited with inducing their more efficient enforcement. The fact that prostitution persisted throughout the 1990s in spite of the adoption of a continuum of detention measures induced a consciousness that motives other than prostitutes’ supposed greed were at play. Far more sophisticated discourses have emerged in relation to HIV/AIDS prevention. Also, the nexus between prostitution, trafficking and organized crime is being

addressed, which is leading to a renewed consciousness that population movements and prostitution cannot automatically be attributed to individual agency. The existence of administrative detention has become an object of contention, and the legalization of prostitution has been advocated. In the meantime, the lax enforcement of controls of prostitution has led to the phenomenon being ‘governed’ mostly through the use of fines. The periodic forging, severing and re-forging of conceptual links between prostitution and migration could thus be regarded as one of the factors leading to subtle, gradual adjustments in responses to coerced migration as well as involuntary engagement in sex work.

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