

GREGOR GALL

# **SEX WORKER UNIONIZATION**

Global Developments, Challenges  
and Possibilities



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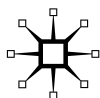
# **Sex Worker Unionization**

## **Global Developments, Challenges and Possibilities**

Gregor Gall

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SEX WORKER UNIONIZATION: GLOBAL DEVELOPMENTS, CHALLENGES AND POSSIBILITIES

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For Fiona, *mi señora española*

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# 1

## Introduction

Sex work – especially prostitution – is often described as ‘the world’s oldest profession’,<sup>1</sup> even by sex workers and their supporters and advocates. But if sex work was a profession, never mind the oldest one, then those who carry out the labour of sex work, namely, sex workers, would not feel quite so compelled to try to collectively and independently organize themselves as they have done in order to fight for their rights and interests. This is because professions, whether new or old like accountancy, law, medicine and teaching<sup>2</sup> and which make claim to a monopoly of specialist knowledge, exert substantial control over entry into their own ranks and then internally regulate themselves, making themselves into powerful professional collectives able to pursue their collective self-interest. They also are accorded large measures of respect and worth by society and its elites. So being a profession provides the structures and resources of influence and power as well as legitimacy to exist and operate in pursuit of a group’s collective interests. The legitimacy involves marking out a respected place and role for the profession, where society is widely believed not only to benefit from the work of the profession but also be unable to function properly without it. None of this is true so far or to any significant extent for sex work and sex workers.<sup>3</sup> Consequently, sex workers have sought to organize themselves into their own collective agencies in order to fight for their interests, namely, collective organizations to exert control over their work and working lives. Many have done so by creating their own labour unions or by joining existing ones. This study not only tells this story but also analyses what advances they have made so far. In so doing this study examines what obstacles sex workers have faced and still face.

There is something both inherently interesting and challenging in sex workers unionizing.<sup>4</sup> Interesting in that it is not often heard of and

seems counter-intuitive given that sex workers are seldom employees so making unionization more difficult; politically challenging in that selling sex and sexual services are seen by many as morally repugnant. But sex workers have been attempting to unionize themselves for over 30 years. This increases the importance of examining those efforts around the globe, looking at the where, why, when and how of their story as well as the successes, failures, opportunities and difficulties and present and future challenges and possibilities. In order to foreground this study, this chapter lays out its intellectual approach and the attendant theoretical and conceptual components as well as a discussion of terminologies and research methods deployed.

### Components of thesis

The thesis of this book has a number of inter-connected components based upon the major ramification of the sex work *as work* discourse being that sex workers *as workers* are subject to economic exploitation by capital as part of the capitalist economic order with attendant political oppression as part of the capitalist political order. In this situation, the formation of collective interest representation – especially through unionization – is a logical and necessary next step in order to contest the terms of the wage-effort bargain (sometimes called the wage-labour bargain) and the political ideologies and structures which support it (in terms favourable to capital). And, the projects of unionization raise the prospect, however distant, of creating a transitional method for ending that exploitation and oppression (see Gall 2006:231–2). Expressed separately for clarity, there are seven inter-connected components.

First, the processes by which collectivism and unionization of sex workers are created arise from a complex combination of consciousness, ideas and conditions among sex workers. The contribution of each varies across space and time but the elementary point is that it is not simply the case that discontent over working conditions on their own – and of their own volition – lead to collectivism and unionization. For discontent to develop into grievances that may then be addressed requires social organization to be put in place and collective mobilization undertaken (quite apart from attribution being made and opportunity to act existing) (Kelly 1998). The ideas of collectivism and unionization constitute the essence of sex-worker labour unionism, namely, directed and shaped conscious collective action can be taken, and heightened states of consciousness are required to allow sex workers to perceive that unionization and consequent action can be the means for defending

and advancing their fundamental economic interests. The emphasis on consciousness and ideas is important in the case of sex workers for the sense of Marx's 'collective worker' is not always present. Not only do sex workers often not work together but they do not work together in the creation of a singular service and, on top of that, such generation of service is often carried out in competition with each other and through direct contact and negotiation with the purchaser of services.

The second is that unionization has been selected by a number of sex workers, from among those who have chosen to be active in sex-worker collective action and organization, as the preferred *modus operandi* for representing their collective interests, marking it out as an advance on other forms of sex worker collective organization. This is because it represents an attempt to organize sex workers *as workers* and does so in regard of both the economic and political regulation of their work. Given the radical view that workers' power quintessentially arises within the workplace and within the economic exchange between capital and labour, this represents an advance in ideology and consciousness. Traditionally, sex-worker collective organization has sought to reform the political and moral regulation of sex work. In this guise, sex workers are cast more as citizens who are sex workers (than as workers who are sex workers). But, as with workers more generally, those of advanced collective consciousness and collective organization are a minority making the achievement of effective representation of their collective interests a demanding challenge.

The third is the sense of a cyclical process to sex-worker unionization, whereby the trajectory is explosion, stabilization and implosion and this is repeated as other successor unions move through the same cycle. Explosion not only involves a rapid increase in volume and a release of energy but also makes a change to the surrounding environment while stabilization involves a balance of internal and external forces permitting existence, and implosion involves destruction and collapse as a result of superior external forces and disintegration of internal forces. This suggests not only are there limits to the success of sex-worker unionization projects but that those succeeding their now predecessors may not operate in any more of a conducive environment because of the existence and actions of predecessors.

The fourth is that compulsion to form and practise sex-worker labour unionism varies not just across space and time but also across groups of sex workers and individual sex workers. Thus, those that constitute the sex workers activists are primarily the progenitors of sex-worker unions which other sex workers join and became active within (to

whatever extent). For these progenitors, the importance of the idea of unionization, especially as part of a wider struggle for social justice for sex workers and workers *per se*, as well as the advanced consciousness that creates the effort and resources to put this into practice, suggest that a radical ideology is a critical – if not dominant – component leading to the creation of the collective agencies of labour unions. In this process, collectivism can precede unionization and, to some extent, unionization can precede (wider) collectivism.

The fifth is that sex-worker unionization has tended towards forms of labour unionism that can be best described as a hybrid of social movement unionism because of the nature of the relationship, on the one hand, between sex workers and sex-industry capitalists and, on the other, because of regulation of the sex industry by the state. With regard to the former, the widespread absence of fixed workplaces and employed status as well as peripatetic working patterns have compelled adoption of this particular form or approach. With regard to the latter, substantial legal and public policy regulation has meant a number of hurdles exist for sex-worker unionization that do not exist for other workers' unionization. Among these are criminalization of selling sexual services and registration as sex workers to gain welfare benefits but which brings with it opprobrium. This particular form or approach of labour unionism does not fixate on the place of work as the locus of organizing. Instead, it seeks to influence workplace regulation from without the workplace, especially by seeking allies in wider civil society. To the extent it is practised and how it is practised raise issues about whether the labour unionism should be characterized as a form of collective pressure-group politics (like a social movement) and not as labour unionism *per se*.

The sixth is that the diversity of activities and structure within the sex industry is sufficiently great as to preclude homogeneity and commonality being its main features. This is not a case of not seeing the wood (capitalist sex work) but for the trees (contours of sex work under capitalism). Rather, it is to recognize that in analysing the political economy of labour, work and employment within the sex industry (and especially in regard of unionization) there is sufficient difference to obviate the utility of a 'one size fits all' approach. The differences are in degree as well as kind at the micro- and meso- (but not macro-) levels. One of the most pertinent consequences of this horizontal stratification is that not all objective sex workers see themselves subjectively as sex workers. In other words, a common 'industry' consciousness is militated against, adding to the effect of vertical stratification in regard to developing a

common 'industry' consciousness. The seventh component, following from these, is that there is a heavily contingent nature to labour unionism among sex workers whereby i) legalization of sex work (especially prostitution) – rather than decriminalization – has been shown to be either necessary but not sufficient in itself to facilitate further unionization or an obstacle to it; and ii) sex-worker unions have, thus, been thrust into the role of political (rather than economic) campaigning organizations. These seven components come together when diagnosis is combined with prognosis (in terms of a means to shape future developments in sex worker unionism).

Sufficient time has now elapsed since the first sex-worker unionization projects came into being to allow more than an exploratory analysis of emerging phenomena (*cf.* Gall 2006, 2007). Indeed, the first wave of sex-worker unionization projects took place from the 1980s and 1990s in a number of the most advanced economies (Gall 2006) and these have been added to subsequent waves (especially in the 2000s) in other advanced and not-so-advanced economies covering both the global north and global south. This, coupled with identifiable outcomes and trajectories, allows not only a less tentative diagnosis of the conditions and dynamics for sex-worker unionization but also a prognosis in terms of what is needed to extend its presence and effectiveness. To this extent, this research has policy and practical implications that are critically supportive of sex-worker unionization projects. The prognosis takes its clearest form when the model of an occupational form of labour unionism, infused with social-movement unionism, is proffered as being necessary to help 'square the circle' of workers who have no employed status, are in direct competition with each other and work in small groups in hostile legal, moral and regulatory environments. In order to make the analysis of sex-worker unionization projects as robust and rigorous as possible, other forms of collective non-union interest representation will also be examined. These are principally class-action law suits, semi-spontaneous worksite actions and worker cooperatives. This provides not only for points of comparative assessment in terms of alternative means of progressing and advancing the representation of sex-worker interests but also may help explain the presence and absence of sex-worker unionization (and its quality and quantity thereof), particularly by contemplating whether the alternative means are complementary or competitive. Moreover, it may help also evaluate the generalized challenges facing sex-worker collective self-organization, mostly obviously including providing insights into those of a union form.

## Intellectual perspective

The approach of this study is one of radical political economy where politics and economics are believed to be co-joined, together with the result that the key thematic components are material interests, power and ideology. It is contended that all lower-order aspects and issues can be more than adequately accommodated, appreciated and analysed within this framework and the complex, dynamic inter-relationship of its three parts. This is because this framework has the virtue of totality as well as being both systemic and deep-seated. It is taken as a given that this is a radical political economy of *capitalism* where its two key characteristics are the drive to create profits (surplus value) and the division between capital and labour produces social classes. Out of these arise exploitation and oppression of labour (workers) and betterment and beneficence for capital. Here the thematic components of material interests, power and ideology can be seen, including their superior and inferior contexts for capital and labour respectively. But to intellectually contemplate sex workers unionizing themselves and unions unionizing sex workers, several additional foundations are necessary.<sup>5</sup>

The first is the perspective that 'sex work' is viewed as a legitimate form of employment and economic activity and as such requires unionization to reduce the exploitation and oppression of sex workers associated with it. The second is the related perspective that sex workers perform sexual labour comprising emotional, erotic and manual or physical labours which are but variants of more conventional wage labour (particularly in regard to 'emotional' labour performed by service workers and which relies on social skills). Reinforcing these is a political awakening in the consciousness of those who are usually and conventionally regarded as downtrodden and super-exploited women (and who are often regarded as victims and unchaste) and the sex industry representing a large and growing form of economic activity that has become corporatized. Even though the labour is often relatively hidden from public view and there are no official censuses, hundreds of thousands of workers are believed to engage in this corporatized economic activity throughout the world.

That said, this study does not explore the discourse of sex work as work, erotic labour comprising emotional and physical labour, the managing and coping techniques deployed by sex workers, the size of the sex work industry and its profitability, new technology's role in revolutionizing sex work, and so on, because these tasks were undertaken previously (see Gall 2006) and subsequent developments in the

salient scholarship and research have merely confirmed this knowledge and understanding. Nevertheless, a brief re-statement of the sex-work discourse is warranted (see also Gall 2006:23–5).

## Sex as work

The key foundation for organizing sex workers is the perspective, on the one hand, that the work of sex is sex work, namely, a form of service work, and, on the other, of viewing sex workers as workers who have nothing to sell to survive economically but their labour, making them wage labourers. The labour of sex work and sex workers is then deemed to be of sufficient levels of moral legitimacy as well as social worth as a form of employment to be comparable to other forms of labour and paid employment that are deemed worthy and acceptable to organize. The perspective is also of sex workers selling sexual services and not their bodies and persons *per se*. A distinction is not especially made between acts that involve the selling of sex itself and selling sexual stimulation, or between those acts which involve entering a body, acting on another body or entering personal spaces and those that involve the production of such imagery and experiences. Allied to this, sex work is viewed as comprising work that *can be* socially useful and *can* provide job satisfaction, personal fulfilment, empowerment and self-actualization, where becoming a sex worker *can be* a genuine life choice. The conditions of this potentiality are acknowledged to presently exist to some extent and *can* be enhanced in the future under different conditions, namely, of sex-worker control through decriminalization. However, it is recognized that alongside these potential benefits, there are downsides in terms of violence, stigmatization, poor pay and conditions of employment, and job and employment insecurity. These downsides are believed to exist as much from the way in which society and the state view and regulate sex work as they are about the selling of sex and sexual services under capitalism.

The discourse emerged from the 1970s onwards in response to two stimuli, namely, an attempt to deal more efficiently and effectively with challenges facing prostitutes (of stigma, harassment and violence) and to respond to the ‘prostitution as rape, misogyny and male power’ discourse of the radical feminism. At the core of the sex work discourse is a view that the abolition of sex work in the short- to medium-term is neither possible nor desirable. Consequently, reform and changes in law, regulation and social values are believed to present more attainable and desirable goals. To flesh out the aforementioned basic exposition, and

following from an earlier representation (Gall 2006:23–5), the sex-work discourse is defined as comprising the following beliefs, assumptions and propositions:

- The production, distribution and exchange, often called ‘selling’, of sex, sexual services and sexual artefacts are a means of economic subsistence or income for the wage-labourers that carry them out and represent the selling of wage labour, regardless of variations in the real or formal employment relationship contained therein.
- ‘Selling’ of sex, sexual services and sexual artefacts represents one of the main aspects of the commodification of sex under capitalism. ‘Selling’ represents the transformation of labour into an exchange value, and the labour involved in addition to any physical labour, is primarily of an emotional and psychological nature because of the direct interaction with the consumer where a marketable persona is constructed that represents an alienation or estrangement from the inherent self, creating dissonance. Consequently, the labour is denoted as ‘erotic’ labour and can be subsumed with the category of ‘service work’.
- Sex work – the labour involved in generating sex, sexual services and sexual artefacts – is not solely the result of economic coercion but also of choice albeit from a narrowed range of options determined by other social forces. Lack of choice represents an environment of both inequality of opportunity and outcome, compelling personal and individual decisions in constructing life chances. Where sex work is coerced by a third party, particularly through trafficking, this should be recognized as such but without negating the existence of (voluntary) migrant sex workers.
- Sex work represents a rational choice and action given limitations on work and employment opportunities. Its abolition would deny sex workers a means of subsistence and sustaining themselves and their dependants.
- Sex work can under certain circumstances offer benefits *vis-à-vis* remuneration and working conditions (hours, autonomy, self-direction, job satisfaction) superior to many jobs available to those without much in the way of skills, qualification and job experience as well as be superior to living on state benefits.
- Carrying out sex work requires certain social and inter-personal skills (such as emotional intelligence, disassociation, deep acting) as well as knowledge. Together, these represent the ability to perform the work of erotic labour.



- Many of the problems associated with sex work for sex workers relate to stigmatization, criminalization and discrimination and the subsequent marginalization and social exclusion (in addition to any legal discrimination or neglect).
- Sex workers require a series of legal rights as workers and in relation to dominant patterns of economic and political power relations in order protect and advance their interests in regard to non-payment of wages, unfair dismissal, victimization and the like.
- Sex work should be regulated as conventional work is, and this ordinarily requires decriminalization rather than legalization.
- Sex work involves negotiation by sex workers with employers, facilitators or operators (e.g. club owners) and customers providing potential leverage points by individual and collective means for improving remuneration and working conditions.
- Sex workers, as workers, manufacture identities and strategies in order to exercise control over effort, remuneration, safety and the like in the same way other workers as workers do.
- It is inconsistent, illogical and harmful to argue, and operationalize, the position of 'for sex workers, against sex work'.

To summarize, the sex-work discourse does not subscribe to the 'happy hooker' or 'belle de jour' notion in rejecting sex work is a form of 'dirty work' (as per Hughes 1962), and sex work under capitalism creates the objective need for sex workers to advance and defend their interests (economic, political) through collective organization and action. *In toto*, the need for unionization shows the conditions of sex work are far from perfect but they can be ameliorated and improved. Indeed, a number of studies have indicated that any initial sense of freedom and satisfaction can deteriorate as the 'novelty wears off' so that more realistic self-appraisals of exploitation and oppression develop later on (see, for example, Lewis 2006, Barton 2002, 2006).

## Sex work and slavery

Sex workers, especially prostitutes, are often portrayed in popular and radical feminist discourses as 'selling their bodies', invoking images of sexual slavery. This appears to be self-evident as sex workers, again especially prostitutes, decide themselves to 'sell' themselves directly to customers. Ruth Breslin of Eaves, a prostitute rescue organization, argued: 'Work is selling your labour, not selling your body. ... It is one of the oldest forms of slavery' (*Morning Star* 3 August 2009). But sex

workers do not sell their bodies. If it were possible given that slaves are sold by one party to another and if they did, sex workers would sell themselves into slavery and would not be able to 'sell' themselves again (given they would be the property of another). Only another can sell a person into slavery whereupon the labour conducted becomes forced, not free. It is not economic compulsion (for food, shelter) in the main that makes slaves work; it is coercion and ownership. Rather sex workers, prostitutes in particular, sell their labour to provide sexual services and they do so under conditions of mainly free labour. Free labour represents a situation where the worker is free to sell his or her labour or to starve (assuming there is no safety net of a welfare state). There is economic compulsion for the person to sell their labour as they have no independent resources with which to subsist and their choice of to whom to sell their labour may be limited but it is a choice nonetheless. And it is on this basis that it is possible to envisage the demands of sex workers for means by which to regulate the sale of their labour, determine its price and the conditions under which it is performed. Hence, there is a potential role to be played by unionization.

## **Terminology and definitions**

Throughout this study, the term 'industry' is used to collectively describe the economic and social organization of the selling of sexual services and the labour necessary to undertake this. Because of the connotations with manufacturing (rather than being industrious), 'industry' does not seem the most appropriate term but it is widely used and one which is less cumbersome than describing all the different sectors that comprise the 'industry'. And while little of a physical nature is made in the sex industry by sex workers given that they are essentially service workers, the term 'sex trade' is also problematic (see below). So, although far from perfect, the term 'sex industry' is used in this study, where industry in the singular does not preclude recognition of its considerable internal heterogeneity and sex workers moving in and out, as well as across the different sectors, of the 'industry'.

The term 'labour unionism', and not 'trade unionism', is used for two reasons. First, 'trade unionism' no longer describes what most unions are – they are no longer unions of trades and most workers no longer have trades as such. Second, although sex workers often 'trade' sex and the industry is sometimes referred to as the 'sex trade', there is no sufficiently wide consensus that the work of sex workers constitutes a trade in either objective or subjective terms. Indeed, such is the diversity

of the sex industry it would be inappropriate to talk of a single 'trade' should 'trade' be deemed acceptable and appropriate in other ways. The term 'project' is heavily used to indicate the nascent and fragile nature of ventures to establish sex-worker unionization and to encompass both (new) unions being formed by sex workers and sex workers joining existing unions.

Although carrying clearly derogatory connotations, the term 'prostitutes' is used to specifically denote sex workers who carry out physical sexual services (vaginal or anal intercourse, oral penetration, masturbation) for, as yet, there is no satisfactorily alternative term in existence. Using the term 'sex worker' for prostitutes lacks specificity, and the intersections between the different activities of sex work are still insufficiently wide to militate against sex work being a one-size-fits-all term where precision of definition is concerned. This situation arises because the sex work discourse has yet to generate a suitable substitute term. The term 'exotic dancer' is used when 'erotic dancer' could alternatively be used given possible racialized connotations of the former. However, the term 'exotic' is widely used and understood, with dancers themselves using it, and 'erotic' is a term used to refer to a wider array of acts of labour than are involved in dancing (even when the dancers perform acts of prostitution).

Following from the above, and given the central concern of this study with sex-worker unionization, it is critical to outline the definition of labour unionism (especially when the common conception of a union in terms of its workplace presence does not make labour unionism seem appropriate for all sex workers in quite the same way). So for most workers, the conception of a labour union is of a body of employees in a workplace coming together to form a collective organization that results in the creation of a workplace union with workplace representatives and where their work is carried out in fixed and semi-permanent places and is of a fixed and a semi-permanent nature. The purpose of the labour union is to focus upon economic and workplace justice for workers by negotiating improved terms for the wage-effort bargain as well as influencing the organization of work on terms favourable to workers by creating collective leverage over the employer. In essence, labour unionism is concerned with collectively regulating the wage-effort bargain. Its key resources are its activists and its members' collective power – when mobilized through industrial action – at the points (i.e. workplaces) of production, distribution and exchange. The key motif of labour unionism is then described in the slogans of 'unity is strength', 'united we stand, divided we fall' and 'an injury to one

is an injury to all'. Yet because workers are the weaker party in the employment relationship with capital, labour unions also seek to influence the state to regulate employers and capitalism by intervening in the political arena (often through sponsoring political parties). Yet any political intervention is anchored upon collective regulation of the wage-effort bargain. It is the *sine qua non*. The emphasis on 'servicing' or 'organizing' orientations (see Gall and Fiorito 2011) comes after these foundations are laid.

A number of other components of labour unionism also need outlining. Any union is a voluntary, collective (*sic*) association of citizens whose purposes can be many and varied throughout civil society. The *modus operandi* is that by pooling resources together in a solidaristic fashion, common interests can be more effectively prosecuted. While a labour union has this in common with a union of citizens, the essential rationale of *labour* unionism as a union of workers is to reduce competition among workers and, thereby, leverage up the economic value of the terms and conditions given by employers in the wage-effort bargain. This is the fundamental sense of strength in numbers. Consequently, a labour union is quintessentially a collective organization *of* workers *for* workers and *by* workers and which is concerned with collectively negotiating the terms of the wage-effort bargain and collectively establishing job control to co-determine the organization of work. Labour unionism is not simply about collective strength and collective protection but the specific ends it is used for. This also means former workers (like retired workers) can only play a supporting role.

For most sex workers, there is no *de jure* employed status (which generates the traditionally understood bilateral capital-labour relationship), worksites are neither fixed nor semi-permanent and neither is the nature of work. This makes traditionally understood labour unionism seem at first sight inappropriate. Moreover, the nature of the economic exchange is often trifurcated given the presence of customers and negotiation of prices and effort with customers. The extent of direct negotiation with customers may range from being substantial where sex workers are owner operators, i.e. genuinely self-employed, and where the market of supply and demand allows, to very little where owners and operators of clubs and brothels set the prices and standards for varying acts of labour, namely, services. So long as there is an agent (such as an owner or operator of a sex-work establishment like a strip-club, brothel or escort agency) that contracts sex workers to provide it with labour and then regulates this labour, comprising work and its associated activities, then there is a potential bargaining partner for labour unionism. This is true even

though some sex workers are compelled to pay to work (exotic dancers' rent of a stage, brothel prostitutes' rent of a room) and take on an element of entrepreneurial risk in doing so. Indeed, it is hard to conceive of a situation where the contractor of sex-work labour does not seek in practice to regulate the labour of sex workers (even when on occasion barred in law from so doing) because doing so is vital to the ability to generate profit (and where no external agency supplies the labour). Where there is no operator, with sex workers facing customers in a completely bilateral relationship (and one of economic consumption) then there is no prospect of identifying a bargaining partner for regulating the 'wage' element of the terms of economic exchange.

In this context of sex workers working effectively as contract labourers, what is likely to be more appropriate for sex workers is a form of occupational unionism that regulates the industry at levels not predicated on the worksite. Consequently, the traditional contractual, relational, spatial and temporal dimensions are then not the be all and end all that they might otherwise be thought to be. Thus, an appropriate form of 'unionism' can be found for sex workers that can be classified as labour unionism because it fundamentally concerns itself with negotiating the terms of the wage-effort bargain and establishing job control by actions within the economic sphere. Concentrating only or solely upon the political regulation – via decriminalization or legalization – of sex work is not tantamount to labour unionism.

Legalization refers to the situation whereby states recognize sex work as lawful activity and regulate it through licensing and registration. By contrast, decriminalization sees sex work taken out of criminal or penal codes, removing prohibitions and penalties, and treated as normal commercial activity, subject to the rules and regulations of any business. Sex workers favour decriminalization for two reasons. First, legalization creates additional state powers, with it having vested interests and reflecting dominant ideology. Second, mainstream political parties (including greens and social democrats), which are antipathetic or agnostic towards sex workers' interests being defined by sex workers themselves and see sex work as a social problem, have a significant role to play in creating regimes of legalization.

## **Research methods and source materials**

The materials for this study come from three sources. First, some 30 interviews with sex-worker activists, sex-worker union activists, sex-worker union officers and officers of sex-worker support organizations

in Australia, Britain and the United States, and correspondence with sex-worker union activists and officers in these three countries and a number of other countries included in this study (see Appendix). Although funding was again applied for (see Gall 2006:150), none was gained for conducting fieldwork. But attendance at academic conferences in Australia and the United States allowed 'piggybacking' to carry out interviews. In this respect, the financial support of the universities of Hertfordshire and Bradford for conference attendance is acknowledged. Similarly, a fellowship at Griffith University in Brisbane facilitated further interviews. Within Britain, the cost of travelling to interviews was funded by the University of Hertfordshire. And, since publication of *Sex Worker Union Organising* (Gall 2006), it has become markedly easier to gain the access, consent and frankness in order to be able to interview sex-worker union activists.<sup>6</sup> This is because of the favourable reception to it among sex workers in terms of its critical but sympathetic focus upon sex-worker unionization. And, as a result, those performing a 'gatekeeping' role facilitated access to others. Consequently, the same degree of tentativeness and caution expressed in Gall (2006:14–20) is not now so appropriate.<sup>7</sup> Notwithstanding this, there are still gaps in the generation of primary data, particularly with regard to Germany and the Netherlands where language difficulties and dissolution of the sex-worker unionization projects meant conducting fieldwork interviews was unachievable. Where possible, email correspondence was entered into with these activists or former activists. The appendix details the fieldwork interviews and correspondence. The citing of material from email correspondence is explicit while the more copious amount of material from interviews is only cited where specific quotations are used or specific occurrences mentioned. Where there is no reference to cited material, the material has come from interviews. However, and on occasion, in order to protect interviewee anonymity where criticism of others was expressed and where working relationships were still ongoing, no attribution to a particular interviewee is made. Instead, it is merely noted that the material came from fieldwork interviews. Finally, and again to protect interviewee anonymity, publicly available material is referenced instead but only where interviewee material corroborated this.

Second, writings and reports by sex-worker activists and sex-worker union activists on their activities via their magazines, blogs, websites and postings. These have been particularly useful as activists have debated issues among themselves as part of the process of their own development of self-agency. However, because the purpose of these

writings and reports has been to proselytize in order to induce activism and exhort greater activism, they were read with a critical eye, not least because seldom was self-criticism or hard-headed analysis engaged in.<sup>8</sup> This is all the more salient when it is recognized that sex-worker union activists are necessarily unrepresentative of sex workers by virtue of being a vanguard in terms of commitment and consciousness. Third, extensive coverage by mainstream and radical media, stimulated by titillation and challenging of contemporary conventions and mores. Coverage comprised reporting and investigations as well as analysis and think pieces so essential 'facts' on developments were presented while more discursive writing was also offered. Although often episodic and sometimes in response to actions of sex-worker union activism (rather than independently initiated), coverage has been particularly useful given the broad scope of this study. Thus, even where interviews were carried out, monitoring of developments was aided and where no interviewing was possible, the utility of media coverage became greater.

The three sources facilitated corroboration and a form of triangulation even if not all three could be used in parallel with each other because of restrictions on fieldwork interviews and email correspondence to a certain number of countries. Contrast between agendas and discourses of various writers in both media and among sex-worker activists also served to elucidate some of the issues for investigation. Yet this study should still be viewed as somewhat exploratory (*cf.* Gall 2006:20). First, greater resources (access, financial, linguistic) would be needed to provide the basis for conducting fieldwork of the same breadth and depth within the larger number of countries covered within this present study. Second, a form of counter-factual reasoning is used to help explain the processes and outcomes of sex-worker unionization in terms of why most projects have not succeeded or grown as might be hoped. This is called *alter-factualism* for it seeks to develop salient lines of investigation by posing legitimate alternative scenarios which organically emerge from actual processes and events. Darlington (2006) suggested this method can be productive and legitimate where, *inter alia*, based upon alternative courses of action that were considered at the time by actors and that historical inquiry into what might have happened can be shown to be directly related to providing a more comprehensive understanding and explanation of what did happen. It is the sense of the latter particularly which is most pertinent for this study. That said, this method is controversial within social science and difficult to operationalize. The way the difficulty is addressed is to take the approach of implicitly asking what conditions and resources would be necessary

(without being sufficient) to produce alter-factual outcomes. The sense of offering informed but tentative suggestion rather presenting definite and definitive conclusion is important for what is being argued is if the criterion of necessary conditions and resources was present then alternative outcomes could be arrived at. The approach is not so bold as to state alter-factual outcomes would be guaranteed for the complex processes of human agency are the added ingredient in deciding the what, when, how and why of using the conditions and resources for certain ends. Thus, it can be proffered, if certain conditions and resources existed alternatives outcomes would be possible, if not necessarily probable. Studying what did not happen as well as what did is a challenging task but in the case of sex-worker unionization it is essential. In keeping with this, the prognosis of what might be done with the necessary conditions and resources is suggested in the last chapter.

## **Approach and plan**

The approach of this study has been to draw upon earlier published work (primarily Gall 2006) to provide a platform from which to describe, assess and explain developments in the intentions, processes and outcomes concerning sex-worker unionization since 2004 (the point in time at which Gall (2006) stopped). A short book aimed at activists, namely, Gall (2012), has also been used as it outlined a proposal of occupational unionism. However, there may appear to be slightly more re-treading in this current study than was to be expected given that it is based upon post-2004 developments. This has been warranted for two reasons. First, in undertaking further surveys of the literature and secondary data, a number of sources and materials about the period prior to 2004 have been unearthed that were not deployed in Gall (2006) and which merit usage. For example, a number of postgraduate theses were discovered as well as peer-reviewed journal articles which were outside the scope of feminist, gender and women's studies that had previously been surveyed for a literature review. Consequently, where significant analyses were uncovered, some of the previous ground covered by Gall (2006) was revisited in order to be retold and re-analysed with the aid of these. Second, in order to understand the post-2004 developments, it has been necessary to foreground these in the previous literature and research (primarily Gall 2006). Put together, this current study then focuses again upon the period prior to 2004 but in doing so has a sharper focus upon deploying this consideration for the purposes of analysing post-2004 developments.



The next chapter considers the progenitors and direct antecedents of sex-work unionization as a result of discovery of new sources and materials in order to give a fuller historical grounding to contemporary developments. The first substantive chapter analyses developments in the United States and Canada in terms of their context, content, dynamics, and strengths and weaknesses. The following chapters do the same for i) Australia and New Zealand, ii) Netherlands and Germany, iii) Britain and other European countries, iv) countries in Africa, Asia and Latin America. Throughout these chapters, means and forms of non-union collective interest representation are examined to provide context so as to better judge unionization projects. However, in the following chapter on influences on unionization, these means and forms will be discussed as alternatives to labour unionism as well as whether, how and when they may operate in a complementary or supportive manner to unionization projects. This provides for a more robust and rigorous analysis of the strengths and weaknesses and opportunities and challenges of sex-worker unionization. The final chapter outlines a combined occupational and social movement form of labour unionism for sex-worker unionization. The content and structure of these chapters represents a marked advance and development from Gall (2006) in terms of not just wider geographic coverage, consideration of historical antecedents and the longer period studied but also in terms of a firmer analysis.

## Conclusion

This study seeks to provide a globalized consideration of the intentions, processes and outcomes of sex-worker unionization, focusing upon the salient actors, agencies and environments. It is neither an *inter*-national nor a comparative study in the sense of comparison between and among different countries. Rather it is a *trans*-national one, whereby consideration is across and throughout countries in search of a more effective form of unionization.

# 2

## Sex Workers before Sex Work

### Introduction

The modern prostitute and, thus, sex worker, movement is commonly believed to have begun with two events in two separate cities, namely, San Francisco in 1973 and Lyon in 1975. In San Francisco, COYOTE (Call Off Your Tired Old Ethics) was founded as the first ever advocacy and pressure group for prostitutes, subsequently operating with the subtitle, 'The Sex Workers' Rights Organization'. In Lyon, in 1975, an occupation of a church by prostitutes was carried out to protest against lack of police vigour in arresting murderers of prostitutes and lack of adequate police protection for those who continued to work as prostitutes as well as to oppose increased police harassment through fines and imprisonment. The two events led to the emergence of a large number of other similar pressure group and advocacy organizations for prostitutes around the world over the next ten to 20 years. Part and parcel of the development of these organizations was the emergence of the sex work discourse. In time, these organizations campaigning for civil and human rights led to the emergence of proto-unions which concentrated upon the worker, labour and economic rights of sex workers. Therefore, they can be viewed as existing as antecedents which facilitated sex workers defining themselves as wider than just comprising prostitutes and provided inspiration for the creation of the organs of collective self-representation of sex worker as workers. However, there are a number of historically significant antecedents that existed long before the 1970s. These are worth outlining in order to demonstrate that sex work being thought of as work and those who carry out sex work being held to be workers are not solely a product of the post-1970s. Equally, the antecedents may show that, notwithstanding difficulties, if sex work could be

categorized as work then sex workers as workers could and should be organized collectively into labour unions. So there is not inconsiderable evidence of sex workers existing in both objective and subjective senses well before and up to the aforementioned breakthroughs in 1973 and 1975. This short chapter ends with a brief consideration of the transition within the sex worker movement from pressure and advocacy groups concerned with civil rights to labour unionism concerned with worker rights.

## **United States**

In the 1880s in Chicago, the Illinois Woman's Alliance, led by labour and socialist activists, campaigned against the police victimization of prostitutes based on a labour relations understanding of prostitution (Tax 1980:21,66,69). Possibly helped by this influence, the Industrial Workers of the World (IWW, or Wobblies), founded in 1905 in Chicago, had no problem in campaigning for prostitutes' rights or supporting them in collective action. Indeed, its analysis of all problems of oppression linked to class exploitation meant that prostitutes were not stigmatized, as might have been expected at this time, by radicalized workers and socialists. Prostitutes were seen as victims of capitalism. Moreover, the IWW philosophy that all workers should be enjoined in 'one big union', in its words, to 'smash the boss class' meant that prostitutes were as much entitled to join the 'one big union' as any other workers. Thus, the IWW organized prostitutes in the west of the country in the early part of the twentieth century as part of its 'one big union' strategy but the practical emphasis on organizing prostitutes largely concerned organizing workers who were important but ancillary workers to industrial workers. For example, prostitutes were organized to prevent strike breakers from being allowed custom. This was at odds with the view of founding and influential IWW member, Lucy Parsons, who argued for organizing prostitutes as prostitutes in their own right. Indeed, the IWW tended to believe women working as prostitutes indicated inadequacy in male worker wages such that, were they higher, then women working as prostitutes would be unnecessary and consequently families would be able to have women remain in the home to rear children, and the like. Evidence of IWW-influenced prostitutes being organized to defend and advance their own interests is less clear. For example, there is some dispute about whether a walk-out of prostitutes in New Orleans in April 1907 was organized by the IWW or whether the prostitutes were merely associated with the IWW.

Nonetheless, the strike against increase in rents instituted by the madam brothel keepers was won when prostitutes organized pickets to stop customers entering the brothels (Foner 1979:421, Hall 1999:81). But a firmer example of the IWW's efforts is found in 1905 and 1906 in Goldfield and Rhyolite when prostitutes were recruited and collective actions taken in these mining towns (Brents *et al.* 2000:51). In Honolulu in Hawaii in 1942, prostitutes went on strike and picketed for three weeks to protest against specific brothels rules (primarily about the price of sex and where they could work) and the martial law that denied them their rights, including their freedom of movement. They were partially successful (Bailey and Farber 1992, Greer 2000:192, Yellin 2004:313–15).<sup>1</sup>

Burlesque artistes and dancers in the 1940s, 1950s and 1960s were members of the American Guild of Variety Artists (AGVA), which provided them with individual representation (Wilmet 1999:466, Burana 2001:150). Some reports suggested the famous burlesque artiste, Gypsy Rose Lee, attempted to unionize burlesque dancers in the early 1950s. Earlier, the Burlesque Artists' Association (BAA) was established in 1933 (Shtier 2004:159), led by former burlesque producer, Tom Phillips, in response to 80-hour working weeks and low earnings. At its height, its paper membership was 1300, though it remained male-dominated throughout (Bouclin 2004b), up from some 900 members of whom 10 per cent paid subs (Shtier 2004:159). While one woman executive board member (and secretary) was elected in 1934, it was only in 1936 that the BAA began to represent striptease artists (Zeidman 1967). The same year, the BAA was successful in obtaining a charter from the Associated Actors and Artists of American (AAAA) and achieved a closed-shop union, effectively increasing the minimum wage for entertainers to \$22.50 per week and rehearsal time was cut to 15 hours a week. But as Zeidman (1967) noted, it was ironic that the BAA was most successful and active just before the decline of the burlesque industry. Equally so was that, in 1937, the BAA changed its name to the Brother Artists' Association, reflecting the temper of the times and removing itself from association with burlesque (Zeidman 1967:216). However, in 1940, AGVA began to represent some dancers through recognition agreements, contracts for minimum wage, and casual engagement contracts. But it was compelled to abandon striptease artists when the Federal Court classified them as 'independent contractors' (Wilmet 1999:466). This meant that they could no longer be covered by union recognition and collective bargaining agreements. Around the same time, the Hotel Employees and Restaurant Employees (HERE) union organized

Playboy 'bunny girls' in Detroit, gaining a collective bargaining contract there in 1964, and then a national collective bargaining contract for eight Playboy Clubs, covering 500 women 'bunnies', in 1969 (Cobble 1991b:128–9, 2010:290). These contracts involved the introduction of a wage as previously the women had earned only customer tips and HERE was able to contest Hugh Hefner's right to determine what attractiveness was (in terms of body shape, age, costumes, and so on) as well as gain the introduction of a 'no touching rule'. Myra Wolfgang was the HERE organizer who initiated the recruitment and recognition drive (Cobble 2004:2–3). As a labour feminist, she sent her daughter to work at the Detroit club in order to 'salt', namely, internally spy and organize for HERE. The campaign took seven months to realize its goal of a union contract in Detroit but longer for a national contract as Hefner organized against HERE.

## Elsewhere

Prior to establishment of the Canadian Association of Burlesque Entertainers (CABE) in 1979 (see later), there were some sporadic collectivization and unionization attempts by dancers in Canada. Without normal entitlements, such as holiday pay, sick leave or pensions, dancers became aggrieved over basic issues of pay and working conditions. For example, in Vancouver in 1967, three 'topless dancers' picketed a club for two nights demanding higher wages, staff privileges, and a dressing room heater. They highlighted the need to organize dancers at other clubs in the city but nothing came of this. Between 1965 and 1980, while various working conditions constituted grievances, the lack of occupational identity, intra-dancer competition and absence of permanent workplaces were three key factors in militating against unionization of dancers (Ross 2000, 2006). But there were also the forces of owner/operator hostility and opposition from the union movement in regard to seeing sex work as work. Of these attempts, Althorp (2013:27–8) argued:

Given the numerous barriers, it is not surprising that attempts by Vancouver-based dancers to unionize in the late 1960s were ineffective. According to Ross (2009:329), when Vancouver dancers attempted to unionize at that time, they encountered five obstacles: a) the small and transient work force; b) competition among dancers as independent contractors; c) working conditions in a quasi-criminalized, stigmatized business; d) the resolute efforts of club

owners and agents to stymie agitation and punish 'ringleaders'; and e) barriers to organizing intrinsic to provincial labour law.

Owner/operator opposition was particularly telling (Ross 2009:207–9). From 1977 to 1979 and inspired by COYOTE, Better End All Vicious Erotic Repression (BEAVER) was founded and spearheaded by Margaret Spore in Toronto. While it advocated on behalf of all sex trade workers, BEAVER was predominantly made up of exotic dancers and was 'reputed to be Canada's first sex and skin trade worker association' (Bouclin 2004b:73) but Cockerline (1993) records it was more a case of it being 'the first sex workers' rights group ... in Canada ... [bringing] the sex workers' rights perspective to the public for the first time [and being] eager to build bridges with feminists'.

There are only a few indications of any similar developments in Britain. Two strippers attempted to form a union but were blacklisted from the clubs as a result of this; the British Association of Striptease Artists existed in the 1960s, and actress and Marxist activist, Vanessa Redgrave, toured such clubs in the early to mid-1970s, attempting without success to get the strippers to organize themselves into a union or to join the Equity union for actors (Roberts 1986:89–90). When the Variety Artistes' Federation amalgamated with Equity in 1967, Equity had a number of agreements with strip clubs in Soho in London, with one manager of a club being particularly pro-union (Michael Day 22 January 2013). Outside of advanced economies, in 1984 in Machala, the capital of the El Oro province in the south of Ecuador, prostitutes struck in protest against the exploitation they experienced, closing the brothels they worked in (Abad *et al.* 1998).<sup>2</sup> A prostitutes' organization was established in 1982 (as the first of its kind in Ecuador) and in 1987 gained official status as an organization from the government (Abad *et al.* 1998). Finally, brothel prostitutes went on strike in Guangzhou, China, in 1926 over taxation on their earnings, using the strike as a form of leverage to gain concessions over the tax regulations (Remick 2014:75,109). Prostitute activists in the Australian Collective of Prostitutes in the early 1980s discussed joining unions but the fear of the effects of stigmatization – by being required to join in one's own name – stymied this (Julie Bates 3 September 2009).

### **From civil to worker rights and from pressure groups to labour unionism**

The transition in thought and organization among many sex workers from focusing on civil and political rights to focusing on economic,

worker and union rights, and from pressure-group activity to union organizing constitute two critical and closely related developments to the emergence of the sex-work discourse. The initial groups of sex workers (i.e. prostitutes often aided by non-prostitute supporters) to engage in self-organization saw their struggle in terms of acting as pressure groups pursuing civil, human and political rights over decriminalization, de-stigmatization, public awareness, social provisions and social protection (e.g. education, health, welfare) and protection from violence, intimidation and harassment, whether from police, customers or other members of the public.<sup>3</sup> The bodies on which they sought to exert influence were public opinion, political parties, government, the state and its appendages (e.g. police, judiciary, health, social work). Several ramifications flowed from pursuing this platform in this way. First, constructing collectives of sex workers deploying the help and support of non-sex professionals (e.g. lawyers, health-care specialists, educationalists). Such professionals carry out voluntary work for the prostitutes' pressure groups and/or work on funded sex work projects.<sup>4</sup> Second, collective action seeks to win largely individual-based rights and entitlements in the legal and public policy arenas. Third, even where employment issues are directly addressed, sex workers seek to apply pressure on a third party to compel employers to act in benign ways. Fourth, sex-worker pressure groups seek to lobby to gain access to the power, resources and influence of the state and various social capital networks rather than attempt to create their own. Thus, the dominant characteristics are acting as ginger groups and being reliant upon others (whether NGOs or the state) to provide either the end goals or facilitation of these.

Building on this in a different but complementary manner has been the emergence among some sex workers of the view that as workers they should organize collectively in/on the worksite. This is believed to be a more effective way to increase their individual and collective degrees of worksite control and to pursue far more collectively orientated rights. Indeed, the basis of having rights as individual workers is premised on having collective rights and strength. Consequently, the focus of attention has moved away from the police, legal system or government to the more immediate employment relationship, the employer (*de jure*, *de facto*), wage-effort bargain and job control. Therefore, attention has been given to the terms and conditions of economic exchange in a way that did not exist previously. Moreover, and flowing from this orientation, is a thrust to create, and rely on, their own resources to a far greater degree. Although still deploying the expertise of others to some degree, the ability to pay for and secure these results from far greater

self-organization, self-activity and self-reliance is marked. With greater self-reliance also comes greater self-control and independence for the (union) organizations sex workers established for themselves.

## Conclusion

In addition to the IWW's efforts Gallin (2003) recounted: 'There may have been earlier instances of organization, under exceptional social and political circumstances [namely] Russia 1917 [and] Spain 1936'.<sup>5</sup> Thereafter, there was a not inconsiderable number of other instances of labour unionism and labour union activity concerning sex workers. There is no known evidence of any direct connections between them. The significance of these historical antecedents to contemporary sex worker unionization is not founded upon any tangible, direct linkage as Gallin (2003) observed: 'There is no visible historical continuity between such short-lived attempts and the present movement.' Rather, their significance concerns psychologically providing elementary encouragement and validation for activists (as opposed to models and methods of organizing being learnt from). So, for example, the Playboy 'bunny girls' contestation of management's right to determine what they looked like and wore provides a supportive historical reference point in regard to exotic dancers. But while the use of 'independent contract' or self-employed status in burlesque headed up what would be a powerful practical and ideological challenge to labour unionism for sex workers in the decades ahead, the response to it in the twentieth century gave no great purchase on how it could be effectively dealt with later on. Yet what can be intimated are the historical continuities in the difficulty of organizing in the earlier twentieth century with those of the late twentieth and early twenty-first centuries. Such intimation denotes that the voluntarism of activism of 'it was done before and so it can be done again' requires tempering.



# 3

## Sex-worker Union Organizing in North America

### Introduction

The United States of America appears at first sight to be the best place to begin analysing contemporary sex-worker unionization. This is because it has one of the biggest and most advanced domestic sex industries in the world as a result of the size of its population, economy and particular culture. Its porn industry is the biggest of any country and it contains 4,000 clubs with 250,000 women working as exotic dancers (Roach 2007:15). Yet, in another sense it is not an obvious starting place, for not only is prostitution unlawful in the vast majority of states within the union, making labour unionism for prostitutes a fraught project but labour unions themselves are very weak, with private-sector density below 10 per cent since the late 1990s. Indeed, it was never very high even in the heyday of union influence in the 1970s, being 25 per cent in 1975. In this vein, Aimee *et al.* (2015) wrote: 'The United States lags behind most other nations when it comes to sex workers' labor organizations and social movement building.' However, and especially when compared with Canada, there have been a surprising number of attempts to unionize sex workers. Although most have involved exotic dancers and not prostitutes, there have been sustained attempts to organize porn performers. But it is also important to note dancers have sought to resolve grievances through non-union means of interest representation.

While labour unionism is far stronger in terms of density and influence in general, and on public policy in particular, in Canada, and although its labour laws are far more supportive of workers as well, proportionately speaking, the forces of sex workers' unionization have been much weaker in Canada than in the United States. The comparison is most obvious and most stark in regard to exotic dancing which is well

developed and sizeable in both countries.<sup>1</sup> This is all the more notable when one also considers that Canada's economy and society are more regulated and socially progressive than those in the United States, especially in regard to women's rights and the pursuit of social justice. But despite these environmental differences not making for the expected outcome of stronger sex-worker unionization in Canada, there are also similarities between the two countries. Three inter-related ones most prominently come to mind. The first has been the decline of regularized employment regarding shifts and income concomitant to the rise of self-employment in both countries.<sup>2</sup> This trajectory accelerated so that by the late 1990s very few dancers received wages or fees, with those that did being the like of 'feature dancers'<sup>3</sup> which tour around clubs (see Roach 2007:40). The second is that both countries' labour laws accord the right to statutory union recognition (certification) only to employees (rather than workers). This, therefore, does not cover those who are self-employed (also known as 'independent contractors' or 'own account' workers). In both countries, most union certification (that is union recognition) comes through the statutory routes. Thirdly, and quite heavily related to this, is that the dominant practice of both Canadian and United States labour unionism is not 'open source' unionism. In other words, unions tend only to organize workers where they are working under union-negotiated contracts – or are trying to unionize the whole of a workforce to gain such a contract. Consequently, organizing relatively small numbers of workers where collective bargaining is not undertaken is not the habit on the grounds of cost and ease. Sex workers are then subject to an inverted Maltese breaststroke of not being employees and, ignoring any moral objection to sex work for the moment, not being within the organizing sights of unions. This chapter begins by considering developments in the United States before moving on to Canada. For the United States, consideration begins with exotic dancers (including the Lusty Lady) and proceeds to examine pornography, prostitution and non-union collectivism. For Canada, most consideration concerns exotic dancers. Despite there being some 'international' unions in North America, primarily United States unions operating in Canada, there has been no such practice with regard to sex workers.<sup>4</sup>

## **United States**

### **Private-sector union density**

The union context is worth exploring further. Overall density has been low and subject to further decline in recent times. In 1983, it was

20.1 per cent and by 2014 it was just 11.1 per cent, with public-sector density nearly 36 per cent and private-sector density below 7 per cent (BLS 2015). In 2014, there were only three states with density in excess of 20 per cent – Alaska, Hawaii and New York. California was 16 per cent. Density for full-time workers was more than twice as high than that for part-time workers. Older workers were far more unionized (in relative terms) than younger workers as were black workers compared with white workers and male workers compared with female workers. The difficulty for sex-worker unionization in this regard is not just the implication of the low level of unionization as a universal feature of labour relations, important though that is, as the low level represents the effects of the dominant power, ideology and material interests of capital – and this then seeps into other spheres like public culture, attitudes and perception. It is more specific and pernicious than this by virtue of sector, geography, contract status, age, gender and so on. The implication is that, with all other factors being equal, sex-worker unionization among younger white women – being probably the largest constituency among all sex workers and the most sought after given the demand of white heterosexual males – is less than a likely probability, and certainly less likely than for other groups. This is on the two-fold basis that ‘like’ helps recruit and organize ‘like’ and that acceptance and credibility are heightened by general awareness as well as direct and indirect experience. Yet not everything is equal, especially in regard to innovative techniques being used by many unions to recruit, retain and organize members, especially among non-traditional and so-called ‘difficult to organize’ workers. This activity has been carried out under the rubric of ‘union organizing’, ‘social movement unionism’, and so on. Yet, the dominant attitude within United States unions, reflecting United States society in general, is not conducive to organizing sex workers given that sex work is not seen as legitimate and worthwhile but rather still largely repugnant, immoral and a source of women’s oppression. Other than a few exceptional examples, this has meant that sex workers have had to establish their own unions, thereby increasing the extent of the challenge they face. Moreover, the extent and nature of employer retaliation in the United States is considerable (see Gall 2012:34–5) and there is no reason for sex industry owners and operators to be any less hostile and brutal.<sup>5</sup>

### **Exotic dancers**

From 1980 onwards, an ever recurring and frequent number of cases of exotic dancers attempting to unionize to fight for better working

conditions and control over their working lives has taken place. Of the first three known cases, one was met with physical violence (presumed murder), another with management intimidation while the third petered out through apparent lack of interest (Gall 2006:65–6). At this time, dancers being employees – rather than ‘independent contractors’ – was the norm. Topless dancers, along with bouncers, bartenders and DJs, at a San Diego club engaged in union organizing in 1993 over pay and conditions grievances. Although paid an hourly rate and shift bonus, dancers were forced to pay per hour to work, compulsorily tip other staff and buy dancing costumes from the club with the effect that, some nights, dancers ended up owing the club more money than they earned. The dancers contacted the HERE union. Initially, it was sceptical because of its inexperience of this sector, high dancer turnover rates and their irregular shifts. But it was persuaded the dancers were workers and performing work. With its help, enough signatures were quickly gained to file a National Labor Relations Board (NLRB) application for union recognition. The first ballot was lost but the second was not. But the club resisted, firing one of the lead dancer organizers and worsening working conditions as a punishment for the second vote. It hoped to take advantage of the turnover in dancers and create demoralization. Over a year later, however, the club relented and agreed to a first bargaining contract. While it provided basic protection from unfair treatment and victimization, the club would not shift on the hourly ‘fee’ charge and raised this by 1100 per cent and fired the second lead dancer organizer. Two years later the dancers voted to derecognize the union after becoming unhappy over its inability to represent their interests.

Established in 1993 in San Francisco, the Exotic Dancers’ Alliance (EDA) sought to tackle the issues of working conditions, especially the introduction of stage fees and self-employed status.<sup>6</sup> The issues crystallized around a keenly felt lack of collective ‘voice’ for dancers. Innovatively, it used many workplace posters to address dancers with slogans like ‘Stop looking for support in the lingerie department’, ‘Like an orgy, it only works if there’s a lot of us’ and ‘United we stand – divided we bend over’.<sup>7</sup> The EDA also used its own version of the woman worker ‘We can do it!’ poster (after J. Howard Miller) with the black and white outline of a dancer holding aloft her arm and fist. The notion to collectivize came from a realization that a permanent – rather than one-off – form of collective organization was necessary. But like all subsequent attempts at unionization in the United States, the dancers ran into three inter-related problems. One was that they were increasingly

classified as 'independent contractors' and, thus, not eligible to avail themselves of the (limited) rights of workers, especially the ability to use the NLRB to organize a ballot for union recognition. If the ballot were won, then the employer is legally compelled to collectively bargain over terms and conditions of employment. The second was that the practice of labour unionism in the United States is not 'open source' unionism. The third was that until recently the vast majority of union certifications came through the NLRB, with the effect that unions seldom sought to gain recognition without the law (as a result of the greater freedom employers had to avoid doing so in the voluntary sphere). Consequently, organizing relatively small numbers where collective bargaining is not undertaken and not underpinned by the NLRB is not the habit of most unions in the United States.

One of the ways the EDA tried to get round these problems was to become a union itself and show that, in doing so, it was trying to organize employees. The battle to establish dancers as *de facto* employees became central to its attempt – and all subsequent attempts – at unionization. It centred upon whether the work they undertook was the same as, similar or comparable to the work of employees in terms of how management not only managed and supervised their labour but also dictated what was performed and as well as directed how it was to be performed and the terms upon which it could be carried out. If this could be demonstrated, then the dancers could show they lacked the control, independence and autonomy that non-employees like independent contractors have. In the course of the battle the EDA began, its two main activists were essentially sacked by being continually told when they turned up for their shifts that the shifts were full and the club did not need any more dancers.

The EDA submitted complaints about working conditions to the Market Street Cinema club and to state and federal bodies that examined and regulated employment matters, as well as making contact with the Service Employees International Union (SEIU). In 1994, the EDA secured its first success with a ruling from the California Labour Commission that dancers were not 'independent contractors' with the Market Street Cinema being ordered to pay back wages and return stage fees. However, the club increased its stage fees and appealed against the ruling. Meantime, a group of dancers at another club organized themselves together and called upon management to reduce the stage fees. This was refused so the dancers filed a complaint with the NLRB. Again this led to the realization of the need to operate as a union through the EDA. The club then 'sacked' the dancers that

joined the SEIU in 1995 while at a third club in 1997 an attempt to unionize was met by closure after the dancers joined the SEIU. However, the EDA was successful in organizing several class-action law suits to gain return of stage fees at a number of other clubs. But various clubs prohibited distribution of EDA material (like the aforementioned posters), and sacked and blacklisted EDA activists and members. The EDA then, in 2000, succeeded in gaining a change in Californian law so that dancers were classified as employees and not compelled to pay stage fees. But again clubs devised new and legal means by which to charge dancers *de facto* upfront fees.

Other dancers opposed the EDA, with some setting up the Independent Dancers' Association, Strippers to Retire into Prosperity (STRIP) and the Strippers' Society of San Francisco, being fearful that employed status would reduce the number of opportunities for dancers and their earnings as clubs hired fewer and charged higher fees. This opposition along with burnout of the key activists led the EDA to shut its doors by late 2004. But before this the EDA played a crucial part in unionizing the Lusty Lady (see below). However, it was afflicted by internal conflict between the EDA founders but no longer sex workers, Dawn Prassar and Johanna Breyer, and two long-standing working dancer activists, Daisy Anarchy and Hima B., over whether the police should be used to try to limit prostitution and violence in the clubs. Filling the vacuum left by the EDA was attempted by a small group called Sex Workers Organized for Labour, Human and Civil Rights (SWOLHCR) primarily led by Daisy Anarchy. Frustration with the largely inward-looking orientation of Lusty Lady union members – concerning themselves only with Lusty Lady issues<sup>8</sup> – and a lack of SEIU help and resources in unionizing other dancers led a number of activists to establish SWOLCHR. SWOLCHR continued the campaign against stage fees and compulsion to prostitute in lapdancing clubs, helped file class law actions to recoup stage fees, proselytized for unionization, and made representations to the California Labor Commission with some SEIU assistance. The victimization of the lead SWOLCHR activist, Daisy Anarchy, by the clubs led to SWOLCHR's disintegration (see later) and, with the demise of the EDA in 2004, the creation of the Erotic Service Providers' Union (ESPU) in late 2004. The ESPU was founded by one of SWOLCHR's activists, Maxine Doogan.<sup>9</sup> Its name was specifically chosen to avoid using the terms 'sex workers' or 'sex work' given that most dancers do not see themselves as sex workers or carrying out sex work. The ESPU's activities have included collecting 12,000 signatures (when 7,000 were needed) to allow its proposal to get on a public ballot for decriminalizing

prostitution in San Francisco (and then in 2008 campaigning for a 'yes' vote which was lost by 41 per cent to 59 per cent),<sup>10</sup> giving testimony to the San Francisco Entertainment Commission in 2006 on a proposed amendment to the Police Code for the regulation of live adult entertainment businesses, and submitting evidence to the Commission on the Status of Women. The ESPU also works in conjunction with the San Francisco Labor Council to proselytize among sex workers for the idea and practice of labour unionism and train sex-worker activists in labour union skills. In 2008, it had five paid up sex-worker members and ten additional auxiliary (non-sex worker) members. By 2015, it had 12 of the former and two of the latter.<sup>11</sup> Despite a wider array of supporters who made financial donations, it remains essentially a union in name and aspiration rather than reality.

### **Lusty Lady<sup>12</sup>**

The Lusty Lady, a former San Francisco peepshow, was until 2013 the only unionized sex club in the United States. As such it stood out like the proverbial sore thumb. Its existence was held up by both sex-worker union activists and advocates as evidence that successful unionization leading to collective bargaining was not merely desirable but also possible (see, for example, Aimee 2012a). From 2003 until its closure, it also operated as a workers' cooperative. But its sole, lonely existence as both unionized club and cooperative and then its ultimate demise suggest that its usage as an exemplar was more of exhortation than practical model. This, in turn, suggests that there were particular conditions that were critical in explaining the presence of the Lusty unionization and the absence of other similar 'Lusty Ladies' unionizations elsewhere. Among these are that the Lusty was a peep show (and not a strip joint or lapdancing club) with the result that customer interaction was limited and one based in the progressive and often bohemian San Francisco.

### *Background and beginnings*

The Lusty Lady Theater opened in 1976 as a film house showing pornographic films and in 1983 began featuring live peep shows. It then became a full-blown peep show establishment. Despite paternalistic management and use of employed status, since the mid-1980s there had been talk about unionization, even a strike, and isolated attempts to organize. Tendencies to discuss unionization grew as the club began to control dancers' appearance and behaviour more tightly. Management could not use the market for customers' tips alone to determine these facets because it employed dancers, and this led to an

increasing number of dismissals. With renewed vigour as a result of the arrival of several new dancers in the early 1990s, the conditions for a concerted unionizing attempt were laid.

Dancers began organizing in 1993 primarily as a result of grievances about customers filming or photographing them without their knowledge, consent or compensation, and favouritism in dancer selection for shifts (see Gall 2006:72–8 for an extended discussion of this). The dancers were immensely aided in this by having employed status, by not being in direct competition with each other (given hourly wages) and by the presence of sex-worker feminists. At the outset, organizing was not conceived in union terms until one of the dancers attended an EDA meeting held at an SEIU office in 1996. This led to meetings to discuss the prospects of organizing the Lusty based on an agreement between the EDA and SEIU whereby the SEIU would support the EDA representing any strippers in San Francisco who wanted to unionize. The Lusty dancers were pleased to learn this even though they had not decided to unionize at this point. However, upon realizing that they had very few rights unless unionized, they began a unionization drive.

Upon hearing of the drive and that some 80 per cent of dancers were signed up, the club responded by removing the remaining offending one-way mirrored booths and, hiring a law firm, went on the offensive. This merely galvanized the dancers further into making an NLRB application for a union recognition ballot. Management prepared for the ballot by running an anti-union propaganda campaign. The underlying messages were: the union cannot be trusted, it has separate interests from workers or its members, and it is an unaccountable third-party. An example of a flyer (dated 16 August 1996)<sup>13</sup> which advocated a ‘no’ vote, and was either issued by management or worker that supported management, read:

If this election is about Lusty Lady employees getting together to deal with management, why do you have to write this check [ ... for \$12,942.91] to SEIU? If the union is voted in, we understand that each employee in the Lusty Lady can expect to pay 1.3 per cent of their monthly salary to the Union.

If you multiply these yearly dues by the average monthly salary income of the employees who might be forced to join the union the total is almost THIRTEEN THOUSAND DOLLARS [capitalization in original].

With collective bargaining, there are no guarantees except that you’ll probably have to pay union dues if you want to continue to work



here – but after a contract is signed, wages could be higher, lower or the same.

Why pay another bill if the union can't guarantee that your income under a union contract will cover it?

Two key activists were also placed on 'final warnings' for bogus infractions. The club also began to take on more dancers in an attempt to reduce the proportion of unionized dancers. Despite all this and pleas to give the club a 'second chance', the ballot was won by 57:15 and in 1997 the EDA at the Lusty became the Exotic Dancers' Union (EDU) chapter of the SEIU (subsequently SEIU Local 790).<sup>14</sup> The chapter was led by the dancers but also included support staff (cashiers, janitors and security). However, this victory was merely to be winning the first battle in a longer war. 'Surface' or 'bad faith' bargaining was practised by the club so to break this logjam the dancers undertook a form of industrial action called 'No Pink' where no genitals were shown during dancing. In response, management fired a dancer, to which the others responded by picketing the club and chanting: 'Two, four, six, eight, don't come here to masturbate!' Management retaliated with a lock-out, closing the club. After a two-day stalemate, and surprised by the dancers' collective strength, management backed down, rehired the dancer and began bargaining. The contract comprised a formal grievance procedure, binding arbitration, an improved wage scale, a sick pay scheme, one day's holiday a year, employment security and no discrimination due to race, hair colour or breast size. Equally significant was that the SEIU, drawing upon its ten shop stewards and activists, negotiated a second contract in 1998 which improved on the first.<sup>15</sup>

### *Workers' cooperative*

The Lusty 'story' took another significant turn when the dancers and support staff bought the club, transforming it into an employee-owned enterprise or workers' cooperative called the Looking Glass Collective. Shortly after signing a new two-year collective bargaining contract in 2003, the owners announced they intended to close the peepshow down because of increasing wage costs and the 'hassle' of labour disputes. Upon hearing this and with no other offers from a conventional capitalist enterprise to buy the business, the dancers (and support staff) decided to buy it themselves. Their motivation was not just to save jobs but to take the opportunity to work for themselves, own the 'means of the production' as they put it, and own a business and run it as they wished. Initially union recognition

and union membership were retained because not all staff were employee-owners and because of uncertainty over the future of the business despite many pushing for the disbandment of the union. However, by 2009, only eight of the 60-odd regular workers (c.12 per cent) were members because membership was seen as unnecessary in a cooperative. Density had fallen from around 25 per cent two years before. For a considerable period, there was no union shop steward although there was provision for up to 12. This atrophy resulted from co-operators not seeing a role for the union when they were themselves the *de facto* management, the occurrence of 'free riding', the poor wider reputation of their Local, and the union role being seen to be confined to episodic representation in grievances and disciplinaries and negotiating the annual contract (by an SEIU full-time officer and which was subject to co-operator approval).

The business was bought for some \$400,000 (*New Yorker* 12 July 2004), directly from the owners without using a bank loan and a cooperative established with help from other coops in the Bay area. The purchase did not include the property in which the club was housed which would have significant ramifications later on (nor the right to trade as the Lusty Lady which incurred another annual cost). The feeling was that the cost was rather high for a new venture. Membership of the cooperative cost \$300 per worker. Seven different committees were established for buyout negotiations, insurance and licensing, finance and business plans, bylaws, media relations, and general operations. A system of self-management was established comprising both meetings of the co-operators and seven elected board directors (serving one-year terms) from the co-operators, on an unofficial basis of five dancer directors and two support staff directors. Decisions were made by votes rather than consensus as this was viewed to be more efficient. The first union contract negotiations under the cooperative proposed unsuccessfully to introduce mandatory co-op and union membership for all workers. More significantly, a new revenue-based pay system in place of fixed hourly wages, and which passed on the ups and downs of revenue receipts to the dancers, was implemented (Steinberg 2004). The structure of this meant that in 2008–9 a \$10 per hour minimum was guaranteed, being several dollars above the state minimum wage, and earnings about this level were based upon seniority, overall weekly revenue and revenue each dancer brought in through private dances. In an ideal week at that time, a revenue of \$31,000 allowed hourly earnings to vary between \$17 and \$23. However, each dancer was informally guaranteed only one four-hour shift per week, with the average being

3 or 4 shifts per week in 2008–9.<sup>16</sup> This had significance for issues of attachment (see later).

Shortly after becoming a cooperative, the Lusty came under pressure to make financial savings. Revenue dropped while the loan to buy the business continued to be repaid. This had an impact upon dancer and support staff wages (with pay cuts of between \$1 and \$3 per hour). Later in the 2000s, the cooperative was doing better despite the economic downturn but still not as well as it needed to. To this extent, it was cushioned by being cheap compared with its more conventional competitors. The lead madam (Pearl 7 January 2009) reported the club encountered problems with some dancers who valued the existence of ‘a feminist cooperative of sex workers ... but were perennially late for work, disliked the customers ... and didn’t really recognise the cooperative was there to make money [to provide] them with an income’. This aspect of a difficult transition from conventional capitalist enterprise to socialized cooperative had its counterpart in dancers having a tough challenge in changing from having anti-authoritarian attitudes to the conventional management to developing participative ones under the cooperative as many still looked for a management to ‘kick against’. Working out how to practically take on the responsibility of cooperation was not in abundance when some sought to depict the board of directors, which they elected as ‘the management’. In these regards, a points system for punishing indiscipline was essential. Two other phenomena were also noticeable in the late 2000s. One was that co-operator participation was low. Some 18 months after the cooperative came into existence, the demand arose for monthly meetings (in addition to the quarterly meetings). However, the monthly meetings stopped in 2006 due to declining demand. The second was that high dancer turnover led to the loss of technical (running the cooperative) and social (pro-cooperative knowledge and consciousness) capital, along with the extra effort and transaction costs for those that remained. The loss of social capital was heightened by most dancers not coming to work for the Lusty because it was a cooperative.

These difficulties were compounded and extended by a bitter internal feud. In 2006, a number of male support workers tried to derecognize the SEIU against a backdrop of internal strife, ranging from inflammatory emails and verbal communications, suspensions, firings and competing allegations from dancers and support staff of sexual harassment and unfair labour practices (*San Francisco Bay Guardian* 27 September 2006). This began when some of the male workers, who were front desk and cleaning staff (and co-op members), began arguing that the co-op

was losing money (which impacted upon wage levels and job security) because the dancers were too fat, big and un-sexy, the hiring policy was thus wrong, and that the union contract was invalid because the co-op made no distinction between management and labour. This outraged the dancers, who regarded the views of these male workers as discriminatory and rolling back the gains of the hard fought battle to unionize the Lusty. In the process, a considerable divide opened up between the board of directors, generally supporting the business case argument of the male workers, and the SEIU which supported the dancers. Indeed, when the main dancer (and director member) who protested against the key male complainant was dismissed, the union took out a grievance against the cooperative on her behalf. In the dispute, all but two members of the board of management resigned (Dalton 2013). However, subsequently these tensions eased, aided by the cooperative's financial position improving – as a result of dancer initiatives – and staff turnover among non-dancers. In 2008, the loan to buy the business (from the previous owners) was fully paid off, allowing an increase in wages.

But in the background was another tension. A worker cooperative is defined by workforce membership being synonymous with cooperative membership, with the membership running, controlling and owning the business. This is a defence against outside interests or managers wielding disproportionate and hostile influence. Yet not all co-operators worked at the Lusty for some 20 dancers were on call or on leave of absence<sup>17</sup> and probationer dancers were not eligible for membership in the three-month probation, while not all those that worked at the Lusty Lady were cooperative members (with 25 per cent not being members by the 2010s when membership density was 95 per cent in the late 2000s).

### *Overview and analysis*

The case of the Lusty showed how the search for economic and workplace justice took distinctive turns, especially when the creation of the cooperative led to its effective de-unionization. The cooperative principle was that only Lusty workers could be members (although membership was not compulsory), and so the cooperative was owned and run only by its members and not any outside interests. The hope was that, on the one hand, the constant conflict experienced with the previous conventional management and owners could be ended. Meanwhile, on the other hand, workers could exercise more control over their working lives and, in so doing, contribute to a more successful collective enterprise and achieve more job satisfaction. The way to do this was for

the workers themselves to own the 'means of production' so that no conventional management was needed. But shortly after beginning, the cooperative came under severe financial pressure. On top of this, the amount of additional time and energy required to operate a cooperative became abundantly clear. Staff turnover – especially among dancers – led to a loss of requisite technical and social capital, and the voluntary effort required to run the cooperative infringed upon leisure time. Consequently, many other cooperative members with both the willingness and the technical skills to manage a business left, and attending cooperative meetings on Sundays mornings became something of a 'drag' for many members. However, problems arose again some years later. One of the dancers (Bottoms 2012) reported:

Over the past few weeks a giant schism has formed within the cooperative regarding the future of our historic and beloved business, which is resulting in a wave of workers, including myself, walking away. I want it to be known that the Lusties leaving the Lady are NOT walking away from its rich memory of camaraderie and perseverance during cooperation or landmark status of being the only unionized sex work business within the United States, but simply from a disintegrating system and hostile working environment within a failing business model.

Among those leaving were several dancers, most of the board of directors and the lead madam. The scale of the problems was highlighted by the cooperative seeking to raise \$25,000 in three weeks for 'keeping the Lusty Lady operating and sprucing up the space' (*San Francisco Weekly* 21 May 2012). In response to this crisis, discussion about ending the cooperative model took place (*New Yorker* 23 August 2013). The following year, Elizabeth Dunn, a Lusty dancer using the *nom de plume*, Dahlia Decay, and active co-operator cited 'a managerial deadlock between union governance and the co-op ownership, speaking of serious conflict when flagging business forced club-wide pay cuts' (McDermott 2013) and where the club's rent per month had risen from \$5,500 per month in 1998 to \$13,000 in 2008 to \$16,500 in 2013 (interviews, *San Francisco Guardian* 20 August 2013). In a blow to the model of cooperation but highlighting the gravity of the financial situation, the club brought in a former porn actor as a financial adviser and gave him unilateral power to act without board approval. He was unsuccessful in negotiating a decrease in rent or a revised repayment plan for rental debt.<sup>18</sup> The manner in which he carried out his role was reported to be a final blow

to the cooperative model given that he acted without consulting the cooperative (Hodgson 2013) and for which he was fired (Dalton 2013).

This emerging picture of falling revenues, rising costs and under-investment being expressed through, and compounded by, internal strife (where a number of co-operators worked harder in the running of the cooperative to try to cope with these pressures) was confirmed by other dancers. Thus, Princess Pandora (PM 2013), who worked at the club in various capacities including dancing for over ten years and held the position of lead shop steward, outlined the cycle of downward decline that the Lusty Lady entered into. It was one of under-investment and falling revenue leading to dilapidation in the context of gentrification of the North Beach district of the city, rising rent and economic recession. Over the last few years, cooperative members gave over more of their time to keep the club afloat, leading to demoralization when this made no tangible difference to its profitability. Princess Pandora argued it was not simply that 'we were flaking and not paying the rent', for complications existed over the club's lease.<sup>19</sup> Along the way, some 50–80 jobs were lost. Lily Burana (2013), a former Lusty dancer, commented: 'The Lusty Lady informally rebranded itself as a holdout [against 'McStripclubs'], parked somewhere between revolutionary and quaint ... But nostalgia is no life raft and business at the Lusty dwindled. After years of suffering declining revenue due to competition from the Internet, as well as several rent hikes, it was announced in late August that the club would shut down'. Indeed, the Lusty closed on 2 September 2013, which was ironically Labor Day, after it failed to pay its rent and the owner declined to negotiate financial measures to allow the club to stay open.

Cooperatives, especially those emerging as phoenixes from the ashes of capitalist enterprises and where the consequent rationale is an instrumental one of saving jobs, are fraught projects. If capital cannot make sufficient returns on an enterprise, one of the few ways for a workers' cooperative to survive is to engage in a level of self-exploitation of their own labour that is greater than the exploitation of labour gained by the former capitalist owner. Yet survival and success are still not assured for capital investment is often hard to come by, especially on terms that are propitious given that banks treat cooperatives with disdain and the cooperative movement is not well-funded itself. The Lusty had advantages in that it was not a capital-intensive operation (being labour intensive instead) and many of its dancers were committed sex radicals with an ideological motivation. But these were relatively slight advantages given that its cost base was rising, it was a 'dump' (Burana 2013)<sup>20</sup> badly

in need of investment and the market for Bohemian, non-conformist peepshow dancers appeared to be a declining one as striptease and lapdancing with closer customer contact based upon 'conventional' women of slim figure and large breasts came to dominate.

Relatively early on, there were signs that much of the initial enthusiasm and optimism (Steinberg 2003) about being a worker cooperative was beginning to evaporate as the demanding practicalities of running an enterprise and organization rudely kicked in (Steinberg 2004). Donna Delinqua, one of the main activists, recounted:

[T]he skills and attitude that it takes to hold together when you're fighting a common enemy are not the same skills it takes to run a business when there's no outside focus to supply a shared sense of purpose and perspective. ... We were all used to relating to the theatre management as the boss. After we became a collective, it was easy to think of the Board of Directors as the new bosses and relate to them as such. ... Everyone thought 'Great, now we're free to do what we want' ut when people were habitually late for work, or just didn't show up, we began to realize that we needed systems of discipline to hold the whole thing together. At the beginning, people were excited about the privileges of working for ourselves, but they didn't always want to step up to the responsibilities. (In Steinberg 2004)

Interviewees attested to the tension between creating a feminist space of self-expression and running a business, and the need to raise consciousness to stimulate more staff and dancers to get involved in the running of the cooperative. Performance appraisals by fellow dancers were a particularly contentious issue (Steinberg 2004, Siegal 2008) and the system of having three elected equal madams (house mothers) in charge of the dance rostering and organization was changed to a lead madam, was able to hire and fire and appointed by the board of directors in order to create a more efficient management system (Miss Muffy 7 January 2008). Later, Siegal (2008) reported some sense of political discord and dysfunctional organization where running a cooperative was a more onerous undertaking than a conventional job with many being members simply seeking to save their jobs (albeit of 115 co-operators, only 60 were active members in some way – defined as working some shifts and attending some meetings). Into the 2010s, the sense of the added commitment needed not just to work but to help conduct the organization of work meant that the import of what Aimee identified became more significant: 'Working on the books and owning and

running a club isn't necessarily what most dancers are looking for in the stripping industry' (in Gira Grant 2012b). Indeed, before its demise, the Lusty Lady website in its 'about us' history commented:

Although worker ownership is a rare and ideal situation, it is not without its challenges. Unlike traditional management structure, you have a constant opportunity to impact, change and reinvent your work experience. While this is ultimately fantastic, it also leads to a fair amount of additional work and can be the bone of some very serious contention. When it comes to proposed changes, which ideas are practical? Which have problems of a legal or liability nature? A labor/union nature? Which ideas would we love to implement but are impractical, infeasible, or (oops!) illegal? If applicable, how will we implement them fairly? Feasibly? How will we make the decision to move forward and be certain the wishes and intentions of the majority of members are represented? What is our backup plan? Ideally, what is our long-term goal?

So it's not all roses ... There are decisions to make and votes to count and seemingly endless meetings and discussions to be had. There is always the question of money and how to get more of it if we ever want to... well, anything. And if we want something done (employee manuals, new carpet, a soda machine) we have to do it ourselves. But the beauty of it is, we do. Somehow, the decision gets made and the new idea gets implemented and we get the new carpet. We figure out the problem and we move on to tackle the next one. We fight like siblings and when the smoke clears we realize how lucky we are to be fighting over hopes and dreams and plans for a business that is actually ours. It may not always be that way, because like most small businesses, any rogue wave could badly damage or even sink the ship. But today the Lusty Lady is ours to squabble over, to plan for, to dream about.

We have many different hopes and dreams, depending on who you talk to. Most people hope for wages to return to their former glory. Many hope for capital improvements, or even health insurance. Some of us hope to last another 30 years and some hope we last at least until the end of this one. Some of us even dream of helping other businesses to do what we have done, only maybe a little more smoothly.<sup>21</sup>

Prince\$\$, a long-standing dancer, believed the main problem had been the inability 'to get anything done fast' as a result of the dominant



cooperative structure and processes, with the installation of webcams to try to increase revenue bringing about disagreement about their use so they were removed within weeks and never reinstalled being such an example (Hodgson 2013). Pearl (7 January 2009) described the endless and time-consuming difficulties in trying to come to a consensus on what the Lusty's aesthetic was, with the result that with no consensus many actions were not taken. The sense of the strain of the extra effort required to run a cooperative was also detected by Barton (2006:158). Moreover, Princess Pandora reported:

For most of the people there, the Lusty was something they did in addition to something else. Financially, at least for the last couple years, we hadn't really been sustainable, we were doing it out of love with the hope of turning it around. So for most of the people that worked there, they weren't getting paid for some of their hours. Basically, pay kinda equalled working at a coffee shop, where we could've make the same or more with less stress, and without nude dancing. So by the end, most of the people were doing it because they believed in what The Lusty stood for and wanted to save it. (In PM 2013)

Interviews revealed that dancing at the Lusty was not a full-time job for most so others danced elsewhere or engaged in sex work or other work in order to make ends meet.<sup>22</sup> This situation arose early on because the number of dancers exceeded the requirement for them – the situation itself resulting from the increase in the number of dancers joining the club where there appeared to be no bar on the number of dancing co-operators. But it also arose because the pay was relatively low and without health care or pensions.<sup>23</sup> The sense of declining attachment to the Lusty outside of its key personnel was also identified by Burana (2013) for she commented: 'dancing wasn't even the central point around which their lives were organized'. Looking back over 15 years of existence of unionization, Aimee (2012a) argued that a fixed wage structure which does not allow for the possibility or hope of sizeable earnings goes against the deeply held notion among dancers that their key ambition is to make as much money in as little time as possible. She also raised the argument that the model of clubs acceding to dancers as employees merely stores up future problems whereby putting dancers in a stronger bargaining position allows dancers to extract higher wages and conditions, thus, imperilling the business they are employed by.

Whatever the specific causes and contours of decline, it is apparent that in the end the very thing that had sustained the Lusty, namely, a different business model with non-conformist dancers working cooperatively together became its Achilles' heel. That the Lusty experiment of a unionized sex club that became a cooperative was never subsequently repeated elsewhere in the United States, either in whole or in part, is significant.<sup>24</sup> Among the reasons for this idiosyncrasy was the interaction of the traditional Bohemian nature of parts of San Francisco, the progressive politics of the city (typified by the Harvey Milk Democratic Club in which sex workers organized a caucus), the smallness of San Francisco allowing communities to form more easily, the Lusty becoming a mecca for non-conformist dancers (in part explained by it being a peepshow where dancers exercised more control over customers than in a conventional club),<sup>25</sup> dancers' employed status giving security and reducing competition between dancers, and the elevated level of commitment to some sense of collectivism displayed by many of those that flocked to work at the club (see Barton 2006:148, Bernstein 2007:37,72,220). Put another way, why did the Lusty model not even extend to other clubs in San Francisco? Given the baseline that all other clubs in San Francisco increasingly classified their dancers as independent contractors, other factors were also salient such as an over-supply of dancers, competition between dancers for income at clubs and managers blaming dancers for class actions law suits, which they argued brought in rises in stage fees (see Barton 2006:147,148,153).

### **The Lusty's impact**

So while the preceding section has stressed the peculiarities of the Lusty in terms of its existence, success as a unionization project and then transformation into a cooperative, the dancers and their activities at the Lusty did have a positive, if short-lived and partial, impact elsewhere. The nature of the impact was a more general sense of showing what was possible rather than probable, even if this was without regard to examining the portent of the peculiarities. Thus, the Lusty's counterpart in Seattle experienced an unsuccessful organizing drive shortly after that of its sister club.<sup>26</sup> The grievances and context were similar. What appear to have been the critical differences were the absence of a determined number of sex-worker union activists and less collective confidence among dancers in unionization (because of the belief the union caused conflict between dancers and club). However, the club also tried to pre-empt unionization by raising wages, creating a staff forum and having staff reps. Yet following the success at the Lusty in

San Francisco, the EDA reported expressions of interest from dancers in Oregon, Washington, New York, Pittsburgh, Philadelphia, Florida, Texas, Kansas, Massachusetts and southern California. However, few progressed into union-organizing drives of any significance. In addition to reasons of employer/operator intimidation, part of the explanation for this outcome was that improvements in conditions were won by collective efforts without a union and by individual dancers taking out lawsuits against their employers/operators (see below).

The shows of interest that did lead to union-organizing drives were in Anchorage, Alaska, Philadelphia, and North Hollywood. Dancers and staff at the Showboat in Anchorage started organizing a union, the Alaskan Exotic Dancers' Union, in 1997, in response to rising club fees and unsafe working conditions. The dancers approached the International Brotherhood of Teamsters (IBT) and gained help from it but were abandoned mid-way through the campaign for union recognition (Wilmet 1999:467), whereupon the dancers found help from HERE instead. Management responded by firing the activists, increasing house fees, imposing a one-day lock-out, and subjecting pro-union workers to threats and harassment. With the Hell's Angels believed to control the club, its presence added to the level of intimidation (Wilmet 1999:468). But rather than weather the lengthy appeals process involved in litigating against unfair labour practice charges through the NLRB, the Alaska Exotic Dancers' Union through HERE opted instead to negotiate a settlement (involving back wages, reinstatement of sacked activists and a pledge to desist from interfering or intimidating any future unionization drives). But the settlement did not require the club to recognize the union or collectively bargain. Although the activists viewed the settlement as merely the first step in the continuing campaign and petitioned the NLRB to hold a ballot, it became clear that the club had managed to frighten off the majority of dancers from supporting the union as no petition or election was forthcoming.

A dancer in Philadelphia organized her co-workers to fight for union recognition in 1997. She had been organizing around grievances of wage levels, dressing-room facilities, irregular hours and inconsistent application of discipline. The IBT helped collect signatures, file an application with the NLRB and begin campaigning for the vote but then abandoned the effort without notice (Wilmet 1999:467). In the ballot, the union dancers failed to gain a majority as a result of management intimidation. The lead dancer organizers were physically threatened by the manager and two were fired but then reinstated. The NLRB substantiated the claims of a death threat, intimidation and harassment prior

to the ballot. Others were denied shifts for supporting unionization. The NLRB sought a court order forcing the employer to bargain with the dancers' union, the Professional Dancers' Union. But further threats of sacking, blacklisting and club closure led the organizing attempt to wither rapidly thereafter. After suing, the lead sacked dancer organizer gained back pay. Later in Philadelphia in 2002, ten dancers came together to form the Sex Workers' Action Team (SWAT) to try to improve dancers' working conditions and overall standing in the community. They wanted to form a union but were wary of being victimized as other dancers had recently been fired by two clubs (*Philadelphia Weekly* 6 March 2002). Although SWAT held some fundraisers, it and its desire for unionization did not progress and it withered and died. At the Star Garden club in North Hollywood, dancers campaigned for union recognition in late 1997 under the sponsorship of the American Guild for Variety Artists after management cut their hourly wage and started taking a cut of tips from table dances (Steinberg 1997). Three of the most active organizers were fired. They contested their terminations as an unfair labour practice. Back in San Francisco, some 80 per cent of the 35 dancers at the Regal Show World Theater signed cards requesting a collective bargaining election through the SEIU Local 790 following management removing the peepshow tip slots through which customers would tip dancers (EDA 1997, Steinberg 1997). Although the dancers were paid an hourly wage, most of their earnings came from tips. Under the club's new policy, the club essentially took half of the tips, close to a 50 per cent reduction in their previous earnings. The club stymied the certification election by filing for bankruptcy (EDA 1997).

Frustration with the inward-looking orientation of Lusty union members and lack of SEIU help in unionizing other sex workers led a number of activists to establish SWOLCHR. A number of interviewed activists believed the SEIU 'only' took on the Lusty because essentially it was already unionized through the EDA and so was a low-cost operation and that this, along with a conflict of interest in the form of the head of Local 790's relationship with some clubs, led to SEIU's not being keen to engage in meaningful unionization after the Lusty breakthrough. The founder of SWOLCHR was withdrawn from SEIU work and then expelled from the SEIU over such tensions. SWOLCHR disintegrated as a result of the victimization of its main activist, Daisy Anarchy, and its inability to 'salt', namely, to unionize from within rather than from outside. She catalogued the retribution that was meted out to her and others in a submission to City Hall in San Francisco in 2005.<sup>27</sup> This included in 1997 being fired by a club along with another activist for

'political activity', this other activist being fired by another club in 1999 when contacted by this previous club that was the subject of an unfair labour practice complaint to the NLRB, Daisy being fired in 2001 by another club for exposing a manager there for pimping and pandering, a club manager attending a union meeting for dancers in 2002 in order to intimidate them and a chain of clubs in 2004 using the 'captive audience' meeting tactic for union busting.

Since the ESWU's establishment, a dancer in Georgia was harassed by the FBI on account of a number of issues including her IWW membership. She commented; 'The IWW ... [is] the only union that takes strippers. That's why I joined. For a while I was thinking about organizing the strippers in Atlanta, but I ran into some hostility when I was trying to do it' (Ward 2005). The IWW has a small handful of scattered members in its Sex Trade Workers Industrial Union 690 (see below). At around the same time, an initiative of strippers at two Louisville clubs to talk to the IBT about unionizing (*Associated Press* 29 January 2004) turned out to be a ploy by a club owner to form a strippers' union to use it as the representative of strippers to campaign against the local council's efforts to tighten restrictions on strip clubs in terms of their opening hours, and requiring dancers to wear pasties and G-strings, stay at least six feet from customers and prohibit them from accepting tips. The club owner stated: 'The money [from union dues] is going to be used to get them out of office. ... It's a political action union' (*Associated Press* 29 January 2004). Despite this, the local IBT president believed the concerns also included health care, seniority and pay. What transpired was: 'Club owners asked the Teamsters to use their political connections to persuade the council to repeal the ordinance. In return, the Teamsters would have free rein to organize bartenders, waiters, doormen and bouncers. Strippers were not part of the deal' (Horowitz 2006). Nothing then came of the initiative. Founded in 2006, the Exotic Dancers' Association is an association of adult entertainers 'designed to add value to the adult entertainment industry stakeholder's interest ... by providing high quality products, services, and advocacy to adult entertainers that enhances the overall vitality of the adult entertainment industry through the validation of the industries commitment to socially responsible adult entertainment through empowered affiliation'.<sup>28</sup> It continued: 'We value the freedom of adult entertainers to thrive as adult entertainment independent contractors [and sought] cohesion between management and stakeholders through libertarian litigation free social responsible support for adult entertainers and gentlemen's club mavericks affiliated with the Exotic Dancers' Association

through subscribed membership'.<sup>29</sup> The organization was, thus, not a union but judged from its website more an opportunity for dancers to advertise themselves and for companies to advertise their wares. In 2010, a dancer in Washington had a grievance over being required to pay stage fees and fines as well as tip other staff. In the course of trying to take a lawsuit against the club, she began contemplating forming a union for dancers. Upon hearing this, the club told her to 'get in line' and effectively fired her (*Washington Post* 15 March 2010). Being fired and meeting opposition from other dancers for 'rocking the boat' stymied this initiative to create a union.

### **Las Vegas Dancers' Alliance**

The Las Vegas Dancers' Alliance (LVDA) was founded in 2002 by an exotic dancer who, as a man, was a former union activist at Boeing aircraft manufacturers. Initially, the LDVA had just over 100 members but some nine months later this was reported to be around 1,000 members out of around 15,000 dancers working in Las Vegas and 35,000 in the adjacent Clark County, with clandestine workplace reps operating in two-thirds of the lapdancing clubs in Las Vegas (*The Nation* 3 April 2003). Following its founding, the LVDA provided help to dancers in Texas and spoke of its aspiration to found a United States Dancers' Alliance. The stimulus to the LVDA was the passing of new lapdancing regulations which, as result of their no-touching rule and the exorbitant cost of holding a dancing licence, had deleterious implications for dancers' earnings. Thus, the LDVA was not conceived as a union but as a pressure group to repeal the new regulations and to act as a defender of the adult entertainment industry *per se* and the business of dancers (Gall 2006:85–6). But being spurned by the clubs in trying to do so, and a realization of the need to focus upon working conditions, turned it into a union. Consequently, the LDVA sought to negotiate a health insurance scheme for members but this proved unsuccessful for the dancers were deemed to be independent contractors. Thus, the LDVA campaigned to have dancers reclassified as club employees, using the evidence of the club's control of dancers' working time and work organization.

Club owners became enraged at the prospect of being forced to employ dancers given the reduction in revenue and increase in costs incurred. They were further enraged by the loss of power they would have as this would effectively end their ability to contract dancers to work in sufficient numbers as to create competition among them for work and custom. Consequently, LVDA activists were subject

to intimidation. One filed an unfair labour practice charge to the NLRB after being drugged, robbed, threatened and arrested while the LVDA leader was 'sacked' from two different clubs, blacklisted from some and barred from entering others. With a number of setbacks, the LVDA became less active and then disintegrated as its leader left the industry to find work elsewhere. Indeed, a sympathetic article in the *Las Vegas Review Journal* (10 August 2005) on dancers' need for a union did not even mention either the LVDA or any successor even though the leader of the LVDA had written to the paper less than six months earlier (on 29 January 2005). Along the way, no established union in Las Vegas offered any tangible help (Majic 2005). However, the Sin City Alternative Professionals' Association (SCAPA), founded in 2004, is not a successor organization to the LVDA as it is the Las Vegas chapter of the Sex Workers Outreach Project-USA and is, thus, an advice and support group in the mould of COYOTE. Although it believes in sex workers' labour rights, SCAPA's roles concern the provision of business and employment information, education and skills training on sex work for sex workers.

### Organizing in 'Porn Valley'

The vast majority of United States film and video pornography, until recently, was produced in California's San Fernando Valley as a result of a decision by the California Supreme Court in 1988 that pornography fell within the ambit of the constitutional right of free speech. Frequent attempts have been made to organize the performers (actors and actresses) in pornography since then. But even before San Fernando became the locus for this production, there were initiatives to unionize the performers. The first known ones date back to the 1970s, revolving around the decision by the established union, the Screen Actors' Guild (SAG), in 1974 not to organize in pornography. This decision related to the furore around *Deep Throat*, whether porn was acting and professional acting, and, critically, the SAG's policy only to recruit members working on films where a collective bargaining contract (over terms and conditions) existed between itself and the production company. Consequently, all subsequent attempts to unionize have either concerned trying to change SAG policy from the outside or trying to set up new and entirely self-resourced independent unions. This has meant that a double hurdle has had to be straddled by those trying to unionize the 1,000–1,500 performers in the San Fernando Valley.<sup>30</sup> Briefly put, the grievances in pornography relate to health issues (STDs, vaginal and anal tissue tearing), falling payment rates per

performance, signing enforced producer non-liability clauses, and forms of compulsion (economic, psychological) to go beyond what performers establish as their personal boundaries.

Nina Hartley and a number of other porn actresses in the late 1980s established The Pink Ladies' Social Club to generate discussion about performers' rights and interests, including the issue of establishing a professional or union organization. The group met and published a newsletter. Hostility from the SAG and threats from production companies about those involved not working again or experiencing acts of violence helped explain why nothing came of the discussions. However, the idea would not go away and was frequently stimulated by the outbreak of HIV infections, which highlighted how vulnerable performers were to the consequences of poor working conditions. Specifically, the low usage of condoms increased the likelihood of infections breaking out and put vital importance upon a robust and enforced regime of regular HIV (and other STD) testing. In the 1990s, 'Ona Zee sought to organize women and men porn workers into a union. She had great success with her efforts, notwithstanding the ultimate collapse of her union because of a lack of any meaningful political or legal support' (in Heberle 2006:30, see also Hackney 2012:156).

In 1997, porn actress Dalny Marga Valdes tried to join the SAG in order to get industrial bargaining coverage to gain income on royalties on her work but was refused membership as the SAG stated the sector she worked in was not part of mainstream entertainment. She then filed a complaint to the NLRB against the SAG but was unsuccessful (*Washington Post* 6 November 1997, *Chicago Sun-Times* 9 November 1997). This highlighted again that porn is essentially produced by independent companies which are non-union and that the SAG does not operate by 'open source' unionism. In the same year, there were calls for the formation of a union when actress Nena Cherry contracted HIV. This was also the stimulus for the founding in 1998 of the Erotic Entertainers' Guild. Organized by a small number of activists including the then reigning female 'Performer of the Year', Johnnie Black, and her husband, David Johnson, the Guild met just a few times, issued a newsletter and began campaigning on sexual-health issues. However, those involved baulked at the scale of the task facing them – not only establishing a new union from scratch but also unionizing their fellow workers, particularly when the attempt to establish minimum wage rates through the Guild was met by performers showing that they were willing to undercut each other to get work.<sup>31</sup> A year later, the Guild



had disintegrated. Former porn actress, founder of the Adult Industry Medical Health Care Foundation (AIM) and blacklisted proponent of unionization,<sup>32</sup> Sharon Mitchell commented 'It was a valiant attempt [by Black and Johnson] ... they were very interested, and had a few meetings [with] producers and companies [being] ... very reluctant [to support it], but just as the task became clear and there would be a lot of work at hand, and a long haul, they pulled out' (email correspondence 2 April 2009).

Then, in 2003, a group of performers led by actor Mr Marcus – who was involved in the Erotic Entertainers' Guild – established the Adult Performers' Union. However, nothing further emerged despite reported meetings with the IBT. Following an HIV outbreak in 2004, some 40 performers, including well-known male stars, such as Tony Tedeschi, Brett Rockman, Hershel Savage, Bill Margold and Mr Marcus, met several times to draw up a list of demands concerning health care, pay and working hours.<sup>33</sup> Testing provision and certification *vis-à-vis* employers' responsibility were viewed as inadequate and work was paid by scene or day rates with little limit on the number of hours and no overtime. The group, which proposed to establish a union called Adult Entertainment Workers or a guild called the Adult Actors' Guild according to different reports (*Los Angeles Times* 19 April 2004, Ross 2004a), contacted the American Federation of Television and Radio Artists and Communication Workers of America to see if they could offer assistance but the requests were not taken seriously. Indicative of the hostile environment in which the original public meeting took place was that Sharon Mitchell was noted at the second meeting to comment: 'she thought a "guild" was a good idea. You noticed that no one was calling the union the union any more' (Ross 2004b) and that a journalist was threatened by an industry figure for writing about the meeting (Ross 2004a). Out of this proto-union, ATRIBE (Adult Talents Rights in Being Exclusive) was also established as another means of trying to secure a fair return for performers' labour. Reflecting back on this attempt, Mr Marcus in 2007 commented: 'Our organization didn't stick despite our dominant front because performers are ultimately a transient group; here today, gone tomorrow. How could we represent this group if our constituency was constantly changing? ... I think we tapped into something important though ... As the business grows, some sort of performers' organization is inevitable. It's not a dead issue'.<sup>34</sup>

In late 2007, actress Katie Gold made another attempt to organize a porn actors' union but to no avail. Sharon Mitchell suggested that

many of the attempts sought to respond to, and take advantage of, the window of opportunity created by the attention focused upon the industry, and its attendant sensitivity, as a result of HIV outbreaks. The sense was that a head of steam had been generated which would compel performers to do what they otherwise might normally not do (email correspondence 2 April 2009). However, the head of steam dissipated shortly afterwards in each case of an outbreak as the shutdown of filming (to prevent any further spreading of the HIV virus) ended and 'normality' of filming and working resumed.

Along the way some porn stars have supported the idea of a union. Amber Lynn supported the idea in 2012 (*Adultfyi* 29 December 2012). Jennifer Ketcham suggested that porn performers should be called 'adult film actors' and 'the end point of this ... is a newly created branch of SAG specifically catering to adult film actors, union protection, and tireless intellectual property litigators and watchdog groups to stop or help diminish porn piracy' (*Huffington Post* 3 April 2014). Twice Jenna Jameson called for a union to be established. The first was in her autobiography when she commented: 'There are times when I wish the industry had a union, because the shooting schedules are inhumane' (Jameson with Strauss 2004:454). The second was after an actor tested HIV positive in 2010, when she argued: 'There's going to have to be a union put in place, and having safe sex is mandatory' (*In These Times* 18 October 2010). This highlighted that although Californian law required condoms or equivalent protection on sets from 2012 and the California Occupational Safety and Health Agency (Cal-OSHA) successfully fined companies for breaking this law, unless an actor complains to Cal-OSHA, Cal-OSHA finds it difficult to intervene. But performers feared being blacklisted if they insisted upon protection or made complaints. The point Jameson was making was that with union protection performers would feel more confident to insist on condom usage or be able to make complaints without retribution. The continual HIV outbreaks indicate that the self-regulation of the industry – through the production companies – of performers being required to test every 30 days for HIV and STDs at an industry-allied clinic had not been working sufficiently effectively. For example, a performer can test negative in the morning, get infected later that day through work or personal life and work for a month with HIV before their next test.<sup>35</sup>

The return of heightened sensitivity about HIV led to the Adult Performers' Association (APA) being established by producer/director, Nica Noelle and performer, January Seraph in 2011. Specifically, it was

stimulated by the collapse of AIM earlier in the year and the paucity of health insurance. In its own words:

APA is an organization of adult performers and our supporters who are passionate about improving health, safety and quality of life for adult film entertainers. We endeavour to reach these and other goals through education, encouragement, advocacy, resources and support. ... The APA is designed to improve the lives of Adult Industry Performers, but we believe everyone in the industry will benefit from our research and efforts. We intend to address health and safety conditions in the workplace, to educate performers on their rights, facilitate dialogue with agents, producers and studios, and rework our outdated and inaccurate image in the mainstream press. Our ultimate goal is that Adult Performers will have access to healthcare, and develop a sense of security and empowerment through education, improved work conditions, and reduced social stigma. (*Whack! Magazine* 27 September 2011)

This suggested APA saw itself more in terms of a friendly or benevolent society and professional association combined than as a labour union and a counterpoint to the Free Speech Coalition.<sup>36</sup> It ceased activity in 2012 for unknown reasons.<sup>37</sup>

In 2012, performers on Kink.com's live webcam site, KinkLive, found their income cut without appropriate notice as the company changed from a base pay to commission pay system. This change was because KinkLive was operating at a loss. A few performers took the issue up directly with management but without success so one performer called an out-of-work meeting in order to establish an agenda and united front. The performer was effectively fired – by being offered no further work – after this when another performer forwarded her emails to the company (which had a reputation for producing ethical porn). Aside from suing the company with others over unfair labour practices based around the use of independent contractor status, she co-founded 'performer-owned and run production company' as Cum and Glitter calls itself.<sup>38</sup> Prior to the dispute at Kink.com, working practices were challenged by others without success. After the firing, a culture of fear was reported to exist where complainers, particularly about work injuries from BDSM, were 'blacklisted' (*San Francisco Weekly* 20 February 2013) and after the dispute the company changed the way it was organized internally to try to substantiate its use of independent contractor status (Holloway 2012). In the processes of trying to organize and

gaining the advice of union organizers, the soon-to-be fired performer observed: 'It's competitive by nature, as much as we want to help each other. They didn't seem to really get it. So the unionization didn't come as easily as it first started rolling off everyone's tongues' (in Gira Grant 2013).

When there were a further three industry shutdowns in California in 2013 over HIV cases,<sup>39</sup> there were no signs of any initiatives to form unions. Indeed, the formation of Actors in Gay Pornography Organization (AGPO) over fair remuneration and health issues (Yacco 2013) arose before the outbreaks and only catered for a small number of porn actors. The closest union-orientated response that emerged was the creation of the Adult Performer Advocacy Committee (APAC) in late 2013 which has the purpose of

advocat[ing] to maintain and improve safety and working conditions in the adult film industry by giving adult performers organized representation in matters that affect our health, safety, and community. The mission of APAC is to provide representation for performers in the adult film industry and to protect performers' rights to a safer and more professional work environment. We do this through education of each other and the greater community, development of ethical best practices, and fostering of solidarity. We review existing health and safety protocols, and will initiate new ones as needed. We are committed to working cohesively with all aspects of the adult entertainment industry and the public, strengthening unity between all performers, and maintaining a work environment where workers are valued, respected, and educated.<sup>40</sup>

APAC was led by well-known performers such as Jessica Drake, James Deen, Chanel Preston, Stoya and Nina Hartley. Hartley commented: 'We needed a group of performers, by performers and for performers. Many such organizations have been attempted in the past, only to die due to lack of organization or outright strangulation by ... producers. Now, the[y] ... are fewer, the Internet and social media allow direct communication between performers and between performers and the viewing public. ... APAC grows out of that'.<sup>41</sup> However, porn actor, Rob Black (2014), alleged: 'APAC is a front for Free Speech Coalition, agents and producers. It doesn't truly represent performers and never will'. Earlier, in 2013, he established the United Adult Workers of America, with the aim of superseding the Free Speech Coalition and providing cheap, effective and accessible HIV testing. But less than a year later, the initiative collapsed.

## *Overview*

The succession of attempts to either create nascent unions for porn performers or join existing unions has come to nought. In these male actors were very much to the fore because they have a longer working life as performers given their role as essentially supporting cast rather than the 'stars of the show' and where a variety of male performers is not so prized.<sup>42</sup> Long-standing porn actor, and himself one time proselytizer for unionization in porn, Bill Margold, eventually likened trying to unionize performers to 'herding cats'.<sup>43</sup> There are certainly the forces of competition to gain work, wealth and celebrity and the increasing numbers seeking work in the sector to contend with (see, for example, Theroux 2005). Indeed, proponent of unionization Nina Hartley was dismissive of the ability of porn actors to form a union as they 'just want to get rich and pay less in taxes' (in Schlosser 2004: 181). But these are far from the only factors. In addition to the short-lived windows of opportunity represented by the HIV outbreaks, others are the transient nature of the workforce with few performers having much longevity in the sector (with the average being just 18 months),<sup>44</sup> the vast majority of performers not being employed but essentially being jobbing itinerants,<sup>45</sup> performers working in other parts of the sex industry to supplement their incomes so that their focus is not solely porn, performers being compelled to sign contracts which excuse producers from any liabilities, many wishing to move from being actors to directors so that they can have a career,<sup>46</sup> and with some of the performers having rather chaotic personal lives organizing has not been their forte (Schlosser 2004, Theroux 2005, Greene 2008, Sharon Mitchell, email correspondence 28 March, 2 April 2009). However, there are even further obstacles to be contended with, such as there being no fixed workplaces, the nature of short-term project work, the power of the producers under self-regulation of the sector, the rise of free porn putting pressure on revenues (and thus production costs), the saturation of the paid-for product market and so on (Schlosser 2004, Theroux 2005, Sharon Mitchell, email correspondence 2 April 2009).<sup>47</sup> Sharon Mitchell added:

as the industry gets more and more 'mainstream' ... it seems now that the industry only harbours very young, inexperienced talent – they shoot them once, and they are never hired again. This does not give much incentive for young people to stay in the industry, [leading to] the general attitude [of] 'don't rock the boat'. ... male actors ... [who] stay the longest now that there are no more 'stars' ... just want to come and go as they please, and not make any waves (email correspondence 2 April 2009)

while a porn actor (Greene 2008) recalled an example of the intimidation that was meted out to those that tried to organize:

Having been a part of this industry's first, abortive try at creating some kind of collective response to the threat of HIV, I was on the receiving end of some incredibly ugly and vicious tactics at the hands of various underlings whose employers saw what we were doing as a nose under the tent for unionization. I even got a phone call from a 'friend' who had been talking to some other 'friends' of his who worked for 'a certain kind of company' and just wanted to pass along a 'friendly' warning that such talk could be bad for my health.

Yet none of these obstacles are necessarily insuperable as the Writers' Guild of American and SAG indicate for they have existed – and continue to do so – in many similar circumstances of writers and actors not being employed at all (much less on permanent contracts), working for different companies and not in fixed locations (see, for example Gray and Seeber 1996).<sup>48</sup> The main way in which they have dealt with the challenges they face is to become occupational unions which represent a distinct profession and to exercise extra-workplace influence by establishing a form of industry regulation. Within social democratic states, such sectoral bargaining has been underpinned by law and public policy.

### **Prostitutes**

There have been very few instances of attempts by prostitutes to unionize themselves. Carol Leigh (1987:89) recounted being involved in organizing one in the 1980s that did not develop. She (Carol Leigh 6 January 2009) also joined the United Steel Workers of America (UWSA) as an associate member in 2000 after a UWSA officer who was also an exotic dancer recruited a small number of sex workers to her union. However, the project was stillborn. In 1999, Norma Jean Almodovar organized a Whore Camp at which unionization, among other issues, was discussed. Meanwhile, the Cyprian Guild, led by Teri Goodson, established itself out of COYOTE to deal with the issues facing escorts (rather than street and brothel/massage parlour prostitutes), but it did not in its ten-year existence develop much beyond a mutual-help group based on meetings rather than public or external activity, and it was unclear on whether its focus should be on escorts' rights as workers or businesses (Maxine Doogan 6 January 2008). Indeed, the long-standing Bay Area Sex Worker Advocacy Network (BAYSWAN) characterized the

Guild as 'maintain[ing] and distribut[ing] "dirty tricks list" for Bay Area sex workers; facilitate[ing] social and business networking and occasional events for current and/or transitioning sex workers'.<sup>49</sup> Califia (1999:56) reported the Guild collapsed after it was subject to police victimization (after police posed as clients). A prostitute reported being involved in organizing a prostitutes' strike at the American Massage Parlor over 'macho' management and long working hours as well as applying to the NLRB for union recognition at the next brothel in which she gained employment (in MacCowan 1997). The employer sacked the striking prostitutes. Finally, BDSM sex workers in New York in 2008 established a political action committee called DomPAC with a view to paving the way to unionization in order to gain health insurance and unemployment benefits (*New York Post* 6 October 2008). The sparseness of attempts to organize prostitutes is related primarily to the lack of employed status and the legal status of prostitution so that what Margo St James (in Jenness 1993:115), founder of COYOTE, argued in the 1970s, namely that 'a union for prostitutes is not possible now. One could not even dream of starting a union without opening oneself up to a lot of legal problems' still remains true for the vast majority of the United States (with the exception of Nevada and Rhode Island). Thus, unionizing prostitutes could lead to charges being laid against prostitutes under conspiracy laws and accounts for the effort expended by organizations such as the ESPU on seeking decriminalization as a way to open up the possibility thereafter of unionization dealing with terms and conditions of work.

The establishment by the IWW in 1995 of the Sex Trade Workers Industrial Union 690 for all those working as prostitutes (and dancers and models, telephone sex workers, actors and other workers who use sexuality as the primary tool of their trade) has made no difference either.<sup>50</sup> Neither has the legalization of prostitution in Nevada,<sup>51</sup> showing that the absence of prostitute unionization is not just an issue of prostitution being unlawful. This outcome has been influenced by the isolated geographical location of the brothels (where the women are live-in workers for the periods they work there), a paternalistic but authoritarian management enforcing strict rules, and prostitutes are not employed (being independent contractors instead) (Brents and Hausbeck Korgan 2001). It is no doubt further hindered by Nevada's low rate of unionization (of 14.4 per cent in 2014 overall, and lower still for the private sector), and the general perception among the prostitutes there that the brothels are safe and secure places to work (Hausbeck and Brents 2010:272). Yet Brents *et al.* (2000:151,234,176)

still argued: 'Workers in Nevada brothels would benefit greatly from a union ... and a workers' union with political clout ought to be involved in monitoring practices at brothels to make sure workplace practices and policies fall within the law' but added, citing the standard problems of employment status, turnover, workforce competition, management hostility, etc., that 'There is rarely an opportunity to form unions'.

Moreover, the fragmentation of the COYOTE milieu in San Francisco into the St James' Infirmary, the Cyprian Guild, the local Sex Workers' Outreach Project (SWOP) chapter, SWOLHCR and the ESPU indicated that despite membership crossover, significant differences emerged between many of the lead activists in each organization, creating many cross-cutting divisions, over strategic orientation and tactical methods (in relation to the police, club owners, prostitution in clubs, former and non-sex workers supporters, health-care provision and political campaigning). The differences became personified within the small milieu of long-standing activists, creating an often poisonous atmosphere.<sup>52</sup>

### **Spill-over effects**

Notwithstanding the effect of low private-sector union density, the propensity to develop unionization in the United States has been disappointing given one particular aspect, namely, that high proportions of sex workers have worked outside sex work before and in occupations and sectors where unions have operated (see Brents *et al.* 2000, Dewey 2011). While many sex workers like dancers continue to work elsewhere while dancing and among these workplace unions operate that this has not created a positive spill-over effect is testament to the current nature of the industry – as determined by capital – and the practices it chooses to operate by.

### **Non-union collectivism**

Given the failure of attempts to unionize sex workers, the idiosyncrasy of the Lusty as the one potential exemplar providing little purchase for other sex workers<sup>53</sup> and the weakness of private-sector unionism in the United States, sex workers have sought other ways to gain collective interest representation. There is a sense in which sex-worker unionization may have had its chance, especially given the view of critical labour commentator, Bill Fletcher, who argued: 'Part of [the reason for the lack of engagement of the labour movement with sex workers] has to do with the general defensive stage that the ... union movement is in. Much of the experimentation that was going on in terms of organizing in the 1990s and early 2000 started to evaporate' (in Noor 2015).



Here, Fletcher was referring to innovation in organizing practices embodied by the likes of HERE and SEIU but which had now become somewhat ossified and bureaucratized, reducing the extent of their application and effectiveness.

The forms of non-union collectivism can be categorized along the axes of being actions inside or outside the worksite, reliance upon the sex workers themselves or the expertise of third parties, and the fora of negotiation and settlement being within or without the worksite. The first form is instances of sporadic and semi-spontaneous worksite action. One such instance was a 'sit-down' strike by dancers in a New Orleans club in 2006 over working conditions.<sup>54</sup> There was general disquiet among dancers in the city after the clubs reopened in the summer of 2006 after the clear up following Hurricane Katrina. Clubs took the opportunity to increasingly introduce stage fees while visitors to the city – and thus patrons to the clubs – were down in numbers because of hot weather. This led to grumblings of discontent and talk of sit-down strikes and walkouts. In one club, when dancers were refused their meal break, they sat down on the stage for 30 minutes in order to take their meal break and make a protest. Some dancers – the ringleaders – lost their jobs over this. Then other dancers in other clubs reneged on their agreement to do likewise because of the victimization and the return of visitor numbers as the weather cooled. Egan (2006:63) reported a successful collective action resisting restrictions on music played and fines for transgressing among a group of dancers. Another was that Aimee (2012a) reported on her involvement in a petition against the introduction of house fees for which she and another dancer were 'fired'. There are, in all probability, many more of these instances and which have gone unreported in mainstream media given their nature, namely, quick-fire actions that leave little trace of their existence in media terms.<sup>55</sup> Second are projects such as 'We Are Dancers' and the Desiree Alliance. Founded in New York in 2012 for New York dancers, 'We are Dancers' provides advice and help on health, safety, careers, finances and employment rights. In its own words, 'We are Dancers' is 'a group of current and former exotic dancers in New York City. We meet regularly to support each other and build community among dancers'.<sup>56</sup> Its main activity so far has been to publish an advice booklet for dancers and get its English language web content translated into Portuguese, Russian and Spanish. Formed in 2005, the Desiree Alliance is a peak body of sex-worker organizations whose main (physical) activity is to hold annual conferences (Gall 2012:34, Jackson 2013:3–5,68,88) in order to allow for the exchange of knowledge and information. It was

co-founded by Stacey Swimme and comprises around ten activists from the SWOP-USA (which Swimme also co-founded). More widely, Jackson (2013:26) observed that the Desiree Alliance 'is primarily oriented toward providing services to members rather than traditional union efforts like collective bargaining with an employer'. Other examples were dancers in Ohio in 2007 forming 'Dancers for Democracy' which successfully torpedoed a Republican-backed bill to restrict the hours of operation and other standards at the state's strip clubs; Texas dancers in 2013 organizing to speak out against a bill that would have required them to display licences with their real names while working; and in 2014 a coalition of strippers, social workers and professional lobbyists in Oregon was established to campaign for dancers' rights and enhance their working conditions by seeking to introduce bills into the state legislature. The *New York Times* (2 February 2015) reported the coalition 'ideally ... want to see strip clubs comply with mandatory health and safety standards — clean stages, structurally sound poles, adequate security ... more realistically, they plan to push for a mandate that clubs display a poster outlining dancers' rights with a hotline they can call to ask questions or report abuses. They want the hotline to be staffed by people with experience in the industry, not bureaucrats or law enforcement'. Over and above these are loose, fluid and relatively passive, often virtual, community networks through the likes of Bound, Not Gagged, exoticedancernet, stripperweb and stripperpower and the now defunct *Danzine* (1995–2003) and *\$pread* (2005–11) magazines.

However, and by comparison, the third form – of class-action lawsuits – is very much more common and well publicized as a result of lawyers issuing media releases using an implicit 'David versus Goliath' narrative. Such media releases get many bites at the cherry: being covered from consideration of litigating to initiating litigation along the path to the outcome of litigation or out-of-court settlement.<sup>57</sup> The victories of dancers against clubs and operators in regard to using 'independent contractor' status (while dictating work practices and operating disciplinary systems), repayment of stage fees and tips, ending compulsory tipping of other staff, payment of overtime, and back payment of wages (under minimum wage laws) represent an ever growing list. Indeed, the *Dallas Observer* (8 December 2011) commented: 'If the 1990s were the crest of a stripper-lawsuit wave, what's happening now looks more like a tsunami'. Surveying media reports since the 1990s, there are few states within the United States where class law action suits have not been filed. The most reported successful cases are those with the largest financial awards and at the most well-known clubs

and chains.<sup>58</sup> By 2015, most of the major New York clubs had cases filed against them. Gall (2012:33) previously recorded one or more cases in many different cities (Anchorage, San Diego, San Francisco, Dallas, Denver, Los Angeles, Minneapolis, Las Vegas, Pittsburgh, Portland and Washington) since the late 1980s. To this list of cities can be added one or more cases in states such as Washington DC, South Dakota, Florida, Kansas, California, Texas, Montana, Oregon, Massachusetts, Missouri, New York, Louisiana, Arkansas, California, Illinois and Nevada. The genesis of class law actions is sometimes the result of a single dancer's own individual litigation. The collective aspect of the class lawsuits is further emphasized by groups such as the Sex Workers Project of the Urban Justice Center, founded in New York in 2001, working with lawyers to gather the information needed to file the suits.

Fewer cases now appear to be lost in law by the litigating dancers (*cf.* Gall 2012:34).<sup>59</sup> Among the successes are awards of compensation running into millions of dollars against Spearmint Rhino in California (where the court also instructed the company to grant all dancers employee status within six months) (Gira Grant 2012a) and a number of clubs in San Francisco, where employed status was also enforced (Aimee 2012b). In 2014, the Nevada Supreme Court unanimously ruled that dancers at Sapphire Gentleman's Club must be classified as employees rather than independent contractors, while earlier in 2014 courts in Georgia and Arkansas also ruled in favour of classifying dancers as employees (*Miami Herald* 2 July 2015). Indeed, Aimee (2012a) reported that after a successful case in 2009 in Massachusetts 'a slew of dancers across the state fil[ed] similar lawsuits against other strip clubs [leading] clubs across the state then [to] beg[i]n voluntarily switching over to classifying strippers as employees in an attempt to limit potential damages'. Among the huge sums awarded or gained (as a result of settlement before judgment) in addition to the \$13m for 11,000 dancers in the aforementioned Spearmint Rhino case were \$11m at Rick's Cabaret in New York in 2015 for around 2,000 dancers, and which was preceded by dancers at New York Dolls, FlashDancers and Private Eyes all in New York gaining a combined \$4.3m settlement in 2014, Sapphire Gentlemen's Club in Las Vegas became liable for repaying \$40m in back wages and the return of house fees to former 6,500 dancers in 2013, an \$8m settlement at Penthouse Executive Club in New York in 2013 covering 1,200 dancers, and in 2006 San Francisco's Gold Club was forced to pay \$2.5m to former dancers. Other recent cases involved an Atlanta club paying 73 current dancers \$1.5m in 2012, a company with clubs in Florida and Ohio paid \$6 million to its 4,700 current and former

dancers in 2015, with another also in 2015 in California paying \$6.5m to 250 dancers.

Despite the growing litany of successful class-action suits against club operators since the 1990s, it remains the case that the vast majority of clubs continue to classify dancers as 'independent contractors' and the vast majority of dancers remain as 'independent contractors'. The obvious question concerns why the successful cases have not compelled the clubs to institute policies of employing the dancers, this being the obvious alternative to 'independent contractor' status. The answer centres on the issues of profits and purchase. Simply put, the lure of higher profits and the limited purchase of the legal system (especially with regard to punitive fines) explain the continuation of the dominance of 'independent contractor' status. Beginning with the club operators, the financial incentive to continue until challenged in court or to devise new ways of charging dancers fees to work (as opposed to the now standard 'stage' fees) has been coupled to the individualized nature of court judgments. On the one hand, by classifying dancers as 'independent contractors', clubs are able to charge stage fees, generating revenue regardless of the number of paying customers, require dancers to tip other staff to offset wage costs, escape payroll tax, and avoid paying dancers wages, overtime, the benefits of employees (such as worker's compensation, unemployment, and health insurance as well as maternity pay). In essence, this raises income and reduces operating costs. On the other hand, by treating dancers like *de facto* employees, the clubs are also able to dictate the organization of work (direction of work, discipline, performance measurement) and working time (shifts). For example, the lawsuit of two dancers claimed:

Defendants [VCG Holding Corp.] set the hours of operation; length of shifts dancers must work; the show times during which a dancer may perform; ... the sequence in which a dancer may perform on stage during her stage rotation; the format and themes of dancers' performances (including their costuming and appearances); ... conduct while at work (i.e. that they be on the floor as much as possible when not on stage and mingle with patrons in a manner that supports Defendant's general business plan) ... (*In These Times* 5 March 2014)

The short-term benefits then outweigh the long-term risk of successful law suits. Then each judgment, even when class law suits have many dancer plaintiffs, only has (legal) purchase on the club subject to the case. In other words, the degree of generalization is, in legal terms,

completely circumscribed so that no other club is necessarily compelled to change its behaviour (as would be the case if change was enforced through legislation). Any forthcoming changes by other clubs are entirely voluntary. Moreover, while 15 companies by the terms of settlement in 2011 were obliged to stop charging dancers stage fees within 30 days and discontinue the practice of treating dancers as independent contractors in 2011, there was little likelihood of this happening unless further class actions were filed and settled by court judgment in order to gain enforcement (Hima B 2011). Hima B (2011) blamed the paucity of court settlements upon 'pro-dancer lawyers [being] content to settle rather than go all the way to trial. It's a faster way for them to cash out sooner. It's also cheaper for them as well as for the strip club to settle so they don't have to spend labo[u]r [and] money on the trial'.<sup>60</sup> She also noted that few useful legal precedents are then set for others to use. However, while more court settlements would be more useful, in themselves they are not sufficient for there has been no practice of court oversight of the implementation of awards and settlements, thus, requiring applications for injunctive relief.

Clubs have developed new ways of charging dancers like several clubs in San Francisco using 'piece rate' systems and quotas, where dancers must perform a set number of lapdances each shift, giving the house a percentage of the money each dance earns (Hima B 2011, Aimee 2012b). Other examples include not giving the dancers the tips as they are now employees (whereby the money they receive for private dances and on stage can be considered as money paid to the club for a service), and/or reclassifying tips as house revenue, and charging for exorbitant fees the compulsory use of lockers. Some clubs have introduced token systems where customers must buy tokens to pay for dances so that the money comes to the club so that it can then dispense it to the dancers (less its cut and administrative charge for using the token system) while others encourage customers to use credit and debit cards for the same reasons. Gira Grant (2012a), for example, reported: 'In response to a class-action suit against a strip club in Montana, the club gave dancers paychecks – but management still illegally retained a portion of dancers' tips. Dancers in this club who were earning the same per shift before the lawsuits were also now going home with less'. Other means of avoiding employee status include offering dancers the choice of employee or independent contractor status, where the scales are tipped against choosing the former:

At the Hungry I, the club gave dancers the choice of signing on as employees or independent contractors ... As employees, the

dancers would have received an hourly wage of \$8 plus tips and a commission on private dances, but they would have had to clock in and out, fulfil drink and dance quotas, and report tips at the end of each shift. Significantly, the plaintiff in the case opted not to sign the employment contract and to file her taxes as a contractor ... (*Employment Law* 360 5 November 2011)

Overall, the founder of the Tits and Sass website for sex workers believed that: 'In every club where one of these lawsuits has succeeded, the end result has been that the amount the dancers pay out to the club increased' (Salon.com 5 February 2013) while the *Village Voice* (12 September 2013) reported in response to the victory at Rick's Cabaret: 'dancers on *Stripper Web* reacted to the news of the Rick's victory with a heaping handful of salt. ... [with one dancer saying:] "Most of the time these settlements make a change for the worse"'. The actions of a dancer in Portland in suing several clubs that led others to stop charging stage fees (*Williamette Week* 18 November 2009) was an exception.

Added to this innovative club behaviour are two other factors. Many of the cases are brought by dancers who do not work at the clubs in question anymore and, therefore, the back payment of wages and stage fees does not necessarily affect dancers currently working in the affected clubs. In this regard, Gira Grant (2012b) commented: 'using lawsuits to recover stolen earnings isn't a viable option for most dancers. It's also no replacement for organizing'. Moreover, there is a compelling reason why few cases are brought by those currently dancers – this being they will effectively be dismissed by the club by being given no shifts. Thus, cases are 'usually by former dancers who are less fearful of retaliation' (Gira Grant 2012b). In an example of current dancers filing a class-action lawsuit against their club in Illinois, the two dancers were 'threatened ... with retaliation when they asked to be reclassified' (*In These Times* 5 March 2014). On top of this is another factor, namely, many dancers believe that 'independent contractor' status either benefits them *per se* or benefits them on balance. Dancers cite flexibility of working hours and high earnings potential in a concentrated period of time. In other words, they have little or no sense of grievance. By contrast, those who do engage in class-action lawsuits do have a more developed sense of grievance. This suggests a big divide among dancers but this is not necessarily the case. Recalling Barton's (2002, 2006) Möbius strip thesis, those dancers who laud the flexibility and earnings potential can easily and soon see the downside of inflexibility (as clubs seek to control their labour), losing money to the club (through stage fees) and being forced

to pay for 'extras' (as per club regulations). In this process of cognitive liberation, it becomes clearer that disadvantages of being an independent contractor include being responsible for one's own social security taxes, providing one's own pension, not being entitled to workers' compensation and not having the flexibility expected.

As with class law suits, the same picture of limited legal impact and operator counter-action can be seen with the nearly 200 California State Labor Commission judgments made between 2001 and 2006 against the dance club owners for labour law violations regarding dancers (Maxine Doogan 6 January 2008). Finally, some sex workers (exotic dancers, porn actresses, escorts) were reported to have joined the Freelancers' Union, a non-profit organization with some 200,000 members founded in 2001, which provides advocacy and health insurance (through its for-profit Freelancers Insurance company). The organization treats its members as both workers and entrepreneurs and conducts no collective bargaining on their behalf.

### Overview

Dancer class-action law suits are not only a reflection of the prevalence of independent contractor status and stage fees in clubs but also of the failure and decline of unionization projects. Most took place in the late 1990s and early 2000s, and while class-action law suits were not unheard of in that period, it is evident that they have now displaced union forms of collectivism as the preferred *modus operandi* of aggrieved dancers. Yet, given the lack of change in the regimes of how clubs are run and the episodic nature of the class actions, which leave behind nothing in the way of an organizational presence, there is still a potential role for dancer unions to press for the end of stage fees and introduction of employed status. To argue, as Hodgson (2013) did, that despite closure the Lusty Lady 'has been instrumental in sending out the message to other sex workers that collectivizing is possible' by citing the class law suit against Spearmint Rhino is without foundation for the two activities were very different. Indeed, Hodgson (2013) proffered: 'Without Lusty's example, that victory [over Spearmint Rhino] would not have been possible'. The closer comparison of the action in New York against Spearmint Rhino would have been the legal actions by the EDA in San Francisco before the Lusty Lady was unionized.

### Conclusion

The United States has witnessed a continuing series of small-scale, localized attempts at worker collectivization since the 1980s, affecting mostly

exotic dancers and porn performers. Not all have been unionization projects and, of those that were, very few like the Lusty Lady have been able to engage in collective regulation of the wage-effort bargain through collective bargaining. Once they have managed to get off the ground, and with the exception of the Lusty Lady, none has experienced much longevity as a result of owner/operator retaliation. The only union organization established for dancers concerned non-exotic dancers through Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) in 2012. This covered dancers in music concerts and shows and led to a collective bargaining agreement gained in 2013. Taking account of the location of the established pornography industry in southern California and the former presence of the Lusty Lady in San Francisco as a result of idiosyncrasies associated with that city, there has been no positive association between the locations of sex-worker union organizing in the United States and higher levels of union density by state. If there had been, far more union-organizing attempts would have existed in the more northern states along with Alaska and Hawaii. The spread of non-union collectivism shows no relationship, negative or positive, to the presence or absence of (high or low) union density. Finally, the involvement of established unions (like HERE, IBT and SEIU rather than AGVA or SAG) was *ad hoc*, episodic and localized as well as being after sex workers had collectivized themselves, compelling sex workers to more often than not attempt to form their own unions.

## Canada

### CABE and its successors<sup>61</sup>

Based in Toronto, the Canadian Association of Burlesque Entertainers (CABE) was the first successful attempt to unionize sex workers in Canada. It was established in 1979 but disbanded in 1982. In its short life, it became Local 1689 of the Canadian Labour Congress (CLC) and was known widely as the 'strippers' union'. While its creation was spurred on by the closure of the Toronto office of the American Guild of Variety Artists (AGVA), it emerged primarily as a response to changes in the regulation of exotic dancers. Thus, in 1978, the Toronto city authority proposed a bylaw that would require all club owners, operators and dancers to obtain licences, claiming the measure would protect workers, provide them with professional credibility and ensure better regulation of the industry. However, in order to obtain licences dancers would be required to produce medical certification showing they were free of STDs, submit photo identity, establish they had no criminal record and pay an



annual fee (Cooke 1987). A group of five dancers organized to challenge the proposal leading to the formation of CABE in 1979. CABE failed to prevent the bylaw coming into force but this also provided reason for its continuation.<sup>62</sup>

Thus, in 1981 CABE made an application to the Ontario Labor Relations Board (OLRB) to take action against blacklisting of its members at the Algonquin Tavern (Bouclin 2004b:83–6, 2009). In other accounts, for example Couto (2006:55), the application presented was for certification for union recognition and collective bargaining. Nonetheless, in making a determination, the OLRB had to decide whether the dancers had the *de facto* status of employees. The OLRB found dancers were not an integral part of the tavern's business, being ancillary to the primary income-generating activities of food and alcohol sales; dancers worked for a number of establishments at once and were not economically dependent on one specific employer.<sup>63</sup> Had the OLRB decided the dancers were *de facto* employees, they would have been able to avail themselves of the right to statutory union recognition and collective bargaining (subject to meeting certain numerical thresholds). However, as Bouclin (2009) pointed out, CABE succeeded on one minor front for the OLRB drew a distinction between 'freelancers' and 'house girls' whereby freelancers worked according to their own schedule, receiving no base salary (even though they were required to meet a basic four-hour requirement) and thereby making them independent contractors. Meantime, 'house girls' (scheduled dancers) received a weekly wage in addition to being required to work six to eight hours a shift and were deemed employees. Yet while CABE was unable to build upon this, it did successfully lobby the city authority to implement a bylaw requiring dancers to wear a G-string (but in 1985 the Ontario Court of Appeal struck down the bylaw). CABE then sought the help of other unions such as Equity to develop its presence but, following continuing difficulties, CABE imploded. One of its founders, Sugar Bouche, believed 'the union failed because of the stigma that is attached to being a stripper'<sup>64</sup> while one member believed it was a 'too hurried attempt at forming a union ... [which] represented a small fraction of the dancers. It could not act from a position of strength' (in Cooke 1987:95–6). Bouclin (2004b:86) proffered: 'despite CABE's inability to act as the collective voice for dancers, it nonetheless contributed to challenging societal assumptions about dancers as "deviants" or victims; instead the union presented the women as labourers and agents working to effect changes in their occupational environment'. The Vancouver Exotic Dancers' Alliance (VEDA) was established in 1981 and gained some 80 members very quickly. However, it was wracked by internal divisions and spent little of its time

directly trying to represent dancers' interests (Ross 2006). Indeed, one of its founders reported: 'The main focus of VEDA is raising money for charity. We want to prove to the rest of the world that we're caring and compassionate women' (*Globe and Mail* 2 September 1983). Nonetheless, it was one of a number of waves of agitation in Vancouver in the 1970s and 1980s (Ross 2000). While it is not entirely clear if CABE was the subject of the following, Meaghan (2000:455) reported on the obstacles to gaining help from the wider labour movement at this time

[a female sex-worker activist] had garnered the assistance of a Canadian Labour Congress (CLC) organizer in order to pressure club owners in the Toronto area to retain women who refused to table dance. Her organizing efforts took place during a transitional period between 1980 and 1982, as table dancing was being introduced, often over the protestations of some dancers. She had subsequently attempted to move toward certification of a union for strippers, some of whom had previously been members of the Variety Artists Equity Association, indicating that she had received a 'fair response' to organize from dancers in three clubs. She was invited by the local regional CLC director, along with two other dancers, to attend the annual Congress convention in Winnipeg. Anticipating that she would be given an opportunity to address the delegates on the difficulties within her profession, she was seriously distraught when she realized that the dancers had been invited by the director to provide sexual services for a few of the men. When the women complained to some of the other male union leaders, a few men expressed their outrage at the treatment Sandra and her colleagues had received. Sandra claimed that she was subsequently offered a staff position at the national office of the CLC, as compensation for the treatment she endured at the convention.

The Association for Burlesque Entertainers (ABE) was formed in 1994 after a court decision to allow 'touching' in clubs.<sup>65</sup> It argued against such unregulated lapdancing on the grounds of its similarity to prostitution, the health risks (from fingering, semen and vaginal fluids) and demeaning of the art of burlesque. Although ABE remained relatively small, with around 200 then current and former dancer members (Bouclin 2009), and one of its main activists was dismissed, victimized and threatened for her union-organizing attempts, it was successful in winning a subsequent ban on lapdancing and touching in 1995. However, this success was double-edged for the ban led

to increased blacklisting of ABE members and alienation from some dancers who either wanted to perform lapdances for financial reasons or who thought other issues of working conditions were more pressing. Along with allegations that ABE was not run democratically (Bouclin 2009) and had a tiny active membership (Lewis 1998, 2000), this dissonance led to a decline in membership and ABE folded in the late 1990s after the Supreme Court found lapdancing to be within community standards of tolerance.

Meantime, in Toronto another group began to organize in 1994 after a woman working as a dancer initiated a series of regular meetings between dancers, health workers and government officials to discuss health and safety issues. In recognition of this, the group was called the Exotic Entertainment Occupational Advisory Committee (Gall 2006:147). A pilot health-care programme was launched and the group of dancers received funding in 1995 to form an association to champion exotic dancer rights which became the Exotic Dancers' Alliance (EDA). It sought to enable exotic dancers to promote their health, safety and well-being in a collaborative, collective and self-empowering manner and to work with government agencies, community groups, and interested business. It said of itself it was dedicated to: 'building solidarity among exotic dancers; developing programs and services to improve the economic autonomy and well-being of dancers; and improving the treatment of dancers in the judicial system' (in Gall 2012:50). Campaigning for health insurance, better working conditions and employed status for dancers took place in many of the usual ways but also through trying to work with Adult Entertainment Association of Canada club owners in the Greater Toronto area where some of the members of this association wished to establish self-regulation to develop minimum standards of employment. One of the EDA's main founders had experience of activism and leadership in defending and advancing dancers' rights (Bouclin 2009). The EDA's primary medium of communication was its website and monthly newsletter, *The Naked Truth*, through which dancers could access basic legal information and links to social services. However, lack of funding led EDA to shut down these services in 2002 and become an ever more virtually based discussion and support group.

Part of the problem was that at its peak EDA's formal membership was less than 20 and its active membership fewer still (Bouclin 2009). This reflected wider challenges in that the EDA was stigmatized among dancers as being an anti-lapdancing organization by owners and managers with most EDA members banned from a number of clubs (*National Post* 11 September 1999). Bruckert (2002:100,159) argued low membership

and activism also reflected the individual and entrepreneurial nature of dancing. Consequently, Lewis and Maticka-Tyndale (2003) found the EDA's most successful work was done in the earlier part of its existence and in regard to outreach activity in clubs in conjunction with local health units. The EDA also hit problems when one of its activists left to form the rival Exotic Dancers' Association of Canada (EDAC) in 2001, following personal and political differences (Gall 2006:147). This may have revolved around EDAC willingness to work more cooperatively with employers/operators for its membership was open to dancers, ex-dancers, supporters, pressure groups and businesses. EDAC became essentially moribund by the mid-2000s as a collective dancer organization but continued to exist as but a front for its president's business venture, LiveGirlProductions (Gall 2012:85).<sup>66</sup>

Again as with CABE and ABE, tensions arose within the EDA over being pro- or anti-regulation, what professional standards to adhere to (in regard to the blurring of the distinction between lapdancing and prostitution), the priority given to health provision versus other forms of organizing, and the influence of former dancers within the organization in relation to current working dancers. These tensions would afflict future attempts at exotic dancer representation and unionization. Moreover, surveying the 1980s and 1990s in Ontario, Meaghan (2000) found issues other than employment status were important to dancers, such as dressing-room facilities and rostering, and that there were differences in how clubs operated, contrasting independent stand-alone clubs with chains of clubs in terms of their management processes. In the latter:

informal relationships between managers/owners and dancers are replaced by more impersonal and contractually based working relations, such that rules, rather than relationships, govern how a dancer's work performance is assessed. Control over planning and supervision is established through mechanisms which provide greater centralization of authority. A clear distinction is established between management and staff decision-making authority, with a corresponding transfer of the conception and innovative functions to management and a distinct sense of accountability required by employees. (Meaghan 2000:436)

This had implications for the relative returns of union-organizing efforts, suggesting that the chains would be preferable to the independents. That said, Meaghan (2000:447, 456) also reported several

examples of victimization through terminations of employment across different clubs for attempts to join a union and organize in it in the workplace.

### **DERA and its successor**

At the same time as the EDA was facing severe difficulties, the Dancers' Equal Rights Association (DERA) in Ottawa was created in 2000 and received a grant to further its activities in 2001. Its overall objective was to further the labour and human rights of dancers while its specific goals included the promotion of health and safety standards in clubs, the harmonization of municipal regulation of clubs and the eradication of *de facto* mandatory lapdancing. In 2004, it had some success in lobbying against the plans to compel dancers to have licences to dance (on account of the ramifications of stigmatization for future employment) (*Ottawa Citizen* 11 June 2004). In regard to labour rights, Bruckert and Chabot (2010:20) reported DERA was unsuccessful in petitioning the OLRB 'for recognition of dancers as workers and the enforcement of their statutory labour rights'. Seeking to manage the tension between current dancer members and supporters, DERA established the Stigmatized Labour Support Network (SLSN) in 2002 for its non-dancer member supporters of service providers, health-care workers, lawyers, academics and students. Thus, Bouclin (2009) described DERA and SLSN as being essentially two sides of the same coin. In terms of its practical activity, DERA was successful in gaining the implementation of a strict no touching/no lapdancing policy by the city authority along with the eradication of champagne rooms. However, a backlash was organized by club owners who not only blacklisted DERA members from their clubs but who also threatened to 'fire' any dancer who voiced opposition to lapdancing. This led DERA to not only experience difficulties in recruiting and retaining members with membership then varying from five to ten current and former dancers despite 750 women then working in Ottawa clubs (Bouclin 2006:109, 2009), but also to be unable to seek to work in partnership with club owners and managers (Bouclin 2004b). More widely, while DERA policy was to gain dancers a salaried status, Childs *et al.* (2006:97) found sex workers wanted an array of arrangements open to them and from which they could choose (from employee to independent contractor), Bruckert (2014:322) noted dancers were against being paid a wage and appreciated the flexibility of freelancing and Bouclin (2004a:135) found dancers were able to obtain welfare benefits available even though they were independent contractors.

DERA then joined forces with the EDA to form the Exotic Dancers' Rights Association of Canada (EDRAC) in late 2007.<sup>67</sup> Upon this, DERA and the EDA ceased existence. The merger came about owing to the belief among the activists and office holders of DERA and the EDA that their organizations within Ontario (Ottawa, Toronto respectively) could become more than the sum of their parts because with augmented strength in numbers a larger population of dancers could be reached and economies of scale in delivering services could be gained. However, the critical factor – especially in regard to becoming a Canada-wide organization – was that EDRAC had acquired activists in the major cities outside Ottawa and Toronto and which were prepared to undertake the necessary work for the new organization. Nonetheless, organizational problems were encountered within a couple of years as a result of the withdrawal of key personnel EDRAC had depended upon. These reasons for the withdrawal focused upon funding difficulties, conflict with other time commitments and differing views of organizational goals and strategies. By 2011, EDRAC had ceased to exist as a living organization (although it formally still exists as it has not been dissolved).

### **Other labour-orientated organizations**

The Strippers' United Association, launched in 2004, sought to fill the vacuum left by the declining activities of the EDA and EDAC but did not succeed, being essentially stillborn. Into this gap, the Canadian Guild for Erotic Labour (CGEL) was founded in 2004 to promote labour rights and labour-organizing workers engaged in erotic labour. In its own words, it was 'a national organization of workers and allies who have come together to support and promote labour rights and labour organizing for ... workers engaged in erotic labour'.<sup>68</sup> Thus, in recognition of previous difficulties of establishing new unions, CGEL sought to convince other unions to help it organize sex workers (primarily prostitutes and exotic dancers). Although CGEL met with some success in doing so with the Canadian Union of Public Employees (CUPE) and the CLC, the results of this have not led to unionization itself. For example, the CUPE (2005) made clear its intention to support, rather than lead or facilitate, sex-worker unionization and both the CUPE and CLC were equally supportive of public policy and regulatory change regarding the decriminalization of sex work. There were also problems with the support of the CUPE, such as a tendency to focus upon human rights and not workers' rights, and then a withdrawal of support due to disagreement with the goal of decriminalization of sex-worker activists (Clamen *et al.* 2013: 121, 123). These two aspects were played out

because of, and through, CUPE internal politics – in essence a backlash was organized by a coalition of leftist men and woman of a certain feminist perspective. Critically, this opposition was organized through its Women's Committee. The withdrawal of CUPE support was then replicated in the CLC (Clamen *et al.* 2013:126).<sup>69</sup> So in CUPE, as in the case of the Confederation of National Workers' (CSN) union as well, even when formal support existed, such opposition was important in preventing implementation of supportive policy positions. The CUPE and CLC stance was essentially to take the same position as both the SEIU (in Canada) and the Canadian Auto Workers' (CAW) union from 2005 (see Couto 2006:40). This was to recognize sex workers as warranting a certification drive but not carry out any organizing work to achieve this. The CGEL's concentration upon proselytizing was also based upon its inability to pursue further labour-organizing initiatives due to constraints upon resources. As one of the founders of the CGEL wrote (van der Meulen and Gillies 2007:9):

In 2005, The Canadian Guild for Erotic Labour made an initial effort at basic labour rights promotion in erotic massage venues. The Guild mediated several meetings between erotic massage workers and management, resulting in the development of internal grievance procedures, employers' codes of conduct and internal guidelines for matters such as hiring, firing and shift assignment. Although such measures cannot be legally enforced, they provide both a mechanism for promoting fair work conditions and a forum for worker organizing and empowerment. Unfortunately, due to lack of funding, the labour mobilization project ended.

Several other attempts at unionization in Canada were reported to have been made. One was in Ottawa when 20 sex workers met to discuss labour issues (*Ottawa Citizen* 18 February 2008). However, the meeting was not to establish a union but a sex workers' rights group which became POWER (Prostitutes of Ottawa-Gatineau Work Educate & Resist). POWER believes decriminalization of sex work is the key goal to be achieved, and thereafter the issue of unionization may be set in train. Another was in Winnipeg in mid-2009 (*See Magazine* 13 August 2009) but the outcome is not known while the founding of Stripper Canada – A Community for Canadian Strippers replicated the more passive non-union forms of collective organization in the United States. Such an organization as POWER is far more common in Canada, highlighting that most of the collective organizations for sex workers are for

prostitutes and take the form of advocacy and pressure groups (like the Sex Workers Alliance of Toronto (SWAT)).

Leading sex-worker activist, Kara Gillies (2006:73) of Maggie's, the Toronto Sex Workers Action Project, spoke of the 'chicken and egg' dilemma and the considerable challenge in regard to whether decriminalization (or legalization) had to precede unionization:

Another area in which we are trying to be proactive is labour organizing and developing links and shared agendas with the labour movement and unions in Canada. This is something that in the Canadian context we kept putting off and putting off because the question was 'How do we pursue this agenda while working under a criminalized system?' However, after almost twenty-five years of lobbying for decriminalization, we need to move forward in additional, creative ways. One of the tactics that we are hoping to use to bypass the obstacles to labour organizing presented by criminalization is the subversion of the current municipal practice of 'back-door' legislation. What happens now in many municipalities across Canada is that, although most of the activities associated with prostitution are criminalized at the federal or national level, local city councils have introduced licensing and regulation around massage, escorting, companionship services and so forth. However, the only way municipalities are legally permitted to develop these bylaws is by pretending that the activities in question are not prostitution. Although there are many negatives associated with this system, it potentially provides workers the opportunity to seek recourse before labour boards, civil courts and so forth in the capacity of non-criminalized workers ('I'm a holistic health practitioner, Your Honour!'). While still highly problematic on both practical and political levels, it is possible that this approach will at least offer some labour rights and protections to certain groups of workers, especially those working for third parties.

Since then there has been no evidence this suggestion has been taken up by other sex-worker activist groups, much less that it has been implemented.

There are a number of other organizations which, at first sight, may be thought of as labour union-type organizations. However, upon closer inspection, they are not. The CUP, the Committee to Unite Prostitutes, was established in 2006 in Vancouver but by 2009 had become inactive. However, out of it emerged the Triple-X Workers' Solidarity Association of British Columbia in 2012 which sought to ally its sex-worker



members, their clients and supporters to stand together for 'fair wages and minimum rates; against laws and regulations that discriminate against us; to ensure regulations treat us with validity, fairness and respect; against unprotected sexual contact in our workplace; to play an active role in British Columbia's response to our work including public health, municipal regulation, and workplace safety against abuse, exploitation and harassment of all workers'.<sup>70</sup> The Naked Truth website, which has no connection to the EDA's *Naked Truth* newsletter, reported that it had 'launched the Canadian Union of Naked Trades (CUNT) ... [as] an informal group of sex industry workers and allies who advocate for labour and human rights for sex industry workers and others who participate in the industry as workers or customers'<sup>71</sup> in the greater Vancouver area. The acronym of CUNT 'is a play on words and the "union" part refers more to organizing efforts in general than to labour organizing specifically. We considered creating a labour union under that name but too many sex workers did not support the name because of the acronym. So it became more of a social club and continues to be so' according to its founder.<sup>72</sup>

Meanwhile, the long-standing Sex Professionals of Canada (formerly, the Canadian Organization for the Rights of Prostitutes, which was founded in 1983 and changed its name in 2004) lobbied politically and used legal avenues – albeit unsuccessfully for many years until 2010 (see below) – to reform prostitution laws so prostitution that became lawful. In common with other Canadian sex-worker rights groups, it has organized conferences, public meetings, lobbies of public authorities and demonstrations. Activity on sex workers' rights by sex workers continues to be organized on a province-by-province and city-by-city basis so that a plethora of poorly-resourced and often competing organizations exist. The creation of the Sex Trade Workers of Canada, an advocacy pressure group (but which became defunct since 2012 and existed mostly as a web presence for information and advice) did not change this situation. And, the Sex Workers Alliance of Vancouver (SWAV), founded in 1994 with the purpose of 'fight[ing] for sex workers' rights to fair wages and working conditions that are safe, clean and healthy' (Gall 2006:149), was disbanded in 2005 (Clamen 2010:5).<sup>73</sup>

### **Cooperative brothels**

In Canada, two experiments sought to take a different route to resolving the challenge of providing for fair remuneration and self-control of working conditions and working lives. These were by means of

establishing brothel cooperatives. Thus, in 2007, two sex-worker activists from the Prostitutes' Empowerment Education and Resource Society (PEERS) in Victoria, British Columbia, attempted to open a cooperative brothel, where cooperative members would be paid wages and have medical leave, vacation pay and workers' compensation (*Times Colonist* 21 August 2007). They opened an escort agency called Victoria Independent Providers (*Times Colonist* 25 July 2008) but never progressed to open the brothel because they could not gain the capital to buy premises given the continuing problematic legal status of prostitution at the time (see below).<sup>74</sup> The two activists also experienced a backlash from some feminists against what they were doing.<sup>75</sup>

The British Columbia Coalition of Experiential Women (BCEW) was established in 2005 as a result of a series of meetings involving sex workers and sympathetic academics from the Simon Fraser University between 2002 and 2004. It initiated a social action research project called 'Developing Capacity for Change Project' in 2006. During this time, and in discussions over sex-worker cooperatives in India, a number of Vancouver sex workers expressed their desire to explore a cooperative business model as 'a way to generate alternative sources of income, increase health and safety, build community capacity and begin to take control of our collective destiny'.<sup>76</sup> As a result the West Coast Cooperative of Sex Industry Professionals was founded and incorporated in 2007, and, in 2008, it began raising capital and developing business skills. It ultimately sought to open a brothel cooperative. The West Coast Cooperative sought to create decent labour standards to improve the occupational health, safety and capacities of sex-industry professionals as employees and contractors within a legitimized profession. The West Coast Cooperative's key objective was to open a cooperative brothel in Vancouver in order to take sex workers off the streets, where they have been subject to violence and murder, as well as to allow them to work together for their own protection and in furtherance of their labour rights. In order to create such a cooperative brothel, the West Coast Cooperative of Sex Industry Professionals established a number of social enterprises working in the arts, publishing, catering and consulting in order to raise the necessary capital. The aim was to have the brothel up and running for the 2010 winter Olympics in Vancouver. However, the inability to gain a change in the law so that a brothel could be lawfully established (as is the case in New Zealand, Germany or the Netherlands) as well as difficulties in raising sufficient capital have meant that the project did not come to fruition although it remained

active until early 2010s. That the organizer of the cooperative met with the BC Federation of Labour in planning the cooperative indicated that they did not see a cooperative and unionization as incompatible.

The landmark ruling in the Bedford, Lebovitch and Scott case in September 2010, where these three leaders of the Sex Professionals of Canada successfully challenged Ontario state and federal law on procuring, did not result in the creation of a legal regime governing sex work that would allow a brothel to be lawful. Thus, the unfolding saga began with a decision of the Ontario Superior Court holding that the key provisions of the Criminal Code dealing with prostitution (keeping a bawdy house, living off the proceeds, and soliciting or communicating for those purposes) were invalid, but a stay of effect was put in place. This was appealed by the provincial government resulting in a decision by the Ontario Court of Appeal in March 2012 which upheld the lower court's ruling on bawdy houses, modified the ruling on living off the proceeds to make exploitation a criminal offence, but reversed the decision on soliciting, holding that the effect on communities justified the limitation. The court also continued a stay of effect of a further 12 months on the first provision, and 30 days on the second. Both parties (Bedford *et al.*, the Crown) had up to 60 days to appeal this decision to the Supreme Court of Canada and in April the federal government stated it would do so with the Supreme Court of Canada agreeing to hear the appeal in October 2012. The Supreme Court also agreed to hear a cross-appeal by sex-trade workers on the Court of Appeal for Ontario's decision to ban solicitation. The Supreme Court of Canada heard the case in June 2013 and issued its decision in December 2013, overturning all restrictions on sex work, ruling that a ban on solicitation and brothels violated prostitutes' rights to safety.<sup>77</sup> However, it also delayed the enforcement of its decision for one year – also applicable to the Ontario sections – to give the federal government an opportunity to write new laws which were not in contravention of, and did not violate, Section 7 of Canada's Charter of Rights and Freedoms (on the right to life, liberty and security of the person). This saw the introduction to the legislative chamber of the Protection of Communities and Exploited Persons Act in June 2014 which was passed and became law in late 2014. The effect of the new legislation was to make the purchase of sexual services illegal, along the lines of 'the Swedish model' which endeavours to abolish prostitution by targeting demand and where sex workers are defined as victims of sexual exploitation.<sup>78</sup> It also criminalizes communication for the

purpose of offering or providing sexual services in public or open to public view where persons under 18 might reasonably be expected to be present, third parties who receive a 'material benefit' from prostitution and procuring another person for the purpose of providing sexual services. The consequence is that it will be extremely difficult to undertake a legal and collective business of any kind.

## Chapter conclusion

Like that of the United States, the experience in Canada suggests that not all labour-orientated organizing has been labour-union organizing and not all unions are labour unions. It also suggests that success in creating and sustaining labour unionism for sex workers has been no more assured than it has been in the United States. But in both countries there have been a sufficient and continual number of attempts as to suggest something of a pattern or trend exists, namely, that there is a desire for union representation and that more often than not this is an unmet one. The desire is clearly more grievance-based rather than it is ideological for the vast majority of exotic dancers. The overall, combined situation of both the United States and Canada is that after an array of attempts, very little has been left in place in organizational terms. Those collective sex-worker organizations which remain in existence are not labour unions. Meantime, attempts at other forms of worker control – through cooperative – have also come to nought either.

So while there is some validity to Clarke's (2004:157) acerbic comment – given the context outlined at the beginning of the consideration of the United States – that:

Occasionally the Left stirs itself to advocate unionisation as the solution to the abuse of women and girls in the sex trade. This, we note, in a country (the US) whereas of 1999 less than 10% of the private-sector workforce was unionised, and where union busting is company policy at most of the biggest and most successful corporations ... The notion that in this political and economic climate an effective union movement is miraculously going to spring up amongst prostitutes seems naïve to say the least. Unions rely on other unions as allies; solidarity strikes as the 'equaliser' that makes government and industry take seriously single-sector strikes. With US trade unions at an all-time low, and mostly male-dominated, who is going to walk out in solidarity with striking prostitutes?

Are masses of men going to honour the picket lines by refusing to patronise sex sweatshops until prostitutes achieve some kind of wage and workplace-safety parity?

she overegged her pudding and threw the baby out with the bathwater by having a narrow vision of what labour unionism would look like, not taking into account the unlawful position of prostitution and being unaware of the significant catalogue of projects to unionize non-prostitute sex workers. Yet it is the case that 'the grand success story for dancers' rights' (Roach 2007:117) of the Lusty Lady is no more. In the wider context, the failure of the Employee Free Choice Act (which was actually a Bill but was essentially concerned with i) allowing union recognition through union-card checks and not through ballots, which employers found easy to gerrymander; ii) compelling employers to make collective bargaining agreements so undermining stonewalling and surface bargaining, and; iii) providing sanctions against the victimization of union activists) to be passed under the first Obama presidency meant that there were no external (positive) stimuli to generating further unionization projects.

Turning to Canada, in their fieldwork with sex workers (dancers, prostitutes) there, Althorp (2013), Childs *et al.* (2006:131–5) and van der Meulen (2011, 2012) found support for the idea of a labour union and/or professional association for sex workers *per se* and their own specific sector of the sex industry (for example, dancers). However, support was not unanimous (see also Meaghan 2000), reflecting fears of loss of control of work and work flexibility. Added to this, Althorp (2013) identified practical difficulties in realizing the creation of a labour union (from the likes of hostility from club owners and operators) and obliging the super-activists, who are inoculated against stigma, to set up such a body for others to merely join in a passive manner. (In this regard, the refusal of the actor's union, ACTRA (Alliance of Canadian Cinema, Television and Radio Artists), to consent to some dancers joining (Meaghan 2000:457) increased the threshold of commitment and activity for those intent upon dancer unionization). The overall situation, on the one hand, may then be seen to typify the sense that there is some latent demand and, on the other hand, shows there is a considerable set of significant obstacles to realizing the demand. Yet there are further obstacles and challenges to be considered given that the foundation of a labour union is only the precursor to its activity as a labour union. So, as van der Meulen (2012) found, there is a diversity of organizing experiences (including some labour organizing) among

sex-worker activists but, not unsurprisingly, no overall consensus on what consequent strategy and tactics to deploy regarding organizing sex workers given the diversity of objective circumstances and subjective experiences across and within the sector of the sex industry. Activists testified to the added difficulty that organizing, representational and bargaining activities often effectively advertise, that is, make highly visible the fact that the subjects and agents are undertaking unlawful economic activities.

# 4

## Australia and New Zealand

### Introduction

It may seem surprising that some of the earliest and most substantial developments in sex-worker collectivization and unionization have taken place in Australasia. But some other political developments in Australasia have also preceded those in Europe. For example, the first majority Labour government in the world was elected in Australia in 1910 and both Australia (1904) and New Zealand (1894) introduced compulsory systems of arbitration and conciliation for resolving industrial relations disputes. Indeed, the system in New Zealand was the first in the world. Of tangible relevance has been that sex-work discourse became embedded in Australia relatively early (from the late 1970s) and from it sex-worker activism was generated (see Gall 2006). Yet, like many of these early innovations, the projects of sex-worker unionization have been challenged and found wanting. Indeed, like the systems of arbitration and conciliation, sex-worker unionization has been denuded. This chapter examines three unionization projects in Australia alongside the peak body for sex-worker rights groups, the Scarlet Alliance. It then considers developments in New Zealand, focusing upon the introduction of decriminalization, the New Zealand Collective of Prostitutes and the Unite union.

### Australia

#### Introduction

The sex industry in Australia is often referred to in the media as being 'unionized' (see, for example, Walsh 1996) and the Scarlet Alliance, the

peak organization for sex-worker rights groups, is often referred to as a 'union' as did, for example, the *Canberra Times* (4 October 2008) and *Guardian* (6 September 2015). Both are inaccurate and incorrect. The former arises because some of the earliest advances in unionization of sex workers anywhere in the world were made in Australia. The latter arises because the Scarlet Alliance was affiliated to the Australian Council of Trade Unions, introduced its subtitle of 'the Australian Sex Workers' Association' in 2004, bars membership to sex-industry business owners and operators, and promotes sex workers' rights in terms of the discourse of labour rights. While the sex-work discourse became widespread among activists from the mid-1980s, some 60 per cent of sex workers are not of Australian birth and around 60 per cent of prostitutes work in brothels (Julie Bates 3 September 2009). The structure of the sex industry in regard to legalized prostitution as a result of legal regulation is of a cottage industry with the absence of chains of brothels.<sup>1</sup> Influenced by this, prostitutes work across this sector of the industry, namely, in brothel, street and escort work. Only a tiny handful of brothel prostitutes have employed status (in as much as they are paid through a payroll that deducts taxation).

### **Liquor, Hospitality and Miscellaneous Workers' Union**

Facilitated by moves towards both decriminalization and legalization, in 1995 the Prostitutes Collective of Victoria (PCV) and the Workers in Sex Employment (WISE) in the Australian Capital Territory (ACT) agreed to establish a union organization for prostitutes in alliance with the Liquor, Hospitality and Miscellaneous Workers' Union (LHMWU) after some two years of lobbying and negotiations and despite some internal hostility from within the LHMWU.<sup>2</sup> Both PCV and WISE had previously campaigned to improve prostitutes' working conditions in regard to fines for being late for work and unfair dismissal for complaining about facilities (see Murray 2001:8,10). Neither were unions or even proto-unions, with one of the main players in the PCV saying: 'A lot of people think we are a union, but we are not a union' (in Sullivan 2004:256) and the PCV pursued what some would term a 'class collaboration' position of mutual interests with brothel owners and operators (Sullivan 2007:119–20). The PCV had approached other unions but their responses were not encouraging given the prospect of the high costs involved in gaining small amounts of new members, and the stigma attached to prostitutes and prostitution (Murray 2001:216).<sup>3</sup> The LHMWU's main work revolved around campaigning against grievances concerning non-payment of wages, payment of bonds, fines, charges for tea and coffee, long shifts (and without statutory breaks), forced



sex with owners and the right to demand condom usage. For example, prostitutes may spend all their shifts, of up to 14 hours, without seeing a customer but still be expected to clean, greet customers and do laundry for no payment. This led to the demand for a basic wage (including sick and holiday pay). Moreover, the LHMWU sought to both improve conditions in individual brothels and lodge a sufficient number of wage and condition claims with individual employers in order to be able to gain a federal (bargaining) award covering, *inter alia*, sick pay, holiday pay, maternity and pensions. Thus, the LHMWU consulted with employers in brothels on a sector award but no progress was forthcoming and it then unsuccessfully attempted to negotiate an enterprise agreement with an individual brothel (Murray 2001:129, 219–20, 2003). Managers counter-attacked by persuading prostitutes who were not employed that being made to be so would threaten the viability of the businesses and their jobs as a result of increased costs (Murray 2003). They also extolled the freedom of independent contractor status,<sup>4</sup> and reinforced this with a threat to ‘fire’ anyone that proselytized for unionization (Murray 2003). Nonetheless, the LHMWU did gain an industry/sector award, setting down minimum standards and conditions of work, from 1996 and this technically remained in force until 2007 but it was neither used nor implemented by the LHMWU due to the issue of paucity of organizing resources (*Canberra Times* 19 October 2008, see below, Sanders *et al.* 2009:106). Where the LHMWU did have some more tangible success was in taking a case of unfair dismissal to the Industrial Relations Court, winning it and using this to gain settlements through conciliation for 12 others’ cases of unfair dismissal (Murray 2001:138, 223).<sup>5</sup> Therefore, through its campaigning, the LHMWU achieved some advances in the areas of sick leave, some other leave entitlement, a minimum wage, security of employment and improved health and safety conditions in some brothels through a combination of legal action, collective bargaining and working with some of the more progressive brothel owners. The union’s other work has involved gaining representation on, and influence over, a number of government-funded health programmes for sex workers to ensure these are tailored to sex workers’ needs as much as possible in terms of their objectives and methods of delivery (rather than being determined solely by public priorities).

While the normal challenges of the potential loss of anonymity, paying full taxes and independent contractor status were found in Australia, one of the major reasons for the LHMWU’s relatively limited advances was the combined impact of its practice of limited active, direct recruitment of sex workers and its ‘make or break’ attitude.<sup>6</sup> Moreover, despite

the LHMWU employing a woman with experience of the sex industry as an organizer,<sup>7</sup> the project was under-resourced (Murray 2001:227–8, 2003). Thus, it mainly worked through sex-worker outreach organizations to reach potential members rather than direct recruitment, and stipulated that after an initial period of full resourcing if PCV and WISE could not deliver a certain level of membership to ensure self-sufficiency then the resource given would be reduced. As the level of membership was not delivered in this short period of time, the level of resource was then cut (see Murray 2001:227–8). The target was 400–500 members (Gall 2006:125) but only 150 were recruited (Sullivan 2007:118). The unionization project then petered out over a longer period of time whereby any direct, active recruitment was ended. In 2007 in Queensland,<sup>8</sup> for example, some 15 prostitutes had joined by way of gaining information about the LHMWU through the Self-Health for Queensland Workers in the Sex Industry (SQWISI) or the (Queensland only) Prostitution Licensing Authority (PLA). Of those that had inquired about membership, many did not join, concluding the LHMWU could do little concretely for them, and this impression was influenced by the union's own behaviour whereby its officer responsible for sex workers in Queensland did not agree with the sex-work discourse and the union did not establish a system to maintain members' anonymity once they had joined. Further obstacles were encountered when the main union activist felt aggrieved by the insufficient support from the LHMWU when taking her own cases against brothel owners and the PLA was also seen by some as the arbiter in the workplace even though the experience of its intervention had not been viewed as satisfactory. In the cases of aforementioned individual representation, the LHMWU undertook the bureaucratic work of application and negotiation but not the peer support work, suggesting to sex-worker activists that there was a limit to what it could do or wanted to do. The case in Western Australia in 1996 of Phillipa vs Carmel was one such example. Here Phillipa was found to be an employee, regardless of the 'legality' of the industry she worked within and was represented at the Industrial Relations Court of Australia by then LHMWU officer, Sue Ellery, but supported in all other aspects by the local sex-worker group, Phoenix.

Sukthankar (2005:23) described the challenges of providing the resources to organize prostitutes inside the LHMWU in the following terms:

Unions operate on the basis that if they have enough members from a particular industry then they will represent them in industrial

disputes, but they do not recognise that there are great problems associated with being open about being a sex worker. We have had discussions about coming up with a strategy so that members don't have to be identified as sex workers. But if the union can't say that they have [for example] 300 sex workers on their books, they find it harder to negotiate with rest of membership to prioritise sex work on the agenda.

While Murray (2003) argued a number of underlying factors led to the failure of unionization (namely, effects of stigmatization, operators' arguments that increased costs lead to job losses if prostitutes became employees, the sexism of unions, and members expecting to be serviced when the union wanted them to be self-organized), a more generous interpretation of this situation was given by Perkins and Lovejoy (2007:158) who described the dispute between the union and the prostitute activists as resulting from a 'misunderstanding over the number of [recruited] members required by the union'. Nonetheless, but without any supporting evidence, Perkins and Lovejoy (2007:158) then stated interest in sex-worker unionization was maintained and may bear fruit in the near future. This did not prove to be the case. By contrast, Sullivan (2007:118,256) attributed the failure to reach the target to the low level of work attachment, namely, that prostitution was a transient form of income activity and not a career, and that prostitutes were not employees but independent contractors. The outcome of the failed LHMWU unionization project was to:

create a lot of distrust ... because our community already faces a lot of stigma, sex workers automatically read the outcome as a product of the union movement discriminating against sex workers ... it did nothing to benefit the union movement ... people felt angry and burnout out by it ... that Maryann Phoenix didn't get the support she needed ... it bought into the idea that the union movement is highly politicised ... (Elena Jeffreys 25 August 2009)

One of the issues generating distrust was that the pledge by the LHMWU to guarantee sex-worker anonymity with union records systems was not delivered upon. It transpired the pledge was made without consulting the state authority about rules for union record systems and then the LHMWU found it could not do as it intended. Jeffrey's perspective contrasted with the view of benign experimentation of Ruth Frenzel, LHMWU organizer responsible for sex workers: 'we are sticking

our toe in the water to see if we can deliver what sex workers want' (in ABC 1996).

### **Striptease Artists of Australia**

Conditions for exotic dancers in Australia mirror many of the terms and conditions experienced by their counterparts in the United States (see Murray 2003). These included regulation of attendance, performances, personal appearance and working hours (and attendant disciplinary measures for infractions), pricing for performances, payment of stage fees and all of which were encompassed within 'independent contractor' status. Among dancers and commonly known as the 'strippers' union', the Striptease Artists of Australia (SAA) was established in 2001 to provide representation to the 20,000 performers in striptease as no other union was attempting to do so. For example, in 1999 strippers in Queensland put out a public plea for unionization after being subject to fines for not turning up to work, for leaving early and for alleged violations of codes of conduct as well as the non-implementation of 'no-touching rules'. The response of the Media, Arts and Entertainment Alliance (MEAA) to look at the issues did not help resolve the dancers' concerns and the short-lived Queer and Esoteric Workers' Union of 1997 to 2001 was unable to improve matters. The SAA was a long time in gestation with one of its founders commenting that the idea of a union and a workplace award was hatched as far back as 1998 when she persuaded a group of colleagues to push for industry standards (*AAP Newsfeed* 17 March 2006). The nomenclature of being the SAA was chosen because exotic dancers did not wish to be classified as sex workers (and existing union organization for sex workers focused upon prostitutes). The SAA gained registration with the Australian Industrial Relations Commission (AIRC) in early 2002, where it attested it had at least 50 members.<sup>9</sup> The point of registration was primarily so that it could then apply for a federal industry pay and conditions award in order to set minimum pay rates and associated conditions under which strippers and dancers would be classified as employees and not independent contractors (who are charged stage fees to be able to work and, thus, also ineligible for sick pay, occupational injury compensation, and so on). In seeking the award, the SAA faced objections from four other unions including the LHMWU and MEAA over demarcations even though the four had not made any efforts to organize these particular sex workers (see Gall 2006:131). The differences were settled, allowing the SAA to register with the government for the consideration of an award in 2002 (with its claim of some 300 members at that point).

Although the SAA sought constructive dialogue with employers, particularly to raise working standards across the sector, and spurned confrontation through strikes and picketing, the response from employers and operators was predominantly dismissive and hostile (Gall 2006:131–2). It took a further three years to gain an award under the AIRC. Thus, in March 2006, the Striptease Industry Conditions Award 2006 was promulgated after the declaration of a dispute between the SAA and the employers through their Australian Striptease Association. The award covered some 120 establishments throughout Australia but excluded the state of Victoria, was smaller than the 300 establishments cited by SAA in its application,<sup>10</sup> and did not represent the achievement of all the SAA's bargaining demands, in particular over levels of pay (see Gall 2006:131–2).

Nonetheless, the gaining of the award was a major breakthrough with spokesperson, Mystical Melody, stating: 'We've got rights to have public holiday pay now, which we've never had in our career before. We've got rosters and set hours. We can't work more than 10 hours a shift. There's overtime after that, and we've never had overtime before. We've got set rest periods as well, and when to have breaks, and meal breaks' (AAP *Newsfeed* 17 March 2006). Additionally, the scope for managers terminating employment for various infringements was reduced given the regulation of working hours. The SAA also sought to use the AIRC in 2004–5 to aid its dispute with Bare as u Dare and in 2006 with Goldfingers over application of Striptease Industry Conditions Award 2006. But the breakthrough was doubled edged because the dismantling of the federal award system in a process called 'award stripping' led by a right-wing government in tandem with vehement employer opposition meant that it took huge amounts of effort to secure the implementation of the award in a small number of clubs, leading to the process of the SAA beginning to disintegrate soon afterwards. The abolition of this so-called 'Work Choices' legislation and its replacement by the 'Fair Work' legislation from 2009 did not reverse this situation. Indeed, the SAA did not make submission to the award modernization process which, ironically, promulgated a new award covering striptease with minimum rates of hourly pay (Kane Matthews email communication 4 September 2009). Prior to the promulgation of the awards, employers through the Australian Striptease Association pushed the argument that the SAA's wage claims would put them out of business and strippers and dancers out of work (*The Age* 4 July 2004, 9 December 2005).

The new award provided no fillip and the disintegration of the SAA was complete by 2011 when it was deregistered by Fair Work Australia,

the successor to the AIRC, following its failure to comply with required notices of holding annual elections and meetings, filing annual financial returns and responding to correspondence. The SAA was invited to lodge an objection to the cancellation of its registration but it never responded to letters (*Canberra Times* 11 October 2011). Indeed, the SAA last held annual elections as required to do so by the AIRC in 2005. Its demise resulted from being an unfunded voluntary organization with a very small group of office bearers being the activists (with just five national office bearers for the period 2003 to 2005) and these office bearers experienced burnout in the course of carrying out the work to gain the award and then overseeing its implementation at the same time as maintaining their own organization, with the ending of the industry award sealing the union's fate (Elena Jeffreys 25 August 2009, Kane Matthews 29 August 2009).<sup>11</sup> Moreover, the activists of the SAA were primarily based in Sydney and Canberra but sought to act federally. Its small actual membership gave little prospect of new activists emerging or generating the income to pay for full-time office-holder positions. This factor was heightened by the SAA spurning those dancers that also carried out 'private' sex work in the clubs. Conditions for strippers were still regulated by the Live Performance Awards of 2009 and 2010 but not through the activity of the SAA, and the Striptease Industry Conditions Award was amalgamated into this award under a process called 'award modernization'.

### **Sex Workers' Union**

Formed as a group in Sydney in 2005, the Sex Workers' Union (SWU) reassessed itself in 2008 as wanting to be a national union while being part of the Scarlett Alliance and promoting unionization within it. Consequently, it launched itself in 2008 as 'Australia's youngest union' for the 'world's oldest profession'. Formed by activists from within the Scarlett Alliance (see below), the SWU was a response to the failure of the LHMWU and SAA as well as the hope that the new industrial relations legislation ('Fair Work') would help resuscitate the federal award system through its modernization process of rationalization and from which an award could be gained for the sex industry. Indeed, the Scarlett Alliance believed the biggest barrier to unionization of sex workers in Australia was the existing union movement and its 'whorephobia' (Elena Jeffreys, email correspondence 2 September 2009). Consequently, it believed that if unionization was to take place at all, it would occur through new unions being formed for sex workers by sex workers. So the SWU was formed 'with the intention of becoming Australia's national

union for sex workers' (Jeffreys *et al.* 2014:2). It stated its 'members are sex workers who work in brothels, strip clubs, escort agencies, in street based sex work' in all eight states and territories (Matthews 2009:1).<sup>12</sup> In its submission to the Senate Standing Committee on Education, Employment and Workplace Relations, the SWU (2009) stated how its ambition could be realized in regard to pursuing a federal industry award:

Without the benefits of a long history of organised labour, sub-contractor status remains unchallenged in almost all workplaces. The Sex Worker Union plans to develop a recognised and organised labour movement for sex workers. However this is still only now in its infancy compared to other categories of workers. The most important issue to the Sex Workers Union in 2009 is to determine more accurately the rights and responsibilities of sex workers who are subcontractors, sex workers who are employees, and sex workers whose workplace may be a mixture of both.

Critically, the SWU's aims and objectives included not just formal recognition as a union and improving work conditions but also seeking to determine terms and conditions through the award-setting process, this being a form of collective regulation of the wage-effort bargain. It held regular meetings, two national workshops and demarcation negotiations with other unions (the LHMWU and the SAA). However, it determined in 2011 that 'becoming a formal union was beyond the means of the group [and so it] consequently disbanded [in 2012] after national discussions with Scarlet Alliance' (Jeffreys *et al.* 2014:2). The paucity of resources related to being founded by ten subscribing sex-worker members and ten subscribing non-sex worker supporters (Jeffreys *et al.* 2014:3) with membership not exceeding 20 members with six activists a year later (Kane Matthews 29 August 2009). Along the way, it sought to amalgamate with the SAA and come to agreement with the LHMWU but neither was achieved with the LHMWU declining to allow the SWU to move into what it regarded as its area unless there was a successful court challenge (Jeffreys *et al.* 2014:3)<sup>13</sup> while the SAA did not wish to reconstitute itself just for the SWU's sake (Kane Matthews 29 August 2009). While the LHMWU freely admitted it was not undertaking any work to organize sex workers because it prioritized other areas where it believed it would have more traction, it was unwilling to give up its coverage to an organization, the SWU, which it was not convinced would be a permanent feature of the industrial relations landscape because the SWU had no institutional base within the wider union movement

(Louise Tarrant 28 August 2009). According to the SWU (Jeffreys *et al.* 2014:4, as 'neither union was willing to grant demarcation to the [SWU] ... the [SWU] found that it would take approximately eight years and A\$40,000 to mount the necessary court challenges and fulfil all legal requirements to become a national union'. However, it then transpired that the SWU did not need to be a registered union to apply for an award but this did not make sufficient difference because opposition within the Scarlet Alliance to the formulation of a draft award written by the SWU led to the draft award not being submitted to the AIRC/Fair Work Commission. The grounds of opposition concerned whether the award would be used by sex workers and whether it was of practical benefit (Kane Matthews 29 August 2009). After this setback, activity to promote the SWU continued but at a much lower level. Wider support from the Scarlet Alliance was not entirely fulsome because of the means by which the SWU developed, moving from a Sydney/New South Wales organization to a federal one which entered the jurisdiction of the state-based Scarlet Alliance affiliates outside of New South Wales. Looking back, Kane Matthews (29 August 2009) believed the process of forming the SWU and seeking to apply for an award was too rushed with the effect that not enough time was taken to consult with Scarlet Alliance affiliates and win their support. Consequently, the SWU remained until its disbandment more of an idea and work-in-progress than a living entity in terms of carrying out bargaining and representational functions.

### **Scarlet Alliance<sup>14</sup>**

The Scarlet Alliance has become the most developed, embedded, and long-lasting example of a non-union form of collective sex-worker organization anywhere in the world.<sup>15</sup> Since foundation in 1989, it has been constituted as a campaigning group focused on attaining economic and political rights and representation, and it is active in policy, regulation, service provision and support work. It operates as the federal peak body for its 12 mainly state-based sex-worker rights groups, where state affiliates are able to respond to their own, differing state legal systems. It has also achieved a critical mass of activists and supporters who 'provide a stable base for internal peer education in the workplace' (Elena Jeffreys 25 August 2009) through skill sharing and dissemination of the sex-work discourse. These activists come from its 200 individual members (as of 2010) and in particular those of the activists for its affiliates, making up a milieu of some 200 activists (Elena Jeffreys 25 August 2010). Moreover, its longevity and effectiveness are the result



of a productive marriage of different scales of sex-worker organization but where the Scarlet Alliance is much more than just the sum of its constituent parts, providing strong, pro-active, and vibrant leadership in sex workers' campaigns for economic and political justice rather than just reflecting in a reactive manner the wishes of its affiliates.<sup>16</sup> Part and parcel of this is that federal and state governments have accorded it – after much struggle and through proving itself as a *bona fide* representative body of sex workers – the status of the recognized body of, and for, sex workers in Australia. Linked to this is that the Scarlet Alliance and its affiliates have colonized (and almost monopolized) state provision of health and education services to sex workers by, in effect, being sub-contracted to do so. The Scarlett Alliance has also operated an extensive education and training programme for sex-worker activists and sex workers more generally with the result that it has built up a cadre of activists to conduct its work and campaigns.

The import of its success and longevity for the prospects of unionization has been complex. Its general secretary, Elena Jeffreys (25 August 2009), commented:

unionisation is one of the ways to ensure that industrial rights are maintained and that there is an element of community development to workplace organising ... we support unionization when it has happened ... there is a public perception that we are a union ... we are not ... we say we are an association ... but we do not seek correction because sex workers coming together for industrial rights is seen as a union whether it is one or not.

So while not opposing unionization in principle, on the one hand, the Scarlet Alliance may be seen to have constituted an alternative or substitute to the trajectory for unionization. On the other hand, it may be seen to have comprised a foundation upon which potential unionization projects may have stood. Indeed, there is evidence of both whereby to many sex workers the Scarlet Alliance demonstrated they already have a worker-orientated collective organization and some within the Scarlet Alliance sought to establish the SWU. But there were also important other factors that help explain the fate of unionization. For example, the way in which the LHMWU initiative was organized (see above) helps explain its demise. Using the vantage point of 2015, the failure of sex-worker union projects has sealed the dominance of the Scarlet Alliance and any future sex-worker union initiatives are likely to find they are crowded out by this established player.

Moreover, the emergence of the Australian Sex Party (ASP) may be seen to have added to this trajectory despite its underlying nature and purpose. Specifically, it may be seen as positively influencing public policy in a broadly sex-positive way. Founded in 2009, the ASP developed out of the sex-industry lobby group, the Eros Association, and is led by Fiona Patten, briefly a sex worker but also a veteran campaigner on censorship, and founder and head (until recently) of the Eros Association (*Guardian* 12 March 2015). Although it has widened its policy remit from its progressive libertarian perspective, one of its central policies is the decriminalization of prostitution for ‘legalisation means regulation and the sex industry would rather have free rein to boost its profits. Scratch the surface and it is clear that the Sex Party is really just window dressing for a sex industry lobby group. Essentially, the ASP is the political wing of the Eros Association, Australia’s national “adult retail and entertainment” association’ (Tyler 2012). The view of the *Guardian* (12 March 2015) was that its ‘political agenda has broadened but its funding is still overwhelmingly from Eros’.<sup>17</sup> After contesting a series of federal and state elections, Patten was elected to the Victorian legislative in 2014 for the ASP although the party was federally deregistered by the Australian Electoral Commission in 2015 after an audit found that it could not demonstrate that it met the statutory requirement of 500 members.

## Overview

Two unionization projects came to fruition and one was attempted. All were *bona fide* forms of labour unionism as they sought to collectively regulate the wage-effort bargain, sometimes using arbitration awards. However, success was both limited and short-lived. Even while the project to unionize prostitutes through the LHMWU took place, organized prostitutes ploughed other furrows, such as establishing the first Ugly Mugs scheme, organizing to oppose unfair dismissal, and campaigning politically for law reform and health care so that not all their eggs were put in one basket. This multi-pronged approach carried on after the collapse of the LHMWU project and is to some extent embodied in the approach of the Scarlet Alliance. Alongside a gamut of what can be now termed ‘conventional’ challenges to sex workers’ unionization, the greater extent of prostitutes working in small brothels (as per the cottage industry structure) and prostitutes working across the sector has meant that union organizing is relatively even more difficult in Australia. Lawsuits to contest independent contractor status in brothels have been few and far between in Australia and, despite favourable

outcomes, have had no discernible positive impact in encouraging other sex workers to take similar cases (as happened in the United States) or positively change owner/operator behaviour. Indeed, there was one case where a sex worker used independent-contractor status to enforce the right to flexible working. More widely, changes in the legal regulation of employment and sex work have been of no benefit to sex workers. Thus, examining the employment status of prostitutes working in brothels in Melbourne in the late 1990s, Murray (2001) found that while there was potential mileage for the advancement of their interests and rights through the application of implied terms and conditions and the new raft of employment relations regulations embodied in the Workplace Relations Act 1996, the legal position offered in practice little of much worth. Furthermore, the dismantling by a Conservative government of the federal award system between 1996 and 2009, of course, did not make this situation any easier. The abolition of the so-called 'Work Choices' legislation and its replacement by the 'Fair Work' legislation did not help stimulate any further sex-worker union initiatives other than the formation of the SWU.<sup>18</sup> Moreover, and based on the experience of Queensland, brothel owners and operators continued to treat prostitutes as *de facto* employees, controlling their hours/shifts, clothes, prices, removals from roster, and so on, while *de jure* classifying them as independent contractors (Sullivan 2008).

## New Zealand

A police survey in 2001 characterized the sex industry as comprising just over 300 establishments and just under 4,500 sex workers (in Jordan 2005). Of these, 95 per cent of the former and 95 per cent of the latter concerned prostitution. Sex-worker self-organization in New Zealand began later than elsewhere (including Australia), with the establishment of the New Zealand Prostitutes' Collective (NZPC) in 1987. It acts as a prostitutes' rights group – and not an 'unofficial union' for sex workers as some media commentators believe.<sup>19</sup> As the NZPC says of itself, its mission is to 'advocate for the human rights, health and well-being of all sex workers [and it] is committed to working for the empowerment of sex workers, so that sex workers may have control over all aspects of their work and lives'.<sup>20</sup> And while it states that it 'must involve sex workers in all parts of the organization' and 'all functions of the [NZPC]' and heavily focuses its work and resources on improving sex workers' occupational safety, health and well-being, it comprises 'past and present sex workers and our allies'.<sup>21</sup> In these

terms, while it remains a prostitutes' rights group with non-sex workers involved, its strategy is not wholly based upon the discourse on sex workers' rights as human rights for it also is founded upon the discourse of workers' rights (as per the stress on occupational health and safety). Moreover, because of the legal status of prostitution, the NZPC's work also focuses upon employment contract and employment law advice for sex workers.<sup>22</sup> The founder of the NZPC, Catherine Healy (Healy *et al.* 2010:50), was then correct to say: 'NZPC did not call itself a union, but recognised that some of its beliefs and actions were very similar to that of a union'.<sup>23</sup> Later, when asked: 'Does the NZPC act as a union for sex workers?', Healy responded, saying: 'We are a collective and we try to find a solution for sex workers who have difficulties. If a sex worker is being exploited we are able to explain options and support to access justice' (*New Zealand Herald* 21 May 2013).

The major success of the NZPC was in pushing for and helping colour the complexion of the Prostitution Reform Act 2003 (PRA) which both decriminalized and legalized various elements of sex work (albeit the regime is characterized as decriminalization overall). Soliciting, brothel keeping, living on the earnings of prostitution and procuring were decriminalized while sex workers now have the right to refuse to have sex with a client for any reason, or for no reason, and without detriment for doing so. Sex workers also do not have to register in order to operate as sex workers. So in this context, and particularly compared to Germany and the Netherlands, the conditions for sex-worker unionization in New Zealand may then be seen to be favourable. However, this has not turned out to be the case. A report by the Occupational Safety and Health Service/Department of Labour (OSHS/DoL 2004) highlighted that while there was no single union in New Zealand representing the interests of all sex workers, some existing unions were seeking to have sex workers join them. Despite this, the only tangible sign of sex-worker unionizing has come from the Unite union despite supportive noises from the New Zealand Council of Trade Unions in the course of the campaign for decriminalization. After the Service and Food Workers' Union was relaunched in 2003 as Unite – the union dedicated to organizing casual and low-paid workers in the service, retail, hospitality, tourist and entertainment industries – it became, by default, receptive to organizing sex workers. Thus, some prostitutes and lapdancers, whether of employed or self-employed status, joined Unite and it indicated it was happy to support the creation of a union for sex workers. However, while prostitutes and lapdancers continued to join in small numbers, Unite has made no specific effort to organize them or establish

a dedicated section of its union for them. This orientation changed in 2004 when Unite began to recruit telephone sex chatline workers and massage-parlour prostitutes.<sup>24</sup> By the end of 2004, it had membership among 50 sex workers and had represented about ten prostitutes in disputes with brothels. However, Unite has found such organizing difficult because, despite the signing of employment contracts, most sex workers are self-employed private contractors working within brothels. Thus, Unite gained one recognition agreement for collective bargaining over terms and conditions with the only known sex chatline operator, and it continues to work with the NZPC, providing help for individual representation cases. Unite also had discussion with a number of dancers to establish their own 'exotic dancers' union' but the interest among the key activists waxed and waned so that nothing came of this. Since late 2011, Unite's membership among sex workers also waned. It reported: 'We haven't had any contact with sex workers for several years [and] ... [we are] not aware [of] any remaining members. We remain able and willing to give advice if needed. The [NZ] Prostitutes' Collective is the organization most belong to or relate to or go to for support'.<sup>25</sup>

In the background, the catastrophic decline in union membership in New Zealand has to be factored in. As a result of changes in government and government policy, union membership fell from a density of 43.5 per cent in 1985 to 17.7 per cent in 1998 (New Zealand Parliamentary Library 2000) and since stabilized at this lower level (17.4 per cent in 2008, 16.6 per cent in 2013) (DoL 2013). The Employment Relations Act 2000 did not undo the damage created by the Employment Contracts Act 1991. This has meant that, faced by its own not inconsiderable problems, the union movement has not had the capacity (had it so wished) to focus upon organizing sex workers or give them the resources to do so themselves. Neither has any individual major union (had it so wished). Additionally, the Unite union is a small union (with around 6,000 members and limited resources) operating in an extremely challenging environment of casualized employment and anti-union employers where sex workers have not been its priority. In addition to this generalized background, the NZPC advises that aggrieved sex workers have the option of reporting complaints to the Labour Inspectorate, Employment Relations Authority and Employment Relations Court as well as unionization, and the PRA has led to improvements in working conditions with regard to fining, right of refusing clients, coercion and health and safety (Abel 2014).<sup>26</sup> Earlier, Mossman (2010) painted a picture of improvements in the safety of prostitutes (albeit with still some problems) but relatively little change

in employment conditions other than on the right to refuse a client and the ending of the use of bonds. Thus, even though prostitutes mostly knew of their rights (Abel *et al.* 2007:13, 168), ‘brothel operators who had treated their workers fairly prior to the PRA continued to do so but those with prior unfair management practices had also continued’ (Mossman 2010:129). This indicates not just that legal enforcement may be lacking but also that the PRA was not designed to do anything other than provide a low baseline of rights, namely, the same employment rights as other workers. Clearly, this does not mean that there are no grievances or sources of discontent. For example, most sex workers work in brothels or escort agencies. Typically, they are charged a fee per shift and a set percentage of the client fee and, when custom is slow, the shift-fee payment may outweigh earnings after client-fee deduction. Moreover, self-employment or independent-contractor status dominates in brothels and so the rights of employment are not easily enforceable or gained (Ministry of Justice 2008:151–61). But it does mean that there are now some means to try to resolve many of these grievances. In this sense, although the NZPC is far from being anti-union, it can in effect be seen as constituting a partial substitute or alternative to one.

Structurally, a number of relatively common challenges conditions still exist for unionization. Quite apart from operator unwillingness to grant employee status, prostitutes remain unwilling to become employees because of the likelihood of having to declare all (or more) of their income and their autonomy may be curtailed (despite there being no registration system) (see Ministry of Justice 2008:151–61). Since 2003, there has been a noticeable movement of prostitutes from the ‘managed’ sector of establishments (i.e., brothels) to the independent sector of independent workers and small independent establishments (such as one-person or two-person brothels or agencies, commonly their homes) (see Ministry of Justice 2008). Finally, although brothels vary in size, they commonly range from three to 30 prostitutes and so comprise small workplaces where seldom do all those that work from the establishment work there at the same time.

In this context, the winning of damages in 2014 against a brothel owner for sexual harassment is significant. Damages of NZ\$25,000 were awarded by the Human Rights Review Tribunal for emotional harm to a woman prostitute (*Dominion Post* 1 April 2014).<sup>27</sup> The tribunal ruled it was unacceptable for an employer to use sexual language in a way that was offensive to the employee in any workplace, saying: ‘Context is everything. Even in a brothel, language with a sexual dimension can be used inappropriately in suggestive, oppressive, or abusive

circumstances ... Sex workers are as much entitled to protection from sexual harassment as those working in other occupations. The fact that a person is a sex worker is not a licence for sexual harassment – especially by the manager or employer at the brothel’ (*Dominion Post* 1 April 2014). The NZPC, to which the affected woman came for help, said the decision showed New Zealand was a world leader in sex workers’ human rights, thanks to the PRA: ‘It’s one up for decriminalisation, it’s a significant ruling because it could never have happened when sex work was illegal. It indicates the massive change [the industry] has gone through’ (*Dominion Post* 1 April 2014). In the case, it emerged that the brothel manager sought to dissuade the plaintiff from persuading other aggrieved sex workers at the brothel to seek the help of the NZPC on similar issues (*In These Times* 4 March 2014).

## Chapter conclusion

Decriminalization of prostitution in New Zealand has not proved a marked positive contrast for the project of sex-worker unionization compared with legalization elsewhere. It may be inferred that decriminalization has removed some of the propensity to unionize but, equally, the weakened position of the union movement and only one small union showing any interest in unionizing sex workers are also influential forces in explaining this outcome. In this situation, the NZPC has come to play a similar role to the Scarlet Alliance of providing non-union collective interest representation. So despite early advances in unionization projects in Australasia, none have been able to embed themselves in order both to survive and protect collective interest representation.

# 5

## Germany and the Netherlands

### Introduction

This chapter examines sex-worker unionization projects in Germany and the Netherlands. The rationale for examining them together, and apart from other countries in western Europe, is to be found in a number of points. First, the two countries exhibit greater similarities in the way that their political systems have dealt with regulating prostitution (through legalization). Second, the industrial relations systems of both countries are still largely based upon postwar settlements of social democracy in terms of co-determination (Germany) and the ‘polder’ system (the Netherlands), whereby employment relations are quite heavily regulated and sectoral bargaining – underpinned by state action and law – predominates. Third, both countries have seen not only *bona fide* attempts to construct sex-worker unionization projects but also the failure of these projects. This chapter considers the experiments in unionizing prostitutes through Ver.di in Germany and the Red Thread union in the Netherlands.

### Germany

The number of sex workers, almost exclusively constituted as prostitutes, working in Germany is commonly said to be around 400,000. This figure comes from two sources. First, sex-worker groups in the late 1980s but of which Kaveman and Elfriede (2013:2) stated: ‘This “estimate”, [which] emerged in the scene activists in political debate about the social recognition and equality of prostitutes in the late 1980s, has no scientific basis’. The second is from TAMPEP, the European Network for HIV/STI Prevention and Health Promotion among Migrant Sex



Workers. In its final report for the European Commission for Health and Consumer Protection, TAMPEP (2007:223) stated: 'According to the estimates of the prostitutes' organizations in Germany, there are about 400,000 sex-workers – women, men, and transgender – working in Germany full or part-time in the period of one year'. This estimate is based upon scaling up from data produced from returned questionnaires from various prostitutes' rights groups and health providers to sex workers in 2003. Because of its relative recentness and coming from sex-worker sources themselves, it is taken to be one of the more authoritative estimates. However, in then stating immediately after this estimate of 400,000 that: 'The biggest towns in Germany have approximately the following number of sex workers: Berlin (4,000), Bremen (1,500), Dortmund (2,000), Dresden (600), Düsseldorf (1,000), Frankfurt/Main (2,500), Hamburg (3,500), Hannover (2,300), Leipzig (250), Munich (3,000), Nürnberg (1,500), and Stuttgart (2,700)' (TAMPEP 2007:223) and which, thus, total just under 24,000 sex workers, it is difficult to see how this estimate is accurate. Nonetheless, it is based on some data gathering that various other estimates, of as low as 200,000 and as high as 600,000 and which have widely been quoted in the media, do not appear to have been derived from. Yet: 'Reputable extrapolations of prostitutes in Germany then moved in a span of 64,000 to 200,000 prostitutes' (Kavemen and Elfriede 2013:2). A more recent attempt to estimate numbers was carried out by *Die Welt* (3 November 2013)<sup>1</sup> based upon scaling up from incomplete police estimates. It suggested there were 200,000 prostitutes.

This brief discussion on the extent of prostitutes is an important contextual factor in attempting to more accurately assess the scale of the success (or otherwise) of Ver.di's efforts to organize – or facilitate the organization of – sex workers. The gist is that while the more reliable estimates are likely to be the lower ones, the number of sex workers working as prostitutes in Germany is still sizable – being in the tens of thousands, and indicating that, notwithstanding any blurring of the boundaries between the sectors of the industry, the complexion of the sex-work industry in Germany is much more skewed towards prostitution than comparable economies.

Prior to 2002, no union had shown any interest in organizing sex workers in Germany.<sup>2</sup> Ver.di, the Unified Service Sector Union, began to help organize and represent sex workers, primarily prostitutes, in order to help improve their living and working conditions following a change in the legal status of prostitution in 2002 and after considerable internal union debate on the costs and practicality of doing so. The change in

legal regulation was similar to that instituted in the Netherlands. Ver.di undertook the internal debate prior to the change in law in 2002. The foresight to be ready for the new legal regime and the willingness to organize sex workers can in part be attributed to Ver.di's relative familiarity with organizing self-employed workers given that one of its constituent unions was IG Medien which comprised journalists and artists. Another part of the explanation was that Ver.di said of itself that it sought to show 'flexibility and imagination' and be 'independent of political parties and governments' in championing what it defined as its relevant workers' interests in terms of 'social justice, equal opportunities and democracy'.<sup>3</sup>

Ver.di believed that prostitutes would require union organization and union help to avail themselves of the benefits of the ramifications of the legal change – such as being able to be classified as workers, gaining contracts of employment and receiving benefits such as social insurance (pension, health care, unemployment benefit) after paying tax (Mitrovic 2009:58). In order to provide for this, Ver.di created internal union structures for prostitute representation (within its Sector 13 which was for 'Special services' and which includes any employment or activity not covered by the other 12 sectors), developed dedicated standardized working contracts and established a legal advice service. Its first successes were in recruiting not insignificant numbers of prostitutes in Dortmund and setting up a works council in a Hamburg brothel. Following unionization, prostitutes in a number of brothels in Cologne threatened to go on strike in late 2003 against a proposal by the local authority to extend a 'pleasure tax' from casinos and amusement arcades to brothels, massage parlours, porn shows and table-dancing clubs.

However, these advances proved to be not much more than early and singular 'flashes in the pan'. So although Ver.di did not anticipate a rapid process of unionization, many prostitutes have been extremely reluctant to take advantage of the perceived ramifications of the new legal status of prostitutes as well as to join Ver.di. By early 2006, only 12 per cent of prostitutes were reported to be registered with the tax authority as sex workers (*Associated Press* 18 January 2006) and in Stuttgart '2,700 prostitutes are registered' (*Christian Science Monitor* 11 May 2005) although this may be accounted for by police action (see below). Also, in Hamburg, the pension authority, LVA, reported no prostitute had registered with it by late 2004 (Mitrovic 2004:11). Nearly a decade later, *Der Spiegel* (30 May 2013) reported: 'In Hamburg, with its famous Reeperbahn red-light district, only 153 women are in compliance

with regulations and have registered with the city's tax office'. It appears the overall number (and proportion) registered with the tax authority has subsequently declined quite heavily (even though an ambiguity existed over what type of registration was being measured). For example, *Die Welt* (3 November 2013) investigated the numbers of employed sex workers in Germany in October 2013, finding there were only 44 sex workers registered for social insurance – that is not necessarily as employees but as registered to pay tax and becoming eligible for consequent social welfare benefits. Therefore, this would include employed and self-employed sex workers. While these figures are believed by some academics in Germany to under-measure the extent of employed status, it is nonetheless an indication of the low level of take up of the legalized status of sex workers since 2002 and prostitutes' continuing concerns over stigma and tax implications. Moreover, by mid-2004, only a hundred prostitutes had joined Ver.di (Gall 2006:143), and they then rejected the proposed employment contract that Ver.di was to approach brothel owners with on their behalf because its weaknesses outweighed its strengths when taxed earnings were set against welfare benefits (see below). Nonetheless, a dozen collective contracts between prostitutes and brothel owners were signed (*Hamilton Spectator* 14 May 2005, *The Times* 28 July 2009). But this did not comprise an emulation of the region-based (by Länder) collective-bargaining agreements that exist for other workers (including those represented by Ver.di). Instead, they were more like isolated enterprise agreements. Although the limited number of agreements was heavily influenced by employer/operator resistance, this cannot be seen out of context so the following section examines the reasons for the failure of Ver.di's project in terms of the implications of legalization and the nature of prostitution as work.

### Reasons for failure

Ver.di made wider moves towards recruiting self-employed (or 'own account' workers) but found that recruitment and, in particular, retention and collective representation were difficult to achieve given that these workers do not have access to the benefits of institutionalized structures of representation, namely, works councils (Vandaele and Leschke 2010). However, in journalism in the newspaper sector, collective agreements have been made with an employers' association. Here, the collective identity of the profession of journalism, the previous experience of one of the constituent unions that formed Ver.di in representing journalists (namely, IG Medien) and dealing with a relatively small number of large employers through a single body have been

strong facilitators in bringing together self-employed (or freelance) journalists to bargain with the purchasers of their work. Therefore, Ver.di did not approach the challenge of unionizing prostitutes as a complete novice. Moreover, it has also developed a policy and practice of building autonomous sections within itself to cater for the different needs of different types of workers.

Yet its unionization project was erroneously based upon the assumption that, with the legalization of prostitution, prostitutes would become employees and would wish to (with written employment contracts). Consequently, it developed an employment contract with the relatively standard concepts of both fixed wages and working time, based upon conventional employment relations (see Mitrovic (2004:13–15) for the model contract covering duration, job specification, hours, pay, holidays, and sickness/absence). Underpinning the approach was the belief that employment would become regularized as prostitution was now legalized and operators would seek to become employers, putting their businesses on a conventional footing. For example, and in testament to the absence of the conventional bilateral relationship between capital and labour which gives rise to collective bargaining over the wage-effort bargain, *Der Spiegel* (30 May 2013) reported that a 2006 report commissioned for the Family Ministry found ‘hardly a single court had heard a case involving a prostitute suing for her wages. Only 1 percent of the women surveyed said that they had signed an employment contract as a prostitute’. Earlier Ver.di had admitted in 2003: ‘there is no demand for employment contracts’ (in Czajka 2004:61).

In this long-standing coordinated market economy, the neo-liberal business model of self-employment has been deployed by sex-industry operators to avoid their social responsibilities in terms of taxation on income and regulation (social insurance, pensions) prior to legalization. However, the adoption of a model employment contract incongruent with the dominant method for organizing employment relations in the sex industry was not the only reason for the failure of the Ver.di organizing project as the following discussion makes clear. Thus, the extent to which sex workers value the current nature of their conditions (earnings, hours) and employment status was not anticipated or expected. In terms of the former, temporal flexibility is prized, as one of the founders of a sex-worker rights’ group commented: ‘Most prostitutes work for themselves, because they want to be flexible and, for example, stay home if their kids are sick’ (*Der Spiegel* 30 October 2013) while having an hourly pay rate was hard to conceive of because of the ups and downs of customer flow, because different sexual services equate to

different amounts of revenue/earnings (whether by category or by what can be negotiated) and because sex workers were hostile to fixed wages because they believe this would reduce their income. In terms of the latter, and as commonly found elsewhere, the challenge for unionization in Germany is that most sex workers are – and wish to continue to be – self-employed (see, for example, Mitrovic 2004).<sup>4</sup> While the compulsion to be self-employed comes from owners and operators because it facilitates their ability to avoid payment of tax and social insurance, prostitutes themselves have chosen it in order to avoid paying employee taxes, often facilitated by working in cash and where the onus of how much to declare to the tax authorities (if anything) is on the individual prostitute. Moreover, and although Ver.di had carried out much work early work, it did not offer the employment contract until April 2004 (Mitrovic 2004:12), by which time many of the potential opportunities afforded by the legalization had begun to evaporate as the sense of a lack of positive change for prostitutes became apparent (see also Czajka 2004:59).

Prostitute self-employment is not related to employment structure, whereby, for example, prostitutes work on the street, creating atomization and individualization. Rather: 'In Germany, the majority of sex workers (about 80 per cent) work indoors, either in apartments, in brothels, bars and clubs' (TAMPEP 2007:223, see also 2004:80–81).<sup>5</sup> Thus, a substantial proportion – probably a large majority – work in collective establishments, even if they range from the super- or mega-brothels to small establishments, with this tendency towards indoor working having grown over the last 20 years as corporatization developed. So what is important in explaining the dominant tendency towards self-employment is that in the mega-brothels the owners/operators rent out rooms and facilities. Under this business model, the owners/operators *seemingly* forgo the ability to control the labour of the sex workers (gained by having them as employees) for the relatively more stable revenue stream of charging rent for rooms.<sup>6</sup> This is similar to the charging of stage fees for dancers by club operators in the United States as is the practice of saturation whereby as many prostitutes are allowed to rent rooms as capacity allows – with the counterpart being clubs scheduling as many dancers as possible – given this provides for income, customer choice and enhanced competition between sex workers, making them a more pliant workforce. Although this 'rent' model is not the only business model, with there being so-called 'flat rate' brothels which emerged as a response to the recession, it is by far the dominant one. 'Flat rate' brothels often employ sex workers and pay

them by the shift.<sup>7</sup> Here revenue is based on a one-off entry fee where unlimited sex is available and which generates higher levels of custom.<sup>8</sup> Under the dominant model, prices are set by the prostitutes with establishment guidance. However, in bars and some brothels, the owners entirely set the prices. Indeed, in 2004 at the Colosseum mega-brothel in Augsburg, police determined that the managers dictated the prices, prohibited sitting in groups or using cell phones during work, set the work hours, searched rooms and handbags, and made the women work completely nude (charging a penalty of €10 per infraction).<sup>9</sup> In 2006, five men were consequently charged with pimping but were not convicted as the court determined the legalization of prostitution created a regular employer–employee relationship, thus, giving the employer certain rights to direct the working conditions. The phenomenon of *de facto* employer regulation has not led to claims for sex workers to have employment rights and employed status as it has with dancers in the United States. However, putting together the extent of *de facto* employer regulation and *bona fide* employed status still leaves the vast majority of sex workers as self-employed, independent contractors.

Given that Ver.di anticipated that working conditions and conditions of employment could and should improve under legalization and tied its approach to being able deliver such improvements accordingly, the lack of change reflected poorly (if unfairly) upon Ver.di and its strategy so it was the opposite of a good recruiting sergeant. Indeed, Ver.di's own research showed that the change to a legalized regime had little impact in improving working conditions (Muller 2009:22). Earlier, the evaluation of the Family Ministry after five years of operation suggested that legalization had not 'brought about any measurable actual improvement in the social coverage of prostitutes' or had improved working conditions (*Der Spiegel* 30 May 2013). Moreover, Kaveman with Fischer (2007:14–16) surveyed just over 300 prostitutes, showing a majority of prostitutes knew of the change in law but fewer knew of its possibilities and though most supported the change in law few had experienced any positive changes in their conditions. Ineffectiveness by association was thus a problem for Ver.di and was highlighted by Ver.di's own earlier commissioned fieldwork research by Mitrovic (2004:10).

All this puts into a particular light that when a 2009 sex-worker conference on organizing prostitutes in Germany discussed the difficulties of doing so, it focused upon the lack of social capital, poor educational levels, and paucity of stable and structured lives and communities as the main internal barriers to achieving external change in the context of the unfavourable nature of the regime of legal regulation (in Gall

2012:48). This was also true of 'the view [at the conference] ... that stigmatisation played *the* major role [emphasis in original] in accounting for the ambivalence felt by prostitutes towards their own occupation. Thus, it was believed prostitutes internalise the stigma which helps convince them they are not engaged in an occupation that deserves social recognition, much less unionisation' (in Gall 2012:48). So despite legalization in Germany, stigma still surrounds prostitution but there is no compulsion for prostitutes under the regime of legalization to register at all or in a visible way with public authorities (like registering a trade which can be identified in public records at a town hall). The potential increased or reinforced stigmatization that can be generated by registration arises not from being required to register with the tax authority (which is not a publicly visible act, which other self-employed workers are required to do and which most prostitutes choose not to but for reasons of financial gain<sup>10</sup>) but with voluntary registration with the anti-trafficking section of the police (for only in Bavaria where brothels renting rooms to non-registered sex workers are raided until the sex workers comply with the regulation to voluntarily register) or, in Stuttgart, where the police compiled a register (Mitrovic 2004:8).<sup>11</sup> That said, some sex workers do register with the tax authority as masseuses instead (*Der Spiegel* 30 October 2013).<sup>12</sup> This is likely to occur because tax rates are lower for masseuses as it is to do with any stigma from prostitution.<sup>13</sup> This suggests Raymond's (2013:144) view that Ver.di's low membership was a result of the women wanting 'no public record of what they do' was wide of the mark (as was that of *The Times* (28 July 2009)). Rather, misunderstanding of what registration comprises in relation to stigmatization and desire to escape taxation have been far more important. By 2006, only some 300–600 taxpayers listed their job as prostitution (*Financial Post* 18 May 2006).

Yet there have been other major obstacles to unionization, with the main one concerning the implications of the prevalence of migrant sex workers. Although there is no reliable data to support the following assertions, considerable anecdotal (for example, *Der Spiegel* 30 May 2013, *Stuttgarter-Zeitung* 18 March 2014, *Time* 18 June 2013) would suggest that there is a high probability to a) the number of prostitutes rising, increasing competition among them and altering the balance of supply and demand, with supply possibly outstripping demand, and consequently b) prices being deleteriously affected (downwardly or via stagnation). What can be relatively more robustly stated of sex work in Germany is that of the mainly prostitute workforce a high percentage are immigrants, and a large percentage of these are from outside the European Union. For example,

TAMPEP (2004:81, 2007:223) reported from aforementioned survey work that the percentage of migrant sex workers in Germany rose from 52 per cent in 1999 to 57 per cent in 2003 and of these 50 per cent were from Central and Eastern Europe (including Russia), 21 per cent from Asia, 16 per cent from Latin America and 13 per cent from Africa. It also stated that the majority, some 60 per cent, of female sex workers are migrants, with 93 per cent of sex workers being women (TAMPEP 2007:223). More recently, Salon.com (28 November 2013) reported: 'surveys and anecdotal evidence show that two-thirds or more of Germany's prostitutes are foreigners—mostly from Eastern Europe' while the prostitutes' rights group, HYDRA, 'estimate[d] there are close to half a million sex workers in Germany [and] two thirds of them are not German'.<sup>14</sup> The impact of migrant sex workers in these terms – along with the possibility of racism towards them from white German national sex workers, and some of these prostitutes being trafficked and/or in debt bondage – is likely to have made the project of unionization that much harder than it already was likely to be. Undocumented, transient, temporary and insecure workers, as migrants often are, do not provide a conducive context for unionization.

Other obstacles have also existed. First, like sex workers elsewhere, prostitutes in Germany move between worksites within individual towns and cities as well as between worksites in different towns and cities but this mobility of sex workers has been accentuated by migrant sex workers moving between different countries (Germany, Britain, Netherlands, etc.) and returning to their country of origin on a frequent and extended basis (for example, as a result of spending two months working in Germany). Second, Ver.di ceased attempting direct recruitment of prostitutes as a result of inability to make headway earlier.<sup>15</sup> Indeed, if prostitutes were to join, this would be as a result of their own efforts and there are no cases of reciprocal membership agreements where joining an allied sex-worker organization also means joining Ver.di.<sup>16</sup> This constituted something of a 'Catch 22' situation for Ver.di membership was unlikely to grow, thereby, eroding the possibility of Ver.di investing further in the initiative and without further investment little in the way of further membership was likely. Third, and as highlighted above, the nature of the practice of legalization could vary at the municipal level as a result of the dominant discourses within municipal authorities and agencies charged with implementation and enforcement (Czajka 2004, Mitrovic 2004, Dolemeyer *et al.* 2010) and Kaveman with Fischer (2007:31) noted a lack of political will to implement the legalization of prostitution. This meant a common baseline for operating upon was not necessarily present.



### The Professional Association of Erotic and Sexual Services

As a result, Ver.di was forced – when circumstances allowed – to merely proselytize for the benefits of unionization in order to try to convince prostitutes to join. But, as argued earlier (Gall 2012:48): ‘it faces [another] Catch-22 situation for without greater number of members it cannot establish the leverage over the salient issues with operators and local authorities it needs to in order to represent these sex workers.’<sup>17</sup> In this situation, the failure of the Ver.di project led sex workers to form their own professional association. Thus, the Professional Association of Erotic and Sexual Services (PAESS, in German BeSD)<sup>18</sup> was founded in late 2013 to represent all types of sex workers. Brothel owners are also allowed to be members as long as they themselves are working or have worked as a prostitute. While one stimulus to the establishment of the professional association was the virtual collapse of the Ver.di project, another was the prospect of what was regarded as the regressive reform of the law governing prostitution.<sup>19</sup>

PAESS ‘pursues the aims of: i) improving the working and living conditions of sex workers; ii) providing information and explanations about the different aspects of sex work; iii) imparting a realistic picture of sex work and; iv) acting against the discrimination and criminalisation of those who are involved in sex work’.<sup>20</sup> It seeks to achieve these through ‘offering job-related events, advice and education opportunities; aiming to create high-profile work, promotions and publications; political and legal engagement; national and international networking; the advancement of education, research and culture; and the inclusion of and solidarity with minority groups involved in sex work.’<sup>21</sup> The term ‘union’ is used eight times within the statute of PAESS,<sup>22</sup> one of its founders stating it ‘is a union and political association to represent sex workers run entirely by active or former sex workers. Although we sometimes work together with Ver.di, we are completely independent’,<sup>23</sup> and its spokesperson stated: ‘We as a trade union have managed to establish ourselves as an organization that people take seriously. We have also succeeded in steering a couple of legislative proposals in the right direction. Politicians appreciate the fact that we exist and take us seriously as a professional association’ (in Braw 2015). Yet, it is clear from its purposes that PAESS is not a labour union for it does not seek to collectively bargain in an industrial relations sense. Indeed, as some of the preceding quotes suggest, it is more akin to a professional association as well as an advocacy and rights group (especially in regard to allowing membership to former sex workers). Indeed, when one of the founders of PAESS was asked by *Der Spiegel* (30 October 2013): ‘Do you

want your association to fight for better pay and working conditions for sex workers, like a labor union?', she responded:

I see myself more as a lobbyist and only marginally as a unionist. ... The first and most important step was that we stand up in the first place and make ourselves noticed. In our industry, that is not a matter of course. And now we want to make politicians aware of our interests. That won't be easy, since we have no money and don't know anyone. First, I need to learn how lobbying works, but I think we're headed in the right direction.

She also reported to *Der Spiegel* that she was a member of Ver.di and that its Section 13 had helped in providing resources for PAESS to be set up. PAESS stated it had 'has less than 1,000 members' (Braw 2015, *Der Spiegel* 28 March 2015). *Der Spiegel* (28 March 2015) also reported that the (employer/operator) trade association for erotic services in Germany, the UEGD, played a part in helping establish PAESS. Braw (2015) was wrong to characterize the Bundesverband sexuelle Dienstleistungen (Federal Association of Sexual Services, BSD) as 'Germany's other prostitute trade union' for it is 'the professional association for clubs, bars, sex cinemas, a whorehouse, S[&]M studios, saunas, nudist clubs, agencies, homes with independently operating sex workers and callboy that offer sexual services of any kind' seeking to promote 'the reputation of prostitution and of establishments providing sexual services in society and presenting a realistic picture of prostitution ... We see ourselves as an integral part of the commercial system in the Federal Republic of Germany and insist on equality with other professionals'.<sup>24</sup> Finally, Bufas (Bündnis der Fachberatungsstellen für Sexarbeiterinnen und Sexarbeiter) is an organization of counselling centres for sex workers that seeks to achieve the improvement of living and working conditions of sex workers, legal and social equality of sex workers with other workers and the decriminalization and destigmatization of sex workers.<sup>25</sup>

## Overview

The legalization of prostitution in Germany has not proved to be the boon to prostitutes' rights as workers that Ver.di anticipated with the effect that its unionization project ran into a wall early on. Indeed, Czarnecki *et al* (2014) made no mention of Ver.di as among the organizations representing sex workers. This attempt at unionization has not been substituted by PAESS or any other organization.

## **The Netherlands**

### **Background**

In the Netherlands, the Red Thread (Rode Draad) was established in 1984 as a self-help group of prostitutes, based on the COYOTE model. It promoted recognition of prostitution as a legitimate occupation and pursued the interests of prostitutes by campaigning for rights and improvements in legislation, working conditions and welfare. However, the Red Thread began to move towards establishing a labour union in the late 1990s because it believed unionization provided the best means of ameliorating poor working conditions and was an effective means by which to seek to gain decriminalization (with decriminalization being believed to be necessary to allow a union to ameliorate poor working conditions). Before legalization, prostitutes employed by brothels, sex clubs and escort agencies were not entitled to claim unemployment benefit, sick leave, pensions and holiday pay because their places of work remained unlawful. Thus, following legalization in 2000, a number of prostitutes involved in the Red Thread and who worked in brothels and sex clubs formed a union organization in 2002, Vakwerk De Rode Draad (Red Thread union, RTu), to campaign for better pay and conditions because prostitution had now gained some legitimacy and was increasingly seen to be a normal 'profession'. The RTu began from very humble beginnings: 'a couple of women came together, went to a notary and made a proper sex workers' union called Fackwerk, which is a Dutch word for craftsmanship' (Visser 2004:56–7). The RTu received the help and support of the Federation of Netherlands Trade Unions (FNV), the largest union federation in the Netherlands, because the FNV had adopted a sex-work discourse position (see Gall 2006:135–7).<sup>26</sup> According to the Red Thread, there are between 25,000 and 50,000 prostitutes working in the Netherlands (in Gallin 2003) while various other estimates put the figure in the range of 15,000 to 30,000.

### **Evolution of RTu**

Altink (2013) recorded that the RTu was 'first ... part of the Red Thread. The FNV invested in the training of the education of Rode Draad workers to convert them to ... union workers. And they helped setting up a ... union for sex workers that would become an organization independent of Rode Draad, or be part of the FNV. Time would tell which organizational model would be most suitable. The idea was that FNV

and the ... union of sex workers would start negotiations with organizations of employers in the sex industry'. This indicated the genesis of the unionization project was a little more complex than first seen (see also Altink in Gallin (2003) *cf.* van Doorninck 2006:413).<sup>27</sup> In particular, the issues of the future form and viability of RTu were highlighted at the outset.

The nature of the support from the FNV comprised office facilities, political access to government, lobbying expertise, training for workplace reps and advice on negotiating collective agreements. However, recruiting was been left solely to the RTu. At this time, the RTu was reluctant to campaign for employed status for prostitutes being fearful of it for loss of anonymity and control. However, as a result of prostitutes being obliged to pay tax, realizing employed status was necessary to avail prostitutes of certain rights, and FNV establishing of a section for the self-employed, the RTu changed its position to accommodate the need for employment contracts for employees. This facilitated a further series of meetings with the FNV where the RTu sought its support and help to gain its access to its expertise and resources in terms of individual and collective bargaining, political clout, provision of training and increased legitimacy in society. In turn, this then led to several developments such as the creation of specific office facilities for unionizing prostitutes. The RTu, with the FNV, also attempted to create a form of industry-wide regulation by gaining the cooperation of brothel and club owners to agree to minimum standards in terms of sexual health as well as more conventional health and safety and working conditions issues. This proved unattainable because of opposition from brothel and club owners and operators. Altink (in Gallin 2003) observed:

how do brothel owners react [to the creation of RTu]? They didn't exactly send us a box of cigars to celebrate. We encouraged the existing organizations of brothel owners to take their next historically important step and become a member of the official organizations for employers. Some of them had come across that idea themselves. Some are willing to take their seat at the negotiating table. But on the whole, they sort of reacted scared and aggressive .... In practice, this means we [RTu] get kicked out of brothels often. There is a long way to go. We don't expect we will succeed within the next year.

### Brothel and club opposition<sup>28</sup>

Brothel and club owners used self-employment for the usual financial reasons even though they set working hours and house rules, and sometimes enforced cleaning duties and a dress code (see Pitcher and Wijers 2014:554). Almost all brothel owners who were told by the Netherlands tax office that being *de facto* employers (on account of setting working hours, etc.) meant they were obliged to pay social security went to court to contest this. Although this proved time-consuming, the tax office won most court cases but brothel owners remained largely uncooperative. Yet in 2003, the brothel owners and RTu met to negotiate a resolution to the issues, resulting in a draft contract for self-employed workers but not one for employed workers. The tax office did not approve of the draft contract and negotiations were ended. After a court judgment determined prostitutes were *de facto* workers, the brothel owners were willing to discuss another draft contract under which sex workers could be employed to perform tasks that did not involve sex, namely, being present, welcoming customers and entertaining them. But disagreement existed over when provision of sexual services began with owners saying it was as soon as customers rang the bell of the facility while RTu maintained it was the point at which there was contact between prostitute and customer. Meantime, and in order to end the stalemate between the tax office and brothel owners, a hybrid system of self-employment and employment, called 'opting in', was adopted in 2008 whereby the money reserved for the tax office (tax, VAT) was deducted before owners paid the workers and after they had deducted their commission. But as workers did not pay social security, they could not claim the social protection rights connected with employment so a safeguard 'package' of conditions was included in the hybrid system, namely, the right to set working hours, to wear what they wanted, refuse clients, refuse certain sexual requests and refuse drinks with clients, to gain a receipt any time and not to hand over payments for extra services to the owners. These conditions were formulated to prevent workers being subject to the exercise of managerial/owner authority and to establish some worker autonomy and safety. Pitcher and Wijers (2014:555) argued of 'opting in': 'The sex worker ... cannot derive workers' rights from this. Neither can [they] claim the (tax) benefits due to self-employed workers. This means [they have] the worst of both worlds: neither the advantages of an employee nor those of a self-employed worker. The operator determines which regime applies and concludes an agreement

with the tax department.' And, in practice, and no matter the system employed, operators still held the whip hand, treating independent contractors as employees in regard to directing their work (Pitcher and Wijers 2014:555).

### **Outcome and impact<sup>29</sup>**

However, the 'package' was routinely violated by brothel owners as dress codes remained, receipts were difficult to gain, hours were set and clients could not be refused without experiencing disciplinary measures (see also Dekker *et al.* 2006). The only right not violated concerned drinks with clients. Visser (2004:57) gave a flavour of the hostility the RTu experienced: 'To enter a brothel as a kind of shop steward or representative from a union to enlighten the workers, to tell them what their rights are, and the brothel owner is sitting right next to you makes it a tenser situation. Sometimes women who work for us are not allowed in brothels. But it makes it on the other hand more clear what our position is and what our tasks are.' Prostitutes responded to the inability to make headway in working conditions by being absent or leaving (with low morale among those continuing to work). However, as the number of licences granted for brothels dropped by half since 2000, there were fewer opportunities to work elsewhere, leading many leavers to seek income as independent operators through the internet.<sup>30</sup> Part of the reason for the decline in the number of licences was that, with legalization, brothels became workplaces subject to a new regulatory regime of licensing and inspection by local authorities for compliance with national labour laws (among other laws). Many brothels closed because they would not submit to the minimum health and safety standards (e.g. fire, hygiene, safe sex, consensual sex, and personal security alarms) required for gaining licences (see also Bernstein 2007:161–2). The municipal authority also granted fewer licences in order to target organized crime. Other brothels became unlicensed and, thus, unlawful. Working conditions overall deteriorated (Bernstein 2007:161–2). The conclusion has been drawn by many (see, for example, Dekker *et al.* 2006, TAMPEP 2007:68–70, Weitzer 2012:166, Wijers 2008) that the regime of legalization has brought little positive benefit. Indeed, Mariska Majoor, of the Prostitution Information Centre, was 'quick to concede that in the years since the Netherlands legalized brothel-keeping and pimping in 2000 ... conditions for Amsterdam's prostitutes have grown worse, not better' (in Goldberg 2014), citing increasing rents (as fewer windows are available) and static prices.

### Implications for the RTu

That prostitutes have expressed concerns at the lack of change in their working conditions (e.g. rest breaks, long working hours, and holidays) since legalization has led to frustration with the RTu (even if the source of frustration has resulted from the behaviour of brothel owners). This is indicative of non-sex-worker forces determining the nature of legalization regime, and short-term loss of earnings (as a result of paying tax) when required to register as a sex worker. Consequently, only 10 per cent of prostitutes were registered and, thus, eligible for social welfare benefits under legalization. So despite the FNV's help and support, the RTu was slow to build its membership up even though annual subscription was set at a very low rate (€40). There were around a hundred regular dues-paying members by 2004, rising a little before falling back and having more non-paying than paying members.<sup>31</sup> The situation then deteriorated even further: 'The union has no paid members. ... In The Hague, for example, we have 60 non-paying members. They think membership from €40 per year is too high' (Sietske Altink *Radio Netherlands* 7 October 2007). Cause and effect have worked against the RTu here, whereby without sufficient membership, the RTu could not gain, and help enforce, the kind of employment contracts that would motivate prostitutes to join it (albeit there would be the problem of 'free riders', namely, those who benefit from the coverage of awards but do not pay for them through paying union subscriptions).

In this situation, the RTu hit financial problems in the mid-2000s because the Red Thread had its government funding cut so it could not afford to subsidise the RTu and the RTu never gained enough paying members – of between 3,000 and 5,000 – either to become an independent, financially viable organization or fully join the FNV in order to gain access to its resources (organizational, reputational). As Altink (2013) recorded, the RTu 'could not muster enough members ... to become an independent union and not enough members to become part of the ... FNV. The ... union had a lack of funding. The government refused to supply funding, because it did not consider it a task of the government to finance a ... union. So there was an impasse: the FNV withdr[e]w, the ... union project of the Rode Draad was in serious trouble and the brothel owners did not budge'.<sup>32</sup> As of the mid- to late 2000s, although it still formally existed, the RTu carried out little practical work for it ceased trying to pro-actively recruit and organize, and never established a website for this due to financial constraints.

Majoer (in Goldberg 2014) reported the RTu became 'bankrupt' in 2012 and, thus, folded. In RTu's absence, Freya, an operator which applied to run brothels in Utrecht, acted on behalf of prostitutes in seeking to convince the tax office that they should be allowed to save money in a tax-free pension fund, arguing that they undertake 'difficult physical work' in the prime of their lives and their careers are short-lived.<sup>33</sup>

Not being able to gain an industry award for nominally self-employed prostitutes was a crushing blow for the RTu because it meant the alternative was to seek enterprise or company agreements – which a small, under-resourced organization was incapable of gaining given the number of establishments and companies to be covered. Even worse for such an organization would be providing individual representation outside any form of collective framework, and this was the fate of RTu. In this regard, Daalder (2007:64–5) reported few prostitutes had contracts of employment (of which many that did exist were mere oral agreements), only 3 per cent were salaried and 95 per cent self-employed.<sup>34</sup> And, it was this rather than the issue of self-employment *per se* that was critical given self-employment is not favoured by prostitutes so they can avoid paying taxes. Rather, it is favoured because it allows the under-declaration of earnings *and* access to welfare benefits and provisions. Consequently, most prostitutes by 2009 were paying taxes in licensed operations (Weitzer 2012: 158 *cf.* Daalder 2007:41 and Dekker *et al.* 2006:6 on the situation by 2006). Where self-employment *per se* was salient in partially explaining the fortunes of the RTU concerned window prostitutes and those that rented rooms in brothels. Not only are these largely individual entrepreneurs in an objective sense<sup>35</sup> but they are also in a subjective sense of consciousness as well as being in competition with each other (see Weitzer 2012:157). The operating environment for the RTu was made more difficult given that the extent of migrant sex workers is very high in the Netherlands (see also Weitzer 2012). Some 70 per cent are migrants, with most coming from Central and Eastern Europe (40 per cent), Latin America (35 per cent) and Africa (15 per cent) (TAMPEP 2007:66). Consequently, many are 'san papiers' (without papers). Large numbers of 'without papers' migrant sex workers from outside EU also became illegal after the change to legalization (see Bernstein 2007:159,163).

In accounting for the RTu's demise, the fear of loss of flexibility on the part of prostitutes by becoming employees (given that the RTu campaigned for this contractual status) was based upon a misconception



of what it meant to be employed in the Netherlands. Thus, directly employed workers may or may not have flexible working hours dependent upon organizational policy and the strength of unions to pursue flexible working hours where employers are resistant. Moreover, unions are more likely than employers to favour flexible working patterns which benefit employees. Similarly, there was a misconception with regard to commentators' analysis concerning perceived loss of anonymity for the loss of anonymity feared by prostitutes was more concerned with financial anonymity in order not to pay taxes and appropriate levels of taxes rather than registration with any public body leading to public 'outing' as a prostitute. Such registration does not prevent the use of working names and does not require that prostitutes are named as such in records at the town halls and local municipalities for records of trades (*cf.* Daalder 2007:66–7,42). And, neither does the joining of a union bring about loss of anonymity for unions do not make a habit of publishing lists of their membership or sharing these with employers or the state.<sup>36</sup>

## Overview

Sex-worker unionization in the Netherlands had to contend with many of the usual features of the sex-work labour market like independent contractor status, as well as the often transient nature of the prostitute workforce (Sietske Altink *Radio Netherlands* 7 October 2007). The blow of not gaining a sector agreement meant that although there was a collective good aspect to it, the representation that the RTu did provide was on more of an individual basis – overturning the refusal of a bank to allow a prostitute to open an account, gaining the reinstatement of a child to its nursery school after it was barred on account of its mother's work as a prostitute and so on. This did not prove to be a sufficient recruiting sergeant to the RTu. It is also worth recalling Weitzer's (2012:197) argument that the slow pace of change despite legalization arose because a stigmatized group previously with no rights would not be quick to enforce its rights. This was likely to be related to the poor knowledge of, and support for, legalization among prostitutes (Dekker *et al.* 2006:7).

## Chapter conclusion

In both Germany and the Netherlands, regimes of legalization have not proved to be the boon to unionization projects that union advocates had anticipated they would be. Both Ver.di and the RTu represented

*bona fide* unionization projects because they sought to collectively regulate the wage-effort bargain for prostitutes. Their failure, however, is explained by more than just the nature of the regimes of legalization. Among the other common contributory factors were the proliferation of self-employment and the impact of migration. Additionally, both Ver.di and RTu experienced specific problems. And, while it would be easy to suggest that decriminalization of prostitution is superior to legalization in terms of unionization propensity, this is not self-evident because, on the one hand, both the German and Dutch experiences had peculiarities and because, on the other, very limited progress was made in New Zealand or New South Wales where decriminalization has taken place.

# 6

## Britain and Continental Europe

### Introduction

Aside from Germany and the Netherlands, the major development in sex-worker unionization in Europe has taken place in Britain. However, compared with those developments in those two aforementioned countries, this development in Britain has concerned exotic dancers rather than prostitutes. Following from examining this, the next most significant developments have occurred in France and Spain. Developments in sex-worker unionization in a number of other countries are also considered in this chapter. Within the economic and political dominance of neo-liberalism in Europe, it is still the case that there are significant national differences so that coordinated market economies and some vestiges of social democracy remain. Divergence also exists in how sex work is regulated in law and public policy. Consequently, there are few common transnational contextual features at the nation-state level, which helps explain the presence or absence of sex-worker unionization projects throughout Europe. Where transnational features can be identified, they concern the influence of the sex-work discourse and the agency of small group of sex worker activists. This chapter begins by examining developments in Britain mainly in regard to exotic dancers being unionized through the GMB and Equity unions. It then considers attempts to unionize prostitutes in France, Spain and a host of other countries (Hungary, Switzerland, Turkey, the Nordic countries, Greece and Ireland).

## Britain

### Introduction

This section examines the unionization of sex workers since the late 1990s. In doing so, it primarily focuses upon the London-based International Union of Sex Workers (IUSW) and its 'evolution' into the GMB general union adult entertainment branch (GMB branch 150). However, the GMB union has not been the only union to organize sex workers for the union for actors, Equity, has played an equally significant, if less publicized role, in unionizing exotic dancers. The IUSW was itself established in 2000 in London as a result of a series of events and processes that brought together a number of sex workers with a belief in the need to form a collective organization to represent the interests of sex workers. One spur was that although the long-standing English Collective of Prostitutes is often called the 'girls' union', it is not a union and does not seek to organize and represent sex workers *per se*. Another was the belief in the power of social movements and social movement unionism for workers' representation. Although called the International Union of Sex Workers, aside from supporting other sex workers outside Britain, the IUSW has not sought to organize – in any capacity – sex workers outside of Britain. Having established the IUSW, its activists believed not only did they need to be, and act as, a union but they should also be part of the wider union movement in order to benefit from its resources.<sup>1</sup> Initially, they approached the Transport and General Workers' Union (TGWU) to discuss the possibility of their members joining but this was rebuffed. Approaches to the Trades Union Congress (TUC) were also spurned with the IUSW dismissed as being deviant and legitimizing sexism and women's oppression. Then it approached the GMB general union and the response of its London region was sympathetic and supportive. On the basis of the IUSW encouraging its members to join the GMB, of IUSW members only being eligible for the benefits of the GMB once GMB members and not acting contrary to GMB policies, the IUSW was able in 2002 to help establish the GMB adult entertainment branch. The IUSW itself remains closely linked to the GMB but is more akin to a sex-worker advocacy and rights group, and it is in this context its aspiration of being an international union of sex workers must be seen.<sup>2</sup> As with the United States, it is worth recalling the state of health of the union movement in Britain. Union density has fallen from 32 per cent in 1995 to 25 per cent in 2014, and in both public (61 per cent to 54 per cent) and private (21 per cent to 14 per cent) sectors over the same period also, albeit women having a

higher propensity to be members than men since 2002 (28 per cent to 23 per cent) (BIS 2015). Younger workers are far less likely to be unionized than older workers and union density is lower in London and the south of England than elsewhere, it being higher in Scotland, Northern Ireland, Wales and the north-east of England.

### The GMB

Since it was launched, the GMB branch membership rose from 40 in late 2002 to around 200 by the end of 2003.<sup>3</sup> However, the citing of nearly 2,000 members by early 2006 (Gall 2006:103) has since been deduced as inaccurate. The source was Rose Conroy, GMB press officer (email correspondence 31 January 2006)<sup>4</sup> and was a conflation with the number of contacts and supporters (rather than members) the IUSW had at the time, this being confirmed by the then GMB branch secretary in 2007.<sup>5</sup> Indeed, *Labour Research* (2007:23) in March 2007 quoted the president of the GMB branch as putting the figure at 300. In 2005, Lopes (2007a:32) stated the branch 'has 300 official members, who pay monthly dues'. Members were gained using solicited media profile and through allied organizations (Gall 2012:37). In late 2007 the number of GMB members was put at between 100 and 200 by the branch secretary, with the comment that 'its influence is far greater than its authority [by virtue of numbers of members]'.<sup>6</sup> Several years later, Webber (2012:8) put membership at 'fewer than 80', due to members leaving to join Equity and changes in personnel (see below). Meantime, one activist interviewee put membership at just 35 in late 2012 while Catherine Stephens (18 December 2012) stated it was 'around two hundred'. Such looseness led Bindel (2013:21) to comment: 'No one within either the GMB or IUSW have been either able or prepared to give me exact figures as to how many members there are in the actual union branch, but it is thought to be between 20 and 100 out of an estimated 80,000 sex workers [i.e., prostitutes] in [Britain]'.<sup>7</sup>

The GMB estimated there were some 250,000 sex workers in Britain in 2003 (*Morning Star* 18 December 2003), and the sex-work labour market in Britain has been increasingly characterized by new entrants of a largely transitory nature. Apart from migrants from outwith Britain,<sup>8</sup> one in 20 students have engaged in sex work for monetary reasons (*Guardian* 27 March 2015) and non-student sex workers are sometimes part-time sex workers having another form of employment income. In this environment and instead of prioritizing the organizing of individual workplaces and the recruitment of individual members, the GMB sought to become a player in the sex industry by gaining

sufficient membership presence and influence to become a social partner – so that it could seek to regulate sex-industry worksites (especially in exotic dancing) from outwith the worksite. One means has been to try to establish a regime of voluntary regulation through notions of ‘minimum industry labour standards’ and ‘best practice’ (rather than formal collective bargaining as such). This involves trying to form a coalition with employers/operators and other interested parties such as advocacy groups in a *quid quo pro* over creating a legitimate image for the industry and a wider, unified lobbying force for the industry. Indeed, by seeking to work with the ‘good’ employers, the GMB hoped to marginalize the ‘bad’, and ultimately put them out of business so levelling up working conditions. In the case of exotic dancing, the Lap Dancing Association of operators, established in 2006 and representing a third of clubs, was the body the GMB sought to establish a working relationship with of the kind outlined above. However, it has become clear over time that the GMB has not yet got to the position of membership strength where it can credibly offer those amenable employers such a deal (see later).<sup>9</sup>

Aside from this, the GMB has represented and advised members in grievances against and disciplinaries from employers as well as in dealing with the police and crown prosecution service. Examples of the former include successful claims of unfair dismissal for pregnancy against a club in 2002 and of unfair dismissal of a sex chatline operator in 2006 while instances of the latter concern securing justice through prosecution for rape of a prostitute in 2003, appealing against the awarding of Anti-Social Behaviour Orders (ASBOs) against prostitutes, and opposing the shutting down of a Soho brothel and sex shop as a result of compulsory purchase orders in 2004. The GMB – along with the IUSW – has also carried out campaigning work against eviction of prostitutes from their rented flats by landlords and against banning the related use of business cards in public phone boxes to advertise their services. Under a ‘servicing’ rather than ‘organizing’ approach, the GMB helped offer lapdance training to prostitutes who wished to leave prostitution as a way of achieving this as well as to existing lapdancers who wished to improve their skills; created a tax service for exotic dancers and prostitutes as these groups have experienced problems in gaining financial services because their earnings are cash-in-hand; and provided self-defence classes. Within the GMB, motions in support of sex workers’ rights were passed at its congresses in 2003, 2006, 2009 and 2010. One of the major tasks carried out by the GMB was lobbying the Labour governments (2001–5, 2005–10) in their reviews of the regulation of

prostitution and sex work by advocating for decriminalization and the right of prostitutes to work together for their own safety and protection. This proved to be unsuccessful. However, the union did have more success in winning support for the sex-work discourse within the wider union movement like the TUC (in 2009) and TUC Women's Conference (in 2003 but not 2009) (see Steyne 2009) as well as TUC LGBT conference in 2010. In the former, Equity took the lead in tabling the motion. However, the TUC did little to promote this given the existence of an abolitionist current within its affiliates (see Steyne 2009).

### Lapdancing

There were some 300 lap-dancing clubs in Britain in 2011, having grown from 200 in 2002 following a relaxation of licensing laws in 2003 (*Guardian* 10 November 2011, 16 March 2002). Given that each club may have up to 200 dancers on its 'books', Hardy and Sanders (2015:11)<sup>10</sup> estimated some 20,000 women were 'on the books' of clubs at any one time. Of all the advances the GMB has made, establishing union recognition agreements, workplace union organization and working relationships with managements in a small number of clubs represent the pinnacle of its achievements. *Labour Research* (2007:23) reported: 'The GMB has been recognised in three table/lap-dancing clubs in the UK, and these workers now have union and health and safety reps, negotiated contracts and grievance procedures established' while Lopes and Macrae (2003) talked of 'several table-dancing clubs, where working conditions have improved – codes of conduct and grievance procedures have been introduced, and union reps have been elected'. Of these advances, Julie Bindel (2004:43), the prominent critic of sex-worker unionization, conceded that: 'There is little doubt that improving working conditions and contractual arrangements for the dancers would, nevertheless, be of benefit [to the dancers], at least in the short term.'

But the only two clubs that could be identified as having agreements were Majingos in London and Club Crème in Bristol. Indeed, Catherine Stephens, GMB Adult Entertainment branch secretary, identified only two clubs where the GMB had union recognition.<sup>11</sup> Both Majingos and Club Crème approached the GMB branch and were supportive of unionization out of a concern for dancer welfare and business interests with regard to licensing and branding (Gall 2006:106–8, 2012:38–40).<sup>12</sup> In this regard, Lopes (2006a:283) believed '[in practice] in some cases it is very much in the interests of managers to support the union' (see also Lopes and Clamen 2004:47). While considerable progress was made

in addressing general working conditions as well as those specific to dancing (Gall 2006, 2012), the success was short-lived. Thus, Sanders and Hardy (2014:176) reported that at Majingos, workplace union had disintegrated within a year of the granting of union recognition.<sup>13</sup> The same appears to have happened at Club Crème. With the vast majority of dancers not self-identifying as sex workers, high staff turnover, marked occupational orientation and low union attachment provide the explanations for the demise of the two bridgeheads (as well as the inability to make headway elsewhere (see Gall 2006:104,108–9)). Dancers often seek variety in their places of work and will often move around, sometimes to also avoid addressing problems in one particular club. Many of the GMB's exotic-dancer members left to join Equity in order to avoid the tags of 'sex work' and 'sex worker' in preference to the nomenclature of 'dancers' and 'dancing', which Equity used, even though the GMB branch had sub-sectors within it, one of which caters for exotic dancers called the Table Dancers' Union. In the process, the GMB also lost some of its key dancer activists. Finally, the nature of the union membership entered into was more of a 'servicing' than 'organizing' nature so that when the more active members moved on others did not exist to fill their shoes.

The dancers joining Equity believed they were offering visual fantasy adult entertainment not selling 'sex encounters'. In 2013, Equity had a membership of some 9,000 in variety, cabaret, circuses and street entertainment (out of a total union membership of 37,429, of whom 50 per cent were women<sup>14</sup> and the majority actors and actresses). Of this subsection of membership, some 600–800 were dancers and within which were 'a couple of hundred' pole and table dancers and striptease artists (Michael Day 22 January 2013). Equity stated it was surprised that the GMB sought to organize pole and table dancers because it believed that such workers fell within its remit (*Independent on Sunday* 30 June 2002). Historically, this followed from the Variety Artistes' Federation amalgamating with Equity in 1967 so that pole and table dancers and striptease artists had been eligible for membership since then. Equity's approach to organizing such exotic dancers was to visit particular clubs to speak to the dancers if its intelligence suggested this might be worthwhile. Following from this, and since the emergence of lapdancing clubs, it sought to gain union recognition and collective bargaining agreements at the likes of For Your Eyes Only, Stringfellows and Secrets. For Equity, the difficulty in gaining the agreements resulted from its demand of guaranteeing dancers a minimum income after the payment of stage fees. Nonetheless, persistence paid off and in a few cases Equity was able to gain a number of union recognition agreements. The agreement with Secrets from



21 January 1998, for example, took the form of the contract of exchange of services being agreed between the club and individual dancer being prefigured by a statement that the following terms were agreed between the club and Equity. Thus, for individual dancers, this covered the period of engagement, the payment of a £50 stage fee per shift but with a guarantee of a minimum £50 income per shift should performance fees from customers not exceed this. Regulations were set out on conduct, grooming, sickness, attendance, customer relations, following management instructions, and use of alcohol. The end of the agreement stated that dancers were of a self-employed status. A similar agreement and contract operated at Majingos. But, as with the GMB's experience, the Equity agreements 'withered on the vine ... so that individual representation is still provided but there is no longer a collective bargaining agreement or union recognition' (Michael Day 22 January 2013). This was occasioned by membership falling to around 10 per cent, which resulted from not just dancer turnover *per se* but the loss of on-site activists prepared to do the recruiting and from the impact of the influx of dancers from eastern Europe (who were found less likely to join a union on account of their domestic experience and views of union as well as their intention to work on a temporary basis). The effect of dancing increasingly not being a full-time occupation or even one's sole job was also believed to have contributed as well. Equity then adopted a policy of being open to exotic dancers to join it without pro-actively seeking to recruit them. Under this, it accepted into membership those dancers from the GMB. One of these recounted:

It was much better to be represented by Equity as being performers, rather than as a sex worker union. I found from my very first dealings with Equity that they took the threat to our livelihoods very seriously, even though there were few strippers in their union then; they invited us to their committee meetings and heard our voice, voted to support us, and then fought hard for us, recruiting friends and contacts in other relevant organizations. Having done so much thinking about what exactly I was offering, having felt so vehemently that what I provided at work was not a 'sex encounter', I found I identified more strongly as a performer than a sex industry worker, and so membership of Equity was more relevant. I still believe strongly in what the IUSW fights for and represents, and I know its small print includes 'dancers' too but in the political fights it was imperative dancers move as far away as possible from any 'sex worker' label. (Rachel Frost email correspondence 14 December 2012)

However, their numbers, were not sufficiently great as to change the union's view that at present it was not viable to put resources into recruiting and organizing exotic dancers (especially when there was a paucity of activists among them and no indication that dancers were prepared to take collective action of the kind at the Crazy Horse in Paris (see below)). Equity sought to develop 'union ambassadors' to address the activist paucity and in instituting specialist networks the union also sought to increase dancer-member participation but without much success in either. Within the union, there was some opposition to organizing exotic dancers but consecutive general secretaries (including the union's first woman general secretary) were supportive. This support saw Equity introduce an insurance scheme for dancers and the Dance Passport giving dancers support from fellow unions when working in Europe. Equity also began to organize pole-dance teachers and pole dancers in 2007 by establishing the Pole Dancers' Working Party after two pole dancers approached one of its branches (see also Equity 2010). A number joined (*Derby Evening Telegraph* 21 July 2007, *Plymouth Herald* 13 February 2008). These pole dancers were not exotic dancers. Indeed, in seeking the recognition of the skilled status of the profession, they sought to delineate themselves from associations with sex work (Equity 2010). Equity had also begun to organize fashion and professional advertising models from 2007 (*Independent* 11 December 2007) and stepped this up in 2009 and 2013 with media and dedicated organizing drives where grievances related to long hours, contracts, body size and establishing minimum standards.<sup>15</sup> In London on a number of occasions (in Camden in 2012, Hackney in 2010,<sup>16</sup> Tower Hamlets, 2012) both Equity and the GMB campaigned against the closure of clubs – due to changes in licensing regulations – in order to save employment opportunities and prevent clubs being driven underground where working conditions would worsen. These represented temporary alliances of workers and operators.

The short-lived success of the GMB and Equity in gaining and maintaining union recognition agreements as well as the relatively small numbers of both GMB and Equity members highlight the challenging circumstances for organizing exotic dancers. In addition to turnover, there are experiences of relatively high levels of job satisfaction (Sanders and Hardy 2010, 2014:108) and there is a seemingly 'inexhaustible labour supply' of women seeking to work as dancers (Sanders and Hardy 2014:75,179). Moreover, only a minority of dancers are full-time or have dancing as their only source of income; many are in education and with intended career paths, which dancing was to support the attainment of

(Hardy and Sanders 2015).<sup>17</sup> Of those that solely relied upon dancing as a source of income, migrants were over-represented and only a minority of dancers were dancing longer than they intended (i.e., more than five years) (Hardy and Sanders 2015). The IUSW (2007a) believed fear of being refused work if perceived as a trouble-maker and the extent of (voluntary) immigration<sup>18</sup> among dancers meant respectively, on the one hand, dancers did not want to volunteer as activists, while on other, they 'have little interest in improving longer-term conditions, or bringing themselves to the attention of the authorities'. Finally, and as the IUSW (2007a) suggested, dancers move to clubs with better conditions and management as an individualized response to discontent and grievances with working conditions.

While there was a potential bargaining partner for the GMB in the form of the Lap Dancing Association (LDA)<sup>19</sup> for the GMB's objective of industry or sector-wide bargaining and regulation, the LDA has not played ball. The rationale for why the GMB believed the LDA may assent to a partnership with it was based upon union recognition increasing the reputation and standards of the working practices of clubs and the union's ability through its Labour Party connections in local councils to smooth the path of licensing applications. However, after the LDA rejected the terms on offer from the GMB – campaigning support in return for access to recruit – it chose its own independent path by establishing its own code of conduct for how its member clubs should operate, promoting an agenda of voluntary (self-) regulation and engaging, on occasion, the direct support of dancers to lobby against clubs being licensed as 'sex encounter establishments' (as it did, for example, in 2008 with a petition organized by dancers).<sup>20</sup>

Reflective of the weak positions of both GMB and Equity, and compared with the United States, there has been only one known case of an exotic dancer seeking to prove in court employed status.<sup>21</sup> The case was not resolved in the dancer's favour (Albin 2013, Cruz 2013). Thus, in 2012, the Court of Appeal gave its decision in *Stringfellows vs Quashie* on whether Quashie was employed or self-employed. The decision was that she was self-employed, thus, reversing the Employment Appeal Tribunal's earlier ruling. Quashie worked as a lapdancer in two London clubs owned by Stringfellows. After 18 months, she was told she was no longer needed, leading her to bring an unfair dismissal claim against Stringfellows. This required the Employment Tribunal to determine, *inter alia*, whether she was an employee. It concluded Quashie was not an employee because there was no work-wage bargain (and that she did not have the necessary time requirement of continuous employment). In her appeal to the

Employment Appeal Tribunal, both points were overturned, with the conclusion that she performed the work personally and the club had control over her. The club then appealed. The Court of Appeal determined that, while there was mutuality of obligations among the parties to some degree, it was not sufficient to constitute a contract of employment. It accepted that the club had control over Quashie, but said that although she had a duty to work on certain days, in other respects the club had no obligation towards her (such as to pay her for the work she performed). According to the judgment, the club did not employ dancers to dance. It was rather the worker who paid the club to be provided with the opportunity to earn money by dancing for customers. The dancer was the one taking the economic risk, and therefore should be seen as an independent contractor. The ramifications of the case are first that dancers are not likely to be encouraged to take out grievances through the compulsory conciliation scheme or the Employment Tribunal system (notwithstanding the introduction of fees for doing so in 2013), whether this be for unfair dismissal or to directly establish employed status and repayment of stage fees. Secondly, and in the context of the GMB and Equity stasis, dancers are likely to seek to move to other clubs as an exit strategy. This situation is likely to prevail even though in British law, the status of a worker (rather than of 'employee', namely, an employed worker) is of significance and because, again unlike in the United States, retrospective claims are time limited to quite a short period (of months not years).

### **Pornography**

Pornography production in Britain has been small scale, with some 60 production companies operating in 2007 (IUSW 2007b) and, according to the British Girls Adult Film Database, between 2,600 performers in 2008 and 3,100 in 2015 were in the labour market. The IUSW (2007b) reported in its guide to film work: 'Turnover of performers is high, with most careers lasting three months to three years. There is constant demand for new stars, particularly women. There is a more regular stable of male stars ... Some performers supplement their film income with escorting. Performers are booked through agencies ... or through websites .... Producers get in touch with performers via these routes, though much relies on performers' self-promotion'. As these conditions were not conducive to the union organizing and were added to by the decline of paid-for performances and the re-location of production to eastern Europe (*Guardian* 6 October 2014), the only GMB success in this sector was gaining a recognition agreement with a gay pornography production company in Manchester (Webber 2012:61). Gaining this recognition agreement was assisted by the company owner being a former union shop steward and the actors seeking

medical insurance cover.<sup>22</sup> The emergence of an HIV outbreak in 2009 did not lead, as they did in the United States, to attempts to kick-start unionization projects. The emergence of the Ethical Porn Partnership in 2013 as a coalition of adult content producers, performers, consumers and supporters, which aims to 'create a self-regulatory body to monitor abuses and bad practice within the industry' (*Vice* 3 October 2013), is likely to have the effect of stymieing any further GMB advances in this part of the sex industry.

### Sex chatlines

The high-profile case of the GMB winning a case for unfair dismissal for a sex chatline worker member in 2006 did not represent a bridgehead (see Gall 2006:114–15) into this sector (also known as phone sex and including texting services). As with lack of veracity for GMB branch membership among sex workers (see above), the reputed GMB membership among sex-chatline workers was vastly exaggerated given that the overall GMB membership of these levels was purported mainly to be among sex-chatline workers along with exotic dancers (see, for example, *Cybercast New Service* 19 January 2006).

### Disorganization and decay

The early promise of the IUSW and GMB Adult Entertainment Branch had run much of its course by the 2010s. For example, the branch never became an official national branch or had more than one branch, that is, more than its London branch, despite several attempts in central Scotland over a decade and one in the north-east of England to form one (where the threshold was 25 members to form another branch). While a loss of momentum was, so to speak, inevitable because of the pressing requirement to stabilize and regularize organizational structures and processes in the sense that maintaining and sustaining the organization becomes an additional task to pursuing the objectives of the organizations, other deleterious factors came into play. There were three sets of factors involved. The first pertained to the internal relations and policies of the GMB branch, the other pertained to developments external to the branch while the third concerned the scale of the tasks taken on.

Examining the internal first, there has been a high level of turnover in the key branch leadership (first and second tier) figures which, in the context of a loss of momentum and internal feuds, has been debilitating and has led to the centralization of leadership in an ever smaller number of personnel.<sup>23</sup> Such changes in leadership would not necessarily have such a debilitating effect in an environment of the branch being less subject to internal tensions and feuds.

One of the major disputes within the IUSW took place over whether all those in the sex industry (both capital and labour) should be eligible for membership and how this then related to the GMB branch. A number of prominent activists, straddling both the IUSW and GMB branch, were of the view that managers/operators should not be members and certainly not prominent members (like Douglas Fox, who was alleged to be a part owner/manager of an escort agency<sup>24</sup> or the owner and manager of Club Crème who was the head of the Table Dancers' Union within the GMB (see, *inter alia*, Elliot 2009, 2014, Schaffauser 2011c, Schaffauser in Bindel 2013)).<sup>25</sup> Webber (2012:57 and ff.) found the most commonly cited problem of GMB members was that the union was 'open to managers'. Although it was a longer running tension, it came to a head in the late 2000s and early 2010s in the form of a dispute between two of the leading activists and was not managed by the existence of the IUSW and GMB branch as two formally different organizations nor the practice of one of the activists focusing on the IUSW and the other on the GMB branch. The IUSW had initially begun as a clearly defined worker-orientated organization where any non-sex workers would play secondary, supportive roles. The first editorial of the IUSW's *Respect* journal in July 2000 gave a good indication of this: 'As in all workers' struggles, emancipation can only be achieved through self-organization. ... When the oldest profession comes out, pimps and capitalists beware!' The dispute over managers was a weathervane for the political battle between radical left and liberal left over direction of branch in terms of which sex workers were the vanguard of sex workers organizing (see Fox 2011a, 2011b).

Another issue of contention was the branch culture and the style of branch leadership since the mid- to late 2000s. Internal battles over whether responsibilities were carried and how these were carried out created a poisonous atmosphere within the branch and which saw a number of activists leave the branch and the branch suspended for a while in 2008. Then critics (fieldwork interviews) maintained the branch leadership had become undemocratic and unaccountable, with the effect of deterring members from becoming active and 'grinding' down others who sought to check what they saw as the excesses. It was observed by these critics that branch-meeting decisions were not implemented by the branch secretary over means of communication with members, meetings became less frequent, initiatives were taken without consultation with members, the relationship between the IUSW and GMB as separate organizations was knowingly blurred, and the content of pronouncement in media appearance not collectively agreed upon.

Such was the state of the decay that suspension of the branch or its merger with another was considered by the GMB London region in 2013–14. With regard to the concentration of influence within a smaller number of hands, Schaffauser (in Bindel 2013:21) believed: ‘Catherine [Stephens] is totally dominant and wants things all her own way. She gets to make all the decisions without even discussing it in the group first.’ One result of this has been different activists concentrating upon alternative activities to the branch such as the Sex Worker Open University and Xtalk (an English language programme for migrant sex workers) where they felt they could make more of a contribution and that contribution was valued. However, this situation proved to be untenable for many critics (fieldwork interviews) – they maintained their GMB membership but their inability to unseat the incumbent branch secretary then led them to leave the union altogether in 2014. A third area of contention was the relationship between the IUSW and GMB. Overlapping ‘membership’ helped create ambiguity over remits. This led to arguments in the branch between members that expected the branch to have the same level of autonomy as the IUSW did in determining policy on sex work and members who defended the integrity of the GMB as a national union.

So, as with other nascent sex-worker unionization projects, the GMB branch experienced the impact of dysfunction and disorganization as a result of both the nature of practised leadership and changes in leading personnel. The founder’s departure and tenure of different leaders indicated too much responsibility and influence were placed in the hands of too few individuals. In a paradoxical manner, such a leadership style and format often seemed to work well until it did not (sic). Charismatic, energetic and determined individuals played a key role in founding and sustaining the GMB branch in a situation where resources (financial, organizational, personnel) were few<sup>26</sup> but the downside to this has been that others felt somewhat excluded and when disagreements occurred among such a small and tightknit leadership group, the only practical solution appeared to be for malcontents to leave. Despite endorsing a union-organizing approach, it was significant that the branch has not been able to move away from this degree of centralization and monopolization to a wider, collective leadership. Indeed, there has been a cycle of perpetuation, whereby a handful of individuals, centred upon a dominant individual, stepped in to fill the void when a previous handful of individuals, centred upon dominant individuals, vacated their roles and positions. This has meant when internal disputes took place they easily crystallized into what seemed to be clashes

of personalities between leading individuals where issues in contention became subsumed into disputes about leadership. The overall outcome was that these disputes then became more fundamental and, so, more damaging and debilitating.

One of the challenges for GMB branch was its external relationship with the regional and national organization of the union, particularly in terms of resource allocation. Lopes and Webber (2013:2–3) painted a picture of alienation, dissatisfaction and disappointment:

The GMB retreated to prioritise the old core groups of workers and particularly public sector workers. Recruitment and numbers became a priority. Any attempts at innovative organisation were dropped and the union's regional leadership appeared to be reticent to promote sex worker organising. This represents a missed opportunity since unions need to become more inclusive organisations that speak to the needs not only of relatively privileged workers, but also of more 'vulnerable' labour groups such as women, migrants and young workers, those who are in 'atypical' employment or who work in the informal sector ...

while continuing to add:

Thus a significant part of organising for sex worker rights has been done outside the branch and despite of the GMB union [due to] ... a mutual lack of understanding between sex worker union activists and union officials. Activists are dissatisfied with the union's inability to take on board many of their issues, practices and ways of communicating. Some sex worker members expressed disappointment that the union was so bureaucratic and appeared to be mostly interested in taking union dues from sex workers, but not necessarily provide the necessary support for their self-organisation. ... [it]... has not always listened to sex workers' needs and demands. (Lopes and Webber 2013:3–4)

The view that GMB made recruitment a priority and this worked to the branch's detriment is paradoxical because the 'GMB@work' strategy sought to organize workers in insecure and vulnerable employment, among them employees in low-paid care work, retail, leisure, and distribution as well as among self-employed workers such as tattooists, roadies, and taxi drivers. Dating from 2005, 'GMB@work' remains a national strategy implemented through the union's regions, where



GMB membership grew by 8 per cent between 2005 (0.572m) – when Paul Kenny became general secretary after a period of internal crisis – and 2014 (0.617m).<sup>27</sup> The fruits of this work in these types of areas have contributed to the growth in the GMB and the GMB has become more assertive under Kenny's leadership through its use of leverage campaigns (which have been used in the aforementioned areas of insecure and vulnerable employment). So, at precisely the time that the GMB nationally and regionally became more open to organizing 'atypical', non-core workers through 'GMB@work', the branch decided the wider union was not very much worth engaging with. In regard to the attitude and behaviour of the wider union, there is no reason why the GMB branch would have been excluded from such initiatives and practices. The branch's inability to engage with the national union stemmed from the branch remaining essentially a London entity (given that most sex workers work in the capital) as it was unable to develop significant membership outside the capital save from the Scottish region. As such, its care and oversight was given to the GMB London region and here insufficient effort was made to manage and negotiate the relationship with the region.

Branch activists (fieldwork interviews) noted GMB London region officials appeared to be disinterested and had, as one put it, 'given up on the branch'. A number highlighted an unwillingness of the GMB to take the time to familiarize itself with the sex industry so that the union could understand the wishes of its sex-worker members better. Overall, the experience was said to be sufficiently 'frustrating' that GMB activists used the IUSW to put out the kind of media statements and reports they believed the GMB would not consent to putting out or doing so in a timely manner. Meanwhile, the current branch secretary, Catherine Stephens (18 December 2012), believed because many branch members had not been union members before they had an 'expectation of a high level of service provision' which clashed with the branch being resource poor and believing in organizing while, although the GMB 'has been tremendously supportive', 'what they can do has practical limits'. Of the tensions overall, Schaffhauser (in Bindel 2013:25) argued:

I think GMB is also a patriarchal union which explains why they don't care about a branch which is made of women and young queers. They never took us seriously at all. We had a lot of members, but all the strippers left to join Equity, many left to create the Sex Worker Open University, and many others left the GMB when the first conflict appeared about the managers.

From the GMB's perspective, there have been tensions with the branch as a result of a mismatch of expectation and understanding. Thus, Smith (2007:34) argued: '[W]e simply cannot organise an industry for the group of workers. So the challenge to sex workers coming to us is to say: "We will support you. We will take you into the union – but you actually have to face up to the personal challenge and the collective challenge of organising your own industry"'.<sup>28</sup> While GMB regional organizer, Anna Meyer (email correspondence 18 August 2015), attributed the continuing 'severe impediments' facing sex-worker organizing to be due to stigmatization, opposition to sex work within the union movement, illegality of some sex work, degraded employment conditions (casualization, paying to work, bogus self-employment) resulting from labour-market deregulation and the maintenance of anti-union legislation, she argued an additional hurdle was:

the relative lack of understanding of sex workers ... about the role and capabilities of unions in general, both in terms of the individual protections afforded and the scope and likely success of political action by a union on any issue [but] particularly one so contentious and emotive ... the GMB was rarely able to respond to requests for action on such attacks in the time and in the way some members wished [because] there are limits on the influence GMB can bring to bear and also to the resources that we have to assist any specific group of members. Support for existing members, recruitment of new ones and industrial organising are all the responsibilities of the branch itself.

Other GMB London region officials also felt the branch made inappropriate and disproportionate demands given the size of the branch (Webber 2012:69).

Finally, the GMB tried to do too much and spread itself too thinly to make much progress on so many fronts given its meagre resources. The GMB branch had no staff workers (full- or part-time), it had no office and was run entirely by volunteers (who had no facility time from their employers as other workers often do).<sup>29</sup> Often offers of voluntary labour were not taken up or not followed through because coordination was poor among the small clutch of activists. One such example concerned missing out on an opportunity to recruit dancers in Scotland at a time when licensing laws were being considered for reform in the mid-2000s. And, although GMB membership implied a higher level of commitment than being an IUSW supporter did, the majority of members expected

'the union' to do things on their behalf so that the base of active members was about 20 (Chris Millar 13 December 2007). Of its political ambitions, achieving decriminalization and halting criminalization were major challenges beyond the means of a tiny part of a larger union (never mind the building of wider alliances). Compared with other unionization projects, the GMB branch did not concentrate upon a particular sector (see also Gall 2006) or consider those like dominatrices or BDSM practitioners as more opportune targets because they have more control over their work and customers, and require specialist equipment and services such as insurance. The influence of most GMB sex worker activists being prostitutes had three unintended consequences. The first was that the branch's work focused upon a more difficult to organize sub-group, namely prostitutes; the second was that there were few activists available to help organize the relatively more hospitable territory of exotic dancing;<sup>30</sup> and the third was that such weakness made the branch more open to self-interested overtures from operators to help unionize their staffs. The orientations on political objectives and all sex workers were compelled by the nature of the sex-work discourse (as per all sex workers *are* sex workers) and by the ambition of the IUSW. Being able to be part of the GMB provided IUSW activists with a bigger and louder voice to make the case for decriminalization and for the legitimization of sex work, especially as some sex workers felt unable to speak out publicly, but it also brought into question whether a labour union was the most appropriate and effective type of organization to do so given the focus of labour unionism upon collectively regulating the wage-effort bargain.

### Spill-over effects

The propensity to develop sex-worker unionization in Britain has been disappointing given one particular aspect, namely, recent research with 240 respondents out of 2800 invitations showing that many sex workers have worked outside sex work before and in occupations that are relatively well unionized (such as health care, education and social care).<sup>31</sup> For example, all but 3 per cent of teaching staff (classroom teachers and senior staff) were members of the various teaching unions (Ager and Pyle 2013:6) while professions had a union density of 44 per cent with teaching (all employees) and public administration being 50 per cent unionized in 2014 (BIS 2015:25). The same point can be made about an anticipated spill-over effect concerning those that have other jobs or forms of employment alongside existing sex work. However, the aforementioned research also revealed that many respondents were escorts

working through the internet to gain custom. It is likely that this rather the atomized and individualized form of the sex work engaged in helps explain the outcome of lower than anticipated unionization levels, existing alongside other factors such as lower levels of attachment to sex work. With regard to attachment, and again highlighted in the aforementioned research, the issues of how long a sex worker intends to and desires to remain a sex worker and whether their sex work is the main or sole source of income had an important bearing on the perspectives sex workers take to resolving grievances and investing time and energy in unionization projects. Thus, if a sex worker is inclined to view their activity as a relatively short-lived activity and/or a part-time activity, all other things being equal, the propensity to unionize would be lower than for a sex worker who is a long-term, full-time sex worker. This can be deduced from the general levels of unionization where outside of sex work, 78 per cent of union members are full-time workers while only 22 per cent are part-time workers and those with permanent contracts are nearly twice as likely to be union members as those workers with temporary contracts (BIS 2015:42, 26).

## Conclusion

Earlier, it was proffered: 'Time will tell whether the GMB can build out of the bridgehead it has so far established – and become a player in the industry as it wishes – or whether it will be ensnared in the small outpost of a few independent clubs' (Gall 2012:43). The latter proved to be a more accurate suggestion even if the extent of retrenchment was not foreseen. Noting that the GMB branch 'endures' (Anna Meyer, email correspondence 18 August 2015), this decline has not been offset by the activities of Equity or by counter-developments of which there have been several. The annual conference of the retail union, USDAW, voted in 2015 against the recommendation of its leadership to recognize sex work as work and to legalize prostitution after it had earlier rejected it on a narrow basis in 2011 (*Morning Star* 28 April 2015, April 2011) while the NAPO, the union for probation workers, became supportive of sex workers' rights (*Observer* 30 May 2010). The Burlesque Performers' Association was established in 2014 as a 'platform for Burlesque performers to share and discuss industry related topics', according to its Facebook page. It did not seek to be anything more than this (such as a union). And no attempts have been made to organize the 20,000 or so escorts in Britain.<sup>32</sup> Finally, the IWW London region discussed organizing sex workers in 2011–12 following a request from a member but this did not result in organizing as there were an insufficient number of activists

to get the project going. While there have been numerous practical difficulties to the GMB sex-worker organizing, especially of exotic dancers, in order to collectively determine the wage-effort bargain, a number of the starting points for the branch to do did not augur well. Founding branch secretary, Ana Lopes (2007a:32), heavily stressed the benefits of individual representation and other services as reasons to join the GMB: 'A range of benefits can be gained from being in a trades union. Collective benefits include being able to use the union's political clout for lobbying. ... Individual benefits include free legal advice, as well as various kinds of training. Members who desire improved working conditions can study self-defence, pole dancing, etc. Those who wish to leave the industry (or not) can take courses in language skills, resumé writing, information technologies skills, etc.', and in light of the less than industrial nature of the GMB branch, most members joined for the reasons of campaigning for decriminalization, social networking and seeking to change the public perception of sex work (various interviewees).<sup>33</sup> Indeed, prior to the branch's decay, much of the GMB's time at branch and national levels was spent in political campaigning, especially under the 2005–10 Labour government, against tightening of licensing regulations for clubs and the criminalization of prostitutes' customers. The GMB's affiliation to Labour as the third largest union affiliate brought no further pressure to bear than did the campaigning that it could have otherwise mounted as a non-affiliated union. Consequently, the union's efficacy of political voice was a key influence on membership recruitment and retention. It should also be noted that the GMB was not the only organization campaigning against such measures so that holding membership was not a prerequisite to campaigning. Other organizations were the English Collective of Prostitutes (ECP) and ScotPEP.

## **Other European countries**

This chapter now examines the intentions, processes and outcomes of sex-worker unionization in France, Hungary, Spain, Switzerland and Turkey while noting salient developments in Greece, Ireland and the Nordic countries (Sweden, Finland, Norway and Denmark). These countries have widely differing economies, politics and societies so that there are no common themes to them with regard to sex-worker unionization (as there were for the United States and Canada, and Germany and the Netherlands). However, in terms of prostitution, there are some common themes in terms of criminalization, illegality and the dominant disdain.

## France

It is somewhat ironic that it was not until 2009 that a union for sex workers – the Syndicat du Travail Sexuel (STRASS) – was founded in France, given that one of the two founding moments of the modern sex workers' movement took place in France with the occupation of churches in 1975 by prostitutes and most of the sex industry in France concerns prostitution. According to one of STRASS's founders, this was because of the weakness of unions in France in the private sector (with density of significantly less than 10 per cent) and the dominant habits of direct action protest, on the one hand, as well as the strength of the abolitionist movement overall and the strength of radical feminism within the union movement on the other.<sup>34</sup> Yet the structure of prostitution, where very few brothels and escort agencies exist so that most prostitution concerns street-work and individualized off-street work, also played a role. It took the re-emergence of sex-workers protest in 2002 in response to proposals to criminalize certain acts to re-establish a sex-worker movement in the country. The establishment of STRASS took several years of working within the *Droits et Prostitution* collective which was dominated by non-sex workers. STRASS initially gained 200 members, which rose to around 500 by 2011 (out of an estimated 20,000 sex workers in France (*Guardian* 13 April 2011)). By 2015, membership remained at around 500 (with 25–30 activists) mainly but not exclusively based in Paris (Morgane Merteuil, email correspondence 22 March 2015).<sup>35</sup> The vast majority of members were street-based prostitutes. Overall, STRASS membership constitutes between 1.25 per cent and 2.5 per cent of the estimated 20,000 to 40,000 sex workers in France (see Braw 2015). Managers, owners and operators are precluded from joining based upon the experience of other unions elsewhere (Schaffauser 2011a). The cost of annual membership is extremely low (€10) in order to prevent it being a barrier to joining (although many members pay far more based upon a proportion of their earnings).<sup>36</sup> Membership is also open to non-sex worker supporters as supporters (Webber 2012:9) but they are ineligible to be voting members or stand for office (Schaffauser 2011a).

Although explicitly formed as a union and referred to as a union, the main activity undertaken has been campaigning to resist tightening of regulation of prostitution (especially forcing prostitutes to work in brothels) and the pressure for moves towards the Swedish model from 2011. The former is believed to reduce sex workers' autonomy and self-control while the latter is believed to make sex work more dangerous. In its wider work, STRASS has created good relations with

health-community organizations and has attempted establishing links with existing labour unions. Its primary means of recruitment has been to 'work closely with health community organizations that provide us logistic support in order to recruit our members' (Schaffauser 2011a).<sup>37</sup> A secondary activity has been to 'assist individual sex workers who face issues relating to exploitation and violence, and try to extend their knowledge about their rights as sex workers, so that they can resist to police abuse, client blackmail etcetera' (Morgane Merteuil, email correspondence 22 March 2015).<sup>38</sup> One example of this was to seek to take test cases in law to help develop useful case law precedence. Merteuil explained that it was difficult for STRASS to address issues of wages and income given the variety of settings in which sex workers worked (street work, brothel, club, apartment and so on), moves towards increased criminalization had depressed prices and because sex workers cannot be employed in France due to its legal regulation. Instead, she proffered for the time being 'fighting against stigmatisation [and facilitating] sex workers to be able to discuss with their colleagues ... appears as an effective tool to help them to resist abuses and feel stronger so that their bargaining power can increase' was appropriate. The notion of what was appropriate was also influenced by, and reflected, the structuration of prostitution itself. As already indicated, most prostitution concerns street work and individual off-street work. In addition to the impact of direct sex-worker–customer price and service negotiation, both forms of prostitution are quite atomized and affected by high levels of migrants (where 80 per cent are migrants and of whom 40 per cent come from Africa, 25 per cent from central and eastern Europe and 25 per cent from Latin America (TAMPEP 2007:66)). The effect of being without papers, competition for trade, and lower attachment as a result of itinerancy make organizing more difficult.

For a period, STRASS had a few members among pornography performers but they were members out of solidarity with other sex workers rather than to fight for their own interests (Thierry Schaffauser, email correspondence 22 September 2009). However, STRASS did seek to organize in porn following the emergence of some grievances among performers, seeking to launch a charter of good practices. However, this effort came to nothing because of the influence of the fear of blacklisting and the perceived need of performers to unite with producers and directors to safeguard the industry from external threats (Morgane Merteuil, email correspondence 22 March 2015). Two days of industrial action by an 18-strong troupe of naked dancers at the Crazy Horse in Paris in 2012 over wages and working hours saw dancers refuse to undress

during their performances. After many years of complaining but to no effect, the dancers' action gained them a 15 per cent pay rise on their €2,000 per month salary for working five or six days a week (*Sydney Morning Herald* 18 May 2012). Although there were media reports of a union negotiating for the dancers, these remained unconfirmed and no specific union was mentioned. The action was certainly not organized by STRASS for it has almost no members among exotic dancers and the Crazy Horse dancers made clear they were not exotic (sex work) dancers.

## Spain

In Spain, the main component of the sex industry is prostitution. Brothels rent out rooms to prostitutes and the Ministry of Labour favours work contracts for prostitutes from brothel owners although it is unlawful to make money from prostitutes, reflecting the situation that prostitution in Spain exists in a legal limbo of not being unlawful but not being regulated either (Tremlett 2006). Official estimates of prostitute numbers varied between 400,000 in 2007 and 600,000 in 2015 (*Guardian* 11 March 2015, 4 April 2015). TAMPEP (2007:106) suggested 300,000 women sex workers, representing 91 per cent of all sex workers, with 43 per cent of sex workers working in clubs and bars and 33 per cent in apartments. Of these 91 per cent were migrants (TAMPEP 2007:106). Attempts in the mid- to late 2000s to regulate prostitution foundered upon recognition it was difficult to do so because of a number of characteristics (high migrant composition, lone working, and so on). While sex-worker rights' groups like the Madrid-based Colectivo Hetaira (Collective of Courtesans, established 1995) and Putas Indignadas (Prostitutes' Outrage, established 2012) exist to promote sex workers' rights as workers, until the early 2010s no attempt to form a union for sex workers had been made. This is despite the radicalism of some unions, the call by the largest union confederation, the Confederación Sindical de Comisiones Obreras (CCOO, Workers' Commission) for labour rights for prostitutes, its support for the regulation of prostitution (*BBC News Online* 18 May 2005, Mitrovic 2009:72–3) and organizing of a conference in 2005.<sup>39</sup> For example, a number of confederation of anarcho-syndicalist unions (CNT) activists contemplated forming one but were met by hostility and derision as a result of sex work not being seen as work, abolitionist views and male chauvinism (Iniguez de Heredia 2007). Meantime, the Unión General de Trabajadores (UGT), the second largest union confederation, maintained its position that alternative work opportunities for prostitutes should be found instead



of turning their jobs into a legally recognized profession (*Guardian* 11 March 2015). Thus, it was premature to state that there were 'sex-worker labor unions' in Spain as McKay (2006) did.

However, a number of developments in unionization projects may yet emerge. Most obviously, the Sex Professionals' Association (Asociación de Profesionales del Sexo, or Aprosex) was established in 2012 and uses the discourse of collective labour rights for prostitutes but also of the profession of prostitution. For example, it has provided training courses and workshops. Yet it remains very small for the *Guardian* (3 March 2014) suggested it was a Barcelona-based group of 'eight sex workers' who lobby for better rights for those in the industry. Aprosex was one of five sex-worker rights groups in 2015 forming the Asamblea de Activistas Pro-derechos del Trabajo Sexual (Assembly of Pro-Rights Sex Work Activists) as a national lobbying organization. Some fillip may come from the ruling by a Catalanian court which decided three sex workers should have been hired full-time by a brothel owner and ordered the owner to pay health-care and benefit contributions to the government dating back to 2012 (*Guardian* 11 March 2015). Although the ruling can be appealed and does not necessarily create precedents because it only applies to the particular brothel, some-sex worker organizations like Aprosex and Colectivo Hetaira held that at least it recognized the legal inability of some brothel workers to avoid paying benefits mandated for employees of companies (even though employing sex workers is unlawful). The brothel owner contended that she only rented rooms to the sex workers. They contended they performed regular shifts and were paid by the owner. Aprosex then initiated the creation of Spain's first formal lobby group for themselves, called the Assembly of Sex Work Pro-rights Activists of Catalonia, with the aim of encouraging candidates in the municipal and regional elections to support the push to regulate the sector and guarantee prostitutes' basic labour rights (*Guardian* 4 April 2015). It comprises sex workers and their supporters like lawyers and advocates, and its creation was spurred on by the aforementioned legal development. Along the way, in early 2014 11 prostitutes in Ibiza formed the Sex Services Cooperative of Spain (Sealeer Co-operative) in order to allow its members to obtain work permits, pay taxes, avoid using pimps, and have the benefits of health-care, pension and financial services.<sup>40</sup> Another 40 prostitutes applied to join.<sup>41</sup> In some reporting the cooperative was called a union, suggesting it was a labour union. And, in early 2012, 'high-class' escorts, organized through their trade association, went on strike for a number of days to protest against banks refusing to give loans to cash-strapped

families and firms (*Daily Mail* 27 March 2012). Earlier, 400 street sex workers, virtually all immigrants, went on a fines payment strike after the first year of Barcelona City Council's Civic Order Law during which the police issued over 4,000 fines for sex work (*El País* 4 February 2007). Community and service groups supported the sex workers in appealing against the fines.

### **Switzerland, Turkey and Hungary**

In Switzerland, sex workers in Geneva established a union (*The Local* 5 September 2012) via a general assembly of sex workers for the city's 800–900 prostitutes. The union, called Sex Workers' Syndicate (Syndicat des Travailleuses et des Travailleurs du Sexe (STTS)), sought to 'to defend the interests of sex workers in Geneva and elsewhere in French-speaking Switzerland and to lobby for changes to the law governing prostitution' (*The Local* 5 September 2012), especially over the cost of renting rooms, combating unfair competition (from migrants) and improving safety. It has worked with the existing Aspasie prostitutes' rights group (founded in 1982) as one of Aspasie's goals has been to establish a union. Some 80 prostitutes attended the union's first meeting after the assembly to establish it attracted 150.

In 2007, a small group of sex workers in Turkey began moves to establish a union in order to protect the health, social wage and educational rights of sex workers, where the majority of them work without licences (i.e., without being registered) and, thus, also social and welfare security (*Hurriyet* 8 November 2008). One of the key tasks for the group was seen to be to reduce the discrimination and stigma sex workers experience. The attempt to form the union was still ongoing in 2011 as a result of police harassment and brutality, imprisonment and murders of sex workers. These were designed to intimidate the activists from operating openly and publicly in order to reach other sex workers and challenge the discrimination and stigma. Undeterred, the activists organized the first 'red umbrella walk' in Ankara on International Sex Workers' Day in 2011 (Gall 2012:53).

The Hungarian Prostitutes' Interest Protection Association (Szexmunkások Érdekvédelmi Egyesülete (SZEXE), sometimes translated as Sex Workers Advocacy Association) was founded in 2000 after prostitution was legalized in 1999, and in 2007 prostitutes were required to be registered as entrepreneurs. Although it was often referred to as a 'trade union' (see, for example, *Global Post* 12 May 2010), it is essentially an advice, support and lobbying group for prostitutes and sex workers, albeit one that has received several tranches of substantial government

funding to run programmes designed to promote the human rights of sex workers (*Washington Post* 24 September 2007, *Hungarian News Agency* 28 May 2009) and to aid their social reintegration into society and reduce their vulnerability.

### **The Nordic countries, Greece and Ireland**

In Sweden, some moves towards unionization and recognition from the union movement were taken following criminalization in 1999 (Clamen and Lopes 2003:30) with help and advice from the IUSW (Lopes 2006a:288). The instigator of this was the Rose Alliance (National Organization for Sex and Erotic Work) founded in 2000. It said of itself it: 'is an organization of sex and eroticism workers in Sweden' and is a rights and advocacy group which also comprises former sex workers and supporters, numbering some 200 (Persson Strömbäck and Kock 2015:8). However, the unionization attempts came to nothing so it is incorrect to state that sex workers in Sweden are unionized as Lopes (2006b:511) did, to term the Rose Alliance as 'the Swedish sex workers' union' as Schaffauser (2011b) did, to state that Sweden 'has its very own trade union, the Rose Alliance' as Braw (2015) did or to report 'sex-worker labor unions in ... Sweden' as McKay (2006) stated there were. Speaking of the time up to December 2003 (Lopes 2006a:286), Lopes (2006a:288) predicted the result of the moves would be 'affiliat[ion] to a fully recognised union'. This prediction arose out of the attempt by the main Rose Alliance activists to join an existing union, namely, the Stockholm branch of the small anarcho-syndicalist union federation, SAC (Central Organization of the Workers of Sweden) in 2002–3 (Persson Strömbäck 2015:18). The SAC had a policy of organizing all workers but the main activist was admitted to the SAC not as a sex worker but because she had a job as a janitor/caretaker in a hospital (Persson Strömbäck 2015:18).<sup>42</sup> However:

her 'acceptance' resulted in ... eight out of ten members in the local branch appl[ying] for a transition to another LS [branch] ... . At the same meeting, proposal, which suggested that Stockholm [branch] should lobby for a national voting on the question of altering SACs statement of principles so that those supporting themselves as sex workers could join, was rejected [by a] great majority ... [The] LO was [also] contacted during the same period, but there was no response. (Persson Strömbäck 2015:18)

That the LO (Swedish Trade Union Confederation, the peak union confederation) did not respond is no surprise, given its hostility

to the sex-work discourse and its support for the 'Swedish' model of criminalizing prostitutes' customers.<sup>43</sup> Not long afterwards, the main activist left the SAC Stockholm branch and concentrated upon other sex-worker activities (including the Rose Alliance).<sup>44</sup> Similarly, in Norway, the Norwegian Confederation of Trade Unions (LO), did not support the sex-work discourse and, along with the introduction of the criminalization of clients from 2009, this helps explain, in part, the absence of a sex-worker unionization project and that the Prostitute Interest Organization in Norway (PION), which was established in 1990 by just two female sex workers (Mitrovic 2009:65), remained a small organization. It says of itself that it is 'a venue for contact and political voice for women and men involved in prostitution ... working to ensure the rights and interests of women and men working in prostitution'.<sup>45</sup> This concerned health and education work as well as political campaigning. The situation in Denmark is little different for the Sexworkers' Interest Organization (SIO) in Denmark was founded in 2008, with eight sex-worker activists and three ally members, in response to the possibility of criminalization after decriminalization was introduced in 1999. Yet, it is like the Rose Alliance and PION in being a sex-workers' right and advocacy group, and has had to contend with the opposition of the Danish Confederation of Trade Unions (LO) to the sex-work discourse.

SALLI – the United Sex Professionals of Finland (literally, Union of Sex Business) was an organization of sex workers in Finland founded in 2002 by nine sex workers. It called itself the 'union for all who work in erotic labor', namely, prostitutes, erotic dancers, dominatrices, porn models and sex-chatline workers. Its main aims were to address the problems sex workers faced in the domestic sex industry and provide health-care information. Underlying these was the reality that it was more of a human rights organization than a labour union because it sought to promote sex workers' human rights in terms of their well-being, safety at work, professional skills, and control of workplace working conditions. Indeed, one of its office bearers emphasized its public education role in terms of what SALLI did (Anna Kontula, email correspondence 9 February 2006) and it campaigned to allow prostitutes to work together without becoming liable to being criminalized for pimping. Between 2002 and 2006, it sought registration as an official association with the government and by 2005 had some 40 members, of whom half were sex workers and the remainder supporters like doctors and social workers. Of its name as 'United Sex Professionals of Finland', SALLI stated it is: 'an organisation for persons who earn their living in

sexual or erotic labour. Despite of this was [*sic*] SALLI was not given name 'Sex Workers of Finland' or 'Sex Workers' Union'. The reason for this is that SALLI is not a traditional workers' union for employees only. SALLI is workers' organisation in a wider meaning, because SALLI is also for private entrepreneurs in sex business. SALLI is for all who are using their own sexual knowledge, sexual imagination or sexual skills in their work or business.<sup>46</sup> According to one of its founders in 2011, 'Sadly, SALLI does not exist anymore because there was not enough active members' (Sirkiä 2011). Whether this was because of the impact of criminalizing the purchase of sex making sex-work organizing from 2006 more difficult is an open question. Organizations like SALLI and PION are often wrongly referred to as unions (see, for example, *Expressen* 3 July 2007) and it was erroneous for others like Ross (2006:341) to call SALLI a union.

In Greece, the Solidarity Movement of Women Prostitutes in Greece (KAGE or KEGE) was established in 1982 and was sometimes referred to as a union (see, for example, GAATW 2011:22, McKay 2006, SIWSAG 2009:16, Sorfleet 2007b:96). It was succeeded in 2005 by the Sex Workers Guild of Greece (SEPE) (sometimes translated as Greek Association of Sex Workers). It is often called both a 'union'<sup>47</sup> and an association although it is far more the latter as it is an advocacy and rights group. One of its major activities has been to campaign for the right to have licences to work in brothels (as their permits only allow street prostitution). Consequently, Lopes (2006b:511) was then incorrect to state that sex workers were unionized in Greece or that Greek sex workers had 'succeeded achieving a place in the mainstream trade union movement' (Lopes 2006a:276).

In Eire, some lapdancers made appeals to be unionized and two small unions entered into discussions with them on the possibility of membership in 2003 (*Irish Independent* 26 September 2003). Nothing came of the talks, with the Sex Workers' Alliance Ireland (SWAI) advocacy group being formed by current and former sex workers and their supporters in 2009 to promote the social inclusion, health, safety, civil rights, and the right to self-determination of sex workers. This included decriminalization so that sex workers would be treated like other workers in regard to regulated working hours, pensions, representation in unions, provision of holidays and so on. One of SWAI's main tasks has been to counter the campaign from 2011 to end prostitution called 'Turn off the Red Light' by establishing the 'Turn off the Blue Light' group to argue for decriminalization, against the introduction of the 'Swedish model', positive images of sex workers and human rights and social justice for

sex workers (SWAI 2015). In so far as it has a view on unionization, one of its objectives is to 'promote acknowledgement of sex work as work so that sex workers can have the same rights, benefits and entitlements as other workers (regulated hours, pensions, representation in unions, holidays, etc.)'.<sup>48</sup> The Irish Congress of Trade Unions, the union peak body, remains firm in its view that prostitution is exploitation and not employment, supporting the 'Turn off the Red Light' campaign, with the campaign affiliated to by all the major Irish unions. An organization calling itself the Irish Sex Workers Union was established in early 2012 but represented nothing more than a blog in the campaign against the introduction of the 'Swedish model'.<sup>49</sup>

## Chapter conclusion

Recalling the key criterion in defining labour unionism, namely, of whether organizations have sought to collectively regulate the wage-effort bargain, attempts to establish *bona fide* sex-worker unionization projects in European countries over and above Germany and the Netherlands have been few and far between. The only efforts to establish such labour unionism have taken place in Britain, while some other organizations have either wrongly called themselves unions because they have not sought to collectively determine the wage-effort bargain or have been wrongly heralded by others as unions (France, Greece, Hungary, Spain, Sweden, Turkey). No evidence of sex-worker unionization was found in Austria, Belgium, Italy or Portugal. Even in the case of Britain, the handful of union recognition agreements and the attempt by the GMB union to regulate working conditions in exotic dancing with the LDA have to be offset by recognition of the emphasis upon the task of individual representation and the extent of political campaigning. Elsewhere, the 'unions' have engaged primarily in political campaigning and activities similar to sex-worker advocacy and rights groups. This is somewhat surprising given the continuing strength of the union movement and the extent of the sex-work industry across Europe. Equally surprising, and when including Germany and the Netherlands, is how fragile and faltering these labour unionisms of sex workers have been.

Nonetheless, a trajectory still emerges of the continual search by sex workers for effective collective-interest representation. In this regard, it is worth noting that the relatively close geographical proximity as well as governance through the European Union has been the background to gatherings of sex-worker activism. Garofalo (2010) recounted the

processes and outcomes of the biggest recent gathering of sex-worker activists, some 120, at the European Conference on Sex Work, Human Rights, Labour and Migration in 2005 in Brussels. With a focus upon labour rights, the conference discussed unionization quite extensively (Sorfleet 2007a) but contained only a few references to unions – and those were in terms of the right to be in a union – in its official output (*The Declaration of the Rights of Sex Workers in Europe*, *Sex Workers in Europe Manifesto*, and *Recommendations*). Indeed, this indicated the continued weakness of, and severe challenges for, sex-worker unionization in Europe.

# 7

## Africa, Latin America and Asia

### Introduction

The globalized nature of the sex 'industry' is indicated not just by its presence in all countries of the world but also by, *inter alia*, huge migration flows in sex workers (especially from the global south to the global north) and by the transnational nature of units of sex-industry capital. Therefore, this chapter looks at the attempts to organize sex workers in unions in the different domestic sex 'industries' in countries of the global south. The principal developments have taken place in South Africa, India and Argentina but there is also an array of lesser developments. They primarily concern prostitution, which remains the least corporatized section of the sex industry in these countries, rather than other forms of sex work, reflecting the under-development of exotic dancing and pornography compared with the economies of the global north. A fulsome consideration of developments in Asia, Africa and Latin America responds to Aldred's (2007) noting of the limited consideration of sex-worker unionization in the global south in Gall (2006).

### Africa

#### South Africa

There have been several attempts to establish sex-worker unions in South Africa. In the early 1990s a street-walkers' association in Durban was begun but failed quite quickly (*Cape Argus* 2 June 2007). Then, in 1995, the Self-employed Women's Union (SEWU) decided to organize commercial sex workers (Devenish and Skinner 2004). But by 1997, no progress had been made and it was decided that organizers should abandon this area of work. Failure to organize this group



was likely to have been because of a strong commitment to Christian values from SEWU's leadership and staff. Nevertheless, the advocacy and rights' group, the Sex Workers' Education and Advisory Taskforce (SWEAT), based in Cape Town and founded in 1996, has begun to make strides in gathering together the forces for conducting unionization of sex workers. It has long advocated that COSATU (Congress of South African Trade Unions) affiliate, the South Africa Commercial, Catering and Allied Workers Union (SACCAWU) should organize sex workers and established a close and positive relationship with it, leading SACCAWU to adopt a position for organizing sex workers in 2008 after such lobbying made its first breakthrough in 2005 (concerning SACCAWU educating sex workers on sexual health). Yet, and in echoes of the situation found in both the SEWU and in Canada, unionization of sex workers by SACCAWU has yet to take place as a result of internal opposition to developing the tools to do so and the challenges of the practical task of organizing.<sup>1</sup> However, SWEAT also helped launch the National Sisonke Sex Worker Movement of South Africa ('sisonke' meaning 'togetherness') in 2003 as another way of working for sex workers. Sisonke agreed its objectives were to unite to change laws with regard to sex work and gain recognition of sex work as work. To this end, it organized simultaneous demonstrations to present to a memorandum of demands and grievances to the Department of Justice on International Sex Workers' Rights Day in 2014 (*Daily Dispatch* 27 March 2014). Nonetheless, SWEAT continued to lobby for existing unions to undertake unionization of sex workers. As part of this, it persuaded COSATU to adopt a sex-work position and support calls for decriminalization (*Cape Times* 14 September 2009)<sup>2</sup> although when the issue came to COSATU's tenth national congress, the issue was referred back to the national executive as delegates were split on it. Thus, little progress has since been made (although the South Africa Police Union has also supported the sex-work position and calls for decriminalization as did the National Union of Mineworkers and National Union of Metalworkers of South Africa).<sup>3</sup> SWEAT has also worked in alliance with the Women's Legal Centre in helping a prostitute sue the brothel she worked at for breach of employment rights. In 2007 the Commission for Conciliation, Mediation and Arbitration (CCMA) and then the Labour Court in 2008 ruled that prostitutes do not have rights under the country's constitution – not because of being of an employed status or not – but because the court could not sanction or encourage unlawful activity under the Sexual Offences Act (see NTUI/KWSU 2009:4–5). An earlier attempt in 2002 to strike down this Act relating

to prostitution failed. In a later case, the Labour Appeal Court found that the CCMA had jurisdiction to hear a complaint of unfair dismissal made by sex workers who are employed by brothel owners. The judgment confirmed the constitutional right relating to fair labour practices applies to all including sex workers. As a result, sex workers can now approach the relevant CCMA, Bargaining Council or the Labour Court to seek redress which could lead to reinstatement or compensation.

## **Elsewhere**

In Ghana in 2010, prostitutes organized within the Commercial Workers' Union sought to raise their rates collectively in response to high inflation in Accra (*Accra Times* 18 February 2010). And, in 2012 in Zimbabwe, 300 prostitutes formed a Commercial Sex Workers' Union upon the initiative of a Bulawayo MP (*Bulawayo 24 News* 8 January 2012). It sought to provide the means to access health and education services for the women. In Namibia in 2013 *The Namibian* (20 November 2013) reported a 'newly-formed umbrella union called the Namibia National Labour Organisation (Nanlo)' covering all workers including prostitutes. It was registered with the Labour Commission in 2014. An 'informal union of commercial sex workers' was reported to be operating in Kenya (*Times* 24 January 2013).

## **Latin America**

### **Argentina**

The Association of Women Prostitutes of Argentina (AMMAR) was formed in 1994 by some 60 sex workers and victims of violence inflicted by police. It grew to have some 15,000 members over ten years later, particularly as it became a major organization in the national response to HIV/AIDS in Argentina, according to UNAIDS (2010) although Hardy (2010b:94, 2010a:168, 2008) stated: 'The union counts between two thousand and four thousand affiliates across ten provincial branches and is in contact with an estimated thirty thousand sex workers a year' by 2007; 'currently between 1,500 and 2,000 [are] members' and it has 'over 3800 members across Argentina' – these figures being more in line with the 1,700 members by 2004 cited in Gall (2006:154). The *Global Press Institute* (28 June 2012) quoted AMMAR as saying it had '5,000 members'. Its initial foci were against police and legal harassment and for decriminalization, recognition of sex work as work and on health and welfare provision (Hardy 2008, 2010b:94, Reynaga 2006:66). AMMAR took steps to transform itself into a 'union' in 2001 (with help

with the CTA union confederation from 1995 as a result of affiliating to it). Following this, the leader of AMMAR was shot dead in suspicious circumstances. Once part of the CTA, AMMAR instituted education outreach programmes and organized sexual health provision, and gained changes in the legal regulation of prostitution in a number of cities (Gallin 2003, Hardy 2010a, 2010b). It also succeeded in creating public space for sex work and for it to operate within. As Hardy (2010a:169) recounted, AMMAR 'almost exclusively' focused on 'street sex workers' because they are more independent than those who work in brothels or clubs. Meantime, these street sex workers are full-time, long-term sex workers with low educational training and a high number of dependants to support (Hardy 2010a:169, 172).

However, there is doubt over whether AMMAR is a labour union or is merely an association, that is, an advocacy and rights group (*cf.* Hardy 2010a, 2010b). This is because although AMMAR advocates labour and economic rights, it has not addressed the issue of the wage-effort exchange between workers and operators (albeit in the context of the absence of employment contracts, employed status and fixed work-sites). For example, AMMAR general secretary, Elena Reynaga (2005, 2006), discussed the purposes and activities of the organization. And although she freely used the terms 'labour union' and 'union' in this discussion, there was the notable absence of negotiating over the wage-effort bargain or other terms and conditions of work. By contrast, there is much public policy and law reform work. Indeed, one of AMMAR's greatest advances has been in decriminalization. This is no particular surprise given the sex workers which AMMAR organizes but it does mean that AMMAR is not a labour union. Thus, it acts as a prostitutes' rights group and others including Lopes and Clamen (2004:44) and Ross (2006:340–1) were wrong to classify it as a union. This conclusion is strengthened by Gallin's (2003) highlighting of AMMAR 2002 annual report which stated its objectives as being 'to strengthen, transmit and implement to our comrades policies of self-respect, managing their own lives and autonomy, and above all make them conscious of gender and identity issues'. These have been carried out through informal and participative workshops, where information is conveyed on HIV/AIDS, reproductive health, human rights, among other issues as well as the distribution of condoms and food parcels and the provision of health services to its members (Gallin 2003). In this regard, that both *Metro* (29 November 2011) and *Global Press Institute* (28 June 2012) reported AMMAR to be an 'unofficial' union seeking official status as a union and sex work to be recognized as work were still inaccurate. Indeed, the

*Metro* (29 November 2011) in an interview with Elena Reynaga gave the clear impression that AMMAR was not a union even though it sought, in its work terms, to be a union. The major activity in AMMAR in 2012 was preparing a parliamentary bill for the legislation of sex work. A group broke away from AMMAR in 2002 over whether prostitutes were sex workers or victims. Calling itself AMMAR Capital, it sought to gain support for a parliamentary bill in 2010 to support the prostitute victims of prostitution.

### Elsewhere

In Bolivia in 2004, over 100 prostitutes blockaded traffic in protest at the shutdown of the brothels they worked in, leading the Mayor of Santa Cruz to back down after six months, and in 2007 other prostitutes, numbering up to 35,000 went on strike and refused to undertake mandatory STD testing to campaign against police harassment (*Time* 24 October 2007). The action was organized by ONAEM (National Organization for the Emancipation of Women in a State of Prostitution), which *Time* (24 October 2007) magazine called ‘the sex workers’ union’. In Uruguay, a ‘union’ of prostitutes, the AMEPU (Association of Professional Prostitutes of Uruguay) was founded in 1986 and is affiliated with the Central Workers’ Union (*Inter-Press Service* 11 February 1998). In Venezuela, a similar organization called Union of Men and Women Sex Workers and Associates (UNTRASEX) was founded in 1998. It was denied the right to register as a legal union because the government considered that prostitution could not be defined as work as it lacked dignity and social justice and that legal unionization would lead to the expansion of prostitution. In Brazil, no union exists largely on account of hostility from existing unions and despite the state classification of prostitution as category of work in 2002 (*Independent* 2 June 2014, NTUI/KWSU 2009:16). This meant that the *Independent* (2 June 2014) was incorrect to state that APROSMIG was ‘a union for those within the [sex] industry in the state of Minas Gerais’, especially when it pointed out ‘the name is a contraction of the ‘Minas Gerais association of prostitutes’. Davida is the main rights and advocacy group for prostitutes in Brazil. Established in 1995, and as with other cases elsewhere, MODEMU (Movimiento de Mujeres Unidas or Movement of United Women) in the Dominican Republic is often wrongly characterized as a union. Thus, it is ‘a union of approximately 400 sex workers that conducts outreach for HIV/STI prevention and lobbies for policy change concerning medical and legal attention, as well as recognition of labor rights’ (Haddock 2007:4). The same claim is made by Brennan

(2000) and UNAIDS (2000). Indeed, Cabezas (2009:166) asked a member of MODEMU about a group of better educated prostitutes saying: 'Why not organize them into the sex worker union?' while earlier outlining (Cabezas 2000:82) that MODEMU is:

the outcome of organizing efforts by and on behalf of sex workers and sex worker advocates seeking to educate themselves and their peers about the AIDS pandemic. ... [It] provides social and health services to sex workers and other poor women ... hold[ing] workshops in various provinces of the country to raise women's consciousness about issues of gender equality, fair wages and working conditions, and health and safety issues related to sex work. [Its] broad concept of health also includes education on issues of self-esteem and women's economic independence. Using the knowledge base of sex workers, they conduct workshops and outreach services in the sex businesses and other places where sex workers congregate.

In Paraguay, the national workers' union recognized sex workers as legitimate workers eligible to retire and receive full pension benefits (Cabezas 2000:82). But it remained the case that the aim of the sex-worker group in Paraguay, Unidas en la Esperanza (United Hope) and which was founded in 2004, is still 'to form a sex workers union to fight for our rights as worker women'.<sup>4</sup> It was, thus, wrong to state that within the membership of RedTraSex, the association of sex-worker national groups in Latin America, 'five sex worker trade unions' (NTUI/KWSU 2009:18) existed. There are, of course, organizations which call themselves unions but these are not labour unions. Finally, in Trinidad and Tobago, the National Union of Domestic Employees (NUDE) has campaigned almost since its inception in 1982 for the civil, legal and economic rights of prostitutes (*Trinidad and Tobago Mirror* 8 June 2001). It called for the legalization of prostitution in 2001. However, its work does not appear to extend to the recruitment and organizing of prostitutes as a group of workers in their own right.

## **Asia**

### **India**

In India, there are an estimated two million female sex workers (of which 85,000 are in Karnataka) (NTUI 2011). The vast majority of these are prostitutes, with four organizations claiming to be unions for sex

workers, that is, prostitutes.<sup>5</sup> The first is in Karnataka and called the Karnataka Sex Workers Union (KSWU). Formed in 2006, it claimed 1,000 members initially (NTUI 2011) although Sukthankar (2012:322) subsequently put this at 'two hundred members' while Vijayakumar *et al.* (2015a:85) stated the figure of 'approximately 2,500 members [who] pay a joining fee and then a monthly subscription in order to register' (see also Vijayakumar *et al.* 2015b) and the *Asia Sentinel* (31 January 2013) put it at 1,400 members.

According to the *Asia Sentinel* (31 January 2013), the KSWU is 'considered to be one of the first trade unions of sex workers in India'. In its own words, KWSU states it is a 'trade union of women, men and transgender sex workers, who live in the state of Karnataka. The Union seeks to be registered as a trade union in India. We advocate for the rights of all sex workers. ... We organise all persons who are working or have worked as sex workers in Karnataka. We strive to secure for them fair treatment and humane working conditions that will promote their living conditions and well-being. And we do this only through democratic, legitimate and constitutional methods. We plan to take care of our members through sickness, unemployment, old age, accident, and death'.<sup>6</sup> The KWSU also stressed it sought to 'organise and render relief to sex workers during sickness, unemployment, old age, accident and death to the extent possible; enable access to legal assistance for sex workers in respect of all matters arising out of their work and to help secure all their rights and facilities available under various statutes; [and] assist sex workers and their dependants with all facilities for educational, cultural, social, political and economic development'.<sup>7</sup> Thus, not only did the KWSU not address the issue of collectively determining the wage-effort bargain, but it also sought to operate as much as a friendly or mutual insurance society. Interestingly, the KWSU added: 'we have always called ourselves businessmen or businesswomen, others have seen us as victims. The union is one way of asserting our right to choose the work we do, and the right to work on our own terms'.<sup>8</sup>

So while the KSWU explicitly calls itself a union and formally rejected the alternative of being a provider of services to sex workers, saying it was 'a people's organisation governed fully by us' and not a 'a service-provider, a caretaker of the underprivileged, generally governed by others who are concerned about the marginalised'<sup>9</sup> (see also Gall 2012:60, Vijayakumar *et al.* 2015b *cf.* Hardy 2010b:93), its desire to be a labour union remained a vague and distant aspiration (especially as there is no evidence of seeking collective regulation of the wage-effort bargain). Indeed, Vijayakumar *et al.* (2015b) suggested it has, in line

with the informal workers' movement, focused upon demanding social protections from the state rather than demanding higher wages from employers. Moreover, the KWSU has acted in a way similar to other sex-worker 'unions' in campaigning for decriminalization and better labour standards through public policy and legal reform, and it has begun to provide some of the services that other non-union sex-worker organizations do (Vijayakumar *et al.* 2015b). Casting doubt over whether the KWSU is a labour union has not been influenced by the rejection of its application in 2008 to the Trade Union Registrar (Karnataka) to be registered as a union because rejection was on the grounds that sex work is illegal and sex workers have no 'employer' (Vijayakumar *et al.* 2015a:89).

The Durbar Mahila Samanwaya Committee (DMSC or Durbar)<sup>10</sup> is another reputed union, being established in 1995 and claiming to represent some 65,000 sex workers in West Bengal. The misconception that it is a labour union of any type is widespread. For example, when talking of 'sex workers' labor organizations and social movement building', Aimee *et al.* (2015) commented: 'In India, for example, the Durbar Mahila Samanwaya Committee is an active union representing 65,000 prostitutes' while Cobble (2010:289) called it 'the largest union of prostitutes' and the International Prostitute's Collective called it 'Calcutta Sex Workers' Union'.<sup>11</sup> This is not helped by Durbar referring to itself as a 'sex workers' union' (Ghose 2012:295) and Ghose also repeatedly referred to Durbar as a 'union' in an interview with *State News Service* (17 January 2013). But rather as a community forum, credit cooperative (called Usha), campaigning group and provider of sexual health services, it is not a labour union.<sup>12</sup> This is reinforced by considering its own aims of 'improvement of image and self-esteem of marginalized communities; influencing existing norms, policies and practices, operating at all levels in the society and out the nation state; empowering communities through a process of collectivisation and capacity building; addressing power relations within the trade and outside; [and] building formal and informal alliances with individuals, groups, institutions and movements'.<sup>13</sup> Indeed, its membership is open to brothel managers and madams, that is, house mothers or supervisors (Ghose 2012:295). Moreover, Durbar is more akin to other sex-worker organizations in India like SANGRAM and VAMP. SANGRAM is a sex-worker rights and anti-HIV/AIDS organization and Veshya Anyay Mukti Parishad (VAMP) is its affiliated sex-worker activist collective.

However, Durbar did establish the Binodini Srameek Union (BSU), sometimes the Binodini Shramik Union, and roughly translated as

Entertainers' Labour Union or Union of Entertainment Workers in 1997 with the BSU expressing a particular Marxist approach to prostitutes as worker victims of capitalism (Kotiswaran 2011:222,228). Although it defines sex workers as having a wider commonality of interests with other entertainers (singers, dancers, musicians), it has been described as 'a fledging trade union organisations of [sex workers]' (AIDSTAR-One 2011:32) and 'a putative trade union of sex workers' (Bandyopadhyay 2008:6) because it primarily seeks to organize sex workers, namely, prostitutes. Its first application for registration as a union was in 1999 under the Trade Union Act. Some five years later, the Registrar of Trade Unions sought clarifications which were submitted but, by late 2011, the union lodged a writ petition in the Calcutta High Court under Article 226 of the Indian Constitution. The High Court ordered the Registrar of Trade Unions to communicate immediately but no reply has yet been received by the union. Both the KSWU and BSU were still campaigning to be registered as labour unions in 2013. Recognition of the unions at regional and national level in India through registration is an important step to take in order to avail the unions of rights in law to assist with representation and bargaining.

In 2007, the BSU organized a festival for all entertainment workers, of which the majority were sex workers (3,000 of the 5,000) (Crago 2008:37) and the NTUI reported in early 2012 the BSU in Kolkata was 'representing several thousand sex workers in the city' and organizing 'a rally of over thousand sex workers' to mark International Women's Day. The union has also organized conferences for other unorganized workers. However, the claim by the NTUI (2012) that the BSU is 'a trade union representing over fifty thousand sex workers in Bengal' is improbable for it either conflates the BSU membership with that of the DMSC or elides the *de facto* role of the BSU with the *de jure* role of the DMSC. Indeed, without union registration, the BSU has effectively become a proselytizer for decriminalization of prostitution, campaigner for sexual-health facilities and advocate of sex work as work. Both the KSWU and BSU are affiliates of the peak body, the New Trade Union Initiative (NTUI), whose motto is 'Unity, democracy, militancy'. It was established in 2001 when several independent unions in the organized and unorganized sector came together. The NTUI became a federation in 2006 and positions itself on the radical left. It was the first national union centre to recognize sex work as work and affiliate unions of sex workers.

Founded in 2004 by a feminist non-sex worker, the Bharatiya Bar Girls' Union (BBGU, sometimes Bharatiya Dance Bar Girls Union)



operates in Mumbai and the wider region of Maharashtra (Dalwai 2012, Subrahmanian 2008:129). The BBGU was not formed in response to the proposed ban on dance bars as a result of the attempt to undermine prostitution as Makhija (2010:21) believed. Rather, as its founder explained:

the union was getting its foothold into the industry and slowly taking up issues such as better proportions of tips and conditions of work, when suddenly the ban was introduced. Within eight months of the Union registration, the struggle for the survival of the occupation surpassed any other concern or demand of the union. (In Dalwai 2012:212)

Both Seshu (2004) and *Business Line* (17 September 2004) also indicated the established of the BBGU well in advance of the ban coming in, being announced or discussed. The founder had previously noted the protests of the bar girls in 1996 and early 2004 against restrictions on the dance bars in terms of opening hours and regulation of dancers. Thus, Subrahmanian (2008:129) recounted: 'The bar dancers' protests have led to the incipient formation of a union, led by the "Womanist Party", a recently registered women's political party'. In seeking to repeal the ban, the BBGU claimed some 5,000 members (High Court of Judicature at Bombay 2005:17, Supreme Court of India 2006:10). However, the *Economic and Political Weekly* (30 October 2010) claimed of the period not long after its foundation that it had 'a membership of about 40,000 women'.

The BBGU does not solely comprise prostitute members for not all bar girls solicit or sell sexual services but a large number do with the remaining number being merely dancers. Yet the extent of bar girls being prostitutes is disputed (see Seshu 2004, Subrahmanian 2008:128–9). The closure of dance bars ended employment for dancers and the means by which prostitutes solicited clients. When the ban was proposed and then came into force in 2005, the BBGU campaigned alongside the Bar Owners' Association against it and for its repeal (via legal action) which was finally achieved in 2013 after an earlier victory in 2006 was overturned.

Subrahmanian (2008:129) characterized the BBGU as being 'aimed at strengthening the women's position within the industry, while also recognising the vulnerabilities they face in the course of their work'. Seshu (2004) noted that the range of issues the BBGU sought to loosen the control of bar owners over the women, as well as ensuring regular

medical check-ups, HIV/AIDS awareness, encouraging regular savings and familiarizing the women with sex workers' unions across the world. Citing research from 2006 by the Research Centre for Women's Studies, SNDT Women's University and the Forum Against Oppression of Women, the *Economic and Political Weekly* (30 October 2010) reported:

Before the announcement of the possibility of the ban, the union was fighting against the police raids common on bars when women were picked up and harassed. It has also been negotiating with the bar owners to get a better deal for the dancers, who technically do not get a wage but pay a commission to the bar owner of the tips that they individually earn. Successful negotiations with the union had helped reduce the owners' cuts in many bars from 70–80% to 60%. Since the announcement of the ban, however, the union is forced to join hands with the owners and fight for their collective interest of keeping the bars open.

However, in terms of being an independent organization Dalwai (2012:212) noted the BBGU 'was criticised for conniving with the owners and not being a credible labour union, for "claiming to be a Union without fighting with the bar owners and management" and "colluding with the management"' with Seshu (2004) noting the support of the Bar Owners' Association for the BBGU. Sukhthankar (2012:315, 317) went as far as stating the BBGU 'had been initiated by the bar owners in 1996' and was 'revived in an effort to challenge the ban' and that the *modus operandi* of the BBGU was to 'collaborat[e] with management in support of workers' whereby 'the union's entire budget was underwritten by the bar owners' association'. After the ban, one member reported: 'The union did their best, but I think they are also just in the business of taking our money. The police kept increasing our hafta after the ban. From every side, we were being bled dry' (*Firstpost India* 16 July 2013). The impact of the ban was that the BBGU 'lost its members and the spirit for further struggle. Media found other juicy topics to move on to. By 2008, the union had almost disintegrated and [its leader] was left with few bargirls around her' (Dalwai 2012: 213). Upon repeal of the ban, the BBGU still existed but very much as a reduced force, with many previous bars slow to reopen owing to continuing legal uncertainty over their regulation (*Tehelka*, 3 August 2013). In campaigning against the ban, the *Times of India* (29 April 2005) noted that the BBGU's founder claimed no prostitution took place in the bars and what the girls did after work was a consensual adult business.

## Elsewhere

In Cambodia, the Womyn's Agenda for Change (WAC) was established in 2000 to empower Cambodian women workers. The WAC is staunchly opposed to neo-liberal development policies and supports sex-worker empowerment, helping launch the Women's Network for Unity (WNU) which seeks to unionize and empower Cambodian sex workers. It was established in 2000 and has some 5,000 members (Oxfam 2007:8). The Cambodian Prostitute Union (CPU) was established in 1998 following discussions among prostitutes and support workers in massage parlours, beer gardens and karaoke bars in the red light district of Toul Kork on the abuses and exploitative conditions they faced.<sup>14</sup> The CPU is 'wholly owned, governed and sustained' by these workers, with the explicit goal of taking control of their lives.<sup>15</sup> The CPU has three main activities: education and training, advocacy, and documentation and monitoring, supporting its members by providing information and counselling on: prevention of STIs and HIV; how to take care of themselves in the event of illness; the impact of drug abuse and how to make positive decisions to improve their daily lives.<sup>16</sup> It is supported by the Cambodian Women's Development Agency. It is not clear what the relationship between the two organizations is. Notwithstanding this, it is wrong to say that Cambodian sex workers had 'succeeded achieving a place in the mainstream trade union movement [there]' as claimed by Lopes (2006a:276). However, the Cambodian Food and Service Worker Federation did represent a small number of massage workers within its entertainment section (*Inter Press Service* 22 February 2013). With the clampdown on brothels, prostitutes migrated to other places of work within the entertainment section and here some massage workers also sell sex.

In South Korea in 2005, the National Female Workers' Association began trying to organize prostitutes as sex workers into a union-type organization (*Korea Times* 24 June 2005). Out of this emerged a formative union called the Democratic Coalition of Sex Workers (DCSW), which with 220 members in the Kyonggi province, reached a collective bargaining agreement with brothel owners (*Korea Times* 26 September 2005). However because prostitution is illegal, the agreement had no legal binding leading the *Korea Times* (26 September 2005) to speculate that the DCSW will be forced to act as a human rights pressure group rather than a union. Indeed, the National Female Workers' Association took up the cudgels of campaigning to overturn the criminalization of prostitution. With between one and ten million sex workers in China (HRA 2013:9), Zi Teng is an advocacy and rights group for sex workers

(mainly prostitutes) and comprises social workers, labour activists and researchers specializing in women studies and church workers. It also conducts outreach work, provides educational service and conducts research on the situation and needs of sex workers.<sup>17</sup> It has often wrongly been reported as prostitutes' 'trade union' and 'union' (see *South China Morning Post* 11 November 2003, 15 October 2005). Similarly, the Blue Light in Hong Kong, a sex-worker support and advocacy group for male prostitutes established in 2006, was referred to as a 'union' (*South China Morning Post* 11 November 2007). In Taiwan, the Taipei Alliance of Licensed Prostitutes (TALP) 'developed its organisation and structure and formed itself into a union-like organisation with branches in various districts'<sup>18</sup> after the criminalization of prostitution in 1997. An allied organization to TALP was the Taipei Union of Legal and Illegal Prostitutes for Self-help (TULIPS) which was established in 1998 given the criminalization. The rights and advocacy group, Collective of Sex Workers and Supporters (COSWAS), was established from these two groups in 1999. There are no indications of any attempts to establish sex-worker unionization projects in Japan (see Morishima 2008).

## Chapter conclusion

There is little evidence of attempts to establish *bona fide* sex workers unionization projects in the global south. The strongest evidence of attempts to do so was found in Ghana, India, South Africa, South Korea and Zimbabwe. But even here the evidence was still relatively thin. In regard to India, the view on the KWSU and BSU must remain provisional for until they are availed of the right in law to representation and bargaining it cannot be determined whether they would or would not use it to seek to co-determine the wage-effort bargain with operators. That aside, and in regard to the DMSC, BBGU as well as the KWSU and BSU, their orientations still coalesce around the goals and purposes of sex-worker rights groups, providing no basis for Hardy's (2010b:92–3, see also 2010a:168) optimism on sex workers' unions there. Part of the explanation for the paucity of developments in and towards sex-worker unionization in the global south is to be found in the focus of some of the aforementioned organizations on independent prostitutes who are genuinely self-employed as owner operators and not on brothel prostitutes who are *de facto* employees.

# 8

## Influences on Unionization

### Introduction

The previous chapters recounted the various projects to unionize sex workers and create sex-worker unions. Despite frequent frailty and failure, these attempts have still provided some ‘voice’ mechanism where few existed before on matters of workers’ rights the wage-effort bargain. Some of the projects sought to go beyond mere ‘voice’ by providing a ‘mandate’ for collective actions to be taken, sometimes in regard to seeking to regulate the wage-effort bargain, even if the improvements in material outcomes have often been limited and disappointing. ‘Voice’ and ‘mandate’ have been generated through the creation of organs of self-agency.<sup>1</sup> This chapter undertakes a thematic examination in order to consider the generalized forces and processes that have influenced unionization. These are important issues for a leading sex-worker organizing advocate, Melissa Gira Grant, proffered that: ‘sex workers have already thought of every single proposal for organisation and unionisation. So, the reason that it isn’t happening is either that workers think it’s a great idea but don’t have resources, or it isn’t a great idea’ (*Red Pepper* April 2015).<sup>2</sup> In suggesting: ‘We need to get sex workers the resources to organize, and we have to get rid of laws that criminalize sex workers’ (*Red Pepper* April 2015), Gira Grant implied the barriers and obstacles to unionization were merely or largely ones of resource availability and decriminalization. As attested to in the previous chapters, there appears *prima facie* to be much validity to this. Yet there is also the sense that the resource availability and decriminalization may be necessary but without being sufficient to creating and sustaining unionization and successful unionization outcomes. Moreover, the issue of creating resources and attaining decriminalization puts the ‘cart before the horse’ because the

processes of getting to those points are long and complex and centred around conscious, ideology and material interests – as the previous chapters have also attested to. In organizing the examination in this chapter into factors, it should be borne in mind that they are inter-related and each factor has contending tendencies and varying temporal and spatial presence. Before proceeding, it is worth noting that while a number of the barriers to recruitment and activism are not specific to sex workers, they do exist in addition to those specific ones that affect sex workers.

### **The sex work discourse and identity**

Treating sex work as work has been a necessary but insufficient factor for unionization to emerge. Its significance concerns reducing the sense sex workers feel that their work is ‘dirty work’ in the context that wider social opprobrium of sex work as ‘dirty work’, in terms of it being perceived as disgusting and degrading, is much greater than that which exists for workers in other ‘dirty work’ like gambling, nuclear power and loan sharking. Put another way, the vast majority of workers, when contemplating forms of interest representation and unionization, do not have an *a priori* hurdle to straddle for they are already workers in both objective and subjective terms. Agreement with the sex-work discourse provides ideological and attitudinal resources to help generate collective organization which has public faces, with one interviewee opining ‘you can’t fight if you are afraid of taking your head out of the sand’ (Candi Forest 1 September 2009). The discourse helps lessen individual internalizing stigmatization and increase self-confidence through legitimization, making the fear of the consequences of loss of anonymity less. Indeed, the discourse offers a certain degree of pride in remaining a sex worker and can provide a (positive) identify. Yet the number of those subjectively self-identifying as sex workers is still a small minority of the larger number of objective ‘sex workers’ (see also Gall 2006:187). And, as noted before, the discourse is rejected by most exotic dancers (as well as some dominatrices and sex-chatline workers) because of the significance they attach to distinguishing between selling sex and selling sexual services. Self-identification results from not merely political agreement with the sex-work discourse but also from its active promulgation and belief in a career as a sex worker whereby a commitment is made to this and attachment built up. In other words, while many sex workers may agree that sex work is work, they may not promulgate it and their willingness to consider any forms of collective interest representation is very limited if they do not intend being sex

workers over the longer course (and where this is not just a matter of not 'being around'). Emphasizing the gap between sex-worker activists and sex workers, Catherine Stephens (18 December 2012) observed: 'The sex work discourse is the language of the activists not of the sex workers themselves even though they see themselves as sex workers and even though there is the widespread usage of the term "sex workers" in the media.' The willingness of some to promulgate it has been enhanced by sex workers developing the sex-work discourse themselves so that they have ownership of it and use it to defend themselves (see also Gall 2012:65–6). Whether they do then go on to form unions and unionize involves another set of issues concerning ideology, material interests and power resources because identifying as sex workers does not mean that all sex workers are seen as having the same interests (especially in relation to owners, operators and employers). Indeed, guilds, professional associations and cooperatives are also possible organizational expressions of the discourse.

So despite the existence of the sex-work discourse, there is still sufficient shame felt and stigma experienced by sex workers to militate against propensities to organize (and unionize). In this regard, it was salient to note in the United States that:

Because consciousness and organisation are at such a low level, then ... arts and film activities ... take on a greater significance in terms of building community, self-expression, networks, self-confidence etcetera so that shouldn't be seen as alternative to/barrier etcetera but possible and complementary basis for other things to emerge out of [it]. (Slava Osowska 6 January 2009)

while in Britain:

the purpose of the Sex Worker Open University is to allow sex workers to meet, discuss and network in a supportive environment that helps educate our own community [about sex worker rights and the campaign to achieve them] when other supposedly friendly forums are not [sufficiently friendly] ... this is important because as most sex workers are not sex worker *activists* there is a limit to the extent of their identity as sex workers. (Luca Stevenson 10 December 2012)

As argued above, agreement with the sex-work discourse does not necessarily lead to sex workers seeing themselves as workers for the discourse can also be interpreted to support the ideological right to conduct

sex work as entrepreneur. Part of this perspective stresses individual self-dependency and self-determination while another stresses financial aggrandisement. Most obviously, there are some porn stars which have their own businesses in the form of income generating websites and personal appearances while porn performers are able to do their own production as the costs of the technology have fallen, making them less reliant upon scene earnings from production companies. But there are also escorts and webcam interactive performers who are independent businesses. Although often in competition with each other, their entrepreneurial perspective more closely aligns them to the interests of the owners and operators. So there is potential for the discourse to be antagonistic towards collectivization of any sort (unless it is needed to promote and defend the right to do business). Moreover, for some the stress within the sex-work discourse on legitimacy, skills and social usefulness allowing financially rewarding work and working flexibility, results in no perceived need for collective organization or even the fear that collective organization may regulate and, thus, undermine those valued features (as opposed to protect and advance). In other words, sex work can be rewarding labour and individual sex workers can, thus, perceive little need of labour unions. Yet, it is important not to conflate entrepreneurialism with self-employed status for whether the two are mutually reinforcing depends upon material conditions and consciousness (*cf.* Bruckert 2002:106–12). The furore over Amnesty International adopting the policy of decriminalization of sex work (i.e., prostitution) in 2015 was a timely reminder that political forces outside of sex work contest the right of (objective) sex workers to regard themselves (subjectively) as sex workers, with the effect that greater courage and determination are needed to do so.

## Union responses

While some have not, many existing unions have reacted to approaches from sex workers for membership with hostility and ridicule for reasons of stigmatization, male chauvinism, radical feminism and unfamiliarity. Of those that did react more favourably, the proliferation of sex work whereby it was no longer synonymous with prostitution has been important in guiding response along with an elementary level of concurrence with the sex-work discourse and a turn to organizing ‘atypical’ workers (see also Gall 2012:67–9). But even among these, the influences of stigmatization, male chauvinism, radical feminism and unfamiliarity were still to be found informing how relationships developed.<sup>3</sup> In particular, a lack of knowledge and experience of operating in the sex industry heavily influenced calculations about the



number of resources provided and the costs and chances of obtaining success. Characterization as high cost/difficult to organize was accentuated when individual representation predominated over collective bargaining (see Cobble 1996, Sukthankar 2005:23) and by expectations of being 'serviced' where individual members essentially bought insurance rather than became the union themselves through participation and self-organizing.<sup>4</sup> Antagonisms between sex-worker activists and established unions also existed over issues of anonymity and autonomy.

So cases of intentions to unionize, or help unionize, not being acted upon or not being acted upon with much force indicate not merely a gender bias in unions (against women) but also stigma attached to, and associated with, organizing sex workers. Sometimes, this stigma is found within the officers and officials of the favourable unions. This is most easily exemplified by Walsh (1996:50) in regard to the situation in Australia: 'The prevailing attitude was summed up by one trade unionist who reportedly said on hearing his union might take on prostitutes: "We don't want to be known as the best fucking union in the country".' Sometimes, it is articulated by officers and officials on behalf of members among whom the stigma is to be found. This latter sense is that officer and officials – while neutral or supportive – anticipate a backlash and act as a proxy for it. Their fear is 'what members might say'. It was not surprising then that sex workers often created their own unions even when this was an equally difficult path. Depending upon the dominant components of the sex industry and their legal standing, existing unions worked to target exotic dancers (Britain, United States) or prostitutes (Australia, Germany, Netherlands) because of the approximation of worksites in these sectors to non-sex work workplace and because of the influence of the sex-worker organization they worked with.

## **Regulatory systems and reform**

Recalling Majic's (2008:562) noting of limited consideration of the impact of varying national regulatory regimes of sex work upon unionization in Gall (2006), this study highlighted legalization of prostitution in some Australian states (such as Victoria and Queensland), Germany and the Netherlands has not been the boon to unionization anticipated by many sex-worker activists. In a similar vein, no significant unionization has taken place in New Zealand or New South Wales in Australia despite decriminalization there, and this system being favoured by sex worker activists. No unionization has taken place in legalized brothels in Nevada either. Various lessons can be drawn here. One is these examples of regulatory reform highlight that sex workers' labour rights are not at

the forefront of legislators' minds. Another is legalization, where stigmatization continues, presents something approximating to the worst of all worlds where criminalization has been rejected.<sup>5</sup> One other is neither legalization nor decriminalization of prostitution is a silver bullet for unionization. Fear of loss of anonymity through registration has not been shown to be quite the sword of Damocles many thought it would be. Indeed, the negative influence of stigmatization upon propensity to unionize has been overestimated because, while activism implies some level of public identification, membership *per se* does not (*cf.* Lopes and Clamen 2004:48, Lopes 2006a:285). That said, the continuing barriers to unionization are far from all concerned with the effects of regulatory regimes and public attitudes. Matters of taxation and independent contractor status still feature heavily, signifying economic incentives and power relations remain somewhat untouched by changes in forms of regulation. Moreover, not all regimes of legalization are the same with some analysts (in regard to sex workers' rights) suggesting the version in Germany is particularly unhelpful (see Czajka 2004). In terms of decriminalization, it is difficult to have any certainty about the more positive outcome of the experience of New Zealand in relation to Germany and the Netherlands because the industry structure is very different in the former compared with the latter. Given that there is less corporatization in the former compared with the latter (especially Germany), it is unclear how transplanting decriminalization into another jurisdiction would work (even though the legalization has been a stimulant to that corporatization). Regulatory regimes for sex work do not solely concern prostitution. The regulated legality of exotic dancing, compared with that of much prostitution, has been a positive influence in generating unionization projects in Britain, Canada and the United States. But it has not been the only influence therein for dancing attracts less social opprobrium than prostitution and dancers work in numbers and circumstances more akin to conducive conditions for union organizing.

### **Activist paucity**

Sex-worker union activists are the key resource of sex-worker unionization projects for, unlike many sex-worker rights groups, they are not in receipt of state funding to employ workers (formally for the purposes of peer education) nor do they gain facility-time from employers to conduct union work within worktime (as other union lay officers do). All unionization projects were begun by small numbers of activists – of around five in most cases – and despite existing for a number of years,

they have not been able to move much beyond being reliant upon a small number of super-activists. Thus, unionization projects have been no more able to crack the nut of creating critical masses of activists than their predecessors, namely, sex-worker rights groups, have been. For example, in Australia in the late 1980s, the number of activists across all sex-worker organizations was less than 25 (Julie Bates 3 September 2009). And although sex-worker unionization is predicated on greater membership involvement, the combined activist forces of the LHMWU, SAA and SWU had difficulty surpassing these numbers. Obstacles to union activism comprise general factors and specific factors to sex-work factors. Yet there is unevenness as to how they unfold. Lower levels of educational attainment were cited by some interviewees as making activism less likely in prostitution with the reverse being true in exotic dancing. Others observed there were more LGBT sex-worker union activists than might ordinarily be expected because their transcending the sex-work stigma was aided by transcending the queer stigma.<sup>6</sup>

The consequences of activist paucity are several-fold (see also Gall 2012:73–4). Activists become super-activists to compensate for the paucity of other activists and the flakiness (on account of lifestyle) of those that try unsuccessfully to be activists. This leads to burnout and the magnified repercussions of individual super-activists leaving through changes in personal circumstances, internal group disagreements or being victimized out of work (and where replenishment has been absent). Indeed, frustrations consequent upon the mismatch of lowly numbers and lofty goals are played out through disputes between individuals. Moreover, maintaining organization becomes a relatively larger task, militating against developing the resources for campaigning and representation work. Overall, activist paucity curtails organizing capacity and predisposes union organization to fragility. It is particularly apparent when nascent union organizations make the transition from being campaigning-focused to more representation-focused for the two have different rhythms and dynamics, with the former emphasizing membership participation and the latter bureaucratic routinization. And, although it cannot substitute for paucity of sex-worker activists, forming effective alliances with external social movements can help reduce the resistance of other players in civil society and state apparatuses to advancing sex-worker rights. In other words, with effective alliances, a small number of activists could achieve more than would normally be the case. Yet sex-worker union organizations have not been able to construct wider, effective alliances with feminists and labour unionists that would allow this. Activist paucity has far outweighed the

issue of whether activists as a vanguard are representative of the workers they seek to organize. Commonly, it is believed like is better suited to recruiting like in terms of gender, race and occupational identity but this has not been achieved in all cases.<sup>7</sup> The grave lack of sex-worker union activists was further highlighted by a migrant sex worker in London in 2007 commenting: 'When people deny sex work as labour it forces us to spend our time defending the existence of our work, instead of struggling for its transformation' (in IUSW 2008) because this is a good indication of the nature of one of the main battles sex-worker union activists are required to fight compared with other union activists. Not only does defending sex work become, as it were, a diversion from carrying out the desired task of fighting owners and operators but it also compels something of a *de facto* alliance with those owners and operators for defending the right to work as a sex worker necessarily supports the right of sex-worker capitalists to conduct the business of sex work (see later). Spending time arguing, as sex-worker union activists have, that not all migrant sex workers are trafficked sex workers has had the same effect.

## **Labour and product market forces**

While it is difficult to quantify changes in the level of demand for pornography and prostitution, particularly the extent to which they have been influenced by the availability of supply, expansion of the sex-work labour market would seem to have been greater than that of the paid demand for sex work. Supply seems to have outstripped demand despite commodification of sex being more common and 'normal', with the consequence that sex workers' bargaining power with owners and operators (as well as customers) over the wage-effort bargain has weakened. Within this, sex work has become deskilled for it is no longer the preserve of a socially skilled minority. Obvious phenomena are the transformation of striptease through the decline of burlesque and emergence of lapdancing or the effects of inward migration from eastern Europe, Asia and Latin American upon the labour market for prostitutes in western Europe, North America and Australasia. However, given the sectoral stratification of the sex industry, the playing out of oversupply has not been entirely uniform, especially when oversupply is not the only factor determining labour-market leverage. Other factors include strategic positioning within the organization of work and the distribution of skills (language, social, erotic). Nonetheless, the problem for sex-worker labour unionism is that it, like labour unionism *per se*, is based upon reducing levels of competition between workers while

also trying to increase the price of labour by acting as a monopsony. Additionally, within prostitution, there is the aspect of the labour market concerning forced or bonded labour as a result of trafficked migrants who are compelled by economic strictures (debt), violence and abuse, and social and physical isolation to work long hours but in servile conditions. In pornography, the clamour to 'get started', develop a portfolio and become a 'star' on the part of an abundant supply of performers has, no matter how unrealistic, depressed the price of labour despite increased demand for pornography as a result of changes in social attitudes and new technologies. The labour market for men in pornography has expanded as drugs like Viagra have allowed more to perform for the required lengths of time and in the manner desired. The proliferation of free pornography has reduced the extent of the production of paid-for pornography,<sup>8</sup> thus reducing work opportunities and the worth of the terms and conditions for these.<sup>9</sup> Within exotic dancing, the balance between fewer shifts and low earnings due to oversupply and effects of recession on demand, on the one hand, and the lure of high earnings for short periods of time, on the other, and where the balance has been towards the former, has not worked in favour of unionization projects. It is almost as if the worse earning potential becomes, the greater the lure of the big earning becomes. Dancers have often resolved this by having other jobs.

Lest it seem that owners and operators have no role in creating this oversupply, it should be noted that under the mantra of customer choice, they over-recruit in brothels and clubs, and for pornography and webcam operations. The consequence of this is enhanced inter-sex-worker competition and increased managerial power (see Aimee 2012a, Meaghan 2000, Roach 2007:120, Sanders and Hardy 2014). Only in the case of the Lusty did dancers seek to regulate this aspect of the managerial prerogative (prior to the establishment of the cooperative). Having fewer shifts than they wished lowered their income, putting them more at mercy of management, so the union sought a cap on hiring. This was at first rejected (Miss Mary Ann 1998) but partially achieved (LL Bargaining Committee 1998).

Overall, sex-worker unionism has been overwhelmed by these labour-market changes – overwhelmed by the increase in the size of the potential membership and the number of activists needed to convert this potentiality into actuality, and overwhelmed by the increase in the size of the labour force leading to a reduction in bargaining power and influence. Otherwise humdrum, conventional economic processes have undermined sex workers' ability to organize and do so effectively.

## **Social and market hierarchies**

There are profound senses of social and market hierarchies among sex workers (see also Weitzer (2009) and Mavin and Grandy (2013) specifically on dancers), manifesting themselves between and within sex workers in each sector of the sex industry. At the bottom of the 'pile' are street prostitutes (of whom those right at the bottom are often migrants) while in the middle are brothel prostitutes and exotic dancers and towards the top are high-class 'call girls', well-known porn performers and feature dancers. Within prostitution, street workers are at the 'bottom' with brothel prostitutes up from them and escorts above brothel prostitutes. In exotic dancing, 'house dancers' are at the bottom along with the touring 'road girls', 'freelancers' are further up while at the top are the 'feature dancers'. Within pornography, there are the jobbing itinerants at the bottom with the contracted stars at the top. While sex-worker activists and sex-worker union activists contest the existence of these hierarchies, seeking to erode them, they are based upon sex-worker perceptions concerning working conditions (like safety), degrees of competition with other sex workers, length of working hours, choice of customers, earnings capacity, extent of job control, and social status. The proximity to the sale of sex is often a key notion here. Closer proximity without considerable reward is regarded as undesirable. Distance from the sale of sex even without considerable rewards is still regarded as being preferable. Such hierarchies militate against the easy creation of community and common interest because it seems differing experience and material interests outweigh common experience and material interests.

## **Self-employment and market proximity**

The predominance of self-employment in the sex industry is antithetical to the traditional, semi-permanent bilateral relationship between worker and employer and upon which labour unionism conventionally depends. Often this means there is no obvious bargaining 'partner' for determining the wage-effort bargain and there is no wage as such. This tends to undermine the stimulus to collective bargaining. That sex workers as individual workers often also directly deal with their contractors, whether these be 'service providers' (e.g., porn makers or club owners) or end-users (i.e., customers), personally negotiating the terms of the exchange, is another instance of this antithesis. This should not overshadow the fact that prices, remuneration and work specifications in

much sex work, brothels and clubs most obviously, are set by operators and owners and in a uniform manner for sex workers in each establishment and sometimes within sectors. In both exotic dancing and brothel prostitution, the semblance of independence contractor status has not been able to hide *de facto* employment.<sup>10</sup> Self-employment is only truly found among prostitutes working outside institutionalized structures. The form of collective representation that would be appropriate for such sex workers is an association to regulate trade (prices in relation to acts of work) and give political voice.

### **Labour process and grievance generation**

The predominantly individualized nature of the sex-work labour process, the greater and more direct interaction with customers and the relative absence of the 'collective labourer' – collectives of workers engaged in collectively producing a good or service as a result of division of labour – present challenges for sex-worker unionization. The scale of these challenges is accentuated by the small size of many sex-work enterprises and worksites where it seems that problems can be sorted out directly, and without the need of a 'third-party'. Yet the relationship between labour and capital is not entirely informed by these parameters, with important differences between and within sectors of the sex industry in regard to sex workers' potential collective leverage. Withdrawing labour, especially through the more effective form of sit-down strikes rather than walking out the door and picketing, is available to a number of groups of sex workers (exotic dancers, brothel workers, porn performers) regardless of their independent contractor status. But as with other labourers, the effectiveness of such action can often be blunted by blackleg labour and customers using alternative services. Therefore, industrial action short of striking (work-to-rules, go-slows, overtime bans) can be lower cost, less risky and more effective action when strategically undertaken. Such collective action expresses conflicts of interest. So while Roach (2007) and Sanders and Hardy (2010, 2014), for example, recorded that many dancers reported job satisfaction, empowerment and good earnings, Barton (2002, 2006) highlighted levels of job satisfaction dropping over time and this study has highlighted a catalogue of grievances. Certain conditions are needed for grievances to emerge from dissatisfaction. Two are attributions to the agent causing the grievance and the agent who can right the wrong (see Kelly 1998). The likes of exotic dancers, brothel workers and porn performers can make these attributions in regard to owners/operators.

But having the means by which to express and prosecute grievances is a related but separate issue. Sometimes not having the ability to do so stymies grievance generation, and this is influenced by whether existing levels of job control – for example, escorts tending to have more control than brothel prostitutes – aid or undermine this.

## **Non-union collectivism**

Objectively, individual sex workers are seldom sufficiently powerful on their own to prosecute their interests against owners, operators and employers so banding together is logical. But interest representation need not necessarily take the form of unionization (Gall 2010b, 2014), highlighting in the context of few shining union exemplars non-union methods of collectivism, especially instances of sex-worker organizations that do not purport to be labour unions and are not unions. Their relationship to labour unionism (complementary, antagonistic, neutral) varied for some gave birth to unionization projects, where unionization projects failed non-union forms of representation proliferated thereafter, and union and non-union means and forms elided as labour unions were compelled to act as political unions in order to address issues of the unlawful and illegitimate nature of much sex work. Attempts to form sex workers' cooperatives were uncommon but spoke to the twin desires many sex workers have of being wage labourers and entrepreneurs. It has been difficult for cooperatives to be 'islands of socialism in seas of capitalism' because of the challenge of raising the required capital that does not cede control to an outside non-worker party, thus negating the cooperative as a worker-owned and -controlled enterprise. A more important form of non-union collectivism has been semi-spontaneous worksite action. In addition to aforementioned instances, Bruckert (2002:103) cited walkouts among dancers in Canada while Elena Jeffreys (25 August 2009) and her co-workers successfully threatened a walkout to gain a no-smoking room for themselves in their brothel, and in Sydney there were some brothel walkouts organized directly by the prostitutes themselves in the late 1980s and early 1990s (Julie Bates 3 September 2009). Although these instances are not believed to be widespread, they do indicate some sex workers seek to respond to grievances before they perish and without recourse to unionization. In these instances, unionization often seems like an additional task when resolving grievances can be achieved without doing so. While little is usually left behind in terms of power and organization, the perspective of many politically conscious sex-worker activists is more often than



not to doubt the purchase of labour unionism when sex workers already collectively organized through sex-worker rights groups *and* sex workers can achieve some gains through such semi-spontaneous actions. The force of this point is amplified by individualized strategies and tactics of resistance at the worksite (see Egan 2006:146). Exit (flight) strategies from one worksite to another are common tools (see Sanders and Hardy 2014) but are dependent upon labour-market conditions.<sup>11</sup>

## **Alliance formation**

There are potential bargaining partners for unions. These take the form of trade and interest associations within the sex industry's different sectors. Setting aside that the extent of their membership among owners and operators is far from complete and membership cannot be assumed to constitute a high degree of common interests (leading to common attitudes and behaviours), at least it can be said that capital is organized. That is a necessary but not sufficient precondition for sectoral bargaining between capital and labour. Indeed, within industrial relations, the federated organization of capital is often a stimulant to that of the other. Examples are the Lap Dancing Association (LDA) in Britain, the Adult Entertainment Association of Canada for clubs there, the Nevada Brothel Association, the Association of Club Executives (ACE) and the Adult Business Association in the United States, the Eros Association, Australian Brothel Association and state-based Adult Business Associations in Australia and the trade association in Germany, the Erotik Gewerbe Deutschland. Yet, whether because of opposition to unions on ideological and material grounds; because unions have little value to add to businesses given low memberships; or because unions are too weak in power terms to enforce compliance, capital has not been willing to enter into relationships with unions seeking to jointly regulate the sex industry.

Contrasted with the previous period (Gall 2006:89–90, 2012:34), capital has sought fewer instances of forming alliances with dancers in order to simultaneously defend their right to do business (and make profits) and the dancers' right to dance (and earn a living).<sup>12</sup> In the United States, this reflects the embedding of stripping and lapdancing in its culture as mainstream as well as antagonism with dancers over independent contractor status and stage fees. Meanwhile, in Britain there were few examples of dancers working with operators to keep clubs open as licensing laws changed. In the pornography industry in the United States, obscenity charges are not the threat they once were

and mandatory condom usage has been localized and ignored so that previous examples of worker-operator alliances were less evident. Yet in prostitution, especially where neither decriminalization or legalization exist, 'many sex workers will actually show solidarity with their employers because they are the ones who take the legal risks to allow them to work by keeping a brothel, a club or an agency' (Schaffauser 2010a).

## **Ethical capitalism**

Within sex work, there is a strain of ethical capitalism from feminist, sex radical-inspired pornographers, brothel owners and escort agencies. Perceptions among sex workers are that such operations are better places to work than most mainstream establishments. For example, Aimee (2012a) reported on a club in California owned and run by two former dancers where dancers pay house fees like independent contractors but have no schedules and dancers choose when to work albeit with the incentive of lower fees to work certain shifts. This club was a lone example of an operator creating a (non-union) form of collective representation whereby dancers and managers jointly negotiated house rules. Meanwhile, Clark-Flory (2012) highlighted condom usage at gay porn company, Anteros Media, and usage exists of the kitemark for ethical standards in porn production concerning sexual health and avoidance of duress (*The Times* 21 February 2011). However, the largest so-called ethical employer, Kink.com, proved not to be so ethical (see earlier), highlighting ethical sex-work capitalism is not a reliable substitute for unionization because of the search for profits, even though it may often be seen to be of more immediate purchase than unionization. Nonetheless, in prostitution that is not capital intensive, establishing a small brothel is not necessarily beyond the resources of all prostitutes where they wish to exercise control over their work. Similarly, porn performers can produce themselves as the costs of the technology have fallen.

## **Gender frictions**

Tensions exist between female, male and transgender sex workers.<sup>13</sup> Sex work is one of the few occupations where pay for women's labour is higher than for men's. This does not imply patriarchy but its character does flow through to sex-worker unionization. The charge from men and transgender sex workers is the forms of oppression they experience (as sex workers) are neither sufficiently recognized nor accommodated,

leading to internal disputes that see the aggrieved activists spend considerable time and effort either fighting for their position (to take on board male and transgender interests) or become worn out, disillusioned and demoralized by the extent to which such debates and arguments are seen to detract from the main work a sex-worker union should be undertaking. However, in wider numerical terms, male and transgender sex workers show lower propensity to become union members as they are harder to organize because they are disproportionately escorts using the internet with the consequence that they are rather atomized.

## **The internet**

The internet has not only become a key medium for sex workers engaging with other sex workers (along with other forms of 'new' technology like social media) but also a forum in which they can exert more control when sites are closed to non-supporters so that safe spaces are created that can aid knowledge exchange (over customers and operators) and networking (see Feldman 2014). A consequence of this phenomenon is this 'virtual' sex-worker union organizing activity has often eclipsed is variant of 'actual', physical or real-world activity. Here, 'virtual' activity is communication between sex workers and may include some relatively more passive forms of mobilization like e-petitions and email writing campaigns while 'actual' activity encompasses more active and powerful forms of mobilization like meetings that agree to engage in activities as well as the activities themselves (such as recruiting members and organizing to resolve grievances). The premium potentially attached to 'actual' activity concerns greater feelings of collectivism, stronger connections between individuals due to face-to-face contact and enhanced ability to apply pressure on owners, operators and regulatory bodies through physical presence. The premium has to be couched in terms of potentiality because there is no certainty of realization and to do otherwise would exaggerate the differences between 'virtual' and 'actual' activity as well as downplaying the complementary relationship between the two. Yet, commonly, 'virtual' activity in the form of endless on-line discussions can become almost an end in itself (*cf.* Feldman 2014).

## **Conclusion**

This chapter has considered a wide range of generalized factors and phenomena. While the existence of some aspects of these can be seen as

compelling a 'push' towards the rationality of unionization, most 'pull' away from the realization of the organizational presence of unionization. As such they have constituted significant obstacles to sex-worker unionization projects. The main purpose of the concluding chapter is to outline a possible means to overcome these obstacles.

# 9

## Conclusion

### Introduction

The increasing global dominance of neo-liberalism as a project for capital's control of politics, economy and society has been graphically illustrated in the sex industry by state-enabled ability of capital to choose to impose upon workers the practice of *de jure* self-employment, while simultaneously maintaining *de facto* control over workers as employees. Throughout the wider economy, neo-liberalism has rolled back the gains of labour unionism in achieving regularized employment. It can then be ventured sex-worker unionization projects have emerged in a particularly inauspicious period. Surveying the unionization projects, there have been three approaches to formation. While the most obvious are to join an existing union or set up a new one, the most common has been a hybrid where existing non-union collective-interest organizations have sought sponsorship and support with existing unions. The advantage of this has been to have a better chance of exerting sizeable influence on the nature of the consequent unionization while, at the same time and compared with establishing a new union, lowering the costs of unionization and gaining access to the union resources. Yet the outcomes of unionization of three approaches do not discernibly demonstrate one has been superior to another, reflecting the existence of stronger (negative) forces that influence unionization processes and outcomes. The outcomes of the approaches can be looked at several ways. First, they disintegrate and collapse or remain fragile and fail to make progress, suggesting unionization is either inappropriate *per se* or that a) the form was inappropriate or b) the time and place were inappropriate. Certainly, any of unbounded optimism (see, for example, Reed 2006:252) must now be dispensed with. It may be that more conducive regimes of regulation

are needed for the promise of unionization to be delivered upon even though obstacles have not been merely external ones. Second, despite such failures, the underlying impulse for social justice in sex work keeps compelling sex workers to try again and again to unionize so the issue is really about what is the most appropriate form of labour unionism for the particular circumstances of the sex industry. Third, unionization projects have been forced into acting similarly to their professed antithesis, namely, the political pressure and rights groups (Gall 2010a:290). Thus, they have concentrated upon political lobbying on public policy, projects of legal reform, and helping provide individualized assistance to sex workers inside and outside their worksites on health issues, criminal offences and business matters. Collective bargaining and collective representation at work over the terms of the wage-effort bargain (including job regulation) have taken a back seat. In other words, what may seem to some to be sex-worker unions are not necessarily in practice labour unions (see later). Looked at more generally, the sense of 'fight' has been limited, with strategies of 'flight' (exiting to other establishments within a sector or to a new sector as well as the sex industry itself), and 'falling in line' (whether through 'fright' or coping and managing mechanisms) evident. A 'generous' estimate of 5,000 sex-worker union members in Australia, Britain, Canada, Germany, the Netherlands, New Zealand and the United States was previously made (Gall 2007:81). Across the wider array of countries in this study, the calculation – when erring slightly on the side of generosity and recognizing difficulties in verifying figures when disputation has been present – is made of 10,000 sex workers having been members of a *bona fide* labour union since 1980. Sex-worker unionization in the global south has concerned prostitution while in the global north it has concerned prostitution, exotic dancing and pornography. Unionization projects in the global south have been no more markedly successful than those in the global north (*cf.* Hardy 2010b) when account is taken of the criterion of *bona fide* labour unionism and the outcomes gained by *bona fide* labour unionism. Indeed, while few unions as *de facto* rights and pressure groups have been as effective in influencing public policy as the Scarlet Alliance, 'unions' have been as effective as most other pressure groups in seeking to halt and delay regressive changes to regulatory regimes.

Underlying this study, and compared to earlier (Gall 2006), has been the view that sufficient time has elapsed in order to make a more definitive analysis of the fate of sex-worker unionization to date. Previous chapters concluded success has been little in evidence beyond the ability of attempts to renew the flames of organizational existence. While no

small feat in itself, this has not been sufficient to provide effective collective-interest representation. Yet judgement should still remain somewhat provisional because when looking at the progress of unionization projects of those workers with no or little previous history of collectivization, a wider time period has been used. In recognition of this, this final chapter provides a means to influence prognosis in order to complement diagnosis. As diagnosis has not suggested there is no possibility or potential of further progress to be made or that there is no utility to the overall project of sex-worker unionization, the focus is upon identifying a means that can increase the probability of progress being made. This is not a matter of scientifically working out the conditions under which greater probability can be attained. Instead, it is to reflect upon salient historical experience and suggest not only that there is a basis upon which it can be built but that there is a more efficacious *modus operandi* to be deployed. Throughout an implicit and underlying alter-factual approach has been deployed to examine why sex-worker unionization has not been more successful than it has been and under what conditions it could have been or could become more successful. This covered the critical criteria of labour unionism, namely, collectively seeking regulation of the wage-effort bargain and establish job regulation. Discussion of what conditions and resources would be necessary (without being sufficient) to produce alter-factual outcomes demonstrated a rounded attempt to explain what was and what was not. Using alter-factualism provides the basis for now outlining of a model for more efficacious sex-worker unionization. Before this proceeding to prognosis, a number of larger issues arising from the previous chapters are examined.

### **When is a union not a union?**

Although not prefixed by 'labour', often rather by 'trade', when the term 'union' is used, it is overwhelmingly and almost without exception used to denote a labour union. The criteria for what a labour union comprises was established early on because it constitutes the foundation from which to evaluate sex-worker organizing which purports itself or is purported by others to be sex-worker union organizing. This criteria did not prescribe narrow spatial dimensions such as industrial unionism based upon the fixed workplaces as per the 'factory paradigm' (Cobble 2010:280), traditional bilateral capital-labour relationships, or that particular *modus operandi* required use. Seeking to collectively regulate the wage-effort bargain and establish job regulation on terms favourable to labour was the *sine qua non* and was practised partially by a number of organizations like

CABE, GMB, Equity, LHMWU, SAA, SEIU and Ver.di. Labour unionism was contrasted with unions of citizens and political unions, namely, pressure groups, such as prostitutes' rights groups. It was also recognized that sex-worker unionization projects face contexts which other unionization projects do not, namely, sex work being deemed illegitimate work and parts of sex work being unlawful or heavily regulated in harmful ways. Consequently, there is a role for *bona fide* unions to campaign politically and use the process of political exchange in order to reform public attitudes, public policy and regulatory regimes with a view to improving sex workers' conditions and augment the basis for labour unionism. Yet any political intervention has to be anchored upon collective regulation of the wage-effort bargain (if not also establish job regulation) otherwise it fundamentally reconfigures the nature of the organization.

Taking on board the criteria and the special context, it is still apparent many of the organizations which claim – or are claimed – to be unions are not labour unions. Political campaigning as the mainstay of union activity in the context of not actively seeking to collectively regulate the terms of the wage-effort bargain (most obviously through collective bargaining) renders unionization projects as not so much political (labour) unionism but more as political unionism of particular citizens. This is not to call into question the independence of these 'unions', nor suggest they are 'yellow' ones (even though in some cases relations with owners and operators brought into question organizational independence). Moreover, examples of 'unions' that are not labour unions cannot be said to be proto-labour unions because they did not seek to have at their core the regulation of the employment relationship between capital and labour (even if they may be said to help create some of the necessary conditions for unions to exist upon through education and consciousness raising). This is not simply a result of difficulties achieving such an aim where *de jure* self-employment is rife or where sex workers are *de facto* self-employed or entrepreneurs.

The rationale for the erroneous use of the term 'union' for organizations that are not labour unions stems from definitional factors, highlighted by the writings of Lopes (2006b, 2007a).<sup>1</sup> First, organizations that campaign for sex workers' labour rights, seek to raise sex workers' consciousness as workers, and which align themselves with unions, are seen to take on the characteristics of unions. This does not make them unions as a host of radical left political groups testify to for they too carry out these activities. Second: 'most sex-worker organisations work in much the same way as unions, even if they



do not call themselves unions or are not recognised by the national and international labor movements. They do so by bringing sex workers together and mobilising and campaigning for rights' (Lopes 2006b:510). Third, in regard to the IUSW, which is not a labour union (see Gall 2006:96–102): 'We called ourselves a "union" because we realised we were a collective of workers – and a collective of workers is a union' (Lopes2007a:31). Finally, recalling Lopes's (2007a:32) extolling of individual services, collective regulation or bargaining over the wage-effort bargaining was not present. Earlier, Lopes (2006a:266–7) stated IUSW's main aim was to 'establish sex work as legitimate work' and other primary aims were decriminalization, the right to join a union, the right to be self-employed workers, an end to stigmatization, and safe workplaces. Under this definition, Lopes (2006b:510–11) included the DMSC, AMMAR and prostitutes' rights groups in Greece and Sweden. However, there are also two other factors at work. One is, as Friederike Strack (in NTUI/KWSU 2009:18) of Davida in Brazil suggested, groups choose the appellation of union as 'a means of compromise, to reduce pressure from left political parties and thus enhance spaces available to organise [in] – even if that organising was not classic trade union organising'. The other is that media have played a role in conflating the two types of organization in order to present an appealing narrative. For example, the Canadian Broadcasting Corporation (2013) in the case of an explicit sex workers' rights groups in Hamilton, Canada, was complicit in making inappropriate parallels between Big Susie's and labour unions when looking at the plight of organized labour despite saying:

It doesn't have an office, collect dues or broker negotiations between its members and their employer. Its logo – a silhouette of a corseted woman in high-heeled boots, holding an umbrella with one arm and flexing her bicep with the other – doesn't have much in common with mainstream labour organizations. And unlike unions that represent pipefitters, deli clerks or government workers, it advocates for people whose work is often regarded as illegitimate, and in some cases, illegal ... [its] aims [are] to improve working conditions for men, women and transgendered people who work in all corners of the sex industry – exotic dancers, porn actors, webcam performers, phone sex operators, dominatrices and escorts. ... At the moment, the group's main goals, is to lobby against laws and social misconceptions that, it says, discriminate against sex workers.

Ironically, all this leaves the observation of radical feminist group, Kvinnofronten (2013:18–19) not without some foundation:

Those organizations which so far have called themselves ‘unions’ for prostituted women have not actually been unions, i.e. been organizations that ‘are driven and financed by members and that act towards employers’. Lobby organizations for legalized prostitution, usually including pimps and others who want prostitution to be seen in a good light, have on the other hand often called themselves ‘unions’ for ‘sex workers’ – to make people think of prostitution as work.

Similarly, the inability of purported unions to be unions as a result of being *de facto* political pressure groups and not focusing upon collectively bargaining the terms of the wage-effort exchange (along with admitting non-sex workers to members (sex work managers, non-sex workers) and tiny memberships) has allowed radical feminist critics such as Bindel (2013), Raymond (2013), Sullivan (2007) and Ekman (2013) to make pointed criticism.

Following from this, the claim made by Hardy (2010a, 2010b), Jackson (2013:181–2) and Lopes and Webber (2013) that unions need to ‘modernize’ themselves through innovation to rise to the challenge of organizing and representing sex workers is based upon a mistaken understanding of the role and purpose – and thus attendant *modus operandi* – of labour unions. In essence, the type and form of organizing they suggest be adopted is more akin to the practice of community organizing and social movement-ism<sup>2</sup> than of community *union* organizing or social-movement *unionism* because it is not centred upon the seeking to regulate either the wage-effort bargain or the organization of work (that is, establish job regulation). To accept their argument would be to change the definition of labour unionism. The social movement unionism approach is a union-as-labour-organizing approach because it has labour unionism at its heart, seeking to bring the benefit of extra-workplace leverage to workers in the workplace in order to better regulate their terms and conditions. What a number of the aforementioned writers are suggesting is that unions should act more like small political groups of the left who either do not stand in elections or for whom standing in elections is not a main focus for their expression of political voice and desire for political change are uppermost. There is no demerit in such a strategy but to have it as the main strategy (and not a supplementary one) means that what is being suggested cannot be termed labour unionism no matter that achieving legitimacy for, and

decriminalization of, sex work are appropriate tasks and pressing goals. In sum, unions of labourers are not necessarily labour unions.

## Pessimism

Lopes and Webber (2013:5) opined: 'The development of the GMB Adult Entertainment Group [*sic*] shows that although it is not easy to organise sex workers in unions, it is possible. Despite this much of the (limited) literature on sex-worker unionising is rather pessimistic in its assessment of the possibilities and its effectiveness, yet the burgeoning of sex worker activist groups and initiatives bodes well for this group of workers.'<sup>3</sup> Along with West (2000), my earlier work (Gall 2006, 2007) was cited as evidence of this pessimism. By contrast, Hardy (2010b) was cited as 'an exception' to this pessimism. Indeed, Hardy (2010a:167) suggested, along with a few others, this earlier work (Gall 2006, 2007) was 'pessimistic about the actual and potential gains of sex worker's organisations'. This suggestion was made elsewhere:

Indeed, the general consensus about sex workers' organisations has generally been pessimistic, calling their outcomes 'uncertain or disappointing', disqualifying them from trade union status and labeling them instead as pressure groups. It is claimed that the coherence of the movement is illusory, that the movements have lacked mass bases, depending instead on lone organizers and charismatic leaders, and that they have failed to establish alliances with other labor or social movements. ... The successes of AMMAR and other organizations, such as those in India, suggest the beginnings of a third wave of sex worker organizing, which requires a reassessment of previous pessimistic conclusions. ... Thus, the tendency of commentators to find or predict failure in sex worker organizing seems premature. Such analysis has excluded the most successful examples of organizing in the Global South and is based on approaches that tend to ignore the actual structures and labor process of sex work, often reflecting ambivalence about including sex workers in labor struggles and organisations. Most of all, such analyses have often relied on outdated, static models of industrial unionism that are now frequently inappropriate not only for sex workers, but for a large proportion of workers. (Hardy 2010b:92,94,104)

In rigorous and robust research within social science, there is no room for pessimism (or optimism) because analysis should be hard-headed

enough to analyse intentions, processes and outcomes using criteria derived from concepts and theory as well as sound methodologies. This is all the more the case with the 'actual' but still also salient for the 'potential'. Sure, there can be varying interpretations but these are not a matter of either 'optimism' or 'pessimism'. Analysis does not represent a 'claim' (Hardy 2010a:179, 2010b:92). If there is a place for either optimism or pessimism, it is in policy work and political interventions resulting from research and analysis but even here it is not a straightforward matter because of an over tendency towards voluntarism among, in this regard, academics who are politically active or engaged. Thus, the characterization – sometimes accusation – of pessimism is mistaken because it speaks not to what the proffered analysis demonstrates but to an implicit perspective within such academics that simultaneously exaggerates the purchase of worker agency in times of neo-liberal dominance and the influence of analysis on the subjects of that analysis (as if they may be guided or misguided by it). Analysis of the surveying of sex-worker unionization projects here and before (Gall 2006, 2007, 2010, 2012) clearly does not arrive at conclusions that are appealing to activist-orientated academics with an overly voluntarist perspective.

In regard to Hardy's (2010a:167, 2010b) self-proclaimed 'optimism', success for AMMAR can only be couched in terms of it being a 'union of sex workers' (Hardy 2010b:167) which is not a labour union for to judge AMMAR as a *labour* union would lead to the supposedly 'pessimistic' conclusion that its actual gains (notwithstanding progress made in advancing sex workers' collective interests as an campaigning advocacy and rights group) have been slight indeed. Such writers turn Gramsci's nostrum of 'pessimism of the intellectual, optimism of the will' found in his 1929 prison letters (as per 'I'm a pessimist because of intelligence, but an optimist because of will' and 'The point of modernity is to live a life without illusions while not becoming disillusioned') into something akin to 'optimism of the intellectual and super-optimism of the will'. For example, Hardy (2010b:92) talks of 'exponential' growth in sex-worker 'organizations, collectives, and trade unions' when linear growth is more appropriate and accurate.

To judge those unions that profess to be labour unions as labour unions is not to be beholden to an outdated notion of industrial trade unionism based upon the factory (see Hardy 2010b:90). It is to insist, however, that the act of bargaining over the terms of exploitation of labour by capital is the *sine qua non* of labour unionism (even where there is no contractual employment relationship with an employer and where the normal bifurcated employment relationship becomes

trifurcated as a result of selling sexual services directly to customers). This does not prescribe the spatial context in which this happens. Moreover, the rise of 'new unionism' in Britain in the 1880s indicates, among other examples, unions have sought to organize what can be termed the 'atypical' worker. They may be slow to do so and they may not be very effective at doing so but they do (*cf.* Hardy 2010b).

The reason for Hardy's (2010b) optimism is based upon AMMAR's advances but derived from two errors. One is her definition of a labour union. AMMAR represents a form of collective labour organizing that is 'by workers, of workers and for workers' (compared with some NGOs which are for workers but not of or by workers) but it is not a union. The second is the assumption that there is a high level of generalization and applicability from AMMAR to other sex workers elsewhere. Given the specific characteristics and conditions she identified (see earlier and which include the nature of politics in Argentina and the CTA union federation), this is an illogical step to take. Indeed, she (Hardy 2010a:168) commented her self-set task was to ask 'why sex worker organising may have been more successful in Argentina than elsewhere by examining the demographic make-up of the workers and activists, the conditions in which they live and work, the challenges they have faced and the strategies they have used to overcome seemingly insurmountable obstacles'.

## Traditional ways and new challenges

A number of writers (Hardy 2010a, 2010b, Jackson 2013, Lopes and Webber 2013) have concurred with the likes of Bruckert (2002:100,159) and Egan (2006:146–7) who pronounced respectively that 'traditional forms of labour action do not always lend themselves to all labour conditions' and 'traditional labour organizing is not necessarily appropriate for this marginal, competitive, transient and stratified work' and 'dancers showed little interest in collective action. Dancers stayed clear of traditional labor actions such as striking, work stoppage and unionization ... in part due to the transitory nature of exotic dance as a profession and managerial fines'. If the approach had been that of the 'factory paradigm' such views would have merit. But matters are not that simple or straightforward. Labour unionism is often slow to develop responses to new ways in which capital restructures the contours of its employment relationship with labour. This is because labour unionism is necessarily reactive and in being so its organizational knowledge is primarily of the past, with the added disincentive to change whereby its current members' concerns and

interests are not necessarily those of its future members. Yet, even if not sufficient in extent or success, labour unions make innovative responses to such new challenges from capital. They have always done so and this seems to be somewhat forgotten. In Britain, the unionization of match girls and gas workers as part of the 'new unionism' of the 1880s, and the creation of the National Dock Labour Scheme in 1947 (which secured regular employment for dock workers) indicated unskilled workers in insecure, vulnerable and competitive employment could be unionized using certain militant tactics. Moreover, both examples indicate that what often becomes seen as conventional work – with conventional terms and conditions and working patterns – often does so because of the actions of labour unionism. More recently, 'union organizing' highlights the ability of unions to innovate. But it is also true that many of the so-called 'traditional' forms of labour action are still relevant, either as previously practised or as applied in new ways. The issue is how, where and when to apply them in order to gain leverage (as is shortly to be considered in the case of occupational unionism). The conclusion that traditional forms of labour action are not salient should not be based on the difficulties faced in creating the conditions from which such mobilizations are possible for this is not only a challenge facing many non-sex workers but also an historic and generic one.

## **Legitimatization**

Sex-worker unionization is regarded by some as problematic for it helps legitimize the sex industry and sex industry capitalists (Bindel 2003, Sullivan 2007:119, *cf.* Gall 2006:229).<sup>4</sup> But the difficulty here is the same one labour unionism faces in legitimizing capitalism by fighting within and against it in order to better the terms of the wage-effort bargain, denoting labour unionism as a social democratic strategy of reform rather than seeking to abolish the wage-effort bargain as per a revolutionary socialist strategy. Indeed, Grosz (1995:117) argued some degree of conditioning (through collusion, contamination and corruption) by an existing social system of a new emerging social system is inevitable – and this is entirely in keeping with a radical materialist analysis. Moreover, Pateman (1988:207) who argued that prostitution is not a form of labour exchange comparable to other forms of labour exchange, nonetheless, stated:

Many recent feminist discussions have argued that prostitution is merely a job of work and the prostitute is a worker like any other wage laborer. Prostitutes should, therefore, have ... union rights, and feminists often put forward proposals for workers' control of

the industry. To argue in this fashion is not necessarily to defend prostitution – one can argue for ... union rights while calling for the abolition of capitalist wage labor ... (Pateman 1988:190–1)

Reforms and means of amelioration are not to be dismissed (as Sullivan 2004, 2007 and Jeffreys 2009 do)<sup>5</sup> or ignored (as Object 2008 does)<sup>6</sup> for out of the creation of the forces capable of achieving reform comes the possibility – no matter how distant – of revolutionary transformation through a transitional means (see Gall 2006:230–4). Progressive transformation short of social revolution is far more likely to occur when derived from within the concerned sector than without. This addresses the follow-on point Pateman (1988:191) made: ‘in the absence of argument to the contrary, the implicit suggestion in many feminist discussions is that, if the prostitute is merely one worker among others, the appropriate conclusion must be that there is nothing wrong with prostitution’. Indeed, the case of AMMAR (Hardy 2010a:171) is one of campaigning for prostitute welfare and being agnostic about whether prostitutes should exist where women are not driven by economic necessity into prostitution.

### **Combining occupational and social-movement unionism**

In recognition of the ‘atypicality’ and ‘informality’ of sex work (vis-à-vis absence of defined, regular workplaces, self-employed status, peripatetic working patterns, etc.), the weakness of much nascent traditional approaches to labour unionism in the sex industry (based upon conventional bilateral capital–labour relations, fixed workplaces, and so on) and the general weakness of contemporary labour unionism itself, a two-fold approach for future sex-worker unionization projects is put forward. The first part concerns sex workers developing a more defined sense of occupational community as the basis from which can spring a form of occupational unionism (albeit the two processes may be entwined and not separate).<sup>7</sup> (A form of industrial unionism is not advocated given that not all workers in the sex industry are sex workers.) The second part concerns sex workers constructing alliances with NGOs and social movements outside their own ranks, especially as political leverage needs to be developed to influence the regulatory regimes under which sex work is governed. Neither part is a new or innovative idea or practice. For example, writing in the first issue of the IUSW’s *Respect!* (July 2000), Rona gave a flavour of this:

Yes, [sex work] is a profession – I believe a perfectly respectable profession, and should be viewed as such in the same way as a teacher,

accountant or anyone else. I believe that the first step is to obtain recognition for sex workers as legitimate workers in a legitimate industry and profession. The first move is to form a union and then press for the same rights as other workers enjoy. Alongside this would be the need to legalise prostitution and change and review all the laws associated with the sex industry, thereby raising the status of sex workers so we have the same rights and status as any other citizen. Why should the fact that I have chosen to work as a prostitute be considered any different from that of being a nurse, which I once was? There should be no social stigma attached. ... Raising the status of sex work to be a legitimate way of earning a living would enable many of the more degrading aspects, such as pimps and drugs, to be dealt with more effectively.

This paucity of new ideas and practices is because it is difficult to conceive of entirely new ways of (effective) organizing and because the historical record suggests that returning to particular pre-existing forms is potentially productive. However, if there is a degree of innovation to be identified, it is in synthesising the two. This chapter now expands upon this outline, evaluating it in terms of the combined potential of the two parts as well as their compatibility in producing this. But no matter any attested potential the approach cannot constitute a magic panacea.

## Occupations and professions

This study opened by observing that sex work is not (yet) a profession. A profession is an occupation of high influence, legitimacy and regard. It is, thus, able to regulate entry to itself as well as its own affairs through institutional ethics and registration, providing considerable autonomy in the pursuit of corporate solidarity, and, ultimately, corporate self-interest.<sup>8</sup> Achieving the status and influence of an *occupation* of skilled workers with a quasi-monopoly of knowledge and some measure of formal training, education and qualifications would be more realizable as well as sufficient to provide for the basis of generating occupational labour unionism. State licensing of occupational traits and status is not necessarily required and may erode autonomy. In essence, and in terms of the critical components of power and influence, an occupation may be seen as a much lesser profession. Nonetheless, what an occupation constitutes in terms of work and employment is a commonality of purpose, role and interest (which may or may not transcend other inter-sectional interests) giving rise to



an occupational identity. Occupations are made up of jobs where jobs represent the micro-division of labour. The immediate questions which then arise are not just about how occupations are created but how they can actively be created by those that wish to be among their number. Simply put, what is the balance between the internal (progenitor) forces and the external forces (state, government, political parties) in creating occupations? If there is a sense that the internal forces can predominate, then there may be some scope for sex workers to do so.

Diversity within an occupation is not a problem *per se* with regard to constructing an occupational community and collective control for many occupations display considerable diversity within them as a result of specialism of knowledge and divisions of labour.<sup>9</sup> Sometimes these result in specialized jobs and sometimes generalist jobs. Sex work has within it many different specialisms and skill and role subdivisions. Similarly, a diversity of organizational environment and worker experience are not barriers *per se*. The most challenging outcomes of these in the sex industry concern a) dancers eschewing sex work and being hostile to other dancers who sell sex in the clubs they work in (see also Lopes 2006a:285–6, Roach 2007:127) and b) often low levels of work attachment resulting from a transient, part-time workforce (Lopes 2006a:286, Sanders and Hardy 2014). In the more advanced economies, sex work also displays increasing forms of generalism whereby the ‘walls’ between the different sectors of the sex industry have become less significant as sex workers move across and between the sectors in search of work and income. In particular, there has been a blurring of the divide between pornography and prostitution, pornography and dancing, and dancing and prostitution (see also Bernstein 2007). In this sense, sex workers are now more multi-skilled than before. Out of this group identity and cohesion may develop to help form an occupational consciousness even if experiences are not universal and levels of work attachment uneven because a critical mass of vanguard progenitors can come into being.

The development of occupationalism requires decriminalization. Yet until the forces of sex workers are much stronger (as per an occupation or unionized occupation) they are not able to achieve decriminalization and without decriminalization they are unlikely to become stronger. This is something of a ‘Catch-22’ situation (see Gall 2006:227–8).

## Occupational unionism

Freelance and self-employed workers in entertainment are often unionized as the SAG and Equity demonstrate. So too are freelance journalists.

This suggests the issue is more about what type of unionism is appropriate and effective and not about whether unionism *per se* is appropriate or effective. Following from this, occupational unionism is a form of labour unionism potentially appropriate for building power and influence for those working within occupations characterized by peripateticism, self-employment, part-time and temporary working, work being an additional job to a main job, lone or small-group working, short-term contracts, direct involvement with customers, and no stable or permanent worksite. The aim is to organize workers at the extra-worksite level and exercise regulation over the workplace from the extra-worksite level. Cobble (1991a:421) identified four characteristics of occupational unions, namely, occupational identity, control over the labour supply in the occupation, rights and benefits as a function of occupational membership (and not workplace bargaining), and self-control over occupational performance standards.

What would the goal of occupational unionism of sex workers (or sections thereof) look like? It would be a sectoral (multi-owner/operator) agreement each for exotic dancing, brothel prostitution and pornography production, which established a floor of minimum rates, terms and conditions (including boundaries for job specifications). In turn, this would reduce the importance of labour costs as factor of competition between units of capital, compelling a focus on service quality, etc., and reduce the requirement for unions to have a high level of presence in each worksite because the scope and need for enterprise or workplace bargaining would be reduced. Of course, some degree of worksite presence would be needed to obtain a sectoral agreement and to enforce it (especially if there was no legal underpinning to the agreement) as well as to provide individual representation. Such a sectoral agreement would reduce turnover because of higher levels of work satisfaction, means for redress exist and a commonality of conditions exist across the sector.

There are potential problems for sex-worker unionization associated with occupationalism as a strategy. These revolve around the cross-class nature of the concerned social group when occupationally constituted. For example, the collective aspiration to prosper is likely to reveal differences of interests (material, power, ideology) making common interest development problematic. These differences are a vertical nature especially. Such potential problems in creating a recognized and legitimate occupation would foreground anticipation of similar problems in pursuing unionization. Most obviously, the 'right to do business' as entrepreneurs, the right of management 'to manage' and the pursuit

of libertarian individualism do not sit easily with the solidaristic and collectivist underpinnings of unionization.

### Final remarks

Like labour unionism itself, sex-worker unionism is always a work in progress in its quest for economic and social justice because of the imbalance under capitalism in terms ideology, power and material interests. Despite often dispiriting outcomes, sex-worker unionization has shown at the very least that a number of sex workers are not content to be victims of capitalism. But more importantly, what may seem like 'hoping against hope' for sex-worker unionization can be justified using the historical experience of other 'hard to organize' workers and the continuing desire among sex workers (albeit in small numbers) for collective representation. Occupational unionism has been suggested as the most effective *modus operandi* in this situation, even if it is not for all sex workers but, rather, for sections of sex workers to have their own occupational union. The perspective underlying the suggestion takes as a given it is not sufficient to believe exploitation and oppression – most ably represented in the imposed use of 'independent contractor' status – in and of themselves will lead to collective resistance and which can take the form of labour unionism. Critical consideration of the suggestion highlighted that while difficult to achieve it remains the most appropriate and effective strategy by which sex-worker unionization could develop itself, providing not just 'voice' but also leverage and efficacy.

# Appendix: Interviewees and Informants

In the list of interviewees, working names are referred to where the individual did not wish to be identified by birth or legal name. Interviews ranged from 90 minutes to 360 minutes. I am grateful to those that gave of their time, experience and knowledge. Interpretations and usage of material gained from the interviews were, of course, matters of my discretion.

## Australia

Lucy Blissbomb, sex-worker activist, Brisbane 29 August 2010.

Julie Bates, PCV and Scarlet Alliance activist, Sydney 3 September 2009.

Candi Forest, secretary, Crimson Coalition, Brisbane 1 September 2009, 17 August 2010.

Elena Jeffreys, president, Scarlett Alliance (with Eurydice Aroney, senior lecturer, University of Technology Sydney and Scarlet Alliance media advisor), Sydney 25 August 2009.

Kane Matthews, assistant general secretary, Sex Workers Union, Sydney 29 August 2009.

Louise Tarrant, general secretary, LHMWU, Sydney 25 August 2009.

Roundtable interview with Elena Jeffreys, Janelle Fawkes (CEO, Scarlet Alliance) and two anonymized sex-worker activists, Sydney 25 August 2010.

## Britain

Jewel, activist, GMB Adult Entertainment branch, Edinburgh 29 November 2012.

Michael Day, London Variety Organizer, Equity, London 22 January 2013.

Chris Millar, secretary, GMB Adult Entertainment branch, London 13 December 2007.

Nadine Stott, activist, GMB Adult Entertainment branch, Glasgow 1 November 2012.

Rachel Frost, president, GMB Adult Entertainment branch, London 17 September 2008.

Catherine Stephens, secretary, GMB Adult Entertainment branch, London 18 December 2012.

Luca Stevenson, activist, GMB Adult Entertainment branch, Glasgow 10 December 2012.

## **France**

Luca Stevenson, STRASS activist before moving to Britain, Glasgow 10 December 2012.

## **United States**

Astronima Domina, sex-worker activist, San Francisco 5 January 2009.

Barbie, sex-worker activist, New Orleans 5 January 2008.

Carol Leigh, sex-worker activist, San Francisco 5 January 2009.

Kate, D'Amado, officer, Sex Workers' Outreach Project and Sex Workers Action New York, New York 7 June 2013.

Maxine Doogan, organiser, ESPU, San Francisco 6 January 2008 (with Lisa Roellig, activist, ESPU), 8 January 2009.

Miss Muffy, board of director member, Lusty Lady, San Francisco 7 January 2008.

Pearl, lead madam, Lusty Lady, San Francisco 7 January 2009.

Slava Osowska, auxiliary ESPU and IWW activist, San Francisco 6 January 2009.

Rountable with Sienna Baskin, Lynly Egyes and Melissa Broudo, Sex Workers' Project officers, New York 6 June 2013.

Brief conversations were also conducted with an exotic dancer in the Kings' Cross area of Sydney (26 August 2009) and Jasmine, Lusty Lady support staff worker, San Francisco (6 January 2009) while the discussion at a public meeting organised by the ESPU in Oakland on 7 January 2008 called 'Sex workers emerging identities in collective organizing: past, present and future', addressed by myself and Slava Osowska, was informative. Sex worker union activists or officers who answered questions (often to follow up upon interviews) and provided other information by email were: Australia (Ruth Frenzel, Neal Swancott, both LMHWU, Elena Jeffreys, Kane Matthews), Britain (Anna Meyer, Martin Smith, Rachel Frost, Luca Stevenson, all GMB, Michael Day, Equity), France (Morgane Merteuil, STRASS general secretary,

Thierry Schaffhauser), Germany (Fabienne Freymadl, Kristina Marlen, both BeSD/PAESS), Canada (Menaka Raguparan, Annie Temple, Jody Paterson), New Zealand (Matt McCarten, Mike Treen, both Unite), and the United States (Astronima Domina, Carol Leigh, Sharon Mitchell, Slava Osowska). I am also grateful for the help received from a number of fellow academics regarding Canada (Suzanne Bouchlin, Emily van der Meulen, Chris Bruckert,), Germany (Sonja Dolinsek) and Sweden (Karin Persson Strömbäck).

# Notes

## 1 Introduction

1. For example, the liberal *Guardian* newspaper used the term to denote prostitution seven times between 2000 and 2011 while in the first issue of the IUSW journal, *Respect*, in 2000, its founders declared: 'When the oldest profession comes out ...' and sympathetic commentator, Chen (2009), wrote: 'the world's oldest profession is not a union shop. ... It may be time to start seeing the world's oldest profession in a new light'. Other examples are the *International Herald Tribune* (28 April 2004) whose article was entitled: 'Organizing the oldest profession' and *The Times* (5 March 2002) with 'Oldest profession says yes to union'.
2. Other professions may be pharmacy, veterinary medicine, psychology, nursing, librarianship, optometry and social work.
3. While sex workers have specialist knowledge, expertise and skills, the legitimacy and social worth of these are widely disputed so there is little sense sex workers could easily make the case to be termed 'sex therapists', 'sex surrogates', 'sex practitioners' or 'sex counsellors' outside their own ranks.
4. For example, Berg (2014:710) commented: 'When viewers and policymakers ... imagine that the woman on screen just happens to be filmed while participating in her usual daily activity of acrobatic sex with a lover, they may find it difficult to understand her efforts to form a union'.
5. Indeed, there is sharp contention among those that subscribe to any strand of radical political economy about whether there is a compatibility or contradiction to these. See, for example, the debate over sex work in the *International Socialism Journal*, the theoretical journal of the British Socialist Workers' Party, between 2010 and 2011 – issues 125, 127, 128, 129 and 130. See also the contribution of leading sex worker union activist, Thierry Schaffauser (2010b) to this debate.
6. This did not prove to be the case with former sex worker activist and now journalist and writer Melissa Gira Grant. She was a union member (2003–2006) and board member at the Lusty Lady as well as a 'web cam girl'. Consequently, her writings are used instead. See Shaver (2005) and Sanders (2006) on the various difficulties in conducting sex work research.
7. And, by the same token, the limitations of the research for this study are much less (*cf.* Smith 2008:780).
8. While it can be agreed that there 'is an urgent need to investigate sex worker organizations in order to improve the efficacy of sex worker activism and advocacy' (Lopes 2006a:265), the benefit of mainly sex workers doing this is overstated (see Lopes 2006a:265–66), especially as in Lopes' case she is prone to exaggeration, e.g., the IUSW has achieved 'the acceptance of sex work as legitimate employment' (Lopes 2006a:279) and 'our unionization ... [has been] ... successful' (Lopes 2006a:288).

## 2 Sex Workers before Sex Work

1. See also McNeill, M. 'Honolulu harlots' 5 July 2011, <https://maggie-mcneill.wordpress.com/2011/07/05/honolulu-harlots/> and 'The great hotel street sex strike of 1942' 12 February 2011, *Hawaiian Time Machine*, <http://hawaiiantimemachine.blogspot.co.uk/2011/02/great-hotel-street-sex-strike-of-1942.html>
2. This may or may not be the same case as cited by Hardy (2010b:91): 'In 1988, in Ecuador, the Association of Autonomous Female Workers called a sex workers' strike to protest against conditions'.
3. See Gall, G. (2006:46–64) for a consideration of these 'antecedent' organizations.
4. This is now also true for organizations that seek to help and support non-prostitute sex workers such as exotic dancers and porn actresses.
5. Lopes (2006b:510) suggested there were attempts to organize prostitutes between 1936 and 1939.

## 3 Sex-worker Union Organizing in North America

1. Comparison in regard to the porn sector would be inappropriate given the once near global domination of the San Fernando Valley in California and the traditional absence of a sizeable proportion of this sector in Canada. Similarly, comparisons between prostitution in either country would have a difficulty with the differences in law between the two federal systems.
2. For Canada, see Bouclin (2006:106), Bruckert (2002) and Bruckert *et al.* (2003:44–5) where other sex workers like those in massage parlours were paid wages and were employed (Childs *et al.* 2006).
3. They tend to be paid a flat fee with requirements about how often they dance per shift with shift lengths set.
4. Albeit, Hunt and Chamberland (2006:204) reported 'In Canada, the Service Employees International Union has identified sex workers as a group warranting a certification drive' but this has not been acted upon.
5. In addition to other cases mentioned in the study of the US, Hima B. was fired several times for organizing (see 'Testimonies and statements at San Francisco City Hall on aggressive union-busting in recent labor struggles in San Francisco and the San Francisco region, 5 December 2005' <http://www.labor.net.org/news/0000/mcgold.htm> and 'License to pimp: a conversation with filmmaker Hima B.' 12 July 2012, <http://titsandsass.com/?s=hima+b>). This experience led her to make the film *License to Pimp* about the labour relations of stripping – see <http://licensetopimp.com/story/>.
6. See also interview with one of the EDA's founders, Dawn Prassar, by Siobhan Brooks in 'Exotic Dancers' Alliance', no date, [http://foundsf.org/index.php?title=EXOTIC\\_DANCERS%27\\_ALLIANCE](http://foundsf.org/index.php?title=EXOTIC_DANCERS%27_ALLIANCE)
7. One of these posters was included in Cushing and Drescher's (2009) collection of United States union and labour posters. A later slogan of the dancers at the Lusty Lady was 'No justice, no piece'.
8. While individual dancers were involved in different sex workers' activities external to the Lusty, the feeling was that there was no official Lusty



involvement in campaigns, especially to support further unionization attempts. Pearl (interview, 7 January 2009) believed the dancers at the Lusty would have stepped up to help unionization elsewhere once it was known of, indicating a tension between the expectation of leading and the willingness to support.

9. Doogan had union experience from time spent in the construction industry.
10. A previous ballot in Berkeley in 2004 gained 36% support. There were two 'yes' Proposal K campaigns as a result of split in the original ESPU campaign.
11. Maxine Doogan, interview 6 January 2008 and email correspondence 20 August 2015.
12. In addition to the interviews carried out with some co-operators, the discussion of the Lusty is based upon previous writings by the author (Gall 2006, 2014) – and they themselves draw upon an array of other writers who often interviewed co-operators – and accounts of the history of the Lusty stimulated by its demise in 2013 by some of those that worked there or who are sex-worker activists in the United States.
13. Copy of leaflet gained from Lusty Lady, 8 January 2008.
14. Owing to the reorganization of the SEIU into super-branches, Local 790 became part of Local 1021 (which has 54,000 members in northern California).
15. Not all was well under the period of influence of the union for Brooks (2001, 2012:1–4), a dancer at the Lusty during the period of unionization, shop steward, and EDA activist was critical of the majority of dancers and the union over their attitude to racial discrimination and racial diversity. SEIU monthly dues were raised in 1997 from 1.1% to 1.2% in 1998, the first rise for eight years, with a minimum payment raised from \$5 to \$10. The chief Lusty shop steward tried to get this minimum reduced as many did not earn much as they did not do many shifts (of four hours) per week.
16. In the week of 29 July to 4 August 2013, of the 35 rostered dancers, each had between one and five shifts, with the average still being three or four.
17. Being an active dancer meant dancing one shift in every three months.
18. See 'Live nude girls say goodnight' *San Francisco Bay Guardian*, 27 August 2013.
19. The *New Yorker* (23 August 2013) reported that the lease owner denied that putting the club out of business in order to gain its business for himself in his clubs, citing continual tardiness in paying the rent and other charges, and arguing that closing the club could have been carried out years ago had that been his wish. The club believed that the lease owner was after the \$80,000 monthly revenue of the club but the lease owner contended his clubs and the Lusty constituted two different types of 'products'. The final agreement was that the club could operate until 2 September 2013 without paying rent but also as long as it vacated by then. The Lusty Lady also stated that it negotiated a lower rent with its landlord 'months ago [when a ] new lease was signed and notarized by the co-op but not immediately returned by the landlord. After a few months paying the lower rent, the landlord apparently reneged and went back to the higher rent, which the club didn't have room for in their budget' (in Dalton 2013).

20. Meantime, others had branded the club rundown. Its own general manager commented: 'the place is disgusting. It's terrible looking inside and out' (*San Francisco Guardian* 20 August 2013) while the *San Francisco Guardian* (20 August 2013) said the club was 'tawdry, dusty and faded'. My visits in 2008 and 2009 to the club, in terms of the lobby and not the booths, internal hallways or stages, confirmed this. A sense of faded glory and dejection pervaded the atmosphere, with seediness arising not from the business of the club but from the dirtiness of its interior – with this being added to by front-of-house staff seemingly rather disinterested in being there. See also the *New Yorker* (23 August 2013).
21. 'A brief history of the Lusty Lady theater' Lusty Lady, <http://www.lustyladysf.com/history/>
22. See also the *New Yorker* (12 July 2004).
23. See also Burana (2013).
24. The nearest exception was when the founder of the Good Vibrations sex shop in San Francisco sold the business to its workers in 1992. The cooperative voted to become a California corporation, doing so in 2006 and in 2007 it required an infusion of capital to stabilize its finances so as to help it overcome recent losses related to a drop in its internet sales and was subsequently sold to a company with the cooperative experiment there coming to an end. See also Comella (2010) for more on the company. It is not clear if this is the same cooperative as the Feeling Groovy one (see <https://libcom.org/library/f-cked-dildo-shop-zoe-noe>).
25. As Burana (2013) pointed out, customers did not dictate the nature of performances.
26. The club closed in 2010.
27. See 'Testimonies and statements at San Francisco City Hall' *op. cit.* note 5. The victimization also included the battle over the custody of her child.
28. 'About the EDA' EDA website, <http://exoticdancersassociation.com/EDA.html>
29. *Ibid.*
30. These numbers are derived from the average number of actors and actresses seeking HIV and STD monthly testing. However, *Date My Porn Star* (Channel 4 21 October 2013) estimated the number of actresses at 500, with these chasing the work of 50 scenes a day being shot. Slightly earlier, the Free Speech Coalition, the trade association of the adult entertainment industry and lobby group for pornographers, put the figure at 1,500 (*Guardian* 17 January 2012).
31. This problem had its parallel where attempts to create a producers' association, with a rate structure, failed.
32. In 1998, Mitchell founded AIM, an organization that provided information and STD testing to workers in adult entertainment. In 2004, it was testing 1,200 adult performers a month but, in 2011, a security breach led to over 12,000 adult performers' personal information being publicly released. A privacy breach lawsuit was filed against the institute, and it closed in May 2011. Prior to creating AIM, Mitchell was compelled to move out of mainstream 'straight' porn and into 'S&M' as a result of blacklisting as were a number of her fellow unions proponents, such as Porsche Lynne, Nina Hartley and Sharon Kane (Sharon Mitchell, email correspondence 28 March 2009).

33. See C. Jordan (2005) for the response of the Californian occupational health and safety authority.
34. Xbiz 'Mr Marcus' interviewed by Andrew, S. 4 April 2007, <http://www.xbiz.com/articles/80453>
35. The length of time between tests was reduced to two weeks in 2013.
36. See note 30 on the Free Speech Coalition.
37. Judged by its Facebook page and that its website was no longer available.
38. This does not suggest it is a cooperative. The fired performer gained an out-of-court, undisclosed settlement from Kink.com.
39. With another in late 2014 in California and Nevada (given that some production had shifted to Nevada with the introduction of mandatory condom usage).
40. 'About' APAC website <http://apac-usa.com/about/>. See also article by Stoya ('If you don't want to, say No: a porn star's guide to sexual consent' *New Statesman* 22 January 2014).
41. 'Porn vets teach "Porn 101" to aspiring stars' *Kinky* 21 January 2014, <http://kinky.com/porn-101/>
42. As a result of this, male actors are paid less than actresses and female performers, surely being one of the few instances of the reversal of the norm for gender relations under capitalism.
43. 'Porn History 101: How many porn performers does it take to start an association?' *Adult Cyber Mart*, 2011. Bill Margold ran a helpline for distressed actors (Schlosser 2004:182). He was also a director and former board member of the Free Speech Coalition.
44. BBC2 'Hardcore Profits', parts one and two, 31 August, 6 September 2009. CNBC (27 January 2014) suggested 'some performers last ... just 30 to 60 days'. Others have suggested that three years is the average for a career in porn. The *Observer* (1 September 2004) cited 'the most common career span is between six months and three years'.
45. Vivid Entertainment is one of the few companies – VCA, Wicked and Digital Playground are others – that enter into ongoing contracts (of an exclusive nature) with its actresses but it produces less than a hundred films per year. There were 23 'Vivid Girls' listed in mid-2015 on the company's website, indicating the very small numbers of performers who have contracts. After its twenty-fifth year of operation, there were just 70 'Vivid Girls' (*Adult Video News* 30 September 2009). Indeed Vivid makes only 60 films per year. In a review of Jameson (with Strauss 2004), the *Guardian* (25 August 2004) noted that those female performers who have contracts may gain between \$75,000 and \$100,000 to appear in ten films a year (at probably two to three scenes each) but they do not own any rights to their screen work, so scenes can be reused in compilations.
46. Indeed, the line between actors, on the one hand, and directors and producers, on the other, was often blurred for some actors also undertook directing and directors and producers attended some of the 2004 meetings to discuss forming a union. While this may have seemed helpful to some participants in terms of strength in numbers and industry acceptability, it came with the cost of a conflict of interests entering the discussions from the outset.
47. The introduction of mandatory condom was only within the Los Angeles County jurisdiction in 2012 so filming is either shot outside its jurisdiction

- or the stipulation is ignored. The *Guardian* (24 January 2015) reported: 'the number of permits for adult films in Los Angeles dropped dramatically, from 485 in 2012 to 40 in 2013. Meanwhile, the number of general permits for all film productions in Clark County, including Las Vegas, jumped more than 50%, from 226 in 2012 to 343 in 2013'.
48. Gray and Seeber (1996) did not consider pornography.
  49. BAYSWAN 'Bay Area Community Resources' <http://www.bayswan.org/eda-sf/resources.htm>
  50. Although it can be observed that the creation of branch 690 based on 'trade' – thus, spurning its long-held principle of industrial unionism – was a break for the IWW, it did signify recognition of the specificity of sex work and the marginalization of sex workers. However, the creation of branch 690 was an attempt to show political solidarity and to aid discussion rather than to actually organize workers. Of the move, labour activist, J.D. Crutchfield argued: 'Workers in several industries use sexuality as their primary tool, including entertainment, personal services and hospitality. Organizing all sex workers into a single union would separate them from fellow workers in those industries, isolating and weakening them ... [the move was more a political statement] about the dignity or validity of sex work' (in Schmidt 2007).
  51. Regulated brothels operate lawfully in isolated rural areas, away from the majority of Nevada's population. Prostitution is unlawful in Clark county (which contains Las Vegas), Washoe county (which contains Reno) and the capital, Carson City. Only eight counties have chosen to license brothels with 19 brothels operating. Despite the lawful option, the vast majority of prostitution in Nevada takes place unlawfully in Reno and Las Vegas.
  52. This may be why Bernstein (2007:219) talked of the 'splinter[ing]' of COYOTE into a number of more organizations.
  53. SEIU Local 790 at the Lusty did at least provide some possible pointers for others from its experience but with the proviso: 'A lot of this information won't be of much immediate help to you if the club you work for classifies its dancers as 'independent contractors' and charges its workers 'stage fees' or 'booking fees' to come to work' (<http://www.bayswan.org/EDAunionLL.html>).
  54. Interview with Barbie (5 January 2008).
  55. Whether this is true of more recent examples given the rise of social media is not clear.
  56. 'About' We Are Dancers, <http://wearedancersnyc.com/about/>
  57. The significance of the following case is that the town and the clubs were the subject of widespread national domestic publicity over the drilling boom there, whereby it was alleged dancers could earn thousands of dollars per night. In the mining and oil-drilling boomtown of Williston, North Dakota, its only two clubs (Whispers and Heartbreakers) hired as many dancers as they could, reaching a saturation point. This meant the clubs had a guaranteed income since introducing stage fees and created heightened competition between dancers for clients as the dancers sought to earn enough money to pay the stage fees and have 'take home' earnings (see Shepard 2013). The dancers that worked there were mostly itinerant workers. Despite this difficulty, some of the dancers did seek to fight back by engaging the services of a lawyer to take out a class action claiming the clubs improperly

- classified them as independent contractors in order to avoid paying them regular wages, and thus violating state and federal laws (*Williston Herald* 11 September 2014). The action sought to award the dancers for regular and overtime hours they have worked and pay interest on back wages, order the defendants to comply with wage and hour laws and prevent the clubs from retaliating against the dancers. The outcome of the case had not been reported at the time of writing of this book.
58. See <https://licensetopimp.wordpress.com/> which catalogues many of these class-action law suits in order to provide background to the campaign for dancers' rights and employed status.
  59. One was in Portland, Oregon where the dancer was deemed to be an independent contractor (*Willamette Week* 28 May 2010).
  60. Similar to the struggle of dancers to gain employed status and/or labour rights on minimum wages and ending stage fees, some lawyers (such as Overtime and Wage Collection Centre in Las Vegas) have offered to represent prostitutes in a 'no win, no fee' arrangement.
  61. The following analysis provides for a more detailed and nuanced account than was available in Gall (2006, 2012) and to do so relies heavily upon the work of Bouclin (2004a, 2004b, 2006, 2009). I am grateful for being able to benefit from her work.
  62. Around the same time, a group of dancers in Ottawa demonstrated outside city officials' homes in response to proposals to increase regulation of Ottawa's clubs. Other than a few further public demonstrations, nothing came of this in organizational terms.
  63. This exclusion of those not deemed to be of an employee status was an echo of the situation found in the United States and is not surprising given that although superior, Canadian certification or recognition law is based on that of the United States Wagner version of the National Labor Relations Act 1935.
  64. 'Sugar Bouche, the Divine Barbarian' [http://www.wetcanvas.com/web/sites/8981/cardiffpaintings/burlesque\\_3.html](http://www.wetcanvas.com/web/sites/8981/cardiffpaintings/burlesque_3.html)
  65. It is not clear whether this is the same organization as the Association for Burlesque Performers that was established in 1995 in the Toronto area (Bruckert 2002:101).
  66. It did provide the odd comment to the media though – see *London Free Press* (18 November 2011), <http://www.lfpress.com/news/canada/2011/11/18/18989411.html>
  67. The following account draws heavily upon email correspondence with Menaka Raguparan, a former EDRAC board member (7, 8 June 2015). The provision of information from Chris Buckert in corroborating this is also acknowledged (email correspondence, 4 June 2015). This account supersedes that of Gall (2012), where it was erroneously stated that the EDA had become moribund by 2004 (Gall 2012:50).
  68. See 'About us' <http://cge10.tripod.com/index.html>
  69. Some support did remain within CUPE – for example, in its Ontario section (*National Post* 9 July 2014).
  70. See 'Triple-X Workers' Solidarity Association of B.C.' <http://triple-x.org/members/index.html>

71. See 'About us' *The Naked Truth* <http://www.nakedtruth.ca/p/information.html>
72. Email correspondence, Annie Temple, *The Naked Truth*, 5 June 2015.
73. See 'Media release' SWAV, 16 March 2005, <http://www.walnet.org/csis/groups/swav/endofanera.html> for the reasons for the disbandment.
74. Email correspondence, Jody Paterson (3 June 2015). Paterson was one of the two activists, the other being Lauren Casey.
75. Email correspondence, Jody Paterson (3 June 2015).
76. 'Who we are' West Coast Cooperative of Sex Industry Professionals <http://www.wccsip.ca/whoWeAre.html>
77. A related challenge was mounted in British Columbia in 2007 but did not proceed owing to a procedural motion by the Attorney General of Canada seeking dismissal on the grounds of lack of standing of the litigants. This was upheld by the British Columbia Supreme Court in 2008, but successfully appealed in 2010. The Attorney General then appealed this decision of the British Columbia Court of Appeal to the Supreme Court of Canada, which released its decision in September 2012. It dismissed the appeal enabling the case to once again proceed in the court of first instance.
78. However, the act of selling sex for money remains not unlawful.

#### 4 Australia and New Zealand

1. Perkins and Lovejoy (2007) noted most call girls' businesses were controlled by the women themselves and often just a one-person business.
2. The Liquor, Hospitality and Miscellaneous Workers' Union (LHMWU) became the Unite Voice union in 2011. This was a name change to help rebrand the union for hospitality, care, cleaning, security, health and community workers. Formed in 1992 from a merger of the Federated Miscellaneous Workers' Union (FMWU) and Federated Liquor and Allied Industries Employees Union (FLAIEU), the Australian Liquor, Hospitality and Miscellaneous Workers Union later shortened its name to LHMU. In the history of the FMWU, there had been experience of organizing primarily female workers in areas of precarious work such as hairdressing in Tasmania and dance instructors. The LHMWU was the chosen union because it had a 'natural' claim to organize the sex industry from among existing unions because of its focus on leisure and entertainment.
3. Much of Murray's thesis is summarized in Murray (2003).
4. This is referred to in Australia as 'private contractor' status.
5. There was also a case of the union successfully supporting a BDSM worker in Canberra in 1999 in her action in a small claims court against a brothel owner for authorizing her to purchase special equipment but then not paying for it.
6. For a more detailed account of the LHMWU's activity in organizing prostitutes see Gall (2006:125–9).
7. This was Mary Ann Phoenix, a long-standing sex-worker activist and co-founder of the PCV.
8. This information comes from Candi Forest (1 September 2009) and Elena Jeffreys (25 August 2009). Magenta, the sex-worker support project for

Western Australia, also distributed a leaflet in 2004 entitled 'Union for sex workers' which laid out the arguments for joining the LHMWU.

9. The SAA was able to pass this threshold when it had, in reality, less than 50 members because it successfully argued with the AIRC that as its members needed to preserve their anonymity they should be able to use their working names and give the SAA's address as their 'care of' address.
10. Material from the AIRC website (now subsumed under the Fair Work Australia website).
11. Indeed, problems had been experienced earlier when in the Australian Capital Territory, the Registrar-General cancelled the incorporated status of the SAA in 2003.
12. At this time, Elena Jeffreys, was the Acting General Secretary and Kane Matthews the Acting Assistant General Secretary. Both became confirmed as permanent office holders prior to the disbandment of the SWU. Matthews was also an organizer for a union.
13. A compromise could not be agreed to allow to SWU to use the LHMWU without the LHMWU relinquishing its coverage.
14. The following analysis of the Scarlet Alliance is based upon Gall (2014).
15. The only possible exception to this is the New Zealand Prostitutes' Collective (NZPC) which was formed in 1987 and 'was instrumental in making decriminalization of sex work in New Zealand a reality' (Abel 2014:582). But given its small population size, unitary government structure and small geographical scale, the organizational challenges of operating in New Zealand are less than doing so in Australia.
16. In 2007, the United Sex Workers North Queensland was established in 2007. It became incorporated and began working with Crimson Coalition in Brisbane to establish a state-wide organization which was proposed to be called Sex Workers United. Following an application for incorporation, this name was rejected by the Queensland Office of Fair Trading because it was too similar to the name of the already incorporated association, United Sex Workers North Queensland. None of the organizations were attempts at being unions and are members of the Scarlet Alliance. In the case of the Crimson Coalition, it emerged out of the Brisbane-based Sexual Service Providers' Advocacy Network (SSPAN) established in 2004. SSPAN emerged from an attempt by brothel owners in Queensland to establish a collective organization for brothel prostitutes with the purpose of maintaining their independent-contractor status after a lawsuit in which a brothel prostitute was classified as an employee. The Crimson Coalition focused on sex-worker rights through peer work while the more long-standing organization, Self-Health for Queensland Workers in the Sex Industry (SQWISI) increasingly deployed sexual-health professionals. SQWISI closed in 2007 after losing its state funding. A new organization, Respect, emerged out of these various groups in 2009 (see 'About us' <http://www.respectqld.org.au/about-us>).
17. The *Guardian* (12 March 2015) quoted Patten as stating: 'sex work should be treated as any other work and this incredible over-regulation of the industry sets up an illegal industry because people can't work effectively and profitably within the rules. ... There's no reason for any of those regulations. They don't make the industry safer. They have no effect apart from the government feeling good that they're not endorsing the industry'.

18. Founded in 2013, the Australian Burlesque Association is not a union but an organization 'dedicated to the research, collection and celebration of the Burlesque performance art form throughout Australian history' (<http://www.australianburlesque.org/>).
19. See, for example, *Dominion Post* (20 September 1999).
20. The NZPC website home page, <http://www.nzpc.org.nz/index.php?page=Home>
21. *Ibid.*
22. See 'What we do' <http://www.nzpc.org.nz/index.php?page=WhatWeDo>. However, it should also be noted the NZPC provides '[i]nformation for people starting a brothel' and 'provide[s] operators of brothels with advice that explains their obligations to those sex workers who are working from their venues'. This could be seen in two lights. First, helping to create enlightened management practices which is of benefit to sex workers and/or, secondly, support for sex-industry operators, indicating that the focus upon sex workers' rights is not an exclusive one.
23. Healy was a former teacher and upon entering sex work said she was struck by the absence of a union for sex workers (Healy 2012:i).
24. Email correspondence, Matt McCarten, Unite national secretary, between 18 and 19 December 2011.
25. Email correspondence, Mike Treen, Unite national director, 9 April 2015.
26. It is unlawful for operators to fine workers for lateness, unprofessional conduct or other misdemeanours (but most operators require sex workers to buy their own clothes and accessories).
27. The Tribunal's judgment is available at <http://www.nzlii.org/cgi-bin/sino-disp/nz/cases/NZHRRT/2014/6.html?query=dml>

## 5 Germany and the Netherlands

1. See *Die Welt* (3 November 2013) <http://www.welt.de/politik/deutschland/article121480296/Augsburg-mit-hoechster-Dichte-von-Prostituierten.html>
2. There may be one exception to this for Bouclin (2004b:74, note 78) stated: 'In Germany, dancers organized under the Median Trade Union'. What she meant by this was that IG Medien, the union for journalists and artists, among others, organized some exotic dancers (confirmed by email correspondence with Suzanne Bouclin, 2 June 2015) but no information to clarify or substantiate this could be found either from internet searches or contact with German sex workers.
3. See Ver.di website, 'Unity Means Strength' (n.d.) [http://international.verdi.de/ver.di\\_fremdsprachig/was\\_ist\\_ver.di\\_-\\_eine\\_einfuehrung\\_auf\\_englisch](http://international.verdi.de/ver.di_fremdsprachig/was_ist_ver.di_-_eine_einfuehrung_auf_englisch)
4. Very few are employed – see *The Times* (28 July 2009).
5. Escort (or outcall) services exist in Germany as well but are not nearly as prevalent as they are in the US.
6. Women working in the mega-brothels are all self-employed where they are charged high rents (this being an overhang of the era of semi-criminalization when a court ruled that brothels could charge higher rent to weigh out the risk of being shut down by the police).



7. See, for example, the *Sunday Telegraph* (29 January 2015) on the case of the Augsburg brothel.
8. Sometimes it is also based upon client spending money on food, drink and forms of sexual services (which are not included in the one-off entry fee). See, for example, *Sunday Telegraph* (29 January 2015) and Channel 4's *Mega-brothel* (2 February 2015).
9. The *Sunday Telegraph* (29 January 2015) reported: 'The women working [in the Augsburg flat rate brothel] here were given strict rules: they had to be completely naked at all times. If they broke a rule, they had to pay a fine to the brothel. "The court declared all this to be legal" said Sporer, because the brothel owners had 'right of direction' over the women – as they would over any other employee".'
10. In this context, it would be erroneous to believe that some of the minor stimuli to any propensity to unionize may have declined as self-employed workers have now access to social rights and benefits (social insurance) when they pay taxes and to health insurance (even though this may be higher than for non-sex workers). Nonetheless, and looked at another way, health insurance can be gained without recourse to unionization.
11. This is as result of the federal system allowing states within Germany to act in different ways.
12. Johanna Weber, one of the founders of PAESS, commented: 'But many register as, for example, masseuses. That's ok by me, as long as they pay taxes. A large number of these women only want to do this for a short period of time. They are afraid they'll never get rid of the stigma. I can understand that this is difficult for many people. If you've got children, you don't want other kids calling them "child of a whore" in the schoolyard. It's a great burden if you can't tell your children what you do for a living, because the society in which we live won't accept your profession' (*Der Spiegel* 30 October 2013).
13. But there is an irony here in that an association of tantric sex workers, Tantric Massage Verband, took legal action in 2014 following its members being taxed by the tax authority as sex workers (which incurs a higher level of taxation). The case's origins arose in 2012 in Stuttgart and concerned earnings from a case of full tantric body massage being taxed under a 'pleasure' or 'amusement' category and, despite the legal challenge by the Tantric Massage Verband, a higher court in Berlin confirmed the ruling of the lower court in Stuttgart. This indicates that the definition of sex work in Germany is more elastic than previously thought.
14. 'A visit to one of Germany's all-you-can-fuck brothels' *Vice*, 15 July 2014, <http://www.vice.com/read/a-visit-to-one-of-germanys-all-you-can-fuck-brothels-432>
15. Email correspondence, Fabienne Freymadl of PAESS (10 June 2015).
16. *Ibid.*
17. Like the IWW in the US, the Free Workers' Union (Freie Arbeiterinnen- und Arbeiter-Union, FAU) is a small anarcho-syndicalist union in Germany which has supported the unionization of sex workers but without any positive effect.
18. The BeSD is not to be confused with the Bundesverband Sexuelle Dienstleistungen (BSD) which is a federal sexual services association,

representing brothel operators and independent sex operators and which has served the Federal Ministry of Labor and Social Affairs as an expert contact in matters of prostitution. It was founded in 2002.

19. 'Background' PAESS website <http://berufsverband-sexarbeit.de/en/background/>
20. 'Statute' PAESS website <http://berufsverband-sexarbeit.de/en/statute/>
21. *Ibid.* See also <http://berufsverband-sexarbeit.de/en/topics/projects/>
22. PAESS website <http://berufsverband-sexarbeit.de/en/statute/>. See also <http://berufsverband-sexarbeit.de/en/topics/projects/>
23. Email correspondence, Fabienne Freymadl of PAESS (10 June 2015).
24. The website of the Federal Association of Sexual Services, <http://www.bsd-ev.info/verein.html>
25. 'What is Bufas?' <http://bufas.net/>
26. See Gall (2006:135–7) for more detail on the history of the relationship between the Red Thread and the FNV.
27. Sietske Altink was a main player in the Red Thread.
28. This section is mainly based upon the report of Altink (2013). It draws upon the work of Altink and Bokelman (2006), a government commissioned report from the Red Thread drawing upon its presence in the field.
29. This section is mainly based upon the report of Altink (2013) which in turns draws upon Altink and Bokelman (2006).
30. Raymond (2013:113) noted the Red Thread worked with brothel owners to campaign against closures of brothels.
31. Raymond (2013:83, 143) cited that the RTu had 100 members providing the citation of <https://www.rnw.org/article%20/legalised-prostitution-dying-trade>. However, this page was no longer live with the nearest being <https://www.rnw.org/archive/legalised-prostitution-dying-trade> but it did not mention a figure for membership. A more reliable source is Gall (2006:139) drawing upon the material of others. Meanwhile, Bindel (2013) alleged RTu's members were 'mainly managers and erotic dancers'.
32. In this regard, Weitzer (2012:154,166) recorded the marginalization of sex workers' rights groups in Netherlands since 2000 due to cold shouldering and reduction in funding as a result of a change in perspective of government (although the Red Thread was given funding in 2005 to conduct a study that showed working conditions had not shown any marked improved since legalization).
33. 'Dutch prostitutes seek "football pension"' *BBC News*, 17 December 2013 <http://www.bbc.com/news/world-europe-25413508>
34. Research based upon interviews with 354 prostitutes (and 49 brothel owners). Even though most were self-employed, the prostitutes were subject to working hours, house rules and charges determined by operators/employers. In the situation of loss of earnings, independence and anonymity, only 10% reported they would prefer to be employed.
35. As they may still be subject to regulation by owners and operators, thus, curtailing their independence.
36. Mistakes do happen, however. In Britain, the GMB's sex-worker branch membership list was published online, showing names and addresses in 2005.

## 6 Britain and Continental Europe

1. Both the IUSW and the Scarlet Alliance (see before) have engaged in the protection and advancement of sex workers' collective interests on an international basis through international exchange of advice and information, messages of solidarity and acts of support by organizing and attending demonstrations and conferences. Jenn Clamen was the IUSW representative in Canada, having moved from Britain, but decided that the situation in Canada required its own form of domestic organization there (see Clamen *et al.* 2013 and Lopes 2006a:274).
2. See Gall (2006:96–102) for a more detailed account of the genesis of the ISUW and GMB Adult Entertainment branch. See also Lopes (2006a, 2006c, 2007a, 2007b), Lopes and Clamen (2004) and Bindel (2013).
3. Lopes and Macrae (2003) put the figure at '150 members' by mid-2003. Consequently, Gallin (2003) also cites the figure of 150 but attributes this as IUSW membership.
4. Conroy was also quoted by libcom (21 January 2006) as saying the GMB had between '2,000 and 3,000 members' (<https://libcom.org/news/article.php/gmb-sex-workers-unfair-210106>) and by Cybercast New Service ('British labor union organizing sex industry workers' 19 January 2006, <http://cnsnews.com/news/article/british-labor-union-organizing-sex-industry-workers>).
5. Interview, Chris Millar 13 December 2007. The IUSW is a *de facto* network of activists and supporters and not a membership-based organization *per se* (Catherine Stephens, interview 18 September 2012, see also Elliot (2014) which comprises a roundtable discussion between herself, Julie Bindel and Douglas Fox). This made it quite a 'disparate group' (interview, Chris Millar, 13 December 2007). That said, Millar (2004:26) put GMB branch at 'over a hundred members' while 'the IUSW collective, wh[ic]h is entirely separate from the GMB [branch], has over 300 members'. However, IUSW membership was reported to be at 100 several years later (*Morning Star* 5, 8 August 2008). By 2014, its membership was just ten – as reported to the Northern Irish Justice Committee of the Northern Ireland Assembly by Laura Lee, a Glasgow-based IUSW spokesperson (see BBC <http://www.bbc.co.uk/democracylive/northern-ireland-25770054>).
6. Interview, Chris Millar 13 December 2007.
7. See Elliot (2014) for more on this.
8. *Time Out* (12 March 2013) reported that in London, the centre of the sex industry in Britain, 80–90% of sex workers are migrants.
9. The GMB sought to use its lobbying influence in terms of ensuring desired outcomes from the licensing system for clubs. The attempt to establish minimum standards was also to prevent undercutting by the entry into the market of so-called 'cowboy' competitors which would be of use to the GMB and existing clubs.
10. One of the outputs of their research project was <http://www.dancersinfo.co.uk/>, a site of information for dancers about self-employment rights, safety at work and taxation matters.

11. Minutes of side meeting 'What could unions do to protect workers in the sex industry?' ILO Building, Room IX, 8 June 2006, Geneva. The meeting was convened by the FNV, GMB and Ver.di unions.
12. The approach of an employer/operator also helps explain the creation of a unionized brothel in Stoke in 2003 (see Gall 2012:41–2).
13. This was confirmed by Chris Millar (13 December 2007).
14. *TUC Directory* 2014, p35, where the figures are of 2013, [https://www.tuc.org.uk/sites/default/files/TUC\\_Directory\\_2014\\_Digital\\_Version\\_Full\\_AW.pdf](https://www.tuc.org.uk/sites/default/files/TUC_Directory_2014_Digital_Version_Full_AW.pdf)
15. Some limited unionization of nude art models has taken place in the United States in 2002 (Gall 2006:183–4). The successful certification election stimulated a number of others ('Picking up the pace' *AFSCME WORKS Magazine*, September/October 2003).
16. See *Guardian* (11 December 2010), *Hackney Gazette* (10 December 2010) and *Hackney News* (11 December 2010).
17. Sanders and Hardy (2010) reported 24% of dancers were in higher or further education.
18. Most sex workers in Britain were shown not to be trafficked (Mai 2011, see also *Guardian* 20 October 2009, 19 August 2010). This means that most sex workers decide freely within the set bounds of a heavily gendered market economy system where and when to exchange their labour for money. Unlike unfree or bonded labour like slaves, this provides the basis for a union to collectively contest the conditions and terms of this exchange.
19. The LDA was established in 2008 and represented around a third of the 300-odd clubs in Britain.
20. Using the dancers in this way combined the interests of the clubs, forming an alliance with those who did not wish to be effectively classified as 'sex workers' performing 'sex work'.
21. Earlier, Spearmint Rhino successfully challenged its obligation to pay VAT on its financial transactions with the effect that dancers are liable to pay the VAT (*Independent* 21 August 2007), further highlighting their position in law as independent contractors.
22. The continuation of the agreement was brought into doubt by the lack of national and branch resources to service the members there.
23. The departure of some six branch secretaries and branch presidents between 2003 and 2010 are examples of this. The reasons for departures were varied but underlying some of them was a common theme of leaving the sex industry for personal reasons, namely, being in relationships with non-sex workers where sex work was not regarded as suggested by the sex-work discourse. The leadership of both the IUSW and GMB branch is now provided by Catherine Stephens. In this regard, it is also worth noting that she is heavily active within the union's LGBT (GMB Shout!) and women's (GMB Sisters) groups. This has led to a considerable splitting of her time and resources between contending activities, where the IUSW outweighs the GMB branch. Prior to her involvement in sex worker activism, Stephens was an environmental and community campaigner for over a decade. Other activists in the GMB branch often had a left or anarchist political upbringing or history.
24. See, for example, *Sunday Sun* (25 June 2007). Fox subsequently left both the IUSW and GMB.

25. The criticism of the presence of managers/operators in the IUSW rather missed the point because it is not a union. In regard to the GMB, the issue is not that the managers can be GMB members but that they should not be in the same branch as those they manage. It, however, reflects the situation when a union is a nascent one for the sector concerned, and one of the ways it tried to get a foothold in the sector from a position of weakness was to work with employers and operators on common interests. Ironically, the inclusion of managers was decided upon in order to be as broad and inclusive as possible while not expecting managers to take up membership.
26. Although most of these have not come from the major sub-groups among sex workers, that is they have come from phone sex, male escorting and dominatrix, this does not appear to have influenced the nature of the problem or help create it.
27. Figures from annual *TUC Directory*. Prior to 2005, membership had been falling from 0.718m to 0.692m in 2001 to 0.6m in 2004.
28. Given that the IUSW and GMB Adult Entertainment branch are mainly London-based, it is important to note that Paul Kenny was the GMB London regional secretary from 1991 before becoming acting general secretary and then general secretary from 2005. Thus, Kenny has been an important and supportive figure (see also Lopes and Clamen 2004:47) and key personnel such as Martin Smith, the then London-region organizer who oversaw the entry of the IUSW into the GMB as the GMB Adult Entertainment branch, became the GMB National Organiser in charge of implementing 'GMB@work'. Anna Meyer was the GMB London officer responsible for looking after the branch from 2006. Prior to this, it was Martin Smith. The London-region secretary after Kenny was Ed Blissett (until 2009) who was also supportive of sex workers' rights as workers (see *Morning Star* 17 January 2006).
29. The one exception was when the branch secretary stopped working and used his own savings to allow the role to be carried out full-time for a year.
30. For a long time in the 2000s and given the hostility of dancers to be classified as sex workers, there was a combination of Ana Lopes trying to recruit dancers, the GMB having only one dancer activist and a key IUSW dancer activist in Scotland not joining the GMB.
31. The research was carried out by Teela Sanders and National Ugly Mugs (*Guardian* 27 February 2015). Those that responded were not trafficked or coerced into sex work but had 'freely' chosen it. Where there was coercion, it was of an economic nature.
32. This figure is derived from calculations using Adult Work (see *Weekly Worker* 24 October 2013, 16 October 2014).
33. Webber (2012:55, 57) found most members joined not for reasons of representation at work (whether including collective bargaining or not) but for reasons of gaining voice for the promulgation of the sex-work discourse as legitimate.
34. Thierry Schaffauser, email correspondence, 22 September 2009.
35. The number of activists was 15 in 2012 (Webber 2012:71).
36. Schaffauser (2011a) stated: 'We decided to have a free rate membership for sex workers to be the most inclusive'.
37. Schaffauser was also active within STRASS from 2009, as its management board member responsible for international relations, before moving back

- to France. This method of recruitment was confirmed by Luca Stevenson (interview 10 December 2012).
38. Merteuil had an anarchist political background (*Guardian* 25 September 2012).
  39. The Women's Secretariat of the CCOO organized the 'Seminar on civil rights for female and male workers in the sex industry' on 26 May 2005 (see *International Union Rights*, 2005, 12/4:18–19).
  40. See 'Prostitutes in Spain form country's first sex worker union and register to pay taxes' *Opposing Views*, 16 January 2014 <http://www.opposingviews.com/i/society/prostitutes-spain-form-countrys-first-sex-worker-union-and-register-pay-taxes>
  41. See 'Ibiza's sex workers have formed Spain's first prostitution union' *Vice*, 22 January 2014 <http://www.vice.com/read/ibiza-sex-workers-have-formed-spains-first-prostitution-union>
  42. One of the founders of the Rose Alliance and long-standing sex worker rights activist, Pye Jakobsson, was a co-operator in a cooperative strip club in Stockholm (Bernstein 2007:87).
  43. For a comparison of the contrasting positions of the British TUC and Swedish LO on sex work, see Persson Strömbäck (2012).
  44. Email correspondence, Karin Persson-Stromback, 15 July 2015.
  45. 'On PION' PION website, [http://www.pion-norge.no/pion/om\\_pion.php](http://www.pion-norge.no/pion/om_pion.php)
  46. 'Name of association' SALLI website, <http://web.archive.org/web/20080101163325/http://www.salli.org/english/association/name.html>
  47. See, for example, *Associated Press* (20 January 2010), *Huffington Post* (22 March 2010) and *International Business Times* (26 October 2012).
  48. 'Who we are' SWAI website, <http://sexworkersallianceireland.org/who-we-are/>
  49. The *Sunday Independent* (17 July 2005) mentioned the 'their very own union (ISWU)' but this was a reference to the IUSW albeit an incorrectly specified one. Similar to Britain, most sex workers were reported to be not forcefully trafficked (*Sunday Independent* 5 September 2010).

## 7 Africa, Latin America and Asia

1. The NTUI/KWSU (2009:14) reported one of SACCAWU's organizers had pledged to organize sex workers but had not yet implemented this.
2. It was also reported by this newspaper at this time that unionization and decriminalization were interim positions for 'COSATU hopes sex work will die a natural death as "the struggle for socialism to change social and economic conditions as well as mindsets will eliminate the excesses of sex work and in the long run eliminate (it) in our society"'.
3. An organization called the Exotic Dancer Association of South Africa was reported to exist (*Cape Times* 19 May 2009).
4. See 'Our history' Unidas en la Esperanza, <http://redtrasex.org/-Paraguay,30-.html?lang=en>
5. The Sex Workers Forum Kerala has wrongly being characterized on occasion as the Kerala Sex Workers' Union.
6. 'Introduction' KSWU website, [http://sexworkersunion.in/?page\\_id=2](http://sexworkersunion.in/?page_id=2)

7. 'We believe' KSWU website, [http://sexworkersunion.in/?page\\_id=317](http://sexworkersunion.in/?page_id=317)
8. 'FAQ' KSWU website, [http://sexworkersunion.in/?page\\_id=13](http://sexworkersunion.in/?page_id=13)
9. *Ibid.*
10. The literal translation is the 'unstoppable women's synthesis committee'.
11. International Prostitutes' Collective 'India: Sex workers demand rights' 28 March 2012, <http://prostitutescollective.net/2012/03/28/india-sex-workers-demand-rights-2/>
12. Thus, other commentators like the *Press Trust of India* (17 February 2000), *Times of India* (18 March 2001), Gallin (2003) and Shah (2003) were wrong to call it a 'union'.
13. 'Profile' DMSC website, <http://durbar.org/html/profile.aspx>
14. This is believed to be the same organization as the Sex Workers Union of Toul Kork.
15. See Cambodian Prostitutes' Union, <http://www.cwdagency.org/cpu>
16. *Ibid.*
17. See 'About us' Zi Teng, [http://www.ziteng.org.hk/aboutus/aboutus\\_e.html](http://www.ziteng.org.hk/aboutus/aboutus_e.html)
18. See press release 17 April 1999, <http://www.bayswan.org/taipei.html>

## 8 Influences on Unionization

1. However, this point of self-agency can be over-laboured given the limited numbers affected and that their public representatives have not always been sex workers and when it is recalled that many sex-worker rights groups are also not led or staffed by sex workers, namely, former sex workers.
2. Gira Grant (2014) does not make the case for unionization (or associations or guilds).
3. This consideration responds to Majic (2008:562) who highlighted the limited examination of the impact of gender bias in sex-work unions in Gall (2006).
4. Ironically, the experience of established Australian and British unions to the entry of sex-worker activist into their ranks indicated the sex-worker mantra of 'nothing about us without us' took the form of activists making inappropriate and excessive demands upon unions' resources. Making such demands has also been facilitated by the relatively high educational qualifications of activists.
5. See Scoular (2010) on this debate.
6. Some also proffered that LGBT sex-worker union activists performing heterosexual sex work more easily allowed protecting the personal sphere.
7. The issue of potential goal dissonance comes afterwards. In the case of dancers, most sex-worker union activists have favoured employed status while many dancers did not because of the potential to reduce earnings.
8. Notwithstanding that much free pornography is derived from the production of paid-for pornography (whereby the challenge for the producers is to use free viewing to induce paid-for viewing).
9. See, for example, *Guardian* (6 June 2012, 16 November 2012).
10. Risk is also absent and like other workers, sex workers seldom used their own equipment to work.
11. Moving from prostitution into BDSM is reported to be common for dominatrices can exercise more control over their clients and their own working lives.

12. This contrasted with the view of Egan *et al.* (2006:xxv): 'Given the opposition to the very existence of strip clubs in many locales, fighting simply to stay in business may take precedence among exotic dancers over more specific battles for labor rights or critiques of gender inequality.'
13. With regard to Gall (2006), Elias (2007:275) noted lack of consideration of how genderized relations in sex work conditioned sex-worker unionization (2006) while Aldred (2007) highlighted the limited examination of male sex workers. This section, drawing on the previous chapters, is an acknowledgment of and response to this.

## 9 Conclusion

1. Seldom has the correct precision of terminology been deployed. One instance was van der Meulen (2014): 'Sex workers in Canada have made attempts to organize with labour unions and create independent associations, such as the former Canadian Association for Burlesque Entertainers and Canadian Guild for Erotic Labour. Decriminalizing the sex industry supports and encourages a variety of labour-related initiatives.'
2. The example of the National Domestic Workers Alliance (NDWA) which calls itself a 'voice for dignity and fairness for the millions of domestic workers in the United States, most of whom are women' comes to mind. Founded in 2007, it works for 'the respect, recognition, and inclusion in labor protections for domestic workers'. As a national alliance, it has 48 affiliate organizations of over 20,000 nannies, housekeepers, and caregivers for the elderly in 36 cities and 16 states. It works with a broad range of groups and individuals to build state, regional, and national campaigns for change, asserting that domestic work is an act of caring, is real work and domestic workers are denied basic labour rights (see <http://www.domesticworkers.org/who-we-are>).
3. This is highly ironic given the material Webber (2012) furnishes on the difficulties (internal and external) in her discussion of the GMB and STRASS.
4. At the 2006 Feminist Fightback conference in London, Carolyn Leckie, then Scottish Socialist Party MSP, claimed that 'doubling someone's wages for a blow job' was not real liberation for women. Later, she wrote: 'Let's be clear about what organisation on a trade union basis is – collective bargaining for better rates for blow jobs' (*Morning Star* 1 March 2007). Her argument was that this legitimized prostitution when prostitution was "abuse in exchange for payment" jobs' (*Morning Star* 1 March 2007).
5. Sullivan (2004:252, 2007:118) does not – or cannot – acknowledge that regulation of the health and safety of prostitution through occupational health and safety or labour unions – or a combination of both – can help reduce risk and harm emanating from clients in terms of gender violence and male power to use her feminist nomenclature. Jeffreys (2009) does not or cannot even consider the possibility.
6. This report on lapdancing licensing ignored attempts at regulation by the GMB and Equity.
7. The idea of occupational unionism was earlier raised in the short *An Agency of Their Own: sex-worker union organizing* (Gall 2012). It was aimed at sex-worker activists, sex-worker union activists and union activists (for which it was



taken as such – see Fox (2012), Newman (2012) and Wells (2012)). Given the intended audience, there was no more than a cursory recapitulation of the sex-work discourse (*cf.* Ewington 2013 with Majic 2013).

8. Professional associations for sex therapists exist in the United States, such as the Association of Sexual Energy Professionals (ASEP), founded in 2006, and the American Association of Sexuality Educators, Counselors and Therapists (AASECT), founded in 1967. There does not appear to be any possibility of aligning with these in pursuit of forming a sex-work occupation.
9. This makes the pursuit of sex work as a trade unlikely for trades are less heterogeneous. Sex work sometimes being referred as the 'skin' or 'flesh' trade is of no great relevance here.

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