

Regulating Prostitution

19th-21st centuries

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Abstract

Regulationism is a system of state control of prostitution (brothels, the registration of prostitutes, medical check-ups, police controls) introduced in France from 1800, which spread throughout Europe in the nineteenth century under the title “French System” but was gradually abolished between the end of the nineteenth century and the middle of the twentieth century under pressure from abolitionism and the struggle against the white slave trade. It was succeeded by neo-regulationism.

Article

From 1800 onwards, the Consulate in France gradually imposed a system of toleration known as regulationism: prostitution was tolerated as long as it complied with the rules imposed by the state; it was controlled by a *police des mœurs* (“vice squad,” literally “police of morals”) created for this purpose. To ban prostitution did not seem viable: it was a “necessary evil,” a safety valve for built-up semen, a regulator of sex and order. This definition, which dates back to Saint Augustine (*De Ordine*, 386) is common to all of Europe. In 1836 it found its theorist in Alexandre Parent-Duchâtelet (the author of *De la Prostitution dans la ville de Paris, considérée sous le rapport de l'hygiène publique, de la morale et de l'administration*). Applying the sexual double standards of the day, this medical officer stigmatised prostitutes but declared them essential for the learning of masculinity and its sociability. At no point, therefore, was the client troubled by the authorities.

According to regulationism, prostitutes, if they were single and had reached the age of majority, could work at home or in brothels—luxury or low class—identified by a large number on their facade. These tolerated establishments (*maisons de tolérance*) were run by women who kept a register of “their girls” (hence the French term “*tenancière*”) and monitored activities in the bedroom to prevent “depravity.” Prostitutes were controlled by being registered at the police headquarters. These “enrolled girls” (*filles inscrites*) or “subjected girls” (*filles soumises*) were forced to have medical examinations, at their own expense, in order to achieve the prophylactic objective of regulationism, a symptom of European syphilophobia. If found to be infected, they were treated in prison-hospitals like Saint-Lazare in Paris. The *police des mœurs* tracked down unregistered prostitutes (*insoumises*); they were arrested, incarcerated and registered.

The French model spread throughout Europe; it first expanded in the wake of Napoleonic conquest, but when the Empire collapsed the restored sovereign states did not overturn this system, known precisely as the French system. It was freely adopted by countries with very different political systems, with slight variations from place to place when it came to the prioritisation of aims (public health, morality, policing), the allocation of authority (national, regional, municipal) and the chronology of its introduction. Geneva, at that time French, established regulationism from the start of the century, and Switzerland soon followed its example: brothels were set up (Zurich, 1840, Basel 1873), sanitary checks introduced and sentences of four months in prison handed out for the

incitement to debauchery, although the act of procuring prostitutes was rarely prosecuted. Homosexual prostitution, meanwhile, was considered a crime against morality. In 1843, Tsarist Russia legalised brothels and prostitution was regulated by the medical department of Internal Affairs. This medical dimension was fundamental in the context of Europe-wide syphilophobia; underpinned by medical discourse, the pretext of prophylaxis was used to carry out a harsh repression of clandestine prostitution. The main Russian cities set up medico-police committees, and reinforced the control of prostitutes by issuing them with yellow (health) cards. In fact, many police officers and pimps exploited prostitutes—some under-age—in spite of the law. In England, from 1866, the French system only applied to ports and garrison towns; in 1869 the Contagious Diseases Act imposed it throughout the country. In Spain, officially abolitionist for the last two centuries, regulationism was first adopted by the biggest cities (Zaragoza in 1845, Madrid in 1847). During the *Bienio progresista* (“progressive two-years,” 1854-1856) this system was extended through municipal decisions and, finally, legislation in 1907-1908 applied it to the whole country. The system in unified Italy was similar, especially when it came to its prophylactic objectives. In the German Empire the situation varied from place to place: a ban on brothels in Berlin and Munich combined with police controls and health checks for registered prostitutes; brothels in Bremen, Stuttgart and Hamburg. Prostitutes who did not respect local laws for “the protection of health, public order and decency” were prosecuted. In fact, German regulationism, very similar to the French system, was rather ineffective: the majority of prostitutes were not registered.

Regulationism endured for a long time, despite being under attack by abolitionism from the mid-nineteenth century: Revolutionary France did not concern itself with these people without rights, and neither the short-lived Second Republic nor the Third Republic extended the principles of liberty, equality and fraternity to prostitutes. Russia reduced regulationism in 1909, and the Russian Revolution saw the abandonment of this system, denounced as one of the expressions of capitalism. In its original form, regulationism was in most cases phased out gradually (England in 1886, Lugano in 1886, Lausanne in 1899 and Republican Spain in 1935 before it was reinstated by Franco until 1962). While the First World War contributed to the perpetuation of regulationism through the creation of military brothels reserved for soldiers, the French system disappeared in the aftermath of the Second World War (it was abolished in metropolitan France in 1946, but remained in use to control colonial prostitution) with only a few exceptions (Italy 1958, Spain: 1956 ban fully implemented 1962,). Since the end of the twentieth century, however, the reopening of brothels has regularly been suggested or put into practice: a return to regulationism (Austria, Catalonia, Denmark, Greece), laxity and corruption (Cyprus: “artists visas” encouraging prostitution in cabarets), and the development of neo-regulationism since the 1990s (Germany, the Netherlands). This trend is supported by prostitutes’ organisations (1985, International Committee for Prostitutes Rights, Amsterdam). Ultimately, national diversity—as reflected in the European lexicon of prostitution—and confusion prevail in the absence of a united European policy. The efforts of the European Union are mainly focussed on the struggle against human trafficking.

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