

Who do we care about? Reflections on gender and trade chains

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Synopsis

Who do 'we' care about? Do we care about the women (and men) who produce our food in Africa, who migrate to look after our elderly parents or who provide sexual entertainment? How do we care? Traditionally we have campaigned for universal human rights to protect women from exploitation. Now we campaign for fair trade in a free trade environment or for supermarkets and the National Health Service to adopt codes of conduct to regulate their activities. We do not use these strategies for women providing sex services.

Feminist legal thinking in the 'developed world' provides a range of frameworks through which to understand the relationship between gender and law. Its development has involved a sustained critique of legal rights at a theoretical level. Scholars rooted in the 'developing' world have also challenged the philosophical bases of rights while still focusing on the need for domestic legal frameworks to reflect gender equality and equal worth. In contrast the recognition of women's human rights has been at the centre of the highly successful international women's rights movement. There has been a degree of schism between theory and practice over the ways in which difference is understood and tackled within law. This paper will argue that there is a need to develop new ways of understanding the gender issues which are being created by global economic development. Are the existing frameworks for tackling issues of gender justice from a global perspective adequate?

The paper uses three examples of 'trade chains' through which to explore these issues. For the purposes of this paper, each chain originates in Africa and ends up in the UK. The first involves the supply of prepared and packaged vegetables and flowers, the second the supply of care workers and the third the supply of sex workers. The paper argues that it is important to understand the interrelationship between the market, state and family at each 'end' of the chain. States are positioned differently within the global economy yet the quest for competitiveness is mediated in part through legal measures which affect gender relations significantly. Thus in the UK competitiveness is now based on the assumption that women will work in the paid economy and that care responsibilities should be met increasingly via the market. For the purposes of competitiveness workers are required to be highly flexible. Welfare and labour laws interact to encourage attachment to the labour market but seek to support 'work/life' balances. We see the ways in which the gendered nature of the legal concepts of care and work operate. However these concepts are problematic when it comes to the provision of sexual

services, although provided through the paid market (and via non monetised relationships). Sex working is constructed primarily within criminal and to a far lesser extent welfare regulatory contexts.

The same framework of the interaction between market, state and family is then used to consider gender relationships in the developing world context. The pressure to compete in a global market is reconstructing the relationships here also. Flexibility involves the adoption of informal working within market production which challenge dominant constructions of employee/worker. The position of women within these markets is deeply affected by familial relations and the limited extent of state responsibilities in relation to labour and welfare provision and laws. Pluralist legal systems construct particular forms of gendered legal relations. Women care within familial based responsibilities. Sexual services are constructed through criminal sanctions but often closely related to the imperatives of the foreign tourist markets.

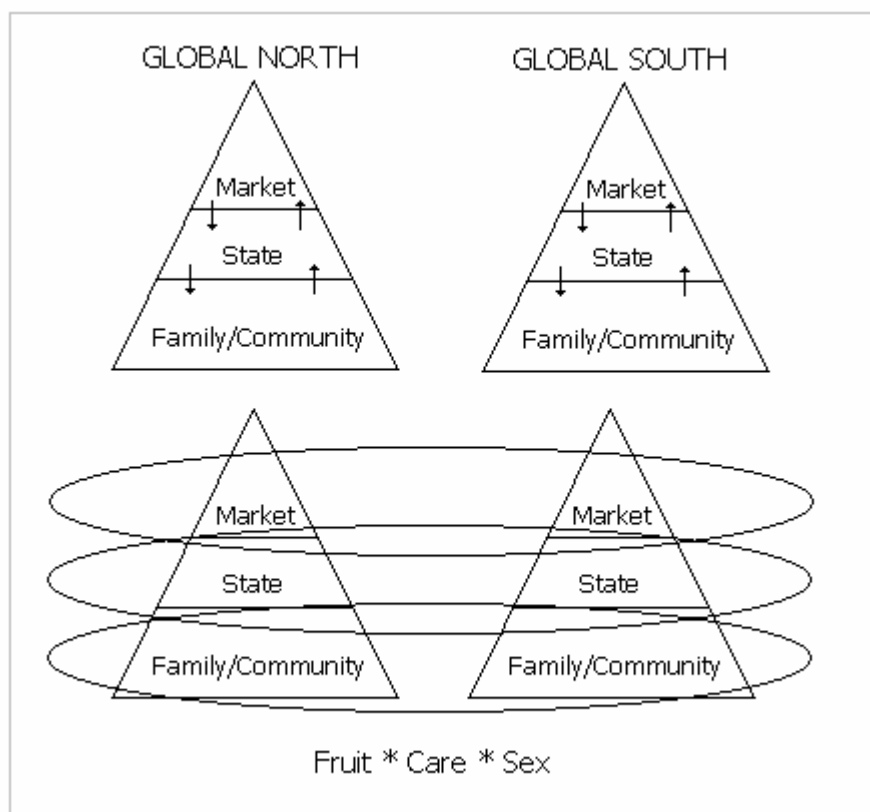
I then turn to discussion of the context of the chains. In the first, women work in their country of origin, in the other two, workers move to provide care and sex services in the UK. Once again I look at the regulatory frameworks in which the chains operate. The global market is regulated through the World Trade Organisation framework with through trade agreements relating to products (GATT) or services (GATS). Fruit is covered by the former but the extent to which (care) workers are covered by the latter (Mode 4) is presently under debate. Sex work is not recognised in this framework.

At an international state level the focus for regulatory intervention for workers has traditionally been via labour rights contained within International Labour Organisation conventions and state labour statutes. The Women's Convention and its protocol (CEDAW) provides a separate framework for non discrimination against women including access to labour markets and protections. States to a lesser or greater extent have incorporated ILO conventions in relation to gender and the CEDAW into their domestic jurisdictions. However once again the market in sexual services is constructed within different frameworks, the present dominant construction being that of regulating trafficking. It is associated with international criminal law enforcement and repatriation of illegal immigrants rather than workers' rights or protections.

The rise in global business regulation is raising challenging questions relating to international rights frameworks in relation to gender justice. While trade based organisations focus on WTO lobbying and the international Trade Union movement operates primarily within the ILO, community organisations relating to women have contributed to the creation of a separate women's rights framework. However consumer, development focused non governmental organisations and some women's work based organisations have increasingly demanded greater social accountability from the global traders, the multinational enterprises. The result is range of informal, voluntary codes of practices, ethical trading and fair trade initiatives which operate within the market context.

The paper suggests that within each of the elements of the chain, market, state and family/community, we see dominant discourses. The market is constructed on concepts of contract; the state, on concept of rights; and the family/community, on concepts of care. It moves on to discuss the feminist conception of the ethic of care and the extent to which it is possible to introduce a relational element into conceptions of rights. Care is premised on concepts of interdependence. It is not limited to our relations within the 'private/familial' sphere but covers 'everything that we do to maintain, continue, and repair our world so that we can live in it as well as possible. That world includes our bodies, our selves, and our environment' (Tronto 1993). It involves different forms of caring, caring about, taking care of, care giving and care receiving. Through the discussion of the regulatory contexts of these three care chains, I argue it can offer a good foundation for rethinking feminist legal concepts in a profoundly unequal world.

Framework for discussion of the regulatory contexts within jurisdictions and within the three global chains



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