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Source: *Ethics*, Vol. 112, No. 4 (July 2002), pp. 748-780

Published by: [The University of Chicago Press](#)

Stable URL: <http://www.jstor.org/stable/10.1086/339672>

Accessed: 02/10/2013 16:59

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# Prostitution and Sexual Autonomy: Making Sense of the Prohibition of Prostitution\*

*Scott A. Anderson*

## INTRODUCTION

By now, it is well known that prostitutes in Western nations frequently live and operate in truly disastrous conditions. These conditions are typically worst for the many economically and/or racially marginalized women who earn their livelihoods through prostitution, but many other female as well as male prostitutes suffer gravely. Prostitution is also commonly thought to harm the public health and quality of life of many others not directly active in it. The extent of these problems varies across countries, in part due to differences in the regulations and social programs that govern and buffer prostitution in the developed West. Nonetheless, prostitution presents significant social problems in virtually every Western country and society, testifying to the seeming intractability of these difficulties.<sup>1</sup>

The United States is one of the few Western nations in which all

\* For helpful feedback, I thank Leslie Francis, Mark Jenkins, Jessica Spector, and an anonymous referee. I would also like to thank audiences at the Society for Philosophy and Public Affairs, Iowa State University, and the Contemporary Philosophy and Political Theory Workshops at the University of Chicago. Special thanks go to Marcia Baron for many thoughtful suggestions, and deep gratitude for help and support goes to Martha Nussbaum, Candace Vogler, and Sarah Rose.

1. In this article, the term 'prostitution' refers to a kind of occasional, limited transaction in which a person purchases "live" physical sexual recreation from someone who provides it in order to receive tangible, nonsexual benefits as compensation, either directly from the purchaser or through an intermediate party (e.g., a pimp or procurer). Because prostitution necessarily involves at least two parties, and often a third, when this article discusses prostitution, it should be understood to include the combined activities of all of these parties and not just those of the prostitute.

*Ethics* 112 (July 2002): 748–780

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forms of prostitution are illegal almost everywhere.<sup>2</sup> Nonetheless, despite its prohibition, prostitution continues to occur widely; in fact, one might now reasonably question whether these laws have a purpose beyond simply controlling some aspects of the practice—mainly those that offend middle-class sensibilities—while underwriting a moralistic disdain for those who engage in it. Adding injury to insult, the prohibition of prostitution is widely believed to exacerbate its harms, especially in the United States. It contributes significantly to the hardships of prostitutes because it places them outside of legal protection, making them extremely vulnerable to predators who would exploit their relative powerlessness.

In the wake of these facts, liberals and radical feminists have been locked in debate about how best to respond to the problems associated with prostitution. On the liberal side, a number of authors have recently argued that we should adopt a reform program with respect to prostitution, one that would alter not just the practice and the laws that regulate it but also our attitudes toward it.<sup>3</sup> The authors in this group urge that we “normalize” prostitution, that is, treat it as just another recreation-oriented service industry. Opposing them, a number of authors often identified (by themselves and others) as “radical feminists” have attacked prostitution and the arguments in favor of its normalization.<sup>4</sup> In particular, they have spotlighted the severity of the problems

2. In contrast to most of Western Europe, prostitution is currently illegal everywhere in the United States, except for rural counties in Nevada, where it is in some places legal, though strongly regulated. The illegality of prostitution in the United States typically includes prohibitions on the sale of sexual services, the purchase of sexual services, pimping or otherwise employing others to provide sexual services, operating a business where this is known to occur, and recruiting others into the business.

3. For representations of the liberal position, I will cite Martha Nussbaum, “Whether From Reason or Prejudice: Taking Money for Bodily Services,” in her *Sex and Social Justice* (New York: Oxford University Press, 1999), pp. 276–98; Sibyl Schwarzenbach, “Contractarians and Feminists Debate Prostitution,” *New York University Review of Law and Social Change* 18 (1990–91): 103–30; and Lars Ericsson, “Charges against Prostitution: An Attempt at a Philosophical Assessment,” *Ethics* 90 (1980): 335–66. Others whom I would line up on this side of the debate include D. A. J. Richards, Kenneth Shuster, and Laurie Shrage, though her position is considerably more ambivalent than that of the others. A considerable number of prostitutes and other sex workers also have argued strongly for normalization. See, e.g., Norma Jean Almodovar, “For Their Own Good: The Results of the Prostitution Laws as Enforced by Cops, Politicians and Judges,” *Hastings Women’s Law Journal* 10 (1999): 101–15; Carol Queen, “Sex Radical Politics, Sex-Positive Feminist Thought, and Whore Stigma,” in *Whores and Other Feminists*, ed. Jill Nagle (New York: Routledge, 1997), pp. 125–35; and generally the discussions in Gail Pheterson, ed., *A Vindication of the Rights of Whores* (Seattle: Seal, 1989).

4. The position I’m identifying as “radical feminist” is so named because of the prominence among its defenders of authors such as Andrea Dworkin, Catharine MacKinnon, Kathleen Barry, Carole Pateman, Sheila Jeffreys, and Evelina Giobbe. While there are, of course, variation in their views, the position I develop out of their writings is, I

faced by women in prostitution and have tried to show that prostitution is a retrograde institution which should not be condoned but eliminated through means including (though not necessarily limited to) its legal prohibition.<sup>5</sup>

The arguments on both sides of this dispute have force but leave serious doubts. This article is motivated in part by the concern that the radical feminists have failed to explain clearly why selling sexual recreation might itself be particularly problematic—that is, why open commerce in sex would make things worse for women than they are anyway in a patriarchal, capitalist society. In light of liberal proposals to reform prostitution, it is hard to see why, if such reforms were effective, we might still reasonably object to the institution. But liberal arguments for normalizing prostitution fail, I think, to make a compelling case, in part because they fail to understand how deeply problematic sexual relations are in our society and how normalization of prostitution would tend to obscure and entrench these problems, not solve them. Thus, while they raise what appears to be a significant challenge to the feminists' arguments, this challenge can be rebutted by a careful reconstruction of the grounds of the feminists' dissent.

This article attempts to give such a reconstruction by showing how the prohibition of prostitution is of a piece with a wide range of social regulations that serve to protect sexual autonomy. Although sexual autonomy may seem far from the minds of many radical feminists, properly understood, sexual autonomy is crucial to the feminist goals of achieving women's equality with men, as well as promoting a more general form

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think, more or less consistent with and recognizable in the work of all these authors. For representative and influential examples, see Andrea Dworkin, "Prostitution and Male Supremacy," in her *Life and Death* (New York: Free Press, 1997), pp. 138–216; Catharine MacKinnon, "Prostitution and Civil Rights," *Michigan Journal of Gender and Law* 1 (1993): 13–31; Kathleen Barry, *The Prostitution of Sexuality* (New York: New York University Press, 1995); Carole Pateman, *The Sexual Contract* (Stanford, Calif.: Stanford University Press, 1988); Sheila Jeffreys, *The Idea of Prostitution* (North Melbourne: Spinifex, 1997); Evelina Giobbe, "Prostitution: Buying the Right to Rape," in *Rape and Sexual Assault III: A Research Handbook*, ed. Ann Wolbert Burgess (New York: Garland, 1991), pp. 143–60. Some disciplinary philosophers also argue in this vein, including Debra Satz, "Markets in Women's Sexual Labor," *Ethics* 106 (1995): 63–85; and Christine Overall, "What's Wrong with Prostitution? Evaluating Sex Work," *Signs* 17 (1992): 705–24.

5. A note on the terms used in this debate: virtually all commentators on prostitution favor some reform of the laws prohibiting prostitution. Some advocate what I will call the "normalization" of prostitution, which involves at least making it legal and perhaps going so far as to treat it as just another sort of commercial enterprise (though one to which age restrictions apply). Among those favoring normalization, there are debates about the best course toward normalization (e.g., legalization vs. decriminalization), but this article will not be concerned with those issues. "Normalization" is opposed in this article to "prohibition," which will describe both the status quo as well as the reform position advocated by radical feminists, who would retain and even strengthen penalties on customers and middlemen, though not, perhaps, on prostitutes themselves.

of autonomy for women. By showing how, for us, sexual autonomy depends on a range of social restrictions on our individual practices, I will set out what I take to be the strongest set of considerations in favor of prohibiting prostitution. My arguments admittedly do not show that, all things considered, the prohibition of prostitution is justified, since this stronger result would require consideration of a large number of factors, many of them empirical, which lie outside the scope of this article's purview.<sup>6</sup> But by showing the weaknesses of the reform strategy, this article undercuts one of the main motivations for normalizing prostitution.

This article outlines the radical feminist critique of prostitution and then describes how liberals have responded to this critique, in particular, the suggestion that prostitution, including our attitudes toward it, can and should be reformed. To make progress in resolving this dispute, I first step back from a narrow focus on prostitution and examine the broader role that certain social regulations of sexual behavior play in protecting individual sexual autonomy throughout our society. These regulations serve as a barrier between sexual activity and the activities of production and commerce. After showing how sexual autonomy is protected by these sorts of barriers, I return to the radical feminists' critique and argue that a prohibition on prostitution can be justified because of the role it plays in defending the sexual autonomy of the poorest, least-powerful members of our society. This is important for those people most vulnerable to becoming prostitutes, but it is also necessary in order to pursue justice between rich and poor, as well as equality between women and men.

Before proceeding, it is important to be clear about what is not up for discussion here. There are businesses that literally enslave people, or subject them to violence, abuse, threats against loved ones, deceit, gross psychological manipulation, and so forth, in order to lure or keep them in the sex trade. Moreover, some sexual commerce involves children. These sorts of business practices cannot be defended, and no one I wish to debate defends them. When these kinds of violence and gross

6. The difficulties here include the fact that what kinds of practices we legally and socially condone may affect what kinds go on beyond the bounds of legal and social legitimacy. It is not always clear, for instance, that prohibiting a practice is the most effective way to quell its occurrence overall. Some evidence about the relationship of overt social regulation to actual social practice can be gained by surveying across different societies having different legal and social norms, and comparing cases. In nn. 38 and 40, I discuss some such evidence from European countries that have regulatory regimes for prostitution rather different from that of the United States. Yet such cases can be less than conclusive due to the numerous and obvious differences that combine to make each country and culture unique. Also of concern is the cost of enforcing any policy of prohibition. For one study showing a surprisingly high cost for current prohibitions, see Julie Pearl, "The Highest Paying Customers: America's Cities and the Costs of Prostitution Control," *Hastings Law Journal* 38 (1987): 769–90.

exploitation are excluded, there remains a segment of the sex trade in which all participants appear to exercise at least some continuing, minimal level of choice to engage in this practice. It is the propriety of sexual commerce under these circumstances (or better) about which there appears to be room to disagree and which serves as my topic.<sup>7</sup>

#### AN ANALYSIS OF THE RADICAL FEMINIST CRITIQUE OF PROSTITUTION

The radical feminists' criticism of prostitution flows from their more general analysis of social relations. In the broader picture, they have sought to publicize the extent to which women are disadvantaged in contemporary Western societies, connecting these disadvantages to our sexual practices. These practices, they argue, define a hierarchy in society, thus legitimating and enforcing the subordination of women as a class. Of the sexual practices thought to have this effect, feminists frequently cite prostitution as both an indicator and cause of the subordinate state of women, even as the epitome of that subordination. Christine Overall, for instance, claims that given the interweaving of sex, money and power, "dominance and submission, oppression and victimization are necessarily built into the practice [of prostitution]."<sup>8</sup> Although this view is hardly self-evident, if Overall and others are correct in it, then we would have the beginning of a rationale for attempting to suppress prostitution on the grounds that it is an objectionable *institution*. As such, one could not accurately evaluate the choices of prostitutes or their clients by focusing narrowly on the harms or benefits that result from such choices directly. Rather, such choices may be problematic for the contribution they make to sustaining a bad institution—in this case, one that frequently harms women and reinforces their subordination to men.

In showing prostitution to be a bad institution, feminist arguments generally offer a combination of the following three kinds of claims: (1) that the good purchased from a prostitute is frequently, in part, her own degradation; (2) that the existence of prostitution depends on the existence of an inequality in social or economic power between prostitutes and their customers; and (3) that prostitution contributes to the perpetuation of the inequalities that underlie the practice.

The first claim, that prostitution involves the sale of an individual's degradation, is given a powerful voice by Andrea Dworkin, herself a

7. Please note also that the relevance of the arguments presented here may well be limited to the societies located in the developed West. In other parts of the world, the facts that would be most relevant for thinking about prostitution may be very different in both kind and substance.

8. Overall, p. 722.

survivor of prostitution. She paints a harrowing picture of prostitution as a kind of inhumane violence targeted at the female body:

I think that prostitutes experience a specific inferiority. Women in general are considered to be dirty. Most of us experience this as a metaphor . . . but a prostitute lives the reality of being the dirty woman. . . .

She is perceived as, treated as . . . vaginal slime. She is dirty; a lot of men have been there. A lot of semen, a lot of vaginal lubricant. . . . Her anus is often torn from the anal intercourse, it bleeds. Her mouth is a receptacle for semen, that is how she is perceived and treated. All women are considered dirty because of menstrual blood but she bleeds other times, other places. She bleeds because she's been hurt, she bleeds and she's got bruises on her.

When men use women in prostitution, they are expressing a pure hatred for the female body. It is as pure as anything on this earth ever is or ever has been. It is a contempt so deep, so deep, that a whole human life is reduced to a few sexual orifices, and he can do anything he wants.<sup>9</sup>

I want you to feel the delicate tissues in her body that are being misused. I want you to feel what it feels like when it happens over and over and over and over and over and over and over again: because that's what prostitution is. The repetition will kill you, even if the man doesn't.<sup>10</sup>

Although many people, including many prostitutes, deny that prostitution is always this brutal or degrading, one of the successes of feminist scholarship has been to uncover the extent of the suffering and brutalization endured by many prostitutes. These harms are far worse than attend almost any ordinary job and are arguably of a piece with rape, domestic battery, and sexual harassment.<sup>11</sup> Dworkin graphically describes the damaged body, the viscera, and the repetitive nature of prostitution in order to prevent her reader from achieving a detachment from these lived experiences or a retreat to a more abstract approach to them. The point, she claims, is that the subordination and degradation reflected in these harms are part of what men purchase in pros-

9. Dworkin, pp. 144–45.

10. *Ibid.*, p. 140.

11. *Ibid.*, p. 141. In this same vein, see Giobbe, "Prostitution"; and Beverly Balos and Mary Louise Fellows, "A Matter of Prostitution: Becoming Respectable," *New York University Law Review* 74 (1999): 1220–1303.

titution; hence, these harms are not incidental to nor easily separable from the practice of prostitution.<sup>12</sup>

A second contention holds that in prostitution, men of relative privilege and power exploit the poverty, powerlessness, and history of sexual abuse that characterize the lives of many women. Radical feminists argue that the very existence of a supply of willing prostitutes should be seen as a mark of entrenched injustice. Since no rational person would willingly be consumed as a sexual object, prostitution is necessarily a form of exploitation: its existence depends on the role social inequality plays in ensuring that the socially more powerful have access to sexual objects of their choice.<sup>13</sup> While the conditions that lead people into prostitution are not unique to women, these conditions appear to occur in a pattern that is particularly gendered, to the disadvantage of women. Women are typically poorer than men and thus more vulnerable to economic exploitation and bad bargains in employment. In prostitution, pimps or procurers capitalize on their economic and social vulnerability,

12. Feminists, radical or otherwise, have succeeded in amassing a great deal of evidence and testimony on the dire conditions in which many prostitutes live their lives—before, during, and (if they survive) after their time in prostitution. These conditions include the following nonexhaustive list. Before: sexual abuse (as children or adults), child abuse or neglect, domestic violence, drug and alcohol abuse, poverty, divorce, and racism. During: rape, assault, murder, stigma, pregnancy, sexually transmitted diseases, discriminatory legal practices, drug and alcohol abuse, pimp control/slavery, poverty, psychosocial harms (distancing, dissociation, inability to form intimate relationships), and post-traumatic stress disorder (PTSD). After: stigma, psychosocial harms (distancing, dissociation, inability to form intimate relationships), PTSD, and poor employment prospects. For some works that document and/or catalog the harms suffered by prostitutes before, during, and after prostitution, see the following sources: Vednita Carter and Evelina Giobbe, "Duet: Prostitution, Racism and Feminist Discourse," *Hastings Women's Law Journal* 10 (1999): 37–57; Melissa Farley, "Prostitution in Five Countries: Violence and Post-Traumatic Stress Disorder," *Feminism and Psychology* 8 (1998): 405–26; Ine Vanwesenbeeck, *Prostitutes' Well-Being and Risk* (Amsterdam: Vrije Universiteit Press, 1994); Susan Kay Hunter, "Prostitution Is Cruelty and Abuse to Women and Children," *Michigan Journal of Gender and Law* 1 (1993): 91–104; Margaret Baldwin, "Split at the Root: Prostitution and Feminist Discourses of Law Reform," *Yale Journal of Law and Feminism* 5 (1992): 47–120; Evelina Giobbe, "Confronting the Liberal Lies about Prostitution," in *The Sexual Liberals and the Attack on Feminism*, ed. Dorchon Leidholdt and Janice G. Raymond (New York: Pergamon, 1990), 67–81; and Barry. Many of the harms described here seem to correspond to prostitution practiced at a lower socioeconomic stratum within the domain of prostitution. For an account by a prostitute who has escaped many of these attending difficulties while earning a good living in prostitution, see the essay by Barbara [pseud.], "It's a Pleasure Doing Business with You," *Social Text* 37 (1993): 11–22.

13. See, e.g., Susanne Kappeler, "Liberals, Libertarianism, and the Liberal Arts Establishment," in Leidholdt and Raymond, eds., p. 180. To see the injustice in this, it helps to see the space of possibilities as Dworkin does when she writes, "Any man who has enough money to spend degrading a woman's life in prostitution has too much money. He doesn't need what he's got in his pocket. But there is a woman who does" (Dworkin, p. 150).



while law enforcement agencies treat them as outlaws—literally, people for whom the law’s protections do not apply. Many prostitutes have also been abused as children, and these victims of abuse often become involved in prostitution at early ages, find it difficult to quit, and frequently lack the ability to defend their interests against other opportunistic abusers.<sup>14</sup> Thus, women who become prostitutes are often subject to men’s worst treatment because those men know that prostitutes often lack the wherewithal to oppose it.

The third plank of the institutional criticism of prostitution holds that prostitution plays a key role in sustaining the social inequality of women. It does so by defining women in general as sexual objects, available to any man who desires them. One of the most obvious facts about prostitution in our society, yet perhaps the hardest to take into account, is the degree to which prostitution and prostitutes attract our interest and serve as a stimulus for talk, jokes, stories, gazes—in short, as a source of our common titillation. But the stereotypes that are conjured by our common consciousness provide images not just of prostitutes but of women more generally.<sup>15</sup> Political theorist Carole Pateman connects this demonstrative effect of prostitution to the history of women’s oppression: “When women’s bodies are on sale as commodities in the capitalist market, the terms of the original [sexual] contract cannot be forgotten; the law of male sex-right is publicly affirmed, and men gain public acknowledgment as women’s sexual masters—that is what’s wrong with prostitution.”<sup>16</sup> Prostitution thus supports a pernicious stereotype of what women are for and reinforces our society’s tendency to view women first and foremost in sexual terms.

Although this description of the radical feminists’ position is brief and lacks much of the detail and evidence in its favor, I think it describes accurately the kind of argument that they take to weigh against prostitution. These claims, if true, would together seem to give us good reason to treat prostitution as a suspect institution. Such a judgment should prompt us to examine critically the broader social structures that support the institution and the webs of choice and consequence it creates.

14. For one recitation of the exploitative background of prostitution, see the chapter on prostitution in Rosemarie Tong’s *Women, Sex, and the Law* (Totowa, N.J.: Rowman & Allanheld, 1984), esp. pp. 51–53, 59–61. For another, see Priscilla Alexander, “Prostitution: A Difficult Issue for Feminists,” in *Sex Work*, ed. Frédérique Delacoste and Priscilla Alexander (Pittsburgh: Cleis, 1987), pp. 184–214.

15. See Satz, pp. 77–81. For a similar though less well developed argument, see Overall, pp. 717–21.

16. Pateman, p. 208.

## THE LIBERAL RESPONSE: REFORM THROUGH NORMALIZATION

Liberals can easily agree with radical feminists about many of the issues involved in prostitution, including the extent to which prostitutes currently suffer, the significance of women's social and economic inferiority, and the need to improve conditions for women generally. While they also agree that the United States should revamp the laws regulating prostitution, liberals disagree most directly with radical feminists over the question of how prostitution should be regulated under the less-than-ideal circumstances that typically confront women. Radical feminists generally favor maintaining and strengthening the prohibition of prostitution; although almost all favor exempting the activities of prostitutes from legal penalties, they advocate prohibiting the activities of the middlemen and customers. By contrast, while allowing for regulations with the health and safety of prostitutes and the public in mind, liberals do not in general aim to eliminate commercial sexual recreation as a way of making a living or as a pastime for those who can afford it. They hold that even successful abolition may be only a very incomplete solution to the problems inherent in prostitution. In response to feminist arguments for prohibition, they can grant that prostitution as now practiced is a degrading institution, but they offer several rejoinders that seem to undercut calls for its prohibition. I will briefly mention two in passing and give a more extended discussion of a third.

The first rejoinder is that, even at the lowest rungs of voluntary prostitution, women still gain some benefits from it, and it may well be the best overall employment option they have. Eliminating prostitution might make things worse for the poorest women by denying them the benefits, small or large, that they gain from it. This objection may be sound, and if so, it may be decisive. If redress for women's economic conditions is not politically or otherwise feasible, we are pressed to consider what would provide the second-best, still-feasible option. The answer would depend on empirical and political facts about what would happen to those who are or might become employed in prostitution that lie beyond the scope of this article. I therefore take no stand on this objection.<sup>17</sup>

The second rejoinder notes that there is a great diversity of activity and participation within the bounds of prostitution. Even if we look just at those who become prostitutes (ignoring their customers and pimps/managers), we will find a great deal of heterogeneity among them (their genders, economic conditions, education, races, sexual histories, etc.)

17. Almodovar, former prostitute and former head of COYOTE (Call Off Your Old Tired Ethics), makes this objection forcefully (see Almodovar).

as well as significant heterogeneity in their business and sexual activities.<sup>18</sup> Therefore, it is not at all clear that prostitution amounts to a single institution; it may divide up into several institutions, which may or may not have any problematic characteristics in common. The questions raised by this challenge are difficult and interesting, but I will not attempt to answer them directly; however, some of the arguments below speak indirectly to the claim that (nearly) all forms of prostitution share an important common element.<sup>19</sup>

There is a third rejoinder that is potentially more damaging yet more amenable to a philosophical response. While the liberal respondents to radical feminism can and often do agree that prostitution is the site of many serious harms that merit social redress, what they dispute is that these harms derive specifically from the decisions of individuals to engage in *sexual commerce*, either as buyers or providers. Unless it can be made clear why *selling* sexual recreation to men contributes more to maintaining women's oppression than other forms of heterosexual relations, it would appear unjustified to bar individuals from engaging in voluntary sexual commerce. On the one hand, such a prohibition does not clearly improve the background circumstances in which women live, but it may well worsen the situation of those for whom prostitution is the best of a bad lot of choices. On the other hand, if society were to alleviate the harms that arise from women's economic and social inferiority, while also halting the problems created by prostitution's prohibition, we might well suppose that prostitution in such improved circumstances would be free from any remarkable harms. Thus, liberals can agree with radical feminists that prostitution as it exists now is a harmful, degraded institution, but they pointedly resist the conclusion that prostitution (or sexual commerce in general) is necessarily a bad institution.

This response seems to be at the heart of a number of liberal critiques of the radical feminist position. Those liberals whose work shows most concern with the lives of prostitutes argue that the best realistic hope for prostitutes is to seek to reform the circumstances in which prostitutes work. Although different writers have advocated different specific reforms, there is a general picture discernible in the work of several of these authors. They call for both re-envisioning what it is that prostitutes do as well as revising the typical attitudes of society at large toward prostitution, and prostitutes in particular. So, for instance, Sybil Schwarzenbach argues for legalization on the grounds that it is a necessary step to help destroy prostitution as we know it and to aid its

18. Some of the range of this diversity is brought out in Julia O'Connell Davidson, *Prostitution, Power and Freedom* (Ann Arbor: University of Michigan Press, 1998).

19. See esp. n. 49.

metamorphosis into something she envisions as commercial “erotic therapy.” As a practitioner of such therapy, “the prostitute could be respected for her wealth of sexual and emotional knowledge.”<sup>20</sup> Lars Ericsson argues that prostitutes might “fulfill a socially valuable function by, inter alia, decreasing the amount of sexual misery in society.”<sup>21</sup> In light of considerations such as these, Martha Nussbaum argues in a recent essay that the stigma accorded to prostitution is an unjust prejudice of the same sort that once denigrated the activities of women actors, dancers, and singers.<sup>22</sup>

The possibility that prostitution can be reformed calls into question the basis of the institutional critique. If so-called casual sex by heterosexuals is not always, everywhere bad for women, then it is natural to ask why an instance of casual sex should be suspect whenever the benefit attained by one party (say, the woman) is remunerative rather than sexual. What difference does, say, a lack of mutual sexual attraction make to the ethical qualities of sexual relationships, if indeed one of the parties seeks and obtains other compensation for their sexual activity? If the liberals are right, then the harms that make us wary of prostitution seem to be severable from the essential nature of prostitution—the exchange of sexual for nonsexual goods. The exact means to achieve this severing may be somewhat obscure, but if it could be accomplished, even just in principle, then this would suggest that the harms we associate with prostitution are only contingently connected to it and need not determine how we evaluate prostitution itself.

While some authors have discussed this liberal/radical feminist debate usefully and at length, nothing seems to have ended it or to have shown the way forward to a resolution.<sup>23</sup> The radical feminists themselves

20. Schwarzenbach, p. 125.

21. Ericsson, p. 366.

22. See Nussbaum.

23. Some of the best recent work on this topic has been done by legal theorists, including Martha Chamallas, “Consent, Equality, and the Legal Control of Sexual Conduct,” *Southern California Law Review* 61 (1988): 777–861; Margaret Jane Radin, *Contested Commodities* (Cambridge, Mass.: Harvard University Press, 1997), esp. pp. 123–36; and Baldwin; and by O’Connell Davidson, a sociologist. These authors have helpfully analyzed the difficulties leading to a stalemate in the debates. The author who I think comes closest to depicting accurately the stakes and difficulties in this debate is Sylvia A. Law, “Commercial Sex: Beyond Decriminalization,” *Southern California Law Review* 73 (2000): 523–610. In this article, I will cover some of the same ground as these authors do, but I hope to give a fuller, more persuasive, and more philosophical defense of the radical feminist position than these authors have managed. My article also shares a number of the views and approaches found in the challenging and provocative essay by Balos and Fellows. The approach taken here departs from theirs in several respects, most notably in holding that sexual autonomy, while undoubtedly a liberal value, can and should be regarded as a proper goal of feminist social policy rather than as a problem for such policies. I also believe that the argument put forward here relies on premises more likely to find broader

have given little attention to options short of prohibiting prostitution outright and rarely consider what a reformed prostitution might look like or what sorts of supports would have to be in place to make such a thing conceivable.<sup>24</sup> In order to advance this debate, I shall now set out the basis for an answer to this third rejoinder by looking at ways our society aims to keep sex and commerce separate, giving rise to protections for a special form of autonomy in sex. In the final section, I will argue that the radical feminist criticism of prostitution makes most sense when understood against the background of this more general protection of sexual autonomy. So understood, I argue that radical feminists can and should deny that normalizing prostitution will suffice to render it an innocuous institution.

#### THE RELATIONSHIP OF THE GOODS OF SEX TO RESTRICTIONS ON OUR PRACTICES

At first face, it may seem paradoxical to suggest that restrictions or conventions constraining our activities could promote autonomy in them, since placing external controls on an activity would seem to reduce the individual's control of his or her activity. If we wanted to provide for sexual autonomy, it would seem that we should, as a society, forgo attaching any special significance to the sexual use of the body and instead leave it up to each individual to determine the proper meaning and uses of sex for him or herself. I want to suggest that this is a misunderstanding of the function of at least some of the social controls that regulate our sexual activities. Even though many of us now believe that sex is potentially valuable (and permissible) under a relatively wide range of circumstances—and, in particular, outside of the bounds of heterosexual marriage—the potential of sex to yield certain kinds of goods depends on the fact that, for us, sex has a place in a social framework, full of myriad restrictions and qualifications.

To illustrate the point, it will help to contrast some of our views about proper sexual conduct with the norms and regulations governing ordinary commerce and exchange. It is true of many ordinary human interactions that they will occur unproblematically on one side or the other of a transaction in the economic sense—for example, X gives Y a massage, X teaches Y logic, or X heals Y's illness, in return for which

agreement, if only because the results I defend are considerably more modest in their ambitions. Nonetheless, their essay is worthy of serious attention and deserves a more complete response than I can provide here.

24. Responding to reform proposals, Jeffreys is typical of radical feminists when she writes, "If in fact the status of women were to change, then the sex of prostitution would likely become unthinkable rather than suddenly healthy. . . . If [the johns] had positive attitudes [toward women], they might not be able to conceive of using women in prostitution at all" (Jeffreys, pp. 229–30).

Y gives X money (or some similar service). Though commercial transactions are governed by a variety of legal and social norms, one of the principal governing norms is that of contract: one can be bound to honor one's commitments or forced to compensate the other party when one fails to do so. These commitments can even be tacit, implied, or conventional; for example, a seller may be understood to warrant that her product will have such and so use or effect, or a consumer may be obligated to pay for a good he uses, without making such commitments explicit in either case. The possibility of making such commitments, and being held to them, is of course indispensable for the smooth, reliable conduct of virtually all commercial activity.

Now consider how the norms that govern commerce differ from those that apply in the following scenario. We have all heard tell of (and perhaps some of us have gone out on) a date where one person, usually a man, spends lavishly for an evening of food, drink, and entertainment, and his companion, usually a woman, is thereby expected to accede to his sexual overtures later in the evening. It is significant that these expectations may be shared by the people on the date and understood by them in advance, yet tacitly—possible, perhaps, because they both inhabit a social circle in which such dates are not unusual. Such dates continue to occur, we may suppose, because each party gets something he or she wants from them. This creates the appearance that what we have here is a transaction, like any other, where accepting the man's lavish expenditures means that the woman also accepts a subsequent obligation to let the man have sex with her.

Even if we recognize this pattern of behavior, in which expectations are often created and fulfilled, we do not think that spending lavishly on one's date creates anything like a moral or legal obligation for the date to have sex she does not want. While we may think it's a bad thing to knowingly accept an interested party's lavish attentions while having no intention of fulfilling his further sexual expectations, we don't hold that the frustrated party is entitled to enforcement of the bargain against the wishes of his date. Nor do we hold that he's entitled even to compensation for his efforts or expenditures, except perhaps the wisdom of experience. If, after his date refuses his sexual overtures, he continues assertively to press his demands, he will have harassed his date and perhaps even assaulted her. The fact that sex is a critical variable here comes out if we notice that we might be more willing to hold someone responsible for following through on such a bargain if the expected payback is, say, help with logic or a massage rather than sex.<sup>25</sup>

25. But not just any sort of expectation other than sex will generate the kind of obligations I'm thinking of here. For instance, lobbyists might treat congressional representatives and salespeople might treat prospective clients to lavish attentions yet generate

I offer the example of the expensive date in order to suggest that some of the restrictions that govern our sexual practices serve to prevent certain kinds of pressures or incentives from being used against a person to alter her sexual choices. I believe we might best be able to see the value of the prohibition if we consider, hypothetically, how our lives and practices would be different without *any* such constraints in place—that is, if we were to treat sex as if it were not especially different from other kinds of activities that occur in commerce. Martha Nussbaum makes just such a proposal, when she defends the bold claim that we should see the prostitute's sex work as just another use of the body for purposes of earning a living—not especially different from other paid activities, such as chicken plucking, singing, massaging, or writing philosophical texts, in ways that matter for purposes of social regulation.<sup>26</sup> She argues that any residual reluctance to normalizing prostitution is based in an unjustifiable prejudice, one that we should strive to overcome, just as we have overcome prejudices against allowing women to work on the stage.<sup>27</sup> Although it might be appropriate to regulate prostitution for purposes of consumer or worker safety, fair trade practices, and so forth, it is unreasonable, and perhaps unjustifiable, to regulate or prohibit commercial sexual recreation just because of its *sexual* nature.

Part of the interest of Nussbaum's proposal is that it gives an account of just what might be behind the persistent, historical stigmatization of prostitution. Because I think something like her account is both plausible as well as necessary to justify the liberal position, it is all the more useful to take Nussbaum's claim at face value, rather than in a more cautious, circumspect way favored by most proposals for normalizing prostitution. If we take seriously the claim that sex is not especially different from other ways one can use one's body to make a living, then many more changes than just normalizing prostitution would be warranted—hence the boldness of her claim.<sup>28</sup> I propose to investigate here what it would mean to treat sex as just another use of the body. That is, I am not concerned at this point with limited proposals to normalize just prostitution or with hopes that a carefully constructed regulatory regime could minimize or localize the effects of sexual commerce. Instead, I mean to investigate what kind of thing sexual autonomy is and how certain social regulations

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no special obligation on the recipients' parts. It is, of course, their hope to generate a psychological feeling of obligation in their recipients, but this is not, we assume, underwritten by an actual moral obligation for the recipients to reciprocate.

26. These are some of the occupations by comparison to which Nussbaum judges prostitution to be not especially problematic. See Nussbaum, pp. 278–85.

27. *Ibid.*, esp. pp. 277–80, 285–88.

28. In fairness to Nussbaum, I should note that I am suggesting that we accept this one claim while disregarding the broader aims of her article, which do not, I believe, require one to endorse any of the scenarios I discuss below.

foster it. Once we understand this, we will be better placed to inquire whether some form of legalized prostitution (whether fully normalized or severely regulated) is really a more justifiable proposal than the prohibition favored by radical feminists.

If we take Nussbaum's claim at face value, then I believe that many readers will be troubled by some of the implications of this laissez-faire approach to the commercial uses of sex. Treating sex as just another use of the body in commerce would undermine perhaps three different aspects of sexual autonomy, illustrated by examples of the following sorts.

*Category A: Incentives to Have Sex*

1. Employees now shielded from performing sexual tasks as part of their conditions of employment may find their job descriptions redefined to include sexual duties. Also, some employees may be required to provide sexual services to other employees for either hiring or promotion.

2. Agencies dispensing welfare or unemployment compensations should be able to expect those who are capable of doing sexual work to take such work if it's available rather than to seek public relief.

3. One may make enforceable contracts to perform or obtain sexual services. Courts will be required to treat such contracts as they treat other personal-services contracts and uphold penalties or restrictions on nonperforming parties.

*Category B: Control over Sexual Practices*

4. Large, aggressive corporations may legitimately develop sexual services for consenting adults using whatever business practices are acceptable for other sorts of consumer goods (at least those such as alcohol or gambling, which are age restricted). In so doing, they may closely monitor and supervise the workplace sexual practices of those workers with sexual duties.

5. Workers with sexual duties may be required to adhere to standards of nondiscrimination with respect to their clients or coworkers.

6. The government may be entitled to inspect the health and sexual practices of prostitutes as this affects their safety and the safety of their clients. Risky sexual or other safety-affecting practices may be subject to blanket prohibitions, both while on the job and off.

*Category C: Pressures on Sexual Attitudes and Values*

7. Those large, aggressive corporations may, as part of their free-speech rights, market their product aggressively with the aim of overcoming prejudices against paying for sex or having sex outside of a relationship, as well as other marketing objectives.

8. To the extent that special training may help prepare one for such a career, public schools, vocational schools, and colleges may/should offer such training. High school career counselors may/should



advise those who seem differentially suited for this kind of work to consider it as a career.

My point in offering these scenarios is not to suggest that any of them is likely to come to pass in the wake of moves to normalize prostitution. Rather, these scenarios are simply exhibits of what it would mean to take the bold claim seriously—to treat sex as just another way to use the body to make a living—and so worth considering for the insights they might provide.

If these scenarios make us uneasy, I think it is because they illustrate various ways in which treating sex as just another use of the body for commercial purposes would lead to the undercutting of sexual autonomy. Undoubtedly, regulating the performance of a given activity (as the ban on prostitution regulates sex) takes away a certain range of choices from a person. Nonetheless, such restrictions may provide a sort of freedom within the activity by preventing it from coming into play with all of the other forces in life that can come to bear upon it. It is a brute necessity for most adults in our society that they earn a living by satisfying the economic demands of others. Rarely does anyone find a job where one does only the things one wants to do or a job in which all of one's duties are explicitly agreed to in advance. But as lamentable as these facts may be, they seem somehow of a different character than if the equivalent facts were transposed into our sex lives. The principal problem with treating sex as just another use of the body is that it is inconsistent with a number of the restrictions that make autonomy possible in sexual conduct.

A prohibition on exchanging sex for certain other sorts of goods should, if sufficient alternatives exist, provide us with a defense against various kinds of claims and intrusions that can be made against our sexual selves. Considering the kinds of pressures found in category A, if sexual autonomy means anything, it means that sex does not become a necessary means for a person to avoid violence, brute force, or severe economic or other hardships. Although this does not constitute the whole of sexual autonomy, it is surely an essential aspect of it. Were we seriously to treat sex as just another use of the body in commerce, doing so would first and most directly undercut sexual autonomy by exposing almost all workers (and job seekers) to the possibility of being pressured by employers to have unwanted sex as a condition of employment. On this hypothesis, there would be no principled justification for the existence of social barriers between sex and commerce, and hence such barriers should be removed. It is true that the removal of barriers between sex and commerce would vastly increase the number of goods which could be obtained by means of sexual activity.<sup>29</sup> At the same time,

29. For a mundane example, imagine how things might be different—who would

however, it would make it legitimate for others to demand, solicit, encourage, expect, and supervise our sexual activity by offering and withholding the ordinary goods within their control. The same necessity that sometimes compels us to take on unwanted tasks at work might be used legitimately by others to compel some of us to have sex. This seems to me to run counter to the basic commonplace against forced sex, just as it runs against prohibitions on quid pro quo sexual harassment.

We can perhaps make the point more vivid by noting two other protections against forced sex that, on our hypothesis, should fall by the wayside. First, to the extent that welfare and unemployment compensation are intended for persons who cannot find suitable employment, if sex work is available and a person is suitable for it (however that is judged), government should encourage people to take such work and cut off benefits if such work is refused.<sup>30</sup> Second, insofar as persons are allowed to make enforceable labor contracts, they should be allowed to make contracts for sexual services, including tacit or implicit agreements, and the courts would have to uphold them. This was the point

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gain, and who would lose—if instead of taking their prospective clients to strip clubs (as is standard practice in some industries), companies could utilize their salespeople to proffer sexual services themselves.

30. The suggestion is meant to be provocative, but it's short of absurd. The principal objection to it is that, while government assistance may be conditional on one's willingness to take available work, one need only seek "suitable work." One can reject a job without losing unemployment compensation benefits if one does so on bona fide religious grounds, because it pays less than one is used to earning, because it interferes with family obligations, because it poses a health risk, or because it's a new line of work. Despite such protections, in the last nine months of 1999, until the press reported it, New York City's welfare-to-work program called "Business Link" made arrangements with the Psychic Network to train welfare recipients in Tarot reading and other skills and then to hire them as telephone psychics at \$10–\$12 per hour. See Nina Bernstein, "New York Drops Psychic Training Program," *New York Times* (January 29, 2000); and Michael Daly, "Veil of Secrecy Lifted: Program Training Poor to Be Phone Psychics Is Exposed," *New York Daily News* (March 19, 2000). (I am indebted to Jacob Levi for alerting me to this factoid.) It is also understood that, if one's unemployment drags on, the range of jobs one must consider suitable is expected to grow. Furthermore, former prostitutes might be required to consider such work suitable if it were available. Finally, welfare reform as we know it has imposed a number of fairly draconian conditions on eligibility, including work requirements that seem to pay little attention to the benefit recipients' suitability for the jobs they are required to take. As Sylvia Law has noted, "The state enjoys a large freedom to condition receipt of public assistance upon the sacrifice of otherwise constitutionally protected rights. Perhaps courts would see a policy that conditioned aid on a requirement that a woman engage in commercial sex as so egregious that the policy would be found to violate constitutional liberty. But this conclusion is far from clear" (Law, p. 606). Hence, the suggestion in the text may be farfetched at present but is not inconceivable, especially given current trends in eligibility requirements for public assistance and social insurance. For a more general discussion of eligibility requirements for unemployment compensation, see Mark A. Rothstein, Charles B. Craver, Elinor P. Schroeder, and Elaine W. Shoben, *Employment Law*, 2d ed. (St. Paul, Minn.: West, 1999), pp. 767–70, 786–88.

in the expensive date scenario, discussed at the start of this section. As the lesson of that scenario suggests, the barriers established between sex and commerce not only function to keep the workplace free of sexual pressures but also to keep private sexual relations free of the norms of business, where broken promises and defeated expectations can bring enforced remedies.

The hypothesis we're considering puts sexual autonomy at risk in a second way by allowing outside parties to exert control over how some individuals conduct their sexual activities. Many of us hold at least an ideal that we should enjoy a right to privacy "in the bedroom," where consensual sexual activities are no one else's concern. And U.S. courts have acknowledged at least a rudimentary form of that right. Some prostitutes, too, have asserted demands for the right to exercise control over their bedrooms. The World Charter for Prostitutes' Rights from 1985 demands with respect to working conditions that, "it is essential that prostitutes can provide their services under the conditions that are absolutely determined by themselves and no one else."<sup>31</sup>

Workers, however, do not enjoy such rights to privacy in the workplace, and hence this demand by prostitutes runs counter to the supposition that sex work is just another way of working. This problem is highlighted by the scenarios in category B above. Even supposing that some people would not be averse to sex work, treating sex work as if it were no special kind of work entails giving control over how one performs it to managers, corporate business tactics, and government regulation. Here it helps to imagine a brothel, though not the Hollywood sort, run by Dolly Parton or the Mayflower Madame, but rather one owned by the likes of McDonald's, Nike, or Philip Morris. As in other industries, companies who hire sex laborers would be justified in micromanaging the activities of their employees, which might include closely monitoring a prostitute's health; rigorously training the prostitute; imposing strict standards for conduct while at work; insisting on nondiscrimination on the basis of age, sex, race, religion, or disability; and monitoring client contact to assure quality and efficiency of service. Civil authorities (e.g., the Chicago departments of health, business affairs, and police) might be required to inspect the health and sexual practices of prostitutes as this affects their safety and the safety and satisfaction of their clients. The control of prostitutes' activities might also be extended to include off-the-job behavior. For instance, employers might prohibit risky sexual practices or disclosure of work activities. They might also restrict sexual activity generally in the form of an "exclusive-services" contract.

The scenarios described above suggest that sex under such a regime is unlikely to be autonomous in the sense that applies to consensual

31. Pheterson, p. 40.

sex in the privacy of one's own bedroom. Such autonomy depends on having the degree of control over one's sexual activities that prostitutes have demanded as a right but which has no basis within the norms of employer-employee relationships. It is only because of the specifically sexual nature of such work, and our beliefs that sex ought to be autonomously governed, that the assertion of such a right makes any sense at all.

Considering the scenarios in categories A and B together, it's apparent that the degree to which an individual would suffer from the removal of barriers between sex and commerce would likely depend on the individual's power and resources within society. If one has sufficient power and resources at one's command, one can accept desirable or reject unwanted sexual bargains with little lost and perhaps something gained. But if a person lacks the power and resources to maintain her sexual autonomy concurrently with a decent standard of living, she will find it thrust upon her to decide which she will protect and which she will give up. For example, if it became acceptable for a manager to demand (or at least to reward) sexual services from his subordinates, those lacking the wherewithal to find other work or to refuse his advances while retaining their jobs would be likely to find their situation made much worse by this institutional change. Those who accept their new sexual duties may lose a lot of their self-respect, integrity, and depth of feeling. At the very least, they will have lost the possibility of attaining a certain kind of good that can be achieved through sex, one that depends on a connection between sex and intimacy or between sex and commitment. Those who refuse may lose their jobs and what economic security they provided. Hence, allowing people to use sexual activity as just another means of making money may not actually increase autonomy on the whole but could instead spread a person's powerlessness into her sexual life and undermine her sexual autonomy. She may find her sexual autonomy tied directly, in a way it need not be, to her economic and political autonomy.

Although the poor and powerless are likely to experience the greatest losses of sexual autonomy if the institutional restraints that protect it are removed, the sort of change envisioned above would affect society broadly: the effects would include changing the way people experience and exercise control over their sexuality. Even those workers with relatively more power and economic resources may find that sex becomes less valuable for them as they come to experience their sexual ends as potentially at odds with their career and economic ends. If sex is something an employer might legitimately expect of at least some employees, a person who refuses to accept sexual tasks in her job knows that someone else might, thus lowering her chances for career advancement and success. Because managers are now prohibited from using

their superior position to make sexual demands on (or offers to) their employees, there is rarely a causal link that puts one's sexual ends at odds with one's career ends.<sup>32</sup> Hence one can usually pursue each as one chooses without compromising the other. Correspondingly, under a regime that maintains a distinction between work activities and sex, one's work-related skills constitute a category of merit distinct from one's sexual qualities. But if employers were allowed to reward or punish employees for their sexual activities, it would be less clear than it is now that, when an employee succeeds, she does so based on what we now think of as her merits.<sup>33</sup>

There is a third way in which sexual autonomy can be undermined, somewhat more obscure than the other two but also important to consider. As things stand in this society, we face numerous actors and social forces that have an impact on our attitudes toward sex, including our sexual desires and the form in which they are expressed. These may influence us through advertising, entertainment, education, religion, peer pressure, and occasionally through more personal and pleasant contacts. The fact that things external to the self play a role in determining an individual's sexual desires is hardly a matter of concern in itself. But sexual autonomy involves an aspect of internal regulation of these desires as well, in accordance with the individual's understanding of the proper place of sex in a good life. This internal regulation of sexual desire is a notoriously fraught and unstable activity, and some people seem to abandon it altogether. Nonetheless, for most of us, there are times and places where we want to attend to and emphasize the sexual aspects of our selves and other times and places where we may not want to be reminded of our sexual selves, desires, possibilities, and so forth. This division is undoubtedly imposed differently by different people; paradoxically, however, the possibility of making such a division depends to some extent on the existence of cooperating external conditions. One way in which such cooperating conditions are secured is through limits on the ways and places in which external forces are allowed to manipulate our sexual desires.

You may well ask, "What limits?" since we seem to be bombarded by sexual innuendo everywhere, emanating especially from businesses that advertise to us and entertain us. Things are undeniably murky here. Nonetheless, advertisers and entertainers now uphold some limits on their uses of sex, and in these limits, such as they are, we might detect not just a reflection of prudery but perhaps an acknowledgment that it

32. Of course, this is not true for everyone, as the continuing occurrence of sexual harassment cases makes clear. Still, it is the intention of sexual harassment laws and policy to end the threat of such trade-offs.

33. I owe the point of this argument to Candace Vogler.

is not always desirable to have our desires tweaked. Furthermore, to the extent that businesses now use sex to sell to us, their goal is at least typically to sell us something other than sex—the appeal to libido is a means, not an end in itself. Such marketers may use and arouse our sexual desires in order to manipulate our other desires (say, the desire to buy cologne), but it's not clear that they have any special incentive to manipulate or alter the sexual desires themselves (though they may affect them as a secondary consequence).<sup>34</sup>

If I am right that we do generally support certain restrictions (legal or conventional) on how and when external forces are permitted to influence our sexual desiring, then I think we can see this as consistent with the idea of sexual autonomy developed so far. Because sexual autonomy depends in part on the internal regulation of our sexual desires, it is promoted by mechanisms that put certain reasonable limits on the degree to which external forces can seek to influence our desires. However, as scenario 7 in category C above illustrates, businesses that make their living off of sex itself have a significant incentive to speak to those desires directly. The economic well-being of such businesses would depend on their ability to create and keep a share of the market for sexual services, to which end they would naturally seek to develop and manipulate our desires. Under the hypothesis we've been considering, sex industries would be justified, as part of their free speech rights, to market their product aggressively with the aim of overcoming attachments to monogamy or one or another form of sexual practice. They might also employ marketing strategies aimed at developing brand loyalty, establishing tie-ins to other consumer/entertainment goods, and creating niche markets of underserved sexual desires. If these scenarios do raise

34. The marketing of pornography, of course, seems to provide a counterexample to this view, since the demand for pornography is significantly influenced by the quantity and kinds of sexual desires people have. There is, however, an ongoing debate over what limits are appropriate for the manufacture and sale of pornography. We can see both sides in this debate as making arguments about the ways in which our sexual desires should be subject to influence from external sources. This is obviously true in the case of those who wish to ban or restrict pornography, who argue that it harms and deforms such desires. But we should note that many of pornography's defenders respond in the same terms when they argue that pornography plays a valuable role in making us aware of the wide variety of forms in which desire can occur. They argue that it liberates desires, making them more genuine and imaginative. Hence we can see, even among defenders of pornography, that one main line of defense depends on a view of what kinds of external influences are valuable and/or harmful to our sexual autonomy. Yet these defenders need not defend a blanket right of pornography producers to market it everywhere, to everyone, all the time; they may support a ban on all sexual depictions of children as well as restrictions to prevent children from accessing pornography. In this vein, it is worth noting that, at least prior to the advent of the Internet, you couldn't acquire pornography just anywhere, which suggests that it has been regulated by convention if not by law. It remains to be seen whether some form of these conventions will take hold in cyberspace.

some concerns about whether we want our sexual desires to be pressured in these ways, then it suggests that these pressures run counter to what we think of as good or healthy influences on our sexual desires.

There is also a great deal of dispute over what influences should be allowed to reach children regarding their sexual desires, morals, and practices. As with a number of other goods (e.g., alcohol, tobacco, and drugs), some degree of paternalism is clearly justified. And schools clearly don't attempt to train students for every possible, legitimate career. However, schools often take a role in preparing students for relationships or married life, for sexual activity, as well as for postgraduation careers. On our hypothesis, it would seem reasonable that they should also attempt to make students aware of legal career opportunities in sex work and provide training as necessary, as suggested in scenario 8. If we would object to schools playing this kind of role in career development, and object because of the sexual aspects of such careers, then such objections suggest that we do not believe sex is just another way of working or that training people to view it as such is in their best interests.<sup>35</sup>

Even if one believes that our sexual mores ought to be revised, or that the above scenarios are not as problematic as I suggest, my point in this discussion has been to show that not all of the restrictions we might impose on sexual activity are simply vestiges of some now-abandoned, Victorian view of sex. Rather, the institutional restrictions on what sex can be used for serve to establish a special kind of autonomy in matters of sex and give a sense to the mundane view that sex is a kind of good distinct from those that are typically involved in com-

35. Because high school students are in the process of developing into autonomous persons but are generally understood not to have arrived there yet, it is unclear to me whether this objection shows the place of sexual autonomy as clearly as the previous ones do. It might be useful to distinguish here between the practical and ideological functions of education in promoting autonomy and their relationship to career choice. If people are prevented from taking up careers in sex work due to a lack of appropriate education (vocational training, counseling, etc.), then of course making such education available could also increase their autonomy. But it seems unlikely that the absence of vocational training is really a hindrance to making sex work a career—it is in part the ease with which it can be taken up that accounts for our disdain of it. So there would not seem to be much practical use for educating students about sex work. There might, however, be an ideological point to such training, aimed at reversing a prejudice, as, for instance, we desire schools to show women that they can be doctors and men that they can be nurses. If the reasons people are squeamish about sex work are based in prejudice, then fighting such prejudice would seem an appropriate role for schools to take up in training students for future work. Hence, with these caveats, I offer the scenario of high school vocational training as another case that is at least potentially consistent with the general pattern noted in the other scenarios.

mercial transactions.<sup>36</sup> If sexual activity needs to be couched in a set of institutional protections different from those that apply to work activities in general (such as OSHA regulations, nondiscrimination standards, fair labor laws, etc.), then we appear to share a desire for autonomy in our sexual activity that justifies these protections.

#### SEXUAL AUTONOMY AS A RADICAL FEMINIST VALUE

The point of the above discussion is to show that the legal and social discouragement of prostitution is just one of a large variety of ways in which our sexual activities are intentionally regulated or constrained by our communities; it is also one of the principal methods by which a separation is established between sexual activity and commercial activity. Hence, it helps to make possible a special kind of autonomy for agents with respect to their sexual activity. So far, I have suggested that we do indeed value sexual autonomy, but I have not tried to give a defense or explanation of this value. For some, its value may be obvious, yet surely some would think it a false or pernicious value. And though the arguments above suggest that we desire some separation of sexual activity from commerce in general, these arguments do not specifically speak to whether the prohibition on prostitution is merited. I want now to return to the arguments of liberals and radical feminists for and against normalizing prostitution, respectively, and to show how the above reflections on sexual autonomy help strengthen the latter side's case against normalization.

Keeping in mind the many points of agreement between liberals and radical feminists, we can begin to make sense of the prohibition of prostitution, as well as proposals to normalize and reform it, by separating out two different though related kinds of problems that, in combination, motivate their opposing responses to prostitution. The first kind, which I'll call the narrower set, consists in the specific acts of customers and pimps who harm, abuse, degrade, and exploit the prostitutes they employ. It also includes those harms and disadvantages that arise from state efforts to suppress prostitution, for example, the inability of prostitutes to organize collectively. These sorts of problems are ones that legal remedies (including perhaps altering or repealing some laws) are most likely to affect directly. The broader set of problems consists of the more general social facts that contribute to making pros-

36. Please note that I am not claiming, nor do I think it's true, that current attitudes toward sex have an unproblematic history or that they need be considered beyond criticism. Instead, I claim that even if our sexual views are problematic for historical or other reasons, it would require significant revision in the ways we think about sex and its relationship to personality before removing the barriers between commerce and sexual activity will seem, on the whole, ethically unproblematic.



titution a problematic institution. These facts include a number of things related one way or another to its sexual nature, for example, its gender-marked characteristics, the social stigma that attaches to both prostitutes and johns, and the feeling many prostitutes have of being demeaned and dirty. These social facts also include the circumstances that make (some) women and (a few) men particularly vulnerable to the worst aspects of prostitution without much say in the matter. Such circumstances include women's inferior economic status and specifically the lack of a range of better employment options. They also include the existence of social conditions that seem to undermine the ability of some people—mostly women—to resist or avoid the sorts of harms and abuses that characterize many prostitutes' lives. Finally, they include the fact that the plights of prostitutes, and women more generally, are rarely seen as injustices demanding social remedies. It should be clear that the two sets of problems are related: the need to consider special legal treatment for prostitution derives, it seems, from the more general social difficulties faced by (would-be) prostitutes. I'll consider the narrower and broader sets of problems in turn.

If we compare prohibition to normalization with respect to the narrower set of harms, it is clear that the current legal regime makes it difficult for many prostitutes to avoid the harms meted out to them by clients, pimps, psychopaths, and even many police officers. It also puts many prostitutes at a bargaining disadvantage in negotiating prices.<sup>37</sup> The normalization of prostitution would surely go some ways toward protecting prostitutes from such misconduct and exploitation by ending the prostitute's outlaw status.<sup>38</sup> What is less often noted is

37. Note, however, that prostitutes may at present reap some benefits from an artificial scarcity created by the prohibition of prostitution. If the prohibition is ended, the demand for sexual services might increase, but the supply of prostitutes might increase even more, resulting in lowered prices and leaving those who currently engage in prostitution worse off in absolute terms.

38. The experience of some European countries is of interest here since several have moved further toward the legal normalization of prostitution than has the United States while at the same time providing, on the whole, greater equality for women than exists here. That said, the European experience might not be especially helpful in settling debates over normalization in general. For one thing, although some countries have undone some of the most onerous strictures on prostitution, none have really gone so far as to treat it just like any other form of work. Among the legal strictures, prostitutes are typically confined to certain geographic areas (red-light districts), typically only small-scale businesses are allowed to proffer sexual services, and various ancillary regulations are often used to check the activities of prostitutes. Beyond the law, social stigma still attaches to being or hiring a prostitute even where prostitution is legal. For an overview of the situation in a number of European countries (among others), see the contributions in Nanette J. Davis, ed., *Prostitution: An International Handbook on Trends, Problems, and Policies* (Westport, Conn.: Greenwood, 1993). The most promising comparison case may be provided by the Netherlands, which has perhaps the most tolerance for and recent experience with prostitution in Europe. As in other

that we could achieve significant progress in this direction without accepting the normalization of prostitution. As radical feminists have urged, society could undertake legal reform to ameliorate these problems by, for instance, removing the legal sanctions that now threaten prostitutes and instead increasing sanctions and enforcement against prostitutes' customers and exploitative pimps and procurers. We might also, as has occasionally been proposed, increase the ability of prostitutes to sue for damages those who harm or abuse them.<sup>39</sup> Finally, we might revise laws covering rape and other sex crimes to ensure that they protect prostitutes the same as anyone else and insist that police and prosecutors treat prostitutes with respect and concern. In other words, we could improve the lives of prostitutes by redirecting the onus of our legal system away from those who are already disadvantaged and placing it

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countries, there is a great diversity in the types of prostitution practiced in the Netherlands, and the quality of life for prostitutes shows similar variance. According to the 1994 study of prostitution in the Netherlands by Vanwesenbeeck, the best off (roughly a fourth of the total number of prostitutes) seem to enjoy a high standard of living, better than the average for women in the Netherlands; the middle 50 percent are somewhat less well-off than their nonprostitute peers; and those in the bottom 25 percent are very badly off. "Their suffering was even greater than the average of the control group of heavily traumatized non-prostitute women" (Vanwesenbeeck, p. 147). Major determinants of a prostitute's quality of life were childhood experiences (particularly abuse), economic situation, working conditions, and her interactions with clients—in particular, whether the prostitute felt helpless or powerless relative to her clients. Those who were at the bottom of the prostitution hierarchy were thought to have the "most troublesome and recalcitrant customers" (ibid., p. 152), partially explaining why they seem to fare so much worse than those at the top of the hierarchy. Adding to the complexity of this picture is the fact that, according to estimates, most of the women working in prostitution in the Netherlands are foreigners, and as many as 50 percent of the prostitutes are not European Union nationals and do not have valid work permits. Many of them, probably most, come from poorer parts of the world, and at least some sizeable portion of them are very likely to be working in prostitution nonvoluntarily. See Judith Kilvington, Sophie Day, and Helen Ward, "Prostitution Policy in Europe: A Time of Change?" *Feminist Review* 67 (2001): 78–93; and Donna M. Hughes, Laura Joy Sporcic, Nadine Z. Mendelsohn, and Vanessa Chirgwin, *The Factbook on Global Sexual Exploitation*, published on-line by the Coalition against Trafficking in Women at <http://www.catwinternational.org/factbook.htm> (1999). These facts suggest that the difficulties of prostitution may be hard to remedy through normalization. Furthermore, if the government cracks down on those immigrant prostitutes who are working in the Netherlands illegally, that by itself might serve to undo the benefits of normalization to those women by returning them to outlaw status and driving their activities back underground. It is perhaps also of interest that, at roughly the same time that the Netherlands, Denmark, and Germany have moved toward legal normalization, Sweden has decided to take an approach much more like that recommended by the radical feminists: it has recently increased the penalties and enforcement against the customers and employers of prostitutes while leaving prostitutes themselves more or less free from sanctions. See again Kilvington et al.

39. On the merits of this approach, see Balos and Fellows.

on those whose misconduct makes prostitution dangerous, degrading, and exploitative.<sup>40</sup>

Although this sort of legal reform has some academic appeal, it is admittedly unrealistic. That is, as unlikely as we are to normalize prostitution anytime soon, we are surely less likely still to enact laws that punish only the (male) customers and pimps who use or abuse prostitutes while protecting prostitutes themselves. One might suppose that it's the asymmetry of this proposal that explains why it is so unlikely, but one should keep in mind that the current legal regime is almost equally asymmetrical, except that it punishes and constrains prostitutes while it effectively protects from prosecution those who rape or abuse them and punishes only rarely and mildly those who employ them. At any rate, our society could make prostitution safer and less exploitative by normalizing it, but to some extent, this goal can be achieved by redirecting the burden of the laws toward customers and pimps and by holding them responsible for the damages they inflict.

Turning now to the broader set of problems, it would seem that neither strategy can do much to rectify the background conditions that make prostitution, however bad it may be, still the best feasible option for some people, especially women. Normalizing prostitution, however, would seem to give women, especially, one option they do not now possess, while continued prohibition leaves them no better off. Let us suppose that with normalized prostitution, almost all women would have at least one job open to them that paid a decent wage or better. If so, making this option widely available might seem a significant improvement for many women.

Whether or not this supposition is defensible, the conclusion fails, I think, to understand the nature of the broader problems of which prostitution is a part. If indeed the harms suffered by women in prostitution derive largely from the underlying inequality and hardship they face, then the proposal to normalize prostitution is a mismatched solution. The fact that one additional economic option—namely, prostitution—might be offered to women is trivial in comparison to the many other opportunities that are denied and hardships that are imposed. Looking at the social facts underlying prostitution, we should ask why anyone should have to work as a prostitute just to be able to earn what

40. I do not mean to suggest, however, that simply shifting the burdens of prohibition from prostitute to customer, even if feasible, is without drawbacks. Looking at some places that have done more to prosecute customers, the evidence shows that targeting customers also serves to drive prostitution out of the public eye and into more obscure, isolated, and often more dangerous locations. For descriptions of some European results of such a policy, see Kilvington et al. (for Sweden); and Rosie Campbell and Merl Storr, "Challenging the Kerb Crawler Rehabilitation Programme," *Feminist Review* 67 (2001): 94–108 (for the United Kingdom).

an ordinary man would make doing an ordinary job. Even if normalization would improve the economic situation of prostitutes, as we're assuming it would, it seems highly unlikely to alter the more general problem of women's social and economic inferiority. Having one more economic opportunity than is now present will hardly solve the more general deprivations and disparities that help generate prostitution's more striking harms.

We might still ask, however, whether normalization could help to render the activity less problematic or at least whether it could avoid exacerbating those problems. In particular, we might hope that normalization would render the sexual aspects less traumatizing or stigmatizing, in part by making prostitution more like other jobs, in part by changing common attitudes toward prostitution. But such hopes are misplaced. Even if normalizing prostitution results in improved economic opportunity for would-be prostitutes, the improvement comes at the expense of their sexual autonomy, something that one gets to retain in most other kinds of work. Normalization would also undermine the ability to see this loss of sexual autonomy as a matter of injustice rather than as a matter of the prostitute's career choice. To the extent that sexual autonomy is important to us, making a person's economic viability conditional on giving up that autonomy is not a promising strategy for fixing the underlying circumstances.

To make this case, consider the objection that I am making too much of sexual autonomy—something that is, at any rate, a contestable value. Now it is certainly possible to imagine our society undergoing changes through which sex might become a relatively mundane activity, perhaps as inconsequential (under what would have to be the ordinary circumstances) as going out for dinner or acting on a solicitation to buy a newspaper. Were sex to become that ordinary, there would be no sense in proposing a special sort of autonomy with respect to it. At the same time, it would likely cease to play such a large role in the oppression of women and sexual minorities, and conceivably such oppression would die away, since its main organizing principle would have lost its punch.

While this possibility is perhaps a consummation devoutly to be wished, it is not how things are now.<sup>41</sup> Both in history and in the present, a person's sexuality almost always figures prominently as an aspect of

41. The hope that someday the pressure might be taken off of sex is one of the most appealing goals of some recent prominent work in queer theory. See, e.g., Michael Warner, *The Trouble with Normal* (New York: Free Press, 1999). The suggestion is that if we could learn to transform sex into a not-terribly-portentous recreational activity, we might live better, happier lives in greater harmony with one another. Of course, there are tremendous difficulties in figuring out how to make the transition to this world without leaving large numbers of people vulnerable to horrible mistakes and exploitation. But if we could indeed let some of the air out of sex, it seems to me that this would be a very good thing by feminist standards.

his or her self-conception, status in society, and economic and social prospects. Being thought beautiful or ugly, being experienced or inexperienced, being raped or impregnated, being sexually apathetic or adventurous—all of these factors can have significant impacts on how one's life goes, how one is treated by others, and how one thinks of oneself.<sup>42</sup> One cannot perhaps have total control over any of these factors, but there are varying degrees of control a person can exercise over his or her sexual activities and characteristics, and nearly everyone wants more control rather than less. It is because sex plays such a pivotal role in the lives of most adults, starting in their formative years, that it creates its own special subject as well as a realm within which one can be more or less autonomous.<sup>43</sup>

Looking at the lives of prostitutes in particular, especially the women at the poorer end of the economic spectrum, it is clear that

42. One indication of the separateness of this domain is that it cannot be reduced to or deduced from other important sources of autonomy. Being secure in one's possession of economic necessities, having a good education, and having a well-functioning, healthy body are all important for autonomy, but none of these provide much of a guarantee that one possesses sexual autonomy (one might, for instance, be pinned by terror into an abusive relationship, the victim of rape, or subject to pervasive sexual harassment). Moreover, it is at least conceptually possible that a person could lead a sexually autonomous life even if her economic, educational, and bodily autonomy are left insecure. (As a matter of practical reality, however, these other forms of self-determination are frequently conducive to maintaining one's sexual autonomy.)

43. Here is as good a place as any to note a different sort of objection that can be raised against prostitution and to ask whether it too might help the radical feminists' case. The suggestion is that selling sex is objectionable because it commodifies something that is not appropriately treated as a commodity. The central text for this objection is Radin's *Contested Commodities*, but similar complaints are raised by others. While I don't wish to rebut these arguments here, I'm not especially moved by them. It is thus perhaps useful to explain why the arguments I'm interested in making are different from an objection to the commodification of sex. In making my case, I have avoided trying to justify the special status that sex has for us, which is, I believe, contingent on many other facts about our form of social life. The point of my objection is that prostitution in our society helps institutionalize unequal access to sex having such special status, as well as unequal sexual autonomy—particularly inequality between men and women, and rich and poor. These inequalities are harmful to the weaker groups and help to perpetuate and reinforce broader inequalities between these people. But as I have just noted, the meaning and significance of sex are subject to change. Were sex to acquire a very different status for us, the problems associated with prostitution could well dissipate. By contrast, the objection to the commodification of sex depends on a view about the special characteristics of sex that distinguish it from ordinary commodities and a worry that if sex is mixed in commerce, it could lose its special characteristics. Whether or not the other difficulties with this argument can be solved, its essentialism about good and bad kinds of sex seems to me unnecessarily contentious. Furthermore, such reliance on essentialist views ought to be methodologically unappealing to radical feminists, whether or not they agree with its results. So while Radin-style arguments might reach conclusions similar to mine, the premises seem to me more contestable and less hospitable to other feminist concerns. (I am indebted to Leslie Francis for pressing me on this point.)

they do not exercise sexual autonomy in their sex work. As a result, they are subject to harms that society ordinarily makes great efforts to protect its members from. Many go into prostitution either because of prior brutalization or sexual abuse or because of homelessness, substance addiction, or financial emergency.<sup>44</sup> While some find the work easy and unobjectionable, even sometimes pleasant, many women find the work degrading or disgusting, their customers vile, and their sense of self-worth to be very low. Many would likely agree with Dworkin's assessment of prostitution in the passage quoted above, which sees prostitution as a dirty job where the dirt is intrinsically linked to a specific sort of male desire to use a woman's body. The fact that they have, in some sense, chosen or allowed others to use their bodies in these ways does not, it seems, mitigate the damage they suffer as a result. These women have traded their sexual autonomy for whatever economic benefit they can get for it: they do not exercise it by using sex as a means of survival.<sup>45</sup>

When one reads Dworkin's description of prostitution, or the accounts of other former prostitutes looking back in horror, one need not suppose that these claims describe the life of every prostitute—even if the authors say so—in order to find in them compelling reasons to intervene against prostitution. Dworkin's depiction of the effect of sex on the prostitute's body is gripping because we do not think the visceral aspects of sexual commerce are just ordinary aspects of doing a job you don't much like. The fact that the harms Dworkin describes are bodily is not incidental; part of the point is that prostitution affects the body directly and integrally, and it stays with the prostitute long after her

44. For documentation, see citations provided in n. 12.

45. Some prostitutes' rights advocates have objected that the prohibition of prostitution diminishes prostitutes' sexual autonomy by preventing them from using their bodies as they see fit. Whether or not this is so, the reader should note that nothing I have said so far would provide a rationale for placing restrictions on adult consensual sexual conduct *per se* when one uses sex for the sake of goods such as pleasure, intimacy, distraction, procreation, or even revenge or notoriety. Now no doubt some people might be attracted to work in prostitution for the sake of the sexual goods they can obtain or provide to others. In such cases—and I think only in such cases—a plausible argument can be made that the prohibition of prostitution decreases to some extent some people's sexual autonomy. Nonetheless, among the many arguments against prohibiting prostitution, we should not be too concerned that it prevents would-be prostitutes from achieving the sexual frequency, variety, and skilled expertise they would otherwise have. Were a person, man or woman, to set out to have a prostitute's sex life without its financial rewards, such action would go well beyond promiscuity, becoming nearly unintelligible. Working as a prostitute is not in general used as a means to these ends in the same way as, say, working as a philosophy teacher is used as a means to further one's philosophical activities—sex just isn't suited for that sort of role in most people's lives. Hence, ruling out one particular way sex can be used is a much smaller intrusion on autonomy than are circumstances where people have little choice other than to engage in sexual activity to earn a decent living.

clients are gone and she has quit the trade. Of course, if we thought that sex was nothing out of the ordinary, then Dworkin's description of prostitution would lose much of its force, becoming something more like the complaint of a laborer who is bored, dirty, sore, and even a bit bloodied at the end of a day. Insofar as we see a special urgency in Dworkin's complaint, we have a reason to hold that sex warrants its own form of autonomy.

Although prohibiting prostitution does not by itself suffice to guarantee or restore sexual autonomy to those who now lack it, the prohibition can play a role in rejecting arrangements that result in its loss. Prohibition not only denies individuals the choice to sell sex for money, it also signals that no one should be expected to make choices about sex just to escape economic hardship. Given the current prohibitions on prostitution, it is within the reach of our present moral understanding to object to such trade-offs on the grounds that a person should be entitled to both a decent standard of living and the freedom to choose his or her sexual activities and partners by their special merits, whatever those may be. We are presently able to see such trade-offs as a problem different in kind from those involved in ordinary economic decision making. The prohibition on prostitution is, as much as anything, a restriction on what kinds of pressures or circumstances society will permit to bear on its members' sexual choices. It thus helps support the assertion of a right to sexual autonomy—something that does not depend on a person's command of economic or political resources—and thereby helps us to see that a prostitute's loss of sexual autonomy is a matter of social injustice.<sup>46</sup>

By contrast, normalizing prostitution would tend to undercut claims that sexual autonomy is a right and instead would make a prostitute's loss of sexual autonomy appear to be a matter of her choice of career—in part, a matter of *just how much* she values her sexual autonomy. But so long as social institutions protect most of us by preventing the sexualization of most kinds of jobs, prostitution would not be just any career. Those who choose to sell their sexual services will work in a very distinctive type of job. It will be a fact about people so employed that they exercise a liberty which is not open to most of us and that they contravene a standard of behavior which most of us uphold. They will also be subject to pressures and restrictions on their activities that cannot

46. Of course, recognizing this, our society *ought* to be moved to create other economic opportunities for women and others when it turns out that prostitution is the best option available to them. Perhaps it is true that a society unwilling to take this further step should not prohibit prostitution. My point is simply that if prostitution is normalized, it becomes very difficult to see any need to act to create additional economic opportunities—that is, any more than we see such a need when workers in other fields face a constrained choice of jobs.

be placed on the rest of us. To the extent that, for instance, barriers against workplace sexual harassment help secure sexual autonomy for workers, this kind of protection simply won't extend to those whose economic situation makes prostitution their only viable economic option. Even if the legal prohibition on prostitution is ended, choosing to engage in that occupation will set one apart from other workers on these grounds alone, if on no others. Hence, leaving some people out of the protections most of us enjoy will serve to differentiate them from the rest of us and do so in a way that can reinforce, even seemingly justify, the harms they suffer.

An additional source of evidence for this last claim can be found by looking more broadly at how sexual activity and characteristics frequently serve as markers for a number of different sorts of hierarchical relations, including but not limited to those involving gender. For instance, one of the ways that members of oppressed classes and races can be stereotyped is according to their (presumed) sexual proclivities or activities, on the basis of which law or social norms can be used to impose costs or withhold benefits in ways that reinforce or sustain their oppression. To cite just two examples: in order to project an image of propriety, middle-class women and men in early nineteenth-century England were required to adhere to sexual double standards regarding proper conduct for men and women in order to distinguish themselves from the lower economic classes, who supposedly lacked such morals.<sup>47</sup> Closer to home, the supposed laxity of sexual ethics among African-Americans has provided both a stereotype and a justification for withdrawing welfare and other social benefits from impoverished African-American communities in the last twenty years.<sup>48</sup> Thus sexual practices and qualities manifest a tendency to serve as defining characteristics, or "codings," not just of genders but also of other kinds of hierarchically defined groups. It is hard to say whether this sort of hierarchical coding of sexual activity can be avoided. But so long as sex and sexuality are invested with a high degree of significance, we will need to be wary that the roles of client and seller in prostitution may support and reinforce various forms of social oppression. Even if gender domination were

47. For instance, according to historian Jeffrey Weeks, "Sexual choice was hemmed in by simultaneous emphases on property, the survival (and even accentuation) of a differentiated standard of morality, and the growth of the ideology of 'respectability', with all its class connotations" (*Sex, Politics and Society*, 2d ed. [New York: Longman, 1989], pp. 26–27).

48. For one discussion of this phenomenon, see Patricia Hill Collins, *Black Feminist Thought*, 2d ed. (New York: Routledge, 2000), chap. 4.



miraculously to end, the kinds of roles established in prostitution may serve to support other equally unjust forms of social hierarchy.<sup>49</sup>

In the absence of a prohibition on prostitution, working in prostitution may come to be seen as just a career choice, appropriate for people who prefer other goods to sexual autonomy. But if this can be seen as a career choice, why not also suppose prostitutes *choose* to be treated in the way that Dworkin describes or at least suppose they are adequately compensated for such harms? After all, they're not like us; they do things we wouldn't dream of doing. If this last distinction reflects

49. In this spirit, we might consider whether the claims made in this article are as relevant to the situation of male prostitutes as they are to female prostitutes. There is no short and satisfactory answer to this question, but a list of differences and similarities between male and female prostitution might provide some insights. On the one hand, it is clear that male prostitution does not reinforce or reproduce so insidious an image of male sexuality in general as female prostitution seems to generate. This can perhaps be explained by several factors. For one thing, the gay-male subcultures in which many of these prostitutes operate are perhaps more tolerant and affirming of prostitution in general, so they may escape, at least locally, much of the stigma that attaches to women prostitutes. Also, the social significance of male prostitution is very different from that of female prostitution. Note, for instance, that there is no common epithet for men comparable in meaning or significance to that of "whore" hurled at a woman. Moreover, the harms associated with female prostitution (before, during, and after) are apparently less prevalent among male prostitutes. Finally, male prostitution has a considerably lower profile in our society than does female prostitution. To the extent that it has much visibility outside of gay-male subcultures, it is mainly because of transvestite prostitutes who work in the guise of women. (It is conceivable, however, that gay-male prostitution does contribute to a picture of what gay-male sexuality is like.) See Garrett Prestage, "Male and Transsexual Prostitution," in *Sex Work and Sex Workers in Australia*, ed. Roberta Perkins, Rachell Sharp, Garrett Prestage, and Frances Lovejoy (Sydney: University of New South Wales Press, 1994), pp. 174–90. For a subjective argument along these lines, see Julian Marlowe, "It's Different for Boys," in Nagle, pp. 141–44. On the other hand, even if male prostitution does not help to reproduce pernicious gender hierarchies, it still frequently reflects other sorts of hierarchy. Of those who become male prostitutes, a disproportionate number bear the marks of poverty, abuse, and rejection. In the trade, many male prostitutes suffer harms similar to those suffered by women, especially if they are younger and/or less secure. And one striking manifestation of hierarchy in prostitution has been the development, within sex tourism, of a female demand from the developed world for male prostitutes in poorer regions, such as the Caribbean. This last suggests that the gendered nature of prostitution is less fixed than are the relations of dominance/subordination between client and provider. For a discussion of this last point, see O'Connell Davidson, pp. 180–83; and Kamala Kempadoo, "Freelancers, Temporary Wives, and Beach Boys: Researching Sex Work in the Caribbean," *Feminist Review* 67 (2001): 39–62. So, although there is within male prostitution a degree of variation similar to that within female prostitution, the above facts suggest that the difference between male and female prostitution may not be as great as my focus on female prostitution might suggest. Such differences as there are, however, seem to derive from the superior social position men, including male homosexuals, enjoy relative to women and from the different role that sex plays in a part of gay-male society. Hence, it seems to me that adding the evidence from male prostitution to my account enriches and ramifies the main argument of this article but does not significantly challenge its principal points. I thank Marcia Baron for pressing me to clarify this subject.

a mistake or a prejudice, it's connected to a thought many of us would nonetheless be very reluctant to give up: that our sexual choices are deeply important to us, and thus the ability to make them carefully, and autonomously, is something we aim to protect. Although normalizing prostitution might work to the economic advantage of prostitutes, it's not clear that it would or should change our views of the significance of sex or the importance of maintaining autonomy with respect to sexual uses of one's body. It would, however, greatly obscure the extent to which becoming a sex worker means, for many people, trading off control over their sexual choices for some measure of economic security. Normalizing prostitution will, for this group at least, amount to surrendering sexual autonomy as a distinctive good to which they should be entitled as a matter of basic social justice.

The arguments offered here thus set out what I think is the most compelling version of the institutional critique of prostitution. While most of us are fortunate to fall within a variety of social strictures that protect our sexual autonomy from various external forces, prostitutes—even under a normalized prostitution—manifestly lack one of the key protections. They thus tend to be marked as a distinctive group, targeted for certain forms of abuse and stigma, and harmed in ways that materially and symbolically contribute to reproducing the social disparities that make some people, especially women, vulnerable from the beginning. These arguments therefore answer the liberal challenge noted above by showing why commerce in sexual activity is especially problematic for social justice and why normalizing and reforming prostitution would fail to address one of the central grounds for the radical feminists' complaint. They also show, I think, why it's important for feminists and others concerned with justice to pay explicit attention to this special sort of autonomy when evaluating and reforming our society's institutions and practices.