

The Priest, the Liberal and the Harlot:

Liberalism and Sexual Desire

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Abstract

I consider a dilemma raised for liberalism by the case of sex work. On the one hand, there is a problem for a common conception of a neutralist liberal response. A view which refuses to offer any objection to sex work, apart from contingent considerations relating to coercion and exploitation fails to acknowledge the special status of sex and the widespread reactions which most of us share, whether liberals or not, to sex work as something inherently shameful. On the other hand, there is equally a problem for the wave of liberalism which seeks to reconcile fundamental liberal principles with a predominantly feminist critique of neutralism. This tradition typically focuses on commodification and objectification as reflecting the politically urgent wrongs associated with indifference towards markets in sexual favours. For this strategy is liable to encourage imposing a rather coercive state structure on some of the weakest members of society. And, to the extent that such a view avoids positing an essential wrong in commodification or objectification, in appealing to various of the social consequences of permitting prostitution, it too loses sight of what is special about sex and the sex trade. Liberals who treasure moral neutrality fail to face up to the reality of our social reactions; liberals who take such responses seriously seem to recommend attitudes and potentially policies every bit as coercive as traditional conservative responses. I'll suggest that we can avoid this dilemma by taking seriously the social inevitability of the shaming attitudes we all share, without looking to some moral basis which justifies such an attitude of shame. The key morals here are on the one hand a need to rethink liberal neutrality and on the other, to recognize that the claims of liberalism should lie closer to the details of social reality.

1.

The brothel in the city then, is like the stable or latrine in the house. Because just as the city keeps itself clean, by providing a separate place where filth and dung are gathered, so neither less nor more, acts the brothel; where the filth and ugliness of the flesh are gathered like the garbage and dung of the city.

The author is a Dominican priest in sixteenth century Salamanca: Fray Francisco Farfan.¹ The thought is simple, if brutal: sexuality needs some kind of outlet in the way our bodily secretions do. Excreting is only engaged in in parts of the house reserved to that effect, in order to preserve our homes unpolluted; in the same manner, restricting to certain streets the activity of prostitutes allows chaste women to remain uncontaminated. Thus, this Renaissance priest asserts, a modern city needs brothels just as it needs sewers.

¹ Fra Francisco Farfan, “Tres libros contra el pecado de la simple fornicación,” quoted in Olwen Hufton, *The Prospect Before Her: A History of Women in Western Europe*. (London, Harper Collins, 1995), Volume 1, pp. 305 and 542. The thought is already present in the thirteenth century: “Remove the sewer and you will fill the palace with ordure; similarly with the bilge from a ship; remove whores from the world and you will fill it with sodomy.” Thomas Aquinas, “De Regimine Principium ad Regem Cypri,” quoted in Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval England*, (Oxford: Oxford University Press, 1998), pp. 134 and 185. The secularized nineteenth century version of the same thought is to be found in Parent-Duchatelet, the architect of Paris sewer system and advocate of public brothels. In a volume devoted to prostitution in Paris from the perspective of public hygiene and morals (*De la prostitution dans la ville de Paris, considérée sous le rapport de l'hygiène publique, de la morale et de l'administration*, (Paris: Baillièere et fils, 1836), Parent-Duchatelet considered that prostitution was indispensable to protect a healthy social body. (See Alain Corbin, *Women for Hire: Prostitution and Sexuality in France after 1850* (Cambridge Mass.: Harvard University Press, 1990).)

The analogy is multi-levelled: one is the association of sex with something disgusting and to be contained. Given the author and historical context, it is notable what the limits to disapproval of sexual desire are. The priest's view is twofold. First, it is excess sexuality, fornication or adultery, rather than sex as such, which is envisaged as problematic. And second, it is taken as a fact of life that some human beings exhibit such unwanted sexual desire. In the ideal city, there may be such perfection that such desire would be absent; however, here on Earth, in secular society, the presence of such desire and its influence on life are stubborn facts that we need to live with. There is no expression of hope for reform, nor any proposal that people should be educated or coerced into abandoning, or at least suppressing, these desires. Rather, in the face of carnal nature, the problem we face is one of the management of desire; and prostitution is seen as an institution which allows for that and hence for the proper running of society. Society would be the worse without its existence: you might end up with rampant adultery even among honourable women, rather than commerce with those whose peculiar trade it is to relieve the excess sexual energy to be found in civil society. So, although there is a belief that people's inclinations would ideally be quite different, that thought turns out not to do much work in legitimizing the coercion of (male) sexual desire.

Modern readers are likely to recoil from the implicit dichotomy between honourable, higher class, women to be protected carefully (as well as supervised) and the 'fallen', lower class, women fit to serve as partners to sexually active but as yet unwedded men. In addition, the classification of some sexual desire as inappropriate, or shameful and disgusting, and the organization of society in the light of that fact appears to reflect a commitment to specific, substantive moral values and an appeal to them as explaining and justifying the shape of civil society. So, liberals will neither adopt this particular moral stance, nor yet to suppose it legitimate to frame political institutions on the basis of such a stance. Liberals avoid commitment to an

overall moral order, given their insistence on neutrality in political theorizing, and their acceptance of the priority of the right over the good.²

Indeed there is a significant minority in contemporary liberalism which has sought to offer a political account of sex work and its regulation while remaining steadfastly neutral on questions of the morality of commercial sexual exchange, sometimes at the cost of downplaying what is special and specific about sexual desire.³ Much recent theorizing about the phenomenon of sex work, however, has expressed the strong feeling that a distinctive wrong is involved in this activity; and that, whether liberal or not, our theorizing about the regulation of sex work must take this into account.⁴ In this dominant strand of political

² For a major neutralist statement see Ronald Dworkin, "Liberalism," in *Public and Private Morality*, ed. Stuart Hampshire (Cambridge: Cambridge University Press, 1978), and *A Matter of Principle* (London: Harvard University Press, 1985). For Rawls's account of the priority of the right over the good see John Rawls, "The Priority of Right and Ideas of the Good," *Philosophy & Public Affairs* 17 (1988): 251-276. Anatomies of liberal neutrality are offered in Will Kymlicka, "Liberal Individualism and Liberal Neutrality," *Ethics* 99 (1989): 883-905, Jeremy Waldron, "Legislation and Moral Neutrality" in *Liberal Rights* (Cambridge: Cambridge University Press, 1993) and Peter de Marneffe, "Liberalism, Liberty and Neutrality," *Philosophy & Public Affairs* 19 (1990): 253-274. For a perfectionist, liberal statement opposed to neutrality, see Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986).

³ See, e.g., Laurie Shrage, "Should Feminists Oppose Prostitution?," *Ethics* 99 (1989): 347-361; Cécile Fabre, "Prostitution," in *Whose Body Is It Anyway*, (Oxford: Oxford University Press, 2006) and Lars O. Ericsson, "Charges Against Prostitution: An Attempt at a Philosophical Assessment," *Ethics* 90 (1980): 335-366.

⁴ See, e.g., Elizabeth Anderson, *Values in Ethics and Economics* (Cambridge Mass.: Harvard University Press, 1993), pp. 155ff; Scott A. Anderson, "Prostitution and Sexual Autonomy: Making

thought, we find echoes of the Dominican. Of course, what these authors consider problematic is not excess sexual desire (as Fray Farfan thought of it). Rather, many see as distinctively problematic marketed or commodified sex.

A notable aspect of contemporary liberalism's criticism of commodification of intimate and sexual relations is that it does not proceed from the pragmatic stance to be found in the late Middle Ages and early Renaissance, with its distinction between the ideal city and what is realistic to expect in human societies. As a consequence, a surprising upshot is that the policies recommended end up being more coercive than the traditionalist perspective. Proposed regulations have as their end the removal of a threat to the ideal mode of human interaction. But effective pursuit of this requires modifications in people's psychology as currently exhibited. So, what is left by the Dominican as an unfortunate necessity of secular life, becomes in purely secular political theorizing an object of concern. For the sake of a genuinely liberal society we must seek to extinguish or least suppress those desires that lead to the unwanted commercial demand for sexual exchange, and thereby avoid the unwanted effects on society and gender relations.

Liberal critics of sex work are not so far from the Dominican in terms of their immediate negative reaction to what goes on in the brothels, or in the back streets. But they have a different understanding of this response and what its political consequences should be. They locate the grounds of their negative

Sense of the Prohibition of Prostitution," *Ethics* 112 (2002): 748-780; and Peter de Marneffe, *Liberalism and Prostitution* (New York: Oxford University Press, 2010). For a sociological, non-essentialist, perspective on the wrong of sex trade see Debra Satz, *Why Some Things Should Not Be for Sale: The Moral Limits of Markets* (Oxford: Oxford University Press, 2010).

reaction in the liberal conception of an ideal citizen as autonomous and leading a good life, and in that they see liberal support for policies of reform and repression more extreme than their traditionalist forebears.

This illustrates a certain kind of dilemma for contemporary liberalism. On the first horn, we find a more traditional form of liberalism, associated with the cultural revolution of the sixties, with theorists insisting on a strict neutrality among conceptions of the good, and consequently criticizing religiously-inspired conservatism as embodying controversial and paternalistic values. These liberals hold that there is nothing special about prostitution per se; and questions of political urgency are those of a quite general concern with coercion and exploitation.

But the stance that sex work is work like any other does not fit easily with these writers' other attitudes. Are these liberal intellectuals so different in their social attitudes from the rest of society? However tolerant, and whatever our position on the debate about prostitution, we all very much hope that our children will not devote themselves professionally to being sex workers. When small children entertain thoughts of what they will be when grown up, their choices vary with social background, country and age; and these choices may reflect genuine inclination or dominant values and parents' ambitions, they may be conformist or delightfully eccentric. However, no matter how large and varied the group of children asked, it is rare, if ever, to find the answer: 'I'll be a prostitute.' And one can only imagine the uncomfortable silence that would follow a parent announcing at a social gathering with anticipated pride, 'My daughter, my son, are training to be prostitutes.' The varied set of professional sex services we call 'prostitution' still seems embedded in genuine shame. However militant in theory a neutralist liberal may be, they cannot hope to avoid the social reactions we all have in common. The neutralist perspective seems to come with the cost of denying the existence, or anyway the significance, of this widespread reaction of shame.

Contemporary societies' attitudes are closer to the traditionalist perspective on sex work than such liberals expect. The terms in which this negative evaluation is expressed are new, but the revulsion is continuous with earlier times. Neutralism fails to acknowledge the presence of this general reaction and its significance for our social theorizing. Of course, there is no inconsistency in a neutralist both thinking it a disaster that her child becomes a prostitute while at the same time not wishing to coerce others out of prostitution on the basis of the value judgements which underlie such dismay. The problem is rather that, if this liberal sees the shame as grounded in their own conception of a properly ordered society, the question arises why this does not indicate a more general problem with the acceptability of sex work.

This leads to the second horn. If the liberal is not to turn their back on our common reactions to the special concerns of sex work, how should they accommodate this reaction within a genuinely liberal perspective? We have seen that the traditionalist can help themselves to a distinction between the ideal order of society, which might be framed in terms that involve human nature being other than it is, and the practical management of secular society, which needs keenly to be sensitive to the realities of human nature. Liberals are liable to reject this dichotomous attitude to the social order as cynical, even when it is not phrased in the jarring terms used by Fray Farfan. If the liberal really believes that there are values a society should embody but fails to, they are committed to steer human nature in a direction which makes it at least possible that we live in that ideal way.

But this then raises one of the concerns which motivates the neutralist horn. Given your aim as a liberal is emancipatory, any commitment to bring about a coercive change in the way we live together looks inappropriately paternalistic. In turn, criticism of sex work, and the consequent policies proposed looks objectionably moralizing. And this abstract criticism is echoed in concrete politics in the protests of sex

worker unions against policies aimed at eradicating prostitution. Voicing the charge of paternalism, some sex workers have eloquently underlined the way in which these policies, however liberal and liberating in theoretical intent, are massively coercive in practice; a concern with them that many politicians who campaign against prostitution fail to face up to.⁵

So, the case of sex work presents us with a dilemma for liberal attitudes, one that has played out over the last couple of generations of political theory. Conservative critics may hypothesize that this simply illustrates a problem with liberalism *per se* – that it can neither truly embrace its values for fear of being coercive, nor consistently maintain a stance of true neutrality. Although the evolution of liberal debate about sex work illustrates this dilemma, I’ll argue that it teaches us a different moral. We *can* avoid the dilemma, and we can and should think in politically more realistic and useful ways about sex work, but to do this we need to get clearer about the ambitions of the liberalism.

⁵ For an eloquent example of a sex worker voicing concerns with paternalism, see the interview of Morgane Merteuil *Le Monde* (26 November 2011). Merteuil is the leader of a union of sex workers (the STRASS). She underlines the incongruous paternalistic attitudes coming from some feminists who deny that consent to sex work is real consent. (Though it is notable that Merteuil and the feminists she is criticizing seem to make the same questionable assumption, namely that what makes a sexual activity consensual is the act of consent.) Merteuil adds that contrary to the received view that sexual work consists in hiring, or even selling, one’s body, sexual workers “work with their body but also with their head”. For an illuminating discussion of what paternalism *is*, see Seana Shiffrin, “Paternalism, Unconscionability Doctrine, and Accommodation,” *Philosophy & Public Affairs* 29 (2000): 205-250. For paternalism and the harm principle, see Joel Feinberg “Legal Paternalism,” *Canadian Journal of Philosophy* 1 (1971): 105-124. For an incisive, if controversial, justification for some paternalistic prostitution laws see Peter de Marneffe, *Liberalism and Prostitution*.

I shall survey various recent endeavours to explain the wrong of prostitution, as well as considering the claims against coercion by sex-workers themselves, and the grounds for that. I'll then suggest a different response to our emotional reactions to sex and trade. In brief, my suggestion will be that we need a more accurate sociological and anthropological understanding of mechanisms of shame attached to sex work, as well as more attention to the potentially coercive effects of some modes of theorizing, when applied.

There is no direct route from theorizing about the social order to specific policies. The liberal critics of sex work need not propose specific legal restrictions on clients of prostitutes or prostitutes themselves. But it is nonetheless the case that politicians and policy makers draw on the terms of current theoretical debate in formulating increasingly repressive and illiberal legislation.⁶ We might then reflect on a reverse

⁶ See e.g. recent laws restricting the legality of purchase of sex services adopted in Canada, Norway and France. Remarkably, both the criminalization of clients and the legalization of sexual labour are sought after and fought for by feminist constituencies. However, most countries do not treat sex work on a par with other professional activities. New Zealand is one of the very few countries to authorize not only paying for sex services, but also brothels and pimping.

For the diversity of policies adopted towards sex work in different countries see <https://prostitution.procon.org/view.resource.php?resourceID=000772>. A useful survey of the main existing legislative approaches to prostitution in different jurisdictions is offered in the New Zealand's report on 'International Approaches to Decriminalising or Legalising Prostitution' prepared in 2007 by Elaine Mossman, Victoria University of Wellington, for the Ministry of Justice of New Zealand: <https://moodle.ucl.ac.uk/mod/resource/view.php?id=1511081>). Several international organizations and agencies, including Human Rights Watch, the World Health Organization, UNAIDS, as well the medical journal *The Lancet* and a number of HIV and AIDS, and LGBTI rights groups advocate decriminalization as a way of reducing mistreatment of sex workers and increasing their access to health care. In 2015, Amnesty International passed a

flow. Starting with the campaigns by sex workers against what they see as repressive policies and legislation,⁷ we can reflect on the context of this debate and consider the richer resources it provides for the liberal justification of some, but not other, social institutions.

The problems of regulating intimacy give us a concrete example against which to test some of the general assumptions liberal theorists make about the role of specific conceptions of the good in planning social institutions, and to reflect on how such an abstract picture of legitimacy as justification to all fits with the messy sociological reality of how we as citizens respond to some and others in very different ways.

resolution in favour of decriminalizing sex work, distinguishing it sharply from necessary action against human trafficking (<https://www.amnesty.org/en/latest/news/2015/08/global-movement-votes-to-adopt-policy-to-protect-human-rights-of-sex-workers/>).

⁷ Of course, sex workers are by no means unanimous regarding whether and how there should be regulation of their activity, but unions of sex-workers tend to advocate decriminalization of selling and purchasing of sex services. For sociological and ethnographic work on sex-workers' lives, the role of regulation of commercialized sex, and the conditions of its practice, see e.g. Elizabeth Bernstein, *Temporarily Yours: Intimacy, Authenticity*, (Chicago: University of Chicago Press, 2007), Jane Maree Maher, Sharon Pickering and Alison Gerard, *Sex Work, Labour, Mobility and Sexual Services*, (Abingdon: Routledge, 2013), and the interviews of sex workers and those who work around them: police, health-care providers, community workers, advocates, members of neighbourhood associations, and politicians in three Canadian Maritime cities by Leslie Ann Jeffrey and Gayle MacDonald in *Sex Workers in the Maritimes Talk Back* (Vancouver, British Columbia: University of British Columbia Press, 2007).

2.

The demonstrations by sex workers against the introduction of repressive policies are liable to engage our emotions. (Commonly now in Western Europe and North America, such policies are directed principally against male clients of sex workers, rather than the sex workers themselves; but even if the official target is not directly the sex workers, the policies have an immediate impact on their day-to-day livelihood.) But should these protests change our minds? Imagine demonstrations by slaves complaining against the planned abolition of slavery. Such protests would be unlikely to convince us that there was nothing problematic about laws which permit, or promote, slave contracts. Prostitution is not slavery, even if ‘human trafficking’ is often highlighted as one of the key problems with sex work in political commentary. Is there something that we find as obviously wrong in sex work as we find in slavery, something to lead us to protect sex workers from themselves? Is there an obvious and distinctive wrong of sex work?

In *Values in Ethics and Economics*, Elizabeth Anderson holds a view which locates the root of the problem in the *commercial* dimension of sex trade.⁸ Her initial hypothesis is simple: intimate relationships have their *value* degraded through commodification. ‘From a pluralist standpoint [of values],’ Anderson writes, ‘prostitution is the classic example of how commodification *debases a gift value and its giver*.’⁹ In the original article on which the chapter in the book is based, she explains:

⁸ Note that Anderson believes that her arguments ‘establish a state interest in prohibiting prostitution, but not a conclusive case for prohibition.’ She is however in favour of the prohibition of pimping. As for sale of sexual services in a just society, she interestingly deems this possible: ‘One could imagine a worthwhile practice of professional sex therapy aimed at helping people liberate themselves from perverse, patriarchal forms of sexuality.’ (*Values in Ethics and Economics*, p. 156)

⁹ *Values in Ethics and Economics*, p. 154, emphasis added.

But what is base about buying and selling sexual “services” on the market? One cannot understand what makes this practice base without understanding the specifically human good achieved when sexual acts are exchanged as gifts. This good is founded on a mutual recognition of the partners as sexually attracted to each other and as affirming an intimate relationship in their mutual offering of themselves to each other. This is a shared good: one and the same good is realized for both partners in their action, and part of its goodness lies in the mutual understanding that it is shared. The couple rejoices in their *union*, and not simply each in his or her own distinct physical gratification. As a shared good, it cannot be realized except through each partner reciprocating the other's gift *in kind*, offering his or her own sexuality in the same spirit in which the other's sexuality is received – as a genuine offering of the self. When sexual “services” are sold on the market, the kind of reciprocity required to realize human sexuality as a shared good is broken. The prostitute does not respond to the customer as a sexually attractive person, but merely as someone willing to put down the cash. So it is not the customer as a person that attracts the prostitute, but only his or her wealth. This is simply the counterpart to the impersonality of the market: one need not display any personal characteristics to obtain the goods sold there. And the customer seeks only sexual gratification from the prostitute, not a physical union.¹⁰

That some things are just not for sale is often asserted with examples of, variously, friendship, love, parenting, body parts, art, and so on. But consider what we *do* pay for, and what we used to pay for in times past: cleaners, child minders, carers for people in old age, wet nurses, puppies, psychoanalysts. Examples of paid for companions abound in eighteenth and nineteenth century literature: does the existence of this institution mean that the value of friendship in society at large was thereby degraded? That submitting something to strict market rules changes the availability of something of value is a legitimate concern, but Anderson's hypothesis is stronger than this: it is that the value itself gets degraded. So, Anderson's view is that sexual intimacy is special. The threat of degradation of value from commercialization arises peculiarly for this kind of personal relation. Why should sexual intimacy be special? What is the intrinsic difference

¹⁰ Elizabeth Anderson in “The Ethical Limitations of the Market,” *Economics and Philosophy*, 6 (1990): 179-205, p. 187 (reprinted slightly modified as chapter 7 of her *Values in Ethics and Economics*).

between seeking the professional service of a highly trained and experienced carer and sourcing the services of a highly trained, and experienced sex-worker?

Anderson formulates several hypotheses regarding the link between commodification and value, specifically that:

1. Commodification of sexual intercourse debases those who engage in it; and
2. Commodification destroys value; in the case of prostitution, it destroys the kind of reciprocity required to realize human sexuality as a shared good.

One response in the literature to the first hypothesis, that commodification debases those who engage in it, is to dismiss it as moralistic and sentimentalist. However, by itself, the idea that some relationships are stained by exchange of money is not absurd. There are human relationships where a money transaction can have an essentially demeaning element for all parties involved, and perhaps even damaging effects on what is of value. Think of the activity of begging. It is common to view this as an activity demeaning to both parties, supplicant and potential donor. Over the ages, begging has been heavily regulated and often banned (even if with limited success). Poor laws and other provision for the destitute have often been introduced precisely with the aim of controlling and removing begging from the social sphere. Although part of the purpose of outlawing begging may have been a concern with the plight of beggars, at least as important has been a concern with the costs of begging for those begged at.

Now part of what motivates regulation of begging from the perspective of those begged at is the desire not to be faced with the sight of the needy. But that doesn't exhaust the general concern with regulation and elimination of begging. The more interesting thought is that some forms of begging, say displaying wounds to affect the donors, are morally problematic in that they stain both parties to the

exchange. For begging to be effective, the beggar's needs must be crudely exhibited, and they have to present themselves as supplicant, and so as socially inferior to the person whom they beg. The donor, on the other hand, sees natural sympathy and benevolence distorted by the effect of the interaction, and the manipulation they are submitted to. The donor feels an emotional distress which is somewhat alleviated by giving alms. There is, in other words, something about the *very act* of begging which produces a demeaning effect both in the beggar *and* in the person begged at.

It is not really conceivable how there could be a society at all like ours with an institution of begging that did not systematically involve demeaning beggars and those begged at; if not on each occasion, then still typically, or generically. And this underwrites the thought that no society could really be just which still contained the institution of begging. We still see charity as a virtue, and would hope that in any society, however effective its official institutions, there should be scope for benevolence and chance acts of kindness. But we can see how this can be corrupted in a casual institution of exchange like begging.¹¹

Of course, this does not mean that there is *no* possible meaningful interaction, proper concern and even friendship between a beggar and a donor, nor that the virtue of benevolence is necessarily undermined in society at large. In other words: even if the example of begging provides a parallel to Anderson's first hypothesis, we do not find any echo of Anderson's second hypothesis about the destruction of value. But still, it seems clear that some forms of begging taint the relationship of those who engage in it in a way similar to that hypothesized by Anderson for prostitution.

¹¹ See my "Beggar Your Neighbour Or Why You Do Want to Pay your Taxes," In M. O'Neill, & S. Orr, eds., *Taxation and Political Philosophy* (Oxford: Oxford University Press, 2018 - with MGF Martin).

Grant that a case can be made for the first hypothesis in respect of some activities and some values: does it really apply in the case of sex work? And should we conclude that a just society would be one without sex trade? In order for the parallel to work, sex trade must be such that those involved in it have to act in ways which are *necessarily* debasing for the individuals offering sexual services in exchange for money, or for their clients. This is certainly one way of reading Anderson's complaints: the self-presentation of the prostitute as an object for consumption is inherently sullyng, and degrading. Not only does it harm or debase the sex worker: it is also more broadly damaging for meaningful, intimate and loving exchanges. Through the presence of money, the prostitute becomes a mere commodity. The sex-worker regards the customer as mere source of cash; the customer regards him or her as a mere vehicle for the satisfaction of desire. Through commodification, then, not only is there alteration, but also *corruption* of valuable relationships. In turn, this would provide support for Anderson's second hypothesis: not only is the relationship now inherently demeaning, but it is so in a way which also destroys value.

We can construe Anderson's worries in parallel with what we've said about begging. But does that really make Anderson's case? I suggest that more needs to be done. In the case of begging, we suggested that there was something inherent in the kind of exchange which was objectionable. But what is the parallel of this in the case of sexual favour for barter or trade? Anderson's proposal seems to be that it is simply allowing for the commodification of the value of sexual intimacy, admitting the possibility that the exchange of intimacy may be equivalent to monetary value. But acknowledging that in some cases, something of independent value can be traded for money or other goods, or services (you help me with my desire, I help you wash your car), is a very thin basis on which to provide for the alleged degradation. It does not commit you to the view that the value that you trade is commensurable with others on a single scale: be it preference-satisfaction or money. There is, that is, an ambiguity regarding what we call 'commodity'. If it is something

which has no value apart from tradable value, then Anderson's argument goes through: being subject to the norms of a commodity market presupposes being subject to no other norms. But if it simply means being tradable, i.e. potentially being subject to the norms of the market, then nothing yet shows that something which is a commodity is not also of value in some other domain, and subject to non-market norms of interaction. Again, compare the sexual trade with paid companionship. The absence of explicit laws against traded companionship does not in itself seem to have undermined the value of friendship.

What is the conception of a commodity in the current context? Suppose we say that a good is treated as a commodity where interaction with it is governed solely by the demands of the market: what is permissible or impermissible with respect to it is fixed *just* by the price for that interaction as set by the market. Given this definition of commodity, we do indeed get a contradiction from supposing that any good which has some independent value is nonetheless tradable as a commodity. For that good's value will generate demands on certain kinds of interaction with it, or make impermissible other ways of treating it, where neither norm arises simply from the rules which govern market behaviour.

We can imagine someone who, believing in one overarching master value, takes the market to be a way of settling the trade-off between different instantiations of this master value; market trading is the proper expression of how different goods relate to each other. Such a monist can find no value in anything traded beyond its market worth. Clearly, pluralists about value will reject such a role for markets and market worth. And it is easy to share with them the horror of what comes from such a Procrustean approach to the variety of things we treasure.

However, why should we be committed to that conception of markets and value just by accepting the existence of markets? What Anderson seems to assume is that goods have to be *fungible* in order to be

exchanged on a market: her conception of the market as governed by a master-value is expressive of that conviction. But note that the markets we actually have do not meet this condition. We happily buy and sell puppies and houses. Both of these are taken to have value beyond market price and to demand appropriate care and respect from buyers and sellers. Our interactions with them are not determined solely by market forces – markets are legally constrained to demand some, but not other, kinds of interaction with puppies or houses.

What, then, is the mechanism in the case of sexual trade which inevitably leads to the corruption of close intimacy? One may claim that the attitudes of those who take part in market trading alter. And one might then suppose, in a general subjectivist vein, that the nature of value arises from the attitudes of those who are valuing. If one alters the ways in which we value relationships, we alter the value *in* relationships. Treating sexual intimacy as something tradable opens up new attitudes towards it, and so, the thought may go, alters the significance and the value of this kind of relationship.

Degradation of value would take place in two importantly different ways. The first is the destruction of the possibility of a kind of value based on reciprocity *within* the relationship. Even if that hypothesis can be made good, it doesn't seem problematic in itself, any more than it would be to say that paying a companion precludes the possibility of real friendship with him or her (if it does). The stronger hypothesis we need is that allowing relationships of this kind contributes *systematically* to undermining the value, as one that is attainable in the society at large.

One might question the strong subjectivism about value that this story seems to imply: are values really nothing more than the shadows of our feelings? Even without that, as it stands, the story has too simplistic a picture of how our attitudes change across social circumstances. Maybe, in certain

circumstances, knowing that something is done for money might prevent some people from enjoying and appreciating the activity. However, given that the professional exercise of valuable activities such as playing musical instruments does not by its mere existence prevent the enjoyment and appreciation for amateurs, we need a specific explanation of how the availability of sex work prevents those who enjoy it for free from engaging with its value. It is salutary to remember the reactionary stories which surround gay marriage and its supposed impact on heterosexual unions, or the various scares that arise with new technologies and new media, such as the peculiarly English obsession with ‘video nasties’ in the mid-nineteen eighties.¹²

3.

Perhaps the distinctive wrong in the sex trade is not to be found just by focusing on the effects of trade. That might explain why we cannot, in looking solely at commerce, highlight the essential difference between the escort and the paid companion. But Anderson’s argument does not rest there. She adds a third, related but distinct, hypothesis which may provide the missing link: namely the impossibility, in prostitution, for partners properly to treat each other *as an end*.

¹² “Video nasty” is a term introduced in the UK by the National Viewers’ and Listeners’ Association, and publicized by the popular press. It refers to films with violent content. New technology made readily available viewing films at home, and raised heightened concerns about the lack of censorship and control. Much of the debate focused on alleged effects viewing cheaply produced American and Italian horror films might have on young children.

3. Through commodification each party values the other only *instrumentally*, not *intrinsically*.¹³

Anderson's hypothesis is that money is antithetical to, and even destroys the very possibility for, a sexual union where each of the partners treats the other as an end. Through an exchange in which one party becomes a *mere* bought-for purveyor of satisfaction of a need, and the other a *mere* source of income, each of the partners is not only reduced to their market value, but each envisages the other solely in terms of their contribution to their own welfare, that is, in instrumental terms. In turn, hypothesis (3) gives us a clue to why commodification might destroy, rather than merely transform, valuable relationships (as per hypothesis (2)). In the context of commodification, Anderson thinks, it becomes near-impossible for sexual partners to develop the kind of reciprocal, intrinsic, concern for the desires, pleasures and needs of each other.

Perhaps the most eloquent early version of this complaint is to be found in the evocative lines Georg Simmel devoted to prostitution in his *Philosophy of Money*:

The indifference as to its use, the lack of attachment to any individual because it is unrelated to any of them, the objectivity inherent in money as a mere means which excludes any emotional relationship—all this produces an ominous analogy between money and prostitution. Kant's moral imperative never to use human

¹³ Anderson, *Values in Ethics and Economics*, p. 154. For a similar thought, see Roger Scruton, 'Prostitution' in *Sexual Desire: A Philosophical Investigation* (London: Continuum, 2006), p. 159: "[P]rostitution provides 'ideal types' of the sexual *transaction*, of sex removed from the realm of personal relation and made into a form of 'alienated labour'. The ... main types that I have given involve the exploitation of others – their use as means. Hence they provide paradigms against which to define an ideal of sexual love. In love the other is treated not as means but as end[.]" G.A. Cohen voices a similar concern with alienated labour and commodification of love in prostitution, in *Rescuing Justice and Equality* (Cambridge Mass.: Harvard University press, 2008), pp. 224-225.

beings as a mere means but to accept and treat them always, at the same time, as ends in themselves is blatantly disregarded by both parties in the case of prostitution. Of all human relationships, prostitution is perhaps the most striking instance of mutual degradation to a mere means, and this may be the strongest and most fundamental factor that places prostitution in such a close historical relationship to the money economy, the economy of means' in the strictest sense.¹⁴

Note that the principal objection here, if it is to be made good, rests on something independent of the peculiar mechanisms of trade and market: the idea that in sexual interaction one has failed to treat another as an end in themselves. And this, in relation specifically to problems of gender, is now commonly expressed in terms of worries about objectification.¹⁵

¹⁴ Georg Simmel, *The Philosophy of Money*, translated by Tom Bottomore and David Frisby (London: Routledge 1978, third edition 2004), pp. 378-379.

¹⁵ One shouldn't suppose that the notion of objectification was restricted to theoretical debates until recent times though. One example of complaints about objectification can be found in popular literature from over a century ago (even if, in this case of a man by a woman), see John Buchan in *Greenmantle* (1916): "Her cool eyes searched me, but not in suspicion. I could see she wasn't troubling with the question whether I was speaking the truth. She was sizing me up as a man. I cannot describe that calm appraising look. There was no sex in it, nothing even of that implicit sympathy with which one human being explores the existence of another. I was a chattel, a thing infinitely removed from intimacy. Even so I have myself looked at a horse which I thought of buying, scanning his shoulders and hocks and paces. Even so must the old lords of Constantinople have looked at the slaves which the chances of war brought to their markets, assessing their usefulness for some task or other with no thought of a humanity common to purchased and purchaser."

We might elaborate Anderson's critique further: Prostitution is a distinctive kind of wrong because it both promotes the wrong of objectification, and because in itself it instantiates objectification. The wrong of prostitution is just, then, the wrong of objectification.

What, though, is this distinctive wrong of objectification? We can hardly answer that without having a sense of what objectification is. Martha Nussbaum helpfully catalogues the following:

[W]e need to ask what is involved in the idea of treating as an object. I suggest that at least the following seven notions are involved in that idea:

1. Instrumentality: The objectifier treats the object as a tool of his or her purposes.
2. Denial of autonomy: The objectifier treats the object as lacking in autonomy and self-determination.
3. Inertness: The objectifier treats the object as lacking in agency, and perhaps also in activity.
4. Fungibility: The objectifier treats the object as interchangeable (a) with other objects of the same type, and/or (b) with objects of other types.
5. Violability: The objectifier treats the object as lacking in boundary integrity, as something that it is permissible to break up, smash, break into.
6. Ownership: The objectifier treats the object as something that is owned by another, can be bought or sold, etc.
7. Denial of subjectivity: The objectifier treats the object as something whose experience and feelings (if any) need not be taken into account.¹⁶

Aspects of what Nussbaum highlights, 1, 5, 6 most specifically, might be taken to be present in commodification. But it is clear that even if commodification is a vehicle for such objectification, the latter can exist without the former. At the same time, though, we find various different complaints, and a sceptic

¹⁶ Martha C. Nussbaum, "Objectification," *Philosophy & Public Affairs*, 24 (1995): 249-291, p. 257.

might wonder whether there is a distinctive and unified wrong here, one that is specifically to do with treating someone as an object.

Nussbaum herself points out that in plenty of interactions we use those we love and respect as physical entities to serve our ends: the lover is useful as a pillow;¹⁷ the policeman serves as a traffic signal. Where we seek to find not just use, but wrongful use, treating *merely* as means, then typically we find cases where we think someone is just acting wrongly towards someone. But now, the sceptical voice is raised, all we have here is the suggestion that someone is objectified where they are wronged in some manner or other. That is to say, objectification fails to be a distinctive wrong, but just becomes another term for indicating when someone has been wronged in some way or other.

If objectification amounts to no more than this, then objectification cannot offer us an explanation of what is distinctively wrong in the commodification of sexual relations. For it is true of all kinds of transaction that they can lead to wrongs. Of course, many think that commercially provided sex inherently involves objectification, which on our current deflationary hypothesis is just to say, that inherently it involves acting wrongly in some way towards someone. But what we were looking for was some explication of the specific wrong involved. Just to assert again that it is wrong fails to provide that. We need, therefore, a richer account of objectification if it is to meet our explanatory purposes.

Are we missing something? Maybe disapproval attaches not to what is *done*, but rather to the instrumental and objectifying *attitude*, and to its effects. Such a possibility is suggested on Kantian grounds

¹⁷ Martha C. Nussbaum, "Whether from Reason or Prejudice: Taking Money for Bodily Services," *The Journal of Legal Studies* 27 (1998): 693-723.

by Rae Langton in her discussion of the wrong of objectification: the autonomy-violation involved in objectification can, she underlines, be a matter of attitude, or act, or both.¹⁸

But there is a price to be paid in moving from identifying acts as objectifying and focusing entirely on the agent's attitude in explaining the distinctive character of objectification. If it is the desire with which the client acts that is objectifying, then so far nothing has been said about the act itself, and whether it is distinctively wrong. It is no longer clear that we are any more in the realm of permissible or impermissible acts. For example, Derek Parfit suggests: "It is wrong to *regard* anyone merely as a means. But the wrongness of our acts never or hardly ever depends on whether we are treating people merely as a means." Parfit illustrates this conclusion through an example of a gangster: "Consider some gangster who regards most other people as a mere means, and who would injure them whenever that would benefit him. When this man buys a cup of coffee, he treats the coffee seller just as he would treat a vending machine. He would steal from the coffee seller if that was worth the trouble, just as he would smash the machine. But though this gangster treats the coffee seller merely as a means, what is wrong is only his attitude to this person. In buying his cup of coffee, he does not act wrongly."¹⁹ Compare TM Scanlon in *Moral Dimensions*: "[T]he claim that,

¹⁸ Rae Langton, *Sexual Solipsism: Philosophical Essays on Pornography and Objectification* (Oxford: Oxford University Press, 2009), p. 232. Building on suggestions to be found in the work of MacKinnon and Nussbaum, Langton considers that objectification, treating as an object, is linked to different modes of violation of autonomy. (There can, she underlines, be autonomy violation without autonomy denial.)

¹⁹ Derek Parfit, "Merely as Means," in *On What Matters*, (Oxford: Oxford University Press): 212-232, p. 232. For theoretical considerations along similar lines, see T. M. Scanlon "Means and Ends" in *Moral Dimensions: Permissibility, Meaning, Blame*, (Cambridge Mass., Harvard University Press, 2008): 89-121.

in a given action, an agent *treated* someone as an end, or failed to do so, can also be an observation about what the agent saw as reasons for acting one way rather than another. So understood, this is not a claim about the permissibility of an action but rather about its meaning.²⁰ If Parfit and Scanlon are right in their assessments, objectification conceived as an impermissible attitude would not explain why hiring a prostitute was to *do* something wrong: it would at best indicate that someone who did this had the wrong kind of attitude to others. Likewise, our complaint against the sex trade would be at best a concern with its consequences for people's attitudes, but would have failed to have identified a special kind of wrong in the activity itself.

Suppose this worry can be side-stepped. There is still a question what form the wrong of objectifying actions takes: How are we to explain how agents do something distinctively wrong when they act in ways which objectify others? To treat someone as an object is seen as the wrong thing to do, or at least as an objectionable attitude on the assumption:

- a.) they are not an object in the required sense;
- b.) there is something objectionable in making this mistake.²¹

We need the categories *person* and *object* to be exclusive for the above to make sense: if one is a person one is not an object, if one is an object, one is not a person; hence sometimes the talk of 'mere object'.

²⁰ T. M. Scanlon *Moral Dimensions: Permissibility, Meaning, Blame*, p. 5.

²¹ There might also be something morally problematic in treating objects as persons: *personifying*. See Saul, Jennifer "On Treating Things as People: Pornography, Objectification, and the History of the Vibrator," *Hypatia* 21 (2006): 45-61.

In addition, in much of the discussion there is the assumption that these are the only two categories on offer, and hence are exhaustive. For any entity if it is not an object, it is a person; if it is not a person, it is an object.

If we give positive definitions of both categories, further proof is needed that the notions really are exhaustive (conceivably something fails to meet the positive definition of object while not thereby falling under the positive definition of person). So standardly we guarantee the condition should be met by choosing one of the categories for positive definition, and then stipulating that the other category is just whatever is not this way.

Suppose we take 'person' as the positive term, and so treat 'mere object' as meaning 'not-person'. The wrong of objectification is failing to treat a person *as a person*. What ways of treating people are treating them *as a person*? The easiest way to answer this is by enumerating the ways one ought *not* to treat people, i.e. all the ways in which in so acting one would wrong them (and arguably one can only wrong a person: one can do wrong to other things of value, and one thereby does wrong, but one doesn't wrong the entity in that case). But that then suggests the deflationary conclusion that our sceptic offered above: that treating someone as a mere object is just a way of indicating that one has wronged them in some way or is so disposed. We have no *additional* category of wrong which is distinctively illuminated by contrasting persons and objects.

Take 'object' as the positive term, and so persons or subjects are simply non-objects. This isn't going to make much sense on a naturalist approach in which all entities are just objects, and persons are just a special sub-category of the objects; surely that requires the first approach. What are the alternatives? One would be to adopt *Dualism*. Persons will be non-objects in the sense of being non-physical. More promising, perhaps, would be some form of *Transcendental Idealism*. *Subject* is contrasted with *object*: object is

whatever is given to me within experience, but I, as subject, am not among the objects so given. Now to treat another subject as a mere object, is to treat them as existing just within the field of my experience, as conditioned by my sensibility, rather than seeing them as standing to experience in just the way that I stand to experience.

Even going this far, we don't yet have a clear account of any wrong as opposed to a mistake. As we have so far characterized matters, to have such an attitude towards someone, to treat them as an object, involves an intellectual mistake. But not all intellectual mistakes are of moral significance. What is the additional concern here? What takes us from intellectual incompetence to moral misdemeanour? Arguably, what is missing here is something that is special to the case of sexual relations, and sexual intimacy. What we are missing is what distinguishes sexual desire, and sexual objectification from other treatments as an object: using the shoulder of my neighbour to rest my head, and so forth. But *even if* sexual objectification has potential for grounding immorality, we still need a further account of why that should make for this counting as something which is *per se* wrong; let alone thereby a distinctive kind of wrong.

What complicates matters here is that the talk of objectification became fashionable originally in contexts other than that of individual moral criticism. It has a natural home in the context of certain, perhaps radical, social criticism, but cannot directly be applied away from that in the assessment of individual actions. When we leave aside the high-flown metaphysics, and consider instead the sociology of these matters, one might think that objectification is explained in rather different terms. The grounds of complaint of objectification (a complaint which has a wide echo for many women) is really a social one, and reflects an inequity in relation to social gender roles. This is very much in flux, and there is much variation across countries and classes. Philosophers are certainly not trained to give accurate accounts of it. Consider the

following (partial) enumeration: i.) women from early age encouraged to present themselves socially as thinking about and controlling their public appearance, making themselves attractive, and to some extent sexualising the various elements of attraction (note this is not a Western versus Eastern, or Judaeo-Christian versus Islamic matter: this is pretty much universal in industrialized society); ii.) in contrast, for heterosexual men there remains still an element of overt lack of regard for social presentation; iii.) it is burdensome to have to present oneself in response to such social norms; iv.) the objectifying eye is not that of any particular man or woman, but rather the imagined overseer who checks that we are properly occupying our gendered roles to which there is no uncostly alternative. A social critique of the objectifying aspects of our cultures doesn't have to suppose that any one person is doing any wrong, or that there is anything intrinsically wrong in various activities that may nonetheless have the causal consequence that the demanding aspects of the social roles are reinforced.

The notion of objectification has a role as part of social criticism, as part of a complaint about the circumstances in which the social demands on us are too taxing or are unfair in a gender-related way. But this is social criticism aimed at the structures present in society, and it is yet to issue in a judgement at the level of individual agents: a *distinctive* kind of individual wrong which is what the complaint of treating as mere means and objectifying needs.

In moving from the social and cultural critique which one finds in radical feminist thought of the 1970s, liberals and analytic feminists have sought to refashion criticism in terms of our ordinary ethical thought. When they do that, they lose the cultural specifics which gave those complaints their content, and we are left to search for the mysterious and distinctive wrong which individual agents can be guilty of.

One might object at this stage that the practice of using the term 'objectify' as a verb of negative appraisal for individual actions is now well entrenched within society. Competent speakers of English seem reliably to discriminate between clear cases of objectifying and clear cases of not objectifying. And the negative tone of the verb is an aspect of understanding it: someone shows incompetence or an attitude of mischief who agrees that an action is objectifying, but then asks what is wrong with that. So, the objection continues, we have good empirical reason to suppose that there is a distinctive kind of wrong which we manage to pick out with this label. How else are we to make sense of our common verbal behaviour?

The lesson we should learn from the above discussion is that the coherence of this usage is not sufficient to demonstrate the existence of a distinctive feature tracked in the world. One might hypothesise that the best explanation of our common behaviour is a certain kind of make-believe, a kind of wish fulfilment. We typically feel powerless in the face of structural features of our social world which constrain actions in this or that way. But we have a developed practice for criticising and modifying the behaviour of other agents. Pretending that objectifying is really a matter of individual action, gives us targets for this social critique. To treat actions and agents as objectifying, one might suggest, employs the fiction that these agents have as an aim to bring about or reinforce the social structures to which their behaviour provides support. In this situation, speakers typically single out acts by agents which are wrong, and the wrong of which have familiar and diverse explanations, but for which they have the additional sense that there is something more that the acts all have in common, the elusive additional element of wrongful objectifying.

Consequently, that suggests that if we are to take seriously the idea that objectification has to be a distinctive kind of moral wrong committed by agents, in order that we can appeal to that kind of wrong to explain the wrong of commodification in sexual relations, then we have failed to identify anything of a

suitable nature. The proper home of the dialectic of objectification simply takes us away from the evaluation of particular agents and their actions. As a consequence, while we can see how it might make sense to treat societies which tolerate prostitution as displaying symptoms of inappropriate, gendered, social relations, we haven't yet found in the idea of the sex trade something which is essentially a wrong.²²

But should the liberal opponent of prostitution suppose that there is any such wrong to be had? Why can't the wrong of the sex trade arise out of the complicated intersection of unwanted social consequences which come with the flourishing of these kinds of market? In the next section, I'll examine one such attempt to make good the case.

4.

Discussions of extortion and blackmail underline that it is difficult for us to pin down the distinctive wrong that these activities involve, even while we have no problem in recognizing central cases of extortion and blackmail and seeing them for the wrongful activities they are. Theoretical discussions of these phenomena

²² I haven't addressed here the vexed role that the notion of objectification has started to play in the discussion of the wrongs inherent in rape and non-consensual sex, and the ways in which this has come to be bound up with issues of consent to sex and self-ownership. (See John Gardner and Stephen Shute, "The Wrongness of Rape," in John Gardner, *Offences and Defences: Selected Essays in the Philosophy of Criminal Law* (Oxford: Oxford University Press, 2007)). While I would insist that the same worry of substituting for a structural concern some individual wrong arises in this context too, the complex thread of issues here needs a more detailed engagement than I could offer here.

often appeal to institutional costs of permitting the various activities we classify as extortive or blackmailing; thereby giving up on the ambition to explain why these kinds of activities should be thought of as bringing about a distinctive kind of wrong. We might, likewise, just step back from trying to find in the essence of commercialized sexual congress a special kind of wrong-making, but just reflect on the social consequences of allowing such trade to flourish.

Debra Satz employs this strategy, suggesting that the wrong of prostitution is not essential to it but rather linked to its sociological features: its deep effects on gender inequality, oppression and exploitation.²³

If prostitution is wrong it is because of its effects on how men perceive women and on how women perceive themselves. In our society prostitution represents women as the sexual servants of men. It supports and embodies the widely held belief that men have strong sex drives that must be satisfied, largely by gaining access to some woman's body.

But Satz does not consider that this is an essential feature of all societies:

[...] I can imagine hypothetical circumstances in which prostitution would not have a negative image effect, where it could mark a reclaiming of women's sexuality. [I]n a different culture, with different assumptions about men's and women's gender identities, prostitution might not have harmful effects on women in

²³ Debra Satz, *Why Some Things Should Not Be for Sale: The Moral Limits of Markets*. Satz does not advocate either decriminalizing nor criminalization of sex work. See p. 136: "[T]here is no simple conclusion, she writes, as to what its legal status ought to be. Both criminalization and decriminalization may have the effect of exacerbating the gender inequalities in virtue of which I claim that prostitution is wrong." However, Satz considers that pimping should be prohibited. See p. 152: "The law should promote women's control over their own sexuality by prohibiting brokerage. If what is wrong with prostitution is its relation to gender inequality, then it is crucial that the law be brought to bear primarily on the men who profit from the use of women's sexual capacities."

prostitution and as a group. But I think that [feminists arguing along these lines] have minimized the cultural stereotypes that surround contemporary prostitution and exaggerated their own power to shape the practice.

So, the account on offer attempts to be sensitive to the actual effects that the practice has within the kinds of society in which we now find ourselves. It is through the unwanted effects of the sex trade in these societies that we can locate what is objectionable about it, rather than looking to the distinctive wrong in itself of exchanging sexual favour for money.

However, a cost of this is that it must give up any claim that there is something special about the sex trade as opposed to other markets in questionable desire. This strategy invites us to think of the sex trade along the lines that some consider the legal regulation of recreational drugs and gambling: domains in which unfettered human desire can lead to socially disruptive patterns of behaviour. Or like the regulation of certain kinds of employment where distinctive risks are involved for employees or for third-parties: as in those who work in mines or oil rigs; or who make use of thrilling amusement arcades.

And yet, there is still the sense that there is something distinctive here. This is reflected in the concern with the supposed ideology of the sex trade, and the way in which it is alleged to promote an objectionable idea of women, one of its supposed central negative effects. The practice of prostitution, in which primarily men purchase sexual services from women, will typically reinforce attitudes which undermine the chances of gender equality. Hence Satz claims that there is something *special* in the effects of prostitution:

[I]s prostitution's negative image effect greater than that produced by other professions in which women largely service men, for example, nursing or fashion modeling? What is special about prostitution? The negative image effect undoubtedly operates outside the domain of prostitution. But there are three significant differences between prostitution and other gender-segregated professions. First, a large number of people currently believe that prostitution, unlike housecleaning, is especially objectionable. Holding such moral

views of prostitution constant, if prostitution continues to be primarily a female occupation, then the existence of prostitution will disproportionately fuel negative images of women. Stigma surrounds the practice, shapes it, and is reinforced by it.

Second, prostitution represents women as objects for male use. [...]. A prostitute's "no" does not, to the male she services as well as to other men, mean no.

The third difference concerns a third-party harm: the effects that prostitution may have on other women's sexual autonomy. Scott Anderson has recently argued that if prostitution was viewed as just another job analogous to other forms of employment, then presumably sex could be included as part of any number of jobs. [...]

My argument has been that if prostitution is wrong, it is because the sale of women's sexual labor may have adverse consequences for achieving a significant form of equality between men and women. This argument for the asymmetry thesis, if correct, connects prostitution to stigma and unequal status. However, it is an injustice that operates in large part through beliefs and attitudes that might someday be changed.

Satz rejects the *degradation* objection.²⁴ She hypothesizes that there might be nothing essentially wrong with prostitution, but she wants to say that it is nevertheless special: by treating and representing women as objects for male use, prostitution is connected to the lesser social status of women. It is also deemed shameful in a way that other gender-stereotyped jobs are not. There are two targets that Satz identifies: what makes prostitution *special* as an object of concern, and whether the answer to that question is also going to explain the wrong, if not *in* prostitution, still *of* prostitution as a social 'theatre of inequality'.

²⁴ Or rather, she rejects the essentialist degradation objection through commodification. Satz does not discuss objectification as an essentialist concern, and concedes in passing to Anderson that "It is wrong to treat people as mere things" (*Why Some Things Should Not Be for Sale: The Moral Limits of Markets*: p. 143).

Do the effects Satz identifies explain why our concern with sex trade should go beyond that with other forms of commerce? Consider her second concern: a cursory survey of the data doesn't support the idea that prostitution *per se* leads to rape and abuse. Most obviously a heightened threat of abuse comes about through surrounding conditions of poverty and limited legal standing of this kind of economic exchange. And once one takes that seriously, it becomes unclear why the strategy to adopt should be one of targeting a particular kind of economic activity, sex work, rather than ensuring that there are enough alternative work opportunities and safeguards. Similarly with third party harm: If the third party harm is not inherent to the activity, then surely the concern with women's autonomy and their ability to refuse jobs they abhor can be dealt with by giving the kind of legal latitude which allows people to refuse working in a morgue or in an abattoir.

This leaves Satz's first observation, that many people hold it to be morally objectionable. As she presents the matter, the fact that many people think this does not settle whether prostitution *per se* is morally wrong. The point of her observation is rather along the lines highlighted at the outset: sex trade is special because it is clouded in shame. Perhaps, one cannot get at what is special or distinctive of sex work without addressing its status as distinctively shameful. But if that is so, then we need a better account of what that reaction involves. The claim, so far, is that a sense of shame surrounds the practice, and this fact presents us with certain social problems: among other things, it contributes to hostile or subordinating attitudes about the sexual role of women. But our exploration both of the kind of acts involved in prostitution, and the kind of social setting in which sex work takes place hasn't provided us with any moral ground which would distinctively justify any attitude of shame. So, if there is an insight here connecting the special status of sex work with shame and the shaming of women, we have yet to see an adequate account of how this should guide our thoughts about social policy.

We are faced with a dilemma here. The essentialist critique looks at the nature of acts involved in sex work and explains our negative attitudes towards such work through a distinctive wrong involved in prostitution. The problem we have found with this strategy is that we can find no satisfactory underpinning of the posited inherent wrong. On the other hand, we can easily find wrongs when we look to the social or institutional setting in which the trade of sexual favours takes place. But if one's critique relies on this, we lose any grip on what is distinctively wrong about sex work. Such wrongs are exhibited in other social practices too; and we can imagine social policies which seek not to restrict sex work, but simply avoid the unwanted consequences.

I think we should remain sceptical of the first strategy. There is no reasonable expectation of finding a distinctive wrong in trading sexual favours. Satz, therefore, directs us in the only plausible direction by inviting us to look at social structures and institutions. Can we really bring out what is distinctive of the sex trade here without exploiting the fiction of an essential wrong? That possibility I turn to in the final part of my discussion.

5.

What could be distinctive of sex work at a social level which doesn't involve a distinctive wrong? Our starting point was the social fact, reflected in our common wishes for our children not to engage in certain activities, that shame is attached to these activities. Rather than treating the shame as a symptom of an underlying wrong which we as theorists need to isolate, we might better take the shame and the shaming as the very phenomenon which makes sex work special.

As a route in to this idea, I want to remind the reader first of Hume's thoughts about chastity. Hume adds chastity at the end of his list of artificial virtues in Book Three of the *Treatise*, the others being justice, promising, and allegiance. In part, Hume's intention here, as with his discussion of pride and humility, is to offend a certain religious sentiment. If chastity is an artificial virtue, then the viciousness of being unchaste is not something we can read off the act itself. For Hume, what is good about chastity can only be understood in terms of how the practice of being chaste fits into the wider aims of living together in propertied harmony. His distinctive explanation focuses on the role of inheritance of property and the need to assure men that those designated by law as their heirs really are their kin. Hume explains our concern with sexual continence as part of our concern with well-regulated property: given that concern, we also have an interest in the fidelity of women, absent suitable paternity tests for offspring; once a certain rule disapproving of the infidelity of women exists, even those who do not have interests in property 'are carried along with the stream'; the rule then gets generalized to women past child-bearing age and "extends the notions of modesty over the whole sex".²⁵

Hume suggests that we engage in a social practice of policing the sexual behaviour of women given the interest we all have in maintaining the practice of property including the inheritance of property. In his account of justice, he explains the attachment of the notion of virtue to property by appeal to the fact that we recognize its public utility; in turn he explains our attitude towards chastity as a virtue through its support of a system of property, and the public utility of the latter.

²⁵ David Hume *A Treatise of Human Nature*, edited by L. A. Selby-Bigge, 2nd ed. revised by P. H. Nidditch (Oxford: Clarendon Press, 1975), 3.2.12 .7, pp. 573 - 574.

Hume's theory is intended to explain the moral viciousness of being unchaste. It is part of an ambitious theory which seeks to explain the distinctively rule-governed aspect of moral obligations. I would not recommend that we should endorse the misogynistic explanation of our common interest in managing the sexual behaviour of women alone, even where it is offered in a somewhat ironic mode. But the explanation anyway reaches for a goal that lies well beyond our concerns. We neither wish to endorse the verdict that sex work is vicious, nor explain the very nature of moral judgement in the first place. We can still learn a lesson here, leaving aside the misogyny and the grand ambitions. Hume helps us focus on the idea that we may be unable to find anything in an act itself which makes it right or wrong, but must instead look to the social system in which it lies. So too, we might give up asking what intrinsically is shameful about sex work, but ask how society might be arranged so that we are disposed to treat such behaviour as shameful.

Even if the reasons normally advanced to argue against the de-criminalization or the legalization of prostitution do not withstand scrutiny (there isn't anything intrinsic in sexual exchange that tells you that it's the wrong thing to do), still it seems unlikely that it will become just another legitimate professional activity among many: Could we come to be happy that our child has become a prostitute, as we may be happy with them becoming a geriatric nurse?

Why should this be? One might hypothesize that people have social attitudes, emotions or other affective responses, which reflect interests they have in ways society should be organized. One toy hypothesis we can play with follows Hume's account of chastity quite closely. Perhaps we, and the culture that we are part of, are such that, with an eye on social stability, we have an abiding interest in marginalizing purely commercial, sexual relations. One, potentially effective, mechanism for marginalizing the activity would be simply to inculcate in the majority of people the attitude of deeming exchange of sexual favour for monetary

reward shameful (at least, exchange outside of the social institutions controlling inheritance). If there is a dominant social practice of that form, then the deeming shameful makes it the case that so acting is shameful. (Even if nothing in the activity as such requires that one be ashamed of it.)

Note that this is not to identify any aspect of the activity which grounds or justifies the attitude of treating it as *shameful*. Whatever people say in favour of this attitude, such reasons offered may not explain why they do find it shameful, and hence criticizing such reasons may not suffice to remove the attitudes in virtue of which the activity will count as shameful.

One might be particularly sceptical of Hume's keenness to explain our sexual mores in terms of the manner in which they further property and trade. One might seek to contextualize this mode of explanation in terms of the Scottish Enlightenment and a Protestant ethic of industry and trade. But what is equally notable is the commitment to explain our specifically sexual attitudes by a more fundamental rationale which goes beyond the sexual to other interests. Here too, one might pause. Couldn't it be that one important aspect of human life and society is just that sex is special? Couldn't it be that we can't avoid having certain kinds of shame attitudes towards sexual activity just because they are forms of *sexual* activity? While these may vary across cultures, there really is no human culture without such social regulation. It is present in our lives whether we can rationally justify it or not. Whether or not we can provide a further functional role or rationale for it, the presence of these social attitudes is something we have to take into account in any social theorising. And so, one might hypothesise, it is the presence of such affective regulation which may act as a social barrier to thinking of sex trade as just a trade like any other. And this should be the minimal element to take over from Hume: a preparedness to treat a certain facet of our social attitudes in anthropological or sociological terms.

Shame is a social emotion in at least the dimension that it commonly operates to regulate social interaction and status. To a large extent, our own feelings of shame and our shaming of others reflects our moral and social attitudes: our sense of right and wrong, and proper or improper behaviour. But it is not essential to shame that it be directed on what is morally right or wrong; and it is not obvious that it fails in its social function if it tracks something other than what is morally wrong.²⁶

The notional separation of shame and shamefulness from moral wrong is an important theoretical move. If we come to recognize that a practice of shaming does not track what is morally wrong, it won't follow either that we can extirpate the practice or even that morally we should. Certainly, to be shamed, particularly publicly shamed, can be a harm. And so, one might think, someone ought only to be shamed if they have done something wrong. But this will engage our policies, and more importantly our practices, of shaming, only where we can control whether we react to some activity as shameful or not. And some of the things that we react to we may find recalcitrant to re-education. At best, what is clear is that we shouldn't infer from the shaming reaction on our own parts that there is some wrong we thereby track. We might hypothesize, then that, i) people have social attitudes, emotions or other affective responses, which reflect interests they have in ways society should be organized; ii) we have an interest in marginalizing purely

²⁶ For an account of mechanisms of shame and how they come to be elaborated in a social context, see Bernard Williams, *Shame and Necessity* (Berkeley: University of California Press, 1993: particularly Endnote 1). See also Gabrielle Taylor, *Pride, Shame, and Guilt; Emotions of Self-Assessment* (Oxford: Clarendon Press, 1985, Chapter 3); and David Velleman, "The Genesis of Shame," *Philosophy & Public Affairs* 30 (2001): 27-52. For an anthropological perspective on mechanisms of shame, see e.g. essays in Jean G. Peristiany ed., *Honour and Shame: The Values of Mediterranean Society*. (Chicago: University of Chicago Press, 1966).

commercial sexual relations; and iii) the public shame associated with trade in sexual favours is an expression or symptom of such a social mechanism.

Suppose this is the right strategy to adopt; we simply accept that there is a reactive aspect to all of this. We accept, that is, that there is no way in which trade in sex could be other than typically something which raises attitudes of shame. This, in turn, returns us to our initial contrast, and the dilemma faced by liberalism. In discussion of Anderson, I drew a comparison with begging. It is easy for us to call up feelings of degradation and shame associated with begging, be that a matter of remembering oneself as forcing demands on others, or acceding to the demands of someone on the street. With a keen sense of what goes wrong in such exchanges, it is not difficult to work out that were society ideally organized, then we should have no begging. Moreover, given our recognition of that ideal, it is easy to work back from that verdict to implications for social policy. It provides us with a rationale for moving towards a world in which begging is somehow excluded.

If our culture stains sexual trade with shame, then it seems reasonable for us to conceive of an ideal situation in which people do not occupy such shameful trades. Perhaps this could be achieved by imagining a world in which no stigma is associated with the commercial exchange of sexual favours. But, along with the Dominican, if for rather different reasons, we might be sceptical of how easily we could mould the framing attitudes of human society to such an end. So, an alternative way of realizing the ideal would be to have a society in which there simply was no such trade. But in contrast to the case of begging, this ideal would not be preferable through having eliminated a relation which contains an intrinsic wrong: we have yet to identify any such inherent wrong in sexual commerce. Rather, in taking the anthropological turn, we have simply recognized that we have a propensity to treat this kind of activity with shame regardless of

whether there is such a wrong underwriting our attitudes. Eliminating the activity eliminates the shaming attitude. But the desirability of removing the shame doesn't clearly seem sufficient ground for social policy.

Therefore, even if we are inclined to agree that were society organized ideally we should have the absence of sex trade, in contrast to beggary, this is not indicative of the fact that sex trade is in itself wrong, and thereby by definition absent from ideally organized life. Our reluctance to embrace a life of the sex trade reflects our potentially inevitable shaming attitude towards it, but not any sensitivity to its distinctive wrong. We should hesitate, then, to treat such reluctance as support for policies which seek to extirpate this activity from actual society.

At the same time, while sympathising with the complaints of sex workers that political regulation issues in paternalistic control, we ought to recognize further problems in how we address these issues. If there is something socially shameful in the sex trade as such, then there is the threat of contamination of political institutions in either regulating or profiting through taxation from such trade. (Might it not look as if the state simply rejects values violated by this activity, or endorses values embodied in it? ²⁷) But also, and more importantly, is the delicate and pressing question of formulating ideal liberal policies which are protective of the most vulnerable in sex work: the workers themselves and yet are not coercive in a manner that liberals ought to find disturbing. To this I turn in the concluding section.

²⁷ Witness debates on whether to include proceeds from prostitution and gambling in GDP.

6.

We started with a contrast between the opinions of the Dominican priest and the choices facing liberal theorists pondering the question of prostitution. The Dominican draws a contrast between the ideal city and the appropriate policies to introduce in secular society. That contrast may look cynical to us, but it presses a dilemma on liberal thought: if we face up to the distaste that the vast majority feel concerning trade in sex, then we must acknowledge that society ideally organized would be without that activity. If our policies are driven by the aim of realizing an ideal way of living together, are we then committed to formulating policies which lead to the abolition or drastic alteration of these practices? As the Dominican recognizes, but as most politicians today who campaign against prostitution overlook, such policies would be highly coercive, particularly so against sex workers. On the other hand, liberal theorists who insist that there is no reason to treat the sex trade differently from any other commodity service appear naïve or hypocritical. It is difficult for their audience to take seriously that they resist the general attitudes towards trade in sexual favour to be found in society at large.

I've suggested that there is no clear ground to undergird the sense of distaste or shame associated with sex work in a distinctive wrong involved in commoditizing the exchange of sexual favours. While the complaint that markets destroy value and the insistence that we must recognize the limits of markets are claims that we are all swift to echo, no simple equation between market and degradation of value has been made out. Equally popular is the complaint of objectification of women by men, and the attitude or activity of objectification seems closely associated with sex work. But if we restrict the target to individual agents and their attitudes, then we lose any grip on there being a distinctive wrong here. We are much more likely to make sense of objectification if we keep the notion where it originated in social critique of structures of

power and mechanisms of imagery. And at that level of sociological observation and theory, there is no definitive account of how the sex trade distinctively brings about gendered inequity in power, rather than being a symptom of it.

This throws doubt on the supposition that we should move to general policies that seek to limit the sex trade, policies that without question would involve quite extreme coercion and would expose the most vulnerable of sex workers to more extreme harms. But it doesn't by itself throw us back on the other horn of the dilemma. If we recognize that it is costly to change people so that they do not desire or do not act on desire for commoditized sex, we can equally recognize that it is costly to alter our general attitudes towards the market availability of sex, and the standing of those who would openly buy or sell it. If a shaming attitude is inextricably bound up with the sex trade, then it is difficult to imagine an ideal way of living together in which some people are the object of such shame or stigma. So, just as we cannot imagine an ideal city with beggary in it, we cannot really imagine an ideal city with sex work at all like what we have today.

But here we find more common ground with the Dominican. That ideal ways of living would not include the sex trade, does not mean that we have to find a *per se* wrong in the sex trade, and hence that we should pursue policies which lead to its abolition. Although on entirely different grounds, we can recognize a contrast between society as it would be in an ideal form, and society as we need to engage with it in political debate and action. Of course, that still leaves in place the stigmatizing and shaming aspects of the sex trade. And here there is a notable contrast with the case of begging. The inescapable shameful aspects of begging connect to what we can see is essentially wrong in that kind of interaction: it explains not only why an ideally organized society would lack beggary, but also why it is urgent for us to move away from the current situation. In the case of sex work, the connection between shame and wrong has not been made out. So,

while there is a clear harm for people to be stigmatized, that in itself gives us no reason to suppose that they are themselves engaged in wrong, and need to be prevented from harming themselves or others. We might as easily suppose that our commitment should be to lessening the stigma associated with prostitution. Though, we might rightly be sceptical of managing to regulate away the tendencies to stigmatize sex work.

This teaches us a lesson, I want to suggest, of how we should think of the contest between political and comprehensive liberalism. Some of those attracted by the dialectical superiority of the political liberal, have thought that the distinctive stance here is simply one of studious agnosticism about what is of substantive value. And so, one might think, one avoids the taint of appeal to a purely ideal, liberal state by declining to avow any of one's deepest held values, in the light of political dispute. The messy example of sex work illustrates that such agnosticism emphasises neutrality at the wrong point. Absent the contrast between a theological ideal, and a secular reality, it may seem as if even the political liberal must be committed to realizing what they take to be politically ideal within secular life. The recognition that there is something to be regretted in a shameful way of life, gives such a theorist urgent concern to reform the ways we live. And there is a danger at just this point, of reconciling oneself to very coercive policies simply because otherwise the actual ways we live fall so short of the ideal.

The alternative perspective, I suggest, is that the proper focus of liberal thought must be on the actual ways we live, and the threat of undue coercive elements within it. I doubt that a proper understanding of the constraints of political liberalism require any agnosticism about what is of true value. But I also question whether liberal thought should really be guided by what is the ideal way of life, rather than simply to seek to remove unjust constraints on all.

What rather we need to do is to develop a liberal perspective which understands that fact about it, without seeking to ground the disapproval in some shared values that we all have. Given the values that liberals have, it is tempting to suppose that we are committed to social policies which can best realize an ideal situation embodying those values. The example of prostitution helps us see that this is an unhappy way of thinking of our liberal commitments. Our focus needs to be on the claims and demands people have in the actual, concrete situations. And so, we need to think of policies about sex work in much more local and practical terms.

In liberal and feminist accounts which seek to provide a rational ground for the extirpation of prostitution, we have the striking example of the recommendation of what, once implemented, are extremely coercive policies, ones which will damage some of those vulnerable men and women in society. Recommendation of coercion for the sake of liberal ends. This supports a picture of liberalism as a doctrine which seeks to promote particular values, autonomy most notably, and hence one which is happy to force people to be free. In contrast, we should prefer to think of liberalism as a more sceptical and deflationary approach to the ambitions of political theorizing. We should not seek to find values which all can or should be coerced to endorse, values to be embodied in our social and political institutions. Rather, finding ourselves stuck with certain social institutions, we should ask to what extent these work or not. These questions of legitimacy isolate among the various values that citizens have, those directed at the mutual interest of society working as it might.

In the light of such a deflationary conception of liberalism, it is particularly problematic to suppose that we should seek to alter people in order to fit them into a liberal ideal of society. But what the test case of prostitution highlights for us is that this doesn't easily leave us with a happily neutral position. It is too

easy, in denying that there is any essential wrong in sex work, to rest in a position where one seems to endorse such activity as one among the other trades that one could engage in. And that position ends up being hypocritical. It ignores the various ways in which shame and stigma can be associated with the different facets of bringing sexual intimacy together with trade.

And that suggests that the ultimate moral to be drawn here is that in debating the principles governing sex trade and its embodiment in enforceable policies, we should first and foremost look at the concrete level of how it effects particular groups of people, protecting them from coercion, or coercing them in turn.²⁸

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