

## PERNICIOUS PROHIBITION: AN ARGUMENT FOR THE LEGALIZATION AND REGULATION OF ADULT PROSTITUTION

*Shaun Soman, Washington and Lee University*

In excerpts from *The Guilt Project*, Vanessa Place relates the horrors to which two women, Dakota and Rickie, were subjected by their pimp “MacD.” Featuring examples of rape, vicious beatings, and psychological abuse, the passages illustrate the severity of contemporary prostitution’s impact on women. Place offers two options to combat these ills, each alternative specifically designed to alleviate harms at a distinct level of the practice. Outright prohibition of pornography, the first route to addressing this issue, would theoretically prevent “whoring” from occurring altogether whereas tightly regulated, legal adult prostitution would minimize its harm to women<sup>1</sup>. Neither of these solutions is absolutely superior to the other; each has certain, positive features that the other lacks. As is typically the case in decision-making, there is no clear, “correct” answer to this topic. In spite of this, I argue in this essay that if we are to ensure that we reach the most beneficial resolution, that is, the outcome *most* conducive to human flourishing, we should implement a policy molded around this latter proposition. First, I define “patriarchal sex” to provide a framework for the damaging attitudes that produce male demand for both pornography and prostitution. Second, I analyze the relationship between pornography and prostitution in regards to their potential to diminish the well-being of all women in society. Finally, I critique the potential benefits and harms of both legal adult prostitution and pornography prohibition. Through this analysis, I show that the legalization of adult prostitution, provided that government regulation would be implemented alongside such a policy, would produce the environment most conducive to human flourishing.

Patriarchal sex in America, as described by Robert Jensen, is any sex that reflects the belief that the “natural” roles to be fulfilled by men and women are, respectively, dominance and submission<sup>2</sup>. For Jensen, patriarchal sex reinforces the eroticization of control in male-female relationships; subsequently, heterosexual men’s attitudes towards their sexuality produce a sense of entitlement to “taking” women for sexual satisfaction<sup>3</sup>. Evidenced by the deleterious impact of pornography and prostitution, the propagation of patriarchal attitudes towards sex causes a panoply of consequences. The tendency for men seduced by patriarchal attitudes is to view women as a mere means, or objects, to satiate their sexual desires<sup>4</sup>; consequently, if these desires are not satiated by “real” women, men may presumably turn first towards pornography and then, if they are so inclined, prostitution<sup>5</sup>. The issues of pornography have been examined by a number of philosophers; whether exploiting gender inequalities to effectively reduce women to “just

---

<sup>1</sup> Vanessa Place, *The Guilt Project* (New York: Other Press, 2010), 179.

<sup>2</sup> Robert Jensen, “Patriarchal Sex” in *Philosophy and Sex*, ed. Robert Baker. (Amherst, NY: Prometheus, 1998), 537.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

sex” or promoting the rape myth that the victim “was asking for it,” this issue possesses a number of consequences<sup>6-7</sup>. Perhaps the most insidious aspect of pornography is that the demand for women’s bodies is warped to the point where pornography not only becomes enjoyable, but *necessary* for men, as though it were an addiction<sup>8</sup>. As I will soon show, this habit-forming characteristic of pornography consumption exposes the primary weakness to approaching the issue of prostitution with a strict prohibitive policy. Before analyzing these policies, we must first consider how prostitution and pornography not only reflect, but reinforce, patriarchal attitudes towards women.

Given the *current* model of prostitution in the United States, the practice will inherently exemplify patriarchal attitudes. In this model, the “market” for prostitution features a standard “business” structure; male “pimps” advertise their “product” – women who are given denigrating labels such as “whore” or “bitch” – to other men, or “johns,” for their sexual pleasure<sup>9</sup>. It is important to note the distinction that I make between referring to women who prostitute as “products” rather than “employees” in the present-day sex-service industry; “employee” implies that these women have autonomy over the terms of their “employment” in the industry, including the right to terminate said service. Although some argue that these women fully control the conditions of their employment, the psychological abuse that pimps utilize to subject these women suggests otherwise<sup>10-11</sup>. As Vanessa Place describes in harrowing detail, it is not uncommon for pimps to take the money their “ho’s” earn in addition to indiscriminately beating and raping them<sup>12</sup>. In essence, pimps reinforce the patriarchal ideal of female submission by stripping prostitutes of financial and personal autonomy to reduce them to a sub-human level. Prostituted women seemingly have no say in what services they provide; they are sold as “products” to johns for the sole-purpose of male satisfaction, reinforcing the objectification of all women. To further illustrate this point, if a prostitute is beaten or robbed by a “trick,” the pimp’s ensuing rage derives from his perceived “financial setback” rather than genuine concern for the woman’s health<sup>13</sup>. Although patriarchal attitudes seem intrinsic to prostitution, Jensen’s limited definition of patriarchal sex to American society is critical. I will later show that prostitution does not derive from patriarchal attitudes across all cultures; thus, we can draw inspiration from these contexts to reform prostitution into a model that produces more good than its current, blatantly harmful structure produces.

Now that we have considered how contemporary prostitution supports patriarchal attitudes, we turn our attention to pornography and its relation to both patriarchal sex

---

<sup>6</sup> Catherine MacKinnon, “Pornography: On Morality and Politics” as excerpted in *Philosophical Problems in the Law*, ed. David M. Adams. (Belmont, CA: Wadsworth, 1992), 264:1, 265:2.

<sup>7</sup> Rae Langton, “Projection and Objectification” in *The Future for Philosophy*, ed. Brian Leiter. (Oxford: Oxford University Press, 2004), 294-95.

<sup>8</sup> Alan Soble, “Why Do Men Enjoy Pornography?” in *Philosophy and Sex*, ed. Robert Baker. (Amherst, NY: Prometheus, 1998), 557, 559.

<sup>9</sup> Vanessa Place, 179.

<sup>10</sup> Vanessa Place, 148, 151.

<sup>11</sup> Rebecca Whisnant, book review in *Hypatia of Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, ed. Kamala Kempadoo. (Boulder, CO: Paradigm Publishers, 2005), 211.

<sup>12</sup> Vanessa Place, 149.

<sup>13</sup> Vanessa Place, 155.

and prostitution. In this essay, “pornography” refers to any depiction, whether textual, photographic, or cinematic, of sexually explicit material designed to satisfy the sexual desires of men. It is pertinent to note that, although women also consume pornography and purchase the services of prostitutes, it is men who constitute the *substantial* majority of individuals who produce and consume these goods. The fact that so many men consume pornography can be explained in several ways; whether a means to reaffirm men’s sexuality in a world where they do not get as much sex as they feel they should, or a way to provide some semblance of control to men who feel like they have none, pornography has an indisputable allure<sup>14-15</sup>. Through pornography, women are not merely reduced to their sexuality, but that sexuality becomes projected upon women by pornographers<sup>16</sup>. Men who consume pornography are presented a picture of female sexuality that reflects their own desires; the most submissive women are the most desirable ones. In some cases, the presentation of the ever-obedient woman in pornography deludes men into accepting rape myths; the “reality” that these men have come to understand from pornography is that the woman will *always* give in to sex and will always enjoy it<sup>17</sup>. Additionally, pornography can cause strain in mutual relationships. For example, a man may substitute an intimate, physical relationship with his loved one for pornography if she does not comply with his porn-influenced fantasies or if the prospect seemingly requires too much effort<sup>18</sup>. The cases of prostitution and pornography each illustrate a similar relationship to the ideals of patriarchal sex. In each instance, patriarchal attitudes about women and sex are reflected through male dominance and female submission. Men consume pornography and purchase prostitutes’ bodies; the women who are objectified are expected to comply, lest they are beaten or raped. Given these similarities, one may argue that, to prevent patriarchal attitudes from harming women, all forms of pornography and prostitution should be banned.

The primary appeal of prohibiting pornography is that women would theoretically not turn to prostitution<sup>19</sup>; that is to say, since pornography is the realm in which prostitutes are born, its prohibition would prevent women from being introduced to either legitimate or illegitimate forms of sex work<sup>20</sup>. The principle drawback of banning all forms of pornography to prevent prostitution is that we would fail to treat the patriarchal attitudes that promote “consumption” of prostitution in the first place. Leaving these beliefs untreated, combined with the prohibition of any legal means to satisfy desire for sexual gratification, may prove more detrimental than beneficial to human flourishing. To support this claim, let us consider the case of drug dependence, specifically alcoholism, on both an individual and a societal level. First, assume that an alcohol-dependent individual has been admitted to a hospital for treatment at the constant urging of her relatives. The chief physician on staff informs the patient’s family that she is to avoid alcohol entirely

---

<sup>14</sup> Michael Kimmel, “Hooking Up: Sex in Guyland” in *Guyland: The Perilous World Where Boys Become Men*. (New York: Harper Collins, 2008), 172.

<sup>15</sup> Alan Soble, 561.

<sup>16</sup> Michael Kimmel, 173.

<sup>17</sup> Michael Kimmel, 170.

<sup>18</sup> Michael Kimmel, 179.

<sup>19</sup> Vanessa Place, 179.

<sup>20</sup> *Ibid.*

yet provides no medication to curb her cravings. While the patient's family may be able to eliminate an opportunity for her to drink by creating a "dry" environment at home, her untreated cravings may encourage her to find other, potentially more harmful, means to maintain her habit. For example, perhaps the individual begins sneaking out to bars and lying to her relatives because does not wish to disappoint them. Now, as her opportunities to go out to drink without raising suspicion are limited, the individual develops the tendency to binge drink whenever she does go out. In this situation, failure to provide any means to help the individual overcome her dependence has potentially increased the consequences of her behavior; not only does the increased risk of overdose put the individual's life in greater danger, but, if discovered, her deceit would surely wound her relatives.

Now, assume that policy-makers, concerned with the growing prevalence of alcohol dependence, are tasked with combating this growing disease. These politicians, in the interest of reaching an outcome most conducive to human-flourishing, consider two options; a stance of absolute prohibition or one of strict regulation and increased public education about the potential consequences of drinking. Given the portrait painted by the previous example of a substance-dependent individual, it is apparent that illegalizing alcohol would cause more problems than it would solve. Given this hypothetical society's prominent use of alcohol, one may assume that demand for this substance in a "dry" society would create market pressures that would lead to the formation of a volatile black market. In such a market, criminal dealers would assume control of the market's supply and would attempt to maintain this control by any means necessary. These suppliers may turn to violent methods, perhaps forming gangs armed with weaponry funded by illegitimate funds, to usurp control from "rival merchants." In spite of the best intentions of policy-makers in implementing a prohibitive policy, the prevalence of violent crimes would rise due to formation of a black market in addition to leaving unfavorable demand unaltered. In order to avoid this obviously detrimental scenario, politicians would be wise to consider implementing a policy that combined tight regulation and education to reduce the rate of alcoholism in society. Such a policy would first avoid producing a black market by maintaining the legal status of alcohol. Second, by providing certain regulations, such as the prohibited sale of alcohol to minors and limited legal blood-alcohol-content for drivers, the government could theoretically mitigate threats such as adolescent dependence and drunk-driving accidents respectively. Additionally, by taxing the sale of alcohol, the government could use this income to fund awareness programs that would educate the public about the potential consequences of alcohol consumption. Through such programs, individuals who drink may choose to do so responsibly due to an enhanced awareness about the risks of binge-drinking and chronic alcohol consumption. Overall, demand for alcohol may decrease as awareness increases; thus, the prevalence of alcoholism in this society would predictably drop without causing unintended consequences.

Now that we have analyzed the potential consequences of alternate policies in this hypothetical example, we can apply similar analysis to the issue of prostitution. First, let us consider some unintended consequences that result from the prohibition of pornography and prostitution. A purely prohibitive stance towards pornography and prostitution, similar to our example of rampant alcoholism, would fail to address the underlying cause for the consumption of these "goods." In addition, despite the argument that prohibition would prevent women from turning towards prostitution, one fails to consider the

potential for trafficking women into the industry<sup>21</sup>. As I have shown, pornography and prostitution are linked in that they both reflect and reinforce patriarchal attitudes about women's sexuality. As Soble suggests, it seems as though a significant portion of men in America are dependent upon a steady supply of pornography<sup>22</sup>. Given the prevalence of American men's "addiction" to pornography, one may expect that, faced with prohibition, the pressures of this extreme demand would produce a black market for pornography that may actually exacerbate the already problematic black market for prostitution.

As previously noted, the prostitution market is controlled by pimps who sell women for the sexual satisfaction of men. If pornography were prohibited, similar men may sell objectifying material to satiate male demands for women. It is possible that, given the inherent relationship between pornography and prostitution, pimps would also assume control of the illicit pornography market. For example, a pimp could "diversify" the number of products advertised to a buyer. Depending upon the buyer's current preferences, or level of desperation to satiate his desires, he may choose to purchase either the "standard" pornographic film or "upgrade" to the services of a prostituted woman. Provided that the consumption of pornography reinforces the patriarchal belief that the sole purpose of women's sexuality is to satisfy male desires, placing it in the hands of violent suppliers who also advertise actual women may introduce a greater number of men who "need" pornography for sexual satisfaction to participation in the illegitimate sex industry. As is typically the case when demand for any good rises, economic pressures will induce a greater number of suppliers to enter the market; thus, more women may turn towards prostitution, whether "willing" or not, and subjected to criminal pimps' coercion.

If our ultimate aim of reforming prostitution laws is to produce the most possible good while causing the least amount of harm, then a stance of strict prohibition seems misguided. Instead, let us consider the potential benefits of legalizing and regulating adult prostitution. As was briefly mentioned, if prostitution could be shown to not derive from patriarchal attitudes across all cultures, the practice's supposedly "inextricably" harmful nature could be disproven; thus, we could theoretically reshape prostitution so that it does not produce the harm it causes now. Appealing to the desirability of prostitutes as wives in medieval France, Laurie Shrage argues that the practice of selling one's sexual services does not imply a negative connotation in all cultural contexts<sup>23</sup>. In fact, as evidenced by Babylonian temple prostitution's sacred role in promoting Nature's fertility, the practice can even be essential to a culture<sup>24</sup>. Ultimately, Shrage seeks to demonstrate that prostitution's meaning cannot be divorced from the culture in which it exists<sup>25</sup>. Following from these examples, one may imagine a culture in which prostitution is esteemed as an invaluable societal institution, one in which prostitutes' subjectivity is not only recognized, but respected. Given that prostitution and patriarchal attitudes are not intrinsically connected, one may consider that the benefits of reshaping the practice may outweigh any potential costs. The immediate impact of legalizing adult prostitution is that the government would take a now-legitimized prostitution market out of the hands of pimps. That action alone

---

<sup>21</sup> Rebecca Whisnant, 210.

<sup>22</sup> Alan Soble, 559.

<sup>23</sup> Laurie Shrage, "Should Feminists Oppose Prostitution?" in *Philosophical Perspectives on Sex and Love*, ed. Robert M. Stewart. (Oxford: Oxford University Press, 1995), 72:2, 73:1.

<sup>24</sup> Laurie Shrage, 72:2.

<sup>25</sup> Laurie Shrage, 73:2.

would protect women who turn to prostitution in its reformed incarnation from the psychological, physical, and fiscal abuse that they would be subjected to by pimps. Despite benefitting individual women, though, pressing concerns remain regarding prostitution's societal role; might legalized prostitution not only perpetuate, but strengthen, patriarchal attitudes?

Although one may note the apparent benefits of legalizing adult prostitution, one may make the case that the practice could potentially *reinforce* patriarchal attitudes, thus diminishing human flourishing overall. For example, by legalizing adult prostitution, men might perceive that society has effectively legitimized their views of male-dominant and female-submissive sexuality. Now, the men who previously paid for pornography to receive sexual satisfaction may turn towards prostitution with a similar conception of having unquestioned control over women's bodies. If projection of male sexuality upon women can influence the propagation of rape myths, one can imagine the negative impact the myth that all women are willing to have sex, provided that the price is right, may have on individual and societal flourishing. If men develop this misconception about female sexuality, then a man who offers monetary compensation to a woman and is refused may consequently feel validated in raping said woman. If this act significantly increased due to the legalization of prostitution, then our desire to enhance human flourishing would be unrealized. Despite this admittedly persuasive argument against legalizing prostitution, I maintain that regulating adult prostitution could actually dispel patriarchal attitudes towards prostitutes and women in general.

In contemporary American society, the words commonly used to refer to prostituted women are blatantly derogatory. Terms such as those which I have previously mentioned effectively reduce prostituted women to the level of subservient animals or mere sexual objects, implying that a prostitute is not to be cared for and loved, but rather exploited sexually, harmed, and used<sup>26</sup>. In order to alleviate this ill, we must reform prostitution in such a way that the autonomy of individuals who participate in the practice is guaranteed. If we implemented a model in which prostitutes were given complete authority over their services, rather than being subject to the john's wishes, then these women could be thought of as "sexual professionals" rather than mere objects<sup>27</sup>. These women could even obtain the status of a "sexual therapist" if they advertised their services as being able to resolve issues of human sexuality<sup>28</sup>. Furthermore, if a certain woman was asked to provide a service she was uncomfortable with providing, she could instead refer the client to a "sexual fetish expert" rather than exposing herself to danger by not complying. By ensuring autonomy, a message could be sent to men that they are not entitled to the services which these individuals provide<sup>29</sup>. In legalizing and regulating prostitution in such a way, dominant patriarchal attitudes which fail to recognize women's subjectivity may be subverted and reformed rather than necessarily being reinforced.

In this essay, I have argued that, in order to produce a society most conducive to human flourishing, government should implement a policy of highly regulated adult prostitution rather than maintain its current prohibition. By showing that the current

<sup>26</sup> Robert Baker, "Pricks' and 'Chicks': A Plea for "Persons," in *Philosophy and Sex*, edited by Robert Baker. (Amherst, NY: Prometheus, 3d ed. 1998), 294.

<sup>27</sup> Laurie Shrage, 73:1, 77:2.

<sup>28</sup> Laurie Shrage, 77:2, 78:1.

<sup>29</sup> Vanessa Place, 179.

model of prostitution reinforces ideals of “patriarchal sex,” I highlighted the detriments of such a system. I then showed that a stance of prohibition would fail to address male attitudes that promote demand for pornography and prostitution; thus, the black market controlled by abusive pimps would be maintained and cause significant harm to prostituted women. Finally, by displaying that the legalization and regulation of adult prostitution would provide women who enter the industry to maintain autonomy over their offered services, government would both prevent the harms caused by criminal pimps and could reshape society’s conception of prostitutes. Although the legalization of prostitution is not superior to pornography prohibition in every way, as patriarchal attitudes may actually be reinforced, policy-makers should still consider reforming the current model. If we, as a society, commit ourselves to promoting human flourishing, then the benefits of legalizing adult prostitution would significantly outweigh its harms and the consequences of prohibition.

## WORKS CITED

- Baker, Robert. “‘Pricks’ and ‘Chicks’: A Plea for ‘Persons.’” In *Philosophy and Sex*, edited by Robert Baker. Amherst, NY: Prometheus, 3d ed. 1998. 281-305.
- Jensen, Robert. “Patriarchal Sex.” In *Philosophy and Sex*, edited by Robert Baker. Amherst, NY: Prometheus, 3d ed. 1998. 533-548.
- Kimmel, Michael. “Hooking Up: Sex in Guyland.” In *Guyland: The Perilous World Where Boys Become Men*. New York: Harper Collins, 2008. 190-216.
- Langton, Rae. “Projection and Objectification.” In *The Future for Philosophy*, edited by Brian Leiter. Oxford: Oxford University Press, 2004. 285-303.
- MacKinnon, Catherine. “Pornography: On Morality and Politics.” As excerpted in *Philosophical Problems in the Law*, edited by David M. Adams. Belmont, CA: Wadsworth, 1992. 264-270.
- Place, Vanessa. “The Ballad of Mac the Pimp.” In *The Guilt Project: Rape, Morality, and Law*. New York: Other Press, 2010. 147-181.
- Shrage, Laurie. “Should Feminists Oppose Prostitution?” In *Philosophical Perspectives on Sex and Love*, edited by Robert M. Stewart. Oxford: Oxford University Press, 1995. 71-80.
- Soble, Alan. “Why Do Men Enjoy Pornography?” In *Philosophy and Sex*, edited by Robert Baker. Amherst, NY: Prometheus, 3d ed. 1998. 556-566.
- Whisnant, Rebecca. Book Review in *Hypatia* (22:3 2007, pp. 209-215). *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, edited by Kamala Kempadoo. Boulder, CO: Paradigm Publishers, 2005.