

What's Wrong with Prostitution? What's Right with Sex Work? Comparing Markets in Female Sexual Labor[†]

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I. INTRODUCTION

This article stems from an interest in some of the recent debates in American feminist theory over sexuality and empowerment. By the late eighties, participants in the already polarized "sexuality debates" had formed two clearly demarcated camps around such policy issues as pornography and prostitution, and around the underlying questions of power, resistance and the possibility of female sexual agency under patriarchy.¹ While the figure of the prostitute has served as a key trope in the writings and arguments of both groups—as symbolic of either the expropriation of female sexuality in general, or alternatively, of its socially subversive reappropriation—there has been surprisingly little empirical research done to investigate the lived conditions of contemporary prostitution.² Amongst feminists, prostitution has been abundantly

[†] The title for this article was inspired by Christine Overall's 1992 essay, *What's Wrong with Prostitution? Evaluating Sex Work*, in *SIGNS: J. WOMEN CULTURE & SOC'Y* 4, 705–24 (1992).

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1. Key texts include LISA DUGGAN & NAN D. HUNTER, *SEX WARS: SEXUAL DISSENT AND POLITICAL CULTURE* (1995), the anthologies *POWERS OF DESIRE: THE POLITICS OF SEXUALITY* (Ann Snitow et al. eds., 1983) and *PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY* (C.S. Vance ed., 1992) [hereinafter *PLEASURE AND DANGER*].

2. See LYNN SHARON CHANCER, *RECONCILABLE DIFFERENCES: CONFRONTING BEAUTY*,

theorized, yet insufficiently studied.³ Although a growing number of first-person accounts have been published by highly articulate sex workers and prostitutes' rights activists,⁴ it is not entirely clear how representative their voices are, or if other prostitutes, particularly those in the low end of the industry, share their perspective or how they envision their work at all.

There are policy issues at stake in the prostitution debates, making resolution all the more urgent.⁵ Despite their theoretical differences, most feminists⁶ have tended to agree that the current criminalized status of prostitution and the selective enforcement of prostitution laws are unsatisfactory.⁷ In response to centuries of "social purity" movements

PORNOGRAPHY AND THE FUTURE OF FEMINISM 173-200 (1998) (includes a survey of the existing empirical literature).

3. Meanwhile, most of the empirical literature on contemporary Western prostitution suffers from the opposite problem: failure to engage with feminist theory. *See, e.g.*, EILEEN MCLEOD, *WOMEN WORKING: PROSTITUTION NOW* (1982); BERNARD COHEN, *DEVIANT STREET NETWORKS* (1980); ARLENE CARMEN & HOWARD MOODY, *WORKING WOMEN: THE SUBTERRANEAN WORLD OF STREET PROSTITUTION* (1985). Two recent and exceptional studies which attempt to bridge the gap (and reach opposite conclusions while doing so) are WENDY CHAPKIS, *LIVE SEX ACTS: WOMEN PERFORMING EROTIC LABOR* (1997), and CECILE HØIGÅRD & LIV FINSTAD, *BACKSTREETS: PROSTITUTION, MONEY, AND LOVE* (Katherine Hanson et al. trans., 1992).

4. *See* WHORES AND OTHER FEMINISTS (Jill Nagle ed., 1997); *WOMEN OF THE LIGHT: THE NEW SACRED PROSTITUTE* (Kenneth Ray Stubbs ed., 1994); *GAUNTLET: EXPLORING THE LIMITS OF FREE EXPRESSION* 15-141 (Carol Leigh ed., 1994) [hereinafter *GAUNTLET*]; *SEX WORK: WRITINGS BY WOMEN IN THE SEX INDUSTRY* (Frédérique Delacoste & Priscilla Alexander eds., 1987) [hereinafter *SEX WORK*]; *GOOD GIRLS/BAD GIRLS: FEMINISTS AND SEX TRADE WORKERS FACE TO FACE* (Laurie Bell ed., 1987) [hereinafter *GOOD GIRLS/BAD GIRLS*]; DOLORES FRENCH & LINDA LEE, *WORKING: MY LIFE AS A PROSTITUTE* (1988).

5. In the fall of 1993, San Francisco became one of the first American cities in recent history to look towards the possibility of legalizing or decriminalizing prostitution. As of 1998, the resolutions of the Task Force's 1996 Final Report (advocating a strategy of modified decriminalization) have not yet been adopted. *See* THE SAN FRANCISCO TASK FORCE ON PROSTITUTION INTERIM REPORT (1994); THE SAN FRANCISCO TASK FORCE ON PROSTITUTION FINAL REPORT (1996).

6. I am referring here to second- and third-wave feminisms, those which have taken shape since the late 1960s. Scholars have crafted various typologies of contemporary feminist politics and thought, based upon the primary causes of gender inequality identified by each strand. Although labels can be problematic, these typically include "Marxist" feminism (which points to economic structure and the material aspects of life as the main source of gender inequality), "radical" feminism (which identifies objectification and sexual exploitation as the primary causes of women's subordination to men) and "pro-sex" feminism (which, like radical feminism, sees the social construction of sexuality as key to women's oppression, but emphasizes the *restrictions* placed upon women's sexual desire and activity as being most detrimental). In the 1980s and 1990s, it is the latter two strands of feminism that have become most prominent, and which have formed the two poles of the feminist sexuality debates. Thus, it is these two strands that I will be most concerned with throughout this discussion.

A fuller analysis of the different feminist positions is presented *infra* at Section II. *See also* JUDITH LORBER, *GENDER INEQUALITY: FEMINIST THEORIES AND POLITICS* 31-34, 65-68 (1998); Gayle Rubin, *Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality*, in *PLEASURE AND DANGER*, *supra* note 1, at 301.

7. The three most important feminist activist organizations around prostitution in the U.S. (WHISPER: Women Hurt in Systems of Prostitution Engaged in Revolt, U.S.

which have regarded prostitutes as lewd and immoral women to be reformed or punished,⁸ prostitutes' rights spokeswomen and pro-sex feminists have opposed the criminalization of prostitution, advocating instead some form of decriminalization or occasionally, legalization. Radical feminists usually have argued that legalization is the state's official endorsement and the ultimate patriarchal expression of "the traffic in women."⁹ But they also have objected to criminalizing women for their own exploitation and victimhood, and thus often have supported decriminalization.¹⁰

My own attempt to intervene in these debates is based on eighteen months of fieldwork and interviews amongst San Francisco prostitutes working at a variety of levels.¹¹ These have included leaders and members

PROstitutes Collective and COYOTE: Call off Your Old Tired Ethics) are premised upon radically distinct analyses of the nature and causes of prostitution. Yet the radical-feminist Whisper, the Marxist-feminist U.S. PROS and the pro-sex COYOTE have all lobbied actively to reform the current policy regime. See SEX WORK, *supra* note 4, at 269, 279, 290. For analyses of feminist theoretical disputes and the political convergences around prostitution, see BARBARA MEIL HOBSON, UNEASY VIRTUE: THE POLITICS OF PROSTITUTION AND THE AMERICAN REFORM 209-36 (1987); LAURIE SHRAGE, MORAL DILEMMAS OF FEMINISM: PROSTITUTION, ADULTERY, AND ABORTION 78-98 (1994); Ronald Weitzer, *Prostitutes' Rights in the United States: The Failure of a Movement*, 32 SOC. Q. 23 (1991).

8. See generally HOBSON, *supra* note 7; RUTH ROSEN, THE LOST SISTERHOOD: PROSTITUTION IN AMERICA 190-91 (1982); JUDITH R. WALKOWITZ, PROSTITUTION AND VICTORIAN SOCIETY: WOMEN, CLASS, AND THE STATE (1980); Kristin Luker, *Sex, Social Hygiene and the State: The Double-Edged Sword of Social Reform*, 27 THEORY & SOC'Y 601-34 (1998).

9. The term "traffic in women" derives from a 1910 essay by anarchist-feminist Emma Goldman. Goldman linked the exploitation of prostitutes to the exploitation of all women, arguing that everywhere a woman "must pay for her right to exist . . . with sex favors." Emma Goldman, *The Traffic in Women*, in FEMINISM: THE ESSENTIAL HISTORICAL WRITINGS 310 (Miriam Schneir ed., Vintage Books ed. 1972). In a foundational article of second-wave feminist theory, Gayle Rubin again uses the term, drawing upon a vast amount of historical and cross-cultural evidence to make the claim that male dominance and homosocial bonding are accomplished through the exchange of women as gifts. Gayle Rubin, *The Traffic in Women: Notes on the "Political Economy" of Sex*, in TOWARD AN ANTHROPOLOGY OF WOMEN 157-210 (Rayna R. Reiter ed., 1975).

10. While legalization implies formal government recognition of prostitution as a legitimate sphere of market activity (and thus greater state involvement), decriminalization would instead remove prostitution from legal concern via a strategy of tacit condonement on the part of the state. In the contemporary West, the regulatory systems of Nevada, Holland and Germany are frequently cited as exemplars of legalization. The U.K. and various continental European countries are said to employ a strategy of "partial" decriminalization, in which the prostitute-client transaction is not penalized, but prostitution-related activities such as pimping and pandering face stiff penalties. See Priscilla Alexander, *Prostitution: A Difficult Issue for Feminists*, in SEX WORK, *supra* note 4, at 184-215. See generally INE VAN WESENBECK, PROSTITUTES' WELL-BEING AND RISK (1995); KATHLEEN BARRY, THE PROSTITUTION OF SEXUALITY: THE GLOBAL EXPLOITATION OF WOMEN (1995).

11. Fieldwork was conducted from August of 1994 through May of 1996. It involved an average of ten hours per week of on-site observations and informal conversations on the streets of the San Francisco Tenderloin, Mission and Theater districts, and with sex-worker activists and their clients at meetings, in their homes and in professional venues. In a neighboring municipality, I accompanied the Vice Squad on its twice-weekly prostitution

of the San Francisco chapter of COYOTE (the national prostitutes' rights organization) as well as streetwalkers from several different strolls in the city, including the Tenderloin, the Theater District and the Mission.¹² I have focused largely upon female prostitutes, although I do recognize that a more extensive comparison with transgender or male prostitutes would be deeply illuminating.¹³ While I have not conducted formal interviews with police officers, pimps or johns, my analysis here draws upon my interactions with them and observations of their activities. In scope, this study is of course only preliminary. There are many other varieties of female prostitution and sexual labor that I have not dealt with here.

Through this fieldwork, I have sought to problematize the category of "prostitute," to argue that we cannot assess what is wrong or right with prostitution without first understanding what it is. Analyses of the social causes and meanings of prostitution should not take place in the abstract. In this paper, my aim is to suspend belief in *any* essential meaning of prostitution so as to better consider the applicability of distinct feminist positions to a range of actual and hypothetical markets in female sexual labor. Only after this is done can a more adequate theory of prostitution be attempted, one that is sensitive to particulars of culture, context, history, race and class.

In the following sections, I review some of the recent feminist literature relating to prostitution. For the sake of brevity, I have chosen to highlight a few of the more illustrative and well-known pieces from the vast body of existing material before moving into a discussion of my own research. I have organized these selections into three categories: A) radical feminist critiques of prostitution; B) pro-sex feminist defenses of prostitution; and C) contextualized feminist approaches to various aspects of the sex-work

patrols during a two-month period. In 1993 and 1994, I spent ten months as a participant-observer on The San Francisco Task Force on Prostitution. Comprised of prostitutes' rights activists, government and police officials and neighborhood representatives, the Task Force was created by the Board of Supervisors to review and amend prostitution policy in San Francisco.

12. See *infra* Sections III A. and III C. for an ethnographic depiction of the three streetwalking strolls.

13. Most studies of prostitution do indeed treat it as either an exclusively female-to-male phenomenon, or begin with the disclaimer that they will treat it "as if" it were one. While it is in fact true that the majority of prostitutes in this country and the world are female, and that the majority of clients are men, a more serious consideration of male prostitution might greatly enrich the feminist debate precisely because it would serve to complicate the arguments of both sides. If prostitution is simply an expression of men's sexual dominance over women, then what is the social significance of male prostitution, of the availability of *male* bodies for sexual use on the market? Likewise, the argument that financial remuneration for sexual services is both empowering and transgressive is problematized when we envision the transaction as one occurring exclusively between men. Female prostitution for female clients would also provide an intriguing comparative case, although it would surely be more difficult to study since there is no evidence that it exists in socially significant dimensions.

industry. In Section III, I present some of the data that was gleaned from my own research as I strive to respond to the main areas of contention between the various feminist positions. In Section IV, I conclude with a brief theoretical reconstruction of the meanings of prostitution, based on the segments of the industry that I have explored.

II. FEMINIST THEORIES OF PROSTITUTION¹⁴

A. RADICAL FEMINIST CRITIQUES OF PROSTITUTION: PATRIARCHY, OBJECTIFICATION AND THE SEXUAL CONTRACT

These investigations reveal rape, incest, sexual harassment, pornography, and prostitution as not primarily abuses of physical force, violence, authority, or economics They are abuses of women; they are abuses of sex That these behaviors are illegal makes them be considered repressed. This is largely what makes it possible for the desire to do them, which is in fact the rush of power to express itself, to be experienced as the desire for freedom.

—Catharine MacKinnon¹⁵

The story of the sexual contract reveals that the patriarchal construction of the difference between masculinity and femininity is the political difference between freedom and subjection, and that sexual mastery is the major means through which men affirm their manhood. When a man enters into the prostitution contract he is not interested in sexually indifferent, disembodied services; he contracts to buy sexual use of a *woman* for a given period.

—Carole Pateman¹⁶

Amongst certain second-wave feminist theorists, prostitution has occupied a central place in discussion as one of the seemingly clearest indicators of female sexuality as “that which is most one’s own, yet most taken away.”¹⁷ For feminist “modernists” such as Catharine MacKinnon, Carole Pateman and Christine Overall,¹⁸ sexuality is at the root of all forms

14. I use the terms ‘radical’ and ‘pro-sex’ feminism to designate two constellations of arguments that did not necessarily cluster under those labels at the time they were written. Pro-sex feminism has also been indicated by the term ‘sex-radical’ feminism, which I avoid in order to reduce confusion with radical feminism as I have outlined it here.

15. CATHARINE MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* 113 (1989) (footnotes omitted).

16. CAROLE PATEMAN, *THE SEXUAL CONTRACT* 207 (1988) (emphasis added).

17. MACKINNON, *supra* note 15, at 3.

18. See *id.*; PATEMAN, *supra* note 16; Christine Overall, *What’s Wrong with Prostitution? Evaluating Sex Work*, in 17 *SIGNS: J. WOMEN CULTURE & SOC’Y* 4, 705–24 (1992).

of gender inequality and sexual objectification is the key to women's subjection. It is for this reason that prostitution is, in Overall's words, "an inherently asymmetrical" institution,¹⁹ to be sharply distinguished from other bodily trades or, more generally, from other forms of wage labor.

In modern patriarchy, argues Pateman, "sale of women's bodies in the capitalist market involves sale of a self *in a different manner, and in a more profound sense*, than sale of the body of a male baseball player or sale of command over the use of the labour [body] of a wage slave."²⁰ While other forms of labor, even gendered ones, also rely upon the legal fiction of "property in the person" that can be contracted out independently of the contracting self,²¹ prostitution is unique because it entails that the woman's (sexual) self be contracted out not just incidentally, but necessarily. According to Pateman, it is the woman herself that the male client is interested in purchasing, not an isolable commodity or service.²² By contrast, although the sociologist Arlie Hochschild has demonstrated that significant quantities of "emotion work" are required of flight attendants,²³ it would be difficult to characterize their work as the literal exchange of money for emotions. It is both the inextricability of sexuality and self-identity as well as prostitution's stake in maintaining systemic gender inequality that have led feminists to argue for its "market inalienability."²⁴

Pateman, furthermore, links prostitution (along with marriage) to the implicit sexual contract upon which both modern patriarchy and civil society were founded.²⁵ Contractarian defenses of prostitution—whether advanced by the right, the new left, or feminists themselves—are possible "only because an important question is begged: Why do men demand that satisfaction of a 'natural appetite' must take the form of public access to

Kathleen Barry's *FEMALE SEXUAL SLAVERY* (1979) and her more recent *THE PROSTITUTION OF SEXUALITY*, *supra* note 10, are well-known, but less theoretically nuanced incarnations of this kind of feminist analysis.

19. Overall, *supra* note 18, at 717.

20. PATEMAN, *supra* note 16, at 207 (emphasis added).

21. One of the central tenets of social contract theory—that all individuals are property owners by virtue of their intrinsic attributes and abilities—is best expressed by John Locke's famous formulation: "every Man has a *Property* in his own *Person*." JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* (P. Laslett ed., 1967), *cited in* PATEMAN, *supra* note 16, at 13. (emphasis in original).

22. See PATEMAN, *supra* note 16, at 207.

23. ARLIE RUSSELL HOCHSCHILD, *THE MANAGED HEART: COMMERCIALIZATION OF HUMAN FEELING* 7 (1983).

[E]motional labor . . . requires one to induce or suppress feeling in order to sustain the outward countenance that produces the proper state of mind in others. . . . This kind of labor calls for a coordination of mind and feeling, and it sometimes draws on a source of self that we honor as deep and integral to our individuality.

Id.

24. See MARGARET JANE RADIN, *CONTESTED COMMODITIES* 16 (1996).

25. See PATEMAN, *supra* note 16, at 154-89.

women's bodies in the capitalist market in exchange for money?"²⁶ As Overall writes, "the fact that it is men and not women who buy prostitutes' services is not, surely, just for women's lack of equal opportunity to do so."²⁷ Rather, the availability of purchaseable sexual services "is part of what it means to be a man, part of the contemporary expression of masculine sexuality."²⁸

B. PRO-SEX FEMINISM AND DEFENSES OF PROSTITUTION: "SEX WORK"
AS ECONOMIC EMPOWERMENT AND EXPRESSIVE FREEDOM

Trawling for men . . . the female prostitute puts a price on her labors. The sex worker cocks a snook at Johnson's famous edict that 'on the chastity of women all property in the world depends'—demanding, and generally getting, better money for her services than the average, male, white-collar worker. Society demonizes sex workers because they demand more money than women should, for services men expect for free.

—Anne McClintock²⁹

[I]n contrast with a low-paying clerical job . . . some women describe a sense of adventure, excitement, and, most of all, power in turning tricks . . . narcissistic enjoyment can emanate from seeing desire in someone's eyes, knowing the dependency admitted by this attentiveness (however transient and fleeting), making him pay and in fact 'getting paid' from a sense of controlling the interaction and/or in giving him, and at moments oneself, pleasure.

—Lynn Sharon Chancer³⁰

More recently, many feminist academics and prostitutes rights' activists have articulated positions that provide a glaring contrast to the analyses of prostitution as sexual oppression advanced by MacKinnon, Pateman, Overall and others. Their arguments may take the form of a naive contractarianism, or stem from a hip cynicism and postmodern pragmatism.³¹ The "sex worker" may be seen as a worker like any other

26. *Id.* at 198.

27. Overall, *supra* note 18, at 719.

28. PATEMAN, *supra* note 16, at 188-89.

29. Anne McClintock, *Sex Workers and Sex Work: Introduction*, 37 SOC. TEXT 1 (Winter 1993).

30. Lynn Sharon Chancer, *Prostitution, Feminist Theory, and Ambivalence: Notes from the Sociological Underground*, 37 SOC. TEXT 163 (Winter 1993).

31. The libertarian Camille Paglia (avowedly "pro-pornography, pro-prostitution, pro-abortion, and pro-legalization of drugs") is perhaps the best-known example of contractarian, free-market feminism. See CAMILLE PAGLIA, *SEX, ART, AND AMERICAN CULTURE: ESSAYS* 251-52 (1992). By contrast, "postmodern" pro-sex feminists do not

(although better paid), or she may come to emblemize not just someone making do under the inevitable constraints of patriarchy, but the subversive strategist par excellence. In this view, the sex worker is patriarchy's ultimate "bad girl": "I've always thought that whores were the only emancipated women," writes COYOTE's Margo St. James. "We are the only ones who have the absolute right to fuck as many men as men fuck women."³²

Furthermore, pro-sex feminists maintain that there is a hypocrisy underlying feminist critiques of the sex trade and male sexual control, which may indicate that the reinstatement of traditional morality (in the form of heterosexual monogamy) is what has really been at stake all along. While prostitution is criminalized by the legal system and assailed by feminists, marriage (the other foundational sexual contract of modern patriarchy), has arguably been granted far more theoretical, political and ethical slack in the majority of feminist discussions.³³

C. FEMINIST CONTEXTUALIZATIONS: SITUATING THE MEANING OF PROSTITUTION EMPIRICALLY

One recent attempt at a resolution of the sexuality debates is Laurie Shrage's effort to articulate an interpretive and pluralist ethics of

uncritically embrace the liberatory potential of either sexuality or the free-market. Instead they see both as terrains of struggle, capable of generating forms of resistance.

One example of what I call the "postmodern pragmatist" critique of MacKinnon's theory of sexuality is provided by Judith Butler:

Within the terms of her own analysis, the 'freedom' that MacKinnon conjures consists of a radical transcendence of social 'reality' as it 'is'; it does *not* consist of struggling within the terms of that social fabric, of discerning the margins that escape the hegemonic imprint, or reevaluating the positions of subordination as positions of socially constituted efficacy.

Judith Butler, *Disorderly Woman*, in *TRANSITION: AN INTERNATIONAL REVIEW* 94 (1991). Other challenges to radical feminists' insistence upon an inherently sadomasochistic model of heterosexual desire include DRUCILLA CORNELL, *BEYOND ACCOMMODATION: ETHICAL FEMINISM, DECONSTRUCTION, AND THE LAW* (1991) and Nancy Fraser, *Beyond the Master/Subject Model: Reflections on Carole Pateman's Sexual Contract*, 37 *SOC. TEXT* 173-83 (Winter 1993).

32. Margo St. James, *The Reclamation of Whores*, in *GOOD GIRLS/BAD GIRLS*, *supra* note 4, at 84.

33. Shannon Bell has drawn attention to Carole Pateman's claim in an earlier essay that "a form of marriage in which the husband gains legal right of sexual use of his wife's body is only one possible form. The conjugal relation is not necessarily one of domination and subjection, and in this it differs from prostitution." SHANNON BELL, *READING, WRITING, AND REWRITING THE PROSTITUTE BODY* 79 (1994) *citing* Carole Pateman, *Defending Prostitution: Charges Against Ericsson*, in *FEMINISM AND POLITICAL THEORY* 203 (Cass R. Sunstein ed., 1990). Similarly, Gayle Rubin has noted that "Most systems of sexual judgement—religious, psychological, feminist, or socialist—attempt to determine on which side of the line a particular act falls. Only sex acts on the good side of the line are accorded moral complexity." Rubin, *supra* note 6, at 282. The "good" side of the line, she argues, is restricted to heterosexual, married, monogamous and reproductive sex acts which take place in the home. *See id.*

sexuality.³⁴ She is sharply critical of feminist "origin stories," or of any single and unitary account of the social origins, evolution and meaning of prostitution, whether libertarian or romanticist.³⁵ According to Shrage, the "moral tales"³⁶ of both sides are undergirded by the common problem of a lack of cultural and historical specificity.³⁷

Instead of attempting to answer the question "What's wrong with prostitution?," Shrage first poses the question "What is it?"³⁸ Drawing upon socio-historical studies by Hobson, Walkowitz, Jenness, Otis and White,³⁹ she compares contemporary urban sex commerce with colonial Kenyan prostitution and prostitution in medieval Occitania so as to highlight their particularities. She concludes that different varieties of prostitution may have different social meanings and thus, demand different feminist responses.⁴⁰ Perhaps prostitution "predicated on fertility worship or prostitution that functions as informal polyandry" need not be deterred or controlled.⁴¹ While Shrage's approach may seem to undercut the feminist insistence that there is a unity to all women's experiences that stems from inequality, she may be right in suggesting that there exists a *range* of potential meanings for different historical and cultural varieties of prostitution.

In another recent article, Lynn Sharon Chancer attempts her own clarification of the sexuality debates by calling attention to the dearth of social scientific literature on prostitution.⁴² In a bold move, Chancer calls for detailed ethnographic, and ideally, *participant-observational* studies of prostitution in its various guises. If male sociologists can study crack users, street gangs and ghetto boxers up close, why must prostitution always be regarded from a distance?⁴³ While the question is intriguing

34. See SHRAGE, *supra* note 7, at 80.

35. See *id.* at 89-98.

36. See *id.*

In preparing the groundwork for the moral and political analysis of prostitution, feminist theorists have tried to develop a single account of the origins and social evolution of prostitution—that is, a general account of how prostitution arises in any society. Presumably, if the social forces that give rise to prostitution are morally problematic, then so too is the resulting social practice itself. Alternatively, if prostitution has morally unproblematic origins, then its moral character needs to be reevaluated accordingly.

Id. at 89.

37. See *id.* at 98.

38. *Id.* at 99.

39. See HOBSON, *supra* note 7; WALKOWITZ, *supra* note 8; VALERIE JENNESS, MAKING IT WORK: THE PROSTITUTES' RIGHTS MOVEMENT IN PERSPECTIVE (1993); LEAH OTIS, PROSTITUTION IN MEDIEVAL SOCIETY (1985); LUISE WHITE, THE COMFORTS OF HOME: PROSTITUTION IN COLONIAL NAIROBI (1990).

40. See SHRAGE, *supra* note 7, at 99-119.

41. *Id.* at 119.

42. See Chancer, *supra* note 30.

43. *Id.* at 143.

(and in a way, brings us back to the question we started with: What's wrong with prostitution?), her answer, "the whore stigma," is disappointing and conceals an overly simplistic resolution.⁴⁴ Nevertheless, I support her call for increased empirical inquiry and her hope that such studies may serve to enrich feminist theory.

Perhaps the most ambitious attempt to disentangle these issues is made by Debra Satz in her article, *Markets in Women's Sexual Labor*.⁴⁵ Like Shrager and Chancer, she argues that only a historically and culturally situated discussion of prostitution in its diverse variants will allow us to determine "what, if anything, is problematic about a woman selling sexual as opposed to secretarial labor."⁴⁶

Although hers is a philosophical exploration rather than an empirical study, Satz proceeds by proposing a range of "prostitute scenarios"—the fourteen year-old heroin addict, the college-educated, Park Avenue call girl, the male prostitute who sells sex to other men—in order to consider who becomes a prostitute and why, how choices are made and preferences shaped, and what constitutes the likely range of alternatives for each of the above cases.⁴⁷ Keeping these three scenarios in mind, she then assesses the strengths and weaknesses of various arguments that have been made about prostitution, from economic, contractarian positions to essentialist arguments, to the various conflictual strands of feminist theory.⁴⁸ Satz provides us with good, thought-provoking examples, but unfortunately, since they are not based on real cases, it is hard for her to pursue them seriously (even by way of speculation) in particularity or detail.

Satz considers, for example, to what extent different prostitutes are engaged in a "desperate exchange"—that is, an exchange that the individual would never partake in given any reasonable alternative.⁴⁹ Rather than attempting to draw upon the distinctiveness of her cases to address this question, she simply takes issue with essentializing feminisms that *necessarily* regard prostitution as one such exchange, feminisms that posit an inherent link between sexuality and self.⁵⁰ Unlike the sale of a body part or of citizenship rights or friendship,⁵¹ the exchange of sex for

44. See *id.* at 144, 165. Chancer focuses exclusively upon the ambivalent reactions of others and the likely professional consequences for the hypothetical researcher ("discouragement, repeated jokes, humiliation, discrimination overt or covert"). For an elaboration of the images of shame and degradation that comprise the social stigma of prostitution, see Gayle Pheterson, *The Whore Stigma: Female Dishonor and Male Unworthiness*, 37 SOC. TEXT 39 (Winter 1993).

45. Debra Satz, *Markets in Women's Sexual Labor*, 106 ETHICS 63, 63-95 (1995).

46. *Id.* at 63.

47. *Id.* at 65-66.

48. See *id.* at 67-81.

49. According to Satz, "desperate exchanges" such as slave contracts or the sale of body parts are rightly prohibited under current American law. *Id.* at 71.

50. See *id.* at 74.

51. See *id.* at 69.

money may not be inherently degrading:

[T]he relationship people have with their sexual capacities is far more diverse than the relationship they have with their body parts. For some people, sexuality is a realm of ecstatic communion with another, for others it is little more than a sport or distraction. Some people will find consenting to be sexually used by another person enjoyable or adequately compensated by a wage. Even for the same person, sex can be the source of a range of experiences.⁵²

While for Satz there is nothing morally wrong with prostitution *per se*, her thought experiments lead her to conclude, crucially, that important barriers to degradation are established by allowing the prostitute to refuse to perform sex; by ascertaining that there is informed consent; by prohibiting male brokerage; and by ensuring that she has other life options.⁵³ This constellation of circumstances, she maintains, is present for few, if any, sex workers in contemporary American society.

[P]rostitution is wrong in virtue of its contributions to perpetuating a pervasive form of inequality. In different circumstances, with different assumptions about women and their role in society, I do not think that prostitution would be especially troubling—no more troubling than other labor markets currently allowed.⁵⁴

In order to consider Satz's criteria more closely, let us bracket for the moment the larger question of whether or not prostitution would exist in a society with more egalitarian assumptions about women and their role.⁵⁵ For which sex workers are some of these barriers to degradation currently present, and to what extent? Precisely why or why not? These are questions that Satz does not answer.

In the next sections of this paper, I draw upon my own fieldwork and interviews in an attempt to fill in some of the gaps that Satz has left vacant. I present a range of concrete scenarios, of contextualized choices and of circumstances surrounding the nature of the exchange. These cases are to be distinguished by varying degrees of control over sexuality, by the distinct probabilities of meaningful consent, by the uneven extent of male brokerage and by the sets of alternative options available to the women concerned. I conclude with a very brief theoretical reconstruction of the meanings of prostitution from a feminist perspective, based on the segments of the industry that I have explored.

52. *Id.* at 71.

53. *See id.* at 84–85.

54. *Id.* at 85.

55. This question is addressed *infra*, Section IV.

III. FORMS AND MEANINGS OF PROSTITUTION: THREE CASE STUDIES

A. VARIETIES OF "CAREER PROSTITUTION": STREETWALKING IN THE THEATER DISTRICT AND THE TENDERLOIN

Despite the ready equation of streetwalking with prostitution in both the popular and the policy-maker's imagination, streetwalkers are only estimated to comprise some 20% of the prostitute population in urban areas such as San Francisco.⁵⁶ Yet as I have been arguing, prostitutes have a diverse range of experiences, as do streetwalkers themselves, even within a ten-block radius of one city. For example, in San Francisco's Theater District and the adjacent Tenderloin, streetwalkers can be subdivided into at least three distinct prostitute populations.⁵⁷

The women in the geographic area bounded by Geary, Mason, O'Farrell and Leavenworth streets often describe streetwalkers as pertaining to one of three "classes": the "upper class" women of Geary and Mason; the "middle class" women of Leavenworth and Geary; and the "lower class" women who work O'Farrell street between Taylor and Jones.⁵⁸ On the street, the "classes" can be visually distinguished by race and by "body capital,"⁵⁹ although there do not appear to be significant differences in class of origin. Most women have tenth or eleventh grade educations, and are from low-income or welfare families.⁶⁰ The younger

56. See Alexander, *supra* note 10, at 189. However, "In smaller cities with limited indoor venues street prostitution may account for 50-70%." Carol Leigh, *Prostitution in the United States—The Statistics*, in GAUNTLET, *supra* note 4, at 17. Of course, if it is difficult to define what prostitutes are, it is even more challenging to try and count them.

57. For purposes of this paper, I am considering the "crack prostitutes" who work along one infamous Tenderloin street to be a separate category, which I discuss below. The transgendered and male prostitutes, who work on neighboring streets in the area, also comprise separate populations that are not dealt with here.

58. Interview with "Trisha," streetwalker, San Francisco, September 24, 1994; Interview with "Evelyn," streetwalker, San Francisco, September 25, 1994; Interview with "Olivia," streetwalker, San Francisco, October 22, 1994. Except for public figures, all names and identifying information of the research subjects have been changed.

59. As the social theorist Pierre Bourdieu has commented:

Taste, a class culture turned into nature, that is, *embodied*, helps to shape the class body. . . . It follows that the body is the most indisputable materialization of class taste, which it manifests in several ways. It does this first in the seemingly most natural features of the body, the dimensions (volume, height, weight) and shapes (round or square, stiff or supple, straight or curved) of its visible forms, which express in countless ways a whole relation to the body, i.e., a way of treating it, caring for it, feeding it, maintaining it

PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGEMENT OF TASTE* 190 (Richard Nice trans. 1984).

60. Interview with Trisha, *supra* note 58; Interview with Evelyn, *supra* note 58; Interview with Olivia, *supra* note 58; Interview with Norma Hotaling, former street prostitute and Director of SAGE Project, San Francisco, November 12, 1995; Fieldnotes May 28, 1995 and May 25, 1996 (on file with author).

women are very often runaways; many of the older women are mothers.⁶¹ The women typically fall between the ages of fifteen and thirty, though the vast majority seem to be in their late teens and early twenties.⁶²

The predominantly White, Asian and light-skinned Black women on the crowded and brightly lit Geary-Mason stroll command the highest prices.⁶³ They are young, slim and expensively dressed; their tightly-fitted suits, sweater sets and fur or leather coats code them for a relatively upscale market.⁶⁴ Physically, only their shorter-than-average skirts, "big hair" and heavy makeup set them apart from many of the dressed-up female tourists or theater and restaurant goers who walk past them, and the differences may be quite subtle.⁶⁵ They strive to project an image they describe as "nice, normal, classy."⁶⁶ Perhaps the main distinguishing characteristic of these women is their tendency to stand alone, unescorted, or to congregate in all-female groups and smoke between dates.⁶⁷

For women working this "upper class" stroll, prices start at \$100, and it is not uncommon for them to make as much as \$400 per date.⁶⁸ Indeed, several women told me that a girl could easily make \$800-\$900/night, depending on how "brave" she was.⁶⁹ "Bravery" might be defined as getting into cars with dates—for many, an unquestionably dangerous activity—rather than restricting oneself to dates willing to go back to one of the numerous high-priced hotels in the area, or to the less posh hotel on a nearby street out of which they often work.⁷⁰

In the Tenderloin, just a few blocks over, dates range from \$20 to \$100.⁷¹ Here, there are more African American women; women wear scanty, less elegant clothing and there is a greater range of ages and body styles.⁷² The streetwalkers are easily distinguished because they are practically the only women inhabiting these sparsely-populated, poorly-lit

61. Interview with Evelyn, *supra* note 58; Interview with Trisha, *supra* note 58; Interview with Olivia, *supra* note 58; Fieldnotes May 25, 1996, November 28 and June 6, 1995 (on file with author).

62. Fieldnotes October 15, 1994 (on file with author).

63. Interview with Trisha, *supra* note 58; Interview with Olivia, *supra* note 58; Interview with Evelyn, *supra* note 58; Fieldnotes November 29, 1994 (on file with author).

64. Fieldnotes September 15 and October 15, 1994 (on file with author).

65. Fieldnotes September 15, 1994 (on file with author).

66. Fieldnotes November 29, 1994 (on file with author).

67. Fieldnotes September 15 and December 2, 1994 (on file with author).

68. The most common requests of customers are fellatio (\$100) and intercourse (\$400). Interview with Olivia, *supra* note 58; Fieldnotes, September 14 and November 29, 1994 (on file with author).

69. Fieldnotes December 18, 1994 (on file with author); Interview with Evelyn, *supra* note 58.

70. Interview with Evelyn, *supra* note 58; Fieldnotes December 2, 1994 (on file with author).

71. The price range corresponds both to services offered (fellatio: \$20-\$40; intercourse: \$80-\$100) and precise geographic location. Interview with Evelyn, *supra* note 58; Interview with Olivia, *supra* note 58; Interview with Trisha, *supra* note 58.

72. Fieldnotes October 15, 1994 (on file with author).

streets.⁷³ This section of the neighborhood is characterized by neglected apartment buildings and a smattering of liquor stores, seedy bars and cheap hotels. Drug dealers, their customers and pimps form the main foot traffic; potential johns drive by in automobiles, honking to express interest.⁷⁴ Many of the women travel to work in sweatshirts and jeans, then change into their "uniforms" in their hotel room, either rented for the evening or by the hour.⁷⁵ Sometimes, after a hotel bust, those women without good hotel connections may be denied access to a room and be forced to go into their date's cars.⁷⁶

What is key for all streetwalkers (and for most female prostitutes generally) is that there is no other job at which they could make anywhere near a comparable wage.⁷⁷ Indeed, even the most successful women professionals would be hard-pressed to match their hourly earnings, let alone women of class, race and educational backgrounds similar to their own, for which the most likely alternatives would be a minimum wage job or marriage.⁷⁸

Several women sought to emphasize the difference between "career prostitutes" and "crack prostitutes" (the former to be distinguished from the latter not only by the cash-for-sex, instead of drugs-for-sex transaction, but by the degree of meaningful choice entailed). And yet "career" might seem to be an odd word to describe an occupation that is held for an average of four years,⁷⁹ for which its practitioners rarely speak in terms of skills, services, or even sales pitch, in which it is explicitly *the body as product, as saleable object*, that is key. After several months of doing condom distribution and outreach in the neighborhood and witnessing the streetwalkers' frequent arrests, I decided to attempt a sociological and political experiment to see how I would be treated by the police, and by

73. Fieldnotes December 20, 1994 (on file with author).

74. Fieldnotes October 15, 1994 (on file with author).

75. Interview with Olivia, *supra* note 58; Interview with Evelyn, *supra* note 58; Interview with Trisha, *supra* note 58; Fieldnotes, November 28, 1995 (on file with author).

76. Fieldnotes October 15, 1994 (on file with author); Interview with Trisha, *supra* note 58.

77. "What is woman's best economic option? Aside from modeling (with which it has much in common) hooking is the only job for which women as a group are paid more than men." CATHARINE MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 24-25 (1987).

My own research has provided further support for the claim that female prostitutes at all levels earn considerably more than their male counterparts. Prices for San Francisco male street prostitutes range from \$20 to \$50. The male escorts I interviewed charge \$100 an hour, approximately half as much as the female escorts in this study. Interview with "Michael," escort, San Francisco, February 5, 1995; Interview with Vic St. Blaise, Organizer of CASH: Coalition Advocating Safer Hustling and Editor of *Whorezine*, San Francisco, March 3, 1995; Interview with "Torben," escort, San Francisco, March 16, 1995.

78. Interview with Evelyn, *supra* note 58.

79. See Priscilla Alexander, *Making a Living: Women Who Go Out, in WOMEN'S EXPERIENCES WITH HIV/AIDS* 75-90 (Lynell D. Long et al. eds., 1996).

others, if I dressed to look as much as possible like the other women and stood with them on the street. When I first discussed my plans with several women to go on the street as a "decoy," they pointed out that if I actually decided to work, I could make many hundreds of dollars. It did not occur to them to ask me if I knew how to "do" anything. Either I apparently knew all I needed to know, or any such knowledge was irrelevant. Youth, intrinsic body capital and the enhancements of sexualized clothing and make-up are regarded as the exclusive determinants of money-making ability. For these women, the "work" resides in the preparation and nightly display of the body-to-be-fucked that sells itself.⁸⁰

Prostitution may, nevertheless, be experienced by some of these women as both an economically and sexually liberating option. Given the range of economic and sexual alternatives in a society in which female sexuality is already appropriated, in which rape, incest and forced sex with boyfriends have been the routine litany of their coming of age,⁸¹ prostitution may ironically be the first time that they have experienced the notion of "consent"⁸² as at all meaningful.

In some cases, it is the women themselves drawing up the terms of the contract—aggressively propositioning the men, and stipulating terms and conditions. Unlike one woman I met, who told me that she waited for her boyfriend to choose and bring back dates to her hotel room, many others on the street in some sense fulfill one of Satz's criteria for control over sexuality: they can and often do refuse to perform sex,⁸³ or indeed, to even

80. Fieldnotes October 15, November 29 and December 1, 1994 (on file with author).

81. Fieldnotes May 25, 1996 (on file with author); Interview with Norma Hotaling, *supra* note 60.

A survey of 200 San Francisco street prostitutes by Silbert and Pines further documents the prevalence of early sexual abuse amongst streetwalkers. Silbert and Pines found that over 60% of their sample were victims of incest and sexual abuse between the ages of three and sixteen. Mimi H. Silbert & Ayala M. Pines, *Entrance Into Prostitution*, 14 *YOUTH & SOC'Y* 471, 479 (1982).

82. This, despite the fact that according to some figures, nearly seven out of ten prostitutes claim to be regularly raped on the job. See Vicki Neland, *Council for Prostitution Alternatives Handbook*, Portland, Oregon (1995); Mimi Silbert, *Sexual Assault on Prostitutes*, research report to the National Center for the Prevention and Control of Rape (1980), cited in Satz, *supra* note 45, at 78.

Robin West points to something similar. "Most simply, a woman will define herself as a 'giving self' so that she will not be violated. She defines herself as a being who 'gives' sex, so that she will not become a being *from whom sex is taken*." Robin West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 *WIS. WOMEN'S L.J.* 81, 96 (1987) (emphasis in original).

83. See Satz, *supra* notes 45-51, and accompanying text. In addition to refusing to service certain clients, another way in which control over one's sexuality is asserted is by a remapping of erotic bodily geography—i.e., keeping certain sexual practices and segments of the body off limits. Most women that I spoke with, for example, would not indulge their clients in a mouth-to-mouth kiss. During related field research with street prostitutes in Oslo, Norway, one woman asserted that her work had *nothing to do with* her sexuality, because "the most intimate thing that I have" is not what I, as a prostitute, am selling. I am simply selling the man his orgasm." Interview with "Laila," street prostitute and member of

talk to men they are not interested in.⁸⁴ Of course the likelihood that a woman will consent to or refuse someone depends on many things—how badly she needs the money; if she has been issued a “cash quota”; whether or not her pimp is around, or watching from a distance.⁸⁵ But the principles of selection (Does he have money? Is he safe or dangerous?) are not entirely different from those of other women seeking a boyfriend, husband or lover.⁸⁶

Evelyn, a blonde, blue-eyed native of Canada, described how she ran away from home as a teenager and had to scramble to find a job working long, hard hours as a fast food cashier. Now twenty-six, she recounted her decision to become a prostitute this way:

Unless you have a college degree, and maybe even then, only minimum wage jobs are open to you, and it just ain't enough to get by. It's been an answer to a lot of things over the years . . . I had boyfriends over the years that I had sex with because that's what you were supposed to do. I didn't enjoy it, it was like a chore . . . so it's like the same thing but you're getting paid for it, you're gaining something . . . I have more independence than the women who have to do it for their husbands and make their dinner . . . women do it all the time.⁸⁷

Trisha, African-American, forty-six years old, an incest survivor and a streetwalker for over thirty years, put it more bluntly: “All fucks are tricks anyway, and you're always doing it for the money. If you sleep with your husband and later he gives you \$50, it amounts to the same thing.”⁸⁸

Of course, underlying this analysis are two key assumptions: that marriage and prostitution are women's only sexual options, and that, as

PION: Prostitutes Interest Organization of Norway, July 24, 1995.

Susan Edwards makes a similar argument:

The belief that, for women who supply the service, ‘anything goes,’ is widespread, as women who sell sex forfeit their right to say ‘No.’ . . . On the contrary, while sections of the public world may hold to this view, the selling of sex by prostitute women is carefully circumscribed. . . . Prostitute women care less about the genitals and breasts, and much more about the mouth, the lips, the kiss and tenderness, for them the truest meaning and expression of intimacy.

Susan S.M. Edwards, *Selling the Body, Keeping the Soul: Sexuality, Power, the Theories and Realities of Prostitution*, in *BODY MATTERS: ESSAYS ON THE SOCIOLOGY OF THE BODY* 98 (Sue Scott & David Morgan eds., 1993).

84. Fieldnotes December 2, 1994 (on file with author).

85. Fieldnotes December 18, 1994 (on file with author).

86. See Arlie Russell Hochschild, *The Commercial Spirit of Intimate Life and the Abduction of Feminism: Signs From Women's Advice Books*, 11 *THEORY, CULTURE & Soc'y* 1-24 (1994) (analyzing the incursion of emotionally “cool” strategic rationality into the domain of intimate relationships).

87. Interview with Evelyn, *supra* note 58.

88. Interview with Trisha, *supra* note 58.

workers, prostitutes are independent agents, free from male management and control. I think it is not incidental that neither of the women quoted above presently works with a pimp, nor do any of the other women who expressed similar views.⁸⁹ And even by the accounts of the "independents," pimp-controlled streetwalkers are in the majority. Evelyn, for example, could only describe her first encounter with a pimp at 13, who "dressed her up and put her on the street" as a "terrible experience."⁹⁰

Despite a few prostitutes' attempts at a "defense" of pimp-prostitute relationships as potentially non-exploitative or protective, in general, the existence or non-existence of a pimp in the equation radically alters the nature of the exchange. It is sometimes argued that pimp-prostitute relationships may be quite loving and intimate (not unlike a marriage), that although a girl gives over all her money to her man, he may care for her well, put nice clothes on her back, buy her a car or treat her to a massage.⁹¹ Yet precisely to the extent that the pimp-prostitute relationship does resemble a traditional marriage, it undercuts the woman's sexual and economic autonomy.⁹²

And while it is true that streetwalkers are at exceptionally high risk of physical violence,⁹³ by their own accounts, the chief danger exists when they're alone with a john—in a car or hotel room—not standing on the street. In this regard, the pimps are of little or no use, as one excerpt from my fieldnotes illustrates with startling clarity:

Olivia told us that a new girl was found cut up last night. She'd gotten into a car with a 21-year old guy in an old blue Toyota, but after the trick paid, he slashed her face. A bloody, gory mess. May lose an eye. They threw her somewhere. Some pimps found her, but they didn't know who her man was, so they brought her to the women on Geary and Leavenworth who brought her to the hospital. Why did she get in the car? Because the cops are all over the place lately! They just raided the hotel, and now you can't get in unless the doorman knows you.⁹⁴

If a pimp protects a woman at all, it is most likely to be from other pimps, from their harassment or encroachment on "her" (his) territory.⁹⁵

89. Fieldnotes May 25, 1996 (on file with author).

90. Interview with Evelyn, *supra* note 58.

91. *Id.*

92. Admittedly, as various feminists have argued, a variety of different arrangements could conceivably and in fact often do fall under the overly broad legal definition of pimping ("living off the earnings of a prostitute"). See, e.g., Carol Leigh, *Thanks, Ma, in UNCONTROLLABLE BODIES* 256–57 (Rodney Sappington ed., 1994). The argument I am making here is not intended to dispute such critiques.

93. See Neland, *supra* note 82; Silbert, *supra* note 82; Fieldnotes May 25, 1996 (on file with author).

94. Fieldnotes October 15, 1994 (on file with author).

95. Fieldnotes December 1, 1994 (on file with author).

The nights I "worked" as a decoy, I discovered this firsthand. The women are indeed afraid of talking to other pimps, and warned me of the many potentially terrible consequences of not fleeing when they approached—robbery, kidnapping, etc. Two avowed "independents" assured me that the real fear was inspired by what might happen to a girl later at home if it was found out that she had spoken to another man.⁹⁶ Yet I also discovered that the women's own collaborative signaling system⁹⁷ seemed far more effective, since their men are often elsewhere anyway, returning only sporadically to "empty the traps."⁹⁸

Nor do pimps provide any protection from one of the most frequent street threats to working women—the police—from whom they themselves seem to have a surprising degree of immunity.⁹⁹ Even if by many accounts, San Francisco police officers are less dehumanizing than the police forces of other cities,¹⁰⁰ one of the more striking things on the street is the women's relative fearlessness with potential johns compared to their timidity and submissiveness in the face of (sometimes explicit, often implicit) sexualized domination by the police. Depending on the stroll, a woman's "seniority," her street-wisdom and her own relationship with particular police officers, a woman may go to jail as often as twice a week.¹⁰¹ She may be brought in for soliciting¹⁰² or, more likely, for a

96. Fieldnotes December 1, December 2 and December 18, 1994 (on file with author).

97. The women employ a variety of codes to protect one another from pimps and police officers. Fieldnotes November 29, December 1, December 12 and December 18, 1994 (on file with author).

98. Many working women hand over the entire nights' earnings to their men, leaving its spending to their discretion. Interview with Evelyn, *supra* note 58; Fieldnotes October 22 and December 1, 1994 and June 19, 1995 (on file with author).

99. Fieldnotes December 1, June 6, and June 19, 1994 and June 26, 1995 (on file with author).

100. Interview with Evelyn, *supra* note 58; Interview with Olivia, *supra* note 58.

101. Interview with Evelyn, *supra* note 58; Interview with Olivia, *supra* note 58; Fieldnotes April 8, 1995 (on file with author).

102. The California Penal Code section 647 states:

Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor . . . (b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of the subdivision unless some act, beside the agreement, be done within the state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, 'prostitution' includes any lewd act between persons for money or other consideration.

CAL. PENAL CODE § 647 (West 1998). See generally SAN FRANCISCO TASK FORCE ON PROSTITUTION FINAL REPORT, APPENDIX D: LAWS AND ENFORCEMENT, *supra* note 5 (detailing the San Francisco Municipal Police Code sections 215, 225, and 240 which prohibits lewd and indecent acts, soliciting prostitution and making an offer or agreement to commit prostitution).

“public nuisance” violation,¹⁰³ or issued a citation for jaywalking. The vast majority of cases are never prosecuted;¹⁰⁴ after spending several hours in jail the woman is typically dismissed and will catch a cab right back to “the strip” to try and make up for a night of lost earnings.¹⁰⁵

I was quite shocked the first time I witnessed a police sweep, which seemed to amount to the systematic removal of all women present from public space. These women stood quietly and had not perceptibly broken any law; the yelling, honking men on the sidewalk and in the streets certainly created far more of a “nuisance.” During my nights “working” on Geary and Mason streets the police demanded identification, searched me and threatened to bring me to jail various times, although I was meticulously law-abiding and had indicated that I was there for research purposes. Numerous other women told me stories of police officers who ask to exchange blow jobs for dropped citations,¹⁰⁶ who “thrill from the chase” when they’re hiding behind trees,¹⁰⁷ who reveal their identity as officers and arrest them *after* sexual services have been rendered¹⁰⁸, or who surprise them when they are with a date, take their money, then give half back to the customer if he claims not to have finished.¹⁰⁹

From a feminist perspective, the streetwalkers’ sexualized powerlessness vis-à-vis the police might itself constitute a fairly persuasive argument for policy remedy, since this analysis provides evidence of streetwalkers’ need for a barrier to degradation¹¹⁰ at police officers’, as well as pimps’, hands.

Above, I have tried to show concretely some of what is “wrong” and “right” with prostitution for streetwalkers. Coercion by pimps or boyfriends, vulnerability at the hands of violent customers, police officers and the criminal justice system, and economic or drug-induced desperation contribute to an experience of prostitution as a degraded exchange. On the other hand, wages earned from prostitution may provide these women with a unique degree of economic autonomy—especially given a context in which there are few opportunities or state provisions for those with minimal educational backgrounds or job skills. Non-addicted, adult, “independent” streetwalkers may also be able to assert a degree of control over their sexuality and to provide (relatively) meaningful consent.

103. The California Penal Code defines “public nuisance” as “[a]nything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property . . .” CAL. PENAL CODE § 370 (West 1998).

104. See SAN FRANCISCO TASK FORCE ON PROSTITUTION INTERIM REPORT, APPENDIX D: LAWS AND ENFORCEMENT. This report notes that most of the arrest cases for sections 215, 225, and 240 were dismissed.

105. Interview with Olivia, *supra* note 58.

106. Fieldnotes October 15, 1994 (on file with author).

107. Interview with Olivia, *supra* note 58.

108. Fieldnotes June 6, 1995 (on file with author).

109. Interview with Olivia, *supra* note 58.

110. See Satz, *supra* note 45, and accompanying text.

In the following sections, I hope to demonstrate that not all prostitutes are subject to the same kinds of domination or the same risks, and that different circumstances, in turn, result in different "wrongs" and "rights." In these regards, the sex-workers of COYOTE provide a particularly striking contrast.

B. WHITE, MIDDLE-CLASS, AND COLLEGE-EDUCATED: THE SEX-WORKERS OF COYOTE

COYOTE (Call Off Your Old Tired Ethics), the national prostitutes' rights organization, was founded in San Francisco in 1973 by Margo St. James—at the time a young, bohemian feminist and prostitute living in Marin.¹¹¹ Although there are several other prostitutes' rights organizations in the country,¹¹² COYOTE is arguably the best-known, most visible and most politically significant one.

COYOTE has tended to react defensively to its critics from groups such as USPROS (US Prostitutes Collective) and WHISPER (Women Hurt in Systems of Prostitution Engaged in Revolt), who maintain that their celebrations of "happy hookerdom" are the result of white, middle-class privilege, and that they are atypical and unfit spokeswomen for the majority of prostitutes—whose "choice of profession" is made under far greater constraints.¹¹³

From what I have seen in my own research, these criticisms are, on one level, difficult to dispute. The vast majority of COYOTE's members are white, middle-class and well-educated, just as their political opponents claim.¹¹⁴ They are predominantly call-girls, escorts, exotic dancers and masseuses;¹¹⁵ a few are fetish specialists, such as dominatrixes or "switches" (who alternate between domination and submission).¹¹⁶ Many work out of expensively-furnished homes or rented "work spaces" by placing advertisements in newspapers, earning enough money not only to cover expenses, but also to help finance alternative artistic and intellectual careers.¹¹⁷ Others work in lavishly-decorated, view-filled houses run by

111. See Margo St. James, *Preface*, in *A VINDICATION OF THE RIGHTS OF WHORES* xvii (Gail Pheterson ed., 1989).

112. See JENNESS, *supra* note 39, at 3 (for a partial listing).

113. SEX WORK, *supra* note 4, at 266–71. See also Melissa Farley, *Letter to the Editor*, in *OFF OUR BACKS* (August/September 1994).

114. Interview with Michael, *supra* note 77; Fieldnotes August 31, September 7, September 21 and October 7, 1994 (on file with author).

115. Fieldnotes September 3 and September 7, 1994 (on file with author).

116. Fieldnotes February 1, 1995 (on file with author).

117. During an interview, Michael (a sex-worker and documentary film-maker) quipped that "Everyone who pays me to have sex with them is like a patron of the arts." Interview with Michael, *supra* note 77. Other sex-workers that I spoke with were writers, college students, dancers and performance and visual artists. Fieldnotes August 31, September 7, September 15, September 21 and December 1, 1994 (on file with author); Interview with "Diana," San Francisco, February 16, 1995.

madams in Berkeley or Marin. The average hourly fee, whether or not one is "in business for herself," is \$200.¹¹⁸

It is indeed true that COYOTE's sex-workers may not be speaking for the majority when they frame sex-work exclusively in terms of empowerment and pleasure. Yet it would seem that some of the most interesting questions still go unasked and unanswered once we establish this critique: Why are these women doing sex-work? Is sex work really about power and pleasure for them? If prostitution is regarded as, at best, an unfortunate but understandable choice for women with few real alternatives, how are we to explain its appeal to women with combined racial, class and educational advantages? In order to begin to answer these questions, we must first define the term "sex-work."

The term "sex-work" is claimed to have been invented by COYOTE member Carol Leigh,¹¹⁹ who "began working and writing as a prostitute in 1978."¹²⁰ Unlike the word "prostitute," with its connotations of shame, unworthiness or wrongdoing,¹²¹ the term "sex-worker" tries to suggest an alternative framing that is ironically both a radical sexual identity (in the fashion of queer activist politics¹²²) and a normalization of prostitutes as "service workers" and "care-giving professionals."¹²³ In this apparent contradiction—I would argue—lies the meaning and appeal of their work.

As articulate writers and spokespeople, COYOTE members have historically produced more "theory" than they have "data" for the social researcher studying prostitution. They have sought to emphasize prostitution as the liberatory and transgressive leap over the rigidly enforced "good girl/bad girl", "madonna/whore" divide.¹²⁴ Meanwhile, feminists on the other side of the political fence have objected violently to the efficacy of these images as general characterizations of women in the sex industry.¹²⁵ But perhaps these images should not be dismissed so readily simply because they cannot serve as general characterizations. While not applicable to everybody, these theories may be at least partially

118. Fieldnotes September 7 and September 21, 1994 (on file with author).

119. Fieldnotes September 7, 1994 (on file with author).

120. SEX WORK, *supra* note 4, at 342.

121. See Pheterson, *supra* note 44, at 39.

122. Queer political activism, in contrast to the "gay liberation" movement which historically preceded it, is avowedly anti-assimilationist. "Queerness... stands in opposition to the inclusionary project of mainstream lesbian and gay politics, with its reliance on the discourses of civil liberties and civil rights. In this sense, queerness is often a marker of one's distance from conventional norms in all facets of life, not only the sexual." Steven Epstein, *A Queer Encounter: Sociology and the Study of Sexuality*, in QUEER THEORY/SOCIOLOGY 153 (Steven Seidman ed., 1983). See also Vera Whisman, *Identity Crisis: Who Is a Lesbian Anyway?*, in SISTERS, SEXPERTS, QUEERS: BEYOND THE LESBIAN NATION 56 (Arlene Stein ed., 1993).

123. See COYOTE, Sex Work Consumer's Guide Informational Pamphlet (1994).

124. See St. James, *supra* note 32, and accompanying text.

125. See SEX WORK, *supra* note 4, at 266-71; Farley, *supra* note 113.

true for the group that produces them.

The "good girl/bad girl" divide that they call attention to may serve to illuminate the partial truth of their theoretical formulations. Clearly, there is nothing transgressive about one who has been socially born and raised to be a "bad girl" and remaining one. But COYOTE's members were born and raised to be "good girls," and as prostitutes, they have arguably crossed a certain line.¹²⁶

COYOTE's monthly meetings are a prime site for the refashioning of sex-work as a category of radical sexual identity: members (many of whom also belong to queer activist groups such as ACT UP or the Harvey Milk Democratic Club¹²⁷) employ the language of "outing";¹²⁸ organize sex-work conferences for artists and academics;¹²⁹ discuss media strategy and talk show appearances;¹³⁰ plan web pages and e-mail discussion groups;¹³¹ and take contributions for the monthly publication, *Whorezine*.¹³² New members often introduce themselves by telling their "coming out" stories ("I graduated from Smith College with a BA in philosophy, then I moved here to become a sex-worker") and are met with hearty applause.¹³³ Being a sex-worker is about taking pleasure in sex, unleashing repressed energies, or exploring the socially-deemed dangerous border zones of eroticism.

Often, there is an explicit rejection by women of romance and the

126. It is crucial to recognize that the virginal, marriageable "good girl" expectation may be racially and class specific. As Patricia Hill Collins writes,

all Black women are affected by the widespread controlling image that African-American women are sexually promiscuous, potential prostitutes. . . . [Historically] the prostitution of Black women allowed white women to be the opposite; Black 'whores' make white 'virgins' possible. This race/gender nexus fostered a situation whereby white men could then differentiate between the sexualized woman-as-body who is dominated and 'screwed' and the asexual woman-as-pure-spirit who is idealized and brought home to mother.

Patricia Hill Collins, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 174-76 (1990). See also Valerie Smith, *Split Affinities: The Case of Interracial Rape*, in *THEORIZING FEMINISM: PARALLEL TRENDS IN THE HUMANITIES AND SOCIAL SCIENCES* 155-70 (Anne C. Herman & Abigail J. Stewart eds., 1994) (making a similar argument to Collins).

127. ACT UP (Aids Coalition to Unleash Power) is an AIDS activist organization with chapters in San Francisco and other urban centers. See Josh Gamson, *Silence, Death, and the Invisible Enemy: AIDS Activism and Social Movement "Newness,"* in *ETHNOGRAPHY UNBOUND: POWER AND RESISTANCE IN THE MODERN METROPOLIS* (1991) (includes an ethnographic study of ACT UP). The San Francisco-based Harvey Milk Club serves gay, lesbian, bisexual and transgender interests in the Democratic party. The organization is named after the late San Francisco Supervisor (the first openly gay elected official in California).

128. Fieldnotes September 7, 1994 (on file with author).

129. *Id.*; Fieldnotes October 4, 1994 (on file with author).

130. Fieldnotes October 4, 1994 (on file with author).

131. Fieldnotes March 1, 1995 (on file with author).

132. Fieldnotes September 7, 1994 (on file with author).

133. *Id.*; Fieldnotes October 4, 1994 (on file with author).

"good girl" marriage contract for which they have been socially slotted. Not incidentally, I think, most of the women I have met from COYOTE are single, and the majority describe themselves as promiscuous, bisexual and experimental. During one conversation, I asked Diana, fortyish and svelte, about the danger and risks involved in sex-work. "The greatest harm done to me was by someone I was in love with," she responded, "by a 'non-professional sex-mate.'"¹³⁴ In fact, the subcultural world they inhabit comes astoundingly close to being a microcosm of "the universal market in bodies and services" that Carole Pateman predicted would arise if the logic of contract were ever allowed completely free reign.¹³⁵

But while the dividing line between good girls and bad girls is challenged, another inviolable boundary is erected to take its place. There is a crucial—and only occasionally denied—distinction that is enforced between "professional sex-workers" and those who walk the streets. It is not just the distinction between trained professional and unskilled labor that is at stake here, but a fierce reluctance to hover anywhere near (let alone to cross) the class divide. When I asked sex-workers if they had ever or would ever consider working on the streets, one male prostitute responded that he could not, because "his clothes were too good and he had all his teeth."¹³⁶ Others said that it was "too risky and dangerous," and very fortunately, unnecessary, for sex-workers like themselves with a college education.¹³⁷

At meetings, members seek to professionalize their trade through activities such as the demonstration of "penetration alternatives," discussion of novel and tested safe sex techniques, and presentations of statistical studies documenting the incidence of HIV in body fluids.¹³⁸ Meetings are also a common place for members to make referrals to one another and to circulate written materials such as "dirty-trick" lists, legal advice and safe sex guidelines.¹³⁹

Educational and cultural capital also come into play in sex-work in other ways. Lisa, a recent college graduate, got her job at a Sausalito massage parlor when she discovered that she could fake a French accent,

134. Fieldnotes September 21, 1994 (on file with author).

135. PATEMAN, *supra* note 16, at 184. Many members espouse an ideology of sexual fluidity that (along with the necessary capital) enables them to serve as both sellers and buyers of sexual services. Fieldnotes October 4, 1994 (on file with author). For one woman's story of her oscillations between sex-worker and client, see Veronica Monet, *No Girls Allowed at the Mustang Ranch*, in GAUNTLET, *supra* note 4, at 167-70. At several meetings, I met a butch lesbian sex-worker who specialized in out-call services to other women. See also Les Von Zoticus, *Butch Gigolette*, in WHORES AND OTHER FEMINISTS *supra* note 4, at 170-79.

136. Fieldnotes October 4, 1994 (on file with author).

137. Fieldnotes September 15, September 21 and December 1, 1994 (on file with author); Interview with Michael, *supra* note 77.

138. Fieldnotes September 7, 1994 (on file with author).

139. *Id.*; Fieldnotes October 4, 1994 (on file with author).

then answered an advertisement for a European blonde.¹⁴⁰ Diana, a professional dancer, screens her clients closely, and can restrict her practice to powerful businessmen now that she knows "how to ask the right questions."¹⁴¹ While many women do indeed display their own shrewd understanding of the importance of body capital, it is talked about in a way that is quite different from the streetwalkers. Body and appearance are "company assets," and their diligent care is calculated into the monthly budget—not just make-up and clothes, but gym membership, lingerie, visits to the tanning salon and hair stylist and plastic surgery.¹⁴² Yet there is a fairly wide range of ages and body types, since some women are appealing to specialized rather than mainstream sexual markets.

Compared with most other prostitutes, COYOTE's sex-workers come quite close to meeting Satz's criteria for avoiding degradation: control over sexuality, meaningful consent, self management and promotion, and alternative life options.¹⁴³ This does assume, of course, that we take "consent" to be an acceptable marker of equality in sexual relations in the first place;¹⁴⁴ that "control over sexuality" can involve the enactment of women's eroticized submission to a man;¹⁴⁵ and that we can regard educational and cultural capital in their feminized form as evidence of true economic alternatives.

C. "TRICKS FOR ROCKS": SEX AND DRUGS ON CAPP AND HYDE STREETS

The third market in female sexual labor that I will consider is the sex-for-drugs prostitution on Hyde street in the Tenderloin and on Capp street in the Mission. While my analysis of this third market is less extensive than the two prior, I have chosen to include it because—like the sex-workers of COYOTE, but at the other end of the continuum—crack and heroin prostitutes provide us with an extreme example that may help to clarify when prostitution is or is not a "desperate exchange."

On both Hyde and Capp streets, prostitution is not a night-time

140. Fieldnotes September 21, 1994 (on file with author).

141. *Id.*

142. *Id.* See also Veronica Monet, *A Day in the Life of a Prostitute*, in GAUNTLET, *supra* note 4, at 58.

143. See Satz, *supra* note 45, at 84-85.

144. Mackinnon writes:

Consent is supposed to be women's form of control over intercourse, different from but equal to the custom of male initiative. Man proposes, woman disposes. Even the ideal is not mutual. Apart from the disparate consequences of refusal, this model does not envision a situation the woman controls being placed in, or choices she frames.

MACKINNON, *supra* note 15, at 174. See also Leonore Coltheart, *Desire, Consent, and Liberal Theory*, in FEMINIST CHALLENGES: SOCIAL AND POLITICAL THEORY 112-25 (Carole Pateman & Elizabeth Gross eds., 1988); Overall, *supra* note 18.

145. For Satz, it is in fact the "theater of inequality" enacted by prostitutes and their customers that ultimately constitutes one of the key "wrongs" of prostitution. Satz, *supra* note 45, at 79.

occupation but a daily survival strategy—all day, everyday—since most of the prostitutes are homeless women with no place to go until enough money can be scraped together for a hotel room.¹⁴⁶ More often, women “sell pussy” for the \$20 that will be directly applied to the purchase of a vial of heroin or crack.¹⁴⁷ In the standardized economy of these streets, a \$20 bill is the ubiquitous note of exchange, good for a blow job or a hand job, a hotel room or drugs.¹⁴⁸ Sometimes the women skip the middle step altogether, bypassing any exchange of currency, and simply “turn tricks for rocks.”¹⁴⁹

Trisha, an HIV-positive prostitute who has worked the streets for thirty years, considers herself a witness to the way the crack age has dramatically altered the dynamics of the prostitution game, “drugging women into the system.”¹⁵⁰ Working side by side, the predominantly Latino, male drug dealers and African American or white female prostitutes form their own, enclosed community, as is immediately evidenced by the fact that the women speak a surprising amount of Spanish.¹⁵¹ The women depend upon these men as much as upon the drugs for their survival.¹⁵² Here, it is not uncommon to see trembling and emaciated women begging on their knees.¹⁵³ When cash transaction is replaced by barter, these women’s autonomy and mobility are further diminished; it is as if the worst elements of the prostitution and the marriage contracts had been simultaneously realized.

Streetwalkers in the drug markets on Hyde and Capp streets might initially be difficult to identify as such, lacking some of the traditional visual markers of sexual availability. They are often older than other prostitutes (streetwalkers from other strolls may “retire” to these strips as they are downclassed to inferior markets)¹⁵⁴ or they may be adolescent runaways, dressed in down jackets, tennis shoes and jeans.¹⁵⁵ Most appear jittery, sickly and anxious.¹⁵⁶ Several women told me they were just out of the hospital, hoping to find a trick for \$10 so that they could get something

146. Fieldnotes October 12, 1994, November 28, 1995 and May 25, 1996 (on file with author).

147. Interview with Trisha, *supra* note 58; Interview with Norma Hotaling, *supra* note 60; Fieldnotes October 12, 1994 and May 25, 1996 (on file with author).

148. Interview with Trisha, *supra* note 58; Fieldnotes October 12, 1994 and November 28, 1995 (on file with author).

149. Interview with Trisha, *supra* note 58.

150. *Id.*

151. *Id.*

152. *Id.*; Interview with Norma Hotaling, *supra* note 60.

153. Interview with Trisha, *supra* note 58.

154. Fieldnotes November 28, 1995 and May 25, 1996 (on file with author).

155. Interview with Trisha, *supra* note 58; Fieldnotes October 12, 1994 (on file with author).

156. *Id.*

to eat.¹⁵⁷

Prostitutes from these strolls are well aware of the likelihood that they will be raped or murdered.¹⁵⁸ While the women's obvious vulnerability may itself inspire the aggressions of sexual predators,¹⁵⁹ their sense of urgency for the next fix and their propensity for "car dates" no doubt place them at especially high risk. In the midst of one particularly gruesome series of attacks in the Mission district,¹⁶⁰ the police asked Drew, a 22-year veteran of the streets, to help them look for the serial murderer. Drew was asked if anyone had ever taken her to China Basin and raped her. The brash and outspoken mother of seven found this to be a laughable question. "Who hasn't been taken down to China Basin and raped," she responded, "like every week?"¹⁶¹

For these women, it is evident that control over sexuality is minimal and that alternatives of any sort are nonexistent or few. It is also clear (as feminists have long argued with respect to rape), that under conditions of perpetual intoxication, sexual consent can in no way be meaningful. Under these circumstances, few if any "barriers to degradation" remain, and prostitution constitutes an unambiguously desperate exchange.

IV. CONCLUSION

In the above discussion, I have tried to demonstrate the range of meanings tied to different versions of the prostitution contract. I have been arguing that each of these different versions requires a unique theoretical analysis and political response. The elaboration of distinct policy remedies, which should logically follow, would be the subject of another paper.

What would prostitution look like in a post-patriarchal world? It is not clear to me that prostitution would exist in such a world, given that the abolition of patriarchy would likely depend upon the prior demise of the sex/gender system as we know it, and of contract.¹⁶² Until we find ourselves in this utopia, prostitution must be evaluated within the context of women's actual conditions of existence.

Radical feminists are right in their insistence that prostitution is sexual violence against women—but they are only right sometimes. Pro-sex feminists are also right, sometimes, when they assert that prostitution may

157. Fieldnotes October 12, 1994 (on file with author).

158. Interview with Norma Hotaling, *supra* note 60; Fieldnotes November 28, 1995 (on file with author).

159. See generally DEBORAH CAMERON & ELIZABETH FRAZER, *THE LUST TO KILL: A FEMINIST INVESTIGATION OF SEXUAL MURDER* (1987).

160. See Jim Herron Zamora, *Corner in Mission Deadly for Hookers*, S.F. EXAM., October 8, 1997, at A7.

161. Fieldnotes November 28, 1995 and May 25, 1996 (on file with author).

162. See PATEMAN, *supra* note 16. For an alternative view, see pro-sex feminist Pat Califia's *Whoring in Utopia*, in *PUBLIC SEX: THE CULTURE OF RADICAL SEX* 242-50 (1994).

offer women possibilities for self-assertion, subversion and resistance. Ethnographic research on markets in female sexual labor reveals that “prostitution” is not a homogenous phenomenon, and that the logic of male dominance may take different forms in distinct social strata. Once we recognize that all women are not similarly situated, and that prostitutes are subject to different varieties of structural constraints, we can begin to sort out which accounts of prostitution are most applicable in any given empirical instance. The prostitution of the drug-dependent women on Capp and Hyde streets and of pimp-dominated streetwalkers can then be distinguished from that of self-employed sex-workers and independent streetwalkers.

Under certain circumstances, prostitution may be—at least in a very immediate sense—empowering or liberatory; under other circumstances, it can be the most disempowering of exchanges, particularly for the already desperate and weak. Feminists might be wise to take this as the starting point of future theoretical and political formulations.

