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Should sex work 'be understood as legitimate work, and an expression of women's choice and agency' (Jeffreys 2009: 316)? Sophia Gore

This article presents a radical feminist critique of how best to manage the increasingly complex social problems arising with the globalization of prostitution. It purports the essentialist arguments made by Sheila Jeffreys; that prostitution should not, and must never be perceived as a legitimate profession, regardless of its 'traditional' status as one of the oldest professions. The article systematically challenges liberal feminist arguments supporting legalization on the basis that working alongside and with prostitutes is a more effective way to improve working conditions and support the prostitutes. By no means discrediting the value of this perspective, this article criticizes the liberal ideology. It argues that liberal feminism fails to question the wider social structures upholding the practice of prostitution. This article recognizes prostitution as a social issue. It is inherently harmful for men as well as women and misconceives expectations of sex. It advocates the proactive Swedish approach to tacking prostitution, which makes it illegal to buy sex, as opposed to sell sex; sanctioning the 'demand' as opposed to the prostitute

A prostitute, defined by the Oxford English Dictionary, is 'a woman who engages in sexual activity in return for payment'; it continues, '(Formerly also) any promiscuous woman, a harlot.' Even within one of the most acclaimed dictionaries, prostitution is gendered. *Women* are portrayed as solely independent actors within the relationship between client and prostitute. In this article, a prostitute shall be defined as a woman or man, engaged in performing any form of sexual acts in return for monetary payment, social favours or, in less favourable circumstances, of trafficking, coerced to practice when being held either as a 'prisoner', or more commonly, by debt bondage. With the rise of globalisation and

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the increase of sex trafficking, the illicit traditional practice is once again publically subject to heightened discussion and scrutiny. The question raised is how to regulate the practice, when it appears, by its nature, inconceivable that it could ever be effectively curtailed and policed. Prostitution stands as one of the oldest and well-established professions within global society, however, it is becoming increasingly sinister in its globalised practice.

This article shall systematically discuss the title question, looking at the complexities of both liberal and radical feminist arguments. Though acknowledging that sex work takes many forms, from 'high end' reputable call girls and escorts, to 'low end' street work, this article will focus predominantly on the physical realities unanimously consistent within prostitution. Firstly, it will consider whether one can identify prostitution as 'legitimate work', followed by a discussion of whether or not prostitution as a profession offers women 'choice' and 'agency', or instead, embodies coercion, a last resort and 'disembodied agency'. 1 By examining case studies which document the experiences of prostitutes in Serbia,² Victoria, Australia³ and Zambia⁴ and through scrutinising both 'abolitionist' and 'sex as work' arguments, this article shall conclude by firmly arguing that sex work, although one of the oldest, fundamental institutions of traditional society cannot, and should not, be understood as 'legitimate work'. This conclusion lies on the basis that firstly, sex work is inherently harmful to those who practice it, secondly, prostitution inexorably embodies patriarchy and male subordination over women, and finally, because for the majority of cases prostitution is a very limited 'choice.' Nonetheless, as discussed, Djordjevic⁵ and Ditmore⁶ present tenacious liberal arguments that illustrate some

¹ K. Miriam, 'Stopping the Traffic in Women: Power, Agency and Abolition in Feminist Debates over Sex-Trafficking'. (2005) *Journal of Social Philosophy*, Vol. 36, 1-17.

² J. Djordjevic, 'Social and Political inclusion as sex workers as a preventative measure against trafficking: Serbian experiences.' In, Cornwall, A., Correêa, S., Jolly, S. (eds.) *Development with a body: Sexuality, Human Rights and Development*, (London, 2008), 161-181.

³ M. Sullivan, 'What Happens When Prostitution Becomes Work? An Update on Legalisation of Prostitution in Australia.' (2005) *Coalition Against Trafficking in Women, Australia*, 1-28.

⁴ S. Agha, and M, C. Nchima, M, C. 'Life-Circumstances, Working Conditions and HIV Risk among Street and Nightclub-Based Sex Workers in Lusaka, Zambia.'(2004) *Culture, Health and Sexuality*, Vol. 6, No. 4, 295.

⁵ Djordjevic, 'Serbian experiences'.

of the harms that arise when prostitution is strictly illegal. They argue it is essential to work with prostituted individuals to improve the regulation and conditions of women, transsexuals and men currently working. In consideration of valid arguments, this article concludes by proposing the Swedish approach as the pre-eminent method to address prostitution. For, although abolitionist, it is sensitive to addressing wider social complexities within the abolitionist paradigm.

Being framed as a deep-rooted historical practice within all societies, I begin by questioning whether or not sex work can be considered 'legitimate work'. Liberal feminists, such as Ditmore and Djordievic argue that challenging stigmatisation of prostitution, and perceiving it as a 'legitimate' profession, will advance public perception of prostitutes. Liberal approaches, that advocate the liberal ideologies of individual rights and the right of choice, confer that greater public respect will improve prostitutes social security and reduce the experience of harm, violence and discrimination towards them. By challenging stereotypes of prostitution as 'dirty work',7 liberal feminists argue there is no inherent reason why sex work cannot be considered a valued, professional service. St James and Alexander likewise adopt this perspective, highlighting the consequential effect of illegalising prostitution. De-legitimising the practice inhibits workers' rights for prostitutes. Illegalisation fails to protect prostitutes, as it alienates them from qualifying for workers entitlements, such as health care, sick leave, and workers compensation insurance. ⁸ By reconstructing prostitution as 'an intrinsically honourable profession that serves socially valuable ends',9 liberal feminists seek to reclaim prostitution from its repugnant associations by recognising the value of their historic work and traditional role within society. Rather than dismissing prostitution, they seek to appreciate that prostitution provides an essential,

⁶ M. Ditmore, M. 'Sex work, trafficking and HIV: how development is compromising sex workers' human rights.' In Cornwall, A. et al (ed.), *Development with a Body: Sexuality, Human Rights and Development,* (London, 2008), 54-66.

⁷ A. Dworkin, 1997. 'Prostitution and Male Supremacy.' In A. Dworkin, *Life and Death: unapologetic writings on the war against women*,(New York, 1997), 138-216.

⁸ M. St James, and P. Alexander (1977) cited in V. Jenness, 'From Sex as Sin to Sex as Work: COYOTE and the Reorganization of Prostitution as a Social Problem'. *Social problems.* (1990), *Vol.* 37, 404.

⁹ J. O'Connell Davidson, 'The Rights and Wrongs of Prostitution.' (2002) *Hepatia: Feminist Philosophies of Love and Work*, Vol. 17, 92.

humanistic social service. Liberal feminists who support the sex-as-work reasoning, illustrate how, if orchestrated professionally, sex work can be a legitimate profession that has important social value. Liberals also advocate that individuals should have a right to choose what they do with their body. Such reasoning 'focuses on the ways in which sexual commerce qualifies as work, involves human agency, and may be potentially empowering for workers'.¹⁰ It is by reconstructing prostitution as 'legitimate work' and reclaiming the service from its disreputable associations, that liberal feminists seek to address the exploitative harm prostitutes are frequently subject of, and minimise discrimination towards workers within the profession.

Abolitionists delegitimize this liberal argument. They argue that sex work is inherently harmful to prostitutes psychologically; it is unavoidably violent and instils patriarchy in its most essential form. Furthermore, by legitimising sex work one consequentially normalises these values and perpetuates social constructs of inequality between men and women. It is on these grounds which abolitionists' contest that sex work can ever be perceived as 'legitimate work.' As O'Connell Davidson summed up, it is:

The vexed relationship between sex and selfhood [which makes prostitution different from any other occupation]... the client must sell *herself* in a very different and much more real sense than that which is required by any other [profession]... [The client] parts with money in order to secure powers over the prostitute's person.¹¹

O'Connell Davidson distinguishes sex work from any other profession by recognising that what is really 'bought' in such a transaction is the right to the prostitute's bodily orifices, in the most intimate and personal way. This inevitably is at the cost of emotionally affecting both client and patron. Such a 'transaction' cannot be perceived as congeneric to any other form of client, profession or wage labour.

¹⁰ R. Weitzer, 'Sociology of Sex Work'. Annual Review of Sociology (2009) Vol. 35, 215.

¹¹ O'Connell Davidson, The Rights and Wrongs of Prostitution, 85-86.

Miriam endorses this concept in her essay Stopping the Traffic in Women. She defines the nature of the contract as a 'disembodied agency'.¹² She similarly claims that what is really sold in the prostitution contract is a relation of command; the prostitute sells command over his or her body to the 'john/pimp/employer in exchange for recompense'.13 Prostitution is unique, for, especially in the case of 'low-end' sex work, prostitutes are expected to subordinate their will for the sexual gratification of the customers. Thus, for these reasons it cannot be considered a transaction of legitimate agency. Since prostitution remains a service overwhelmingly provided by women, who 'make up ninety per cent of the prostitution 'labour force", 14 it seems fair to argue that such a practice instils patriarchy and subordination over women in its most innate and intimate form. Jeffreys reiterates the argument highlighting the sordid nature of the industry, removing it from its perhaps romanticised historical context as the world's oldest profession; her discourse of intentionally uncomfortable and graphic language puts the 'vaginas and anuses [back as] the raw materials of the industry'. ¹⁵ She proclaims that 'women's experience of the world starts from the body, the only territory that many women have, but not often under their control'.¹⁶ Abolitionist feminists seek to expose the painful and very real, physical impact prostitution has on the body and mind, to explain in overt ways why prostitution is an exploitative, harmful and illegitimate form of labour. They recognise prostitution as, effectively, a form of socially accepted sexual abuse, legitimised by the historical traditional of mystifying (predominantly) women's bodies, and misconceiving sex as a legitimate, biological and desirable 'right' of all persons.

In terms of instilling patriarchal values, radical feminists highlight the inherently harmful and dominative nature of sex work, and the ways in which it affects men's perception of women. Dworkin uses these reasons to justify why sex work is never 'legitimate work.' She claims prostitutes are:

¹² Miriam, *Stopping the Traffic in Women*, 8.

¹³ Ibid, 5.

¹⁴ M, Sullivan, What Happens When Prostitution Becomes Work?, 6.

¹⁵ S. Jeffreys, 'Prostitution, Trafficking and Feminism: An update on the debate', (2009) Women's Studies International Forum, Vol. 32, 316.

¹⁶ Ibid, 317.

Perceived as, treated as... vaginal slime... When men use women in prostitution, they are expressing a pure hatred for the female body... It is a contempt so deep... that a whole human life is reduced to a few sexual orifices, and he can do anything he wants.¹⁷

Although by no means all men perceive women in such ways, Dworkin's radical feminist argument raises the complications of perceiving sex work as a legitimate and traditional occupation. Supporting this argument, Sullivan discusses the impact of legalising prostitution in Victoria, Australia. Sullivan's report shows how despite perceiving sex as 'legitimate work', the inherent violent nature of the industry has not changed. Her case-work research interviewed legal prostitutes working in Victoria, and sought to evaluate whether legalising prostitution had affected and changed the illicit dynamic of prostitution. Even within the supposedly optimum and secure environments of legal brothels, her interviews confirmed that prostitutes, both men and women, continue to be raped and traumatised while working:

Attempts to treat prostitution businesses as similar to other mainstream work-places actually obscure the intrinsic violence of prostitution. This violence is entrenched in everyday 'work' practices and the 'work' environment and results in ongoing physical and mental harm for women who must accept that in a legal system such violence has been normalised as just part of the job.¹⁸

Furthermore, since legalising prostitution, the number of men in Victoria who have admitted to paying for sex has increased considerably. By legalising and legitimising sex work, one incidentally normalises subjugation of sex workers, a profession which although is seeing an increase in male prostitution, remains predominantly dominated by the male client - female prostitute relationship. One in six men admits to having paid for sex work, whereas for women this figure remains negligible, even though prostitution has been legalised.¹⁹ Nonetheless,

¹⁷ A. Dworkin. 1997, cited in S, A. Anderson, 'Prostitution and Sexual Autonomy: Making Sense of the Prohibition of Prostitution.' (2002) *Ethics*, Vol. 112, 753.

¹⁸ M, Sullivan, What Happens When Prostitution Becomes Work?, 5.

¹⁹ Ibid, 6.

such exploitation and abuse has likewise been reported within male prostitution, particularly that of transsexual or homosexual clientelism. Legalisation masks and entrenches these problems rather than addressing them. Until the essence of harmful female domination is tackled, prostitution will always and inherently be exploitative of the sex worker, and the practice subsumes the overarching structures of patriarchy. It is in consideration of such perspective that I concur that sex work, by its nature, cannot be considered 'legitimate work.'

A further contention arises when considering the ideological question of whether the state can legitimately interfere over individual rights over their body. This translates into the question of whether or not working in prostitution should be a respected 'choice' of the women and men who choose to work in or utilise the 'traditional' profession. Most sex workers 'are not forced or tricked into their jobs, but choose sex work from the limited opportunities available to them'.²⁰ The Oxford English Dictionary defined genuine choice as 'The act of choosing; preferential determination between things proposed.' Liberal Feminists, although anti-prostitution, respect the rights of the individual and the individual's autonomous will should themselves choose what they do with their body. Former prostitute Dolores French said she felt empowered by her choice of profession, and positioned that women have every right to sell sexual services as a means of occupation.²¹ In accordance with this perspective, studies show that self-esteem increased consistently when one began sex work in high-end forms of prostitution.²² Furthermore, one cannot contest that in reality 'most women who work as prostitutes choose to do so'.23

However, within this cognition two issues are raised. Firstly, it seems liberal feminists fail to acknowledge the traditional social and historical contexts of society framing prostitution; secondly, such a perspectives does not consider

²⁰ M. Ditmore, 'Sex work, trafficking and HIV: how development is compromising sex workers' human rights'. In Cornwall, A. et al (Eds.) *Development with a Body: Sexuality, Human Rights and Development,* (London, 2008), 54.

²¹ D.French,1883, quoted in, V. Jennes, From Sex as Sin to Sex as Work, 405.

²² R.Weitzer, R. Sociology of Sex Work. Annual Review of Sociology, (2009) Vol. 35, 221.

²³ V.Jenness, From Sex as Sin to Sex as Work, 405.

whether the 'choice' of prostitution is ever a legitimate one. Agha and Nchima's²⁴ case studies of 'low end' female street prostitutes in Zambia explore the underlying situational conditions that led their interviewees to become street and nightclub sex workers. What became apparent was the fact that in nearly all instances the women have turned to sex work due to the limited alternative options available to them. More than half the women interviewed 'began sex work after the failure of their marriage and their inability to find employment that would support them and their dependents'.²⁵ The overwhelming majority of sex workers were single women who were struggling to avoid economic poverty. Many who chose prostitution were divorced, widowed, or escaping abusive relationships, while those with dependent children chose sex work due to its appealing flexible hours that could accommodate child rearing. What became consistently apparent from the women interviewed was that they saw their work as something temporary, usually a quick solution to pressing economic difficulties. Agha and Nchima's primary research reported that instances of gang rape were remarkably common, and women were often threatened by their male clientele if they insisted on the use of condoms. The women explained how they lived in constant fear of abuse, often struggled to remain out of poverty, and were very concerned of contracting sexually transmitted infections.²⁶ Likewise, in Victoria, Sullivan reports that 'legalisation does not alter the reality that economic vulnerability to homelessness remains the prime reason why women 'choose' prostitution'.²⁷ In consideration of these facts, one is compelled to question whether sex work can reasonably be perceived as an expression of women's 'choice and agency'.

An alternative argument presented by Brison²⁸ contests that sex work can ever be perceived as a 'choice', on the grounds of societal construction. She develops the argument made by Hirschmann (2000), that 'patriarchy and male domination have

²⁴ S. Agha, and M, C. Nchima, M, C. 2004. 'Life-Circumstances, Working Conditions and HIV Risk among Street and Nightclub-Based Sex Workers in Lusaka, Zambia.' *Culture, Health & Sexuality*, (2004), Vol. 4, 295.

²⁵ Ibid.

²⁶ Ibid, 296.

²⁷ M. Sullivan, What Happens When Prostitution Becomes Work?, 7.

²⁸ S, Brison, S. 2006. 'Contentious Freedom: Sex Work and Social Construction.' *Hepatia*, Vol. 21, 192-200.

been instrumental in the social construction of women's choices'.²⁹ She considers the effect pornography has on shaping men's attitudes towards women, and presents the question that, regardless of the assumed free choice of adult film makers participating in the sex industry, if their free choice hinders the freedoms of other women by shaping the 'traditional' view men have towards women, can that 'choice' be deemed legitimate?³⁰ By choosing to work in the sex industry, the individual inadvertently perpetuates traditional heteronormative patriarchal structures of society, indirectly shaping the 'social meaning of women'.³¹ Brison frames her argument by questioning whether pornography may make rape and other forms of harm towards girls and women more likely.

Adapting Brison's ideas from pornography, it seems possible to apply her reasoning when questioning the legitimacy of 'choice' in prostitution. Even if the woman or man in question independently chooses to work as a prostitute, it is arguably inappropriate to support the choice of the individual. This argument rests on the basis that their choice may indirectly harm other women or men by altering social perceptions of sex and, subsequently, shape the role and expectations men have towards women, and vice versa. As discussed earlier, due to the dominance of male client - female prostitute relationship, prostitution is therefore inherent to the preservation of 'traditional' patriarchal values. It encapsulates and perpetuates female subordination and incites stigmatised sexualisation of *all* women within society.

Where my empathy to the radical feminist argument deviates and becomes uncertain however, is when it comes to discussing how to mediate and support women and men already working within the profession. Though having explained and advocated the radical feminist perspective, one must also recognise the value of the reformist, liberal arguments. Reformist liberals frame their arguments within the discourse of human rights. They consider it fundamentally imperative to improve the livelihoods and agency of current working prostitutes, and argue for the improvement of the conditions in which many of them work. Ditmore and Djordjevic contest that appalling treatment towards sex workers and poor

 ²⁹ Hirschmann, 2000. In S. Brison. *Contentious Freedom: Sex Work and Social Construction*, 195.
³⁰ Brison. Ibid.

³⁰ Brison, Ibi

³¹ Ibid.

practices within the sex work profession are exacerbated due to the fact it is an illegal practice both regionally and internationally³².

Ditmore illustrates how development policies of the UN protocol appear to disregard the benefit of NGOs working with sex workers in its overtly ideological, abolitionist sentiments; for instance, the US Agency for International Development (USAID) refuses to fund NGO operations which don't explicitly condemn prostitution and sex trafficking. ³³ These ideological restrictions unfortunately meant some projects working productively with sex workers to promote their human rights and sexual health are condemned and refused funding, harming multiple successful projects whose efficiency and proactive work was widely praised.³⁴ Projects that involve and work *with* sex workers have greater success at combating abuses within the industry. Such projects promote legalisation due to the notion that it gives prostitutes a legal platform, bringing them back from the stigmatised shadows of society. Legalisation of prostitution promotes formal agency and strengthens their human rights by formally guaranteeing improved conditions, and greater legal protection while working.

By excluding prostitutes from the process of determining solutions, funding bodies threaten the efforts to improve working situations and secure the human rights of prostitutes. Djordjevic agrees and her liberal feminist perspective purports that the way to address prostitution is not with authority from above but by changing the structures from within, arguing that we should listen to the demands of prostitutes and sex-workers organisations. By challenging the stigma of sex work, including the stigma perpetuated by Dworkin and her followers, and tackling the attitudes embodied in the framework of society and state institution, we will enable sex workers to protect themselves while working, build their skills, and eventually mobilise them into a place where they have enhanced choice in regards to remaining in sex work.³⁵ Legalisation of sex work re-establishes the prostitutes'

³² M. Ditmore, Sex work, trafficking and HIV.

³³ Ibid.

³⁴ Ibid., 60-61.

³⁵ J. Djordjevic, *Serbian experiences*, 161.

voice in society and acknowledges the inevitable traditional role they have played in society, liberating them from the alienated and marginalised peripheries.

The arguments illustrated by Ditmore highlight the potentially harmful consequences delegitimizing sex work has on sex workers. Although strongly advocating the illegalisation of sex work, there are obvious negative implications of such a policy. However, a post-structuralist perspective would contest that liberals settle to working within, rather than challenge, the wider structures of entrenched and normalised patriarchy. The quintessential reasoning why one cannot advocate legalising prostitution is on the grounds that it fails to address the roots of exploitation and patriarchy entrenched within a traditional heteronormative society. By finding solutions to improve prostitution within the existing structures, it falls short of tackling the heart of the problem, which necessitates the deconstructing of existing societal frameworks. The traditional argument that prostitution 'has been around for ever, so it always will be,' (implying we should attempt to improve the existing situation), is a somewhat defeatist notion. Rather, an attempt to deconstruct normative modes of thought, resulting in the ultimate eradication of prostitution, should be considered. History is littered with examples of deconstruction; slavery, for example, had 'always existed', yet, over time, through the power of social movements and ideological deconstruction, the practice was ultimately rejected. For the potential of real reform of the sex industry, radical feminists are inclined to support ideological, social, and historical transformation of the gendered constructs framing our society.

Although supporting illegalisation of sex work, it is essential that such policies do not impinge on the work of successful, grass-roots organisations working alongside and supporting practicing prostitutes. One potentially creditable 'solution' is proposed by the sex-work policies of Sweden. Although the problem of prostitution is relatively small in comparison to other countries, the Swedish approach has concentrated on addressing prostitution as a social issue. They outlaw sex work as traditional, lawful work and introduced measures that were supported with government funding, to provide a proper and permanent support system for prostitutes that offered counselling and retraining possibilities.³⁶ In 1999, legislation was introduced which criminalised the buying of sexual services with the intention to target the clients who use the service rather than the sex workers. Although, the Swedish sex-work industry is incomparable to that of the extensive and increasingly escalating sex industries of Eastern Europe and South East Asia, where sex trafficking and sex work is on a prolific, global scale.³⁷ The Swedish approach offers an invaluable alternative for recognising and seeking to tackle the overarching social issues and patriarchal structures that uphold and support the practice of prostitution. By targeting the client, making it illegal to *buy* sex, one addresses and attempts to suppress the 'demand' for prostitution. However, it is important to recognise that censoring and upholding such prosecution is difficult in areas in which prostitution is endemic. Nonetheless, this should be no reason to impinge change and challenge social conception that prostitution is one of the oldest, well-established professions imminent within all social spheres.

This article has considered and illustrated why sex work should not be perceived as a romanticised traditionally-accepted profession, nor as an expression of women's 'choice and agency'. This argument has been structured on the grounds, as explained by Jeffreys and O'Connell Davidson, that sex work is inherently abusive towards women both psychologically and physically. Sullivan illustrates how instances of legalisation in Victoria failed; instead of tackling the inherent violence prostitutes were subject to, legalisation incidentally led to a normalisation of violence against sex workers. Additionally, this article has illustrated how, in the majority of circumstances, the 'choice' of women is not valid, as it tends to stem from desperate economic motives, and because even if women 'choose' sex work, their choice has potential harmful implications on other women. Finally, because sex work reinforces and upholds gendered sociological assumptions of society, this article advocates it should remain an illegitimate form of work. Nonetheless, as discussed, Ditmore and Djordjevic highlight a problem circumscribed by advocating illegalisation of sex work. It forces the women

³⁶ J. Kilvington, S. Day, H. Ward. 'Prostitution Policy in Europe: A Time of Change?' *Feminist Review; Sex Work Reassessed*, (2001) Vol. 67, 83.

³⁷ Dir: U.Biemann, *Remote Sensing.*, Culture Unplugged, 2001, Documentary.

working in the industry 'underground' to potentially more dangerous and unregulated peripheries. This has harmful implications on conditions of the prostitutes and inhibits their voice in society. I conclude by suggesting that one possible way to tackle this is by recognising prostitution as a social problem. As in Sweden, we must recognise the traditional gendered and patriarchal institutions that frame and uphold prostitution and face the issue by delegitimizing and penalising those who utilise the service. However, the principle ideology that needs to be entrenched for this perspective to be effective is that prostitution is not, and should never be perceived as, a legitimate, nor inherently traditional profession.

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