“The Priest, the Liberal and the Harlot: Liberalism and Sexual Desire”

Veronique Munoz-Darde
Professor of Philosophy, University College London and UC Berkeley
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1. The brothel in the city then, is like the stable or latrine in the house. Because just as the city keeps itself clean, by providing a separate place where filth and dung are gathered, so neither less nor more, acts the brothel; where the filth and ugliness of the flesh are gathered like the garbage and dung of the city.

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

The parallel is intended on several levels: one is of course the association of sex with something disgusting and to be contained. But given the author and historical context, it is notable what the limits to disapproval of sexual desire here are. The priest’s view is twofold. First, it is excess sexuality, that is, fornication or adultery, that which falls outside the sacred institution of marriage, rather than sex as such, which is envisaged as problematic. And second, it is taken as a fact of life that some human beings exhibit such unwanted sexual desire. In the ideal city, the city of God say, one might imagine such perfection that such desires would not be present; however, here on Earth, in secular society, the presence of such desire and its influence on life are stubborn facts that we need to acknowledge and live with. Perhaps surprisingly, there is little expression of hope for reform, nor any proposal that people should be educated or coerced into abandoning or at least suppressing these desires. Rather, in the face of the facts of carnal nature, the problem we face is one of the management of desire, and prostitution is seen as an institution which allows for that and hence for the proper running of society. Society would be the worse without its existence: you

1 Fra Francisco Farfan, *Tres libros contra el pecado de la simple fornicacion* –in Hufton [ref] 305 and 542. The thought is already present in the thirteenth century: see Aquinas, quoted in Ruth Mazo Karras, [ref] 134 and 185. For the secularized nineteenth version of the same thought see Parent-Duchatelet (architect of Paris sewers’ system) quoted in Alain Corbin, *Women for Hire: Prostitution and Sexuality in France after 1850* (1978, 1990) [ref].
might end up with rampant adultery even among honourable women, rather than commerce with those whose peculiar trade it is to relieve the excess sexual energy to be found in civil society. So although there is a thought that ideally people's inclinations would be quite different, that thought turns out not to do much work in legitimizing the coercion of (male) sexual desire.

Modern liberal readers are likely to depart from the perspective expressed by the Dominican on more than one level. Obviously, they recoil from the implicit dichotomy between honourable, higher class, women to be protected carefully (as well as supervised) and the 'fallen', lower class, women fit to serve as partners to sexually active but as yet unwedded men. In addition, the classification of some sexual desire as inappropriate, or shameful and disgusting, and the organization of society in the light of that fact appears to reflect a commitment to specific, substantive moral values and an appeal to them as explaining and justifying the shape of civil society. And we might expect liberals neither to adopt this particular moral stance, nor yet to suppose it legitimate to frame political institutions on the basis of such a stance or even one opposed to it. Many liberals would avoid a commitment to any overall moral order, given their insistence on neutrality in political theorizing, or their acceptance of the priority of the right over the good.²

Indeed there is a significant minority among contemporary liberal authors which has sought to offer a political account of sex work and its regulation while remaining steadfastly neutral on questions of the morality or immorality of commercial sexual exchange, sometimes at the cost of downplaying what is special and specific about sexual desire.³ However, strikingly, much of the recent theorizing about the phenomenon of sex work has expressed the strong feeling that a distinctive wrong is involved in this activity; and that, whether liberal or not, our theorizing about the regulation of sex work must take this into account.⁴ In this increasingly dominant strand of political thought, we find elements of disapproval in common with the Dominican. Of course, what is considered problematic is not located by these authors in terms of excess sexual desire (as Fray Farfan thought of it). Rather, many see a distinctive problem associated with the idea that it is marketed or commodified sex which is problematic.

A notable aspect of contemporary liberals' criticism of commodification of intimate and sexual relations is that it does not proceed from the pragmatic stance to be found in the late Middle Ages and early Renaissance, with its distinction between the ideal city and what is realistic to expect in human societies. As a consequence, a surprising upshot is that policies recommended by such liberal theorists end up being in one respect even more coercive than the traditionalist supposed necessary. In order for the regulation to be effective in removing what is considered by many liberals and feminists as a threat on an ideal mode of human interaction, we are to modify people's

² See [Dworkin, Waldron, Rawls refs]. For a perfectionist liberal opposed to neutrality, see Raz, 1986 [ref.]
³ [Lars Ericsson, and so forth - refs.]
⁴ [Refs.]
psychology. So what is left by the Dominican as an unfortunate necessity of secular life, must become in secular political theorizing something that is an object of concern. For the sake of a genuinely liberal society we must after all seek to extinguish or least suppress those desires that lead to the unwanted commercial demand for sexual exchange, and thereby avoid the unwanted effects on society and gender relations.

Liberal critics of sex work are not so far from the Dominican in terms of their immediate negative reaction to what goes on in the brothels, or in the back streets near the harbour, in various cities. But they have a different understanding of this response and what the political consequences of its grounds should be. They locate the grounds of their negative reaction in the liberal conception of an ideal citizen as autonomous and leading a good life, and in that they see liberal support for policies of reform and repression sometimes more extreme than their traditionalist forebears.

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

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

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

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

But this then raises one of the concerns which so moves the neutralist conception of liberalism which occupies the first horn. Even if your aim as a liberal is emancipatory, the commitment to bring about a coercive change in the way we live together looks paternalistic. In turn, the criticism of sex work, and the policies proposed may look worryingly moralizing. And this abstract criticism is echoed in concrete politics in the protests of sex worker unions against policies aimed at eradicating prostitution. Voicing the charge of paternalism, some sex workers have eloquently underlined the way in which these policies, however liberal and liberating in theoretical intent, are massively coercive in practice; a consequence of them that many politicians who campaign against prostitution fail to face up to.5

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

5 See Appendix at the end of this article. [refs other examples.] [. For an illuminating discussion of what paternalism is, see Shiffrin [ref] See also Feinberg, [refs] and for a helpful, if controversial, analysis of its import for the case of prostitution de Marneffe [ref.]
I want to survey various recent endeavours to explain the wrong of prostitution, as well as considering the claims against coercion by sex-workers themselves, and the grounds for that. I'll then suggest a somewhat different response that we could make to the situation our reactions put us in when discussing sex and trade. In brief, my suggestion will be that we need a more accurate sociological and anthropological understanding of mechanisms of shame attached to sex work, as well as more attention to the potentially coercive effects of some modes of theorizing, when applied.

There is no direct route from theorizing about the social order to specific policies. The liberal critics of sex work need not thereby propose specific restrictions in law on the clients of prostitutes, the prostitutes themselves, or both. But it is nonetheless the case that politicians and policy makers draw on the terms of current theoretical debate in formulating increasingly repressive and illiberal legislation to govern sex work. We might then reflect on a reverse flow. Starting with the campaigns by sex workers against what they see as repressive policies and legislation, we can reflect on the context of this debate and consider the richer resources it provides for the liberal justification of some, but not other, social institutions.

The problems of regulating intimacy give us a concrete case against which to test some of the general questions we face as liberal theorists about the role of specific conceptions of the good in framing our social institutions, and to reflect on how the abstract picture of justification to all fits with the messy sociological reality of how we respond to some and others in very different ways.

2.

The demonstrations of sex workers against the introduction of repressive policies are liable to move us. (Generally now in Western Europe and North America, such policies are advertised as directed principally against male clients of sex workers, rather than the sex workers themselves; but even if the legal target of such policies are not directly the sex workers, these policies have an immediate

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6 See [examples]. For the diversity of policies adopted towards sex work in different countries see [link] A useful survey of the main existing legislative approaches to prostitution in different jurisdictions is available in the New Zealand’s report on ‘International Approaches to Decriminalising or Legalising Prostitution Prepared for the Ministry of Justice in 2007 (http://prostitution.procon.org/sourcefiles/newzealandreport.pdf) See also the UN document on sex work [link] For a Human Rights perspective which seeks to distinguish action against human trafficking and policies criminalizing prostitution see the consultation document by Amnesty International: http://www.amnesty.org/en/sex-workers-policy. See also [Vielle, and so forth.]

7 Of course, sex workers are by no means unanimous regarding whether and how there should be regulation of their activity. See [stepping stones, … but also Hischer.] See also ethnographic work in [Bernestein, Jeffrey, etc.].
impact on their day to day livelihood.) But should these protests move us? Imagine instead demonstrations by slaves complaining against the planned abolition of slavery. Such protests would be unlikely to convince us that there was nothing problematic about laws which permit, or promote, slave contracts. Prostitution is not slavery, even if ‘human trafficking’ is often highlighted as one of the key problems with sex work in political commentary. Is there something that we find as obviously wrong in sex work as we find in slavery, something to lead us to protect sex workers from themselves? Is there an obvious and distinctive wrong of sex work?

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

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

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8 Elizabeth Anderson, *Values in Ethics and Economics*, (Cambridge Mass.: Harvard University Press, 1993). Note that Anderson believes that her arguments ‘establish a state interest in prohibiting prostitution, but not a conclusive case for prohibition.’ She is however in favour of the prohibition of pimping. As for sale of sexual services in a just society, she interestingly deems this possible: ‘One could imagine a worthwhile practice of professional sex therapy aimed at helping people liberate themselves from perverse, patriarchal forms of sexuality.’ (p. 156)

9 Elizabeth Anderson, *op. cit.*, p. 154, emphasis added.

10 Elizabeth Anderson in ‘The Ethical Limitations of the Market’, *Economics and Philosophy*, 6 (1990), 179-205, p. 187 (reprinted slightly modified as chapter 7 of her *Values in Ethics and Economics*).
That some things are just not for sale is diversely asserted of friendship, love, parenting, body parts, art, and so on. But consider what we do pay for, and what we used to pay for in times past: cleaners, child minders, carers for people in old age, wet nurses, puppies, psychoanalysts, continue at your leisure. Examples of paid for companions abound in eighteenth and nineteenth century literature: does the existence of this institution mean that the value of friendship in society at large was thereby degraded? That submitting something to strict market rules changes the availability of something of value is a legitimate concern, but Anderson’s hypothesis is stronger than this: it is that the very value itself gets degraded. So, Anderson’s view is that sexual intimacy is special. The threat of degradation of value from commercialization arises peculiarly for this kind of personal relation. But why should sexual intimacy be special? What is the intrinsic difference between seeking the professional service of a highly trained and experienced carer and sourcing the services of a highly trained, and experienced sex-worker?

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

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

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

Now part of what motivates regulation of begging from the perspective of those begged at is the desire not to be faced with the very sight of the needy. But that doesn’t exhaust the general concern with regulation and elimination of begging. The more interesting thought is that at least some forms of begging, say displaying wounds to move the donors, are morally problematic in that they stain both parties to the exchange. For begging to be effective, the beggar’s needs must be crudely exhibited, and they have to present themselves as supplicant, and so as socially inferior to the person whom they beg. The donor, on the other hand, sees natural sympathy and benevolence distorted by the effect of the interaction, and the manipulation they are submitted to. To the crude display of the beggar’s needs corresponds an emotional distress, and that feeling gets somewhat
alleviated by giving alms. There is, in other words, something about the very act of begging which produces a demeaning effect both in the beggar and in the person begged at.

So it is not really conceivable how there could be a society at all like ours with an institution of begging that did not systematically involve demeaning beggars and those begged at; if not on each occasion (a beggar may feel triumphant in his skills at extracting money; a donor merely indifferent to the display), then still typically or generically. And this underwrites the thought that no society could really be ideally just which still contained the institution of begging. We still see charity as a virtue, and would hope that in any society however effective its official institutions, there should be scope for benevolence and chance acts of kindness. But we can see how this can be corrupted in a regular institution of exchange like begging.11

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

So grant that a case can be made in some cases at least for something like Anderson’s first hypothesis, does it really apply in the case of sex work. And should we conclude that a just society would be one without sex trade? In order for the parallel with begging to work, sex trade must be such that those involved in it have to act in ways which are necessarily debasing for the individuals offering sexual services in exchange for money, or for their clients. This is certainly one way of reading Anderson’s complaints: the self-presentation of the prostitute as an object for consumption is inherently sullying, and degrading. Not only does it harm or debase the sex worker: it is also more broadly damaging for meaningful, intimate and loving exchanges. Through the presence of money, the prostitute becomes a mere commodity; the logic of quantifiable market transactions thus transforming a human relationship normally based on mutuality. The sex-worker regards the customer as mere source of cash, the customer regards him or her as a mere satisfaction of desire. Through commodification, then, not only is there alteration, but also corruption of valuable relationships. In turn, this would provide support for Anderson’s second hypothesis: not only is the relationship now inherently demeaning, but it also destroys value.

So we can construe Anderson’s worries in parallel with what we’ve said about begging. But does that really make Anderson’s case? I suggest that more needs to be done. In the case of begging, we considered that there was something inherent in the kind of exchange which was objectionable. But what is the parallel of this in the case of sexual favour for barter or trade? Anderson’s proposal

11 See [Martin & MD]
seems to be that it is simply allowing for the commodification of the value of sexual intimacy, admitting the possibility that the exchange of intimacy may be equivalent to monetary value. But acknowledging that in some cases, something of independent value can be traded for money or other goods, or services (you help me with my desire, I help you with your work), is a very weak move to provide for the alleged degradation. It does not commit you to the view that the value that you trade is commensurable with others on a single scale: be it preference satisfaction or money. There is, that is, an ambiguity regarding what we call 'commodity'. If it is something which has no value apart from tradable value, then Anderson’s argument goes through: being subject to the norms of a commodity market presupposes being subject to no other norms. But if it simply means being tradable, i.e. potentially being subject to the norms of the market, then nothing yet shows that something which is a commodity is not also a value in some other domain, and subject to non-market norms of interaction. Again, compare the sexual trade with paid companionship. The absence of explicit laws against traded companionship does not in itself seem to have undermined the values of friendship.

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

We can imagine someone who, believing as they do in one overarching master value, supposes that the market would be a way of settling the trade-off between different examples of instantiation of this master value. For such a person, market trading is the proper expression of how different goods relate to each other. If we reject the idea of a master value, being pluralists about value, we would obviously reject the idea of markets which have this role.

However, why should we committed to that conception of markets and value if we accept the existence of markets at all? What Anderson seems to assume is that goods have to be fungible in order to be exchanged on a market: her conception of the market as governed by a master-value is expressive of that conviction. But note that the markets that we actually have do not meet the first condition. We happily buy and sell puppies and houses. Both of these kinds of things are taken to have value beyond market price and to demand appropriate care and respect from buyers and sellers. Our interactions with them are not determined solely by market forces – markets are legally constrained to demand some, but not other, kinds of interaction with puppies or houses.

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

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

Not only is it possible to question whether we ought to endorse the strong subjectivism about value that this story seems to imply: as if values really are nothing more than the shadows of our pro-attitudes. Even without that, as it stands, the story has too simplistic a picture of how our attitudes change across social circumstances. Maybe, as a matter of psychology, in certain circumstances, knowing that something is done for money might prevent some people from enjoying and appreciating the activity. However given that the professional exercise of valuable activities such as playing musical instruments does not by its mere existence prevent the enjoyment and appreciation for amateurs, we need a specific explanation of how the availability of sex work prevents those who enjoy it for free from engaging with its value, and rejoicing in reciprocal sex. Here it is salutary to remember the reactionary stories which surround gay marriage and its supposed impact on heterosexual unions, or the various scares that arise with new technologies and new media, such as the peculiarly English obsession with ‘video nasties’ in the mid-nineteen eighties.12

3.

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

12 ‘Video nasty’ is a term introduced in the UK by the National Viewers’ and Listeners’ Association, and publicized by the popular press. It refers to films with violent content. Changes in technology made readily available the consumption of films at home using video players, and raised heightened concerns about the lack of censorship and control. Much of the debate focused on alleged effects viewing cheaply produced American and Italian horror films might have on young children.
3. ‘Through commodification each party values the other only instrumentally, not intrinsically.’

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

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

The indifference as to its use, the lack of attachment to any individual because it is unrelated to any of them, the objectivity inherent in money as a mere means which excludes any emotional relationship—all this produces an ominous analogy between money and prostitution. Kant’s moral imperative never to use human beings as a mere means but to accept and treat them always, at the same time, as ends in themselves is blatantly disregarded by both parties in the case of prostitution. Of all human relationships, prostitution is perhaps the most striking instance of mutual degradation to a mere means, and this may be the strongest and most fundamental factor that places prostitution in such a close historical relationship to the money economy, the economy of means’ in the strictest sense.

The link between commodification, using as mere means, and mutual degradation is eloquently put. But note that the principal objection here, if it is to be made good, rests on something that might be present even absent the peculiar mechanisms of trade and market, the idea that in sexual interaction one has failed to treat another as an end in themselves. And this, in relation specifically to problems of gender, is now commonly expressed in terms of worries about objectification.

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13 Anderson, *Values in Ethics and Economics*, p. 154. For a similar thought, see Roger Scruton, ‘Prostitution’ in *Sexual Desire: A Philosophical Investigation* (London, Continuum, 2006), p. 159: ‘[P]rostitution provides ‘ideal types’ of the sexual transaction, of sex removed from the realm of personal relation and made into a form of “alienated labour”. The … main types that I have given involve the exploitation of others – their use as means. Hence they provide paradigms against which to define an ideal of sexual love. In love the other is treated not as means but as end[.]’

So we might elaborate Anderson’s critique here a bit more. Prostitution is a distinctive kind of wrong because it both promotes with respect to one’s other interactions the wrong of objectification, and because in itself, in exemplifying the trading of body for money, it instantiates objectification itself. The wrong of prostitution is just, then, the wrong of objectification.

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

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

1. Instrumentality: The objectifier treats the object as a tool of his or her purposes.
2. Denial of autonomy: The objectifier treats the object as lacking in autonomy and self-determination.
3. Inertness: The objectifier treats the object as lacking in agency, and perhaps also in activity.
4. Fungibility: The objectifier treats the object as interchangeable (a) with other objects of the same type, and/or (b) with objects of other types.
5. Violability: The objectifier treats the object as lacking in boundary--integrity, as something that it is permissible to break up, smash, break into.
6. Ownership: The objectifier treats the object as something that is owned by another, can be bought or sold, etc.
7. Denial of subjectivity: The objectifier treats the object as something whose experience and feelings (if any) need not be taken into account.15

Aspects of what Nussbaum highlights here, 1, 5, 6 most specifically, might be taken to be present in commodification. But it is clear that even if commodification is a vehicle for such objectification, the latter can exist without the former. At the same time, though, we find here a variety of different kinds of complaint, and one can imagine a sceptic wondering whether there is a distinctive and unified wrong here, one that is specifically to do with treating someone as an object.

Nussbaum herself points out that in plenty of interactions we use those we love and respect as physical entities to serve our ends: the lover is useful as a pillow;16 the policeman serves as a traffic signal. Where we seek to find not just use, but wrongful use, treating merely as means, then typically we find cases where we think someone is just acting wrongly towards someone. But now, the sceptical voice is raised, all we have here is the suggestion that someone is objectified where they are wronged in some manner or other. That is to say, objectification fails to be a distinctive wrong, a specific ground of complaint, but just becomes another term for indicating when someone has been wronged in some way or other.

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

Are we missing something? A possibility is that the disapproval does not directly attach to what is done, but rather to the instrumental and objectifying attitude, and to its effects. Such a possibility is suggested on Kantian grounds by Rae Langton’s in her thought-provoking discussion of the wrong of objectification: the autonomy-violation involved in objectification can, she underlines, be a matter of attitude, or act, or both.  

But there is a price to be paid in moving from identifying acts as objectifying and focusing entirely on the agent’s attitude in explaining the distinctive character of objectification. If it is the desire with which the client acts that is objectifying, then so far nothing has been said about the act itself that they engage in, and whether it introduces a distinctive wrong. It is no longer clear that we are any more in the realm of how we may, or may not act towards others, but rather to their meaning. For example, Parfit suggests: ‘It is wrong to regard anyone merely as a means. But the wrongness of our acts never or hardly ever depends on whether we are treating people merely as a means.’ Parfit illustrates this conclusion through an example of a gangster: ‘Consider some gangster who regards most other people as a mere means, and who would injure them whenever that would benefit him. When this man buys a cup of coffee, he treats the coffee seller just as he would treat a vending machine. He would steal from the coffee seller if that was worth the trouble, just as he would smash the machine. But though this gangster treats the coffee seller merely as a means, what is wrong is only his attitude to this person. In buying his cup of coffee, he does not act wrongly.’ Compare Scanlon in *Moral Dimensions*: ‘[T]he claim that, in a given action, an agent treated someone as an end, or failed to do so, can also be an observation about what the agent saw as reasons for acting one way rather than another. So understood, this is not a claim about the permissibility of an action but rather about its meaning.” 18 If Parfit and Scanlon are right in their assessments, objectification conceived as an impermissible attitude would not explain why hiring a prostitute was to do something wrong: it would at best indicate that someone who did this had

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17 *Sexual Solipsism*: [ref : 232]. Building on suggestions to be found in the work of MacKinnon and Nussbaum, Langton considers that objectification, treating as an object, is linked to different modes of violation of autonomy. (There can, she underlines, be autonomy violation without autonomy denial.)

18 [Parfit ‘Merely as Means’: 232, Scanlon ‘Means and Ends’ refs.]
the wrong kind of attitude to others. Likewise our complaint against the sex trade would be at best a concern with its consequences for people’s attitudes, but would have failed to have identified in the activity itself a special kind of wrong.

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

a.) they are not an object in the required sense;

b.) there is something objectionable in making this mistake.19

We need the categories person and object to be exclusive for the above to make sense: if one is a person one is not an object, if one is an object, one is not a person; hence sometimes the talk of ‘mere object’ (i.e. object is often taken to be an inclusive category, mere object = not a person). In addition, in much of the discussion there is the assumption that these are the only two categories on offer, and hence are exhaustive. One category will be the complement of the other: i.e. for any entity if it is not an object, it is a person; if it is not a person, it is an object.

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

Suppose we take ‘person’ as the positive term, and so treat ‘mere object’ as meaning ‘not-person’. The wrong of objectification is failing to treat a person as a person. What ways of treating people are treating them as a person? The easiest way to answer this is by enumerating the ways one ought not to treat people, i.e. all the ways in which in so acting one would wrong them (and arguably one can only wrong a person: one can do wrong to other things of value, and one thereby does wrong, but one doesn’t wrong the entity in that case). But that then suggests the deflationary conclusion that our sceptic offered above: that treating someone as a mere object is just a way of indicating that one has wronged them in some way or is so disposed. Again, it doesn’t show that there is some additional category of wrong which is distinctively illuminated by this contrast between persons and objects.

Suppose instead that we take ‘object’ as the positive term, and so persons or subjects are simply non-objects. This isn’t going to make much sense on a naturalist approach in which all entities are just objects, and persons are just a special sub-category of the objects; surely that

19 There might also be something morally problematic in treating objects as persons: *personifying*. See Saul, Jenny [ref.]
requires the first approach. So what are the alternatives? One would be to adopt dualism. Dualism makes for a distinction between physical objects and persons (as non-physical entities). Though here we would still have a superordinate category of entity for which persons would be among those entities; what this gives us over naturalism is the possibility of a positive feature that objects have, being physical, along with the positive feature of persons, having thoughts. More promising, perhaps, would be some form of Transcendental Idealism. Subject is contrasted with object: object is whatever is given to me within experience, but I, as subject, am not among the objects so given. Now to treat another subject as a mere object, is to treat them as existing just within the field of my experience, as conditioned by my sensibility, rather than seeing them as standing to experience in just the way that I stand to experience.

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

What complicates matters here is that the talk of objectification became fashionable originally in contexts other than that of moral criticism. It has a natural home in the context of certain, perhaps radical, social criticism, but cannot directly be applied away from that in the assessment of individual actions. When we leave aside the high flown metaphysics, and consider instead the sociology of these matters, one might think that objectification is better explained in rather different terms. One might rather think that the grounds of complaint of objectification (a complaint which has a wide echo for many women) is really a social one and reflects an inequity in relation to social gender roles. This is very much in flux, and there is much variation across countries and classes. Philosophers are certainly not trained to give accurate accounts of it. With such caveats in mind we might nonetheless try the following swift enumeration: i.) women from early age encouraged to present themselves socially as thinking about and controlling their public appearance, making themselves attractive, and to some extent sexualising the various elements of attraction (note this is not a Western versus Eastern, or Judaeo-Christian versus Islamic matter: this is pretty much universal in industrialized society); ii. in contrast, for heterosexual men there remains still an element of overt lack of regard for social presentation; iii.) it is burdensome to have to present oneself in response to such social norms; iv.) the objectifying eye is not that of any particular man or woman, but rather the imagined overseer who checks that we are properly occupying our gendered roles to which there is no uncostly alternative. A social critique of the
objectifying aspects of our cultures doesn’t have to suppose that any one person is doing any wrong, or that there is anything intrinsically wrong in various activities that may nonetheless have the causal consequence that the demanding aspects of the social roles are reinforced.

This is not to question the role of objectification as part of social criticism, as part of a complaint about the circumstances in which the social demands on us are too taxing or are unfair in a gender related way. But that social criticism is yet to issue in a distinctive kind of individual wrong which is what the complaint of treating as mere means and objectifying needs.20

In moving from the social and cultural critique which one finds in radical feminist thought of the 1970s, liberals and analytic feminists, have sought to refashion criticism in terms of our ordinary ethical thought.21 When we do that, we lose the cultural specifics which gave those complaints their content, and we search for the mysterious and distinctive wrong which individual agents can be guilty of, when the original critique had a more structural air to it than that.

This is so even if we allow for the fact that it is now common to use the verb ‘objectify’ as a verb of action which classifies agents’ behaviour in ways that invite an audience’s opprobrium. It is true that competent speakers of English seem to be able to sort between clear cases of objectifying and clear cases of not objectifying. And some incompetence seems to be revealed were one to grant that a certain action is indeed objectifying but then refrain from criticism. The question is what sense we can make of such common linguistic behaviour, if our theorising about individual morality can find no distinctive wrong which backs up this practice. Perhaps this: that treating a structural problem as instead a form of individual agency allows one the release of personal judgement and criticism which is commonly accepted as a form of social release. We might then hypothesise that we engage in the make-believe that the various actions which the structural social criticism identified as playing some causal role in reinforcing a gender-related power structure should be treated as ways in which individual agents set out to bring about or reinforce that structure. Although typically we treat individual moral criticism as involving an awareness of the potential outcomes of an action, and as involving an objective on the part of the agent in this regard, the fiction the make-believe that people act so as to support the power structure allows us to treat them as strictly liable.

Consequently, that suggests that if we are to take seriously the idea that objectification has to be a distinctive kind of moral wrong committed by agents, in order that we can appeal to that kind of wrong in order to explain the wrong of commodification in sexual relations, then we have failed to identify anything of a suitable nature. The proper home of the dialectic of objectification simply takes us away from the evaluation of particular agents and their actions. As a consequence, while we can see how it might make sense to treat societies which tolerate prostitution as displaying

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20 [contrast Kant – see Herman]
21 [See refs.]
symptoms of inappropriate gendered social relations, we haven’t yet found in the idea of the sex trade something which is essentially a wrong.

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

4.

It is familiar point from discussions of extortion and blackmail that it is difficult for us to pin down the distinctive wrong that these activities involve, even while we have no difficulty in recognizing central cases of extortion and blackmail and seeing them for the wrongful activities they are. Theoretical discussions of these phenomena often appeal to institutional, so to speak, costs of permitting the various activities we classify as extortive or blackmailing; thereby giving up on the ambition to explain why these kinds of activities should be thought of as bringing about a distinctive kind of wrong. So we might, likewise, just step back from trying to find in the essence of commercialized sexual congress a special kind of wrong-making, but just reflect on the social consequences of allowing such trade to flourish.

Debra Satz offers one of the most interesting examples of this strategy for explaining the wrongs of prostitution, suggesting that the wrong of prostitution is not essential to it but rather linked to its sociological features: its deep effects on gender inequality, oppression and exploitation.22

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

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

22 Debra Satz, Why Some Things Should Not Be for Sale: The Moral Limits of Markets (OUP, 2010). Satz does not advocate either decriminalizing nor criminalization of sex work. ‘[T]here is no simple conclusion, she writes, as to what its legal status ought to be. Both criminalization and decriminalization may have the effect of exacerbating the gender inequalities in virtue of which I claim that prostitution is wrong.’ (136) However she considers that pimping should be prohibited: ‘The law should promote women’s control over their own sexuality by prohibiting brokerage. If what is wrong with prostitution is its relation to gender inequality, then it is crucial that the law be brought to bear primarily on the men who profit from the use of women’s sexual capacities.’ (152)
I can imagine hypothetical circumstances in which prostitution would not have a negative image effect, where it could mark a reclaiming of women’s sexuality. In a different culture, with different assumptions about men’s and women’s gender identities, prostitution might not have harmful effects on women in prostitution and as a group. But I think that feminists arguing along these lines have minimized the cultural stereotypes that surround contemporary prostitution and exaggerated their own power to shape the practice.

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

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

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

Is prostitution’s negative image effect greater than that produced by other professions in which women largely service men, for example, nursing or fashion modeling? What is special about prostitution? The negative image effect undoubtedly operates outside the domain of prostitution. But there are three significant differences between prostitution and other gender-segregated professions. First, a large number of people currently believe that prostitution, unlike housecleaning, is especially objectionable. Holding such moral views of prostitution constant, if prostitution continues to be primarily a female occupation, then the existence of prostitution will disproportionately fuel negative images of women. Stigma surrounds the practice, shapes it, and is reinforced by it.

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

The third difference concerns a third-party harm: the effects that prostitution may have on other women’s sexual autonomy. Scott Anderson has recently argued that if prostitution was viewed as just another job analogous to other forms of employment, then presumably sex could be included as part of any number of jobs. [...]
My argument has been that if prostitution is wrong, it is because the sale of women’s sexual labor may have adverse consequences for achieving a significant form of equality between men and women. This argument for the asymmetry thesis, if correct, connects prostitution to stigma and unequal status. However, it is an injustice that operates in large part through beliefs and attitudes that might someday be changed.

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

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

This leaves Satz’s first observation. As she presents the matter, the fact that many people hold prostitution to be morally objectionable is not indicative of whether prostitution per se is morally wrong. So the thought might rather be along the lines we indicated at the outset: the concern is rather that sex trade is clouded in shame. So, perhaps, then, the thought that there is something special and distinctively shameful about the trade in sexual favours has to be central to any adequate discussion of it. But if that is so then we need to focus more specifically on what that set of ideas involves. The suggestion so far is that a sense of shame surrounds the practice, and this sociological fact presents us with problems: among other things, it contributes to hostile or subordinating attitudes about the sexual role of women. We have yet to find a satisfactory interpretation of a reasoned sense of shame grounded, for example, in the idea that women are represented as mere objects for male use, either in prostitution, or as an effect of it. Nonetheless

22 Or rather, she rejects the essentialist degradation objection through commodification. Satz does not discuss objectification as an essentialist concern, and concedes in passing to Anderson that ‘It is wrong to treat people as mere things’ [ref: 143]
there does seem to be something unsatisfactory in the response of simply insisting that sex work is work like any other, or that it ought to be, absent retrograde prejudices. We need a better insight into the kind of shame we attach to it, and the possible mechanisms of that shame.

We can think of the essentialist critique of prostitution as seeking to explain the shaming reactions to prostitution through providing moral grounds for them: the distinctive wrong of prostitution is that which explains and justifies our negative attitudes towards such work, and underpins social policies which seek to protect people from it. If one is sceptical of the essentialist explanation, one might instead seek simply to explain the need to regulate prostitution through the sociologically evidenced bad effects that such trade has. But here too, we seem principally to run up against the idea that there are certain negative images or ideas that arise from or get promulgated through prostitution. And this leads back to the question what the grounds of this shame are or should be. If we are not to be essentialist about this, what other options are there? In the next section I'll explore one such strategy which we might, perhaps light-heartedly, associate with Hume's thoughts about chastity. This alternative seeks to recognize the social reality of the shaming attitude without seeking a justification for it. It invites us to construe our attitudes towards social policy in the light of this reality.

5.

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

Why should this be? One might hypothesize that people have social attitudes, emotions or other affective responses, which reflect interests they have in ways society should be organized. Perhaps we are such that we have an interest in marginalizing purely commercial sexual relations. A mechanism for marginalizing the activity might be simply to inculcate the attitude of deeming exchange of sexual favour for monetary reward outside of the social institutions controlling inheritance shameful. If there is a dominant social practice of that form, then the deeming shameful makes it the case that so acting is shameful. (Even if nothing in the activity as such requires that one be ashamed of it.)

Note that this is not to identify any aspect of the activity which grounds or justifies the attitude of treating it as shameful. Whatever people say in favour of this attitude, such reasons offered may not explain why they do find it shameful, and hence criticizing such reasons may not suffice to remove the attitudes in virtue of which the activity will count as shameful.
One can find the form of such an account in Hume’s discussion of the artificial virtues, where along with justice, promising and political allegiance, he includes chastity. Hume explains our concern with sexual continence as part of our concern with well-regulated property:

But speculative reasonings, which cost so much pains to philosophers, are often form’d by the world naturally, and without reflection: As difficulties, which seem unsurmountable in theory, are easily got over in practice. Those, who have an interest in the fidelity of women, naturally disapprove of their infidelity, and all the approaches to it. Those, who have no interest, are carried along with the stream. Education takes possession of the ductile minds of the fair sex in their infancy. And when a general rule of this kind is once establish’d, men are apt to extend it beyond those principles, from which it first arose. Thus batchelors, however debauch’d, cannot chuse but be shock’d with any instance of lewdness or impudence in women. And tho’ all these maxims have a plain reference to generation, yet women past child-bearing have no more privilege in this respect, than those who are in the flower of their youth and beauty. Men have undoubtedly an implicit notion, that all those ideas of modesty and decency have a regard to generation; since they impose not the same laws, with the same force, on the male sex, where that reason takes not place. The exception is there obvious and extensive, and founded on a remarkable difference, which produces a clear separation and disjunction of ideas. But as the case is not the same with regard to the different ages of women, for this reason, tho’ men know, that these notions are founded on the public interest, yet the general rule carries us beyond the original principle, and makes us extend the notions of modesty over the whole sex, from their earliest infancy to their extremest old-age and infirmity. (Hume *Treatise*, 3.2.12.7.)

I doubt that we should be happy either to accept Hume’s preparedness to treat the sexual behaviour of men and women so differently, nor yet his particular explanation of how this social practice comes about and comes to be reinforced. What is of interest for us here is rather the idea that one looks to how society functions and engenders certain social attitudes without asking whether the attitudes in question are justified.

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

Suppose this is the right strategy to adopt; so we simply accept that there is a reactive aspect to all of this. We accept, that is, that there is no way in which trade in sex could be other than typically something which raises attitudes of shame. How then should that affect how we think of social policy towards sex work? It raises at least the following issues:

1. Should we protect people from choosing to do it? That is, even if there is nothing intrinsically demeaning about the activity and we have sufficient regulation to remove the additional negative accidental concomitants of prostitution, still it may be that the activity is shameful and attracts shame to the ‘happy hooker’. With the prostitute’s interest in mind one might argue that we should thereby prevent her from engaging in the activity from her own best interest. But this is not a particularly compelling line of reasoning. We allow plenty of activities which lead to some cost or harm to the agent concerned where that person really wishes to engage in it. We do not, for example generally favour laws against masochistic behaviour on paternalistic grounds. Why should it be different for prostitution? We should avoid asserting the highly illiberal premise that all potentially bad choices have to be prevented through legal sanctions.

2. Should we introduce legislations aimed at reducing systemic third-party effects? It is true that labour laws sometimes forbid consenting acts between adults on the grounds of their effects on third-parties. But there are many activities which induce some level of third-party harm. For example, it infuriates some people that others engage in the witless activity of playing tiddlywinks. It doesn’t seem a compelling ground for prohibiting the game that some find it witless. So, for this ground to explain the appropriateness of restricting prostitution we both need to identify a sufficiently severe level of third party harm or risk and a proper elucidation of the inherent mechanism through which this unavoidable harm to third parties is supposed to happen.

3. Finally and most delicately: the impact of this on the legitimacy of state activity. Given that the activity in question just is inevitably treated as shameful, does that give us reason to reject policies which direct the state officially to endorse this activity?24 The concern here is that the legitimacy of the state is threatened by adopting the above liberal approach to prostitution. Even if we can rationally reflect that the general pattern of shaming does not reflect an inherent wrong in the activity, many will simply feel the shaming attitude and so associate the activities of the state in regulating such work with shame. Again, the threat arises only if it is true that there are social practices immune to reason which have the effect of making prostitution shameful.

24 [Witness debates on whether to include proceeds from prostitution and gambling in GDP. Ref.]
And this returns us to the contrast with which we began, and the dilemma faced by liberal theorists. Early in the discussion of Anderson’s critique of prostitution, I drew a comparison with the institution of begging. It is easy for us to call up feelings of degradation and shame associated with occasions of begging or supplication, be that a matter of remembering oneself as forcing demands on others, or acceding to the demands of someone on the street. With a keen sense of what goes wrong in such exchanges, it is not difficult to work out that were society ideally organized, then we should have no such begging present. Moreover, given our recognition of that ideal, it is easy to work back from that verdict to implications for social policy. It provides us with a rationale for moving towards a world in which begging is somehow excluded.

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

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

At the same time, while sympathising with the complaints of sex workers that political regulation issues in paternalistic control, we ought to recognize further problems in how we address these issues. If there is something socially shameful in the sex trade as such, then there is the threat of contamination in political institutions either regulating or profiting through taxation from such trade. (Might it not look as if the state simply rejects values violated by this activity, or endorses values embodied in it?) But also and more importantly is the delicate and pressing question of formulating ideal liberal policies which are protective of the most vulnerable in sex work: the workers themselves (as well as their clients) and yet are not coercive in a manner that liberals ought to find disturbing. To this I turn in the concluding section.
We started with a contrast between the Dominican priest and the choices facing liberal theorists pondering the question of prostitution. The Dominican was free to draw a contrast between the ideal city and the appropriate policies to introduce in secular society. That contrast may look cynical to us, but it presses a dilemma on liberal thought: if we face up to the distaste that the vast majority feel concerning trade in sex, then we must acknowledge that society ideally organized would be without that activity, at least as we can now recognize it. If our policies are to be driven by the aim of realizing an ideal way of living together, we are then committed to formulating policies which lead to the abolition or drastic alteration of these practices. As the Dominican to some extent recognizes, but as most politicians today who campaign against prostitution seem to overlook, the implementation of such policies would be highly coercive, and particularly so against sex workers in the most exposed position of this marginal trade. On the other hand, liberal theorists who insist that there is no reason to treat the sex trade differently from any other commodity service are liable to appear naïve or hypocritical, since it is difficult for their audience to take seriously that they resist the general attitudes towards trade in sexual favour to be found in society at large.

In the above discussion, I’ve suggested that when we look to the moral assessment of agents, there is no clear ground to undergird the sense of distaste or shame associated with sex work in a distinctive wrong involved in commoditizing the exchange of sexual favours. While the complaint that markets destroy value and the insistence that we must recognize the limits of markets are claims that we are all swift to echo, no simple equation between market and degradation of value can be made out. Equally popular is the complaint of objectification of women by men, and the attitude or activity of objectification seems closely associated with sex work. But if we restrict the target to individual agents and their attitudes, then we lose any grip on there being a distinctive wrong here. We are much more likely to make sense of objectification if we keep the notion where it originated in social critique of structures of power and mechanisms of imagery. And at that level of sociological observation and theory, there is no definitive account of how the sex trade distinctively brings about gendered inequity in power, rather than being a symptom of it.

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

But here we find more common ground with the Dominican. That ideal ways of living would not include the sex trade, does not mean that we have to find a per se wrong in the sex trade, and hence that we should pursue policies which lead to its abolition. Although on very different grounds, we too can recognize a contrast between society as it would be in an ideal form, and society as we need to engage with it in political debate and action. Of course that still leaves in place the stigmatizing and shaming aspects of the sex trade. And here there is a notable contrast with the case of begging. The inescapable shameful aspects of begging connect to what we can see is essentially wrong in that kind of interaction: it explains not only why an ideally organized society would lack beggary, but also why it is urgent for us to move away from the current situation. In the case of sex work, the connection between shame and wrong has not been made out. So while there is a clear harm for people to be stigmatized, that in itself gives us no reason to suppose that they are themselves engaged in wrong, and need to be prevented from harming themselves or others. We might as easily suppose that our commitment should be to lessening the stigma associated with prostitution. However, we might rightly be sceptical of managing to regulate away the tendencies to stigmatize sex work. What rather we need to do is to develop a liberal perspective which understands that fact about it, without seeking to ground the disapproval in some shared values that we all have. Given the values that liberals have, it is tempting to suppose that we are committed to social policies which can best realize an ideal situation embodying those values. The example of prostitution helps us see that this is an unhappy way of thinking of our liberal commitments. Our focus needs to be on the claims and demands people have in the actual situations we find ourselves. And so we need to think of policies about sex work in much more local and concrete terms.

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

In the light of such a deflationary conception of liberalism, it is particularly problematic to suppose that we should seek to alter people in order to fit them into a liberal ideal of society.
what the test case of prostitution highlights for us is that doesn’t easily leave us with a happily neutral position. It is too easy, in denying that there is any essential wrong in sex work, to rest in a position where one seems to endorse such activity as one among the other trades that one could engage in. And that position ends up being hypocritical. It ignores the various ways in which shame and stigma can be associated with the different facets of bringing sexual intimacy together with trade.

And that suggests that the ultimate moral to be drawn here, is that in looking at the niceties of different cultures and different legal contexts circumscribing sex and its trade, we should first and foremost look at the concrete level of how it effects particular groups of people, protecting them from coercion, or coercing them in turn.²⁵

²⁵ Acknowledgements. Hannah G, Niko K, Mike M, Joseph R, Jay W, Set Y,
APPENDIX

A sex worker’s view

Journalist: How would you define your ‘job’?
Morgane Merteuil: I do not use the word prostitute. It is a passive term. […] I say escort. Or whore. It’s a way of re-appropriating a word used as an insult […]. I prefer to be an escort to working 40 hours in a factory. I choose my timetable, I do not have a boss, I earn a living. The important thing is that this remains a choice.

J: Abolitionists say that prostitution is never a choice. What do you think?
MM: It is obviously a ‘constrained’ choice. It’s not done solely for pleasure. But nor are many other jobs. People who are employed in building work or waitressing might very well say that they too have made a constrained choice. But nobody would dream to tell them, as they do with us, that their consent is worth nothing and that they are alienated. Abolitionists – sometimes feminists! – talk to us as if we were mere children. However, for me, feminism means listening to women’s voices without moral judgement.

J: What do you reply to those who say that prostitution is necessarily a slur to your dignity?
MM: It is a very condescending form of paternalism. It’s patronizing, insulting, contemptuous to say that this job is, by nature, slavery or enslavement. […] Some people wouldn’t be able to work in a slaughterhouse, or would find difficult nursing people in old age. I myself would find it degrading to work as a trader or as a bailiff. Members of our union do not feel that they are losing their dignity. They simply want not to be stigmatised and to have social rights – retirement and health care for example.

J: Your union speaks of ‘sex workers’ rather than prostitutes. Why?
MM: Prostitution does not consist in selling or even renting one’s body, as some abolitionists claim, simply because the client cannot do with it what it feels like. Sex workers offer a service performed with their body, but also with their mind!

Le Monde, 26 November 2011 (translation V M-D. Morgane Morteuil is head of the Union of Sex Workers (STRASS – Syndicat du Travail Sexuel)