Sex Work/Sex Act: Law, Labor, and Desire in Constructions of Prostitution

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SEX RADICALS (Rubin 1984; Weeks 1985) often argue that radical feminists,¹ in their opposition to pornography, prostitution, sadomasochism, and other controversial sex practices, make political common cause with sexual conservatives. While sex radicals themselves clearly, indeed almost by definition, do not forge political coalitions with the sexual Right, they do tend to include prostitution in their analysis of “deviant” and “perverse” sexualities, thus making theoretical common cause with right-wing articulations between commercial sex and erotic diversity. While such an analysis makes a good deal of sense given the historical connections between condemnations/prosecutions of prostitution and political suppression of erotic diversity in general,² it overlooks what is most subversive about prostitution: its open challenge both to the identification of sex acts with acts of desire and to the opposition between erotic/affective activity and economic life. This article attempts a somewhat different articulation of sex work by drawing upon theorizations of prostitution generated by the prostitutes’ rights movement, Michel Foucault’s insight that legal suppression and rhetorical condemnation may be mechanisms of sociocultural production as well as

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¹ I use the term radical only because of the popularity of the liberal/socialist/radical framework for discussing feminism and because of its historical association with a particular brand of feminism that has seen sex in contemporary Euro-American societies as fundamentally about women’s violent subordination to men and, conversely, women’s oppression as primarily a function of male sexual violence (as exemplified in the anti-pornography campaign). For clear applications of the liberal/socialist/radical framework to prostitution, see Jaggar 1991; Fechner 1994.


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repression, constructivist histories/theories of sexuality and identity, and feminist critiques of the public/private and work/family divides. In light of these traditions, I hope to think through the failure of most major normative theories of prostitution to deal adequately both with the complexities of sex, desire, labor, and money found in the practice and with the implications of prostitution's criminalization for its relationship to hegemonic sexual and economic practices.

**What is prostitution?**

As Alison Jaggar (1991) astutely points out, the definition of prostitution is as contested as its legal and moral status. My discussion of prostitution is oriented toward its practice, and the debates over that practice, in the late twentieth-century United States. It is quite common to talk glibly of prostitution as the world's oldest profession, existing universally across time and place (Alexander 1987b, 186). Such talk obscures the differences in social and cultural context—differences in economic organization, normative sexual practices, and the relationship between sexual practices and identity, between economic practices and identity, and so on—that shape the significance and structure of prostitution within any particular historical space.

That being said, the prostitution of the here and now is not radically isolated from other practices commonly termed prostitution; rather, it is the product of historical development that, as with any other sociocultural object, results in shifting regions of continuity and discontinuity with past practices and discourses. So, for instance, the economics and erotics of contemporary Euro-American prostitution are clearly outgrowths of the increased regulation of prostitutes, marginalized sexual groups, racialized minorities, and the working classes around the turn of the century (Walkowitz 1980; McClintock 1992; Bell 1994). Prostitution in the United States and other Euro-American countries has been influenced by colonial histories that have produced raced patterns of desire, migration, and economic inequality that leave their mark on both prostitutes and clients (McClintock 1992; Shrage 1992, 1994). Similarly, forms of prostitution in Southeast Asia, India, and Kenya, for instance, share particular histories of the interaction of precolonial sexual and domestic practices with colonial and postcolonial phenomena such as demand for

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1 For writings by and about the prostitutes' rights movement, see Delacosté and Alexander 1987; Bell 1987; Pheterson 1989; and Jenness 1993. Foucault's constructivist critique of the "repressive hypothesis" is set out in *The History of Sexuality* (1978). On sexuality and identity more generally, see Vance 1984; Laclau and Mouffe 1985; and Bell 1994. On work/family, see Olsen 1983; Ferguson 1989; and Williams 1991.

sexual services by British and American soldiers or the Thai state's reliance on sex tourism to provide capital to repay international debts (White 1986; Scibelli 1987; Oldenburg 1990).

For the purposes of this article, prostitution might be provisionally defined as attending to the sexual desires of a particular individual (or individuals) with bodily acts in exchange for payment of money.\textsuperscript{5} Such a definition immediately raises several questions. First, are the actors just anyone? Many feminists have been inclined to say "no" emphatically, insisting on prostitution as paradigmatically women (presumed straight) selling to straight men. This approach renders invisible the fact that a significant number of prostitutes are lesbian or bisexual, that there is a significant amount of prostitution involving sex between gay or bisexual men, and that there is a largely undocumented history of commercial sex between women (Nestle 1987);\textsuperscript{6} yet, it is nonetheless true that the vast majority of prostitutes are women with male clients and that this type of prostitution has garnered the most attention in Euro-American societies. There appears to be very little prostitution in which men sell to women. This last fact is usually attributed to gendered structures of desire (Shrage 1994), although some have claimed that it is caused as much by women's historical lack of disposable income and personal freedom (Bell 1987, 217). Prostitution is both a practice in which gender and sexuality play important structuring roles and one that cannot simply be reduced to gender or sexuality.

Some writers have claimed that prostitution is not "really" about sex or money at all but instead is about power and sexual subordination (Pateman 1988). Of course, there is no reason to assume that sex and money do not already have everything to do with power and sexual subordination. Again, it is important to acknowledge connections between concepts and phenomena without simply reducing them to each other. In addition to crushing conceptual complexity and cultural variety under

\textsuperscript{5} It is worth noting that this rough definition, despite its considerable vagueness, already fails to capture a variety of historical and contemporary examples that one might refer to as "prostitution." For instance, in the United States, women have historically been classified as prostitutes on the basis of the number of sexual partners, regardless of any commercial aspect (Scibelli 1987). Historical examples from ancient Babylon and colonial Kenya suggest that sexual acts accompanied by monetary exchange may have been linked as much to spiritual development or the maintenance of a household, respectively, as to the satisfaction of erotic desires (Shrage 1994). Note also that this definition fails to distinguish prostitution clearly from other kinds of sex work mediated, as with anything, by "bodily acts" such as posing for a photograph or performing on stage—the lines are exceedingly blurry, since prostitutes may not be asked for physical contact at all but instead for a private performance of some other sexual fantasy.

\textsuperscript{6} Radical feminists have acknowledged the existence of male-male prostitution but have generally incorporated it into their analysis of women selling to men by understanding male prostitutes as feminized stand-ins for women (MacKinnon 1989, 141; Fechner 1994, 49, n. 95).
the heel of totalizing theory, such a move encourages us to forget the variety of meanings that participation in a “single” practice can have for different individuals or groups, even within a single historical moment (Bell 1994, 73); there is great evidence to suggest, for instance, that prostitutes experience their profession in widely varying ways and that johns go to prostitutes for similarly various reasons (Fechner 1994). In emphasizing that context is essential to understanding a phenomenon like prostitution, it is crucial to recognize that “context” is not itself unitary; rather, context is always fraught with heterogeneity, paradox, and difference that may, for instance, make the same “event” transpire in different “contexts” for different individuals (Derrida 1982; Laclau 1990a).

With this view in mind, one can begin to understand that more is at stake in disagreements over how to describe prostitution than simply which approach is the truer representation of reality. Although, in general, any descriptive claim will necessarily draw upon broad theoretical commitments, this mediation of experience by already-existing understandings of the world and one’s place in it (Scott 1992; Mohanty 1993) is particularly important when how and why participants experience a practice (as degrading, as shameful, as fun, as erotic, as liberating) ought to play a crucial role in evaluating it, as is the case with prostitution. Holly Fechner, for instance, asks the wrong question when she frames her inquiry as follows: “Each theory represents women’s lives because they are all formulated from the standpoint of some women. The relevant question is . . . which, if any, represents most closely the experiences of women in prostitution in a particular time and place” (1994, 63).

The experiences of women in prostitution will have quite a bit to do both with underlying features of their situation and with how they have learned to understand, interpret, and explain the world around them. Different theories of prostitution, linked as they are to particular understandings of sexuality, gender, commercial exchange, specific sexual acts, and so on, and to the extent they inform the experiences of participants in prostitution by helping to constitute their interpretive lens or by playing a role in constructing the context that constrains their experiences (e.g., by influencing legal provisions or the attitudes of police, clients, friends, family, etc.), play a role in the production of experience as well. Part of the relevant “context” for understanding and evaluating prostitution, then, must be the discursive resources through which it is interpreted and contested.

An adequate understanding of prostitution requires understanding its multiplicity and the potential discontinuities in the experience of prostitution between participants in it, as well as between participants and dominant narratives of the culture at large (Vance 1984, 15). In particu-
lar, one must consider what makes an act "sexual" or "erotic." Having disentangled sexuality from genital contact (an idea rooted in the supposed natural link between sexual desire and procreative sex), constructivist theories of sexuality need to consider both that sexuality may be nongenital and that genitalia may be nonsexual.

At least since Freud's writings on fetishism and pregenital sexuality (1962), erotic desire and sexual pleasure have been understood as crucially mediated by a psychological component, a component, moreover, heavily influenced by culturally specific patterns and practices of desire and pleasure (Koedt 1972; Vance 1984). Considerable attention has been devoted to explaining and criticizing how particular sexual behaviors, especially intercourse between a man and a woman, have been naturalized and normalized through teleological identifications of sexuality with procreation and in conjunction with the maintenance and production of patriarchal forms of social organization (Rubin 1975, 1984; Weeks 1985). Much of this critical energy has legitimized nonprocreative sexual activities and criticized sexual practices organized primarily for the pleasure of men (Koedt 1972; Ehrenreich, Hess, and Jacobs 1986; Davis 1990).

Although cultural and individual variation in what acts, partners, objects, parts of the body, and so on, are loci of sexual desire and pleasure is widely recognized, and the production of those loci is understood as a thoroughly social process, the lingering influence of procreative teleology is still recognizable. In contrast to efforts to legitimize nonprocreative, and sometimes nongenital, behaviors as forms of erotic experience (Rubin 1984; McClintock 1992) or to reject dominant forms of sexual practice (Koedt 1972; Davis 1990), much less cultural work has been oriented toward imagining genital encounters (usually taken as paradigmatically sexual) as de-eroticized interactions, in which the absence of sexual pleasure might be no less surprising or disappointing than in an ordinary handshake. Moreover, despite new appreciation for autoeroticism and object-oriented eroticism, sexuality is primarily understood and

7 On the anecdotal level, I know of some gay men and lesbians who have considered having "sex" with a friend strictly for the purpose of having a child, fully expecting to experience the act as instrumentally aimed at procreation without any trace of eroticism, an interesting reversal of same-sex eroticism free of any procreative intent or possibility. In her book Moral Dilemmas of Feminism, Laurie Shrage in passing wonders whether Babylonian religious rituals involving intercourse between a man and a woman should even be referred to as "sex" at all (1994, 121). Given her position that "forcible violation of women is the essence of sex," Catharine MacKinnon also speculates, "Is intercourse 'sex' at all?" (1989, 141). Once genital interactions are decentered in our understanding of sexuality, neither limiting the extent of erotic activity nor necessarily playing any role in it whatsoever, the distinctions between prostitution and other forms of sex work begin to blur, since each relies on a particular set of erotic fantasies and material practices, while none has a privileged relationship to an essential core of sexuality.
experienced as thoroughly relational and reciprocal: sex happens \textit{between} people, and therefore person A cannot be having sex with person B without person B having sex with person A.\footnote{Obviously this does not imply that pleasure, activity, and consent are necessarily symmetrical. One participant, for instance, may be bored to tears, but one would normally understand her situation as bad sex rather than no sex at all. Rape, while clearly involving lack of reciprocity in the sense of consent, nonetheless is generally understood and experienced as being forced \textit{to have sex}. As Sharon Marcus argues, it is "the forced creation of female sexuality as a violated inner space," not the physical assault itself, that constitutes the horror of rape (1992, 399).}

The erotic status of an act or body part may differ between two actors engaged in a single act. I take it not to be especially far-fetched to imagine a situation in which, for one person, stimulation of the left ear is a major erotic focus, while for someone doing the stimulating, it is just an ear. There is no reason why the same could not be true for genital interactions. After jettisoning the notion that certain kinds of behavior are inherently erotic (either mutually or asymmetrically), one can imagine relations between bodies whose connection to erotic desire requires particular knowledge not only of the physical configuration but also of the personal histories of the individuals involved \textit{and} the context in which the relation occurs (e.g., it only works in a bedroom, or on a Tuesday, or with someone you love, or with a complete stranger, or in the dark).

\textbf{Competing narratives of prostitution}

Prostitution has been compared to many things, articulated within many discourses. I concern myself here only with those projects making some claim to be feminist, progressive, or otherwise liberatory. In particular, I do not discuss theories of prostitution that focus on sin, promiscuity, or disease, although they have been among the most important in shaping the popular imagination. I focus on the following models for understanding prostitution: free contract/autonomous action, subordinated labor, subordinated sex, and sexual pluralism, which roughly correspond to the commonly distinguished approaches of liberal feminism, Marxist feminism, radical feminism, and sex radicalism. It should be no surprise that the lines between these approaches are blurry at best, and more than one may be present in the writings of a single critic. Drawing out some of the gaps and limitations in these predominant approaches, my goal is to contribute pieces of another possible organizing narrative, one that addresses some of these problems.

My investigation has been formatively influenced by the stories that prostitutes themselves have told about their lives, perspectives that I hope
to juxtapose with some of the theories in question. Sex workers are not of a single voice with respect to prostitution. There are, however, a few prominent themes that emerge quite frequently: choice, work, violence, police, and deception. Of these, choice, work, and violence are major players in academic theory on the subject (each being the major theme of liberal, Marxist, and radical feminist approaches, respectively), while police and deception are hardly thought about at all. What is more, work is, I think, often mistheorized because of difficulties describing exactly what the "product" of the prostitute's work is, while the role of violence is misunderstood because of inadequate attention to the structuring role of prostitution's legal status.

Although these organizing themes are more explicitly theorized later in this article and juxtaposed with predominant narratives throughout this section, a little further elaboration is in order. Even though making recommendations about the proper legal responses to prostitution has been a major aim of much feminist work on prostitution, there remains a curious tendency to see sex work as a practice whose politically relevant features exist independent of its current legal status. In contrast, a significant portion of the analysis of sex work generated by prostitutes' rights groups has focused on the way that patterns of legal regulation and enforcement operate to create the very phenomenon of prostitution to which feminists have endeavored to generate legal responses. Although the details vary somewhat throughout the North American and western European states that are my central focus, sex work is thoroughly criminalized throughout these areas. Even when the actual act of prostitution is legal, a broad net of related offenses—soliciting or procuring a prostitute or client, living off the wages of a prostitute, maintaining a "bawdy house," and many more—may be illegal (Scibelli 1987; McClintock 1992). Moreover, police use broad laws against "nightwalking" or "conduct likely to debauch" to regulate prostitution (Scibelli 1987; Kandel 1992). Even in such places as Nevada and parts of Germany, where prostitution is legalized and restricted to licensed brothels or particular neighborhoods (Scibelli 1987; McClintock 1992), prostitutes continue to work

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9 Bell 1987; Delacoste and Alexander 1987; Pheterson 1989. In addition to these published anthologies of writings by sex workers, there has been a recent surge in academic writing about prostitutes' organizations and their politics (see McClintock 1992; Jenness 1993; Bell 1994; and Fechner 1994).

10 In fact, one of the major differences among prostitutes' organizations is the extent to which they see the most objectionable aspects of prostitution, especially the vulnerability of prostitutes to violent abuse by pimps and clients, as being by-products of criminalization or as inherent in deeper patterns of sexual violence that produce a demand for prostitution itself, although all tend to agree that laws and enforcement patterns that punish prostitutes themselves (rather than clients or pimps) exacerbate the harms of prostitution (Fechner 1994).
in illegal street prostitution because of the exploitative, degrading, and dangerous conditions of the brothels (Scibelli 1987). Conversely, elsewhere in the United States, police enforcement of prostitution laws is highly selective, usually focusing heavily on street prostitution and leaving higher-status massage parlors and escort services relatively unhindered. Because of selective enforcement of prostitution laws, use by the police of more general laws to harass prostitutes, and the coexistence of criminalized street prostitution with legalized brothels and red-light districts, there is considerably more convergence in the actual relationships between sex workers and the police across North American and western European states than may be evident from the legal codes (Scibelli 1987; McClintock 1992).11

These forms of state regulation articulate prostitution within a cultural realm of marginalized sexuality and isolate it from the status of work. Prohibitions on living off the earnings of a prostitute or cohabiting with one prevent sex workers from acting as primary wage earners for their families (McClintock 1992). Conversely, emphasis on prostitutes' sexual acts is reflected in regulatory focus on sexually transmitted diseases, the frequent insistence by judges that prostitutes cannot be raped, and removal of sex workers' children on the basis of parental sexual misconduct (McClintock 1992, 89). Legal regimes, then, play an important role in suppressing sex workers' attempts to articulate their practices as a form of work and promote its interpretation as fundamentally a sexual act. As I will discuss later in this article, many prostitutes attempt to resist this construction by articulating their practice as a form of service work structured as a sex act, a performance in which the client's experience of participation in a sexual act is an illusion created by the sex worker, the sex actress.12

11 Not coincidentally, the nations under consideration also share roughly similar industrial economies, social welfare programs, liberal democracies, and cultural heritages. The relationship between sex work and the state, the rest of the economy, and culturally specific understandings of work, money, and sexuality may be considerably different in other parts of the world and might require different theoretical tools to understand sex work and to suggest appropriate responses. For instance, in Thailand, sex work relies heavily on the intersections of rural agrarian poverty and state-supported international sex tourism (Scibelli 1987; McClintock 1992) and may operate in the context of different understandings of the relation between amorous and commercial sex than in Euro-American societies (Shrage 1992, 49).

12 In her fascinating book Reading, Writing, and Rewriting the Prostitute Body (1994) Shannon Bell devotes a chapter to feminist performance art produced by sex workers (including women involved in aspects of sex work other than prostitution, such as print pornography and live performance). Although beyond the bounds of this article, it would be worthwhile to investigate what, if any, connections exist between prostitutes' characterizations of their work as being structured by performance and the self-conscious and explicit production of performance art as a mode of theorizing sex workers' lives, as well as the more explicitly performance-oriented sex work such as live sex shows and photographic pornography.
While it is important to maintain a critical perspective on claims about prostitution made by sex workers, as with anyone, especially in light of their heterogeneity, these claims nonetheless merit some special attention, both epistemically and politically. Most simply, sex workers' own understandings of their lives, and the ways of living embedded in those forms of understanding, are themselves part of the phenomenon under investigation. Although a political and ethical evaluation of prostitution will undoubtedly include an analysis of how the practice affects even those who have no direct interaction with it, how sex workers themselves experience and are affected by sex work has been of crucial importance to feminist considerations of the subject. While it may be appropriate to speak of harms to oneself that one either fails to realize or fails to understand, one's actual experience of a practice surely plays an important role in any evaluation of it. Thus, whether participants in sex work actually feel humiliated, liberated, degraded, sexy, objectified, or indifferent should play a role both in descriptions of what sex work is like and in any attempts to evaluate it.

Although these considerations alone would justify a concerted attention to the testimony of sex workers, I think the reasons go a bit deeper. Most simply, sex workers' understandings of their work are developed in conjunction with their actual experience of the practice under analysis. To the extent that these understandings arise from, are embedded in, and serve to guide sex workers' participation in prostitution, sex workers have a great deal at stake in, and great deal of exposure to, how well their ideas work in practice (Mohanty 1993). Not only does this personal stake in sex work play a relevant epistemic role, but, to the extent one is committed to democratizing both social and intellectual life, those most affected by a practice should have a say in the inseparable projects of describing and evaluating it.13

The least complicated approach to prostitution is the free contract (contractarian) (Ericsson 1980; Jaggar 1991). This narrative sees prostitution as an unremarkable payment of a fee for the performance of a service. As long as entrance into the contract is freely chosen, rather than coerced, the state should not interfere with it. Any objections to the exchange are considered to be outdated, “moral” objections that, while individuals may be entitled to have them, ought not to interfere with others’

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13 This article is only a very partial and highly inadequate part of such a project. The epistemic and political role for sex workers being discussed would be far better achieved by facilitating direct participation in feminist intellectual and political work. Indeed, there are considerable dangers of both misrepresentation and appropriation when one draws on others' experiences in this fashion. I see this article not as an attempt to transmit sex workers' insights to an academic audience but as part of an attempt to include critical work produced outside the academy in my own, and in the wider academic community's, purview of relevant sources with which to engage in critical conversation.
liberty to contract. As long as the prostitution contract was not conceived in coercion and does not affect anyone outside it, then it is a private act with which the public state has no business to interfere. Prostitutes' rights groups often respond to perceived disapproval from feminists and general denigration from sexual conservatives by appeal to contractarian notions of choice and privacy: “Whatever you or I think of prostitution, women have the right to make up their own minds about whether or not to work as prostitutes, and under what terms” (Delacoste and Alexander 1987, 211).

Theorists employ notions of autonomy to criticize and broaden the contractarian’s notion of consent, in particular challenging whether coercion should be understood only in terms of imminent physical harm. Contract theory is based on a certain normative vision of human beings as masters of their own destiny, and not all actual contracts bear out this vision (Radin 1987; Anderson 1990). Liberal approaches of this sort attend to the context in which actual choices occur, distinguishing them from idealized choices under conditions of equality. Liberals have difficulties figuring out what to say about someone who “chooses” to act in a way contrary to “autonomous” choice if that person denies that she or he is making that choice because of conditions of inequality. To determine what types of actions are contrary to human autonomy, liberal theories generally rely on a normative notion of “human flourishing” or “basic goods” (Rawls 1971; Radin 1987). Liberals may regard prostitution as inherently degrading because noncommercialized sexuality is part of their vision of human flourishing (Radin 1987; Bell 1994, 78), thus implying that any participation in prostitution is evidence either of coercion (usually economic desperation) or immorality. Liberals may also claim that prostitution is morally suspect because any transaction that identifies human worth with the body is degrading. In order to prevent this analysis from disqualifying less controversial practices like wage labor and professional athletics, they appeal to a notion of “labor power” or “professional skill” that an individual possesses and may trade as if it were a discrete object without involving a sale of the self (Pateman 1988; McClintock 1992).

Liberal approaches rightly pay attention to the broader context in which choices are made. Not only may certain actual choices conflict with the notion of autonomy, but given the other choices available, an option that is harmful to autonomy may still be better than the alternatives, for instance, starvation. Thus, liberals will often introduce a distinction between what would be permitted in an ideal world and what should be permitted given the imperfections of this one (Radin 1987; Shrage 1989, 1994). This line of thought takes a feminist turn with regard to prostitution by emphasizing the prevalence of employment discrimination against
women, the burdens of sexual harassment on the job, and the segregation of women into low-paying and unsatisfying jobs as unjust features of other available employment that make prostitution a reasonable choice for women, even though it may be inherently degrading (Radin 1987; Shrage 1989, 1994).

At least the first part of this argument resonates very strongly with some prostitutes' defense of their choice of profession: "The average prostitute in this country [the United States] can gross from about one hundred to two hundred dollars a day, or more, with a great deal of flexibility about hours and days of work. Programs that try to help prostitutes make a transition into low-paid, boring jobs tend to fail" (Alexander 1987b, 206). Many feminists have argued that the relative inhospitality of the labor market to women is due in large part to ways in which the relationship between work and family life are structured (Williams 1991). Not only are workplaces geographically isolated from residential areas, incompatible with routine elder and child care, not to mention pregnancy, and otherwise tailored to an idealized male worker with a wife who cares for home and family (Pateman 1988; Williams 1991), but the cultural distinction between productive work and familial care, as well as between high- and low-status work, is also profoundly gendered (Ferguson 1989; Williams 1991). By getting paid for what Ann Ferguson calls "sex/affective labor" under flexible working conditions (the more so if criminalization were ended), sex work may not simply be a reasonable choice given the options but may actually challenge some of the structural conditions that so narrow women's options in the first place. Conversely, by denying prostitution the status of legitimate work, criminalization helps patrol the boundary between the sex/affective labor routinely assigned to and expected of women and practices deserving of the financial and status rewards of "work."

As Carole Pateman (1988) argues in persuasive detail, liberalism has great difficulty maintaining a balancing act between two very different outcomes: contractarianism and Marxism. Only considerable theoretical contortions explain why standard contract theory does not permit slave contracts. Those contortions, however, tend to propel liberals toward seeing all real contracts as taking place between unequals and therefore as illegitimate. Marxist approaches to prostitution play on the slippage between the institution of prostitution and the more general sense of "prostitute," given in the Random House Dictionary of the English Language (2d ed.) as "a person who willingly uses his or her talent or ability in a base and unworthy way, usually for money." The key terms, of course, are "base" and "unworthy." Under a Marxist interpretation, every sale of services is entrance into a relation of subordination that transforms the worker into a commodified object and is thus unworthy of free human
beings. Hence, Marx wrote: “Prostitution is only a specific expression of the general prostitution of the laborer” (1964, 133n.). The wrong of prostitution is simply assimilated to the wrong of wage labor under capitalism in general. The general question then becomes whether or not there is anything different about prostitution because it involves sex (Overall 1992), a difference that might lead feminists to be more critical of prostitution than other wage work involving women and might explain why prostitution has in fact been differentiated from other forms of wage work by the dominant cultural and legal practices of Euro-American capitalist nations.

The contribution of radical feminists has been to emphasize that prostitution involves sex and as such is linked as much to the organization of gender and sexuality as it is to the organization of wage labor.¹⁴ In a sense, the radical feminist position mirrors the Marxist one. Instead of identifying how workers’ subordination allows their labor to be appropriated, radical feminists focus on how women’s subordination allows their sexuality to be appropriated. “Sexuality is to feminism what work is to marxism: that which is most one’s own, yet most taken away” (MacKinnon 1989, 3). Radical feminist analyses assimilate prostitution to marriage and the appropriation of female sexuality by a man in exchange for some kind of economic stability (Dworkin 1987; Pateman 1988; Fechner 1994). In particular, prostitution reinforces dominant sexual roles in which men violently use women’s sexuality for their own pleasure and reproduction, and women are constructed as sexual servants for men (Shrage 1989, 1994; Overall 1992, 719).

For radical feminists who do not want to abolish or condemn wage labor, differentiating sex from other forms of human activity that are purchased for a fee is an important task. None do this very well, but those who try tend to fall back upon the same kind of normalizing discourse of ideal human sexuality, and implicitly of work as well, found in the liberal accounts discussed above—sex should be private and intimate, not commodified and part of public life; it should take place in conditions of perfect equality, not power differences, and should be oriented toward mutual pleasure (Finley 1988). This normative vision is coupled with the claim that male sexuality inherently diverges from this norm because it is inseparably linked with violence and subordination (Dworkin 1987; MacKinnon 1989).

¹⁴ Shrage 1989, 1992, 1994; Overall 1992; Fechner 1994. Note, however, the ambiguities of the term sex. We have inherited a term that collapses biological understandings of sex difference, gendered social categories, particular genital acts, and erotic forms of experience. Disentangling and criticizing the ways in which these different meanings have been naturalized and fused has been and should continue to be a major part of the feminist project.
Often the argument is simply a circular appeal to "sex." Pateman, for instance, distinguishes the use of women's bodies for sexuality from the use of baseball players' bodies for their athletic potential as follows: "Owners of baseball teams have command over the use of their players' bodies, but the bodies are not directly used sexually by those who have contracted for them" (1988, 206). Christine Overall differentiates prostitution from other kinds of work in which women have traditionally been employed: "While cooking, nursing, and child care need not necessarily be commoditized, sex work is by definition the commoditization of sex" (1992, 717). The strain in reasoning should be apparent, since one could just as easily say, "While sexuality, nursing, and cooking are not necessarily commoditized, hired child care is by definition the commoditization of child care."

As Anne McClintock and Laurie Shrage have both pointed out (McClintock 1992, 95; Shrage 1994, 93), radical feminist distinctions between sex work and other forms of labor tend to rely on two related and problematic forms of essentialism about sex. In identifying sex, more so than other bodily mediated activities, with both the body and the self, radical feminists tend to naturalize both sexuality itself and the relationship between sexual acts and identity. In doing so, they tend to take for granted the culturally and historically specific processes that sort practices into categories like "work," "recreation," "relation building," and so on (Shrage 1994, 93). While Shrage emphasizes how these problems limit the extent to which Overall's analysis may apply outside North America and western Europe, the same essentialist moments also create problems even if the characterizations happen to fit dominant cultural understandings within a particular context. When those dominant understandings are themselves part of oppressive systems of meaning and practice, it may be a grave error to hold them as givens and then evaluate a practice in that light. By doing so, the critic may inadvertently overlook both moments in which efforts are being made to resist, transform, or transgress those norms and practices that provide the basis for such efforts, instead focusing attention on the dangers of transgression rather than on creating spaces in which it is less dangerous.

In just this way, radical feminist approaches tend to underestimate how much of what they identify as harmful in prostitution is a product, not of the inherent character of sex work or sexuality itself in any society roughly like this one, but rather of the specific regimes of criminalization and denigration that serve to marginalize and oppress sex workers while constraining and distorting sex work's radical potential. While radical feminists generally support decriminalization of prostitutes' own actions, they nonetheless tend to support criminalization of activities associated with prostitution, including those of johns and pimps, and support
characterizations of commercial sex as inherently degrading to prostitutes (Fechner 1994). Thus, while they hope to shift the burdens of criminalization from women sex workers to male clients and pimps, they do so with an eye toward the elimination of sex work altogether. For radical feminists, the law and its enforcement are largely irrelevant to understanding and/or affecting prostitution, since legal regimes simply reflect underlying structures of sexualized inequality: “Because the stigma of prostitution is the stigma of sexuality is the stigma of the female gender, prostitution may be legal or illegal, but so long as women are unequal to men and that inequality is sexualized, women will be bought and sold as prostitutes, and the law will do nothing about it” (MacKinnon 1989, 168).

In analyzing sex work as an inherently oppressive practice that is part and parcel of patriarchal capitalism, the radical feminist approach fails to offer an adequate explanation for why sex work is the subject of repressive and marginalizing legal regulation and why its open practice is so widely abhorred. These feminists claim that “our society’s tolerance for commercially available sex, legal or not, implies general acceptance of principles which perpetuate women’s social subordination” (Shrage 1989, 356; emphasis added). Certainly there are myriad ways in which sex work is either tolerated or promoted, but if sex work is such a seamless fit with organizing principles of Euro-American society, the question should not be why is it tolerated at all but why is it tolerated only as a marginal, degraded activity without official legitimacy. Under the radical feminist interpretation, prostitution is hardly different from marriage and is part of a general system by which men gain sexual access to and dominance over women. But if this is the case, then why is prostitution and all its trappings not a culturally exalted, legally sanctioned, flourishing industry of the patriarchy? Moreover, why is it that sexual conservatives who explicitly advocate women’s sexual and reproductive subordination to men are among the most outspoken critics of prostitution? One can certainly respond by observing that, legal or not, prostitution is very prevalent, but one still owes an explanation of why it is neither actively promoted nor indifferently accepted or, better yet, an explanation of how it is that illegality itself is part of how and why prostitution is tolerated or promoted.\(^\text{15}\) Prostitutes’ own emphasis on the role that illegality and police suppression play in shaping the structure of prostitution can begin to

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\(^{15}\) Andrea Dworkin, unlike radical feminists who treat the law as largely irrelevant, does offer some possible explanations for prostitution’s criminalization, including restraint of men’s raging self-destructive sexuality (“Male dominance does best, after all, when men do not, generally speaking, fuck themselves to death by fucking whatever moves” [1987, 158]), coordination of male sexual access to women (161), and male sexual pleasure in lawbreaking itself. Regardless of whether such positions are accurate in the explanatory role they give to male sexuality, they do not seem to explain how it is that legal regulation tends to focus on the activities of prostitutes, not their clients.
provide some answers. It is not sex work per se that promotes oppressive values of capitalist patriarchy but rather the particular cultural and legal production of a marginalized, degraded prostitution that ensures its oppressive characteristics while acting to limit the subversive potential that might attend a decriminalized, culturally legitimized form of sex work.

Finally, the radical position contradicts the testimony of many prostitutes that they find sex work to be empowering or at least no worse than an ordinary job. Indeed, many prostitutes emphasize that they engage in sex work not simply out of economic need but out of satisfaction with the control it gives them over their sexual interactions, just the opposite of what the radicals argue. Nina Lopez-Jones of the English Collective of Prostitutes states, “The sex industry is not the only industry which is male-dominated and degrades women, but it is the industry where the workers are illegal and can least defend publicly our right to our jobs. We argued that for some women to get paid for what all women are expected to do for free is a source of power for all women to refuse any free sex” (Delacoste and Alexander 1987, 273). To a degree, many sex workers echo the radical sentiment that women are generally expected to cater to men's sexual desires, but instead of seeing prostitution as an extension of that tendency, they see it as a reversal. Similarly, while recognizing and condemning the violence to which many prostitutes are exposed, they attribute this vulnerability not to the inherent qualities of male sexuality but to power imbalances that criminalization either creates or reinforces. In this disagreement, one can see quite clearly the productive role of criminalization and restrictive forms of legalized sex work in shaping the balance of power between sex workers, clients, and pimps. One of the most frequent reasons sex workers cite for demanding decriminalization, and one of the most frequent complaints against legalized brothel systems such as the ones in Nevada and Frankfurt (Scibelli 1987), is that both of these systems prevent sex workers from exercising control over who their clients are and what acts they perform (Scibelli 1987, 148; Kandel 1992, 82; McClintock 1992, 86, 88–99), leaving them without recourse to legal protection from fraud, abuse, and rape.

Where the problem of the Marxist critics tends to be their inability to see prostitution as about sex as well as work, radical feminists all too often fail to remember that, especially for the prostitutes themselves, prostitution is about work at least as much as it is about sex. Instead, they claim that the monetary element is simply irrelevant to prostitution's inherent status as sexual violence in which women are completely passive victims, like children: “The fact that a john gives money to a woman or a child for submitting to these acts does not alter the fact that he is committing child sexual abuse, rape and battery; it merely redefines those crimes as prostitution” (quoted in Fechner 1994, 49). In describing
prostitution as the violent appropriation of women's sexuality, radical feminists assume that prostitutes experience prostitution as their clients imagine them to—namely, as submitting to their sexual desires and joining them in a sexual act, thus constituting the prostitute as sexually subordinate (Shrage 1994, 134).

Prostitutes' own testimony that their activities may be just another job suggests, however, that they may not be providing the same thing that the client is receiving. Take, for instance, the following comparison of prostitution to other bodily activities: "I think women and men and feminists have to realize that all work involves selling some part of your body. You might sell your brain, you might sell your back, you might sell your fingers for typewriting. Whatever it is that you do you are selling one part of your body. I choose to sell my body the way I want to and I choose to sell my vagina" (Pheterson 1989, 146). Of course, her client quite likely does think of her vagina as very different than her back or fingers because it is a locus of his erotic desire. In the context of sex work, or indeed in any given context, it need not have the same significance for her, depending on how her sexuality has been constructed in relation to her individual history and cultural context. Such a history and context might include a sex workers' community that has developed and cultivated particular forms of erotic, and nonerotic, experience in conflict with prevailing norms. Dworkin, in contrast, dramatically reduces prostitution, and prostitutes, to a reflection of male sexual desire, leaving no room for prostitutes themselves to have any agency at all: "In the male system, women are sex; sex is the whore. . . . Using her is using pornography. . . . Being her is being pornography" (1989, 202).

The last of the major approaches to prostitution has aimed to recognize and legitimate these sorts of processes of construction within marginalized communities, as well as to expose how dominant forms of sexual experience are equally historically and culturally contingent. Sex radicals are critical of restrictions placed on sexual activity in general. Although they share with contractarians a tendency to take explicit consent at face value (Rubin 1984), they have a different view of sexuality itself. Instead of taking sexuality to be an ahistorical natural urge, sex radicals emphasize the way that sexuality is historically constructed. By doing so, they tend to leave behind elements of the liberal public/private

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16 Of course, such lack of significance for the sex worker need not imply that the client's understanding has no political importance. Radical feminists have emphasized the way that institutions that may encourage men to view women as objects for sexual use may contribute to violence, harassment, and denigration directed toward women. My hope is to construct a theory of prostitution that could retain this insight without erasing the possibilities for resistance within the prostitute's understanding of the situation.


distinction by construing individual erotic desire as profoundly social. Wary of the historical uses of sexuality and sexual identity as an axis of power, they tend to play down the importance of sexuality, suggesting that it should no longer be a special case among human activity and that the same kind of diversity ought to be tolerated in sexual habits that are, for instance, in culinary ones (Rubin 1984).

Although sex radicalism is sympathetic to the prostitutes’ rights movement, this sympathy takes the form of accepting prostitution as yet another configuration of sexual desire and pleasure. Jeffrey Weeks, for instance, lumps prostitutes with other erotic dissidents who have organized, saying, “Transvestites, transsexuals, paedophiles, sado-masochists, fetishists, bisexuals, prostitutes, and others—each group marked by specific sexual tastes, or aptitudes, subdivided and demarcated often into specific styles, morals and communities, each with specific histories of self-expression—have all appeared on the world’s stage to claim their space and ‘rights’” (1985, 187). Similarly, Gayle Rubin treats money as just another variable with regard to sex, no different than age, gender, marriage, monogamy, species, race, or violence, as do some sex workers themselves (Bell 1994, 106). This characterization of prostitution links up with prostitutes’ historical connection to oppressed sexual minorities, with complaints that prostitution is treated differently than other jobs only because of the sex, and draws on liberal defenses of intimate behavior against state intrusion. However, treating monetary exchange as just another sexual variation may underestimate the social role of “private” sexuality and ignores prostitutes’ emphasis on their practice as work with an ambiguous relation to desire. Moreover, it obscures the fact that the vast majority of prostitutes enter their profession simply to earn money, not because sex for money turns them on.

What is the object of the exchange?
Or, how to mix sex and money

It is easy to see why the prostitutes’ rights movement would have such strong connections to other sexual liberation movements. The same historical period that saw an explosion of attention to sexual variation and its control also saw increased regulation of prostitution (Walkowitz 1980; Bell 1994). Prostitution has historically been viewed by sexual conservatives as a manifestation of sexual deviance and impurity. The epithet “whore” carries as many connotations of female sexual impropriety (in particular, having too many partners) as it does of commercial sex. Prostitutes, like sexual minorities, have engaged in sexual activity outside the legitimated boundaries of married, heterosexual monogamy. Certainly the case for inclusion seems strong indeed.
And yet what is to be made of prostitution as sex work? How are prostitutes going to get their demands for collective bargaining, health care, health and safety standards, minimum wages, and protection from fraud, extortion, and abuse met if their practices are framed as the expression of sexual desire rather than as productive labor within the service sector? Moreover, how is one to understand the radical separation that many prostitutes make between their sex work and their sex life? Take, for instance, the many lesbians who engage in sex work with male clients (Nestle 1987). What does their work have to do with their sexual desire (Bell 1994, 110)? These questions of how to understand prostitution in terms of its similarities and differences, in terms of its crucial distinguishing feature, are part of a political process of articulation (Laclau and Mouffe 1985). While the success of a particular articulation—for example, articulating prostitution as fundamentally equivalent to other persecuted sexualities (as sex radicals do), as equivalent to sexual violence against women (as radical feminists do), as equivalent to service work (as many prostitutes’ rights organizations do)—is limited by objective features of the practice at hand, it is underdetermined by these features. How prostitution is articulated, then, is not simply a process of description but a productive process that helps shape the cultural landscape and involves inescapably political questions about how, for instance, to organize sexuality, labor, and commerce. In articulating prostitution, then, an engaged critic must attend both to details of the practice itself and to how discursive choices will play a role both in shaping that practice and in shaping other practices with which prostitution is articulated (e.g., if prostitution is a form of work, then one might argue that the social organization of Other forms of labor ought to become more like prostitution or vice versa [Shrage 1994, 161]).

Part of the difficulty is that, in hegemonic Euro-American culture, sexuality and money are thought of as things that cannot, do not, and/or should not mix. This separation is related at least in part to the attribution of money, commerce, and contract to the public realm of work and intimacy, desire, and pleasure to the private realm of familial and other affective relationships (Olsen 1983; Ferguson 1989; Barret and McIntosh 1991). We Euro-Americans have sayings such as “Don’t mix business and pleasure” and “Money can’t buy you love.” As many traditional forms of communal life have eroded and households have shrunk, intimacy and community—as opposed to the supposed cold self-interestedness of the market—have become more and more identified with sexuality. As Jeffrey Weeks has written, “Sex has become the cement that binds people together” (1985, 29) against the proliferating, differentiating forces of capitalism. This description is part myth and part reality, but at least in
commonsense terms love is a paradigmatically noneconomic matter and the commercial world of work is not about particularistic desire. Even though commitments to this view may actually structure many people’s experiences of work, money, desire, and sexuality, it is crucial to keep sight of the ideological aspects of the view that obscure both ways in which the market and the workplace are structured by desires (Bataille 1985) and the “private” affective relationships that organize productive and reproductive labor crucial to the functioning of the market (Ferguson 1989; Barret and McIntosh 1991; Williams 1991). This obfuscation privileges groups whose particular preferences become universalized as “instrumental” rationality and places burdens on groups, especially women, whose labor goes unrecognized or undervalued because it is cast as the purely private expression of love.

Prostitution challenges the possibility of identifying an action as simply either a market transaction or the realization of private desire. On the basis of clashes between different descriptions of the prostitution encounter, I would like provisionally to propose that it be imagined as a bifurcated event, meaning different things to each participant, although I later suggest inadequacies with such an account. Consider, for instance, Carole Pateman’s statement, “Prostitution is the use of a woman’s body by a man for his own satisfaction” (1988, 198). This figures prostitution as about a man’s pleasure. What of the following redescription: “Prostitution is about the use of a man’s desire by a woman for her own profit”? The juxtaposition suggests a contradiction, at least if the exploitative connotation of “use” is taken to be both hierarchical and fundamental to what prostitution “really” is. Presumably the man and the woman cannot each be using the other. One narrative emphasizes the man’s satisfaction and the woman’s static body, ignoring the monetary exchange. The woman’s (objectified) body is used by the man. The other emphasizes the monetary exchange and the man’s static desire, ignoring the sexual qualities of the act. The man’s (objectified) desire is used by the woman.

The question to ask now is, Is there any reason to think that there should be a single, privileged description of the event? The significance of the event depends on what is considered important—thus, contractarians and liberals try to puzzle over issues of choice and freedom, Marxists trouble themselves with labor and commodities, radical feminists emphasize sexual violence and subordination, and sex radicals emphasize consent and historicity. Any attempt to impose a single description of the event as what really is happening makes a crucial and false assumption: the two parties experience the same event, an event whose meaning is fixed independent of the context in which each participant experiences it or by a context that is identical for each participant (Scott 1992;
Mohanty 1993). That the man and woman in our imaginary encounter both agree to and partake in certain actions in no way guarantees that those actions have the same significance for both parties. An adequate account must allow for the possibilities of miscommunication, performance, and the divergent significance of single signifying acts.

In fact, some prostitutes have claimed that it is precisely in the disjunction between the meanings that sex work occurs: “Of course we faked it. . . . The ethic was: . . . You always fake it. You’re putting something over on him and he is paying for something he really didn’t get” (Turkel 1974, 94). What is crucial here is that what he “really” got is, to the extent that it matters, a question of fantasy, of the narrative that organizes the perception of the individual “experiencing” the event. It is entirely possible that the prostitute really did not give it but the client really did get it because it depends on the interpretive resources each person brings to the event. This is particularly possible in situations in which the various participants do not try to come to agreement about what has transpired. Indeed, there is no reason for them to. If the prostitute can experience it as a banal physical exercise and the client can experience it as having sexual attention lavished on him, then each may be better off than if they had to negotiate whether, for instance, he had just bought her sexual expression or she had just manipulated his erogenous zones for fast cash. Since the erotic significance of sexual acts always depends on specific context, individual desires, and unarticulated assumptions about the act’s significance for others (e.g., whether it expresses affection or indifference), there is considerable room for radically different experiences of a “single” act.

I think this explanation of the divergence of descriptions of what really happens in prostitution—especially with regard to the tangled questions of consent, choice, and who is “really” in control—is more successful than attempting to produce the definitive analysis of the “real” power

19 One might object that one or both participants may misunderstand the true significance and, to the extent the practice is “really” oppressive and contrary to their interests, may fail to recognize their own oppression because of false consciousness. As I have discussed above, my argument depends only on the actual divergence of participants’ experiences, regardless of whether under idealized circumstances that divergence might disappear. Moreover, I have suggested above, and elaborate below, reasons for believing that such a divergence might be irreducible in principle as long as one allows for differences between participants in personal history, erotic formations, and multicultural commitments. Not only are there plausible alternatives to a false-consciousness approach, but attributions of false consciousness carry tremendous drawbacks. For starters, they are radically undemocratic, setting up a privileged group (usually intellectuals) to interpret the experiences of others for them. Moreover, false consciousness is deeply essentialist—it starts from fixed social categories (usually gender or class categories) and attempts to read off identities and interests, failing to note how the categories are internally heterogeneous, historically contingent, and shifting. Laclau and Mouffe 1985 and Laclau 1990b are extended critiques of essentialist politics and the implications of false consciousness.
relations between the participants. This is not to say that there will not be situations in which the clash between the two parties’ understanding of and actions within the situation will not produce a conflict (e.g., she refuses to do something, he wants her to do it more “authentically”) and that in these situations it will matter who is stronger, who is armed, who has friends nearby, who has the police on their side, whose role is socially stigmatized, and so on. To say that the (culturally shaped) desires of different individuals may shape their reality need not imply that there is no relevant context outside either their control or awareness.

An important limitation of the view I sketch is that people do not simply decide what significance to give various acts; individuals learn to understand themselves and the world around them through immersion in a set of meanings and practices over which they have varying degrees of control, from imperfect (e.g., a consciousness-raising group) to none at all (e.g., one’s parents, historical moment of birth). I could not simply decide, on the spot, to redirect my desire and reinvest it in different objects. However, culture is not seamless, and hegemony is never complete (Vance 1984; Laclau and Mouffe 1985). Without denying that heterosexuality is highly normalized in the United States and backed by tremendous institutional imperatives, one can still acknowledge the organization of communities of resistance within which the meanings of certain acts may be radically different from their significance in dominant discourse and that may act to subvert those dominant meanings (Butler 1990).

Similarly, even if women are by and large taught to understand their sexuality in a given way, they may develop communities in which sexuality is rearticulated through collective cultural work. Prostitutes’ rights groups have organized toward achieving precisely this sort of rearticulation (Jenness 1993), much as feminist consciousness-raising groups have acted to reorient participants’ understandings of their world, their lives, and even their emotions (Scheman 1980; Mohanty 1993). Since prostitutes are aware of the discourse on female sexuality from which most of their clients emerge, they may be able to understand the client’s desire without it having the same relation to their own as the client may expect. Veena Talwar Oldenburg makes a similar argument with regard to courtesans of Lucknow, India. These women live in their community full of rituals, narratives, and practices meant to affirm women’s sexuality and contest the image in which they are cast by the masculine culture outside their community: “That male sexual control and aggression is neutralized in a setting where the heterosexual sex act is mere routine, and passion and pleasure are simulated or distanced, is, perhaps, an essential mechanism that women, both wives and prostitutes, have universally used to preserve their emotional integrity and dignity” (1990, 283). Joan Nestle’s historical work and writings by sex workers testify to the importance of
community with other sex workers in "creating power and autonomy for themselves in seemingly powerless social interactions" (1987, 245). One of the primary effects of the criminalization of prostitution, especially when it prohibits sex workers from living together or communicating about their work, is to interfere with the formation of such communities.

Nestle’s attention to the lesbian prostitute (who sells sex to men, in this case) should help clarify the incoherence of automatically attributing the dominant social meaning to a putatively sexual act. According to Alison Jaggar, “Whether housewife or wage-earner, therefore, and whether or not she allows genital contact, a woman must sell her sexuality. And since, unlike a man, she is defined largely in sexual terms, when she sells her sexuality she sells herself” (1991, 274). On what basis rests the claim that a lesbian woman who gets money for masturbating a man is selling “her sexuality”? Possibly she is selling his image of her sexuality—but this image certainly is not herself. Granted, she might also experience the transaction as an erasure of her sexuality, but to understand whether or not this is so one cannot look simply to hegemonic meanings without investigating the possibility of more localized communities in which others are affirmed and produced (Vance 1984, 15), nor should one fail to consider which social and cultural conditions are most likely to promote and sustain such alternate meanings.

Indeed, there is no reason to assume that if she were straight or if the client were a woman, she would be selling her sexuality—it would depend rather complexly on the particulars of the individual's sexuality and on the context of the act of prostitution. Given the prevalence of prostitutes’ insistence on seeing prostitution as a profession, and their apparent comfort with maintaining sexual, desiring relationships when not on the job, it appears that the de-eroticization/defetishization of genital sex acts per se is precisely what many prostitutes learn to do on the job. There is no more reason to think that sex workers cannot separate their work from their sex life than there is to think that therapists cannot separate their work from their emotional life.

While the separation of sex acts and sexuality, and in particular the breakdown of their reciprocal structure, that appears to go on in prostitution wrecks havoc with commonsense notions that certain kinds of behavior are inherently sexual (and, implicitly, others are inherently asexual—hence their sexualization is described as a displacement or a fetish [Freud 1962]), I think the subversive content of prostitution goes even further. Up to this point my analysis has brought sexuality and money together in the same event, although keeping them separate by erecting a barrier between the experiences of the participants, characterizing the one as in the sphere of sexuality and the other in the sphere of work. Even this barrier, however, is permeable. Indeed, I would argue that it is constantly
transgressed, although the strength of the sex/money opposition militates against recognizing it.

In contemporary capitalism, consumption is eroticized, work sexualized, and affect hitched to (re)production. Even if the sex worker does not experience prostitution as the exchange of sexuality for money, for the client every paycheck can be translated into pleasure. Moreover, not all prostitutes draw a firm line between their erotic and working lives:

I decided to combine business and pleasure. I was able to come a lot at work and therefore take better care of my mother and daughter at home. (Mistress Lilith Lash in Delacoste and Alexander 1987, 51)

I found it very liberating to be a prostitute, and the men must have found it liberating too, for they were much better lovers than my husbands. They seemed to feel free with me and I with them. (Phyllis Luman Metal in Delacoste and Alexander 1987, 119)

The experiential diversity of sex workers is of paramount importance: it would not serve the interests of better theory (and it would distort the lives of those theorized) to try to declare sex work to be really about the division between sex and work or really about transgressing that barrier. What is most important, perhaps, is precisely the tantalizing, threatening possibility that one cannot know in advance, that even highly ritualized behavior contains within it the flexibility for variable, destabilizing experience and practice.

**Criminalization and the production of modern prostitution**

Having considered some new ways of thinking about prostitution, I am now in a position to offer some ideas about the quandary of criminalization mentioned above. Prostitution currently thrives under a regime of police harassment and public condemnation (Scibelli 1987; McClintock 1992). If the commercial sexual exchange of prostitution were inherently part and parcel of capitalism and/or patriarchy, as both Marxists and radical feminists claim, then why has it been criminalized or severely restricted and denigrated for so long, decried by those with precisely the conservative sexual values that prostitution supposedly upholds?

In a way, this is a false problem. Foucault has argued convincingly that the trappings of Victorian prudery were part not of a massive campaign of sexual repression but rather of a massive production and invention of sexuality and the desiring subject. In principle, then, there is no necessary contradiction between legal repression and official condemnation on the one hand and centrality to the workings of power on the other. That said,
the particular forms taken up by prostitution are deeply influenced by its legal and social sanction. One can ask which forms of organization and what hegemonic meanings of prostitution have been encouraged by criminalization and public denigration rather than pretend that the morally and politically relevant features of prostitution exist independent of such conditions. Moreover, given the ways in which prostitution challenges the very formations of sexuality, one may wonder why its historical development has been linked so closely to the multiplication of sexualities documented by Foucault. The sex radicals' implicit answer is that the shared history is, commonsensically, the result of common status as instances of transgressive sexual diversity. I have argued, however, that this equation is to misunderstand much of prostitution. Indeed, perhaps it is this misunderstanding that is maintained by the sexualization and criminalization of prostitution, a process that quarantines prostitution from the legitimate world of business and commerce, keeping the domains of sexuality and economy symbolically separated and shaping each in the process: "The whore stigma reflects deeply felt anxieties about women trespassing the dangerous boundaries between private and public" (McClintock 1992, 73).

In Foucault's terminology, prostitution challenges both the deployment of alliance (in its appropriation of sexual activity for atomized, anonymous pleasure and profit rather than for procreative, community-building purposes) and the deployment of sexuality (1978, 106): prostitution is about not only sex without reproduction but sex without desire, sex without identity, indeed, sex without sexuality. Hints of this can be seen in the contemporary prostitutes' rights movement. Much of the movement has been modeled after the identity politics of the gay liberation movement, including an attempt to reclaim the word whore modeled on the reclamation of dyke. Whores, however, are staking their identity not to their desire but to their work—they call themselves "sex workers," not "commercialists" or some such identity term, and do not suggest that their sex work has any deep connection with their erotic life, although the two may overlap. As with Foucault's homosexual, there has been a movement from acts to identity, but for the prostitute, sex becomes the truth of the subject not by organizing her desire but by organizing her labor.

By outlawing prostitution, linking it to disease, placing it under the realm of sexual crimes, and attributing to prostitutes deviant sexual desire, dominant institutions and discourses cut off the challenge prostitution offers to the structures of sex-sexuality-desire-identity, the discourse of procreative sex, and the separation between private sex and public

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20 For a slightly different view, one that sees prostitutes' rights groups as claiming a simultaneously sexual and professional identity, see Bell 1994.
work, reformulating it as just another problem for the vice squad. A brief survey of historical data and contemporary accounts supports this view. Criminalization has strongly encouraged the distinction between prostitution and “legitimate” business and made it easy to distinguish prostitution from other forms of work on the basis of its sexual nature. The stigmatization of sex workers’ earnings and actions as “dirty,” in conjunction with laws prohibiting third parties from receiving financial support from prostitution and legal rules of thumb that treat sex workers as suspect parents, tends to undermine the viability of prostitution as a source of financial support for sex workers’ families (McClelland 1992). Criminalization has tended to isolate women from one another (as evidenced by laws making it illegal for a set number of women to live together), encourage dependency on pimps, and cut off mobility between prostitution and other forms of work (McClelland 1992): “Prostitutes were uprooted from their neighborhoods and had to find lodgings in other areas of the city and in the periphery. . . . Cut off from other sustaining relationships, increasingly they were forced to rely on pimps for emotional security and for protection against legal authorities. Indeed, the wide prevalence of pimps in the early twentieth century meant that prostitution had shifted from a female- to a male-dominated trade, and there existed a greater number of third parties with an interest in prolonging women’s stay on the streets” (Walkowitz 1980, 128).

The form of prostitution encouraged by this historical process is one in which the subversive potential of prostitution is limited even while the supply of prostitutes is maintained. Dependency on pimps limits prostitutes’ ability to achieve financial independence and control over working conditions, including protection from and deterrence of pimp, client, and police violence. “Crackdowns, and arrests in general, tend to reinforce the dependence of prostitutes on pimps, who are often their only friends outside of jail who can arrange for bail, an attorney, child care, etc.” (Alexander 1987b, 198). Social stigma against prostitutes makes it difficult for prostitutes to gain employment outside of the sex industry, encouraging prostitutes to move around, again making it more difficult to form supportive communities important to the production of counter-hegemonic practices discussed above. “Crackdowns also pressure many women to move on to other cities, cutting off their connections with local friends and networks of support, including agencies that could help them leave prostitution if they wanted to” (Alexander 1987b, 198). Even the most prominent image of the prostitute, that of the gaudily dressed woman loitering on the street corner (and the concomitant justification for attacking prostitution, “cleaning up the streets”), is generated by the very illegality it tends to reaffirm: “Under the current regime, since prostitutes have no legal way of notifying clients of their whereabouts, high
visibility in public places is the easiest way to meet clients” (Kandel 1992, 338).

Criminalization also both exacerbates and creates racist and classist aspects of sex work by providing police a legal means to harass and control poor women and women of color.21 Although it is estimated that approximately 40 percent of prostitutes are women of color, they constitute 85 percent of those imprisoned for prostitution (Alexander 1987b, 197). Moreover, the hierarchies of selective enforcement and police toleration tend to place the greatest burden of criminalization on the disproportionate number of poor women and women of color who work as low-status street prostitutes: “By licensing [informally or through legalization] indoor work, and harassing street work, police isolate the poorest women, who cannot afford to pay high rents and who have the least access to health care, social resources, and legal aid. The police thereby ensure that poor, black women pay the heaviest price for the criminalization of sexwork” (McClintock 1992, 87). Street prostitutes, too, are those most vulnerable to appallingly high rates of rape and abuse (Alexander 1987b, 201) and yet most abandoned by the law through its indifference to their situation and sex workers’ fear of pressing their claims in a system that classifies them as criminals (McClintock 1992).

Moreover, the criminalization of prostitution has frequently been used as a rationale for surveillance and harassment of poor, ethnic, and immigrant neighborhoods into which prostitutes tend to be pushed (McClintock 1992, 85). Commonplace laws against solicitation of a prostitute, for instance, are employed by police to harass any man or woman on the street of whom they are suspicious, a practice disproportionately directed at already marginalized groups. These laws simultaneously create more dangerous conditions for sex workers, forcing solicitations to be as rapid as possible and interfering with sex workers’ ability to check out a potential client and negotiate for safe sex (86).

Through these examples one can see how criminalization does not simply “repress” a preexistent thing called “prostitution,” nor is it irrelevant to a practice instead wholly determined by underlying features of

21 Other racialized aspects of sex work may include clients’ desires for interracial sex predicated on racist stereotypes of women of color, something that appears to play a particularly important role in Euro-American sex tourism in Southeast Asia (McClintock 1992; Shrage 1992). Although in the case of sex tourism such racialization appears to play a major structuring role in the industry, there is less evidence to suggest that this is the case in the Euro-American nations under consideration here. To the extent that it is the case, it is unclear what the implications would be for sex work specifically, since such racialized desire would presumably not be unique to commercial sex. As discussed in the main text below, however, there is some reason to believe that most forms of criminalization disproportionately disempower women of color, and therefore forms of decriminalization that maximize sex workers’ ability to choose and control their clients might be the most effective way to counteract this form of racism within the practice of sex work itself.
male sexuality and/or capitalism. Instead, it aids in the production of a particular mode of sex work. Critics who overlook this productive role are at risk of getting their analysis precisely backward. Concluding from current characteristics of prostitution that it is a bad thing, they may conclude that efforts should be made to deter and eliminate it. But if existing efforts to deter or eliminate sex work are themselves the causes of its oppressive characteristics, then the appropriate response might be to eliminate those efforts, not commercial sex.

Of course, the social/cultural production of prostitution also occurs via mechanisms exclusive neither to the law nor to prostitution because sex work is articulated with other forms of social practice as well. Although relatively little detailed historical work has been done on the production of the client's desire (Shrage 1992), it hardly seems far-fetched to speculate that the cultural denigration of chastity (especially among men), the attribution of various disorders to "not getting any," and the equation of a "healthy" sex life with general well-being all serve to encourage prostitution even as the laws deny it. There is pleasure, too, in the gendered position of sexual mastery (illusory or not) purchased through prostitution.

Conclusion

As much as the recent Euro-American history of prostitution has witnessed its organization within the deployment of sexuality as the mirror image of the sexuality of alliance (heterosexual, procreative monogamy) and militated against the subversion of sexual identity and the sex/work distinction, it has also provided possibilities for resistance. While forcing prostitutes into well-defined geographic areas has served as a public marker of their difference, it has also encouraged the proximity necessary for political organizing; similarly, the classification of prostitution as the result of deviant female desire encouraged historical connections between prostitutes and lesbians that helped prostitutes emulate the successes of lesbian activists (Nestle 1987).

Even within the prostitution exchange, certainly a transaction inscribed within power's generation of desire and circumscription of material and sexual options, the instability of context and event allow for power and resistance to coexist. "Prostitution also involves an equation of sex with power: for the man/customer, the power consists of his ability to 'buy' access to any number of women; for the woman/prostitute, the power consists of her ability to set the terms of her sexuality, and to demand substantial payment for her time and skills" (Alexander 1987b, 189). The extent to which sex workers have the opportunities to exercise power or act in resistance depends thoroughly on the sociocultural...
context, including their own and the broader culture’s understanding and evaluation of their actions, the general organizing discursive and institutional features of both the workplace and sexuality, and the social practices that help regulate and structure sex workers’ lives. Prominent among these features are enforcement of laws criminalizing prostitution and/or associated activities, nonenforcement of laws on the basis of sex workers’ involvement in prostitution, and limited access to social services and legal resources on the basis of prostitution’s illegality, stigma, and/or classification as nonwork.

As long as prostitution is criminalized, sex workers’ access to institutional power and ability to organize for more are frustrated by economic and legal marginalization. Instead of offering protection against abusive pimps and customers, the police are a constant threat. Exclusion from social benefits premised on employment (e.g., workers’ compensation, disability and unemployment insurance, the earned income tax credit) and the added burdens of illegality undermine the possibilities for financial independence and encourage reliance on pimps and alliances with organized crime and drug trafficking. Aside from the broad cultural and political implications of decriminalization, legally recognizing prostitution as a form of work and prostitutes as workers, with all the attendant rights (e.g., unionization) and protections (e.g., against fraud, abuse, harassment, theft, health hazards) and free of restrictive and stigmatizing limitations (e.g., isolating zoning laws, registration with the police, prohibitions on sharing living space and earnings) would offer concrete improvements to the lives of sex workers themselves.

Despite the advantages of decriminalization, it is crucial to recognize that criminal laws specific to sex work are hardly the only structuring social forces. Prostitutes’ rights groups generally support “decriminalization” of sex work in the sense of eliminating prostitution-specific laws and subsuming sex work under the general heading of service work while opposing “legalization” in the sense of legally authorized schemes permitting sex work under special conditions (e.g., licensed brothels). A world without prostitution-specific laws, however, is not a world lacking in legal and economic structures that affect sex work. As both Shannon Bell and Laurie Shrage have recently argued, advocates of decriminalization may be blind to ways that capitalist economies are likely to operate to disempower and oppress sex workers (Bell 1994, 122; Shrage 1994, 84). These limitations, while substantial, are likely smaller than under conditions of criminalization that further curtail the political and economic power of sex workers and deprive them of existing social welfare provisions that mitigate against the worst effects of capitalism. While not settling for setting prostitution on par with other forms of work—which in the United

States, for instance, are not accompanied by adequate guarantees of health care, paid maternity leave, safe working conditions, and rights to unionize and which may be structured by racism and (hetero)sexism—it is equally important not to treat general failures of contemporary Euro-American market economies as unique to sex work. Neither should one ignore ways in which distinctions between prostitution and legitimate work may themselves reinforce these oppressive structures.

In addition to general failures of the wider society that would apply to a decriminalized sex work, there might also be specific features of sex work that require special attention, just as, for instance, both medical care and coal mining require elements of regulation in light of their particular features.\textsuperscript{23} Shrage has argued for what she calls "radical regulation" of sex work through a system of semiprofessional individual licensing programs including college course work in disciplines relevant to sexuality like biology, psychology, and history and democratically constituted advisory boards empowered to promulgate standards of professional practice (1994, 158–61). Given historical precedents of extensive and oppressive regulation of sexuality and sex workers by medical, legal, and psychological professional communities (Nestle 1987), I am rather more wary of the powers of professionalization and standardization than Shrage. Nonetheless, there could be good cause to ensure that sex workers have access to information, training, and/or other resources that could enhance their control over their working lives and make them safer as well. Similarly, specific arrangements to protect both sex workers and their clients from sexually transmitted diseases may be appropriate, but it will be important to be wary of the deeply ingrained tendencies to stigmatize and control prostitutes under the guise of disease prevention by blaming disease transmission on prostitutes and not on their clients while ignoring disease transmission through noncommercial sex by scapegoating prostitutes (Alexander 1987a; Bell 1994).

Prostitution, especially in the forms it could take if properly decriminalized and regulated,\textsuperscript{24} offers subversive practical and discursive potential to sex workers, feminists, sex radicals, and progressives more.

\textsuperscript{23}If sex itself (or the sorts of sex for which people go to prostitutes) were, at least under current conditions, inherently violent and oppressive regardless of its commercial aspect and regardless of any variations in context that actually occur (e.g., differences in sexual practices and desires among men and/or women), then no amount of regulation could alter prostitution’s fundamental oppressiveness, although various legal schemes might exacerbate it more or less. Such an argument seems to be implicit in much radical feminist work, but I take its assumptions of the depth and breadth of the relationship between sexuality and violence to be exaggerated (Finley 1988).

\textsuperscript{24}I have tried to sketch very broadly some of the features such regulation might include. Although I think my general analysis appropriate to states that share to a significant degree the broad political, economic, cultural, and historical features I have discussed above, undoubtedly there are more particular national and local differences that would require variations in the precise form of implementation.
generally. The complex, multiple prostitution exchange is a site of powerful sexual pluralism, capable of contesting hegemonic constructions of sexuality that at first seem far removed: the movement from anatomical sex to sexuality to identity and the maintenance of the public/private distinction through the isolation of sexuality and intimacy from productive work and commercial exchange.

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References


