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## Defending Prostitution: Charges against Ericsson

*Carole Pateman*

Ericsson's contractarian defense of prostitution<sup>1</sup> extends the liberal ideals of individualism, equality of opportunity, and the free market to sexual life. The real problem with prostitution, Ericsson claims, is the hypocrisy, prejudice, and punitive attitudes that surround it. Once unblinkered, we can see that prostitution is merely one service occupation among others and that, with some reforms, a morally acceptable, or "sound," prostitution could exist. This defense has its appeal at a time when strict control of sexual conduct is again being strenuously advocated. However, Ericsson's argument fails to overcome the general weaknesses of abstract contractarianism, and his claim that he has rebutted the feminist charge against prostitution cannot be granted. The central feminist argument is that prostitution remains morally undesirable, no matter what reforms are made, because it is one of the most graphic examples of men's domination of women.

Ericsson's argument illustrates nicely how liberal contractarianism systematically excludes the patriarchal dimension of our society from philosophical scrutiny. He interprets feminists as arguing that prostitution is "undesirable on the ground that it constitutes an extreme instance of the inequality between the sexes" (p. 348), and he then interprets inequality to be a matter of the distribution of benefits and burdens. It thus appears that a remedy can be found for the withholding of a benefit (access to prostitutes) from women by extending equality of opportunity to buy and sell sexual services on the market to both sexes. Ericsson ignores the fact that men earn a good deal more than women, so the latter would still have a greater incentive to be sellers than buyers (or would be confined to the cheaper end of the market as buyers; Ericsson pays no attention to the different categories of prostitution). Moreover, Ericsson notes that three-quarters of the men who are in the market for prostitutes are married. Any change in attitudes would have to be sufficient to make it acceptable that wives could spend what they save from housekeeping money, or spend part of their own earnings, on prostitutes. Second, Ericsson dismisses as meaningless the charge that prostitution unfairly burdens women because they are oppressed as prostitutes; properly understood, prostitution is an example of a free contract between individuals in the market in which services are exchanged for money. Ericsson's defense does not and cannot confront the feminist objection to prostitution. Feminists do not see prostitution as unacceptable because it distributes benefits and burdens unequally; rather, to use Ericsson's language of inequality, because prostitution is grounded

1. L. O. Ericsson, "Charges against Prostitution: An Attempt at a Philosophical Assessment," *Ethics* 90, no. 3 (1980): 335-66. Page references to this paper are in parentheses in the text.

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in the inequality of domination and subjection. The problem of domination is both denied by and hidden behind Ericsson's assertion that prostitution is a free contract or an equal exchange.

The most striking feature of Ericsson's defense is that he makes no attempt to substantiate the key claim that prostitution is the sale of sexual services. His assertion relies on the conventional assumption that free wage labor stands at the opposite pole from slavery. The worker freely contracts to sell labor power or services for a specified period, whereas the person of the slave is sold for an unlimited time. Ericsson comments that if a prostitute "actually did sell herself, she would no longer be a prostitute but a sexual slave" (p. 341). More exactly, since she has the civil and juridical status of a free individual in the capitalist market, she would be in a form of subjection that fell short of slavery. Ericsson avoids discussing whether this is indeed the position of the prostitute because he ignores the problems involved in separating the sale of services through contract from the sale of the body and the self. In capitalist societies it appears as if labor power and services are bought and sold on the market, but "labor power" and "services" are abstractions. When workers sell labor power, or professionals sell services to clients (and Ericsson regards some prostitutes as "small scale private entrepreneurs"),<sup>2</sup> neither the labor power nor services can in reality be separated from the person offering them for sale. Unless the "owners" of these abstractions agree to, or are compelled to, use them in certain ways, which means that the "owners" act in a specified manner, there is nothing to be sold. The employer appears to buy labor power; what he actually obtains is the right of command over workers, the right to put their capacities, their bodies, to use as he determines.

Services and labor power are inseparably connected to the body and the body is, in turn, inseparably connected to the sense of self. Ericsson writes of the prostitute as a kind of social worker, but the services of the prostitute are related in a more intimate manner to her body than those of other professionals. Sexual services, that is to say, sex and sexuality, are constitutive of the body in a way in which the counseling skills of the social worker are not (a point illustrated in a backhanded way by the ubiquitous use by men of vulgar terms for female sexual organs to refer to women themselves). Sexuality and the body are, further, integrally connected to conceptions of femininity and masculinity, and all these are constitutive of our individuality, our sense of self-identity. When sex becomes a commodity in the capitalist market so, necessarily, do bodies and selves. The prostitute cannot sell sexual services alone; what she sells is her body. To supply services contracted for, professionals must act in certain ways, or use their bodies; to use the labor power he has bought the employer has command over the worker's capacities and body; to use the prostitute's "services," her purchaser must buy her body and use her body. In prostitution, because of the relation between the commodity being marketed and the body, it is the body that is up for sale.

Critics of marriage have often claimed that wives are no different from prostitutes. Women who marry also contract away their bodies but (in principle) for life rather than for minutes or hours like the prostitute. However, a form of

2. On workers as "petty entrepreneurs," their labor power or services, see R. P. Wolff, "A Critique and Reinterpretation of Marx's Labor Theory of Value," *Philosophy and Public Affairs* 10 (1981): 89-120, esp. 109-11.

marriage in which the husband gains legal right of sexual use of his wife's body is only one possible form. The conjugal relation is not necessarily one of domination and subjection, and in this it differs from prostitution. Ericsson's defense is about prostitution in capitalist societies; that is, the practice through which women's bodies become commodities in the market which can be bought (contracted for) for sexual use. The questions his defense raises are why there is a demand for this commodity, exactly what the commodity is, and why it is *men* who demand it.

Ericsson cannot admit that the first two questions arise. The third he treats as unproblematic. He stands firmly in the patriarchal tradition which discusses prostitution as a problem about the women who are prostitutes, and our attitudes to them, not a problem about the men who demand to buy them. For Ericsson it is merely a contingent fact that most prostitutes are women and customers men.<sup>3</sup> He claims that the demand for prostitution could never disappear because of some "ubiquitous and permanent imperfections" (p. 337) of human existence arising from the sexual urge. In other words, prostitution is a natural feature of human life. Certainly, sexual impulses are part of our natural constitution as humans, but the sale of "sexual services" as a commodity in the capitalist market cannot be reduced to an expression of our natural biology and physiology. To compare the fulfillment of sexual urges through prostitution to other natural necessities of human survival, to argue from the fact that we need food, so it should be available, to the claim that "our sexual desires are just as basic, natural, and compelling as our appetite for food, [so] this also holds for them" (p. 341), is, to say the least, disingenuous. What counts as "food" varies widely, of course, in different cultures, but, at the most fundamental level of survival there is one obvious difference between sex and other human needs. Without a certain minimum of food, drink, and shelter, people die; but, to my knowledge, no one has yet died from want of sexual release. Moreover, sometimes food and drink are impossible to obtain no matter what people do, but every person has the means to find sexual release at hand.

To treat prostitution as a natural way of satisfying a basic human need, to state that "bought meals are not always the worst" (p. 355), neatly, if vulgarly, obscures the real, social character of contemporary sexual relations. Prostitution is not, as Ericsson claims, the same as "sex without love or mutual affection" (p. 341). The latter is morally acceptable *if* it is the result of mutual physical attraction that is freely expressed by both individuals. The difference between sex without love and prostitution is not the difference between cooking at home and buying food in restaurants; the difference is that between the reciprocal expression of desire and unilateral subjection to sexual acts with the consolation of payment: it is the difference for women between freedom and subjection.

To understand why men (not women) demand prostitutes, and what is demanded, prostitution has to be rescued from Ericsson's abstract contractarianism and placed in the social context of the structure of sexual relations between women and men. Since the revival of the organized feminist movement, moral and political philosophers have begun to turn their attention to sexual life, but their discussions are usually divided into a set of discrete compartments which

3. In cities like Sydney, male homosexual prostitutes are not uncommon. Following Ericsson, I discuss only heterosexual (genitally oriented) prostitution. It is not immediately clear that homosexual prostitution has the same social significance.

take for granted that a clear distinction can be drawn between consensual and coercive sexual relationships. However, as an examination of consent and rape makes graphically clear,<sup>4</sup> throughout the whole of sexual life domination, subjection, and enforced submission are confused with consent, free association, and the reciprocal fulfillment of mutual desire. The assertion that prostitution is no more than an example of a free contract between equal individuals in the market is another illustration of the presentation of submission as freedom. Feminists have often argued that what is fundamentally at issue in relations between women and men is not sex but power. But, in the present circumstances of our sexual lives, it is not possible to separate power from sex. The expression of sexuality and what it means to be feminine and a woman, or masculine and a man, is developed within, and intricately bound up with, relations of domination and subordination.

Ericsson remarks that "the best prostitutional sex available is probably much better from the customer's point of view than average marital sex" (p. 340). It is far from obvious that it is either "quality" or the "need" for sex, in the commonsense view of "quality" and "sex," that explains why three-quarters of these customers are husbands. In the "permissive society" there are numerous ways in which men can find sex without payment, in addition to the access that husbands have to wives. But, except in the case of the most brutal husbands, most spouses work out a *modus vivendi* about all aspects of their lives, including the wife's bodily integrity. Not all husbands exercise to the full their socially and legally recognized right—which is the right of a master. There is, however, another institution which enables all men to affirm themselves as masters. To be able to purchase a body in the market presupposes the existence of masters. Prostitution is the public recognition of men as sexual masters; it puts submission on sale as a commodity in the market.

The outline of an answer to the complex question of why men demand this commodity can be found in recent feminist interpretations of psychoanalytic theory. Feminist discussions of the differential development of gendered individuality suggest that the masculine sense of self is grounded in separateness, especially separation from those other (opposing) feminine selves which proclaim what masculinity is not.<sup>5</sup> Hegel showed theoretically in his famous dialectic of mastery and servitude that a self so conceived always attempts to gain recognition and maintain its subjective isolation through domination. When women and men are seen in their substantive individuality, and not as abstract makers of contracts, an explanation can be found for why it is *men* who demand to buy women's bodies in the market. The demand by men for prostitutes in patriarchal capitalist society is bound up with a historically and culturally distinctive form of masculine individuality. The structure of the relation between the sexes reaches into the unconscious early development of little boys and girls and out into the form of economic organization in which the capacities of individuals, and even women's bodies, become commodities to be alienated to the control and use of others.

4. See my "Women and Consent," *Political Theory* 8 (1980): 149–68.

5. See, esp., J. Benjamin, "The Bonds of Love: Rational Violence and Erotic Domination," *Feminist Studies* 6 (1980): 175–96. Benjamin builds on N. Chodorow, *The Reproduction of Mothering: Psychoanalysis and the Sociology of Gender* (Berkeley and Los Angeles: University of California Press, 1978).

The peculiarity of Ericsson's argument for equality of opportunity in "sound" prostitution should now be apparent. He assumes that the (sexual) selves of women and men are interchangeable. This may appear radical, but it is a purely abstract radicalism that reduces differentiated, gendered individuality to the seemingly natural, undifferentiated, and universal figure of the "individual"—which is an implicit generalization of the masculine self. The feminist exploration of gendered individuality provides the material, sociological grounding for that familiar, liberal abstraction, the possessive, atomistic self that appears as the bearer of rights and the maker of contracts in civil society. The logic of Ericsson's sexual contractarianism also leads to two unpalatable conclusions that he is unwilling to draw. The first is that all sexual relations should take the form of universal prostitution, the buying and selling of sexual services on the market. The equal right of access to sexual use of a body (or "sexual services") can be established more economically and advantageously for the individual through universal prostitution than through (the contract of) marriage. Second, it is unnecessary to confine the buying and selling of sexual services to adults. Ericsson is fainthearted in his contractarianism when he excludes children from the market. Strictly, the capacity to make a contract is all that is required; surely not a capacity confined to those who are statutorily adults.

Ericsson shows how complete is his misunderstanding of feminism and the feminist criticism of prostitution when he complains that "so many feminists seem unable to understand that contempt for harlotry involves contempt for the female sex" (p. 365). Neither contempt for women nor their ancient profession underlies feminist arguments; rather, they are sad and angry about what the demand for prostitution reveals of the general character of (private and public) relations between the sexes. The claim that what is really wrong with prostitution is hypocrisy and outdated attitudes to sex is the tribute that liberal permissiveness pays to political mystification.