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## The Ethics of Prostitution

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# THE ETHICS OF PROSTITUTION

Are the selected essentialist and/or economic arguments against the permissibility of prostitution sound?

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*“Prostitutes insist it is not the exchange of money that demeans them, but the conditions under which the exchange is made.”*

*Anne McClintock, Screwing the System, p. 90.*

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# Content

|                                                   |           |
|---------------------------------------------------|-----------|
| <b>Introduction .....</b>                         | <b>2</b>  |
| <b>Chapter 1: Sex &amp; Markets .....</b>         | <b>4</b>  |
| §1.1 What is sex? .....                           | 4         |
| §1.2 The morality of markets .....                | 5         |
| §1.2.1 What is a market? .....                    | 5         |
| §1.2.2 Noxious markets .....                      | 6         |
| §1.3 The essentialist and economic approach ..... | 6         |
| <b>Chapter 2: Prostitution .....</b>              | <b>8</b>  |
| §2.1 What is prostitution? .....                  | 8         |
| §2.2 History of prostitution .....                | 9         |
| <b>Chapter 3: Essentialist arguments .....</b>    | <b>11</b> |
| §3.1 The significance view .....                  | 11        |
| §3.2 Objectification .....                        | 13        |
| §3.2.1 Immanuel Kant .....                        | 13        |
| §3.2.2 Beyond Kant .....                          | 14        |
| §3.3 Selling yourself .....                       | 15        |
| Interim Conclusion .....                          | 17        |
| <b>Chapter 4: Economic arguments .....</b>        | <b>18</b> |
| §4.1 Exploitation .....                           | 18        |
| §4.1.1 Karl Marx .....                            | 18        |
| §4.1.2 Capitalist response .....                  | 19        |
| §4.2 Gender inequality .....                      | 20        |
| §4.3 Harms .....                                  | 23        |
| <b>Conclusion .....</b>                           | <b>27</b> |
| <b>Bibliography .....</b>                         | <b>29</b> |

# Introduction

The 'oldest profession in the world' is generally understood to mean prostitution. Historians question the validity of this statement, but prostitution has certainly been around for centuries. The earliest recorded account of prostitution was 2400 BC.<sup>1</sup> Although prostitution is by no means a modern invention, it is still a hotly debated topic. Being a prostitute comes with a high danger of experiencing violence, and this risk is even greater in the case of illegal prostitution.

Many people advocate for the abolition or prohibition of prostitution; abolition means that prostitution is legal but associated activities such as pimping and brothel holding are illegal, and prohibition means that prostitution is illegal. However, prostitutes themselves argue that they do not want to be 'rescued' from prostitution. Instead, they want more rights and better working conditions. This is why prostitutes themselves mainly advocate for decriminalization.<sup>2</sup>

Due to societal problems with prostitution, there is extensive philosophical discourse on the morality of the profession.<sup>3</sup> From this discourse, a number of important arguments against the permissibility of prostitution will be examined to determine whether they are logically sound. This thesis aims to determine whether these important arguments prove that prostitution is indeed impermissible. The harm caused by prostitution is often framed in two ways: essentialist arguments that argue that prostitution itself is harmful and economic arguments that argue that harm arises from the consequences of prostitution. This thesis aims to answer the following question: 'Are the selected essentialist and/or economic arguments against the permissibility of prostitution sound?' The arguments were selected based on perceived popularity and importance in the ethical discussion surrounding prostitution.

To answer the research question, I first explore the terms that need to be defined before I examine the arguments against prostitution itself. Here, I will first define what sex is. Then, I will define markets and explore what can make them immoral. Finally, I will define the essentialist and economic approaches to the morality of markets. After this, I will explore what prostitution is and its history.

Next, I explore the selected essentialist arguments against prostitution. I will first examine the significance view of sex and how it pertains to casual sex and prostitution in particular. Then, I explore the idea that prostitution is objectification. I will attempt to critique these arguments and decide whether they can be deemed sound. After this, the economic arguments against prostitution are explored. First, they will be discussed and criticized, and then I will attempt to find possible solutions to these economic arguments. The economic arguments include exploitation, gender inequality and physical and mental harm. Gender inequality is the selected egalitarian argument in this thesis because prostitutes are predominantly female, and many feminists argue that the profession exacerbates gender inequality and male dominance. However, because there are still prostitutes of different genders that should not be forgotten, aside from the section on gender inequality, I use gender-neutral pronouns to refer to prostitutes.

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<sup>1</sup> Mattson, The oldest profession, 191–193.

<sup>2</sup> Arnott & Crago, Rights not rescue, 9-11.

<sup>3</sup> Satz, Moral Limits of Markets  
Papadaki, Sexual Objectification  
Nussbaum, Sex & Social Justice  
Marino, Autonomy and Consent  
Pateman, The Sexual Contract  
Fabre, Whose Body is it Anyway?



Finally, I will conclude by answering my research question: 'Are the selected essentialist and/or economic arguments against the permissibility of prostitution sound?' I will conclude that the essentialist arguments are not sound. The significance view is incompatible with the very nature of sexual desire and therefore cannot be convincing. Genuine consent from all parties makes objectification morally benign and a prostitute does not sell their body or themselves.

The economic arguments are not sound either. Exploitation is caused by the working conditions and not by the profession in itself. Prostitutes can be exploited in the way that every other worker can be exploited. Gender inequality is not necessarily exacerbated by prostitution, as the profession is barely visible; there can also be genuine consent and respect among the parties that engage in prostitution. The harm is a symptom of the way prostitutes are treated instead of a symptom of prostitution itself.

Therefore, the essentialist and economic arguments against the permissibility of prostitution are not sound.

## Chapter 1: Sex & Markets

To understand the arguments that will be presented in the following paragraphs, key terms are explained in this chapter. The research question is 'Are the selected essentialist and/or economic arguments against the permissibility of prostitution sound?' Therefore, it is necessary to clarify the terms prostitution, essentialist and economic before I explore the selected arguments. For this purpose, prostitution is divided into sexual activity and the act of selling (markets).

### §1.1 What is sex?

*Prostitution is the practice of engaging in sexual activity in exchange for payment. Because I am going to criticize arguments that call the ethics of prostitution in question, it needs to be clear what sexual activity is, as this is the 'good' that prostitutes sell. In this paragraph, the main views of sex are explained. Finally, the most suitable definition in the context of our research is discussed.*

There are two general approaches to defining sex: the internal and the external view. The external view of sex is the simplest way to define sex. Sex is reduced to its physical elements, i.e., the stimulation of certain body parts. One advantage of this view is its simplicity, and it is easy to find common ground in this view. However, the external view reduces sex to a purely physical act; therefore, it seems to erase the mental activity (desire and arousal) involved with sex.<sup>4</sup>

The internal view adds that it is crucial that at least one of the participants believes that they are engaged in sexual activity. While physical pleasure is usually involved in sex, this is not always the case. An advantage of this view is that it gives people the freedom to decide for themselves what sex is. However, the internal view does not resolve disagreements but rather makes them broader, as everyone is entitled to their own definition.<sup>5</sup>

A third view is the reciprocity view. This view states that a sexual interaction requires two or more people to willingly engage in an activity intended to satisfy a sexual desire in a mutually responsive and mutually supportive way. Opinions differ on whether this view describes what sex 'is', what sex should be or what sex is in its most complete form.<sup>6</sup>

Nagel holds that sex can have differing degrees of 'completeness' depending on the degree of reciprocity involved. In this case, masturbation or rape is incomplete sex.<sup>7</sup> Scruton sees the reciprocal view in a purely moral light. Sex 'should' involve reciprocity. Non-reciprocal sex is still sex, but it is an inherently immoral variant.<sup>8</sup>

If reciprocity is necessary for an activity to be sexual, masturbation is by definition nonsexual, as is rape. Stephen Law distinguishes something being sexual and 'having sex'. Rape might be sexual, but it cannot be 'having sex' as this strips the victim of their agency in when they 'have sex'. To 'have sex' implies consent, immediately excluding rape. In this way, we can call masturbation sexual without either making it seem morally comparable to rape or ignoring its sexual aspect even though it involves no other to reciprocate.<sup>9</sup>

We can combine Law's distinction between something being sexual and 'having sex' to create a definition of 'having sex' that includes a form of reciprocity that presupposes consent. This version of the reciprocal view is most suitable for this thesis because it emphasizes that consent is necessary for

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<sup>4</sup> McArthur, The Ethics of Sex, 34-35.

<sup>5</sup> McArthur, The Ethics of Sex, 35-36.

<sup>6</sup> McArthur, The Ethics of Sex, 36-37.

<sup>7</sup> Nagel, Sexual Perversion, 5-17.

<sup>8</sup> McArthur, The Ethics of Sex, 37-39.

<sup>9</sup> Law, Rape Is a Sex Act, 69.

someone to 'have sex' and that prostitutes are paid for 'having sex', meaning there has to be consent and there must be at least two people involved. I think this is important because it explicitly states that prostitutes being raped is a crime and not 'a part of their job'. One might think that this is self-evident; however, it has been reported that upon reporting sexual assault, a prostitute was told that it was not possible for a prostitute to be raped.<sup>10</sup> Sadly, the prostitute's experience is not unique. Pasadena Superior Court Judge Alston publicly stated in 1986 that prostitutes are 'unrapeable' while presiding over a sexual assault case involving a prostitute as a victim. This sentiment was echoed by Oakland police closing sexual assault cases where the victims were prostitutes without proper investigation.<sup>11</sup>

Therefore, it is crucial to emphasize the necessity of consent to 'have sex', regardless of whether there was payment involved. Consenting is the act of permitting something that grants legitimacy to acts that would otherwise be impermissible. For consent to be genuine, it is necessary that all parties are rational agents, all parties are sufficiently informed, and that consent is freely given.<sup>12</sup>

For the purposes of this thesis, I take a reciprocal view in the way that a certain level of reciprocity is necessary for an act to be to 'have sex'. In this definition, I will follow the reasoning of Stephen Law, in that an act can be sexual without being to 'have sex'. Although it is too demanding to expect that both parties have their desires met, I suggest that genuine consent can be enough to satisfy the requirement of reciprocity. This also implicitly necessitates that there be at least two parties for it to count as having sex. I will use this definition to bring the internal and external views together for the purpose of this thesis.

## §1.2 The morality of markets

*Since prostitution is the selling of sexual activity, a market is involved. To be able to determine whether prostitution is ethical, it needs to be clear what a market is and what can make it unethical. First, the concept of a market will be explored, and second, the concept of noxious markets will be explained.*

### §1.2.1 What is a market?

Markets are institutions where exchanges occur between parties that voluntarily participate. Debra Satz takes 'voluntarily' to imply that the parties are entitled to the resources they intend to exchange, have the freedom to either accept or refuse any offer and can attempt to make another offer or find a better deal elsewhere.<sup>13</sup>

While markets are often seen as beacons of freedom, one could argue that the government plays a crucial role. Property rights, rules of exchange, contracts and enforcement are necessary for a market to function efficiently. However, not everyone agrees that the government deserves such a prominent role in the marketplace. The free market could also exist outside of the framework of a government, but this market would be far less secure as there would be no overarching constitution that enforces property rights and compliance with contracts.<sup>14</sup>

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<sup>10</sup> Klok & Dijkstra, *Sekswerk en Geweld*, 44-45.

<sup>11</sup> McClintock, *Screwing the System*, 76-78.

<sup>12</sup> King, "Consent."

<sup>13</sup> Satz, *Moral Limits of Markets*, 15-16.

<sup>14</sup> Satz, *Moral Limits of Markets*, 26-28.

### §1.2.2 Noxious markets

Noxious markets are markets that people deem especially objectionable compared to other markets. While some of the reasons against these markets are based on efficiency, as inefficient markets unfairly distribute profits, making the market more efficient will not always eliminate the elements that make the markets noxious. This is because there are also political and moral reasons for deeming a market noxious. These reasons can then be used to argue for the limitation of noxious markets.<sup>15</sup>

Debra Satz outlines four parameters that can be used to identify what makes these markets noxious. Two of these parameters focus on the consequences of certain markets.<sup>16</sup>

First, the markets produce extremely harmful outcomes for the parties involved or for third parties. Price fluctuations are not seen as extremely harmful, as they are seen as a natural risk of markets in general. But violence towards workers or customers can be seen as extremely harmful. Second, certain markets can be extremely harmful to society as a whole. A market can possibly undermine the capacity for members of a society to interact as equals.<sup>17</sup>

The next two parameters focus on the source of the market and the underlying conditions of the market agents.<sup>18</sup>

First, some markets are characterized by highly asymmetric knowledge and agency among the parties. Some of the parties might lack important knowledge that the other party does have. In addition, third parties might experience serious indirect effects while not being involved in the transactions.<sup>19</sup>

Second, some markets reflect underlying serious vulnerabilities of one of the parties. In this case, the more vulnerable party is at great risk of being exploited. These markets reflect the underlying inequality and sometimes even exacerbate these differences.<sup>20</sup>

If a market scores high in one or more of these parameters, the market can be considered noxious. This can provide a basis to limit or regulate these noxious markets.<sup>21</sup>

### §1.3 The essentialist and economic approach

*The research question distinguishes between essentialist and economic arguments against prostitution. For this reason, what is meant by the terms essentialist and economic needs to be clarified. In this paragraph, the two will be explored, and the egalitarian approach will be argued to fall under economic arguments. First, I will explain the view put forth by Satz, and then I will share my view on the different approaches.*

There is an essentialist and economic approach to critiquing certain markets. The essentialist approach holds that there is an intrinsic property in certain goods that condemns its sale. the selling of the good itself is the harm, while the harm for the economic approach is the consequence of selling the good.<sup>22</sup>

The economic approach is a consequentialist approach. The morality of markets is dependent on the costs and benefits of selling certain goods. This means that the reasons or consequences of selling a

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<sup>15</sup> Satz, Moral Limits of Markets, 93-94.

<sup>16</sup> Satz, Moral Limits of Markets, 94-96.

<sup>17</sup> Satz, Moral Limits of Markets, 94-96.

<sup>18</sup> Satz, Moral Limits of Markets, 96-97.

<sup>19</sup> Satz, Moral Limits of Markets, 96-97.

<sup>20</sup> Satz, Moral Limits of Markets, 97-98.

<sup>21</sup> Satz, Moral Limits of Markets, 98-99.

<sup>22</sup> Satz, Moral Limits of Markets, 140-142.



good determine the possible wrongness of the market. This approach makes a contingent argument for treating certain markets differently than others. Background systems such as inequality are often ignored in the economic approach.<sup>23</sup>

Satz adds the egalitarian approach. This approach sees markets in terms of their relationship to equality. This approach looks at both the background and the consequences that a certain market has on inequalities such as gender, race, or class.<sup>24</sup>

I follow Satz in her definitions of the different approaches; however, I do not think that the egalitarian approach needs to be a separate approach. In my view, the egalitarian view can be classified under the economic view, as it looks at the causes and effects of certain markets. While economists might often ignore the background systems of markets, one could argue that this is part of the costs of transactions. The market has more harmful consequences due to the existing inequality it is built upon and further establishes. Therefore, this approach also fits with the economic approach. For the purpose of this thesis, economic arguments will be understood from a broader view to include the connections a market has to inequality.

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<sup>23</sup> Satz, *Moral Limits of Markets*, 139-141.

<sup>24</sup> Satz, *Moral Limits of Markets*, 144-146.

## Chapter 2: Prostitution

Before delving into the arguments against prostitution, it is crucial to establish a clear understanding of what prostitution means and its historical context. First, I explore the terms "prostitution" and its alternative, "sex work", and what these terms mean. Subsequently, I explain why "prostitution" is the most fitting term for the purpose of this thesis. Following that, I will provide a brief historical overview of prostitution and societal attitudes towards it.

Prostitution is by no means a modern invention, and neither is the discourse surrounding it. Because this thesis aims to contribute to the philosophical discussion surrounding prostitution, it is important to look back on the discourse that has come before us.

### §2.1 What is prostitution?

*Prostitution is a well-known term most often used to describe someone who sells sex. In line with the view of Stephen Law, I define prostitution as someone who is paid for 'having sex', which means that there is more than one person involved and that this is consensual. Prostitution is also used to describe someone who does services for unworthy purposes, for example, someone who does hard labour for very little money in return. The term is often seen as offensive because of the negative connotations it often holds.*

The term 'prostitution' is fraught with controversy and history. For many, it has connotations of immorality, corruption, and degradation. While universally understood as referring to a person who sells sex indiscriminately, it can also mean doing labour for unworthy purposes. The word itself originates from the Latin word 'prostitutio,' meaning "to fix in an upright position," implying a passive, statue-like quality in a prostitute.<sup>25</sup>

In the 1980s, feminists introduced the more neutral term 'sex worker' to emphasize the idea that is 'sex work is work.' The term sex-worker is meant to humanize the person and remove the demeaning qualities that the term 'prostitute' carries. However, the term's meaning is not universally clear. While sex work includes the selling of sex that prostitution points to, it is a much broader term. The term sex work is often used to encompass all types of work of a sexual nature. This would include prostitution but also stripping, working in the adult film industry and many more types of work. It even includes those who manage sex workers such as pimps or brothel-holders.<sup>26</sup>

This thesis focuses on one type of sex work, the physical selling of sexual services to others. While sex worker is a more modern term, it is too broad for the purpose of this thesis. Therefore, I use the terms 'prostitution' and 'prostitute'. I do not imply any negative connotations with the use of these terms, as my use of these terms is purely for the sake of clarity.

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<sup>25</sup> Bernstein, *Working Sex Words*, 221-240.

<sup>26</sup> Bernstein, *Working Sex Words*, 221-240.

## §2.2 History of prostitution

*The history of prostitution is so vast that I cannot provide a comprehensive overview; therefore, I will only briefly discuss the history of prostitution and the historical attitudes toward prostitution. When we observe statistics and histories of prostitution, we must be cautious to consider that the practice has been and is in many places illegal and is therefore often performed in relative secret. The history of prostitution is relevant because it puts the arguments in a global and historical perspective.*

Over the centuries, prostitution has had many roles. Some societies recognized prostitution as a profession, while others required it of young women to acquire a dowry or as a rite of puberty. Some religions required priestesses to engage in prostitution as a type of worship. However, other societies harshly punished prostitutes by shunning them, locking them up, or stoning them. This attitude was specifically aimed at the prostitutes, and their clients barely (if ever) faced any consequences.<sup>27</sup> In Ancient Greece, there were three forms of prostitutes; slave prostitutes, street prostitutes and prostitute-entertainers. The latter had a higher level of social influence compared to other women. The slave prostitutes and the street prostitutes were both men and women, but only served men. The prostitute-entertainers were exclusively women. Ancient Greece had government-funded brothels in cities, where cheap slave-prostitutes worked. Prostitution remained legal in Ancient Greece and later in the Roman Empire. Christian Roman emperors such as Constantine the Great would highly discourage prostitution but never banned the practice, prostitutes had to wear distinctive dress and pay higher taxes by law. Hebrew society only permitted prostitution among foreign women.<sup>28</sup>

In the Middle Ages, churches attempted to rehabilitate prostitutes that repented for their sins; however, prostitution was widely protected, licenced, and regulated by law.<sup>29</sup>

In the early middle ages, the King of Spain forbids prostitution, punishing prostitutes by whipping them 300 times and exiling them. The clients or pimps were never punished. In the later middle ages, Italy found prostitution to be necessary for society, and government-funded brothels were established in several major cities. However, when Pope Sixtus V was appointed in 1586, he ordered that all prostitutes be executed.<sup>30</sup>

During the 16th century, stricter rules were implemented due to the shift in sexual morality that came with the Protestant Reformation. Around this time, there was also an uptick in the spread of sexually transmitted diseases. Therefore, attempts were made to suppress brothels and introduce medical examinations, but these attempts were proven to be fruitless.<sup>31</sup>

Towards the end of the 19th century, Western societies again tried to suppress prostitution. This was due to the rise of feminism (suffragettes), which deemed prostitution to be a threat to women's status and health.<sup>32</sup>

In the United States, sex trafficking was prohibited in 1910, and by 1915, most states had banned or regulated prostitution. In most Western countries prostitution was prohibited but mostly tolerated. Governments were more concerned with preventing crimes committed against clients and protecting those who were coerced into prostitution than they were in preventing prostitution as a whole.

In most Asian and Middle Eastern countries, prostitution is illegal but tolerated. Asian countries suffer (and often profit) from sex tourism because of the widespread illegal prostitution of minors there. In

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<sup>27</sup> Jenkins, "Prostitution"

<sup>28</sup> Jenkins, "Prostitution"

<sup>29</sup> Jenkins, "Prostitution"

<sup>30</sup> Jenkins, "Prostitution"

<sup>31</sup> Jenkins, "Prostitution"

<sup>32</sup> Jenkins, "Prostitution"



Latin America, most countries tolerate prostitution but restrict brothels and pimps. In Africa, attitudes vary widely from country to country. Prostitution is mostly illegal but still widespread.<sup>33</sup>

In the 1980's, attitudes toward prostitution once again shifted due to the AIDS crisis and the resurgence of feminism. This also made homosexual male prostitution more well-known, although it has been around since (at least) the ancient Greeks.<sup>34</sup>

In conclusion, prostitution has persisted throughout history, with various attitudes towards it. While many societies have tried and continue to try to limit prostitution, it persists.

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<sup>33</sup> Jenkins, "Prostitution"

<sup>34</sup> Jenkins, "Prostitution"

## Chapter 3: Essentialist arguments

There are three important types of essentialist arguments used to state the impermissibility of prostitution that I will discuss. All of these arguments state that there is something intrinsic to sex that makes it immoral to sell. The first two arguments are used to discredit all types of sex outside of a romantic relationship or even outside of marriage. The significance view will be examined first, followed by the argument of objectification. The third argument specifically targets the selling of sex rather than casual sex in general. It states that to sell sex is to sell yourself.

### §3.1 The significance view

*The first essentialist argument comes from two views of sexual ethics, the significance view, and the casual view. As the significance view holds there to be something intrinsic to sex, sex that does not express romantic love is immoral. Not only does this mean that selling sex would be immoral, but it also means that sex with anyone you are not in a romantic relationship with is immoral. David Benatar puts forth the argument that only the significance view can condemn rape and paedophilia as special kinds of wrongs, without being inconsistent.*

There are two primary views of sexual ethics. The first is the significance view. According to the significance view, (romantic) love is necessary for sex to be morally permissible. Sex needs to reflect the reciprocal love of the parties involved. The second view is called the casual view (also called the weak significance view). According to this view, sex is morally permissible regardless of whether it signifies love or not. Sexual pleasure is morally similar to other pleasures.<sup>35</sup> In Chapter 1, the views on what sex is were discussed. While these views are not moral per se, they can be linked to the significance view and the casual view. The significance view focuses more on the internal view of sex, as it should be a reflection of romantic love. It also sets out a very demanding type of the moral reciprocal view of sex. There needs to be reciprocity in the form of a romantic relationship. The casual view can be linked to the internal view, as parties are entitled to decide for themselves when and how they want to engage in sexual activity and what counts as sexual activity.

The significance view is a form of sexual ethics that is most often used to condemn casual sex. Although one first thinks of hookups or friends with benefits, prostitution can also be seen as a form of casual sex. Casual sex can be defined as any sexual act that takes place between two (or more) people who are not in a romantic relationship and who do not expect to enter into one in the future. The two (or more) people often do not know each other well, although this is not necessarily the case.<sup>36</sup> While it is technically possible for a prostitute to be in a relationship with their client, prostitution is characterized as relatively indiscriminate sex. As the significance view condemns all forms of casual sex, it logically follows that it condemns prostitution as well.

As most people find paedophilia and rape to be special kinds of wrong, David Benatar argues that the casual view cannot explain the special kinds of wrong that paedophilia and rape are. As it holds that sex has no special moral significance, forcing someone to have sex would not be worse than forcing someone to eat something or forcing someone to go to the opera. Therefore, if we see paedophilia and rape as special kinds of wrong, we must hold the significance view to be consistent in our beliefs.<sup>37</sup>

According to Benatar, the significance view can simply explain why paedophilia is wrong. Children cannot understand the significance that sexual activity should have. Sex with a child treats the child

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<sup>35</sup> Benatar, Two Views, 192-193.

<sup>36</sup> McArthur, The Ethics of Sex, 43-44

<sup>37</sup> Benatar, Two Views, 192-193.

as a means to the end of sexual pleasure without regard for the child, as they do not know that sex should reflect romantic love. The significance view can also provide an explanation as to why rape is a special kind of moral wrong. Rape forces someone into an activity that should be an expression of love. It forcibly strips the act of its significance. Therefore, a rapist is extremely indifferent towards the deepest aspects of their victims. This is why rape is a worse offense than other types of assault or forcing someone to eat, according to the significance view.<sup>38</sup>

According to Benatar, the casual view of sex has more difficulty explaining the special moral wrongness of rape and paedophilia. If sex has no special significance, children should also be able to consent to it, or parents should be able to consent on their behalf. Rape can surely be seen as immoral for people who hold the casual view. However, why does rape constitute a special kind of wrong? If sex is no more special than eating, forcing someone to eat and forcing someone to have sex should have the same moral wrongness. According to this, Benatar claims that condemning paedophilia and rape is inconsistent with the casual view. The significance view condemns paedophilia and rape but also casual sex. Therefore, to be consistent with condemning rape and paedophilia, one must also condemn casual sex and, by extension, prostitution. Benatar does not claim that this means that the significance view is right, he only states that it is the only view of the two that is consistent with calling rape and paedophilia a special kind of wrong, but it could still be consistently wrong.<sup>39</sup>

However, Goldman argues that identifying sexual desire with (romantic) love can create internal tension. Love is (intended to be) permanent and very selective in who it is aimed at. On the other hand, sexual desire is fleeting and often indiscriminate. Some even claim that sexual desire naturally seeks variety, while love does not. Because of this, monogamy almost always involves sacrifice or the exercise of self-control.<sup>40</sup>

Goldman argues that sex has no intrinsic morality. Nothing in sex is immoral unless condemned by rules that also apply outside of the bedroom. Rape is often seen as an exception to this rule, as it is always sexual and always immoral. However, the wrongness of rape is derived from universal rules that are not specific to sexual acts. It is an extreme violation of one's bodily autonomy, the right not to be humiliated, and the rule not to use someone else against their will. Comparing such a violation with forcing someone to eat is incomprehensible, as even nonsexual acts that violate these rules are incomparable with forcing someone to eat. In line with this, one can also make a case against paedophilia. In many activities, society places special protection on children. Child labour laws are an example of this; labour is not immoral, but as a society, we aim to protect children against exploitation by adults. Therefore, taking advantage of children sexually can be condemned without needing to view sex as something significant.<sup>41</sup>

Rape and paedophilia can be condemned as a special kind of wrong while holding the view that sex is not morally significant.

I agree with Goldman that our held beliefs about rape and paedophilia are not inconsistent with the casual view. The argument that casual sex is wrong if we see rape and paedophilia as special kinds of wrong is unsound. Furthermore, the significance view goes against the basic characteristics of sexual desire and love.

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<sup>38</sup> Benatar, *Two Views*, 193.

<sup>39</sup> Benatar, *Two Views*, 194-199.

<sup>40</sup> Goldman, *Plain Sex*, 272-279.

<sup>41</sup> Goldman, *Plain Sex*, 280-285.

The significance view holds no moral requirements beyond the relationship of the parties involved. While the significance view condemns rape because it is supposed to reflect romantic love, it is unclear whether rape would still be deemed especially wrong when both parties are in a romantic relationship. If both parties are in love, sex might still be seen as a 'reflection of love', even if one party is forced to participate. This thought is reflected in the historical reluctance to criminalize marital rape.

Although Benatar argues that the casual view is not capable of calling rape a special kind of wrong, I would argue that, in fact, the significance view is incapable of calling rape within a romantic relationship (especially within marriage) wrong. This makes the argument unsound, as the significance view hereby is incapable of consistently calling rape a special kind of wrong.

The argument that the significance view is needed to condemn rape and paedophilia as a special kind of wrong is invalidated by the significance view's inability to consistently condemn marital rape and the internal tension between sexual desire and romantic love. The casual view successfully condemns rape and paedophilia without needing to attribute an intrinsic moral significance to sex. Therefore, the significance view is deemed unconvincing, and casual sex, including prostitution, is not inherently immoral if we condemn rape and paedophilia as special kinds of wrongs.

In conclusion, the significance view is unconvincing in proving the impermissibility of prostitution. The argument that only the significance view can condemn rape and paedophilia as special kinds of wrongs, without being inconsistent, is not sound. The significance view cannot condemn marital rape consistently, while the casual view is able to consistently condemn rape and paedophilia as special kinds of wrong in all situations.

## §3.2 Objectification

*The second essentialist argument I will look at is the objectification argument. According to this argument, engaging in sex means making oneself into an object for desire. Immanuel Kant argues that sexual activity outside of monogamous marriage amounts to morally impermissible objectification. Although Kant is often seen as puritanical when it comes to sex, many feminists have used Kant's teachings as a basis for the idea of sexual objectification. This approach stems from Kant's categorical imperative, which is why the categorical imperative needs to be examined in this paragraph along with Kant's own sexual ethics. Objectification is used to critique casual sex in general, but especially prostitution.*

### §3.2.1 Immanuel Kant

The concept of objectification finds its roots in the works of Immanuel Kant. Because of this, we need to know what Kant meant by objectification and how he thought it related to sexual ethics. The categorical imperative is at the centre of Kant's ethics. If an action does not respect the categorical imperative, it is wrong. The categorical imperative is not itself a moral law; rather, moral rules should respect the categorical imperatives, according to Kant.

There are three formulations of the categorical imperative. Because the second formulation of the categorical imperative relates to objectification, it is important to quickly go through them for the sake of clarity. The first formulation states that you should only act according to a maxim that can become a universal law. This means that if the rule would become universal law, you could still rationally act according to the rule. The second formulation states that you should never use humanity as mere means. The person you use, including yourself, should always be an end in itself.

[REDACTED]

You should treat people as rational agents with dignity and free will. The third formulation states that every rational person should act as if their maxims are law.<sup>42</sup>

The second formulation of Kant's categorical imperative forms the groundwork for the concept of objectification. It states that to respect one's neighbour, one must never use them as mere means but always as an end in themselves. This is also true for how you treat yourself. You turn yourself or another into an object for instrumental use. Treating yourself as mere means to an end is debasing humanity.<sup>43</sup>

According to Kant, sexual desire makes you into an object of appetite or enjoyment. Although we have an appetite for another human, the appetite is directed not toward another human as such but toward the genitalia of another. This degrades human nature, as the fact that someone is a human being has no bearing on sexual desire. Therefore, sexual desire is directed towards an individual (body and self) in a way that treats them as an object of appetite instead of a human being.<sup>44</sup>

Kant suggested that only in monogamous marriage can sex be morally permissible. He thought that there was no financial gain involved and that both parties equally surrendered themselves in marriage. In marriage, you give yourself up as property of the other, and in return, you receive the property of the other. In this way you win yourself back and are therefore not objectified. Kant sees marriage as something that should be lifelong; spouses should not have the right to stop surrendering themselves to their partner or to cheat on their spouses. Because of this aspect of permanence, marriage differs from two unmarried partners surrendering themselves to each other, as either party can decide to stop surrendering themselves at any point, objectifying the other.<sup>45</sup>

Kant defines prostitution as the offer for profit of one's person for another's sexual gratification. By using your body parts in exchange for money, you inevitably lose your humanity and become an object. In line with this, people are not entitled to sell themselves as a slave or even to sell one of their own limbs, as this shows a lack of regard for humanity. Therefore, sex outside of marriage is impermissible according to Kant.<sup>46</sup>

### §3.2.2 Beyond Kant

According to Nussbaum, there are many ways in which objectification can occur, but the only form that is by definition immoral is instrumental use. Instrumentality is the use of someone as a tool for someone's own purposes. Nussbaum argues that the instrumental use of persons is morally wrong unless it is placed in a context of regard for humanity. To make this regard for humanity clearer, she states that in regard to sex, a context of mutuality and symmetry is necessary to have regard for one's humanity. She doubts whether such a context is possible in the absence of narrative history (i.e., if the parties are strangers)<sup>47</sup>

Nussbaum does not say that prostitution should be criminalized, as there is no reason that the act of prostitution is more vulnerable to objectification than other professions are. Although she argues that this might not be immoral, her chapter on objectification seems to raise doubts, as she implies that it might not be possible to have a context of mutuality and symmetry if there is no narrative history between parties. This seems to imply that casual sexual encounters (whether paid or unpaid) are

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<sup>42</sup> Sullivan, *The Categorical Imperative*, 28-29.

<sup>43</sup> Kant, *The Metaphysics of Morals*, 547-569.

<sup>44</sup> Papadaki, *Sexual Objectification*, 331-333.

<sup>45</sup> Papadaki, *Sexual Objectification*, 337-339.

<sup>46</sup> Papadaki, *Sexual Objectification*, 333-335.

<sup>47</sup> Nussbaum, *Sex & Social Justice*, 242-262

morally suspect because it is unlikely that there is a context of mutuality and symmetry. Prostitution can be seen as instrumental use for one's sexual gratification.<sup>48</sup>

Marino argues that the instrumental use of someone else is actually more morally suspect when intimacy is involved. Being used by a partner instrumentally can feel more manipulative and can make it harder to say no for fear of endangering the relationship. In contrast, it is much easier to say no to a stranger and therefore to establish genuine consent. Symmetry and mutuality can also be forgone if the parties want it so. If one person is coerced into the act, it is immoral. However, this problem would not be solved if the coerced partner also experienced pleasure. Marino agrees with the regard for humanity that is needed for morally permissible objectification but argues that genuine consent (both before and during the act) is precisely how this can be accomplished. Therefore, instrumental use is benign when there is genuine consent. Marino applies these findings to prostitution and finds that it is morally benign, if genuinely consensual.<sup>49</sup>

I think that Marino's argument to invalidate the objectification argument is convincing. Objectification is immoral in the way that one should not treat one another as an instrument of one's enjoyment. However, objectification becomes benign when all parties genuinely consent to being objectified. A prostitute that genuinely consents the act of prostitution (meaning there is no coercion or force) is not doing anything morally wrong as long as the client also consents to being objectified as an instrument for the prostitute to make money. Therefore, prostitution is not immoral on the grounds of objectification.

Therefore, I also believe that the argument of objectification made by Kant is unconvincing. Genuine consent is what constitutes a context of regard for humanity. Marriage is neither necessary nor sufficient for sexual relations with morally benign objectification because, regardless of marital status, both parties can still decide to have no regard for their partners by forsaking their consent.

To conclude, the objectification argument is unconvincing in showing the impermissibility of prostitution.

### §3.3 Selling yourself

*The third essentialist argument against the permissibility of prostitution is that prostitutes sell their bodies and by extension, sell themselves. Selling yourself is immoral because you give up your own personhood; this is immoral because you do not treat yourself with respect for your own humanity.*

Carole Pateman argues that the body and the self are inseparable. Therefore, when one sells their body, they also sell themselves. The prostitute and their body are the only things that clients care about when entering into a prostitution contract (an agreement to pay X amount for Y sexual service). The body and sexual access to the body are what is being sold in prostitution. The prostitution contract gives the buyer unilateral right to directly use someone else's body. While the self is not just its sexuality, sexuality is inseparable from identity. Therefore, prostitutes sell themselves. Selling yourself is immoral because it disregards your own humanity. This argument is in line with the objectification argument, as it also shows a lack of regard for humanity. Selling implies objectification as it sees a person as a good that can be sold. However, the main difference between the objectification objection and the 'selling yourself' objection is that the 'selling yourself' objection specifically connects the act of selling your body with the act of selling your identity.<sup>50</sup>

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<sup>48</sup> Nussbaum, Sex & Social Justice, 291-293.

<sup>49</sup> Marino, Autonomy and Consent, 355-364.

<sup>50</sup> Pateman, The Sexual Contract, 203-207.

Cécile Fabre argues that prostitutes do not actually sell their bodies. The prostitution contract is different from other contracts in that the client is interested only in the prostitute and their body. It is inherent in the relationship between the prostitute and client that the client seeks and expects sexual pleasure from their interaction. The client specifically wants the body of the prostitute to give him pleasure, as otherwise he would not have entered into the prostitution contract. However, the prostitute does not sell their body, as this would mean that the client has all of the rights to the prostitute's body, and prostitution is not sexual slavery. A client is not entitled to sell the prostitute to someone else. The prostitute more accurately hires out their body and exclusive (but not unlimited) rights over their body for an established amount of time, with the labour that the sexual service necessitates. Therefore, prostitutes sell a service that includes granting access to their body for specific purposes and for a specified time. Thus, it can be argued that prostitutes do not sell their bodies.<sup>51</sup>

Fabre also argues that if prostitutes did sell their bodies, they would not sell their entire person, only their sexuality. Although the body and the self are inseparable, if one sells their body specifically for sexual purposes, they would only sell themselves as sexual beings, not their entire self. While some people argue that the sexual self is central to one's identity, this is not universal. Testimonies from prostitutes offer widely varied views of sex. Some do not regard sex as a fundamental part of their identity, and for them, sexual acts do not hold as much weight as they do for others.<sup>52</sup>

I agree with Fabre that prostitutes do not sell their body, as they do not give their clients unlimited rights to their body, a client cannot sell the prostitute to another, and there is a specified time and way in which the client can have sex with the prostitute. Fabre uses the term of "hiring out one's body", but the prostitute is hired and not their body. This is the difference between a party hiring out a performer and a party hiring out a venue, neither are unlimited, but the performer is hired to do a service or trick while the venue is hired to grant temporary exclusive access. The prostitute is more similar to the performer, as the prostitute is usually not passively allowing someone to use them, rather they perform a type of service. I agree that the prostitute sells a service that includes temporary limited access to their body. Prostitutes often deliberate a rate beforehand that includes the time and the services they will do, or the clients can do to them. These discussions suggest that the contract is surely not hiring out one's body, as this would mean that the prostitute negotiates only a time period and is furthermore at the mercy of her client. As prostitutes do not sell their body, this argument is not sound.

In conclusion, prostitutes do not sell their bodies. Even if they did, it would still not amount to selling themselves, as sexuality is only a part of our identities.

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<sup>51</sup> Fabre, *Whose Body is it Anyway?*, 158-160.

<sup>52</sup> Fabre, *Whose Body is it Anyway?*, 172-174



## Interim Conclusion

To conclude this section on essentialist arguments, I have shown that the three selected essentialist arguments against the permissibility of prostitution are unconvincing. The existence of other essentialist arguments is not excluded, but these important selected arguments are unconvincing.

The first argument states that if you call rape and paedophilia special kinds of wrong, you are inconsistent with the casual view, and can be consistent only with the significance view.

The significance view does not hold up when the nature of love and sexual desire are compared. In order for rape and paedophilia to be a special kind of wrong, the significance view is not needed as shown by Goldman's arguments. Furthermore, the significance view is not able to consistently condemn marital rape. The special kind of wrong of rape and paedophilia can also be dependent on general rules that apply beyond sex.

The second argument states that casual sex leads to a morally impermissible type of objectification. This argument can also be deemed unconvincing, as objectification is morally benign if all parties genuinely consent.

The third argument was that prostitutes sell their bodies, and because of this they sell themselves. Prostitutes do not sell their body; they sell a service. Therefore, they are not selling themselves. And even if they did sell their body, this would not mean that they sold their entire identity, only the sexual part. The argument of 'selling yourself' is thus unconvincing.

The research question is as follows: 'Are the selected essentialist and/or economic arguments against the permissibility of prostitution sound?' I can conclude that the first part of the question, pertaining to sound essentialist arguments, has been answered negatively. None of the selected essentialist arguments against the permissibility of prostitution were convincing. In the next chapter, the economic arguments will be explored.

## Chapter 4: Economic arguments

In this chapter, the selected economic arguments against the permissibility of prostitution are explored. There are three main economic arguments. The first argument states that prostitution is exploitative in nature. The second one states that prostitution exacerbates gender inequality. The third argument states that the physical and mental harms that prostitution can cause lead to its impermissibility.

### §4.1 Exploitation

*The first economic argument against the permissibility of prostitution states that prostitution is exploitative and degrading toward prostitutes. First, I explore what exploitation is and why it is morally objectionable. Then, I will explore whether prostitution leads to exploitation. I will start with Karl Marx, as his concept of exploitation is often used to argue against prostitution. Finally, I will make a case against the argument of exploitation.*

#### §4.1.1 Karl Marx

Karl Marx is famous for his important work together with Friedrich Engels in shaping the philosophical roots of communism. His works critique capitalism and the moral corruption it entails. Alienation is a key concept in Marx's works. It describes the estrangement between a subject and an object that belong together. The most important example of this is the alienation between a worker and their labour. A producer is alienated from the goods they have produced, as they do not own the result of their labour. Another important concept in the works of Marx is exploitation. Marx called prostitution as the ultimate form of exploitation, which is why Marx is important to examine in regard to the discourse surrounding prostitution.<sup>53</sup>

According to Marx, someone is exploited if they perform more labour than necessary to produce the goods they consume. Therefore, if they produce their own consumption goods, the criterion for exploitation is simply that they also produce goods for others to consume. An individual is an exploiter if they work fewer hours than needed to sustain what they consume. For there to be exploiters, there necessarily are exploited people. The exploiter ends up with the surplus goods that the exploited person produces. Some critics argue, however, that the differences in skill and the unpleasantness of some jobs cannot be accounted for in this model.<sup>54</sup>

In capitalist exploitation, workers are forced to sell their labour power because of economic circumstances. They do not have land to cultivate or money to invest, so they need to sell their labour power. Marx calls wage labour forced, yet uncoerced, because they are 'free' not to sell their labour power, but their alternatives are so obviously worse that it is not a free choice after all.

The state is instrumental in capitalist exploitation by means of protecting the exploiters from the exploited and from individuals of the exploiter class in the form of taxes or offering exploiters some form of legitimacy. The state also ensures the freedom of contract and private property, which are background conditions for market exploitation.<sup>55</sup>

Exploitation is a normative concept, and the critical German word 'ausbeuten', which Marx originally used, more clearly illustrates this. 'Ausbeuten' means *taking unfair advantage of* and clearly shows the moral wrong of exploitation. There is injustice in the fact that one does not have to work to obtain an income and the other has to work very hard to get by. Exploitation is closely related to alienation, as workers are alienated from the goods that they produce, and they are alienated from

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<sup>53</sup> Wolff, "Karl Marx."

<sup>54</sup> Elster, *An Introduction to Marx*, 79-90

<sup>55</sup> Elster, *An Introduction to Marx*, 79-90

the surplus value. Marx found that in selling your labour power, you are alienated from yourself (self-alienation).<sup>56</sup>

Marx saw prostitution as the ultimate form of exploitation. He also refers to the general prostitution of the labourer to illustrate the exploitation of the workers. The prostitute does not own their own labour power or means of production, as Marx saw prostitutes as women who *were* prostituted by someone else.<sup>57</sup>

Marxists view not only the public selling of sex as prostitution but also the private services a woman provides her husband in an (economically unequal) marriage, in exchange for economic support, such as sex and household chores. Therefore, Marx and Engels argue that both private and public prostitution need to be abolished. All forms of prostitution result from inequality of wealth and are therefore by nature exploitative.<sup>58</sup>

However, Karen Green argues that in the strict definition of economic exploitation given by Marx, prostitution does not seem to fit. Exploitation means that the surplus value of labour is taken away from the labourer. It is difficult to determine what counts as a fair price for sexual services. However, prostitution is often paid more than other types of physical labour. Therefore, in regard to economic exploitation, prostitution would only be exploitation if they had to give all their earnings to a pimp or brothel owner. That would be exploitation, but this is not inherent to prostitution.<sup>59</sup>

Furthermore, as Anne McClintock argues, Marx's 'private prostitution' and 'public prostitution' are vastly different when it comes to Marxist exploitation. Prostitutes insist on the economic value of their sexuality and are paid accordingly. However, Marx's 'private prostitute' (a wife) does the same actions for her husband for free. In line with the definition of exploitation that Marx puts forth, the goods (sexual pleasure) that both types of prostitutes provide are only compensated for in the case of public prostitution. Therefore, it is less likely that a (public) prostitute is exploited than a wife.<sup>60</sup>

I agree with Green in that the strict definition of exploitation that Marx gives does not seem to apply to prostitution as a profession. Furthermore, I agree with McClintock in that Marx's own logic would call prostitution less likely to lead to exploitation than (economically unequal) marriage. Unless caused by exploitative behaviour of pimps, brothel-holders or other facilitators, prostitution is not exploitative according to the definition put forth by Marx.

#### §4.1.2 Capitalist response

Economic inequality can make workers more vulnerable to exploitation in any field, and efficiency in the market (in the absence of misinformation and irrationality) is the best way to eliminate these vulnerabilities. Paying impoverished workers fairly for their labour (regardless of their field) will make them more economically stable and will therefore decrease their vulnerability to exploitation in the future.<sup>61</sup>

Impermissible exploitation occurs when there is coercion, violence, or ignorance. However, the wrongness of those cases is for the reasons of coercion, violence, and ignorance, not the field in which the exploitation takes place.<sup>62</sup>

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<sup>56</sup> Elster, *An Introduction to Marx*, 79-90

<sup>57</sup> Marx, *Private Property*, 42-43.

<sup>58</sup> Jaggar, *Living With Contradictions*, 104-106.

<sup>59</sup> Green, *Prostitution, Exploitation and Taboo*, 531-533.

<sup>60</sup> McClintock, *Screwing the System*, 72-73.

<sup>61</sup> Ng, *The Exploitation/Inequality Case*, 24-30.

<sup>62</sup> Ng, *The Exploitation/Inequality Case*, 24-30.

I agree that prostitution itself is not exploitative. While some prostitutes are surely exploited, this is not because of prostitution itself but because of their working conditions and lack of protection. In the report 'Rights not Rescue', sex workers from Botswana, Namibia, and South Africa argue that they are mostly exploited by police, who raid brothels and take their money and sometimes even their condoms. They argue that if the government decriminalized sex work and held police officers accountable, working conditions would improve greatly.<sup>63</sup>

In conclusion, prostitution does not lead to exploitation. However, the working conditions surrounding prostitution can make it exploitative. This should not reflect negatively on the profession, as any profession with poor working conditions leads to exploitation.

## §4.2 Gender inequality

*As explained in Chapter 1, the egalitarian view is sorted into the category of economic arguments. Gender inequality is a very dominant argument regarding the impermissibility of prostitution. It states that gender inequality and male dominance are the main sources of prostitution, and that prostitution worsens gender inequality.*

Prostitution is a female-dominated profession. While there are men who are prostitutes, women who sell sexual services to men are the norm. Because of this, some feminists argue that prostitution exacerbates gender inequality and that it is morally wrong for this reason.

Carole Pateman wrote a book titled 'The Sexual Contract', in which she argues that social contract theories always contract one party as dominant and one as submissive. She argues that all modern contract theories are based on patriarchal ideals. Because of this, feminists cannot 'fix' the current political theories; they must start from scratch.<sup>64</sup>

The original contract is sexual in the sense that it is patriarchal. It establishes men's rights over women's bodies. It creates the 'law of male sex-right'. The social contract made the male sex-right universal instead of paternal. This means that not only the male head of the household has sex-right, but every man does. According to Pateman, prostitution publicly affirms the male sex-right. It acknowledges men as sexual masters over women. Engaging in sex through access to a woman's body is a display of masculinity. While marriage provides (intended) lifelong protection against other men, prostitution does not. Therefore, prostitution is the most transparent exercise of male dominance.<sup>65</sup>

As noted in the first chapter, the egalitarian approach is sorted into the economic arguments. According to Satz, essentialists overstate the difference between sexual capacities and others. They are too far zoomed into the characteristics of sex and fail to look at the background conditions of prostitution. She considers prostitution to be impermissible because of its ties to gender inequality. There are two dimensions of gender inequality: the first concerns economic inequalities, and the second dimension concerns one's standing in society. Stereotypes, hierarchy, marginalization, and stigma are all ways in which society reinforces women's inferiority to men.

Satz argues that prostitution concerns the second form of inequality because it contributes to the inferior view of women. It affects the way in which men view women and the way in which women

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<sup>63</sup> Arnott & Crago, Rights not Rescue, 80-81.

<sup>64</sup> Pateman, The Sexual Contract, 1-11.

<sup>65</sup> Pateman, The Sexual Contract, 190-199.

view themselves. This view categorizes women as men's sexual servants. It states that a man's strong sex drive must be satisfied, and prostitution is just a necessary consequence of the nature of men.

This is an image of inequality in the first part because there is no reciprocity in the idea of sexual servants. While some men sell sexual services to women, male sexuality is not seen as something women can buy like it is for female sexuality. It is not a part of male prostitutes' identity to be sexual servants for women, as male prostitutes mainly service other men.

The second argument that it is an image of inequality is the high incidence of violence against female prostitutes. The image of female prostitutes as sexual servants to men does not just affect prostitutes; other women suffer from this as well because it gives men the idea that their sexuality can also be bought. It shapes how women in general are perceived.<sup>66</sup>

While the negative image effect is certainly not exclusive to prostitution, there are three important differences between prostitution and other female-dominated professions. The first difference is that the view that prostitution is objectionable is widely held, while this is not so of, for example, nurses. The second difference is that prostitution represents women as objects for male consumption. The third difference is that prostitution has a possible effect on the sexual autonomy of women in general. Women who do not want to sell sexual services might feel that they are less likely to be hired than women who do sell sexual services.<sup>67</sup>

For this reason, Satz believes that (female) prostitution is wrong because it is an image of gender inequality. However, she does argue that this is an empirical hypothesis, and additional research is needed to prove this belief. She does agree that in a different society, prostitution might be permissible but not in our unequal world.<sup>68</sup>

The argument of gender inequality argues that prostitution rests on and exacerbates gender inequalities. It rests on negative stereotypes of women, and men often seek prostitutes to exercise power over women. Therefore, it is incompatible with giving each other opportunities for self-respect, as is needed in a just society.<sup>69</sup>

Fabre argues that this objection is problematic. While some clients might want to exercise power over women, this is not inherent to prostitution. It is worthwhile to add that the negative view of prostitution is also shaped by stereotypes of men as being enslaved to their sex drives. This leads to a situation where the client and the prostitute dehumanize each other. This is objectification, but as discussed in paragraph 3.2, this objectification is morally benign if there is genuine consent among all parties.<sup>70</sup>

Many professions have a background of discrimination against women. While other female-dominated professions, such as teachers and nurses, do not primarily serve men, they are usually under the direct supervision of male bosses. However, most people think that professions such as teaching do not degrade women, while prostitution does. Prostitutes are seen as objects by other parties. While this is true, Fabre argues that there are far more nurses, teachers, and workers in other female-dominated professions than there are prostitutes. Therefore, they are bound to have a greater social impact than prostitutes. Practically all people come across nurses and teachers, while relatively few come across prostitutes. The stereotypes that prostitution promotes are also seen in far

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<sup>66</sup> Satz, *Moral Limits of Markets*, 144-148.

<sup>67</sup> Satz, *Moral Limits of Markets*, 149-150.

<sup>68</sup> Satz, *Moral Limits of Markets*, 149-150.

<sup>69</sup> Fabre, *Whose Body is it Anyway?*, 177-178.

<sup>70</sup> Fabre, *Whose Body is it Anyway?*, 178-179.

more visible sectors such as advertising, literature, and movies. Most people do not want to ban these sectors, although their influence is greater due to the visibility and popularity of this media.<sup>71</sup>

Another problem with this objection that Fabre points out is that it only applies to heterosexual prostitutional relations where the prostitute is female, and the client is male. This excludes the growing number of male prostitutes who mainly sell to men but also sell to women. There is also a small number of female prostitutes that sell to other women. Male homosexual prostitutional relationships sometimes replicate traditional gender roles, 'reducing' the male prostitute to the status of a woman. However, this is not always the case.<sup>72</sup>

The objection claims that any female prostitutional act with male clients reinforces gender inequality. However, this would mean that a consensual prostitutional relationship where the male client treats the prostitute decently, pays her well and does not foster negative views of women would still contribute to gender inequality. Satz would argue that it cannot be seen in isolation from the context in which the transaction occurs. However, in the example of a prostitute and client treating each other well and do not speak disrespectfully about their exchange to others, it is unlikely that this individual prostitutional relationship contributes to gender inequality.<sup>73</sup>

While proponents of the gender inequality objection are quick to call out the clients as acting wrongly, they do not hold prostitutes accountable. This is understandable in regard to prostitutes that are prostitutes because they have no alternative, but in other cases, they are hypocritical.<sup>74</sup>

Anne McClintock argues that the way in which many feminists view prostitution is paradoxical. The man pays for physical intimacy with the female prostitute, confirming the man's domination over the prostitute's sexuality. However, the fact that the man pays for physical intimacy confirms the opposite. The man is dependent on the woman's sexuality and work; otherwise, he would not pay for it.<sup>75</sup>

The negative image of the prostitute is not caused by prostitution, but by society being threatened by prostitutes. Prostitutes demand money for services that men usually expect for free. Prostitutes hereby insist that their sexuality has economic value. The prostitute oversteps the societal boundaries between the private and the public. McClintock argues that the male distribution of power and property is disrupted by prostitutes, which is why they are threats to the status quo. She does agree with Satz that the negative image hurts not just prostitutes, but all women. The image gives people the license to despise prostitutes, and ultimately, the license to despise any woman who takes sex or money into their own hands. While this does not mean that prostitution is pure empowerment, it does mean that it is much more similar to other types of work than society is willing to accept.<sup>76</sup>

I think that in cases where prostitutes have the ability to earn a living in another profession but still choose to pursue prostitution, it is infantilizing not to call them out for acting wrongly (according to them) while calling out their clients. The personal agency of prostitutes is neglected when there is no physical or economic coercion. The inequality objection itself shows an unequal view, as it acknowledges the agency of the male client, but does not acknowledge the agency of the female prostitute. I think this is a fatal flaw for the gender inequality objection. It shows an assumption that prostitutes are by definition 'victims', even if they are in no way forced into the profession. Among many feminists, the implication of women being passive victims of the patriarchy often shines

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<sup>71</sup> Fabre, *Whose Body is it Anyway?*, 178-179.

<sup>72</sup> Fabre, *Whose Body is it Anyway?*, 180-181.

<sup>73</sup> Fabre, *Whose Body is it Anyway?*, 181-182.

<sup>74</sup> Fabre, *Whose Body is it Anyway?*, 181-182.

<sup>75</sup> McClintock, *Screwing the System*, 72-73

<sup>76</sup> McClintock, *Screwing the System*, 90-94

through. This makes them blind to the ways in which women can be a part of the problem. I think that this view of women as passive victims exacerbates gender inequality far more than two consenting adults engaging in sexual activity in exchange for money.

For these reasons, prostitution does not inherently contribute to gender inequality. One could even argue that other sectors, such as the media, have a far more widespread effect on gender inequality and, by extension, have an effect on the image of prostitutes. Because many people rarely come in contact with a prostitute, their view of prostitutes is mainly reliant on media and the views of their peers. I argue that because of the lack of visibility of prostitution, prostitutes can only marginally contribute to gender inequality. If both client and prostitute (and possible pimp or brothel-keeper) treat the other with respect, it is unlikely for the individual exchange to contribute to a negative public image. This argument could be sound with regard to more visible types of sex work, such as pornography. The increase in women who sell sexual content online has an apparent consequence on other female public figures being expected to sell sexual content as well. These types of sex work are vastly different from prostitution, as they are much more visible. Therefore, prostitution is unlikely to contribute to gender inequality, making the argument unconvincing in proving the impermissibility of prostitution.

#### §4.3 Harms

*The final argument against the permissibility of prostitution is dependent upon the harm the profession causes to prostitutes and others. I will discuss the types of harm that prostitutes may face and whether this harm is preventable or inherent to prostitution itself.*

The first type of harm I want to discuss is the danger involved in prostitution. Prostitutes are more vulnerable to rape, murder, and violence than the average woman. A study of the mortality rate of prostitutes in Colorado Springs found that the standardized mortality rates among prostitute women was 1.9 compared to the general population, meaning that the observed deaths of prostitutes in the timeframe (1967-1999) were almost twice that of the general population. This includes those who were no longer active in prostitution, as well as those presumably still active in it. Among active prostitutes, the standardized mortality ratio was even greater, namely 5.9.<sup>77</sup>

The leading cause of death was homicide. Of the observed deaths of active prostitutes, fifty percent were murdered. Most of these victims were murdered as a direct result of their profession, by their clients or by a jealous partner.<sup>78</sup>

The second most common cause of death was death related to substance abuse. The causal link between drugs and prostitution is difficult to research as both drugs and prostitution are often illegal. Many prostitutes exchanged sex for drugs, but whether they started prostitution to fund their drug use or whether they were introduced to drugs after they started is unable to be verified. One interesting result of the study was that of the prostitute women who had died because of HIV/AIDS all had a history of injecting drugs, meaning that these deaths were presumably drug-related rather than sexually transmitted.<sup>79</sup>

The second type of harm prostitutes may face is mental health problems. Studies have shown that female prostitutes have high rates of mental disorders. This points to a considerable burden related to prostitution. In a survey, sex workers mentioned the downsides of sex work as financial dependence, fear of infection, leading a double life, problems with intimate relationships, customers'

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<sup>77</sup> Potterat et al., Mortality, 781-782.

<sup>78</sup> Potterat et al., Mortality, 781-782.

<sup>79</sup> Potterat et al., Mortality, 779-780.

demands, sexual problems, sex work itself, shame/guilt and working conditions. As upsides to the job, they mentioned money, independence, helping others and power.<sup>80</sup>

Because prostitutes are more vulnerable to violence, researchers argue that violence is a likely factor contributing to their poor mental health. The research found that 50.3 percent of prostitutes had a 1-year prevalence of a mental disorder, compared to 12 percent for the general female population.<sup>81</sup>

According to a study on the violence that prostitutes in the Netherlands experience, 97 percent of respondents said that they had experienced some type of violence in the past year. The violence was sorted into four main types: physical, sexual, emotional, and financial violence. Sixty percent of prostitutes experienced physical violence, 78 percent experienced sexual violence and 58 percent experienced financial violence. Of the respondents, 93 percent experienced emotional violence such as bullying, humiliation and stalking. Interviews with the respondents showed that the social stigma surrounding prostitution was in large part responsible for the emotional violence. Many of the responding prostitutes decided to keep their profession secret, in fear of negative reactions.<sup>82</sup>

Even though prostitution is legal in the Netherlands, 79 percent of prostitutes did not report any violence in the past year. One of the reasons for this is anonymity, both prostitutes with a permit and those without want to keep their identities concealed to prevent housing problems, problems with the government and social consequences for their children.

Another reason is that they fear that they will not be taken seriously by the police. A respondent told researchers that she had previously reported sexual assault, but the police did not think it was possible for her to be sexually assaulted because she was a prostitute.<sup>83</sup>

Those who work in a place with legal permits are afraid of the consequences that reports might have. Often such reports cause the police to give facilitators (i.e., brothels) warnings, that can lead to withdrawal of the permit. Prostitutes also have a call-button that is wired up to the police, but the establishment is penalized for the use of the call button by possible withdrawal of their permit after a set number of calls. This means that reporting violence could risk their place of business being shut down. Not only can this risk the prostitute's livelihood, the brothel-holders and club owners actively discourage prostitutes from reporting violence and disadvantage those that do, as they often forbid fellow prostitutes to testify.<sup>84</sup>

Those who work without legal permits are even more fearful of the consequences. They could be kicked out of their house or otherwise punished for working illegally. Clients are aware that most prostitutes will not report violence and that, if they do, the police often do not act. This further encourages violence.<sup>85</sup>

The Dutch laws surrounding prostitution do not focus on protecting prostitutes; rather, they are solely focused on preventing trafficking, as illegal prostitution can be linked to human trafficking. The research suggests that current laws make the threshold to report violence too high for prostitutes. Instead of legalization, decriminalization is needed to give prostitutes the same rights that other workers enjoy. This could lower the instances of violence and lower the threshold to report violence to the police.<sup>86</sup>

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<sup>80</sup> Rössler et al., *Mental Health*, 3-6.

<sup>81</sup> Rössler et al., *Mental Health*, 3-6.

<sup>82</sup> Kloek & Dijkstra, *Sekswerk en Geweld*, 42-45.

<sup>83</sup> Kloek & Dijkstra, *Sekswerk en Geweld*, 42-43.

<sup>84</sup> Kloek & Dijkstra, *Sekswerk en Geweld*, 45.

<sup>85</sup> Kloek & Dijkstra, *Sekswerk en Geweld*, 44-45.

<sup>86</sup> Kloek & Dijkstra, *Sekswerk en Geweld*, 49-50.

In 2021, draft legislation regarding prostitution was presented to the parliament. This law requires all prostitutes to have a permit, be at least 21 (instead of 18) and be self-sufficient. Those working without a permit risk a nine thousand euro fine. Clients who solicit a prostitute without a permit risk a nine thousand euro fine or a prison sentence. The permits would be available to anyone to look through. The legislation has not yet been enacted into law, but it could be effective in the near future.<sup>87</sup>

As discussed before, many prostitutes oppose permits as they work under anonymity for safety reasons. A duty to have a permit could therefore push these prostitutes into illegality. It is also unfair to 18–20-year-old prostitutes to suddenly be prohibited from doing their jobs because of the new law, as currently someone can legally be a prostitute after the age of eighteen. While the law is meant to strengthen the position of prostitutes, the research predicts that it will do the exact opposite. The effort to further regulate prostitution, is said to do more harm than good, while research pushes for decriminalization instead of legalization. Legalization puts prostitutes in criminal law, while they should be in commercial law like other types of labour.<sup>88</sup>

The research project 'Rights not Rescue' explores the working conditions of prostitutes in Botswana, Namibia, and South Africa. Prostitutes in all three countries report many instances of police violence, many report weekly police raids where they are beaten, robbed (of money and condoms) and often sexually assaulted. These individuals do not report these instances as their work is illegal in all three countries, and the perpetrators are the police themselves. The general public is aware of the lack of protection that prostitutes receive, which leads them to be frequent victims of violence by members of their communities as well.<sup>89</sup>

Even though prostitutes in these countries deal with high amounts of violence, not all of them want to stop being prostitutes. Many prostitutes complain about existing programs that help prostitutes, but have a strong focus on rehabilitation, often having the condition that they will only help if the prostitutes agree to quit prostitution.

The prostitutes themselves recommended approaches that they believed would lead to better working conditions. The focus is on programs that promote law reform, reduce violence, and create safe working environments that support the ability to use condoms. Holding police officers and others who commit violence against prostitutes accountable is key to improving the working conditions of prostitutes.<sup>90</sup>

The statistics mentioned above are clearly concerning, but I do not think that prostitution itself is the sole cause of these harms. Most of the reported violence comes from clients or police officers who are aware that they are unlikely to face consequences. Now, to bring this argument from the empirical to the philosophical, imagine a world where violence is taken seriously and reported to the police. Even though violent individuals still exist in this world, they are apprehensive about the potential consequences of their violent actions.

Consider that among librarians the rate of reporting violence is especially low, the police do not take reports as seriously as they do reports from other professions and violent individuals are aware of this. I think in this hypothetical world, librarians would be a lot more prone to experience violence, because the violent individuals know that their actions will have little to no consequences if librarians are their victims. Does this mean that librarianship should be illegal? I think not; the root cause of the harm lies in the fact that librarians are less protected compared to other individuals. Strengthening the protection of librarians would likely decrease the incidence of violence, as violent individuals

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<sup>87</sup> Draft legislation nr. 35715.

<sup>88</sup> PROUD Nederland, Reaction to nr. 35715.

<sup>89</sup> Arnott & Crago, Rights not rescue, 32-39.

<sup>90</sup> Arnott & Crago, Rights not rescue, 72-80.



slowly begin to realise that their actions carry consequences.

Therefore, it logically follows that violent individuals target those who are not as well-protected as others, irrespective of whether the workers in question are prostitutes or librarians. Consequently, the argument that the harms against prostitutes render the profession immoral is insufficient to show the impermissibility of prostitution.

## Conclusion

In this thesis, my aim was to answer the following question: 'Are the selected essentialist and/or economic arguments against the permissibility of prostitution sound?' This question can now be answered.

The selected essentialist arguments are not sound in that they do not lead to the impermissibility of prostitution. The first argument from Benatar was that if you call rape and paedophilia a special kind of wrong, you are consistent with the significance view but not with the casual view. However, the significance view is incompatible with the nature of sexual desire and cannot consistently call marital rape a special kind of wrong. Additionally, the casual view succeeds in condemning rape and paedophilia as a special kind of wrong because of rules that are not specific to sexual ethics such as the right not to be humiliated, bodily integrity and the protection of children.

The second argument states that casual sex is objectifying in a morally impermissible way. However, objectification is benign if there is genuine consent.

In addition, a prostitute does not sell their body, and they therefore do not sell themselves. If prostitutes did sell their bodies, they would still not sell themselves as sexuality is only a part of someone's identity.

The economic arguments are not sound either. Prostitution does not necessarily lead to exploitation because prostitutes are paid more than other types of female-dominated physical labour.

Additionally, prostitutes sell a service that people usually expect to be free of charge. In line with this, if the act of having sex for free is not exploitative, how can charging money for the same act be exploitative? If a fair price for sex is no price, prostitutes are surely paid more than fair. However, some prostitutes are exploited, but this is not a feature of the profession itself but rather a feature of the working circumstances in question.

Prostitution does not exacerbate gender inequality; as it can occur with regard to the humanity of all parties. The prostitute is not necessarily dominated by a man in a heterosexual prostitutional relationship. Rather, the prostitute has the power to charge for a service that men usually expect to be free of charge. Furthermore, prostitution does not only occur with a male client and a female prostitute. There is a negative image of prostitutes, but this is caused by attitudes toward prostitution and not by prostitution itself.

Finally, the physical and mental harms that prostitutes face are not inherent to prostitution, but they are inherent to the conditions under which prostitutes work. In addition, decriminalizing prostitution can make prostitutes less vulnerable to such harm.

In conclusion, the essentialist and economic arguments against the permissibility of prostitution are not sound. This means that the selected arguments in this debate do not prove the impermissibility of prostitution. The importance of this is the hope that we can collectively start solving the 'prostitution problem', which is not the existence of prostitution, but rather the harm done against prostitutes. There needs to be more nuance in the discussion, as prostitution is neither all good nor all bad. Prostitutes are not necessarily empowering heroes or passive victims of men. Prostitution is a profession with its unique struggles and intricacies, similar to any other profession. It has its dangers, but those dangers can be lessened if we decide with prostitutes instead of for or against them.

The problems that occur with prostitution are not inherent to the profession itself. In many of the arguments the prostitute is seen as a helpless victim instead of a human being with agency. Of course, those who are forced into prostitution should be helped, but those who are prostitutes out of their own free will deserve to have their agency recognized. Decriminalization and efforts to lessen



the social stigma surrounding prostitution will likely have positive effects on the working conditions of prostitutes. Instead of legalizing prostitution as if it is a controlled substance, we should decriminalize prostitution and let prostitutes breathe.

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