

Prostitution and harm: a reply to Anderson and McDougall

Ole Martin Moen

I agree with Scott A Anderson¹ and Rosalind J McDougall² that many prostitutes suffer significant harms, and that these harms must be taken seriously. Having a background in public outreach for sex workers, I share this concern wholeheartedly.

In the article to which Anderson and McDougall respond,³ I ask *why* prostitutes are harmed: are prostitutes harmed because prostitution itself is harmful or because of contingent ways in which prostitutes are socially and legally treated? This is an important question, since if the latter is the case, then the widespread moral and legal campaign against prostitution, rather than being a legitimate response to something harmful, is itself the source of much suffering and distress. In my article, I argue at length that it is indeed our social and legal treatment of prostitutes that is the dominant source of harm.

Neither Anderson nor McDougall seems to take issue with my rebuttal of (what I take to be) the nine most central arguments in favour of the view that prostitution itself is harmful. They do, however, raise a number of more general issues, and I shall now address these.

A worry raised by Anderson is that in defending the view that prostitution itself is not harmful, I am 'abstracting away from key facts about the context in which prostitution takes place', and as such, I 'fail to recognize how contextual, historical and social' prostitution really is. I think this is a good objection — so good, in fact, that I raise and discuss it in the article. I formulate the objection as follows:

[The objection] states that my argument is utopian: that prostitution is a complex practice deeply entrenched in a long line of other social and psychological issues, such as gender inequality, poverty, power hierarchies and exploitation, and that in abstracting away from these, my argument relies on presuppositions so far from the actual world that the

conclusions I draw have few, if any, practical implications.

I also respond to the objection. I explain why my view does not rest on utopian presuppositions, and then raise a counterchallenge to my opponents:

We can all too easily hear the voice of someone opposed to homosexuality half a century ago proclaiming that homosexuality is deeply interrelated with various complex social and psychological factors (such as depression, exploitation, rape, disease, drug abuse and unstable families), that these form part of what homosexuality is, and that trying to assess homosexuality apart from them is hopelessly utopian. Today, we are glad someone dared question their assumptions and look beyond their immediate social context in their assessment of homosexuality.

I challenge those who raise the objection to present their argument in a way that would not have yielded antihomosexuality results if it were employed in the first half of the 20th century. Sadly, Anderson engages neither with my reply nor with my counterchallenge.

A different point made by Anderson is that if prostitution became widely accepted, then this might have had consequences for how women in general are perceived and treated. This is a legitimate worry, since it is possible that even though prostitution is not harmful for the parties directly involved in the transaction, it might have significant negative externalities: for example, it might help create or sustain a society that degrades women.

This is a problematic objection, however, and there are three reasons why.

First, the objection presupposes, rather than establishes, that there is something wrong with prostitution. If prostitution is quite alright, then how does it have the power to degrade?

Second, the objection neglects male prostitution, which, in spite of being less visible, is also prevalent. Does Anderson take male prostitution to degrade men in general?

Third and most importantly, the claim that prostitution has bad consequences for how women are treated is an empirical one, and judging from the available data, the claim is unsupported. Women do not

seem to be treated badly in countries like Denmark, Germany, New Zealand and The Netherlands, where prostitution is legal. Indeed, countries with legalised prostitution seem, on average, to treat women better than the countries where prostitution is banned. Of course, this has a variety of causes, but at any rate, the data do not seem to support Anderson's claim.

Another point made by Anderson is that prostitution is problematic because most of us want to 'make sexual decisions free from the pressures of the market'. It is hard to deny that most of us want this; indeed, it is true for most of the decisions that we make and the activities that we engage in that we would rather be free from market pressures. Sometimes, however, we find that by using our skills to provide services to others, we can get something more valuable in return than we otherwise would have got. Indeed, selling services that we, in an ideal world, would rather not sell is sometimes the best option available in the non-ideal world in which we live.

The latter point is crucial, since if we say that those who currently engage in prostitution should make 'sexual choices free of pressures from the market', we in effect say that they should stop doing what they judge to be their best option (selling sex) and go for their second best option instead. For the very poorest, this could mean suffering from malnutrition or selling a kidney on the black market. For many poor men and women, engaging in prostitution has much in common with eating a UN food ration. Those rations might not taste good and one might not have a real choice about whether to eat them or not, but if one declares that 'no-one should eat bad tasting food rations', one does not take seriously the situations that some people are in. Surely, one might be opposed to the background conditions in which people find it worthwhile either to eat food rations or to sell sex, but if *this* is what one is opposed to, one should fight poverty, not the one way out of poverty that the people engaged in prostitution judge to be the best. We usually help people by giving them more options, not by taking options away.

Putting the issue of poverty aside, a premise on which Anderson's anticommodification argument rests, is that *either* we work as prostitutes *or* we make our sexual decisions entirely free from market pressures. It is important to keep in mind, however, that our ordinary sex and mating market is a market as well, and as

Correspondence to Dr Ole Martin Moen, Department of Philosophy, Classics, History of Art and Ideas, University of Oslo, Box 1020 Blindern, 0315 Oslo, Norway; o.m.moen@ifikk.uio.no

with any market, it is full of market pressures. What distinguishes the sex and mating market from the prostitution market is that in the sex and mating market, the only currency with which you are allowed to pay is sexual attractiveness (broadly construed). If casual sex is acceptable—a premise that neither Anderson nor McDougall seems to challenge—then why could not money also be an accepted currency? If it were accepted, it would provide a way for people viewed as unattractive—severely handicapped people, among others—to get sex and physical intimacy, and it would provide a way for poor people to get money. Surely, it would be better if the unattractive got their sex without paying and the poor got their money without providing sexual services, but that is not an argument against prostitution taking place in cases where the unattractive do in fact *not* get sex without paying and the poor do in fact *not* get paid without providing sexual services—and these are the circumstances in which prostitution takes place.

In cases where both parties benefit, it is good if prostitution takes place and a pity if it does not. If I am right, moreover, then if we started treating prostitutes decently (both socially and legally), prostitution would not be more harmful than a long line of occupations that we deem unproblematic. I am glad to note, moreover, that Anderson seems to come at least partially along the way to accept the view for which I argue: '[It might] be true that prostitution would be much less damaging for its practitioners if our attitudes toward it were different. So it may appear that the underlying act of performing casual sexual services for money is in its essentials mundane.'

Turning to Rosalind J McDougall's criticism, she first takes issue with my diagnosis of how prostitution is viewed. McDougall argues that 'contrary to Moen's characterisation, it is actually the contingent claim that is the pervasive one, at least in the spheres of healthcare and public policy.' It would surprise me if most people in healthcare and public

policy thought that prostitutes are harmed, not because prostitution is harmful, but because of the contingent ways in which we socially and legally treat prostitutes. If McDougall is right, however, I am happy to discover that I have more allies than I thought.

A further point made by McDougall is that the question of whether it is harmful to sell sex is an empirical one, and as such, that the method of conceptual analysis is of limited value. This is very reasonable, but I am puzzled why McDougall raises this as an objection to my argument. My argument is empirical through and through, and McDougall herself writes that my article 'shows an admirable engagement with empirical data.'⁴

Another criticism that puzzles me is McDougall's claim that there is 'a danger that we become too divorced from the real people's lives in which these issues are embedded', that we need 'empathy and engagement', and that 'we inadvertently become disrespectful of the real individuals involved' if we 'fail to engage the parties actually caught up in the issues being discussed'. This is also reasonable. But why does McDougall point this out in response to my article? If she just makes a general point, it seems unmotivated. If she claims that my arguments are divorced from real people, and that I lack empathy with, and show disrespect for, those engaged in prostitution, she should be explicit and back up her accusation.

Toward the end, McDougall writes that 'Moen presents a compelling argument that the exchange of sex for money need not be intrinsically harmful to the seller, but for the individuals actually involved in prostitution, does this conclusion really matter?' The conclusion might not matter much for the men and women who are harmed in their work as prostitutes (other than by telling them that the harm is not their fault). It should matter a lot,

⁴For a thorough empirical overview published shortly after my article was written, see reference 4.

however, for the rest of us when we make up our minds about how, socially and politically, we should treat those who engage in prostitution.

This relates to the question of prostitution legislation. Anderson points out that even though I do not discuss the issue of legislation in my article, it is possible to make a qualified guess as to what my view is. I can confirm that I support full legalisation, including the legalisation of organised prostitution. This is often viewed as a radical position. But why is it radical to hold that prostitutes should be given the same rights and opportunities as other workers? Why should the law deny prostitutes work contracts, salaries, sick leave and union membership? The burden of proof rests on those who want a different legal treatment for prostitutes—and if it can be shown that this unequal legal treatment leads to significant harms and helps uphold social stigma, it should be brought to an end.

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