

The Evolution of Human Rights

The Politics of Prostitutes' Rights

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Preface

“Prostitutes’ Rights and Other Human Rights Issues” is one of a series of articles discussing political, social, and theoretical problems associated with prostitution. Other areas of analysis include: Feminist Issues, Stigmatization Theory, Social Assimilation Theory, and finally Philosophical Issues. The first part of this writing is fairly easy to read. However, as the work progresses it becomes necessarily more complex as the etiology of human rights issues is explored.

It is important from the beginning to get an historical perspective on human rights. While this writing goes back more than twenty-five hundred years to develop a case for human rights, one will find in recent rights theory the belief that human rights had their beginning in 1789 with the Declaration of the Rights of Man and Citizen.¹ It is sufficient for all practical purposes to say human rights began in 1789, but for a better understanding of rights one needs to go back thousands of years in order to develop some fine points of the issue. Rights have gone through several transformations, from “right” to “rights,” and from natural law to natural rights to human rights. In the process of condensing the material, these terms are sometimes used almost interchangeably which can be confusing to the reader.

Prostitutes may wonder why some aspects of prostitution are analyzed here in a seemingly negative light. This practice follows from the belief that more good will come of being fair and objective with the issues of prostitution than being one-sided. The public is already predisposed to a certain attitude towards prostitutes, making it all the more important to be accurate and fair in making a case for prostitutes’ rights. There is a fundamental decency in the lives of prostitutes that needs to be brought out. This requires a degree of journalistic objectivity such that trust is promoted in the public mind, enough so to consider the positive aspects of prostitutes and

their rights.

It is a difficult task to assemble three thousand years of rights development in a few pages, let alone in the context of the development of prostitutes' rights. The field of rights is so broad that it requires considerable abstraction to condense it all into a form compact enough to focus on and discuss. As a result, there is some distortion in the transcription of historical events and theories cited. This can be corrected by referring to original sources or by seeking contemporary authorities in the field of the work of such thinkers as the early Greeks, Thomas Aquinas, Mary Wollstonecraft, John Locke, Thomas Hobbes, and Jean Jacques Rousseau. This writing uniquely incorporates biological and philosophical theories in attempting to resolve the issue of where rights come from in the first place. This theoretical approach presents certain complex arguments. These are necessary to develop a comprehensive explanation of the evolution of human rights.

Introduction Prostitutes are abused and afflicted by the unreasoned prejudices of many people in many nations. After centuries of discrimination and abuse they are beginning to seek their full and fair rights as human beings. With the pent-up emotions that come with oppression, it is likely there will be excesses and exaggerations in the political efforts that frustrate the rapid growth of the rights of prostitutes. Examples have been shown in the work of Phillip K. Howard that in the beginning of a rights effort, rights that appear within reach, suddenly begin to melt away because excesses and exaggerations of political rhetoric inspire a backlash in the public sentiment. In Howard's words, "The ostensible winners have found, not justice and fulfillment, but isolation and recrimination."²

Waging an effective campaign to change attitudes is a complex political undertaking. In order to be an effective political force, prostitutes must develop new methodologies to overcome their oppression. In the heat of political struggle, prostitutes are under pressure to be persuasive and credible. In the midst of intense pressure that can arise when a movement begins to become successful, they may temporarily lose their balance and say things that undermine credibility. Excesses may come back to haunt them and frustrate further political gains. Prostitutes seeking their rights do not need to relive the errors of other organizations as they build an effective rights campaign.

In order to make an effective case for rights it would help if prostitutes knew something about rights: where they have historically come from, and under what conditions they can be granted. To effectively challenge the legal system, the theoretical underpinnings of law must be known and understood. Much of what the American tradition of government knows of constitutional law has been inspired by Thomas Hobbes, Locke, and Rousseau. The laws of Western civilization, of course, go back much farther.

The foundations of political thinking surrounding the ideal of autonomy or self-determination formally began in the early Greek period. Autonomy, freedom, and liberty are all interrelated ideas. Rights as well as freedoms do not appear to be anything close to being absolute. Rather, their nature is a contingent one. There is a common assumption that the right of self-determination means the right to do anything one pleases. However, since a certain element of contingency is demonstrably a part of the exercise of right, some rights have priority over others when the context in which they are used radically changes. A person has the right to drive a car on the highway, but only if he or she is not intoxicated. An apartment dweller is free to do what he or she wishes inside the apartment to the extent that playing loud music does not infringe upon the neighbors' right of quiet enjoyment.

Obviously, everyone cannot be totally free without conflicts arising. Therefore, priorities are established and laws, morals, manners, and customs are developed in an effort to make the society a harmonious environment instead of a battleground for self-serving needs.

From early Greek times, the ideas of autonomy and self-determination have been linked with an objective state of mind. This means a condition of reasoning free of coercion or influence in which a person deliberates upon a wide range of choices before choosing an action on which he or she is at liberty to decide. Thought and reason play an important role in the concepts of autonomy, liberty, and freedom.

The Greeks were not the only philosophers to analyze and discuss the nature of rights. Almost two hundred years ago Mary Wollstonecraft uniquely blended ideas of citizenship, education, virtue and autonomy into a workable conceptualization of society. Her work is important for prostitutes to take note of because she left compelling clues that point the way for prostitutes to be assimilated into the

society as respected members of it.

The idea of human rights did not begin to accelerate in the Western world until the thirteenth century, when Thomas Aquinas proposed that all laws were or should be based on natural law. This, of course, was not a new idea, yet he presented it in a more convincing way than his predecessors. He established a firm foundation for political theories that later were to merge into the idea of human rights. By the time Hobbes, Locke, and Rousseau began to work with the natural law concept, there had evolved a transformation of the ideas of natural law into the concept of natural rights. In early Greek times, rights were considered inherent in the state, but now with natural rights theory, rights were to be viewed as inherent in the individual. Hobbes' work conceived of laws arising from a primitive state of social organization in such a way that the society would grow and not tear itself apart. In order for this growth to be assured, simple laws were established to manifest order in society. These laws, then, represented an early form of social contract. In a more refined way Rousseau's particular view of the social contract substantially changed the philosophical view of rights. They could not be characterized as deriving from mere opinions, since they were now shown to be a product of social and personal agreements. For example, if a person borrows money from a bank for a house, and fails to repay the loan, he or she agrees to give up possession of the house. It is not merely some person's opinion that the bank has that right; it is now an accepted fact.

The social contract theory never was able to fully explain the nature of such complex rights as Locke's assertion that people were due the right of "life, liberty, and the pursuit of happiness." The source of the authority of rights was still obscure. But a tradition of claiming rights that began in Rousseau's time still remains today. Prostitute activists themselves have adopted the style of rights claims that emanates from the eighteenth-century rights idea later redefined by the United Nations. Human rights writer Katrina Tomasevski sees the rights movement as having begun with the Declaration of the Rights of Man and Citizen in 1789. The emergence of the concept of human rights, separate and distinct from the idea of right, marks a fundamental seventeenth- and eighteenth-century shift from natural law to natural rights and from there into human rights.

The latest transformation in the evolution of human rights is marked by the world coming together in the 1940s to form a United Nations to further the interests of not only individual nations but also the world itself. The U.N., upon organizing, made rights claims in the same spontaneous way people had done more than two hundred years earlier. But with the emergence of the U.N., the claims theoretically had more authority. Explaining why the organization had the authority to claim human rights becomes very technical and requires a new conceptualization of the foundations of human rights in order to make sense of twenty-five hundred years of rights theory. Rights theories are many and diverse. With the rise of Darwinian biology a new methodology of conceiving of rights has emerged, beginning with the work of zoologist Theodosius Dobzhansky in his book *Mankind Evolving*. He viewed human cultures as an extension of biological adaptation with survival as the end of all new creations in nature. This seminal idea has now become more complex and is represented in complex form under the heading of Living Systems Theory.

Life forms from the cellular level up repeatedly exhibit certain tendencies to organize, survive, and communicate. Societies are an extension of biological processes that go back to the cellular level. The U.N. might be considered part of these biological processes. Living Systems Theory would view the formation of the United Nations as a naturally occurring event at the supranational level of organization. A theory can be drawn from Living Systems that imbues the U.N. with the moral authority to make claims such as those of human rights based upon the way the organization and purpose of the U.N. resembles other biological strategies: minimizing conflict, maximizing harmony and productivity, and enhancing the ultimate survival of the biological system whether we are talking about microorganisms or people.

While it may seem out of place to construct such an elaborate description of rights using theoretical biology, this theory furthers the cause of prostitution because its unique approach sheds new light on many old and intractable problems of rights theory. A theory of how living systems survive by better organizing is also relevant to the political efforts of prostitutes. Higher levels of organization and communication are necessary for prostitutes to survive in the highly competitive world of sophisticated political forces. It is only

natural for a world organization to evolve to increase the political visibility and effectiveness of prostitutes. Conventional society feels there are many problems that accompany prostitution. An intermediary organization between prostitutes and mainstream society will clearly be helpful in resolving some of the potential conflicts that may arise by legalizing or decriminalizing prostitution. Prostitutes are more accustomed to less structured organizations. But if the desired ends of prostitution politics are ever to be realized, there is no way to avoid building a world organization of prostitutes in the tradition of other professional groups that have become accepted and vibrant participants in society.

Introduction

Prostitutes are abused and afflicted by the unreasoned prejudices of many people in many nations. After centuries of discrimination and abuse they are beginning to seek their full and fair rights as human beings. With the pent-up emotions that come with oppression, it is likely there will be excesses and exaggerations in the political efforts that frustrate the rapid growth of the rights of prostitutes. Examples have been shown in the work of Phillip K. Howard that in the beginning of a rights effort, rights that appear within reach, suddenly begin to melt away because excesses and exaggerations of political rhetoric inspire a backlash in the public sentiment. In Howard's words, "The ostensible winners have found, not justice and fulfillment, but isolation and recrimination."² Waging an effective campaign to change attitudes is a complex political undertaking. In order to be an effective political force, prostitutes must develop new methodologies to overcome their oppression. In the heat of political struggle, prostitutes are under pressure to be persuasive and credible. In the midst of intense pressure that can arise when a movement begins to become successful, they may temporarily lose their balance and say things that undermine credibility. Excesses may come back to haunt them and frustrate further political gains. Prostitutes seeking their rights do not need to relive the errors of other organizations as they build an effective rights campaign. In order to make an effective case for rights it would help if

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political visibility and effectiveness of prostitutes. Conventional society feels there are many problems that accompany prostitution. An intermediary organization between prostitutes and mainstream society will clearly be helpful in resolving some of the potential conflicts that may arise by legalizing or decriminalizing prostitution. Prostitutes are more accustomed to less structured organizations. But if the desired ends of prostitution politics are ever to be realized, there is no way to avoid building a world organization of prostitutes in the tradition of other professional groups that have become accepted and vibrant participants in society.

"To speak of prostitution and civil rights in one breath, moves the two into one world, at once exposing and narrowing the distance between them"

Katherine MacKinnon

The Evolution of the Prostitutes' Rights Movement

In the last two decades prostitutes have increasingly come together in a worldwide effort to secure their rights. Many independent organizations have evolved in many different countries. The voice of these organizations has been to some extent represented by The International Committee for Prostitutes' Rights or (ICPR),³ an organization founded by Margo St. James and Gail Pheterson following the First Whores' Congress in 1985.⁴ ICPR represents perhaps one of the best and most systematic efforts prostitutes have helped create to promote their rights in the world today.

In her book *A Vindication of the Rights of Whores*, Pheterson reveals many kinds of abuse prostitutes have suffered. She speaks of stigmatization as the mechanism of the oppression⁵ of prostitutes because it objectifies them and reduces them to an inferior status in society.⁶ Although she does not elaborate this idea specifically in terms of dehumanization, the theme strikes a familiar chord in the writing of Richard Rorty. In his

view, "People do not believe they are being inhuman (when they reduce people in stature), but rather are discriminating between true humans and pseudohumans."⁷ Like the Nazis ridding the world of Jews, such people "take themselves to be acting in the interests of true humanity by purifying the world of pseudohumanity."⁸ The fact that certain political and economic forces benefit by the easy exploitation of prostitutes makes the perpetuation of harsh stigmatization even more questionable. For instance, it should be self-evident that the large-scale trafficking in women for the purposes of prostitution runs against the grain of civilized behavior and moral action.⁹ The fact that this practice exists with virtual impunity lends credence to the notion that not only must there be raw political forces that sustain such practices, but that there must also exist a system of opportunistic intellectual thought promoting the practice. The intellectual, seeing himself or herself an authority on all things reasonable, yet not understanding his or her own faulty reasoning, sees no harm and advises politicians against taking seriously charges that human rights violations are regularly occurring. Therefore the rights struggle is not merely a political one, it is an intellectual one as well. The political strategies for overcoming rights abuses must be broadened and must become more sophisticated in order to overcome both predatory political policies and intellectual opportunism. While most prostitutes tend to agree that change is needed, how such changes are to be implemented is a matter of contention. The systematic accumulation of documented cases of human rights abuses is one of several effective strategies for overcoming oppression. Tangible evidence of abuse surely will firm up any reasoned claims for social change; such a body of evidence is difficult to discount. Another method to overcome oppression is to build a highly structured and formal world organization of prostitutes, staffed with salaried people. Its purpose would be to serve as a political representative of prostitutes in mainstream politics. Unfortunately, prostitutes appear to be more comfortable with loosely structured organizations. Thus, it may be some time before they are willing to concede to structural changes and build a larger world organization. Another vehicle for change is to support the creation of a variety of professional publications so that prostitutes and the public can be better informed and less apt to make decisions based upon

misinformation or stereotypical ideas. While a highly structured world organization may be well suited to accommodate the style of higher level politics, a professional publication can appeal to the intellectual interests of a segment of society that is often unheard in politics, yet possesses a great deal of influence in bringing about needed social changes if they have a reason to make their thoughts known. Building a world organization, supporting the growth of organizations such as ICPR, and promoting professional publications so that the nature of sexwork can be more commonly understood are all good methods for promoting prostitutes' rights. However, there is a variety of upstart politics that needs to be discussed, one that can harm the rights effort rather more than help it.

Old Strategies and New Ones

The traditional approach in upstart rights politics tends to seek support from the constituent population wherever it can and by whatever means are legal. In the initial formation of a political organization it is passions that most effectively bring people together and not the intellectual reasons for a cause. Passions and beliefs do play an important role in the formation of rights-claims by prostitutes. But at some point there must be a fundamental shift in the political centering from rhetoric to reason, as is later discussed. In this respect, the political reasonings of today's leaders in sexwork are entirely in line with what one would expect in the early development of an organization. If the political organizing of prostitutes evolves much further, and begins to make serious inroads towards changing statutes significantly, then any doctrinal errors made or refinements not implemented now will strengthen the backbone of opponents' arguments in restraining the growth of prostitutes' rights. Prostitutes have finite resources; therefore there is no point in creating problems now that must be later overcome, putting a strain on their scarce resources because of short-sighted planning. Political passions and rhetorical arguments must be set aside to let reason prevail and effect the greatest social change in the future. It is better to stress defensible claims than to invent ones in the heat of arguments that may seem politically expedient at the time.

Polemics, histrionics, and outright distortions of the truth are

many times used to garner public attention and enlist support from the community. The problem here lies in the fact that the public is aware of the tendency of political groups to put a deceptive “spin”¹¹ on the presentation of the facts. This may be a time-honored tradition in politics that works for a suburban garden club campaigning for a building variance from the city council, but it will not work effectively in the instance of prostitutes seeking the widespread decriminalization of prostitution. Any claims that prostitutes put forth as credible arguments for the legalization of prostitution, or for its decriminalization, necessarily will meet with intense skepticism. From the beginning prostitutes have a bad moral reputation.¹² Since the public does not have an intimate knowledge of the decent nature of many prostitutes, they can easily think of prostitution existing on the moral level of lying and theft. If prostitutes attempt to pass off bad arguments as good ones the public is not likely to be deceived. Any deceptions the public does find will likely prove what they want to believe in the first place—that prostitutes are immoral and that they will use any fabrication or sophistry they can to con the public.

This is not an ordinary struggle; it is an extraordinary one that must overcome the most deep-seated of human prejudices. Since conventional politics relies in large part on creating an image of the good, the right, and the reasonable, prostitutes must begin a conventional fight with the disadvantage of being profoundly morally stigmatized. Therefore, a new strategy is necessary to accommodate the special needs of the prostitutes’ rights effort. One possible strategy is simply to be open and fair about the issues. It takes less energy to defend an honest appraisal of rights than to defend arguments based on political sophistry. Instead of finding denials and misrepresentations, the public might perhaps be taken off guard by the directness and honesty of the political effort. This would give prostitutes the added advantage of winning support through people’s hearts as well as through their minds.

The Conventional Politics of Rights Movements Modeled After the Civil Rights Movement

Since the Civil Rights movement began more than three decades ago there have been many attempts by many people

to secure their full and fair rights. Claiming rights has not always been an easy road to travel since there is no guarantee those rights will be ceded by powerful interests in society. After decades of rights struggles fought by a diversity of political groups, prostitutes are now leaping into the fray to claim their rights. But there is a growing disenchantment in society with rights issues in general. To those weary of rights issues, prostitutes are just another political group out to get whatever they can by claiming that their rights have been abused. It is therefore necessary for prostitutes to develop a new methodology for conveying their grievances to society in a credible and compelling way.

In *The Death of Common Sense* Phillip K. Howard conveys the idea that the combative political approach may not be as desirable an option as it once was.

Like printing money, handing out rights to special interest groups for thirty years has diminished not only the Civil Rights movement but the values upon which it was founded. Rights, intended to bring an excluded group into society, have become the means of getting ahead in society. But everyone is losing. It is the nature of continued conflict, as well as law's inadequacy as a vehicle to happiness, that the ostensible winners have found, not justice and fulfillment, but isolation and recrimination.¹³

As more and more rights claims are set forth, there is an effect on the public perception of issues similar to that which printing more and more money has on the economy. L.W. Sumner, a pioneer in the abortion rights area, adds to these insights and emphasizes the need for a foundational theory to support rights-claims instead of merely employing more rhetoric.

The resulting inflation of rights-rhetoric threatens to devalue the notion of right. If we are to continue to take rights seriously we must impose some control over the proliferation of rights-claims. The needed control is a standard that will enable us to sort authentic from inauthentic rights. A standard of authenticity, in turn, must be grounded in a moral theory. Thus if we are to continue to take rights seriously we must contain them within the framework of an independent plausible moral theory.¹⁴

Feminist writer Hilary Charlesworth briefly touches on the issue of rights struggle and rights rhetoric in her feminist critique of rights. Adding to what Sumner says, yet in a

different context, she says, “Recourse to the language of rights may give a rhetorical flourish to an argument, but provides only an ephemeral polemic advantage, often obscuring the need for political and social change.”¹⁵

So much of what is supposed to pass as reasonable political theory in rights struggles is not reason but rhetoric. Thus it is important to examine the nature of reason and rhetoric, albeit briefly. For people to make an autonomous informed judgment about the issue, they must be sure they are not being coerced into taking an illogical position based upon hype and high emotion.

For rights claims to be credible there must be a logical ladder linking causality, experience, and theory. Political rights claims often seem logically disconnected from the larger body of political and philosophical theory. As Sumner implies, too much rhetoric and too little foundational theory are likely at the source of this disconnection. It is important for serious political movements to recognize what dogma and rhetoric are, so that they can move forward rapidly.

The abstract nature of the word rhetoric, and the many levels it operates on, can be confusing. If a person’s goal is to make meaningful changes in rights legislation in his or her lifetime, rhetoric in political dialogue must be pushed aside to let reason move events forward at the fastest possible pace. Both rhetorical and dogmatic prescriptive beliefs woven into political theory undermine the attractiveness of a political cause. Ideas are better conveyed to the larger outside world in terms of refined rationality instead of rhetoric.¹⁶ This should be evident in the very definitional distinction between the words reason and rhetoric. Rhetoric inspires more rhetoric, and consequently more smoke and mirrors to make logical points look more rational within the heat of political arguments. Howard observes, “The fight for rights can become obsessive, like a religious conviction.”¹⁷ This would be the natural outcome of the “inflation of rights rhetoric.” Since there is no plausible moral theory to stabilize the political discussion, it tends to degrade into an emotional scuffle. The public reaction to these kinds of arguments is to turn a deaf ear to them because they lack recognizable form and sensibility.

Claiming Prostitutes’ Rights

In *A Vindication of the Rights of Whores* a rights claim is made for prostitutes. The International Coalition On Prostitutes' Rights believes that prostitutes have the right of self-determination.¹⁹ This view is restated by Priscilla Alexander in *Sex Work: Writings By Women In the Sex Industry*, who believes that "women have the right to make up their own minds about whether or not to work as prostitutes, and under what terms." She claims they have the right to work as "freelance workers as do nurses, typists, writers, doctors,"²⁰ sincerely believing that prostitution should remain under the control of prostitutes. But, this type of contractarian²¹ claim tends to oversimplify the moral world and discount a whole galaxy of other considerations. This argument reduces to: There are many occupations in the world, prostitution is an occupation, therefore prostitutes have the right to choose whatever work is suitable for them, which is employment as prostitutes. A method of viewing this oversimplification is perhaps to be seen in the example of a person caught practicing medicine without a license. He or she may believe they have the right to practice medicine as much as anyone else does, but the right to practice is determined in another way than by way of a rights-claim. There are, for instance, problems historically associated with unlicensed practitioners, problems which have required governments to regulate and demand licensing of practitioners.

A claim of a right must address the entire scope of the issue or it is one-sided. The side-benefit of bringing out all viewpoints possible is that it gets the issues out on the table where they can be more adequately resolved in the best way for all parties concerned. The rights claim carries with it the same expression of a moral claim or a legal claim. It is also expressed as a rhetorical tool to enlist widespread support for the cause of prostitutes. Because there are moral intonations associated with the assertion, it must be examined more closely for its worth as an ethical statement.

From a purely ethical standpoint, the claim that women have the right to be prostitutes as much as typists have the right to be typists is deficient in a theoretical underpinning. Political views that arise from feelings and intuitions are categorized in various ways by philosophers. Two of these categories are ethical intuitionism and subjectivism. There are many problems in basing a political theory on these kinds of

arguments. If one person can claim a right without providing a reasoned basis for that claim, there is no logical restraint on other people doing the same for their preferences. If everyone is simply making unsubstantiated claims, then the rules of the prevailing ethical system will likely favor force, persuasion, or manipulation as the factors deciding which argument will prevail. These are “who is to say” types of arguments that in the end tend to appeal to the force of personality, rather than trying to reach a logical agreement. In reasoned ethics, morality is not so much an issue of “who is to say” as “what is to say.”²² A reasoned argument with a substantial theoretical foundation is usually favored over arguments that can give no comprehensive explanation for their existence. However, an unfounded belief is not necessarily untrue simply because it can cite no logic to support it. A belief may have merit, yet be presented incorrectly. Such beliefs may simply be waiting to articulate themselves given advancements in knowledge that will reveal better methods of doing so.

There are at least three problems with these rights claims that come to mind. First, in no case does the reader know where these rights come from in the first place. Such a proposal could be considered unfounded if not explained in detail. With valid claims follow detailed explanations. Details are necessary to understand how a proposal fits with a whole other set of ideas about the world. Good theories tend to integrate on a broader scale of psychological, scientific, and social knowledge than self-serving theories which only address issues in a narrow sense. Second, such rights claims assume that each woman will be making an informed judgment concerning whether she will become a prostitute as opposed to another career path. Since it is known that powerful persuasive techniques exist that can unfairly manipulate a person into making an unreasonable decision (such as advertising and selling strategies), constraints must be defined that protect uneducated, inexperienced, and weak-willed people from falling victim to social fads or to people who wish to exploit their sexuality. In the short-term, prostitution can seem an attractive career option, but there are many people who, once exploited for their sexuality, later find it exceedingly difficult to develop a new career. Third, there is a semantic skewing of the word “right” which uses it in a static sense. The static sense of the word creates the

illusion that a right is a factual license to do what one wishes. When right is used in a dynamic sense, the resulting idea of “right” acknowledges that certain obligations must be met before the right sought is valid. A right is a (living) fourth-order²³ contingent state of affairs, not an absolute one etched in stone.

There are theoretical problems that need to be touched on in considering various claims that prostitutes have rights. The most evident problems with these claims are: (1) a moral claim of a universal right is being made, which implies there is some underlying universal norm governing behavior that conflicts with an observable condition of cultural relativism governing many forms of behavior; (2) the prevailing cultural morality views certain behaviors to be better than others as borne out by centuries of observation of such actions; being a typist or doctor is an occupational undertaking that is not as fraught with hazards and secondary social problems as that of being a prostitute;²⁴ and (3) freedom is a dynamic condition of action that requires that deliberation be evident before freedoms can be realized.²⁵ Interpretations of human rights repeatedly overlook the rich heritage of rights and freedoms as they are linked with the idea of reasoned actions. What prostitutes are asking for is the right of autonomous action, or self-determination. But a claim of autonomy must be followed by an explanation and understanding of what the term means in the first place.

Autonomy and Self-Determination

The fight for prostitutes’ rights is essentially a fight for autonomy. The word autonomy comes from the Greek: “autos (self) and nomos (rule or law).”²⁶ Autonomy is by no means a simple idea. Since early Greek times the idea of autonomy has been consistently associated with such concepts as reason, freedom, virtue, and deliberation. And these conceptual linkages have not occurred only in the writings of males.

In the nineteenth century Mary Wollstonecraft, viewed by some as the mother of feminism,²⁷ employed the concept of virtue in her reasoning as to how autonomy can be achieved through reason and virtue. “Reason is the capacity for self-government (self-rule) in its most basic and literal sense; that is, our capacity for engaging in principle-based action, controlling our baser hedonistic instincts as individuals.”²⁸ Her ideas are unique because they explain how a person can

simultaneously live by rules that satisfy the need to be social, while at the same time being self-governing. She combines citizenship and self-government in the same breath while adding a new dimension to the idea of virtue. In this sense, her work is important to prostitutes, because within this theoretical framework lies a possible foundation for expanding their rights.

It is important to note two problems that are associated with using the concept of virtue in a political theory where women and prostitutes are the central issue. First, feminists are attempting to philosophically break away from Aristotelian virtue-centered ethics because they claim such ethics ultimately favor men over women.²⁹ Care-focused feminists feel they have a more humane and sensitive theory that includes women in society as equals—something feminists believe virtue-centered ethics cannot do. The problem here is that an ethic of care asserts itself as a virtue both intellectually and morally in a world where there exist many other forms of virtuous enterprises necessary to inspire a fair society. The virtue of care, in a sense, becomes more important than the larger category of virtue itself. This is somewhat akin to presuming a state to be of greater stature than the nation it resides in. While this to some extent is an oversimplification of the ethic of care, it is a factor to be considered when attempting to discourage (Aristotelian) virtue-centered ethics in favor of care-centered ethics, since there is a conflict of categories that can cause problems in the outcome of subsequent logics if not corrected. Power-focused feminists invert their priorities in a similar way by claiming oppression to be the general category of moral description instead of immorality. Oppression is one form of immoral behavior amongst a galaxy of other descriptions of immorality.

The work of Mary Wollstonecraft is a good example of a feminist philosophy that strikes a balance between care-centered ethics and virtue-centered ethics (see androgyny).³⁰ This balance can be seen in the statement, “Virtue is founded on sociability, an ever expanding circle of esteem and compassion.”³¹ Using the concept of virtue, Wollstonecraft derives a theory of rights that can be seen in the statement by Sapiro about her philosophy: “If we have capacity for individual government, otherwise known as virtue, we may not be systematically denied our rights to participate in our

self-government by governments as they are more commonly understood: the power relations within social institutions.”³² The second problem with using the word “virtue” in a political theory derives from the fact that some people conceive of virtue as an extension of some religious belief. Virtue, however, is also a secular term describing exemplary actions that promote personal growth and the common good. It is a condition of being that manifests itself in the making of good choices. It is a highly objective condition in which a person must constantly select from a wide spectrum of choices. It is known by experience that some choices are better than others, and that some lead to pain while others lead to pleasure. The writings of the early Greeks make an important linkage between emotions and virtue. Socrates, in particular, saw “emotions as an obstacle to both objectivity and autonomy,”³³ and Aristotle later saw the right of choice as necessary for virtue to exist at all.³⁴

Making good decisions is important towards realizing a state of autonomy. Bad decisions can impinge upon one’s freedom, and on others.’ As Stephen Nathanson says,³⁵ “...Then, autonomy involves a striving to be objective. The more rational³⁶ we become, the freer we can be of our surroundings and the more control we have over ourselves.”³⁷ Mary Wollstonecraft recognized that controlling the hedonistic instincts was a necessary function in gaining autonomy. Taking all of these elements into consideration, it is essential to recognize the place of virtue in any rights theory in which people are seeking their autonomy. A rational person is compelled to recognize that unreasoned beliefs can be parasitic on one’s attempts to become autonomous. Therefore, education and deliberation are necessary to overcome certain political obstacles in the struggle for autonomy. What oppresses the individual may have something to do with how accurately they comprehend the complexity of the world, its rights, obligations, and traditions before that person can be recognized as possessing rights.³⁸ Obligations and responsibilities that derive from this recognition play an important role in the development of an autonomous state of being.³⁹ Dr. Martin Luther King Jr. incorporated the idea of rights as commensurate with obligations⁴⁰ in his political theory guiding his actions in the Civil Rights movement three decades ago. Rights activists since then have tended to forget this relationship. Since the

goal of self-determination for prostitutes is theoretically a complex process, it requires that a person have a broad comprehension of the world so that the values and attitudes of prostitutes assimilate well with the values and virtues of the more powerful mainstream society. In this respect, there must be a thoughtful organization of prostitutes to nurture and guide this development towards a maximal state of autonomy. Such an organization is needed because there are fundamental problems in the assimilation of certain values of prostitutes with those of mainstream society that be resolved before prostitutes' rights of self-determination can be achieved.

Obstacles to be Resolved Towards Achieving Autonomy

An obstacle in the path of gaining greater autonomy is failing to realize what other people in the world do and what their sexual sensitivities are. Most of the world is not involved in sexwork; rather they are involved in building highways, designing cars, teaching children, and planning new technologies for a better future. These people, such as bus drivers, sales clerks, meter readers, factory workers, and hospital employees, to name a few, all have their beliefs about how sexuality should be legitimately expressed. Personal feelings of sexuality are very subjective and they cannot be denied to exist as real experiences in people. The "peace, prosperity, and productivity"⁴¹ of a harmonious society composed of many different jobs and professional occupations can be disrupted by sexual expressions that are out of their time and place. Achieving autonomy requires an understanding of how, for the most part, the rights of one person or group must not impinge on the rights of other persons. Rights are usually contingent and often address prior considerations which are not always easy to grasp at first glance.

If autonomy means the ability to self-rule, it implies an organized state of existence, not the unbridled freedom to do anything one chooses without thought or consideration of others.⁴² Freedom, rights, and autonomy all have long histories of being associated with the reasoning or deliberative state of mind. The process of deliberation encompasses a sensitivity to others. If certain personal actions cause reactions in people, then before people act in society they must think about the effects of their actions or suffer the consequences of an overreaction. Sometimes the reactions are so laden with emotions they cause a violent overreaction. A

man in a hurry might push another man aside. The person offended might take the incident personally and hit the imprudent perpetrator in anger. If laws, customs, morals, and manners did not exist, fights like this would be frequent and violent. They would arise from trivial things, yet they would affect the survival of many given the capacity of human emotions to wreak havoc if no restraints are set in place.⁴³ Laws are the tangible recognition of the interrelated nature of the social world. With this in mind it should be evident that everyone cannot be fully autonomous at the same time without conflicts arising.

Another example of rights conflicts can be seen in the life of an apartment dweller who persists in playing music loudly into the night to the discomfort of a neighbor, to such an extreme that the noise inspires a violent confrontation. People have been killed simply because they turned their volume up too high. The autonomy of the apartment dweller who wants to play loud music is restrained by legal statutes from doing so in recognition of the rights of others to the quiet enjoyment of their lives. In the same sense, any rights granted to prostitutes will set limits on their behavior. For instance, the flagrant solicitation of sex, from a man not looking for sex, can interfere with the tranquillity of a marriage by coercing the man into a sexual act he was not fully expecting nor willing to initiate. Many people find flagrant sexual expressions embarrassing, offensive, and intrusive into the tranquillity of their lives. While flagrant sexual expressions may not cause much of a reaction in the life of a sexworker, it can be psychologically damaging to others. When people are offended or traumatized they can become part of an emergent political force that seeks to legally and morally discourage such flagrant acts.⁴⁴ To have the freedom to move about in the environment requires that a person have a comprehension of the many lives of others around them.

Grasping the awesome size of America is difficult to do. A telephone book that listed a phone number for each of two hundred and sixty-five million Americans would be about 45 feet thick.⁴⁵ If you averaged a short paragraph outlining the type of sexual sensitivity each person had, the book's dimensions would obviously be enormous. When people say they should be at liberty to express their sexuality in whatever way, they are not taking into account the sheer size and variety of the population. In this sense, if prostitutes are to

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Possible Methodologies for Achieving Self-Determination for Prostitutes

First, if prostitutes desire self-rule (autonomy) they must demonstrate their ability to engage in reasonable debate about their problems and to assume responsibility for their actions. These requirements for self-rule extend to the idea of a world organization of prostitutes. Such an organization should take upon itself the task of setting ground rules for prostitutes designed to curb excesses such as predatory or flagrant solicitation, and the false representation of the nature of their services that would inspire resentment, hatred, and scorn in the public eye.

Second, autonomy is best facilitated by education. No one else is likely to help educate prostitutes to a level where they can achieve a degree of autonomy—so they need to help

themselves. Educating themselves, and demonstrating responsible self-rule in this manner, can have the secondary effect of giving cause for organizations such as the United Nations to fund programs that demonstrably work. Education is essential in overcoming some forms of oppression that prostitutes experience. There is a fundamental linkage between the presence of oppression and the lack of education in society.⁴⁷ When people are not educated and informed, they can be coerced into making decisions that are deleterious to their attempts to be autonomous. Education would include keeping prostitutes informed of the dangers of their profession,⁴⁸ stressing mature ways of handling the passions of men which sometimes can get out of hand when a predatory game-state arises between parties. Street prostitutes are sometimes naive when it comes to interpersonal relationships. Some are distanced⁴⁹ from society and live without the experience of knowing real friendship. Teaching practical things that are obvious to others but not to some prostitutes, is essential.⁵⁰ “Friendship is a freely chosen relationship in which one ‘intends’ the well-being of the other.”⁵¹ This needs to be spelled out to many people who are vulnerable to exploitation. This is necessary because some prostitutes being naive and credulous to friendly feelings mimicked by a crafty predator have the habit of getting into exploitative relationships. Street prostitutes need friends who “intend” them no harm. If there is an organization that seeks to build a trust among prostitutes, there is the potential for developing valuable non-competitive, non-predatory relationships. Intending no harm also extends to exploitation because in politically oriented groups there is sometimes a tendency to exploit people for their allegiance to the group’s cause. If members of a group are only there to be pawns in a political power struggle, the vicious circle of exploitation would repeat itself in the lives of women who have had enough of the subtleties of exploitation. Street prostitutes in particular have the need to find a political advocate as well as a source of genuine friends. Thus, an organization of prostitutes must find a balance between needing people for political purposes and engendering a sense of community and friendship.

Third, the police cannot be in every bedroom to protect a person’s rights. Some prostitutes, particularly street prostitutes, live in an environment that is beyond the reach of

the law. In order to more adequately protect themselves, prostitutes could use the help of a professional organization that could identify social predators who abuse and exploit prostitutes. A professional organization could be highly effective in tracking down abusive men and encouraging prostitutes to bring charges against abusers while at the same time protecting them from harm once the abusers are back on the streets within hours of being picked up by the police—having posted bond to get their release. Some prostitutes know the language, location, and habits of certain violent men better than the police do and can discourage such predators in ways they can understand, given the cooperation of a large system of prostitute organizations and some cooperation with the police. While prostitutes may be inclined at first not to cooperate with the police, there are ways both can mutually benefit. The benefit of cooperation is that protecting prostitutes from fraud, coercion, and rape becomes a more achievable goal.

Fourth, the restraint of emotions leads to a higher form of personal freedom and autonomy. Western nations have been built on a tradition of deferred gratification. To become autonomous is to learn how to suppress impulsive behaviors so that long-term goals can be achieved. Theories of autonomy link deferred gratification to autonomy.

Philosopher Gerald Dworkin talks about this higher sense of autonomy as “a second-order capacity of persons to reflect critically upon their first-order preferences, desires, wishes, and so forth and the capacity to accept or attempt to change these in light of higher-order preferences and values.” 52

Young people, who of their own will discover the world of sexwork, should be encouraged to think of it as a career option only in the sense that they become aware of the dangers of making a career transition once their youthful appeal has passed. Veronica Monet calls this building your bridge. While there are certainly many middle-aged prostitutes who have not had transition problems, there are others who have been caught in the painful situation of finding diminishing returns as prostitutes and no alternative possibilities for employment. Self-government for prostitutes means anticipation and taking care of social and occupational problems that arise. The more prostitutes take responsibility for themselves, the more the public will be inclined to accord rights and protections to them.

Fifth, rights derive from contingent circumstances. Prostitutes cannot enjoy rights without acknowledging a broader system of rights and obligations. To have rights requires that the rights of others be correspondingly acknowledged. This would require a change in attitude: from being an outlaw to striving to be in harmony with mainstream society. Being an outlaw only gives a person the symbol of autonomy, not the substance of autonomy. At some point it is both vain and fruitless to sustain the image of an outlaw when there are ways of finding social acceptance as ordinary citizens.⁵³

Sixth, it must be noted that parents and the society as a whole clearly have an important role in bringing up the children who are its future citizens. The fact that parents and governments invest time, energy, emotion, and money to bring up young people often creates in their minds a perceived right to guide young adults into career paths they feel are best for them. Out of this intimacy and/or investment on the part of parents and government a protective attitude evolves. When a third party influence comes along—one that does not have such an investment in the young person's upbringing—a fundamental conflict of forces ensues, giving rise to strong feeling about the meddling intruder in the minds of government and parents. Since the short-term gains of being a prostitute while very young are potentially substantial, an allure is created that can pull young people off the path of development their parents had intended and invested in. Any outside force that has this kind of potential to wreak havoc on a parent's dreams is going to be highly discouraged if not stigmatized in the parent's thinking. Stigma can also be manifested by the sheer politics of power. Whether the parents are right or wrong in their belief that they should control the development of their children's sexuality, since they have such an extensive investment in their children any perceived threat to that perceived right will unleash enormous powers among parents who feel threatened. It would be imprudent for prostitutes ever to tackle head-on such a powerful political force. Instead, respecting their views and working out a more amenable relationship between the forces of prostitutes' rights and the powers of parents is a better approach. Since there is not a specific policy regarding the age-sensitive issue of prostitution, the matter is left to the moral sentiments to decide. When such sentiments are invoked, feelings and prejudice invent legal restrictions that go to excess, and the

stigmas they spawn are harsh and unfair. Internationally, the world is a fiercely competitive place. This factor alone places pressure on the government to deploy its resources (in terms of their people and material goods) wisely. Like carelessly spending money, the ultimate result could be lowered status or poverty for nations that do not promote certain social efficiencies and deploy their resources well.

The present moral system reflects the sentiments of centuries of observations that activities such as prostitution should be discouraged in favor of better options.⁵⁴ In reality there are relatively few highly competent people in the marketplace to fill needed positions in the economy. These model workers, whether they are executives, craftspeople, office managers, or the like, are a necessary inspiration for others striving to emulate that model worker's natural abilities. Thus, based upon a model of utility,⁵⁵ stigma can spontaneously arise in a nation in an attempt to better survive by the efficient ordering of resources. This is to say the distribution of talent in a society is sometimes unevenly distributed. Looking at the problem solely from a standpoint of utility maximization—which is an important consideration among competing nations—the efficient use of talented people is essential.

The arguments against prostitution on moral grounds theoretically diminish once a person reaches the age of, say, thirty-five.⁵⁶ The remaining obstacle (involving the client) lies with the theoretical considerations involved with society promoting non-hedonistic activities in favor of more reasoned and “culturally refined” ones.⁵⁷ Defining the minimum age of prostitution, and strictly enforcing it, is an essential ingredient in working out an amenable solution between parents, prostitutes, and the government. Some forms of self-determination are possible, and their benefits can be maximally realized if prostitutes take the initiative for change.

A Theory of Rights

Rights derive from reason and the observation of complex human relationships in relation to the perceived realities of the societal setting. They are a fourth-order,⁵⁸ contingent state of affairs that prioritize the complex relationships that hold society together. Without rights the development of a modern technological society would be slow and painful because it would not be well-organized or efficient. Rights

are necessary to get the most out of people in a mutually agreeable way. The presence of a diversity of rights makes the socializing process more harmonious, productive, and creative. Given variations in the social context in which rights manifest themselves, some rights have priority over others. The complex issue of sorting out what rights will prevail, and in what circumstances, is left to the statutory legal system. But, in addition to statutory laws that define rights and the restriction of rights, there are moral, manner, and customary systems of rules.

Since laws of all descriptions have evolved over many thousands of years, their relationship to one another is very complex and often obscure. The circumstances under which laws, morals, manners, and customs have evolved are so distant from memory it is difficult to say for sure why a person has a particular right under certain circumstances and not in another. What binds all laws together, however, is a fundamental consistency in their construction.⁵⁹ It is from this consistency that political theorists construct the reasoned basis of rights. The idea that humans have rights is an example of such reasoning. Rights remain speculative, however, because there are only small fragments of evidence here and there to support such a claim.

In a biological context it could be said that culture is an “instrument of biological adaptation”⁶⁰ that is necessary to perpetuate the human species by effecting efficiencies⁶¹ and giving priority to things within a culture to maximize its survival—hence the ultimate survival of the entire human species. Therefore, it may be said that there are underlying principles governing the evolution of rights within any given culture. These principles include, the need to survive first as a species and secondarily as individuals or as a group of individuals. Individuals are a subsystem of a much larger system of the species.

The evolution of rights in the world is best described in a theoretical construct incorporating Living Systems Theory. While the nature of this theory itself is still developing in philosophy and biology, it does hold forth certain clues as to the derivation of rights based upon efficient actions and higher levels of communication. The net result of a biological approach is a theory of rights that develops on four levels. First-order rights considerations address the survival of the species and the implementation of certain efficiencies in

thought and action to assure that survival. When raw survival is at issue, what one can and cannot do is limited to a very narrow set of options. Under these circumstances second-, third-, and fourth-order rights considerations are ineffective in diverting or overcoming a dangerous situation. When first-order needs are met, and there is time to improve the quality of group life, second-order considerations of utility and value determine the presence of specific rights in society. There are limits to what an existence based solely on utility can do for the evolution of humanity. Third-order rights derive from reason and experience and are known and prioritized formally in the accumulation of historical facts, scientific facts, and in the formal reasonings of philosophy and political science. Within philosophy are fourth-order subsystems of ethics and smaller subsystems from there. An example of a fourth-order issue might be seen in the reasonings of the ethic of care. It is a fourth-order consideration that addresses a first-order problem of maximizing systemic survival by implementing social efficiencies. Most of the issues addressed in this writing involve third- and fourth-order rights issues. However, it is important to briefly touch upon first- and second-order rights development.

To better understand how rights evolve in a system, a first- and second-order example can be used. A nation can aggressively dominate its citizens, but it cannot get the most out of them if it is too forceful, or too negligent in granting consideration to its people.⁶² Since nations fiercely compete with other nations, they are not at liberty to drift along employing inefficient social policies. While the nation holds the ultimate power, it is in that nation's best interests to cede portions of its power to groups and individuals to inspire the best systemic conditions for its survival in the world. The granting of rights inspires a more meaningful existence for citizens. Theoretically, participation of all the creative and productive energies within a society can be optimized at a point of balance between the rights of individuals and the rights of the government. The overall power of the system is enhanced by finding creative ways of ceding rights⁶³ wherever possible, since a state of greater autonomy frees up energies of the larger system that can be used elsewhere to promote its interests. An example of this might be seen in teaching children how to dress for school. Once the children understand the appropriateness of dress, given certain weather

conditions, they are free to choose their own clothes, leaving the parents with more time to deal with more important things. In a similar way, one national system can outperform another which is distracted with internal friction deriving from unfair practices such as human rights violations. If there is a payoff for increased rights grants in the form of greater peace, prosperity, and productivity then the government or larger system is compelled to seek other opportunities to enhance its power, and therefore its survivability in the world.⁶⁴ So, first-order rights grants derive from considerations of survival and they often have prior right in many instances over later evolutions of rights.

Second-Order Value and Utility Considerations in the Development of the Theory of Rights

First-order rights, then, evolve from pure survival needs while second-order rights are an extension of a method of optimizing benefit from a system. Once the day-to-day needs of raw survival are met, the idea of value and utility improves the entire systemic evolution as well as the ability to survive. The idea of utility involves what granting rights does for individuals and their society. If something is done—and it demonstrably has value—it is generally considered a social good. If granting a right demonstrably brings about positive changes in the society, then we can say that a rights grant has value. With time and repeated affirmation, it becomes accepted as a social value. Values have as their reference other productive principles of human behavior and so all serve to guide future generations in their growth. Value in this perspective is seen as a second-order manifestation of survival considerations; it evidenced itself in early societies adopting values and maximizing the utility of things in their environment. The importance of values and utilitarian considerations necessarily preceding the development of human rights in early societies should be recognized. Prosperous and strong societies are built upon laws and values. Some values are better than others, depending upon the desired end. For example, college students attempting to get into medical school can choose among a wide spectrum of cultural value systems to define their behavior. If they value a counter-culture lifestyle in which taking drugs is held to be an acceptable value, then the task of getting in to medical school is made more difficult by the distractions of taking drugs. If students have their priorities straight, they will likely avoid

the short-term pleasures of drug use and concentrate on the more arduous task of building a future through hard work and study. Values help people to survive in a sometimes hostile world. Not only do certain values help individuals survive, but they also help entire nations develop in more peaceful and prosperous ways.

The spirited participation of citizens in a society free of exploitation and oppression creates more societal refinement and sophistication than would otherwise exist in an oppressive and exploitative society. This refinement gives the society a more transcendent quality that in turn inspires more enlightened attitudes and laws. Once this example can be seen as desirable, other nations might want to strive for it by adopting a new set of values in their nations. They must act in accordance with the values and principles of good civilization-building in order for them to fully enjoy the fruits civilization produces. If a nation denies the belief that humans possess certain basic rights, then the nation deprives itself of a certain civility and respect among other nations. Thus, there is a price that people pay for not recognizing the inherent worth of a human being. First, if a nation founds its view of law and morality on predatory practices that result in the exploitation and abuse of its citizens, that nation morally distances itself from more civilized nations and is thus at a competitive disadvantage. Second, the lack of political and economic opportunities that derives from the disparity of values between nations can undermine the more exploitative nation's ability to become autonomous. Having little political and economic power leaves such a nation in the frustrating position of having other nations impose their will upon it.

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The Evolution of the Concept of Human Rights from a Third-Order Intellectual and Historical Perspective: The Early Idea of Natural Right

Third- and fourth-order evolutions of rights reveal a history of rights issues that people these days are somewhat more familiar with. The reason first- and second-order issues were brought up at all was to point out that there are underlying forces such that ordinary reasoning would not necessarily assume—yet they exist and profoundly affect the development of rights and liberties. The history of the development of rights in a classical philosophical manner is just as important a process to note as were first-order rights issues in making sense of human rights.

The classic idea of natural rights involves thinking that runs from pre-Socratic times up to Thomas Aquinas. Leo Strauss in *Natural Right and History* covers the development of rights from ancient times until the eighteenth century, but he does not fully develop the influence of the idea of freedom, autonomy, reason, and virtue as a unity of concepts supporting the notion of rights. As a result, rights remain theoretical and without a substantial foundation, except for the claim that rights reside in nature. The earliest idea that nature existed apart from humanity marks the beginning of many evolutions in political thinking concerning right and rights which have led to the modern belief that humans have rights.

In Strauss's view, the notion of right emerged with the first challenge to the authoritarian decrees of a person's ancestors by the advent of philosophy.⁶⁵ When people began to think philosophically, they likely discerned that some of their ancestors held conflicting views of right. This was no small achievement because mythological and divine conceptualizations of the universe were relatively complex

and thus to challenge them indicated an advanced state of philosophical inquiry. But productive reasoning needs an object, thus, observation of what later became known as nature was crucial to the development of reasoning and the discernment of right and wrong behavior. Nature, as a separate and distinct entity from humans, was not always known. To Strauss, "Philosophy as distinguished from myth came into being when nature was discovered, or the first philosopher was a man who discovered nature."⁶⁶ So the notion of right originally was embodied in the mandates of one's ancestors or those of divinely inspired sources. However, with the advent of reason and observation people were free to question the prevailing notion of ancestral right. The ability to question authority based on reason and observation must have taken some of its inspiration from the greater autonomy that reasoning produced. The capacity to reason in effect helped separate humans from nature, granting them a degree of autonomy to freely exist in it. While humans were separated from nature and endowed with objective powers of reason, they were still tied to it through their raw and untempered passions (greed, revenge, envy, hatred and the like). Greater autonomy could only be achieved with refinement of reasoning that civilized the passions. It is likely that as humans developed an appetite for greater understanding of their world through the give-and-take dynamics of the autonomous state, they also gained a greater appreciation for the value of reason. Aristotle was one of the earliest thinkers to emphasize the deliberative nature of freedom. So, from the beginning, the concept of rights that emerged from reason, freedom and autonomy ruled out a state of existence in which individuals could do whatever they felt like doing. One of the reasons there are certain limitations to ideas such as rights, freedom, and autonomy is that they are third-order concepts that are contingent on the first-order needs of individuals, groups, and the entire human species to survive and survive well. Ideas of the mind must sometimes compete with the more substantial realities of the physical world. To believe people exist separate from nature, and sometimes above it, threatens human survival. An organic development that precedes the time of humanity sets limits on certain freedoms. This is important to note because in modern conceptualizations of rights and freedoms people are tempted to think of the words as meaning unrestrained liberty.

The discovery of nature would reveal that things in nature have a discernible power of their own that cannot be altered by human thinking. For instance, knives cut, lions can kill humans, bees sting if provoked, and so forth. Everything in nature has a power that is uniquely its own. This power of a thing defines its nature. Since humans cannot change the nature of things and organisms around them by merely wishing them away, their ability to move about freely and unharmed in the environment is limited by the dangers inherent in it. This is an example of how organic construction before the time of humans can limit their behavior.

Certain ideas of right must have evolved from the pain and frustrations of early humans coping with the natural world—a world that could inconsiderately inflict pain, suffering and death upon them. Since people's passions are a product of the natural world, not only were ancient people threatened by the dangers in the environment, but they were threatened by the dangers of human passions as well. Once right and wrong were more clearly defined (in tune with environmental realities and the power of things in the environment to inflict harm or benefit), people were at greater liberty to move about the environment in a productive way.

The Early Development of the Formal Notion of Right and Rights

The intellectual idea of rights in the Western world was formulated by the early Greeks. There existed no special word for the word "rights" in Greece.⁶⁷ The earliest classical sources of the idea of rights can be traced to Socrates, Plato, and Aristotle. Socrates was the first to promote the idea that human beings need to free themselves from the influence of emotions to have better control over their lives through reason.⁶⁸ He believed there were natural rights which first were apprehended through reason and doubt of authority.⁶⁹ In Socrates' time the authority to define right and rights was vested in the state and not the people. Issues of freedom were not addressed in the same way as they are today. Individuals had various roles in the society, but these were subordinate to the order of social power defined by the Greek state. One of the earliest attempts to make sense of rights was made by Plato. He was the first person in Western society to formally reason the issue of rights.⁷⁰ Jumping ahead for a moment to

make a comparison with the ideas of John Locke, it could be said that Plato had other things in mind than the type of freedom Locke was thinking about. Plato's focus was upon human excellence and not liberty.⁷¹ Plato's "ideal society (had) no place for the freedoms enumerated in the Bill of Rights, freedom of religion, of speech, of assembly, of the press."⁷² Rights were something owed to an individual by the collective society for what he contributed to the prospering of society.⁷³ Rights, if they existed at all, were associated with a condition of value, such as the value of a teacher or craftsman. Plato viewed the society from the perspective that it was a cooperative undertaking. "Plato's theory of man is that we are ineradicably social."⁷⁴ To benefit by a society and be viewed as an inherent part of it involved the expression of one's values in a way that would affirm and strengthen other relationships. Thus, for Plato a right did not belong to a person in the sense that Locke later visualized a right as a birthright,⁷⁵ it manifested itself by "something done." In Plato's society, "There could be human rights but not equal human rights."⁷⁶ Since people's value to the society had some relation to their rights, he viewed the right of sexual equality to be a reasonable and productive social view.⁷⁷ Other rights he enumerated included the right to education, vocational opportunity, sexual choice, political rights and the rights of property.⁷⁸

What is important to remember about these early Greek thinkers is not so much their views on rights, but their work that defined in a systematic way standards of reasoning and argumentation. It is due in large part to them that the Western world first began to distinguish the difference between a good argument and a bad one. The idea of rights would never have taken hold in the minds of rulers and politicians had not this early intellectual groundwork been done. Rights would be no more than elegant opinions if some stable rational ground had not been developed by the early Greek thinkers. Once the idea of rights began to make sense in a way that was consistent with many other forms of human experience, it was then possible for governments to promote them.

Feminist theorists complain that male thinkers such as Socrates, Plato, and Aristotle have skewed the standards of philosophical reasoning in favor of men. The oppression of women is widespread and very evident and feminists are therefore skeptical about the historical emphasis on the

development of male thinking. Feminist Katherine MacKinnon suggests, for instance, that “human rights principles are based on experience, but not that of a woman.”⁷⁹ Ostensibly, since she experiences a different world, the ethical system she might construct might not correspond to the logics of male thinkers such as Aristotle. The view that morals and subsequently that right grants stem from the experience of men suggests there are two distinct moral views of the world. What such a proposal does not take into account is the androgynous nature of pure reason. Pure reason is a synthesizing of all gender thought. The object of reason is to faithfully reproduce “what is” extant in the natural environment. For example, it has been universally observed (by both men and women) that tigers in the wild are dangerous. They can kill or maim human beings if people are not careful. Another example of a gender-neutral moral perspective might be that drinking and driving is dangerous to the life of the driver and to others. Instead of attacking male philosophers as the primary source of political oppression, feminists might want to examine the nature of the Socratic method of reasoning about truth and falsity in political and personal argumentation that may favor a man’s experience over that of a woman.⁸⁰ The view that argumentative techniques can unfairly take advantage of women is only a valid proposition if it is true that women experience, feel, and reason differently than men.

The Evolution of the Modern Sense of Rights⁸¹

In the thirteenth century an unexplained linguistic transformation in the word “right” occurred. It changed from “the Roman term *ius* ...(roughly, what is right, just, lawful) to its late-medieval and modern sense: a power, liberty, immunity, or claim...”⁸² There were four other events that influenced the development of the concept of rights during this period. First, there was the rise of Christianity and the fall of the Roman Empire. Christianity brought with it the concept of compassion and ascribed a sense of dignity to all human beings. Second was “the rise of universities; a broadening of education accelerating the unfoldment⁸³ of human potential and inspiring new social ground for greater liberties to manifest themselves.”⁸⁴ Third, was the European “reception of the complete works of Aristotle in Latin translations.”⁸⁵ The fourth event, and most influential in the development of the concept of rights, was the emergence of the great

philosopher Thomas Aquinas.

Aquinas synthesized a mixture of Christianity and Aristotelian logic into a warmer view of humanity that allowed for a more caring view of humanity to develop. If rights did exist, then they were not to be derived by cold analysis, but were something more intrinsic and permanent. Since he was also involved in religious thought he had the difficult task of reconciling secular Greek thinking with religious beliefs and producing ideas meaningful for both perspectives. He based his view of the world on natural law in such a way that in the absence of divinity, nature played the role of representing the immediate will of God. The laws of nature, being so consistently applied and universally applicable, could be intuited by any person who needed to know right action from wrong.⁸⁶ To Aquinas, when people acted in accordance with nature they acted in accordance with principles of reason that addressed cause and effect relationships implied in the consistency of natural law. Those familiar with Aquinas might note that the sense of interpreting Aquinas is slightly distorted to shed light on the issue in a different way.

There are two problems that seem to emerge from Aquinas's theory, the first being that while he stressed reason in coming to terms with natural law, these laws were to be known intuitively, not rationally. This appears to be a regression from the Socratic disdain for acting from emotions, which to Socrates "were an obstacle to both objectivity and autonomy."⁸⁷ The second problem with Aquinas's natural law theory is that he viewed the laws to be self-evident, yet left no real clue as to why they should be considered self-evident. This is important to note because to this day political theorists continue to view rights as self-evident without reviewing the foundations of such claims. While social contract theory builds a temporary foundation, a more permanent idea of human rights must be of considerably better construction.

Had Aquinas pursued the idea of virtue, autonomy, and reason in another way, some of the puzzle of self-evidence might have revealed itself. One way of describing what he was attempting to say is that humans, having lost touch with their essential nature⁸⁸ because of deceptions that arise from self-serving habits, strive to reconnect to it in order to more deeply understand their existence. What prevents humans

from getting in touch with their essential nature is the force of their self-serving passions that guide their thinking and behavior. In such a state they are being neither reasonable nor objective. In order for people to find meaning, on the one hand they must attend to their self-regarding duties and survive, while on the other hand they must not allow their selfishness to separate them from the greater meaning to be found in being part of humanity. For instance, when large sums of money are at stake in a morally questionable deal, the self-evidence of the immoral act diminishes in inverse proportion to how much money can be made by redefining immorality as a wise business investment.

When one is talking about nature, they are also talking about a highly contingent, interrelated living system of causes and effects. The natural laws that Aquinas and other thinkers have attributed to nature probably can be represented as relational terms of cause and effect. If you kick a tiger, you provoke a situation in which your life is in danger. If you hit a man, he might hit you back or find some other means of expression to convey his displeasure. One causal relationship that repeatedly manifests itself in societies is revolution. The relationship here, in terms of natural laws, is that people have power. If you abuse and degrade them, they may strike back. It is prudent for exploitative governments to be wary of the power of its people in the same way a person should be wary of tigers in the wild by giving them a full measure of their own space. The French and American revolutions, therefore, are lessons in natural law demonstrating the inherent power of simple people to radically alter the destiny of their nations.

The Eighteenth-Century Transformation in the Concept of Rights

The French and American revolutions brought many beneficial changes to the notion of personal rights.⁸⁹ These political upheavals inspired strong emotions regarding the issue of individual people possessing rights. Citizens were more educated, more mature, and more in communication with each other than in any previous time of social change. And the revolutionary change was fueled by a powerful pathos for human beings that spread like fire on two continents, marking perhaps the beginning of the modern human rights movement.⁹⁰

At the time of their first constitutional proclamation and justification, human rights were legal entitlements that, unlike

other entitlements, developed pathos and triggered intense motivations. Both in the United States and in France, the majority of those who acknowledged and justified human rights, and who acted in accordance with them, were of the opinion this pathos and motivation were supported with good reasons. Human rights, they believed, were based on valid, universal norms.⁹¹

The political writings of three men profoundly influenced this revolutionary change in the perception of rights. They were: Thomas Hobbes, John Locke, and Jean Jacques Rousseau. All were influenced by natural law theory. Hobbes was known for his conceptualizations of man rising from a raw state of nature, developing laws, and entering into early forms of contracts that served to keep the society from tearing itself apart. Locke is best known to Americans for his statement that “All men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.”⁹² Rousseau is best known for his social contract theory. This theory gave substance to the idea of rights because rights were the natural product of social agreements. The presence of statutory law evidences this contractual nature of society in all generations. The informal representation of contract theory can be found in moral, manner, and customary rule systems that vary from culture to culture. The fact that it could be said that some rights derive from certain human agreements was an important evolution in rights theory, since rights were no longer a function of opinions but rather something more real and enduring in the construction of society.

Feminists have argued that while the social contract may be a workable conceptualization of a rights theory, it only tells half the story.⁹³ Carole Pateman in *The Sexual Contract* does not see women as having been party to the original contract. Pateman uses the examples of marriage, slavery, patriarchy, and prostitution to make her case for women’s exclusion from the social contract. Its rationales appear to defend the right of the prostitute to contract out her sexuality in exchange for money; such an act can be performed without any detriment to herself, yet radical feminists might argue to the contrary.⁹⁴ She points out that “prostitution is unequivocally defended by contractarians;”⁹⁵ and that some “defenders of prostitution claim some reforms are necessary in the industry as it exists... Nevertheless, they insist that ‘sound prostitution’ is

possible.”⁹⁶

While some feminists may not appreciate the value of the contractarian approach, it is a good ally for prostitutes’ rights activists seeking equal justice under the law in a traditional society. For example, Pateman points out the contractarian nature of surrogate motherhood. If a woman can contract out her reproductive capacities, this may ultimately work to the advantage of prostitutes. The sexual and contractual nature of surrogate motherhood in one sense finds its analog in prostitution and therefore the legalization of surrogate motherhood may someday open the door to the decriminalization of prostitution much wider.⁹⁷ Another area Pateman illuminates well is the contractual nature of prostitution that is distinct and separate from wage earning that Marxists find offensive, oppressive and exploitative.⁹⁸ Returning to the central issue of the development of rights during the eighteenth century, it could be said that the doctrine of the social contract helped to radically accelerate the human rights movement. It inspired a fundamental transformation of the doctrines of natural law into a doctrine of natural rights. In earlier centuries the focus of right was upon a broader vision of natural law. Later, the focus shifted from natural law to natural right. “The assertion of natural rights came at the time when the social contract theory of the origin of government joined itself to the doctrine of natural law.”⁹⁹ What is important to note about the political doctrines of this period is the emphasis on natural rights, inalienable rights, and the self-evident nature of laws. For the first time in the development of rights theory, the idea of the social contract provided reason as to why some rights might be self-evident.¹⁰⁰ Although rights that derive from contractual agreements make sense, their substance is nevertheless elusive when analyzing them in the context of life, liberty, and the pursuit of happiness. Although it is difficult to pin down any source of authority for such rights assertions, it is possible to claim that the theories of Hobbes, Locke, and Rousseau produced strong affirmation of the belief that human rights are real and, possibly, inalienable.¹⁰¹ United Nations

The formation of the United Nations marked a new chapter in the development of human rights. In 1948 the General Assembly declared in the preamble, “Whereas recognition of the inherent dignity and of the equal and inalienable rights of

all members of the human family is the foundation of freedom, justice, and peace in the world....”¹⁰² The world now is conceived of as one large family in which everyone has a recognizable part. It is theoretically a warmer and more caring view of the role of governments in which humans do not exist merely to be exploited by the powerful, but rather are a meaningful part of the world.

Prostitutes benefited by the formation of the United Nations. In 1949 there was the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. In the preamble there is a human rights claim that is of sufficient quality to serve as the cornerstone for later ideas concerning prostitutes’ rights: “Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community....”¹⁰³

When the United Nations speaks of human rights it speaks as if an authority exists to substantiate its claims. Rights appear to be viewed through the lens of more experienced and prosperous nations. These nations have discovered by hard work and experience that certain methods of treating people are better than others if peace, prosperity, and productivity are the desired end of government. Even though experience may demonstrate that liberating people produces gains for all concerned, this perception does not provide explanation of the source of moral authority that confirms that humans are in fact owed basic human rights.

If one takes a biological approach to reasoning human social systems, there lies at least a first approximation of an answer. Theodosius Dobzhansky views human cultures as an “instrument of adaptation.”¹⁰⁴ The idea of rights can be transposed into a biological theory by this thinking. The most promising way of doing so is by using Living Systems Theory to construct a model of social reality that views people and their governments as an extension of seven hierarchical¹⁰⁵ levels of systemic organization. There are seven biological levels: the Cell, Organ, Organism, Group, Organizations, Society, and Supranational systems.¹⁰⁶ An example the author gives relating to the first supranational system is the worldwide postal system (UPU).¹⁰⁷

The United Nations evidences the evolution of a new form of supranational system.¹⁰⁸ It is now one of the highest forms

of human organization. Among its intents is to minimize conflicts and maximize prosperity for all. In this sense it addresses first-order survival concerns of the human species and not only derives authority from that relationship but also from the relationship with natural order in the biological realm. By virtue of its function, it is endowed with a degree of natural authority to make laws and create order in the world.¹⁰⁹ And, its authority will endure so long as its function to increase the peace, prosperity, and productivity of all nations and people is upheld. The history of the development of rights is yet unfinished and we will not know what they are until this chapter in history is closed. What once were proclamations based upon beliefs now portend a reality in which their substance will be considered “real.” The problems that philosophers have experienced down through the ages, requiring them to speak consistently, concisely, and in correspondence to many other well-regarded theories is now an intellectual challenge the United Nations must face if its proclamations are to be respected and are to inspire enduring support from the world.

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other entitlements, developed pathos and triggered intense motivations. Both in the United States and in France, the majority of those who acknowledged and justified human rights, and who acted in accordance with them, were of the opinion this pathos and motivation were supported with good reasons. Human rights, they believed, were based on valid, universal norms.⁹¹

The political writings of three men profoundly influenced this revolutionary change in the perception of rights. They were: Thomas Hobbes, John Locke, and Jean Jacques Rousseau. All were influenced by natural law theory. Hobbes was known for his conceptualizations of man rising from a raw state of nature, developing laws, and entering into early forms of contracts that served to keep the society from tearing itself apart. Locke is best known to Americans for his statement that “All men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.”⁹² Rousseau is best known for his social contract theory. This theory gave substance to the idea of rights because rights were the natural product of social agreements. The presence of statutory law evidences this contractual nature of society in all generations. The informal representation of contract theory can be found in moral, manner, and customary rule systems that vary from culture to culture. The fact that it could be said that some rights derive from certain human agreements was an important evolution in rights theory, since rights were no longer a function of opinions but rather something more real and enduring in the construction of society.

Feminists have argued that while the social contract may be a workable conceptualization of a rights theory, it only tells half the story.⁹³ Carole Pateman in *The Sexual Contract* does not see women as having been party to the original contract. Pateman uses the examples of marriage, slavery, patriarchy, and prostitution to make her case for women’s exclusion from the social contract. Its rationales appear to defend the right of the prostitute to contract out her sexuality in exchange for money; such an act can be performed without any detriment to herself, yet radical feminists might argue to the contrary.⁹⁴ She points out that “prostitution is unequivocally defended by contractarians;”⁹⁵ and that some “defenders of prostitution claim some reforms are necessary in the industry as it exists...

Nevertheless, they insist that ‘sound prostitution’ is possible.”⁹⁶

While some feminists may not appreciate the value of the contractarian approach, it is a good ally for prostitutes’ rights activists seeking equal justice under the law in a traditional society. For example, Pateman points out the contractarian nature of surrogate motherhood. If a woman can contract out her reproductive capacities, this may ultimately work to the advantage of prostitutes. The sexual and contractual nature of surrogate motherhood in one sense finds its analog in prostitution and therefore the legalization of surrogate motherhood may someday open the door to the decriminalization of prostitution much wider.⁹⁷ Another area Pateman illuminates well is the contractual nature of prostitution that is distinct and separate from wage earning that Marxists find offensive, oppressive and exploitative.⁹⁸

Returning to the central issue of the development of rights during the eighteenth century, it could be said that the doctrine of the social contract helped to radically accelerate the human rights movement. It inspired a fundamental transformation of the doctrines of natural law into a doctrine of natural rights. In earlier centuries the focus of right was upon a broader vision of natural law. Later, the focus shifted from natural law to natural right. “The assertion of natural rights came at the time when the social contract theory of the origin of government joined itself to the doctrine of natural law.”⁹⁹ What is important to note about the political doctrines of this period is the emphasis on natural rights, inalienable rights, and the self-evident nature of laws. For the first time in the development of rights theory, the idea of the social contract provided reason as to why some rights might be self-evident.¹⁰⁰ Although rights that derive from contractual agreements make sense, their substance is nevertheless elusive when analyzing them in the context of life, liberty, and the pursuit of happiness. Although it is difficult to pin down any source of authority for such rights assertions, it is possible to claim that the theories of Hobbes, Locke, and Rousseau produced strong affirmation of the belief that human rights are real and, possibly, inalienable.¹⁰¹

United Nations

The formation of the United Nations marked a new chapter in the development of human rights. In 1948 the General Assembly declared in the preamble, "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world..."¹⁰² The world now is conceived of as one large family in which everyone has a recognizable part. It is theoretically a warmer and more caring view of the role of governments in which humans do not exist merely to be exploited by the powerful, but rather are a meaningful part of the world.

Prostitutes benefited by the formation of the United Nations. In 1949 there was the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. In the preamble there is a human rights claim that is of sufficient quality to serve as the cornerstone for later ideas concerning prostitutes' rights: "Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community..."¹⁰³

When the United Nations speaks of human rights it speaks as if an authority exists to substantiate its claims. Rights appear to be viewed through the lens of more experienced and prosperous nations. These nations have discovered by hard work and experience that certain methods of treating people are better than others if peace, prosperity, and productivity are the desired end of government. Even though experience may demonstrate that liberating people produces gains for all concerned, this perception does not provide explanation of the source of moral authority that confirms that humans are in fact owed basic human rights.

If one takes a biological approach to reasoning human social systems, there lies at least a first approximation of an answer. Theodosius Dobzhansky views human cultures as an "instrument of adaptation."¹⁰⁴ The idea of rights can be transposed into a biological theory by this thinking. The most promising way of doing so is by using Living Systems Theory to construct a model of social reality that views people and their governments as an extension of seven hierarchical¹⁰⁵ levels of systemic organization. There are seven biological levels: the Cell, Organ, Organism, Group,

Organizations, Society, and Supranational systems.¹⁰⁶ An example the author gives relating to the first supranational system is the worldwide postal system (UPU).¹⁰⁷

The United Nations evidences the evolution of a new form of supranational system.¹⁰⁸ It is now one of the highest forms of human organization. Among its intents is to minimize conflicts and maximize prosperity for all. In this sense it addresses first-order survival concerns of the human species and not only derives authority from that relationship but also from the relationship with natural order in the biological realm. By virtue of its function, it is endowed with a degree of natural authority to make laws and create order in the world.¹⁰⁹ And, its authority will endure so long as its function to increase the peace, prosperity, and productivity of all nations and people is upheld. The history of the development of rights is yet unfinished and we will not know what they are until this chapter in history is closed. What once were proclamations based upon beliefs now portend a reality in which their substance will be considered “real.” The problems that philosophers have experienced down through the ages, requiring them to speak consistently, concisely, and in correspondence to many other well-regarded theories is now an intellectual challenge the United Nations must face if its proclamations are to be respected and are to inspire enduring support from the world.

The Development of Prostitutes’ Rights

The need for prostitutes’ rights stems from past abuses. It is not an imaginary need, but rather an appeal for the uniform application of the laws to include everyone in the society equally. In order to formalize existing grievances The International Committee for Prostitutes’ Rights was formed by Margo St. James and Gail Pheterson. In their charter on prostitutes’ rights, protection from fraud, coercion, and violence are demanded as fundamental rights of a human being. ICPR’s efforts essentially parallel the doctrines of the United Nations Charter on Human Rights of 1947. Much of its idealism is carried over into ICPR’s mandates.

Gail Pheterson’s idea of simple human respect is concise and compellingly relevant. One should not easily overlook the fact that prostitutes, like everyone else, are people with children to feed, bills to pay, health needs, and so forth.

Getting societies around the world to recognize that prostitutes deserve equal protections under the law has perhaps been one of ICPR's most pressing problems.

Sexworker activists believe that if the laws are changed to decriminalize or legalize prostitution, prostitutes will finally be treated much better than they have in the past.

It is not unknown for prostitutes to be harassed, exploited, beaten, and even murdered while the authorities do virtually nothing about such crimes. The penalty for committing an act of prostitution does not seem to fit the crime. A person who commits a felony by beating a prostitute is not viewed with the same severity as another who commits a statutory misdemeanor. This inversion of legal priorities is not unlike some practices in many states where drug addicts are denied legal access to sterile hypodermic needles, forcing some of them to share the ones they have with HIV-positive addicts. They are condemned to death for a crime that in no way indicates such punishment. Hundreds of thousands of women are trafficked in prostitution in a world that prides itself on being civilized and affirms it so, for example by censoring the e-mail of a New York human sexuality professor for sexual content. The slavery of a significant number of women seems to be meaningless, whereas the sexual content of private correspondence is somehow meaningful. Something certainly is wrong in a world in which such extreme contradictions exist. ICPR's stand on prostitution is a serious call to reason for civilization to answer for its behavior concerning the bad treatment prostitutes are experiencing. Passions and prejudices still rule the thinking of courts and the police.

Until there is universal and equal application of the laws the world cannot be considered civilized. The idea of democracy seems more a fiction than a reality, in a world where there are always laws, but not always justice. Apparently, until society matures, prostitutes will have to be patient and seek gradual improvements in their rights.

While Gail Pheterson may wish simple respect for prostitutes, there are other factors at work that may slow the recognition of prostitutes' rights. These problems are outlined in another writing entitled Social Assimilation Theory.¹¹⁰ The general thrust of assimilation theory is that until the values and standards of communication of those on the fringes of society match the values of the mainstream society, their rights and protections under the law cannot be reasonably manifest. It

takes a certain degree of involvement in society to be recognized by that society and thereby to develop sufficient connections for mutual benefit of the protections of the law. Radical feminists insist that changing attitudes is a way to overcome oppression. This astute observation concerns certain aspects of oppression, but human beings obviously are not machines; they have emotions and personalities that must be addressed in order to effectuate attitudinal and manifest change. Police are by no means exempt. If people desire a change in attitudes they must first recognize attributes of their own actions that inspire a backlash of political resentments that can infringe upon their rights and liberties. People like the police have jobs to perform, but it can be difficult to get them to do their job in spite of what the laws requires if their fundamental humanity is not correspondingly recognized by their antagonists. This is where attitude is a crucial element in broadening equal protection under the law for prostitutes. If prostitutes want change, they can help facilitate that change by realizing that the behavior of one prostitute affects the image of all prostitutes. In other words they must present themselves in the best light to the public wherever and whenever they can. Changing the public attitude is an achievable goal. A more positive attitude on the part of prostitutes towards the police might be of some help in breaking the vicious circle of disrespect that exists between the two. This is difficult to achieve, particularly in nations where the police are truly corrupt. But a good-natured attitude will probably do more for illuminating the better things the profession represents than incessantly complaining, blaming and accusing others for their problems. If prostitutes and their representatives address the problems they face in a direct, legalistic and compelling fashion, the police, as well as other members of the larger society, will no longer be able to avert their gaze from the cruelty and the criminality visited on prostitutes. Thus the emphasis will be to go after the actual criminals rather than the prostitutes on whom crime and criminality is committed.

Conclusions

The resources of prostitutes to wage an effective campaign to secure their rights are only limited to the extent that they must be careful to suppress the excess of emotion and to promote

the careful reasoning of their political strategy. It is not only a political war of overcoming ignorance, prejudice, and abuse, it is an intellectual effort as well. Reason is most effective in winning the minds of the public, while carefully and honestly crafted emotions may influence society to begin to accept the inherent dignity and decency of prostitution. Prostitution could be decriminalized sooner than expected if the courts continue to grant women more and more liberty in the control of their own bodies. In addition, the construction of a more refined social contract theory could inspire changes in legal thinking as well. For now, perhaps the best hope for prostitutes is to encourage the growth of a world organization structured in the traditional way. As illustrated in Living Systems Theory, greater social power comes with an increase in organization, communications, and the proper ordering of priorities. A world organization of prostitutes falls under this description as well. While such a world organization may be slow and relatively ineffectual in the beginning, it ultimately could gain the necessary political power to achieve its ends for prostitutes.

Footnotes

1. Katrarina Tomasevski, ed., *Women and Human Rights* (London and New Jersey: Zed Books Ltd., 1995), p. 1.
2. Phillip K. Howard, *The Death of Common Sense: How Law Is Suffocating America* (Warner Books, 1994), p. 33.
3. ICPR is now called the Network of Sexwork Projects.
4. Gail Pheterson, ed., *A Vindication of the Rights of Whores* (Seattle Washington: The Seal Press, 1989), p. 4.
5. Gail Pheterson appears to be a power-focused feminist rather than a care-focused feminist. The former attributes the oppression to arise out of a fundamental struggle between men and women for the domination of social policy and laws. Rosemarie Tong distinguishes between the two in the sense that “power-focused feminist approaches to ethics ask questions about male domination and female subordination before they ask questions about good and evil, care and justice, or mothers and children.” Rosemarie Tong, *Feminist Approaches To Bioethics: Theoretical Reflections and*

Practical Applications (Westview Press, 1997), p. 48. Apart from Tong's arguments it could be said that power-focused feminism uses oppression as the central argument, when it should be focused on the issue of immorality. Men characteristically do things that perpetuate their power and ability over women in small ways. But, oppression in the sense of being mean and hurtful derives from immorality and should be examined in an ethical context and not in the context of a political view of behavior.

6. A sense of this is to be found in the statement by Gail Pheterson, "Remove the whore stigma from sexual economic exchange and the 'prostitution' evaporates." Gail Pheterson, *The Prostitution Prism* (Amsterdam, Amsterdam University Press, 1996), p. 8.

7. Stephen Shute and Susan Hurley, eds., *On Human Rights: The Oxford Amnesty Lectures 1993* (Basic Books, 1993).

8. *Ibid.*, p.112.

9. A sense of higher civilization is expressed in a statement made by the United Nations. "Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution is incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community." "Preamble of the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others." *Yearbook of the United Nations* (Lake Success, New York: United Nations Department of Public Information, 1948-49), p. 613.

10. Sexual politics often uses the word "stereotype" which is not a desirable way of reasoning the fine details of an argument. But it is a word in common practice that people are familiar with and has practical, but limited use. A stereotype involves the use of a word that refers to an unreasoned belief, or unreasoned prejudice. Stereotypes are manifest most often from feeling rather than from reasoned thoughts and the two should not be confused. The word "stereotype" does not necessarily imply that what is being observed is always and absolutely untrue. A discernible archetype of human behavior might appear to be a stereotype, but it is not a stereotype in the conventional sense of the word.

11. The word "spin" can be used in both a positive and negative sense. In common usage it means aligning one's arguments to conform to a strategy that enhances the image of the idea a person is attempting to sell to the public. But also

included in this negative sense can be calculated misrepresentations and even outright lies to make the political arguments more persuasive. In a positive sense the word has come to represent “a political strategy” that is well-reasoned to accommodate the genuine needs of a political issue.

12. In *The Prostitution Prism* two references are appropriate here. “Prostitutes are portrayed as shady women regardless of their color.” p. 71. Other beliefs assault the mental state of prostitutes, and this of itself is a most difficult stigma to overcome while at the same time attempting to construct rights arguments claiming prostitution as a proper activity. “Prostitutes are dishonored by psychological theories which consider them to be psychiatrically disturbed.” p. 80.

13. *The Death of Common Sense*, p. 33. Another example of the regressive nature of some rights activism is outlined in the conclusions of Imelda Whelehan. *Modern Feminist Thought: From Second Wave to ‘Post-Feminism’* (Washington Square, New York: New York University Press, 1995), pp. 238-247.

14. R.G. Frey, ed., *Utility and Rights* (Minneapolis: University of Minnesota Press, 1984), p. 20.

15. Rebecca J. Cook, ed., *Human Rights of Women* (Philadelphia: University of Pennsylvania Press, 1994), p. 60.

16. Howard does not specifically use the idea of rhetoric to enumerate his thesis. However, the message appears essentially the same if you think of what he is saying in terms of rhetoric.

17. *The Death of Common Sense*, p.150.

18. MacKinnon in D. Kelly Weisberg, ed., *Applications of Feminist Legal Theory To Women’s Lives: Sex, Violence Work, and Reproduction* (Philadelphia: Temple University Press, 1996), p. 222.

19. *A Vindication of the Rights of Whores*, p.194.

20. Stevi Jackson, and Sue Scott, eds., *Feminism and Sexuality: A Reader* (New York: Columbia University Press, 1996), p. 355

21. Carole Pateman presents argumentation as to why prostitution is a valid form of employment from a contractarian viewpoint. Carole Pateman, *The Sexual Contract* (Stanford, California: Stanford University Press, 1992), pp.189-218. Priscilla Alexander’s argument sounds similar to another expressed in Pateman’s book. “The Left and Right, as well as some feminists, share the assumption that the prostitute’s work is exactly the same kind as any

other paid employment. The prostitute merely works in a different profession and offers a different service (form of labor power) from that of a miner, electrician, secretary or assembler of electronic goods.” The Sexual Contract, p. 201.

22. The logical foundations for this assertion can be found in S.E. Bromberg, *The Evolution of Ethics: The Biological Roots of Ethics* (Berkeley: Dianic Publications, 1996). Take for example the oversimplified belief of an alcoholic who claims he has the right to drink as being morally justified. The consequences of his actions are not always included in his perception of personal propriety. He is not concerned with getting in a car and killing someone or being killed, he is more involved in an immediate need to consume alcohol. The consequences of drinking and driving are fairly well known. Since there is a large body of evidence linking the driving of a car under the influence of alcohol with accidents and deaths, the emergent moral view that arises from this knowledge makes a claim that drinking and driving is wrong; it is not “who” is to say what is right or wrong, it is “what” is to say is proper, and the scientific facts link accidents with intoxication. Part of the view that sees prostitution as being morally wrong is founded on the experiences of many people over centuries of time that have found the presence of prostitution in society to be accompanied by problems not usually associated with other forms of employment. Overwhelming evidence in texts about prostitutes cites the many abuses prostitutes suffer. Prostitution can be an extremely dangerous profession. While it may not be dangerous for highly intelligent people who have skills to assert themselves, the larger body of sexworkers is more vulnerable to exploitation and abuse. In this light, if society is to optimize its investment in its people as well as parental investment in their children, a moral view evolves to guide young people away from problem activities. Morality involves the view, supported by years of experience and observation, that certain activities are better than others. The wrongness of prostitution is misinterpreted to mean the same as moral condemnation. It is this practice of viewing prostitution as a manifestation of condemnation that likely contributes to the harsh stigmatization and abuse of prostitutes.

23. In normal philosophical expression this might be considered a second-order consideration. However, in later

paragraphs a case is made on purely biological grounds that rights issues are a fourth-order concern.

24. In books such as *The Prostitution of Sexuality*, claims are made that prostitutes are frequently assaulted. Other critics claim that prostitution is no more hazardous than an ordinary occupation. However, when you narrow the field of study to street prostitutes and particularly ones who work late into the night in dangerous neighborhoods, the possibility of there being harm done radically increases. Not only are the streets dangerous but the rooms and hallways of boarding houses and hotels can be treacherous. If a person is new to prostitution, the dangers can be extreme. If a person has lived in an environment where they are frequently in contact with prostitutes and learns something about the danger before becoming a prostitute, they are not in as much danger. Living in an environment where a person lives under the threat of harm and predatory intrusions is a twenty-four hour a day problem, whereas a construction worker only has to deal with the dangers of his or her trade eight hours a day.

25. Paul Tillich, *Morality and Beyond* (New York, Hagerstown, San Francisco, and London: Harper Torchbooks, 1963). "Deliberation and decision are the hallmark of freedom." p. 21.

26. Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge University Press, 1988), p. 12.

27. "Aspasi (c. 470-410 B.C.) was one of the most effective women's liberationists of all time." James L. Christian, *Philosophy: An Introduction to the Art of Wondering* (Corte Madera, California: Holt, Rinehart and Winston, 1977), p. 39.

28. Virginia Sapiro in Maria J. Falco, eds. "Feminist Interpretations of Mary Wollstonecraft," (University Park, Pennsylvania: The Pennsylvania University Press, 1996), p. 35.

29. There is a problem if feminists go too far in rejecting Aristotelian ethics since the theoretical underpinnings of a social theory promoting the freedom of choice would be affected. Briefly, Aristotle says, "Moral virtue implies that an action is done...by choice: the object of choice is the result of previous deliberation." Aristotle, *The Nicomachean Ethics* (Oxford, New York: Oxford University Press, 1992). p. 53. Choice is bound up with virtue leading to a substantial theory of rights that are fair to both men and women. A theory of abortion, for instance, is dependent in part on such a

perspective to support the legitimacy of the right to have an abortion. For persons wondering whether the alleged male-centering of Aristotle's logics is true they should look over what Aristotle actually says in his relatively easy to read book, "The Nicomachean Ethics."

30. Dictionary of Feminist Theologies, (Louisville, Kentucky: Westminster John Knox Press, 1996), "Androgyny has been claimed by some contemporary feminists as an ideal of humanity. They use the term androgyny to refer to the state of a single individual who possesses both traditionally masculine and traditionally feminine virtues." p. 8.

31. Feminist Interpretations of Mary Wollstonecraft, p. 35.

32., Ibid., p. 35.

33. Stephen Nathanson, The Ideal of Rationality: A Defense Within Reason (Chicago and La Salle, Illinois: Open Court, 1994). p. 10.

34. The Nicomachean Ethics, pp. 48-63.

35. The Ideal of Rationality, p. 10.

36. Rationality or reason should be considered in the light of Mary Wollstonecraft's idea of it. "By cold reason she meant not cold logic or calculation, but thinking moved by virtuous sensibility." Feminist Interpretations of Mary Wollstonecraft, p. 35.

37. Ibid., p. 11.

38. Many social theories overlook personal responsibilities and shortcomings when assuming that a class of people is oppressed. If oppression truly relates to problems in the lives of individual people, it is not mass oppression, but individual ignorance that must be overcome. It is difficult to cede self-determination to people when what they may need is enlightened guidance. A state of ignorance frustrates a person's attempts to be autonomous. To Aristotle, "Everything done in ignorance is not voluntary." The Nicomachean Ethics, p. 50. Autonomous decisions are voluntary ones, not ones induced from forces outside the person.

39. See the book The Theory and Practice of Autonomy, p. 28, for a discussion on the indirect linkage between autonomy and responsibilities.

40. The idea that rights and obligations bear a direct relationship to each other is sometimes disputed. "The law of nature turns out to be first and foremost concerned with 'right' of self-preservation, and only secondarily or

derivatively with 'duty' to others...." John A. Simmons, *The Lockean Theory of Rights* (Princeton, New Jersey: Princeton University Press), p. 68. The theoretical linkage between rights and obligations is discussed later in *Social Assimilation Theory*.

41. S.E. Bromberg, *The Evolution of Ethics: The Biological Roots of Ethics* (Berkeley: Dianic Publications, 1996). A term used to illustrate fully the evolution of ethical systems in the world from earliest times until the present.

42. Or in a Kantian sense, to ignore one's own self-regarding duty.

43. Thomas Hobbes, writing on the citizen in 1651, projects a view of man in the bare state of nature (before civilization) as constantly in conflict with all other men and therefore requiring contracts of citizenship and rules of morality and government to prevent the logical conclusion of total conflict (death), thus satisfying the citizen's nascent self-interest. Society, therefore, facilitates the institutionalization of rules for competition within the state. All individuals obey such rules which permit them to pursue a truncated form of self-interest in exchange for the hope of self-preservation." Imelda Whelehan, *Modern Feminist Thought: From Second Wave to 'Post-Feminism'* (Washington Square, New York: New York University Press, 1995), p. 27.

44. In the early 1980s a woman on the Berkeley Board of Police Commissioners was so traumatized by seeing a sexual act in a car in front of her house that the police clamped down on prostitution severely for the next fourteen years.

45. 1,300 pages of a local telephone book is the equivalent of 1.5 inches. If there are 565 entries on a page and 265 million people to be listed the net result would be 469,000 pages. If you considered there were, for example only 2.6 billion people in the world old enough to have active hormone flows, the book would be at least 450 feet thick. 5 billion people would be 900 feet thick. The vast majority of people listed would not understand selling their sexuality for money.

46. Sarah Bromberg, *Homosexuality, Ethics, and Military Policy*, (Unpublished manuscript, 1995). The idea of discretion is explained in more detail as to why people involved in sexual activities must be discreet.

47. The lack of education is one of many first- and second-order causes for the presence of oppression in society. It is important to note that oppression is a complex idea, not a

simple one easy to define. Nevertheless it is crucial to uncover the actual sources of oppression and not take the easy way and blame something else. Simone Weil says, "Marx finally came to understand that you cannot abolish oppression so long as the causes which make it inevitable remain."

Simone Weil, *Oppression and Liberty* (Amherst: The University of Massachusetts Press, 1973), p. 57.

48. "Not all problems deriving from inhumanity or selfishness and stupidity are human rights problems." James W. Nickel, *Making Sense of Human Rights* (Berkeley, Los Angeles, and London: University of California Press, 1987), p 4. Street prostitutes who are sometimes immature make errors of judgment when doing business. If a predatory game-state arises in which the client feels he is being cheated and toyed with, the prostitute is in danger.

49. "Distancing begins with separation of self from family, home, and worlds of social legitimacy...Distancing is an interrelated part of a complex web of other damaging, harmful effects of prostitution on women and girls. It causes women to become estranged from themselves in order to save themselves." Kathleen Barry, *The Prostitution of Sexuality* (New York and London: New York University Press, 1995), p. 30.

50. Seasoning techniques of pimps: "Targeting emotionally and/or economically vulnerable women, fostering trust and dependency by feigning love and friendship, and using overt acts of physical and sexual abuse." *The Prostitution of Sexuality*, pp. 121-122.

51. *Dictionary of Feminist Theologies*, p. 123.

52. *The Theory and Practice of Autonomy*, p. 20.

53. Some prostitutes may have to unlearn an attitude they learn in prostitution to later assimilate. "Once a woman has 'turned a trick,' she knows herself as an outcast (or in some few cases, namely, those women who promote prostitution, outcast takes the form of outlaw). *The Prostitution of Sexuality*, p. 30.

54. Stephen Nathanson, *The Ideal of Rationality: A Defense Within Reason* (Chicago and La Salle, Illinois: Open Court, 1994). Discusses prostitution as a less than efficient choice.

55. While this premise may appear to be simple it suggests certain theoretical models that go beyond description of utility alone. Cultures are a system of many subsystems all of which more or less develop at the same time. If technological

and intellectual developments are not well synchronized across the broad segment of society, the growth of a nation is impeded. Imagine how computers would have developed if the technology for producing hard disks and floppy disks lagged twenty years behind the development of microprocessors. The need for advancements to be contemporary across a wide spectrum of education and technology makes it essential to recognize the merit of the idea of a prudent policy of the deployment of national resources and talents.

56. The average age of entry into prostitution is fourteen. D. Kelly Weisberg ed. *Applications of Feminist Legal Theory to Women's Lives* (Philadelphia: Temple University Press, 1996), p. 94.

57. For example it could be said that the hedonistic allure of pornography has a detrimental effect upon the civility of men; thus the need for society to elevate itself generally by getting its citizens to focus on higher things in life than prurient pursuits. Some forms of hedonism may push a person away from refined tendencies towards more aggressive ones.

58. Survival considerations are an example of a first-order consideration and have prior right over simple fourth-order concerns. Second-order considerations involve the underlying social principles of utility and valuation that assure the survivability of the species, cultures, groups and individual people. Third-order considerations are ideas and knowledge of the human mind such as philosophy, supported by the socio-historical perspectives about humans and the world they live in. The ethic of care is a function of third-order philosophy and so it has third-, and fourth-order characteristics. The fourth-order category addresses efficiencies in human actions which promote survival in which a degree of peace and security benefits all.

59. If a person uses a computer often, a well-written software program will reveal a consistency to its construction that allows a person to estimate or intuit features about that program that they did not know in advance by reading an instruction book. Traffic laws are much the same. There is a consistency in their design and application that allows a person to reasonably estimate lawful driving and unlawful driving.

60. "Culture is an instrument of adaptation which is vastly more efficient than the biological processes which led to its

inception and advancement.” Theodosius Dobzhansky, *Mankind Evolving* (New Haven and London: Yale University Press, 1962), p. 20.

61. See James Grier Miller’s *Living Systems* for a detailed description of how organisms organize and seek higher and higher levels of efficiency and communication.

62. There are exceptions to this such as Germany in the 1930s, which whipped up social spirits to build a strong nation. However, it was not an enduring and reliable approach in the long term.

63. Rights grants are a two-way street. Sometimes society acts from the heart and seeks to liberate people in a way that is impractical given the immaturity of those they have granted rights to. Thus, rights-restrictions are also an integral part of a society attempting to get the best out of its citizens while promoting the overall good of the society.

64. In biology the benefits of symbiotic relationships improve the health of the entire cooperative.

65. Leo Strauss, *Natural Right and History* (Chicago and London: University of Chicago Press, 1965), p. 82.

66. *Ibid.*, p. 82.

67. According to Vlastos, “There is no special word for rights in Plato’s mother tongue—no word that corresponds to ours, behaving as it does in all the contexts in which we speak of rights.” Gregory Vlastos, *Socrates, Plato, and Their Tradition*, vol. II (Princeton, New Jersey: Princeton University Press, 1995). p.124.

68. *The Ideal of Rationality*, p.10.

69. *Natural Right and History*, p. 84.

70. “In books 2 to 7 of the Republic...Plato undertakes to do something never previously attempted in the history of the West; to determine on purely rational grounds all of the rights which all of the members of a particular society ought to have.” *Socrates, Plato, and Their Tradition*, p. 104.

71. *Ibid.*, p.142. Stressing excellence optimizes the survivability of humans and their societies in a way mere freedom cannot and so in this biological sense is a higher value. But, there is a counter-balancing idea implied in prostitution itself. In a subjective perspective watching street girls is like looking through a window back in time where women were free in nature to choose their lifestyle unencumbered by tradition, fad, or cultural persuasion. In

today's world they might be likened to being nature's most troublesome daughters (in an enjoyable sort of way). A mother's ultimate challenge to get at least a little respect and attention out of their children who, like they, in the end do what they want to anyway. In this respect their whole meaning in life is founded on freedom, thus, they cannot live some other person's ideal of excellence. The absolute and higher meaning in their existence is freedom. However, for many people freedom can be too much of a good thing. If extended liberty diminishes the ability of a person or nation to survive, the good and happiness they seek will also be diminished. Reason, therefore, forces an equitable resolve between excellence and liberty.

72. Gregory Vlastos, *Socrates, Plato, and Their Tradition*, p.142.

73. *Ibid.*, p. 123. "...persons must earn their rights through productive labor."

74. Leslie Stevenson, *Seven Theories of Human Nature*, 2d. ed. (New York and Oxford: Oxford University Press, 1987), p. 32.

75. Locke's conceptualization of rights countered this. He believed instead that rights are something that "belong to men as men and not members of society." *Socrates, Plato, and Their Tradition*, p. 105.

76. "However, what the FR (Functional Reciprocity) principle cannot provide is a basis for substantively equal 'human rights'. It will justify rights only in those special cases in which the differences between groups of persons (such as difference of sex) are judged to be irrelevant to the value of their respective contributions." *Ibid.* p. 119.

77. "Among all of Plato's writings which have survived from the classical age of Greece, that work (*The Republic*), alone projected a vision of society in whose dominant segment the equal rights of human beings are not denied or abridged on account of sex." *Ibid.*, p.142.

78. To appreciate the complexity of Plato's ideas of rights and his reputation for embracing sexual stereotypes of women, refer to the chapter entitled "Was Plato a Feminist?"

79. Katherine MacKinnon in *On Human Rights: The Oxford Amnesty Lectures 1993*, Stephen Shute and Susan Hurley, eds., (Basic Books,1993), p. 84.

80. "Radical feminists claim the source of a woman's oppression derives in terms of the sexual power dynamic, for

the Marxist it is capitalism, for the socialist feminist from psychological and social factors. What is being said here is that another form of oppression can be ad