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## **Prostitution: Controversies, Theories, and Policy Implications Introduction**

Like many criminal acts, especially those involving the legislation of morality, prostitution encompasses a complex web of issues which are intertwined enough that it is impractical to examine one while ignoring the others, yet separate and large enough that it is a formidable task to examine all at once. In order to do justice to the complexity and gravity of these issues, this paper is the result of a review of certain prominent arguments, theories, and policy implications. It includes answers to the following questions: what is prostitution? Why is it a crime in some places and not in others? What policies are appropriate and consistent with a political philosophy and system emphasizing individual rights and freedom? The theories most useful in this regard will include classical criminology, strain theories, labeling theories, and conflict theories. The discussion here is restricted to female prostitution, with only the minimum necessary inclusion of other types, such as child prostitution, and admittedly important yet indirect consequential issues such as relationships between prostitution and drugs, organized crime, violence and pornography. Reasons why it exists will be only briefly addressed in the context of reasons why it is illegal in some places--let us, for the purposes of this paper, simply accept that it does indeed exist.

## **Past Policy: A Brief Historical and Intercultural Overview**

In the early 1800s, so-called mothers' associations were aimed at "uplifting fallen women" and suppressing vice. England's legislation was undergoing rapid change and groups with various opinions clashed repeatedly. Anti-regulationists from that country visited the United States and enforced the puritanistic movements peaking near the turn of the century. It progressed in spurts, until "by the 1890s social purists had not done much to eliminate prostitution, but they had destroyed any chance of regulating it" (O'Neill, 1969).

The United States is one of the countries in the world that holds prostitution and related activities illegal, with few exceptions, including Alaska and parts of Nevada, which allow regulated prostitution. Many countries join the United States in their stands, while many others consider related activities--but not prostitution--a crime (Seager & Olson, 1986).

## What is Prostitution?

Although the behaviors that are defined or classified as prostitution may seem intuitively obvious to some readers, there is some controversy about what constitutes an act of prostitution. Paul J. Goldstein dedicates a full chapter of his book *Prostitution and Drugs* to defining this sometimes ambiguous label. One research study asked women who used drugs how they supported their habits and “fourteen women responded that they went with men who used or sold drugs. Some women readily admitted that this was a form of prostitution, others vehemently denied it, others were not sure.” Goldstein continues by describing the difficulties subjects had in identifying the first time they had ever committed an act of prostitution. Many women could not pinpoint exactly the first time, not because of fading memory, but because they were unsure if a particular situation would count as prostitution. For instance, these women had had such experiences as having sex with a man in order to get him to buy her a blouse, a soda, or food, or to give her money after some longer period of time than just one trick (Goldstein, 1979). One common thread among these women was the tendency to view, either consciously or not, sex as a tool through which their needs and wants would be met. This brings into question many more women than those most people would call “common prostitutes.” One attempt at a complete definition given by Abraham Flexner in 1914 is as follows:

Prostitution is characterized...by three elements variously combined: barter, promiscuity and emotional indifference. The barter need not involve the passage of money... .Nor need promiscuity be utterly choiceless; a woman is not the less a prostitute because she is more or less selective in her associations. Emotional indifference may be fairly inferred from barter and promiscuity. In this sense any person is a prostitute who habitually or intermittently has sexual relations more or less promiscuously for money or other mercenary consideration. Neither

notoriety, arrest, or lack of other occupation is an essential criterion (Goldstein, 1979).

And one prostitute summarizes the confusion:

Part of me says there really isn't a line; don't get hung up on thinking a prostitute is the one on the street or the one working out of the house. There are plenty of married women who are having their apartments paid for, they've got food on the table, their kids are being raised, they're living good and they can't stand their husbands; but they go to bed once a week or once a month or whatever because it's the thing to do. That's prostitution, you know, she's being kept. Except they have a legal little paper (Goldstein, 1979).

## What is the Controversy?

Let us suppose, though, for the sake of argument, that a complete definition is in fact reachable. If these defined behaviors were acts agreed upon unanimously as wrong and needy of regulation or criminalization, then research such as this paper would not be necessary. However, not everyone agrees that it is in fact a wrongful act, and many people also do not agree that it should be illegal, regardless of their moral opinions on the subjects. Moral controversies surround it, as do economic or pragmatic ones. Furthermore, regardless of one's moral opinions, one may decide that certain tradeoffs being more beneficial than others creates certain necessary policy implications. These will be addressed in a separate final section.

## The Moral Controversies

Michael Kanter describes the "strategies to deal with...prostitution" offered by the Fraser Committee:

A conservative position is described as involving the view that sexual relations should take place within marriage, that the traditional family needs to be preserved, that sexual conduct such as homosexuality is unnatural and deviant, and that the state should legislate and represent the shared morality of the community. A liberal position

is said to be closely identified with John Stuart Mill's principle that the state is justified in interfering with the liberty of individuals only when those individuals harm others. A feminist position is described as involving a broad coalition of interests rather than being a discrete philosophy. The unifying element to feminist thought is the view that society is built around a sexual class system which frustrates the aspirations of women for economic, social, and sexual freedom (Kanter, 1985).

### **The Conservative Views**

The United Nations reports that in some countries, "adult prostitution is a criminal offense, not because it victimizes women but because it violates standards of morality" (United Nations, 1985). Many people, however, do not include in their definition of the scope and nature of government's rights and responsibilities that of dictating or legislating morality. Flexner wrote, though, that prostitution was society's business because of the following four major costs it incurs: personal demoralization, economic waste, spread of sexually transmitted diseases, and the association of prostitution with "social disorder and crime" (Goldstein, 1979). Promiscuity falls under this definition as well. Although promiscuous practices would also be (and are) illegal by this definition, this is only one point of view: the conservative one. In any case, the Supreme Court has upheld this definition of prostitution because of prostitution's being an inherent threat to monogamous marriage: "the sure foundation of all that is stable and noble in our civilization" (Rosenbleet & Pariente, 1973; Goldstein, 1979). Other court decisions have defined prostitution based on such criteria as these:

Any female who frequents or lives in a house of ill-fame or associates with women of bad character for chastity, either in public or at a house which men of bad character frequent or visit, or who commits adultery or fornication for hire shall be deemed a prostitute (Woolston, 1921; Goldstein, 1979)

Researchers and writers have tried to distinguish prostitutes from other women by stating that a woman's place is by her husband's side ("The essence of feminine respectability was shelter by one man within the nuclear family, while the essence of prostitution was indiscriminate sexual exchange with many partners" (Goldman, 1976; Goldstein, 1979). Most

court decisions and laws, though, simply make the blanket (unclear) distinction:

any woman who has sex for hire is prostituting herself.

#### The Liberal Views

As Michael Kanter points out, the liberal position is that prostitution should not be illegal--whether for practical reasons such as problems with enforcement or for philosophical positions on civil liberties--but that "only the most severe nuisance aspects of street soliciting should be dealt with by law.... This could include seriously impeding the flow of traffic or using sexually offensive language" (Kanter, 1985). The United Nations reports that "many experts have taken the position that adult prostitution is a 'victimless' crime, involving free choice and mutual exchange. Thus, in many countries, the regulation of prostitution is based on the implicit assumption that prostitution itself is to be tolerated as long as it stays within the boundaries of public health and decency" (United Nations, 1985). Lord Devlin's theory of law and morality, as described by Burton M. Leiser, says something like this:

though prostitution may be immoral, it may be legalized without legalizing street-walking on the ground that the latter offends the sensibilities of those who may be unwillingly exposed to its manifestations. A case may be made for the view that people have a right not to be offended by sights that are imposed upon them in public places, just as they have a right not to be made an unwilling audience to loud noises emanating from bars, record shops, and transistor radios in public streets, parks, buses, and beaches (Leiser, 1986).

Some Nevada counties allow prostitution, but no advertising of it, on the grounds that "the right to advertise does not extend to activities that the state may regulate or totally ban if it so chooses." Even if one thinks prostitution is immoral, a good case can be made for legalization and regulation (Leiser, 1986). Intelligent legislation regarding licensing and advertising must be passed in order for legalization to work.

#### **The Feminist Views**

Jennifer James is one strong proponent of the feminist views that argue that women have been systematically, formally and informally, discrimi-

nated against by a male-dominated society and that therefore there are at least as many (though clearly far more) customers as there are prostitutes, “the arrest rate for customers is only two for every eight prostitutes arrested (Uniform Crime Reports, 197~)” and that the prostitutes are almost invariably the major sufferers both from thermal—punishment by the law and from the informal punishment by ostracism from society. Because the prostitute is in a certain location known to the police, she is an easy target for arrest: “men may walk the streets freely whenever they wish; a woman downtown late at night with a male escort is ipso facto suspect” (James, 1978). The double standard is used widely in police enforcement of prostitution:

George R. Cole (1972:97) reports that a police expert, in delineating for police officers the ‘subjects who should be subjected to field interrogations,’ included ‘unescorted women or young girls in public places, particularly late at night in such places as cafes, bars, bus and train depots, or street corners. Unescorted men or young boys in public places were not included in this list of suspect persons. Moreover, it is considered acceptable behavior for men to initiate conversations—including conversations with overt or covert sexual content—with female passers-by (James, 1978).

James writes that throughout virtually all attempts at reform of prostitution laws, the men’s (customer’s) needs and urges are seen as normal and inevitable: “At most, the men were chided for risking venereal disease and implored to practice self-control” (James, 1978. Davis (1937:752) explains discriminatory enforcement this way:

The professional prostitute being a social outcast may be periodically punished without disturbing the usual course of study; no one misses her while she is serving out her term--no one, at least, about whom society has any concern. The man [customer], however, is something more than a partner in an immoral act; he discharges important social and business relations.... He cannot be imprisoned without deranging society (James, 1978).

James continues by pointing out that although Davis’ portrayal of the typical customer may be fairly accurate (“middle class, married, white,

professionals, or businessmen who live in the suburbs” [James, 1978]), the assumptions he makes about classes of prostitutes are not so easily approved. In one study (James, 1976) of over a hundred streetwalkers (who are, among the prostitutes, considered the lowest on the totem pole in class and status), she reports that

64% of the subjects reported their childhood family’s income as middle or upper class. It is social mobility, as effected by societal application of the ‘deviant’ label, that makes the common assumption of ‘prostitute= lower class’ near absolute in fact (James, 1978).

The prostitute, she writes, is classified as a lower class citizen not on the basis of income or education, but because she works the streets in an occupation not condoned by society; however, “no parallel social process exists to label customers as deviant, and their higher-class status is therefore not affected by their illegal participation in prostitution.” Her quote of Davis continues: “The harlot’s return is not primarily a reward for abstinence, labor, or rent. It is primarily a reward for loss of social standing.” James proposes that the criminalization of prostitution is discriminatory against women in that “money-making options are still quite limited for women, especially for un- or low-skilled women. Recognition of this basic sex inequality in our economic structure helps us understand prostitution as an occupational choice for some women, rather than as a symptom of the immorality or deviance of individuals” (James, 1978). One might think that there would be some way of prosecuting would-be customers more, but under current policies the only way to do so is through “the use of female agents [civilians ‘who complete acts of sexual intercourse before the arrest is made’] to solicit and arrest customers” but in fact this practice “is rare because it requires a violation of appropriate behavior for women and an ‘unfair’ use of female sexuality to entrap men” (James, 1978).

## The Economic and Pragmatic Controversies

A 1953 Kinsey report claimed that an estimated twenty percent of the male population had had some contact with prostitutes (James, 1978). Furthermore, in 1985, “68,579 females aged 18 and over were arrested in this country for prostitution and commercialized vice. This ranked eighth for the offenses in which women were arrested that year,” (Flowers, 1987) and in that same year in Dallas alone, “Dallas police made 7280 prostitution arrests, which cost local taxpayers over \$10 million. More impor-

tantly, these prostitution arrests cost taxpayers over 300 hours daily, or 2170 hours weekly,” of police time (Pearl, 1987). Such figures cannot be ignored. But the controversy is not usually over a denial of these, but rather over what to do with them. Often it is a question of whether these are worth the tradeoff for moral satisfaction.

## **Why is Prostitution Illegal in Some Localities?**

Some countries have strict laws prohibiting prostitution, while others have regulations governing the activities or their locations, and still others have no laws regarding these activities at all. There are many theories which may be used to answer this question. Presented here are some of the major ones.

### **Strain and Anomie Theories**

These theories would purport that women become prostitutes because of breakdowns in societal ties and controls. Merton’s typology of modes can be useful here. A woman faced with a life decision, such as whether or not to become a prostitute, has, like anyone else, certain alternatives. If the goal of the society is material wealth, but the institutionally approved means of achieving such a goal--such as working in lucrative yet legal professions, especially in executive positions in successful businesses--are either too difficult or impossible to follow, then alternatives are sought. For instance, if a woman shares the same goals as society--material wealth--yet she believes that she will never achieve such goals through working her way through the traditional means, nontraditional means start to become more attractive. She is faced with the following logical possibilities: accepting the goal of wealth and trying to achieve it if she goes into the work market and tries to get a job, accepting the goal of wealth but trying alternative means to achieve it (such as prostituting herself), rejecting the goal and going with the traditional and acceptable ritual of working in the job market, rejecting the goal of wealth as well as the traditional means (probably resulting in her becoming a street dweller), or rebelling against both and trying to substitute new values and new means. The second and fourth alternatives are those most likely to result in prostitution. If a woman decides she still maintains society’s goals of material gain for herself, yet realizes she will never attain this through traditional means, she is likely to turn to crime--which for a woman very often involves prostitution--to attain those goals. If she rejects the goal

of wealth and the traditional means, she is likely to end up on the street committing crimes and will again likely end up prostituting herself for support.

## Conflict Theories

Vold and Bernard describe conflict theories of crime as those that argue that “societies are composed of groups with conflicting values and interests. However, the organized state is not said to represent the values and interests of the society at large. Rather, it is said to represent the values and interests of groups that have sufficient power to control the operation of the state” (Vold & Bernard, 1986). They write that “conflict criminology presents a theory of the behavior of criminal law. That theory argues that behaviors typical of relatively powerless people are more likely to be officially defined as criminal, and relatively powerless people themselves are more likely to be processed by criminal justice agencies” (Vold & Bernard, 1986). This theory can be applied to the problem at hand in that women--specifically unskilled women--become the relatively powerless people, while predominantly white, middle class men make up the governing power. Of course in such a situation the interests of a group not represented at the governing level are not going to be duly served. James writes that Pomeroy (1965:175) “studied 175 prostitutes, up to 93 % of whom were motivated by economic factors; he noted that ‘the gross income from prostitution is usually larger than could be expected from any other type of unskilled labor’” (James, 1978). No other occupation can offer especially low-skilled women the kind of excitement and money available to them as prostitutes. Prostitution can be an adventurous, glamorous, exciting and flexible job for many women. A United Nations report writes that

proponents of women’s emancipation have long regarded the prevalence of female prostitution as symptomatic of a lack of economic alternatives, and the male patronage of prostitutes as symptomatic of the harmful ‘double standard’ of sexuality. It is important to recognize prostitutes as victims rather than defining prostitution as a ‘victimless crime’ (United Nations, 1985).

## Labeling Theories

Labeling theories claim that once an individual is given a label (i.e., juvenile delinquent), it becomes a selffulfilling prophecy, and individuals will continue to behave as they believe would be appropriate to someone fitting into that given category (i.e., criminal activity). It is entirely possible that once a woman commits an act of prostitution, in the currently intolerant climate, she will be forever considered a second-class citizen (or worse), and will be thereafter unable to wipe such a stigma away to start again, if she were to decide to try to do so. Jennifer James writes that

it has been reported that 70% of the women who are now inmates in American prisons were initially arrested for prostitution, indicating the possible importance of prostitution law enforcement as a labeling device and of the jail experience as an introduction to other crime..  
(James, 1986).

Women who begin with even one small act of crime, such as turning one trick to earn quick cash in an emergency situation, may spiral downwards, into a lifestyle, circle of acquaintances, and patterns of dealing with society that are all criminal in nature. Her one act of prostitution may introduce her unwittingly into a situation or group or persons already steeped in criminal values, and she may find it difficult, if not impossible, to get out.

## Policy Implications

Helen C. Reynolds writes that “because of illegality, there are other risks to the buyer and seller besides arrest,” which would be eliminated if prostitution were made legal (Reynolds, 1986). For one thing, if prostitution were legal, information about health and other dangers would be more available and therefore intelligent and informed choices would be possible on the parts of would-be customers as well as would-be prostitutes. It would also make legal recourse possible if a participant in the act of prostitution were hurt or in danger (Reynolds, 1986). She furthermore writes that the fact of illegality cannot negate the simple economic law that demand drives supply, and that

as long as some people demand prostitution services and are willing to pay for them, there will be someone else

who will emerge and supply that demand. Buyers and sellers have managed to find each other for a long time and will continue to do so for a long time hence (Reynolds, 1986).

She continues, “It has been estimated that there are as many as half a million prostitutes working in the United States today...” (Reynolds, 1986). Suppose, Reynolds writes, that each prostitute took in \$40,000 a year. Even considering that they do not get to keep much of what they make, but must turn it over to a pimp or manager, this does not change the fact that this totals \$20 billion each year. In any case, a large portion of this money goes untaxed as income to these people. This has become a major argument in favor of legalization (Reynolds, 1986).

In her book *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition*, Barbara Meil Hobson writes of the choices made in policy decisions:

A society’s response to prostitution goes to the core of how it chooses between the rights of some persons and the protection of others... .the differences in approach go to the heart not only of a society’s organization of class and gender but also of the state’s role in regulating morals and markets (Hobson, 1987).

She cites a study done of people living and working in Boston in the late 1970s. This survey showed that many people have a conflict between their attitudes that prostitutes have a right to practice their chosen business and customers have a right to purchase their services, but that they did not necessarily want these transactions going on in their own neighborhoods:

a majority of the respondents were in favor of some form of legalized prostitution through licensing or zoning, [and]... .Only...14 percent considered prostitution immoral, and most conceded that prostitution could neither be eliminated nor significantly reduced. Yet the associations of prostitution with crime, venereal disease, and neighborhood decay, which have existed for over a hundred years, remained fixed in the minds of most residents of that city (Millman, 1980).<sup>1</sup>

Throughout the 1970s lawyers and social scientists attempted to prove that these were false associations. They offered empirical evidence that (1) venereal disease is more often spread by nonprofessionals, (2) usually prostitutes who commit crimes do so after they have been labeled as criminals through prostitution arrests, and (3) prostitution generally comes into a neighborhood that is already in decline. Furthermore, many people argue that “most of the negative aspects of prostitution were side effects caused by its illegal status (Hobson, 1987). Hobson writes that

some American legal experts [studying the West Germans]. . . found that civil controls were in fact more effective in policing prostitution than were criminal sanctions. State regulation in Germany, according to Barbara Yondorf, had reduced prostitution-related crime and venereal disease, and it had even increased state revenues (since prostitutes have to pay taxes) (Yondorf, 1979; Hobson, 1987).<sup>2</sup>

Hobson also cites the Dutch system of zoning with the minimal state intervention. This eliminates “many of the distasteful aspects of regulation,” and is widely viewed as the most enlightened approach to prostitution policies. It fits the views of the American legal ideal: “private matters should not be the business of the state, while public order and safety are. If police concerned themselves with confining prostitution activities to certain areas, then perhaps these areas could be clean, well-lighted place, where prostitution hotels could exist side by side with family homes, shops, churches, and restaurants.” This ideal is not unrealistic: there is a “long history of peaceful coexistence between residents and prostitutes in Amsterdam’s red-light district” (Vorenberg & Vorenberg, 1977; Hobson, 1987). Unfortunately, though, transplantation of a European system to America is not so simple: in those European systems where legalization works, the attitudes of tolerance prevalent seem to be the key element, as is evidenced by the relatively unenlightened isolation of prostitution in rural Nevada counties which have legalized prostitution:

In Lyon county, for example, brothels must be located in uninhabited areas at least five miles from a city, town, mobile home park, or where people generally reside. A local sheriff can limit the work hours, days of business, number of prostitutes in a house, and size of the building.... They [prostitutes] are often confined to certain sections of town and permitted out only at certain times

of day. One municipality prevents prostitutes from leaving brothels on Sundays. This town limits when prostitutes can shop and the establishments they can frequent... (Symanski, 1985; Hobson, 1987).

Mary Gibson offers her own analysis of the various options open to policy-makers: prohibition, regulation, and decriminalization.

## Prohibition

Gibson argues that prohibitive laws, such as are prevalent in the United States, are very expensive—so much so as to make them perhaps impractical. Since so many members of society are engaging in an act that the law defines them as criminal, the state would require an enormous “vice squad” to locate all offenders. Furthermore, since there is usually no complainant in such a case (hence the common label of “victimless crime”), it takes much more time, money, and effort on the part of the police to obtain any evidence (Schur, 1974; Inciardi & Faupel, 1980; Gibson, 1980). Efforts to enforce prohibitive prostitution laws are ineffective, as prostitution practice prevails worldwide. Furthermore, Gibson writes, “because of lack of complainants, police have to rely on methods which border on illegality,” such as the use of decoys to catch prostitutes in the act of solicitation which often becomes entrapment, and thus a violation of the prostitute’s civil rights (Gibson, 1980).

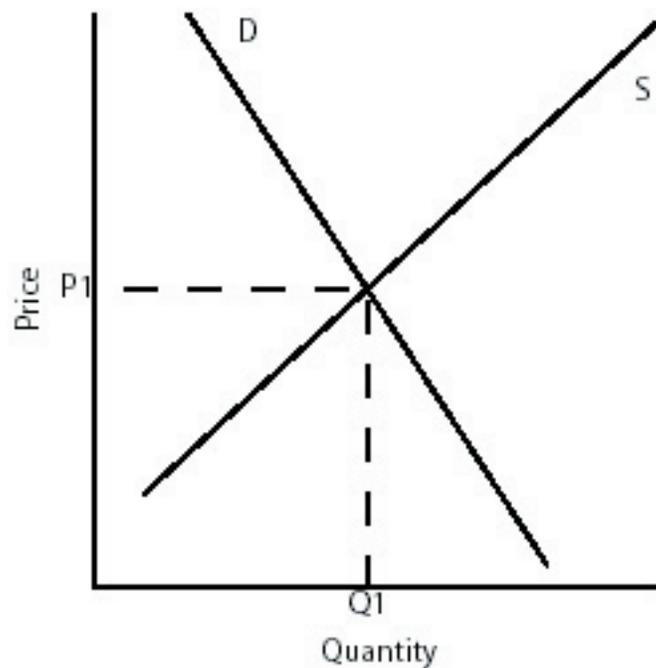
## Regulation

Laws which do not prohibit but which regulate practice of prostitution are far rarer, at least in Western countries, than are those which prohibit prostitution. Gibson writes, “Regulationists rejected moral crusades and pledged to treat prostitution rationally as an unpleasant, but eternal fact of life.” What made prostitution “eternal,” many suggested, was men’s sexual urges, commonly believed to be strong and uncontrollable. Many of them felt that prostitution did not “challenge the sanctity of marriage, as prohibitionists thought, but reinforced it by providing a safety valve for a male sex drive which might otherwise be directed toward ‘honest’ women (Gibson, 1980).

## Decriminalization

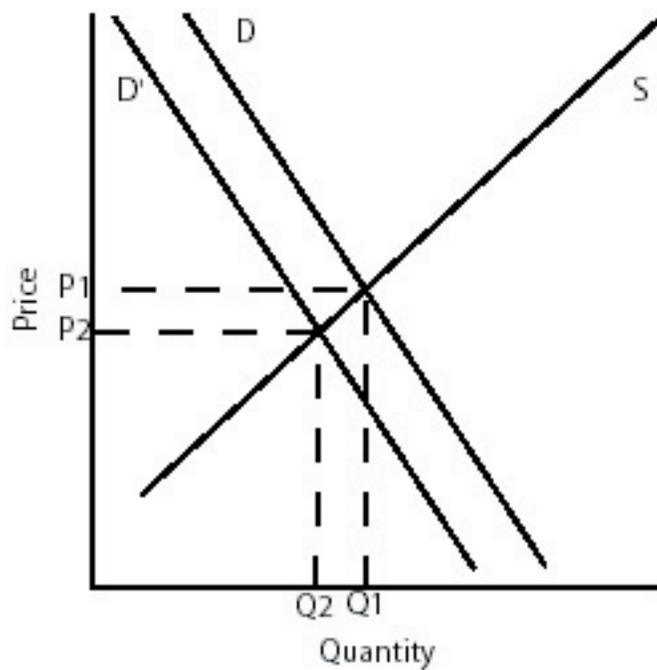
Advocates of this school have in common with regulationists that they feel that prostitution is a private vice and should not be a crime *per Se*; rather, only its objectionable manifestations should be of interest to lawmakers and enforcers (Gibson, 1980). This group includes those who feel that prostitution is wrong yet that the laws prohibiting its practice are not the way to extinguish it, as well as those who feel that prostitution serves some positive purposes in society and therefore should not be bothered with by policymakers, except in its harmful manifestations. Such ill side effects typically include child prostitution and solicitation to minors, as well as often the locality of solicitations. They most often point to the inconsistencies in law and enforcement to the infringements on civil rights cause by prohibitive and regulatory laws.

Daryl A. Hellman comes at the issue of prostitution from a slightly different perspective. Hellman gives the following economic analysis of prostitution.

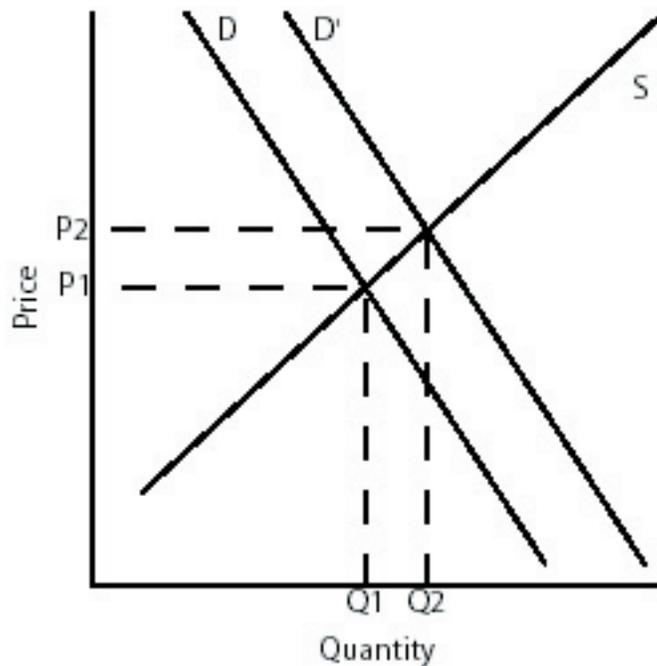


The first figure illustrates the market equilibrium before a change in public policy (Hellman, 1980). Hellman uses ordinary supply and demand illustrations to show what would happen to this market equilibrium if each of two basic and opposite policy choices were made. Granted, these are not the sole options available, but they make a good comparison. First Hellman suggests becoming more stringent in the current policies. This means basically “stricter enforcement of existing laws or the imposition of stiffer penalties, either of which increases expected-punishment costs” (Hellman, 1980). The next decision in a so-called “get-tough” policy is this: at whom will these policies be directed: buyers, sellers, or both? Hellman points out that

Typically, law enforcement efforts have been concentrated on the sellers of economic ‘bads’ rather than on their buyers, although it is clear that if there were no buyers there would not be sellers. For example, in a recent year 547 arrests were made for ‘common nightwalkng’ in Boston. Of those arrested, 533 were women. Most of the 14 men were male prostitutes, not potential buyers of prostitutes’ services. We will initially assume, then, that ‘getting tough’ means increasing the expected-punishment costs to sellers of prostitution, primarily females (Hellman, 1980).



Therefore, the second figure shows what effect this added cost of the policies will incur (Hellman, 1980). The price increases from  $P_1$  to  $P_2$ , and the quantity bought and sold decreases from  $Q_1$  to  $Q_2$ . Since this represents one of the costs of doing business, the supply curve will shift to the left, to  $S'$ , reflecting the increased cost of doing business, as shown in the third figure (Hellman, 1980).



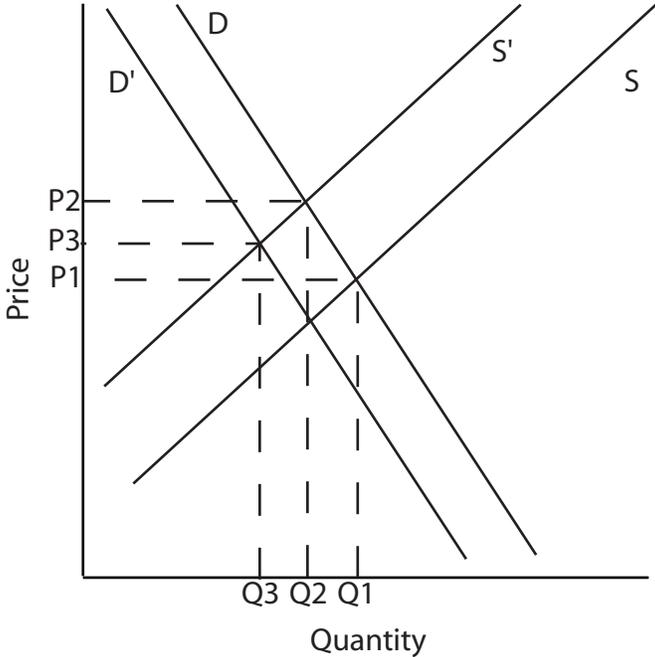
Hellman continues by describing the following possible consequences of such policies.

Female unemployment rates might increase. The extent to which the supply function shifts, and, therefore, the extent to which price increases and output decreases depends on the extent to which the expected value of the punishment is increased. If we were also to increase the expected-punishment costs to buyers, or consumers, of prostitution, which has been the direction of more recent policy, the reduction in output would be even greater (Hellman, 1980).

The size of the shifts depends on how much tougher we get, and on whom. In any case, clearly such a policy can reduce the consumption of prostitution services. The real question is, does this kind of a policy make good economic sense? To answer this question, policymakers must do a cost-benefit analysis of the proposed policy changes. Obviously a get-tough policy will cost more in law enforcement resources. The benefits

would be a reduction in all of the costs associated with prostitution, except for criminal justice costs. Hellman points out that

how large and how real some of these costs are—and, therefore, how large and how real the benefits would be—is open to some question. If the benefits of reduced prostitution exceed the costs of increased law enforcement, the policy change is economically rational. If the reverse is the case, society would be better off not making the change. A San Francisco study commission recently estimated that it cost that city \$375,000 to arrest 2,000 prostitutes and transport them to the police station. It also found that most of the women went back to the streets after being released. Really getting tough would therefore cost even more (Hellman, 1980).



The question a conscientious voter or policymaker must then ask is this: would it be worth it? If “get tough” policies are significantly more expensive, would it make sense to go to the opposite extreme and legalize prostitution? Again, the first thing to do in answering this question is to

figure out what impact this would have on the market for prostitution. Like the “get-tough” policy, legalization will affect both the demand and supply sides of the market. Demand will shift “if there is a change in tastes, in the prices of substitute or complementary goods, or in income. The question is, would legalization affect any of these? The answer is yes” (Hellman, 1980). Tastes are likely to be affected by availability if, say, the very illegality of the act is what has been deterring a would-be customer. Advertising could also affect demand. Next, there will be an impact on the supply side of the market, due to the reduction in expected-punishment costs to sellers: “this represents a decrease in the costs of doing business; any amount of prostitution can now be produced at a lower price. The supply function shifts outward, to the right” (Hellman, 1980). On the other hand, many more suppliers may enter the market and compete, causing the supply curve to shift to the right. This is illustrated in the fourth figure (Hellman, 1980). Based on this information, does legalization make economic sense? What are the costs and benefits to society of making this change in public policy? The costs to society will come in the form of increases in some, but not all, of the costs associated with prostitution. Those negative externalities are likely to increase. However, proponents of legalization claim that although these externalities may increase in total, the amount per unit of service decreases. Also, increased competition would improve the produce (or licensing may be required to maintain sanitary standards) and reduce medical costs to buyers. The previously mentioned costs to participants in the act, such as health risks and danger of violence, would be decreased as well. Finally, criminal justice costs, both those which are easily measured and those which are not, such as disrespect for the law, would be reduced significantly. We would no longer have to spend scarce resources policing the activity, and resources could be directed elsewhere, towards more serious crimes (Hellman, 1980).