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# Prostitution, Trafficking, and Cultural Amnesia: What We Must *Not Know* in Order To Keep the Business of Sexual Exploitation Running Smoothly

Melissa Farley†

## INTRODUCTION

“Wise governments,” an editor in the *Economist* opined, “will accept that paid sex is ineradicable, and concentrate on keeping the business clean, safe and inconspicuous.”<sup>1</sup> That third adjective, “inconspicuous,” and its relation to keeping prostitution “ineradicable,” is the focus of this Article. Why should the sex business be invisible? What is it about the sex industry that makes most people want to look away, to pretend that it is not really as bad as we know it is? What motivates politicians to do what they can to hide it while at the same time ensuring that it runs smoothly? What is the connection between not seeing prostitution and keeping it in existence?

There is an economic motive to hiding the violence in prostitution and trafficking. Although other types of gender-based violence such as incest, rape, and wife beating are similarly hidden and their prevalence denied, they are not sources of mass revenue. Prostitution is sexual violence that results in massive

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On the one-year anniversary of her death, I note that Andrea Dworkin’s life and her words changed my life. Catharine MacKinnon’s wisdom about exactly how women get hurt by men, her generous heart, and her fabulous critical reviews, have made it possible for me to keep writing. Margaret Baldwin, a brilliant and compassionate attorney who is in the process of setting up a state-of-the-art treatment center for women escaping prostitution, has been a joy to work with. Nikki Craft’s vigilance, her devotion to cyberspace, and her saucy attitude are an inspiration to me. And thank you to Dorchen Leidholdt for saying to me in the back of that bus near Beijing, “why don’t you compare other countries to the US—that hasn’t been done before? And write about the emotional harm, why don’t you?”

I thank the editors at the *Yale Journal of Law and Feminism* for their assistance and their dedication in editing this paper.

1. *The Sex Business*, *ECONOMIST*, Feb. 14, 1998, at 17.

economic profit for some of its perpetrators.<sup>2</sup> The sex industry, like other global enterprises, has domestic and international sectors, marketing sectors, a range of physical locations out of which it operates in each community, is controlled by many different owners and managers, and is constantly expanding as technology, law, and public opinion permit. Many governments protect commercial sex businesses because of the monstrous profits. Like slavery, prostitution is a lucrative form of oppression.<sup>3</sup> And both slavery and prostitution are rife with every imaginable type of physical and sexual violence.

The institutions of prostitution and slavery have existed for thousands of years, and are so deeply embedded in cultures that they are invisible to some. In Mauritania, for example, there are 90,000 Africans enslaved by Arabs. Human rights activists have traveled to Mauritania to report on slavery, but because they think they know what slavery looks like and because they do not see precisely that stereotype in action—for example, if they do not see bidding for shackled people on auction blocks—they conclude that the Africans working in the fields in front of them are voluntary laborers who are receiving food and shelter as salary.<sup>4</sup>

Similarly, if people do not see exactly the stereotype of what they think “harmful” prostitution/trafficking is, for example, if they do not see a girl being dragged at gunpoint from one location to another, or if they see an eighteen year old who says, “I like this job and I’m getting rich,” then they do not see the harm. Prostitution tourists and local johns see smiling girls waving at them from windows in Amsterdam, brothels in Mumbai, or strip clubs in Las Vegas. Johns and their friends decide that prostitution is a free choice.

On the other hand, survivors of prostitution have described it as “*volunteer slavery*”<sup>5</sup> and as “*the choice made by those who have no choice.*”<sup>6</sup> If you’re a woman or girl, global forces that *choose you* for prostitution are sex discrimination, race discrimination, poverty, abandonment, debilitating sexual

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2. In Las Vegas, Nevada, three law enforcement sources and one investigative reporter have separately estimated that the sex industry and its ancillary operations (including both legal and illegal activities such as legal lapdancing, extortion monies paid to taxi drivers for delivery of customers to specific strip clubs, and tips to valets and bartenders for procuring women) generate between \$1 and \$5 billion per year. This research is forthcoming in a report on Nevada prostitution/trafficking to be released by the author in 2006. Melissa Farley, *Prostitution and Trafficking in Nevada*, 2006 (unpublished manuscript, on file with author).

3. See, e.g., KATHLEEN BARRY, *FEMALE SEXUAL SLAVERY* (1979); KATHLEEN BARRY, *THE PROSTITUTION OF SEXUALITY* (1995) [hereinafter *PROSTITUTION OF SEXUALITY*]; CATHARINE A. MACKINNON, *SEX EQUALITY* 1447-72 (2001) (discussing prostitution and slavery).

4. See Elinor Burkett, *God Created Me to Be a Slave*, N.Y. TIMES MAG., Oct. 12, 1997, at 56. Since Burkett wrote the article, there has been increasing awareness of different manifestations of slavery, sometimes including prostitution. See, e.g., U.S. DEP’T OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, *RESCUING VICTIMS OF MODERN-DAY SLAVERY* (2005), <http://www.state.gov/g/tip/rls/fs/2005/55233.htm>.

5. INE VANWESENBEECK, *PROSTITUTES’ WELL-BEING AND RISK* 149 (1994).

6. CHRISTA WISTERICH, *THE GLOBALIZED WOMAN: REPORTS FROM A FUTURE OF INEQUALITY* 63 (2000).

and verbal abuse, poor education or no education, and a job that does not pay a living wage. All drive girls and women into the commercial sex industry.<sup>7</sup> Defined as whores when they were young, women who appear to choose prostitution have been sexually abused as children at much higher rates than other women. One way that women end up 'choosing' prostitution is that they are paid for the abuse that they have already grown up with. They assume that's all they are good for.<sup>8</sup>

In this analysis, prostitution is a gendered survival strategy based on the assumption of unreasonable risks by the person in it. Regardless of prostitution's legal status (legal, illegal, zoned, or decriminalized) or its physical location (strip club, massage parlor, street, escort/home/hotel), prostitution is extremely dangerous for women. Prostituted women are unrecognized victims of intimate partner violence by customers as well as pimps.<sup>9</sup> Pimps and customers use methods of coercion and control like those of other batterers: economic exploitation, social isolation, verbal abuse, threats, physical violence, sexual assault, captivity, minimization and denial of their use of physical violence and abuse.<sup>10</sup>

Prostitution/trafficking/pornography thus systematically discriminate against women, against the young, against the poor and against ethnically subordinated groups. When prostitution is conceptually morphed into sex work, brutal exploitation by pimps becomes an employer-employee relationship. When prostitution is defined as labor, the predatory, pedophilic purchase of a human being by a john becomes a banal business transaction.<sup>11</sup> Prostitution is sometimes embraced in the media, in public health, and in the

7. The sex industry changes and expands constantly. It includes phone sex, internet prostitution via live video chat, massage brothels, escort prostitution, gentlemen's clubs, topless clubs, the commercial marriage market, ritual abuse of children, sauna and nail parlor prostitution, street prostitution, strip clubs, lap dancing, peep shows, and pornography.

8. As a teen, one woman felt safer and more in control turning tricks in the street than she did inside her home where her stepfather regularly raped her and stole her epilepsy medication. Interview with anonymous prostituted woman, in San Francisco, Cal. (Sept. 20, 2000).

9. See Christine Stark & Carol Hodgson, *Sister Oppressions: A Comparison of Wife Battering and Prostitution*, in *PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS* 17 (Melissa Farley ed., 2003).

10. See EVELINA GIOBBE ET AL., *A FACILITATOR'S GUIDE TO PROSTITUTION: A MATTER OF VIOLENCE AGAINST WOMEN* (Denise Gamache ed., 1990)[hereinafter *GIOBBE, FACILITATOR'S GUIDE*]; Evelina Giobbe, *An Analysis of Individual, Institutional and Cultural Pimping*, 1 *MICH. J. GENDER & L.* 33 (1993); Evelina Giobbe, *Prostitution: Buying the Right to Rape*, in *RAPE AND SEXUAL ASSAULT III: A RESEARCH HANDBOOK* 143 (Ann Wolbert Burgess ed., 1991).

11. See Appendix A. Women Hurt in Systems of Prostitution Engaged in Revolt (WHISPER) demystified the "job" of prostitution with a tongue-in-cheek job application for prostitution. This satirical job description has been widely used in agencies that provide emotional support and alternatives to women escaping prostitution. For example, the author learned that women at SOS (Sisters Offering Support) in Honolulu tacked the job description onto the door of their group meeting room and that it led to much laughter.

The job application is © WHISPER & Evelina Giobbe. All rights reserved. Permission granted to reprint. Previously printed in Melissa Farley, *Preface: Prostitution, Trafficking, and Traumatic Stress*, in *PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS* xi, xx (Melissa Farley ed., 2003); MACKINNON, *SEX EQUALITY*, *supra* note 3, at 1437.

academy as “sex work,” and in that one word—work—the sexism, racism, and violent degradation of prostitution fade from sight.

U.S. prostitution can be understood in the context of the cultural normalization of prostitution as a glamorous and wealth-producing “job” for girls who lack emotional support, education, and employment opportunities. The sexual exploitation of children and women in prostitution is often indistinguishable from incest, intimate partner violence, and rape.<sup>12</sup> Indian feminist Jean D’Cunha asked, “What will be the . . . outcome of struggles against sexual harassment and violence in the home, the workplace, or the street, if men can buy the right to perpetrate these very acts against women in prostitution?”<sup>13</sup>

This Article discusses and analyzes some of the empirical data on the harms of prostitution, pornography and trafficking. This information has to be culturally, psychologically, and legally denied because to know it would interfere with the business of sexual exploitation.

1. In order to view prostitution as a job, and in order to keep the business of sexual exploitation running smoothly, *we can not know that prostitution is extremely violent.*

Each act of violence that has been made visible as a result of the women’s movement—incest, sexual harassment, misogynist verbal abuse, stalking, rape, battering, and sexual torture—is one point on the continuum of violence occurring in prostitution. As one survivor explained:

There are thousands of books and classes that provide women with information on self-defense and rape “avoidance” strategies. Some of the basic lessons they teach us are not to walk alone at night on dark deserted streets, not to get into cars with strange men, not to pick up guys in a bar, not to even let a delivery man into your home when you’re by yourself. Yet this is what the “job” of prostitution requires; that women put themselves in jeopardy every time they turn a trick. And then we ask, “How do you prevent it from leading to danger?” The answer is, you can’t. Count the bodies.<sup>14</sup>

In the past two decades, a number of authors have documented or analyzed the sexual and physical violence that is the normative experience for women in

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12. See Marjolein Gysels et al., *Women Who Sell Sex in a Ugandan Trading Town: Life Histories, Survival Strategies and Risk*, 54 SOCIAL SCIENCE & MEDICINE 179, 179-192 (2002).

13. Jean D’Cunha, *Legalizing Prostitution: In Search of Alternatives From a Gender and Rights Perspective* 39 (Seminar on the Effects of Legalisation of Prostitution Activities, Stockholm, Swed., Nov. 5-6, 2002).

14. Evelina Giobbe, *The Vox Fights*, VOX, Winter 1991, at 34 [hereinafter Giobbe, *The Vox Fights*]. See also Evelina Giobbe, *Confronting the Liberal Lies about Prostitution*, in THE SEXUAL LIBERALS AND THE ATTACK ON FEMINISM 67, 76 (Dorchen Leidholdt & Janice Raymond eds., 1990).

prostitution.<sup>15</sup> Today, there is a significant peer-reviewed literature documenting the violence in prostitution. Familial sexual abuse functions as a training ground for prostitution. Survivors link childhood physical, sexual, and emotional abuse as children to later prostitution.<sup>16</sup> Many studies lend support to this analysis. Seventy percent of the adult women in prostitution in one study said that their childhood sexual abuse led to entry into prostitution.<sup>17</sup> Early adolescence is the most frequently reported age of entry into any type of prostitution. As one girl said,

We've all been molested. Over and over, and raped. We were all molested and sexually abused as children, don't you know that? We ran to get away. . . . We were thrown out, thrown away. We've been on the street since we were 12, 13, 14."<sup>18</sup>

According to the empirical data (but not according to single-person, 'happy-hooker' narratives) familial abuse or neglect is almost universal among prostituted women. Of fifty-five survivors of prostitution at the Council for Prostitution Alternatives in Portland, eighty-five percent reported a history of incest, ninety percent a history of physical abuse, and ninety-eight percent a history of emotional abuse.<sup>19</sup> Multiple perpetrators of sexual and physical abuse were the rule rather than the exception.

Sexual violence and physical assault are the norm for women in all types of prostitution. One Canadian observer noted that ninety-nine percent of women in prostitution were victims of violence, with more frequent injuries "than workers in [those] occupations considered . . . most dangerous, like mining, forestry, and firefighting."<sup>20</sup> Prostituted women in Glasgow said that violence

15. For summaries of this literature, see BARRY, *THE PROSTITUTION OF SEXUALITY*, *supra* note 3; RYAN BISHOP & LILLIAN S. ROBINSON, *NIGHT MARKET: SEXUAL CULTURES AND THE THAI ECONOMIC MIRACLE* (1998); ANDREA DWORKIN, *PORNOGRAPHY: MEN POSSESSING WOMEN* (1981) [hereinafter DWORKIN, *MEN POSSESSING WOMEN*]; MACKINNON, *SEX EQUALITY*, *supra* note 3; SHEILA JEFFREYS, *THE IDEA OF PROSTITUTION* (1997); Andrea Dworkin, *Pornography, Prostitution, and a Beautiful and Tragic Recent History*, in *NOT FOR SALE: FEMINISTS RESISTING PROSTITUTION AND PORNOGRAPHY* 137 (Rebecca Whisnant & Christine Stark eds., 2004); Melissa Farley et al., *Prostitution in Nine Countries*, in *PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS* 33 (Melissa Farley ed., 2003) [hereinafter *Prostitution in Nine Countries*]. There is also a wealth of relevant information available at <http://www.catwinternational.org>.

16. Dworkin described incest as "boot camp" for prostitution. ANDREA DWORKIN, *LIFE AND DEATH* 143 (1997) [hereinafter DWORKIN, *LIFE AND DEATH*].

17. Mimi H. Silbert & Ayala M. Pines, *Early Sexual Exploitation as an Influence in Prostitution*, 28 *SOCIAL WORK* 285 (1983). See also MIMI H. SILBERT ET AL., *SEXUAL ASSAULT OF PROSTITUTES* (National Center for the Prevention and Control of Rape, National Institute of Mental Health, San Francisco, CA, 1982).

18. NORTHWEST RESOURCE ASSOC., *SURVIVAL SEX IN KING COUNTY*, REPORT SUBMITTED TO KING COUNTY WOMEN'S ADVISORY BOARD 16 (1993).

19. E-mail from Susan Hunter to Melissa Farley (Apr. 4, 2006) (on file with author). See also Susan K. Hunter, *Prostitution is Cruelty and Abuse to Women and Children*, 1 *MICH. J. GENDER & L.* 91, 103 (1993) (discussing another phase of this series of studies that demonstrate similar high rates of childhood trauma among women escaping prostitution).

20. Erin Gibbs Van Brunschot et al., *Images of Prostitution: The Prostitute and Print Media*, 10 *WOMEN & CRIM. JUST.* 47, 47 (1999).

from customers was their primary fear.<sup>21</sup> Physical abuse was considered part of the job of prostitution, with the payment sometimes determined by each individual blow of a beating or whipping.<sup>22</sup>

Violence is commonplace in prostitution whether it is legal or illegal.<sup>23</sup> Eighty-five percent of prostituted women interviewed in Minneapolis-St. Paul had been raped in prostitution.<sup>24</sup> Another study found that eighty percent of women who had been domestically or transnationally trafficked suffered violence-related injuries.<sup>25</sup> Of 854 people in prostitution in nine countries, eighty-nine percent wanted to leave prostitution but did not have other options for survival.<sup>26</sup> Researchers have found that two factors are consistently associated with greater violence in prostitution: poverty and length of time in prostitution. The more customers serviced, the more women reported severe physical symptoms.<sup>27</sup> The longer women remained in prostitution, the higher their rates of sexually transmitted diseases.<sup>28</sup> When prostitution is assumed to be a reasonable "job option," women's intense longing to escape it is made invisible.<sup>29</sup>

Violence is common in prostitution whether it is located indoors or outdoors. The boundary between stripping, dancing, and prostitution no longer exists as it did twenty-five years ago.<sup>30</sup> In today's strip clubs, johns who buy

21. See S. T. Green & D. J. Goldberg, *Female Streetworker-Prostitutes in Glasgow: A Descriptive Study of Their Lifestyle*, 5 AIDS CARE 321, 328 (1993).

22. See *id.* at 328.

23. See generally VANWESENBECK, *supra* note 5.

24. Ruth Parriott, *Health Experiences of Twin Cities Women Used in Prostitution* 20 (1994) (unpublished manuscript, on file with WHISPER, Minneapolis, MN).

25. JANICE G. RAYMOND ET AL., A COMPARATIVE STUDY OF WOMEN TRAFFICKED IN THE MIGRATION PROCESS: PATTERNS, PROFILES AND HEALTH CONSEQUENCES OF SEXUAL EXPLOITATION IN FIVE COUNTRIES (INDONESIA, THE PHILIPPINES, THAILAND, VENEZUELA AND THE UNITED STATES) (2002), available at <http://action.web.ca/home/catw/readingroom/shtml?x=17062>.

26. See *Prostitution in Nine Countries*, *supra* note 15. Women in prostitution note that shelters and services may be available to battered women but not to prostituted women. Speaking of the need to include prostituted women in the battered women's movement, Evelina Giobbe testified,

[W]omen who are in prostitution, myself and my sisters . . . have been subjected to the same abuse that every battered woman has spoken about in this room, except men paid for the right to do it. It's not a job. We're abused, and we need help.

Joshua M. Price, *Violence Against Prostitutes and a Re-evaluation of the Counterpublic Sphere*, 34 GENDERS 32 (2001), [http://www.genders.org/g34/g34\\_price.html](http://www.genders.org/g34/g34_price.html) (quoting from a speech printed in an educational manual from the Massachusetts Coalition of Battered Women Service Groups Inc.).

27. See VANWESENBECK, *supra* note 5.

28. See Parriott, *supra* note 24, at 14.

29. See, e.g., GLOBAL ALLIANCE AGAINST TRAFFIC IN WOMEN, HANDBOOK FOR HUMAN RIGHTS ACTION IN THE CONTEXT OF TRAFFIC IN WOMEN 3 (1997), available at <http://apnsw.org/apnsw.htm> ("Women have the right to make a bad decision."); see also Melissa Farley & Sunjean Seo, *Prostitution and Trafficking in Asia*, 8 HARV. ASIA PAC. REV. 8 (2006) (discussing the role of the World Health Organization and other groups in normalizing prostitution as labor); Stark & Hodgson, *supra* note 9.

30. For documentation of the increasing sexual and physical violence by men against women who strip, see Melissa Farley, *Bad for the Body, Bad for the Heart*, 10 VIOLENCE AGAINST WOMEN 1087, 1102 (2004), available at <http://www.prostitutionresearch.com/laws/000073.html>; see also BRENT K. JORDAN, STRIPPED: TWENTY YEARS OF SECRETS FROM INSIDE THE STRIP CLUB (2004) (discussing the roles of bouncers in strip clubs: to respond to customers' sexual assaults on dancers, and to ensure that

lapdances assume they'll be permitted to ejaculate with their pants on. When the sexual performance is more private, as in VIP rooms or champagne rooms, the probability of violent sexual harassment including rape dramatically increases.<sup>31</sup>

Prostitution can be lethal.<sup>32</sup> A Canadian commission found that the death rate of women in prostitution was forty times higher than that of the general population.<sup>33</sup> A study of Vancouver prostitution reported a thirty-six percent incidence of attempted murder.<sup>34</sup>

The verbal abuse that is commonplace in prostitution is often minimized as a source of serious and longlasting harm. Despite its social invisibility, eighty-eight percent of women in one study described verbal abuse as an intrinsic part of prostitution.<sup>35</sup> When women are turned into objects that men masturbate into, profound psychological harm results for the person who is acting as receptacle.<sup>36</sup> In prostitution, a woman does not stay whole; she loses her name, her identity, and her feelings.<sup>37</sup>

Over time, the commodification and objectification of her body by pimps and johns are internalized. Portions of her body are numbed and compartmentalized. Eventually she also views her body as a commodity, rather than as integral to the rest of herself. Trauma and torture survivors commonly experience this profound disconnectedness.<sup>38</sup>

Continuous assaults on the woman's body in prostitution cause revulsion

customers are beaten up if they attempt to "trick" women out of their pay); see also Jacqueline Lewis, *Lap Dancing: Personal and Legal Implications for Exotic Dancers*, in PROSTITUTION: ON WHORES, HUSTLERS, AND JOHNS 376 (James A. Elias et al. eds., 1998) (noting that the amount and type of physical contact in stripping removes the boundary between it and prostitution); Eleanor Maticka-Tyndale et al., *Exotic Dancing and Health*, 31 WOMEN & HEALTH 87, 104 (2000).

31. Holsopple documented the verbal, physical, and sexual abuse experienced by women in strip club prostitution including physical and sexual assaults on breasts, buttocks, and genitals. Women are kicked, bitten, slapped, spit on, and penetrated vaginally and anally during lap dancing. See Kelly Holsopple, *Stripclubs According to Strippers: Exposing Workplace Violence* (1998) (unpublished manuscript, on file with author).

32. See John J. Potterat et al., *Mortality in a Long-Term Open Cohort of Prostitute Women*, 159 AM. J. EPIDEMIOLOGY 778 (2004).

33. Special Committee on Pornography and Prostitution, *Pornography and Prostitution in Canada*, 2 PORN. & PROSTITUTION CAN. 350, 350 (1985).

34. Leonard Cler-Cunningham & Christine Christenson, *Studying Violence to Stop It: Canadian Research on Violence Against Women in Vancouver's Street Level Sex Trade*, 4 RESEARCH FOR SEX WORK 25, 26 (2001).

35. Melissa Farley et al., *Prostitution in Vancouver: Violence and the Colonization of First Nations Women*, 42 TRANSCULTURAL PSYCHIATRY 242, 250 (2005). As one woman explained, "It is internally damaging. You become in your own mind what these people do and say with you. You wonder how could you let yourself do this and why do these people want to do this to you?" Interview with anonymous prostituted woman, in San Francisco, Cal. (May 8, 2004).

36. See generally CECILIE HØIGÅRD & LIV FINSTED, *BACKSTREETS: PROSTITUTION, MONEY AND LOVE* 51 (1986).

37. See DWORKIN, *LIFE AND DEATH*, *supra* note 16, at 139-51.

38. See HARVEY L. SCHWARTZ, *DIALOGUES WITH FORGOTTEN VOICES: RELATIONAL PERSPECTIVES ON CHILD ABUSE TRAUMA AND THE TREATMENT OF SEVERE DISSOCIATIVE DISORDERS* (2000).

and repeated traumatization. Williams described her response to the rape/sex of prostitution:

[I] started getting physically ill whenever I turned a trick. My vagina closed on me again like it did when I was 15 years old [during a rape]. . . . One night a man tried to force himself inside of me and damaged his penis in the process.<sup>39</sup>

Reviewing four studies of dissociation among women in prostitution, researchers concluded that dissociation is a common psychological defense in response to the trauma of prostitution.<sup>40</sup> The dissociation necessary to survive rape, battering, and prostitution in adulthood is the same as that used to survive familial sexual assault. Dissociation has been observed as a consequence of torture and a means of surviving it.<sup>41</sup>

Most women report that they cannot prostitute unless they dissociate.<sup>42</sup> When they do not dissociate, they are at risk for being overwhelmed with pain, shame, and rage. One woman explains:

It's almost like I trained my mind to act like I like [prostitution] but not have any thoughts. I have the thoughts like 'What is this doing to my body and my mind and my self-esteem?' a few days later but not as it's happening. . . . Even though the guys are paying me for it, I feel like they're robbing me of something personal. And I wonder, 'Why are they doing this?'<sup>43</sup>

Posttraumatic stress disorder (PTSD) commonly occurs among prostituted women, and is indicative of their extreme emotional distress. PTSD is characterized by anxiety, depression, insomnia, irritability, flashbacks, emotional numbing, and hyperalertness. In nine countries, we found that sixty-eight percent of those in prostitution met criteria for a diagnosis of PTSD,<sup>44</sup> a prevalence that was comparable to battered women seeking shelter,<sup>45</sup> rape survivors seeking treatment,<sup>46</sup> and survivors of state-sponsored torture.<sup>47</sup>

39. Anonymous, *Stories*, in *SOLD OUT: A RECOVERY GUIDE FOR PROSTITUTES 77* (J. L. Williams ed., 1991).

40. Colin A. Ross et al., *Dissociation Among Women in Prostitution*, in *PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS*, *supra* note 11, at 199.

41. See JUDITH L. HERMAN, *TRAUMA AND RECOVERY* (1992); Colin A. Ross et al., *Dissociation and Abuse Among Multiple Personality Patients, Prostitutes and Exotic Dancers*, 41 *HOSP. & COMMUNITY PSYCHIATRY* 328 (1990).

42. Drugs and alcohol function as chemical dissociation, facilitating psychological dissociation. Substance abuse also functions as an analgesic for physical injuries from violence in prostitution.

43. Virginia Vitzthum, *Selling Intimacy*, [http://archive.salon.com/sex/feature/2000/07/25/girl\\_part\\_iii/index1.html](http://archive.salon.com/sex/feature/2000/07/25/girl_part_iii/index1.html) (July 25, 2000) (quoting a prostituted woman). See generally MARIANNE WOOD, *JUST A PROSTITUTE* (1995) (discussing the rage that is a consequence of tolerating johns' behaviors).

44. *Prostitution in Nine Countries*, *supra* note 15, at 44.

45. Beth M. Houskamp & David W. Foy, *The Assessment of Posttraumatic Stress Disorder in Battered Women: A Shelter Sample*, 6 *J. INTERPERSONAL VIOLENCE* 367 (1991) (citing a forty-five percent incidence rate); Anita Kemp et al., *Post-Traumatic Stress Disorder (PTSD) in Battered Women: A Shelter Sample*, 4 *J. TRAUMATIC STRESS* 137, 143 (1991) (citing an eighty-four percent incidence rate).

46. I.T. Bownes et al., *Assault Characteristics and Post-Traumatic Stress Disorder in Rape*

Across widely varying cultures on five continents, the traumatic consequences of prostitution were similar.<sup>48</sup> Vanwesenbeeck noted comparable symptoms among women in legal Dutch prostitution.<sup>49</sup> Results from two studies of prostituted Korean women reflect the women's intense psychological distress with PTSD prevalence rates of seventy-eight and eighty percent.<sup>50</sup>

Most people who have been in prostitution for any length of time have difficulty with sexual intimacy.<sup>51</sup> Sex becomes a job, rather than an act of love or passion. It's difficult to see one's chosen partner as anything but a john. A woman who danced naked behind glass for johns who watched and masturbated noted that over a period of time "the glass had dissolved and [my partner] had become one of them."<sup>52</sup> Men who prostitute experience similar damage to their sexuality and to their sense of self, as well as symptoms of traumatic stress that are identical to women's. As one man said,

I got into it because I thought sex was about love, and underneath it all I was looking for a dad. It's done me no good mentally. A few years ago I thought it was a good way to make money, but it's not worth the price. . . . I wouldn't recommend it to anyone. . . . I got beaten up lots of times. I was forced to have sex and I was ripped off. . . . I was abused loads of times.<sup>53</sup>

2. In order to consider prostitution a job, and in order to keep the business of sexual exploitation running smoothly, *we can not know that racism and class prejudice, like sexism, are intrinsic to prostitution.*

Women who are marginalized because of a lack of education, because of

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*Victims*, 83 ACTA PSYCHIATRICA SCANDINAVICA 27, 27-30 (1991)(citing a seventy percent incidence rate).

47. R. Ramsay et al., *Psychiatric Morbidity in Survivors of Organised State Violence Including Torture*, 162 BRIT. J. PSYCHIATRY 55, 55 (1993) (citing a fifty-one percent incidence rate).

48. Farley, *Prostitution in Nine Countries*, *supra* note 15, at 44.

49. Vanwesenbeeck found that ninety percent of women who were prostituted primarily in clubs, brothels, and windows reported "extreme nervousness." VANWESENBEECK, *supra* note 5, at 82.

50. Farley & Seo, *supra* note 29, at 9-12. See also Hyun Sun Kim, *The Violent Characteristics of Prostitution and PTSD of Prostituted Women* (June 2002) (unpublished thesis, Sungkonghoe University, Seoul, Korea) (on file with Sungjean Seo, Seoul, Korea); Letter from Jeong-Ho Chae (Nov. 22, 2005) (regarding preliminary data from a study of Trauma and Psychological Health of Women in Prostitution) (on file with Sungjean Seo, Seoul, Korea).

51. See Parriott, *supra* note 24.

52. Vicky Funari, *Naked, Naughty, Nasty: Peepshow Reflections*, in WHORES AND OTHER FEMINISTS 19, 32 (Jill Nagle ed., 1997). Funari goes on to write, "Last night, lying in bed after work, I touched my belly, my breasts. They felt like Capri's [her peep show name] and they refused to switch back. When [my partner] kissed me I inadvertently shrunk from his touch." *Id.*

53. BARBARA GIBSON, *MALE ORDER: LIFE STORIES FROM BOYS WHO SELL SEX* 86 (1995) (quoting a prostituted boy). See also GARY INDIANA, *RENT BOY* (1994); ROBERTA PERKINS & GARRY BENNETT, *BEING A PROSTITUTE* (1985); Christopher N. Kendall & Rus Ervin Funk, *Gay Male Pornography's 'Actors': When 'Fantasy' Isn't*, in PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS, *supra* note 11, at 93.

race and ethnic discrimination, poverty, previous physical and emotional harm and abandonment *are* the people purchased in prostitution. Prostitution is “chosen” as a job by those who have the fewest real choices available to them.<sup>54</sup> Women in legal Dutch prostitution describe it as “volunteer slavery.”<sup>55</sup>

Until conditions of sex and race equality exist, laws must protect people from exploitation that might appear to be voluntary or consenting.<sup>56</sup> The critical question with respect to sex, race, and class-based discrimination in prostitution is not “did she consent?” but “has she been offered the real choice to exist *without* prostituting?” In the following three cases, each woman said that she consented to prostitution but in each situation, her living conditions made prostitution necessary for survival. An Indian woman said that prostitution was “better pay for what was expected of her in her last job, anyway;” women in most jobs in West Bengal, India, were expected to tolerate bosses’ sexual exploitation in order to keep their jobs.<sup>57</sup> A woman in Zambia, which had a ninety percent unemployment rate at the time, stated that she volunteered to prostitute in order to feed her family.<sup>58</sup> A Turkish woman was divorced, and had no means of support because she was discouraged from working outside the home. She applied to work in a state-run brothel where police guarded the entrance.<sup>59</sup>

Sexist and racist economic policies in the United States such as a lack of educational opportunity for poor families and a lack of sustainable income from many jobs contribute to women’s and girls’ entry into prostitution. The economic and legal vulnerability of undocumented immigrant women in the United States is exploited in prostitution/pornography. For example, the 8<sup>th</sup> Street Latinas website advertises, “See hot, young & brown Latinas that will do absolutely anything to get their citizenship!”<sup>60</sup>

The intersection of racism, sexism and class is apparent in sex tourism. The prostitution tourist denies the racist exploitation of women in someone else’s culture. Promoting this denial, travel agencies assure male tourists that Thai culture is ‘overtly sexual’ and that Thai people are child-like sensual people who never grow up.<sup>61</sup> The prostitution tourist denies sexual exploitation by rationalizing that he is helping women escape poverty: “These girls gotta eat, don’t they? I’m putting bread on their plate. I’m making a contribution.

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54. See Catharine A. MacKinnon, *Prostitution and Civil Rights*, 1 MICH. J. GENDER & L. 13 (1993).

55. VANWESENBEECK, *supra* note 5, at 149.

56. Telephone Interview with Jessica Neuwirth, Equality Now, in New York, N.Y. (Apr. 24, 2006).

57. Molly Chattopadhyay et al., *Biosocial Factors Influencing Women to Become Prostitutes in India*, 41 SOCIAL BIOLOGY 252 (1994).

58. Interview with anonymous prostituted woman in Lusaka, Zambia (Feb. 17, 1996).

59. Interview with anonymous prostituted woman in Istanbul, Turkey (June 6, 1999).

60. 8th Street Latinas, <http://www.8thstreetlatinass.com/main.htm?id=faxxaff> (last visited Apr. 25, 2006).

61. See generally BISHOP & ROBINSON, *supra* note 15, at 149.

They'd starve to death unless they whored."<sup>62</sup> However, the Thai perspective of this situation is diametrically opposed: "Thailand is like a stage, where men from around the world come to perform their role of male supremacy over Thai women, and their white supremacy over Thai people."<sup>63</sup>

Pornography, prostitution, and trafficking are rooted in sexism, racism and class prejudice, all of which are sexualized. Women in prostitution are purchased for their appearance, including skin color and characteristics based on ethnic stereotyping. Racist stereotypes in prostitution are driven by johns' demand for "something different." Forced by pimps to accommodate stereotypes of the submissive exotic with nowhere to run, one Korean-American survivor faked poor English even though she had grown up in the United States.<sup>64</sup> The World Sex Guide recently linked to a website titled "Bangkok street whores," with a john's contemptuous description of Thai women in poverty as "dumb and desperate."<sup>65</sup>

Although pornography of Grace Quek being serially raped by 251 men was billed as liberation from a stereotype of Asian women as sexually passive; in fact, the pornography of Quek—who referred to herself as a "fortune cookie"<sup>66</sup>—was a familiar racist and sexist portrayal of slave-like, sexually subordinate Asian women.<sup>67</sup> Quek seemed unclear about the film's racism when she was asked by an interviewer if she felt insulted or objectified. With a postmodern perspective that locates racism in the mind but not in the world, Quek responded, "No, I don't think so. . . . *Without any stereotypes, everything would collapse into nothingness.* That's why I have no problems with people who in friendly banter, out of humor, go 'Chink, nigger, faggot,' whatever."<sup>68</sup>

62. *Id.* at 168–69 (quoting a sex tourist in Thailand).

63. JEREMY SEABROOK, *TRAVELS IN THE SKIN TRADE: TOURISM AND THE SEX INDUSTRY* 89 (1996) (quoting Siriporn Skrobaneek).

64. See Melissa Farley, "Unequal," available at [http://www.prostitutionresearch.com/how\\_prostitution\\_works/000111.html](http://www.prostitutionresearch.com/how_prostitution_works/000111.html) (last visited Apr. 20, 2006).

65. World Sex Guide, Prostitution in United States, <http://www.worldsexguide.org/united-states.html> (last visited, Apr. 20, 2006). The site has changing advertising banners. On October 28, 2005, the World Sex Guide advertised "Bangkok street whores: Click to see these Asian whores get nailed by a big white dick!" with a link to Bangkok Street Whores, <http://www.bangkokstreetwhores.com/1/bangkokwhore1.html> (last visited Apr. 25, 2006). The web location provided one john's voyeuristic and homoerotic description of a Thai woman who "tried to talk her way out of getting fucked but as soon as he shut her up by stuffing his cock in her mouth, the peace talks were over. Then he split her wide open! We all know that [another john] brings the pain, but damn she's bleeding!" See also Michelle J. Anderson, *A License to Abuse: The Impact of Conditional Status on Female Immigrants*, 102 *YALE L.J.* 1401, 1408–1409 nn.48–49 (1993).

66. Kimberly Chun, *Sex: The Annabel Chong Story*, *ASIANWEEK*, May 4, 2000, [http://www.asianweek.com/2000\\_05\\_04/ae\\_annabelchong.html](http://www.asianweek.com/2000_05_04/ae_annabelchong.html) (quoting Grace Quek).

67. See Pamela Kaskinen, *Pornstar or a Feminist?*, *YLIOPPILASLEHTI*, Apr. 2000, at 1 ("At its core, the film is yet another attempt to capitalize on the racist, sexist and worn-out fantasy that Asian women are subordinate sex slaves.") (quoting Jill Nelson).

68. D.A. Clark, *The Tao of the Gangbang*, *SPECTATOR*, July 12, 1996, at 13 (emphasis added). Another perspective on the racism in the filming of Quek's sexual abuse by 251 men was noted by Darrell Y. Hamamoto, *The Joy Fuck Club*, 20 *NEW. POL. SCI.* 3 (1998), who observed that no Asian men were in the 300-men lineup to "gangbang" Quek. The only Asian American in attendance was a

Compared to their numbers in the United States as a whole, women of color are overrepresented in prostitution. For example, in Minneapolis, a city which is ninety-six percent white European-American, more than half of the women in strip-club prostitution are women of color.<sup>69</sup>

Racially constructed pornography made of prostituted women in other parts of the world influences how women of color are treated at home. For example, Asian-American women reported rapes after men viewed pornography of Asian women.<sup>70</sup>

Families who have been subjected to race and class discrimination in housing may be economically driven to live near gangs or pimps. Strip clubs and pornography outlets are zoned into poor neighborhoods, which also tend to be neighborhoods of immigrants and/or people of color. The sex businesses create a hostile environment in which girls and women are continually harassed by pimps and johns.<sup>71</sup>

Within the gendered institution of prostitution, race and class create a familiar hierarchy with indigenous women at its lowest point. Especially vulnerable to violence from wars or economic devastation, indigenous women are brutally exploited in prostitution—for example Mayan women in Mexico City, Hmong women in Minneapolis, Atayal girls in Taipei, Karen or Shan women in Bangkok, First Nations women in Vancouver.<sup>72</sup> Structural development programs run by the International Monetary Fund control developing economies, profoundly impacting women's lives. Poverty is one consequence of these IMF policies, which may also result in women's migration to cities for the purpose of economic survival, including prostitution.

There is a myth that class privilege protects some women in prostitution. Demystifying this, Giobbe explained what lies beneath the trappings of class in prostitution:

My experience in prostitution gives the lie to . . . common beliefs about the hierarchy of prostitution, the streets being the worst-case scenario and . . . [escort] service being the best. . . all I can say is,

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man whose job was to wipe ejaculate off Quek between johns. *Id.*

69. Telephone Interview with Andrea Dworkin (June 17, 1997).

70. See CATHARINE A. MACKINNON & ANDREA DWORKIN, IN HARM'S WAY: THE PORNOGRAPHY CIVIL RIGHTS HEARINGS (1997) [hereinafter MACKINNON & DWORKIN, IN HARM'S WAY].

71. Vednita Nelson, *Prostitution: Where Racism and Sexism Intersect*, 1 MICH. J. GENDER & L. 81 (1993).

72. Because of their economic vulnerability and their lack of alternatives, prostitution more severely harms indigenous women. Melissa Farley, Preliminary Report on Prostitution in New Zealand (May 14, 2003) (unpublished manuscript, on file with author) (comparing Maori/Pacific Islander New Zealanders to European-origin New Zealanders in prostitution, with the former more likely to have been homeless and to have entered prostitution at a younger age, and quoting Mama Tere, an Auckland community activist who described New Zealand prostitution as an "apartheid system"); see also Libby W. Plumridge & Gillian Abel, *A "Segmented" Sex Industry in New Zealand*, 15 AUSTR. & N.Z. J. PUB. HEALTH 78, 78 (2001) (describing the differential impact prostitution has on Maori women in New Zealand).

whether you turn tricks in a car by the Holland tunnel or in the Plaza Hotel, you still have to take off your clothes, get on your knees or lie on your back, and let this stranger use you in any way he pleases.<sup>73</sup>

It is an error to assume that the privilege of so-called high-class call-girls protects them from the exploitation and violence that exists in all prostitution. In Chicago, for example, the same frequency of rape is reported by women in both escort and street prostitution.<sup>74</sup> Although some studies report greater violence in outdoor prostitution, the difference is trivial when contrasted with most peoples' assumptions of what constitutes reasonable physical and emotional risk.<sup>75</sup> For instance, while women prostituting on the street in Glasgow were almost twice as likely to experience violence than women prostituting indoors, forty-eight percent of the women prostituting *indoors* were subject to frequent and severe violence.<sup>76</sup> Among women prostituting in South Africa, while there was significantly more physical violence in street as compared to brothel prostitution, there was no difference in the women's emotional distress resulting from either street or brothel prostitution.<sup>77</sup>

It is also an error to assume that those in prostitution remain in one location. The location of prostitution is determined by wherever the greatest demand for it exists, by police surveillance and by arrests that deter prostitution. Women are moved to wherever pimps and traffickers can make the most money, for example near military bases,<sup>78</sup> near political or business conventions,<sup>79</sup> or to locations where sporting events take place.<sup>80</sup>

73. Giobbe, *The Vox Fights*, *supra* note 14, at 32.

74. JODY RAPHAEL & DEBORAH L. SHAPIRO, SISTERS SPEAK OUT: THE LIVES AND NEEDS OF PROSTITUTED WOMEN IN CHICAGO 5 (2002), available at [www.impactresearch.org/documents/sisterspeakout.pdf](http://www.impactresearch.org/documents/sisterspeakout.pdf).

75. Women in indoor prostitution (such as strip clubs, massage brothels and pornography) may have less control over the conditions of their lives and probably face greater risks of exploitation, enslavement, and physical harm than women prostituting on the street. See NORTHWEST RESOURCE ASSOCIATES, *supra* note 18.

76. Stephanie Church et al., *Violence by Clients Toward Female Prostitutes in Different Work Settings*, 322 BRIT. MED. J. 524, 524–25 (2001) (noting that women prostituting in the street more frequently report being slapped, punched, or kicked—while those indoors more frequently report attempted rape).

77. Melissa Farley et al., *Prostitution in Five Countries*, 8 FEMINISM & PSYCHOL. 405, 415 (1998). See also Ross, *supra* note 41, at 328–30 (noting that women who prostituted in strip clubs suffered significantly higher rates of dissociative and other psychiatric symptoms than women in street prostitution).

78. See Aida F. Santos, *Gathering the Dust: The Bases Issue in the Philippines*, 32, 40, in LET THE GOOD TIMES ROLL: PROSTITUTION AND THE US MILITARY IN ASIA (Sandra Sturdevant & Brenda Stolzhus eds., 1992). During World War II, for example, the Japanese Army seized as many as 200,000 Asian women and girls using deception and violence, pimping them into military brothels. Most of these 'comfort women' were Korean. See C. Sarah Soh, *Japan's Responsibility Toward Comfort Women Survivors* (Japan Policy Research Institute, Working Paper No. 77, 2001), available at <http://www.icasinc.org/lectures/soh3.html>; Deborah Zabarenko, *Ex-Slaves Sue Japan for Army Rapes, Torture—Former Comfort Women Testify in US*, TORONTO STAR, Sept. 21, 2000, at 1 (reporting on a class-action lawsuit filed by fifteen former comfort women in U.S. federal court); NORA OKJA KELLER, COMFORT WOMAN (1997) (a fictionalized account of one woman's life).

79. See Lisa Kramer, *Emotional Experiences of Performing Prostitution*, in PROSTITUTION,

3. In order to consider prostitution a job, and in order to keep the business of sexual exploitation running smoothly, *we can not know that prostitution, pornography and trafficking meet or exceed legal definitions of torture.*

Torture is:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as punishing him. . . or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.<sup>81</sup>

Specific acts commonly perpetrated against women in prostitution and pornography are the same as the acts defining what torture is: verbal sexual harassment, forced nudity, rape, sexual mocking, physical sexual harassment such as groping, and not permitting basic hygiene.<sup>82</sup> The psychological consequences of these acts are the same whether it is named state-sponsored torture or prostitution.<sup>83</sup>

Torture does not have to be perpetrated by state officials, and today there is an understanding that in some regions torture can and does occur at the hands of private individuals. Amnesty International “holds states accountable for all acts of torture of women, whatever the context in which they are committed

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TRAFFICKING, AND TRAUMATIC STRESS, *supra* note 11, at 187, 191 (describing locations where 119 U.S. women prostituted). For a detailed refutation of the myth that indoor prostitution is safe for women and a summary of studies comparing different locations where prostitution occurs, see Farley, *supra* note 30, at 1099. See also Melissa Farley, *Prostitution Harms Women Even if Indoors: Reply to Weitzer*, 11 VIOLENCE AGAINST WOMEN 950, 955-960 (July 2005).

80. Germany’s World Cup Games in 2006 led to predictions that 40,000 women would be trafficked from other countries in Europe to service sports fans in a country with legal prostitution. See Coalition Against Trafficking in Women, *Buying Sex is Not a Sport: No to Germany’s Prostitution of Women in World Cup Games, 2006*, available at <http://catwepetition.ouvaton.org/php/index.php>.

81. United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 U.N.T.S. 85, Dec. 10, 1984.

82. Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Aug. 9, 1999, available at <http://www.unhcr.ch/pdf/8istprot.pdf> (“Sexual torture begins with forced nudity, which in many countries is a constant factor in torture situations. One is never so vulnerable as when one is naked and helpless. Nudity enhances the psychological terror of every aspect of torture, as there is always the background of potential abuse and rape or sodomy. Furthermore, verbal sexual threats, abuse and mocking are also part of sexual torture, as they enhance the humiliation and degrading aspects of it, all part and parcel of the procedure. Groping women is traumatic in all cases, and considered torture. There are some differences between sexual torture of men and sexual torture of women, but several issues apply to both.”) [hereinafter Istanbul Protocol]. See also R.F. Mollica & Y. Caspi-Yavin, *Overview: The Assessment and Diagnosis of Torture Events and Symptoms*, in TORTURE AND ITS CONSEQUENCES 253 (Metin Basoglu ed., 1992).

83. See Finn Somnier et al., *Psycho-social Consequences of Torture*, in TORTURE AND ITS CONSEQUENCES, *supra* note 82, at 56.

and whoever is the perpetrator.”<sup>84</sup>

The existence of state-sponsored torture is decried by social critics on the Left, yet the identical treatment of women in prostitution is ignored by those same analysts. Many view torture by the United States of prisoners at Abu Ghraib with shock and horror, yet at the same time consider the identical acts perpetrated (and photographed) against prostituted women to be sexual entertainment.<sup>85</sup> Condemning the Bush administration’s tolerance for torture in the war on terror, one journalist noted the “gleeful sadism” of guards at Abu Ghraib.<sup>86</sup> Yet he and other political pundits maintain silence regarding the same gleeful sadism of men toward prostituted women at bachelor parties or strip clubs. Journalists and scholars fail to note the parallel between their descriptions of torture’s consequences for Abu Ghraib prisoners, on the one hand, and identical consequences for women in prostitution and pornography, on the other.

Despite its obvious similarity to state-sponsored torture, there is a great silence regarding the torture of women in prostitution during the making of pornography. Yet torture is commonplace in pornography.<sup>87</sup> A woman in Vancouver prostitution described a john’s purchase of her degradation, physical and sexual assault, and his videotape of that torture.<sup>88</sup>

Online pornography today welds men’s ejaculation to women’s degradation. A popular genre is *bukkake*, in which a group of men ejaculate on young women’s faces. The woman is usually extremely upset or crying, an emotional state that seems to sexually arouse both the men who are sexually abusing the woman, and the men who are purchasing those images of torture.<sup>89</sup> This spectacle of women’s torture and humiliation serves as a bonding ritual for the perpetrators just as the “carnavalesque rites” of pornographic torture at Abu Ghraib prison created bonds among the US soldiers who committed those cruelties.<sup>90</sup>

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84. AMNESTY INTERNATIONAL, *BROKEN BODIES, SHATTERED MINDS: TORTURE AND ILL-TREATMENT OF WOMEN* 4-5 (2001).

85. See ANDREA DWORKIN, *LETTERS FROM A WAR ZONE* 199 (1988).

86. See Richard Kim, *Pop Torture*, NATION, Dec. 26, 2005, at 37.

87. See, e.g., Gail Dines, *The White Man’s Burden: Gonzo Pornography and the Construction of Black Masculinity*, 18 YALE J.L. & FEMINISM 283 (2006). Dines describes ass-to-mouth (ATM) pornography as a frequently-googled genre on the website of one of the most popular pornography actors, Max Hardcore. Dines points out that in ATM pornography, “the male performer anally penetrates a woman and then sticks his penis into her mouth, often joking about her having to eat shit. In this pornography the code of debasement is most stark. There is no apparent increase in male sexual pleasure by moving directly from the anus to the mouth outside of the humiliation that the woman must endure.” *Id.* at 286.

88. Jane Armstrong, *Torture Tapes Stun B.C. Investigators*, GLOBE AND MAIL, Jan. 19, 2004, at A1.

89. PAMELA PAUL, *PORNIFIED* 61 (2005); see also Robert Jensen, *You Are What You Eat: Robert Jensen Discusses the Pervasive Porn Industry and What It Says About You and Your Desires*, CLAMOR, Sept.–Oct. 2002, at 54 (describing *bukkake* and analyzing its effects on a male observer).

90. Joanna Bourke, *Torture as Pornography*, LONDON GUARDIAN, May 7, 2004, available at

Bourke described photographs of United States and German-sponsored torture as pornography:

[T]orture aims to undermine the way the victim relates to his or her own self, and thus threatens to dissolve the mainsprings of an individual's personality. . . . The sexual nature of these acts shows that the torturers realise the centrality of sexuality for their victims' identity. The perpetrators in these photographs aim to destroy their victim's sense of self by inflicting and recording extreme sexual humiliation.<sup>91</sup>

That description of torture applies equally to the prostitution and pornography that are everywhere on newsstands and on the world wide web. While she accurately describes what happens to people who are tortured by military regimes, Bourke fails to apply her truly insightful description of sexual torture to the women in video, internet, and magazine pornography who are similarly sexually humiliated. Only a handful of feminist analysts, beginning with Andrea Dworkin and Catharine MacKinnon,<sup>92</sup> analyze the horrific violence that women are subjected to in pornography that documents prostituted women's abuse: "Welcome to the Rape Camp,"<sup>93</sup> "Beaver Hunters,"<sup>94</sup> "Gag Factor,"<sup>95</sup> "A Cum Sucking Whore Named Kimberly,"<sup>96</sup> "65-Guy Cream Pie,"<sup>97</sup> "Black Poles in White Holes,"<sup>98</sup> and "Teen Fuck Holes."<sup>99</sup>

The sexual humiliation of having one's face smeared with semen is commonplace during rapes of children and adults, and in pornography, prostitution, and torture. But there are a multitude of techniques of humiliation, domination, and control that are less specifically sexual, and that are almost always used in conjunction with sexual humiliation.

Pimps and traffickers employ the three-pronged strategy of political torturers—debilitation, dread, and dependency. Like the state's torture experts, pimps and traffickers threaten to kill children and family members as a means of establishing control. Pimps' use of torture ensures that the prostituted woman will comply with any demands of johns or pimps.<sup>100</sup> Under conditions

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<http://www.guardian.co.uk/women/story/0,3604,1211261,00.html>.

91. *Id.*

92. See DWORKIN, LIFE AND DEATH, *supra* note 16; DWORKIN, MEN POSSESSING WOMEN, *supra* note 15; ANDREA DWORKIN, SCAPEGOAT: THE JEWS, ISRAEL, AND WOMEN'S LIBERATION (2000); MACKINNON & DWORKIN, *supra* note 70; MACKINNON, *supra* note 3, at 1506–651; MacKinnon, *Prostitution and Civil Rights*, *supra* note 54.

93. D.M. Hughes, *Welcome to the Rape Camp: Sexual Exploitation and the Internet in Cambodia*, 6 J. SEXUAL AGGRESSION 29 (2000).

94. DWORKIN, MEN POSSESSING WOMEN, *supra* note 15, at 25.

95. Robert Jensen, *Cruel to Be Hard: Men and Pornography*, SEXUAL ASSAULT REPORT, Jan.–Feb. 2004, at 33, available at <http://uts.cc.utexas.edu/~rjensen/freelance/pornography&cruelty.htm>.

96. *Id.*

97. E-mail from Robert Jensen (Mar. 12, 2006).

98. Dines, *supra* note 87, at 285.

99. Jensen, *supra* note 95.

100. See, e.g., SCHWARTZ, *supra* note 38, at 320 (discussing torture and prostitution of children

of prostitution, autonomous self-regulation of any sort is considered insubordination and is actively suppressed by pimps.<sup>101</sup> Systematic methods of brainwashing, indoctrination and physical assaults (called “seasoning” by pimps), are used against women in prostitution. These techniques are aimed at eliminating any corner of mental space for her to exist in.<sup>102</sup>

One girl stated that when her pimp commanded “Down!”, she was required to lay down on the floor without moving until he gave her permission to get up.<sup>103</sup> Each act of physical and psychological torture that he committed, each its own unique expression of dominance, was part of an interlocking system of control, degradation, and domination.<sup>104</sup>

The Stockholm syndrome is a psychological strategy for survival in captivity. In escapable situations, humans form bonds with their captors. The traumatic bonds established between women in prostitution and their pimp/captors is identical to those between battered women and their batterers.<sup>105</sup> In the absence of other emotional attachments, women appear to choose their relationships with pimps and may be psychologically at home with men who exercise coercive control over them.

In order for a woman to survive prostitution on a day-to-day basis, she must deny the extent of harm that pimps and johns are capable of inflicting. Since her survival may depend on her ability to predict others’ behavior, she vigilantly attends to the pimp’s needs and may ultimately identify with his worldview. This increases her chances for survival, as in the case of Patty Hearst who temporarily identified with her captors’ ideology.<sup>106</sup>

The unpredictable and extreme violence in prostitution, like that of torture, is used for economic gain and sadistic pleasure. It also sends the message that the victim is utterly worthless. Experts on state-sponsored torture have explained that the specific goal of sexual torture is to make a captive believe

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with similar techniques and similar emotional consequences).

101. See Judith L. Herman, *Hidden in Plain Sight: Clinical Observations on Prostitution, in PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS*, *supra* note 11, at 4.

102. Describing her relationship with a pimp, one woman said that “[prostitution is] like a cult. He brainwashed me.” Interview with anonymous prostituted woman, Aug. 6, 1997. Another woman explained that “[y]ou become what they say and do with you. It’s internally damaging.” Interview with anonymous prostituted woman, June 19, 1998. See also SCHWARTZ, *supra* note 38, at 314–19, 333–37 (confirming similarities between prostitution, trafficking, and political and religious cults such as the commonality in their methods of brainwashing and mind control, in the physiology of traumatic bonding, and in the manipulation of attachment by perpetrators in establishing power over the victim).

103. Interview with anonymous prostituted woman, in San Francisco, Cal. (May 8, 2004).

104. See KATE MILLETT, *THE POLITICS OF CRUELTY* 42 (1994) (discussing political torture with language that also applies to women in prostitution and noting that judicial torments are also methods of dominating victims).

105. DEE L.R. GRAHAM ET AL., *LOVING TO SURVIVE: SEXUAL TERROR, MEN’S VIOLENCE, AND WOMEN’S LIVES* 44 (1994) (describing behaviors which are typical of the Stockholm syndrome, such as extreme difficulty leaving one’s captor and a long-term fear of retaliation).

106. *PROSTITUTION OF SEXUALITY*, *supra* note 3, at 250–75.

that she is a whore or an animal, rather than a human.<sup>107</sup> One person stated that the outcome of state-sponsored torture is that “they make a non-person out of you.”<sup>108</sup> Similarly, Giobbe explained:

[T]he word ‘prostitute’ does not imply a ‘deeper identity;’ it is the absence of an identity: the theft and subsequent abandonment of self. What remains is essential to the ‘job’: the mouth, the genitals, anus, breasts . . . and the label.<sup>109</sup>

The psychological consequences of state-sponsored torture and those of prostitution include the same symptoms: depression, anxiety, posttraumatic stress disorder (PTSD), dissociative symptoms, somatic symptoms, suicide attempts, cognitive symptoms resulting from violence-related traumatic brain injury, and the existential despair that persists for years after prostitution or after torture.<sup>110</sup>

4. In order to consider prostitution a job, and in order to keep the business of sexual exploitation running smoothly *we can not know that pornography is action taken against real women, that it is advertising for prostitution, and that pornography is one way to traffic women.*

Pornography has been defined as the presentation of prostitution sex.<sup>111</sup> Pornography is a specific type of prostitution, in which prostitution occurs and, among other things, is documented. The women whose prostitution appears in pornography *are* prostituted women.

The sex industry is driven by pornography. Men learn how to use women by looking at and masturbating to pornography, developing a taste for prostitution. Pornographers are indistinguishable from other pimps.<sup>112</sup> Both exploit women and girls’ economic and psychological vulnerabilities and

107. Inger Agger, *Sexual Torture of Political Prisoners*, 2 J. TRAUMATIC STRESS 305 (1989).

108. Mohammed Al-Sader, *Torture Survivors: A New Group of Patients*, Speech at World Congress on Violence and Human Coexistence (Aug. 20, 1997) (notes on file with author). See also ORLANDO PATTERSON, *SLAVERY AND SOCIAL DEATH* 3 (1982) (“Whipping was not only a method of punishment. It was a conscious device to impress upon the slaves that they were slaves.”)(quoting George P. Rawick).

109. Giobbe, *The Vox Fights*, *supra* note 14, at 35 (emphasis added).

110. See Stuart Turner, *Emotional Reactions to Torture and Organized State Violence*, 15 PTSD RESEARCH QUARTERLY 1 (2004). See generally AMNESTY INTERNATIONAL, *BROKEN BODIES, SHATTERED MINDS: TORTURE AND ILL-TREATMENT OF WOMEN* (2001) (addressing debt-bondage prostitution but not other types of prostitution that are assumed to be consensual but in which women are psychologically or socially coerced by factors such as poverty, childhood abuse, rape, war, or abandonment); Istanbul Protocol, *supra* note 82, at 66-70; Hans Petter Hougen, *Physical and Psychological Sequelae to Torture*, 39 FORENSIC SCI. INT’L 5 (1988); Derrick Silove, *The Psychosocial Effects of Torture, Mass Human Rights Violations, and Refugee Trauma*, 187 J. NERVOUS & MENTAL DISEASE 200 (1999).

111. PROSTITUTION OF SEXUALITY, *supra* note 3, at 55.

112. See AKIYUKI NOZAKA, *THE PORNOGRAPHERS* (Michael Gallagher trans., 1968).

coerce them to get into and stay in the industry.<sup>113</sup> Both take pictures to advertise their “products,” suggest specific abuses for johns to perpetrate against women, and minimize the resulting harms.<sup>114</sup> Pornography is a documentary of specific women’s abuses in prostitution, and its consumers obtain pornography as a “document of humiliation.”<sup>115</sup> Yet in order to conceal the harms that are documented in the picture, the pornographer disconnects the picture from the person. The pornographer and his allies then name what is happening to her in the picture “speech” or “adult entertainment” rather than “torture” or “sexual abuse.”

Women have explained that they study pornography in order to learn how to perform prostitution: “I watch pornos and act like that in the room [with a john].”<sup>116</sup> Men show pornography to women to illustrate what they want them to do. Strip clubs show video pornography to promote lap dance and VIP-room prostitution. One pornographer advertised that he was in the business of “degrading whores for your viewing pleasure,” clearly eliminating any boundary that might be imagined to exist between pornography and prostitution.<sup>117</sup>

The filming of 251 men’s prostitution of Grace Quek (called Annabel Chong) was sold as “The World’s Biggest Gang Bang.”<sup>118</sup> After being edited down to four hours, the film became hardcore pornography.<sup>119</sup> The filming of johns assaulting Quek was stopped after ten hours because she was bleeding internally. For Quek, the film was not an idea, it was not a narrative, it was not a representation. Real johns perpetrated real sexual assaults on her resulting in real physical and psychological injuries.

Both survivors of prostitution and johns explain that pornography is prostitution with a camera. One john explained, “Yes, the woman in

113. Pornography has been used as recruitment into childhood sexual assault as well as prostitution. See MACKINNON & DWORKIN, *IN HARM’S WAY*, *supra* note 70. Pornography that normalizes prostitution is used by pimps to teach girls what acts to perform in prostitution. Mimi H. Silbert & Ayala M. Pines, *Pornography and Sexual Abuse of Women*, 10 *SEX ROLES* 857 (1984). Women in prostitution have described pornography’s role in submitting to the enactment of specific scenes for pimps or customers. *Id.* See also Melissa Farley & Howard Barkan, *Prostitution, Violence and Posttraumatic Stress Disorder*, 27 *WOMEN & HEALTH* 37 (1998).

114. See Donna Hughes, *Prostitution Online*, in *PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS*, *supra* note 11, at 115.

115. D.A. Clarke, *Prostitution for Everyone: Feminism, Globalization, and the ‘Sex’ Industry*, in *NOT FOR SALE: FEMINISTS RESISTING PROSTITUTION AND PORNOGRAPHY* 199 (Rebecca Whisnant & Christine Stark eds., 2004).

116. Teela Sanders, “*It’s Just Acting*”: *Sex Workers’ Strategies for Capitalizing on Sexuality*, 12 *GENDER, WORK & ORG.* 319, 330 (2005).

117. Robert Jensen, *The Paradox of Pornography*, *OP ED NEWS*, Feb. 1, 2006, at [http://www.opednews.com/articles/opedne\\_robert\\_j\\_060201\\_the\\_paradox\\_of\\_pomo.htm](http://www.opednews.com/articles/opedne_robert_j_060201_the_paradox_of_pomo.htm) (quoting Jeff Steward, owner of JM Productions, <http://www.jerkoffzone.com>).

118. Clark, *supra* note 68.

119. Robin Askew, *Life Thru a Lens*, *SPIKE MAG.*, <http://www.spikemagazine.com/1000annabelchong.php> (last visited March 16, 2006) (interviewing the star of *SEX: THE ANNABEL CHONG STORY*).

pornography is a prostitute. They're prostituting before the cameras."<sup>120</sup> A number of courts have understood that making pornography is an act of prostitution.<sup>121</sup> Pimps make more money from johns when they advertise women in prostitution as "adult film stars" who are available as "escorts."<sup>122</sup> Benefiting from globalization, pornographers use women from Eastern Europe, where "they cost less and do more," explained one German producer.<sup>123</sup>

Prostitution is advertised online, where it is indistinguishable from pornography. The Internet has expanded the reach of traffickers and it has intensified the humiliation and violence of prostitution. Pornography is one specific means of trafficking women for the purpose of selling women into prostitution.<sup>124</sup> On pornography/prostitution websites, women are for rent and sale. They are moved across town, across the country, and from one country to another.

Craigslist is an Internet site where people can post at no cost what they want to buy and what they want to sell. A cell phone and an ad on Craigslist sets a teenager up in the business of being sexually exploited in exchange for housing, drugs, or cash. In March 2005, Craigslist averaged 25,000 new ads every 10 days for "erotic services" that are probably prostitution.

Internet prostitution and pornography offer the trick anonymity. There are increasing numbers of online trick communities supporting each others' predatory behaviors and exchanging information regarding where and how women can be bought.<sup>125</sup> As one young woman explained, "They can do more extreme things and keep a double life [on the Internet]. They can have a life with the wife and kids and have a fetish, porn thing where they are beating chicks on the side."<sup>126</sup> She did not say that the john was beating *images of* chicks. She said he was *beating chicks*. How is that possible in virtual reality, when he was at a computer and in an entirely different physical location than the women he was beating?

The web technology of live video chat permits johns to obtain prostitution online by interacting via telephone or keyboard, or by requesting specific sex acts that are then performed to his specifications. One company hired women

120. Melissa Farley, *Renting an Organ for Ten Minutes: What Tricks Tell us about Prostitution, Pornography, and Trafficking*, in *PORNOGRAPHY: DRIVING THE DEMAND FOR INTERNATIONAL SEX TRAFFICKING* (David Guinn ed., forthcoming 2006).

121. MACKINNON, *supra* note 3, at 1524.

122. Thomas Zambito, *Two Plead Guilty in \$13 Million Prosty Ring*, N.Y. DAILY NEWS, Jan. 6, 2006, at <http://www.nydailynews.com/front/story/380758p-323279c.html>.

123. *The Sex Industry: Giving the Customer What He Wants*, ECONOMIST, Feb. 14, 1998, at 21 (reporting that excruciating or humiliating acts purchased from women in economically devastated parts of Europe cost far less than pornographers paid to film the same acts a decade earlier).

124. See Catharine A. MacKinnon, *Pornography as Trafficking*, 26 MICH. J. INTL. L. 993 (2005).

125. See Sven Axel Mansson, *Men's Practices in Prostitution and Their Implications for Social Work*, in *SOCIAL WORK IN CUBA AND SWEDEN* 267 (Sven Axel Mansson & Clotilde Proveyer eds., 2004).

126. Interview with anonymous, in San Francisco, Cal. (March 24, 2005).

to prostitute in warehouse cubicles where they were equipped with microphones to communicate with johns. The johns requested assurances from the women that the prostitution was performed in real time.<sup>127</sup>

Women in prostitution whose pimps or tricks made pornography of them displayed significantly more severe symptoms of post traumatic stress disorder than did women in prostitution who did not.<sup>128</sup> Even after women escaped prostitution, they continued to be traumatized by knowing that customers look at pornography made of them during their time in prostitution.<sup>129</sup>

5. In order to consider prostitution a job, and in order to keep the business of sexual exploitation running smoothly, *we can never talk about johns or tricks*

*A trick's perspective of prostitution:*

I was like a kid in the candy store. I mean, it was nothing for me to knock off four broads in an afternoon... I thought, *This is what men do.*<sup>130</sup>

*A prostituted woman's perspective:*

Every day I was witness to the worst of men. Their carelessness and grand entitlement. The way they can so profoundly disconnect from what it is they're having sex with. . . . There was a system in place that was older and stronger than I could begin to imagine. Who was I? I was just a girl. What was I going to do about it. If I had any power I would make it so that nobody was ever bought or sold or rented.<sup>131</sup>

Even where prostitution is legal, a majority of tricks' behaviors are carefully concealed from public view. Tricks are most often average citizens rather than abnormally sadistic psychopaths. They are all ages and from all social classes. Most are married or partnered.<sup>132</sup>

When a john calls a phone number that he obtains online or via a free magazine for obtaining a prostitute, it is called escort prostitution. Indoor prostitution such as escort is advocated wherever there is a political movement promoting the decriminalization or legalization of prostitution; it is a way to protect the trick's anonymity. In indoor prostitution, the trick is much less likely to be arrested even where prostitution is illegal.<sup>133</sup>

Yet the social invisibility of indoor prostitution may actually increase its

127. Hughes, *supra* note 114, at 119.

128. Farley, *supra* note 120.

129. MACKINNON & DWORKIN, IN HARM'S WAY, *supra* note 70, at 351.

130. James Kaplan, *The Laughing Game*, NEW YORKER, Feb. 7, 2000, 52, 61–62 (emphasis added).

131. MICHELLE TEA & LAURENN MCCUBBIN, RENT GIRL 29 (2004).

132. Melissa Farley, *What Do We Know About Johns?*, DEMAND DYNAMICS: THE FORCES OF DEMAND IN GLOBAL SEX TRAFFICKING 27 (Morrison Torrey ed., 2004).

133. Jim Adams & Jason Riley, *After Spas' Boom, Enforcement Affects Illicit Sex Business*, LOUISVILLE COURIER-JOURNAL, July 11, 2004, at 1.

danger for women. Internationally trafficked women and children are almost always indoors. Sometimes neighbors may not even know that prostitution is occurring next door. Although the need for services remains the same regardless of the location where prostitution takes place, the invisibility of indoor prostitution makes it less likely that services to help women escape will be funded or that women will be able to access these services.

Paying for a woman in prostitution provides men with the power to turn women into what Davidson termed “the living embodiment of a masturbation fantasy.”<sup>134</sup> As one man said about prostituted women, “I use them like I might use any other amenity, a restaurant, or a public convenience.”<sup>135</sup> Interviews with men who buy women in prostitution have confirmed what survivors of prostitution have told us about prostitution and pornography. While feminists have spoken about prostitution as the buying and selling of women’s bodies, one trick more specifically explained what he did in prostitution as “renting an organ for ten minutes.”<sup>136</sup> In this definition, he removed her humanity. Women in prostitution became “something for him to empty himself into. . . a kind of human toilet.”<sup>137</sup> Her self and those qualities that define her as an individual are removed in prostitution and she acts the part of the thing he wants her to be.<sup>138</sup> This understanding of the realities of prostitution on the part of both the john and the woman he buys are at odds with the notion of prostitution as skilled labor as some prostitution advocacy groups have characterized it.<sup>139</sup>

Many tricks have a nuanced awareness of exactly what being prostituted is like for the women. One trick explained that “[Prostitution] takes away a part of themselves that they can’t get back. They can’t look at themselves in the mirror.” Others were aware of the extreme violence of pimps toward prostituted women and feared for their own safety.<sup>140</sup>

Mansson observed that the Swedish tricks he interviewed had greater problems than other men in maintaining relationships with women.<sup>141</sup> One man explained, “If you can’t communicate with your partner, you can go to a

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134. JULIA O’CONNELL DAVIDSON, PROSTITUTION, POWER, AND FREEDOM 209 (1998).

135. SEABROOK, *supra* note 63, at 193.

136. Interviews on file with the author and forthcoming in Farley, *supra* note 123.

137. HØIGÅRD & FINSTED, *supra* note 36, at 51.

138. DWORKIN, LIFE AND DEATH, *supra* note 16, at 139.

139. Valerie Jeness, *From Sex as Sin to Sex as Work: COYOTE and the Reorganization of Prostitution as a Social Problem*, 37 SOCIAL PROBLEMS 403 (1990) (referencing Margo St. James and Priscilla Alexander).

140. Farley, *supra* note 120 (describing the pimping relationship with quotations such as “He controls her by hitting her. And by playing mind games with her,” “The pimp is the owner and the prostitute is the slave to make money for the pimp,” and “Death is the end result of her relationship with a pimp”).

141. Sven-Axel Mansson, *Men’s Practices in Prostitution: The Case of Sweden*, in A MAN’S WORLD? CHANGING MEN’S PRACTICES IN A GLOBALIZED WORLD 135, 138 (Bob Pease & Keith Pringle eds., 2001).

prostitute.”<sup>142</sup> Many of the men expressed unveiled hostility toward women. “I think about getting even [during prostitution]—it’s like a kid’s game, you’re scoring points,” one man told us. Another said, “She gives up the right to say no.”<sup>143</sup> Another man told us that he clarifies the nature of his relationship to the women he buys: “I paid for this. You have no rights. You’re with me now.”<sup>144</sup> Tricks confirmed that the relationship in prostitution is one of dominance and subordination: “Prostitution says that women have less value than men.” Another explained,

Guys get off on controlling women, they use physical power to control women, really. If you look at it, it’s paid rape. You’re making them subservient during that time, so you’re the dominant person. She has to do what you want.<sup>145</sup>

Men’s ambivalence and shame about buying women in prostitution, and their desire not to be publicly known as tricks, may provide an opportunity for intervention and behavior change.

6. In order to normalize prostitution in everybody’s culture, *postmodern theory helps to keep the real harms of prostitution, pornography, and trafficking invisible.*

Some words hide the truth. Just as torture can be named enhanced interrogation, and logging of old-growth forests is named the Healthy Forest Initiative, words that lie about prostitution leave people confused about the nature of prostitution and trafficking. The following words contribute to the myth of the prostitution’s inevitability and to the belief that johns’ sexual predation is a logical consequence of “boys being boys.” Men who buy women in prostitution are called **interested parties** or **third parties**, rather than johns or tricks, which is what women call buyers. Pimps are described as **boyfriends** or **managers**.

There are other words that make the harm of prostitution invisible. Many terms in current usage camouflage the psychological, economic, and social coercion against women in prostitution: **voluntary prostitution** which implies that she consented when most frequently she had no other survival options; **forced trafficking** which implies that some women volunteer to be trafficked into prostitution; **sex work** which defines prostitution as a job rather than an act of violence against women. The term **migrant sex worker** blends prostitution and trafficking and implies that both are simply global labor practices. Other

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142. Farley, *supra* note 120.

143. *Id.*

144. *Id.*

145. *Id.*

words that make trafficked women invisible are **transnational migrant work** or **flexible labor**.

The expressions **socially disadvantaged women** (ostensibly used to avoid stigmatizing prostitutes) and **irregular migration** remove any hint of the sexual violence that is intrinsic to prostitution. The Chinese words **beautiful merchandise** sugar-coat the objectification of women in prostitution. A woman in Brazilian prostitution was described as an **erotic entrepreneur**.<sup>146</sup>

Sexual exploitation in strip club prostitution has been reframed as **sexual expression** and **freedom to express one's sensuality by dancing**. Brothels are referred to as **short-time hotels, massage parlors, saunas, health clubs, adult clubs, or sexual-encounter establishments**. Older men who buy teenagers for sex in Seoul call prostitution **compensated dating**. In Tokyo prostitution is described as **assisted intercourse**. In the United States, the expression 'ho promulgates the bigoted notion that all women, especially African American women, are natural-born whores.

Women in prostitution are described as **escorts, hostesses, strippers, dancers, and sex workers**. Sometimes these words are used by women in prostitution in order to retain some dignity. The term **sex worker** suggests that prostitution is a reasonable job for poor women, rather than a violation of their human rights. The words **sex worker** imply "order, hierarchy, and accountability. . . It says board of directors. . . and marketplace niche."<sup>147</sup> In that one word—work—we lose ground in the political struggle to understand prostitution as violence against women.<sup>148</sup>

Postmodern philosophy has contributed to the invisibility of the harms of prostitution/trafficking by mystifying prostitution/trafficking via a "politics of abdication and disengagement."<sup>149</sup> To postmodern Third Wavers, facts are unreliable. Incest and rape become "epistemological quandaries" to postmodernists.<sup>150</sup> The oppressive social forces that grind women down in prostitution—race and sex—are considered "unknowable."<sup>151</sup> Racism, sexism, and lethal poverty become representations of reality, rather than reality itself.

The assumption that material reality is mentally constructed and that

146. Larry Roter, *She Who Controls Her Body Can Upset Her Countrymen*, N.Y. TIMES, Apr. 27, 2006, at A4.

147. Jerry Carroll, *The Game of the Name*, SAN FRANCISCO EXAMINER, Sept. 11, 1994, at 1.

148. For a blunt critique of the concept of prostitution as a form of labor, see Melissa Farley, *Unequal*, [http://www.prostitutionresearch.com/how\\_prostitution\\_works/000111.html](http://www.prostitutionresearch.com/how_prostitution_works/000111.html).

149. Catharine A. MacKinnon, *Points Against Postmodernism*, 75 CHI.-KENT L. REV. 687, 711–12 (2000).

150. *Id.* at 703.

151. Celine Parreñas Shimizu, Remarks at the Yale Journal of Law and Feminism Symposium, Sex for Sale (Feb. 4, 2006). Noting the "paradox of pleasure and violence in racial subjection," Shimizu explores the rapes of slaves by their masters and recommends that we not prematurely dismiss "a telling of slavery from the point of view of slave sexual contentment." Celine Parreñas Shimizu, *Master-Slave Sex Acts: Mandingo and the Race/Sex Paradox*, WIDE ANGLE, Oct. 1999, at 42.

nothing is real means that the actual harms of prostitution cease to exist except in a woman's mind. Her life becomes simply a "narrative."<sup>152</sup> Postmodernists assume that women who have been prostituted, trafficked, or have had those experiences documented via pornography are narrating just one more version of reality. In postmodern reality, pimps' and pornographers' lies (prostitution is sexy and fun for everyone; prostitutes get rich and meet nice men) are just as valid as survivors' lived experiences of sexual exploitation and abuse. This presumed equivalence of validity reflects a postmodern "sexual politics of meaninglessness"<sup>153</sup> that has profoundly impacted women's lives because it makes men's violence against women invisible.

The disconnected verbosity of postmodern theorists on prostitution seems incomprehensible to those of us who know real women in prostitution. Under postmodern theory, the woman in prostitution is re-objectified as a "signifying system" or a "plane of consistency of desire." She is not understood as a human being whose dignity and personhood are removed by the john and whose body he sexually assaults for money. With what cruel disinterest does one write a book about prostitution that declares on page one that "the flesh-and-blood female body engaged in. . . sexual interaction in exchange for some kind of payment, has no inherent meaning?"<sup>154</sup> Another postmodern description of the "terrain" of escort prostitution fragments women's physical and psychological experience of prostitution into a "cyborg assemblage" that is sold as a commodity in prostitution.<sup>155</sup>

Postmodern ideology might be dismissed as elitist word-salad except that it has real effects on real women when its premises are accepted by public health advocates who work with prostituted women or by judges who interpret laws. In its celebration of fragmentation and multiplicity,<sup>156</sup> postmodernism denies the psychological fragmentation that is a direct result of prostitution, pornography, and trafficking.<sup>157</sup> The overwhelming experiences of rape and torture that occur in incest and prostitution are split off from the rest of the self. This traumatic dissociation is transformed into a "manufactured identity"<sup>158</sup> that is presumed to have been deliberately created by women in prostitution who are seen by postmodernists as "strategist[s]" full of "agency."<sup>159</sup>

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152. MacKinnon, *supra* note 152, at 702.

153. JEFFREYS, *supra* note 15, at 201.

154. SHANNON BELL, *READING, WRITING AND REWRITING THE PROSTITUTE BODY 1* (1994).

155. Audrey Extavasia & Tessa Dora Addison, *Fucking (with Theory) for Money: Toward an Interrogation of Escort Prostitution*, POSTMODERN CULTURE, May 1992, <http://www3.iath.virginia.edu/pmc/text-only/issue.592/add-ext.592>.

156. Bell, *supra* note 154, at 4.

157. MacKinnon, *supra* note 149, at 707, makes the point that the fragmentation that is idealized by postmodernists is, in reality, psychological multiplicity caused by extreme—usually sexual—torture at a young age.

158. Sanders, *supra* note 116, 336.

159. *Id.*

Minimizing dissociation's origin in traumatic stress, Dutch prostitution researcher Vanwesenbeeck described a "dissociative proficiency" that made it possible for women to professionally perform the acts of prostitution.<sup>160</sup> Public health workers' lack of specialized training in recognizing or treating dissociation is partly a result of the postmodern failure to grasp the connection between deliberately-inflicted violence and dissociation.

Infused with postmodern ideology, advocates may blame people who are in fact victims of men's violence. To describe prostituting women as "risk takers" is to suggest that the women themselves provoke violence aimed at them in prostitution. One group of researchers assumed that "risk-taking" prostituted women willingly exposed themselves to harm, even though the "risk takers" had been battered and raped significantly more often than the non-risk takers.<sup>161</sup> The risk-taking behavior of prostituted women in this particular study was not understood as trauma-based repetition of childhood sexual abuse nor as having resulted from parental neglect.

Contrary to what is asserted by postmodernists, there is a *real* power imbalance in prostitution, where one person has the social, legal, and economic power to hire another person to act like a sexualized puppet. Prostitution always includes the dehumanization, objectification, and fetishization of women.<sup>162</sup> There is no mutuality of sexual pleasure or of any other kind of power in prostitution. In fact, women are non-persons in prostitution. As one of O'Connell Davidson's interviewees explained: the only "plausible line in the . . . film *Pretty Woman*. . . [is] when Richard Gere, playing a client, asks Julia Roberts, playing a prostitute, what her name is. She replies, 'Anything you want it to be.'"<sup>163</sup> Domination of one person by another is central to prostitution, including racist and sexist verbal abuse, deliberate humiliation and ridicule, sadistic physical and psychological tormenting of a vulnerable person, the conscious or unconscious degradation of another person, and frequently acts that are equivalent to torture.

Postmodern denial of the racism and violent sexism in prostitution is highlighted in reviews and commentaries about pornography made of Grace Quek.<sup>164</sup> A Chinese woman from Singapore, Quek was gang-raped prior to her entry into prostitution. She then moved to Los Angeles, where she entered the

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160. VANWESENBEECK, *supra* note 5, at 107.

161. Ine Vanwesenbeeck et al., *Professional HIV Risk Taking, Levels of Victimization, and Well-Being in Female Prostitutes in The Netherlands*, 24 ARCHIVES SEXUAL BEH. 503 (1995).

162. CLAUDE JAGET, PROSTITUTES—OUR LIFE 88 (Anna Furse et al. trans., 1980) (discussing the pain of "being seen, looked at, and bought as an object"); see also GIOBBE, FACILITATOR'S GUIDE, *supra* note 10, at 35 ("To be a prostitute is to be an object in the marketplace."); HØIGARD & FINSTED, *supra* note 36, at 51 (offering many examples of the fetishization and objectification of women in prostitution).

163. DAVIDSON, *supra* note 134, at 109.

164. See, e.g., THE WORLD'S BIGGEST GANG BANG (Zane, 1995); SEX: THE ANNABEL CHONG STORY (Coffeehouse Films, 2002).

sex industry, specializing in hard-core pornography where multiple men penetrated her. Quek has been dismissed by sex industry buffs as a “babbling idiot,”<sup>165</sup> a “multiple entity,” and a “freak-show,”<sup>166</sup> while the industry’s predators quickly moved to exploit her dissociative vulnerability. In *The World’s Greatest Gang Bang*, 251 men were filmed sexually assaulting Quek for ten nonstop hours. Her real consent for this was unclear from some of her comments in some interviews and from her face which was sometimes contorted in pain during the assaults. She was originally told that the men had been tested for HIV, and upon learning that not all johns had been tested, Quek commented, “sex is worth dying for.”<sup>167</sup> Observing the long-term effects of self-mutilation, one interviewer asked Quek about the scars on her arms. She responded, “I find pain a relief, you know?”<sup>168</sup>

One reviewer nonetheless viewed Quek as “the new feminist icon who provokes and is not ashamed. . . to be viewed as nothing more than an object.”<sup>169</sup> This postmodern perspective parallels the pornographers’ propaganda that their film was a subversive demonstration of Asian female sexual appetite. Yet Quek did not break a record for having orgasms; rather, she set a record for how many men could penetrate her.<sup>170</sup> This is the same sexual exploitation and abuse that is perpetrated against other women in pornography/prostitution.<sup>171</sup>

At one adult video event, Quek was surrounded by men with cameras who ordered her into different poses. She seemed “empty” to one observer who noted that she “c[ame] across like a puppet terrified of disappointing her commanders. There was no sign of the much-vaunted empowerment or control in her frantic displays, just someone that had sadly become less than human.”<sup>172</sup>

Postmodern thinking protects johns and maintains their social invisibility. The notion that all constructions of reality are equally valid colludes with, for example, rapists who deny perpetrating rape. How can we hold johns

165. Anthony Petkovitch, *Grace from Outer Space*, SPECTATOR, Apr. 26, 2000, <http://www.spectator.net/EDPAGES/annabelAP.html>.

166. Linda Ruth Williams, *Review of Sex: The Annabel Chong Story*, SIGHT AND SOUND, May 2000, <http://www.bfi.org.uk/sightandsound/review/493>.

167. Kimberly Chun, *Sex: The Annabel Chong Story from a Singapore Schoolgirl to the Nastiest Porn Star in the World*, ASIAN WEEK, May 4, 2000, [http://www.asianweek.com/2000\\_05\\_04/ae\\_annabelchong.html](http://www.asianweek.com/2000_05_04/ae_annabelchong.html).

168. Clark, *supra* note 68, at 13.

169. Gaby Bila-Gunther, *Review of Sex: The Annabel Chong Story*, SENSES OF CINEMA, July–Aug. 2000, <http://www.sensesofcinema.com/contents/00/8/sex.html>.

170. Linda Ruth Williams, *Review of Sex: The Annabel Chong Story*, SIGHT AND SOUND, May 2000, <http://www.bfi.org.uk/sightandsound/issue/200005>.

171. One particularly vicious pornographer sarcastically noted, “I simply must admire any woman who can take 250 loads on her back, ass, and tits; pounded from behind, from the side, and on top; a woman soaked, fatigued, and nearly broken.” Matt Cale, *Review of Sex: The Annabel Chong Story*, <http://ruthlessreviews.com/movies/s/sex.html> (last visited Mar. 16, 2006).

172. Dmetri Kakmi, *Review of Sex: The Annabel Chong Story*, SENSES OF CINEMA, Dec. 2000–Jan. 2001, <http://www.sensesofcinema.com/contents/00/11/annabel.html>.

accountable for acts of sexual abuse and paid rape, when postmodernists object to the idea of a “doer behind the deed”?<sup>173</sup> Why weren’t any of the men who gang raped Grace Quek charged with sexual assault? Postmodern ideologues are complicit with men who commit sexual violence against women, including johns, pimps and pornographers.

7. In order to view prostitution as a job, and in order to keep the business of sexual exploitation running smoothly, *we can not know that when prostitution is legalized or decriminalized, it gets worse. And we can not know that there are some excellent laws that are aimed squarely at abolishing the institution of prostitution while at the same time supporting the women in it to escape.*

The effects of legalized prostitution can be observed in Australia, where researchers have found that it produces a “prostitution culture”<sup>174</sup> with increased illegal as well as legal prostitution, increased presence of organized crime, increased demand for prostitution, increased child prostitution, and increased trafficking of women for the purpose of prostitution.<sup>175</sup> State-sponsored prostitution provides a legal welcome to pimps, traffickers, and johns.<sup>176</sup> But does it protect women?

Well-intentioned people are confused about how to address what they intuitively understand to be the intrinsic harms of prostitution and trafficking.<sup>177</sup> It is misleading when right-to-prostitution advocates and pimps reframe prostitution as a human rights issue. One organization even proposed that women’s civil rights would be violated if they were denied the “right to work” as a prostitute.<sup>178</sup> Laws against pimping or buying women are seen by sex workers’ rights groups as obstacles to conducting business.

Another source of confusion about legal prostitution is that sex industry

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173. MacKinnon, *supra* note 149, 706 n.47 (quoting JUDITH BUTLER, GENDER TROUBLE 25 (1990)).

174. MARY SULLIVAN, WHAT HAPPENS WHEN PROSTITUTION BECOMES WORK? AN UPDATE ON LEGALISATION OF PROSTITUTION IN AUSTRALIA 23 (2005), available at <http://action.web.ca/home/catw/readingroom.shtml?x=84641>.

175. *Id.*

176. Janice G. Raymond, *Ten Reasons for Not Legalizing Prostitution and a Legal Response to the Demand for Prostitution*, in PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS, *supra* note 11, at 315. See also SULLIVAN, *supra* note 174; ILVI JÖE-CANNON, PRIMER ON THE MALE DEMAND FOR PROSTITUTION (2006), <http://action.web.ca/home/catw/readingroom.shtml?x=85687>.

177. Politicians speak about prostitution with inconsistent, sometimes wildly divergent statements. In New Zealand, for instance, Prime Minister Helen Clark argued that prostitution was “abhorrent,” but that its decriminalization would benefit women. Clark failed to note that in addition to decriminalizing solicitation offenses for women, across-the-board decriminalization of prostitution also decriminalizes the predatory behaviors of pimps, johns, and traffickers. See John Banks, *City Shoulders Load of Making Law Work*, NEW ZEALAND HERALD, Sept. 15, 2003, at 1.

178. VALERIE JENNESS, MAKING IT WORK: THE PROSTITUTES’ RIGHTS MOVEMENT IN PERSPECTIVE 5 (1993).

advocates appropriate the names of legitimate human rights or public health organizations. Although their names are similar, the Global Alliance Against Trafficking in Women (GAATW) promotes prostitution as sex work, while the Coalition Against Trafficking in Women (CATW) promotes the abolition of prostitution.<sup>179</sup>

Legal prostitution and decriminalized prostitution are both state-sanctioned prostitution, but there are differences between them. In legalized prostitution, the state assumes the role of pimp, collecting taxes and regulating the practice of prostitution. Decriminalized prostitution is a radical removal of any and all laws regarding prostitution (including laws against pimping, pandering, purchasing, and procuring) so that the buying and selling of people in prostitution is considered the legal equivalent of buying candy.

Although advocates allege that legalizing prostitution would remove its social stigma, in fact, women in legalized prostitution are still physically and socially rejected, whether they are in rural brothels ringed with razor wire or in urban brothels walled-off from the city.<sup>180</sup> Zoning of the location of legal or state-tolerated prostitution is a constant source of legal battles, since no one wants prostitution transactions taking place in his neighborhood.

Legalization is not only ineffective in removing the stigma of prostitution: it also fails to protect women from violence. Legal control of prostitution targets its "outward appearance rather than the conditions in which women find themselves. On the whole, governments are far more anxious about public order and public health than about abuse and violence."<sup>181</sup> Many women in

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179. Other organizations that accept or promote prostitution as a reasonable job for poor women include: World Health Organization (WHO); UN/AIDS; International Labor Organization (ILO); Amnesty International; Anti-Slavery International; Coalition Against Slavery and Trafficking (CAST), CARE International; and Medecins sans Frontieres. For a more extended list of such organizations, see Farley, *supra* note 30, at 1091-92.

180. Advocates for legalized or decriminalized prostitution argue that the primary harm of prostitution is social stigma rather than the physical and psychological violence described here. Yet there is no evidence that legalization mitigates the social stigma of prostitution. For example, Dutch women in legal prostitution have the opportunity to accrue pension funds. But they fail to take advantage of this option, fearing that the designation would pursue them for the rest of their lives. See Arjan Schippers, *Turning Prostitution into a Legal Business Has Met With Opposition from People in the Sex Industry Itself*, RADIO NETHERLANDS, <http://www.rnw.nl/society/html/critics020102.html> (last visited Apr. 11, 2006); Suzanne Daley, *New Rights for Dutch Prostitutes, but No Gain*, N.Y. TIMES, Aug. 12, 2001, at 15.

181. MARJAN WIJERS & LIN LAP-CHEW, *Trafficking in Women, Forced Labour and Slavery-like Practices in Marriage*, in DOMESTIC LABOUR AND PROSTITUTION 152 (Foundation Against Trafficking in Women, Utrecht, Neth., 1997). In order of frequency reported, manifestations of abusive conditions in prostitution include: psychological abuse, physical abuse, confinement, police harassment and arrest, sexual assault, no right to refuse a customer or a mandatory minimum number of customers per day, isolation, denial of days off, no right to refuse specific sexual acts, confiscation of identity papers and/or passport, imposition of twelve or more hours of work daily, no access to medical care, forced or dangerous abortions, threats of reprisals against family members for non-compliance, confiscation of personal belongings, denial of right to use condoms, withholding of pay, no proper sleeping accommodations, compulsory AIDS testing and no access to the results, inadequate food, and also forcible recruitment of sisters and friends into prostitution. *Id.* at 199.

prostitution tell us that legalized prostitution will not make them any safer than they were in illegal prostitution.<sup>182</sup> Thus legal brothels in the Netherlands may have as many as three panic buttons in each room.<sup>183</sup> Dutch, South African, and Australian pimps have commented on the extreme physical violence that johns inflict on women in prostitution,<sup>184</sup> and Australian women in prostitution are advised to take classes in hostage negotiation.<sup>185</sup> When rapes occur, however, women in legal strip clubs are told to keep silence or be fired.<sup>186</sup> Women in prostitution speak constantly of its violence.<sup>187</sup>

Although “health checks” of prostituted women occur in legal prostitution, the purpose of the screening is to provide the buyer with an HIV-free commodity. The health check is not aimed at protecting the woman in prostitution from HIV transmitted to her by johns. Under the guise of HIV prevention, and using the massive HIV prevention funding available worldwide, some advocacy groups have used HIV prevention funds to promote legalized or decriminalized prostitution. A 2005 crackdown on this misuse of funds has led to legal disputes.<sup>188</sup> Because sexual harassment and sexual violence are intrinsic to legal as well as illegal prostitution, and because rape is a primary means of transmission of HIV,<sup>189</sup> the threat of contracting HIV is not

182. Farley *supra* note 15, at 33; see also Roberto J. Valera, et. al, *Perceived Health Needs of Inner-City Street Prostitutes*, 25 AM. J. HEALTH BEHAV. 50, 54 (2001).

183. Interview with Jacob K. Jou, Yale University Computer Center, Yale University, in New Haven, Conn. (Feb. 4, 2006).

184. Sheila Jeffreys, *The Legalisation of Prostitution: A Failed Social Experiment*, WOMEN'S HEALTH WATCH, 1, 8 (Women's Health Action, Auckland, New Zealand, March/Apr., 2003) available at <http://www.womenshealth.org.nz> (discussing bouncers' failures to protect women from beatings in legal Australian brothels); SEX WORKER EDUCATION & ADVOCACY TASKFORCE, SAFETY TIPS FOR SEX WORKERS (1997) (on file with author) (recommending that those in prostitution check johns' rooms for knives, handcuffs or rope). Daley, *supra* note 180, at 15.(discussing a pimp who described a pillow in a brothel as a 'murder weapon.')

185. Mary Sullivan, *Can Prostitution Be Safe? Applying Occupational Health and Safety Codes to Australia's Legalized Brothel Prostitution*, in NOT FOR SALE 252 (Rebecca Whisnant & Christine Stark eds., 2004); see also SULLIVAN, *supra* note 174, at 21–22 (discussing risk management procedures and deescalation protocols).

186. Susan Sward, *Dancer Says Strip Club Patron Raped Her*, SAN FRANCISCO CHRONICLE, Feb. 10, 2000, at A19.

187. One woman explained that prostitution is “like domestic violence taken to the extreme,” Diana Leone, *One in 100 children in Sex Trade. Study Says*, HONOLULU STAR-BULLETIN, Sept. 10, 2001, at A1, available at <http://starbulletin.com/2001/09/10/news/story1.html>; A First Nations woman in Canada said, “what is rape for others, is normal for us.” Farley et al., *supra* note 35, at 242; see also Susan Kay Hunter, *Prostitution is Cruelty and Abuse to Women and Children*, 1 MICH. J. GENDER & L. 1 (1994)(stating that it is impossible to protect women in prostitution who are raped approximately weekly).

188. For a detailed discussion of these issues, see Memorandum of Law for APNE AAP and Eighteen Other Organizations as Amicus Curiae, Alliance for Open Society Int'l, Inc., and Open Soc'y Inst. v. United States Agency for Int'l. Dev., Civil Action No.05-CV-8209 (Dec. 9, 2005)

189. Press Release, Commission on the Status of Women, Remarks by Peter Piot, U.N. Doc. WOM/1104 (Mar. 3, 1999); Claudia Garcia-Moreno & Charlotte Watts, Press Release, *Gender Equality, Violence Against Women Present Continuing Challenges*, told to Third Committee, U.N. Doc. GA/SHC/3744 (Oct. 15, 2003), available at <http://www.un.org/News/Press/docs/2003/gashc3744.doc.htm>.

at all diminished under legal prostitution. Ultimately, the abolition of HIV and the abolition of prostitution both require the elimination of sex inequality.<sup>190</sup>

Systematically discriminating against women of all ages, all classes, and against ethnically subordinated groups, prostitution is not safer when it is legalized. Prostitution reinforces and promotes sex inequality. A Nevada legislator stated,

Condoning prostitution is the most demeaning and degrading thing the state can do to women. What... [Nevada] do[es] as a state is essentially put a U.S.-grade stamp on the butt of every prostitute. Instead, we should be turning them around by helping them get back into society.<sup>191</sup>

What is a better solution? In 1988, Andrea Dworkin suggested that prostitution should be decriminalized for the prostitute while at the same time criminalizing johns, pimps and traffickers.<sup>192</sup> Today such a law exists in Sweden. Recognizing that prostitution deserved abolition, the Swedish government criminalized the john's and pimp's and trafficker's buying of sex but not the prostituted person's selling of sex. The law made clear that "in the majority of cases... [the woman in prostitution] is a weaker partner who is exploited," and it allocated funding for social services to "motivate prostitutes to seek help to leave their way of life."<sup>193</sup> Two years after the law's passage, a government taskforce reported that there was a fifty-percent decrease in the number of women prostituting and a seventy-five percent decrease in the number men who bought sex. Trafficking of women into Sweden has also decreased.<sup>194</sup>

There are also progressive legal developments in Korea where buying and selling sex acts is criminalized. In 2004, following an educational campaign by women's and human rights groups, the Korean government enacted laws

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190. See Editorial, *The Feminization of AIDS*, N.Y. TIMES, Dec. 13, 2004, at A26; Maxine Frith, *India's Hidden AIDS Epidemic: Virus to Infect 25 Million by 2010*, THE INDEPENDENT (London), Nov. 19, 2003, at 13. Nonprostituted women are also at high risk for HIV because of the widespread tolerance of violence against women. In India, for example, there is no law against marital rape. *Id.* See also Kate Hendricks, *Thailand's 100% Condom Use Policy: Success is in the Eye of the Beholder* (Oct. 28, 2005) (unpublished manuscript, on file with first author); Sevgi O. Aral & Jonathan M. Mann, *Commercial Sex Work and STD: The Need for Policy Interventions to Change Societal Patterns*, 25 SEXUALLY TRANSMITTED DISEASES 455, 455-56 (1998)(discussing Centers for Disease Control recommendations that public health programs address the human rights violations of prostitution).

191. ALEXA ALBERT, BROTHEL: MUSTANG RANCH AND ITS WOMEN 178 (2001) (quoting William O'Donnell).

192. DWORKIN, *supra* note 84, at 133.

193. For information about the Swedish law regarding prostitution and trafficking, see Prostitutionresearch.com, Fact Sheet in Violence Against Women, <http://www.prostitutionresearch.com/swedish.html> (last visited Apr. 11, 2006).

194. Gunilla S. Ekberg, *The Swedish Law that Prohibits the Purchase of Sexual Services*, 10 VIOLENCE AGAINST WOMEN 1187 (2004), available at <http://www.prostitutionresearch.com/c-laws-about-prostitution.html>; see also Gunilla S. Ekberg, *Prostitution and Trafficking: the Legal Situation in Sweden* (Mar. 15, 2001) (unpublished manuscript, on file with author.)

authorizing seizure of assets obtained by trafficking in women, increased penalties for trafficking and prostitution, established supports and resources for prostituted/trafficked women, and provided funds for public education campaigns about prostitution.<sup>195</sup> The passage *and enforcement* of these laws has been credited with a thirty-seven percent reduction in the number of brothels in Korea, a thirty-to-forty percent decrease in the number of bars and clubs (which comprise eighty-percent of the sex industry in Korea), and a fifty-two percent decrease in the number of women prostituted in brothels.<sup>196</sup>

A Florida state law provides civil remedies for damages that johns and pimps inflict on prostituted women.<sup>197</sup> Women who are coerced into prostitution via exploitation of social and legal vulnerability can sue johns and pimps for damages. Coercion is defined as restraint of speech or communication with others; exploitation of a condition of developmental disability, cognitive limitation, affective disorder, or substance dependence; exploitation of prior victimization by sexual abuse; exploitation during the making of pornography; and exploitation of the human needs for food, shelter, safety, or affection.<sup>198</sup>

A new consciousness about the harms of prostitution in the United Kingdom is evident in political commentary suggesting that men should be charged with rape if they have sex with women who are intimidated into having sex with them, even if money is paid for that sex act.<sup>199</sup>

Two international agreements strongly oppose prostitution and trafficking. The United Nations 1949 Convention declares that trafficking and prostitution are incompatible with individual dignity and worth.<sup>200</sup> The Convention addresses the harms of prostitution to consenting adult women whether transported across national boundaries or not. Viewing trafficked women as

195. Farley & Seo, *supra* note 29, at 9-12.

196. *Id.* at 9 (discussing Gi Hwan Kim's legal proposals to prevent prostitution and sex tourism in Korea).

197. FLA. STAT. § 796.09 (2006); *cf.* MINN. STAT. § 611A.80 (1994); *see also* Margaret A. Baldwin, *Strategies of Connection: Prostitution and Feminist Politics*, 1 MICH. J. GENDER & L. 65 (1993) (discussing the Florida statute).

198. FLA. STAT. § 796.09(k)-(o) (2006); *see* Margaret Baldwin, *What Can Be Done to Interfere with and Ultimately Eliminate Demand?*, in DEMAND DYNAMICS 105 (Morrison Torrey ed., 2004) (discussing claims brought and won under FLA. STAT. § 796.09). In 2006, the Florida Council Against Sexual Violence, in collaboration with Florida Legal Services, the Jacksonville Women's Center, and Refuge House, is seeking federal funding to support civil legal claims that may be brought by prostituted women under section 796.09 of the Florida Code. Email from Margaret Baldwin (Mar. 17, 2006)(on file with author).

199. Denis MacShane, *Prosecute 'Massage Parlour' Rapists*, DAILY TELEGRAPH, Jan 3, 2006, at 14.

200. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 96 U.N.T.S. 271. *See also* Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, art. 5, 1249 U.N.T.S. 13, 17, declaring in Article 6 that state parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation or prostitution of women.

victims, not criminals, the 2000 Palermo Protocol makes consent irrelevant to whether or not trafficking has occurred and encourages states to develop legislative responses to men's demand for prostitution.<sup>201</sup> The Palermo Protocol establishes a method of international judicial cooperation that would permit prosecution of traffickers and organized criminals. It addresses a range of other forms of sexual exploitation including pornography.

A 2006 report by the United Nations Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children, noted that prostitution as it is practiced in the world "usually satisfies the legal elements for the definition of trafficking,"<sup>202</sup> and therefore, legalization of prostitution is "to be discouraged."<sup>203</sup> The Special Rapporteur observed that "the issue of demand is of crucial importance in addressing trafficking,"<sup>204</sup> noting, "[b]y engaging in the act of commercial sex, the prostitute-user is . . . directly inflicting an additional and substantial harm upon the trafficking victim, tantamount to rape, above and beyond the harmful means used by others to achieve her entry or maintenance in prostitution."<sup>205</sup>

## CONCLUSION

Postmodern descriptions of prostituted women as sex workers promote an acceptance of conditions that in any other employment context would be correctly described as sexual harassment, sexual exploitation, or rape. Women's experiences of violence and their psychological response to it cannot be theorized away. Postmodern analyses of prostitution that consider it to be "just acting"<sup>206</sup> or that view women's traumatic dissociative responses as proof of "an exceptional control of the inner world" trivialize the existence of real violence against real women in prostitution.<sup>207</sup>

A false distinction between prostitution and trafficking has hindered efforts to abolish prostitution. The word trafficking has been used by sex industry promoters to separate 'innocent' victims of trafficking from women who

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201. See Janice G. Raymond, *The New U.N. Trafficking Protocol*, 25 *WOMEN'S STUD. INT'L F.* 491 (2002). The Protocol also closes some loopholes previously used to define prostitution and trafficking as labor. For example, the Protocol describes payment of money for prostitution as a means of coercing a person into being sexually used. *Id.* at 492.

202. United Nations, Commission on Human Rights, *Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children*, 9 U.N. Doc. E/CN.4/2006/62 (Feb. 20, 2006).

203. *Id.* at 17.

204. *Id.* at 7.

205. *Id.* at 12. The Special Rapporteur noted that "the terms 'sex work', 'sex worker' and 'client' wrongly suggest that prostitution, as currently practised, does not typically fall within the category of trafficking." *Id.* at 10.

206. Sanders, *supra* note 116, at 319.

207. MAGGIE O'NEILL, *PROSTITUTION AND FEMINISM* 89 (2001).

choose prostitution.<sup>208</sup> In reality, no such line exists. Understanding the real-world link between prostitution and trafficking is crucial to developing effective laws against trafficking. Since prostitution creates the demand for trafficking, the sex industry in its totality must be confronted. Unless existing prostitution laws are integrated into newer state antitrafficking laws, we won't be challenging sex trafficking as it operates in the world.<sup>209</sup>

A useful approach would be to compare the institution of prostitution to that of slavery.<sup>210</sup> Prostitution requires a sexualized identity just as slavery requires a racialized identity, and both institutions are fueled by racism and sexism. Slavery, like prostitution, is a relation of domination and subordination that involves "direct and insidious violence. . . namelessness and invisibility. . . endless personal violation, and. . . chronic dishonor."<sup>211</sup> Describing the parallel situation of Jamaicans under historical slavery and the situation of Jamaicans today who "earn their living by renting their genitals," a 2006 Kingston editorial criticized the legitimization of slavery-like conditions of those in prostitution by calling them 'sex workers.'<sup>212</sup>

Johns who buy women, groups promoting legalized prostitution, and governments that sanction or tolerate prostitution<sup>213</sup> form a powerful alliance that threaten all women. Legal and illegal (but tolerated) sex businesses are places where men can commit sexual harassment and sexual exploitation without fear, and where they are socialized to inflict those same acts on other women in their lives. When prostitution is tolerated or legalized by the state, sexual predation is normalized – acts ranging from "seemingly banal verbal humiliation (such as sexist and racist verbal abuse), to dominating and degrading behavior (pornography/prostitution in which a group of men ejaculate on a woman's face while she sobs), to lethal assault (snuff prostitution

208. Dorchen A. Leidholdt, Coalition Against Trafficking in Women, Speech at University of North Carolina, Sexual Trafficking Conference: Breaking the Crisis of Silence (April 8, 2006)(also discussing the importance of developing strong state antitrafficking laws with comprehensive definitions of trafficking that include domestic as well as transnational trafficking, that address men's demand for prostitution as crucial to addressing sex trafficking, and that seek to prevent the recruitment of men to travel for the purpose of sexually exploiting women and children; also advocating state laws that clearly decriminalize the victims of prostitution, including prostituted children, and that provide funding for services for victims).

209. Neuwirth, *supra* note 56.

210. Melissa Farley, Prostitution, Slavery, and Complex PTSD (1997) (unpublished paper presented at International Society for Traumatic Stress Studies, Montreal, on file with author).

211. ORLANDO PATTERSON, SLAVERY AND SOCIAL DEATH 12 (1982).

212. Anthony G. Gumbs, *Prostitution: A Return to Slavery*, JAMAICA GLEANER ONLINE, Apr. 24, 2006, available at <http://www.jamaicagleaner.com/gleaner/20060424/letters/letters1.html>

213. See, e.g., Marisa. B. Ugarte et al., *Prostitution and Trafficking of Women and Children from Mexico to the United States*, in PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS, *supra* note 11, at 147 (describing zones of tolerance for prostitution near Mexico City). Hotel casinos in Las Vegas are another example of tolerance zones, where women are pimped to high rollers. Although prostitution is illegal in Las Vegas, police tend to ignore prostitution of adult women in casinos, and there are relatively few indoor arrests of johns. *Id.*

with actual murders filmed).”<sup>214</sup>

Harm reduction models of intervention in prostitution/trafficking, while sometimes helpful, fail to address the roots of the problem.<sup>215</sup> If we are to prevent the harms of prostitution, and if its harms are intrinsic to prostitution, just as slavery’s harms are intrinsic to that institution, then we must ultimately prevent the existence of prostitution. We must learn how it is that men make the choice to buy women in prostitution and how that behavior is reinforced in various cultures. This is a profoundly optimistic viewpoint, since it assumes that the even the most entrenched forms of male violence against women can be changed or eliminated. Our goal is to abolish the institution of prostitution while at the same time standing in solidarity with sisters who are currently prostituted.

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214. Farley, *supra* note 30, at 1116.

215. Harm reduction in prostitution/sex trafficking should include the same three components as harm reduction for the addictions. For example, 1) measures to reduce the harm of the addictions such as clean needles, and measures to reduce the harm of prostitution such as distribution of female condoms to reduce the incidence of cervical cancer; 2) measures to reduce the demand for drugs such as freely available methadone clinics, and measures to reduce men’s demand for prostitution such as felony-level arrests of johns; 3) measures to reduce the supply of drugs, such as arrests of major drug dealers, and measures to reduce the numbers of women entering prostitution by providing stable housing or by arresting corrupt immigration officials in the case of trafficking. Harm reduction advocates often assume that women will inevitably remain in prostitution and focus only on number one above. We need to focus on harm *elimination* (as in numbers two and three) as well as harm reduction in prostitution/trafficking.

## APPENDIX A

**HELP WANTED: WOMEN AND GIRLS DO YOU WANT THIS JOB?**

Prostitution has been euphemized as an occupational alternative for women, as an answer to low-paying, low skilled, boring dead-end jobs, as a solution to the high unemployment rate of poor women, as a form of sexual liberation, and a career women freely choose.

- \*Are you tired of mindless, low skilled, low-paying jobs? Would you like a career with flexible hours? Working with people? Offering a professional service?
- \*No experience required. No high school diploma needed.
- \*No minimum age requirement. On-the-job training provided.
- \*Special opportunities for poor women—single mothers—women of color.

**Women and girls applying for this position will provide the following services:**

- \*Being penetrated orally, anally, and vaginally with penises, fingers, fist, and objects, including but not limited to, bottles, brushes, dildoes, guns and/or animals;
- \*Being bound and gagged, tied with ropes and/or chains, burned with cigarettes, or hung from beams or trees;
- \*Being photographed or filmed performing these acts.

**Workplace:**

Job-related activities will be performed in the following locations: in an apartment, a hotel, a "massage parlor," car, doorway, hallway, street, executive suite, fraternity house, convention, bar, public toilet, public park, alleyway, military base, on a stage, in a glass booth.

**Wages:**

- \*Wages will be negotiated at each and every transaction. Payment will be delivered when client determines when and if services have been rendered to his satisfaction.
- \*Corporate management fees range from 40-60% of wages; private manager reserves the right to impound all monies earned.

**Benefits:**

Benefits will be provided at the discretion of management.

**NO RESPONSIBILITY OR LEGAL REDRESS FOR THE FOLLOWING ON-THE JOB HAZARDS:**

- \*Nonpayment for services rendered;
- \*Sexually transmitted diseases or pregnancy;
- \*Injuries sustained through performance of services including but not limited to cuts, bruises, lacerations, internal hemorrhaging, broken bones, suffocation, mutilation, disfigurement, dismemberment, and death.

Note: Accusations of rape will be treated as a breach of contract by employee.

Name of applicant: \_\_\_\_\_

Signature of manager on behalf of applicant: \_\_\_\_\_