

*Prostitution from a Kantian View*

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First of all, I want to thank my professor for bringing up the topic of prostitution. Since it is such a controversial topic, especially in the United States where even mentioning it is considered an affront. In the semester I had him, he really helped me to understand myself better through his thoughtful guidance and advice and I am looking forward of having him for the Fall semester.

Immanuel Kant's most important piece about morals and how to live by it is *Grounding for the Metaphysics of Morals* or translated into German *Grundlegung für Metaphysik der Sitten*. The center of his beliefs is categorical imperative, a concept that must be obeyed under any circumstances, it does not matter how the outcome is. But he also believes in the free will where an individual has the choice to stand up against the universal law of the group to make their own choice that is based on good morals and ethical actions. To explain this, legalizing prostitution or not would be the center of this essay and it is still a topic with many contradictions, if one should be against it or for it. Kant's philosophy would be probably against it, even if the law says it is okay to do it. But also, one could explain that it is the duty to follow the law, no matter what the outcome is. This argument will be argued in the following paragraphs. On the end of the essay we will also be talking about Mill's utilitarian philosophy.

Kant's understanding of autonomy is that a person should have a free will where he or she can decide what to do, but it has to be of good moral conduct. A good will follows moral standards and promotes a person's ethical actions, so long those are accompanied by good intentions. "There is no possibility of thinking of anything at all in the world, or even out of it, which can be regarded as good without qualification, except a *good will*."<sup>1</sup> Is it actually a free will, if one has to act only with good intentions or is it a kind of negative freedom that suggests a free will. According to Kant, a good will is the essence to a free will. Since Kant's upbringing was influenced by a deep sense for duty and personal responsibility, it is of course not surprising that he is making it part of his thinking process

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<sup>1</sup>Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis, IN.: Hackett Publishing Co., Inc., 1993), 7.

about how a person should perform in life to be respected by the society he or she lives in. Society and law go hand in hand and without duty, a person's actions are not morally worth and should not be taken in consideration. The last and most important part of his concept is about law, the categorical imperative. Without law, anarchy would be present, society and moral duty would be collapsing. According to Kant, “duty is the necessity of an action done out of respect for the law.”<sup>2</sup>

The categorical imperative of Kant's concept is the center of universality and rationalism, but it is only a general explanation of law. For example, if a person is allowed to cheat, should everybody else cheat. Most likely not, everybody has their own free will what Kant defends in his concept and he promotes in that moment the individuality of a person against the group because universality or universal law should be seen as a general statement. “All imperatives are expressed by an *ought* and thereby indicate the relation of an objective law of reason to a will that is not necessarily determined by this law of reason to a will that is not necessarily determined by this law because of its subjective constitution (relation of necessity).”<sup>3</sup> The outcome of using the own free will is not significant and doesn't demand any explanation at all, so long it is morally worth mentioning and goes back to the concept of duty. Of course, logical reasoning is a significant part of his theory where a person can determine between right and wrong and again the outcome does not matter. Prostitution is such a controversial topic which could be in a conflict with Kant’s moral theory, but that is still to be determined.

Prostitution, the oldest profession in the world, is a hot topic everywhere because of its dubious and provocative nature what can create tidal waves in conservative and liberal circles. Since, it is not legalized globally and governments are trying to figure out what to do in that matter, prostitution has a different face in various places. Sometimes, it can have an ugly face where it is not regulated and a

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<sup>2</sup>Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis, IN.: Hackett Publishing Co., Inc.,1993), 13.

<sup>3</sup>Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis, IN.: Hackett Publishing Co., Inc.,1993), 24.

more pleasant face where administration took over and gave the whole profession a legal exterior. The next paragraphs are going to show advantages and disadvantages of legalizing prostitution through self-harm, enslavement, consent, paternalism, and consequences.

In many European countries prostitution is regulated through government bodies that put a set of regulations out like medical examination of prostitutes to prevent STDS from spreading around them or their customers. Of course, it is not 100% secure and if they do not use a condom, they still can infect themselves. The psychological aspect should be considered, too. Let us say a prostitute sees a lot of different clients every day, it can have a negative effect on her body where she is not capable to have a normal relationship with a man. Even prostitution is not connected with feelings or emotions, the prostitute is still offering her body. On the other side, one can argue, she gets paid for it.

Enslavement is a big problem under prostitutes, even if it is regulated because a lot of prostitutes are being trafficked from outside the country. For example, in Europe a lot of women are being brought in from Eastern Europe with the promise to work in hotels as maids or cleaning personnel. Most of the time, they come from Romania or Bulgaria and are becoming victims of so-called clans who act like a mafia and use the most brutal methods to keep them under control. Sometimes those women's families are being threatened, if they do not play by the rules of those traffickers. It is a big problem that cannot be solved by legalizing prostitution and it probably never will because the police cannot be everywhere. The only advantage is for the people who are trafficking those women.

Let us talk about underage prostitution where young girls and boys as young as twelve years old are being forced or sold into prostitution by their own families or by strangers. Of course, they do not give their consent to it because they are afraid of being punished or they are being told, they are helping their families with it by earning money. Legalizing prostitution means, the profession is legal for consenting adults and most of the underage activities are being overlooked like in countries with a lot of sex tourism. That is the worst part of human exploitation and again the advantage is on the side of the exploiters.

“Paternalism is the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm.”<sup>4</sup> That means, if prostitution is legalized and prostitutes have all the advantage of regulation, it still can be harmful to them and people should have the right to go against a legislation like this. The state does not usually care about the rights of individuals, it is more the universal right what is being cared about. Sometimes laws are being made, just considering how much pleasure, in that case prostitution, has for the majority. In that case it should be prevented because it is harmful to the person who is doing it.

The consequences of prostitution and for the prostitute are many in numbers. Somebody who engages in prostitution can lose their respect in front of society because the profession is not considered as being respectable, regulated or not. Even after some women leave the profession, the stigma of it follows them like a scarlet letter and that can be all their life long. There is always the possibility of an unwanted pregnancy what brings us to another ethical issue that of an abortion what should be careful dealt with. Abortion is always a trauma to a woman's soul and body and the reason makes no difference.

The better arguments has actually the con-side, even that it looked first the pro-side would have the better arguments. Most people look at the topic with a more superficial attitude, but if one look deeper into it, one can see what flaws a legalization would have. There would be consequences not only from the moral or ethical point of view like prostitution influences other people's character and actions also that one gets more tolerant against immoral behavior and consequently engaging in unethical actions like having sex with anybody who comes along. That means, if a state allows it, the population in this state is more immune against outrages behavior like have sex everywhere and do not care about the consequences because the state does not care how its population acts. Many states in Europe and Asia

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<sup>4</sup>plato.stanford.edu

are coming to this point.

Let's have a look at Mill's *Utilitarianism*, the total opposite of Kant's work, according to that, “an action is right if it tends to promote happiness and wrong if it tends to produce the reverse of happiness-not just the happiness of the performer of the action but also that of everyone affected by it.”<sup>5</sup> Kant would never support a government policy of legalized prostitution because since his focus is set on free will for the individual and not what can benefit the majority. Besides, he does not care about the outcome, if it makes somebody happy or not, only Mill does. Like already mentioned, Mill cares about the happiness of the majority and is interested in the outcome of an action and Kant does not that is the reason why one can criticize the other one.

Being for or against the legalization of prostitution will be always a hot topic and probably years are going by and we still have the same discussions about it. It is the oldest profession in the world after all.

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<sup>5</sup>britannica.com