Free the sex trade

The recent suicide of D.C. Madam Deborah Jeanne Palfrey, who faced a prison sentence for doing something that harmed no one, raises a question unrelated to those now swirling among conspiracy theorists. It is simply this: who benefits from the criminalization of prostitution?

A quarter-millennium ago, Samuel Johnson described the ills associated with prostitution — crowding, intemperance, famine, filth, and disease — and assured his friend Boswell that "severe laws, steadily enforced, would be sufficient against those evils, and would promote marriage." I think Jesse Ventura came closer to the truth in his rough-hewn way when he told Playboy in 1998, "Prostitution is criminal, and bad things happen because it's run illegally by dirt-bags who are criminals. If it's legal, then the girls could have health checks, unions, benefits, anything any other worker gets, and it would be far better." Not just girls, Jesse.

Camille Paglia wrote in Vamps and Tramps, "The prostitute is not, as feminists claim, the victim of men, but rather their conqueror, an outlaw, who controls the sexual channels between nature and culture." Paglia has made a career out of archly stating ridiculous things. As an advocate of the legalization of prostitution, I think it needs neither sanitizing nor glorifying. It is a profession not filled exclusively with people who freely chose it from a host of other options. No doubt there are some in that category, like the college student turning tricks for extra cash. But too many turn to it by necessity. These include gay teenagers who have been thrown out of the house by their parents, and transgender people whose discrimination has left them few options.

People in these situations are not practicing an alternate lifestyle (not that there is anything wrong with that); they are practicing survival sex. They face greater risk of substance abuse, mental and physical abuse, and sexually transmitted diseases.

Harassing, arresting and prosecuting people for survival sex solves none of their problems. It only piles more on. Whose idea of responsible public policy is this? To be justified, any public law ought to serve some identifiable common good. Saying to people as Sister Mary Ignatius did, "You do the thing that makes Jesus puke," is no basis for criminalizing whatever it is. Having been the targets of moralistic lawmaking, gay people should be more on guard against it than most.

No matter how bad you may think something is, if your proposed response is likely only to make it worse, then you should pull back. Policymakers are often too enamored of their own initiatives to pay attention to the consequences. If you want to provide safer, healthier, and more sustainable alternatives to survival sex, you can support the creation of drop-in centers, transitional housing, job training, counseling, addiction recovery programs and other services for at-risk populations. Key is creating safe spaces where help can be expected, not exploitation.

Speaking of addiction, our society's addiction to legislating morality is the chief obstacle to eliminating the scourge of anti-prostitution and anti-solicitation laws. Otherwise liberal, compassionate and practical people often lose their bearings when the subject turns to the "naughty bits." Overcoming this will take time, especially here in D.C. with its constitutional vulnerability to congressional grandstanding; but we will never get there if we give up before we start. We can begin with a humble recognition of the normal variation in sexual expression, the proper limits of government coercion, and the fact that other people's personal choices are none of our business unless they harm us. In the case of sex behind closed doors, whether in homes or hotel rooms, the fact that someone is paying for it is no more a legitimate basis for police involvement than if the transaction is a more informal one involving dinner and a show.

I live in a town filled with people who offer solutions to every problem under the sun — many, indeed, who offer solutions without problems. There is too much observable misery associated with prostitution for me to say it carries no problems; but they derive substantially, albeit not exclusively, from prostitution's forced existence underground. Mitigating them requires leaving the moral implications to the participants and doing the few things that government can usefully do regarding prostitution: legalize it, regulate it, and tax it. You might consider making a proposition along these lines to your own lawmaker.

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