

Kant and Sexual Ethics

This essay is mostly jamming around Timothy J. Madigan's article "The discarded lemon: Kant, prostitution and respect for persons."¹ As the quoted title suggests I resume discussion about three issues: the topicality of Kantian thinking, moral acquiescing for the world's oldest profession, and sexual ethics. However, the problem of sexual ethics is thought only as an invitation to the Reader for her own reflection rather than a proposal of some ethical programme. It will be addressed shortly in the conclusions, from the semi-philosophical perspective, taking into account my personal convictions. The strategy of the remaining argumentation is as follows: 1) to reconstruct Madigan's understanding of Kant's view on prostitution; 2) to supplement it with chosen elements of Kant's moral philosophy; 3) to present Madigan's argument in favour of a contractual exchange of sexual service and financial remuneration – formulated "in Kantian spirit;" 4) to discuss with that argument which approves prostitution as a morally permissible service ; 5) to make some remarks about Kant's account of sexuality; and finally a summary 6) to introduce my own universal maxim in sexual ethics and to stress that in that particular context prostitution is hardly acceptable.

How does Madigan present Kant's views on prostitution in the context of duty-based ethics of German philosopher? Don't be scared, dear Kantian purists, Madigan does it in the non-controversial way, starting with the very unambiguous quote: "...Human beings are, therefore, not entitled to offer themselves, for profit, as things for the use of others in the satisfaction of their sexual propensities...²". Human sexuality is condemned for treating a human being as only an object used to satisfy somebody's appetite, which is a serious breach of the Categorical Imperative: it is always wrong to treat another person as merely a means to an end, rather than as an end-in-itself. Sexuality is seen as a threat for a reason and has to be controlled because otherwise humans would be on the same footing with animals. The only sexual relation which could be permissible occurs between the married people. But the presence of sexuality in that case is not justified by the pro-procreational argumentation, but rather by the existence of reciprocal contract, in which two people are owned by each other and declare mutual care about their wellness in the long term.

¹T. J. Madigan, "The discarded lemon: Kant, prostitution and respect for persons", *Philosophy Now - a Magazine of Ideas*, http://philosophynow.org/issues/21/The_discarded_Lemon_Kant_prostitution_and_respect_for_persons [last access 30.06.2014]

² I. Kant, "The Philosophy of Law", [in] *Morality and Moral Controversies*, 3rd edition, ed by John Arthur (Englewood Cliffs, New Jersey: Prentice Hall, 1993), p.254.

It is one technical remark which literally made me pose the question: *how does Madigan understand Kant?* instead of asking about the Kantian doctrine itself. I wouldn't mind this synopsis of Kant's moral philosophy – it's quite elegant and understandable: the Categorical Imperative is present as a “secularised version of the Golden Rule.” Obviously, the text refers only to some part of Kant's moral philosophy, with the omission of others. That strategy is necessary in order to analyse or develop Kant's original thoughts further, especially in a paper for the general audience. Although, it is still needed to be explained what was taken into the consideration, just to clarify what wasn't. Because it seems to be a great simplification that the Kant's ethics is concentrated around the thought “one must show proper respect for other persons” (as the concept of Categorical Imperative is also explicated in Madigan's article) and the philosophical version of the religious principle „one should treat others as one would like others to treat oneself“.

Kant claimed that moral principles could be formulated *apriori* by using practical reason. When we choose something we are acting based on our intentions. Those intentions can be formulated as a maxim. E.g.: if I wish to hush my sexual desires, I must experience a sexual intercourse. They have all a form of imperatives, and those that are absolute and unconditional, are called Categorical Imperative. In other words, we may speak about Categorical Imperative, if in any possible world we may imagine that the maxim should be the universal law concerning everybody, without any exceptions.

Another formulation of Categorical Imperative is rooted in the conception of rational agents' freedom. The free will is the source of moral choices, and as such it can't be only a subjective end – so it can't be treated as a means to the end, and it should be considered always as an end. That's probably the formulation with which Madigan started his inquiry: “Persons are not at their own disposal. They do not own themselves because if they did, they would be a thing.“ But how is it possible to move from that theoretical argument to practical one, in which the prostitution could be allowed?

The author of the paper developed the Kantian argument and changed one assumption: sexuality is no longer seen as degrading in-and-off-itself. Then it is possible, according to Madigan, to argue in favour of contractual exchange in which one partner receives sexual gratification while the other remuneration. Madigan repeats after Ann Garry that it is not sex per se what should be seen as a blow to humanity or respect for persons. The problem actually hides in the depiction of a sexual act. “Objectification” is morally unacceptable, but it raises the question what it really means. Garry sees the “wrong” in humiliating picturing and the

degradation of women on the professional field in pornography. She excludes neither sexuality nor pornography, wanting them to evolve into a more “respectful” of women and their role in the society.

Nota bene: Madigan finds it interesting – as he said “from the Kantian perspective” – observation about double standards of respect in the society, different for him and her. But it wouldn’t be an issue for Kant himself. „The starry heaven above me and the *moral law within me*“ – in the framework of Kant’s ethical doctrine there was no place for questions about society because moral principles weren’t derived from experience but only from the insights of practical reason.

Madigan formulates an argument on prostitution in the Kantian spirit as follows: sexual service can be seen as any other kind of services if we change the assumption that fulfilling body’s needs placing human beings on the same level with beasts. A prostitute, similarly to a waiter, is paid for her/his job. Moreover, in the author’s opinion, Kant hasn’t captured the whole nature of humans denying and deleting the sexuality. Libido seems to be something common to all of us. Especially that satisfying the needs is not something unpermitted in Kant’s opinion.

One could argue that sexuality needs to be controlled in order to stay rational, but it is something obviously untrue in the claim that libido is a common property for all of us. Actually, in a lot of cases (because of stress, diseases, traumas, and individual temperament), people don’t experience libido which doesn’t make them less human. But going to the core of the discussion, there is even a bigger inconsistency in Madigan’s argument which starts with the example of a waiter. Prostitution is not just serving a steak; it is serving ourselves on the plate. That’s exactly Kant’s point - it is a morally wrong process in which a person becomes a commodity instead of being an end-in-itself. Kantian ethics makes sense, unlike the Madigan’s inference. Even considering the cases when both sides experience sexual satisfaction and there is a deal made by them – because it could be the situation allowed by Kant, analogically to the concept of marriage, something as a short-term marriage, what is permitted in some Islamic countries – it arises a question: why one side should pay the other if the sexual gratification is mutual?

Discussion with Kant himself has already been shortly sketched: should sexuality be controlled because it is a threat to a rational agent? Is it a threat? Without regard for the answer, the Kantian thought about the contract which should accompany sexual relations is

actually very interesting. Sexual relations always include some risk (not only pregnancy, but health issues etc.) – so the idea of being responsible for each other’s wellness in a longer term would be precious.

My own account about allowing prostitution is not inspired by any theoretical reflection, it’s more emotional, based on my sense of empathy. For sure I wouldn’t use Kantian argumentation to defend or in the favour of prostitution. I wouldn’t even use any other. I believe sexual act should be interrelated with mutual sexual gratification and if it is so – nobody should be paid for it. Actually, I am even able to acknowledge Kantian argumentation against prostitution. I visited a go-go-bar a couple of weeks ago and the girls weren’t selling the dance itself there (they were really poor dancers). They didn’t even hide that what is offered is their company. And it was something wrong with it. It wasn’t about enjoying sexuality. It was bargaining with the body as the commodity with the clear expectation to be paid. I wish sex would be free from that kind of expectations. But it takes mutual satisfaction.

Psychologists say that the women’s libido is moody – it depends on many factors: relation with the sexual partner, trust, affection. It makes the state in which the female party experiences the sexual satisfaction harder to reach and it makes me more skeptical about prostitution. In the contractual agreement there is no place for wanting, trusting and being turned on. What makes me even more skeptical about prostitution is a set of the phenomena around it: human trafficking, drugs, abuses, aggression. No matter why they occur, they should be condemned and punished.

To be philosophically consistent: I could accept prostitution practiced with mutual sexual satisfaction. But then – why somebody should pay for it?