

PROSTITUTION
AND
THE LAW

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INTRODUCTION

Prostitution is often discussed in abstract terms, such as whether the law can rightfully control the conduct of consenting adults in private, or whether a distinction can rightly be made in penal terms between a prostitute and her client. Sometimes prostitution is condemned on the grounds that it involves an evil like public nuisance, without precise consideration being given to wherein the evil consists. This work aims to investigate the concrete evils of prostitution and to consider whether and how far it can be suppressed by law.

The discussion is confined to female prostitution in England and Wales. Most of the facts have been collected in London, although other towns with special relevance to prostitution, such as industrial towns, sea-ports and towns with large concentrations of immigrants, have been included. In the pursuit of knowledge I have visited Soho and Mayfair on many occasions both by day and by night. I have entered (under something approaching false pretences) a large number of houses of prostitution and brothels in the West End and Notting Hill areas, and spoken to over forty prostitutes ranging from streetwalkers to high-class call-girls. I found that to extract information from prostitutes about their profession and way of life was very difficult. Most prostitutes would not talk about themselves, and those who would do so, usually for sums of money, often provided the enquirer with the information which was most likely to please him. I therefore invoked the aid of the probation service, and Miss M. Hamilton¹ to whom I was directed was able, after much effort, to find only one prostitute who expressed her willingness to answer my questions. More valuable information about prostitutes and their way of life was obtained from the few available autobiographies of prostitutes, the most enlightening of which, *Streetwalker*, is written anonymously. The importance of these autobiographies is that in them prostitutes willingly tell about their profession, their feelings and their conflicts, and also about their relationship with members of the underworld in particular.

As a lawyer I was particularly interested in that part of the prostitutes'

¹ Senior probation officer at the Inner London Probation and After-care Service.

behaviour which was detrimental or injurious to society. Much of this behaviour I was able to observe myself, but I was privileged to supplement my own findings by interviews with a number of senior police officers of the Metropolitan Police and also with the Head of the C.I.D. in the Mid-Anglia Constabulary. I have also relied for information on court cases and on data accumulated by sociologists and journalists. The reports by Ken Gardner and his team in *The People*,² that by Nicholas Swingler entitled 'The Streetwalkers Return' in *New Society*,³ and those entitled 'Sex in the Suburbs' which appeared in *The News of the World*,⁴ to name only a few, furnished valuable information. In relying on data gathered by others and on information given in the course of interviews every effort was made to verify doubtfully reliable information where possible and to exclude any apparent distortion, exaggeration or sensationalism.

In the course of the research I visited vice areas in Hamburg where I studied a different system of control in operation. I spoke to prostitutes on the streets, in the special centres where they were concentrated and in cheap striptease clubs. I was also able to interview a senior police officer at the Reeperbahn police station on the operation of the permissive system in Hamburg.

Although prostitution is often referred to as the oldest profession, the manner in which it is practised is far from being static, for it quickly adapts itself to changes in the law and social habits. In 1959, the Street Offences Act changed much of the usual scene. Soliciting disappeared from the streets and other public places, although it was far from being eradicated. Prostitutes soon learned to adapt themselves to the new conditions arising from the enforcement of the Act, and many of the older sociological findings became outdated.

My research has not extended to pimps, procurers and vice organizations, except in so far as pimps immediately concern the prostitute in the practice of her trade. Neither do I deal with the prostitute's rehabilitation. These matters are of considerable importance and need further study.

² *The People*, 5, 12, 19 and 26 October, and 2 November 1969.

³ *New Society*, 16 January 1969, pp. 81-3.

⁴ *The News of the World*, 22 and 29 June, and 6 July 1969.

PART I PROSTITUTION AND ITS CONTROL SOME GENERAL CONSIDERATIONS

Chapter one

THE DISADVANTAGES OF PROSTITUTION

Prostitution has been opposed by our society since its beginning, for reasons that are not far to seek. Some of its disadvantages are inherent. Prostitution is an affront to our sense of decency; it creates a nuisance; it spreads venereal disease; and it has an adverse effect on children and young persons. The other disadvantages are the various undesirable acts that prostitution promotes or facilitates, like obtaining money by deception, theft, robbery, blackmail and breaches of the peace. These offences are not necessarily the outcome of each act of prostitution, but they are often concomitant with it. Not being specific to prostitution, they will not be dealt with further.

An affront to our sense of decency

Our attitudes to sexual matters are cultural in origin. As has been well said: 'There is no question of attributing human sexual morality to instinctive repugnance arising in the course of nature. The repugnances that we have are divergent and learned, the outcome of training which in itself is traditional. If they were inborn they would display more or less the same pattern in all peoples, which they do not.'¹

The sexual traditions of Western civilization are based mainly on biblical and Christian teachings.² For many centuries the Christian Church elevated virginity and chastity and despised sex, and this attitude continued to be expressed in England until the end of the nineteenth century. Prostitution was even more despised, although in some instances it was regarded by Christian theologians as a necessary evil. St Augustine, commenting on prostitution, asked: 'What can be called more sordid, more void of

¹ C. H. and W. M. Whiteley, *Sex and Morals* (1967), p. 12.

² As to which see D. S. Bailey, *The Man-Woman Relation in Christian Thought* (1959) and *Common Sense about Sexual Ethics* (1962); Eustace Chessier, *Is Chastity Outmoded?* (1960); Bertrand Russell, *Marriage and Morals* (1967); C. H. and W. M. Whiteley, *op. cit.*

modesty, more full of shame than prostitutes, brothels, and every other evil of this kind? Yet remove prostitutes from human affairs, and you will pollute all things with lust; set them among honest matrons, and you will dishonour all things with disgrace and turpitude.³ Thomas Aquinas also regarded prostitution as a regrettable but necessary evil: prostitution is 'like the filth in the sea, or a sewer in a palace. Take away the sewer, and you will fill the palace with pollution; and likewise with the filth (in the sea). Take away prostitutes from the world, and you will fill it with sodomy.'⁴

The twentieth century with its two world wars, the advances made in all fields of learning, particularly in natural sciences, and women's emancipation produced a more tolerant attitude. The former notion that fornication and adultery were immoral, writes Brian Inglis, 'has not entirely disappeared; but since the war it has largely been replaced by the idea that sexual relations outside marriage need not be wrong, let alone wicked, in themselves – provided that they are contained; that they do not break up a home, or spread venereal disease.'⁵ Prostitution, however, is still despised by most because it is regarded as an act performed merely to satisfy an animal lust, venal and promiscuous in character, devoid of emotional commitment. It is still an affront to people's sense of decency to witness prostitutes soliciting custom in the streets and other public places.

Creating a nuisance

A major factor leading to the Wolfenden Committee's appointment in 1954 to examine, *inter alia*, offences in streets and public places relating to prostitution, and the subsequent enactment of the Street Offences Act 1959, was the nuisance caused by prostitutes on the streets and public places in major cities. The methods employed to accost clients on the streets, in public houses, refreshment places and night clubs, may vary from a casual smile coupled with a brief invitation, to more persistent acts such as holding a man by the arm or blocking his way. The degree of persistence depends largely on the prostitute's character and the extent of law enforcement.

Soliciting for the purpose of prostitution is an affront to the public because it is regarded as an immoral act involving extra-marital sex in a most debased form. It may cause embarrassment to the man accosted. An area where soliciting takes place continuously acquires a bad reputation.

³ *De Ordine*, II.4(12).

⁴ *Opuscula*, XVI (enumeration of Paris edn of 1875, IV). Cf. Taylor in *Ductor Dubitantium*: although he condemned prostitution, he vigorously attacked the prevailing view that prostitution was a necessary evil. All quoted by Bailey, *op. cit.*

⁵ *Private Conscience – Public Morality* (1964), p. 39.

Property in the neighbourhood declines in value. Proprietors and managers of public houses, cafés, clubs and other entertainment facilities in the district suffer a fall in trade.

The annoyance caused to an accosted man is aggravated if the number of prostitutes in one area is increased or if the man has to pass quite often through the particular district because he lives or works there. The degree of annoyance caused also depends on the amount of aggression involved in the act of soliciting. Sometimes men will wish to avoid the area and thus probably have to walk further from the underground or bus station to get home. No less annoyance is caused by the prostitute kerb-crawler, who is also a nuisance to road traffic.

Nuisance may be caused to neighbours by the practice of prostitution, particularly when this takes place in residential areas where the immediate neighbours, going home after work, may find the passage of strange men until late at night very annoying. Neighbouring residents may fear molestation when walking the streets of the district at night, since among those whom a prostitute attracts some may have violent tendencies. That prostitution is generally considered an immoral profession contributes largely to the creation of this nuisance. If prostitution were dissociated from sexual intercourse and regarded as an ordinary respectable profession, then many acts connected with the trade which now create a nuisance would pass unnoticed, or would attract little attention. Prostitutes loitering to solicit men would be no more of a nuisance than flower girls or newspaper boys selling their goods in the streets. Moreover, if prostitution were a respectable trade, prostitutes would be able to conduct their business more openly. Their names would appear in telephone and classified directories, their advertisements would be printed in newspapers, magazines and journals; thus they would be more conspicuous and more readily available to those seeking their services. They would have less need to resort to street soliciting, and the competition in the trade which is manifested in the aggression and persistence of the invitation might be reduced considerably. It is also very likely that in such circumstances prostitutes would establish their own organization on the lines of a trade union to look after their interests and make rules for its members' conduct. Under such rules it is doubtful whether competition in the field of prostitution would be allowed to remain unorganized or that members would be allowed to solicit in streets and public places to the annoyance of residents and passers-by.

The continuous presence of prostitutes in public places for the purpose of prostitution may have an adverse effect on minors living in the neighbourhood. They may provide a temptation to men who would not otherwise have sought a prostitute but on encountering one may accept her invitation to satisfy their curiosity or desires. Others who are too shy or

inhibited to approach a prostitute may succumb to her invitation when solicited. Soliciting is more tempting if a man is approached at a convenient time, such as on his way home from work when the sexual act would not usually delay him long enough to arouse suspicion at home.

Another disadvantage attributed to prostitutes soliciting in public places is the effect they may have on non-prostitute women. Watching the prostitutes at work may give some women an idea for imitation in times of financial distress. This is especially so when the non-prostitute has low moral standards and cares little about her reputation. Such women may at times even associate with prostitutes in the streets and learn their lifestyle. The would-be streetwalker needs no contacts to obtain clients, and it is unnecessary for her to know the language. Thus a woman who arrives from overseas and who fails to obtain a job may find that prostitution is the easiest and the most profitable way to make a living.⁶

Prostitutes soliciting in public places usually have a 'beat' which they regard as their own territory. The prostitute defends her beat fiercely against intruders, especially if it is a profitable area.⁷ Hence these beats are frequently the scene of disputes. Sometimes the dispute is between two prostitutes, or it may extend to their ponces. A prostitute who is in conflict with another on a beat may become involved in a struggle with her opponent's pimp or vice organization. If the former also has a man living on her earnings, or a vice organization which supports her, she will call them to her aid. A breach of the peace may also be caused by two or more prostitutes fighting over a client.⁸

Some prostitutes use places of public recreation for their purposes. At times, and especially during the summer, they take their clients to the

⁶ Marthe Watts, a French prostitute, arrived in London and within a few days was able to solicit in the streets of London without knowing the language and without being acquainted with the city. The fact that she did not go out immediately to find this type of employment was blamed on thick fog and bad weather, and not on difficulty in plying her trade on the streets. See Marthe Watts, *The Men in My Life* (1960), pp. 138-43.

⁷ See J. Gosling and D. Warner, *The Shame of a City* (1959), p. 120. They state that 'in places where traffic was heavy there might be several prostitutes working the same thirty yards - and they fought [for those strips of territory] literally with their teeth, fingernails and the steel-tipped spikes of their high-heeled shoes'. See, however, Anonymous, *Streetwalker* (1959), p. 26, for a different view. The author says 'some people are under the mistaken impression that every beat in London is protected, by violence if necessary, by its owner or her ponce. This is not so, but nevertheless no one takes kindly to poachers.'

⁸ One such occasion in North Shields was reported in *The Sunday Times*, 21 September 1969. The report said that a fight between two prostitutes over a client sparked off 'three nights of mass street disorders by mobs and young toughs. . . . The trouble broke out after the customer joined in the fight . . .'

public parks in the vicinity and have sex with them behind bushes or under trees. Other prostitutes may solicit customers in cars and have intercourse with them there. Prostitutes who so use public places are invariably of the streetwalker type. It is highly unlikely that call-girls or 'models' would take their clients to public parks for intercourse. Thus it would appear that the elimination of streetwalking would substantially reduce prostitution in open-air public places.

Spreading venereal disease

Another disadvantage of prostitution is the spread of venereal diseases. They are most likely to be caught by people who are sexually promiscuous.⁹ The diseases are caused by specific germs which enter, or live on, the surface of the body after intercourse with an infected person. In Britain venereal diseases were defined by the Venereal Diseases Act of 1917 as syphilis, gonorrhoea and chancroid. After 1917 many new types of sexually transmitted diseases became known, such as trichomoniasis and non-specific urethritis; the latter diseases are referred to as sexually transmitted diseases because the legal definition has not been amended to include them. To the medical mind there is no division between venereal and sexually-transmitted diseases.¹⁰ In this discussion the former term will be used for both.

There are over a dozen types of venereal diseases, but for the purpose of our study it will suffice to discuss briefly the most important in Britain.

Syphilis

Syphilis is the most serious venereal disease, though not the most common. About 1,000 syphilis germs, called the 'treponema pallidum', may be passed during sexual intercourse with an infected person. About every thirty hours each germ divides into two. Thus by the time the first signs of the disease appear, billions of germs are already in the victim's body.

Syphilis develops through four progressively serious stages. In the primary stage a sore appears on the sex organ; in females the sore may be at the internal end of the vagina and may therefore pass unnoticed. The sore then heals, but the disease, if untreated, invades every organ of the body. During the secondary stage a rash appears. In both primary and secondary stages syphilis is an infectious disease of the sex organs and sometimes also of the mouth. The rash then disappears and the disease enters the latent stage. This is a dormant condition in which clinical examinations reveal no

⁹ R. S. Morton, *Venereal Diseases* (1966), p. 15; R. D. Catterall, *The Venereal Diseases* (1967), p. 15.

¹⁰ Catterall, *ibid.*, pp. 15-16.

evidence of active disease, nor do they usually reveal scars of the earlier stages. This stage may last from five to fifty years. After this period some of those infected enter the fourth stage by which time the disease becomes chronic, crippling and even lethal. In Britain about 200 people die of syphilis every year.

While treatment in the three earlier stages can completely and permanently cure the disease, in the fourth stage it is effective only in halting its damaging progress, because of the tremendous injuries that have already been caused by its unchecked development. However, a follow-up period of two years is required to ensure that the diseased person is cured.

Gonorrhoea

Gonorrhoea is one of the commonest and most infectious of the venereal diseases. It is caused by a germ called 'gonococcus' which chiefly attacks the linings of the genito-urinary organs. In men the disease manifests itself by causing inflammation of the urethra and by a discharge of a greenish-yellow matter. The patient also usually experiences a burning sensation while passing urine. If the disease remains untreated it spreads upwards and sets up inflammation in the bladder and neighbouring internal organs, the outcome of which may lead to permanent sterility. Most infected women do not have any symptoms in the early stages and are consequently not usually aware of the infection. These women are carriers of gonococcus germs and form a large reservoir of infection which makes control of the disease difficult. This is one of the most important factors in the spread of gonorrhoea today. In women the inflammation starts in the canal that runs through the neck of the womb, and the germs tend to spread to the urethra and sometimes to the rectum as well. Some women may notice mild symptoms in the form of a vaginal discharge and a burning sensation on passing urine. However, because the disease so often produces no symptoms in women it may spread unchecked and very severe complications may occur. The inflammation may spread to the fallopian tubes, as a result of which the patient may become sterile.

The diagnosis of gonorrhoea is made by examination of the discharge. In both sexes and particularly in women several tests may be required to establish the presence or absence of the disease, and in the weeks after treatment repeated examinations and tests are essential to ensure that cure is complete. Known cases have risen between 1949 and 1973 from 24,000 to 42,000 among men and from 5,000 to 23,000 among women.

Trichomoniasis

Trichomoniasis is another disease which is transmitted mainly by sexual intercourse. It is caused by a one-celled animal called 'trichomonas

vaginalis'. It is estimated that at any given time between 10 per cent and 20 per cent of all women in the most sexually active years of life harbour the germ, although not all have symptoms. Those who do have symptoms may notice an abnormal vaginal discharge. However, since vaginal discharge is a common symptom in women, many infected women may neglect treatment, assuming the discharge to be quite normal. This may often lead, especially in younger women, to an extensive inflammation of the vagina and consequently much discomfort, misery and anxiety. Yet most men infected with the trichomonas have no symptoms and they are usually only carriers of the disease. Some men, however, do have a slight discharge and they may notice itching inside their urethra. In men the disease is more difficult to detect than in women, and several tests are required before a diagnosis can be made. Cure can be achieved, but tests after treatment are essential to ensure permanent cure.

Non-specific urethritis

Non-gonococcal urethritis produces a urethral discharge which is not caused by gonococci; non-specific urethritis is the most common type of this condition. In clinical appearance non-specific urethritis is very much like gonorrhoea. It has been called 'non-specific' because its true cause was unknown; but it is now attributed to the germ chlamydia. The overt symptoms of the disease are confined to men and its incidence is steadily increasing, being now one of the commonest diseases acquired through sexual intercourse (twice as common as gonorrhoea). The disease causes inflammation of the genital tract which may spread along the urethra and invade the prostate glands and give rise to various complications. In about 3 per cent of infected men the complications are severe. They lead to arthritis, and this is often associated with inflammation of the eyes. Recurring attacks of arthritis are common. The final result may be crippling deformities and damaged sight. Treatment is often difficult.

Even a prostitute who undergoes regular and thorough medical examinations for venereal disease does not provide any guarantee that she is not in fact infected. For example, a woman infected with syphilis may, in the primary stage, develop the sore deep in the vagina and therefore fail to be aware of its existence, while the regular blood tests begin to show positive results only two or three weeks after the appearance of the primary sore. By the time the disease is detected scores of clients may have been infected. Furthermore, after treatment a follow-up period is usually required in venereal infections to avoid relapses and to ensure complete cure. Patients may thus be required to abstain from sexual intercourse during and after treatment until cure can be ascertained. It is doubtful whether prostitutes,

especially those who keep pones, will refrain from plying their trade for the prescribed period, in which case more clients are liable to be infected.

In some diseases women are symptomless carriers and may infect their sexual partners without knowing that they are diseased. In gonorrhoea and trichomoniasis, two of the most infectious venereal diseases, many women have no symptoms. In other cases women may have symptoms but these are either deep inside the vagina, as may sometimes occur in primary syphilis, or they are so mild as to pass unnoticed, such as vaginal discharges in some cases of trichomoniasis. Moreover, medical examinations that are not sufficiently thorough and repetitive cannot ensure cure. In most cases clinical examinations alone are insufficient to detect venereal infections in women. Laboratory tests are essential in making accurate diagnosis. In gonorrhoea, for example, blood tests are very limited in their usefulness. False positive results are not unknown, and even negative results do not exclude the possibility of infection. Often more than one type of venereal disease is present in the same patient at the same time. Diagnosis and treatment of only one are likely to leave the other disease unchecked.

The possibility of infection after intercourse with a prostitute should therefore never be excluded. The outcome of such infection can affect the health and well-being of an individual very drastically if left untreated. At worst venereal diseases may result in disablement, deformities and even death, while at best they can give rise to much discomfort and anxiety. Treatment, however, may be neglected or overlooked for several reasons. People often have little knowledge of the symptoms and hazards of venereal infections, and unless they experience pain or complications they may feel reluctant to consult a physician.

In the Western hemisphere prostitution now plays a far less active role in the spread of venereal diseases than a few generations ago. Sexual permissiveness has brought about an increase in promiscuity, and sexual promiscuity, whether heterosexual or homosexual, is the main factor in the spread of venereal diseases. Statistics collected by the World Health Organization (W.H.O.) show that in France, during the years 1945-6, out of 22,702 and 22,570 known cases of venereal infections 33.9 per cent (1945) and 24.9 per cent (1946) were caused by prostitution, compared with 56.9 per cent (1945) and 66.1 per cent (1946) caused by 'free relations'. A similar view was held by the W.H.O. Syphilis Study Commission which published a report on venereal disease control in the United States: 'It was not possible for the commission to make any direct study of prostitution as a factor militating against venereal-disease control. The literature we have read and the personal opinions of venereal-disease control officers with whom we have discussed this subject indicate that professional prostitution may play a limited role in the spread of venereal disease in the

U.S.A.¹¹ In an investigation undertaken by the W.H.O. Expert Committee on Gonococcal Infections, it was found that 'in most parts of Africa and Asia 80 per cent-97 per cent of venereal infections, including gonorrhoea, originated from prostitutes, while in Europe in recent years the figures had dropped to between 15.7 per cent-33.9 per cent. In the U.S.A. and Canada, the percentage of infection derived from prostitutes was lower. These figures reflected differences in the economic pattern as well as in patterns of sexual behaviour and of the law and its enforcement.'¹²

For England and Wales the picture is little different. The British Co-operative Clinical Group investigated over 8,000 cases of gonorrhoea in certain clinics in England and Wales during 1954; it produced these data as to the sources of infection and re-infection in males:¹³

TABLE I Source of infection		%
Prostitute	1,893	35.7
Casual acquaintance	2,201	41.5
Friend	868	16.4
Marital	210	4
Homosexual	130	2.5
Total available information	5,302	100

TABLE II Source of reinfection		%
Prostitute	134	19
Casual acquaintance	292	41.3
Friend	185	26.2
Marital	72	10.2
Homosexual	23	3.3
Total available information	706	100

Adverse effect on children and young persons

Prostitution may have damaging effects on children and young persons if they are continuously exposed to its manifestations. Minors may develop

¹¹ W. H. O. Technical Report Series, 1950, 15, pp. 15-16.

¹² W. H. O. Technical Report Series, 1963, 262, p. 19 (1st Report). R. R. Willcox in his article 'Epidemiological Aspects of Gonococcal Infections' was also of the opinion that in European and North American countries the 'good-time girl' has replaced the prostitute as a major disseminator of gonorrhoea. Bull. W. H. O., 1961, 24, p. 361.

¹³ See British Co-operative Clinical Group: Gonorrhoea Study, Brit. J. Vener. Dis. Vol. 32, p. 21 (at pp. 23, 25), tables IV and IX.

emotional disturbances if, for example, they live in a brothel or in a house of prostitution. This usually occurs when the child's¹⁴ mother is a prostitute, an inmate of a brothel or a brothelkeeper. Some minors may also be unfavourably influenced by the practice of prostitution if they live in neighbourhoods where prostitutes operate. The children are likely to witness daily prostitutes soliciting custom in the streets and customers visiting prostitutes' premises. They may also witness acts of prostitution when these take place in nearby parks and other public places. Some children in the neighbourhood may associate with the prostitutes and with their pones, thus being exposed to a more direct influence.

Although there is little doubt that prostitution can have an adverse effect on the development and welfare of such a child, it is not clear in what way the child is affected. A search of works on child psychology and psychopathology fails to reveal any study of the subject.¹⁵ It is, however, common knowledge that children of prostitutes who live with their mothers are often neglected or ignored. Many are the unwanted outcome of a mishap. The attitude of these mothers towards their children is one of rejection. Moreover, the mothers practise their profession at awkward hours, being thus unable to provide their children with a good home. Prostitutes' children who live with their mothers in brothels cannot fail to notice the number of 'lovers' their mothers acquire, be these clients or pones, and cannot help feeling that they themselves are obstacles in their mothers' way to practising their profession. They may observe their mother participating in the sexual act with strangers.

The children of families resident in areas where prostitutes ply their trade may also be subject to adverse influences. The sight of prostitutes soliciting in the streets and departing with men only to return and repeat the process gives young adolescent girls an idea which they may later follow. Some may eventually associate with the prostitutes and fall under their direct influence. Association with prostitutes often leads to association with their friends – pimps, brothelkeepers and other members of the underworld. Children imitate adults both because they see them as heroes, and because they want to be regarded as adults themselves. So there is the danger that girls may imitate prostitutes and boys imitate pimps or others of the underworld to gain prestige and acceptance in their groups. Acquaintance with the prostitute and her way of life tends to give rise to a debased sense of sexual values. Consequently we may find minors of both

¹⁴ The word 'child' hereinafter includes a young person.

¹⁵ My own reading would be inadequate to support this negative, but it was confirmed for me by Professor T. C. N. Gibbens of the Institute of Psychiatry, Professor O. R. McGregor of Bedford College, University of London, and Mr J. H. Burrows of the Department of Extra-Mural Studies, University of London.

sexes indulging in sexual activities at a very early age. Finally, adolescent boys may be accosted by prostitutes in public places, and upon accepting their invitation they may be introduced, at the outset of their sexual experience, to sexual abnormalities.

CAN WE ERADICATE PROSTITUTION?

Can we get rid of the disadvantages by abolishing prostitution? To answer this we must try to understand why prostitution has persisted in our society¹ throughout many centuries despite continuous attempts to suppress it by religious, moral and legal prosecution. Why has it also been practised in other societies, including savage societies,² differing from our own in culture, tradition and behaviour? Prostitution is the selling of sex indiscriminately to obtain material gain.³ As in other transactions there is an act of demand and an act of supply. The demand is almost invariably made by the male,⁴ while the supply is mostly provided by the female. In the following paragraphs I will show that generally the male possesses a more intense and insistent sexual urge than the female, and that the sexual urge is often promiscuous, desiring a variety of sexual partners because of psychological fatigue from prolonged sexual activities with one partner. This, coupled with the male's inability to obtain sexual gratification from a female of his own social stratum, provides the major explanation for the existence of female prostitution in our society.

The sexual urge

Humans are continuously subjected to sexual stimulation.⁵ Sexual stimulation conduces to sexual arousal, which involves a variety of sexual disturbances, including considerable development of neuromuscular tensions.

¹ By 'our society' I mean a society based on the Judeo-Christian moral codes.
² See Edward Westermarck, *The Origin and Development of Moral Ideas* (1908), Vol. 2, p. 441.

³ For a discussion of the legal definition of 'prostitution', see pp. 74-5 *infra*.

⁴ In male prostitution the prostitutes provide sexual gratification almost always for males. Some male prostitutes may provide gratification for females, but this is uncommon. See A. C. Kinsey *et al.*, *Sexual Behaviour in the Human Male* (1948), p. 596.

⁵ Norman Haire (ed.), *Encyclopedia of Sexual Knowledge*, 2nd edn (1965), p. 39; R. Von Krafft-Ebing, *Psychopathia Sexualis* (1965), p. 1; W. Reich, *The Function of the Orgasm* (1942), p. 221; S. A. Tannenbaum, 'Sexual Abstinence and Nervousness' in W. J. Robinson (ed.), *Sexual Truths* (1937), p. 82.

The sexual urge begins to manifest itself whenever sexual arousal is of any magnitude. Its aim is the discharge of these tensions from the body. When the sexual urge is carried through to the point of orgasm, these tensions are suddenly released and the individual returns to a physiologically normal state. If orgasm does not occur, physiological difficulties may develop, and most males and some females during their active sexual life then find themselves unable to function efficiently in everyday affairs. They are upset, disturbed in their thinking, nervous and irritable. Orgasm is the only means through which most males and some females find release from sexual tension.⁶

The sexual urge exists from the moment of birth. Its force is determined by the intensity, continuity and duration of the sexual stimuli. These stimuli may be physical, physiological or psychological, or any combination of these. Physical stimulation is produced by touch, pressure or more general contact. Physiological stimulation is caused by various hormones which are produced by the endocrine glands within the body.⁷ Psychological stimulation is caused by the association of various objects with previous sexual experiences.⁸

Differences in the sexual urge of men and women

Kinsey and his associates believed that they had established the following facts. While women respond as quickly and intensely as men to physical stimuli,⁹ men respond more readily and to a wider variety of psychological stimuli.¹⁰ Most females, Kinsey thought, are not psychologically stimulated as males are, by objects associated with sex. Most males are considerably and regularly aroused by observing nude females, while only a few females are aroused by observing nude males, and then they do not respond with the great intensity and marked physiological reactions of males. Most males respond sexually to photographs, drawings or paintings of nude females and to 'striptease' shows, while only a few females are aroused sexually in this way. Fewer females have erotic fantasies about males than do males about females.

While some later studies have confirmed Kinsey's findings, it seems that he underestimated the extent to which women are aroused by erotica. A study published by Griffitt in 1973 seemed to show that there is little

⁶ A. C. Kinsey *et al.*, *Sexual Behaviour in the Human Female* (1953), pp. 166, 263-4, 313; see also H. C. Beigel, 'Abstinence' in A. Ellis and A. Abarbanel (eds), *The Encyclopedia of Sexual Behavior*, Vol. 1 (1961), p. 48.

⁷ L. A. Kirkendall, 'Sex Drive' in Ellis and Abarbanel (eds), *ibid.*, Vol. 2, p. 939.

⁸ Kinsey, *Female*, p. 647.

⁹ *Ibid.*, pp. 641, 688, 690.

¹⁰ *Ibid.*, pp. 649-50; E. Dengrove, 'Sex Differences', in Ellis and Abarbanel, *op. cit.*, Vol. 2, p. 935.

difference in levels of 'overall arousal' between men and women who observe erotica, although the women expressed substantially greater feelings of disgust at the scenes shown than did the men.¹¹

At any rate, it seems generally true to point to the male's greater desire for frequent and regular sexual activities, and his nervous disturbances whenever he fails to release his sexual tensions through orgasm. Some females lead a discontinuous sex life (unless they have a permanent male partner). Between periods of sexual activity they may be able to go for months or years without sexual activity and without being disturbed by this. In contrast, most males cannot happily survive for long without sexual activity.¹² While making these broad distinctions between male and female sexuality it must be acknowledged that tremendous individual variations exist.

That these differences between the sexual behaviour of males and females are largely biologically determined is supported by the fact that they are also manifested in the behaviour of infra-human species of mammals. On the other hand, it may seem to be contradicted by some studies of savage societies, the members of which have no sexual restrictions imposed upon them and who enjoy almost complete sexual freedom in their relationships with the opposite sex.

The Trobrianders of New Guinea are one example of such a society. They live in complete sexual freedom (except in matters which are considered taboo, for example incest), in a matrilineal society. Malinowski, who lived among them, concluded that there were no real distinctions between the sexual activities of males and females and that both shared complete equality in sexual matters. Nevertheless, I am inclined to believe that some differences between sexes exist in societies of sexual freedom, although mildly manifested. For example, in the course of every sexual relationship between male and female it is conventionally the male who has to present the female with a gift rather than vice versa. So sexual intercourse in a sexually free society, even where there is mutual affection, is considered a service rendered by the female to the male. Malinowski explains that 'the gift is an essential part of the transaction'.¹³ The same idea prevails among married couples, since Trobriand society is matrilineal and Trobrianders believe that the child's body is created exclusively by the mother within her womb. The father is usually referred to as the

¹¹ William Griffitt, 'Response to Erotica and the Projection of Response to Erotica in the Opposite Sex', 6 *Journal of Experimental Research in Personality* 330.

¹² See Kinsey, *Female*, pp. 681-2; Dengrove, *art. cit.*, p. 934.

¹³ See Bronislaw Malinowski, *The Sexual Life of Savages*, 3rd edn (1932), p. 269. Malinowski, however, warns us not to associate this phenomenon with prostitution: p. 270.

'husband of the mother' and sometimes as 'stranger' or 'outsider'.¹⁴ The duty of the father, however, to take care of the mother's children is a repayment to her for the permanent sexual accommodation she offers him.

Thus one must ask why, in a society of sexual freedom, where females and males have equality in sexual matters and women enjoy sexual activities as often as men, males have to pay the females for sexual intercourse. Why do the Trobrianders regard the sex act as a *favour* rendered by the female to the male that has to be repaid? Would it not be logical to expect the sexual relationship to be in itself an exchange of favours between the partners involved? Malinowski shows that the gift is essential in any sexual relationship and that the female may refuse the male if he has nothing to give her in return for her services.¹⁵ Does not a custom developing in this direction show that the first Trobrianders realized that it is the male who is predominantly in need of sexual gratification and it is the female who renders her favours to the male by submitting to his sexual desires?

Promiscuity

The sexual urge is promiscuous by nature. Promiscuity in this context means the desire for more than one sexual partner or for irregular sexual relationships. Males and females who confine their sexual relationship to each other for any long period of time may gradually become less aroused by each other, their need for prolonged preliminary sex play becomes greater before they are sexually aroused and the subsequent sexual act tends to be less vigorous. This psychological fatigue seemingly is the prime source of promiscuity; but if a new partner is introduced both female and male may become more easily aroused and the sexual act may take place with a minimum of foreplay and more vigorously.¹⁶

Promiscuity occurs in all Western societies, despite the fact that pre-marital and extra-marital intercourse is often considered socially and morally wrong. It occurs in societies where sexual activities between males and females begin freely at a very early stage. It is also found among the males and females of infra-human species. It is characteristic of many lower male mammals¹⁷ to have more than one female, and they usually have as many females as they can dominate and preserve from other

¹⁴ *Ibid.*, pp. 4-5.

¹⁵ *Ibid.*, p. 269.

¹⁶ See Kinsey, *Female*, p. 411.

¹⁷ For example, the sub-human primates (monkeys and apes), and other large mammals that establish a permanent sexual relationship lasting at least one full breeding season, such as lions, elephants, horses and deer.

males.¹⁸ The females appear to be submissive and faithful to their males; but the apparent submissiveness and fidelity seem to be caused by masculine domination rather than by reluctance to indulge in sexual activities with a variety of males.

Although promiscuity is not confined to the male, it is well known that in our Western civilization men tend to be more promiscuous than women. These variations may be due to cultural, social and moral pressures which are much more severe towards the female than the male. However, they are more likely to be a direct result of biological and physiological differences. The male is capable of being aroused by almost any female, including an unattractive prostitute; as far as he is concerned, he may be having intercourse with his ideal female, and not with his immediate partner. The desire of most females towards a sexual partner is largely dependent on the immediate presence of tactile and physical stimuli. Thus psychological fatigue and a desire for a variety of sexual partners have much less significance for most females than for males.

The theory of prostitution

It has been shown that the male creates a demand for sexual gratification. However, for various reasons this demand cannot always be met by women of the same social stratum. Our normative moral code does not approve of sexual relations between individuals who are not married to each other; hence securing free intercourse from a casual acquaintance may be accidental. Also, there are men who cannot derive sexual satisfaction from their spouses or regular girl-friends. Others, like sailors, soldiers and travelling salesmen, lack the opportunity of courting non-prostitute women for sexual intercourse. Yet others are too old, shy, ugly or deformed to be able to attract a woman. Many of these men will be prepared to pay for their sexual release. It is not insignificant that soldiers and sailors prefer to spend a large portion of their salary on prostitutes when they are on leave rather than on other forms of entertainment. The willingness of men to pay for their sexual gratification thus creates a market in female prostitution.

The significance of prostitution in a community depends largely on whether sexual relations between the sexes are restricted or free. Whenever sexual activities are suppressed the family unit is strengthened. Prostitution becomes more prominent and more secluded from the rest of the community, and there is little social mobility into and out of prostitution. Conversely, whenever sexual suppression decreases the family unit is

¹⁸ See C. S. Ford and F. A. Beach, *Patterns of Sexual Behaviour* (1951), pp. 116-17; Solly Zuckerman, *The Social Life of Monkeys and Apes* (1932), pp. 228-9.

weakened. Prostitution becomes less prominent. Social mobility into and out of prostitution increases and the volume of prostitution decreases. Kinsey and his associates discovered that 'the frequencies with which American males went to prostitutes had been reduced to about half of what they were in the pre-war generation'.¹⁹ It is reasonable to conclude that sexual freedom is a great adversary of prostitution.

The theory tested by reference to primitive societies

If this theory is correct, prostitution should prevail in almost every society in the world. For it is difficult to imagine a society in which the motives of prostitution are completely absent. So it is not surprising that prostitution is present in primitive as well as civilized societies. Westermarck remarks that 'prostitution is by no means unknown in the savage world', and he illustrates this by examples from several savage societies.²⁰ Kingsley Davis points out that 'prostitution is virtually universal, found everywhere except perhaps in some of the very simplest primitive communities. . .'.²¹ Havelock Ellis, however, asserts that prostitution as we know it in our civilization rarely occurs in savage societies, and if it does, it is due to European influence.²² This view is attacked by Fernando Henriques.²³ It is true, he says, that the introduction of large-scale prostitution in many primitive communities is due to European influence; nevertheless, other instances in these communities show a natural and local development of prostitution without European influence. Henriques emphatically states that 'societies which permit premarital sexual activity, those which have heavy sanctions against it, polygynous groups, monogamous communities, may all permit or even encourage prostitution.'

The credibility of moral arguments in favour of sexual suppression

It has often been argued by theological and lay moralists that although the human male is endowed with a powerful sexual urge, it is not beyond his capacity to discipline himself and abstain from sexual activities until marriage. In our society, young men may delay their marriage for economic reasons until after they have acquired an economic position. The human male becomes sexually active from puberty and reaches his peak of sexual response in the late teens. He is, however, required to suppress his sexual urge for ten more years. The question is whether sexual suppression is

¹⁹ Kinsey, *Female*, p. 300.

²⁰ Westermarck, *op. cit.*, Vol. 2, pp. 441-3.

²¹ Kingsley Davis, 'Prostitution', in R. K. Merton and R. A. Nisbet, *Contemporary Social Problems* (1962), p. 272.

²² See Havelock Ellis, *Sex in Relation to Society* (1937), pp. 201-3.

²³ Fernando Henriques, *Prostitution and Society* (1962), p. 371.

possible and if so, what is the outcome of such suppression for the average human male.

Sexual abstinence

'Sexual abstinence' is the lack of sexual gratification.²⁴ It is believed that total and complete abstinence is strictly impossible for males of normal sexuality; but even prolonged and relative²⁵ abstinence is incompatible with health, runs counter to human nature, and therefore disturbs the physiological and psychological functioning of the human body.²⁶ The average male finds it very difficult and sometimes impossible to endure abstinence for a considerable length of time. If the sexual desires are nevertheless successfully suppressed so that no sexual satisfaction is obtained for a long period, this can lead to neurosis or perversion and inversion.²⁷ Heterosexual abstinence is often blamed for various mental and physical disturbances such as depressions, anxieties, phobias, neurasthenia and homosexuality.²⁸ However, great variations exist among the individuals of both sexes in their capacity to endure sexual abstinence.

In support of the view that abstinence produces various manifestations of neuroses and perversions in our society, one may quote the comparison made by Malinowski between the Trobrianders and the Amphlett Islanders. The Amphlett Islanders live thirty miles south of the Trobrianders and are similar to the latter in race, custom and language, but differ in social organization and have strict sexual morals. Malinowski noticed that while among the Trobrianders, who knew no abstinence in sexual activities, there were no psychoses, no neuroses, no neurasthenia and a minimum of perversions, the Amphlett Islanders were neurasthenics, nervous and impatient at work, and had a higher percentage of sexual perverts.²⁹

²⁴ There is some confusion in the literature concerning the precise definition of the term 'abstinence'. (See Ellis, *op. cit.*, p. 172; Tannenbaum in Robinson, *op. cit.*, p. 87.) The foregoing definition lays the emphasis on the word 'gratification' rather than on 'heterosexual coitus' or on 'sexual activities' in general.

²⁵ By a relative abstainer I mean an individual who considerably reduces the number of sexual gratifications he normally requires.

²⁶ See Beigel in Ellis and Abarbanel, *op. cit.*, pp. 44, 48; Ellis, *op. cit.*, p. 173; Kenneth M. Walker, *Sex Difficulties in the Male* (1934), pp. 187-8. A. Forel, in his treatise *The Sexual Question* (1908), holds a different view. He believes that the harmful effects of continence have been greatly exaggerated, and that 'normal persons of both sexes may remain continent, although not without some trouble and discomfort': see pp. 81, 422.

²⁷ See Ellis, *op. cit.*, pp. 166-7; Tannenbaum in Robinson, *op. cit.*, p. 109.

²⁸ Beigel in Ellis and Abarbanel, *op. cit.*, p. 46; Ellis, *op. cit.*, p. 162; Tannenbaum in Robinson, *op. cit.*, pp. 76-7; Haire, *op. cit.*, p. 140; Wilhelm Reich, *The Function of the Orgasm* (1942), p. 187.

²⁹ Bronislaw Malinowski, *Sex and Repression in Savage Society* (1927), pp. 85-90; see also Reich, *op. cit.*, p. 201.

Nocturnal emissions

In support of sexual abstinence moralists allege that nocturnal emissions provide the abstainer with a natural and compensatory relief from sexual tensions. It is unlikely, however, that nocturnal emissions can increase sufficiently when there is a decline in other sexual activities and decrease accordingly during periods of normal sexual activities. Kinsey and his associates report that 'the increase in the frequencies of the nocturnal orgasms is usually not more than a few per year, although the outlets for which they were supposed to be compensating may have averaged several times per week'.³⁰ It is, therefore, erroneous to assume that abstinence is not detrimental to mental and physical health because nocturnal emissions will provide a sufficient release to keep the individual physically and mentally balanced.

Sublimation

It has been alternatively argued by moralists that even if the average male may be incapable of enduring prolonged sexual abstinence, he is nevertheless capable of diverting his sexual energies towards socially acceptable activities such as art, literature, science and other 'higher' but non-sexual activities. This process is termed sublimation. If this argument is correct and substantiated, it should be possible to find individuals whose sexual urge has been reduced to a minimum or eliminated without nervous disturbances. But clear-cut cases of sublimation rarely exist.³¹ The mere fact that there are artists, scientists, statesmen and others who are entirely devoted to their non-sexual professions does not show this argument to be correct,³² for these individuals may either possess a very weak sexual urge, enabling them to endure sexual abstinence without suffering hardships, or they may suffer from neurotic disturbances as a direct consequence of their abstinence.³³

³⁰ See Kinsey, *Female*, p. 209; Kinsey, *Male*, pp. 527-30; Beigel in Ellis and Abarbanel, *op. cit.*, p. 49.

³¹ Kinsey, *Male*, pp. 207-13, 217.

³² Ellis, *op. cit.*, pp. 162-3; Tannenbaum in Robinson, *op. cit.*, p. 93.

³³ It should be added, however, that voluntary abstinence is easier to endure than artificially imposed abstinence. For this reason, celibate priests, who strive for a high ideal and are willing to sacrifice everything for it, do not undergo such mental and physical hardships as the ordinary person, who is coerced by society towards the suppression of his sexual desires until marriage (see Beigel in Ellis and Abarbanel, *op. cit.*, pp. 49-50; Walker, *op. cit.*, pp. 192-3). Nevertheless celibate priests are not immune from the ill-effects of abstinence, and they too undergo somatic and psychic disturbances. (See Ellis, *op. cit.*, pp. 184-5, for a short discussion of different opinions on this matter.)