

Remarks at “The Last Girl: Ending the Commercial Sexual Exploitation of Girls and Women”

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Ruchira Gupta and Rachel Lloyd have done their customary fantastic job of giving first-hand accounts, from Kolkata, India to Hunts Point in the Bronx, of what women and girls in the sex trade are experiencing. I want to talk about the larger human rights context, and do it in a somewhat personal way.

I spent twenty or more years in the human rights movement, working for organizations which were sometimes involved in matters pertaining to the sex trade – though working myself on other issues -- without really thinking much about them. To the extent I had instincts, they were in the realm of harm reduction – the need to accept the reality of behavior that may not be desirable or may even be harmful in certain ways, like drug use, in order to achieve the important goal of protecting public health and saving lives.

In my early years with the ACLU, as Dorchen Leidholdt of Sanctuary for Families likes to remind me, I took a strong First Amendment position in the anti-pornography wars in which, in the late 1970s, many feminists became involved. I debated Dorchen, Andrea Dworkin and other feminists as well as many on the religious right. While doing this, I never denied the harms of pornography, or celebrated it in any way, and kept my distance, as an ACLU advocate, from the commercial sex industry. But I thought the harms to free speech posed by all the proposed regulation schemes outweighed the harms of pornography.

My views, as Barack Obama said about same-sex marriage, have evolved. And they are still evolving. Sadly, pornography has evolved over the last thirty years, too, in a much more pernicious direction. I don't want to take your time today with an exhaustive account of my thinking on that or related matters, and in any case I am not ready for that, and this is not the forum for it. But I do want to frame the debate in terms of broad human rights values and principles.

One reservation I have about the debate over the sex trade is the general absence of a wider frame about economic, political, racial and gender justice. (I use that broad expression, instead of trafficking, prostitution or sex work not because I don't understand the distinctions and how contested they are, even or especially at

the level of terminology, but because I don't want to go quickly to cases and remedies.) What I want us to do more of, what I want to attempt for a short while today, is to think about what kind of world we want to live in, and how to get there. Two contrasting approaches to the sex trade, Sweden vs. the Netherlands – which sounds like a World Cup match-up – is not the level at which I want to address this. I want us to think bigger.

Human rights often find their legal expression in negative terms – don't censor, don't torture, don't discriminate – but their positive expression is why we care so much about them at all. It's about human potential and its realization in equality, democracy and participation. It's about aspiring, not settling. No one becomes a human rights advocate because they want to do the least possible harm, to make the best of a bad situation. They do it – we do it – because we want to change the world. The great struggles fought by women and LGBT people have not, in their essence, been about sexuality as such – and in any case, certainly not about the commercialization and commodification of sexuality – they have been about fundamental respect, dignity and full personhood.

At every point in human history, and certainly this is true of the history of the modern rights movement, there have been tensions between those who want to manage, rationalize and reform oppression and those who want to eliminate it. Sometimes it is because self-styled realists dismiss starry-eyed idealists; sometimes the argument is about pace. There were always those counseling visionaries to slow down in the slavery abolition movement, and in the successor movements around civil rights, women's rights and LGBT rights.

Sometimes it is because a traditional approach to rights takes time to yield to a changing world. I saw this first hand in the American Civil Liberties Union, where I worked in the 1970s. On the one hand, led by Ruth Bader Ginsburg, the organization was bringing pioneering sex discrimination cases in the workplace. But at the same time many on its board and policy committees were fighting reforms of criminal law on rape and domestic violence, seeing the rights of criminal defendants as a zero-sum situation. I saw the same resistance in the 1990s when I worked at Human Rights Watch and it first began to work on gender issues – the misplaced deference to local culture and the “private” world of the marital relationship.

I bring these up not to remind some of my former colleagues of things they would rather not remember, but only to say that things change. That rights are not static, and we rethink their scope and application over time. So the question is: where does this lead us with respect to the sex trade? Is the world we are working for – the aspirational one -- one in which every woman has the right to sell her most intimate self and every man has the right to own it, at least for a while? That world coincides with powerful economic interests in which there is vast money to be made

from the sexual labor of women, little of which trickles down to them, and which reinforces and is reinforced by a long, familiar, sorry story. Even in its present day chapters, that story finds women raped and beaten and abused in appalling numbers, a paltry number of them in political or corporate office and power, few of them paid at the same rate as men, in a climate of unrelenting assaults on their most basic rights by male-dominated institutions, from the Republican Party to the Catholic Church to the Taliban.

When I think in terms of a positive vision, and set it against this history and this contemporary reality, I have an easier time figuring out what I think about the sex trade. I think it is on the wrong side of history and human aspiration.

I know this is very contested ground, even among – particularly among – many people who are otherwise like-minded, who support same-sex marriage and abortion rights, who Rush Limbaugh and Rick Santorum would have trouble telling apart. Despite my blunt declarations here today, I respect these differences and how honestly those on each end of the spectrum got there, often, if not always, formed by real-world experience.

Of course everyone is against coercion and violence that places women in the sex trade or keeps them there. Everyone is against the sexual exploitation of girls, even if no violence or threat of violence is involved. I wish that some of the time spent in the debates we are having could be focused on those agreements more than on the differences. No one here thinks criminalization of women is the answer. No one supports a top-down “rescue” approach. But nevertheless the differences we have are real, and they must be acknowledged, and each of us has to take a moral stand about the kind of world we wish to live in.

A world rife with continuing violence and discrimination against women means that precious few are in a position to make any meaningful choice to work in the sex trade. Even a story that may seem to be an exception, like Ashley Dupre, the high end “call girl” who met with Eliot Spitzer in the Mayflower Hotel, bringing down his governorship, is on cursory examination a story of childhood abuse, of leaving home at 17, of being enticed into making a suggestive video as a minor, of rape. Forget for a moment the legalities of it all – the proper response of the justice system to a career like hers. I certainly don’t think that for her, or for any woman, criminalization is the answer. I have serious doubts, as a longtime advocate for ending our overreliance on incarceration and punitive crime policies, about the constant resort to the criminal justice system. But is there anyone who thinks that on a moral basis – I’m not talking about the morality of sex, but the morality of domination and control – that this is something to applaud?

And as you have heard from Ruchira and Rachel, most of the stories of women and girls in the sex trade are far worse. I am not entirely sure what the

right policy response is – I am continuing to study and learn. Well-intended policies can have unintended consequences. It is said that some end demand approaches could drive the sex trade underground, increasing women's danger from law enforcement and making protection against HIV/AIDs very difficult. All the models, from Sweden to New Zealand, should be studied rigorously, and data, not wishful thinking or ideology, should drive the discussion.

I understand that there are some women in the sex trade, and perhaps some of them are here, who don't believe and don't want to be told they are being exploited and abused in what many prefer to call sex work. I am not in a position, no one is, to judge the individual choices and circumstances of any woman or second-guess her own sense of reality. My entire career has trained me to try to listen to the voices of those closest to the issue, and though I have heard many who want a world in which sex is not commodified, whose liberation story is a path out of the sex trade, I need and want to listen more to those whose experience leads them to a different view.

I hear it said that recognition for sex workers will enhance their safety, not just against AIDS but against men who try to hurt them, and since sex work is not going to disappear tomorrow, that is an important, if not an urgent question. But who in the human rights world is working on, indeed talking about, the larger violence that seems to be inherent in prostitution? In a briefing sheet advocating decriminalization of sex work, I read that it would decrease the incidence of rape, which is said to be as high as 58%, for example, among sex workers in Kenya. Doesn't the fact that it is so astronomically high – so maybe we can get it down to 30 percent! -- tell us something about the basic dynamics of the sex trade? Many of my social justice instincts tell me to be positive about sex workers' unions, if indeed they are genuinely led by those who are doing the work and really free of domination and control. But I am skeptical. When the DMSC in Kolkata frustrates access by NGOs to its members working the streets, when Gloria Steinem, Ai-Jen Poo, Stephen Lewis, Sarah Jones and I and others just a few months ago saw with our own eyes how many girls, as young as 11 or 12, were being offered for sale in the DMSC-dominated red light district of Sonagachi, I worry that some unions may be managing oppression, not liberation.

The dominant human rights conversation around these issues has the feel to me of the proverbial steward who rearranged the deck chairs on the Titanic as the ship was sinking. Is the best we can do to accept the status quo of a giant global sex industry run by men on the backs of women, and work to chip away at the edges of its harms? If this limited vision comes to pass – and there is a fair chance it may, with some powerful institutions putting their considerable weight behind the acceptance of the sex trade – we will have left the realm of aspiration and we will live in the realm of settling.

Finally, a friend of mine – a male friend – with whom I was talking about this over the weekend asked me if I had any particular hesitation in wading into this discussion as a man. I said I did not. I would have more hesitation if I was defending the sex trade, since then my stance, however honestly arrived at or grounded in my own sense of principle, would coincide with the illegitimate power position, over many centuries, of my own gender. Though I have never paid for sex or gone to a strip club, I live in the same world as everyone else, in which all across the spectrum from mainstream magazine covers to high-end cocktail bars to porn videos, women are objectified and commodified. This will change primarily through the empowerment of women and girls – through their insistence on a different world – but it won't change fast enough, or thoroughly enough, until more and more men renounce the dominant culture – and do it visibly.