

# Contentious Freedom: Sex Work and Social Construction

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*In this article, Brison extends the analysis of freedom developed in Nancy J Hirschmann's book, *The Subject of Liberty: Toward a Feminist Theory of Freedom*, to an area of controversy among feminist theorists: that of sex work, including prostitution and participation in the production of pornography. This topic raises some of the same issues concerning choice and consent as the three topics Hirschmann discusses in her book—domestic violence, the current welfare system in the United States, and Islamic veiling—but it also raises some distinct ones concerning the social construction of sexuality and possible conflicts between the freedom of some women (who may choose to engage in sex work) and the freedom of others (who may be harmed by the contribution of such work to the social construction of categories such as “women” and “sex”).*

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In her superb, award-winning book, *The Subject of Liberty: Toward a Feminist Theory of Freedom*, Nancy Hirschmann not only develops an extremely insightful and instructive feminist theory of freedom, but also applies it to a range of areas in which women's freedom is compromised and, sometimes, seemingly eclipsed—domestic violence, the current welfare system in the United States, and Islamic veiling. Actually, to say the theory is *applied* to these issues is misleading, since, in Hirschmann's work, theory and practice are mutually illuminating, as they should be. It is precisely *because* of her attention to the actual circumstances of real women's experiences that Hirschmann is able to come up with a theory of freedom that is sufficiently informed and nuanced to take into account the complexities of choice and consent in these contexts in which women's agency is curtailed, but never entirely quashed.

Hirschmann has, in my opinion, accomplished what she set out to do in *The Subject of Liberty*, and should now, by all rights, be allowed to rest on her

laurels. But, having agreed to contribute to this “Author Meets Critics” session, I’m afraid I am obligated to ask her to do even more. However, since I agree with her on just about everything I understand her to be saying in this book, all I can ask her to do is (1) to elaborate on two things I’m not entirely clear about, and (2) to extend her analysis to an additional area of controversy—one particularly contentious among feminists—that of sex work (including prostitution and participation in the production of pornography). This topic raises some of the same issues concerning choice and consent as do the three Hirschmann discusses, but it also raises some distinct ones concerning the social construction of sexuality and the possible conflicts between the freedom of some women and the freedom of others.

#### QUESTIONS OF CLARIFICATION

As one who has been in the business of trying to rehabilitate the concept of autonomy for feminist purposes, I would like to ask Hirschmann to say a bit more about the differences she sees between her account of freedom and feminist accounts of autonomy. Hirschmann writes: “The idea of social construction challenges the possibility of an essential ‘inside,’ which seems so vital to autonomy theory, and demands that determinations of freedom must consider internality and externality together. [Diana Tietjens] Meyers notes that ‘since one must exercise control over one’s life to be autonomous, autonomy is something that a person accomplishes, not something that happens to persons. But freedom is precisely a combination of self-creation and what happens to you, the internal as well as the external, the combination of and dynamic between the two’” (39). I agree with Hirschmann’s view about this and would just point out that not all feminist theorists of autonomy assume that autonomy requires a “true” self or “authentic” desires. Nor do all feminist theorists of autonomy neglect the role of external factors that constrain or facilitate autonomy. For some of us, anyway, our theories of autonomy require that autonomous persons have (and that they be aware of having) a range of significant options from which to choose.

My second question of clarification concerns Hirschmann’s discussion of the three “levels of social construction.” Hirschmann asks: what is it to go “beyond socialization to social construction”? and, in reply, quotes Kathy Ferguson, who notes that “it is not simply that [we are] being socialized; rather, a subject upon whom socialization can do its work is being produced.” To this Hirschmann adds, “the process to which [Ferguson] refers, on my reading, is the social construction of the choosing subject” (77). This seems to me to be correct. But I still wonder about the connections among the three levels of social construction Hirschmann discusses:

1. "the ideological misrepresentation of reality." (She considers this a mere "surface socialization.")
  2. "materialization." "On this level, social construction is not at odds with material reality; it actually produces it. It *creates* women's reality; it 'constructs' women's lives in the most active sense of that term" (80).
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3. "the discursive construction of social meaning" (81). "At this level, construction of reality takes root in our very language, where it establishes the parameters for understanding, defining, and communicating about reality, about who women are, what we are doing, what we desire" (80).

As Hirschman points out, "language constitutes the self" (80) and "it is not just desires that are constructed but the entire being of subjects, the individuals who can have desires, formulate wants, and make choices" (82).

Hirschmann adds, "We are all players in the field of power, and we are all played upon as well" (83). And she argues that even if we acknowledge the third level of social construction we still need levels one and two, since, if we retain only three, everything collapses into language and, as Stanley Fish put it, "interpretation is the only game in town" (85).

Hirschmann rightly points out that "viewing power as a 'discursive field' where we are all constructors and constructed denies—and even conceivably excuses—the very deliberate and coercive power used by many men against women in situations of domestic violence or sexual harassment, as well as in public policies concerning abortion, reproduction, and welfare" (87). Still, I have difficulty interpreting the metaphor of levels. She tells us that "levels one and two link discursive understandings to the physical, visceral reality of oppression. One should imagine 'levels' in quotation marks, however, because these are not really three entirely distinct processes, one leading to the next in linear fashion. Rather, the three dimensions are intricately intertwined and interdependent" (89). How are the three levels intertwined and interdependent? "The three 'levels' of social construction . . . translate [into] something resembling a painting by M. C. Escher" (90). Although I consider the complexity of Hirschmann's account to be one of its many virtues, I find this particular analogy to be more disorienting than illuminating, and I would like to hear more about how these three levels are related.

### PORNOGRAPHY, PROSTITUTION, AND OTHER FORMS OF SEX WORK

An important part of Hirschmann's theory is that it enables us to see more clearly how one woman's apparently freely made—and seemingly self-regarding choice—for example, to become a pornography model, can turn out to be neither entirely free nor purely self-regarding. As Hirschmann argues, “patriarchy and male domination have been instrumental in the social construction of women's choices. This recognition leads to the further suggestion that a feminist reconceptualization of liberty must begin from the basic understanding that the context in which women live constrains women's choices more than it does men's” (200). While it is important to expand the range of women's options, “increasing women's choices also entails engaging the social construction of desire, in order to understand the degree to which the options that women prefer and the choices that women make are themselves the products of restriction, coercion, and force. And this in turn entails understanding the social construction of discursive formations such as ‘the battered woman’ and ‘the welfare mother,’ which in turn constitute the social meaning of ‘women’” (202).

Just as one can profitably question whether more choice is always better than less, one can at least wonder whether fewer constraints are always better than more. Expanding women's options for legalized sex work, for example, may end up constraining women more, not less. The third level of social construction—“the discursive construction of social meaning”—includes not only language, but also representations of all kinds and even actions, and the social meaning of being a woman is constructed by, among other things, the use of terms derogatory to women, the visual imagery of pornography, and the buying and selling of women's bodies. We need to examine *how* these representations and actions contribute to the social meaning of ‘women.’

Let's look at how Hirschmann's account of feminist freedom might be applied to two different kinds of participation in the production of pornography: one in which a woman is forced into participating and another in which she freely chooses to participate.

#### THE CASE OF COERCION

A not uncommon scenario in which a girl becomes trapped in the pornography industry is described by Evelina Giobbe in her testimony to the U.S. Attorney General's Commission on Pornography. After running away from home at age thirteen and being raped her first night on the streets, Giobbe was befriended by a man who seemed initially kind and concerned, but who, after taking nude photographs of her, sold her to a pimp who raped and battered her, threatening her life and the lives of her family until she “agreed” to work as a prostitute for

him. Her “customers” knew she was an adolescent and sexually inexperienced. “So,” she testified, “they showed me pornography to teach me and ignored my tears and they positioned my body like the women in the pictures, and used me.” She tried on many occasions to escape, but, as a teenager with no resources, cut off from friends and family, who believed she was a criminal, she was an easy mark for her pimp: “He would drag me down streets, out of restaurants, even into taxis, all the while beating me while I protested, crying and begging passersby for help. No one wanted to get involved” (quoted in Russell 1993, 38). She was later sold to another pimp who “was a pornographer and the most brutal of all.” According to her testimony, he recruited other girls and women into pornography by advertising for models. “When a woman answered his ad, he’d offer to put her portfolio together for free, be her agent, and make her a ‘star.’ He’d then use magazines like *Playboy* to convince her to pose for ‘soft-core’ porn. He’d then engage her in a love affair and smooth talk her into prostitution. ‘Just long enough,’ he would say, ‘to get enough money to finance your career as a model.’ If sweet talk didn’t work, violence and blackmail did. She became one of us” (Russell 1993, 39).

Giobbe escaped the pornography industry by chance, after “destroy[ing] herself with heroin” and becoming “no longer usable.” She considers herself one of the lucky ones—“a rare survivor” (Russell 1993, 39–40).

We cannot assume that *all* participants in prostitution and in the production of pornography freely choose to participate, *even* in the case of adult women who apparently do, given the road many have been led (or dragged) down, since childhood in some cases, to get to that point. As Hirschmann persuasively argues, genuinely free choice requires not only the absence of external coercion, but also the ability to evaluate critically and choose from a range of significant and worthwhile options.

In response to Drucilla Cornell’s use, in her defense of prostitution, of one prostitute’s claim that her work helped her to recover from childhood sexual abuse, Hirschmann criticizes Cornell for not “critically engag[ing] the social conditions, such as the structure of patriarchal power in the family through which such child abuse takes place, that forced this woman to make such a choice, any more than she explores the economic conditions that much more frequently lead women into prostitution because it is the best-paying employment they can find” (229). I agree with Hirschmann’s critique of Cornell, but I would take it further: *Even if* having the option of legalized prostitution enhances the freedom of some women, we need to ask whether it diminishes the freedom of other women.

## THE CASE OF FREE CHOICE

I don't think we can assume that *no* woman makes a genuinely free choice to participate in prostitution or the production of pornography (or sex work of some other sort). Some of my Women's Studies students speak of (upper-middle class white) women they know who have put themselves through law school—or simply improved their financial circumstances (when they already had many other employment options)—by doing sex work. Pro-pornography-and-prostitution feminists such as Nina Hartley, Susie Bright, and Annie Sprinkle consider themselves to have freely chosen their profession—and have argued that their choices have enhanced *other* women's freedom. (I'm waiting for one of them to publish a children's book: *Free To Be: Prostitutes and Pimps*. It won't be long now.) Suppose we take their self-assessment of their own freedom at face value. The question remains: do their freely made choices enhance or hinder the freedom of other women?

Typically, this question translates into: does pornography make rape and other kinds of (so-called “indirect”) harm to girls and women more likely? Hirschmann's work prompts us to ask a somewhat different question: how does pornography contribute to the social construction of “women?” Of “sex?” Of “rape?” Hirschmann argues that “participation in the processes of social construction is necessary for freedom because it is as far as one can go in exerting autonomy in one's life” (205). But there is a potential conflict here: what if some women's participation in the processes of social construction *limits* the autonomy of other women? How might such a conflict be resolved?

Hirschmann writes:

Attaining freedom does not require that an individual be able to develop and follow a vision of her own life and good. Indeed, the essence of negative liberty is that she should not have to develop a sense of good at all, much less that what she does should have to meet the standards of a personally developed moral system; it only requires that she be able to do what she wants. Feminist freedom shares this negative-liberty ideal to an important extent. Hence, in the interest of freedom, the choice of a battered woman who returns or remains with an abusive partner must be respected, regardless of what anyone else—or even everyone else—thinks about that choice. (203)

But “freedom” by itself doesn't have interests. We need to ask: in the interest of *whose* freedom? It may be in the interest of a particular woman's freedom (given her options, or rather lack of them) to return to her batterer, but even if it is, it is not necessarily in the interest of *other* women's freedom. A clearer case may be that of the pornography model who agrees to be filmed in violently

misogynistic scenarios. Since such pornography contributes to the social construction of the meaning of 'women,' even though it *may* be in the interest of the model's freedom for her to participate in its production, it may not be in the interest of *other* women's freedom.

Even if we were to suppose (contrary to fact) that *all* participants in the production of such pornography freely choose to participate in it, we would still need to consider how such pornography influences how *other* nonparticipant women are viewed and treated. Compare the (thankfully imaginary) scenario in which there were "slave auction" clubs where some blacks allowed themselves to be brutalized and degraded for the pleasure of their white customers. Suppose the black "performers" determined that, given the options, it was in their best interest to make money in this way. Their financial gain—imagine that they are highly paid—more than compensates for the social harm to them as individuals of being subjected to a slightly increased risk (resulting from the prevalence of such clubs) of being degraded and brutalized outside their workplace. Some of them even enjoy the work, having a level of ironic detachment that enables them to view their customers as pathetic or contemptible. Some, who don't actually enjoy their work, don't suffer distress, since they manage to dissociate during it. Others are distressed by it, but they have determined that the financial benefit outweighs the psychic and physical pain. For those blacks who did not work in the clubs, however, there would be nothing that compensated for either (1) the contribution of such clubs to the social construction of blackness or (2) their own slightly increased risk of being degraded and brutalized as a result of it. They would be better off if the clubs did not exist. The work the blacks in the clubs did would make it harder for other blacks to live their lives free of fear and to overcome a brutal and ongoing legacy of hate and oppression.

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In the conclusion of her book, Hirschmann writes: "I do think that feminist freedom requires that women's decisions be respected, regardless of what they choose; feminists must support, in principle, if not politically, women's choices to oppose abortion, stay with abusers, not report rape or sexual harassment, or become full-time mothers and housewives" (237–38). While I agree that "feminism needs to be open to a much broader diversity of views than it has generally allowed," I am reluctant to say that we must respect and support *any* decision whatsoever that a woman might freely—that is, after ample questioning from others—make. If such a decision leads to harm to other women (or men or children or the environment), we are under no obligation to respect and support it. To take the most extreme sort of case, Aileen Wuornos's decision to go on a killing spree *may* have been freely made, given the criteria put forth in Hirschmann's account. I have no idea whether it was, but supposing it was,

that would not require me to respect and support it. (Hirschmann could say, in reply, that we must respect the desire, but not the decision to act on it, but I don't see why we must respect the desire either.) To take a less extreme case, a pornography model's decision to perform in violent, degrading, misogynist pornography *may* have been freely made (I am more prepared than Catharine MacKinnon is to grant this),<sup>1</sup> but that by itself does not require me to respect and support her choice, if other women turn out to be harmed by it.

I might be prepared to accept the claim that “whatever desires I happen to have must, in the end, be accepted as legitimate,” in the case of desires issuing in only purely self-regarding actions. But, on Hirschmann's account, are there any such desires? Any such actions? Hirschmann's account of social construction makes more desires and actions out to be other-regarding than one might have supposed, since what I desire and how I act *as a woman* contribute to the social construction of ‘woman,’ which, in turn, affects the material circumstances of actual women. And this is a real advantage of her view over that of, say, Wendy Brown or Judith Butler. But I would like to see this aspect of her account developed even further.

In a recent book entitled *Bare: On Women, Dancing, Sex, and Power*, Elisabeth Eaves extols the freedom-enhancing virtues of stripping and other sex work. One chapter begins with an epigraph from Julia Query: “I love working in the peep show because I've never worked with so many women with college degrees, mostly in women's studies and philosophy. It's like they figured out what to do about patriarchy: Take their money” (Eaves 2002, 115). But we need to consider whether one woman's liberating (and lucrative) insurrectionary act may contribute to another's victimization and, if so, how such conflicts ought to be addressed. I would like to hear more from Hirschmann about how her theory of freedom might help to illuminate—and ideally resolve—such conflicts.

## NOTES

1. Incidentally, I disagree with Hirschmann's critique of MacKinnon. In particular, I don't think that “MacKinnon's use of equality sacrifices agency freedom in the interest of well-being freedom” (226). Hirschmann asserts that MacKinnon “seem[s] to care more about well-being than agency” and “end[s] up actually undermining women's well-being. For making choices for oneself, acting in the world, participating in community and political life as active agents are all important to women's well-being, both materially—because such power reduces their exploitation by men—and psychologically—because acting in the world makes one feel more competent and gives one a sense of positive control over one's life” (226). But one could argue that the process of advocating for the antipornography ordinance enabled many women—in particular those who had been victimized in the course of the production or the consumption of

pornography—to do just those things. In this respect, this attempt to reshape legislation was similar to feminist attempts to reshape (or to institute) laws concerning rape, sexual harassment, and domestic violence.

#### REFERENCES

- Eaves, Elizabeth. 2002. *Bare: On women, dancing, sex, and power*. New York: Knopf.
- Russell, Diana E. H., ed. 1993. *Making violence sexy: Feminist views on pornography*. Buckingham: Open University Press.

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