

# Political Theory II

## - Unfree Markets

In modern capitalist societies we take it for granted that most things can be bought or sold freely, Even so a number of things are prohibited or heavily regulated. Prostitution, narcotics, pornography and of course slavery are fairly common examples. More obscure banned transactions might include commercial surrogacy or human organs. There are common reasons why we might wish to prohibit trade in all these goods which we'll examine here.

### Harms to the buyer, seller and third parties

Generally society allows rational individuals (such as adults of sound mind) to weigh up their own costs and benefits. To illustrate with a very mundane example; imagine I buy an ice cream, if I have a preference for chocolate society leaves that between me and the ice cream vendor. No central body is going to interfere and demand that I buy raspberry ripple because they deem it a more interesting flavour. I am normally the best person to decide whether a transaction is good for me. In essence this is an observation of Mill's *Harm Principle* that was discussed in the previous guide. Others argue that *personal autonomy* is important, in effect that I should be free to make my own choices even if I make them badly.

A simple way to argue for prohibition on the sale of a good is to argue that it causes what an economist would call *negative externalities* and a philosopher might call *societal harms*. For example I can't buy or sell slaves because it harms the individuals I have (presumably) enslaved against their will. My selling of a slave probably is rational to me and the slave purchaser, but that doesn't make it a legitimate transaction because of course it's fairly harmful to the slave.

This is all well and good but some transactions don't harm anyone except those who are buying and selling. If I hire a prostitute there are no obvious societal harms or at least certainly none that appear to outweigh the harms to the prostitute themselves.

If we're in a debate on banning prostitution it seems extremely tempting to say that we can legitimately prevent me pimping myself out on precisely the grounds that it is not in my interest. How might we do this?

### The Nanny State

Is a direct harm to the buyer or seller a sufficient justification to ban that transaction? Certainly it seems to be

a major argument in favour of banning the sale of narcotics or against selling myself in to slavery. It might also apply to other non market based issues, for example the government says I must wear a seatbelt when I'm in a moving vehicle. The philosophical perspective which justifies this idea is called *paternalism*.

Perhaps the most simple justification for this is a utilitarian one. Mill thought individuals should be free because they tend to decide in their own interests. If you can argue that say, taking heroin is so harmful that it cannot possibly be a rational act then it seems Mill's analysis does not work in this instance. In that case surely banning it maximises the utility of the individual concerned and thus the general utility?

Another response to arguments advancing personal autonomy is to argue that in a given case we are not really free. Some examples are relatively obvious, a heroin addict is not really free because they are under the power of addiction. Others are less so, a prostitute is not strictly speaking forced to sell his/her body, but we can argue that circumstances and a lack of alternative options act as a powerful coercive instrument. If I have only the choice to sell my body or starve is that really any choice at all?

## **Modes of Valuation**

A lot of people think pornography is degrading to those involved in it, a lot less people tend to be sure quite why that is. Perhaps in certain cases it obviously is. Certain sexual acts might be considered to be extremely degrading. On the other hand your idea of a degrading sexual act when performed on you might be my idea of a fun afternoon when performed on me. In other cases porn just doesn't involve these kind of acts.

Is there a broader reason why by agreeing to have sex for money I am degraded regardless of the acts involved? If we can argue that there is we have a very solid reason for proposing banning the sale of pornography and similar goods in a debate.

Kant advances an argument which suggests that selling certain things does degrade those selling them. He talks about the way we value these things and suggests that we must value objects, people and relationships in the right way. For example to pay for sex is to value it merely as a commodity. Moreover we are also valuing the body of the person whom we pay for sex as a commodity. This argument alleges that the act of sex should have a higher valuation than merely that of a commodity because it is an important way in which humans relate and express our feelings for one another. To value someone's body or the act of sex in monetary terms is thus highly degrading. This argument supports many accepted positions, for example slavery is degrading because it too values people merely as pieces of equipment and not as humans. We could also use the argument to expand in to other examples, the sale of organs and blood or commercialised adoption.

## **Further Reading**

- Elizabeth S. Anderson, *Is Women's Labour a Commodity?* - a very clear and thorough example of the Kantian case on degradation as it relates to commercial surrogacy. (available via Jstor)
- The Stanford Encyclopedia of Philosophy, <http://plato.stanford.edu/entries/exploitation/> - A good article on the concept of exploitation.