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Edward (Richard Gere) to Vivian (Julia Roberts) in *Pretty Woman*: “You and I are such similar creatures Vivian. We both screw people for money.”¹

The role of sex workers in society has been debated since their earliest recorded existence in twenty-fourth century Sumer.² Sex workers have been identified as whores, as celebrated and powerful courtesans (i.e., sixteenth-century Venice), as victims of white slavery and human trafficking, violence, and abuse, and as criminals. A new potential identity has emerged – sex workers as union members. Sex worker union advocates rally around the notion that union membership lends legitimacy, reduces stigmatism, and provides leverage in resolving pay and benefit issues, equality in the workplace, job safety, and protection from harassment. This essay will address why sex workers cannot unionize and more effective methods for achieving legitimacy and respect as a career option.

The Oxford English Dictionary defines a sex worker as “n. a person who works in the sex industry, *esp.* a prostitute (usually used with the intention of reducing negative connotations and of aligning the sex industry with conventional service industries).”³ Use of the umbrella term, sex worker, is important because it includes workers in the adult entertainment industry, escort services, and exotic dancers. This diverse group covers legally employed hourly and

independent contractors, such as actresses in the pornography business and exotic dancers, and prostitutes whose work is illegal.

The diversity of the group extends from differences in employee status to reform issues. Reform issues include ending trafficking and violence against street prostitutes, health education, workplace safety and equality, gaining workplace and public welfare benefits (such as Social Security), and prostitution decriminalization and/or legalization.

The term “sex worker” can be traced back to 1978 and is attributed to Carol Leigh, who was a prostitute and understood the stigma attached to the title. She wanted her work to be identified in a way that emphasized the income derived. She came up with “sex worker” as a means to “emphasize the activities of women as sellers of sex rather than men as buyers of sex.”⁴

This historically stigmatized group presents a new Labor Question, should sex workers unionize? From the lowest street walker to highly paid porn stars, sex workers want recognition for their work as a professional choice and the employment rights that go along with this recognition.

The union movement among prostitutes in the United States began in the late-1970s when prostitutes and other sex workers began forming their own associations. The growth of associations sprang from the desire to have the sex worker trade legitimized and regulated, thereby seen as a type of work where a woman willingly chooses to provide sex as a service.⁵ This changed the perception from sex worker as a victim to empowered women in a service industry.

Union organization in the United States began in earnest with the formation of Call Off Your Old Tired Ethics (COYOTE) in 1973. One of COYOTE’s core missions was to “empower

prostitutes to bargain with their ‘employers.’” One of the first regionally prominent unions for sex workers in the United States, the Prostitute’s Union of Massachusetts (PUMA), was organized to bring public and media attention to the plight of prostitutes and to foster a sense of “self-sufficiency” among those it serves.⁶

PUMA mostly represented call girls who are given higher status in the industry than street-walking prostitutes.⁷ PUMA did not operate as a true union, but as a collective or association reminiscent of the reform movement Workingmen’s associations of the early-1800s. As such, PUMA resembled a social activism organization with a focus on providing social services to their members, seeking to empower the women to be self-sufficient entrepreneurs (eliminating the need for pimps), and decriminalization of their profession.

Unions and associations similar to PUMA sprang up around the country. One of the few unionizing successes in the United States occurred at the San Francisco Lusty Lady adult theatre in 1996.⁸ The Lusty Lady exotic dancers appealed to the Service Employees International Union for representation (SEIU). The National Labor Relations Board certified the Exotic Dancers’ Alliance (EDA) through SEIU Local 790. Through collective bargaining, EDA achieved several pay and holiday time enhancements. The EDA found their success short-lived and they disbanded in 2004.

It is not surprising that unions such as SEIU and the Hotel Employees’ and Restaurant Employees’ Unions, and just across the United States border, the Canadian Union of Public Employees and the Alberta Union of Provincial Employees, would be interested in increasing their membership ranks with sex workers. With union membership on a twenty-plus-year spiraling decline, the sex industry is big business. Identified as “red-collar” work, the sex industry continues to grow with an estimated \$30 to \$50 billion in yearly sales globally.⁹

The roadblocks to unionization efforts are numerous. Many sex workers lack the skill and/or self-esteem needed to fight for their rights to unionize. Most sex workers are leery of the publicity that goes along with a high-profile unionization campaign because they have a strong desire for anonymity. And these campaigns, though rare, are highly popular with the media as unions are rarely seen as “sexy.” Sex workers engaged on the legal side of the industry face strong opposition to unionization from their employers escalating to retribution or threats of making the workplace environment worse.

The diversity of the sex worker constituency places another barrier to unionization. Limited discourse between the different segments of the sex worker population provides challenges. What motivates one group, such as legalization, alienates the group that wants decriminalization. This limits the ability of the group to come together behind the common purpose of unionization. Most unions and associations faced the same, eventual fate. In failing to recognize the diversity represented by the sex workers, the unions and associations recruited only a small amount of members and achieved few, if any, reforms.¹⁰

While there have been differences in the impact of unionization – or even the capability to do so given the illegal nature of certain sex worker activities – all sex workers face varying degrees of stigmatization. Advocates see unionization as an avenue for social, political, cultural, economic and labor-rights change. Opponents identify other means, such as regulation, to achieve the same change.

The United States has lagged behind other westernized countries in the regulation of sex workers. Countries such as the United Kingdom, Canada, the Netherlands, Australia and New Zealand have attempted to regulate sex workers with varying degrees of success.¹¹ These attempts at regulation have been done in concert with community and union activism. The

backing of mainstream unions, such as SEIU and GMB (the fourth-largest union in the United Kingdom), lend some credence to the legitimacy of sex work as suitable employment.

Regulation comes in four forms and each affects the ability to unionize. Prohibition makes all forms of prostitution illegal. This is the primary form of regulation in the United States for prostitution. All other forms of sex work are legal in the United States. There are sex workers who favor this form, as they do not want government interference in their lives and livelihood and they are able to more closely maintain their anonymity. This group is primarily anti-union/anti-collective and prefers to operate as an individual with no feelings of camaraderie with others in the industry.

These feelings are echoed by Miranda Matthews, a practicing dominatrix in Australia. “I just resent the idea that, as a ‘sex worker,’ I am meant to have some identification with, and solidarity with, other sex workers. Indeed, in a limited market I am more likely to view sex workers, other than those with whom I have a personal relationship, as competition.” She goes on to state, “If sex workers unions do push for decriminalization/legalization I think the only people it will benefit is that small minority who do not mind being public anyway, but I think it would be doing a great disservice to the vast majority, who want to practice anonymously.”¹²

Solidarity among sex workers can be effective and is embraced in other sectors of the sex work industry. Similar to traditional union workers, exotic dancers self-regulate their activities by “relying on ‘worker solidarity.’” Worker solidarity allows them to be a united front against club owners who, for example, may want them to expose additional body parts. Worker solidarity as seen among the exotic dancers also disciplines those who go against the majority and removes protection for them if they step outside established acceptable boundaries.

According to sociologist Kim Price, “such solidarity serves as a much more effective safeguard than state and club regulations.”

Abolition is the middle ground, allowing prostitutes to sell their services, but makes activities associated with the operational side of the business illegal, including soliciting and brothel-keeping. Legalization allows for all forms of sex work provided the required licensing, permits, and or state/city regulations are met. Decriminalization removes all barriers across the spectrum of sex workers.

According to Jackie West, “Decriminalization aims to normalize prostitution, removing the social exclusion which makes prostitutes vulnerable to exploitation, but sex work then becomes subject to regulation by civil employment law.” The difficulties inherent in unionizing a job force under criminalization is shared by an Industrial Workers of the World organizer, “Under criminalization, sex workers don’t even have the right to form unions. We want sex workers to advocate for themselves.”¹³

Some countries have legalized prostitution with mixed results. Prostitution was legalized in Germany in 2002. A proponent of legalization, Christina Shenk, of the Party of Democratic Socialism said, “There has always been and will always be prostitution. It’s a business like any other contractual service...Their bodies are their working capital...”¹⁴ Yet even with decriminalization, conditions did not improve. In 2005, Germany’s largest service union, Verdi, “tried to persuade prostitutes’ groups that sex workers needed to join the union if they wanted a better deal....Verdi’s efforts have met with skepticism from sex workers themselves.”¹⁵ Despite laws meant to provide access to Social Security and health insurance and better working conditions, “prostitutes don’t have equal status with other professions.” According to Wayne

Lucas, Newfoundland president of the Canadian Union of Public Employees, “the world’s oldest profession should be unionized to gain access to benefits.”¹⁶

What unions are seeking to provide, is according to Gregory Gall, to help sex workers, “develop their workplace and extra-workplace influence by recruiting and organizing sex workers while establishing alliances with other pressure groups at the same time to influence legal regulation, public policy and social attitude.” Through these efforts, the hopes are the sex worker industry can segue from fringe group to legally recognized employment.

What all of the sex worker unions have in common, even if they aren’t true unions as recognized by the National Labor Relations Board, is to promote sex work as a profession. Gall describes why sex work as career should be recognized, “Sex work is viewed as compromising of work that can be socially useful and can provide job satisfaction, personal fulfillment, empowerment and self-actualisation, where becoming a sex worker can be a genuine life choice.” With the aid of unionization he says, “sex workers are not viewed necessarily as victims or as helpless. Rather, they are conferred with agency, rights and legitimacy.”

A small portion of sex workers who joined unions have used that power to take action against perceived injustices. Sex workers in Cologne, Germany, threatened to go on strike after the city invoked a “sex tax” to ease budget issues. According one brothel owner, whose prostitutes belong to a Berlin union, “My girls have said they will go on strike – that’ll make the city sit up and listen to our complaints.”¹⁷

The stereotypical view of an average union is one which represents workers who are employed with a traditional wage base. The International Union of Sex Workers (IUSW) is affiliated with GMB, a general trade union in the United Kingdom, breaks that mold. Their

membership application reveals that they will represent non-traditional wage types, not just the employed, but those who are self-employed or an agency, contract or casual worker.¹⁸

The IUSW mission statement summarizes what they promise to provide their members, “For our human, civil and labour rights. For our inclusion and decriminalisation. For freedom to choose, respect for those choices and the absolute right to say no. For the full protection of the law. For everyone in the sex industry.” For all these promises, it is difficult to assess how successful IUSW has been in achieving these goals.

However, for all the discussions on what sex worker unions hope to achieve, there is one significant reason why sex workers in the United States should not unionize. Most of them cannot unionize based on two conditions the National Labor Relations Act sets forth.¹⁹ First, independent contractors are not eligible for union representation. Most sex workers on the legal side of the industry are paid as independent contractors – many rightfully so based on the Internal Revenue Service’s (IRS) 20-Factor Test.

The second condition of the National Labor Relations Act that most sex workers cannot meet in their unionization efforts is deceptively simple, but frequently overlooked – you cannot unionize if you are not someone’s employee. This rules ineligible sex workers in the illegal side of the industry or those who work on an under-the-table cash basis.

While still small in scope, the unionization of sex workers is considered a movement in its infancy. Where unionization will go is dependent upon the power of traditional unions, such as SEIU, to make the legal regulatory changes necessary to legitimize sex work, specifically, prostitution. It will take a social and cultural movement to change the public’s view of sex work from being shameful, denigrating and rendered by “sex-trafficked victims” to that which “has

social worth as a form of employment that is seen as comparable to other forms of labour and paid employment.”

While agreement is rare among sex workers regarding the unionization of their industry – all agree that they are all deserving of workers’ rights, “they have a right to be prostitutes.” They do not want to be seen as victims, but as a legitimate workforce. This thought is echoed by Maxine Doogan, founder of the Erotic Service Providers’ Union, “The victim status doesn’t square with my labor rights to associate freely and be self-determined.”²⁰

The majority of sex workers are more concerned with achieving the employment rights that others legally enjoy. Sex workers don’t want to be portrayed as victims, but as professionals in an industry that garners an estimated \$30 to \$50 billion in yearly sales globally.²¹ Achieving recognition as a legitimate career is more important than union support. To date, unions have not significantly achieved that goal for its members.

For most sex workers, the question is not whether they should unionize, but how do they get recognition as a true profession and the protection to pursue their career. St. James Infirmary in San Francisco ran a campaign in 2011 called, “Someone You Know is a Sex Worker.” Goal three of the campaign was “to promote our position that sex work is real work, and that sex workers deserve labor rights.”²² C.O.Y.O.T.E LA agrees. According to their website, “Prostitutes wish to be allowed to run their businesses without interference from the government – as other service professionals do. Laws which already apply to other businesses could be applied to our industry, without passage of new laws requiring more government bureaucracy.”²³

Alan Young, a law school professor, is an advocate of a constitutional challenge to the laws surrounding the sex industry in Canada. While prostitution itself is not blatantly illegal, the means to support it are, such as operating a safe, controlled environment like a brothel. “Young

said these laws prevent prostitutes from screening and negotiating with potential clients, working in safe environments or obtaining support services from bodyguards or drivers.”²⁴

Yet for all these risks, the advantages of entering the sex industry are many. Work as an escort or call girl is especially lucrative. According to Veronica Monet, a former prostitute, working as an escort is a second career for women who are “frustrated with their job situation. They want to be an entrepreneur, start their own company.”²⁵ Melissa Gira Grant concurs, “If you look at what a lawyer makes (in a particular city), that’s what an escort makes.” The downside is that this career is short-lived, although slightly more so than professional football players. “If you really, really take care of yourself, you might make it to age 40,” said Norma Hotaling, founder of the Sage Project.

Susan Dewey in *Neon Wasteland: On Love, Motherhood, and Sex Work in a Rust Belt Town*, describes those working under “independent contractor” status, such as the exotic dancers profiled in her book part of, “theoretically the perfect hypercapitalist model.”²⁶ The dancers “embrace the discourse of free-market capitalism to describe their exchanges with clients.”

Ultimately, seeking unionization for sex workers puts the cart before the horse. All sex work must be legalized and an employee-employer relationship established before the National Labor Relations Board will consider union certification. Sex workers have a long way to go before that level of consensus and cooperation are realized. Once cooperation is achieved, the discourse needs to identify if unionization is the best course of action to achieve the goals of the sex workers. The power of the famed courtesans of Venice, like the “Honest Courtesan,” did not lie in unionization; the Venetian courtesans found their power through becoming highly educated, independent, smart businesswomen who approached the sale of their services similar to the strategies of a modern-day capitalist.²⁷ The fame and influence accorded the Venetian

courtesans positioned them as a rarity among their counterparts, yet their approach remains viable for addressing the legal, social and employment issues facing sex workers today.

While recruiting sex workers as potential union members is appealing to union leadership, what sex workers really want and need is the legal protection that other “employees” receive. This can be achieved without the aid, influence, or distraction of union organizing. Even with the prospect of a short career, with careful planning, investment and the legalization or decriminalization of sex work in all forms, sex workers would be able to achieve a new chapter in *The History of Work in America* – equal protection under the law to pursue their chosen profession. Annie Sprenkle, Ph.D., captures this sentiment in entry 40 in *Forty Reasons Why Whores are My Heroes*, “Whores are rebelling against the absurd, patriarchal, sex-negative laws against their profession and are fighting for the legal right to receive financial compensation for their valuable work.”²⁸

¹ *Pretty Woman*, Video, directed by Garry Marshall (1990; Burbank, CA: Touchstone Pictures).

² Procon.org, “Historical Timeline – Prostitution,”
<http://prostitution.procon.org/view.resource.php?resourceID=000117>

³ *OED Online*, s.v. “sex worker,” September 2011,
<http://www.oed.com.ezaccess.libraries.psu.edu/viewdictionaryentry/Entry/176989>.

⁴ Melissa Hope Ditmore, *Prostitution and Sex Work* (Santa Barbara: Greenwood, 2010),
<http://pensu.eblib.com.ezaccess.libraries.psu.edu/>.

⁵ Gregor Gall, “Sex worker unionisation: an exploratory study of emerging collective organization,” *Industrial Relations Journal* 38, no. 1: 70-88 (2007), <http://web.ebscohost.com.ezaccess.libraries.psu.edu/>.

⁶ Michael Kendall, “The Oldest Profession Organizes: PUMA Sponsors More Than Halloween Parties,” *The Harvard Crimson*, November 16, 1977, <http://www.thecrimson.com/article/1977/11/16/the-oldest-profession-organizes-pthe-second/>

⁷ Michael Kendall, “The Oldest Profession Organizes: PUMA Sponsors More Than Halloween Parties,” *The Harvard Crimson*, November 16, 1977, <http://www.thecrimson.com/article/1977/11/16/the-oldest-profession-organizes-pthe-second/>.

⁸ Sarah Chun, “Uncommon Alliance: Finding Empowerment for Exotic Dancers through Labor Unions, An” *Hastings Women’s Law Journal*, 10 235-252 (1999); <http://heinonline.org.ezaccess.libraries.psu.edu/>.

⁹ Gregor Gall, “Sex worker unionisation: an exploratory study of emerging collective organization,” *Industrial Relations Journal*, 38, no. 1: 70-88 (2007). *Business Source Premier*, EBSCOhost (accessed October 12, 2011).

¹⁰ Jackie West, “Prostitution: Collectives and the Politics of Regulation. *Gender, Work & Organization*,” 7: 106–118 (2000), <http://onlinelibrary.wiley.com.ezaccess.libraries.psu.edu>.

¹¹ Jackie West, “Prostitution: Collectives and the Politics of Regulation. *Gender, Work & Organization*,” 7: 106–118 (2000), <http://onlinelibrary.wiley.com.ezaccess.libraries.psu.edu>.

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- ¹⁹ <https://www.nlrb.gov/national-labor-relations-act>
- ²⁰ Maxine Doogan, "Trafficking law targets consensual sex workers," *Industrial Worker (Philadelphia)*, 9, March 1, 2008, <http://search.proquest.com.ezaccess.libraries.psu.edu>.
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- ²³ "What We Want," About COYOTE Los Angeles, <http://www.freedomusa.org/coyotela/coyotela.html>.
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