

Is Cyberprostitution Prostitution?

New Paradigm, Old Crime

Rapidly tracing a trajectory remarkably similar to that more slowly traced two decades later by the term “cyberspace,”¹ Michel Foucault’s conceptual unfolding of the term “heterotopia” shifted in the space of a year from the *métier* of language to that of space. In the 1966 introduction to *The Order of Things*, “heterotopia” functions first and foremost as a disruptive force in and of *language*:

Heterotopias are disturbing, probably because they secretly undermine language, because they make it impossible to name this and that, because they shatter or tangle common names, because they destroy “syntax” in advance, and not only the syntax with which we construct sentences, but also that less apparent syntax which causes words and things (next to and opposite each other) to “hold together.” ...[Heterotopia] desiccate speech, stop words in their tracks, contest the very possibility of grammar at its source; they dissolve our myths and sterilize the lyricism of our sentences. (xviii)

¹ The word “cyberspace” first appeared the work of science fiction writing William Gibson, and was widely popularized with the 1984 publication of *Neuromancer*. Reflecting back on his invention of the neologism in Mark Neale’s 2000 documentary *No Maps for These Territories*, Gibson commented:

All I knew about the word “cyberspace” when I coined it, was that it seemed like an effective buzzword. It seemed evocative and essentially meaningless. It was suggestive of something, but had no real semantic meaning, even for me, as I saw it emerge on the page.

But as the title of the documentary indicates, “cyberspace” had by 2000 migrated from the realm of the literary to the “real world,” where it functioned and continues to function as spatial metaphor for the Internet.

But in keeping with Stuart Elden's characterization of Foucault as a "spatial historian,"² in a March 1967 lecture³, Foucault fleshes out the heterotopia as a disruptive force—locus of "the anxiety of our era," no less—in and of *space*:

like counter-sites, [the heterotopia is] a kind of effectively enacted utopia in which the real sites, all the other real sites that can be found within the culture, are simultaneously represented, contested, and inverted. Places of this kind are outside of all places, even though it may be possible to indicate their location in reality. (24)

So fully topological has the heterotopia by 1967 become for Foucault that he offers up the nineteenth-century brothel as one "extreme" example of heterotopia, as "a space of illusion that exposes every real space, all the sites inside of which human life is partitioned, as still more illusory" (27).⁴

² Political philosopher Stuart Elden's 2001 *Mapping the Present* looks to Foucault for a model whereby one might "spatialize history, to inject an awareness of space into all historical studies, to critically examine the power relations at play in the way space is effected and effects" (7).

³ Published in 1984 by the French journal *Architecture/Mouvement/Continuité* as "Des Espace Autres."

⁴ Foucault continues, "Or else, on the contrary, their role is to create a space that is other, another real space, as perfect, as meticulous, as well arranged as ours is messy, ill constructed, and jumbled. This latter type would be the heterotopia, not of illusion, but of compensation, and I wonder if certain colonies have not functioned somewhat in this manner" (27). Although beyond the scope of this project, one could make a compelling case for "cybersextrafficking," in its catalyzing discourses of neocolonialist exoticization, as a "recombinant high-tech form" (Lee and Wong *xviii*) of the compensatory-colonial heterotopia. (One could trace this genealogy at least as far back as the 1719 forced marriage of 180 female ex-convicts plucked from the Saint-Martin jail to 180 male ex-convicts for embarkation to the newly-constructed city of New Orleans, Louisiana. One could also make a compelling case for cyberprostitution as not only illusory but also compensatory heterotopia to the extent that, as Mehta and Darier observe, "computer-mediated sexual interaction is the ultimate form of 'safe sex,' assuming one is careful to protect computer equipment from viruses" (113).

Many have already and astutely seized upon cyberspace as heterotopia;⁵ many have already and astutely seized upon queer space as heterotopia.⁶ As we have just seen in the above-cited passage, Foucault himself seized upon the nineteenth-century brothel as heterotopia. Taking this cue, Philip Howell has seized upon “regulated brothels and tolerated zones of prostitution” as heterotopia (305). In this paper, I wish to seize upon *cyberprostitution* as heterotopia, as a “recombinant high-tech form”⁷ of the heterotopia captured for Foucault by the nineteenth century brothel. So doing, I seek to emphasize a certain continuity between an alternate, queer genealogy of prostitution traceable through Foucault’s *oeuvre* and the unfolding of an ostensibly “new” phenomenon more and more commonly referred to as “cyberprostitution.” A predominantly *spatial* genealogy, my preceding chapter, “On the Other Side of Bars,” resuscitated and relied heavily for its articulation of this alternate, queer genealogy of prostitution upon such concrete conceptual containers as the leprosarium, the Ship of Fools, the streets of Paris, the Salpêtrière and Bicêtre, the evolving workhouse/hospital/prison complex, and perhaps most heavily upon the bourgeois nuclear family as a spatial formation. Positing *cyberprostitution* as heterotopia, I wish to situate this presently developing discursive ensemble within a longstanding trajectory of concrete conceptual containers. As we shall soon see, few consider *cyberprostitution* spatially; rather, it—whatever “it” is, really—has been apprehended first and foremost as an act, a form of conduct, a relation, an image. In contrast, I contend that the failure to topologically apprehend *cyberprostitution* eclipses the continuity of an alternate, queer genealogy of prostitution and sex work as it

⁵ cf. Wendy Chun and Sherman Young.

⁶ cf. Shaka McGlotten.

⁷ I borrow here from Rachel C. Lee and Sau-ling Cynthia Wong (*xviii*), who use the phrase to describe *cyberporn*.

extends into cyberspace. And in missing the rise of what one might call “the virtual red light district” from the very ashes of former “real” Red Light districts, one misses entirely that which Foucault terms “the hidden presence of the sacred” (“OOS” 23) in this ensemble of “very different things in the world gathered together, characterized, analyzed, and treated as” (“D&T” 115) cyberprostitution.

About much more than “bare naked ladies,” current turf wars⁸ between sex workers and the State over cyberprostitution are also about

oppositions that we regard as simple givens: for example between private and public space, between family space and social space, between cultural space and useful space, between the space of leisure and that of work. All these are still nurtured by the hidden presence of the sacred. (“OOS” 23)

Insofar as cyberspace is “new,” it threatens at very least to destabilize these “simple givens.” As such, turf wars waged within the space of cyberprostitution are as much about on the one hand “taming”⁹ the uncharted territory of cyberprostitution to reflect these “simple givens”— thereby preserving the axial symmetry along which (apropos of *History of Madness*) the sacred and the profane have taken up residence in our society as reason and unreason— as they are on the other about undermining them, in the interest of

⁸ The reader will recall the finish of *Discipline and Punish*, wherein Foucault enjoins:

In this central and centralized humanity, the effect and instrument of complex power relations, bodies and forces subjected by multiple mechanisms of “incarceration,” objects for discourses that are in themselves elements for this strategy, we must hear the distant roar of battle. (308)

⁹ Vis-à-vis the proper training of cyberprostitutes and their clientele to voluntarily submit to the authority of reason.

more fully desanctifying the spatial.¹⁰ Positing cyberprostitution as heterotopia, I hope to cast in relief the cyber-continuation, if you will, of what I have previously characterized (again, apropos of *History of Madness*) as the transmogrification of the medieval religious classificatory regime of the sacred and the profane, whereby reason consolidated its authority; this, in contrast with “the still undivided experience of the division itself” constitutive of the Renaissance, the Middle Ages, and even Platonic culture (*HM* xxvii). I seek also to reveal the arch contingency and thus vulnerability of the alleged continuity between prostitution and cyberprostitution. So doing, I seek to recast what may at first blush look like domination as in fact the congelation of an intricate network of power relations whose tendrils and tentacles reach into the very core of feminist and queer theory.¹¹

Of Genealogy and E-Governmentality

If Stuart Elden is correct in labeling Foucault first and foremost a spatial historian, and *Discipline and Punish* a history of the modern soul, then any “mapping of the present” (152) of prostitution that to any degree avails itself of Foucault’s *oeuvre* must

¹⁰For an incisive reading of Foucault’s example of “the real scandal of Galileo’s work” as a radical desanctification of “the sacred space of the Middle Ages” of profound and enduring political significance, see Thomas L. Dumm’s *Michel Foucault and the Politics of Freedom* (37-8).

¹¹ Foucault distinguishes between power and domination like so:

Relations of power—mutual interaction between individuals-- are fluid and variable; relations of domination—operating at a strategic level—congeal relations of power...When an individual or a social group manages to block a field of relations of power, to render them impassive and invariable and to prevent all reversibility of movement...we are facing what can be called a state of domination. (“Ethic” 12, 3)

needs take into consideration the changes to this conceptual terrain effected with the advent of cyberspace. For as Donald Morton observes, cyberspace is a space wherein

not only...micropolitical uses (the enhancement of erotic consciousness) but also...macro- and geopolitical applications (the salving of Western powers' bad consciences)...converge on the political plane: virtual reality situates both bomber pilots [U.S. Dept. of Defense trainees] and cybersex participants in an ahistorical space supposedly disconnected from actuality, putting them beyond social responsibility. ("Birth" 376)

As such, the thorough going interpenetration of cyberspace and what Mehta and Darier have termed "electronic governmentality" increasingly renders "netizens"— not least among them so-called "cyberprostitutes" and their clients— potentially and perennially subject to disciplinary measures enacted within any number of interconnected "mini-panopticons" (115). On the one hand "new" but also at least as old as Lorient,¹² "cyberprostitution" is rapidly proving to be yet another self-constituting and self-legitimizing "technology of power" by means of which governmentality both creates and co-opts what Annette Sawatzki terms "the productive class" under capitalism.¹³

¹² Foucault cites the Classical Age case of one "woman called Lorient...imprisoned because 'the unfortunate Chartier has almost abandoned his wife, his family, and his duties to give himself up to this unsavoury character, who had already cost him the greater part of his worldly goods'" (*HM* 606).

¹³ According to Sawatzki, "Foucault shows how the division of the 'plebs' into a 'productive' and a 'dangerous' class is produced and how it serves to moralize the 'productive' class and integrate it into capitalist governmentality." And as Thomas Lemke observes, "the analysis of governmentality does not only take into account "breaks" or "gaps" between program and technology but also inside each of them – viewing them not as signs of their failure but as the very condition of their existence" (*FGC* 9-10).

For those of us who thought we knew the ins and outs of prostitution—what it is, who does it, and how they do it—cyberprostitution is rapidly proving to be a proverbial monkey wrench in the works. Given that the power relations driving the inscription of cyberprostitution into the annals of prostitution are frequently also intimately invested in the sexual apartheid and stigmatization historically and genealogically driving heteronormativity, subjecting cyberprostitution to scrutiny is a queer project. However, apropos of Foucault’s articulation of the power/knowledge relation,¹⁴ inasmuch as the problematization of cyberprostitution destabilizes the knowledge about prostitution generated by what University of Toledo Professor of Social Work Celia Williamson terms the feminist “fight over prostitution,” it is also a feminist project. Moreover, cyberprostitution provides an opportunity for critical reflection on the changing role of the State in the realm of sexual politics by both queer and feminist theorists; for as we shall shortly see, in its fumbling attempts to grapple with cyberprostitution, the State reveals itself, on occasion, to be “nothing more than the mobile effect of a regime of multiple governmentality” (Foucault “La phobie” 21, translated in/by Lemke, “FGC” 11).

In the interests of revealing cyberprostitution as “new” knowledge born of the “old” and familiar constellation of power relations Foucault elaborates in *Discipline and Punish* as “delinquency,” I begin with an overview of the discursive retainer the American legal system is at this very moment paying in dogged solicitation of the complicity of “the delinquent milieu” of our era, in its desperate need of an “illicit fiscal agent operating over [the] illegal practices” on which our own “self-interested Puritanism”—the spatial formation of the compulsorily heterosexual bourgeois family—

¹⁴ Foucault asserts that, “The exercise of power perpetually creates knowledge and, conversely, knowledge constantly induces effects of power” (*P/K* 52).

depends for its very survival.¹⁵ So doing, I seek to establish that where an alternate, queer genealogy of The Prostitute may be traced to an intensified interpellation of a variety of individuals (including The Madman and The Homosexual) produced at the *fin-de-siècle* intersection of (among others) a medical apparatus (the ghost of venereal disease past) and a juridical apparatus (The Great Confinement), a similar genealogy of The Cyberprostitute may one day be similarly traceable to the intensified interpellation produced at the intersection of a number of apparatuses (political, economic, corporate) essential to the successful consolidation of governmentality's transition into what Mehta and Darier term "electronic governmentality," and what Harvey L. Molloy calls "cybergovernmentality," whereby

[A] power whose task is to take charge of life needs continuous regulatory and corrective mechanisms. . . . Such a power has to qualify, measure, appraise, and hierarchize, rather than display itself in its murderous splendor; it does not have to draw the line that separates the enemies of the sovereign from his obedient

¹⁵ Recent examples of the codependence of delinquency and conservative familialism abound. Consider those charged and/or convicted of solicitation: Gov. Eliot Spitzer (D) (who as attorney general prosecuted cases involving prostitution rings and sex tourism, for which *Time* magazine named him "Crusader of the Year"), Sen. David Bruce Vitter (R), Rep. Richard Curtis (R), Sen. Larry Craig (R), Bob Allen (R), Rep. Robert Bauman (R), Conservative pastors Ted Haggard and Jimmy Swaggart, former state legislator (R) and self-proclaimed "morality activist" Coy C. Privette, former Deputy Secretary of State (and director of U.S. Foreign Assistance and administrator of the U.S. Agency for International Development) Randall Tobias (R) (Tobias advocated vehemently for the Anti-Prostitution Pledge—precondition for the receipt of anti-AIDS monies— that has resulted in the funding privation of many human rights organizations around the world), top Labor Department advisor to Elizabeth Dole, Paul R. Balach, Conservative Christian businessman Richard A. Dasen, Sr. (also charged with rape), Conservative cantor Joel Gordon and his wife (for running a Chicago prostitution ring), Rep. Ken Calvert (R), Rep. Allan Howe (D), Congressman Don Sherwood (R), GOP lobbyist Craig Spence. Consider also the Nebraska Republicans (among them Omaha's Franklin Community Credit Union head Lawrence King, who sang the national anthem at George H. W. Bush's 1988 nominating convention in New Orleans) involved in a sex scandal that has yet to be resolved, the Barney Frank scandal (Frank allegedly allowed male escort Steve Gobie to run an escort service out of his apartment), the Jeff Gannon (AKA Jim Gukert) scandal, and the story reported in *The Irish Times* that Newt Gingrich allegedly resigned because *Hustler* has credit card receipts from sex work transactions (Lafferty).

subjects; . . . it effects distributions around the norm. . . . [T]he law operates more and more as a norm, and. . . the juridical institution is increasingly incorporated into a continuum of apparatuses (medical, administrative, and so on) whose functions are for the most part regulatory. . . power produces; it produces reality; it produces domains of objects and rituals of truth. (*D&P* 144, 194)¹⁶

In other words, I seek to establish that our courts are not merely adjudicating conflicts over cyberprostitution; the courts are *creating* cyberprostitution. We are presently witnessing, in the courts' spectacular wrestling match with cyberprostitution, none other than the simultaneous unscaffolding (or, if you will, stripping) and virtualization of the prostitute body. On drawing attention to this discursive fashion show, I then shift my focus to the objects this discourse seeks to constitute: the so-called "cyberprostitute" and her clientele. Wielding Walter Benjamin's articulation of the "author-producer," I explore Foucault's most important but often overlooked precept—"where there is power, there is resistance"—as it resonates with the incipient "cybersex" worker rights movement's own relationship to the Information and Communications Technology (hereafter abbreviated ICT) the courts deem requisite to cyberprostitution.

¹⁶ Moreover, as Mitchell Dean emphasizes, "the final characteristic of 'governmentality' stressed by Foucault ['the governmentalization of the state'] is the long process by which the judicial and administrative apparatuses of the state come to incorporate the disparate arenas of rule concerned with this government of the population (*Gov.* 20).

Cyber No-Bodies Under the Law

Ithiel de Sola Pool, in his 1983 *Technologies of Freedom*, writes:

Each new advance in the technology of communication disturbs a status quo. It meets resistance from those whose dominance it threatens, but if useful, it begins to be adopted. Initially, because it is new and a full scientific mastery of the options is not yet at hand, the invention comes into use in a rather clumsy form. Technical laymen, such as judges, perceive the new technology in that early, clumsy form, which then becomes their image of its nature, possibilities, and use. This perception is an incubus on later understanding.

The courts and regulatory agencies in the American system (or other authorities elsewhere) enter as arbiters of the conflicts among entrepreneurs, interest groups, and political organizations battling for control of the new technology. The arbiters, applying familiar analogies from the past to their lay image of the new technologies, create a partly old, partly new structure of rights and obligations. The telegraph was analogized to railroads, the telephone to the telegraph, and cable television to broadcasting.

(7-10)

In this section, I examine the way in which cyberprostitution—arguably, a new advance in the technology of communication *par excellence*—disturbs the status quo heretofore considered the conceptual terrain of prostitution under the law. First, I map out

the “early, clumsy form” of cyberprostitution today—the practices and possibilities that threaten to serve as “an incubus on later understanding” of this new technology. Next, I explore the way in which such technical laymen [sic] as judges (and lawyers) have begun to apply familiar analogies from the past in their attempts to assimilate cyberprostitution into some semblance of a “partly old, partly new structure of rights and obligations.” Finally, I suggest that the frictional interface produced by the analogizing of prostitution to today’s lay image of cyberprostitution provides an important and likely short-lived window of opportunity for an honest moment of reckoning with a naked emperor previously and pervasively dressed up and trotted out as “Prostitution” by our courts and regulatory agencies. In other words, I am as much interested in the way in which the lived and conceptual terrain of prostitution is expanding to include cyberprostitution as I am in the way cyberprostitution—and, more specifically, the “new advance in the technology of communication” it represents— is by virtue of this expansion changing the very lay of the land.

Cyberprostitution: Today and Tomorrow

Although cases involving what the Courts term “cyberprostitution”— such as Tampa’s “Operation Flea Collar”¹⁷— have begun to appear,¹⁸ because there has to date

¹⁷ An attempt to bust an online escort service, “Operation Flea Collar” charges were dropped in 2003 due to delays attendant upon compromised confidentiality; its target— bigdoggie.net—continues to provide e-brothel services.

¹⁸ In Florida, Nebraska, Louisiana, New Jersey, and California. Craig’s List stings have been reported in Philadelphia (September 2006), San Francisco (October 2006), and Seattle (November 2006). More recently, Nassau County, NY, and Cook County, IL, have made dozens of arrests via Craig’s List stings.

been relatively little litigation concerning the full panoply of practices and possibilities associated with the term, consensus on the legal meaning of “cyberprostitution” has yet to be reached; similarly, consensus on the lay meaning of the term has yet to be reached. University of Virginia law student Jessica R. Blaemire, in a yet-unpublished research project titled “A New Face on an Old Profession: A Look at Prostitution on the Internet,” understands cyberprostitution as that activity that commonly transpires on such live sex websites as PrivateLive.com and Flirt4Free.com, wherein clients pay performers visible to them via live video streaming technology by the minute¹⁹ to masturbate and/or engage in various other sexual acts with other performers. Permitted to “chat” for free, clients must submit payment via credit card in order to enter private chat rooms in which only the paying client/s can see and direct²⁰ the performer/s via live web cam. David Cardiff, in his note titled, “Virtual Prostitution: New Technologies and the World’s Oldest Profession,” similarly delimits the practices and possibilities of cyberprostitution—which he alternately dubs “virtual prostitution”—to video on demand (VOD).²¹

However, *Slate.com*’s Scott Shuger uses “cyberprostitution”—to which he alternately refers as “e-prostitution” and “cyberhooking”—to characterize the means by which such Webpreneurs as Los Angeles-based “Alex” of Cityvibes manage multiple-city-market escort services— including review sites and bulletin boards-- comprised of hundreds of women (charging as much as \$5800/day for various sexual and/or nonsexual

¹⁹ \$5.99/minute on *Flirt4Free.com*.

²⁰ “The most common thing,” says one Webmistress, “is for the girls to be asked to wave so that the guys know it’s really live” (Russell 1).

²¹ Ron Russell, in a 1998 article titled “sexbucks.com: On the Internet, Where Porn Means Mega-Profits, L.A.’s Cybermistresses are in the Vanguard of a Boom Industry,” declared VOD “the hottest ticket item among the pornnicopia of online products available.”

services) in exchange for a monthly listing fee.²² Commenting upon the recent flurry of well-publicized Craig's List crackdowns, veteran sex worker "Jennifer" suggests that those advertising on the "Erotic Services" section of this "centralized network of online urban communities"²³ are similarly "being promoted by pimps — or an agent" (Read).²⁴ As Auburn, Mass., Police Detective James Lyman observes, "If you're traveling, you just make it part of the itinerary. It's just part of your trip. It's almost like going to Expedia (the travel site). You click on that date and you reserve that time" (Semon). Shifting the semantics while retaining an emphasis upon cyberprostitution as an *online* means to an *offline* end (rather than an end in and of itself) in their recent study titled, "Regulating the Oldest Profession in the New Economy: A Study of Online and Cyberprostitution in the Netherlands, the United States, China, and Hong Kong," Michael Chan, Catherine Leung, Chloe Ng, and Cathy Chow distinguish between "online prostitution," or "e-brothels"— "an extension of prostitution...in the sense that the Internet only fulfils a promotion/marketing role like a pimp"— and "cyberprostitution," which they define as "paid cybersex." Ranging from Internet Relay Chat (IRC) to 3G mobile phone technology²⁵ to the live sex website transactions Blaemire and Cardiff detail, for Chan et

²² Danni Ashe, a.k.a. "The Billion Download Woman" (<http://www.danni.com>), is another such Webpreneur, overseeing a "stable" of more than one hundred women and reportedly grossing more than \$300,000 in monthly revenue (Russell). In March of 2008, New York Governor Eliot Spitzer confessed to having availed himself of a similar international, multiple-city-market online escort service: The Emperor's Club V.I.P.

²³ Launched in San Francisco in 1995 by computer programmer Craig Newmark, Craig's List has since gone global, with websites in over 450 cities.

²⁴ In the same article, however, San Ramon, California, police Chief Scott Holder avers "the majority of females arrested [on Craig's List] work without a pimp" (Read). In a much-publicized twist on the pimp analogy, Cook County Illinois Sheriff Tom Dart recently (March 2009) announced plans to launch a private civil suit (bypassing the Illinois Attorney General's office) against Craigslist itself for its "Erotic Services" section, arguing that "Craigslist is the single largest source of prostitution in the nation" (Newmark; Walberg). In the wake of this announcement, headlines protesting, "Craig's List is Not a Pimp" and/or questioning the analogy's validity peppered the blogosphere.

²⁵ 3G provides high speed connections to cellular phones, facilitating video conference and other applications requiring broadband connectivity to the Internet-- i.e., callers can see each other while talking.

al., “cyberprostitution” differs from “online prostitution,” in that in the case of “cyberprostitution,” the Internet “serves both as a pimp *and* a facilitator” of sexual services (emphasis mine). Chan et al. further specify that, although the sexual activities for them characteristic of cyberprostitution occur in real-time, “no physical penetration takes place.”

Echoing Foucault’s 1967 observation that “unlike time, it would seem, which was detached from the sacred in the nineteenth century...contemporary space is perhaps still not entirely desanctified” (“OOS” 23), Chan et al.’s definition of cyberprostitution as “paid cybersex” that transpires in real-time but does not involve physical penetration hinges upon a particular definition of cybersex as presumably less-than-sacred interaction transpiring in “real” time but not “real” space. Such a definition of “cyberprostitution” and its requisite “paid cybersex” thus leaves intact a certain spatial sanctity—and with it, “the hidden presence of the sacred” and those “oppositions that we regard as simple givens: for example between private and public space, between family space and social space, between cultural space and useful space, between the space of leisure and that of work” that this hidden presence nurtures (“OOS” 23). However, just as consensus has yet to be reached on the definition of cyberprostitution, consensus on the definition of cybersex has not been reached, either.²⁶ While lawyer Matthew Green, in a 2002 comment titled “Sex on the Internet: A Legal Click or an Illicit Trick?” seemingly concurs with Blaemire, Cardiff, Chan et al. that “cybersex” is essentially a more-or-less

²⁶ In the conclusion to her 1992 essay, “Bodies-Cities,” Elizabeth Grosz suggests that the information revolution has begun to effect “the reduction of space to time” (251). Whether such a sea change will ultimately reduce “sex” to the fully desanctified realm of the temporal, rather than the “not entirely desanctified” realm of the spatial, remains to be seen—and arguably has much to do with the epistemological tensions abundantly evident struggles to define “cyberprostitution” and, perforce, “cybersex.”

orchestrated act of real-time voyeurism sans spatial proximity,²⁷ the recent advent and accompanying popularity of such sexual instruments as “The Simulator,” “Thrillhammer,” “SeXBox,” and “The Toy”²⁸—at the forefront of a wave of new technology alternately termed “teledildonics”²⁹ and/or “cyberdildonics”—cybersex has increasingly been understood to encompass if not require some sort of genital stimulation (possibly including physical penetration) of one or more parties involved. In a particularly prescient 1996 comment titled “Learning to Love ‘The Ultimate Peripheral’—Virtual Vices Like ‘Cyberprostitution’ Suggest a New Paradigm to Regulate Online Expression,” attorney D. James Nahikian entertains the notion of the future possibility of such interactive “wired” cybersex by positing the hypothetical existence of “Rebecca,” a horribly disfigured burn victim and her Internet-compatible Sybian II “masturbation machine.”³⁰ Much like the imaginary Sybian II, the Simulator, Thrillhammer, the Toy, and Nonpolynomial Labs’ forthcoming SeXBox permit not only real-time visual and aural interaction between/among one or more parties, but also real-space (albeit long-distance) genital manipulation. While the Simulator enables anyone in possession of the requisite hardware (transmitter, vibrator, and receiver) and downloadable application from Simulator.com to give and/or receive genital stimulation

²⁷ Green addresses not only the legal status of the Web consumer of VOD cybersex, but also the activity of the performers, arguing that both merit those First Amendment protections accorded “nonobscene” porn stars in California’s 1988 *People v. Freeman*. Green does, however, acknowledge questions of proximity and tactility posed by the future of Internet technology, making reference to Arizona’s 1990 *State v. Taylor*, wherein “semi-private performance” behind a glass window in front of clients “counted” as prostitution.

²⁸ Other cybersex “toys” have met with less success; for example, the “Cyber Sex Suit” vanished from markets in the wake of its manufacturers’ inability to assure the Federal Communications Commission that it would not induce heart failure (Grossman 2).

²⁹ First coined by Howard Rheingold in his 1991 book *Virtual Reality: The Revolutionary Technology of Computer-Generated Artificial Worlds*. Thrillhammer.com defines teledildonics as: “Sex in a computer simulated virtual reality, especially computer-mediated sexual interaction between the presences of two humans.”

³⁰ Other early imaginary precursors to Sybian II include the infamous sex machine of *Barbarella* (1966), the *Sleeper* (1973) orgasmatron booth, and of course the famous original Sybian occasionally featured on The Howard Stern Show.

(including physical penetration, should s/he be in possession of the vibrator attachment) to anyone in possession of his/her individually-assigned Sinulate name, the Thrillhammer recliner allows anyone with access to the Internet to use the chair's built-in "gratification device" to stimulate user genitals via remote control, and while the SeXBox is an open-source platform (a modified XBox to be used in conjunction with controllers' SecondLife³¹ avatars), the Toy offers 7,200 different modes of vibration vis-à-vis an antennaed capsule, when paired with a Bluetooth-enabled cell phone tuned in to a given Toy's frequency. Further pushing today's outer limits of cybersex, the Simulator (in contrast with the Toy, which to date permits only unidirectional genital manipulation) offers an attachment called the "Interactive Fleshlight," which, as wired.com columnist Regina Lynn describes in "Ins and Outs of Teledildonics":

...is a standard, sleeve-style vibrator for men, with a twist: It's also a transmitter. It measures the speed and force of each thrust and communicates those metrics to the software, which translates them into vibration and pulse on the other end. In other words, a man can be thrusting in Cleveland while a woman is penetrated in Seattle, and the cybersex experience gets one step closer to the holodeck.

In this same vein, the March 2005 merger of the HighJoy.com Online Dating Community and Doc Johnson Adult Novelties permitted subscribers web-interactive use of the iVibe Rabbit and the iVibe Controller with Egg such that "consenting adults can be intimate from anywhere in the world," and "the concept of virtual sex becomes a reality."

³¹ Linden Lab's highly popular virtual Internet world hosting over fifteen million registered users.

Haunted by the Ghosts of Prostitution Past

Arguably, the closer cybersex gets to the holodeck and virtual sex becomes a reality-- the more this “new advance in the technology of communication” sloughs off its “early, clumsy form”—the more successfully cyberprostitution eludes application of familiar analogies from the past by such arbiters as judges and lawyers in their dogged attempts to erect a “partly old, partly new structure of rights and obligations” around it (whatever “it” is). Increasingly, the real practices and possibilities of cyberprostitution outpace such attempts, and in so doing expose and often stymie the motivating impulses that gave rise to and sustain the conceptual terrain of (non-cyber) prostitution under the Law. Before examining two familiar analogies from the past pursuant to recent attempts to understand cyberprostitution in light of prostitution, a cursory look at the definition of prostitution under the Law today—the restant ghosts of prostitution past—is in order. I have chosen Georgia and New York state law for this purpose. Also to this end, I examine the Model Penal Code on prostitution.³²

On the Books

Code Section 16-6-9 of The Official Code of Georgia under Title 16, Crimes and Offenses, defines “prostitution” as a misdemeanor, whereby:

³² New York state law was recodified in light of the Model Penal Code in 1967; Georgia’s criminal code was similarly recodified in 1969.

A person commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including but not limited to sexual intercourse or sodomy, for money or other items of value.

Alternately, *McKinney's Consolidated Laws of New York Book 39* Penal Law Section 230.00 similarly classifies prostitution as a misdemeanor, whereby:

A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

Finally, *Volume 10A of the Uniform Laws Annotated Model Penal Code* Article 251, under "Public Indecency," classifies prostitution as a petty misdemeanor, whereby:

A person is guilty of prostitution, a petty misdemeanor, if he or she:

- (a) is an inmate of a house of prostitution or otherwise engages in sexual activity as a business; or
- (b) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

The Pimping and Pandering Analogy

Much like Shuger, Chan et al., many legal attempts—and in fact almost all actual cases involving commercial cybersex-- to analogize cyberprostitution to prostitution have to date focused on the comparison/contrast between “online prostitution”—the management of online escort advertising services—and the traditional pimp/madam stable/brothel arrangement, apropos of Section (a) of the *Model Penal Code Volume 10A*’s Section 251.2, “Prostitution and Related Offenses”:

(2) Promoting Prostitution. A person who knowingly promotes prostitution of another commits a misdemeanor or felony as provided in Subsection (3). The following acts, shall, without limitation of the foregoing, constitute promoting prostitution:

- (a) owning, controlling, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or prostitution business; or
- (b) procuring an inmate for a house of prostitution or a place in a house of prostitution for one who would be an inmate; or
- (c) encouraging, inducing, or otherwise purposely causing another to become or remain a prostitute; or
- (d) soliciting a person to patronize a prostitute; or
- (e) procuring a prostitute for a patron; or

- (f) transporting a person into or within this state with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or
- (g) leasing or otherwise permitting a place controlled by the actors, alone or in association with others, to be regularly used for prostitution or the promotion of prostitution, or failure to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means; or
- (h) soliciting, receiving, or agreeing to receive any benefit for doing or agreeing to do anything forbidden by this subsection

And despite the fact that the *Model Penal Code's* extensive definition of prostitution's "related offenses" is so broad as to permit the legal interception of nearly any and every activity or intention peripheral to prostitution, the analogization of cyberprostitution to pimping/pandering skirts the issue of determining whether or not the traditional (pre-internet) definition of "an inmate of a house of prostitution," or more generally-speaking, "prostitute," can be extrapolated to s/he who posts advertisements on, say, Webpreneurs "Alex" and Danni Ashe's websites as precursor to "sexual activity as a business" (MPC), "sexual conduct with another person in return for a fee" (NY), or "a sexual act...for money or other items of value" (GA). Committing a similar elision, the use of "online prostitution" in order to refer to such activity as that which transpires on Cityvibes, Danni's HardDrive, or bigdoggie.net can be considered a misnomer of sorts, in

that it displaces the question of the commission of prostitution from the agent of sexual activity, or conduct, onto the agent's publicity manager-- who ostensibly serves as analogue of the more traditional pimp/madam role. This focus on the promotion and/or facilitation of cyberprostitution (epitomized by Cook County, Illinois, Sheriff Tom Dart's aforementioned well-publicized civil lawsuit against Craig's List itself), rather than cyberprostitution *per se* (however one defines it) parallels its real-world, pre-cyber analogue, wherein, as Noah Zatz observes:

Even when the actual act of prostitution is legal, a broad net of related offenses—soliciting or procuring a prostitute or client, living off the wages of a prostitute, maintaining a “bawdy house,” and many more—may be illegal. (283)

Such analogization of cyberprostitution to pimping and pandering also not coincidentally permits a felony conviction, rather than a misdemeanor, as pimping and pandering are in most states considered felonies, even when (in contradistinction to prostitution) committed intrastate rather than interstate³³—which conviction of course funnels sex workers into (and likely later out of and back into, in a programmatic cycle of recidivism) prison as old, familiar site of individual “reform,” wherein, through sequestration, meticulous surveillance, and disciplinary grooming, these pesky obstacles to governmentality's successful supplantation of sovereignty learn the art of voluntary

³³ Internet adjudication of section (f) of the Model Penal Code Volume 10A's Section 251.2, “Prostitution and Related Offenses,” involving interstate pimping presents the courts with more than a few difficulties. Fielding one such question—“Could you e-mail from California that you want an appointment at a brothel in Reno?”—Mike Godwin, of the Electronic Frontier Foundation, suggests that we may see federal and state law increasingly at odds over enforcement of prostitution law.

assujettissement.³⁴ And while as Hai Ren notes, “The figure of the delinquent was [is] considered incapable of the capacity to bear liberty as sustained rights and responsibilities,” and therefore in need of “rehabilitation,” her disenfranchised status--as recent critiques of the prison industrial complex make abundantly clear³⁵— paradoxically but not coincidentally renders her quite capable of creating surplus value for such enterprises as Corrections Corporation of America. And failing (and/or succeeding) this, should she be permitted to leave the spatial confines of the prison, she will likely find herself staggering beneath the weight of the moral project of “the productive class” under capitalism, wherein, as Laura Agustín notes, “The object was [is] not to requalify inmates as subjects with rights but to turn them into docile domestic servants or wives” (*Margins* 125).

The Porn Analogy

Other legal scholars have attempted to analogize cyberprostitution to prostitution vis-à-vis the circuitous route of pornography—which analogy primarily relies upon a definition of cybersex delimited to “paid cybersex” ranging from 3G mobile phone technology to IRC to VOD but stopping short of genital manipulation. Lawyers Edward A. Cavazos and Gavino Morin, in their 1994 *Cyberspace and the Law: Your Rights and Duties in the On-Line World*, explore the way in which the application of this analogy has

³⁴ Had the Bush administration --“attacking the problem with 10 federal agencies reporting to a Cabinet-level task force chaired by Secretary of State Condoleezza Rice”—had its way, prostitution would have become felony in and of its own right (for more on this see the November 29, 2007 Washington Post article, “Proposal Could Turn FBI into a Vice Squad”). Already (as of 2002) in the state of Oklahoma, prostitution committed within 1,000 feet of a church or school counts as a felony.

³⁵ See, for example, Angela Davis’ 2003 *Are Prisons Obsolete?*

played out in a chapter titled, “Adult Material: Drawing the Line between the Legal and Illegal.” Although Cavazos and Morin here purport to examine “the most recent legal precedents and apply them to the various forms of adult materials and activities available in cyberspace,” they limit their examination to “sexually explicit *material*” (emphasis mine).

While one might excuse Cavazos and Morin’s omission of sexually explicit activity in light of the book’s pre-VOD-craze publication, subsequent legal scholars have followed suit in pursuit of a line of inquiry similarly focused upon debating whether commercial “cybersex” is or is not *pornography*—to the exclusion of considering whether said cybersex is or is not *prostitution*. This debate hinges upon whether or not the “adult materials” in question—be they circulated, exchanged, or sold—should be classified as “indecent” or “obscene.” According to the terms of this debate, if said materials can be determined to be indecent, then “cybersex” can be considered legal in as much as it enjoys First Amendment protection;³⁶ however, if said materials can be determined to be obscene, then they can be considered illegal.³⁷ As with questionable non-cyber “adult materials,” making the distinction between indecent and obscene cybersex therefore relies upon *Miller v. California*’s 1973 three-prong obscenity test (a.k.a. “The Miller Test”):

³⁶ Although this has not always been the case. As former Police Sergeant and Police Academy Instructor Debbie Littlejohn Shinder notes in her 2002 *Scene of the Cybercrime: Computer Forensics Handbook*, for a brief period, the 1996 Communications Decency Act prohibited the online circulation of indecent materials. But in 1997, the Supreme Court (*Reno v. ACLU*) determined the Act to be in violation of the First Amendment (30).

³⁷ Cavazos and Morin provide a flow chart for assistance in distinguishing between indecent and obscene materials. Grounded in the subjective evaluation of intent, rather than materials and/or acts, their chart begins with the question “What are you doing with the files?” (104).

- 1) Would “the average person, applying contemporary community standards” find that the work, taken as a whole, appeals to the prurient interest?
- 2) Does the work depict or describe, in a patently offensive way, sexual conduct specifically defined by the applicable state law?
- 3) Does the work, taken as a whole, lack serious literary, artistic, political, or scientific value?

(94)

If the material in question comes up positive on all three counts, then it can be considered obscene and therefore illegal.³⁸ Needless to say, cyberspace immeasurably complicates the task of determining “community standards.” Because Miller leaves the determination of “contemporary community standards” up to juries—i.e., a rural Nebraska jury may well have a different community standard than a Midtown Manhattan jury—the Internet’s omni-accessibility can render the same material obscene in one place but not another. And while it may be easy to locally remove a particular movie or magazine in violation of local community standards for obscenity, it is much more difficult to enforce this on

³⁸ The question of whether and/or how “virtual” pornographic material (e.g., digital composites and/or adults adopting online avatars for sexual purposes) involved in whatever definition of prostitution might be applicable will be determined to be indecent and/or obscene has yet to be answered. While the 2002 Supreme Court decision *Ashcroft v. The Free Speech Coalition* (overturning a previously-upheld provision of the 1996 Child Pornography Prevention Act outlawing all virtual child pornography) accorded virtual child pornography First Amendment protection, the PROTECT Act of 2003 invokes the Miller Test in order to label some types of virtual child pornography obscene and therefore illegal. *U.S. v Williams* of 2008 explicitly addresses the *intent* to provide child pornography, establishing as legal the intent to provide virtual child pornography and the intent to provide real child pornography as illegal. Unlike the PROTECT Act, *U.S. v. Williams* did not provide criteria for distinguishing between obscene and indecent virtual child pornography (Duranske).

the Internet (e.g. does a jury require that someone take down an entire website, even if it would not offend community standards elsewhere?).³⁹

Jonathan Wallace⁴⁰ and Mark Mangan, in their groundbreaking 1996 *Sex, Laws, and Cyberspace*, similarly limit the scope of their analysis of the intersection of commercial cybersex and the Law to the indecency/obscenity question, proposing in their final chapter, “A Compass for Cyberspace,” that “only one correct analogy exists for the Internet”: “It is a constellation of printing presses and bookstores” (194). Attorney Blake T. Bilstad, in his 1997 article, “Obscenity and Indecency in a Digital Age: The Legal and Political Implications of Cybersmut, Virtual Pornography, and the Communications Decency Act of 1996,” espouses this same “one correct analogy,” cautioning in his conclusion, “Indeed, with the promise of digital decades ahead of us, Congress should not take steps at this critical juncture to chill the ink and to bend the delicate machinery of what is rightfully conceded to be our next printing press” (29).

Unfortunately, in as much as such paradigms as Wallace and Mangan’s “one correct analogy” subsume cybersex under the “freedom of expression” rubric, they leave little room for a definition of cybersex that does (and increasingly promises to) encompass “sex” as “act,” or “conduct,” per Georgia and New York state law and the Model Penal Code.⁴¹ Which might all be well and good, but for the fact that legal scholarship on the subject abounds with references to commercial cybersex as cyberprostitution, e-prostitution, virtual prostitution, etc. (rather than, say, cyberporn, e-

³⁹ We are increasingly seeing this duty dispatched to “private” policing by the bourgeois nuclear family and its members, vis-à-vis exhortations to parental monitoring and self-censorship.

⁴⁰ Jonathan Wallace is a graduate of Harvard Law School and ten-year practitioner of computer law.

⁴¹ Wallace and Mangan also evince signs of nearsightedness in their proposed solution to the problem posed by the Internet to the determination of “community standards” in distinguishing between indecency and obscenity. The two write, “We do not know if it will happen next year or 20 years from now, but we are completely confident that the Supreme Court will overrule *Miller* and replace it with a national standard” (255).

porn, virtual porn, etc.). Matthew Green, for example, despite the promise of his comment's title, "Sex on the Internet: A Legal Click or an Illicit Trick?" like Wallace and Mangan forecloses the possibility of a broader definition of cybersex in his argument against the criminalization of live Internet sex shows-- which in his estimation constitute pornography but not prostitution. Using Missouri state law as his touchstone, Green writes, "The absence of a touching element would therefore excuse the Web site user from criminal liability" (3). Despite the equally promising title of his note—"Virtual Prostitution: New Technologies and the World's Oldest Profession"—David Cardiff also limits the scope of his consideration of the cybersex constitutive of "virtual prostitution" to its pornographic element—thereby effectively removing "virtual prostitution" (here, video-on-demand) from the purview of what he glibly terms "the world's oldest profession." Thus, for Wallace and Mangan, Cardiff, and Green, cyberprostitution can and must be considered legal first and foremost because it is not really "sex," a.k.a., "the touching element." But the question remains: "Is cyberprostitution prostitution?" And behind this question lies the more provocative one we must (with all due coyness, your honor) pose the courts: "Why do you ask?"

Cyber/prostitution: A Naked Emperor and the “Headless Body”⁴² of the King

In their 2005 analysis of sex regulation in Great Britain in the wake of the 2004 Home Office/New Labour consultation document on prostitution—“Paying the Price”—titled *Illicit and Illegal: Sex, Regulation, and Social Control*, Joanna Phoenix and Sarah Oerton suggest that “the ‘problem’ of prostitution has been, and continues to be, constituted as a problem of ‘effects’” (77). Phoenix and Oerton ground their theoretical framework in a Foucauldian notion of “sex” as “an especially dense transfer point for relations of power” (HS 103). Such an understanding refuses “sex” any sort of objective reality outside of discourse. Rather, “sex has to be invented and invested with social meaning in order to become ‘sex’ at all” (11). Phoenix and Oerton thus take prostitution to be:

...part and parcel of the new sexual enterprise around sex whose object of control is not sex per se (or, in this specific instance, the exchanging of money for sexual activities) but the broader social relationships between men and women and between specific groups of people (in this case between ‘prostitutes’ and ‘pimp/partners’ or between ‘prostitutes’ and the ‘wider community’ who suffers lawlessness, etc.

(103)

⁴² This is the phrase Mitchell Dean uses to characterize Foucault’s observation (apropos of Sade) that “In political thought and analysis, we still have not cut off the head of the king” (HS 89). Dean continues in this vein: “Having completed this act, nevertheless, the problem remains of how is it that this headless body often behaves *as if* it indeed had a head” (C&E 156).

Noah Zatz espouses a similarly Foucauldian perspective on sex in his 1997 essay “Sex Work/Sex Act: Law, Labor, and Desire in Constructions of Prostitution.” Working from Foucault’s “insight that legal suppression and rhetorical condemnation may be mechanisms of sociocultural production as well as repression,” Zatz shifts the focus on prostitution from “sex” (the definitional range of which he argues can no longer be confined to genitality predicated upon a procreative teleology) to the legal discourse accreted around this perennially missing center. So doing, Zatz draws attention to the way in which these discourses substantiate “sex” as prostitution’s causal medium of criminal agency. Ultimately, Zatz concludes that “criminalization does not simply ‘repress’ a preexistent thing called ‘prostitution,’” but rather, “It aids in the production of a particular mode of sex work” (302-303). Should anyone persist in the naïve belief that the criminalization of prostitution was only ever about (or even mostly about) “sex”—whether one considers sex to be an act, a form of conduct, and/or a relation—then the way in which “cyberprostitution” has been inscribed in the annals of jurisprudence so far in advance of its technological capacity for genital manipulation in real-time and/or real-space offers a unique opportunity to rethink the structure of rights and obligations presently governing (non-cyber) prostitution. In much the same way that the courts have determined that non-genitally interactive cybersex “counts” as adultery⁴³ has clarified the fact that adultery has never first and foremost been about “sex,” per se, asking, “Does cyberprostitution ‘count’ as prostitution?” can help clarify both the conceptual terrain of

⁴³ Such cases have been won by considering online activity under the rubric of “alienation of affection” and/or “criminal conversation.”

prostitution and the motives propelling the current “problematization” of cyberprostitution.⁴⁴

Thus far, the courts and regulatory agencies in the American system have applied to cyberprostitution familiar analogies from the past that fail to address those “Elements of Offense” necessary for a conviction of prostitution as provided by the *Model Penal Code*:

In order for there to be prostitution, there must not only be sexual activity such as manual sexual stimulation, but payment of money as well.... ‘Prostitution’ is engaging in sexual activity as a business... (251.2).

Rather, the analogies applied—principally, pimping & pandering and pornography—have, as Phoenix and Oerton suggest, addressed the problem of prostitution vis-à-vis the problem of its effects. Falling into line with the more general problem of commodification,⁴⁵ exclusive attention to the periphery of a “sex” designated but not defined as prostitution evades any and every epistemological inquiry into the

⁴⁴ Foucault on “problematization”:

When I say that I am studying the “problematization” of madness, crime, or sexuality, it is not a way of denying the reality of such phenomena. On the contrary, I have tried to show that it was precisely some real existent in the world which was the target of social regulation at a given moment. The question I raise is this one: How and why were very different things in the world gathered together, characterized, analyzed, and treated as, for example, “mental illness”? What are the elements which are relevant for a given “problematization”? And even if I won’t say that what is characterized as “schizophrenia” corresponds to something real in the world, this has nothing to do with idealism. For I think there is a relation between the thing which is problematized and the process of problematization. The problematization is an “answer” to a concrete situation which is real. (*Discourse* 115).

⁴⁵ Characterized by Ann Bermingham apropos of Marx as “a visual problem in perception” (8), inasmuch as automatic default to “knowing it when we see it” (a la Justice Potter Stewart) renders invisible the social relations of production.

criminalization of prostitution in its automatic privileging of the ontological status of the crime. Moreover, such efforts to cannibalize the present with the past provide the State with ever-new opportunities to “maintain control of...new ICTs through regulation...under the rubric of economic fraud and security,” vis-à-vis such disciplinary forces as what Roger C. Clarke dubbed “dataveillance” (Riley 15).⁴⁶ Before the courts have even determined what cyberprostitution is and is not, “the status quo threatens to be preserved,” as governmentality stakes its *raison d’être* on cyberprostitution as a “‘technolog[y] of sex’ ... through which “sexuality’ emerges [yet again] as a category that requires state, legal, and social surveillance, administration, management and policing in and through diverse, often competing discourses of religion, law, and medicine” (Benjamin *AP* 474; McGlotten 27).

We are in 2009 at a critical juncture at which we can— if we ask ourselves the right questions and refuse the temptation of easy answers—take advantage of an opportunity to interrogate the suddenly-exposed underpinnings of the criminalization of prostitution before they become solidified as the underpinnings of the criminalization of cyberprostitution, before it is possible to tell ourselves that the reason cyberprostitution is illicit and illegal has anything at all to do with “sex.” For it is precisely in the moment that such technical laymen as lawyers, judges, and police officers (among others) seek to

⁴⁶ "Dataveillance is the systematic use of personal data systems in the investigation or monitoring of the actions or communications of one or more persons" (Clarke). As McIntosh and Cates have observed, the Internet was

created by the U.S. Department of Defense in the early 1970s as an experimental system to conduct military research...[and] set up as a system by which all manner of computer stations...could communicate with one another. Moreover, given the military influence the network was constructed without a central hub or governing unit, so that, in the event of a nuclear attack, a sector of the system could be wiped off the face of the earth without disabling the remaining portions. (103n52)

This Internet is thus in many ways an ideal instrument of “decentralized centralization,” permitting the body of government to function without a head (Mehta & Darier 109).

apply the familiar analogies of the past to cyberprostitution that we can bear witness to the way in which such analogizations “operate by erasure of the material origins of their legitimation deficits” (Phoenix & Oerton 197). Indeed, it is as the answer to the question, “Is Cyberprostitution Prostitution?” comes up “No,” and “No,” and “No” again— even as the arbiters of our courts and regulatory agencies paradoxically persist in designating any number of online activities “Prostitution”— that we can begin to isolate and interrogate the logical fallacies upon which they and their predecessors have long relied in dubbing any number of offline phenomena “Prostitution.”

But “Where There is Power, There is Resistance”: “Work itself Puts in a Word”

Examining the American legal system’s various and sundry attempts to hammer cyberprostitution into the structure of [property] rights and obligations already governing prostitution offers a unique opportunity to examine the interrelationship of new technology and new forms of sexual labor as they unfold in the shadow of the modern nation-state. In any given industry, machines are rapidly replacing workers. Alternately celebrated as the liberation of the worker from the grind and perils of manual labor and lamented as the condemnation of the worker to lowered wages and/or the effeteness of unemployment, so-called “advances” in technology problematically recast the labor-capital relation as a human-machine relation. But asking what this process looks like in the context of a *criminalized* industry like the sex industry complicates matters considerably. Marxist scholars have on occasion acknowledged the phenomenon whereby

advancements in technology make possible the meeting of needs of all, [but] the subjection of such advancements to the production of profit means that what disappears is not “work” (in the abstract) but rather the means by which millions of workers can meet their basic needs. (Wilkie)

But few, if any, have considered the relation of advances in new technology to the specifically *sexual* needs endemic to capitalism.⁴⁷

Given that our courts seem similarly disinclined to self-critically regard the “very different things in the world gathered together, characterized, analyzed, and treated as” cyberprostitution as an opportunity for reflection on this relation between advances in new technology and the sexual needs endemic to capitalism, I want in this section to consider the “cyber” element of cyberprostitution in its own right. More specifically, I seek to isolate temporarily the cybertechnology⁴⁸ of cyberprostitution, in order to trace the full parameters of the relationship sex workers themselves share with this self-same technology, above and beyond its obvious supplantation and/or supplementation to the formerly embodied labor of (some) human beings. To this end, I turn to Walter Benjamin, in the interests of inserting cyberprostitution within the critical trajectory of the utopian political potential latent in various forms of new technology that Benjamin

⁴⁷ According to Deborah Kelsh, a great many of the sexual needs experienced under capitalism are effectively “outlawed needs,” in as much as they are like many other needs produced with the understanding (at least by some) that they will not be met. Thus constituting “an unassimilable outside,” this “monstrous necessity” functions as a perennial threat to capitalism in constant need of containment (76-77).

⁴⁸ Herman Tavani defines “cybertechnology” as refers to a wide range of computing and communications devices, from stand-alone computers to “connected,” or networked computing and communications technologies. This includes hand-held devices, personal computers, and mainframe computers. The Internet and Local Area Networks are examples of cyber-technology” (2).

launched (among other places⁴⁹) in his 1934 address at the Institute for the Study of Fascism in Paris. Notably, the trajectory Benjamin develops stands in marked contrast to the more familiar trajectory of “technological determinism” as “an idealist theory of capitalist development presupposing the complete automation of production as the means to overcoming the core antagonism between capital and labor” (Wilkie). Rather than celebrating advances in new technology as unequivocally “good,” Benjamin is highly circumspect about such advances, and in no uncertain terms warns that they may be as readily appropriated to repressive ends as to liberatory ones.

Setting the tone for this cautionary approach to new technology, Benjamin opens his 1934 address titled, “The Author as Producer,” with the observation that:

We are in the midst of a mighty recasting of literary forms, a melting down in which many of the opposites in which we have been used to think may lose their force. (224)

Numbering author and reader, and reader and collaborator, among the opposites precipitating this “mighty recasting” of the literary, Benjamin exhorts his own readers to consider

How comprehensive is the horizon within which we have to rethink our conceptions of literary forms and genres, in view of the technical factors affecting our present situation, if we are to identify the forms of expression that channel the literary energies of the present. (224)

⁴⁹ E.g., in his contemporaneous 1934 essay “The Work of Art in the Age of Mechanical Reproduction.”

Identifying the newspaper as one such form of expression, or “productive apparatus,” that “channel[s] the literary energies of the present,” Benjamin deploys the Brechtian term “*Umfunktionierung*,” or “functional transformation,” in order to mark “the decisive difference between the mere supplying of a productive apparatus and its transformation” of the relations of the means of production. In other words, Benjamin is interested less in “the literary” as a finished product (e.g. “novel,” “poem,” “play,” etc.), than as a potential intervention in/subversion of the production process itself.

Valorizing literature not as locus of exchange and consumption, but rather as a locus of ideological production, Benjamin proposes a particular mode of writing as a means of “alienating the productive apparatus from the ruling class” (229). In contrast to “the hack writer”—whose purportedly revolutionary left-wing writing serves only “to wring from the political situation a continuous stream of novel effects for the entertainment of the public,” thereby paving the way for “the bourgeois apparatus of production and publication [to]...assimilate astonishing quantities of revolutionary themes...without calling its own existence, and of the class that owns it, seriously into question”—Benjamin’s critically conscious “author-producer” permits “work itself [to] puts [sic] in a word.”⁵⁰ Heralding the expanding horizon of the literary, Benjamin offers up the example of photography as another such productive ideological apparatus—an example of “new,” potentially revolutionary literature—in order to further underscore the difference between the hack writer and the author-producer. Where the photographic “hack writer” visually transforms “a tenement block or a refuse heap...into an object of

⁵⁰ As translated by Anna Bostock in the Verso edition of *Understanding Brecht* (90).

enjoyment,”⁵¹ the photographic “author-producer” makes of his photographic image “a political instrument” by “give[ing] his picture the caption that wrenches it from modish commerce and gives it a revolutionary value” (230).⁵²

I wish to here posit the cybertechnology requisite to cyberprostitution—apropos of Benjamin’s articulation of an expanded, comprehensive horizon of the literary—as a productive ideological apparatus that is at present channeling the literary energies of our day. To put it bluntly, I consider this cybertechnology to be part of “the horizon within which we have to rethink our conceptions of literary forms and genres,” frontrunner in an evolutionary trajectory that began for Benjamin with the *Trauerspiel* and whose alternately latent and manifest, utopian and dystopian, political potential he critically tracked through the newspaper, photography, and cinema, among other media.⁵³ Invoking Benjamin’s distinction between the “hack writer” and the “author-producer,” I suggest that where the hack writer promotes the assimilation of cybertechnology to the interests of capital, the author-producer harnesses this self-same cybertechnology to the interests of social justice—and in the case of the cybertechnology specific to cyberprostitution, to the goals of the sex worker rights’ movement as a radical politics. One might here consider the difference between the aforementioned Danni Ashe (declared the 2000 *Guinness World Records* “Most downloaded woman on the Internet”) and Jenn Clamen, a Montreal-based international sex worker/sex worker rights activist, whose multimedia

⁵¹ Benjamin seizes upon German New Objectivist Albert Renger-Patsch’s 1928 book *The World is Beautiful* as one such example of hack writing.

⁵² In contrast to Renger-Patzsch, Benjamin counterposes John Heartfield (most famous for his photomontage work satirizing Hitler and the Nazi party) as an exemplary such photographic “author-producer.”

⁵³ As afore-evinced, Ithiel de Sola Pool traces a similar trajectory of “the technology of communication,” from railroads to telegraph to telephone to broadcasting to cable television. In the case of cybertechnology, one has only to consider the literary language of the Internet: *webpages*, *web blogs*, *e-mail*, *JavaScript*, *hypertext*.

efforts traverse “the barrier between writing and image” Benjamin finds so inhibitive to the political function of art (230).⁵⁴ While Clamen advocates tirelessly for the goals of the sex worker rights movement-- which goals, broadly-speaking, fall under the rubric: “that sex workers live and work in safety and with dignity” (St. Jean)⁵⁵ -- regularly gaining positive press coverage (online and off) for the sex worker rights movement not only through public speaking events but also her own prolific writing, among which number the constitution for the Canadian Guild for Erotic Labor and an academic essay titled, “Labour Organizing in the Sex Industry: The Way Forward?” (2003), former stripper/porn star turned webpreneur Danni Ashe reportedly made over a million dollars a year from photographs and video footage produced in her Los Angeles studio before turning a tremendous profit in the sale of her website, “Danni’s Hard Drive” in 2004.

Evincing approximately zero critical consciousness of her relation to the means of production under the current political economy, Danni Ashe is by Benjamin’s standards the quintessential hack-writer; alternately, we may by the same standards take Jenn Clamen to be the quintessential author-producer. And it is in the fact and figure of the sex working author-producer⁵⁶ that I seek to begin tracing the feedback loop whereby the specific expression and organization of actual prostitutes vis-à-vis cybertechnology

⁵⁴ In *Discipline and Punish*, Foucault provides a parallel framework for considering both the criminalization and the stigmatization of the sex worker as not only absolutely predicated upon the spectacle (become specter) of the sex worker—but also as ever subject to the reappropriation and reinterpretation (reinscription, recaptioning) of this spectacle by sex workers themselves.

⁵⁵ More specifically, the Sex Professionals of Canada enumerate the following goals: 1) Enhance the quality of life of sex workers by providing resources and referrals to sex worker-friendly agencies, through the promotion of workplace safety, and by engaging in political advocacy, 2) Decrease the isolation experienced by many sex workers by organizing sex worker-friendly social events and functions, 3) Protect the safety of sex workers by maintaining a "bad date" list so that sex workers can communicate information about violent and dangerous clients to each other, 4) Raise awareness about the need for decriminalization of sex work through speaks, interviews, workshops, and activism (<http://spoc.ca/>).

⁵⁶ Annie Oakley, organizer of the consciousness-raising, traveling Sex Worker Art Show and editor of the recent collection of writing by sex workers titled *Working Sex* (2007) serves as another example of the sex worker as author-producer.

inflects upon and influences our understanding of the specifically sexual politics of the broader relationship between labor and capital in the shadow of the modern nation-state. Through this feedback loop, prostitution becomes site not only of the automation of production, but also (potentially) of the interruption of the means of production—a site of what Foucault called “the strategic reversibility of power relations, or the ways in which the terms of governmental practice can be turned around into focuses of resistance” (“S&P” 221). Focusing on the prominent role of the sex worker rights’ organization Stella⁵⁷ within Montreal’s sex work/sex tourism industry, I want to explore the revolutionary potential of the sex worker in the role of author-as-producer (in contrast not only to the hack-writer but also to the longstanding tradition of the prostitute as “she-who-is-written-about”) and the way in which this historically unprecedented phenomenon destabilizes pre-cyber understandings of prostitution.

Returning to Benjamin’s deployment of Brecht’s “functional transformation,” I want to suggest that the ways in which sex worker rights activists use cybertechnology to expose the conservative structures of power inherent to discourses of sexuality under late capitalism in order to reappropriate and reinterpret them-- giving them, apropos of Benjamin’s author-producer, new captions that wrench them from “modish commerce”—make manifest the latent utopian political potential Benjamin located in such technical innovations as photography and the cinema. The means by which such leading organizations of the sex worker rights movement as Stella have mobilized ICT’s to accomplish their goals offer rare testament to the worker-writer’s ability to harness advances in technology to social necessity, rather than to the profit motive—which ability

⁵⁷ Named for Stella Phillips, a woman once described by early sex worker rights’ champion Maimie Pinzer as “the most beautiful woman in Montreal...[who] practiced prostitution for her own personal development,” Stella is a vibrant sex worker rights organization created in 1994 (“May I” 19).

Benjamin both celebrated and mourned in his address at the Institute for the Study of Fascism. Indeed, as we shall see, the movement's use of cybertechnology to organize international conferences on sex work, to widely disseminate not only the proceedings of these conferences but also the challenges, concerns, and critical perspectives of sex workers themselves, to lobby for political reform, and to solicit and sustain the support of those both within and without the sex working community, harnesses the means afforded by such new technology to the ends of authors as producers transforming "readers or spectators into collaborators" (Benjamin "AP" 233).

montreal@sexwork.org

In Stella of Montreal, one finds an exemplary ensemble of sex working author-producers actively engaged in the pursuit of transforming readers and spectators—ranging from tourists to Parliamentarians— into collaborators. From its inception in the early nineties, Stella has successfully managed not only to shoulder Carol Leigh's political deployment of "sex work," but they have managed to do so vis-à-vis a powerful push for solidarity both within and beyond the sex working community, which solidarity may be attributed in no small part to their harnessing of technical progress to the interests of social justice, rather than capital accumulation. Carving out a space for sex worker rights' activism/cyberfeminism⁵⁸ from within Montreal's rapidly-growing \$350 million

⁵⁸ Caroline Bassett asks, "'What is cyberfeminism? Sadie Plant claims it is an absolutely post-human insurrection -the revolt of an emergent system which includes women and computers, against the world view and material reality of a patriarchy which still seeks to subdue them. This is an alliance of 'the goods' against their masters, an alliance of woman and machines. It is a revolt of the chattels" (46-49). "In order to

per annum sex tourism industry,⁵⁹ Stella has, in coordination with The International Union of Sex Workers (affiliated to the United Kingdom's 600,000+ member GMB general trade union) recently begun a certification campaign for Canadian sex workers; The Canadian Guild for Erotic Labor similarly seeks to organize and consolidate sex worker solidarity. (Both organizations are presently headquartered in Montreal.) Many of Stella's members are also members of the Coalition for the Rights of Sex Workers (CRSW), a group comprised of approximately 5,000 sex workers that "campaigns for the human rights of sex workers, conceived in terms of the need for basic wages and rest breaks during long working hours, and freedom from violence from clients and harassment from the police." All three organizations have worked together to found the Popular Party of Prostitutes, "to give the issue of decriminalization a wider public airing by standing in elections, and working with the SPC [Sex Professionals of Canada] which campaigns for decriminalization of prostitution" (Gall 149-150).

Under the aegis of Stella's own self-proclaimed cyberfeminist member, Nicole Nepton, founding webmistress of both www.cybersolidaires.org—the first Quebecois website to disseminate information by and for sex workers—and Stella website www.chezstella.org, Montreal's sex worker rights movement is actively shaping both the experiential and the theoretical evolution of cyberfeminism today. Resisting what C.J. Rowe characterizes as "the real fear that cyberspace will simply recreate the same tired

disrupt, resist, decode, and recode the masculinist structures of the new technologies, the tough work of technical, theoretical, and political education has to begin," adds Faith Wilding. "Cyberfeminists must resist utopic and mythic constructions of the Net, and strive to work in activist coalitions with other resistant netgroups. Cyberfeminists need to declare solidarity with transnational feminist and postcolonial initiatives, and work to use their access to communications technologies and electronic networks to support such initiatives."

⁵⁹ Considered by many to be the "the Bangkok of the West," Montreal has been cited on the popular adult entertainment website *Canbest.com* as "the only place on Earth where you can buy a Neiman Marcus girl for a Wal-Mart price." According to *sexwork.com*, Montreal is home to over 5,000 escorts and 200 agencies (<http://www.sexwork.com/montreal/index.html>).

old stereotypes of gender, given that it too is structured by capitalist and patriarchal social relations,” Nepton’s years of experience in facilitating ICT literacy among the socially disenfranchised in the interests of mass media democratization (e.g., years of ICT advocacy for “non-trads”-- women who work in “sectors where there are fewer than 33% of women in that particular line of work...[e.g.] plumbers, pipefitters, mechanics, fire fighters, electricians, truckers, heavy machine operators, power engineers, carpenters”) have enabled Montreal’s sex worker rights movement’s politically radical appropriation/wielding of cybertechnology as the “new” literature capable of revolutionizing not only the means of production, but also the relations of the means of production, per Benjamin’s prophetic heralding. Lamenting the fact that “the women’s movement criticizes many government policies, but few Internet related ones,” Nepton has long been especially committed to spearheading Stella’s mobilization and deployment of cybertechnologies for purposes ranging from the organization’s website, www.chezstella.org, to its biannual magazine, *ConSTELLAtion*, to popular press interviews with Stella members, to its “Bad Tricks and Assailants List” (included as part of a monthly bulletin), to membership in RAPSIM (a support network for the homeless and socially disenfranchised), to participation in *Opération Droits Devant*, a project “aiming to develop collective advocacy practices for the homeless,” to performance events and poetry, to the DVD documentary proceedings of Stella’s recent international conference, to Parliamentary reform initiatives, to fighting the spread of HIV/AIDS. Redolent of Marx’s enthusiastic heralding of “the ever expanding union of workers...helped on by the improved means of communication that are created by modern industry and that place the workers of different localities in contact with one

another,”⁶⁰ Stella’s website reportedly receives over one thousand hits per day, and proved instrumental in the planning and execution of their 2005 Forum XXX, an international conference attended by 250 sex worker rights activists from around the world; conference proceedings continue to circulate globally by way of blogs and the downloadable documentary film *Live eXXXpressions: Sex Workers Stand Up in Montreal!*⁶¹

Stella thus functions as both archival repository and site of generative knowledge; members endeavor as much to map the terrain of what one might mean by an “archive” on the sex workers rights movement, as to call into question the project of the archive more generally, both before and beyond this particular public culture.⁶² Dedicated to both the preservation and the production of an incipient and expanding archive of the sex worker rights movement, Stella wrests cybertechnology from the exclusive domain of capital and instead puts it at the service of its radical politics. So doing, Stella manifests the utopian political potential latent in technical progress Benjamin identified nearly a century ago— countering the trendy discursive hegemony consolidated by the “theory of a ‘cyber-capitalism’ beyond the exploitation of labor” (Wilkie). Refusing to cede the interface of prostitution and cybertechnology to mere profiteering, Stella instead bends cybertechnology to a dogged insistence upon the recognition and fulfillment of the

⁶⁰ I am grateful to Nick Dyer-Witford for bringing this passage of *The Communist Manifesto* in relation to cybertechnology to my attention. Dyer-Witford also offers a biographical anecdote illustrative of Marx’s enthusiasm: “Marx and Engels on one occasion planned to penetrate the international wire agencies in Brussels, through a leftist press agency, in order to distribute their messages more widely” (42).

⁶¹ Available for download at <http://www.chezstella.org/stella/?q=en/follow>.

⁶² I am here indebted to Ann Cvetkovich’s 2003 *An Archive of Feelings: Trauma, Sexuality, and Lesbian Public Cultures*, for her innovative methodological approach to research involving constituencies whose “lack of a conventional archive so often makes them seem not to exist,” and readily embrace her “conviction that the study of the present transforms historical methods” (10). This approach constitutes a radical departure from more traditional understandings of the archive and its function, wherein, as Foucault observes, the archive is “the law of what can be said, the system that governs the appearance of statements as unique events” (AK 129).

human rights of those who live and/or make a living on the street. Moreover, Stella encourages reader-collaborators to heed Joan Nestle's injunction that, both despite and (as we shall see) because of the cloak of invisibility lent cyberprostitution by the Internet, "The closer to the street you are, the more deviant you are seen" (174).⁶³

By turning the tools of cybertechnology back upon the very regulatory agencies and technical laymen that would simply transfer to cyberprostitution what Phoenix and Oerton term prostitution's "legitimation deficit" (93), Stella actively resists the courts' automatic privileging of the ontological status of prostitution. In keeping with Marx's formulation in the preface to *A Contribution to the Critique of Political Economy*:

At a certain stage of development, the material productive forces of society come into conflict with the existing relations of production or – this merely expresses the same thing in legal terms – with the property relations within the framework of which they have operated hitherto. From forms of development of the productive forces these relations turn into their fetters. Then begins an era of social revolution. (*Crit.* 21)

Stella exposes the very real conflict between the material productive forces giving rise to the new practices and possibilities that are, as we have just seen, highly vulnerable to rapid assimilation by the governmental program and technology of "cyberprostitution," and the pre-cyber property relations governing prostitution. Dismantling the framework within which these property relations have long ensured that the needs (among them

⁶³ Arguably, one breach in the reason/unreason axis through which the "hidden presence of the sacred" manifests may be found between the "fiction of online privacy" and its dispelling (Binnie 48).

sexual) of some will be met while others will go unfulfilled, Stella launches a revolution that is at once social and sexual. Rather than subscribing to what Rob Wilkie terms a “post-production ideology,” whereby “sellers of labor-power learn...[merely] to sell their commodity on better terms,” Stella’s cyberfeminists exercise the ability Benjamin ascribed to the revolutionary author-producer: “the ability to give his [sic] picture the caption that wrenches it from modish commerce and gives it a new useful value” (“A-P” 230). In the hands of Stella, cybertechnology empowers sex workers to be more than mere “appendage[s] of the machine,” enduring the deadening monotony of pushing buttons and flipping switches of various video cam and/or teledildonics devices, or working “low-tech” or “no-tech” on the streets and in the prisons for low or no wages (or not at all in the wake of an increasingly well-wired clientele); rather, in Stella’s hands, cybertechnology serves as an appendage of the sex worker, inasmuch as it better equips them “to live and work in safety and with dignity” (Marx & Engels 491; St. Jean).

Back to the Future: Or, Seeing the Even Newer with Even Older Eyes

A heterotopia of deviation, wherein “those individuals whose behavior is deviant in relation to the required mean or norm are placed,” nineteenth century brothels were for Foucault “heterotopic precisely in their vulgarization of the quotidian, the bawdy suspension of all its bland proprieties” (Faubian 25). Like the brothel, cyberprostitution similarly vulgarizes and bawdily suspends the bland proprieties of the quotidian, representing, inverting, and contesting what I have in previous writings characterized as

an ideology of “conservative familialism.” Inasmuch as “the net, like the telephone before it, has been represented as a threat to the sanctity of bourgeois middle-class respectable family life,” distinctions between and among forms and uses of ICT often serve to shore up class, nation, and race-based forms of sexual apartheid, whereby “correct, respectable, acceptable uses of technology...involve the (re)production of the cosy nuclear family,” and incorrect, disreputable, and unacceptable uses of technology often involve its annihilation or at very least forceful interrogation (Binnie 43).⁶⁴

In the *point de croisement*, or intersection,⁶⁵ of our courts and the sex worker rights movement around recent advances in cybertechnology, we are witnessing the wholesale topological transformation of governmentality, as the binary relation between delinquency and conservative familialism migrates from the streets of Red Light Districts to the cyber immateriality of what one might call “virtual” Red Light Districts. Where in the case of the former, police conduct raids and stings on the streets, in the latter they conduct them online, through such means of dataveillance as the aforementioned infamous Craig’s List sting operations; where in the first model, prostitutes were paraded

⁶⁴ John Tomlinson lauds “the use of video-conferencing technologies to unite spatially divided families” but is much more circumspect about telephone sex that “could be a more joyous and intimate imaginary encounter where it is practiced in a consensual, non-commercial context between two ‘real’ lovers.” Ellis Hanson takes Susan Sontag to task for taking a similar approach to the relationship between sexuality and new technology as manifested in her “disdain for telephone sex.” Attributable in his estimation to an “edenic illusion” that “sex can be cordoned off as some sort of transcendent phenomenon,” such approaches deny “the myriad ways in which commercial organization and libidinal organization tend to complement each other, whether one is having sex in a real bedroom or a virtual one” (Hanson 34-5 and Tomlinson 164, cited in Binnie 44).

⁶⁵ Foucault on “*point de croisement*”: “A relationship between the filter composed of judicial interrogation, police information, investigation and the whole apparatus of juridical information, on the one hand; and the filter composed of medical questionnaires, clinical examinations, the search for antecedents and biographical narratives. A relationship between family, sexual and penal norms of individual conduct, and the table of pathological symptoms and of the illnesses which they indicate. A relationship between the therapeutic restriction of the hospital environment (with its particular thresholds, its criteria of cure, its way of distinguishing the normal and the pathological) and the punitive restriction of the prison (with its system of punishment and pedagogy, its criteria of good conduct, of improvement and release)” (AS 59-60, trans. Palmer & Pearce).

through the streets en route to sentencing, “police registration,” and “intimate medical inspection” (Howell 303), in the second model they are subject to such technological reformulations of these measures as <http://www.atlantapd.org/index.asp?nav=vicearrests> and electronic bracelets.⁶⁶ (Needless to say, as Foucault has made abundantly clear in his analysis of the shift away from sovereignty toward governmentality, one model does not replace another; rather, both coexist, in amicable and/or antagonistic “heterochrony” (“OOS” 26).)

And as forces of sexual conservatism born of the relations of production long governing prostitution wage war on and through such new sexual occupational castes as “the Cyberprostitute,” we are seeing new and improved formulations of not merely the repressive iron heel of sovereignty, but also the generative productivity of governmentality. In addition to simply replacing “living labor,”⁶⁷ advances in cybertechnology mold the “outlawed” sexual needs of late capitalism into particular forms of consumption, creating not only the producer and product but also the consumer of cyberprostitution (11).⁶⁸ Law enforcement agents charged with the administration of such various reform efforts as “John Schools” have begun exhorting arrested johns—in lieu of “Go home to your wives”— “Next time you’re thinking of going out on the

⁶⁶ GPS implants loom on the horizon, a veritable incorporation of “the carceral texture of society” if ever there was one (*D&P* 304). As Mehta and Darier observe, such measures march lockstep with the disciplinary model, in that they “are no guarantees for successful rehabilitation, and may have little effect on reducing rates of recidivism...[but] ...could scare the rest of the population into adopting self-control mechanisms” (111). Indeed, the outward ripple effects of such measures are often mistaken for that “strength of character” with which the “deserving poor” are expected to endure unmet sexual and/or other needs. Ann Lucas.

⁶⁷ While estimates vary, most suggest that street prostitution today accounts for less than ten percent of sex industry labor in Canada and the United States.

⁶⁸ Apropos of Marx’s *Grundrisse* injunction to consider that “Production thus produces not only the object but also the manner of consumption, not only objectively but also subjectively. Production thus creates the consumer” (11). For more on the molding of sex industry consumption, see Kathryn Hausbeck and Barbara G. Brents’ “McDonaldization of the Sex Industries: The Business of Sex” (2006) and Elizabeth Bernstein’s *Temporarily Yours: Intimacy, Authenticity and the Commerce of Sex* (2007), particularly her analysis of growing demand for “The Girlfriend Experience” (GFE), pp. 125-130.

street...Go on the Internet if you have to” (Bernstein 135). Here one sees a redeployment of the nineteenth century drive Alain Corbin has characterized as a channeling of “the desire for panopticism” into “a tireless effort to discipline the prostitute, the ideal being the creation of a category of ‘enclosed’ prostitutes” (9).⁶⁹ And in a reprisal of the parade of prostitutes through the streets of Paris,⁷⁰ law enforcement officers today invite former prostitutes to come to John School to shame arrested clients (Bernstein 135), thereby parrying the present social revolution manifested in the sex worker rights movement’s radical cyberfeminist thrusts with reactionary redeployments of the binary relation of delinquency and conservative familialism.

An intervention in contemporary feminist and queer tendencies to regard cyberspace as alternately cyberutopia⁷¹ and/or cyberghetto,⁷² this paper wields the conceptual tool of “heterotopia” as a means of turning the forward-looking gaze of these engagements back upon the historical present, to the seemingly more familiar conceptual terrain of prostitution. For while I find the popular question of whether cybertechnology heralds the liberation or the exploitation of the worker seductive, I also find this question somewhat presumptuous, inasmuch as it stages as novelty technologies that are not only, as B.D. Loader has observed, “deeply implicated in the history of prior technological forms,” but also, less obviously, backdrop for the most recent development in the

⁶⁹ I am grateful to Philip Howell for bringing this passage from Corbin to my attention.

⁷⁰ See Etienne Jeaurat’s 1755 oil on canvas titled *Transport of Prostitutes to the Salpêtrière*,

⁷¹ Captured in Nina Wakeford’s summation:

The message, from eulogizing testimonies of on-line experiences in popular print media such as *Gay Times*, *Diva*, *The Advocate*, *The Pink Paper*, *Girlfriends*, to anecdotal tales of love found or lost in electronic encounters, is that anyone who has not yet encountered the worlds of cyberspace cannot know the wonders which await them: the realization of global community! The remaking of queer identity! The discovery that whichever subculture of a subculture you inhabit there will be a Web page, or discussion group, or real-time chat room just for your kind!” (403)

⁷² I.e., a “residual militaristic and corporate structures that hardwire the Internet to further current (early-twenty-first century) modes of racism, sexism, militarism, and capitalism” (Lee ix).

perpetual conflict Marx identified long ago between the “material productive forces of society” and “the existing [property] relations of production” under capitalism (*Crit.* 21). And this of course is one of capitalism’s favorite ruses: repackaging and selling the old and/or effete as new, and with it the hope that conflict and contradiction can be resolved without the overthrow of capitalism itself. To put it in Foucauldian terms, to ask whether cybertechnology heralds the liberation or the exploitation of the (in this case, sex) worker, is to presuppose—to take for granted—the power relations whereby “the conditions of a consensus or the prerequisites of acceptance” as to what cybertechnology (or, as it were, cyberprostitution) is, have been met (Lemke “FGC” 3).

As such, to ask whether cybertechnology will liberate or exploit the sex worker is at best to overshoot and at worst to whitewash entirely the surely much more pressing question of whether and/or how, as Christine Tamblyn suggests, cyberspace/cybertechnology/cyberprostitution is simply a “strategy of this phase of capitalism” (228), wherein

the contradiction of the systematic immiseration of the working class from technological advancement is...ideologically transformed in dominant discussions of technology into a “liberatory” potentiality from within the capitalist relations of production. (Wilkie)

Simply put, to ask this question is to couch liberation in terms of reform, rather than revolution, justice in terms of inclusion and/or redistribution, rather than transformation. It is also to gloss over the way in which— apropos of Foucault’s 1967 characterization of

the heterotopia—the space of the Internet “has become a source of cultural anxiety as it threatens to collapse distinctions between the global and the intimate spheres” (Binnie 44). We must as queers and feminists press ourselves to examine the ways in which dominant paradigms of prostitution both change and do not change as sex working bodies traverse the frontier dividing street and cyberspace, carrying with them the karmic dust of the binary relation of delinquency and conservative familialism. If we do not, in all likelihood yet another window of opportunity for queer, feminist solidarity around the question of sex work will close. And should this window close, we will once again lose also the potential for resistance—“never in a position of exteriority in relation to power”—inherent in the as-of-yet inchoate power/knowledge relation that I have here charted as the conceptual terrain of “cyberprostitution” (Foucault *HS* 95-96). Absent queer feminist solidarity, the vast potential for resistance endemic to the “very different things in the world gathered together, characterized, and treated as” cyberprostitution threatens to devolve yet again into little more—and nothing less—than the state-sponsored censorship of the erotic imaginary and we, its stars: deserving, because impoverished, sexual subjects.

Mirror, Mirror, on the Wall: Who’s the Queerest of Them All?

Historically, the willingness of those charged with policing what Gayle Rubin euphemistically terms “the erotic DMZ” to cross this barrier between “safe” and “scary” has resulted in the barrier’s (at very least partial) dissolution. One need only recall the

story of San Francisco Police Sergeant Elliot Blackstone, who, having been charged during the sixties with purging San Francisco's Tenderloin District of so-called "offending elements," resisted this mandate. Knowing little about sexuality except that he "liked having sex," Officer Blackstone decided to read up on transsexuality and work with rather than against the trans community in its fight for survival, serving as the SFPD's first liaison to the "homophile community," attending events like the Council on Religion and Homosexuality's 1965 New Year's Ball with his wife (whom police shoved as they raided the Ball, mistaking her for a drag queen), starting the National Transsexual Counseling Unit, taking up church collections to pay for hormone therapy for transwomen he knew, and fighting to abolish laws against cross-dressing. Asked why, as a straight man, he advocated so powerfully and for so long for the trans community, Sgt. Blackstone said simply, "Because it was the right thing to do" (*Screaming Queens*).

It is my hope that attention to the logical fallacies on which the criminalization of prostitution has long relied as technical laymen redeploy them in the course of the American legal system's struggle to insert cyberprostitution—whatever it is, *really*—into a structure of rights and obligations—underscores the need engendered by these fallacies for a new queer, feminist model with which to counter the ongoing production, regulation, and oppression of "sex working bodies" under the law. For if it is true that, as Jill Nagle observes, what was "back in the beginning" of the feminist debate on prostitution a more plural and politically trenchant feminism has largely devolved into a "mainstream feminism [that] seeks to position itself as a 'moral regulatory force' to influence state-imposed laws," then it is all the more imperative that we expose "the political stakes in designating as origin and cause those identity categories [here,

specifically, those of prostitution] that are in fact the effects of institutions, practices, discourses with multiple and diffuse points of origin" (Butler *GT* ix). For it is only in so doing that we— as queers and/or feminists—stand a chance of standing on the right side of “truly human sexual functioning” (to paraphrase Marx). Moreover, we must remain ever alert to the omnipresent possibility of backlash, lest we find ourselves unwittingly co-opted into playing games of exclusion that merely displace oppression and exploitation from one minoritized population onto another, apropos of Don Kulick’s recent observation at a conference on heteronormativity:

I declared...that in my opinion, the queerest people in Sweden are not gays or lesbians, not bisexuals, not even transsexuals (who often are the top contenders for that prize), but prostitutes and their clients. Why? Precisely because they are the focus of massive attempts to make them unintelligible.” (226)

In order to apprehend both the reactionary and progressive potential of cyberprostitution as it unfolds in the historical present, and fight against its backslide into the rendering of ever new “lepers,” we must pull the emergency brake (Benjamin “Para” 402) on our ever-trenchant tendencies to see any and every form of oppression as somehow exclusive and/or separable from *all* forms of oppression. We must needs be sure that the Cyberofficer Blackstones of our era—perhaps most importantly the Officer Blackstone within each one of us—have truly revolutionary reading materials at our disposal.

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