

SIN CITY: LAS VEGAS AND MORALITY

“What happens here, stays here,” or so proclaim a series of ads encouraging tourists to head to Las Vegas. One spot shows a middle-age woman pen a postcard, then dab water and smear a portion she doesn’t wish to reveal. Another features a man asking whether a wake-up call can be sent to his cell phone as he explains he’s unsure whether he’ll spend the night in his own room. A third ad features a group of women riding in a limo, five or six laughing at an embarrassed friend. The ads have garnered their share of praise: a USA Today survey named the campaign the “most effective” of 2003, and the catchphrase will be included in the next edition of an advertising textbook.¹ The phrase has also inserted itself into the popular lexicon: Jay Leno, Billy Crystal at the Academy Awards, and Saturday Night Live all spoofed the spots, and Bill Bennett, after news channels aired video of him gambling at a Las Vegas slot machine, complained in two separate interviews that the maxim didn’t apply to him.²

The ads are also part of a massive effort by the city of Las Vegas to attract visitors. Orlando, a comparable visitor destination, spends \$11.5 million a year to promote tourism.³ Las Vegas spent \$60 million to create the ad campaign.⁴ The ads highlight what Las Vegas purports to offer to the rest of the country: a chance for an escape to a destination where practically “anything goes.” They do so in a subtle manner,⁵ suggesting at illicit behavior while leaving the details to the imagination. (Of course, based on my experiences, once in Las Vegas, at least as a young male, the “details” are offered to you—unsolicited—by almost any cabbie and numerous undoubtedly underpaid men and women whose job is to stand on the strip⁶ and offer advertisement for strippers and escort services.) Responses indicate that the ads have been received positively, particularly by younger generations.⁷

To be sure, the ads intend to change the viewer's perception of Las Vegas—simultaneously hinting at and normalizing the illicit. And the slogan isn't entirely correct—a part of the Las Vegas experience is reveling with friends about the details once back home. True to reality or not, the ads are an acknowledgement that Las Vegas has turned away from its attempt to be family-friendly. The twin engines of Las Vegas—gambling and the sex trade—are, at least in certain forms, becoming more and more acceptable. Once perceived a town of ne'er do wells and mobsters, Las Vegas has gone mainstream. A number of business conventions are held in Las Vegas, and the area is booming with growth.⁸ At the same time, many seem to accept that Las Vegas is a “morality-free zone,” a bubble of sorts where hedonism is king. The city, which initially grew as a rough-and-tumble form of the American Dream, is now an admixture of contradictions. Las Vegas is, in some sense, quintessentially American. Vegas promises opportunity—no matter your rung on life's status ladder—and encourages consumption on a grand scale. At the same time, the opportunity Vegas dangles is an artifice, held together through deception, that preys on our compulsive weaknesses.

While examination of the city and the lifestyle it encourages it in itself interesting, Las Vegas is also an intriguing specimen in a morality discussion. After painting both historical and present day pictures of Las Vegas, the latter imbued with my personal experiences there over the last few years, I will attempt to probe the possible effects of having a “morality free zone” of sorts within America. My starting point will be an assessment of the moral implications of gambling, stripping, and prostitution. This assessment will be both descriptive and proscriptive: are these activities still viewed as immoral, and should they be? Next, using Michel Foucault's *The History of Sexuality*⁹ as a lens through which to view Las Vegas, I will probe the possibility that Las Vegas, if viewed as an exception from the norm, may serve a function similar to Foucault's repressive discourse theory of sexuality. That is, as discussion of sexuality has become more open, Las Vegas may have subsumed the confession box and the psychiatrist's couch as a form of repressive discourse. While Las Vegas' place as a morality-free zone doesn't track perfectly to Foucault's theory by any stretch of the imagination, it may highlight the function Las Vegas serves today.

THE EARLY HISTORY OF LAS VEGAS

In many ways, the history of Las Vegas is a version of the American Dream, with entrepreneurs forging a unique city in the midst of desert.¹⁰ The area around what became Las Vegas, once known as “Big Springs,” was a watering hole on the Mormon trail from Utah to California. Even so,

there were no regular white settlers on the land prior to 1859, when silver was discovered in northern Nevada. A prospector named Octavius Decauter Gass settled there with his wife, Helen Stewart. Stewart, after a cowboy had killed Gass, turned their homestead into a campground for prospectors. She also began buying up land located near the aquifers. A surveyor hired by Stewart, J.T. McWilliams, noticed that 80 acres of land near Stewart's land was unclaimed; he purchased it and began selling to land speculators. Both Stewart and McWilliams guessed that a railroad connecting Salt Lake to Los Angeles would eventually build through the area. Ragstown, a town of 1,500 residents, sprung up on McWilliams' land.

Stewart and McWilliams were right in surmising that the railroads would come. The railroad company, however, was unwilling to let McWilliams profit from their actions. Buying land from Stewart, they instead built a town a few miles from Ragstown, calling it Las Vegas. Advertisement in Utah and California brought land speculators, but the railroad company's tight control over water turned Ragstown into a ghost town and left Las Vegas stagnant—with one notable exception. That exception: the town's "social clubs" found on Block 16 of the town plot, where drinking, gambling, and prostitution occurred openly. In 1910, the Nevada legislature made gambling illegal; the city "completely ignored" the new law.¹¹

Facing economic hardship, the city received a shot in the arm when the federal government began construction of Hoover Dam in the 1930s. Concerned that its workers would be unproductive because of the Las Vegas, the government created its own city to house workers. Boulder City outlawed gambling, drinking, and prostitution—only making Las Vegas more attractive. The prosperity allowed Las Vegas to finally gain control of the water in the city from the railroad company. The government also built an Air Force base on the city's outskirts. The city, under pressure from the War Department, closed Block 16; the casino operators simply moved one block south, to Fremont Street. Hotel and casino combinations also sprung up for the first time. A man named Thomas Hull created a precursor to the modern casino/hotel when he built El Rancho Vegas. The hotel included pools, retail shops, a steak house, and other entertainment options such as horseback riding—all designed to keep patrons within his casino and draw non-gamblers. A new invention, air conditioning, also made Las Vegas more hospitable for visitors.

It was also at this point—the 1940s—when gangsters began to make their influence felt in Las Vegas. Bugsy Siegel, the most famous of the initial bunch, borrowed five million dollars from east-coast mobsters and built the Flamingo. Mob creditors murdered Siegel in 1948, but the flow

of mobsters only increased. In 1950, a Senate Committee investigation of organized crime determined that illegal gambling was present in most major cities. In response, many cities commissioned vice squads, which had the effect of driving mobsters to Las Vegas. While laws were passed making it illegal for criminals to buy casinos, bribes made these laws ineffective. The casino was also a perfect form of business for the mob: gambling revenues were in cash and the casino provided an ideal front through which to launder money. Las Vegas was declared “open territory,” meaning that crime families were free to operate so long as they left others alone. Accordingly, a rash of mobster-controlled casinos opened in Las Vegas in the 1950s.

The mob remained in Las Vegas largely undisturbed until the 1960s. At that point, J. Edgar Hoover instituted a federal crackdown on mob influences; while it would take until the 1980s to completely rid Vegas of the mob, effects were felt immediately. The federal government would focus on a single resort, identify the mobsters behind the business, and either charge them with felonies, pressure them to sell the business, or pressure the state to revoke their gaming license. At this point, federal authorities ran into a problem: finding legitimate businessmen to buy and operate the casinos. Because casinos were associated with the mob to such a high degree, many businessmen were loath to sully their reputation by owning and running them. Into this void stepped two men of particular note: Bill Bennett and Steve Wynn.¹² These two rivals almost single-handedly managed to transform Las Vegas into what it is today. These men changed how casinos operate, appear, and appeal to the public.

THE CHANGING FACE OF THE CASINO

Bennett and three other investors bought the mob-influenced Circus Circus in 1974, with Bennett providing much of the legwork behind casino operation. When purchased, Circus Circus was losing approximately \$500,000 per month.¹³ In a series of steps—many now par for the course—Bennett turned Circus Circus into one of the most profitable casinos on the strip. First, Bennett’s drastically shifted the casino’s philosophy. Up until this point, Las Vegas casinos operated by targeting big spenders, or so-called “whales.” Bennett decided to make his casino a “grind joint” that catered to small-stakes bettors—an unthinkable strategy according to conventional wisdom at the time. He also began requiring a daily log that told him how much the casino was earning at different times of the day. From this log, he then calibrated the types of table games being offered at different times of the day. This is now standard practice in Las Vegas. It was not until Circus Circus went public and was forced to open its books that the other casinos

realized that catering to small-time gamblers paid off in large profits.¹⁴

Second, Bennett began to emphasize the slot machine. This may seem rather mundane, but Bennett was ahead of his time: while slots have become prevalent in a casino—and immensely important to the bottom line—they were at this point viewed as distractions mainly available for the wives and girlfriends of high rollers. In part, the shift was due to technology. Prior to this time, slot machines had set payout patterns. This meant that players could “crack” a slot if they could figure its pattern. With the invention of the random number generator, this became impossible. While technology played its part, Bennett also recognized that table games often prove daunting to newcomers. In contrast, slot machines are simple to operate and not intimidating. Bennett also employed another now-common¹⁵ technique by making his slots pay out jackpots more frequently. While this meant that the casino took in less profits from the machines, Bennett recognized that most money paid out by slot machines goes right back in them. He advertised his as the “loosest slots in town.”

Finally, Bennett recognized that the casino, and not the hotel, made profits swell. He recognized that his job was to get gamblers in the casino. Accordingly, he underpriced other amenities. When the average hotel room on the strip cost \$60, Circus Circus charged \$18, and constantly advertised this fact.¹⁶ When hotel space became overbooked, Bennett reached agreements with off-strip hotels where he would book customers there at an \$18 rate and offer them free transportation to his casino.¹⁷ Bennett also introduced the cheapest all-you-can-eat buffet on the strip.¹⁸ And, in a shift that was to become more pronounced, Bennett included carnival and midway games in an area separate from the casino where children could entertain themselves. Circus Circus became the first truly kid-friendly casino in Las Vegas.

As Bennett was turning the Circus Circus into a profit machine, a man named Steve Wynn began investing in various casinos.¹⁹ After nearly doubling a million dollar investment in real estate, Wynn took over and turned around a downtown casino called the Golden Nugget. Like Bennett, he sought to attract customers by means other than gambling. Wynn made the Golden Nugget fashionable by booking rising country stars such as Kenny Rodgers and Willie Nelson to play there. After making an enormous profit developing and then selling a casino in Atlantic City, which opened its doors to gambling in 1978, Wynn began work on the first new casino on the strip in 16 years: the Mirage.

Thematically, the Mirage today appears fairly bland: it has no overarching theme and newer casinos, such as the Bellagio, outdistance it in terms of high-end appeal. But at the time it opened the Mirage was notable

for two reasons. First, at that point it was the largest casino on the strip, with 3,000 rooms. Second, the Mirage combined the elements that made other casinos successful: various casinos had high-stakes gambling, entertainment, or upper-end shopping options, but the Mirage combined these features in a single building, something that was at the time novel. It was the first of what Earley calls the “supercasino:” a casino with a number of other entertainment outlets, designed to attract visitors through other means but above all driven by casino profits.

The Mirage was the beginning of modern Las Vegas. Bennett, disgruntled that Wynn was becoming the face of Las Vegas, immediately reacted. Three days after Wynn announced his plans for the Mirage, Bennett announced a larger, family-themed casino. Called the Excalibur, Bennett built it in the shape of a castle (even with moat and drawbridge), intentionally evoking the Magic Kingdom. When it opened, seven months after the Mirage, it had the most rooms on the strip: 4,025. Like Circus Circus, Bennett powered the casino via the slot machine; there were more slots in the Excalibur than in any other casino in Las Vegas. He also made it family-friendly, with a video arcade and amusement rides for kids in its basement. The Excalibur was initially very successful, and other casinos followed the kid-friendly model. MGM Grand, for example, built an expansive amusement park in its new casino. The Luxor, when it opened, had a ride along the Nile River. Bennett’s success precipitated an era where casinos attempted to appeal to families as appropriate vacation destinations.

After a time, however, the casinos learned that family-friendly entertainment did not breed the type of profits initially speculated. Not surprisingly, the casino—the profit engine of a casino-hotel—receives no use from children, nor from parents watching children or waiting in line for rides. In short, while family-friendly casinos may attract families, these families do not spend enough money gambling.

THE MODERN VEGAS

In recent years, most casinos have abandoned attempts to woo families. Newer casinos retain the heart of the family-friendly concept—draw visitors via non-casino related means and encourage them to gamble—but they do so via different means. MGM Grand provides a model of this trend. The amusement park has been torn down; the casino now has two nightclubs with a third in the works.²⁰ Most casinos offer some form of gimmick to get patrons through their doors: Treasure Island stages a pirate battle outside the casino; MGM Grand offers lions to view, the Mirage white tigers. Many of the newer casinos are based on other famous tourist locations. Architecturally both impressive and absurd, New York, New

York offers the New York skyline on the outside, with the Empire State Building, the Brooklyn Bridge, and a model of the Statute of Liberty there to greet visitors. Inside, it replicates the neighborhoods of New York, with manhole-covered streets and an assortment of New York-themed restaurants, shops, and bars. Whether intentional or not, the casino floor also conjures New York; it is cramped and noisy. Paris-Las Vegas does the same for Paris, with a model of the Eiffel Tower. The Venetian, modeled after Venice, offers gondola rides.

Casinos have also followed the high-end model of the Mirage. The quintessential example is the Bellagio, which hosts an art gallery, high-end shopping, and an impressive water fountain show outside the casino where jets shoot water out in a show artistically choreographed to music and lights. During its first seventy-seven days of business it made more than \$3 million per day.²¹ Mandalay Bay, Circus Circus' latest offering, has none of the family-friendly trappings of the Excalibur. Instead, it is targeted to an older demographic. A pool with a wave machine and lazy river, musical offerings, and a popular night club, Rum Jungle, draw visitors into the casino. Many casinos have added prominent chefs and spas to entice visitors seeking a high-end experience.²²

As gambling proliferates throughout the United States, Las Vegas has needed to offer something in addition to gambling to entice visitors. If one seeks gambling, it is usually not far from home. (Or, if you have an internet connection, it is available at home). Atlantic City is the Vegas of the East; Biloxi, Mississippi offers a similar getaway not far from Memphis. Native American-run casinos have sprung up across the United States, and riverboat casinos also abound. Even more important, the internet has made gambling accessible from home (or, as I have witnessed while playing online poker, from work). This means that, if one wants only to gamble, Las Vegas is not necessary.

And yet the number of visitors traveling to Las Vegas has continued to grow, this year at a record-setting pace.²³ Gaming is up 12% on the strip, hotel rates are up 15% from the start of January 2003, and Las Vegas' McCarran International Airport was the first to reach pre-9/11 traffic rates.²⁴ In my mind, two forces converge to explain this fact. First, gambling has become not only acceptable but popular. Second, Las Vegas has largely succeeded in creating a hedonistic image—embodied in extreme form by the strip clubs and, to a lesser extent, prostitution—that adds a cultural mystique for the city. The changes in the last ten years have been directed at a younger demographic, and nightclubs are the new amusement parks.²⁵ I don't doubt that this injection of younger patrons also boosts the sex trade.

GAMBLING'S INCREASING POPULARITY

The growing reception of gambling as an acceptable form of entertainment rather than an illicit behavior has been ongoing for quite some time. For at least one form of gambling, poker, the shift may have moved from approbation to neutrality to a positive acceptance.

Interest and participation in poker has exploded over the past few years. A number of best-selling books have been written on the topic. James McManus' book on the World Series of Poker ("WSOP") reached the top ten on the New York Times Bestseller List.²⁶ McManus began his book intending to write on the growing presence of women in professional poker, the general professional poker scene, and a then-ongoing murder trial of the owner of Binion's Horseshoe Casino, which hosts the World Series of Poker every year. The thrust of the book shifted somewhat, however, when McManus used his advance to earn an entry into the WSOP's biggest event, the No-Limit Texas Hold 'Em tournament. McManus, a writer for Harper's magazine, made it to the final table, then an unusual feat for an amateur player. He left Las Vegas with nearly a quarter million in prize money.²⁷

A weekly poker column now appears on ESPN.com.²⁸ ESPN also airs the WSOP. The TV ratings—an average of over a million viewers watched the seven episodes, with the final table drawing over 1.7 million households, and there was little decline in viewership when reruns were aired at odd times of the night—have prompted an increase to twenty-two episodes for this year's tournament.²⁹ ESPN rival Fox Sports Net now airs "Late Night Poker," a British-produced poker tournament show, and the Travel Channel aired thirteen poker tournaments in various casinos around the world.³⁰ Bravo hosts "Celebrity Poker Showdown," where mostly B-list celebs play a game of poker with the winner giving the \$250,000 prize to the charity of their choice.³¹ This explosion is in large part possible because mini-cameras now show a player's cards on the broadcast, making poker a form of reality TV where viewers can second-guess and appreciate the decision-making of the players.³²

Likewise, participation in poker has drastically increased.³³ Poker is becoming available at a number of casinos. The Mirage has expanded its poker room, the Bellagio is planning the same, and a number of other Vegas casinos are building or expanding rooms.³⁴ The 2004 WSOP, which concluded with the No Limit Texas Hold 'Em Tournament, attracted a record number of participants this year. In 1995, there were 273 entries in the in the No Limit Texas Hold 'Em Tournament.³⁵ In 2000, 512 players participated.³⁶ This year: 2,576.³⁷ Because the payout is based on the number of entrants, the prize money has increased accordingly.³⁸

Online poker has also created a forum for poker playing. PartyPoker, the most frequently used site, at times attracts over 40,000 players.³⁹ A website that tracks usage of online rooms calculates that over the past 24 hours over \$86 million dollars has been wagered online at various poker sites.⁴⁰ These poker sites are in part responsible for the explosion of entrants into the World Series of Poker, as online tournaments for entries run regularly in the months before the WSOP. Last year's No Limit Hold 'Em winner, the aptly named Chris MoneyMaker, gained his entry through a \$40 online tournament and walked away with \$2.5 million.⁴¹

GAMBLING AND MORALITY

In my mind, there is no strong moral objection to poker. It is a game that rewards those who study it. It can be profitable. It offers a social form of entertainment. Most importantly, it does not feed on ill-conceived hopes for a life-altering payout. The casino makes its profit, which is minimal compared to other games, by taking a portion of each pot called the "rake." The amount will differ from casino to casino (depending on whether nearby competition exists) and from game to game (depending on the number of players and the pot size) but will usually not exceed 5% of the pot and stops being collected once the pot reaches a certain size. Poker is thus a pari-mutual form of gambling, where winnings are based on the play of your opponents. One can, over the long term, consistently win at poker—something not true of slots or even other table games. The game is also intellectually interesting. Good poker playing requires a basic understanding of probabilities, keen observation of others, the ability to bluff successfully, self-control, intelligence, and intuition. It is also a social game, with friendly chatter at the table spiked occasionally by antagonism between players.

There are two objections to my argument that poker is not immoral behavior I wish to address. The first posits that forms of gambling, poker among them, are an unproductive waste of time. While I by and large do not object to this conception, the critique doesn't compel the conclusion that gambling should be condemned or prohibited. The second critique notes that poker rooms do not operate in a vacuum; instead, their existence is reliant on profits gained from more objectionable forms of gambling, such as slot machines. In a sense, I have been cherry-picking by discussing poker at the expense of other forms of gambling. While it need not be the case that poker rooms come coupled with other forms of gambling, in reality this is the case, and this reality should not be ignored.

I would not object to the characterization of gambling as societally unproductive. While operating a poker room provides benefits to employees

of the casino, the playing of poker does not add substantially to the common good. There are some benefits to the experience outside of personal enjoyment—an experienced poker player may, for example, be better able to represent a client in negotiations. Poker may also be compared to day trading, where one uses knowledge and experience to seek profits in the stock market. (Trading in stocks, of course, provides capital businesses need to grow and thrive, something gambling cannot match). Even conceding that gambling has little social value, the objection is not compelling. Any number of activities can be characterized as non-productive or indifferent to human growth and progress. Indeed, as gambling is characterized more and more as a form of entertainment, gambling becomes little different than spending time at a movie or socializing at a bar. The critique simply provides no basis for singling out gambling.

The second objection—that discussing poker ignores more destructive forms of gambling—carries more weight. To be sure, discussing poker shines light on a positive manifestation of the developing interest in gambling. But poker rooms are usually attached to casinos that also house less morally acceptable forms of gambling, such as slots or table games, where the house enjoys a permanent advantage over the player. These other gambling forms are also becoming destigmatized and more prevalent. Casinos are becoming more and more commonplace. The 1988 Indian Gaming Regulatory Act⁴² codified a number of federal court decisions that had recognized the right of Indian tribes to conduct gaming operations free of state regulation, and Indian casinos have since proliferated. Profits from these tribe-owned casinos, however, often land in the hands of white investors rather than the tribal communities.⁴³ (Also of note given the above discussion, these Indian casinos generally do not have poker rooms, which fall under a different class of games and are more stringently regulated because players play each other rather than the house.⁴⁴ California is the major exception, where tribal-run casinos offer poker.⁴⁵) The internet also provides access to casino games such as slots or blackjack.

In short, I do not mean to paint too rosy a picture by focusing solely on poker. The growing interest in poker parallels, to a somewhat lesser extent, a growing acceptance of more pernicious forms of gambling. This in turn means more casinos. Put bluntly, these casinos operate via subterfuge. While reports that casinos pump excess oxygen in to stimulate players to gamble are apparently false,⁴⁶ a number of other deceptions are built into the casino model. The architecture of the casino itself draws a gambler in. As a visitor, you will generally be forced to walk through the casino before reaching the check-in desk.⁴⁷ The same goes for finding elevators or restaurants. Each is placed so that a visitor has to walk by slot

machines to get from place to place. Many Vegas hotels do not have a mini bar in the room. If a visitor wants something to eat or drink, he must—surprise!—trek through the casino. Casinos are designed so they are difficult to navigate through—meaning more time walking inside them. Other simple means are also deployed. Casinos generally do not have clocks, and lighting is designed to remove a sense of day or night, so that time spent is not readily apparent. Chips are designed in colorful, attractive patterns—so they don’t appear like money. Unless requested otherwise, dealers will usually change large bills with small chips, which are mentally easier to fritter away. “Comps” systems—which reward frequent and high-stakes gamblers with free meals, lodging, and sometimes airfare—are calibrated by computer systems and player tracking to draw in those that will spend sufficient amounts.⁴⁸ And, of course, the “free” booze, which casinos offer to induce more betting and trigger unwise and reckless decision making.⁴⁹

The slot machine is the king of deception. While casinos are required to publish their slot payout rate, the rate they publish is simply an average of all the slots at the casino. Individual machines can be calibrated to different payout settings, and so flashy machines, machines near the cashier, and machines near the entrance will all be set to lower rates. The slot machine design itself is also designed to lure players in and keep them for longer periods of time. Frequent smaller payouts and enticing game design are just two of the means used.⁵⁰

VEGAS AND THE SEX INDUSTRY

As noted above, the presence of gambling is only one component of what draws visitors to Las Vegas. It is the seedier side of Las Vegas that, coupled with the excess seen everywhere from the gaudy architecture to the encouraged free-spending, makes Vegas alluring, unique, and repulsive. In all facets of life, Las Vegas encourages a reckless, materialist attitude. This attitude extends to the sex industry.

Above, I argued that poker should not be viewed as an immoral activity. I cannot do the same for stripping or prostitution. Some argue that allowing women to strip or prostitute themselves gives them an avenue to earn more than they would in many other environments, especially when the woman is without education beyond college.⁵¹ This is true. According to one estimate, the average stripper working year round four nights a week will make about \$85,000 and top girls can make over \$250,000.⁵² The question is at what cost: are the harms inflicted by the commodification of sex and sexuality worth the benefit?

What are these harms? In *Only Words*, Catherine MacKinnon articulates a number of harms that emerge from pornography.⁵³ The most obvi-

ous harm is that inflicted on the participants themselves. MacKinnon sees the creation of pornography, in and of itself, as sexual abuse.⁵⁴ This blanket conclusion may go too far⁵⁵—some women undoubtedly make a genuine choice to participate—but, agree or disagree, the creation of many forms of pornography undeniably does constitute sexual and physical abuse. A second harm attaches to the viewer of pornography. MacKinnon argues that consumers of pornography are more likely to abuse and rape women because of their consumption. A third harm is general: MacKinnon argues that the presence of pornography in society affects how women are perceived.⁵⁶ As pornography, and with it the objectification and commodification of women, becomes a normal presence in society, it works to define the bounds of sexuality even outside the context of pornography. In short, for MacKinnon the presence of pornography creates and reinforces structures and hierarchies that impose an inferior status on women. “Words and images are how people are placed in hierarchies, how social stratification is made to seem inevitable and right, how feelings of inferiority and superiority are engendered, and how indifference to violence on the bottom is rationalized and normalized.”⁵⁷

While MacKinnon does create an over-inclusive category by categorizing all participation in the sex trade as non-voluntary, as Chantel Thomas points out,⁵⁸ it is certainly true that many participants are coerced into using sex as a commodity. Further, even if MacKinnon’s conception is overbroad, we should still ask which danger—over- or under-inclusiveness—is more problematic. While the answer to that question depends on what value you place on individual freedom, in my mind problems stemming from coercion and duress weigh much heavier on the scales than problems stemming from over-inclusive restrictions. It is also indubitable that most participants in pornography come from childhoods scarred by physical, sexual, or verbal abuse; many are runaways or come from broken homes. It is probably safe to assume the same is true of strippers, although my intuition suggests to a somewhat lesser extent. The harms extend beyond the participants themselves—third party harms occur through the objectification of women.

Do MacKinnon’s observations translate from pornography to prostitution and stripping?⁵⁹ The answer in regards to prostitution seems to be yes. MacKinnon’s first-party harms associated with pornography certainly extend to prostitution. The third party harms are also just as present, and even seem magnified by the openness of the commercial money-for-sex exchange inherent in prostitution. The application of MacKinnon’s framework to stripping is more tenuous, though her main concerns are still present. Stripping operates in a blurry area between pornography and prostitution.

It clearly appeals to the prurient interest—the customer is there to ogle and be stimulated—but goes beyond mere pornography, as stripping is a live, in-your-face act. Despite resolutions attempting to limit the type and amount of contact between stripper and customer,⁶⁰ the conventional “no touching” rule is by no means hard-and-fast. The stripper can on her own initiative induce contact by rubbing herself against the customer. Further, at particular strip clubs the customer may be allowed to do the touching. Depending on the stripper’s comfort level with the customer and her relationship with the bouncers, at some clubs the no touching rule would be, in a law school class, described as a default rule that can be altered by the parties.⁶¹ Often strippers will induce or allow touching in an attempt to lure the client to the VIP room, where \$100 will buy you three dances and a promise of looser boundaries. Others will hold off on allowing touching but hint at the fact that a trip to the VIP room will open the doors.⁶² Because, at the least, stripper-induced touching is a semi-regular part of the lap dance, stripping comes close to—but in my mind does not equate to—prostitution.⁶³

The difference is largely semantic. Stripping may be less harmful than prostitution, but the difference is in degree, not kind. Both involve a live money-for-stimulation exchange, but strippers retain more control over the activity, have a greater degree of protection (their performance is generally in the open and loosely regulated by bouncers), and sell an experience short of sex.⁶⁴ Strippers also capture more of the profit from the act than prostitutes, who are often under the control of a pimp. Strippers are able to freelance from club to club, though most develop a comfort with one club in particular.⁶⁵ They need to pay a fee—at one club, \$60 to \$100 for a night⁶⁶—to be allowed to dance on the premises. In short, harms from stripping seem to be of a lesser degree.

At the same time, stripping, like prostitution and pornography, harms the participants and encourages the commodification and objectification of women. While the individual harms that come from the exchange are not easily quantified, they undoubtedly exist. If nothing else, the fact that society stigmatizes their choice to strip invites psychological harm. The fact that a woman’s tenure as a stripper is usually temporary, while possibly reflecting the market and competition, surely reflects the fact that most do not engage in stripping willingly.⁶⁷ The third party harms are similar to those of pornography and prostitution.⁶⁸

In addition, while men willingly make these exchanges, for some there is a later sense of regret. Two bachelor parties I attended in the last few months provide a demonstration of this. One of the bachelors, who spent two or three hours at a strip club on our last night in Vegas, left

buzzed and wowed. He certainly enjoyed himself. That did not stop him from taking a shower when we got back to the hotel because he felt dirty. Of course, the strippers were the cause of this dirtiness in his mind—despite accepting and enjoying the lap dance, he stigmatized the strippers as impure and unclean. Likewise, the source of his stomach ache the next day may have been regret, though he perhaps correctly attributed it to the force of the grinding he had received from the strippers on a regular basis the prior night. Nor was the truth of the evening conveyed to his fiancé, who was informed that he had received a single lap dance with no touching. Another friend and his fiancé operated on a don't ask, don't tell policy. He admitted, however, that his fiancé was not entirely comfortable with the bachelor party idea, and I'd guess if she knew precisely what the strip club entailed, she would be much cooler to the idea. A third engaged friend attended a strip club but remained restrained in his behavior and interactions with the strippers. While he wanted to engage in the rite of passage, he did not revel in it.

For my part, I can tolerate the strip club only if I'm sufficiently drunk enough to push aside the reality of what I'm taking part in. That doesn't mean that the next morning I don't think I debased myself. I also never lose sight of the reality that, for the strippers, this is a business. Much of the enjoyment in traveling to the strip club stems from participation in a group activity with friends rather than the stripping itself. I enjoy attending bachelor parties with friends as a single twenty-something, but there is absolutely no chance that I'll have my own bachelor party in Vegas because the strip club, an expected part of the trip, would be something I would not welcome while involved in a relationship of that commitment.

That being said, it is undeniable that spending time in Las Vegas with a group of friends in this environment gives an energy and vibrancy to the trip that wouldn't be present anywhere else. And the trip to the strip club is a key part of this. I will grant that the appeal of a bachelor party is, in large part, an intentional creation of how Las Vegas pitches itself. Despite that fact, the rampant excess, gambling, constant alcohol, and flaunting of sex mix together to form a powerful, heady, enjoyable cocktail. It is this cocktail that Vegas really sells.

All appearances point to an expansion of the sex industry in Vegas. Casinos are tentatively exploring convincing the Nevada Gaming Commission to overturn regulations not allowing strip clubs to be attached to casinos. “[M]ost of Vegas agrees that the casinos will eventually find a way to bring strip clubs inside.” Las Vegas Mayor Oscar Goodman supports allowing strippers in casinos and also backs an expansion of legal prostitution, now legal only in designated areas of Nevada.⁶⁹

The current popularity of gambling, especially poker, and the new-found focus on sex and the selling of sin in Las Vegas may turn out to be temporary shifts. Just as Vegas experimented with and discarded the family-friendly model, it may too discard or tone down its marketing of sin. That being said, these shifts—a general acceptance of gambling and a more prominent role for the sex trade in Las Vegas—do not seem to be merely short-term changes. After all, Las Vegas has thrived by peddling the illicit almost since its inception. If these trends do indeed cement, it is worth asking what role Las Vegas might have in shaping our views of morality.

LAS VEGAS AND MORALITY

What effect does Las Vegas have on how we perceive morality? There seem to be two levels in an answer to this question. At one level, visitors—and to some lesser extent society—treat Las Vegas as an arena where morality is tolerably replaced by a temporary and acceptable hedonistic release. This is the idea of the Vegas bachelor party: a mythical last chance for the bachelor to celebrate his ability to behave in a reckless manner with friends. In effect, a trip to Las Vegas serves as a morality “get out of jail free” card. At another level, however, most of the components of the Las Vegas experience remain stigmatized. An obvious concern, at least for those who disapprove of Vegas’ message and lifestyle, is whether experiences within (or the mere presence of) Las Vegas lowers the common moral denominator and encourages similar behavior elsewhere.

Does Las Vegas facilitate illicit conduct elsewhere? This doesn’t seem to be the case. Outside of Las Vegas, gambling (in some forms and to a lesser extent today), stripping, prostitution, and binge drinking all remain morally condemnable. Dissect the Vegas experience into its parts, and each becomes immoral. Remove them from the bubble, and they are inappropriate. This dissection of the whole into still-condemned parts means the concern that Las Vegas plants the seeds of immorality elsewhere may be unnecessary. I wouldn’t see the expansion of gambling as cause to worry about an uncontrollable spread of these other harms.

LAS VEGAS: A NEW DISCOURSE ON SEXUALITY?

Cognitive dissonance is the core of Las Vegas. The Vegas experience is endorsed and condemned, flaunted and buried, real and artificial. In this sense, it evokes Foucault’s explanation of the discourse of sexuality during the Victorian era. *The History of Sexuality* is a complex book with a thicket of entwined and overlapping theses and ideas. At a basic level, however, it is a critique of the traditional historical thesis of sexuality, which posits that

from the seventeenth century onward discussion of sex was repressed and silenced.⁷⁰ Rather than see silence, however, Foucault sees a “veritable discursive explosion”⁷¹ in which repression merely shifted the language used, and avenues for, communication. The most important of these avenues was penance. The confession box became “an apparatus for producing an ever greater discourse about sex.”⁷² This was more than a quantitative shift; it combined with power structures to regulate discussion of sex.

Foucault discusses the “speaker’s benefit” which accrues when the relationship between sex and power is defined in terms of repression: “If sex is repressed, that is, condemned to prohibition, nonexistence, and silence, then the mere fact that one is speaking about it has the appearance of a deliberate transgression.”⁷³ That is, in some sense we derive pleasure from the fact that we behave transgressively. Foucault theorizes that the dynamics of sexuality arise not only from prohibition and criminalization but also from precisely how sexuality is discussed. He concludes:

By creating the imaginary element that is “sex,” the deployment of sexuality established one of its most essential internal operating principles: the desire for sex—the desire to have it, to have access to it, to discover it, to liberate it, to articulate it in discourse, to formulate it in truth. It constituted “sex” itself as something desirable. And it is this desirability of sex that attached each one of us to the injunction to know it, to reveal its law and its power; it is this desirability that makes us think we are affirming the rights of our sex against all power, when in fact we are fastened to the deployment of sexuality that has lifted up from the deep within us a sort of mirage in which we think we see ourselves reflected—the dark shimmer of sex.⁷⁴

Las Vegas has certainly profited by tapping into this conception of “sex.” But the relationship transcends mere use. By offering the visitor access to a prostitute or a lap dance, Las Vegas is engaging in its own discourse on sex. And while it presents itself on its face as open, the truth is that sex, in Las Vegas, is practically inseparable from its connection to the sex *industry*. Las Vegas does not offer Foucault’s ideal of “sexual freedom.” It offers the sex trade. The public discourse presents Vegas as a land of sexual freedom; the reality is that this discourse operates in conjunction with power dynamics to create a different truth. Las Vegas is selling us a mirage, but the creation of this imaginary element has made it all the more desirable and powerful. In an age where the discourse of sex is more open and occurs over different channels, Las Vegas embodies a micro-evolution of

Foucault's story.

If Las Vegas is to be seen as a descendant of Foucault's avenues of discourse—the confession box or the psychiatrist's couch—it also marks an evolution. Foucault denies the common thesis that sexuality was repressed during the Victorian era and beyond, but he does not deny that there has been a shift in how sex is discussed in the latter half of the twentieth century. Sexuality is no longer treated as something secret. This shift may have made the psychiatrist or confession box obsolete, as least as far as they are no longer the only proper avenues through which one can engage a discourse on sexuality. Perhaps because of this fact, experience has replaced discussion as a means of discourse. Merely discussing sexuality is no longer a “deliberate transgression.” But actually engaging in illicit acts—giving the stripper twenty dollars for three minutes of pleasure—now serves the same function.

Put differently, as societal discussion of sexuality has become open, perhaps experience has replaced discourse as the form of deliberate transgression. If this is the case, it provides support for one of Foucault's central ideas: that we create repression so that we can revel in our transgression of that norm. Likewise, if discourse in sexuality is linked to mechanisms of power, we see in Las Vegas one mechanism—the market—shaping the form of discussion and experience. Above all else, Las Vegas has captured, marketed, and capitalized on this need to transgress.

NOTES

- 1 See, STEVE FREISS, *A Firm Hits Jackpot on Vegas Ads*, Boston Globe, March 28, 2004.
- 2 *Id.*
- 3 *Id.*
- 4 *Id.*
- 5 Of note, some less-deft ads were reportedly rejected as too close to home. See, THERESA HOWARD, *Vegas Goes For Edgier Ads*, USA Today, August 3, 2003.
- 6 Most of the casinos in Las Vegas, including nearly all of the newer ones, are located on Las Vegas Boulevard, commonly known as “the strip.” Many of the older casinos are located in “downtown” Las Vegas.
- 7 See, HOWARD, *supra* note 5. In an Ad Track survey, 27% of respondents said they liked the ads “a lot,” compared to a 21% average. 44% of 18-to-25-year-olds liked the ads “a lot,” as did 34% of 25-to-29-year-olds and 32% of 30-to-39-year-olds.
- 8 In the 1990s, Las Vegas was the fastest-growing city in the United States; the city’s population doubled in ten years. See, Pete Earley, *Super Casino: Inside the New Las Vegas* 24 (Bantam Books 2000).
- 9 MICHEL FOUCAULT, *The History of Sexuality* (Vintage Books 1990).
- 10 Much of the history of Las Vegas described below is taken from Pete Earley’s book *Super Casino: Inside the New Las Vegas*, *supra* note 8. The book offers a view of the newer casinos in Las Vegas and contains a history of the city to present-day. For the early history relayed below, see 48-60.
- 11 EARLEY, *supra* note 8, at 51.
- 12 For a recounting of this period in Las Vegas, with particular attention to Bennett and Wynn, see *id* at 95-207. Both Bennett and Wynn have interesting personalities and life stories which Earley details; I have largely omitted the details.
- 13 *Id.* at 95.
- 14 *Id.* at 129.
- 15 See, GARY RIVLIN, *The Chrome-Shiny, Lights-Flashing, Wheel-Spinning, Touch-Screened, Drew-Carey-Wisecracking, Video-Playing, ‘Sound Events’-Packed, Pulse-Quickening Bandit*, The New York Times, May 9, 2004, at 42 (illuminating current techniques in slot machine psychology).
- 16 EASLEY, *supra* note 8, at 110-111.
- 17 *Id.* at 111.
- 18 *Id.*
- 19 For a description of Wynn’s rise to prominence and the building of the Mirage, see *Id.* at 149-74. Wynn was extremely fortuitous in his early investments.
- 20 See, JOEL STEIN, *The Strip is Back!*, Time, July 26, 2004, at 24.
- 21 See, EARLEY, *supra* note 8, at 479.
- 22 See, STEIN, *supra* note 20, at 26.
- 23 See, CHRIS JONES, *March Visitors Approach Record*, Las Vegas Review Journal, May 13, 2004 (noting that the city is currently “on pace to obliterate the city’s best-ever year”).
- 24 NEWT BRIGGS, *Slogan’s Run*, Las Vegas Mercury, April 8, 2004,

- 25 See, STEIN, *supra* note 20, at 26–27 (describing how casinos like the Palms and the Hard Rock Casino cater to younger crowds and noting the ubiquitous nightclubs attached to the casinos).
- 26 See, *New York Times* Bestseller List, Past Listings for May 2003, available at <http://www.hawes.com/2003/0305.htm#May%2011>. A writer for Harper’s magazine, McManus began his book intending to write on the growing presence of women in professional poker, the general professional poker scene, and a then-ongoing murder trial of the owner of Binion’s Horseshoe Casino, which hosts the World Series of Poker every year. The topic of the book shifted, however, when McManus used his advance to earn an entry into the WSOP’s biggest event, the No-Limit Texas Hold ‘Em tournament. McManus made it to the final table, then an unusual feat for an amateur player.
- 27 James MCMANUS, *Positively Fifth Street 322* (Farrar, Straus, Giroux 2003).
- 28 See, JAY LOVINGER, *Now’s When To Hold’em*, available at <http://sports.espn.go.com/espn/page2/story?page=lovinger/040428> (the first in a weekly column by the author describing his poker travails).
- 29 See, BOB SHEMELIGIAN, *Winning Hand*, *Las Vegas Mercury* (detailing ratings for ESPN).
- 30 See, SHEMELIGIAN, *supra* note 29.
- 31 See, <http://www.bravotv.com/CelebrityPokerShowdown/>.
- 32 A 1998 University of Chicago Law School Graduate, Steve Lipscomb, conceived of broadcasting the poker tournaments and insisted on inserting the cameras. See, WENDEEN EOLIS, *Lyle Berman and Steve Lipscomb’s Confection: A Poker Tournament Season on National Television*, available at <http://www.pokerpages.com/articles/archives/wendeen-eolis03-prt2.htm>.
- 33 My anecdotal experiences confirm this. In playing poker in Las Vegas over the past few years, I’ve seen much more interest in my last two trips, both in the beginning of 2004. I play in the same room—at the Mirage—which has expanded in that time. The type of player has also shifted, with fewer locals and more tourists and inexperienced players in these games.
- 34 See, SHEMELIGIAN, *supra* note 29.
- 35 See, *26th Annual World Series of Poker*, available at <http://conjelco.com/wsop95/wrapup-wsop.html>.
- 36 See, *31st Annual World Series of Poker*, available at <http://conjelco.com/wsop2000/event27.html>.
- 37 See, *World Series of Poker 2004*, available at <http://www.thegoodgamblingguide.co.uk/spotlight/wsop2004/wsop2004championshipresults.htm>. The entry fee for the tournament is a whopping \$10,000. However, many entrants gain their way into the tournament by playing and winning smaller “satellite” tournaments, which have smaller entry fees and award entries to the top finishers based on the number of participants.
- 38 This year’s winner, a (now-former) patent attorney named Greg Raymer, took home \$5,000,000. See, *World Series of Poker*, available at <http://www.thegoodgamblingguide.co.uk/spotlight/wsop2004/wsop2004championshipresults.htm>.
- 39 See, *PartyPoker*, available at www.partypoker.com. As present, on a Sunday afternoon, there are over 25,000 players at PartyPoker, though an undetermined number of these players are betting play money. At present, over 35,000 players are playing real money games online. See, *PokerPulse*, available at <http://www.pokerpulse.com/#industryStats>.

- 40 See, *PokerPulse*, *supra* note 39.
- 41 See, *Poker Player Profiles*, available at <http://www.homepokergames.com/moneymaker.php>.
- 42 102 Stat. 2475, 25 U.S.C. § 2710(d)(1)(C).
- 43 See, DONALD L. BARLETT and JAMES B. STEELE, *Who Gets The Money?*, Time Magazine, December 16, 2002.
- 44 See, Minnesota House of Representatives, Indian Gaming, available at <http://www.house.leg.state.mn.us/hrd/issinfo/gambind.htm#AUTH>.
- 45 See, *Palm Springs Casinos—Indian Gaming*, available at <http://www.desertguide.com/ae/gaming.html> (noting that California Indian casinos now offer poker rooms).
- 46 See, Snopes.com, available at <http://www.snopes.com/luck/casino.htm>.
- 47 See, Earley, *supra* note 8, at 219.
- 48 See, *Id.* at 324.
- 49 This last point shines more light on human psychology than anything the casinos do—they simply provide alcohol at no cost knowing it will facilitate reckless decision-making and more gambling. In my experience, psychology and casino strategy also combine to prompt larger betting at table games. Casinos can set different minimum bets at tables and, during peak hours, these limits will unsurprisingly be higher. Five dollar blackjack tables become rare on Friday or Saturday nights; more popular casinos have higher minimums. When walking through the MGM Grand last month over a weekend when the casino hosted a boxing match, a pit boss reported to me that they were at full occupancy and there would be no tables below \$15. This was during the early afternoon when the fight was hours away. Setting these limits higher than I might feel comfortable with, but offering no alternative, is one way casinos get gamblers to wager more. I also find myself comparing my meager bets at a table game to those around me. If someone who appears similar to me—or a friend I know who has similar means—is betting more, this provides a potential justification for stepping up my own bets. It is one I thankfully ignore, but I don't doubt that such rationalization goes on a fair amount.
- 50 See, RIVLIN, *supra* note 15. Also of note, modern slot machines will have a bill collector on the machine itself, so a gambler does not need to seek out change.
- 51 See, JACK SHEEHAN, 'Skin City' *Excerpts*, Las Vegas Review-Journal, May 9, 2004 (describing how Sabrina, a stripper, can make more dancing in Las Vegas than anywhere else).
- 52 *Id.*
- 53 CATHERINE A. MACKINNON, *Only Words* (Harvard University Press 1993).
- 54 *Id.* at 9.
- 55 MacKinnon defuses this critique by noting that pornography is made under conditions of inequality that pervade society. See, *Id.* at 20.
- 56 *Id.* at 19, 22.
- 57 MacKinnon, *supra* note 53, at 31.
- 58 See, CHANTEL THOMAS, Draft, *Feminist Legal Theory and the Anti-Trafficking Movement*, at 19.
- 59 MacKinnon answers this question affirmatively. As her response focuses on the reaction of the audience member, she does not see the mechanism—be it viewing

- pornography, getting a lap dance, or hiring a prostitute—as the important factor in judging the consumer effects. See, *Id.* at 28.
- 60 See, SHEEHAN, *supra* note 51 (noting that a unanimously passed Clark County ordinance limiting the contact between stripper and client has not been enforced).
- 61 The Crazy Horse II—which cabbies report has an influx of strippers who fly in from Los Angeles to make a weekend killing—is known for its “physical dances.” Spearmint Rhino, another club, is known as “edgy,” meaning that the strippers and bouncers are willing to let clients push the boundaries. During my visit to the Spearmint it was clear that the no-contact ordinance is a dead letter there.
- 62 I have never spent time in a VIP room. Reports vary and, again, much depends on the stripper and the club.
- 63 In this sense, I would disagree with the court’s conclusion in *New York v. Hinzmann*, 677 N.Y.S.2d 440 (Crim. Ct., Bronx Co. 1998) (concluding that stripping is a form of prostitution).
- 64 This distinction is obviously irrelevant when the stripper is also willing to prostitute herself. A night club on the strip, Drai’s, is reputedly where strippers will go when they are seeking more business after a night of stripping. I have been implicitly propositioned by a stripper late one night at a club, and a friend on a different trip was propositioned more openly.
- 65 Strippers, as a means of enticing a dance, will plop themselves on your lap. Likewise, after a dance, they will often sit and talk before being paid. I find that semi-awkward conversation is usually the result—especially if the stripper is attempting to secure a dance through transparent flattery or “dirty” talk. Some, however, are glad to talk about how they feel about their job and how it operates. Many seem to end up having kids. Strippers that are either not in high demand or looking for a chance to get off their feet will often sit and chat for two or three songs (at no cost—the dance is the only fee aside from the overpriced drinks and \$20 cover charge at the door) as a chance to take a break and, at times, initiate a dance through less direct means.
- 66 See, STEIN, *supra* note 20, at 32–33.
- 67 See, SHEEHAN, *supra* note 51 (noting that many strippers see their employment as a transitional phase).
- 68 See, *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 585-86 (1991) (Souter, J., concurring) (noting that nude dancing is accompanied by rape and prostitution).
- 69 STEIN, *supra* note 20, at 28.
- 70 FOUCAULT, *supra* note 9, at 17.
- 71 *Id.* at 17.
- 72 *Id.* at 23.
- 73 *Id.* at 6.
- 74 *Id.* at 156–57.