

## Zoning for Difference: Rethinking Iris' Ideal for City Life The Case of Prostitution

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### Abstract

This paper is a reflection on and supplement to Iris Young's discussion about city life as a normative ideal. It starts with a review of the Western debate on communitarianism, which contextualizes the emergence of Young's ideal of city life. While Young advocates the replacement of homogenous communities with diversified cities in order to assert the politics of difference, I argue that a city of difference is unavoidably built on the tolerance of different and even conflicting "homogenous communities." Specifically, I point out that either requiring every community to accommodate prostitution or eradicating its legitimacy thoroughly from a city is against the principle of difference. As such, I conclude with a normative model of "zoning for difference," which is built on the embodiment of participatory procedure and justified exclusion

### Introduction

Zoning is a crucial instrument for urban planning to regulate and differentiate land use. As such, it is criticized for reinforcing exclusiveness, separation and injustice (Frug 2001; Mitchell 2003); or, from a political-economic perspective, reconciling class conflict embedded in a capitalist society (Lake 1993). Using the regulation of prostitution as an example, however, I contend that zoning might be a compromised but the only feasible way to embody the politics of difference. It is the only approach that allows both the supporters and opponents of prostitution to be represented in the same city. In other words, zoning should be viewed as a pragmatic way to mediate the irreconcilable conflict in a city through spatial differentiation.

This paper proposes to dialogize with and supplement Iris Young's discussion about city life as a normative ideal. I start with a review of the Western debate on communitarianism, which contextualizes the emergence of the ideal of city life. While Young advocates the replacement of homogenous communities with diversified cities in order to assert the politics of difference, I argue that a city of difference is inevitably built on the tolerance of different and even conflicting 'homogenous communities'. Specifically, I point out that either requiring every community to accommodate prostitution or eradicating its legitimacy thoroughly from a city is against the principle of difference. As such, I conclude with a normative model of 'zoning for difference', which is built on the embodiment of participatory procedure and justified exclusion.

### Community versus the city

Communitarianism has emerged as an alternative political ideal to liberal individualism in the past three decades. The Enlightenment assumption underlying liberal political philosophy of "an incoherent and impoverished concept of the human self" (Benhabib, 1992, p71) was questioned in the broader postmodernist epistemology. Many critical theorists therefore turn to the ideal of community for their normative version of a society free from domination and oppression. Nevertheless, Communitarianism has come under attack recently, notably by feminists, for its exclusive and totalitarian implications. In particular, Young (1990) proposes 'city life' as an ideal alternative to Communitarianism so as to defend 'the politics of differences'.

In her notable essay "*City Life and Difference*" Young refuses to take community as an alternative vision of a democratic polity as opposed to welfare capitalist liberal polity. Although she shares the communitarian criticisms of liberal capitalist society "for being atomistic, depoliticized, fostering self-regarding interest-group pluralism and bureaucratic domination" (1990, p226), she argues that the ideal of community also fails to offer an appropriate, progressive alternative.

Specifically, Young points out that communitarianism entails a denial of difference just like liberalism does, though in opposing ways. While liberal individualism denies differences by "positing the self as a solid, self-sufficient unity, not defined by anything or anyone other than itself...[and] bringing all such separated individuals under a common measure of rights," communitarianism denies difference by "positing fusion rather than separation as the social ideal" (p229). In other words, the

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ideal of community endorses and values homogeneity. Young thus refuses to fall into the dualistic dilemma between liberalism and communitarianism. On the contrary, she proposes a third alternative—the ‘ideal of city life’—as the normative version of social relation. By ‘city life’ she refers to:

...a form of social relations which I define as the being together of strangers. In the city persons and groups interact within spaces and institutions they all experience themselves as belonging to, but without those interactions dissolving into unity or commonness. City life is composed of clusters of people of affinities—families, social groups networks, voluntary associations, neighbourhood networks, **a vast array of small “communities”**. (Young, 1990, p237, emphasis added)

Young contends that “social justice in the city requires the realization of a politics of differences” (1990, p240). Her ideal city life is thus characterized by social differentiation without exclusion, while being full of variety, eroticism and publicity (pp238-240). Young is among the first who advocate for a feminist theory of social justice that goes beyond distributive equality, but voices concerns about multiple forms of oppression and domination. She pluralizes the Marxist category of oppression, and develops an account of “five faces of oppression” by including exploitation, marginalization, powerlessness, cultural imperialism and violence in her criteria of determining oppression (pp48-63). In this way, Young successfully redefines the question of justice away from the purely redistributive mode of welfare state capitalism, while asserting the politics of difference.

Young’s criticism of the exclusive character of community is evident in many empirical studies. The Not-In-Backyard-Yard (NIMBY) syndrome against human service facilities such as AIDS patients’ shelters reflects the homeowners’ homophobia and property concern. The story of the Tompkins Square Park in New York City, as vividly represented by Harvey (1993), also illustrates how neighbourhood associations are united to eradicate homeless people that are “other” to them. The case of the xenophobic political movement emerging in Western Europe (Fainstein and Hirst, 1995) is another example of the exclusiveness of identity-based communities.

Nevertheless, retreating from ‘community’ is neither possible nor desirable. It is not possible because, as Garber (1995) points out, city and community are not only conterminous, but also overlapping and interdependent. Young also recognizes that cities are composed by “a vast array of small communities.” If these small communities are still oppressive to its members, the ideal city life that is “free from domination” could hardly be attained in practice.

Retreating from community is not desirable, moreover, because it takes the situation of today’s communities as given. It neglects, as Garber reminds, that many women

“participate daily in ongoing ideological conflict over the meaning of place”. Issues like environmental decay, violence against and by children, sexual assault, lack of transportation, economic ghettoization etc. are mostly locally located, and the struggles within communities thus have profound implication in the whole society:

The intimate connections between the daily lives of women and the life of the city suggest that political activities by coalitions of women aimed specifically at defining inclusive, “good” communities might result in localities that are less marginalizing, hierarchical, and dangerous (Garber 1995, p41).

Most fundamental of all, the exclusiveness of small, homogenous communities does not preclude the building of an inclusive, heterogeneous city. Rather, I believe that a certain degree of exclusiveness is the foundation of an ideal city that reduces assimilation. Gerald Frug describes how many who live in poor African American neighbourhoods feel comfortable “only with people like themselves” (1999:138). Although it is ideal that a community is inclusive per se, to criticize an exclusive community as oppressive without referring to its context would be too simplistic. In other words, a universalistic critique of exclusiveness and endorsement of difference is itself exclusive and against the principle of difference.

What matters is, I believe, whether different people/communities have equal access to a city, and whether the exclusion of difference is justifiable. In this regard, a deliberation of the politics of difference is required.

### Differentiated politics of difference

The problem that arises from the ideal of difference politics is its universalistic tendency. Nancy Fraser (1997) argues that Young’s wholesale endorsement of the politics of difference is not globally applicable. She questions, for example, how we should treat the neo-Nazi skinheads, who are certainly oppressed according to Young since they suffer from marginalization and cultural imperialism. Can we affirm their different claims just as our affirmations of a different race or sexuality?

In “Planning for a different voice” Fainstein also raises a similar question, and argues that feminist recognition of differences must be based on rational assessment. For example, the feminist revaluation and embrace of connectedness and natural obligation can be very conservative, since it exactly corresponds to the claims of traditional opponents of equality, who demand legitimacy based on natural bonds. Hence, Fainstein contends that feminist planning should avoid “accept[ing] too uncritically the premise of postmodernist thought, [which] can easily result in a loss of the progressive values that inspired feminism at its inception” (1992, p458).

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What Fraser and Fainstein point out is the potential danger of postmodernist relativism, a concern that is shared by other critical theorists. David Harvey, for example, sufficiently expresses such worry in “The Condition of Postmodernity”, in which he emphasizes that the postmodernist deconstruction of all basic propositions deserves critical scrutiny:

In challenging all consensual standards of truth and justice, of ethics, and meaning, and in pursuing the dissolution of all narratives and meta-theories into a diffuse universe of language games, deconstructionism ended up, in spite of the best intentions of its more radical practitioners, by reducing knowledge and meaning to a rubble of signifiers. It thereby produced a condition of nihilism that prepared the ground for the re-emergence of a charismatic politics and even more simplistic propositions than those which were deconstructed (1990, p350).

In this sense, Fraser argues for a ‘differentiated politics of difference’. That is, some differences, such as gendered practices, should be eliminated; others, such as the Native-American connection to the land, merits universalization; still others could be just affirmed as variations. In other words, a differentiated deliberation of differences could prevent postmodernist relativism, and find a balance between difference and social justice.

The challenge always lies in distinguishing between justifiable and unjustifiable differences. The examples of homeless people, AIDS patients, and new immigrants, for example, would mostly be treated as justifiable differences from a critical perspective. That is, these minorities are stigmatized by the mainstream public, and have little power or access to contest against the stigma. In this sense, the marginalization and exclusion of them constitute oppression, and should not be tolerated morally as well as politically. I would add, however, that the oppression should not be easily attributed to the “selfish communities” that expel them. Rather, we should address the exclusion at the level of a city/society, and reflect upon the reasons as to why the general public stigmatizes and fears these people.

The ‘difference’ of prostitution, however, is more controversial. There is hardly any consensus on this issue, even in critical perspectives. It is in this sense that I propose to use zoning as a way to assert the conflicting voices.

### **Prostitution: can it (not) exist legally?**

Prostitution is an issue that splits public opinion in most parts of the world. Unlike the stigmatized minorities like homeless or AIDS patients, however, the proponents and opponents of this business are both (in a sense) powerful. The opponents of prostitution might have more legitimacy in the political arena, and hence are able to criminalize it in the US (except some counties in Nevada) and many

countries in the world. Nevertheless, the hidden forces that support prostitution are usually able to make it exist de facto.

Philosopher Lars Ericsson (1980) lists several charges against prostitution that oppose its legitimization. The charges are: 1) Conventional moralist, which ‘senses’ or ‘sees’ prostitution as intrinsically immoral for the society and future generations; 2) sentimentalist, which believes that mercenary sex without love is of poor quality and thus ‘bad’; 3) paternalistic, which argues that prostitutes would easily get physically and mentally hurt in the process, and thus should be forbidden from engaging in it; 4) Marxist, which argues that prostitution is a form of class oppression; 5) feminist, specifically, radical feminist, who sees prostitution as the most direct form of gender oppression and discrimination.

On the other hand, there are also powerful while diverse claims to legitimize prostitution, including the: 1) Socio-biological or functionalist claim, which argues that prostitution is necessary for the male’s natural drive, and/or serve certain societal functions (Truong 1990); 2) liberal, which believes the state should not intervene in, and especially criminalize, consensual sexual behaviour (Feinberg 1984); 3) pragmatic, which recognizes the impossibility of eradicating prostitution, thus support its legalization (Ong 1993); 4) utilitarian, which argues that the legalization of prostitution would be beneficial for public health (AIDS and STD prevention) and reduce governmental cost (Weitzer 2000); and 5) feminist, specifically, liberal or post-modernist feminists, who recognize the prostitutes’ right to work (Chapkis 1997).

Arguably, part of and only part of the claims from each camp is justifiable based on the principle of social justice. The rest is probably not. This is why prostitution is controversial in the first place. At any rate, as a growing number of research has revealed the “different kinds of workers’ experiences and varying degrees of victimization, exploitation, agency, and choice” (Weitzer 2000:3), prostitution should be read “in more complex ways than simply as a confirmation of male domination” (Chapkis 1997:29).

Hubbard (1998) contends that contemporary state and the civil society intertwine in excluding prostitution and defining appropriate and inappropriate sexual practices, which is crucial to the reproduction and maintenance of Western heterosexual family values. Granted this argument is critically sound, it does not mean that prostitution should be allowed everywhere so as to be “progressive.” A critical geo-political analysis tends to criticize the mainstream moral perspective without any compromise, and fails to establish a dialogue with those who, for various reasons, do find commercial sex offensive. In this regard, it also fails to assert the politics of differences.

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In dealing with such ‘irreconcilable conflict’, neither the liberal nor the republican model of democracy is expected to solve the conflict without eliminating differences. As Habermas (1996) illustrates, in the liberal model, the task of democratic politics is to assert private interests by means of elections and the formation of a government. Different interests compete and are aggregated into a political will that influences the administration. In the republican model, on the other hand, politics provides an inclusive opinion-formation process in which free and equal citizens reach an understanding of a ‘common good’ for all. Both models, in short, eventually refer to ‘majority rule’ in reaching consensus, and the (politically and morally) marginalized claims for prostitution would unavoidably be repressed.

The proceduralist-deliberative model of politics that Habermas (1996) and Young (2000) advocate, on the other hand, does provide a normative direction to work in provided that the policy impasse lies in different peoples misunderstanding or ignorance about each other. The process of intersubjective communication might help reconcile certain conflicts and embody differences. However, it might not be applicable to conflicting issues like prostitution, in which the impasse does not lie in misunderstanding, but rather disagreement. In this regard, I agree with Mansbridge that political theorists should “[face] squarely the role of conflicting interests, and consequently coercion, in any democratic polity” (1996, p48).

Following the representative ‘radical pluralists’ Laclau and Mouffe (1985), Mansbridge also advocates for an agonistic model of democracy, which views democracy as “the incessant contestation over such ethical and cultural questions” (in Banhabib, 1996, p9). When conflict remains after “good deliberation,” Mansbridge states, a democracy has two choices: either to remain at the status quo, or to coerce some to go along the others. Again, however, this dualistic situation may be true in many cases, but the idea of ‘zoning for differences’ provides a third alternative to accommodate conflicting voices without “coerce[ing] one to go along with the others.” People of irreconcilable conflicting values and/or interests are mediated through spatial differentiation, and hence are compatible in the same city.

### Zoning for differences

Jane Jacobs proposed the idea of “zoning for diversity” early in the 1960s, by which she intended using zoning laws and tax incentives to “attract the greatest possible variety of people into every district in the city, that would promote a continuous network of local streets capable of ‘handling strangers so they are an asset rather than a menace” (in Frug, 1999, p149). Thirty years later, a number of architects and urban planners have begun embodying the idea advocated by Jacob, and promote the ideal of ‘New Urbanism’ that aims to create “neighbourhoods of housing, parks, and schools placed

within walking distance of shops, civic services, jobs, and transit” (Frug, p150).

While the idea of Jacob and the New Urbanism use zoning power as a positive intervention for building a city of difference, the model that I am proposing in this paper resembles negative intervention, i.e. using zoning power to prevent differences from being eliminated. Note, however, that “difference” can never be totally eliminated by the State. The Foucauldian contention of omnipresent resistance illustrates why prostitution still exists in every American city—and cities all over the world—that claims to criminalize it. The recognition of the limited influence of and inconsistency within the state, however, should not stop us from transforming it to be more inclusive in terms of formal policy making.

My proposition of ‘zoning for difference’ is identical to that one advocated by Robert Ellickson in the essay “Controlling chronic misconduct in city spaces.” ‘Chronic misconduct’ describes a person regularly behaving in a public space “in a way that annoys—but no more than annoys—most other users, and persists in doing so over a protracted period” (Ellickson, 2001, p20). While in recent years most American cities are expected to adopt ordinances that authorize their police to curb street misconduct thoroughly, Ellickson argues that a city’s codes of conduct should be allowed to vary spatially.

As such, Ellickson proposes a hypothetical division of city public space into Red, Yellow and Green zones. In Red zones, according to his proposal, normal standards for conduct in public spaces would be significantly relaxed. These zones tolerate “more noise, public drunkenness, soliciting by prostitutes, and so forth” (Ellickson, p28). But these zones make up only 5% of a city’s downtown area. In the equally 5% Green zones, by contrast, social controls would be tailored to create places “for the unusually sensitive,” and the code is strict even in regulating mildly disruptive activities like dog walking and radio playing. Finally, most of the city fall under Yellow zones, which are designed to be a lively mixing bowl. Therefore, episodic panhandling and bench squatting would be permitted in these areas, whereas chronic panhandling and bench squatting would be prohibited.

A question that one would raise immediately, which Ellickson oddly ignores but I find most critical is, who designates the different zones? Without considering the question of designation politics, the proposal of ‘zoning for difference’ will mostly become the justification for gentrification and for unjust planning that serves only the privileged communities’ interests/values. In fact, this is arguably the most serious problem of zoning that causes many people to suspect it. Young (1990), for example, points out that land use decisions in most cities or townships are made in a semiprivate process involving only city bureaucrats, elected officials, and capitalist

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developers. As a result, the decisions usually contribute to increasing inequalities.

I believe the suspicions about zoning can be reduced (though not totally resolved) through a more participatory and egalitarian process of designation. That is, the process of designating zones should be open to all concerned communities, and each and every community should have an equal say in the final decision. In this way, the decision will be less dominated by capitalist or rich people's interests, and the question of distributive (in)justice - that locally unwanted land uses are (not) randomly distributed throughout the population - shall also be more addressed. Nevertheless, we should also be aware that 'procedural justice' could not eliminate all forms of oppression and exclusion, given that the very ideal of 'nonexclusive public sphere' is utopian. In this regard, I agree with Mouffe that instead of trying to erase the traces of power and exclusion, "democratic politics requires bringing them to the fore, making them visible so that they can enter the terrain of contestation" (1996, p255).

A concrete example can be mentioned here for illustration. In Taiwan, a variety of 'special businesses' with sexual implication (yet excluding prostitution) are legal, but have been restricted to certain heavy commercial districts. That is, people of different attitudes toward 'special businesses' can have their own territory without interrupting the other. Yet there were occasionally residents of heavy commercial districts organizing themselves to reject 'special businesses' operating in their communities. To express its respect for participatory democracy, as a result, the Taipei City Government demanded 'community approval' as a new precondition for operating 'special businesses' in these commercial districts since 1999. In this way, the 'special businesses' could legitimately exist in the city, while residents of heavy commercial areas could also have a final say about their living environment. This is a possible model of 'zoning for difference' that embodies both tolerance and democracy, and I contend that prostitution should also be legalized and regulated as such.

One may reasonably doubt that any community would reach a 'consensus' to accommodate prostitution, where the quality of life is estimated to be low. I would point out, however, that such a suspicion is built on a biased value per se—arguably the bourgeois value, and neglects that some communities are more open and tolerant (to prostitution) than others. Existing empirical studies in Taiwan about different people's perception of prostitution already show that gender, age, education, economic status, personal network and life experience are all valid variables that influence residents' tolerance of prostitution 'in their back yard' (Tang 2000; Hou 2001). Takahashi and Dear (1997) also show that communities' tolerance of NIMBY facilities can be changed through more communication and information. In other words, it is arguably possible that residents of heavy commercial

districts, after deliberation, reach a 'consensus' to accept prostitution. When different positions in a community clash, nevertheless, certain exclusion would be inevitable. That is, certain people might need to 'tolerate' the decision that they disapprove or have to move. In this case, critical planners may ask further whether these 'sacrificed' people are of less resource and power, so as to deliberate whether the exclusion is justifiable.

### A final remark

This paper has no intention to wholeheartedly advocate for zoning. After all, the need of zoning implies that different people in our city tolerate the 'Other' only because of spatial segregation, but not of spontaneous respect. However, faced with the irreconcilable conflict of values, identities and interests, I take zoning as a temporary, compromised alternative to assert the politics of difference. It is at least a better proposal than totally excluding one group from the city—which is how prostitution is treated nowadays in many places. Hopefully, through the equally legitimate coexistence of the confronting communities in the same city, people can really "recognize social group difference as a given, something they must live with" (Young 1990:238). Planners, in the process, should not only facilitate the ideal situation for inclusive communication, but also make exclusions visible for contestation. In this way, the ideals of proceduralist-deliberative and antagonistic democracy might not be exclusive or contradictory, but rather supplementary to each other, especially in asserting the politics of differences.

### References

- Benhabib, S. (1992)** *Situating the Self*. New York: Routledge.
- Benhabib, S. (1996)** *Democracy and Difference: Contesting the Boundaries of the Political*. Princeton: Princeton University Press.
- Chapkis, W. (1997)** *Live Sex Acts: Women Performing Erotic Labor*. New York: Routledge.
- Ellickson, R. (2001)** "Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning." In *The Legal Geographies Reader*, edited by Nicholas Blomley et al, 19-30. Oxford: Blackwell.
- Ericsson, L. (1980)** "Charges against Prostitution: An Attempt at a Philosophical Assessment." *Ethics* 355.
- Fainstein, S. (1996, 1992)**. "Planning in a Different Voice." In *Readings in Planning Theory*, edited by Scott Campbell and S. Susan Fainstein. Oxford: Blackwell.
- Fainstein, S, and Clifford H.** "Urban Social Movements." In *Theories of Urban Politics*, edited by David Judge, Gerry Stoker and Harold Wolman, 181-204. London: Sage Publications, 1995.

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- Feinberg, N. (1984)** Harm to Others. four vols. Vol. one, The Moral Limits of the Criminal Law. New York: Oxford University Press.
- Fraser, N. (1997)** Justice Interruptus: Critical Reflections on the "Postsocialist" Condition. New York: Routledge.
- Foucault, M. (1978)** The History of Sexuality. Vol. 1: An Introduction. New York: Vintage Books.
- Frug, G. (1999)** City Making. Princeton: Princeton University Press.
- Garber, J. (1995)** "Defining Feminist Community: Place, Choice, and the Urban Politics of Difference." In Gender in Urban Research, edited by Judith A. Garber and Robyne Turner, S., 24-43. Thousandaks: Sage.
- Habermas, J. (1996)** "Three Normative Models of Democracy." In Democracy and Difference: Contesting the Boundaries of the Political, edited by Seyla Benhabib, 21-30. Princeton: Princeton University Press,
- Harvey, D. (1990)** The Condition of Postmodernity. Cambridge MA and Oxford UK: Blackwell.
- Harvey, D. (1996)** "Social Justice, Postmodernism, and the City." In Readings in Urban Theory, edited by S. Susan Fainstein and Scott Campbell. Oxford, UK: Blackwell.
- Hou, C. (2001)** "The Social Intention About Setting Red-Light District." In Public Hearing on The Social Intention about Setting Red-Light District in Taipei, 1-6. Taipei.
- Hubbard, P. (1999)** Sex and the City: Geographies of Prostitution in the Urban West. Aldershot, UK: Ashgate.
- Laclau, E. and Chantal M. (2001, 1985).** Hegemony and Socialist Strategy. London: Verso.
- Lake, R. (1993).** "Rethinking Nimby." Journal of the American Planning Association 59: 87-93.
- Mansbridge, J. (1996)** "Using Power/Fighting Power: The Polity." In Democracy and Difference, edited by Seyla Benhabib, 46-66. Princeton: Princeton University Press.
- Mitchell, D. (2003)** The Right to the City: Social Justice and the Fight for Public Space. New York: The Guilford Press.
- Mouffe, C. (1996)** "Democracy, Power, and the Political." In Democracy and Difference, edited by Seyla Benhabib. Princeton: Princeton University Press.
- Ong, J (1993).** "Singapore." In Prostitution: An International Handbook on Trends, Problems, and Policies, edited by Nanette J. Davis, 243-72. Westport, CT: Greenwood Press.
- Takahashi, L. and Michael D. (1997)** "The Changing Dynamics of Community Opposition to Human Service Facilities." Journal of the American Planning Association 63:79-93.
- Tang, X-W. (2000)** "The Working and Life Experiences of the Licensed Prostitutes in Taipei." Master, National Taiwan University.
- Truong, T-D. (1990)** Sex, Money and Morality: Prostitution and Tourism in Southeast Asia. London: Zed Books.
- Weitzer, R. (2000)** "The Politics of Prostitution in American." In Sex for Sale: Prostitution, Pornography, and the Sex Industry, edited by Ronald Weitzer, 159-80. New York and London: Routledge.
- Young, I.M. (1990)** "City Life and Difference." In Justice and the Politics of Difference, 226-56. Princeton: Princeton University Press.
- Young, I.M. (2000)** Inclusion and Democracy. New York: Oxford University Press.