



The Star-Ledger

Eliot, I hardly knew you

Sunday, March 16, 2008

BY ANITA L. ALLEN

Eliot Spitzer and his wife, Silda Wall Spitzer, were both classmates of mine at Harvard Law School, not that we were friends. It's a tenuous connection, but just enough to rivet me to the unfolding story of Eliot Spitzer's bizarre moral contradiction.

I expect men of my generation, and the HLS class of '84, to be feminists who "get" why prostitution may be enjoyable for johns and sometimes lucrative for Ivy League "escorts," but not good.

The zeal with which the former New York state attorney general and governor fought against sex for pay suggested that he got it better than most. The business of prostitution is "modern-day slavery," as Spitzer reportedly said.

Actions speak louder than words. Spitzer's actions said, "Do as I say and not as I do." Or, maybe they said, "Unless you are talking about 14-year-olds kidnapped from Third World countries and forced into sex work, prostitution is merely naughty."

But libertarianism wouldn't explain Spitzer's exceedingly reckless behavior, like using the internet and exposing himself to easy wiretaps and detection by his own security detail. And what kind of self-hater puts on the cape of a moral crusader, and even signs laws increasing the penalty for patronizing prostitutes, and then spends \$80,000 for trysts with pretty women in fancy hotel rooms?

It was eerie to hear a legally educated public official, the governor of New York, at that, proclaim in a vague and insincere-sounding apology the day before he resigned that his troubles with the feds were a "private" matter. I had Philip Heyman for criminal law at Harvard; I don't know whose course Spitzer took.

Yet I can see why Spitzer was tempted to seek refuge in the language of privacy. It was his sex life the FBI uncovered and his personal life his bad choices threatened to ruin. In one of my favorite "right to privacy" cases, a woman convicted of prostitution in Hawaii appealed on the ground that she had a constitutional right to sell sex, so long as her customer was a consenting adult and the sex took place in her own home. The judge disagreed that prostitution was an appropriately private matter, arguing that society is entitled to prohibit morally odious practices. But you can see why the young woman gave the argument a try -- her body, her house, her life.

I am not there yet, but there may be something to the idea that consensual adult voluntary prostitution should be decriminalized, like gay sex and heterosexual "fornication" have been decriminalized.

And if Spitzer gets any sympathy it may be from people who think that anti-prostitution ethics are a tired relic of the past and that Spitzer was targeted for political reasons. In our strange world, the 22-year-old singer Spitzer "used" for sex doesn't seem much like a victim -- not on the surface, anyway.

Despite a moderately hard-knock life and after her role as a witness against the prostitution ring that hired her, she can rise from the ashes to unique opportunities in publishing and entertainment.

The contradictions in Spitzer's life are so pointed that people on the internet familiar with the DSM-IV

(Diagnostic and Statistical Manual of Mental Disorders, 4th Ed.) symptoms of manic depression are speculating that he may be bipolar -- driven by hypomania to risky sexual extravagance. He may have seemed arrogant, but not evil or cruel, which only leaves ill.

When New York Court of Appeals judge Sol Wachter acted weird in a protracted extramarital affair, it turned out he was indeed bipolar. Convicted of extortion after stalking and threatening his ex-girlfriend, he wound up writing a book about his illness, "After the Madness: A Judge's Own Prison Memoir."

But maybe it's unfair even to speculate that Spitzer's problem has a medical basis. Not all supremely bad judgment is an illness.

New Jersey Gov. James McGreevey's fall from grace felt very different from Spitzer's. He did not have a squeaky-clean reputation in the first place and was under at least four criminal investigations at the time he was forced to resign for sexual misconduct. His extramarital sex shocked his constituency and humiliated his wife.

But given societal attitudes about homosexuality, closeted affairs and restroom hook-ups look like the only option for bisexual men with mainstream political ambitions. And McGreevey had no reputation as a gay-basher or homophobe. McGreevey had an extramarital affair with a man on the state payroll, but the affair was not a crime. McGreevey's life of moral compromise wasn't a moral contradiction.

New Jersey moved beyond the McGreevey scandal, as New York will, in a few weeks, move on from the Spitzer debacle.

But I'll be scratching my head over this one for a lot longer.

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