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Although sex work is considered the oldest profession it is possibly more controversial today than any other time in history. Divisions exist in feminists' philosophy regarding sex work, particularly around the issue of personal agency. Feminists, typically, embrace one of three positions – abolition, legalization with regulations, or decriminalization. Most academic literature fails to include the perspective of sex workers when debating the legality and practicality of sex work. The purpose of this research is to gain insight into the reasons individuals become involved in sex work, including agency, through stories shared with third-party professionals and advocates; inquire whether sex workers would remain in or leave the industry if other opportunities were available; and explore the consequences of sex work laws.

AGENCY AND THE FEMINIST DEBATE ON THE ABOLITION, LEGALIZATION,
OR DECRIMINALIZATION OF SEX WORK:
VOICES FROM THE ADVOCATES

by

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“Don’t judge each day by the harvest you reap but by the seeds you plant.”
– Robert Louis Stephenson (1850-1894)

To Norma Jean Almodovar and Dr. Lacey Sloan for the seeds you
plant in your work for the rights of *all* sex workers.

APPROVAL PAGE

This thesis written by LORI A. DURHAM has been approved by the following committee of the Faculty of The Graduate School at The University of North Carolina at Greensboro.

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The whore is despised by the hypocritical world because she has made a realistic assessment of her assets and does not have to rely on fraud to make a living. In an area of human relations where fraud is regular practice between the sexes, her honesty is regarded with a mocking wonder (Angela Carter, 1940-1992).

Given the topic, it may seem ironic, but I thank God, first and foremost, for turning a painful period of my life into a learning experience. Without his guidance, I may have never become interested in the lives of sex workers. If anything, I have learned a book cannot be judged by its cover; or, to repudiate an Orwellian idiom “once a whore, always a whore.” Nothing is further from the truth, for how can one cease being a whore when not one to begin with. This leads me to acknowledging and thanking the sex workers, sex worker advocates, and third-parties that work with sex workers that took the time to speak with me. Ironically, despite a conscious decision to reserve speaking with sex workers for a later project, their voices are heard as advocates and service providers who were willing to share their own personal experiences as sex workers. Hopefully, your insight made this a richer exploration into the controversial issue of sex work.

Academically, I want to thank my thesis committee members for their guidance, patience, and support. Dr. Cathryne Schmitz’s confidence in me has encouraged me to reach beyond what I thought I was capable of accomplishing. With the guidance of Dr. Gwen Hunnicutt I heard the voices of sex workers proclaiming they could speak for themselves, if anyone would listen. I knew Dr. Carisa Showden’s insight was crucial to this project, after hearing her discussion on agency in sex work, as was her literary

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CHAPTER I

INTRODUCTION

Prostitution,¹ often cited as the oldest profession in the world, has been highly stigmatized throughout history as shameful and immoral; a stigmatization that is compounded by the misperception sex work is a necessary evil, protecting young women from rape, shielding marriage and families from the “ravages of men’s sexual appetites” (Pateman, 1999, p. 53), as well as a regrettable byproduct of poverty and economic constraints confronted by women supporting themselves and their families (Pateman, 1999). Although men and boys are also involved in the sex work industry they comprise a smaller populace, thus receiving less acknowledgment. Women and girls have become the face of sex work due to a higher rate of involvement and perception of increased vulnerability².

Prostitution, and later all forms of sex work, have been in the crosshairs of moralistic society for centuries. One in which judgment is pronounced on people and situations that defy the perception of what are considered normal and acceptable behavior. Despite the

¹ No longer confined to brothels or back-alley *quickies*, the modern sex work paradigm includes stripping, phone sex, pornography, massage parlors, escort services, and other types of performance where sexual acts and fantasies are satiated. However, unless stated otherwise, *sex work* will be used as a broad descriptor of all sexual services available.

² While this paper does not discount men, boys, and transgender individuals become involved in sex work for many of the same reasons, unless otherwise indicated, the term *sex worker* in this writing refers to women and girls working as sex workers.

relaxed moral landscape of modern Western society, sex work is possibly more controversial today than any other period in history. The moral code of individuals involved in sex work is questioned, along with their need of protection from themselves and those complicit in their actions. From a moralist perspective sex work is viewed as an attack on the dignity and value of human beings. According to Levy (2011), “The structural violence apparently inherent in prostitution means that violence and abuse are always present, even if not physically visible, measurable, or empirically demonstrable” (p. 3).

Chateauvert (2013) asserts moral judgment is an instrument that “embolden people to throw stones and insults” (p. 2), politicians to focus on punishment and abolition, and police to crackdown on sex work and sex workers. Many consider these moral judgments the source of oppression and violence against sex workers, rather than a safeguard, which has led sex workers to fight for these attitudes and actions to be recognized as human rights violations, as well as demand a voice in the political process of sex work laws and rights (Chateauvert, 2013).

While Socialist Domela Nieuwenhuis stresses “prostitution was the poisonous fruit of capitalism and a sign of its decay” (De Vries, 2008, p. 262), when viewed from the capitalists’ perspective sex work, when consensual³, is a commodity bought and sold in the same manner as any other article of trade. Supporters of legitimizing sex work as an occupation or trade contend sex workers operate from a position of power in the exchange of sexual acts for money or goods. They maintain when sex is performed as

³ While there is no intent to discount sex trafficking or other types of forced or coerced sex, sex work in this study focuses on adult consensual commercial sex.

work by consenting adults who are exercising their sexual liberation and self-determination it becomes a personal choice; not a violation of human rights.

Furthermore, when sex work is legalized or decriminalized sex workers are, typically, eligible for “employee” benefits offered in other professions, and their working and living conditions are improved.

The position of power is an issue of contention in the sex work industry, begging the question of who yields power – the procurer or the sex worker. While unfavorable, the answer may be both. Power can be the obvious or unseen, yet explicit, control of individuals forced to participate absent their own volition. However, there is a growing narrative that power can be assumed by the person performing the sex work. Villaverde (2008) says of power:

The reality is that inequity, injustice, and discrimination exist because we continue to blur and obscure what produces them: power (and who wields it). A person, group, or ideology maneuvers power, and unless we discuss how power and its owner(s) are affected by the success or failure of its operation, social conditions cannot change effectively. To comprehend a phenomenon or condition fully, we also have to understand what it is not and what external forces or contexts define its identity (p. 1-2).

One could easily presume feminists would be in agreement on the issue of sex work with questions such as: Is sex not an instrument of man’s control and oppression of women? If so, could we not conclude all women oppose sex work? Yet, sex work is an issue of deep and ongoing debate among feminists. Weitzer (2005) asserts abolitionist author Janice Raymond’s (2004) description of prostitution as “an institution that doles out death and disease” (p. 1182) and Melissa Farley’s (2004) claim prostitution is “a

vicious institution of inequality of the sexes” (p. 1117) incorrectly sustains the myth coercion and domination are *always* [italics mine] involved in prostitution; as do the terms *prostituted women* and *survivors*, which remove individual agency. The moral flames are fueled by research that relies on street-based prostitutes or individuals identified through third-parties who are only able to see sex workers as being in dire circumstances (Wietzer, 2005).

Few would disagree with Jost (1995) assertion one of the primary goals of feminist politics is “to awaken (or reawaken) a sense of self-respect and awareness of injustice, thereby overriding harmful beliefs learned through sexist socialization practices” (p. 400). However, it is through their divergent opinions on what is right, and, therefore, what is wrong, that feminists find themselves on opposing sides of the sex work debate arguing three different positions ranging from abolition to legalization (with regulations) to entirely decriminalizing sex work. At the center is the issue of agency, and the context of what establishes consent; and if one can, in reality, consent to being a sex worker of any type – whether engaged as a street-based prostitute, stripper, escort, pornographic actor, therapeutic sexual surrogate for physically challenged clients, or any other type of sex work. To understand the issues surrounding feminists’ positions on agency it is important to recognize the ideology of each group.

Abolitionist feminists focus on patriarchy as the source of women’s oppression, aligning all prostitution with the trafficking of persons for sexual exploitation. They argue few sex workers voluntarily enter into this type of work (Lobasz, 2009). If not forced or coerced into the role of sex work, *victims* [italics mine] are driven to it by

structural violence – systemic ways in which social structures harm or disadvantage individuals, often repeated through generations. They advocate for criminalization of all forms of sex work, but not to the detriment of sex workers. Instead, they support only criminalizing the client and others who profit from the sexual exploitation of victims (Sloan & Wahab, 2000).

Critics of abolitionist feminists attribute the oppression of women to capitalism (Sloan & Wahab, 2000), and object to the concept prostitution is intrinsically harmful. They argue existing anti-trafficking and prostitution laws are counterproductive, if not damaging, by stereotyping victims (Lobasz, 2009). Two groups are found within abolitionist critics; those who support legalization (with regulations) and those who argue for decriminalization of sex work altogether. Legalizing sex work could require sex workers to register with the government and police, subjecting them to rules intended to protect health and public decency that mandate medical exams, licensing, special taxes, and/or limiting sex work to *red light districts* or designated locations controlled by the police and municipalities. Decriminalization abolishes all laws against sex work, including pandering/pimping and purchasing of sex. Advocates for decriminalization believe it empowers sex workers by giving them the right to advertise, determine their clients, work in safe environments, and report violence perpetrated against them.

While each faction is steadfast in its position, this discord among feminists has stalled improvement in the lives of sexually exploited women. Through a review of relevant literature and interviews with third-party providers of support and services to sex workers (social workers, law enforcement, mental health providers, and sex work

advocates) this paper will explore agency and these three divergent positions from which feminist argue the sex work issue. First, by outlining the history of sex work and each feminist perspective on sex work; secondly, by including the stories and perspectives of sex workers to examine generalized demographic assumptions about women who become sex workers, and if given the opportunity, would the sex workers represented choose another profession; and, finally, by assessing the outcome of sex work laws on the women they are meant to protect.

The first two questions, which come down to a question of agency, are explored through multiple lenses – dominance theory (a sub-theory of feminist legal theory), social identity theory, and the Freire and Marx/Engels theory of false consciousness.

Dominance theory is useful for examining embedded structures of power that maintain the patriarchal standpoint from which sex work is perceived. Social identity theory and false consciousness are considered important in their common characteristic of self-image and individuals' position in the social world. Social identity theory is associated with the “othering” of sex workers and continued oppression. Freire’s concept of false conscientization allows for further examination of the norms and values of women in our patriarchal society that generalize sex work as degrading and immoral.

When considered separately the histories of sex work or development of feminist’s positions, nor these theoretical concepts provide a foundation for evaluating the role of agency in sex work; but in concert, along with the support of interviews conducted for this study and a look at the impact laws criminalizing, legalizing, and decriminalizing sex work have had on sex workers it is hoped the following chapters will

contribute some much needed clarity to this feminist debate that will advance the cause of sex workers and bring to an end to the shaming of those performing agentic consensual sex.

CHAPTER II

THEORETICAL FOUNDATIONS

Introduction

Feminism, often credited with inserting the “woman question” into disciplinary dialogue, has expanded and complicated the conventional framework of several branches of learning. As a discipline feminism focuses on implications of gender and societal inequity produced by hegemonic values and assumptions. Integration of theory and practice, with the purpose of discovering how to change it, are important characteristics in feminist’s analysis of women’s subjugation. Fineman (2009) characterizes the central question of feminism as: “how to understand gender from a critical and equality-driven perspective” (p. 2).

En masse, feminists are concerned with the corollary of historical and contemporary exploitation of women, women’s empowerment, and transformation of institutions traditionally dominated by men. The twentieth century was no exception as feminists in the 1960s, continuing the work of first-wave Suffragettes, embarked on a second wave of women’s rights activism working to dismantle traditional male-female power dynamics that have historically subjugated women, particularly those embedded in laws and legal institutions (Fineman, 2005; Chamallas, 2003; Bowman & Schneider, 1998).

The “woman question” in sex work is agency; or to be more exact, have women been subjugated so long by patriarchy they are incapable of self-determination. Have years of hegemonic control and male domination made women victims of false consciousness that reinforces the patriarchal notion that women sexual objects to be used by men under any conditions or terms. The power dynamics of the male-female relationship and women’s acceptance of their role, as defined by men, are explored in the following theoretical foundations: feminist legal theory, particularly the sub-category of dominance theory; social identity theory, and the theory of false consciousness.

Feminist Legal Theory

Introduction

Given the growing feminist sentiment of the second wave, it was no surprise when scores of feminists gravitated toward law school, determined to use the law to attain gender equality by engaging in the legal aspects of women’s subjugation, and resolved “to give practical and legal dimensions to the realization that the personal was political”⁴ (Fineman, 2009, p. 2). Feminist legal theory’s arrant focus on women is unique in its unrepentant connection to a distinct political movement (Chamallas, 2003) by evaluating and critiquing the judicial system, as a whole, and the interplay with gender, sexuality, power, and individual rights (Stanford, 2013; *Feminist Jurisprudence*, n.d.). Drawing on feminist epistemology, relational metaphysics, feminist political theory, and other areas of feminist philosophy, feminist jurisprudence analyzes: (a) how dominant male norms are enforced through legal institutions; (b) the effect on the

⁴ Both Carol Hanisch and Robin Morgan are credited with coining the phrase “the personal is political” around 1970; Hanisch in her essay “The Personal is Political” and Morgan in *Sisterhood is Powerful*.

material condition of women and girls; but, more importantly, (c) to develop reforms to correct gender injustice and exploitation (Stanford, 2013).

Feminist legal theory is not narrowed to just the legal aspects of feminism, but incorporates other forms of feminist thought, including sociology, political science, history, and literature to contest the concept of biological determinacy which reasons the biological make up of women and men are so different certain behaviors are ascribed on the basis of sex. Instead, the theory submits that biological determinacy actually inhibits women's power and options in society (Feminist Jurisprudence, n.d.), and by disregarding gender differences prevailing models of law perpetuate patriarchal power and male-dominated legal doctrine. Therefore, the "reasonable man"⁵ argument does not, and cannot, fairly assess the actions of a woman since it is founded in male-dominated language, logic, and structure.

While all feminists are committed to the concept of equality between women and men approaches within feminist camps differ. Strategic approaches varied among these early feminist legal reformers and created divisions in some matters. Basic questions included how to define differences between men and women, and, once named, how to address these issues. Four major schools of thought developed within feminist jurisprudence: liberal feminism⁶, dominance feminism, cultural feminism (Bowman and Schneider, 1998; Feminist Jurisprudence, n.d.; Fineman, 2005; Radacic, 2008b; Wex, n.d.), and post-modern or anti-essentialism (Bowman & Schneider, 1998; Radacic,

⁵ The term "reasonable man" has been replaced with "reasonable person" as a gender-neutral label (Feminist Jurisprudence, n.d.).

⁶ Bowman and Schneider initially reference formal equity theory, but the majority of sources use the term liberal feminism.

2008b). The latter three, which are theoretical critiques of formal equality born from the contradictions and political struggles encountered in the efforts to put formal equality into practice, addressed the limitations of redressing sex discrimination through formal equality. To advance an understanding of feminist legal theory, each concept is explored to some degree; however, because of its rationalization of embedded structures of power that maintain the patriarchal standpoint from which sex work is perceived, the main focus will be on feminist dominance theory

Liberal Feminism

The model adopted by liberal feminist theorists perceives the cause of women's subjugation to be social and legal barriers that block or preclude access to politics and economics (Fineman, 2005; Feminist Jurisprudence, n.d.; Radacic, 2008b). The premise of male authority is challenged by arguing women are, and should be, viewed as individual human beings (Feminist Jurisprudence, n.d.), just as rational as men; and, therefore, should have equal opportunities to make their own determinations (Feminist Jurisprudence, n.d.; Wex, n.d.).

These feminist legal scholars and practitioners are reluctant to use discrimination as the determinant for women's subordinate role, fearing acknowledgment of the differences between men and women or arguments for special treatment would disadvantage women. They, instead, lean toward emphasizing women's sameness with men to confront discriminatory laws that deny women full participation in public institutions, such as jury participation, the military, financial and market institutions (insurance and finance), and equal access to employment and pay (Fineman, 2005)

through laws prohibiting bias treatment and establishing laws that would erase gender bias denying women the same opportunities as men (Feminist Jurisprudence, n.d.; Fineman, 2005; Fineman, 2009; Wex, n.d.).

Using doctrinal arguments, liberal feminists have expanded equal protection jurisprudence to attack differences codified in laws, and the stereotypes that have justified them (Fineman, 2005). They have successfully elicited legislatures and courts to overhaul and eliminate many discriminatory laws (Feminist Jurisprudence, n.d.) and unreasonable classifications (Radacic, 2008b). However, as Radacic (2008b) notes, liberal feminists have been less successful in “challenging laws where different treatment was justified on the basis of purportedly ‘real’ differences” (p. 6-7), and in cases lacking a male comparison point, such as pregnancy. Proponents feel their approach attracts non-feminists who prefer non-sex-specific solutions to sex-specific laws, as well as the use of legal language easily understood within the legal system (Feminist Jurisprudence, n.d.).

Cultural Feminism

According to Bowman and Schneider (1998), cultural feminism developed from efforts to understand the inimitable female experience of pregnancy and motherhood. Also known as difference or relational feminism (Radacic, 2008b), cultural feminism focuses on and celebrates the differences between women and men, noting women have a unique way of “knowing” and “feeling” men do not possess. However, they insist these differences demand different treatment that is not sufficiently addressed by the existing structural and ideological inequalities. Deeply influenced by Carol Gilligan’s research on moral development of young girls and boys, cultural feminism proposes “men and

women speak in different voices” (Feminist Jurisprudence, n.d., para. 14; Radacic, 2008b), and highlights the significance women place on relationships, contexts, and resolving interpersonal conflicts, as opposed to men’s dogmatic emphasis on rights and logic (Feminist Jurisprudence, n.d.). Radacic (2008b) explains men respond from an *ethic of justice* perspective. Women, on the other hand, respond from an *ethic of care* position which values empathy and relationship. Given these differences, cultural feminists argue against women assimilating into patriarchy, but consent that because of their similarities with men women can function like men and meet male norms (Radacic, 2008b).

Acknowledging the nearly infeasible task of eradicating gender norms, the objective of cultural feminists is to address the implications of these norms, as well as give equal recognition to women’s moral voice and women-valued relationships (Feminist Jurisprudence, n.d.; Wex, n.d.), such as the movement to use mediation and other temperate forms of alternative dispute resolution to replace the adversarial legal systems (Fineman, 2005). They also seek to address implications of gendered institutions not perceived as neutral by feminists, but as part of the problem (Fineman, 2005). “Facially neutral rules could also generate inequalities, particularly since women’s and men’s societal circumstances were so different” (Fineman, 2005, p. 17).

Cultural feminism has been criticized by some feminist scholars, primarily for its close resemblance to the 19th century stereotypical portrait of women as naturally emotional, domestic, and nurturing. Critics stress the dangers of transforming “differences seen as a value” to “differences that perpetuate bias and discrimination,” such as labor laws that exclude women from certain jobs for their protection or unequal

treatment on the basis of women's inherent differences (Radacic, 2008b). Prominent feminist Joan Williams criticized cultural feminists for "providing a respectable academic language in which to dignify traditional stereotypes" (as cited by Radacic, 2008b, p. 9). While MacKinnon maintained finding the authenticity of woman's voice within a male dominated system is problematic, and warned "For women to affirm difference, where difference mean dominance, as it does with gender, means to affirm the qualities and characteristics of powerlessness" (as cited by Radacic, 2008b, p. 9).

Although criticized for relating the origins of sexual differences to biology, Radacic (2008b) suggest Robin West's article *Jurisprudence and Gender* is one of the most important examples of cultural feminism. West proposed the structure of the modern legal system is steeped in male masculinity which upholds the belief that the "individual is first and foremost materially separate and apart from individuals, which, she claimed is not true for women materially connected to other individuals through critical experiences, notably pregnancy and heterosexual penetration" (as cited by Radacic, 2008b, p. 8).

*Dominance Feminism*⁷

Similar to liberal feminist's philosophy, inequality between women and men is at the center of dominance feminism. According to Bowman and Schneider (1998), "Dominance theory sidesteps both of these [liberal and cultural feminism] approaches, focusing instead upon the embedded structures of power that make men's characteristics the norm from which 'difference' is constructed" (p. 251). Accordingly, gender equality

⁷ Radical feminism is another more commonly used name for dominance feminism.

is not seen as an issue of difference and sameness, but as the issue of domination of women by men (Radacic, 2008a, 2008b). Used to comprehend the harms of violence against women in domestic violence, rape, sexual harassment, and pornography, dominance theory's theoretical framework replaced liberal or formal equality feminism which was considered inadequate for, analyzing the harms experienced almost exclusively by women (Bowman & Schneider, 1998).

With their primary focus on sex-different or sex-specific abuses, dominance feminists consider liberal and cultural feminist theories inadequate to confront male domination. They believe women, not as individuals, but as a class, have been dominated by the male class through systemic subordination which has created a social arrangement in which men are dominant and women submissive (Feminist Jurisprudence, n.d.; Radacic, 2008a). Through this historical denial of physical and sexual integrity women have lacked the full autonomy and freedom to acquire the status of rights-holder (Radacic, 2008a).

Because gender is viewed as a question of power, radical feminists contend legal categories created with the promise of equal opportunity and fair treatment do no more than create false categories that uphold the entrenched powers of a male-biased system. They advocate, instead, for replacing the male reference point with law reforms constructed to include the position of women and the nature of their lives, rather than merely accommodating women's differences through language (Fineman, 2005; Feminist Jurisprudence, n.d.). Arguing the inferior and subordinate position women occupy in society requires "special" concern and responsiveness to eradicate male-centered laws,

radical feminists have successfully lobbied for reforms that transform issues such as sexual assault and harassment, domestic violence, family law, and property division rules; as well acknowledgment by courts that acknowledge a woman's reaction was not the same as that of the "reasonable man" (Fineman, 2005).

Feminist scholar Catharine MacKinnon claims men's appropriation of women's sexuality is crucial to male dominance, with the legal system as the means of maintaining it through endorsement of the male standard which is regarded as objectivity (Radacic, 2008a, 2008b). They contend pornography is not, as some individuals and groups claim, a creative expression protected by the First Amendment, but an instrument of sexual subordination perpetuating patriarchy. Additionally, pornography institutionalizes inequality, desensitizes men to sexual violence, and facilitates the use of power by those with power against the powerless. Although U.S. courts have been reluctant to accept it, MacKinnon and radical feminist writer, Andrea Dworkin's proposal to give women the right to sue pornographers for damages under civil rights laws changed the nature of the pornography debate (Feminist Jurisprudence, n.d.).

Considered by many to be the most significant legal feminist, as the author of dominance theory (Radacic, 2008b); and recognized by Sutherland (2005) as "the dominant voice of North American legal feminism" (p. 113) in the 1980s and 1990s, MacKinnon is critical of liberal and cultural feminism.

Concealed is the substantive way in which man has become the measure of all things. Under the sameness standard, women are measured according to the correspondence with man, our equality judged by our proximity to his measure. Under the difference standard, we are measured according to our lack of

correspondence with him, our womanhood judged by our distance from his measure...Approaching sex discrimination in this way – as if sex questions are difference questions and equality questions are sameness questions – provides two ways for the law to hold women to male standard and call that sex equality (as cited by Radacic, 2008b, p. 9-10).

MacKinnon views equality as a question of power distribution, not as a question of sameness; just as the gender question is considered a question of male supremacy and female subordination rather than a question of difference (Radacic, 2008a, 2008b). Using fundamental components of Marxist theory, MacKinnon constructs her theory of women's subordination as a class through parallels with Marxist themes: work – sex; worker – woman; capitalist – man; commodity – sex/woman; value – female sexual desirability; capitalist accumulation – male sexual desire; class – heterosexuality; capital – gender & family; production – reproduction (Sutherland, 2005). Despite the homage she has received, MacKinnon's theory of sexuality has been attacked on several fronts: (a) as being one dimensional; (b) for her, almost exclusive, portrayal of victims as heterosexual women; (c) Lesbian feminists also cautioned against basing positions on the experience of heterosexual women alone (Radacic, 2008b). Sutherland (2005) asserts that while MacKinnon's influence has waned in recent years due to criticism from postmodern and critical race feminist, it has increased among legislators and judges; particularly in U.S. sexual harassment laws and Canadian obscenity laws. Some critics claim dominance feminism assumes female homogeneity, and dismisses other female experiences as examples false consciousnesses. Furthermore, the myopic focus on gender oppression ignores other systems of oppression. Despite these shortcomings, all in all,

significant advances have been made to feminist scholarship and human rights as a result of dominance feminism's focus on male supremacy over women, versus sex difference, and for inquiry into the role the legal structure has played in maintaining male-dominance (Radacic, 2008a).

Postmodern or Anti-Essentialist Feminism

Postmodern feminism does not embody a single theory; nor does it subscribe to a single theory or single truth (Bowman & Schneider, 1998; Radacic, 2008b). Instead, it undertakes the difficult task of accounting for the wide range of feminist perspectives emerging from the experiences of women of color, ethnicity issues, immigrant women, and cultural differences. The importance of storytelling is emphasized as a way to incorporate diverse experiences into the law and to expand the legal descriptions of experience translated into law; however, postmodern feminism challenges society to move beyond storytelling to more meaningful change by addressing intersections of race, gender, ethnicity, class, sexual orientation, age, and disability (Bowman & Schneider, 1998).

Postmodern feminism has been attacked on the grounds it precludes political action and hinders ending women's political oppression. Many postmodern feminists, as followers of French philosopher Jacques Derrida, use deconstructionist techniques to expose internal contradictions of seemingly rational systems of thought, which has successfully debunked patriarchal legal structures. Another post-modern feminist's interest lies in reinterpreting traditional Freudian psychoanalysis implications of biological determinism and women's subordination. Opposing any essentialism, post-

modern feminism denies categorical abstract theories conceived through reason and assumptions that human nature can serve as the underpinning of knowledge.

The concept of a rational, self-interested, free-willed autonomous subject is rejected. Instead, post modern feminists propose individuals are comprised of multiple overlapping, intersecting, and even contradicting institutional and ideological forces. Postmodern feminism holds the improbability of a single or conspicuous solution to women's oppression, or for that matter anything; and believe proposing a solution would suggest all women's experience are the same and women's oppression is unitary.

Interestingly, postmodern feminism considers the dichotomy of the victim and oppressor to be false. They believe confronting women's oppression demands contextual judgment that recognizes and accommodates the uniqueness of the human experience. Critics' primary grievance about deconstructionist postmodern feminism is its inclination to raze theories, rather than create them (Radacic, 2008b).

Summary

Feminist's theory, more than any other school of thought, stresses the importance of tangible changes in society, as well as emphasizes the interaction between theory and practice (Chamallas, 2003). In their first year of law school students are taught "to think like a lawyer." Many believe the same method should be used in feminist legal theory studies by reflecting on what it means to "think like a feminist," or, simply stated, to approach legal issues from a feminist stance or perspective. Wolken (2006) claims feminist legal theory's historical struggle to include the marginalized has, in many cases, served to push them to the periphery. But, Patricia Smith may have expressed it best:

We don't need a final unified vision of society and gender to argue against oppression, disadvantage, domination, and discrimination. We do not need to know beforehand the nature of good society or ideal person so long as we know what prevents a society from being minimally good or prevents individual from realizing the basic potentials of personhood. We do not need an ultimate vision when we have not yet met threshold conditions for minimally just society. The commitment to foster open dialogue that allows the expression of diverse views and gives particular attention to eliciting views not usually heard is a unifying thread among feminists that attempt and represent the commonality of fundamental values without misrepresenting the plurality of experience (as cited by Radacic, 2008b, p. 13-14).

Despite the diverse opinions found in feminist legal theory regarding sex work, evidence of the dangers criminalization exposes commercial sex workers to has convinced the majority of feminists to agree commercial sex workers should not be subjected to criminal penalties, regardless if they are working in the capacity of victim or agent.

Social Identity Theory

Introduction

Brewer (1991) posits human's adaption to group living has left individuals ill equipped to survive outside of a group context. The perception of self as a unique person has been surrendered to an inclusive social unit that depersonalizes the self-concept. "I" becomes "we" as the individual's self-worth becomes tied to the reputation and outcomes of the group to which they belong. "When the definition of self changes, the meaning of self-interest and self-serving motivation also changes accordingly" (p.476).

Social identity theory is examined as a foundation for understanding group "othering" behavior, as well as historical and sustained oppression of sex workers

through an “us” versus “them” concept. Introduced by Henri Tajfel, Social identity theory was further developed with John Turner in the 1980s as a social-psychological theory that examines the cognitive outcomes of intergroup phenomena⁸, such as ethnocentrism, group polarization, and group cohesiveness that includes crowd behavior, discrimination, and group conformity (Stets & Burke, 2000). Tajfel and Turner (1979) assert that in *relevant* intergroup situations individuals do not act based on individual characteristics, but as members of their group’s standing in certain defined relationships to members of other groups. In other words, individuals define themselves by their perceived membership in a *relevant* social group by distinguishing themselves as belonging to the group and, more importantly, are accepted by other group members as being part of the group (Trepte, 2006).

Tajfel and Turner (1979) explain the distinction of a *relevant* group as opposed to an irrelevant one as:

...a collection of individuals who perceive themselves to be members of the same social category, share some emotional involvement in this common definition of themselves, and achieve some degree of social consensus about the evaluation of their group and of their membership of it...any behavior displayed by one or more actors toward one or more others that is based on the actors’ identification of themselves and the others as belong to different social categories (p. 40).

⁸ Not to be confused with identity theory which focuses on the “causes and consequences” of individual roles and behaviors as a member of a group, rather than identification or alliance with a particular group found in social identity theory. Stets and Burke (2000) clarify identity theory as emphasizing the *doing*, whereas social identity theory underscores *being* (p. 3). Where social identity theory influences self-esteem, identity theory’s role membership and performance impact both self-esteem and self-efficacy (Stets & Burke, 2000).

The solidarity within the group and discrimination against out-groups – “us vs. them” attitude – promotes positive self-esteem and enhancement of self (Tajfel, 1974; Abrams & Hogg, 1988). Freire (1993) asserts solidarity requires entrance into the circumstances of the group in which individuals’ solidarity lies.

Early studies of social identity theory placed schoolboys from Bristol, England, ages 14 to 15 years old, in groups to examine the minimal conditions necessary to produce negativity toward out-groups and discrimination in favor of their own group. Divided into groups on the premise of allocating rewards between two other individuals, each boy knew their own group assignment, but no specific information about the other individuals other than whether they belonged to the same “in-group” or to the “out-group.” The results indicated high levels of in-group favoritism, which suggest antagonism is created merely by dividing people into groups (Tajfel et al., 1971; Billig & Tajfel, 1973; Reicher et al., 2010; Turner, 1975). These early studies demonstrated the natural tendency to favor members of one’s own group, and how easily discrimination is generated through the categorization of individuals.

Some simple and common examples of groups include gender, ethnicity, family, profession, and organizations/teams. Despite membership in any group, it is not necessary for members to share interdependent goals, or have similar and concurrent understandings of an out-group. Identification with any mutual characteristics may be salient or considered insignificant, depending on the circumstances. However, the closer the connection, personal interests become less recognizable as shared interest take precedence. Individual actions are based on normative expectations of group members,

subsuming the concept of role under the concept of group (Stets & Burke, 2000; Ashforth & Mael, 1999).

The following overview elucidates the four underlying principles of social identity theory identified by Tajfel: social categorization, social comparison, social identity, and self-esteem (Trepte, 2006).

Social Categorization

Social categorization, as Stets and Burke (2000) explain, "...comes from the social perceiver appraising herself in relation to others rather than from the perspective of the other" (p. 6). Categorizing people into groups based on similarities generates expectations, hopes, and fears regarding people within the group, which when shared by group members may give rise to social stereotypes exploited to decode, elucidate, and justify group behavior. While people belong to multiple groups concurrently, the importance of each group is not equal simultaneously. Tajfel differentiates less important groups as minimal groups lacking the saliency to prompt behavior in terms of social identity (Trepte, 2006).

Social Comparison

Social categorization elicits a social comparison of the individual's place in society through comparison of self and others, as well as comparison with other similar groups, for the purpose of determining which group they and others belong to. The superiority or inferiority of the individual's group, and the practicality of the individual's membership in the group, are ascertained by comparison of another group's characteristics, members, and benefits. The stronger the similarity the more relevant the

comparison and need for a positive outcome. The following premises must exist within social comparison: (a) group membership must be internalized as part of the individual's image of self and identity with their in-group; (b) social comparison must be allowable; and, (c) relevancy of resemblance and proximity of the out-group (Tajfel & Turner, 1979; Trepte, 2006).

Social Identity

According to Tajfel, social identity is “that part of an individual's self-concept which derives from his knowledge of his membership of a social group (or groups) together with the value and emotional significance attached to that membership” (as cited by Trepte, 2006, p. 258). Essentially, social identity is the favorable comparisons of in-group and relevant out-groups with the primary objective of validating the individual's positive social identity. A group's positive social identity is maintained by assessing in-groups and out-groups on aspects favorable to the in-group. Given the motivation to possess a positive social identity is at all times present and social comparisons are constant, social identity remains negotiable and groups' performance and status are in flux.

Group context is a determinant for the saliency of a particular social identity; meaning the social setting is relevant to individuals' performance. For example, the behavior and choices made as a professional would differ than those made in a familial position. Therefore, the hierarchy of identity salience is determined by the individual's role in a given situation, with mobilization behavior influenced by the group's desire to achieve certain goals (Willets & Clarke, 2014).

Specific behaviors adopted by a group are influenced by subjective belief structures. For example, if a group believes its lower status is relatively legitimate and stable, but the possibility to pass psychologically into the dominant group exist, solidarity or engagement, to a great extent, in direct intergroup competition is uncertain. Instead, members will seek, as individuals, to disidentify themselves from the group and psychological entry into the dominant group, unless social mobility is inhibited by group characteristics or boundaries, strong objections, or sanctions of the group. If leaving the group is out of the question, members may advocate for social change that either re-emphasizes the in-group's supremacy through comparison of measurements favorable to the in-group or redefining the value associated with low-status standards that include additional comparison criteria or comparison with a different group. On the other hand, if a group believes its low status position is illegitimate and passing is not practical, and that a different social order is possible, solidarity and engagement in direct intergroup competition is likely (Hogg et al., 1995; Treppe, 2006).

Self-Esteem

In his early work, Tajfel asserted the motivating factor of positive social identity is preservation of individuals' self image, which he later appended to include self-enhancement as the compelling element (as cited by Treppe, 2006, p. 259). Positive evaluation of the individual's group fulfils the need for positive self-esteem. "If a group membership is crucial to one's self-concept (e.g., football club membership to a professional player), social comparison should lead to positive social distinctiveness and enhance self-esteem" (Treppe, 2006, p. 259). Abrams and Hogg later suggested as a

dependent variable, successful inter-group discrimination increases self-esteem, while as an independent variable, out-group discrimination is increased by low or threatened self-esteem (as cited by Trepte, 2006, p. 259).

According to Hogg and colleagues (1995), people cognitively represent social groups in terms of prototypes, a subjective representation of a social category's defining attributes – beliefs, attitudes, behaviors – “actively constructed from relevant social information in the immediate or more enduring interactive context” (p. 261). Since members of a group are typically exposed to similar information from the same source or perspective their prototypes are more often than not shared. Group behaviors, such as ethnocentrism conformity, stereotyping, and discrimination, become the norm by which other groups/individuals are evaluated (Hogg et al., 1995).

Summary

The human need to belong is most often reflected through membership in a relevant group. It is through group memberships that identities are formed, and become the gauge by which others outside of the group are measured. When “I” becomes, “we” the foundation is established from which individuals of out-groups become the “other” to be rightly, or wrongly, judged. When significant differences exist, or are perceived, by the in-group, the harsher the out-group and its members are judged. “Othering” behaviors and attitudes develop that buoy individuals and their group's identity, and are expressed in different ways, some more harsh than others. Understanding this helps in recognizing

how abolitionists see sex workers as the other, which has resulted in efforts to “save” sex workers and criminalize their pimps and clients, whether they want to be saved or not.

Theory of False Consciousness

Introduction

The clearest cases of false consciousness must satisfy, through empirical observation, two independent criteria: (i) The belief must first of all be ‘false’ in the epistemological sense of being contrary to fact. (ii) Secondly, it must be ‘false’ in the sense of failing to reflect one’s genuine social interests. Taking the two components together, we define false consciousness as *the holding of false or inaccurate beliefs that are contrary to one’s own social interest and which thereby contribute to the maintenance of the disadvantaged position of the self or the group* (as cited by Jost, 1995, p. 400).

Or, more simply stated by Jost (1995), false consciousness is present when social, economic, or sexual subjugation perpetuate inequality through the driving force of subordinate group members belief in their group’s inferiority, as well as belief the group is deserving of its plight, and incapable of taking action against the causes of their subordination.

Paulo Freire, Karl Marx, and Friedrich Engels have all been credited with coining the term false conscientization/consciousness (Freire) or false consciousness (Marx and Engels) to explain the social conditions and circumstances that coerce individuals and groups to remain in and reinforce their oppression. If individuals know no other way and hope is lost, there is no reason to consider changing or improving the conditions of their existence. Augoustinos (1999) posits, “The way in which individuals and groups negotiate and make sense of contemporary social and cultural life is a complex

process...mediated by all kinds of hopes, aspirations, desires, identities, and needs” (p. 309). The overall concept of false consciousness is explored, including the Marx and Engels perspectives as sex is considered a commodity in the abolitionist, legalization, or decriminalization arguments. However, more emphasis is placed on Freire’s explanation as it seems more applicable to examining the psychological reasons sex workers enter and remain in the sex work industry.

Marx and Engels

Some scholars attribute classification of false consciousness to Karl Marx; while others claim Marx never used false consciousness as a category or term. They, instead, contend Friedrich Engels coined the term (Celik, 2007; Augoustinos, 1999) to “underline the point that detachment of thinking process from historical, social conditions by assuming an independent realm for the world of thought is a mistake” (Celik, 2007, p.545). From a Marx/Engels perspective false consciousness is used to describe the consequences of ideological domination when dominant groups in society use institutional control in the areas of education, religion, media, culture, and economic systems to justify status and power inequalities (Jost, 1995). Celik (2007) suggest Marxist scholars embraced, or hijacked, the theory of false consciousness after publication of Georg Lukác’s *History and Class Consciousness*, arguing Marx “implicit conception of ideology as false consciousness” (p. 546) can be deduced from his later development of the theory of commodity fetishism⁹.

⁹ See *Encyclopedia of Activism and Social Justice* (2007, p. 546) for further explanation of commodity fetishism as a mechanism of capitalism and the value of labor.

From this Marxist perspective, false consciousness "... denotes people's inability to recognize inequality, oppression, and exploitation in a capitalist society due to its adoption of the views that naturalize and legitimize the existence of social classes in capitalism" (Celik, 2007, p. 545). In the capital marketplace, human labor becomes the commodity – a commodity from which the oppressor gains from the exploitation of the worker. While the worker receives compensation in the form of wages, it is virtually impossible to determine the point at which the value of the worker's labor exceeds the wages paid to the worker and the employer begins exploiting the laborer (Celik, 2007).

Augoustinos (1999) proposes social analysts utilized the term false consciousness as a "psychological explanatory concept" (p. 298) to explain Marxists' erroneous prediction on the inevitable demise of capitalism, attributing the failure to the working classes inability to recognize their true economic and political interests by assuming their oppressors' bourgeois values. More recently, social psychologists, influenced by Marxist social theory, have effectuated a psychological and cognitive account of false consciousness to explain the political compliance and the continued subservient nature of the oppressed; even when doing so is contrary to their self- and group interests (Augoustinos, 1999; Fox, 1999; Jost, 1995). Belief in a just world prevents oppressed groups from accurately perceiving reality or identifying injustices and disadvantages, but to instead justify and rationalize their subordination (Augoustinos, 1999). "It is not simply a false cognitive belief or phenomenon but a psychological state that emerges from one's oppressed ('real') position in society" (Augoustinos, 1999, p. 302).

Jost identifies six types of false consciousness that are politically harmful and increase acquiescence to conditions and circumstances that maintain false consciousness: (a) failure to perceive injustice and disadvantage, even when evidence to the contrary exist; (b) fatalism, or resigned acceptance protest is futile; (c) justification of social roles, or the premise individuals' rank represents their intrinsic worth, which warrants their place and powerlessness to move to another rank; (d) false attribution of blame in which oppressed groups blame themselves or someone other than their true oppressors; (e) identification with oppressors fostered by an accepted need for rulers may lead to unwitting protection of the very systems that sustain their oppression; and (f) resistance to change despite evidence a change would be improve their situation and circumstances. Although these are illusory beliefs, they suppress constructive political change.

Freire

At first glance, Freire's (1993) *Pedagogy of the Oppressed* appears to be merely a strategy for creating environments conducive to the education of illiterate adults by overcoming oppression and the bondages of poverty and subordination. However, a deeper look reveals it is much more than that. Not limited to identifying the shortcomings of the "banking" concept of education, in which students are depositories (receptacles) of facts and figures deposited by teachers, *Pedagogy of the Oppressed* is foundational in the critical pedagogy of humanization and transformation of populaces oppressed by systems of classism (and all other forms of isms) that result in inequities that aid exploitation.

Freire (1993) holds that in their oppressed state people are “objects” governed by their oppressors, the “subjects¹⁰.” Improving their plight requires a perspective transformation from being an object to being a subject “who acts up and transforms his world” (p. 14), as well as a relationship of mutual love and faith between the oppressed and their [revolutionary] leaders (Goodwin, 1975). The transformation from object to subject is a basic requirement of conscientization (Freire, 2000). As consciousness beings people are “not only *in* the world, but *with* the world” (Freire, 2000, p. 39), or as Jarvis (2012) suggest “people learn to exist rather than merely live in the world” (p. 95), at which point they can critically reflect on the world. Such a dialogical-praxis¹¹ methodology stresses the necessity of a Subject-Subject relationship, rather than the authoritarian Subject-Object bond that previously existed (Goodwin, 1975).

As a humanist and libertarian, Freire (1993) outlines two distinct stages in the pedagogy of the oppressed. First, the oppression is unveiled by the oppressed who, through praxis, commit themselves to transformation of the oppression. Defiance arises from the way the oppressed perceive the world of oppression, and how they must cope with the consciousness of the oppressed as well as the oppressor. In the second stage, once the reality of the oppression is transformed, the oppressed no longer solely own the pedagogy, instead it becomes a pedagogy of *all* [italics mine] of the people (oppressed and oppressor) in the process of permanent liberation. The second stage requires expulsion of old order myths that perpetuate injustice and create strife in the new

¹⁰ Freire uses the term *subject* to denote “those who know and act” versus *objects* “which are known and acted upon” (p. 18).

¹¹ Freire uses *praxis* to indicate critical reflective thought and the ensuing action (p. 96).

structure. Allowed to remain, old myths establish “a climate of irrationality and sectarianism” (Freire, 1993, p. 102). Revolutionary leaders must identify and address all of the myths used by oppressor elites to subjugate the oppressed, no matter how small or insignificant they may seem.

Fabrications of justice, which in turn become false beliefs held by victims of injustice, are intentionally employed by persons or groups distinctly different from those being exploited. Appearances of justice, habitually and easily, fabricated by those in power are often effective in deceiving victims of injustice and third-party observers. Cohen (1989) emphasizes myths that have upheld fabrications of justice, and sustained the oppression must be singled out to clarify three important issues: (a) the relationship between the source of the oppression and the intended target; (b) discern if the fabrication was intentional; and (c) if it was intentional, what kind of intention was involved.

Parenti pointedly stated false consciousness continues because “People accept the status quo out of lack of awareness that viable alternatives exist and out of ignorance as to how their rulers are violating their professed interests or out of ignorance of how they themselves are being harmed by what they think are their interests” (as cited by Fox, 1999, p. 12). Once the veil is removed and opportunities are presented, is it possible for rationality to pave the way to humanizing the oppressed? Is realizing one’s value as simple as rejecting the status quo? Freire (1993) questions if humanization is a rational possibility when the extent of dehumanization is recognized; instead, he posits the oppressed must comprehend the reality of oppression is not a closed world, but, rather, a deterrent to be transformed.

Summary

Throughout history, people have constructed false conceptions of themselves to explain what they are and their role in society. Thompson (2015) asserts “What makes consciousness ‘false’, in my sense, is that it is locked into a routinized pattern of cognition that disables critical cognitive and epistemic capacities and naturalizes the domination ideas and values that legitimate prevailing power relations and interests” (p. 450), producing false conceptions that allows the exertion of dominance by hierarchically organized elites – a bifurcation of consciousness in which individuals adopt not only ideas not their own, but also think in styles and logics not their own.

Augoustinos (1999) contends, “The concept of false consciousness assumes that one can arrive at a true or veridical version of reality...” (p. 300); while Thompson (2015) asserts it is irrational to believe people are capable of reaching this state because subjects lack the ability to conceptualize the world with objective, valid acumen due to distorted cognitive and epistemic structures of thinking. Individuals’ beliefs and opinions are shaped through value orientation, acquired through socialization, that perceive the world in factual and normative terms based on the way the consciousness is shaped by dominant value patterns. Consequently, false consciousness is secured through compliance to institutions that yield hierarchical social relations and the power of the rules, logics, and functions imposed by the resulting social institutions. These internalized values become heteronomous, subject to external controls and impositions that legitimize dominant ideas and values; leaving subjects’ incapable of rationally defending

unconventional ideas and values. All things considered, false consciousness is a multi-causal process perpetuated by flawed forms of intersubjectivity.

Summary

In social science, theories are analytical frameworks used to examine the dynamics of power and social structure in social behaviors. In this chapter three theories were drawn on to explore the relationship between sex work and agency as it applies to the reasons women become sex workers: dominance theory, social identity theory, and the theory of false consciousness. In their own way, each contribute to understanding many of the generalizations and assumptions about sex workers and sex work.

There is no denial that historical male domination women has subjugated in many areas, sex included. By examining embedded power structures that maintain a patriarchal society, dominance theory is constructive in analyzing the evolution of the abolitionist's movement and goal of "saving" the prostitute/sex worker by criminalizing pimps and buyers. It also is useful for understand. Social identity theory and false consciousness have the shared characteristic of individuals' perception of self and how this affects exercising agency, particularly in situations of marginalization and oppression.

In the subsequent chapter, a review of relevant literature will augment this inquiry into agency in sex work by examining the histories of prostitution and the feminist sex work movement, developing an understanding of agency, and looking at the impact of sex work laws.

CHAPTER III

LITERATURE REVIEW

Introduction

Sexual exploitation is a practice by which person(s) achieve sexual gratification or financial gain or advancement through the abuse of a person's sexuality by abrogating that person's human right to dignity, equality, autonomy, and physical and mental well-being (as cited by Barry, 2012, para. 10).

Historically, society has seen prostitution and other forms of sex work as immoral, denigrating, and oppressive; primarily for the one commodifying their sexual services. Sex workers are typically portrayed by the media, purists, and groups trying to save them from themselves as either physically coerced or willing to sell their body for drugs or, in some cases, turning to sex work as a last resort to support themselves and/or their children. While no two reasons are the same, much of academic literature tends to be too scholarly and nonacademic literature tends to follow the coercion precedent. Missing are the narratives and stories of sex workers and service providers working closely enough to know their situations. Even the growing body of literature making the case all sex work is not coercive is apt to approach the argument from a scholarly perspective.

Unfortunately, feminists often fall into the same trap, becoming so entangled in the rhetoric they are unable to see beyond that which does not support their positions of

abolition, legalization (with some regulations), or decriminalizing sex work altogether. To aid in understanding the complexity of this issue, an encompassing view is integral in discerning the motivations and sometimes dogmatic opinions about sex work. Beginning with the history of prostitution, the following literature considers the different feminist's perspectives, personal agency, and the success and failures of prostitution and sex worker state laws.

History of Prostitution

Understanding the history and degeneracy associated with prostitution is crucial to analyzing the feminists' debate on abolition, legalization, and decriminalization. Ringdal's *Love for Sale: A World History of Prostitution* (2004) recounts *The Epic of Gilgamesh* (circa 2700 B.C.) in which Ishtar, the Babylonian goddess of love and war and self-proclaimed protector of all prostitutes, authorizes a temple harlot (*harimtu* woman) to lay with and educate Enkidu, who was created as the savage equal to the handsome and brave Gilgamesh. "He [Enkidu] spent six days and seven nights with the *harimtu* woman, who lavished him with love of all kinds: maternal devotion, tenderness, mystical transcendence, and orgiastic sex" (p. 11). After Gilgamesh and Enkidu become friends, in response to Gilgamesh's rejection of her lust for him Ishtar sentences Enkidu to death. Facing death, Enkidu curses Ishtar and all prostitutes to a condemnation that has persisted through time:

Oh, you sly Woman of the Night,
Approach and hear your Fate.
I curse you. Until the Eve of Times:
The Streets shall be your Home.

On tired Legs shall you stand in Shadow.
The thirsty and the drunken smite you...
Oh, Harlot, you Servant of Men,
Kings and Princes shall love you.
Young Men release their Belts.
While the Old smile in their Beards.
For Riches you shall both make and destroy.
For you, the fertile Wife will be forsaken.
While Priests shall wed you to the Gods (as cited by Ringdal, 2004, p. 26).

While *The Epic of Gilgamesh* is not considered a historical text, it offers insight into the social and sexual relations, love, respect, and violence associated with sex work; but, of greatest significance is Ishtar's relationship with prostitutes she offers sexual assistance to, in and around her temples. As self-proclaimed protector of all prostitutes, she protected those ranking as high as temple priestess to as low as harlots offering their bodies in doorways outside the temples or working in taverns (Lerner, 1986; Ringdal, 2004).

Lerner (1986) places the roots of prostitution in the Mesopotamian period as well with sexual offerings to the gods, including sexual services "for and in behalf of the god or goddess was considered beneficial to the people and the sacred" (p. 239) that later evolved into commercial prostitution as donations were made to the temple for sexual intercourse with strangers, performed in honor of the fertility and sexual power of the goddess. Another suggestion for the corruption of what began as religious offerings brought to the temple to honor the deities is temple servants who kept all or some of the gifts for their own profit. Slave women and lower class temple servants may have also been encouraged by priest to serve as commercial prostitutes to enrich the temple. Lerner

(1986) also notes two other possible sources outside of the temple realm: (a) the enslavement of women during the military conquests of the third millennium B.C. In addition to sexual abuse by their captors, slave owners began to rent out female slaves as prostitutes as well as setting up commercial brothels; and (b) the “pauperization” of farmers who sold female family members as debt repayment were sources of prostitution. “By the middle of the second millennium B.C., prostitution was well established as a likely occupation for the daughters of the poor” (p. 247). As prostitutes became property of the more privileged class, the virginity of reputable daughters became a financial asset for their families (Lerner, 1986) causing further degradation to the status of women involved in sex work.

Sanger (1895) cites the Biblical account of Tamar in the Book of Moses (18 B.C.) as the first historical reference to prostitution. Following the death of his two oldest sons, Tamar’s husbands, Judah returns Tamar to her family in widow’s garb with the promise to send for her when his third son reaches the age to fulfill his familial duty to produce off-spring for his brother, Tamar’s first husband. After several years Tamar realizes Judah has no intention of fulfilling his promises, and devises her own plan to birth a child from Judah’s lineage. When her father-in-law sees Tamar outside the entrance to Enaim after she has cast off her widow’s garments he believes she is a prostitute. “...she took off her widow’s clothes, covered herself with a veil to disguise herself, and then sat down at the entrance to Enaim...When Judah saw her, he thought she was a prostitute, for she had covered her face. Not realizing that she was his daughter-in-law, he went over to her

by the roadside and said, “Come now, let me sleep with you.” (Genesis 38: 14-16 New International Version).

The Babylonian Codex Hammurabi is the first known set of laws that established a clear distinction between respectable and non-respectable women. According to the Codes Hammurabi, a wife, unable to bear children, could give her husband a slave woman or low-ranking temple servant as a concubine or second wife to provide children, and retain her higher social standing. “It could also indicate that their social position had become somewhat precarious during Hammurabi’s reign or that it was undergoing some kind of change” (Lerner, 1986, p. 242). The Codex Hammurabi also marked a change in the class status of women that continues today. Women’s status became dependent on that of the male family head of household. A change in his status could relegate her from respectable to a debt slave or prostitute. Furthermore, a married woman committing adultery or an unmarried woman that lost her chastity was declassified, while a man committing the same acts was not subject to being declassified (Lerner, 1986).

The later enactment of Middle Assyrian Law (MAL) moved control of female sexuality from the male family head to the state. Through MAL 40, the state took control of women’s appearance outside the home, requiring wives and daughters to veil their heads when in public, further demarcating female sex workers. Prohibiting prostitutes from veiling their heads in public not only marked a woman as a prostitute, it also distinguished her from respectable women – resulting in a lower social standing, and restriction to commercial sex as an economic means of survival (Lerner, 1986; Ringdal, 2004). The law also meted out punishment for those who failed to enforce it:

He who has seen a harlot veiled must arrest her, produce witness (and) bring her to the palace tribunal; they shall not take her jewelry away (but) the one who arrested her may take her clothing; they shall flog her fifty (times) with staves (and) pour pitch on her head (as cited in Lerner, 1986, p. 248-249).

A previous matter of morality became a major offense against the state, as well as humiliating and injurious, both physically and financially, to the prostitute. The pitch, symbolizing by her lowly state the only veil she is entitled to wear, renders her unfit to work since removing the pitch, most likely, required shaving her head, disfiguring her for quite some time (Lerner, 1986).

In *What's Wrong with Prostitution?* Pateman (1999) states the public character of prostitution is not as perceptible in modern times. Considered in some cases a private enterprise, with the contract between the prostitute and client a capitalist transaction, selling sex still remains shrouded in secrecy in spite of the magnitude of the industry.

Prostitution and sex work has continued through the ages, and what has remained constant is the question of morality, or lack of. What was considered in early times as a necessary and honorable occupation became offensive to society as patriarchic rule took hold of society. During the twentieth century, perceptions and opinions began to change as sex workers and their advocates spoke out, asserting all sex work is not coerced and some sex workers enter the sex industry of their own personal agency.

Feminist Perspectives

Early Abolitionist Movement

Josephine Butler, a key character in British and European feminist's abolition movement, is credited with fundamentally changing women's political lives by

contesting the taboo nature of sexual matters as well as shattering the idea that women could not take a leading role in politics (Fisher, 1996; Moore, 1993; Ringdal, 2004; De Vries, 2008). Butler had the unique ability to “cast a spell” (Ringdal, 2004, p. 259) over both men and women by “represent[ing] both the accepted female ideal of her time as well as its radical counter-image” (De Vries, 2008, p. 263). According to Ringdal (2004):

She would stare into the audience with infinite sorrow while slowly and dramatically exposing how everything was connected – the decadence of the ruling class, police corruption, and all of the world’s dishonest, lowly male behavior toward innocent women, in private and public (p. 259).

Butler’s battle against society’s double standards for women in a man’s world, and as a campaigner for women’s rights and public morality, began much earlier than she is usually credited with. In the mid-1800s, she advocated for a young girl jailed for infanticide after being abandoned by the baby’s father, a member of academia at Balliol College who faced no punishment for his actions. The university’s administrators responded to Butler’s urging “to suggest some means of bringing to a sense of his crime the man who had wronged he” that “It would only do harm to open in any way such a question as this. It is dangerous to arouse a sleeping lion” (as cited in Moore, 1993, p. 1). Moore (1993) notes Butler, ironically, was the sleeping lion awoken by this affair. Her name became synonymous with the abolitionist crusade to repeal Britain’s Contagious Diseases Acts that gave police and magistrates the right to medically inspect any woman suspected of being diseased, by force if necessary politics (Fisher, 1996; Moore, 1993;

Ringdal, 2004; De Vries, 2008)¹². Through her work, she became not only an opponent against prostitution (Ringdal, 2004), but also a proponent for “reclaiming prostitutes” (Fisher, 1996, p.34) including establishing a hostel and providing skills training for prostitutes to support themselves with a means other than sex work (Moore, 1993). The Acts were repealed in 1886, but Butler’s discord with the militant, puritan view of her associates giving prostitutes one of two options – reform or be crushed – led to her disassociation with those she previously considered allies in rescuing prostitutes; however, Butler’s influence had spread across Europe (Fisher, 1996; Moore, 1993).

During the 1800s, France and the Netherlands (under French rule) sanctioned state regulated prostitution, requiring prostitutes to register with the police and comply with rules governing the conditions for obtaining and keeping a license. Well before the abolitionist movement, opposition to state regulation of prostitution was influenced by the evangelical-Protestant Réveil movement. Reverend Hendrik Pierson, founder of the Dutch Society against Prostitution (1879), argued not so much for the rights of women as that by imposing regulations the state was organizing sin. He argued against the effectiveness of sanitary control; asserting closing brothels was the best prevention towards controlling venereal disease. Criticizing men’s lack of control and male

¹² The Contagious Disease Acts was a series of three acts passed in 1864, 1866, and 1869 that “established state regulated prostitution in garrison and naval towns across Britain and Ireland” (Fisher, 1996, p. 33), and gave authorities the power to confine diseased women to a hospital for up to three months for treatment. If a woman refused to be inspected or left the hospital without permission, her imprisonment could last up to two months. Many saw the Acts as the embodiment of sexual morality double standard since no similar provision existed for men.

immorality, Pierson maintained “nothing would change unless ‘one dared to confront men’” (as cited in De Vries, 2008, p. 262).¹³

However, it was Butler’s early crusade against regulating prostitution that led to a rise in Dutch evangelical feminism. For Dutch abolitionist the prostitute’s body represented the ills within the prevailing social order. “The body of the prostitute seemed to provide the focus for understanding all the social wrongs against women, from the tragedies of the unmarried mother, woman’s poverty and economic vulnerability, to women’s lack of political and marital rights” (De Vries, 2008, p. 266). The image of the prostitute became the ultimate illustration of female sexual oppression as well as other gender disparities.

Dissatisfied with the Netherland’s male-only abolitionist movement, Butler rallied Dutch women into action. Her encouragement for Dutch women to join the male dominated Réveil movement made the Netherlands a major influence in the international movement for abolition which centered on three characteristics: (a) was the claim men always need sex true, making prostitution, as many claimed a necessary evil? If the claim was in fact true, was it the State’s role to provide men safe sexual encounters with prostitutes? (b) abolitionism stressed the moral obligations of the state. Prostitution, seen as a sign of moral disintegration, was a threat to civilized society and signaled the

¹³ Pierson argued at the 1883 international congress for the abolition of state regulation of prostitution held at The Hague prostitution was an inherent sin of human nature, while Butler and others agreed with socialist Domela Nieuwenhuis poverty and low wages paid females was the determinant of prostitution. Pierson, as spokesperson for the Dutch division of the International Abolitionist Federation, maintained a highly gendered distinction between the abolitionist roles of men and women, labeling male political work as “witnessing” and the female role as “rescuing.” Thereby implying women could not be member of the Dutch Society.

deterioration of religious values; and (c) the politics of gender was as key to the abolitionist movement as the politics of prostitution; yet, regulation belied the equal moral standards for men and women on which the abolitionist movement was founded (De Vries, 2008).

Dutch women used religion as the platform to overcome male objections to their involvement in the abolitionist movement to fight not only the perceived state sanction of sin, but also the issue of gender inequality. They strategically questioned how anyone could object to women speaking about God. Unfortunately, the abolitionist crusade became one of good versus evil, purity versus sin. The rights of women, and therefore prostitutes, for control of their bodies became overshadowed by condemnation of sin, vice, and debauchery (De Vries, 2008); similar to the change that occurred in Britain (Fisher, 1996). As municipalities abandoned regulation by the early 1900s, pillarisation¹⁴ took hold of Dutch society and the scope and context of abolitionism widened.

In addition to Neo-Malthusianism¹⁵ and child protection, the *white slave trade* became a primary focus of evangelical abolitionist politics. The shift united the abolitionist movement as one in which men and women could jointly participate (De Vries, 2008). However, contrary to the practice in the Netherlands, to build a united front against trafficking the new international abolitionist agenda included pro-regulation

¹⁴ Pillarisation is the politico-denominational segregation of a society. Each pillar has its own institutions [schools, newspapers, political parties, etc.] (<http://encyclopedia.thefreedictionary.com/pillarisation>).

¹⁵ Neo-Malthusianism advocates for control of population growth (<http://www.thefreedictionary.com/Neo-malthusians>).

powers most believed would curb the white slave trade¹⁶. The Netherlands continued to play a significant role in the abolitionist movement, but, along with Butler, disagreed with state regulation of prostitution. At the 1899 London abolitionist conference, Dutch delegate Marianne Klerck-van Hogendorp proclaimed, ‘we abolitionists in Holland are firmly convinced that only the full repeal of the shameful regulation system, and of the official recognition of the houses of ill-fame will put an end to the white slave traffic (as cited in De Vries, 2008, p. 268). Following an underground campaign by the Dutch, the abolitionist agenda returned to a position of anti-regulation in 1910 (De Vries, 2008).

The European abolitionist movement’s new political perspective and its implications on gender power are recognized for the shift of organizational focus from prostitution to white slavery. Although abolitionist remained compassionate for prostitutes, they were viewed as ‘fallen women,’ while women involved in the white slave trade were not only ‘innocent’ victims, they were ‘white’ women, victimized by foreign and exotic men. With the change there was also a shift from the political, social movement tactics utilized by earlier abolitionist to a legalistic approach to trafficking and social purity. De Vries (2008) asserts that with the movement towards a legalistic approach, women’s rights vanished from the abolitionist discourse, and a male domination prevailed that alleged women lacked the ability to handle social issues and

¹⁶ Well known British advocate for social purity, William Alexander Coote organized an international conference to address the suppression of the white slave traffic. The International White Slave Traffic (later ‘traffic in women and children’), based in London with national committees in other countries, was founded to combat trafficking in women. It was at the behest of Coote and French senator Béranger that the pro-regulation language was included (De Vries, 2008).

must be saved from them self. The tension between abolition and feminism is manifested in the history of Dutch abolitionist (De Vries, 2008).

Anti-prostitution efforts in American date back to the 1870s when feminists, moralists, and civil libertarians joined European abolitionist in condemning the practice of state regulated brothels and medical inspection of prostitutes, citing “sexual double standard, governmental sanction for commercialized sex, misguided public health policy, corruption in law enforcement, and infringements on women’s constitutional rights” (Jabour, 2013, p. 143); as well as attempts towards eradicating domestic sex work and international sex trafficking. In the early twentieth-century, a coalition of evangelicals, feminists, business leaders, and medical experts controlled America’s position on prostitution, demanding immediate and unrelenting repression through raids on brothels and new laws suppressing commercial sex that resulted in international treaties in 1904 and 1910 aimed at suppressing sex trafficking. Unlike feminist abolitionist on the international front, feminist efforts in the United States lost momentum in the period around World War I when issues of social hygiene authorized forcible detention and medical examinations in military zones of suspected prostitutes. As in Europe the focus of the abolitionist movement moved from efforts to eliminate sexual double standards and improve the economic situation of women to policies of state sanctioned control and punishment of prostitutes (Jabour, 2013).

Chicago, was considered to be at the fore-front of America’s anti-prostitution movement, with its creation of the Chicago’s Morals Court in 1913 established to practice “sociological jurisprudence” (Jabour, 2013, p. 144), and supposedly

acknowledging the role of socioeconomic factors as it handled all sex-related misdemeanors, from adultery to violations of city ordinances related to streetwalking and houses of ill-repute, but primarily prostitution. However, as concerns about public health increased less social justice could be found in the Court's practices. Legal authorities were given the power to send anyone suspected of having venereal disease for pelvic examinations and lengthy confinements of diseased persons at prison-like state hospitals for painful and dangerous treatments involving the use of mercury and arsenic. Despite gender-neutral language testing and treatment rarely applied to male defendants, reinforcing the sexual double standard of tolerating, if not endorsing male sexuality. In keeping with the American racial attitude of sexual depravity, and greater likelihood of sexual disease, African Americans were disproportionately targeted and prosecuted. Collusion between organized crime and the city's law enforcement "failure to notice" prostitution at brothels in exchange for payoffs, as well as exploitation of streetwalkers by beat cops, were problematic and a concern of feminist in Prohibition-era Chicago. (Jabour, 2013).

A change of guard in the Chicago political landscape in 1930 brought optimism to a, by all appearances, hopeless situation. It was during this time Sophonisba Breckinridge, feminist activist, social work professor, and legal scholar, was appointed chair to the recently established Citizens' Committee on Social Work in the Municipal court. It is not clear if Breckinridge supported the anti-prostitution legislation of Prohibition-era America, but along with civil rights lawyer Pearl Hart, she fought for reform of the Chicago's Morals Court that deprived suspected prostitutes of their civil

rights. Jabour (2013) maintains that unlike many feminist the antiwar period who were in league with or failed to challenge repressive prostitution policies, Breckinridge's "work in the Morals Court provides a historical model of feminist abolitionist activism within the context of a liberal rights-based society" (p. 158).

Issues of double standards and overt denial of women's basic human rights were not limited to Chicago's Morals Court; rather, it is a history shared on a national, as well as international level. Breckinridge's work towards abolishing the sex trade and securing civil rights for sex workers is reflective of the struggles of abolitionist in America and across Europe since the late 1800s. The struggle has been passionate at times, especially during periods of intense fear and concern for the nation's health have overshadowed concern for women's exploitation; however, abolitionist have not wavered in their believe that given the same rights and economic privileges as men women would not be forced into selling their bodies to survive.

Contemporary Abolitionist Movement

Kathleen Barry is credited with the renewed fervor for the abolitionist campaign against female sexual slavery, from prostitution to marriage. As a contemporary abolitionist, Barry (1979) rejected a distinction between forced and voluntary prostitution (Lobasz, 2009), claiming marriage was an institution of legalized love that presumes sex as a duty – a wife's responsibility (Barry, 1979). "Sex is purchased through prostitution and legally acquired through marriage; in both as well as outside each, it may be seized by force" (Barry, 1979, p. 271). Barry was not the first to associate marriage with prostitution; this sentiment dated back as far as eighteenth century writer Mary

Wollstonecraft (Pateman, 1999; De Vries, 2008). Some abolitionist have gone as far as to claim female sexual slavery is not limited to prostitution, but includes all women living within patriarchal guidelines – prostitution is only one aspect of female victimization and sexual oppression (Lobasz, 2009).

Barry asserts women voluntarily involved in prostitution have fallen prey to a false consciousness as a survival strategy. Through a Freirean “culture of silence” they are not only actively supporting their own exploitation, but the patriarchal exploitation of other women by reinforcing the cultural attitude sex should be available to men under any conditions and by the terms they choose (Barry, 1979; Lobasz, 2009). The intersectionality of race, class, ethnicity, nationality, or any other shared traits suggests the opportunity for a transnational movement to abolish all forms of female sexual slavery – forced or voluntary from marriage to prostitution to sex trafficking (Lobasz, 2009). Barry proposed treatment of prostitution as a violation of the Universal Declaration of Human Rights Article 1 at the 1986 UNESCO meeting in Madrid, stating infringement on the most fundamental human right – to live in dignity – transpires when one is purchased and used for sex (Barry, 2012).

Like Butler, today’s abolitionist see the solution to voluntary sex work, in and outside of marriage, not through fragmented social services, but through a large-scale network of education, job training, health services, and personal counseling (Barry, 1979). It is only with the ability to break free of a cycle of self-defeat and vulnerability women that will attain “full existence in their own right” (Barry, 1979, p. 273). Inspired by Barry and earlier abolitionist, today’s abolitionist hold that criminalizing prostitution

is necessary in stopping sex trafficking. As in 1900s Netherlands, the prostitution abolitionist of today have the support of the evangelical church, and successfully lobbied for a federal *gag rule* in the United States that requires the explicit rejection of legalized prostitution by any anti-trafficking group receiving federal funds (Lobasz, 2009), including NGOs (Bernstein, 2007b).

According to De Vries (2008), the coalition politics of abolitionism was part of a rising tide of groups advocating for women's rights became a breeding ground for the more radical insights into gender inequality. Prostitution became the grounds for demand for women's political authority, strengthened by the claim regulation of women's bodies would have never been enacted if women were in power. The prostitute came to represent all the social wrongs women are subjected to – misfortune of many unwed (or without partners) mothers, poverty and economic vulnerability, political and marital rights, the immoral character of the State, the power of the medical expert knowledge and the totality of woman's sexual, legal and political oppression (De Vries, 2008).

Although not the focus of this paper it would be negligent not to mention abolitionist's involvement in the anti-trafficking movement, particularly sex trafficking. Abolitionist are leading an evangelical attack on all forms of human trafficking, mainly sex trafficking (and, therefore, prostitution). In the United States, the George W. Bush administration's charitable choice initiative provided a growing sum of federal funds for international and domestic anti-trafficking work. Through partnerships with conservative groups and state agencies, abolitionist feminists have successfully formed political alliances based on the mutual opinion "prostitution is a type of gendered social exchange

that constitutes the literal antithesis of freedom” (Bernstein, 2007b, p. 131), and the premise all prostitution is slavery. Just as some abolitionists consider all forms of sex to be prostitution, federal and state-level anti-trafficking laws regard all forms of prostitution as sex trafficking. As a result of increased U.S. anti-trafficking laws, pimps are not only being charged as slaveholders, but clients are subject to being charged as well (Bernstein, 2007b).

Legalization

The terms *legalization* and *regulation* are sometimes used interchangeably. Brants asserts the key difference between the two is related to moral acceptance (as cited by Huisman & Nelen, 2014, p. 606). Legalization connotes activities related to prostitution are not regarded as undesirable in themselves. Regulationists acknowledge prostitution exists, but seek to keep it under control; however, they do not approve of it or regard it as legitimate (Huisman & Nelen, 2014).

In addition to elimination of the threat of arrest, regulation has what some see as benefits, such as regular checks for venereal disease and health cards that must be carried by prostitutes, but regulation is not always in the best interest of the sex worker. While income earned from prostitution is taxable, unemployment benefits and social security are not available. Also, prostitutes are restricted to certain areas and allowed to work the street only during certain hours, usually 8 P.M. to 6 A.M. Many resist these regulated restrictions by not registering (Barry, 1979).

Under the legalization framework, some, but not all types of sex work are decriminalized (Lutnick & Cohan, 2009), with regulations and standards implemented to

facilitate governmental policing of the sex industry and offer sex workers access to protection and redress through the criminal justice system, security of labor laws, and some degree the legitimacy of their work (Bruckert & Hannem, 2013; Carrasquillo, 2014). To operate legally, businesses and individuals the law applies to must comply with regulation and licensing procedures beyond the scope of what is required of other businesses (Lutnick & Cohan, 2009). Promoters of the legalized or regulatory framework are in large part inspired to “minimize the harms believed accompany this ‘unfortunate,’ albeit inevitable, social practice: organized crime, the nuisance of street-based work, ‘pimping,’ and disease” (Bruckert & Hannem, 2013, p. 55).

The specifics of legalization differ from country to country that may include benefits improving the lives and conditions of sex workers. Sex workers may be eligible for health care and other employee benefits, such as social security and unemployment insurance. Regulations may pave the way for taxing sex services (Carrasquillo, 2014), which would benefit both governments and sex workers. For the government, revenue from taxes would add to the coffers; and for sex workers, paying taxes would legitimize their income for bank loans and other forms of credit. Legalization may also come with responsibilities required of sex workers for theirs as well as their clients. For example, requiring sex workers to register and be licensed, as well as undergo mandatory medical examinations. In some instances, benefits may be undermined by other laws and regulations. For example, in Germany, according to federal laws sex workers who have signed an employment contract are entitled to sick pay, pension benefits, and labor

protection. Unfortunately, other federal laws, as well as state and municipal regulations prohibit payment of the benefit (Bruckert & Hannem, 2013).

Some feminists see the regulations imposed on brothel workers “as yet another ‘pervasive system of control of women’s bodies’” (Carrasquillo, 2014, p. 718). In Nevada, some counties prohibit brothel workers, as well as their families, from living in the same county in which they work. During their contract period, brothel workers may also be restricted from leaving the brothel aside for medical care or other related appointments. Brothel workers diagnosed as HIV positive are subject to exposure if state law requires individuals’ name and photograph be publicly published (Carrasquillo, 2014).

Where abolitionist intertwine sex work with human rights, the legalization (and decriminalization) movement seriously object, maintaining sex work is not synonymous with sex trafficking. They do, however, agree with abolitionist the sex industry can be abusive and exploitative, but no more so than other low-wage, low-status jobs that put workers in harm’s way. Liberal feminists argue women are autonomous and prostitution should be treated the same as any other business transaction. They also believe sexual freedom is the bottom line, and separation of sex and love opens the way for gender equality by liberating women (Carrasquillo, 2014).

Sex worker rights activists and sex worker unions suggest the focus should be on harm reduction rather than total abolition of sex work, as legalization provides resources for sex workers to protest abusive conditions instead of rejecting the industry as a whole. By excluding other forms of trafficking, such as labor and domestic trafficking, to focus

on sex trafficking, women in the sex industry are unfairly stigmatized and disempowered, precluding sex workers' rights to freedom from work related violence, a fair share of earnings, or the ability to leave an employer (Lobasz, 2009).

One objective of legalizing the sex industry is to drive organized crime from legitimate prostitution business; however, rather than eliminating or reducing organized crime legalization and regulation created a legalized outlet for victims of organized crime, and greater concentrations of power and money in prostitution. In the Netherlands, small brothels have been priced out the market or dissuaded by administrative burdens that have made them unable to negotiate administrative hurdles or oppose governmental authorities, making them susceptible to organized crime. For example, despite regulations an organized crime unit operated an outlet for human trafficking in Amsterdam's Red Light District which revealed the window brothels could be used as an outlet for sex trafficking of women and violent pimping in what became known as the *Sneep Case*¹⁷ (Huisman & Nelen, 2014).

Decriminalization

According to Carrasquillo (2014), decriminalization is distinctly different from legalization in that decriminalization sees no need for regulations or standards (Carrasquillo, 2014) to control sex workers and the sex work industry. In essence, buying or selling sex is not considered a crime, allowing sex workers to control their own business, free of government interference. In countries where sex work has been

¹⁷ The *Sneep Case* was a network of pimps uncovered by Amsterdam police that controlled 120 women operating in the city's window brothels. Of the 120, 78 were considered sex trafficking victims who through excessive force were forced to earn a minimum amount per day, have breast enlargements and bear a tattoo with the name of the pimp who owned them (Huisman & Nelen, 2014).

decriminalized many of the problems associated with criminalization have been reduced or eliminated (Carrasquillo, 2014).

Campaigns specifically for decriminalization of sex work are typically handled by one or a combination of sex workers' rights organizations around the world whose arguments are centered on the negative effects of criminalization and stigmatization on the lives and working conditions of sex workers. Decriminalization is posed as necessary objective to improve these conditions. Unlike legalization advocates, these feminists do not regard sex work as a source of exploration, but rather as legitimate work, chosen after consideration of other professions. They militate for the social recognition of sex work as such (Comte, 2014).

Quite the opposite of legalization, decriminalization removes all crimes related to adult sex work – exploitation, violence, coercion, and human trafficking – from the criminal code since they are already covered by other laws. What would remain is regulation of sex work through the civil code. Feminists in favor of decriminalization do not recommend transferring criminalization from sex workers to clients, citing the Swedish experience as proof sex workers become more vulnerable because this approach forces women to hide to reassure their clients. It also diminishes their numbers on the street, deflating the price charged, increases competition, and gives clients the confidence to insist on sexual acts without condoms (Comte, 2014).

With the amount of exposure given to sex trafficking, some may be surprised, maybe even offended, this group of feminists does not deny occurrences of trafficking and coercion of women for sexual purposes, but claim they constitute only a small

portion of the reality of sex work. Further, with the excessive focus on sex trafficking, other types of trafficking – domestic, agriculture, and sweatshop workers – are overlooked. They believe locating sex work as a crime produces inhumane working conditions and allows situations of violence to occur. This transpires through denying sex workers access to police protection, making sex workers more vulnerable to theft, rape, and brutality carried out by clients who know, as a general rule, the police do not intervene when sex workers file a complaint. The same is true of murder as the murder is confident the police will not investigate the crime. Sex worker organizations tend to ask for complete decriminalization of all sex work related activities due to these patterns that are reinforced by criminalization (Comte, 2014).

The benefits offered to sex workers through decriminalization are numerous. From a physical aspect, sex workers have the freedom to report abuses and crimes committed against them without fear of their own criminal conviction. Also, the need for pimps is reduced, along with exploitation perpetrated against them by pimps. Decriminalization gives sex workers command of their own bodies as well as their destiny (Carrasquillo, 2014). From a work security stance, sex workers are protected on several fronts by decriminalization: wage and hour laws, insurance and pension laws, social security, safeguard of safety and health protection, collective bargaining rights, as well as forming unions. As managers of their own occupations, they would have the ability to negotiate their own contracts, just as in any other occupation that engages agents or managers to assist with one's business (Carrasquillo, 2014).

On an individual level, criminalization maintains prejudices against sex workers, forcing them to hide and lie about their professional life to avoid humiliating situations. Despite their adamancy, feminists in favor of decriminalization believe it will take more than decriminalizing sex work to purge the stigmatization grounded in social prejudices. Improving the lives and conditions of sex workers will require educating society to the reality most sex workers are neither delinquents nor victims of their occupation. They are people, just like every other person in society. It is not that commercial sex work satisfies the sexual needs of paying clients; rather it is the social attitude that labels sex workers as irresponsible, deviant, and degraded person (Comte, 2014). Shrage (1996), however, cautions “In arguing for the decriminalization of prostitution, we need not go from the extreme of deploring it to the other extreme of romanticizing it” (para. 16).

Potential flaws in decriminalization include legitimizing the degradation and abuse of women. An increased demand for sex workers would in turn increase the supply of prostitutes and sex workers. Without mandated testing for sexually transmitted diseases, the spread of AIDS would most likely be affected (Carrasquillo, 2014). Carrasquillo (2014) questions whether decriminalization is actually a better alternative to resolving the sex work debate.

...now, and then, women should do for themselves what men have already done—occasionally what men have not done—thereby establishing themselves as persons, and perhaps encouraging other women toward greater independence of thought and action. Some such consideration was a contributing reason for my wanting to do what I so much wanted to do (Earhart, n.d.).

Agency

The issue of agency, or consent, in sex work has vexed feminist critical thinking for centuries, and one of the primary arguments in the feminist's debate on sex work. Since the main tenet of this paper is the role of agency in women stepping into the world of sex work, absent sexual trafficking or obvious forms of coercion, the purpose of this section is to look at the multifaceted act of choice. Agency implies choice, but choice is not as simple as choosing which pair of shoes to wear, which university to attend, or, as we are interested in, can a woman, of her own making, choose to be a prostitute, stripper, or any other form of sex worker that requires her to let other people use or observe her body for their gratification. Abolitionists have tried to answer this question with a resounding no, but anyone unwilling to accept what appears to be the obvious answer, in any situation, and look below the surface knows the facts are not always as they appear.

Just as one may choose to become a teacher because she (or he) wants to educate and improve students' lives, if they come from a family of teachers they may "naturally" assume they want to be a teacher because it seems like the obvious choice, even though they may not even like children. People would comment, "Oh, isn't it wonderful Sally wants to carry on the family tradition and teach." It would appear the choice was Sally's, yet looking below the surface could reveal Sally succumbed to family pressure (overt or subtle) and felt she had no choice; or Sally may have not realized the subvert influence to become a teacher and truly thought this was the vocation for her, only to realize after a few years she hates being a teacher; or Sally may have not been influenced in any way and loves her job. In the first two instances, Sally did not exercise her agency; in the first,

knowingly, and, in the second, subconsciously. What, you may ask, does this have to do with prostitution? The point is, as stated earlier, agency implies choice, but, whether realized or not, the choice made may not really be the choosers after all, which is why it is important to understand how agency works. Why do people make the choices they do?

As an early developer of the concept of agency, Albert Bandura's observations seem the logical place to start. Bandura (2006) believed "people are contributors to their life circumstances not just products of them" (p. 164); agents of experience rather than undergoers of experience (Bandura, 2001). Social cognitive theory (SCT) is the behavioral model developed by Bandura to explain the individuals' self-system that enable them to manage their thoughts, feelings, and actions; as well as "the abilities to symbolize, learn from others, plan alternative strategies, regulate one's own behavior, and engage in self-reflection" (Pajares, 1996, p. 543). SCT also provides references for interaction of the self-system and external environment that influences perceiving, regulating, and evaluating behavior (Pajares, 1996). More simply stated, by regulating their motivation and activities (Bandura, 2001) people have the capacity to alter their environment and influence their actions. They are not products of their environment, but products of how they interpret, apply, and develop their environment, which work in concert to develop an individual's personal agency. Agency is revealed through: developing intentions and thoughts prior to events; self-regulation through self-reaction; and self-reflectiveness on the individual's capabilities, performance, as well as the meaning and purpose of one's actions (Mind Matters, n.d.). The beliefs people have about themselves are essential in exercising control and agency (Pajares, 1996).

Vallacher & Wegner (1989) approach agency from action identification theory, which posits “the identity for an action can be arrayed in a cognitive hierarchy, from low-level identities that specify how one acts to high-level identities that specify why or with what effect one acts” (p. 660). Van der Weiden and associates (2010) offer a simpler explanation of action identification theory as when a person’s behavior is represented at a low-level it is defined in terms of “how an action is done,” whereas behavior represented at a high-level define their behavior in terms of “why an action is done” (p. 2). People’s degree of experience in a specific action varies, as does their competence in performance, and the extent of their exposure to information which makes them aware of the action’s higher-level connotation. This determines the individual’s level of identification of the action. Because these factors may vary from action to action for the individual, it is feasible for a person to identify one action at a higher level and another at a lower level, which demonstrates people differ in their capacities to execute various basic actions that make up all larger performances. At the same time, variances in the degree at which encounters with information reminds the individual of the higher level meanings of their actions (Van der Weiden et al., 2010).

Taking all of these factors into account, it is possible to consider individual differences in regards of personal agency. A low-level agent operates in the world primarily at the level of detail, approaching an action with mechanistic components in mind. The high-level person routinely views his actions in terms of causal effects, social meanings, and self-descriptive implications, and attempts to control action with respect the consequence-defined identities. One’s levels of personal agency are not representative

of a trait in the most common sense of the term. A person's standing on a trait is measured by trait-relevant behaviors acquired over time and between situations. More instances reinforce a stronger suggestion that the person has the trait (Vallacher & Wegner, 1989).

This infers behavioral dispositions are not reliable instruments for determining behavioral regularities. Considered in this light, levels of personal agency transcend assessing a person's behavioral disposition to address whether the individual has trait-like dispositions at all. High-level agents are the only reliable persons that can be counted on to perform many of their behaviors with a view toward more significant meaning of what they are doing. Low-level agents may never personally connect the larger meanings. In this regard, personal agency levels run counter to the prevailing definition of personality as a collection of behavior traits. Rather, personal agency level is an independent element that may differentiate just how much an individual has organized his or her actions into meaningful categories that can be used to direct behavior into dispositional tendencies (Vallacher & Wegner, 1989).

As a feminist scholar and researcher, Showden's observations on agency are most applicable to trying to understand why women enter sex work. Showden (2011) describes having agency as a twofold process – the deliberation of choice and having choices that need deliberating – products of autonomy and freedom. First, one must possess “the individual capacity to act” (autonomy); and, secondly, the “conditions that facilitate action” (freedom) must exist (p. ix). While the concept may seem simple enough, and truth be known, even when one has the autonomy and freedom to make choices

influences and deterrents may well impede, delay, prevent, or be too influential in the final step of the process – action in the form of choice. The perception of the “chooser” as either a victim, too close to see the reality, or as a liberator are both problematic because agency exists somewhere in between the two. Forcing the “chooser” into either category is to put them in an unrealistic and impossible situation. Showden (2011) asserts agency is found in the mediation, or negotiation, between structural determinism and self-determining autonomy; and relies on three components, working in concert, to create the conditions necessary for agency: politics, psychology, and social life. For the person acting, agency is resistance that either opens up or reorders the individual’s circumstances in some positive way, and contributes to a broader comprehension of the conditions limiting and constructing the type of action plausible under different circumstances.

Although connected, it is important not to define autonomy and freedom as agency. Defining agency as autonomy is problematic if, as Showden (2011) states “Agency is autonomy plus option...” (p. 1), and freedom alone is not agency. Agency is located in specific settings that are apparent on different levels of choices and actions, undergirded by the means to make choices from an assemblage of options that are feasible in meeting one’s needs and while influencing the circumstances from which their needs are constructed (Showden, 2011). Agency is not easily described nor can it be found in a tidy, little concept: “...agency is not a discrete capacity that can be easily measured, nor can its presence or absence be determined without investigating the specific and imbricating context within which decisions are made” (Showden, 2011, p. 36)

Within feminist agency lies a self-reflective, critical consciousness regarding the dynamics of power (Showden, 2011), and one's response to the imbalance of power dynamics. Agency when found in places of constraint and oppression may present itself in resistance to patriarchal power structures that include gender-based oppression (Showden, 2011), or if agency is lacking, in compliance.

What better place to examine agency than in how it manifest in sex work. Depending on which camp one subscribes to – abolitionism, legalization, decriminalization – agency may be denied if it appears there are no other options or it may be present in the sex worker liberating herself because doing so is an autonomous choice of sexual freedom, and therefore a glaring affront to patriarchal standards, and a step towards gender equality.

The State

Governments' attempt to handle sex work is not a new problem, but one debated for a long time. Since it is more apparent, and an easier target, street prostitution receives the greatest attention. Unfortunately, a pattern of exploitation and abuse exist among law enforcement, the very group charged with protecting citizens. Regardless of whether the state's laws allow, regulate, or prohibit sex work, sex workers are hassled, fined, and exploited; but, never to the extent of eliminating sex work. Harassment and arrests ensure the appearance the morality of the society is being upheld. Moreover, laws governing prostitution in each country ensure the patriarchal double standard while isolating prostitutes – separating them from the rest of society, as well as placing them in a system that facilitates their exploitation and makes it difficult for them to leave (Barry, 1979).

Public opinion about sex work range from various degrees of acceptance to labeling sex work as debauchery. The relationship between states and sex work varies, with various forms of criminalization, legalization and decriminalization found in countries around the globe. In some countries, prostitution or sex work is not only legal, but considered a legitimate profession. Yet, in other countries the pendulum swings so far to the opposite side, sex work is considered a crime punishable by death. Policy development and change vary among countries, especially in the matter of decriminalization. Countries that have “legalized” sex work have enacted various forms of legalization and/or decriminalization. In countries where sex work laws have focused on “public order,” instead of gender equality or concern for the well-being of the individuals, sex workers are usually arrested, fined, or imprisoned; rarely, if interested, given access to services to assist them in leaving sex work. Meanwhile there is, typically, no reprisal for the buyer.

ProCon.org (2009) selected 100 countries to study representing a diversity of major religions, geographical regions, and policies towards prostitution, brothel ownership, and pimping. According to the study, prostitution is legal in 49 countries, operates under limited legality in 12 countries, and is illegal in 39 countries¹⁸. In some countries prostitution is legalized with no codicils or conditions to the legality. On the other hand, some countries incorporate variable conditions to the legality of sex work that include the role or involvement, of the individual in the transaction, i.e. the sex worker, brothel owner, or pimp; as well as the age of the sex worker, periodic health

¹⁸ Last updated April 1, 2015.

examinations/care, the type of sexual act performed, and the location of the solicitation and performance – public or private. The next section reviews the laws in Sweden, New Zealand, the Netherlands, and Canada, including their impact on sex workers. A few other countries are discussed as well, with some notable aspects of their laws on sex work worth mentioning.

Sweden

In 1999, Sweden became the first country to shift the responsibility away from the sex worker by amending the Swedish Penal Code to criminalize the purchase and attempted purchase, not sale, of sexual services, which put the onus of transacting sex on procurers and pimps (Swedish Institute, 2010; Jordan, 2012). Very much influenced by feminist discourse that considers sex work part of patriarchal oppressive violence used to control females as a class (Ekberg, 2004), Sweden's Ministry of Labour outlined the revolutionary legislation a year earlier in their 1998 proposal to make the purchase of sexual services illegal:

By prohibiting the purchase of sexual services, prostitution and its damaging effects can be counteracted more effectively than hitherto...The government considers, however, that it is not reasonable to punish the person who sells a sexual service. In the majority of cases at least, this person is a weaker partner who is exploited by those who want only to satisfy their sexual drives (as cited by Ekberg, 2004, 1188).

The Swedish government rationalized enacting this legislation was essential to the government's plan to create a contemporary, democratic society embracing full gender equality as the norm by recognizing women and men, girls and boys share the right of

equal participation in all areas of society. To do otherwise was to separate females as an economically and racially marginalized group excluded from the universal protection of human dignity. Recognizing sex work as not only harmful to women and girls, but to society as well (Ekberg, 2004; Jordan, 2012), the government saw the need to implement policy change as well to change the living conditions of sex workers. Perhaps more significant than the new illegal status of sex work were the measures taken to reduce poverty, provide sustainable development, and develop social programs focused particularly on women. Since the law was enacted, a network of the Swedish government, public authorities, women and shelter movements, and nongovernmental organizations have worked together toward gender equality, the prevention and suppression of prostitution and human trafficking (Ekberg, 2004).

The law challenges the patriarchal assumption males are entitled to express their sexual desires, at any time and in any form, by purchasing women and children for sexual purposes (Swedish Institute, 2010). Not limited to just street prostitution, sex work performed in brothels, massage parlors, escort services, and other sex work venues were included. Additionally, the definition of a sexual transaction was expanded to include the exchange of anything of material value, such as money, drugs, a place to stay, etc. offered by a buyer in exchange of sexual services.

With these stringent changes to sex work laws it is somewhat surprising to find two exemptions exist within the law: (a) regular purchase of the same prostitute is excluded; and (b) purchasing a sexual service for someone else, such as for a stag party (Ekberg, 2004). In contrast, enforcement of the law extends beyond Sweden's borders

making it possible to arrest, prosecute, and convict Swedish citizens violating the law in countries with similar legislation. Offenders face sentences ranging from a minimum of 50 days to a maximum of 10 years, and fines of up to 150 days for repeat offenders (Ekberg, 2004). The law is also applied to Swedish peacekeeping forces stationed abroad, regardless of the laws of the country where the enlisted person is serving. During his tour in Kosovo, Brigadier General Fleming Christensen strictly enforced the law for those serving under his command, touting it as a "...superior tool to prevent soldiers from purchasing sexual services and that it, in fact, functions as a deterrent" (Ekberg, 2004, p.1198). Soldiers found guilty of purchasing prostitutes were immediately discharged and returned to Sweden for prosecution under the law (Ekberg, 2004).

The Swedish government believed the legislation would meet success on several fronts: (a) fear of public announcement of arrest, as well as familial and public stigma, would curtail demand; (b) sex workers would be forced to find other means of support; and (c) eliminate forced sexual trafficking and the presence of migrant sex workers (Jordan, 2012)¹⁹. In some instances, men pled guilty to avoid the publicity of a court trial and their partner learning of their arrest for purchasing sex from prostitutes. Constructed on the theory sex workers are passive victims, the law also increases stigma and discrimination of sex workers who choose to remain or are unable to leave (Jordan, 2012).

While the success of the law is debated, the response from Swedish women's movements and other groups working with sex workers is a resounding "yes." They

¹⁹ According to Jordan, the "unofficial" agenda was to depict Sweden as a moral beacon other countries, especially the European Union, would want to follow.

report the law is a deterrent not only for purchasers of sex, but also for young women who have not entered into sex work, and as a resource for the large numbers of prostitutes that contact them for assistance leaving the profession. When the law took effect in 1999 an estimated 2,500 women were purchased annually, one or more times, by 125,000 men; by 2002 the number declined to 1,500 or less women purchased annually. While the decline may seem relatively small, Ekberg (2004) points out at the time of article Sweden only had a population of 9 million people. An organization in Stockholm that assist women in leaving prostitution reported 60% of the 130 women that came to them between 1999 and 2002 for assistance left prostitution permanently (Ekberg, 2004). The law has empowered sex workers to “blow the whistle” on buyers, resulting in their arrests and prosecution for purchasing sexual services; but, more importantly, for rape, battering, and sexual exploitation of children.

When Sweden’s Ministry of Labour issued their 1998 proposal to make the purchase of sexual services illegal it had 1,850-2,000 sex workers, of which 730 were street based. Jordan (2012) cites the Swedish National Board of Health and Welfare’s 2007 report on prostitution acknowledging, eight years after the law took effect, an inability to determine an increase or decrease in sex work. “At most, we can discern that street prostitution is slowly returning, after swiftly disappearing in the wake of the law” (as cited by Jordan, 2012, p. 7). While some criticize the low number of arrests and convictions, Ekberg (2004) suggest critics keep in mind the main purpose of the law is normative:

If we were to base the effectiveness of laws on the number of convictions in relation to the number of crimes committed, then rape laws, laws against other forms of male violence against women, and laws addressing financial crimes would have to be discarded as mostly ineffectual in stopping the flow of criminals and such crimes. Moreover, the specific task of the police in enforcing the Law is to work preventatively and, therefore, to intervene before a potential buyer commits a crime rather than when the crime is a *fait accompli* (Ekberg, 2004, p. 1209).

According to Ann Jordan (2012), Director of the Program on Human Trafficking and Forced Labor at American University Washington College of Law, “the experiment has failed” (p. 1); despite a likelihood of success “in a small, fairly homogeneous country with a strong sense of national identity” (p.2). Further, the Swedish government has not proven the law has reduced the number of sellers or buyers of sex or stopped trafficking; nor are they able to determine if men moved their solicitation of sex from the street to indoors or online²⁰. She maintains the 2010 report released by the Swedish government reporting a reduction in street sex work does not contain any evidential support. Moreover, she asserts, despite public sponsorship and the government’s proclamation of success, the law has actually endangered street-based sex workers²¹.

Questions of movement from the streets to the Internet were addressed in the University of Gothenburg’s NetSex Project that studied the use of the Internet for sexual purposes. The study concluded use of the Internet for advertising and purchasing sex was due to rapid technological development, rather than an outcome of enforcement of the

²⁰ Jordan questions the reliability of self reporting. She states that if the law has successfully stigmatized the purchase of sex, it is logical to assume men participating in the survey would not be altogether truthful in their responses.

²¹ Jordan distinguishes the government’s release of an English translation summary of important sections of the report disclosed “that, although street-based prostitution has decreased, the government does not know what *caused* the drop.” Yet, advocates of the law maintain its success.

law, and remains stable with 80-100 women advertised on more than one website. In a 2003 case, a pimp who operated his business exclusively on the Internet received around 25,000 email inquiries about women advertised on his website. The investigation found names of more than 1,500 buyers (Ekberg, 2004). After conducting research with Swedish sex workers, Elizabeth Bernstein (2007a) reported prostitution moved underground, and prostitutes previous working the streets were now using different forms of networking, including the Internet and cell phones.

Structuralist celebrate the law's commitment to eradicating sex trafficking. Yet, many charge the government's delay in distinguishing sex trafficking as a separate phenomenon prevented timely implementation of the unique approach and resources needed for combating sex trafficking. Not until July 2002 was trafficking for the purpose of prostitution finally criminalized, and it took an additional two years for legislation to be amended to extend limited rights to victims willing to testify against traffickers (Halley et al., 2006). Despite the delay, Swedish authorities maintain their actions reduced sex trafficking (Halley et al., 2006)²², just as the numbers for public sex work have reportedly declined. Jordan (2012) also points to Sweden's lack of distinction between women sexually trafficked and migrants working voluntarily as sex workers; and, whether working as a prostitute or in relation to prostitution at a club or phone service, as an assistant, or at brothel – regardless if there is a lack of force, fraud, or

²² The U.S. Trafficking in Persons Report reported progress in Sweden's victim assistance between 2004 and 2005; yet, while the report notes 10-15 victims receiving shelter and assistance in 2004, there was a nominal increase to a total of 20 women receiving assistance in 2005. Notably, trafficking victims who agreed to testify against traffickers were extended limited rights, including residence permits, limited trial periods, healthcare, and some welfare benefits, in 2004 (Halley, et al., 2006).

coercion. Consequently, all migrant sex workers are considered victims that need to be rescued; and, more than likely, deported. This *all prostitution is violence* position creates the perception prostitution, trafficking, and migrant sex work are one and the same; making the already unreliable statements of the law's success even more problematic.

Additional complications are created when it is legal to sell sex, but buying sex is illegal. This legal framework prevents sex workers from accessing the same labor rights as other Swedish workers (Jordan, 2012; Halley et al., 2006). Sex workers are required to pay taxes on their earnings, yet the tax office does not recognize "prostitution" or "sex work" as a business. Therefore, they cannot register as a business (cited by Jordan, 2012); forcing them to break the law by lying about their source of income, register under a different business category, or not reporting their earnings or paying taxes. The inability to operate openly as sex workers prohibits them from labor protections available to other workers, including a safe working environment.

At the outset, implementing the law and achieving its objectives was met with resistance and actions taken to beat the system. In the beginning, men arrested were allowed to have the notification letter sent to an address other than their residence, protecting him from one of the law's objectives – partners and family knowledge of the arrest. The attitude of leaders in local police departments and individual officers who believed enforcement would be difficult were initially an obstacle to effectively enforcing the law. To overcome what was perceived as a male, homosocial mind-set forced to implement a law threatening traditional male values, the government established educational programs for law enforcement. The programs, offered by the National

Criminal Police and the Division for Gender Equality, along with local and regional police forces, increased police officers' competence and knowledge about sexual trafficking and prostitution. Within a year a noticeable and immediate change was evident by the increased arrest and development of enhanced methods of investigation once there was a better understanding of the reasons behind the legislation and the conditions that make women vulnerable to entering prostitution or becoming victims of trafficking (Ekberg, 2004).

Questions, also, surround the impact of the Swedish Penal Code's criminalization of purchasing, pimping, or brothel ownership in regards to sexually trafficked women in Sweden. Reports published in 2003 and 2004 by the National Rapporteur for Trafficking Women at the National Criminal Investigation Department (NCID), estimated 400 to 600 women are trafficked into Sweden annually. The numbers appear to have remained steady in comparison to the number of women trafficked into neighboring Scandinavian countries (Finland, Denmark, and Norway) where the purchase of sexual services is legal or operates under limited legality. However, there is no conclusive proof of a decrease in the number of women trafficked into Sweden (Ekberg, 2004). And, as Jordan (2012) calls attention to, the numbers are erroneous since women working as sex workers with third parties by choice are included.

What is evident, though, is the reluctance of traffickers and pimps to use Sweden as a home for their operations. According to Europol and other European national police forces, for pimps interested in profits, marketing factors, and alert to the consequences of being discovered. Sweden is not an appealing marketplace. During interviews pimps,

procurers, and traffickers have all expressed annoyance with the implications of with the law. Pimps and traffickers find there is less available work time due to the need to escort prostitutes directly to buyers, which, in turn reduces revenue; and to decrease the possibility of detection prostitutes are moved between different locations, adding additional expenses. Also, Swedish men demand absolute discretion from pimps and traffickers, which adds another layer of responsibility. Testimonies of victims, pimps, and traffickers have made it apparent Denmark, Germany, the Netherlands, and Spain where sex work is either legal or tolerated are better locales for operating (Ekberg, 2004).

Has the law accomplished one of its main objectives to reduce violence against women? That too is debatable depending on to whom or which agency the question is addressed. Jordan (2012) claims sex workers expressed fear of increased violence. While a 2003 government report addressed greater risks due to increased competition and fewer clients, it conveniently dismissed some of the information obtained. Instead, relying on statements from police and women no longer involved in sex work that blame the prostitutes themselves. Many opponents argue driving sex work underground has made sex workers more vulnerable by forcing them into working in dangerous locations and enter into liaisons with riskier clients prone to violence. The numbers may be understated since reporting of violence by undocumented migrant sex workers in Sweden is impeded by the same dilemma faced by migrant sex workers in other countries – fear of deportation. While it may seem incomprehensible given the threat of criminal prosecution for soliciting prostitution, sex workers are subject to blackmail, robbery, and the traditional stigma associated with sex work, as well as loss of personal relationships and

opportunities for more conventional types of employment. Further, with the movement of sex workers underground there is less access to health services, including condoms and information about safe sex practices, increasing the risks for other sexually transmitted diseases; and, an inability to exchange information about dangerous clients (Jordan, 2012).

New Zealand

Sex workers' rights and well-being are at the center of New Zealand's prostitution policy, to the point the state's only concern about clients is the use of condoms, solicitation of sex from someone under-age, or incidents of violence. The knowledge and experience of sex workers is so valued the country's public health policy favors empowerment of sex workers, destigmatization, as well as reintegration into the broader society (Harrington, 2012). Harrington (2012) asserts, "New Zealand prostitution policy exemplifies how advanced liberal techniques of government integrate resistant knowledge without challenging hierarchies" (p. 343), which is supported by Van der Meulen's (2012) description of New Zealand's sex work policy as the model for state supported labor protection for sex workers.

In 1999, the prostitution reform bill drafted by Prostitutes' Collective and other advocates became the debating ground, with rights advocates on one side arguing against the other side's demand for preservation of traditional values of communities. Advocates for the bill argued the bill was not intended to pass moral judgment on prostitution; on the contrary, the intent was to give sex workers the same rights – justice, safety, and dignity – granted to other New Zealanders. Proponents reasoned if enacted the bill would reduce

exploitation in the sex industry, improve sex worker environments, and lessen restraints in forming collectives and similar worker-run businesses (Warnock & Wheen, 2012). Moral concerns emphasized by opponents in Parliament include one member's claim the bill was "an abomination against society...[that] is against the sound social fabric of families" (as cited by Warnock & Wheen, 2012, p. 418).

There was no surprise the bill was supported by a considerable majority of feminist and women's organizations in New Zealand. What was surprising was the support of traditionally conservative women's groups such as the National Council of Women of New Zealand and the Maori Women's Welfare League who thought the bill would promote equal human rights and fair labor practice. Christian organizations, including the Catholic Women's League and Young Women's Christian Association, supported the bill stating it was "important to make a distinction between morality and the law' in the case of sex work and that the 'protection of the marginalized is a core Christian principle'" (as cited by Warnock & Wheen, 2012, p. 418). Opposition from local and overseas feminist organizations maintained sex work is degrading and demeaning, increases inequalities between men and women, and, to no surprise, the Swedish model was the more appropriate approach to sex work (Harrington, 2012; Warnock & Wheen, 2012).

Despite the controversy, when the bill was finally passed in 2003, New Zealand became the first country in the world to wholly decriminalize the sex work with the Prostitution Reform Act (PRA) (Abel, Fitzgerald, & Brunton, 2009; Bruckert & Hannem, 2013; van der Meulen, 2012; Warnock & Wheen, 2012). The PRA, which passed

Parliament by a close margin of 60 votes to 59 with one abstention (Abel, Fitzgerald, & Brunton, 2009), made a distinction between unforced sex work and the criminal act of forced or underage sex (Warnock & Wheen, 2012). A caveat of the bill was the requirement for a major review of the reform's impact within five years of enactment of the new law.

Prior to 2003, while it was not illegal for clients to pay or offer to pay for sex, it was illegal for a sex worker to offer sex for money in a public place, in effect creating a double standard. Keeping or managing a brothel was also illegal, and police would use safer-sex literature and condoms found in police raids as evidence to convict brothel operators and sex workers. To bypass this, brothel owners operated as massage parlors, which were not illegal. It was also illegal to live off of the earnings of the prostitution of another person, making partners and adult children of sex workers criminals (Abel, Fitzgerald, & Brunton, 2009; Bruckert & Hannem, 2013). With the bill's passage, certification is required of businesses employing five or more sex workers to ensure brothels are managed appropriately. Certification can be cancelled for brothel operators who have been convicted of specific crimes. However, small owner-operated brothels (SOOBs) with four or fewer sex workers, and individual sex workers, are exempt from this rule (Warnock & Wheen, 2012).

The PRA made sex workers subject to the same regulatory guidelines as other New Zealand workers (Warnock & Wheen, 2012). As a result of the reform's impetus to recognize the harm done to sex workers by existing laws, the PRA emphasizes the well-

being of sex workers, as well as their human and labor rights, but was written not to give any appearance the state endorsed prostitution:

...to decriminalize prostitution (while not endorsing or morally sanctioning prostitution or its, p. use) and to create a framework that: (a) safeguards the human rights of sex workers and protects them from exploitation; (b) promotes the welfare and occupational health and safety of sex workers (as cited by Warnock & Wheen, 2012, p. 415).

While there were no requirements for individual sex workers to have medical tests, the new legislation pointed to a movement from a public health and human rights approach (Abel, Fitzgerald, & Brunton, 2009), establishing occupational, health, and safety policies to protect sex workers' human rights (Warnock & Wheen, 2012) that include mandated use of condoms or barrier protection for any sexual service involving vaginal, anal, or oral penetration. Clients are also implicated in health related regulations of this nature; subject to a fine if 'all reasonable steps' are not taken to 'minimize the risk of acquiring or transmitting sexually transmissible infections' (as cited by Bruckert & Hannem, 2013, p. 60).

The minimization of risks of harm make the PRA the model state supported labor protection for sex workers (van der Meulen, 2012). In regards to safer sex practices, reform imposed an obligation on all participants. Sex workers also became eligible for state benefits if they leave the industry (Warnock & Wheen, 2012).

Sex worker employment contracts outline hours, wages, benefits, conditions, duties, and the caveat sex workers can refuse to engage commercial sexual services, even if they have entered into a contract (van der Meulen, 2012). Many sex workers are

indoors sex workers who choose to use SOOBs for meeting clients, which gives them more freedom to refuse clients or practices, but the location of SOOBs in industrial or commercial areas, as well as the lack of security offered at larger brothels, puts them at greater risk of violence and/or robbery. High rental rates, which deter many sex workers from establishing their own business, and “bonding” (a practice where sex workers’ attendance is ensured by managers withholding money that is forfeited for lateness or non-attendance), are additional reasons sex workers choose to use SOOBs. Other advantages of using SOOBs rather than large, commercial businesses are sex workers’ ability to communicate directly with clients, and the lack of discretion at larger brothels in protecting sex workers’ identity, which may potentially affect their ability to exit the industry (Warnock & Wheen, 2012).

Opposition to the bill had been well thought-out and vocal with a fallback plan in the event the bill passed that would introduce explicit powers giving local authorities the power to control the locations of brothels through bylaws and planning mechanisms. This part of the legislation would have given local communities the ability to prevent sex work in certain areas, but it failed when the majority of the Select Committee felt existing criminal and planning laws sufficiently addressed possible adverse effects from sex work. They reasoned the additional authority ran the “risk of creating serious local conflict and drive the industry ‘underground’” (Warnock & Wheen, 2012, p. 420).

In the face of the Select Committee’s decision, an amendment was passed giving local authorities the ability to make bylaws in their district for the purpose of regulating the location of brothels, securing the public’s involvement in the control of sex work for

promoting the social, economic, environmental, and cultural wellbeing of communities. Territorial authority must also weigh the potential for “(a)...nuisance or serious offence to ordinary members of the public using the area in which the land is situated; or (b) is incompatible with the existing character or uses of the area in which the land is situated” (as cited by Warnock & Wheen, 2012, p. 420). Using the power given to them, approximately one-third of all local authorities introduced bylaws or planning controls for the purpose of regulating brothel locations. Using a restrictive approach, local authorities implemented regulations excluding brothel and SOOBs from residential zones, and restricting business to limited parts of commercial or industrial areas (Warnock & Wheen, 2012).

Research has proven sex workers are at the greatest risk of violence and abuse when working the streets; therefore, changes made by local authorities restrict sex workers to working in conditions that negatively impact their safety and well-being. Rights-focused reformers argue more sex workers have been forced to the streets as a result of banning SOOBs from residential zones, in direct contrast to the objective of passing the PRA. Post (2011) reported prostitutes in New Zealand fear their unemployment benefits will be denied if they do not “consent” to work as prostitutes.

In 2005, the first case testing the by-laws added to the PRA allowing local authorities to regulating zones where brothels could be located was heard by the High Court of New Zealand. A family trust challenged the reduce exploitation in the sex industry, improve sex worker environments, and lessen restraints in forming collectives and similar worker-run businesses legality of Christchurch’s delineation of an area within

the city's central business district when a request to operate SOOBs outside of the designated area was denied. The trustee contested the refusal on several grounds that the Court grouped into three categories: "the geographic scope of the by-law"; "right to freedom of association"; and "right to work" (Betteridge, 2005, p. 43). The Court determined the bylaw was invalid because application of the bylaw denied the existence of SOOBs in the city. They also determined, based on the PRA, the legality of the bylaw was unreasonable as it prohibited sex workers from "plying their trade at all in a substantial and important portion of the city even though there was no nuisance associated with their operation" (Betteridge, 2005, p. 43). The ruling was a major victory for sex workers as it validated the PRA's authority to grant sex workers the right to work, and the reliability of the PRA to challenge bylaws of local municipalities. Furthermore, the decision endorsed SOOBs potential under the PRA to maximize sex workers' control over their working conditions, as well as health and safety. Although the Court upheld the authority of the PRA, they did refrain from deciding whether city councils have the power to restrict SOOBs from operating out of private homes (Betteridge, 2005).

Efforts to recriminalize street-based sex work, based on moral outrage, persist in New Zealand despite research results confirming no increase in sex worker activity. Additionally, ample evidence is available confirming the escalated vulnerability and profound negative impact criminalization has on the lives and health of sex workers. Able and associates (2009) assert decriminalization is the first step towards creating supportive environments for improving the health and safety of sex workers.

Netherlands

With the pragmatic view prostitution will happen regardless of whether it is prohibited or not, regulating sex work has been a continuous part of Dutch history. As far back as 1413, one of the first bylaws recorded in Amsterdam stated:

The reasons the court and sheriff of Amsterdam shall not entirely forbid the keeping of brothels: Because whores are necessary in big cities and especially in cities of commerce such as ours – indeed it is far better to have these women than not to have them – and also because the holy church tolerates whores on good grounds (as cited by Abrams, 2009, p. 6).

Even during periods when prostitution was banned the sex trade thrived. During the latter part of the 16th century through the 17th and 18th centuries, brothels could be found all over the city, and despite a ban in the early 20th century, prostitution flourished as prostitutes found ways to avoid regulations (Abrams, 2009; Hubbard, Matthews, & Scoular, 2008). Nineteenth century regulations criminalized brothels, and the Morality Act of 1911 expanded sex work regulations to criminalize living off of a prostitute's earnings, yet prostitutes were never criminalized. Authorities condoned, or turned a blind eye, to violations as long as they did not disturb public order (Carrasquillo, 2014; Outshoorn, 2014). Amsterdam, best known for its Red Light District where scantily clad women are exhibited, some poised and preen while others gyrate to music (as cited by Abrams, 2009), is perhaps the epitome of the Dutch sex industry.

In the 1990s, prior to the official legalization of prostitution, Amsterdam's government adopted a twofold approach to regulating sex work, hoping to achieve three objectives in implementing new legislation and policies legalizing sex work. First,

increased transparency would result from stricter supervision and control of the legalized sector of prostitution, which would in turn reduce crime. Secondly, separating the sex industry from criminal activities would improve social conditions for prostitutes, diminishing social disapproval. Lastly, legalizing the sex industry would aid police and other law enforcement agencies in fighting and controlling criminal activity, particularly human trafficking (Huisman & Nelen, 2014).

Having tolerated prostitution for centuries (Abrams, 2009) , in 1999 the Netherlands was one of the first countries to legalize prostitution by lifting the ban on *voluntary* adult commercial prostitution, allowing for state regulation of the industry as well as providing sex workers with benefits generally offered in traditional employment. Key to eliminating the ban was the distinction between voluntary and forced prostitution, which still remains illegal (Outshoorn, 2012; Outshoorn, 2014). In addition, the 1999 act lifted the earlier ban on brothels permitting improved regulation of prostitution, protected minors from sexual abuse by raising the age of consent to eighteen years old, eradicated criminal elements in sex work through the licensing of sex clubs, and while not necessarily an improvement to the position of prostitutes, added protection for sex workers (Outshoorn, 2014).

With the act, sex work became legal only when performed at municipally licensed businesses regulated (Outshoorn, 2012) through numerous local authorities ranging from municipal medical and health services, fire department, building control department, and tax and customs administration. Licensed sex establishments are controlled through restrictions that delineate the locations of businesses; hours of operation; governing who

can be employed, including constraints on employing non-EU nationals; as well as prohibiting abuse and coercion. Businesses found to be in violation of the restrictions are subject to fines or loss of their business license (Halley et al., 2006).

Prior to revisions in the Dutch Criminal Code in 2000, exploitation of prostitution was considered a criminal offense. However, police paid little to no attention to violations because strict law enforcement was not deemed to be in the best interest of the public. In time, the ban became what Huisman and Nelen (2014) refer to as a “dead letter in the Criminal Code” (p. 607). The courts were no better in prosecuting violators for exploiting prostitution, using the *expediency principle* of Dutch procedural law that allowed public prosecutors to refrain from pursuing criminal actions (Huisman & Nelen, 2014; Hubbard, Matthews, & Scoular, 2008).

Through the Dutch model, sex workers gained access to state organized health care (Halley et al., 2006; Outshoorn, 2014), although medical check-ups are not required most sex workers do get tested regularly (Carrasquillo, 2014); pension plans, social security benefits; and the right to take legal action for violations of employment and service contracts (Halley et al., 2006; Outshoorn, 2014). Sex workers unable to work for medical reasons are eligible for unemployment; even those who are ineligible are provided social assistance, including employment services (Carrasquillo, 2014). Additionally, sex workers were granted full civil rights, and were eligible for basic social assistance welfare benefits (Outshoorn, 2014). However, legalization established “interventionalist” obligations for the protection of clients including sex workers’ duty to

carry identification documents not required of the general population until 2005 (Halley et al., 2006).

Dutch laws prohibit migrant sex workers from working legally as sex workers. If they entered the country legally, once their visa expires they are unable to obtain work permits. As undocumented workers, they lose the protection and rights provided through their temporary visas (Outshoorn, 2014). Those who enter the country illegally are unable to even temporarily experience the benefits of legalization. Non-EU sex trafficking migrants are offered a three-month visa while considering whether to testify against their traffickers. Those who agree to testify receive limited residency with the right to work and are eligible for selected benefits that include accommodations, medical, and legal assistance, in some cases until the end of the trial at which point the individual is deported (Halley et al., 2006). Regardless of their status, as a general rule, sex workers from outside of the Netherlands are stigmatized as trafficking victims, enterprising migrants, or profiteers of the welfare state (Outshoorn, 2014).

Although sex trafficking does not meet the criteria of *voluntary* prostitution, linkage of migrant sex workers to prostitution, compelled the Dutch government to add a fourfold classification to the act for prostitution. The first category, referred to as “the ‘modern assertive and emancipated prostitute’”, incorporates Dutch sex workers working in prostitution of their own free will who is the “bearer of civil and social rights” (Outshoorn, 2014, p. 176). The second category, surprisingly, can be from another EU country whose nationals who have the right to vote in Dutch elections and are eligible for the same social and civil rights as Dutch nationals, with the exception of voting in

national and provincial elections or to stand as a candidate in these elections (Outshoorn, 2014).

The third category resulted from negotiations regarding the 2004 addition of the Baltic states, Poland, Hungary, the Czech Republic, and Slovakia to the EU. In response to fear of an influx of cheap labor, the Dutch government ruled that only self-employed workers from these countries can work in the Netherlands. Sex workers working independently fall into this category; however, they cannot be the beneficiary of the social rights normally extended to legally employed sex workers. This third category was also the result of Bulgaria and Romania's entry into the EU. As citizens of the EU they are able to travel freely into the Netherlands; however, they are not allowed to work as independent contractors. The fourth, and final, category came about through the government's refusal to grant work permits to non-EU sex workers working illegally without any rights. They can be trafficking victims or "enterprising migrants" who entered the country through human smuggling or tourist who become an illegal migrant when their visa expires. Violators of the third category are fined if caught working as employees, their employers are fined as well. The penalty for violators of the fourth group is deportation (Outshoorn, 2014).

A report commissioned by the Ministry of Justice evaluating effects of lifting the ban found several interesting outcomes. Researcher Annelies Daalder's 2002 report showed numerous problems: (a) local councils froze the number of brothels in their district to stop the spread of prostitution by denying new competitors into the market, and some municipalities in orthodox Protestant areas refused to license any sex business; (b)

several years after the ban was lifted, many prostitutes still knew little of their rights, and attempts by the advocacy-support group Red Thread, as well as social and health care workers, were ineffective; (c) some municipalities had not established licensing systems, which led to increased mobility of prostitutes violating the regulations, particularly underage and undocumented sex workers ; (d) occurrences of human trafficking and coercion were reported in non-licensed sectors; however, prostitutes working without a permit was the most common infringement of the law; and (e) sex work moved to non-regulated venues, such as cars, campers, saunas, and bars (Outshoorn, 2014).

Although the Netherland's legalization of sex work has improved conditions for most sex workers and provided greater control by the state, there have also been some unanticipated consequences: by not granting work permits to non-EU sex workers the policy potentially puts them at risk for blackmail and coercion into poor working conditions and lower wages; the hegemonic discourse's focus on trafficking and vulnerable young women diverts attention from the working conditions of prostitutes that are necessary for ensuring their social rights; the independent worker categorization creates the potential for employers to subvert tax and social security laws, but still requires sex workers to comply with dress codes and yield control of work hours; true independent workers find it difficult to obtain loans from banks; setting up brothels can be challenging as local authorities often refuse licenses to new brothels; and, if working for a pimp sex workers have to share their earnings (Outshoorn, 2014).

Recently changes to the legalization laws were proposed that attempted to change the focus on the necessity of stricter regulations through total surveillance and control of

the Dutch sex work industry but failed. Support for the Dutch directive has been criticized for the harm imposed on non-EU migrant sex workers as the underclass of sex workers and for the excessive regulations imposed even on legitimate sex workers. Structuralists argue legalization has amplified exploitation, contrary to claims that it empowers sex workers; conversely making the Netherlands a safe and worthwhile destination for traffickers (Halley et al., 2006). Halley and associates (2006) suggest although the Netherlands is considered by many to be the closest example of an actual individualist government, disharmony between administrative authorities and sex businesses have maintained the on-going exclusion and marginalization of the country's sex workers, but acknowledges the Dutch model demonstrates the challenge is the differently situated groups of sex workers. In essence, criminalization of sex work does not legitimate those outside of what is defined as legal.

Canada

Prostitution has never per se been illegal in Canada; rather, the practices associated with prostitution and other sexual services for sale are criminal offenses (Auger, 2014). Similar to other countries, Canada's enforcement of prostitution laws has been sporadic with sex work segregated to districts where prostitution was tolerated; in many cases lax application was due to bribes taken by police to turn a blind eye to what was occurring. Social purity reformers began to pressure police at the turn of the twentieth century to enforce more vigorous laws against procurers and persons living on the avails of prostitution. Despite the pressure applied by the social purity reformers, enforcement continued to be erratic and the prostitution activity was merely displaced to

another area. Brothel prostitution survived the vice crusades during the first quarter of the twentieth century, and thrived up to World War II when they disappeared from some Canadian cities and streets, and/or moved to indoor venues, such as hotels, night clubs, and massage parlors (Lowman, 2011).

Canada's first prostitution laws, a carryover of British common law, dealt with bawdy house and street walking nuisances that were treated as vagrancy and immoral violations (Campbell, 2015; Lowman, 2011). As the property of men, women and children had little protection under these laws until the latter years of the nineteenth century when attitudes began to change. On both sides of the Atlantic, women gained recognition as moral guardians of their families deserving protection from men. Canada's social purity movement successfully lobbied for changes in 1915 to the country's criminal laws which named the following actions as illegal: the procurement of illicit sexual intercourse; aiding, abetting, or controlling for profit the prostitution of another person; living in part or in whole on the avails from prostitution of another person; concealing a person in a common bawdy house; enticing persons who were not prostitutes to a common bawdy house; and owning, keeping, being a landlord of a common bawdy house, or frequenting such establishments. These laws are still in effect today, with the exception of the vagrancy statute changed in 1972 (Lowman, 2011).

Amendments and changes to the *Criminal Code* have expanded Canada's prostitution and sex worker laws to be consistent with changes in societal opinions. An amendment to the communicating law in 1985 proscribes any type of communication in a public place or a place open to public view with regards to buying or selling sexual

services (Campbell, 2015; Lowman, 2011). Responding to recommendations from the Committee on Sexual Offences Against Children and Youth and the Special Committee on Pornography and Prostitution, two additional statutes were enacted in 1988 reducing the age applied to the law regarding living on the avails of a person to eighteen years of age, as well as prohibiting buying and offering to buy sexual services under eighteen. A 1997 change to the *Criminal Code* to address “sex tourism” modified the language of the law regarding living on the avails of the prostitution of another person to include “aggravated” and stipulated the age as under-eighteen. The amendment provides a means of prosecuting citizens and permanent residents of Canada committing sexual offenses outside of the country, and includes sexual interference; sexual exploitation; making, selling, and distributing child pornography; and obtaining or attempting to obtain for the purpose of sexual service from anyone under eighteen years of age (Lowman, 2011).

Further amendments have been made to Canada’s sex work laws since the 1997 changes. Language was added to the *Immigration and Refugee Protection Act* in 2002 prohibiting human trafficking into Canada, and four sections were added to the *Criminal Code* in 2005 prohibiting domestic human trafficking. Changes to the *Code* in 2010 expanded the definition of the “serious crime” to incorporate ten gambling and drug offenses, and to increase the length of the prison sentence for keeping a common bawdy house. Other recent legislation was passed prohibiting “trafficking in persons” is applicable to various prostitution-related activities because all forms of prostitution are considered exploitation; therefore, all prostitutes are regarded as victims of trafficking (Lowman, 2011).

Despite the legal entitlement to sell and purchase sex, the provisions of the law work to prohibit a safe work environment. In 2010, current and former Canadian sex workers sued the Canadian government claiming the country's laws on sex work force them to choose between safe working conditions and the possibility of arrest, or working in unsafe conditions. In *Bedford v. Attorney General of Canada* they challenged the constitutionality of laws that circumvented their rights as Canadian citizens (Auger, 2014; Campbell, 2015; Jordan, 2012). Justice Susan G. Himel of the Ontario Superior Court wrote:

This case demonstrates the tension that exists around the moral, social and historical perspectives on the issue of prostitution and the effect of certain criminal law provisions on the constitutional rights of those affected...Prostitution is not illegal in Canada. However, Parliament has seen fit to criminalize most aspects of prostitution. The conclusion I have reached is that three provisions of the *Criminal Code* that seek to address facets of prostitution (living on the avails of prostitution, keeping a common bawdy-house and communicating in a public place for the purpose of engaging in prostitution) are not in accord with the principles of fundamental justice and must be struck down. These laws, individually and together, force prostitutes to choose between their liberty interest and their right to security of the person as protected under the *Canadian Charter of Rights and Freedoms* (Bedford, 2010, p. 5).

Ruling on an appeal by supporters of the prior application of the laws, in March 2012, the Ontario Court of Appeal rejected the argument sex workers choose to work in a dangerous occupation which implied the proclivity to violence is their own fault. The Appeal Court rebuffed the attempt of proponents to stigmatize sex workers and justify discrimination. It declared their argument purported those engaged in sex work were unworthy of the same constitutional protection as those engaged in other dangerous, but

legal professions. They did consent that while Parliament could regulate brothels, the law to prohibit houses of prostitution was unconstitutional; in essence legalizing brothels. The court also interpreted the meaning of the law against living on the earnings of sex worker to apply to exploiters – not family members, employees, agents, landlords, or service providers (Bedford, 2010, p. 5; Auger, 2014).

The Appeals Court was split on the laws against solicitation, with three judges rejecting and two supporting, the lower court's decision (Auger, 2014; Jordan, 2012) that the laws “prohibits street prostitutes, who are largely the most vulnerable prostitutes and face an alarming amount of violence, from screening clients at an early, and crucial stage of a potential transaction, thereby putting them at an increased risk of violence” (Bedford, 2010, p. 94). The three Appeal Court judges rejecting the earlier decision cited limited evidence the face-to-face communication with clients improves safety for street prostitutes (Auger, 2014; Bedford Appeal, 2012).

In 2014, Canada's *Criminal Code* was amended by the *Protection of Communities and Exploited Persons Act* in response to the Supreme Court of Canada's decision in *Attorney General of Canada v. Bedford*. The new statute outlawed, for the first time in Canada the purchase and advertising of sexual services with the following regulations:

- (a) Prohibited the purchase of sexual service or communicating in any place for that purpose;
- (b) Prohibited receipt of material benefit derived from the commission of the offense referenced in paragraph (a);
- (c) Created an offense that prohibits advertisement of sexual services offered for sale and authorized the courts to order the seizure of materials with such advertisements and their removal from the Internet;
- (d) Modernized the offense prohibiting procurement of persons for the purpose of prostitution;
- (e) Created an offense that prohibits communicating for the purpose of selling sexual services in a public place, or a

place open to public view that is or next to a school ground, playground, or daycare; (f) Ensure consistency between prostitution offenses; and, (g) Specify that for certain offenses a weapon is considered anything used, designed to be used or intended for use in binding or tying someone against their will (Revised Statutes of Canada, 2014).

According to Campbell (2015), while the statute:

...anchors itself to the goal of the community protection from public nuisance, it concomitantly advances an understanding of sex workers as consistently vulnerable and exploited. Such a policy approach bears internal incongruence: sex workers are at once menacing and victimized (p. 33).

Campbell (2015) continued to explain the embedded dichotomy of the revision corresponds with the neoliberal trend closely associated with contemporary British feminist conversations on the ideological binaries on sex work that place individuals either “in” the community as citizens entitled to protection, but bound to abide by state rules and dominant social norms, or “out” of the community as outlaws and “exploited persons” (p. 33). Conversely, sex workers who do not perceive themselves as being exploited, or who resist the state’s efforts to save them from this way of life, are excluded from these benefits. Overall, the revision has fundamental repercussions for the social and political status of sex workers in the community and as citizens, as well as their personal security.

Other Countries

The definition of what constitutes sex work is not universal. Prostitution in Japan is defined as coitus²³; as a result, non-coital sex acts, considered prostitution in other countries, are not illegal in Japan. Prostitution policies in Australia and the United States vary from state-to-state within each country, ranging from decriminalization to legally regulated to criminal activity. Surprisingly, the directives of Brazil and Bulgaria's laws do not mention prostitution in any way or form. Distinct from other countries that require health examinations, prostitutes in Costa Rica, Mexico, Senegal, and Turkey are required to also carry a health card as evidence of good health. While some countries have a minimum age for sex workers, the Netherlands broadens their country's policy by requiring clients be at least 16 years old. In Turkey, laws against prostitution may affect not only the sex worker, but their families as well: (a) sex workers are not allowed to marry; (b) children of sex workers are ineligible for high ranking positions in the army or police, and are prohibited from marrying persons of such rank. However, they can work in other areas of government; and (c) sheltering a person engaged in prostitution is illegal in Turkey; however, somewhat ironically, brothels are state-run (ProCon.org, 2009).

Summary

This literature review is presented to expand the reader's knowledge on the feminist's positions from which the sex worker agency issue is debated. History is the foundation for understanding any inquiry, especially one as complicated as this one.

²³ Sexual intercourse between a male and a female involving insertion of the penis into the vagina.

There are no sound arguments in its absence, and seldom can one have too much information. Likewise, the inclusion of material assessing the impact of the laws adopted by four different countries is presented in conjunction with an overview of the three different feminist's positions. Together they should not only help the reader better understand the issue, but provide a foundation he or she can use to develop their own argument – regardless of what position they take. The next chapter explains the method chosen to conduct this study, and how it was executed.

CHAPTER IV

METHODS

Introduction

Many studies use quantitative analysis, but answering questions of this nature are best approached as qualitative inquiry since quantitative studies rely on statistics and tangible evidence that can indicate specific effects disparate demographic groupings have on people, but lack the capacity to examine the complex factors that influence individual choice or behavior (Rich and Ginsburg, 1999). Qualitative studies are better suited to investigating sex worker experiences, as well as social and economic stimulus that move a person to involvement in the sex industry. According to Polit and Beck (2010) qualitative studies impart “a rich, contextualized understanding of human experience” (p. 1452) not found in quantitative studies. Rich and Ginsburg (1999) describe this as “greater insight into ‘why’ and ‘how’ phenomena occur,” and as “an ideal approach to elucidate how a multitude of factors such as individual experience, peer influence, culture, or belief interact to form people’s perspectives and guide their behavior” (p. 372).

For these reasons, a qualitative approach of semi-structured interviews with third-party professionals and advocates was utilized to address two objectives of this study: (a)

gain insight into the reasons women become involved in sex work; and (b) inquire whether sex workers would remain in or leave the industry if opportunities for other work were available. Since much of the academic literature covering the sex work debate fails to consider the experiences and opinions of individuals directly involved in sex work, the insight garnered through these interviews, along with a look at countries where abolition, legalization, and decriminalization laws have been adopted, is used to explore the consequences of these laws on sex workers.

Given the diversity of the sex worker population encountered by law enforcement, social work, and mental health providers, it reasoned professionals in these fields would be good resources for exploring these questions. Sex work advocates were also included for their direct experience in the world of sex work and advocacy work. With the exception of the researcher's knowledge of one social worker who had been a stripper, the search for participants relied on the snowball method of sampling that included referrals from participants and individuals contacted who were unable or unwilling to participate, as well as Internet searches for potential contributors. Lastly, to avoid the undue influence that can result when studies are confined to specific locales, participants were sought on the national level.

Research Procedure

Study Design

Rich and Ginsburg (1999) assert that while the written survey collects opinions, this may not be the best approach as people do not form opinions on paper. The optimal approach utilizes interviews that facilitate conversation and narratives of life experiences.

Weighing the advantages and disadvantages of both approaches, it was determined the questions this research study seeks to answer could not be achieved through a closed-end survey because narrative dominates control of any issue, and those in control of the narrative dominate the face of the issue. To accomplish the desired objectives, the alternative approach of a semi-structured process that included an open-ended interview guide was used to facilitate, but not limit, participants' responses. The interview guide was sent to participants for their review prior to the interview. Although doing so added the risk prior knowledge of the questions to be asked would give participants time to formulate "the appropriate" response, it was deemed in the study's best interest that the prospect of gleaning the richest details could be achieved by giving participants time to recall details that may not come to mind if questions were answered off the cuff.

While exploring personal agency from the sex worker perspective is vital to understanding arguments in favor and against legalizing or decriminalizing sex work, the first question to consider was whether to survey sex workers directly, or if the ability to penetrate the network of sex workers, as Shaver (2005) cautions, would be limited by this researcher's lack of contacts in the sex industry. Shaver also warns target sampling of this nature can introduce bias if the most visible participants are oversampled, which in this case would be street-based prostitutes. A decision was made to contact third-party professionals providing sex worker support and services in the fields of social workers, law enforcement, and mental health providers, as well as sex work advocates with the prospect of obtaining information on a broader range of sex work performers.

Next, research questions were formulated and written in a broad, but structured manner with the intent of obtaining sufficient details to frame answers to the research questions while not approaching the research with a preconceived conclusion.

Participants were asked the following questions:

1. Discuss the range of clients you have worked with. Queries:
 - Age
 - Education and/or training
 - Family circumstances
 - Children
 - Sexual orientation
 - Are they still involved with sex work; if so, why?
2. Discuss some of the ways clients became involved in sex work and/or contributing factors. Queries:
 - Personal choice
 - Sexual abuse
 - Coercion/force
 - Abuse or threats of physical injury to themselves or someone else
 - Persuaded by someone else
 - Economic/financial
 - Substance abuse
3. Can you talk about the range of work you have heard narratives about? Queries:
 - Strip club
 - Massage parlor
 - Escort service
 - Prostitute
 - Other
4. How did the clients perceive their identity?
 - As a sex worker
 - As a worker providing sexual services
 - What terms do the individuals prefer to describe their work?
5. If they received payment, or some form of compensation, how did that impact their identity/self-esteem?
6. Talk about your involvement.
 - Were you involved because the individual wanted to leave sex work?

7. Without revealing identities, would you feel comfortable sharing the stories of any of the clients you have worked with?

Once the questions were formulated, the next obstacle was finding participants from the group of third-party professionals chosen to represent the voice of sex workers. Again, this researcher's lack of contacts presented a problem as the only contact known was one social worker who had previously performed as a stripper. On the advice of this individual and suggestions from this study's committee members, potential candidates were found through Internet searches in each profession with a focus on a national level in cities known to have a high concentration of sex work. An exception was made for the sex work advocates group to include the New Zealand Prostitutes Collective given the country's pro-sex position.

Because the search for participants also relied on the snowball method of sampling, referrals from participants and individuals contacted who were unable or unwilling to participate were included. At the suggestion of one mental health provider contacted, a search for providers in this group included a search of Psychology Today's website, which rendered the possibility of results from British Columbia, Ontario, and Australia. Emails were sent to potential participants explaining the purpose of the study and a request to contact the researcher. The majority of those contacted did not respond. For those who did, follow up emails and/or phone calls were made to schedule a time to conduct the interview by telephone or Skype. The interview was not restrained to following the Interview Guide question by question. Instead, a semi-structured conversational approach was used with participants speaking freely with the guide as a

prompt. Near the end of the interview, questions the interviewer did not feel were addressed were posed directly to participants.

Data Analysis

With participants' permission, each interview was recorded for later transcription. While the approach taken in a semi-structured study of this nature gleans the rich, contextualized responses described by Polit and Beck (2010), as well as insight into the "why" and "how" phenomenon (Rich & Ginsburg, 1999), coding the results can be more difficult. After the transcripts were reviewed and coded to match the questions on the Interview Guide, the data was sorted through a contextual analysis of the narratives.

While participants in the law enforcement and mental health providers did not cross over into the sex worker category, two respondents in the social worker group previously worked in the sex work industry – the first as a stripper, and the second as a prostitute. Three were received from the law enforcement category – two as detectives in vice and prostitution units; and the third as an assistant district attorney who prosecutes individuals arrested for prostitution, and also works with the Project Rose rehabilitation program in Phoenix, Arizona offered for prostitutes to avoid arrest. Responses were received from three individuals contacted in the social worker group – as mentioned previously two had worked in the sex industry. Currently, one of the social workers is a professor of social work, and two work directly with street-based sex workers as educators and rescuers. Only one mental health provider agreed to participate. Her expertise is in sex therapy, and it was only by chance that she had counseled sex workers. The three respondents in the sex work advocacy group worked as prostitutes; however,

only one was actively working with clients. As respondents no longer working with clients explained, identification as an advocate removes the anonymity necessary in the life of a prostitute.

Study Limitations

Perhaps Ronald Weitzer (2005) said it best when addressing the difficulties and flaws in sex work research and assumptions:

In no area of the social sciences has ideology contaminated knowledge more pervasively than in writing on the sex industry. Too often in this area, the canons of scientific inquiry are suspended and research deliberately skewed to serve a particular political agenda. Much of this work has been done by writers who regard the sex industry as a despicable institution and who are active in campaigns to abolish it (Weitzer, 2005, p. 934).

In his 2005 article “Flawed Theory and Method in Studies of Prostitution,” Weitzer examines the problems with feminists’ writings on the sex industry; particularly Andrea Dworkin, Catharine MacKinnon, Kathleen Barry, and Shelia Jeffreys whom Weitzer alleges write from an extremist radical feminist theory perspective that is “absolutist, doctrinaire, and unscientific” (p. 934). All are charged with portraying prostitution (and sex work) as endemic with violence and exploitation against women, and the quintessence of male domination. The titles of two of Raymond’s articles [1995 & 1998] espouse prostitution as violence against women and paid rape, and Farley and Kelly’s [2000] claim prostitution is a ‘lethal form of male violence against women’ (as cited by Weitzer, 2005, p.395) are reflective of where these authors stand on the issue.

Weitzer (2005) is also critical of labels applied to sex workers and procurers of sex (johns) who are sensationalized as “*prostitute users and sexual predators*” (Weitzer, 2005, p. 935) and murderous women haters separated from pimps only by class. Weitzer does not deny violence, including murder, can and do occur in sex work, but cautions against blanket characterizations of men. He cites the research of Martin Monto who after studying arrest records of 2,300 clients of sex workers, “found most of the men did not accept rape myths or other justifications for violence against women” (as cited by Weitzer, 2005, p. 935). Monto’s study concluded there is little reason to suspect the customers of most prostitutes as violent given that a limited proportion of clients may be to blame for the majority of violence against prostitutes. Anti-prostitution advocates and organizations adamantly refer to prostitutes as “*prostituted women and survivors*” (p. 936) implying prostitution is something done to women, rather than something that can be chosen. Weitzer (2005) explains:

But *survivors* and *prostituted women* are problematic in their own right: The former suggests person who have escaped something and the latter completely erases women’s agency. Women are described as lacking any agency, except when they resist being prostituted or when they decide to leave prostitution (p. 936).

In regards to agency, Farley is cited as arguing that if you accept the claims of women who assert they have freely entered prostitution then you would have to also assume ‘that enjoyment of domination and rape are in her nature’ (as cited by Weitzer, 2005, p. 936). Weitzer (2005) takes exception to Farley’s blanket, radical categorization of *all* women who do not buy into the victimization concept as masochist who enjoys

abuse. Weitzer (2005) asserts authors who take this acute radical position are in essence rejecting the concept of sex as work because to do otherwise may legitimize prostitution.

Beyond the vernacular defining of prostitutes and sex workers, Weitzer (2005) repudiates the theoretical process used by radical feminists, asserting, “Good scientific theory is one whose propositions can be verified and falsified through empirical testing” (p. 936), which he claims few studies cited by radical feminist authors are amenable to such verification or falsification. He questions how one would ever test platitudes presented by this branch of radical feminist researchers as self-evident, absolute principles. Gayle Rubin (1993), in “Misguided, Dangerous, and Wrong: An Analysis of Antipornography Politics,” is noted for her indictment of prostitution and pornography literature written by radical feminist as ‘sloppy definitions, unsupported assertions, and outlandish claims’ (p. 36). In other writings, Rubin asserts tactics of this nature selectively choose the most sensationalized, horrendous examples of abuse to present as representative of all sex work, ignoring counterevidence to the point of removing objectivity (as cited by Weitzer, 2005, p. 937).

Methods used to obtain data can also be problematic in their failure to disclose how and where research subjects were contacted; failure to include comparison groups, which would indicate whether similar findings are found in other groups; and reliance on “unrepresentative” samples. Weitzer (2005) cites a study on the victimization of street-based prostitutes by Silbert and Pines which interviewed 200 street-based prostitutes that met the study’s criteria. What Weitzer found problematic was the use of former prostitutes as interviewers who had previously received care at a treatment facility in the

city as well as experienced various types of assault while working the streets. Despite the questionable orientation of the interviewers' past and use of participants who all came from the streets of the same city, Weitzer reports the study is frequently cited as evidence of the rampant violence found in prostitution. Vanwesenbeeck (2001) echoes concerns about "unrepresentative" participants when studies report high rates of drug use and childhood victimization as the propellant to prostitution.

Vanwesenbeeck (2001) points to researchers' predisposition to consider sex workers as victims will most likely be reflected in the selection of participants, as well as in the way the data is interpreted. When speaking of her own work with prostitutes in Gambia, Pickering warned against relying too easily on questionnaire data and suggested the need for additional 'anthropological looking' stating: "The prostitutes themselves later treated as a great joke our initial acceptance of their tragic accounts of the circumstances that had driven them to prostitution. Yet, many studies of prostitution take such replies to questionnaires at face value" (as cited by Vanwesenbeeck, 2001, p. 259). In other words, you get what you are looking for, rather than an objective set of data.

When researchers have difficulty understanding rational, not to mention positive, reasons for choosing sex work and find it easier to think of prostitutes as victims, it is understandable that sex workers will rather stress their victim status and negative motivations for working (Vansesenbeeck, 2001, p. 259).

Pheterson (1990) speaks to the *whore stigma* associated with social science research, particularly sex research, in "The Category 'Prostitute' in Scientific Inquiry" by addressing the use of IV-drug users, clinic patients, and abused children, along with the

preconceived behaviors as loose, immoral, and perverse as representative of ‘the prostitute’:

My purpose with this article is to demonstrate how social science research, in particular sex research, is infected with prejudices against prostitute-branded women. I suggest that even the category ‘prostitute’ is based more upon symbolic and legal representation of the bad woman or whore than upon a set of characteristics within a population of persons (p.398).

The scope of studies using this specific population limit the results to the behaviors of IV-drug users, clinic patients, and abused children, but fall short of providing a profile of ‘the prostitute.’ She also charges that legal and social labeling force women who enter sex work as temporary and part-time workers to remain in the sex industry and bear the *whore* label in all aspects of their lives.

This study strove to be cognizant of the potential limitations discussed, but encountered some unique to the approach taken. As previously mentioned, third-party support and service providers were contacted with the prospect of obtaining information on a broader range of sex work performers. Obtaining participants from the law enforcement and sex work advocates groups was not difficult; in fact, the sex work advocates were very open to participating so that the stories of sex workers could be heard and to convey that sex workers are not deviant members of society. On the other hand, despite the many request sent to mental health providers, of the few that responded, only one was willing to participate. In three instances, providers that initially showed interest did not respond after the Interview Guide was sent to them. One social work provider at an organization providing prostitutes, along with individuals from other

marginalized groups, with legal services, systemic advocacy, community education, and political organizing expressed interests, but was concerned about client confidentiality issues. Ultimately, they chose not to participate.

Another issue that became apparent when interviewing respondents from the sex work advocacy group, as well as the two social work respondents who previously performed sex work, was the use of the word “client” in the Interview Guide. While the term was intended as a reference to the individuals worked with in the capacity of a third-party support and service provider, it was interpreted by individuals who had worked as sex workers as a reference to their clients (johns). After considering whether to reword the Interview Guide, a decision was made to leave it in its original form and clarify the terminology as needed.

The three sex work advocates interviewed and the social worker who was formerly a stripper openly discussed their position on criminalization, legalization, or decriminalization of sex work. Upon reflection, it would have been best to include a question that specifically asked participants their position on the issue; rather than discerning answers from those who did not indicate a position.

Summary

In this chapter, problematic areas in designing and conducting sex work research were addressed, such as “contaminated knowledge” and skewing of results to satisfy a particular agenda. Additionally, theoretical issues arise when data cannot be verified through empirical testing, yet is accepted as absolute. Researchers’ preconceived ideas can detrimentally influence research methods if participants and interviewers with bias

are used. Data interpretation can also be swayed by researcher bias. Research conducted in areas where sex work is considered illegal or illicit limits access to a true representation of sex workers since certain sectors may be more accessible than others. And, while snowball sampling increases the pool of potential participants, access to a diverse population is nearly impossible since referrals tend to be from the same community.

This study tried to address these issues by interviewing professionals and advocates from different areas of support and services. The following chapter presents the findings from the data collected from the ten individuals who participated, and the relevancy to the objectives of this study.

CHAPTER V

RESULTS AND DISCUSSION

Introduction

Abolitionists and many members of society consider prostitution and sex work immoral behavior that degrades and oppresses women as objects of men's desires. Sex workers are typically perceived as physically or financially coerced – otherwise, why would anyone “lower” themselves to such behavior? These generalities are the root of this study's inquiry into, first, the reasons women become involved in sex work; secondly, if other opportunities were available, would they abandon this way of life; and, lastly, how sex work laws that abolish, legalize, and decriminalize sex work impact the lives and conditions of sex workers.

Generalizations of immorality, wantonness, and poverty ignore the reality that sex workers come from all walks of life and segments of society. Some sex workers, but certainly not all, are victims of sex trafficking or controlling pimps. As this study found, they cannot categorically be labeled as drug-dependent, selling their bodies for their next fix; nor are they, as a whole, un- or under-educated with no other viable means of supporting themselves or their families. These statements, nor the findings and summations of this study are meant to imply sex work, in some instances, is not what Bernstein (2007) calls “survival sex” (p. 44). Instead, the stories and comments shared

from interviews conducted for this study are intended to expose the multiplicity of the sex work issue.

This chapter presents the results of this qualitative study conducted through interviews with third-parties that work with and/or advocate for sex workers; as well as consider theoretical concepts regarding identity and self-image as they apply to the feminist's debate on agency in sex work. Dominance theory (a sub-theory of feminist legal theory), social identity theory, and false consciousness were selected because they all examine the impact societal norms have on behavior and individuals' acceptance of their position in the community. Independently, and in concert, each theoretical position is beneficial in analyzing the influence of these behavior modifiers on the personal agency of sex workers. They are also useful in looking at the reasons some sex workers remain in the industry.

Feminist legal theory draws from philosophies within legal jurisprudence, sociology, political science, history, and literature to examine and reform dominant male norms that enforce patriarchy through legal and political institutions. Each of the four major schools of thought²⁴, or sub-theories, within feminist legal theory possesses principles and strategies relevant in analyzing the queries posed by this study. However, dominance theory's rationalization of embedded power structures that sustain male-biased systems is the most relevant of the four in exploring women's agency in sex work as it relates to male domination.

²⁴ Liberal, cultural, dominance, and post-modern feminism

False consciousness is useful in examining the perceived lack of agency in sex work. According to Jost (1995), two independent variables exist within false consciousness. First, the false belief is contrary to fact; and, second, the failure to reflect one's social interests maintains their or their group's disadvantaged position. When considered from the abolitionist's perspective, these principles of false consciousness explain the frequent portrayal of sexually exploited, poor, uneducated women who, lacking other opportunities, fall prey to what Barry (1979) describes as a false consciousness assumed as a survival strategy. Barry posits a Freirean cultural of silence sustains sex workers own exploitation, as well as reinforces the patriarchal notion sex should be available to men under any conditions and terms.

Similarly, social identity theory is useful for considering group membership, as well as "othering" and sustained oppression of sex workers. If there is any credence to the history of prostitution and sex work presented in this research, the change from societal acceptance to tolerance, and later intolerance, is manifested in the acquiescence to patriarchal rule. Whether through the corruption of temple servants who kept all or a portion of the gifts offered as payment to temple prostitutes, or the enslavement of women whose sexual services were sold by their captors, or Tamar lying with Judah so that her rights as the wife of Judah's sons would be fulfilled, sex workers came to be seen as non-respectable women. The solidarity found in a patriarchal society allows for discriminating against sex workers through an "us" versus "them" mindset; as well as generalizes a lack of agency among sex workers, which validates wide held moralistic values while depersonalizing sex workers.

By piecing together responses received in the interviews conducted for this research, answers may be found to the questions posed about sex workers' agency and the impact of laws abolishing, legalizing, and decriminalizing sex work. If not answers, then, hopefully, this research will prompt further inquiry into assumptions about sex workers.

Demographics

The first set of question addressed the demographics of individuals the respondents worked with. Given the *whore stigma* associated with sex work, and widely held judgments about sex workers' lives prior to sex work, this question receives more attention than other questions on the Interview Guide.

The majority of the participants worked primarily with adult sex workers. However, two social workers had experience working with underage sex workers. The primary age was in the 20-30 years old range, and occasionally women in their 40s; the youngest was nine years of age, but the average for underage sex workers was 15 years. Three respondents spoke of women aging out as they became older. The oldest age noted was sex workers in their 60s who remain in the industry, but become too old to work directly with clients. They tend to migrate into in-house positions assisting the younger women, such as costume makers in the stripper sector, bar management, housekeeping or *Mama-sans* who take care of the younger women. The Phoenix, Arizona assistant district attorney who oversees the Desert Rose rehabilitation program observed when the program began there were a number of women entering the program in their 40s, 50s, and

60s. However, with no explanation, the demographics began changing three years ago with the majority of women now served between 19-25 years old.

Responses to education indicated many sex workers fail to complete their secondary education. Some have tried to get their GED, but found doing so difficult due to substance abuse and the unsettled lifestyle of sex work. The exception seemed to be in the stripper sector where many workers strip to pay for higher education tuition and expenses. Along the same lines, the lack of employment opportunities, especially jobs paying enough to realistically support a person and their family is problematic among sex workers. Also noted was a need for anti-poverty programs to assist sex worker trying to leave the industry, or to prevent women from entering sex work for economic reasons. Interestingly, the detective with the Charlotte, North Carolina Police Department knew of a female strip club owner who offered to pay, or help pay, educational expenses for employees at each of her six locations.

The assistant district attorney in Phoenix, Arizona was the only respondent with actual demographic data. The information was obtained during initial intakes of sex workers brought to the PROJECT Rose site by officers of the Phoenix Police Department's Vice Enforcement Unit during the 2012-2013 fiscal year. According to the results, more women (97%) are sex workers than men (3%)²⁵. The highest percentage age bracket was 40% between the ages of 22-29, followed by 22% between 18-21 years old; the remainder was reported as 16% between 30-39 years, 18% between 40-49 years, 3% between 50-59 years, and 1% over 60 years of age.

²⁵ This is most likely true, but the focus on apprehending women may affect the percentages reported.

The predominant ethnicity reported was Anglo/White at 39%, followed by African Americans at 36%, and the next highest rated was Hispanic/Latinos at 19%; Asian/Pacific Islanders and Native Americans were both less than 5%. English was the primary language spoken at 98%, with the remaining 2% as Spanish speakers. The only annual household income reported was 92% earning \$0-\$9,999. Education was the last category considered: 6% had an 8th grade education, 28% went as far as grades 9-11, 26% were high school graduates, 19% with GEDs, 18% had some college, and the highest level of education obtained was 3% who earned an associate's degree.

Law enforcement and social workers associated a breakdown in the family unit for some sex workers. Those with children tended to be single parents without a partner to share the responsibilities of parenthood. Some of these women lost their children because of drug addictions or the inability to exit sex work. Most of the sex workers with children try to keep the type of work they do from their children. Interestingly, the social work respondent who formerly worked as a stripper observed in her own research that many of her fellow strippers came from foster homes, and had worked as babysitters when they were younger. This is not to say foster care is indicative of sex workers or strippers' family circumstances, but, nonetheless, it is an interesting observation. Instances of generational sex work were noted in some of the responses from law enforcement and social work.

The former prostitute working as a social worker was an exception to the majority of responses in the demographic category. Where the majority interacted with adults, she worked with underage sex workers, primarily in New York City, who were forced onto

the streets to provide and care for them self. The youngest child she worked with was nine years of age. Many came from abusive backgrounds, or were LGBT youth who had been kicked out of their home by a parent or guardian. She reported the majority of the children were African American and Latino, and approximately 75% had been in foster care. She also reported trafficking of Native American children in the Minnesota and Great Lakes area; many of whom were sold by their families due to poverty²⁶.

Street-based sex work and strippers were noted with more instances of personal injury, either from attacks on the streets or outside of clubs, with specific violations to their bodies, such as cigarette burns. Verbal abuse was mentioned by several respondents, particularly those in the social work sector. While no one disputed violence does occur, three of the sex work advocates questioned the focus on abuse associated with sex work, claiming there are higher rates of domestic and other forms of abuse in the general public than among sex workers. They also expressed doubt that the number of abused women, past and present, is higher in the sex worker industry than in other professions. One commented women who have experienced abuse that are working in other professions are applauded for their ability to overcome the trauma to find respectable employment, but the same praise is not offered to sex workers.

Police see more prostitutes working through agencies, or advertising their services directly on websites, such as backpage.com, bigdoggie.net, and, previously, craigslist.com, than noted by other professions. The detective interviewed in Charlotte, North Carolina who dealt with massage parlors on a regular basis, either from complaints

²⁶ This information was not verified, but reported as part of the response received from this participant.

received by customers or through sting operations, reported the majority of the workers at these massage parlors are Asian and speak little, to no, English. She also found workers at Asian massage parlors tend to be more closely guarded and live on the premises, whereas African American and White workers live offsite and have more freedom to come and go as well, as speak with clients and police. She noted a prostitution charge is, typically, made every time a massage parlor is visited; occasionally for prostitution, but in most cases the charge is for violating the laws and ordinances governing massage parlors. Either way the arrest becomes part of the person's history. In the case of the second detective, massage parlors are illegal in Greensboro, North Carolina, but during his early years as an officer, there were a number of massage parlors in the city that were later closed through ordinances and laws enacted for that purpose.

The results of this question coincide with many of the preconceptions about sex workers in regards to age, education, breakdown of traditional family dynamics, and economics. However, it should be noted these responses were concentrated in law enforcement and two social workers who work primarily with street-based sex workers, instead of higher-end escorts or strippers. A different image can be discerned from the responses of the mental health provider and most of the participants who performed sex work. What was not evident was the use of or addiction to drugs, which is paradoxical considering the persona of the drug addicted sex worker.

Although the respondents who suggested anti-poverty and education programs are in favor of decriminalization or legalization, their proposal concurs with Barry's (1979) and other abolitionists who recommend a large-scale network of education, job training,

health services, and personal counseling to preclude entry into or improve opportunities to exit sex work. While abolitionists believe these types of programs will deter entry into sex work, proponents of decriminalization and legalization see programs of this nature as the right of sex workers. They do not consider such programs to be deterrents, but rather as a sex worker's right to improvements in their social and economic conditions. New Zealand, and other countries where sex work is decriminalized, along with countries that have legalized sex work, such as the Netherlands, provides access to programs to improve sex workers' situations.

Entry into Sex Work

Responses to the second question which surveyed the reasons individuals become sex workers were mixed. Drug use was observed by participants in the law enforcement and social work sectors, especially the two social workers working primarily with street-based sex workers. While working in Australia, the social worker/former stripper worked with university professors who were also prostitutes that used IV drugs. Although these instances of drug usage were reported, it was not known whether drugs contributed to individuals' entry into sex work or began after entry. The use of IV drugs by Australian professors indicates involvement with drugs is not limited to street-based (presumably uneducated) sex workers.

As previously discussed, the effects of abuse during childhood is often cited as the impetus to becoming involved in sex work; however, there were no reports of abuse, of

any type or at any time, prior to entering sex work by the sex workers discussed²⁷.

Coercion, in the form of threats or physical abuse, by pimps and traffickers is regarded as another strong catalyst; however no occurrences were found in this study. However, two of the participants who were former sex workers chose to work with pimps and madams for protection and screening purposes. Overall, responses indicated threats and physical abuse were not the reason for entry into the industry among the sex workers discussed.

Of the different types of coercion this study inquired about, financial and economic reasons were a common reason cited for entry into the sex work industry. In the case of strippers, the cost of higher education is the reason many students become involved in stripping. Law enforcement and social workers saw economic constraints as a systemic problem that leads to entry into sex work. Sex work advocates agreed this is often the primary reason for entry; however, they assert that while economics can be the reason individuals enter sex work it is not always a matter of survival sex. Regardless of the reason, they contend it is moral perceptions that falsely mark sex work as degrading and violent. A few of the respondents remarked there are many other types of degrading work, and one sex work advocate was adamant about her preference for sex work over cleaning toilets or working in fast food. The exercise of agency is present in all sex work not conditioned on threats, physical force or coercion, or sex trafficking. One of the questions regarding sex work is whether agency exists when individuals choose sex work for economic reasons, especially in instances of survival sex. If the answer is yes, the

²⁷ The statement “prior to sex work” is not meant to imply abuse is part of the sex workers life. Rather, it is intended to emphasize abuse was not a factor, or reason, these sex workers became sex workers; which is consistent with Monto’s assessment claims of john or customer violence are exaggerated (as cited by Weitzer, 2005).

question then becomes what constitutes survival sex. Can sex work performed to pay for university or vocational expenses be considered survival sex since the individual becomes a more marketable and desirable employee? In which case they not only survive, but improve their life circumstances.

If leniency is given for educational expenses, would the same view pertain to sex work that improves the sex worker's lifestyle without higher education? If the answer is no, does that mean all exploited workers lack agency? Do migrant workers toiling in unspeakable conditions or U.S. citizens working two, three, or more jobs, but still living below the poverty level, not accept their low-wage jobs by choice? Showden (2011) describes having agency as a twofold process – the deliberation of choice and having choices that need deliberating. One must, first, possess the capacity as an individual to act; and, secondly, conditions that facilitate the individual's action must exist. In light of this, the question then becomes – is it conceivable choosing sex work is an agentic, viable form of employment? Abolitionists and dominance (radical) feminists would answer no, arguing male domination has denied “all” sex workers agency, much less the right to claim it, regardless of the type of sex work performed. On the other hand, feminists in favor of legalization or decriminalization would maintain an opposite opinion – yes, the lives of women, and therefore women who become sex workers, have been influenced by patriarchy, but male dominance has not robbed them of agency. Rather, an overzealous moralistic society has imposed the image of the poor, uneducated, wonton, female sex worker.

While the demographic information obtained in this study does not support sex workers' lack of agency, the generational sex work reported by the assistant district attorney and one social worker could be considered repudiation of Bandura's (2006) assertion people are not products of their environment. However, this study did not find enough of these occurrences to question the validity of this claim. A more in depth study would be required to determine if Bandura's social cognitive theory is applicable in decisions not to follow in the footsteps of a family member to become a sex worker, or if environment is more influential than Bandura believed.

Types of Sex Work

Question three was designed to consider the range of sex work performed. Although prostitution is still the main focus of abolitionist's efforts, radical feminists, such as MacKinnon and Dworkin, expanded sexual exploitation to include pornography (Feminist Jurisprudence, n.d.). Other forms of sex work involving sexual services transacted for profit were later included.

The majority of respondents discussed prostitutes, followed by strippers and workers at massage parlors. While it is easy to assume prostitution always involves sex, just as stripping and massages lead to sex, under the services provided by escorts, it was noted that sex is not always involved. The procurer may truly want someone to act as an escort or date. Two of the sex workers reported instances when prostitution did not involve penetration; instead, they were paid for fantasy role play involving costumes and other stage-setting apparatus. One of the sex work advocates talked about a dying client

who was unable to have intercourse. His wife hired her and a few other prostitutes to dress in lingerie and entertain him.

His wife called the madam I worked for and had women sent over to see him. He couldn't have intercourse. It wasn't about that. He just wanted us to get undressed in lingerie and just kind of like be there and be pretty and talk to him, have something for him to look at that was interesting and exciting (Anonymous, personal communication, November 08, 2013).

She also had clients who only wanted companionship and someone to talk with them.

One narrative shared was about a dominatrix who enjoyed fantasy role play in her personal sexual encounters. Realizing men would pay for sexual encounters without actual penetrating sex she decided to become a sex worker.

...she had a customer that came over twice a week on his hands and knees, you know, with the dog collar and leash, cleaned her house on his hands and knees and that's what he paid her to do, you know, there wasn't sex and it was like 'Oh yeah. Why not?' But, he was sexually gratified (Anonymous, personal communication, November 08, 2013).

Would turning her own sexual preferences into a profitable business not indicate agency in her decision?

If one were to accept the idea of work as sex, these two narratives meet the requirements described by Showden (2011), thus illustrating agency in action. These sex workers were forced or coerced to provide sexual services. More precisely, they made a conscious decision to use their bodies to earn their personal income. However, some, including abolitionists, would argue that through a Freirean "culture of silence" they fell prey to false consciousness (Barry, 1979), allowing them to believe they were acting of

their own free will. Perhaps, an understanding of agency requires examining sex workers' perception of their self identity.

Perceptions of Identity

Self identity and self image influence decisions made by individuals, as well as behaviors that promote or preclude continuance of their current situation. Question four, which asked how clients perceived their identity, was included to contemplate sex workers who regard what they do as work, and the effect this stance has on perceptions of identity. The “sex as work” position is taken by sex work advocates, including those interviewed for this study that are in favor of decriminalization, who believe that where most jobs require intelligence or physical strength, their jobs require other assets of their body –looks, compassion, and sexuality – to perform their vocation. This concept can be very confusing, but is an important distinction to those in favor of decriminalization. One sex work advocate described a lot of her work as emotional labor, referring to the emotional toll experienced when she wades into a client's personal life (Anonymous, personal communication, November 08, 2013).

Some interesting information regarding identity revealed in the interview with one anonymous source (personal communication, November 14, 2013) included the distinction between stripper and prostitutes. She explained strippers did not see themselves as sex workers, until they were identified as such by the National Coalition of Against Sexual Assault, which was supported by the social worker/former stripper. They also clarified sex workers who provide vaginal and anal sex or oral and manual sex identify as prostitutes; whereas some strippers still do not identify as sex workers.

And, there is actually amongst many sex workers this kind of division between; there is this kind of a thing between strippers and prostitutes where strippers think they're not really sex workers because we're just, you know, look and don't touch; and prostitutes will go you're [referring to strippers] just teases, we're the ones who really finish the job, you know (Anonymous, personal communication, November, 14, 2013).

The mental health provider discussed one client she worked with who was a porn actress that considered herself an artist, rather than a sex worker or even an actress. This individual's perception of self was clearly defined, and in no way negatively impacted by the type of work she performed. Sexual surrogacy was also discussed as a type of sex work where the individual does not identify as a sex worker. Although, sexual surrogates provide sexual intercourse, or sexual services, to individuals with disabilities, they are quick to clarify they are not prostitutes. Even though they engage in sexual intercourse, as licensed therapists they consider the work they do a form of therapy. It is possible the porn actress and sexual surrogates maintain their sense of identity through the support of people similar to them self.

Social identity theory, typically, alludes to the depersonalization of self for inclusion in a relevant group, producing an "us" versus "them" behavior and oppression of the "other." The sex worker is customarily considered the "other" by abolitionists and those who try to impose moral judgments, but it appears the concept may also apply to sex work advocates and those who perform "sex as work" through the creation of a new in-group comprised of sex workers and their advocates who assert their agency by demanding equal and humane treatment. Although society considers them to be immoral,

the creation of a new in-group promotes positive self-esteem, which in turn encourages agency.

Self-Esteem

Self-esteem is significant to individuals' behavior, and, therefore, agency, which is critical to arguments for decriminalization and legalization of sex work. Abolitionists contend selling one's body negatively impacts self-esteem, which is the basis for question five's inquiry about the effect accepting money for sexual services, or some form of compensation, has on self-esteem. The law enforcement respondents associated sex work, whether it was prostitution, stripping, or any other type of sex work, with low self-esteem. The mental health provider also counseled a transgender woman who worked as a masseuse, in which occasionally led to sexual intercourse. She did not consider adding sex to her services as prostitution since she only performed "extras" if she formed a relationship or bond with her client. However, she did hope to find a means of supporting herself that did not involve selling her body, which could indicate these "extras" took a toll on her self-esteem. On the other hand, this same provider described a porn actress she worked with as having too much self-esteem. The actress considered being paid to perform sexual acts on film as a positive situation and empowering as it confirmed her sexuality.

To no surprise, all of the sex work advocates consider sex work as empowering.

One commented:

There was something very empowering about that. I mean I never felt good about my body until I was a stripper and then for years after I, you know, got

(indiscernible) I still had a better self-esteem or body image than I did body even so I think some people feel very empowered by being able to what you might say attract a customer and get money for, you know, doing something that, you know, most women are expected to do for free (Anonymous, personal communication, November 14, 2013).

Another said:

I just want to say, does it appear to you that I am in anyway lacking self-esteem?...I think that when you know that somebody will pay you a whole lot of money for the things you can do to them. You're not going to suffer from lack of self-esteem. But I mean my self-esteem isn't based on what my clients thought of me. It's based on who I am as a person. How much I have been able to look at my life and say "You know what? I won't accept those things anymore that people will tell you all this shit." I'm proud of who I am. I'm proud of what I've done. I know that I'm very good at a lot of things and I think that a lot of my colleagues feel the same way about themselves. Are there days when you get depressed? Sure but there were so many of those days when I was on the LAPD. So again you look at it and say so let's say someone was suffering from low self-esteem at their job. Is that a sufficient reason to arrest them, put them in jail? Hah. What kind of self-esteem do you think they're going to get while they're in a cell, forced to pee and poop in front of other people? Does that improve their self-esteem? (Anonymous, personal communication, November 08, 2013).

Responses were mixed in the social work sector with two seeing sex work as empowering. One, describing the feelings of some of the women she has worked with, said:

[prostitute speaking] '...this makes me a strong woman because I am making money and I am doing this.' I think the whole design of sex exchange the whole design of any kind of sex trading or sex selling there's a fundamental power differential that happens like that because it's about economics (Anonymous, personal communication, April 04, 2014).

On the other hand, another social work respondent saw the negative impact of sex work on self-esteem:

You know, when you're out on the streets and you need food, you know, like I'll give you an example. One boy who was 16 that I worked with, he said, he said to me once "You know they lay their \$30 on the dresser and nobody ever holds you" (Anonymous, personal communication, April 09, 2014).

The question of self-esteem goes back to abolitionist's supposition and the tenets of dominance theory that propose the systemic subordination of women as a class has not allowed them to become rights-holders (Radacic, 2008a). Both argue the historical denial of physical and sexual integrity has conditioned women to submit to male dominance that reasons women's bodies should be available to men. Furthermore, they contend this conditioning has inhibited the autonomy needed to make agentic decisions about sex work. Following this line of reasoning, one could question, if once in, do sex workers possess the agency to exit sex work. The next section looks at some of the difficulties sex workers encounter when trying to exit.

Exiting Sex Work

If agency can exist in the decision to become a sex worker, then it would reason exiting sex work is agentic as well. Yet, despite an acknowledgement of agency, most sex workers find exiting to be no less difficult, and possibly more so, than sex work. Often the difficulties encountered make it seem like the best option available is to remain "in the life." Those who do attempt to leave face challenges ranging from an isolation from a network of sex workers who understand their struggle and who can offer emotional

support; post-traumatic stress; ongoing psychological and physical health problems; and finding employment with earnings comparable to what was earned as a sex worker is difficult, especially when individuals have a limited education and/or employment skills.

This contradiction of agency and support given to individuals who want or have attempted to leave sex work is the basis for the sixth question. While the majority of respondents had no experience in this area, a few were able to share their experience assisting, or providing opportunities for, sex workers who tried to leave.

As previously mentioned, it was happenstance the mental health provider had worked with sex workers since this was not the client market her practice targeted. Of the three accounts she shared, only one expressed any interest in exiting sex work. This was the transsexual masseuse who wished to leave the sex work industry for several reasons: the perceived danger in this type of work; the illegal nature of the job and fear of arrest; but, more importantly, because she did not enjoy sex work and was uncomfortable with the image of sex workers. Because their sessions ended, the provider did not know if this individual was able to successfully exit.

The sex work advocates who had experience with individuals trying to exit were aware of programs that helped sex workers plan for life after sex work. However, they were adamant about the need for anti-poverty programs to equip sex workers with resources and training for life outside the industry. All three social workers had been involved with exit programs; two worked specifically with outreach programs – one with male and female youth, and the second primarily with women 18 to 25 years of age. One

of these social workers helped sex workers whose pimps would hold their children hostage to prevent them from leaving.

...and I worked closely with them because when girls did want to leave and also when they were abused severely when they wanted to leave sometimes pimps would hold their babies. And they'd have them stowed away, you know, at relatives in Queens or the Bronx or wherever. And The Pimp Squad could go with me to get their babies out. Sometimes they had to be moved from New York City and sent to battered women or other shelters outside the city (Anonymous, personal conversation, April 9, 2014).

The third social worker had experience working with sex workers in developing countries. One Kenyan woman's problems were twofold:

I'll never forget the woman in, in Kenya who she's, uh, like I don't want to do this but I have no other way to feed my children. I mean the rescue people want to, you know, basically wanted her to make baskets for, you know, ten cents a basket and she's like, you know, I won't have, you know, a dollar at the end of the day. And, that's not enough to feed me and my children and yet I don't want to get beat up [by police and customers] (Anonymous, personal communication, November 14, 2013).

Several U.S. cities offer rehabilitation and diversion programs, ranging from residential programs to services similar to medical outpatient treatment programs. While the structure of these two types of service differ both attempt to tackle underlying issues seen as traps in the prostitution lifestyle (Roe-Sepowitz, Gallagher, Hickle, Loubert, & Tutelman, 2014). The assistant district attorney in Phoenix, Arizona oversees Project Rose, an arrest-alternative intervention program for adults facing arrest for prostitution.

Project Rose is a joint collaboration of the Phoenix Police Department's Prostitution Task Force and Vice Enforcement Unit, Arizona State University School of

Social Work, the Phoenix City Prosecutor's Office, and Catholic Charities Diversion Program, which was modeled after a similar program in Dallas, Texas. The goal is to offer resources to prostitutes that will enable them to overcome the barriers that hinder escape from prostitution (Roe-Sepowitz et al., 2014). Yet, for all their good intentions, many argue these programs are an inappropriate use of police force as they may compel sex workers considering exiting sex work to enter the program only to avoid arrest. Furthermore, entry into the program is limited. Participation is not available to all sex workers facing arrest, and non-compliance negates the promise of avoiding arrest.

Umm, a person gets arrested, their looked, their penal history is looked at. It's determined whether they're eligible. If they're eligible, they're offered the program. They're facing mandatory jail time if their plea is non-compliant. If they're compliant, we dismiss the case. If they're not compliant since they've already plead guilty then when they come back to court the judge executes sentence on them and they, they do their jail time (Anonymous, personal communication, March 4, 2014).

Additionally, participation in Project Rose is a "one time deal," regardless of whether the participant successfully completed the program or did not complete the program due to non-compliance. It bears noting, the Sex Workers Outreach Project (SWOP) and other sex worker advocacy groups offer these services, but without legal intimidation or limitations on participation.

A similar program is occasionally offered by the Greensboro, North Carolina Police Department; however, it is less structured and participation has been limited. A lack of interest and participation resulted in the Charlotte (North Carolina) Police

Department ending their “Jane School²⁸.” Hennepin County, Minnesota also offers prevention and education programs to individuals involved in prostitution and sex trafficking, but their efforts also include training businesses to recognize signs and report suspicions of sex work. The social worker interviewed was not sure of the effectiveness of these programs, but believed rehabilitation “makes a heck of a lot more sense than arresting and criminalizing this” (Anonymous, personal communication (April 4, 2014).

Many women find it difficult to leave the sex industry, even when rehabilitation programs are available. Sex workers offered participation in rehabilitation programs to avoid prosecution still find actual escape difficult. Although they avoid an arrest record, their names are still associated with the program which means they are no longer “private” citizens, and their participation becomes part of their history.

And women talk about that and how difficult it is. And if you truly want to exit and you truly want to move on, you know that it's difficult for a lot of women because you think about the rehabilitation programs and a lot of survivors in the business. But that means everybody knows their history. Like, I don't know if there's a lot of programs that successfully kind of re-engage or re-educate women where they don't have to remind people about their history (Anonymous, personal communication, April 4, 2014).

Also, since these programs are short-term they do not provide adequate education and social skills most sex workers need to successfully (re)enter society.

A Question of Criminalization, Legalization, or Decriminalization

Although efforts to free women from the patriarchal conditions that sanction prostitution and sex work have continued since the days of Josephine Butler, the media

²⁸ Their John School has been more successful because participants' record of arrest is not made public.

and abolitionist groups have increased public awareness of sex trafficking and raised interest outside of feminist circles. Opinions vary in regards to whether sex workers should be held accountable through arrest and shaming, or if the way to end this blight on society can be found in arresting pimps and buyers that create demand. This research evaluated the outcome of sex work laws adopted to control sex work in four countries through criminalizing buyers and pimps (Sweden and Canada), or legalization with regulations that set standards for sex work (Netherlands), or decriminalization which removes all the criminal aspects of sex work for all parties (New Zealand).

Positions were mixed among the individuals who participated in this study, and were not consistent within each group. (A more in depth discussion on these outcomes can be found in the next chapter.) As would be expected, sex worker advocates support decriminalization; as did the social worker/former stripper. They argue criminalization makes it impossible to negotiate with clients, deters the reporting of crimes against sex workers to law enforcement officials, and limits the inability to screen clients put sex workers at risk. The mental health provider and one other social worker support decriminalizing sex work.

The third social worker advocates criminalization since, in her experience, the sex worker did not benefit from legalizing or decriminalizing sex work. A similar perspective was shared by the assistant district attorney who believed criminalizing sex work is the best means of control. However, she does support arrest-alternative intervention programs that allow sex workers to avoid arrest and prosecution. One of the vice and prostitution detectives interviewed is in favor of legalization that removes the illegal

status, but keep the door open for police and other agencies' involvement. The second detective never indicated her position.

This study found thoughts on decriminalization, legalization, or decriminalization were representative of the general population, with no definitive answer or position. A lack of consistency among participants in the same field, other than sex work advocates, indicates opinions are not dictated, or influenced to a great degree, by profession. However, increasing the number of participants, or limiting participation to a single profession, may find a greater consensus for one position over another.

Summary

Many assumptions are made about people who engage in sex work, women in particular, and the reasons they “willingly” enter the sex work industry. The nature of these suppositions and questions lie in the belief women who choose to do sex work lack the agency to make decisions that are in their best interests. Common assumptions presumed women working as sex workers were either forced, or, obviously, products of life's circumstances influenced by a patriarchal society of male domination that has historically subjugated women as sex objects. Otherwise, why would they choose a lifestyle that runs counter to the morals of mainstream society?

Through interviews with third-parties who interact and advocate for sex workers, this study considers those reasons, as well as decisions to remain in or leave the industry. The issue of agency is explored by through three theoretical concepts, along with the findings of this study, to ruminate the feminist's debate on criminalization, legalization,

or decriminalization of sex work. Further analysis evaluates the outcome of sex worker laws adopted by different countries.

While this study was limited, the findings do make generalizations of the young, poor, uneducated, drug addicted sex worker controlled by a pimp or sex trafficker with threats and physical abuse questionable. Although some of the results substantiate widely held assumptions, they do not fully support this image of the sex worker. The predominant age was found to be between 20 and 30 years old, which is consistent; as were reports of limited education, dysfunctional families, and some, but not a great deal of, drug use. Physical force and coercion were not found to be significant contributors to entry into sex work. However, economic coercion was a common reason mentioned. Providers and advocates that work with street-based prostitution are more apt to see incidents involving force and coercion; whereas, financial and economic coercion run the gamut of sex work echelons (street-based versus stripper and escorts). The absence of force, as well as many of the stories shared, indicates agency is possible in sex work. Most of the sex workers discussed were prostitutes and strippers, which interestingly impose a strong delineation between one another.

The effect on identity and self-image appear to be influenced by the type of sex work performed and reasons for entry. Street-based sex workers, as well as individuals who enter as a survival strategy, tend to have a lower self-image, which negatively impacts their identity. On the other hand, identity and self-image is, if anything, improved in those who become sex workers because of the greater earning potential and

benefits of working in a non-traditional vocation. In fact, they see what they do as “work,” and themselves as providing a service or entertainment for their clients.

Leaving the sex industry can be difficult, which in itself acts as a preventive to exiting. Rehabilitation and diversion programs are controversial as they are considered by many to be questionable since participants have no alternative but to enter the program if they want to avoid arrest. Also, as short-term programs, they are unable to adequately prepare sex workers for (re)entry into society. The need for anti-poverty programs was expressed by several respondents who believe offering education and other services would not only provide the opportunity and means to exit sex work, but would also deter entry into the sex work industry.

In sum, while there are some women who are forced to be sex workers, as a whole sex workers cannot be categorically defined as young, poor, uneducated, or drug addicted, nor as immoral, wonton women who enter the industry as a means of survival. Although some characteristics are more predominant in certain types of sex work, these generalizations underestimate the role of agency and women’s ability to define their lives, even when the decision is to become a sex worker. Declaring that all women who become sex workers lack agency is to assert that all marginalized women, and men, who work in low paying, demoralizing jobs lack agency. Just as the some of the participants in this study stated, they chose, of their own free will, to be sex workers because they could earn more money than offered by traditional jobs, and, by no means, feel cheapened or immoral by using their bodies to do so. However, if society is concerned about “saving”

women, instead of defaming sex workers their efforts should be focused on making anti-poverty and other programs available that offer women an alternative.

While there is some international pressure to abolish all types of sex work, each country determines whether to criminalize, legalize, or decriminalize prostitution and other forms of sex work. The final chapter will address how these laws have affected the lives and conditions of sex workers, and offer this researcher's thoughts on agency as it pertains to the feminist debate on sex work.

CHAPTER VI

CONCLUSION

Introduction

The objective of this research project was to gain insight into the reasons individuals become sex workers, including agency, and how it is reflected in the feminist's debate to criminalize, legalize, or decriminalize sex work. First, by exploring the histories of sex work and feminists' perspectives on sex work a foundation is established from which the stories of sex workers can analyze generalizations about women who become sex workers, and how these generalizations affect assumptions on agency. Next, given the suggested lack of agency, the stories of sex workers disclosed in interviews from this study are used to inquire whether sex workers would choose to remain in or exit sex work if other opportunities were available. Dominance theory (a sub-theory of feminist legal theory), social identity theory, and the Freire and Marxist/Engels concept of false consciousness are used to explore the impact of societal norms on behavior and individual's acceptance of their position in society affects development of agency. Finally, laws adopted in four countries that criminalize, legalize, and decriminalize sex work are compared to determine the effect each has had on sex work, and how this information can be applied to the feminist's debate.

Simplified, agency implies choice, when in reality agency is much more than the act of choosing. As Showden (2011) explains, agency is the deliberation of choice and having choices that need deliberating. On the first level, one must possess “the individual capacity to act” (autonomy), along with “conditions that facilitate action” (freedom) (p. ix). While the concept seems straightforward, choice must be considered in the context from which decisions are made (Showden, 2011), particularly when one is in the position of being oppressed or acting as the oppressor. Taking this into account, along with Bandura’s (2006) assertion people take an active role in decisions that affect their lives, advances an understanding of agency. If being an agent is to intentionally influence “one’s functioning and life circumstances” (Bandura, 2006, p. 164), then people become “contributors of their life circumstances, not just products of them” (p. 164).

A key element to understanding the concept of agency is recognizing the beliefs people have about themselves are an essential component in the development of agency (Pajares, 1996), but also in how they choose to exercise their agency. This study examines the belief that women are so tainted by patriarchal values they have been rendered incapable to rationally consent to being a sex worker of any type. In other words, is it possible for women to in reality choose to become sex workers, or are they simply complying with centuries of male domination and hegemonic control of women’s bodies? Accepting the notion of the immoral sex worker, or to use a Freirean (1993) analogy “the pathology of healthy society,” (p. 55) in need of rescue and integration into the healthy society they have forsaken, supports the theory that sex workers are incapable of exercising agency; at least the agency abolitionists believe is in the sex workers best

interest, or better stated, agency that complies with societal morals. Yet, is the assumption women lack the wherewithal to make responsible and moral decisions plausible enough to accept Raymond's assertion that sex work is merely paid rape? Likewise, can we accept, as Farley argues, women who maintain they freely entered sex work must enjoy domination and rape (as cited by Weitzer, 2005)? It seems Raymond and Farley agree women who claim to have chosen sex work are operating under the influence of patriarchy that has, in fact, made them incapable of possessing the agency to make sound decisions.

While there is no doubt patriarchy has subjugated women's position and options, Barry's (1979) assertion that sex workers have fallen prey to a false consciousness, sustained by a culture of silence that reinforces the belief men are entitled to use a woman's body sexually – under any conditions or terms, is questionable. Granted women have been denied the opportunities afforded men, but is male domination alone persuasive enough to induce women to enter and remain in the sex industry? Or, is it that the economical impact of male domination so severely limits women's opportunities and earning potential, that sex work becomes a viable “job” chosen through individual agency.

Refuting Assumptions

The findings of this study are unable to conclusively corroborate or dispute the demographic generalizations and image of sex workers. The results of the interviews conducted only indicate a slight confirmation regarding assumptions about the age, education, and the family circumstances of sex workers. Additionally, sexual orientation

was only mentioned in two instances – the LGBTQ children thrown out by their parents and the transsexual client who turned to sex work after she was ousted from the family business was unable to find a job other than as a masseuse, which occasionally involved sex with her customers. Sexual orientation was not found to be a motivating factor in either instance.

Prior sexual abuse, coercion, and force, were not evidenced in this study; although, there was limited corroboration by law enforcement and two social workers drug abuse can be a gateway into sex work. Economic constraints were found to be influential in the entry of several sex workers, but the degree to which it contributed was not clear. However, the narratives of participants who are former sex workers do not convey a sense of desperation or coercion. Even the social worker, former prostitute, recognized other options were available to support herself and her children, yet made an informed decision to sell her body because she could earn more as a prostitute than was possible in other jobs. Additionally, the social worker, former stripper, made a similar informed decision to strip to pay for her education. As for the street-based prostitutes served by the two social workers involved with outreach programs, it is impossible to determine if a lack of resources influenced their entry, or whether their decisions were agentic or not, without interviewing them personally.

In sum, it appears these generalizations are, in some cases, consistent with society's image of sex workers, but in most instances they are unfounded. However, the historical and wide spread nature of these generalizations sustains and strengthens assumptions that marginalize sex workers and their place in society. Furthermore, while

some sex workers' sense of identity and self-image may be negatively impacted, mainly due to their acceptance of these generalizations and assumptions, it appears individuals' reasons for entry, and the type of sex work performed, are significant factors in the sex workers' self-perception. Of the different types of sex work and reasons for entry, street-based sex workers and those who consider their entry as survival sex, are more likely to have a lower self-image and sense of identity. Sex workers who do not consider their entry to be survival sex, or who work as strippers and escorts, appear to have greater self-esteem. They also seem to have a better understanding of their identity as sex workers.

The following section examines the consequences of sex work laws; including the challenges or benefits these laws have on sex workers' ability to perform sex work.

Affects of Sex Work Laws

Policy development and laws governing sex work varies among countries, especially in the areas of legalization and decriminalization. On one end of the spectrum, Sweden has criminalized buyers, pimps, brothels, and other third-party facilitators of sexual services; however, selling sex is legal. Canada's laws were recently revised. The activities of buyers, pimps, and third-party facilitators are still illegal, but brothels and selling sex are legal. On the furthest end of the spectrum, countries that have taken the most liberal position, such as the Netherlands where sex work has been legalized, and New Zealand which has decriminalized all aspects (Lowman, 2011). Determining which laws are in the best interest of sex workers is very subjective. Supporters of each position are quick to cite the benefits of the laws they support, while ignoring any negative aspects or repercussions.

Likewise, groups are not hesitant to fault laws opposing their position. In Sweden, abolitionist feminists have been successful in criminalizing all areas of sex work, with the exception of the sex worker selling sexual services. The laws in Canada are similar, with the exceptions of sex workers selling sex; and the recent change legalizing brothels, which the courts consider sex workers' right to work in a safe environment. Supporters contend criminalization acts as a deterrent not only for purchasers, but also for women who have not entered into sex work. Opponents argue reliable proof to substantiate this claim is not available; but that the law displaces sex workers and pushes sex work further underground. This results in the potential for increased risks for sex workers, yet discourages sex workers from reporting of violence and abuse to legal authorities. Proponents also maintain criminalization curbs the spread of sexually transmitted diseases, and reduces criminal activity. Opponents, however, counter legalization and decriminalization are more effective in controlling both issues.

Additional arguments by opponents emphasize the ways in which sex workers are negatively impacted include taxation of their earnings, yet denial of labor rights and access to health services available to other workers. Moreover, while selling sex is legal, the failure of tax offices to recognize prostitution as a legitimate occupation forces sex workers to break other laws, such as lying about the source or amount of their income, registering under a different business category that allows them to report their earnings, or neglecting to report their earning or pay taxes altogether. Finally, while the benefits and risks associated with criminalization are debatable, the stigmatization still associated with sex work affects their personal lives, as well as access to other types of employment.

Given the failure of criminalization to remove many of the risk associated with sex work, or to provide sex workers with many of the benefits availed through other types of employment, many question if an alternative approach is needed.

The second feminist position calls for the legalization of sex work, but with provisions for regulations that allow states to control sex workers and sex work activity. The Netherlands was the first country to adopt laws legalizing voluntary adult commercial sex work performed at municipally licensed locations. These regulations impose restrictions that can encumber the operation of sex work establishments, including: regulation of hours of operation and business location, as well as regulate who is eligible for employment as sex workers²⁹; however, these same restrictions provide a safer work environment for sex workers by prohibiting abuse and coercion. The legalization model offers additional benefits to sex workers that proponents claim are lacking in the criminalization of sex work.

While the conditions of legalization are not consistent among countries that adopt this model, some of the more tangible benefits, generally, include legitimization of sex work and sex workers, access to health care, the right to pursue legal action for violations of employment and service contracts, and unemployment benefits, social assistance, and welfare benefits through government programs. Conversely, legalization imposes certain obligations on sex workers, including registering with the government as a sex worker, regular physical examinations to prevent the spread of sexually transmitted diseases, and

²⁹ Individuals from non-EU countries are barred from registering as legitimate sex workers. Sex workers who are not citizens of the Netherlands, but are citizens of other EU countries may register as “independent” contractors allowed to work at municipally licensed sex work locations.

the duty to require identification documents and proof of health status. Furthermore, legalizing sex work has not entirely removed stigmatization of sex work, and has only legitimized those who are defined as legal by the country's sex work laws.

Beyond the basic argument that legalization sanctions exploitation and oppression of women, opponents contend that while legalization in the Netherlands has improved conditions for sex workers there have been unanticipated consequences, including: (a) the ban on non-EU registering as sex workers has increased their vulnerability and susceptibility to blackmail, violence, lower wages, and poorer working conditions; and (b) this amplified exploitation makes the Netherlands a safe and worthwhile destination for traffickers. Additionally, allowing sex workers from other countries that are EU members to work as independent contractors creates conditions where employers can subvert taxes and social security laws. All in all, while legalization may be a better option than criminalization, proponents for decriminalizing sex work argue their model does more for the welfare of sex workers than either legalization or criminalization. As the first country to legalize all aspects of sex work, New Zealand provides the best insight into the decriminalization model.

New Zealand's decriminalization laws gave sex workers the same rights as other New Zealand workers; and established occupational, health, and safety policies to protect sex workers' human rights. According to Harrington (2012), with the focus on the rights and well-being of sex workers the use of condoms mandatory, as well as making violence and underage solicitation primary concerns in protecting sex workers. Proponents believe decriminalization has reduced exploitation in the sex industry, improved the conditions

and environments of sex workers, allowed sex workers to form collective worker-run businesses, and made it easier to establish small-owner-operated brothels (SOOBs)³⁰ that provide a safe environment for sex workers to conduct business. However, by designating locations of SOOBs in industrial or commercial areas, as well as the absence of security offered at larger brothels, puts sex workers at greater risk of violence and/or robbery.

On a day-to-day basis, decriminalization allows sex worker to have employment contracts that outline hours, wages, benefits, conditions, and duties. Additionally, contracts can include a caveat allowing sex workers to refuse to engage in commercial sexual services, even if they have entered into a contract to provide those services. This caveat supports the right of sex workers to consent in interactions with clients.

Many arguments against decriminalization echo those against legalization, including the promotion of oppression of women, increases inequalities between men and women, is not effective in decreasing violence against sex workers, and increases the demand for sexual services – including sex trafficking – which increases the potential for sexually transmitted diseases. Finally, opponents contend decriminalization does not remove the stigmatization associated with sex work; therefore, neither, the status or self-esteem of sex workers is improved.

³⁰ High rental rates deter many sex workers from establishing their own business, and “bonding” (managers withholding money forfeited for lateness or non-attendance) make SOOBs appealing. Other advantages include sex workers’ ability to communicate directly with clients, and the lack of discretion at larger brothels in protecting sex workers’ identity, which may potentially affect their ability to exit the industry.

Summary

Understanding the feminist's debate requires unraveling the complicated history of prostitution and sex work to assess the tenets of abolition, legalization, and decriminalization. Each can be dogmatic in support of their position. Abolitionists promote the virtues of family and protection of a woman's virtue, to the point of unwavering refusal to consider otherwise. Loath to consider that some women actually enjoy sex and take pleasure in pleasing their clients, they adamantly argue the despotism of sex work. When asked if sex work is degrading and demeaning to women, sex rights advocate Norma Jean Almodovar (1993) responded in an interview published in her book *Cop to Call Girl*:

On a scale of the pain or pleasure human beings can inflict on each other, if murder, rape, and torture are the worst, certainly giving another person an orgasm must be among the best. I cannot fathom how one could think that making another human feel good for a fee could be degrading or demeaning unless it is degrading to make other people feel good (p. 325).

Norma Jean offers this response as support that she and other sex workers are merely performing a job that provides a service to their clients. They ask how it can be considered exploitation if they are capable (possess agency) of assessing their options, and choose to be sex workers?

All things considered, is it not conceivable women such as Norma Jean and the dominatrix who turned her enjoyment of sex into her own business are exercising agency, or have they, as abolitionists would contend, fallen prey to a hegemonic culture of male dominance and the right of men's to access women's bodies? To juxtapose Barry's use of

this Freirean concept, perhaps they have, instead, broken the bonds of false consciousness that insist sex work is immoral and degrading?

Social science is filled with conundrums when answers are sought that involve the unpredictable. And what can be more unpredictable than people? Even when people do share similar experiences each person experiences it in a different manner; therefore, agency develops differently. Why then is it inconceivable for abolitionist to accept agency is possible in sex work? Unlike conclusions in quantitative studies, agency is not measurable. It is, instead, interpretive, subject to the values of the analyst – possibly even more so than the individual exercising agency due to embodied judgments and prejudice.

Sex work is a complex subject without a right or wrong answer, and the probability of abolishing sex work, consenting and forced, is highly unlikely. Consequently, instead of a question of morality, the question should then become which feminists' position provides the most protection and benefits to sex workers. Which begs to ask if legalization or decriminalization offer the best alternative for sex workers? Each benefits sex workers, but is it fair to impose regulations that accompany legalization of sex work that are not required in other jobs? Not since the prostitutes of ancient Mesopotamia have sex workers been seen as respectable, moral individuals capable of self-determination. Efforts to rescue them, such as those of Josephine Butler and the Chicago Morals Court, usually have the reverse effect by ostracizing them even further. If society can move past shaming and othering sex workers, then perhaps, the efforts of abolitionists intent on “saving” sex workers would be best applied ensuring alternatives

are available that reduce the appeal of sex work; and rather than having specific laws on sex work let civil codes to ensure sex workers' civil rights.

Future Research

Although limited in scope, the results of this study indicate enough contradictions to suggest to this researcher that the assumption women lack the agency to self-determine entry into the sex industry are unwarranted, and unjustly support the idea of the victimized sex worker. If understanding women's agency is a requisite for determining whether laws should be adopted to criminalize, legalize, or decriminalize sex work, then this issue deserves further research to expand upon the findings of this study. First, and foremost, sex workers, not third-parties, should be interviewed. Secondly, the study should be large enough in scale to encompass sex workers from diverse demographics (age, education, location, etc.) and across all types of sex workers to assess whether any patterns or consistencies exist. Third, based on what has been learned through this study, questions should be worded more specifically to focus on the benefits and difficulties of each feminist's position. Lastly, questions about agency and conditions of entry should be more precise if the goal is to develop laws and programs that truly reflect sex workers' agency.

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APPENDIX A

SEX WORKER INTERVIEW GUIDE

The interviews will be conversational. The guide below will be used to assure major topics are covered.

1. Discuss the range of clients you have worked with. Queries:
 - Age
 - Education and/or training
 - Family circumstances
 - Children
 - Sexual orientation
 - Are they still involved with sex work; if so, why?
2. Discuss some of the ways clients became involved in sex work and/or contributing factors. Queries:
 - Personal choice
 - Sexual abuse
 - Coercion/force
 - Abuse or threats of physical injury to themselves or someone else
 - Persuaded by someone else
 - Economic/financial
 - Substance abuse
3. Can you talk about the range of work you have heard narratives about? Queries:
 - Strip club
 - Massage parlor
 - Escort service
 - Prostitute
 - Other
4. How did the clients perceive their identity?
 - As a sex worker
 - As a worker providing sexual services
 - What terms do the individuals prefer to describe their work?
5. If they received payment, or some form of compensation, how did that impact their identity/self-esteem?

6. Talk about your involvement.

Were you involved because the individual wanted to leave sex work?

7. Without revealing identities, would you feel comfortable sharing the stories of any of the clients you have worked with?