PERSISTENT CRIMINALIZATION AS A PROTRACTED CRISIS: STIGMA AND RATIONAL CHOICE WITHIN THE SEX WORKERS' RIGHTS COMMUNITY

by

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A Dissertation
Submitted to the
Graduate Faculty
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DEDICATION

To Carol Leigh, “Scarlot Harlot” (1951–2022), who had quite a way with words—and every other creative facet of her artist-as-activist being.

and

To my little brother, Adam Dalesandry (1984–2017), who taught me to seek generosity, compassion, truth, and peace.

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ABSTRACT

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George Mason University, 2023

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The criminalization of sex work is a crisis. This research chronicles the trajectory of criminalization by considering incentives, presents themes identified in the literature to establish the crisis, contributes new data consisting of firsthand accounts of experiencing the crisis, and situates the sex workers' rights movement's dual goals of decriminalization and destigmatization within rational choice theory. Using methods from the natural disaster literature and reflexive thematic analysis, it employs semi-structured, open-ended interviews with a dozen current and former full-service sex workers. It concludes that the best way to reduce the negative conditions that sex workers experience is to decriminalize sex work.

INTRODUCTION: "ALL LABOR HAS DIGNITY"*

> You are doing many things here in this struggle. You are demanding that this city will respect the dignity of labor. So often we overlook the work and the significance of those who are not in professional jobs, of those who are not in the so-called big jobs. But let me say to you tonight, that whenever you are engaged in work that serves humanity and is for the building of humanity, it has dignity, and it has worth. One day our society must come to see this.
>
> —Dr. Martin Luther King Jr., *All Labor Has Dignity*

Shareese

I emerged from the Metro in Washington, DC, at the African American Civil War Memorial and walked along Ben's Chili Bowl Way, a block on U Street named for the Black-owned restaurant with a historic-landmark designation. Now familiar with slightly-later-than-scheduled start times, and fortified with a Bloody Mary from the bar across the street—after all, International Day to End Violence Against Sex Workers did fall on a Saturday this year—I walked into the Frank D. Reeves Municipal Center on 14th Street Northwest. It is fitting that the man for whom the building is named helped organize 1963's March on Washington for Jobs and Freedom and 1967's Poor People's Campaign. He was also a cofounder of the National Conference of Black Lawyers, which

* The title for the introduction is borrowed from a collection of Dr. Martin Luther King Jr.'s speeches; the epilogue's title reflects his last book before his assassination in 1968. Constraints here prevent engaging with Dr. King's legacy and what he might say about the racist implications of the criminalization of sex work, but the hope is that selecting these titles does not register as flippant or unsatisfying. It should be noted that many Black pastors-as-community-leaders stood in solidarity with sex workers at the DC Council hearing for Bill 23-0318, the Community Safety and Health Amendment Act of 2019, on October 17, 2019 (more on this in the third chapter).

is "committed to struggle against racism through the use of the law."[1] The Red Umbrella Awards Ceremony is a response to the criminalization of work, bodily autonomy, economically marginalized people, and people of color in particular, and it seeks to address these injustices by changing the law.

I was headed to a space where I would be without lived experience—a space where Black people gather safely, the LGBTQ community is home, transgender women are treated like queens, and sex workers are revered. Despite now having more experience in these spaces (and my Bloody Mary jacket), I still get a bit nervous. It is good to become familiar with formerly unfamiliar spaces. Fortunately, my friend Shareese immediately came over to greet me and put me to work, stationed at the welcome table with her daughter. While I do not seem representative of HIPS (Honoring Individual Power & Strength), where Shareese Mone is development coordinator, I was happy to oblige. Shareese organized the agenda, procured funding, invited the community, and emceed with gusto. The event was beautiful. A day of remembrance of sex workers' lives lost in 2022, it was also a celebration and a call to action. There was spoken word poetry, a dancer who has choreographed for Janet Jackson, a drag performance (Whitney Houston's "I'm Every Woman"), and a panel with former sex workers from Baltimore Safe Haven, The DC Center for the LGBT Community, HIPS, and the Mayor's Office of Lesbian, Gay, Bisexual, Transgender and Questioning Affairs. I won a fundraising raffle for a sixty-five-inch 4K ultra-high-definition television (I donated it back to HIPS but left kicking myself for not having given it to Shareese), got

[1] Cultural Tourism DC, "Frank D. Reeves Residence, African American Heritage Trail."

my first taste of ball culture, met Shareese's two adult children, and received hugs from her mom. It was a very different experience from when I first encountered Shareese two years earlier to the day. My ability to be in this and other spaces is due in no small part to her effervescence: people gravitate toward her. This is how she creates social change.

> My stability is what I really wanted, you know, 'cause growing up, I never had my own bedroom. Growing up, I never had that stable house. I was always brought from grandma's house, aunt's house, uncle's house—everybody else's house but mine—I didn't have one. So I just wanted stability, which is why I want my home. And, I dunno, I just want to sit in my backyard and turn my little patio lights on and look at my cat and be like, "Alright, you go across that fence. You on your own, girl." [Laughs][2]

Carol

> [Recording begins with my reading required IRB-approved language][3]
>
> Malia:
>
> As a reminder, I want to understand how people among the sex work community are making positive steps toward well-being in light of the current criminalization of sex work. By documenting your experiences, I hope we can better understand and get the message out to engaged policy makers, members of the public, researchers and students, and other communities about what's working, what isn't working so well, and how we can all do things better. I'm interested in hearing your personal story. If at any time you think I'm not asking the right questions, feel free to stop me and tell me what you think I need to know. I'd like to remind you not to discuss any specific illegal activities that have not been adjudicated in a court of law. Unless there are any questions, I'll—
>
> Carol:
>
> Well, wait. If you can't discuss illegal activities—prostitution—how do you do that?
>
> Malia:
>
> I think these are, uh . . . Perhaps if you had to defend yourself, and—
>
> Carol:
>
> So you're saying, what? Besides sex work? That's a confusing statement there. You should work on that.

[2] Mone, interview by Malia Dalesandry.
[3] Leigh, interview by Malia Dalesandry.

> Malia:
>
> Okay. Okay, I'll reconsider that, yeah—
>
> Carol:
>
> Work on it. So it's more specific because it doesn't make sense. We're gonna talk about prostitution. So I'm discussing illegal activities.
>
> Malia:
>
> I think it's things that you've, like—
>
> Carol:
>
> Just make it clear, yeah? It should be clear.

My first substantive interaction with Carol Leigh, "Scarlot Harlot," credited with first coining the term "sex work" in the late 1970s, was intimidating. Carol was spicy. She was also warm and generous and funny and kind. By the end of our friendship (and, sadly, her life), we were laughing and she was sending smiley faces in her emails and offering more interactions. "I've had fun doing it. I knew there'd be good questions; when I saw where you were going with this, I thought, oh, yes, I do wanna contribute."

> Maybe I could have been an actress, but I didn't want to 'cause all the parts were stupid, and the movies were stupid, and I couldn't handle it. I couldn't do it. I couldn't be that. And so what I wound up doing and the contributions I made and what I've learned from life—I am so privileged, privileged as somebody who landed in this spot. So lucky to have been at this junction. I mean, so many people would've wanted this, and I just—I'm so grateful for everything. Isn't that, like, the nicest thing ever? People like me; they're grateful, everything. What more could a person want? I just can't believe it. It's pretty amazing. And, oh, everything gets so hard: cancer, you know, chemo for six years for the rest of my life, taking care of a hundred-year-old mother—when everything gets hard, I'm like, I cannot be unhappy about anything.

These stories portray women who are content, empowered, and know themselves—not those experiencing a crisis. Their relative peace was not always the case, however, and their narratives about how they experience the criminalization of sex work are very different: a white, college-educated "red diaper baby" (having had socialist

parents) who challenged cops at public demonstrations, and a Black, transgender women who did survival work and whose family took some time to come around. The purpose of these vignettes is to illustrate that sex workers *want* us to know them; they *want* to share their tragedies and triumphs. It can take a lot to earn trust, though, and as the following chapters demonstrate, it is no wonder: sex workers have been pilloried for decades by clergy, feminists, the medical establishment, the state, etc. Despite traumatic injustices, with the dual goals of decriminalization and destigmatization, they ask us to engage. That is precisely what this research project does. Put simply, the two-part question is: how do sex workers (a) experience and (b) address their crisis? It is broadly conceptualized as exploring "The Trouble" and "The Solutions." A significant part of the overall project, and what is primarily presented here, is more fully establishing "The Trouble": criminalization is a crisis. This is in order to better understand how those suffering from the crisis do their best to overcome it ("The Solutions") and to propose mechanisms by which public policy ought to be used to lessen constraints, improve circumstances, and ameliorate the crisis.

Ultimately, there is some nonzero number of people who would become or patronize sex workers if the occupation were decriminalized, just as there is some number who would try magic mushrooms if they were decriminalized or move to the Gulf of Mexico if there were no hurricanes or Ukraine if property rights and the rule of law were more secure. Despite this, in light of what we know about criminalization, and with the stated goal of harm reduction, for those who do not view sex work as a legitimate profession, why are the trade-offs of decriminalization not worth it? Thus, part of the

puzzle is: if persistent criminalization is a protracted crisis, why do we not treat it as we do other crises? We do not hesitate to text funds to the Red Cross, dispense foreign aid, deploy the military, or donate our time—what is different about this crisis? We acknowledge and care about ameliorating the prison crisis/crisis of overcriminalization[4] and the opioid crisis[5]; why do we empathize with these "deviants" but not sex workers? In addition to exploring those questions using rational choice theory, this research project aims to contribute to the conceptualization of crisis and the resulting policy implications.

"Crisis" is a broad category used to describe many negative circumstances in the breadth of experience that is the human condition. Crisis may refer to punctuated natural disasters with temporal, finite beginnings and endings, followed by better and worse long-term responses from governments, aid workers, the public, victims themselves, etc. Crisis may also refer to prolonged, state-made circumstances such as war, forced displacement, discriminatory policies, etc., resulting from more nebulous causes, with no punctuated beginnings or endings, and often characterized by moral hazard, unintended consequences, and other negative externalities. Further, how many people must be affected for an event or ongoing condition to be considered a crisis? We would not say of an individual stuck in a traffic jam that that person is experiencing a crisis (much as it may feel like it at the time). However, we might say that many individuals stuck on the road for days trying to escape a tsunami due to climate change are experiencing multiple,

[4] Kadish, "The Crisis of Overcriminalization"; Richards, *Sex, Drugs, Death, and the Law*; McWilliams, *Ain't Nobody's Business If You Do*; Luna, "The Overcriminalization Phenomenon Overcriminalization"; Mauer, *Race to Incarcerate*; Husak, *Overcriminalization*; Kleiman, *When Brute Force Fails*; Podgor, "Overcriminalization."
[5] Centers for Medicare & Medicaid Services, "Ongoing Emergencies."

compounding crises. At what point did we begin to consider that we have a prison crisis stemming from a crisis of overcriminalization? Was it the one-millionth person put in prison? The two-millionth? Is it a threshold percentage of incarcerated nonviolent offenders? We acknowledge that there is an opioid crisis (80,816 deaths in 2021[6]), but do we have a vaping crisis (68 deaths in total[7])? While pundits and fear mongers will frame the latter as a crisis, a reasonable person would not conclude that we are experiencing one yet but could concede that we may in the future. (But one hopes the benefits of smoking cessation and the costs of criminalization would be calculated before reacting with prohibition.) In this way, what are the shared characteristics of a vast array of crises? What are the integral components of how we conceptualize "crisis," and how do society and the individuals experiencing a particular crisis rationally respond?

Most people have heard the statistic that the United States has just under 5 percent of the world's population but almost 25 percent of the prisoners in the world.[8] Along these lines, another implication of the research is the potential to frame imprisonment in general as a crisis. We can imagine applying this to any number of "crimes" with no clear victims (using drugs, breaking curfew, migrating, being legally innocent but unable to pay court fees, etc.), and we will hear from sex workers about some of the overlapping tools the state uses to subjugate denizens. For example, it is not a stretch to argue that the War on Drugs is a state-made crisis and that we may reimagine the opioid crisis as state

[6] Centers for Disease Control and Prevention, "U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020—But Are Still Up 15%."
[7] Centers for Disease Control and Prevention, "Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products."
[8] Lee, "Does the United States Really Have 5 Percent of the World's Population and One Quarter of the World's Prisoners?"

made, considering that it manifests as a result of criminalization.[9] Of course, we would not want to imply that all criminalization is a crisis: murderers in prison may not be experiencing a "crisis"—at least not a crisis of criminalization. This potential slippery slope may deter some people from considering broader criminalization and imprisonment as crises. For now, though, data pertaining to the people affected, the significant negative outcomes, and appeals to harm reduction and humanitarianism will show that the criminalization of sex work is without a doubt a crisis, and policy ought to be reevaluated in light of that.

The first chapter, "The Origins of Criminalization," chronicles the trajectory of the criminalization of sex work, particularly looking at cultural norms and public policy before and after the Progressive Era. Once a "necessary evil" at worst, and sometimes highly regarded and not simply tolerated, sex work began to draw increased ire from seemingly diverse, if not wholly divergent, newly mobilizing groups: religious social purists who thought the "kingdom of heaven" could be manifested on earth; anticapitalists who saw selling sex as exploitative but who also used eugenics to control poor people; two types of feminists, characterized as "the stay-at-home mom" and "the lady who lunches," who found themselves more frequently marrying for love and with more time on their hands; those with xenophobic and racist tendencies, at least partially attributable to increased economic competition; and law enforcement, particularly the freshly minted and quickly expanding Federal Bureau of Investigation (FBI), who enjoyed the fruits of criminalizing ever more "vices."

[9] Thornton, *The Economics of Prohibition*; Lynch, *After Prohibition*.

The second chapter, "The Criminalization of Sex Work Is a Crisis," functions in part as a literature review, telling us what other researchers have done, including examinations of the prevalence of commercial sex, public opinion, language, and conceptualization, and it briefly delineates the models ranging from criminalization to decriminalization (more on this in the fourth chapter). Importantly, it provides substantial evidence establishing the crisis based on vast amounts of data. It identifies several buckets of negative outcomes directly resulting from criminalization: murder, violence, rape, abuse by law enforcement, reduced physical and mental health, stigma, and the tremendous cost to taxpayers to arrest, prosecute, and incarcerate individuals. Criminalization has been widely acknowledged as detrimental to sex workers and society.

While much of the scholarship necessarily and appropriately includes sex workers, I wanted to contribute a small, new piece about how sex workers strive to overcome the crisis and carry on toward decriminalization and destigmatization. The third chapter, "Let's Talk about Sex [Work]," describes how I went about doing this. A significant portion recounts methods and findings from the natural disaster literature and discusses how rational choice theory applies to prison gangs. Part of what is interesting is that at face value, hurricane victims, gang members, and sex workers might not seem to have that much in common. However, if we conceive of all as being in some way marginalized—that is, they operate with atypical constraints and incentives relative to the general population—patterns begin to emerge, particularly pertaining to overcoming collective action problems, navigating issues of trust, and harnessing social capital. While the dissertation does not delve into "overcoming" as much as the research project in its

totality does, what was especially helpful was recognizing that appropriate methods to answer those questions would be akin. This led to semi-structured, open-ended interviews. The rest of the chapter details how I forged introductions, conducted interviews, managed technical aspects, employed reflexive thematic analysis, and considered the limitations of the research.

The fourth chapter, and one of five themes that emerged, "Experiencing the Crisis," shares new data and analysis. Subthemes (arrest, safety, police abuse, and stigma), though deductive and coalescing around what is identified in the literature, offer new insights in sex workers' own words. Additionally, we get a clearer picture of the various models, and some indications of criminalization's prognosis, with an eye toward the future. Though not initially planning to rehash what is clearly evident in the literature, I was advised that it would be a missed opportunity to neglect enhancing that line of inquiry. I concur, though this research came out of wanting to know how people cope, and even thrive, in the midst of their crisis. Data collection resulted in more than 150 single-spaced pages of rich transcripts exploring that and other themes. It resulted in so much data that upon receiving some more sage advice in the interest of getting to the position to be able to present narratives in a meaningful way, the decision was made to forgo formally sharing other themes until the stage of criminalization as a crisis is fully set. They are, however, briefly presented in the epilogue as future research.

On this note, though we will learn a bit more about Shareese in the third and fourth chapters, it was important to highlight her here because most of her hour-plus interview consisted of telling me about "The Solutions" rather than "The Trouble."

Because of the inspiring direction our interview took, Shareese is not featured as prominently as some of the other participants in what ultimately became the focus of this presentation of a portion of the results. Like Shareese, and for the same reason, Carol also does not have much content included in this iteration of the project; she focused on "The Solutions" via her artist-as-activist persona. Semi-structured, open-ended interviews meant that conversations meandered, and many participants hit equally on "The Trouble" and "The Solutions." However, just as Shareese and Carol gravitated toward "The Solutions," such as community, self-care, and coalition building, others focused more narrowly on police abuse; some veered toward stigma and all that that encompasses. Bryan, for example, may seem overly represented here, given that only one in five sex workers are men and that "men have the benefits of our gender. Men are generally not targeted by the police, although I've known many who are. Men are not stigmatized as often, although I personally have been."[10] He so profoundly articulated the universal pain of stigma and fear, though, that he is weighted here. His treatment is contrasted with Tracy's, whose two-plus-hour interview is vastly underrepresented but who contributed mightily to explaining how "Sex Workers Learn as They Go," a key theme to better understanding "The Solutions."[11]

The theme "Experiencing the Crisis" contains less than 12 percent of the data; it also happens to be among the most uncomfortable, but important, to think about. It would be a mistake, then, to characterize the aggregate narrative based solely on what is

[10] Knight, interview by Malia Dalesandry.
[11] With special thanks to Savannah Sly, who helped codify inklings into a clear and precise theme. Sly, "Re: Grad Paper, Email to Malia Dalesandry," June 26, 2022.

presented here. Sex workers have thoughtful organizational cultures, deep social bonds, and beautiful coping and thriving mechanisms; they are kindhearted, engaging, and hopeful. I humbly look forward to presenting all of this as the fertile research project continues to unfold.

The fifth chapter, "Sex Work and Rational Choice Theory," situates the project within a theoretical context, demonstrating that sex work is work (clearly "labor with dignity"). It does so by using several lenses provided by Nobel laureate Gary Becker, including criminality, human capital, marriage, family, and addiction. It establishes that sex workers are rational: rational to choose the work, rational to react unfavorably to criminalization, and rational to discover, build, and deploy instruments and institutions that further "The Solutions." It contrasts the examples of SWERFs (sex worker-exclusionary radical feminists) and the so-called rescue industry with the Amnesty International decision recommending global decriminalization (also supported by the most significant human rights organizations). It illustrates how discourse around rationality is complex and often problematic but navigable. It follows that if sex workers are rational, the most frequently offered justifications for impeding them fall flat. We can therefore reject claims based on irrationality such as exploitation; these represent subterfuge based on some deep-seated aversion or self-interested motivation, and, it must be stated, are also rational on the part of the abolitionists.[12] Sex workers describe what it feels like to be told they are irrational and provide clear evidence that they are not.

[12] "Some opponents of decriminalization call themselves abolitionists, consciously invoking the battle to end slavery as well as the one for equality. . . . Because abolitionists see these women as victims, they

For sex workers, people on the ground in direct service provision, and allies who follow criminalization closely, the known negative effects are crystal clear. For those who have an inkling that the criminalization of victimless crimes is antithetical to human flourishing or who have a subconscious tendency to eschew cages for folks just living their lives—this is informally dedicated to you. The debate is whether consensual commercial sex constitutes a crisis. The dissertation argues that it is not sex work but rather the *criminalization* of sex work that is the crisis. It provides evidence that this is the case with an examination of the origins of criminalization and the existing literature; it shares new insights drawn from interviews with a dozen current and former full-service sex workers; and it offers a theory that explains why those opposed to the world's oldest profession must relegate sex workers to the realm of the exploited in order to satisfy their demands for criminalization. It explicitly rejects the perspectives of social moralists, radical feminists, and the rescue industry and instead endorses the position of health and justice organizations worldwide. Because criminalization is the crisis, decriminalization is the solution.

generally oppose arresting them. But they want to continue using the criminal law as a weapon of moral disapproval by prosecuting male customers, alongside pimps and traffickers—though this approach still tends to entangle sex workers in a legal net." Bazelon, "Should Prostitution Be a Crime?"

CHAPTER ONE: THE ORIGINS OF CRIMINALIZATION

> In his student days, he used to argue that if a woman has no other course open to her but starvation, prostitution, or throwing herself from a bridge, then surely the prostitute, who has shown the most tenacious instinct for self-preservation, should be considered stronger and saner than her frailer and no longer living sisters. One couldn't have it both ways, he'd pointed out: if women are seduced and abandoned they're supposed to go mad, but if they survive, and seduce in their turn, then they were mad to begin with. He'd said that it seemed to him a dubious piece of reasoning; which got him the reputation either of a cynic or of a puritanical hypocrite, depending on his audience.
>
> —Margaret Atwood, *Alias Grace*

While sex work has existed for millennia (often called "the world's oldest profession"), this chapter will focus on social attitudes and policy responses to prostitution[1] in the United States during the Progressive Era (1890–1920), with references to culture and policy development in the overlapping Victorian era (1837–1901) and Gilded Age (1870–1900). To limit scope, it will describe various social mores, actors, and circumstances that contributed to legislation that persists today. Its objectives are to establish public attitudes and government responses that led to the evolution of prostitution policy situated in the above-mentioned historical context. It does so by

[1] This chapter uses the terms "sex work" and "prostitution" interchangeably, and more frequently the latter. Ensuing chapters discuss language and its ramifications. Some sex workers use "prostitute" because, in a sense, it is taking ownership of the term (much like how other stigmatized groups have "taken back" words). Others feel that it does not capture the basis of their argument—that sex work is indeed legitimate work. Additionally, "prostitution" is used in statutes, so the association with experiences in legal and judicial contexts can be a turnoff. The decision was made to forgo these sensitivities here and frequently employ the terms "prostitution," "prostitute," etc., primarily because these were the common terms of the period with which this historical analysis is concerned. The term "sex work" was not popularly introduced until the late 1970s by Carol Leigh, "Scarlot Harlot," one of the participants in this research project. Finally, while there are many types of sex work (pornography, stripping, webcamming, etc.), "sex work" here and throughout the dissertation refers to what we typically think of as "prostitution"—criminalized erotic labor in exchange for payment between consenting adults. While not every encounter necessarily refers to penetrative sex for money, sex work typically involves the option of physical sexual contact in exchange for something.

reviewing several accounts and, rather than chronologically, is primarily organized around themes identified in the literature.[2] These themes include religious influences ("social purity"), anticapitalists, three types of feminists, anti-immigrant/racist sentiments ("white slavery" and the Mann Act), NIMBY (not in my backyard) aspects, and public choice theory offerings. All of these factors and players contributed to prostitution policy to varying degrees and often in conjunction, even while differing greatly in motivation.

In *Taking Rights Seriously*, prominent legal scholar Ronald Dworkin writes about moralism and liberty with regard to prostitution, stating in 1977 that "no doubt most Americans" think it is immoral: "What part should this fact play in the decision whether to make [it] criminal? This is a tangled question, full of issues with roots in philosophical and sociological controversy. . . . Several positions are available, each with its own set of difficulties. Shall we say that public condemnation is sufficient, in and of itself, to justify making an act a crime? This seems inconsistent with our traditions of individual liberty, and our knowledge that the morals of even the largest mob cannot come warranted for truth."[3]

Another distinguished legal scholar, Richard Posner, writes in 1992 in *Sex and Reason* (he uses infanticide as the example in brackets), "Disgust and other strong emotions in fact supply the sturdiest foundations for moral feelings. You cannot convince a person by *argument* that [sex work] is [not] a bad thing. If he demands an argument—

[2] These accounts are contained in six books: five published by academics and one meticulously researched by a former sex worker. Since original historical archives were not consulted, this methodology may be considered to rely on secondary, tertiary, etc. sources. For a rich repository of historical data in podcast form, see the efforts of participants Kaytlin Bailey and Frankie Smith and their colleagues at *Old Pros: The Oldest Profession Podcast*.

[3] Dworkin, *Taking Rights Seriously*, 240.

seriously, and not just when playing philosophy—this merely shows that he inhabits a different moral universe from you, and there is no arguing between universes. The revulsion that modern Americans feel against [sex work] is deeper than any reason they could give for the revulsion."[4]

Recent polls indicate that a majority of US voters of varying political persuasions actually support the decriminalization of sex work, so perhaps disgust/revulsion is not so entrenched after all or is diminishing through generations. Or perhaps support for decriminalization is purely pragmatic; that is, the data about the harms resulting from criminalization are becoming increasingly clear to most people. In this way, they can simultaneously hold their aversion and this century's ethos of harm reduction and social justice. Regardless, for those who remain staunchly opposed to sex work because of unarticulated revulsion or rational choice (given their particular incentives and constraints) and feigned concern, the aforementioned themes and voices are eerily echoed in the refrains of today. Therefore, along with telling the story of how we got to prohibition, this chapter introduces a framework exploring stigma. It begins to get at the ramifications of stigma, including enduring pretexts for criminalization. These historical and current pretexts, grounded in professed morality or would-be pragmatism, first coalesced in the Progressive Era in late nineteenth and early twentieth centuries.

Victorian and Gilded Prostitution as a Permitted Necessary Evil

Throughout colonial history until the late 1800s, with few organized attempts to interfere, sex work was considered a necessary evil. It was a moral infraction rather than

[4] Posner, *Sex and Reason*, 230.

criminalized. Clergy and neighbors here and there argued for laws against it, but even when they found success, laws were haphazardly or not at all enforced. Posner notes that until fairly recently, people in Western society generally disapproved of prostitution but usually did not punish it, and this is evidenced in records of the law, not just in practice.[5] Further, it was prevalent and visible. When recounting prostitution's precriminalization history in *Policing Sexuality: The Mann Act and the Making of the FBI*, Jessica Pliley writes that in 1840s New York City there were up to fifty thousand prostitutes who lived in brothels, sold sex on the street, and solicited in saloons, cafés, and theaters. Nor was the trade limited to the country's largest cities; the growing presence of prostitution was observed in cities of all sizes throughout the nation. An image still common in modern popular culture, the prostitute was a staple of life on the western frontier and was especially associated with the "rough and rowdy" gold rush in San Francisco. Additionally, sex work was becoming an ever more specialized market. For example, Storyville, the red-light district of New Orleans, was garnering an international reputation "as the premier sex tourism destination with bordellos of every type that catered to the desire for interracial sex."[6]

In Boston in the 1860s, women who owned brothels (madams) were arrested and convicted once a month like clockwork under a formal city statute. Though it "carried a maximum fine of one hundred dollars and thirty days in jail," when applied, they were only fined twenty-five dollars (plus an additional ten dollars for each prostitute) and were

[5] Posner, 70.
[6] Pliley, *Policing Sexuality*, 11.

rarely sentenced to prison.[7] This system more closely resembled taxation than a ban. Law enforcement and the madams had an arrangement "that allowed the former to maintain some degree of control over the brothel district and the latter to continue business as usual without community censure and police harassment."[8] "The decade of the 1870s marked the beginning of a long period of toleration of prostitution during which the prostitute was rarely prevented from practicing her trade."[9]

In order to maintain a semblance of order, the legal structure was one based upon regulation, rather than criminalization: "To Victorian doctors, police and military men, regulation was the favoured solution to the evil of prostitution. By the 1860s and 1870s it seemed to have gained legitimacy throughout the Western world; even in Britain, with its historical antipathy towards state intervention."[10] In a US report from 1902, police in thirty-two cities noted a system of regulation existed, and thirty-three had established permitted areas where prostitution could be practiced. Police and courts operated under a de facto system of regulation using zoning, fines, and venereal medical certificates—"regulation in all but name and statutory code. It seemed that the American cities were only a small step away from a formal system of state control."[11] Regulation meant that the parties directly involved, prostitutes and law enforcement, neither satisfied, had at least reached an understanding that prostitution would continue. However, "the coalition of clergy, temperance, and women's groups in the National Purity Alliance had been

[7] Hobson, *Uneasy Virtue*, 47.
[8] Hobson, 47.
[9] Hobson, 46.
[10] Roberts, *Whores in History*, 246.
[11] Hobson, *Uneasy Virtue*, 147.

responsible for subverting drives for regulatory legislation in the nineteenth century and continued to attack any tendency toward institutionalized prostitution."[12]

As prostitutes' ranks continued to grow as the population increased, the late 1800s saw great changes in the composition of the US citizenry as well as changing religious authority and industrialization: "During the latter part of the 19th century a second great wave of industrialization began in the West, accompanied by the phenomenal growth of cities. The old certainties of the Victorian middle classes were shaken by these developments: old-fashioned moralists were especially alarmed by the huge new cities, in which familial and neighbourly moral surveillance was swamped by an anonymous tide of humanity, much of it working class and immigrant."[13]

One resulting aspect of these developments was the changing role of the prostitute in day-to-day life. She was once acceptable as a necessary evil, in part for men to avoid marriages that would not be economically efficient or companionable and in part to allow women subjected to unromantic or unhappy marriages to avoid intimacy because their husbands had an alternative sexual outlet. However, with the advent of greater prosperity due to industrialization came greater likelihood of marrying for affection because of less necessity for a rigid division of labor. Thus, prostitution may have become a target of women's movements because, in addition to many other factors, increased prosperity led to more romantic and generally companionable marriages. Put bluntly, married women may have become jealous. "By the last half of the nineteenth century, with the fraction of

[12] Hobson, 150.
[13] Roberts, *Whores in History*, 245.

unmarried men dropping as the rise in incomes placed marriage within the means of almost every man, with companionate marriage becoming more common and prostitution therefore a less needed safety valve, and with prostitutes reacting to the shortage of bachelors by marketing their services increasingly to married men, the stage was set for the purity movement, a major goal of the which was to extirpate prostitution."[14]

The Religious Social Purists

The purity movement as political activism may be traced back to the late nineteenth century with the 1873 passage of the Comstock Act, which "forbade (among other things) the importation of 'any article whatever for the prevention of conception.'"[15] In practice, however, the law was only enforced when the contraceptives were imported for an "immoral" purpose to be determined by the court. In addition to legislating private sex lives, this also signified the increasing discretion of the state when determining who is impure. In *Whores in History: Prostitution in Western Society*, Nickie Roberts details the Victorian sensibilities resulting in outward repression of sexuality. Factors that led to a woman's engagement in prostitution were all character shortcomings, rather than economic or personal preferences: desire; sinfulness; preferring "ease" to "actual" labor; perverse inclinations; vanity; love of dress, excitement, and drink; etc.[16] In light of the unease of being on the cusp of the changing role of middle-class women, prostitutes had to be shown to have serious moral defects, even as they were acknowledged to be necessary to a functioning society.

[14] Posner, *Sex and Reason*, 261–62.
[15] Posner, 78–80.
[16] Roberts, *Whores in History*, 225.

Disease was often used as an excuse to regulate, but women at this time had much more to fear from childbirth than venereal disease. In fact, the prevalence of scare tactics (some especially graphic) can likely be distilled to religious inclinations: "The significance of syphilis was, like so many Victorian ideas about sex and prostitution, largely symbolic. For a start, it encapsulated the 'corruption' that the Christian imagination located in all sexuality, thus demonstrating the dire consequence of moral deviance. Men of God loved to terrorize their congregations with the mythical figure of the diseased whore."[17]

In general, this was a period of fervent reform efforts based upon notions of religious authority. All types of social movements to eradicate persistent worldly evils abounded: temperance, abolitionism, popular health movements, utopian communities, and antiprostitution efforts. The last of these was most certainly solidified by "a millennialist current in evangelical religious activity that dynamic preachers and revivals spread throughout New England. Those who called for the perfection of mankind on earth perceived all illicit sexuality as an evil to be publicly condemned."[18] "What earlier Victorians had discreetly regarded as a 'necessary evil,' turn-of-the-century Americans came to view as the 'Social Evil,' a moral problem and a national menace. . . . [Further], social conservatives mourned the loss of the 'traditional family,' upheld the values they associated with American rural life, and sought to restore women to their proper place."[19]

[17] Roberts, 247.
[18] Hobson, *Uneasy Virtue*, 40.
[19] Rosen, *The Lost Sisterhood*, xi.

Thus, male and female moral reformers first framed and brought prostitution as a tremendous problem to the public's attention. They were motivated not only by religious fervor but also by gender issues. "Public women," a genteelism for prostitutes; women who were increasingly taking part in public life, such as the growing number entering the workforce; suffragists marching in the streets demanding the vote; and young women leaving family homes in the country to move to big cities—all threatened conventional women's roles.[20] Thus, cracking down on prostitution would not only tangibly limit this particular activity for women and put very real constraints on their bodies and sexuality but also serve as a reminder to all women of their proper roles, whether laborer or homemaker, blue-collar or middle-class worker, religious zealot or secular feminist. "By casting a wider net to police women's illicit sexuality more broadly, [prostitution legislation] managed to bring a wide variety of women under the gaze of the state."[21] Women were either pure, moral wives and mothers or impure, immoral loose women. Meanwhile, "the individual man could traverse respectability and vice with little risk to personal reputation, class standing, or status as a citizen."[22]

The Anticapitalists

Progressivism's anticapitalist roots are intertwined with religion: "The social gospel reformers, as postmillenarians, believed that a Kingdom of Heaven on earth could be built without Christ's return. Christian men and women, providentially equipped with science and the state, would build it with their own hands."[23] Progressives' preoccupation

[20] Pliley, *Policing Sexuality*, 4.
[21] Pliley, 5.
[22] Pliley, 5.
[23] Leonard, *Illiberal Reformers*, 15.

with labor—unemployment, low wages, long hours, workplace safety, etc.—after the Industrial Revolution bled into social constraints in the name of protection. "As Christians they judged laissez-faire to be morally unsound, and as economists they declared it functionally obsolete, a quaint relic now buried by the realities of Gilded Age capitalism."[24]

As Thomas Leonard notes in *Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era*, "progressives were discontented with liberal individualism, which evangelicals called un-Christian, and more secular critics scorned as 'licensed selfishness'. . . . Whichever term they used, progressives asserted the primacy of the collective over individual men and women, and they justified greater social control over individual action in its name."[25] "The expert bettered society by regulating big business; protecting labor; and also by restraining drinking, gambling, prostitution, and indecent literature. Laissez-faire's mistake was to confuse a person's desire with what is intrinsically desirable, an error that experts overcame by giving people not what they want but what they should want."[26] Euphemistically known as "the social vice" or "the social evil," prostitution was a special target of Progressives, "especially those with ties to the social purity movement."[27]

Ruth Rosen, author of *The Lost Sisterhood: Prostitution in America, 1900–1918*, describes the Progressives as "horrified by the large-scale commercialization and rationalization of prostitution by third-party agents (property owners, politicians, police,

[24] Leonard, 21.
[25] Leonard, 8.
[26] Leonard, 53.
[27] Leonard, 171.

procurers, doctors, cabdrivers, and liquor interests, to name but a few)."[28] They were also reacting to a country that was changing rapidly in ways previously unimaginable. In addition to concerns of exploitation, a strong anticapitalist streak persisted: "To middle-class reformers, prostitution became a cultural symbol of the birth of a modern industrial culture in which the cold, impersonal values of the marketplace could invade the most private areas of people's lives."[29] "The socialists saw prostitution primarily as the result of working women's poverty—a poverty stemming not from lack of humanitarian concern among individual employers, but from systematic exploitation under capitalism. Capitalism, they pointed out, not only forced men to sell their labor for wages; it also caused women to sell their bodies."[30]

In *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition*, Barbara Meil Hobson handles many of the delicate social justice aspects of prostitution. In general, this was a period of activism and reform. Almost every social ill became cause for intervention and often persecution: slum housing, sweatshops, juvenile delinquency, child labor, corruption in government and law enforcement, intemperance, and prostitution. These social problems were not necessarily newly identified, but what was fresh were the strategies employed, frequently grounded in pseudoscience and promulgated by broad, seemingly unlikely coalitions of activists. "At the heart of Progressive reform activity were two overriding assumptions: that the state had to take a more active role in regulating the social welfare of its citizens, and that private and public

[28] Rosen, *The Lost Sisterhood*, xii.
[29] Rosen, xiii.
[30] Rosen, 49–50.

spheres of activity could not be disentangled. . . . The social response to prostitution revealed the competing ideologies within Progressive reform activity over social justice and social control. . . . Moreover, the outcome of the antiprostitution crusade showed that the Progressives made up not one movement, but many movements with competing agendas."[31]

One of the most egregious aspects of anticapitalist Progressive momentum was the use of the state to control the poor, especially when it came to procreation, with which prostitution was inextricably linked. Even as they stated they were looking out for the lower classes, certain reformers, influenced by the scientific and medical communities' interest in genetic and eugenic experiments, embraced a hereditarian perspective, and "their arguments became powerful weapons in the hands of those who wished to label and control the sexual behavior of the poor."[32] Yet another unscrupulous activity was using political opponents' reluctance to censure and aggressively combat prostitution against them. Social purity reformers demanded Congress form a national crime commission to investigate prostitution; when it refused, reformers created their own vice commissions, replete with muckraking and exposés, scathing sermons, and undercover investigations with questionable statistical methods.[33] These tools were often used to oust enemies from office. "Like other Progressive reformers, vice fighters were gradually learning to translate their morality into political power."[34]

[31] Hobson, *Uneasy Virtue*, 139–40.
[32] Rosen, *The Lost Sisterhood*, 13.
[33] Rosen, 14–15.
[34] Rosen, 15.

Addressed in greater detail in the section discussing racism, the Progressives' efforts to use the state to achieve the kingdom of heaven on earth culminated with the Mann Act of 1910. This was a product of Progressives' faith that investigation and the force of the state could remedy any social ill. Though the number of prostitutes was already on the decline as more labor opportunities for women were realized, anticapitalists fretted about the visibility of and profits from prostitution and the supposed dangers of white slavery. "They couched these concerns into calls for investigations by journalists, social scientists, and government officials. From 1910 to 1917, vice commissions were established in 43 different cities to examine the prevalence, causes, and remedies of prostitution."[35] By 1918, Progressive Era reformers of various stripes succeeded in getting "the state to close down the previously tolerated red-light districts in most American cities."[36] Thus, "the Progressives pursued a program that, despite their rhetorical concern for victimized women, materially worsened the lives of prostitutes."[37]

Ultimately, an incredibly moralistic perspective dominated the anticapitalist Progressives' crusade against prostitution. They viewed prostitution as morally repugnant and used, among other tools, religious fervor, pseudoscientific jargon, political savvy, and the media to attack it. But "beneath the scientific language and statistics lay a strong legacy of moral self-righteousness. To many Progressives, prostitution remained a moral problem that symbolized the shaky state of the nation's soul.[38]

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[35] Pliley, *Policing Sexuality*, 3.
[36] Rosen, *The Lost Sisterhood*, xii.
[37] Keire, *For Business and Pleasure*, 88.
[38] Rosen, *The Lost Sisterhood*, 13.

Three Types of Feminists

The literature identifies at least three distinct types of feminists.[39] They are described here as "the stay-at-home mom," who believed that women's most noble goal is motherhood and that achieving domestic bliss is being truest to their nature; "the lady who lunches," who was going out into the world, possibly working and associating in various clubs and organizations, and believed that sex work is exploitation because men reap the rewards of women's labor; and "the liberated woman," who believed that women owned their bodies and the fruits of their labor and did not like any intervention in what they may or may not do with those bodies.

The Stay-at-Home Mom

> Women, again, were particularly prominent among purity crusaders. Like their European counterparts, they believed that it was the female's special mission to elevate the lustful masculine character to a higher stage of civilization; their aim was to impose the single standard of chastity on both sexes. Good Christian women—especially mothers—would thus rid the nation of "the Social Evil," and this in turn would lead to the perfection of man on earth.
>
> —Ruth Rosen, *The Lost Sisterhood*

The wife's role was a critical part of the bourgeois family; being faithful to her husband ("her personal lord and master"[40]) was essential in order to reap any benefits of property succession; she was also expected to anchor family and domicile. "To maintain this order, the wife's freedom—particularly her sexual freedom—had to be curbed at all costs."[41] In order to achieve this, men turned to science and developed a type of "psychic

[39] The term "feminist" here applies to women who thought they were advocating on behalf of women, not necessarily (as in the general modern association) those who seek to make women equal to men in terms of rights, access to opportunities, pay, etc.
[40] Roberts, 222.
[41] Roberts, 222.

castration" to stifle women's sexual desires and aspirations beyond motherhood. "Their strategy was simple enough; it consisted of denying the existence of female sexuality altogether."[42] Like many of his contemporaries, Victorian sexologist Dr. William Acton asserted, "The majority of women are not very much troubled with sexual feelings of any kind."[43] This was propagated by the burgeoning media in order to brainwash women into ignorance of their own bodies and shame about their desires. Thus, identified as deviant, or at least as a "malfunctioning" woman, the prostitute was at once considered both disgusting and necessary—part "obscene cesspit" and part "sacred defender of the family"[44]—up until people began to marry for love more frequently.

To briefly reiterate the theory mentioned in the section discussing the Victorian era and Gilded Age, as marriages became more companionable in the Progressive Era, women took it harder when their husbands went to prostitutes; it became personal. "As companionate marriage—the idea that sexual expression for both men and women constituted an important facet of healthy living and that marriage should be defined by compatibility—emerged as the ideal, American couples felt new strains and stresses on their relationships."[45] As more people were marrying for love—rather than historical marriages of convenience, because of scarce selection, or out of the desire to optimize the division of labor—to be successful was to be in loving monogamy. Any threat to that in the form of dalliances, particularly with prostitutes, was a personal insult to the wife, who might not have cared (and may actually have been grateful to the prostitute) in previous

[42] Roberts, 222.
[43] Roberts, 222.
[44] Roberts, 222–23.
[45] Pliley, *Policing Sexuality*, 136.

generations. Thus, married women who were jealous were willing to use various tools at their disposal to eradicate the threat, among them appeals to temperance: if "bawdy houses" served drink, taking that away would not only reduce encounters resulting from lowered inhibitions but also give more authority to the state to raid. Though perhaps an antiquated classification by today's standards, these women, even with their "traditional" views of temperance, marriage, and monogamy, may be considered feminists for several reasons: they were becoming more sexually aware; they were demanding fidelity from their husbands rather than merely submitting to men's preferred arrangements, and they were willing to go into public to be heard and affect political processes.

Despite all the stressors and threats to her position, the stay-at-home mom was somewhat more charitable than other reformers—at least in her manifested opposition to prostitution, if not in spirit. Limited gender roles meant that wives and mothers must offer gentle assistance toward purifying society. Since white, middle-class, married mothers were the purest women that existed, they had to advocate from a more feminine perspective: "[Prostitutes] could be and should be redeemed and returned to their proper roles within the home as daughters, wives, and mothers."[46] Clearly also tethered to a moral argument, the stay-at-home mom type of reformer is contrasted with the general moral reformer who might allow that women could work for wages. This latter type thought that any work outside the home was fraught with danger but did not believe that wage labor necessarily "unsexed" women "as orthodox ideologues of the cult of

[46] Pliley, 23.

domesticity did."[47] Nevertheless, even for them, motherhood was still a woman's true vocation. Barring that, domestic service was the safest and most useful employment because at least a woman had assured wages that were not seasonal and, most importantly, because she was in *someone's* home, if not her own.

The Lady Who Lunches

In addition to domestic and moral reformers and their calls for prohibition, there were feminist groups who argued that the current system of regulation exploited women's sexuality to benefit men and the state. "They sought not only to abolish medical regulation of prostitution but also to eradicate the brothel system that ensured that numerous others—madams, pimps, doctors, police—profited from the sexual labor of women."[48] They thought that sexual liberalism, or "sexual license," could not be differentiated from the sexual exploitation of women, and men were the guilty parties. Up to that point, most prostitution studies and reports had considered the problem one of supply; these reformers introduced the notion of a problem of demand. Thus, their task became controlling men's sexual impulses and behavior. Though they did accept prostitutes' culpability, they attempted to place the burden of despicability on the men who owned the economic, legal, and political institutions. However, unlike other feminists, "they did not presume that women should take over or even share these sources of power.[49]

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[47] Hobson, *Uneasy Virtue*, 64–65.
[48] Pliley, *Policing Sexuality*, 13.
[49] Hobson, *Uneasy Virtue*, 50.

So while blaming men (similar to recent calls for "partial decriminalization," which allegedly forgoes punishment for sex workers as victims but upholds it for clients), the lady who lunches was still limiting the activities of women in other social spheres. With increased prosperity, and hence more leisure time (formerly devoted to time-consuming domestic chores), middle-class women were increasingly active in the public eye, primarily through two types of organizations: charities (including "helping" downtrodden prostitutes) and suffrage groups.[50] "In the middle and upper classes, women found their domestic labor reduced, their status diminished, and their sphere narrowed. Many of these women now bought the household items that they had formerly produced. In an attempt to widen their sphere, some of these women would later initiate the social reform and women's rights movements of the nineteenth century."[51]

"Moreover, [women's] entry into public life blurred the tidy distinctions between 'public' women and respectable wives and mothers. In so doing, these women symbolically threatened the traditional patriarchal values of the dominant group of reformers."[52] Male and female moral reformers often rallied against prostitution on similar fronts, but these feminist reformers tended to argue that "prostitution represented the quintessential symbol of the sexual and economic exploitation of women in a patriarchal society. . . . For them, the eradication of prostitution presaged the elevation of the status of all women. Unfortunately, women reformers did not foresee the consequences of the public policy they supported,"[53] which was at odds with that of

[50] Hobson, 50.
[51] Rosen, *The Lost Sisterhood*, 3.
[52] Rosen, xiii.
[53] Rosen, xiii.

prostitutes and their feminist allies: to be free to practice their profession. "To those who lived in the red-light district or practiced prostitution, in contrast, prostitution was neither a symbol of social disorder nor a symbol of female economic and sexual exploitation. Rather, it was simply a form of work: an obvious means of economic survival which occasionally even offered some small degree of upward mobility."[54]

As mentioned, until the Progressive Era, sex work was condemned but not classified as a criminal offense, even as the number of sex workers increased.[55] Due to waves of industrialization and women's newfound if limited ability to participate in the labor force to varying degrees, "the peak of women's engagement in prostitution took place between 1850 and 1900 rather than during the early years of the twentieth century, when, ironically, it assumed the status of a major social problem."[56] It appears that by the time these feminist reformers became active, sex work was already on the decline. Still, insights into this group suggest that they had an incipient grasp of the economics of prostitution as a type of work because they often opened their homes as refuges, taught prostitutes new trades, and found them employment when possible. In general, beginning as early as the 1840s and 1850s, this type of feminist had begun to advocate opening up traditionally male occupations and providing higher wages and unions for women who worked.[57]

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[54] Rosen, xiv.
[55] Many Victorian reports even suggest that the prostitute was "the protector of the home" because the male sexual appetite would corrupt wives' delicate sensibilities if not for the outlet with sex workers.
[56] Rosen, *The Lost Sisterhood*, 3.
[57] Rosen, 8.

As women's economic options were slowly improving, another percolating women's issue—the right to vote—was increasingly gaining steam, and suffragists had no qualms about exploiting prostitutes for political gain. One of their first lobbying victories was the Red Light Injunction and Abatement Act in California in 1913 ("which allowed any citizen to bring a civil suit against a brothel, and which constituted a key strategy for dismantling red-light districts"[58]); fifty thousand organized women lobbied the all-male legislature with letters. One suffragist declared "'that many men are afraid of votes for women because they know if women get power they will impose on men the same sexual standards of sexual morality that men have imposed on women . . . that is just exactly what we are going to do.'"[59] Indeed, many feminists used the state's closure of red-light districts as evidence of their increasing ability to overhaul the male-dominated public policy order. Further, these feminists thought that institutionalization of prostitution through regulation "would establish a permanent class of degraded women and thus perpetuate the belief in women's inferior social status."[60]

Overall, in the Progressive Era "a range of otherwise competing feminist groups linked antiprostitution to the emancipation of women."[61] For example, there were the religious, the temperate, and the social purity feminists who thought prostitution dismantled homes, and there were the suffragists and professional women beginning to join mainstream educational, medical, and legal institutions who did not like that men, such as politicians and the police, sanctioned the exploitation of women for their labor.

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[58] Hobson, *Uneasy Virtue*, 151.
[59] Rosen, *The Lost Sisterhood*, 60.
[60] Hobson, *Uneasy Virtue*, 150.
[61] Hobson, 151.

Further, attempts to regulate, as were occurring in Europe, constituted an even greater affront: by allowing women to do what they wanted (engage in sex work), but maintaining that they suffer invasive checkups and other regulations, women were worse off. In a curious thought process, this type of feminist felt that since women should not have to get the blessing of the state to sell their sex and subject themselves to heavy-handed regulations, society was better off banning the practice entirely. Ironically, these feminists required the acquiescence of men in positions of authority: "Through their organizations and institutions, feminists had developed their own political culture and networks, which they could mobilize in small-scale or local campaigns. But they lacked any real institutional power base—in political parties or unions. To mount an attack on prostitution, they had to convert powerful men to their cause. The medical profession, which many feminists perceived as the embodiment of the male point of view, had to be won over to the antiprostitution side."[62]

The Liberated Woman

As opposed to the stay-at-home mom and the lady who lunches, the liberated woman advocated the legitimization of prostitution—both in terms of the law and social estimation. Hers was a reaction to the patriarchy akin to that of the new public lady, but rather than limit women's options, she sought to present sex work as nothing of which to be ashamed or for which to feel inferior. Among notable feminists of this ilk, "Jane Addams suggested that entry into sex work was a rational decision, considering that young women could make significantly more in commercial sex than in [the] industrial or

[62] Hobson, 152.

service economy, though she noted that the short shelf life of a sex worker and attending health risks undermined a sex worker's life-long earning potential."[63] It is important to note that the short shelf life was often a choice: prostitution was usually an intentionally limited career. "The age at which most prostitutes abandoned their trade was the age at which most women married. The decision to take up prostitution usually came at a vulnerable point in a woman's life—a time when a daughter was seeking freedom from the restraints of home and several years before the age of marriage."[64] It seems this was one of the few avenues available to young women to go out into the world and "live a little" before settling down. While not a proponent of prostitution, "anarchist Emma Goldman [pointed out] that it wasn't just the way wage work was segregated by sex, but also the way young women were socialized to sexually service husbands, yet were kept in ignorance about their own sexuality, which condemned them to sexual exploitation."[65]

As will be addressed further in the section detailing anti-immigrant sentiment, sexism of this era included prioritization of the conjugal heterosexual family unit to such an extent that a way for a foreign-born woman, even a prostitute, to avoid deportation was to marry a male citizen. "U.S. policy makers privileged the male right to marry to such a degree that even through periods of racialized immigration exclusion, the right of all male citizens to have access to wives (even foreign-born excludable women) has been held sacrosanct."[66] In fact, there is evidence that prostitutes' marrying their pimps or sailors occurred frequently. "In tying women's citizenship status to marriage,

[63] Pliley, *Policing Sexuality*, 57.
[64] Hobson, *Uneasy Virtue*, 87.
[65] Pliley, *Policing Sexuality*, 57.
[66] Pliley, 38.

U.S. immigration policy reified the idea that women were fundamentally dependent upon male breadwinners."[67]

Additionally, there was rampant sexism in punishment for sexual "deviance" among youths, which usually led to a lifelong scarlet letter for young women, often resulting in a career in prostitution. Popular notions about adolescent sexuality strongly influenced judges, and there was a clear double standard when sentencing young female offenders. Boys' indiscretions (basically, any sexual contact) were simply viewed as evidence of their development of character: "Their deviance was a short-term threat to society since their character could be changed through probation and parental restraint."[68] Girls' morals, in contrast, were set in stone from a young age: once a deviant, always a deviant. Two youths could be caught together in a mutual act, but the girl was more harshly judged. "When a girl 'sinned,' many judges viewed her as a 'soiled dove' who would probably not benefit from probation."[69] Girls' crimes were permanent; their character was foregone; and they therefore did not receive mere probation as boys did. Court records indicate that judges usually sent young women to county workhouses or reformatories.

The liberated woman was also fighting an uphill battle against prostitutes' being labeled "feebleminded," of which there were two types: "those 'whose sexual inclinations are abnormally strong or whose power of self control [*sic*] over natural impulses is abnormally weak' and those 'who are passive, non-resistant, and will yield to anyone.'"[70]

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[67] Pliley, 39.
[68] Rosen, *The Lost Sisterhood*, 19.
[69] Rosen, 20.
[70] Rosen, 22.

Using the term "feebleminded" in distinct, contradictory ways represents the persistent dichotomy of how people view sex workers: simultaneously, they are sexually aggressive deviants and fallen women not responsible for their actions.[71] "Using the scientific language of the day, reformers could both excuse and blame prostitutes at the same time, thus expressing their deep ambivalence about the nature of prostitution and female sexuality."[72] Depending on the circumstances and personality of the prostitute (or any woman straying from sexual norms), if she was characterized as feebleminded, she could be a passive victim not to be blamed for her "inherited strains of degeneracy."[73] Given the reformers' perspective on female sexuality, they could not fathom that any woman would engage in taboo sexual behavior willingly: she must have some mental deficit or other determinant outside her control. Yet at the same time, depending on the boldness of the act, her contrition after being caught, and her previously established character, a prostitute could be considered aggressive, defiant, and active (as opposed to passive—i.e., a victim) while also being feebleminded. These were the prostitutes that most deeply offended the reformers' morals.

In sum, the changing roles of women in general disrupted traditional mores, leading to the opportunity for feminists to delineate themselves, sometimes to the detriment of their causes. Suffragists, for example, "were held especially responsible for the increase in divorce, the decline in births, and the loss of 'home-centered' life."[74] "Race suicide" was going to be a terrible consequence of their encouragement of women

[71] More on this in the fourth and fifth chapters.
[72] Rosen, *The Lost Sisterhood*, 23.
[73] Rosen, 22.
[74] Rosen, 45.

to engage in activities outside the home, including working and voting, and they were endangering the entire social order. "In the minds of reformers, prostitution was inextricably intertwined with all such changes in family life. It was therefore cited as a cause, consequence, or sign of every change . . . [W]omen's activities outside the home became symbolic of whorish behavior."[75] Further, feminists who advocated freedom were up against reformers who were unable to comprehend that prostitution could be a rational choice, especially for women with "limited opportunities and options in the labor and marriage markets. The all-inclusive sisterhood that purity reformers envisioned had a rural Yankee evangelical foundation; class and ethnic divisions were not built into the model."[76] This diversity of circumstance (race, class, religion, opportunity, etc.) contributed in part to the resulting failure to achieve outcomes desired by the sisterhood feminists, who were still successful enough to thwart the goals of the liberated woman, such as freedom of occupation and reduced stigma. Finally, feminists who saw prostitution as decreasing gender equality had to recognize that they were up against much more than punishing the men to eradicate the activity: the institutions concerning women were changing, and there were unintended consequences. "The expansion of state power to suppress prostitution led to increased penalties against prostitutes. That feminists did not anticipate such a result is surprising. After all, they found physicians' proposals to implement a sanitary control policy for prostitutes and their customers absurd, realizing that men would not tolerate a venereal disease examination system that

[75] Rosen, 45–46.
[76] Hobson, *Uneasy Virtue*, 76.

applied to them. Yet feminists did not extend their reasoning based on gender bias when it came to policies of arrest and prosecution of prostitution's customers."[77]

Anti-immigrant and Racist Sentiments: "White Slavery" and the Mann Act

As ubiquitous as various feminists' opposition to prostitution, and overlapping with the anticapitalist movement, were anti-immigrant and racist sentiments, which relied on the premise of "white slavery." The term originated with the labor movement in the 1830s. At that point, it was limited to white workers' description of their poor working conditions and low wages. Their comparison to slavery was explicit in its "condemnation of the power relations within the capitalist system."[78] Inextricably linked, when prostitution reformers began regularly using the term "white slavery" a few decades later, they were not just describing the kidnapping and exploitation of pure, young, white women but also evoking "a corrupt economic system perpetuated by an illegitimate ruling class."[79] Further, "by incorporating white slavery narratives into their attack against the machine, elite Progressives tapped into a popular audience deeply concerned about urban immorality."[80] Likewise, child prostitution accounted for much unfounded fear. In fact, it was (and is) an extremely infrequent occurrence, but "the emphasis on adolescent sexuality—the stereotypical 'white slave' was a girl in her early teens—was not accidental; it formed a crucial part of the social purists' programme for attacking the mores of the urban working class."[81] This is important because the bourgeoisie was

[77] Hobson, 162–63.
[78] Keire, *For Business and Pleasure*, 70.
[79] Keire, 73.
[80] Keire, 73–74.
[81] Roberts, *Whores in History*, 255.

already in a panic over the newly organized working class, and prostitution-as-slavery was a good opportunity to turn additional panic over "lost daughters" into an all-out campaign to subdue the working class by injecting it too with fear and puritanism.

In addition to being a response to industrialization and changing socioeconomic dynamics, "the term *white slavery* first appeared in conjunction with prostitution in the 1830s when a London doctor wrote about Jewish pimps as 'white-slave dealers' who 'trepan [ensnare] young girls in their dens of iniquity.'"[82] In the US, activists employed the term "yellow slavery" to mobilize against an increase of Chinese immigrants to San Francisco and other parts of the western US experiencing the gold rush.
From 1849 to 1870, Chinese forty-niners had increased from 325 to 63,000. "Almost immediately the presence of so many Chinese workers in the American West stoked nativist fears among the white working class, as Chinese migrants quickly made up 25 percent of the workforce in California."[83]

As mentioned, Progressives were beginning to employ a burgeoning "scientific" literature based upon the notion of eugenics, which they used "to demonstrate the inferiority of Chinese culture, religion, social structures, and morality."[84] Similar to tactics used against other immigrants in the eastern US, these arguments were steeped in this popular pseudoscience as well as the newfound connection between uncleanliness and disease. Finally, the dearth of marriageable women accompanying the male Chinese miners, along with the prevalence of Chinese sex workers, was evidence of "sexual and

[82] Pliley, *Policing Sexuality*, 15.
[83] Pliley, 16.
[84] Pliley, 16.

social deviancy" and "Chinese immorality and debauchery."[85] In reality, this speaks to rational choice theory in that natives were jealous of Chinese people taking part in the gold rush and wanted to protect their interests. They would have been "irrational" not to use all available superstition to achieve legislation: the Page Act of 1875, which attempted to limit Chinese immigration, as well as prohibited "immoral women" from entering the country.[86]

Regarding immigrants from Europe, and further stoking fears, a report produced by the Woman's Christian Temperance Union (WCTU) stated that "American women were not in danger of being trafficked to foreign bordellos, but rather they were in danger of being trafficked into American bordellos run by foreigners."[87] This was a backlash to European immigrants' being what the WCTU considered "unfamiliar with American values and with inferior moral bearings."[88] In short, "nativist fears of moral contagion and European decadence would form the foundation of the white slavery stories spread in the purity press."[89]

Black people were also a target: "The heyday of the white slave narrative, roughly 1890 to 1917, coincides with the Great Migration, a period when half a million black southerners rejected Jim Crow segregation and headed north looking for a better life."[90] Anxieties about Black people competing for jobs with the white working class led to pamphlets about "negro dens" and exposés describing white slavers as "swarthy,

[85] Pliley, 16.
[86] Pliley, 18.
[87] Pliley, 24.
[88] Pliley, 24.
[89] Pliley, 24.
[90] Pliley, 24.

having a 'dark face,' intending to associate them in the mind of readers with recent immigrants from southern and eastern Europe."[91] (Ironically, while catering to fear of and aversion toward newly emancipated, formerly enslaved Black people, the anti–white-slavery movement claimed to be built on "American worries that slavery could be re-introduced to American shores"[92]—except this time it would be white people who were enslaved.)

Jewish people in the US also did not escape Progressives' wrath; journalists in New York claimed that white slavery was a Jewish enterprise. No ethnicity was safe. Said one activist, "Shall we defend our American civilization [from the threat posed by white slavery], or lower our glorious flag to the most despicable foreigners—French, Irish, Italians, Jews and Mongolians?"[93] Finally, the US's increasing colonial presence led to fear of indigenous peoples as well because regulation, which codified legalization, was in place in Puerto Rico, the Philippines, the Panama Canal Zone, Cuba, Santo Domingo, Haiti, Nicaragua, Hawaii, and areas close to military bases near the Mexico-US border.[94] This enraged the activists, who "used the dangers of colonial brothels to express fears of interracial sexual contact."[95] Thus, between fears of racial degeneration from immigrants, BIPOC (Black, indigenous, and people of color) folks becoming increasingly participatory in markets and civil society, and rational economic incentives

[91] Pliley, 25.
[92] Pliley, 30.
[93] Pliley, 25.
[94] Pliley, 27.
[95] Pliley, 26.

resulting in rent-seeking behaviors, the myth of "white slavery" was a convenient story told in order to maintain the "American" way of life.

This culture of fear led to calls to join the 1904 International Agreement for the Suppression of the "White Slave Traffic," which in turn led to the federal White Slave Traffic Act (the Mann Act), intended to address interstate domestic trafficking. Since most of the public discussion characterized trafficking as committed by immigrants, and because reformers were increasingly desperate to find evidence that it was a problem, they put pressure on the Immigration Bureau (established in 1891) to conduct investigations.[96] "The outrage over 'white slavery' began with a commission appointed in 1907 to investigate the problem of immigrant prostitutes. Allegedly, women were brought to America for the purpose of being forced into sexual slavery; likewise, immigrant men were allegedly luring American girls into prostitution."[97] Ostensibly created to oversee immigration logistics, but beefed up to keep out undesirables (those engaging in "moral turpitude, polygamists, and also any person whose ticket or passage is paid for with the money of another or who is assisted by others to come"[98]), the Immigration Bureau had "agitated for and [now] aggressively enforced the Immigration Act of February 20, 1907. The new immigration law specifically outlawed any non-naturalized women from practicing prostitution within three years of her entry into the country, providing for the deportation of foreign-born sex workers discovered in brothels."[99] With this, in addition to President Theodore Roosevelt's 1908 announcement

[96] Pliley, 33–34.
[97] The History Channel, "Congress Passes Mann Act, Aimed at Curbing Sex Trafficking."
[98] Immigration and Ethnic History Society, "Immigration Act of 1891."
[99] Pliley, *Policing Sexuality*, 33–34.

that the US would adhere to the 1904 international agreement, the pressure was on. For example, two successful French brothel owners (rumored to have brought in a staggering sum of $200,000 in 1907) were arrested for trafficking in Chicago. Newspaper reports grossly exaggerated and claimed that more than two thousand French prostitutes were going to be deported, and according to the Secret Service, the raid did result in an actual exodus: French women leaving Chicago out of fear of being swept up. It seems envy of prosperous immigrants contributed to harsh criminal sanctions: "Rumors of the immense wealth gained by importing French prostitutes circulated widely."[100]

Conversely and simultaneously, the bureau also harbored antipoor sentiment. They viewed poverty as a moral failing and (correctly) believed poor women were more likely to be prostitutes. Further, a stated goal was to protect the country from the mentally and physically deficient, which seems at odds with the caring-for-the-downtrodden impression Progressives in and out of government were attempting to convey. Additionally and ironically, "the leadership and the administrative personnel of the agency embraced a generally anti-immigrant/restrictionist position in spite of the fact that many of the immigration inspectors came from recent immigrant stock."[101] Finally, "historians have emphasized the ways in which the Immigration Bureau's policies towards immoral women served to construct a gendered state apparatus that perceived morality through stereotypically Anglo, middle-class, and Christian values."[102]

[100] Pliley, 33.
[101] Pliley, 34.
[102] Pliley, 49.

Amid various investigations, Congress further legitimized the notion that white slavery was an immigration problem and that it must take action to protect the country's physical and moral borders. Its investigations reflected the sentiments of the more militant Progressives—"the almost religious belief that scientific and thorough investigation could uncover the roots of social problems and provide solutions in the form of government intervention."[103] In reality, an increasingly large, powerful government, including Congress and newly created agencies, was looking out for its ranks' own interests, especially in the form of the self-sustaining restrictionist investigations of the Immigration Bureau. Tellingly, one special investigator noted, "I failed to find any organized traffic in women, and I do not believe now, that such an organized traffic exists, nor do I believe, that with the exception of sporadic cases, innocent girls are sold or driven into this life, but nevertheless I regard every prostitute in this country more or less a white slave."[104] Thus, with no evidence and conceding this was a nonproblem, the Immigration Bureau persisted.

Rather than passing outright xenophobic legislation, policy makers turned to more insidiously selective applications—perhaps more subtle, but just as harmful due to entanglement with multiple civil rights issues such as racism, sexism, and sexuality. After the immigration acts and investigation commissions, the final campaign leading to the Mann Act was a push by Chicago's US Attorney Edwin Sims. Leading the charge for the arrest of French brothel owners, he had gained a reputation as an effective reformer.

[103] Pliley, 55.
[104] Pliley, 56.

Hitherto unable to significantly restrict prostitution, given a Supreme Court decision that deferred to states to regulate, Sims saw an opportunity in the Commerce Clause.[105] He worked with Clifford Roe of the state's attorney's office. Roe was a young, outspoken critic of prostitution and saw lax enforcement as a path to jumpstart his career, so together he and Sims wrote what would eventually become the White Slave Traffic Act.[106]

They took it to Illinois Congressman James Mann, who was chair of the House Committee on Interstate and Foreign Commerce; he was the ideal sponsor for Sims and Roe's legislation. The law they drafted "made it illegal to transport or facilitate the transport of any woman or girl over state lines, or within a territory and the District of Columbia 'for the purpose of prostitution or debauchery, or for any other immoral purpose.'"[107] They then took it to President William Taft on November 24, 1909, who immediately lent his support. It had already been approved by religious purity and feminist groups such as the American Purity Alliance, the Young Women's Christian Association, and the WCTU.[108] Mann brought it to his committee in Congress on December 6.[109]

Though there was some heated debate about the constitutionality of this application of the Commerce Clause, no politician could publicly defend white slavery. Southern Democrats came the closest by "arguing that Congress needed to respect the

[105] Pliley, 67.
[106] Pliley, 61.
[107] Pliley, 66–67.
[108] Pliley, 71.
[109] Pliley, 67.

women's agency and participation in the vice economy."[110] Ultimately, it passed in the House on January 26, 1910, and in the Senate on June 25 with much less debate. Meanwhile, the Immigration Bureau was busy arguing "that any non-naturalized prostitute should be deportable regardless of how long she had been in the country. Congress granted the bureau's wish when on March 26, 1910, it amended the immigration law and dispensed with the three-year limitation. Now, immigration inspectors no longer had to quibble with prostitutes about entry dates."[111]

Between the enhanced power of the Immigration Bureau and the Mann Act, there was virtually nothing holding back the ramped-up persecution of prostitutes, particularly those of foreign origin. "This was a full-fledged national war on visible prostitution."[112] Yet prostitution was still not formally criminalized. The main task of "white slave officers" was to register prostitutes who operated out of brothels. They would go to a brothel, meet with the proprietor (madam), give her a copy of the Mann Act, and inform her about what constituted a violation. They would then demand a list of prostitutes and interview each in order to attempt to clarify her background, physical description, any aliases, and how she had become a prostitute and arrived at the brothel.[113] They were often disappointed with the results because they could not threaten them with deportation or running afoul of the Mann Act: these were native-born, locally based white women voluntarily engaging in sex work.

[110] Pliley, 71–73.
[111] Pliley, 74–75.
[112] Pliley, 75.
[113] Pliley, 91.

As further evidence that the fear of "others" was unfounded, even with targeted applications leading to biased enforcement, ethnic and racial minorities were less likely to be "traffickers." "In spite of the assumption that foreign men most often trafficked white women, a common feature in the white slavery narrative, a 1917 study of 229 men serving time for violating the Mann Act in federal prisons . . . revealed that 72 percent of the men were native-born whites."[114] Additionally, 6,309 prostitutes were asked how they entered the profession, and only 7.5 percent mentioned "white slavery or extreme coercion" as the reason. This figure might be inflated because of the disincentives for answering truthfully that they entered willingly. On the other hand, because most of those surveyed were working in brothels or on the streets or were in prison, and were thus visible and identifiable, some actual "white slaves" likely went unrecorded due to the clandestine nature of the operation. "The true percentage of women forced into white slavery might perhaps be somewhat higher. It may be safely assumed, however, that white slavery, though it did exist, was probably experienced by less than 10 percent of the prostitute population."[115]

Despite this, and despite its stated intention to protect women, the law was increasingly used to persecute Black men in relationships with white women. For example, "[Jack] Johnson, the first African-American heavyweight boxing champion, was among the first to be charged under the act. In 1913, he was accused of ostensibly transporting a prostitute from Pittsburgh to Chicago. Johnson was convicted and given the maximum

[114] Pliley, 82.
[115] Rosen, *The Lost Sisterhood*, 133.

sentence: one year and one day. Critics, however, believe that Johnson's case was racially motivated—the 'prostitute' was his white girlfriend."[116] "Even while the Bureau maintained a narrowed purview, cases that involved interracial couples drew attention. When interracial couples travelled together, other passengers, train conductors, police, and government agents noticed them and often assumed that something immoral was unfolding."[117]

When not used to harass immigrants and Black men, the law was frequently employed to regulate the behavior of women in general, including chorus girls in traveling theater groups and wives who used the act against women who ran away with their husbands.[118] The latter speaks to the jealousy issues mentioned in the feminist narrative; in 1912, two young women recently out of high school, but of legal age, entered into affairs with two philanderers in California.

> The couples—Marsha and Maury, Lola and Drew—had taken long drives in Maury's Cadillac, spent time in the evenings drinking and carousing at his office building, visited roadhouses on the outskirts of town, met up at his flat, attended dances together, and traveled on day trips to nearby San Francisco and San Jose. As the affairs grew more intense, the men became considerably less discreet—discretion that was required because both men were married and had children under the age of five at home. The men invited the girls to dances their wives attended, and at one point Maury invited Marsha to a dinner party his wife hosted.[119]

The couples decided to go to Reno, Nevada, where the men could get divorces from their wives before marrying their girlfriends; however, the wives (and the girls' parents) found out about the plan and put pressure on the *Sacramento Bee* to publish the story. Local

[116] Weiner, "The Long, Colorful History of the Mann Act."
[117] Pliley, *Policing Sexuality*, 100.
[118] The History Channel, "Congress Passes Mann Act, Aimed at Curbing Sex Trafficking."
[119] Pliley, *Policing Sexuality*, 107.

Reno police were "alerted to the couples' flagrant flaunting of convention" and arrested the men for violation of the act because they crossed state lines, which led to questions about what constituted "any other immoral purpose."[120] There was no commercial vice; it was merely a case of prosecuting adultery.

Finally, and to the dismay of feminists of various persuasions, when investigating a potential Mann Act violation, officials routinely noted the young woman's haircut, use of makeup, and clothing—these were indicative of "a sexually liberal lifestyle"—aspects that characterized her sexual behavior and moral foundation. Overall, socially conservative "agents looked with horror at the culminating gender and sexual revolution that took women out of the home for work and pleasure."[121]

Urban Planning (NIMBYs), Red-Light Districts, and Abatement

"Reformers closed the red-light districts, but first they created them."[122] Along with all of the other rapidly changing aspects of "the American way of life," the 1890s saw the development of policies now known as urban planning. While cities generally used to experience more mixing of classes, elite members of government now proposed to establish vice districts in order to isolate themselves from their unsavory neighbors. They believed that cities should tolerate saloons, gambling dens, and brothels, as long as they remained in designated confines. These municipal reformers were known as the "mugwumps," and they "sought to change both the structure of municipal politics and the organization of urban space."[123]

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[120] Pliley, 108.
[121] Pliley, 137.
[122] Keire, *For Business and Pleasure*, 5.
[123] Keire, 5.

Though less adamant than feminists or xenophobes/racists about controlling prostitution for moral or economic reasons, officials in charge of designing newly developing cities were tasked with maintaining respectability for the sake of appearances and property values. With a somewhat less emotive stake, they too influenced prostitution policy, particularly as they aided various reformers, law enforcement agents, and policy makers. In her book *For Business and Pleasure: Red-Light Districts and the Regulation of Vice in the United States, 1890–1933*, Mara Keire details the urban planning of the era:

> Vice districting, a distinctly American phenomenon, arose out of the United States' creole cultural heritage and the new science of city planning. Usually located near a city's commercial downtown, red-light districts abutted the respectable theater district and were easily accessible from the train station. . . . Sociologist[s] considered the clustering of drinking, gambling, and prostitution into distinct neighborhoods a spontaneous phenomenon, but the records of city council and local reformers reveal a different story. Although never entirely successful in concentrating all of a city's vice into the commercial downtown, the mugwumps made the tolerated tenderloin a part of America's urban landscape.[124]

To these reformers, it was more important to control the sprawl of prostitution than to monitor or aid "already-errant sinners." They did this in part by demanding payment from proprietors of establishments in order to be included in the district's design as well as to receive liquor licenses and not be overly burdened by arrests of their clientele for loitering. The mugwumps did not care to manage the business or detritus of vice, but rather operated under the premise of "not in my backyard." This also explains why they were not solely concerned with prostitution as such; it was simply one part of the life of vice: "Proprietors of saloons, gambling dens, and dance halls needed to pay 'blackmail money' to the machine as much as brothel-keepers did."[125] This holistic

[124] Keire, 7.
[125] Keire, 8.

approach to vice meant that the mugwumps avoided being accused of a double standard as they profited from prostitution's legal but limited presence because they were not approaching it from a purely moral standpoint. Further, not content with rerouting a few prostitutes, mugwumps needed to cast a wider net for more activities in order "to reconfigure entire city streets, physically altering the organization of urban environments."[126] Under this system—legal but separated—prostitutes were still stigmatized.[127] This was not a token of social acceptance but rather another intolerant system, one of segregation and invisibility. Redistricting and criminality are not entirely different, as they are "quite similar in intent and consequences."[128] They both rely on stigma and control at the hands of the state.

However, plans backfired, at least on one front: "When moral reformers and municipal politicians initially envisioned segregated vice districts, they drew sharp lines on the city grid to delimit the district's boundaries, but these boundaries defined an ideal rather than an enforced, or enforceable, reality."[129] Further, multiple operationalizations of "segregation" confused matters. Reputational and racial segregation were mutually exclusive because both whites and people of color/immigrants frequented the vice districts. Whether because powerful elites engaging in "sporting culture" desired racial segregation, or because those managing the districting found it politically expedient, it

[126] Keire, 8.
[127] "Of all the women who solicited within the vice district, saloon prostitutes violated respectable Victorian gender roles to the greatest degree. Often drunk, frequently profane, and almost always disreputable, they played a highly visible and extremely vocal role in urban nightlife. Instead of staying home or logging in hours on the factory floor, they smoked, drank, and had sex." Keire, 45.
[128] Hobson, *Uneasy Virtue*, 28.
[129] Keire, *For Business and Pleasure*, 49.

was clear that limited terrain and universally enjoyed activities meant races had to interact, and this led to tension.[130] Reformers therefore turned to loitering, gambling, and prostitution laws to harass neighborhoods of color and immigrants—"the racist regulation of vice."[131] This was the best of both worlds.

With the first red-light abatement act passed in Iowa in 1909 (as enforcement of the Immigration and Mann Acts was ramping up), such acts allowed any citizen to formally file a complaint against any building owner suspected of harboring prostitution. The court then issued the owner a temporary vacate order and set a hearing to determine whether the building was utilized for "immoral purposes." If the owner was found guilty, the court issued a permanent injunction and sealed the building. In theory, between the legal fees, fines, and forgone residential and commercial rental incomes, this would incentivize building owners to keep prostitution out of their midst.[132] Unsurprisingly, red-light abatement was controversial, in part because it violated private property rights. Landlords thought the laws were unconscionable because they stood to lose enormous profits from renting to brothel keepers. "Real estate owners and businessmen canvassed the state against the red-light abatement act, arguing that such legislation would result in more serious crimes against decent women, would be used to blackmail real estate owners, or would simply scatter prostitutes all over the community."[133]

Despite their protestations, the reformers won again. By 1917, thirty-one states had some form of the Iowa Abatement Act. By the standards of reformers, who wanted to

[130] Keire, 51–52.
[131] Keire, 62.
[132] Rosen, *The Lost Sisterhood*, 28–29.
[133] Rosen, 29.

pretend they had eradicated prostitution, abatement laws worked very well. They held landlords, furniture companies, breweries, real estate agents, etc. responsible for what happened on their property (with great financial gain to the state). "The empowerment of ordinary citizens, combined with the absence of a jury trial, meant that through the red-light abatement laws, Progressives sidestepped government officials, overrode popular toleration of prostitution, and effectively challenged the tacit localization of red-light districts."[134]

On the ground, however, this resulted in the very circumstances that landlords, although speaking from personal interest, had predicted. Prostitution continued its trek into the shadows as control of the industry changed hands. Where once "prostitutes had wielded considerable power in their relations with customers" despite some exploitation by third parties (e.g., law enforcement and health officials), prostitutes now "became the easy targets of both pimps and organized crime. In both cases, the physical violence faced by prostitutes rapidly increased."[135] Contrary to reformers' noble stated goals, closing the red-light districts merely drove the players even further from legitimate society; it did not eradicate prostitution from the urban landscape as promised. "It is one of the ironies of history that much of Progressive legislation—aimed at creating a more rational, efficient, and orderly society—backfired in ways never imagined by Progressive reformers. The effort to create a properly sober and 'Americanized' society, for example, resulted in the criminal chaos and social disorder associated with Prohibition. Similarly, the attempt to

[134] Keire, *For Business and Pleasure*, 87.
[135] Rosen, *The Lost Sisterhood*, 33.

eliminate prostitution from American society drove the Social Evil underground, where it became more closely yoked to liquor, drugs, theft, and increased violence."[136]

Law Enforcement and Public Choice Theory

The period's police forces and judicial and corrections systems were quite different from today's: initially, the state had much less interest in prosecuting sex workers, and it certainly had fewer monetary incentives than it does now. In fact, prohibition policies were fundamentally at odds with the general attitudes and expectations of police and ward bosses. Unlike various types of reformers, they did not especially see prostitution as a problem, nor were controlling venereal disease and sexual exploitation law enforcement issues. They mostly considered it their role to prevent prostitution from infringing on middle-class neighborhoods, in an effort to avoid condemnation from voters. A study published in 1921 noted that "eighteen out of twenty police chiefs" said they had preferred legality with minimal regulation, but it was too late. "Only after media pressure and public outcry did police begin to dismantle the red-light districts."[137] Forty cities and states held investigations, and purity activists aided the police who carried out closures and evictions, driving out-of-work prostitutes to the streets, where they were harassed and arrested.[138] Herein lies the public choice aspect: "This in turn ensured a constant supply of women for the special courts, prisons and reformatories that were springing up in cities all over the country. . . . The separate judicial and penal system that was created to process whores in turn gave birth to a layer

[136] Rosen, 169.
[137] Hobson, *Uneasy Virtue*, 158.
[138] Roberts, *Whores in History*, 165.

of state employees—vice-squad cops, lawyers and judges, social workers and prison warders—all of whom were destined to pimp off the Catch-22 which locked whores into an illegal profession."[139] Once state actors began to realize the monetary benefits and job security resulting from prohibition, a tsunami of policies followed, and by 1918, "the repression was complete, with prostitution itself now illegal in nearly every state in the union."[140]

Prior even to policies such as the Mann Act and red-light abatement, it was already becoming increasingly difficult for sex workers to avoid the long arm of the state, particularly with the creation of the FBI in 1908. Contrasted with nearly apathetic local law enforcement, the FBI was pervasively sexually conservative as it began to grapple with questions about applications of the laws—such as what constitutes "any immoral purpose" and with whom to enforce them (increasingly immigrants and Black men)—as well as "the vexing problem" that women were consenting to the activities in which they engaged.[141] They were not the victims they were supposed to be. "The Bureau used the law to police what they considered inappropriate sexuality and those bodies that deviated from respectability."[142]

Related to the thematic irony of this recounting (unlikely and even opposing parties' working toward the same goal of prohibition), "historians of the FBI typically emphasize the Bureau's role in domestic political policing of ideological and racial minorities. This preoccupation with the Bureau's sins is certainly appropriate considering

[139] Roberts, 267.
[140] Roberts, 275.
[141] Pliley, *Policing Sexuality*, 3.
[142] Pliley, 4.

the FBI's activities against organized labor, leftist, and civil rights organizers."[143] However, just as the climate was right for other varied groups to work together to persecute prostitutes for different reasons, so too was the FBI eager to jump onboard, particularly as it was a new organization attempting to justify its existence.

Despite its stated goals and conservative values, the FBI and those expected to carry out its policies were plagued by hypocritical behavior and corrupt enforcement. For example, one undercover agent noted that the main clientele in Austin, Texas, were state legislators and government employees. Further, he said that elite customers in Waco preferred white, native-born prostitutes, so the police forced Mexican prostitutes outside the city limits and permitted Anglo prostitutes (and those who profited off them) to corner the market. On one occasion, he was even bribed by a Fort Worth judge who promised him a "good, hot time."[144] Additionally, in New York, where prostitution was legal but brothels were outlawed, local law enforcement refused to cooperate with the feds because "they did not want to be held liable for knowing that such houses continued to thrive."[145]

Perhaps because prostitution was not federally criminalized, there was also rampant inconsistency in even seemingly aboveboard applications of varied policies: diverse, piecemeal laws meant enforcers had extraordinary discretion. Often relegated to the use of ill-defined disorderly conduct or vagrancy charges, officers applied these as they saw fit. "The streetwalker—the most visible practitioner and most vulnerable to

[143] Pliley, 8.
[144] Pliley, 43.
[145] Pliley, 44.

police harassment—was at the bottom of the prostitution hierarchy. The prostitute working a fashionable brothel and least vulnerable to police control was at the top."[146] Besides distinguishing between types of sex workers, criminalization also led to the increased disparity between who was punished and who could afford to evade penalties. Despite the stated wishes of the aforementioned second type of feminist (and many "reformers" today who claim to want only the men punished), sex workers were increasingly the ones who bore the brunt. Even brothel keepers were better suited to avoid consequences; they "were rarely touched by the legal hook of the state . . . [W]hat constituted a prostitution offense and who was charged were determined by informal rules and procedures, not by statutes."[147]

Conclusion

This recounting has only briefly mentioned several components that also contributed to modern prostitution policy: the role of the medical community ("Physicians in the social hygiene movement, who were the last group to join the [prohibition] bandwagon, realized that state inspection could never control venereal disease"[148]), the Army and propaganda, Progressives' eugenics, and the development of specific policies in individual states, which all eventually criminalized sex work. The chapter does, however, illustrate how primary players, motivated by various rationales, worked in loose conjunction (and sometimes inadvertently) to conspire to criminalize prostitution in the first decades of the twentieth century. It also sets the stage for the

[146] Hobson, *Uneasy Virtue*, 30.
[147] Hobson, 30–31.
[148] Hobson, 150.

following chapters. Bookending the third chapter on methodology, the second and fourth chapters explore how criminalization and stigmatization panned out in the ensuing century. The last chapter revisits the branding of sex workers as incapable of agency and consent, much as the Progressives labeled them "feebleminded" a hundred years earlier.

Antiprostitution advocates were an unorganized coalition comprised of myriad individuals and groups, often with competing political ideologies, sexual politics, and reform agendas.[149] One way to delineate motivations is to conceive of prostitution either as a narrow issue to be prohibited for a specific reason and toward a focused goal, or as a broader symptom of a multitude of remediable social ills and part of a larger narrative and agenda. For example, in the case of the former, it was a pragmatic issue for people who benefited, such as those who profited from enforcing concentrated vice districts and newly created roles working for the expanding state; mugwumps, who were concerned with property values and voting; and physicians, who truly thought they were limiting venereal disease. Alternatively, there were other people, such as the social purity reformers and suffragists, for whom prohibition was just one step of many on a road toward utopia: either the kingdom of heaven on earth or a world in which women were equal to men. "Therefore, reformers with widely differing motivations and attitudes—feminists and antifeminists, liberals and conservatives, religious moral reformers and scientific social hygienists—ended up contributing to the same institutional results:

[149] Hobson, 150.

increased state repression of the most visible evidence of commercialized vice, and increased state control over the lives of prostitutes."[150]

[150] Rosen, *The Lost Sisterhood*, 16.

CHAPTER TWO: THE CRIMINALIZATION OF SEX WORK IS A CRISIS

> It is not prostitution which is unsavory or undesirable. It is the broader socio-economic conditions. . . . If we want to take steps to reduce the hazards and degradation of prostitution we need first to re-evaluate our assessment of it as a distasteful profession. If this results in the legitimation of the profession, so be it.
>
> —Frances Shaver, "A Critique of the Feminist Charges against Prostitution"

The harms that sex workers experience resulting from criminalization constitute a crisis. This chapter presents an overview of the data pertaining to murder, violence, and rape; abuse by law enforcement; physical and mental health and stigma; and the opportunity cost of criminalization, particularly in the form of forgone public goods. It first looks at the prevalence of engagement in the trade, public opinion and sex workers' preferences, and language and conceptualization. It concludes by asking us to set aside our preconceptions—not only those we may hold about sex work but also those that contribute to our definition of "crisis." After establishing the crisis of criminalization and adding it to the broader scope of state-made crises such as war, forced dislocation, institutionalized stigma, etc., there is no doubt that remedying the harms resulting from the criminalization of sex work is among the more attainable.

Number of Participants in the Market

The number of participants in the commercial sex trade is notoriously difficult to measure because of the nature of the black market. Though this chapter is primarily concerned with sex work in the United States, a brief consideration of the global sex trade may yield larger numbers than previously thought. From a study in 2018, citing a book from 2008 that cites data from 1998: "While estimates of the number of adults who sell

sexual services warrant caution because of sampling and methodological concerns and the absence of accurate population counts, in the later part of the 20th century about 1.5% of the world's female population—46 million people—were making a living from part- or full-time commercial sex work."[1] In findings highlighted by *Business Insider* in 2012 and widely promulgated, a French "anti-exploitation" organization (it believes every sex worker is exploited) reported that globally, three-quarters of sex workers are aged thirteen to twenty-five, and 80 percent are female. It also estimated there are 1 million sex workers (not the term it used) in the United States and suggested 15–25 sex workers per 1,000 people, among the highest concentrations in the world.[2] Not only are the figures it presents inconsistent, but this organization does not publish its calculations and has pulled and replaced data online. Other research suggests there are not nearly that many sex workers, at least in the United States. The *Journal of Sex Research* published an article in 1990 by John Potterat, who observed sex workers in Colorado Springs, Colorado, for two decades.[3] He concluded the density was 23 per 100,000 women, which meant a total of 84,000 annually in the United States in the 1980s. Using today's population, "that would mean only a total of 103,000 prostitutes—of all ages—in the United States. The researchers also estimated that most sex workers engage in prostitution for only short period of time, with even long-term prostitutes averaging about four to five years. In other words, there is a lot of churn in the sex market."[4]

[1] Benoit et al., "Prostitution Stigma and Its Effect," 457.
[2] Lubin, "There Are 42 Million Prostitutes in the World, and Here's Where They Live."
[3] Potterat et al., "Estimating the Prevalence and Career Longevity of Prostitute Women."
[4] Kessler, "The Fishy Claim That '100,000 Children' in the United States Are in the Sex Trade."

Regarding the incidence of underage people who participate in the sex trade, another expert analyzed arrest data from jurisdictions throughout the country and noted that there are very few underage sex workers. "He speculated that sexually immature women are of little interest to most men who purchase sex."[5] For example, FBI numbers indicate that 43,190 women were arrested in 2010 (this includes "assisting in prostitution"); less than 2 percent were underage. FBI data guru, spreadsheet whiz, and participant Norma Jean Almodovar painstakingly parses the numbers every year, even when the state is reluctant to release them. She most recently found that there were 22,064 prostitution arrests (218 arrestees were under the age of eighteen) in 2019; this is compared with 75,477 (1,094 under the age of eighteen) in 2000.[6] Perhaps there is "informal decriminalization" in some places: scarce resources must be allocated to addressing crimes with actual victims, or law enforcement might respond only to egregious instances precipitated by community complaints. Perhaps fewer arrests indicate that there are fewer sex workers, which may be attributed to the liberalization of sexuality: men are finding it easier to satisfy desires premaritally. Incongruently, as Jane Scoular notes when reviewing Phoenix and Oerton's (2005) *Illicit and Illegal: Sex, Regulation, and Social Control*,[7] "the book begins with the paradox that cannot have escaped the attention of many readers in the field: that the apparent increase in freedom, choice, and diversity in sexual matters is conversely and simultaneously matched by a

[5] Kessler.
[6] Almodovar, "Operation Do the Math," 52.
[7] Phoenix and Oerton, *Illicit and Illegal*.

'proliferation of laws, policies and guidelines which seek to determine the complex, vast and ever-increasing rules of engagement.'"[8]

Regardless, "recent studies using nationally representative samples indicate that most men do not seek out prostitutes. In fact, these studies suggest that the proportion of young men who patronize prostitutes may be declining over time."[9] For example, the 1992 National Health and Social Life Survey indicated that less than one-fifth of men had ever been with a sex worker, and less than 1 percent had been in the previous year. Further, the data also revealed that men who were "coming of age" were less likely than previous generations "to have had their first sexual experiences with prostitutes."[10] This is supported by a more recent General Social Survey that indicates a slight bump from 1998 to 2008 from 0.54 percent to 0.79 percent in the "the share of individuals who admit to having paid for, or received pay for, sex during the past year."[11]

Darren Geist, a critic of the 2015 Amnesty International decision recommending worldwide decriminalization, notes that "the vast majority of people in the sex industry are the consumers, the johns"; he is concerned that it is a male-dominated trade.[12] This is distracting. The people who benefit from the services of plumbers outnumber the plumbers themselves; consumers' outnumbering suppliers is in the nature of almost every market. Ironically, as Ronald Weitzer notes, under the United States' policy of

[8] Scoular, "Book Review of Joanna Phoenix and Sarah Oerton's 'Illicit and Illegal: Sex, Regulation and Social Control,'" 525.
[9] Weitzer, *Sex for Sale*, 235.
[10] Weitzer, 235.
[11] Cunningham and Kendall, "Prostitution 2.0," 286.
[12] Geist, "Amnesty International's Empty Promises," 2.

criminalization, "prostitutes have always been arrested in much greater numbers than their customers have, despite the fact that customers greatly outnumber prostitutes."[13]

Opinions of the Public, Sex Workers, and Clients

> Americans also hold fairly negative views of prostitution, although the number viewing it unfavorably seems to have lessened in recent years. A 1977 poll found that 61 percent thought that the idea of "men spending an evening with a prostitute" was morally wrong. Similarly, in 1981, 64 percent of Americans felt that prostitution can "never be justified." But the proportion taking the "never justified" view has declined in recent years, falling to 47 percent in 1999 and 43 percent in 2006.
>
> —Ronald Weitzer, *Legalizing Prostitution*

More recently, a 2019 poll of 1,000 voters found that more than half support the decriminalization of sex work, with two-thirds of voters aged eighteen to forty-four in support.[14] A survey of 758 voters from 2021 asked, "Do you think that prostitution between consenting adults should be legal, or do you think it should be a crime?" with 42 percent in favor of legality.[15] The discrepancy between polls may be explained by two factors: that the first poll included the options "strongly" and "somewhat" to allow for levels of support, and that it used the terms "decriminalizing" and "sex work," rather than "prostitution" and "legal." That the wording of questions affects attitudes is bolstered by a 2022 survey with 603 respondents that aimed to distinguish how term selection affects public opinion: "A higher proportion of respondents indicated '0—not at all acceptable' when asked about prostitution when compared to those respondents that were asked about sex work and transactional sex. The result provides some support for

[13] Weitzer, *Legalizing Prostitution*, 66.
[14] Luo, "Decriminalizing Survival," 22–23.
[15] Public Policy Polling, "2021 National Survey Results."

the idea that prostitution is a stigmatized word that elicits immediate negative evaluations."[16] Further, the most recent survey found that even when collapsing all categories of "unacceptable" and including the potentially inflammatory word "prostitution," still "only one-third of respondents provided a response that the trading of sexual services was unacceptable."[17] This too seems to support the trend toward liberalism—at least as a matter of attitudes and views if not policy and law.

A brief delineation of models is in order. From "Associations between Sex Work Laws and Sex Workers' Health: A Systematic Review and Meta-analysis of Quantitative and Qualitative Studies":[18]

> Full criminalisation: All aspects of selling and buying sex or organisation of sex work are prohibited.
>
> Partial criminalisation: Organisation of sex work is prohibited, including working with others, running a brothel, involvement of a third party, or soliciting.
>
> Criminalisation of purchase of sex: Often referred to as the sex-buyer model. Laws penalise sex workers working together (under third party laws), any aspect of participating in the sex trade as a third party, and buying sex.
>
> Regulatory models [legalization]: Sale of sex is legal in licensed models and/or managed zones and is often accompanied by mandatory condom use, HIV/STI testing, or registration.
>
> Full decriminalisation: All aspects of adult sex work are decriminalised, but condom use is legally required in some locations.

Again, due to the black market, it is difficult to know how many sex workers support various policies, ranging from criminalization to legalization to decriminalization.

> National data in the United States are lacking on this question, but a survey of 247 (mostly street) prostitutes working in San Francisco found that 71 percent

[16] Hansen and Johansson, "Asking About 'Prostitution,' 'Sex Work' and 'Transactional Sex,'" 9.
[17] Hansen and Johansson, 6.
[18] Platt et al., "Associations between Sex Work Laws and Sex Workers' Health," 4.

> supported decriminalization ("get rid of laws that make sex work illegal"), and 79 percent said that sex workers "should determine their own working conditions without being taxed or regulated by government," whereas 83 percent agreed that sex workers should be "required to undergo health screenings to be able to do sex work" even as they roundly rejected other types of regulation. What about clients' views? A survey of 1,342 arrested clients reported that 74 percent of them thought that prostitution should be legalized.[19]

One wonders about the percentage in each group who do not support legalization/decriminalization. Do sex workers internalize stigma and feel they deserve to be punished? Are they telling researchers what they think they want to hear? Are they weighing how tough it is to be a street sex worker (survival work is notoriously more unpleasant than indoor sex work) and wish for others to avoid "the life"? A study in Washington, DC, in 2017 relied on three focus groups consisting of twenty-seven people who had engaged in sex work in the past two years. When asked about their opinions on changing the criminal laws around sex work, some mentioned "concerns about the spread of HIV and other STIs [sexually transmitted infections] through sex work and about young people being coerced into the sex trade—a potential reason to a few in favor of partial decriminalization."[20] Sex workers who do not support legalization are wary of the onerous regulations that often accompany the model; it is technically legalization, but with many intrusive caveats, which necessarily contribute to perpetuating stigma. It implies that sex workers do not know what is in their own best interest and must be closely overseen by bureaucrats who somehow know their lived experiences better.

[19] Weitzer, *Legalizing Prostitution*, 52.
[20] Bland and Bruner, "Improving Laws and Policies to Protect LGBT Sex Workers and Promote HIV Prevention and Care," 20.

The clients who do not wish it to be legalized may worry that if it were aboveground, among other regulations, they may have to join a registry or undergo regular STI testing, which would offer more opportunity for exposure. Perhaps the illicit nature contributes to their pleasure. Perhaps it was the case for both buyers and sellers that despite efforts to gain honest opinions, there was a reluctance to appear radical. The former data are from more than a decade ago; even five years ago it seemed outlandish to advocate decriminalization: it was too far outside the scope of social and political feasibility.[21] The Overton window has certainly shifted, and a survey of those currently engaging in the market would likely yield different results. Further, clarity of policies has emerged regarding what the language *actually* means, as well as regarding the outcomes of those policies. The fourth chapter provides representation from advocacy, educational, and outreach groups: HIPS, ISWFACE (International Sex Worker Foundation for Art, Culture, and Education), Old Pros, COYOTE RI (Call Off Your Old Tired Ethics Rhode Island), SWAN (Sex Workers and Allies Network), BAYSWAN (Bay Area Sex Worker Advocacy Network), SWOP (Sex Workers Outreach Project) Behind Bars, etc. There are at least ninety-eight sex workers' rights organizations worldwide,[22] and decriminalization is overwhelmingly the preferred model. It is also the preferred model of health and justice organizations worldwide: Amnesty International, the ACLU (American Civil Liberties Union), Freedom Network USA (the nation's largest coalition serving survivors of

[21] In 2014, I published an article recommending legalization, rather than decriminalization, which I now regret. At the time it seemed like a step in the right direction because much of the public could not conceive of serious recommendations that did not include countless stigmatizing regulations. Dalesandry, "The Nature of the Original 'Firm.'"
[22] Benoit et al., "Prostitution Stigma and Its Effect," 466.

human trafficking), Human Rights Campaign, Human Rights Watch, UNAIDS (the Joint United Nations Programme on HIV/AIDS), the WHO (World Health Organization), etc.

Pro-criminalization Counterpoints

> Prostitution has often been referred to as a victimless crime. It may be argued, however, that prostitution is not a victimless crime at all because it leads to the physical and psychological abuse and exploitation of women (prostitutes are mostly women) and their families. In this sense, prostitution laws are meant to provide protection for these vulnerable populations and the communities in which they reside.
>
> —Rebecca Hayes-Smith and Zahra Shekarkhar, "Why Is Prostitution Criminalized?"

There is an extensive policy and social science literature supporting the criminalization of sex work. See, for instance, Barry's *The Prostitution of Sexuality: The Global Exploitation of Women*, Jeffreys's *The Idea of Prostitution*, Raphael and Shapiro's "Violence in Indoor and Outdoor Prostitution Venues," Farley's "'Bad for the Body, Bad for the Heart': Prostitution Harms Women Even If Legalized or Decriminalized," and Raymond's "Prostitution on Demand: Legalizing the Buyers as Sexual Consumers."[23] Before demonstrating that it is the *criminalization* of sex work that is the crisis, the following pages present how those opposed view sex work itself as the crisis. Hayes-Smith and Shekarkhar identify four assumptions underlying the criminalization of sex work. underlying assumptions for why sex work is criminalized: "First, that the criminalization of prostitution will deter the soliciting of such services. Second, that prostitution is a threat to public health because it spreads diseases,

[23] Barry, *The Prostitution of Sexuality*; Jeffreys, *The Idea of Prostitution*; Raphael and Shapiro, "Violence in Indoor and Outdoor Prostitution Venues"; Farley, "'Bad for the Body, Bad for the Heart'"; Raymond, "Prostitution on Demand."

specifically sexually transmitted diseases. Third, that prostitutes are in a vulnerable position and therefore have a higher risk of being violently victimized. Fourth, that prostitution creates social disorder in the community."[24]

Some scholars frame sex work as rape, and like any victims of violence, sex workers must be protected. Abolitionists not only want to stop the men who do the raping, they also indict the institutions that foster the raping:

> In prostitution, a necessary part of the role is to look happy: to ask for the rape, to say she enjoyed the rape. . . . Some words which refer to prostitution cover up its cruelty. The term "sex work" implies vocational choice. Accepting prostituted women as "commercial sex workers" brings with it an acceptance of what in any other context would be described as sexual harassment, sexual exploitation, or sexual abuse.[25]
>
> For the vast majority of the world's prostituted women, prostitution is the experience of being hunted, dominated, harassed, assaulted, and battered. Intrinsic to prostitution are numerous violations of human rights: sexual harassment, economic servitude, educational deprivation, job discrimination, domestic violence, racism, classism, vulnerability to frequent physical and sexual assault, and being subjected to body invasions which are equivalent to torture.[26]

The physical circumstances and conditions sex workers experience are addressed in the rest of this chapter, and much of the data comes from those who do not support decriminalization. They conclude that because there are so many hazards, sex work should be abolished. The thrust of the chapter appreciates the data but flips the conclusions around. More challenging to wrangle, and addressed to a greater extent in the fifth chapter, are the moral and radical feminists' arguments. For example, "the moral argument is strong and those opposed to prostitution would fight its legalization. This

[24] Hayes-Smith and Shekarkhar, "Why Is Prostitution Criminalized?," 44; Brents and Hausbeck, "Violence and Legalized Brothel Prostitution in Nevada."
[25] Farley and Kelly, "Prostitution: A Critical Review of the Medical and Social Sciences Literature," 52.
[26] Farley and Kelly, 53.

group might include traditionalists who see prostitution as a threat to the institute of marriage and to the moral values underlying society. These groups might blame the laws for making it easy for sex to be purchased, thus devaluing sexual acts and their sacred role in the reproduction of society. . . . If this is true then married women may feel threatened by laws that legalize engaging in sexual acts in exchange for money."[27]

"Another potential disadvantage is that there may be fear, especially by religious groups, that if prostitution were legalized that more people would take up this occupation."[28] If the costs (risks) are reduced, some nonzero number of people who are not currently selling or buying may find engaging more appealing. "In contrast, the feminists who are against prostitution (the 'anti' group) view 'prostituted women' as compelled by their social circumstances into prostitution, and therefore believe that the involvement of women in prostitution is always nonconsensual."[29,30] Society should be concerned about eliminating the institutions of exploitation by which some are compelled, out of economic or other hardship, to engage. Sex work is the result of the patriarchy and capitalism; eradicating it is a necessary step on the road to equality. "Prostitutes are considered by feminists to be on the front line of patriarchal oppression. They exemplify the position of all women in patriarchal and capitalistic societies. . . . For feminists, prostitution epitomizes everything that is wrong in patriarchal societies."[31]

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[27] Hayes-Smith and Shekarkhar, "Why Is Prostitution Criminalized?," 51.
[28] Hayes-Smith and Shekarkhar, 51.
[29] Kissil and Davey, "The Prostitution Debate in Feminism," 7; Simmons, "Theorizing Prostitution."
[30] In this line of thinking, there would be no additional sex workers; because it is nonconsensual, those people who are vulnerable are already being forced to engage in it.
[31] Kissil and Davey, "The Prostitution Debate in Feminism," 16; Carpenter, *Re-thinking Prostitution*.

In sum, "prostitution is . . . a human rights violation, 'an institution that doles out death and disease' to women and 'a particularly vicious institution of inequality of the sexes.'"[32] From "Ten Reasons for *Not* Legalizing Prostitution and a Legal Response to the Demand for Prostitution":[33]

> 1. Legalization/decriminalization of prostitution is a gift to pimps, traffickers and the sex industry
>
> 2. Legalization/decriminalization of prostitution and the sex industry promotes sex trafficking
>
> 3. Legalization/decriminalization of prostitution does not control the sex industry: it expands it
>
> 4. Legalization/decriminalization of prostitution increases clandestine, illegal and street prostitution
>
> 5. Legalization of prostitution and decriminalization of the sex industry increases child prostitution
>
> 6. Legalization/decriminalization of prostitution does not protect the women in prostitution
>
> 7. Legalization/decriminalization of prostitution increases the demand for prostitution: it encourages men to buy women for sex in a wider and more permissible range of socially acceptable settings
>
> 8. Legalization/decriminalization of prostitution does not promote women's health
>
> 9. Legalization/decriminalization of prostitution does not enhance women's choice
>
> 10. Women in systems of prostitution do not want the sex industry legalized or decriminalized

Notes on Terminology

The following is an abbreviated discussion of language and conceptualization. From Benoit et al. (2018), who look at stigma:

[32] Weitzer, "Flawed Theory and Method in Studies of Prostitution," 935; Raymond, "Prostitution on Demand," 1182; Farley, "'Bad for the Body, Bad for the Heart,'" 1117.
[33] Raymond, "Ten Reasons for *Not* Legalizing Prostitution."

> The term *prostitution* continues to be used in most government policy documents. . . . The word also remains in usage for some advocacy groups, including the English Collective of Prostitutes and the New Zealand Prostitutes' Collective. Scholars continue to use the term, ranging from those who support the full criminalization of all sex jobs to those who support their decriminalization and normalization. Other researchers prefer the term *sex work* because it underscores the labor/work and economic implications of involvement in the sale of sexual services; it also challenges accounts that depict sellers (sex workers) as victims of others' wrongdoings and not, depending on the social context, as agents of their own fate."[34]

A colloquial interpretation is Martin Monto's assessment as he argues that we must recognize vastly differing scenarios: "The term 'prostitution' includes the streetside blowjob, the high-priced escort featuring a 'girlfriend experience,' the teen runaway trying to scrape together enough money for food or drugs, the legal brothels in Nevada featuring a menu of different sexual options, male prostitution, sex tourism, and the crack house exchange of sex for drugs. To treat them all the same analytically or in terms of policy is to miss fundamental differences in the degree of power and consent of the participants."[35] Some other notes on language and conceptualization:

> The words they often use to describe themselves—dominatrix, fetishist, sensual masseuse, courtesan, sugar baby, whore, witch, pervert—can be self-consciously half-wicked. Some of their concerns can seem far removed from those of women who feel they must sell sex to survive—a mother trying to scrape together the rent, say, or a runaway teenager. People in those situations generally don't call themselves "sex workers" or see themselves as part of a movement.[36]

> Sex workers are commonly constructed as deviant "others" and routinely denied social rights enjoyed by other citizens. Derogatory labels—such as prostitute, whore, and hooker—are systematically used to describe them in laws, social policies, the media, everyday interactions, and even in the research literature, showing the common nature and prevalence of these marks of disgrace.[37]

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[34] Benoit et al., "Prostitution Stigma and Its Effect," 457–58.
[35] Weitzer, *Sex for Sale*, 235–36.
[36] Bazelon, "Should Prostitution Be a Crime?"
[37] Benoit et al., "Prostitution Stigma and Its Effect," 459.

> The concept of "sex workers" did not emerge until the 1970s "as a counterpoint to traditionally derogatory names, to emphasize the legitimacy of sex work." It is important to distinguish sex work from trafficking, sexual exploitation, and the like. [I] will define sex workers as those who engage in voluntary, consensual commercial sex. Sex trafficking and forced prostitution, on the other hand, constitute a serious human rights violation that involves "force, abduction, deception, or other forms of coercion for the purpose of [sexual] exploitation." It is important to make this distinction between sex work and sex trafficking because anti-trafficking initiatives can sweep in sex workers against their will.[38]

While heated debates surrounding the nomenclature and legitimacy of sex work persist, the remainder of this chapter will explore the consequentialist arguments for decriminalization, with particular foci on physical and mental health and sex work's relationship with stigma. We know that criminalized sex work results in many negative outcomes. The most salient include death, violence including assault and rape, minimized medical issues, arrests, exploitation, and stigmatization. These suggest that it is worth applying a crisis framework, particularly some of the methodologies found in the natural disaster literature.

Murder, Violence, and Rape

"Although many women voluntarily choose to engage in sex work, they can still be susceptible to extraordinarily high rates of violence. The types of violence sex workers are exposed to can be categorized in three ways: physical violence, sexual violence, and emotional or psychological violence."[39] For example, in New Jersey, where sex work is criminalized, fourteen sex workers were murdered within five years—some strangled, some beaten, some stabbed—all of them Black. It was not until the first Black woman county prosecutor took office and created the Homicide Task Force that authorities began

[38] Marshall, "Sex Workers and Human Rights," 49–50.
[39] Marshall, 51.

to investigate the crimes seriously.[40] A study from 2004 notes "that the workplace homicide rate for female prostitutes is 204 per 100,000. . . . By comparison, the second most dangerous occupation for females is the liquor store employee which has a workplace homicide rate of 4 per 100,000."[41] Another calculation estimates that street sex workers are "60–120 times more likely to be murdered than" females in the general population, and sex workers constitute over 50 percent of serial killers' victims.[42] "Lone perpetrators accounted for the overwhelming majority of prostitute and client homicides. In these data sets, clients committed 57–100 percent of prostitute homicides, prostitutes committed 86–94 percent of client homicides, and pimps committed 40–67 percent of pimp homicides. Serial killers accounted for more than one-third of prostitute victims, and nearly all such serial killers were clients."[43]

Participant Bella Robinson recounts how hearing about the Gilgo Beach murders—initially dubbed the "Gilgo Four," now believed to number many more than four—prompted her realization that she would be an activist for the rest of her life. Sex workers in their twenties were found in burlap sacks in New York, where sex work is criminalized and thus stigmatized by law enforcement, murdered by a presumed serial killer.

> I launched COYOTE in 2010 in response to them criminalizing us [again. There was a loophole in Rhode Island, discussed below]. And then when I started to see the Gilgo Beach murders up in Long Island, I just knew I would be an activist

[40] Kannapell, "N. J. Law; Series of Killings? Yes. One Serial Killer? No."
[41] Potterat et al., "Mortality in a Long-Term Open Cohort of Prostitute Women"; Castillo and Jenkins, "Industries and Occupations at High Risk for Work-Related Homicide"; Cunningham, DeAngelo, and Tripp, "Craigslist's Effect on Violence Against Women," 2.
[42] Cunningham, DeAngelo, and Tripp, "Craigslist's Effect on Violence Against Women," 9.
[43] Brewer et al., "Extent, Trends, and Perpetrators of Prostitution-Related Homicide in the United States," 1107.

> until I died because no one cared about these women. This is not okay. And what more can the government do to me they haven't already done? They've locked me up. They've put me in the news. They've called me a whore. Everyone already knows in my family. Other than murder me, what more can they do? And someone needs to have the courage to stand up, right?[44]

Finally, in May 2022, after Bella's interview and twelve years after the murders, more but still limited information was released as a new police commissioner "seeks to restore public faith in the long-unsolved investigation, which has been skewered over lacking transparency."[45]

Participant Norma Jean notes that members of law enforcement are also perpetrators: "If you don't do what the nice cop tells you, he can take out his gun, and they can actually kill you if you try to escape or you give them a hard time and don't want to go along with their nonsense and you don't want the cop to rape you. We have had a lot of sex workers who have been murdered by cops. Like the guy in [Laredo,] Texas, he's a Border Patrol Agent, and he killed a bunch of sex workers. He said he was trying to 'clean the streets up.'"[46] Murder is the most extreme example of violence, but an increasing number of studies have estimated the general violence that accompanies street sex work. Indoor sex workers can also be victims of violence, but their susceptibility is lower. Monto writes, "For prostitutes in brothels, there is generally less risk, and, depending on screening procedures, escorts may be less vulnerable as well."[47] He and Weitzer note the numerous distinctions between indoor and street sex work and demand

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[44] Robinson, interview by Malia Dalesandry.
[45] NBC New York, "LI Serial Killer Case."
[46] Almodovar, interview by Malia Dalesandry; Schwartz, "Border Patrol Agent Pleads Not Guilty to Killing 4 Women."
[47] Weitzer, *Sex for Sale*, 236.

that policy makers recognize these differences. “He [Weitzer] advocates a system in which indoor prostitution is decriminalized, while outdoor prostitution, which elicits greater community concern and is characterized by greater violence, continues to be the focus of authorities.”[48]

With studies of physical violence against sex workers burgeoning in the early 1980s, one of the first surveyed two hundred street sex workers and their occupational hazards.[49] The researchers found that

> 78% of the participants reported forced perversion, averaging 16.6 times per participant. The same study found that 70% of the participants were victimized by the client as they deemed it either rape or going beyond the agreed upon contract, which averaged 31.3 times for each participant, and that 65% of the participants were physically abused/beaten by a client. Additionally, they found that of the prostitutes who had pimps, two thirds of them had been physically beaten and abused by their pimp, with over 50% of the women feeling that “it was a way of life.”[50]

In a 1998 study researching violence among 130 sex workers in San Francisco, where sex work is criminalized, Farley and Barkan found that “82% had been physically assaulted; 83% had been threatened with a weapon; 68% had been raped while working as prostitutes; and 84% reported current or past homelessness.”[51] In a study from 2004,[52] researchers “interviewed 325 female street sex workers in Miami, Florida, to gain insight into the subculture of violence, drugs, and [criminalized] sex work. They reported that

[48] Weitzer, 236.
[49] Silbert and Pines, “Occupational Hazards of Street Prostitutes.”
[50] Radatz, “Systematic Approach to Prostitution Laws,” 30.
[51] Farley and Barkan, “Prostitution, Violence, and Posttraumatic Stress Disorder,” 37.
[52] Surratt et al., “Sex Work and Drug Use in a Subculture of Violence.”

over 40% of the sex workers had experienced violence during the year prior to the study: 24.9% physically, 12.9% sexually, and 13.8% threatened with a weapon."[53]

When criticizing the important and controversial Amnesty International report advocating worldwide sex work decriminalization, Geist cites many statistics about violence; however, he fails to note that these too are all in places where sex work is *criminalized*:

> Almost all studies agree that prostitution is a remarkably violent and dangerous industry. One study of 854 prostituted women in nine countries found that 63 percent of the women had been raped by a john or a pimp, and 71 percent had been physically assaulted. In Oregon, a study found that 84 percent of prostituted women were victims of aggravated assault, 68 percent were victims of rape, 53 percent were victims of sexual torture, 49 percent had been kidnapped, and 27 percent had been mutilated by torture. . . . In a study of prostitutes in seven cities in the U.S., 58 percent reported experiencing violence, while 36 reported having abusive clients. . . . As a result of the regular sexual and physical violence, post-traumatic stress disorder (PTSD) and disassociation are common. In one study, 68 percent of prostituted women suffered from PTSD, a number matched only by victims of state-sponsored torture and treatment-seeking combat veterans. In a 30-year study of almost 2,000 prostitutes in the U.S., the most common causes of death were homicide, suicide, drug- and alcohol-related problems, HIV infection, and accidents. The mortality rate of prostitutes was found to be 200 times that of the general population. Sixty-five percent had seriously attempted suicide, and 38 percent had attempted it more than once. Prostitution Research and Education concluded that prostituted women had a workplace homicide rate 51 times the next most dangerous profession.[54]

Conversely, for example, in "Violence and Legalized Brothel Prostitution in Nevada: Examining Safety, Risk, and Prostitution Policy," Brents and Hausbeck find that "the legalization of prostitution brings a level of public scrutiny, official regulation, and bureaucratization to brothels that decreases the risk" of three categories of systematic violence: "interpersonal violence against prostitutes, violence against community order,

[53] Radatz, "Systematic Approach to Prostitution Laws," 31.
[54] Geist, "Amnesty International's Empty Promises," 10.

and sexually transmitted diseases as violence."[55] Legalization, again, while not preferred to decriminalization, hints at improvements. Rape is of great concern, though several studies indicate that legalization/decriminalization would reduce instances of rape: "It is estimated that if prostitution were legalized in the United States, the rape rate would decrease by roughly 25% for a decrease of approximately 25,000 rapes per year . . . [T]he analysis seems to support the hypothesis that the rape rate could be lowered if prostitution was more readily available. This would be accomplished in most countries by its legalization."[56] For example, during Rhode Island's inadvertent six-year indoor sex work loophole, researchers found that decriminalization reduced sexual violence by 31 percent—824 fewer rapes. The researchers suggest that the decline may be because men substituted visiting sex workers for engaging in violent sexual behavior, as decriminalization reduced the cost in terms of risk. Other effects included decreasing gonorrhea infections in both sexes by two thousand cases.[57]

Given the serious hazards that correspond with criminalized sex work, policies and mechanisms that can reduce harm are worth serious consideration. Like Weitzer, Cunningham and colleagues are particularly interested in the differences between street and indoor sex work and the role of technology in facilitating safer exchanges. There is evidence that online coordination and forums serve as effective market mechanisms for regulation, which lead to safer conditions for participants. For example, before a crackdown, Craigslist used to provide an "erotic services" section on its landing page.

[55] Brents and Hausbeck, "Violence and Legalized Brothel Prostitution in Nevada," 270.
[56] Cundiff, "Prostitution and Sex Crimes," 2–3.
[57] Cunningham and Shah, "Decriminalizing Indoor Prostitution," 30.

This was primarily used by sex workers to advertise their services and operated in several cities at several points in time between 2002 and 2010. Cunningham et al. use a difference-in-differences model to determine Craigslist's effect on safety. They "find that Craigslist erotic services reduced the female homicide rate by 17.4 percent. We also find modest evidence that erotic services reduced female rape offenses. Our analysis suggests that this reduction in female violence was the result of street prostitutes moving indoors and matching more efficiently with safer clients."[58]

An additional explanation is that a "digital fingerprint"—that is, the awareness that there is a record of interactions that is widely shared among both sex workers and clients—leads to accountability.[59] For example, think of an online marketplace, such as eBay or Etsy. Consider how many millions (billions?) of transactions occur that make both parties to exchanges better off. This is due to communication (in the form of messaging), maintaining reputations in the form of ratings systems, the ability to leave public reviews, and finally, as a last resort, dispute adjudication as a part of the platform's services. Or think of ridesharing apps such as Uber and Lyft. There was a clever meme making the rounds a few years ago that encouraged us to think about how, quite reasonably, we have broken many of the "rules" that were once good advice: "1998: Don't meet up with people from the internet. Don't get in cars with strangers. 2018: Literally summon strangers from the internet and get in their cars." Finally, think about dating websites and apps. Yes, sometimes bad things happen, but overall enough people

[58] Cunningham, DeAngelo, and Tripp, "Craigslist's Effect on Violence Against Women," 1.
[59] Cunningham, DeAngelo, and Tripp, 5.

must match fairly well (sometimes especially well in the case of happy marriages and partnerships); otherwise, people would not continue to use these services. Further, dates often involve some type of exchange, such as paying for dinner, and many people use them solely for "hooking up"—i.e., sex. In fact, similar matching software for sex workers and their clients might be even more straightforward; at least both parties go into the encounter with fuller knowledge of the other's goals for the date.

In addition to both sex workers and their clients benefiting from better matching, public and private running records of interactions, and the adjudication services an online platform might offer, one of the most salient benefits might be the gift of time. Sex workers who can take advantage of developing an online presence (recognizing not all have access to a computer/the internet) do not have to make rushed decisions. While there is still susceptibility to being deceived or overpowered, having more than a moment to interact, even virtually and seemingly superficially, and to let a friend know where and with whom the date is taking place might make a big difference in safety. This is compared to standing on the street in a rushed transaction in order to avoid arrest; sex workers may be lucky to get a good look at the client before getting in the vehicle, much less note a license plate or other descriptors.

In addition to arguments for decriminalization so that sex workers can go through legitimate law enforcement channels when victimized, and given that online forums are a good way for even a black market to regulate itself, a review of these websites indicated that men would be likely to engage responsibly if sex work were actually decriminalized. The men commented on their experiences with sex workers, shared general consumer

information, and described the particulars of encounters. Further, "it is not uncommon for these writers to complain about violence against prostitutes or to encourage others to treat prostitutes with respect."[60] It is important to note that these men were simply posting; they did not know they were being surveyed. Additionally, they were among a cohort who would seem to be the most likely to be sympathetic to or encouraging of acts of violence. They had no reason not to be forthcoming, and they *still* disapproved of violence *and* policed each other. This means that there is likely a small number of men who account for most of the violence. Indeed, the attitudes of clients arrested for simply engaging in the sex trade

> do not indicate that this population has a particular inclination toward violence against women. Respondents were asked questions from a widely used Rape Myth Acceptance (RMA) scale. Rape myths are "prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists" that serve to justify or support sexual violence against women and diminish support for rape victims. . . . The findings indicate that most clients do not hold views that justify violence against prostitutes, and it is likely that most of the violence is committed by a minority of customers. Successful prostitution policy should differentiate between customers who perpetrate violence and the remainder of customers.[61]
>
> Only a fraction of arrested customers have a previous conviction for a violent or sexual offense. . . . Other clients are "repulsed at the idea of buying sex from prostitutes who are desperate, vulnerable, or coerced into prostitution" and say that if they met a trafficked victim, they would try to help her escape or contact the police. On websites where clients recount their experiences and share information with others, it is "not uncommon for these writers to complain about violence against prostitutes or to encourage others to treat prostitutes with respect." Interestingly, the largest study of client interactions with call girls reported that in half these encounters the men played the subordinate role: they "enjoyed relaxing and letting the call girl direct the love play." Clients use their economic power to buy sex, but they do not necessarily enact domination in the course of their sexual interactions.[62]

[60] Weitzer, *Sex for Sale*, 243.
[61] Weitzer, 244.
[62] Weitzer, *Legalizing Prostitution*, 20.

Abuse by Law Enforcement

> "On the stroll, they are so nasty. They call you boy, they call you [male name]. There used to be an officer that would snatch the girls' wigs off, and he used to ride down the stroll and if a date would try to pull up to you, he would be like you know that's a boy. His name is [male name]. . . .
>
> "I remember there was a policeman years ago that used to constantly harass the girls. Yes, Officer [name deleted], he wore the glasses. And I remember they shut [deleted] street down so we had to go elsewhere over . . . I remember he had pulled over, slammed me on the hood of his trunk and took my wig off, took my—I had water balloons titties—took them out threw them on the ground, they splashed, took everything out of my purse. I watched my makeup slide off the hood of the car and break. My MAC compact broke up. And it just I felt just so, so bad. I remember crying and it was raining and I was standing there in the rain and everything."
>
> —Walker Institute, O'Neill Institute for National and Global Health Law, and HIPS, "Improving Laws and Policies to Protect Sex Workers and Promote Health and Wellbeing"

Among the problems with criminalized sex work is lack of access to aboveboard law enforcement and, in fact, abuse by law enforcement; police are often the perpetrators of violence, and they have more contact and opportunity to engage in violence by virtue of criminalization. The aforementioned systematic review and meta-analysis, which looked at 134 quantitative and qualitative global studies from 1990 to 2018, operationalized legislation and policing into eight categories of potential exposure to law enforcement:[63]

1) police repression on an environment in which sex work takes place (workplace raids, zoning restrictions, and displacement from usual working areas),
2) recent (within last year) arrest or prison,
3) past arrest or prison,
4) confiscation of condoms or needles or syringes,

[63] Platt et al., "Associations between Sex Work Laws and Sex Workers' Health," 6.

5) extortion (giving police information, money, or goods to avoid arrest),
6) sexual or physical violence from police (negotiated or forced),
7) fear of police repression, and
8) registration as a sex worker at a municipal health authority

In a criminalized market, contracts cannot be enforced, including the (theoretical) contract with the state that non-sex workers enjoy: protection by and from law enforcement. Access to state services via decriminalization includes courts that can not only enforce contracts, but also adjudicate cases of police abuse and negligence. In a 2015 survey from COYOTE RI, when asked, "Do you feel that the police provided you with the appropriate protection, services and referrals?" more than 85 percent of respondents answered no.[64] Participant Norma Jean Almodovar (more of her story in the third and fourth chapters) writes in "For Their Own Good: The Results of the Prostitution Laws as Enforced by Cops, Politicians and Judges," "Even those who take an oath to protect all citizens see the prostitute as undeserving of rights that are supposedly guaranteed to all people."[65]

Just as those who engage in other criminalized markets often encounter organized crime—e.g., the Mafia during Prohibition or drug cartels these days—so too do sex workers, primarily in the form of law enforcement.[66] A 2007 study by Williamson and colleagues, "Police-Prostitute Interactions: Sometimes Discretion, Sometimes Misconduct," looks at how this marginalized population is more often subjected to

[64] COYOTE RI (Call Off Your Old Tired Ethics Rhode Island), "Trafficking and the Sex Industry in Rhode Island Survey Quantitative Data," 12.
[65] Almodovar, "For Their Own Good," 120.
[66] For a firsthand perspective of the extensive corruption from someone who has been on both sides of the law, see Almodovar, *Cop to Call Girl*.

inappropriate law enforcement encounters than the general population. "Of utmost importance to social workers and society is the reality that police misconduct against women in prostitution is a violation of the women's civil liberties. It is also a violation of the law and their oath of office. Police abuse of power betrays the public's trust. This behavior is wrong and cannot be justified, no matter how stigmatized the population or illegal the activity."[67] A study in a Columbus, Ohio, prison surveyed women arrested for prostitution who were also addicted to crack cocaine: "It is important to note that a prostitute may experience violence from someone other than her client/customer, such as other prostitutes, lovers, and police officers. Miller's study also noted that 62.5% 'had been raped in other contexts on the street,' while 43.8% had been forced or coerced into sex with a man who identified himself as a police officer."[68] From a Whitman-Walker/O'Neill/HIPS report employing focus groups of sex workers in DC in 2017:

> An overwhelming number of community participants had negative encounters with police in DC. Officers were reported to have often mistreated, profiled, and harassed transgender sex workers and physically and sexually abused sex workers either during arrests or actual client interactions with officers. Because of mistreatment, sting operations, and officers' lack of cultural competency, participants had a strong mistrust of law enforcement. Participants noted that they were unwilling to call the police when they were victims of crimes because they feared arrest, worried about being harassed, or just did not think the police would do anything.[69]

As Amnesty International notes, the criminalization of sex work leads to an environment where law enforcement officers in particular are prone to abuse, and it is not unusual for them to "perpetrate violence, harassment and extortion against sex workers with

[67] Williamson et al., "Police-Prostitute Interactions: Sometimes Discretion, Sometimes Misconduct," 34.
[68] Miller, "Gender and Power on the Streets"; Radatz, "Systematic Approach to Prostitution Laws," 32–33.
[69] Whitman-Walker Institute, O'Neill Institute for National and Global Health Law, and HIPS, "Improving Laws and Policies to Protect Sex Workers and Promote Health and Wellbeing," 12.

impunity. Where sex workers face the threat of criminalization, penalization or loss of livelihood when or if they report crimes against themselves to police, their access to justice and equal protection under the law is significantly compromised. This, in turn, offers impunity to perpetrators of violence and abuse against sex workers."[70]

Physical and Mental Health and Stigma

There are many ways to operationalize and measure the health of sex workers (and the health risks they may pose to society). For example, Baker, Wilson, and Winebarger interviewed twenty-six urban, female survival sex workers about their physical health problems as well as stigmatization, life satisfaction, and literacy. "Twenty-one women had acute or chronic health problems; only eleven sought health care."[71] Other metrics based on perceived social shortcomings such as drug use are typically of concern; one study estimated that 55 percent of sex workers are addicted to drugs prior to their involvement in the industry, 30 percent become addicted following their entry into the market, and 15 percent become addicted concurrent with their involvement.[72] However, as will be discussed, rather than stemming from some predisposition or character defect, drug use likely results from unmet mental health care needs, being a member of one or more marginalized populations, and the criminalization of sex work. That drug use is also criminalized and stigmatized is germane to its

[70] Amnesty International, "Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers," 10.
[71] Baker, Wilson, and Winebarger, "An Exploratory Study of the Health Problems, Stigmatization, Life Satisfaction, and Literacy Skills of Urban, Street-Level Sex Workers," 83.
[72] Silbert, Pines, and Lynch, "Substance Abuse and Prostitution," 193.

relationship with sex work, as is the fact that the concept of "addiction" does not really help us understand harm reduction.

The spread of STIs is a potential negative externality: transmission from partners who have engaged in commercial sex, either selling or buying. However, Albert, Warner, and Hatcher find that in Nevada, where sex work is legal in some counties in regulated brothels—regulation includes weekly testing and mandatory condom use—a sex worker was much more likely to get an STI from her partner than from her clients. Further, of 3,290 clients in the study, only 2.7 percent "were reluctant to use condoms. Of these individuals, 72% ultimately used condoms, while 12% chose nonpenetrative sex without condoms. The remaining 16% left the brothels without services."[73] Importantly, sex work need not be legalized and heavily regulated, as the data trends hold for decriminalized markets as well. In addition to the reduction in rapes and STIs in the case of Rhode Island, in New Zealand, where escort services, brothels, and even "pimping" and street sex work were decriminalized in 2003, policies have been met with zeal by both sex workers and government officials. A 2008 review "found the overall number of sex workers had not gone up since prostitution became legal, nor had instances of illegal sex-trafficking. The most significant change was sex workers enjoying safer and better working conditions. Researchers also found high levels of condom use and a very low rate of HIV among New Zealand sex workers."[74]

[73] Albert, Warner, and Hatcher, "Facilitating Condom Use with Clients during Commercial Sex in Nevada's Legal Brothels," 643.
[74] Brown, "What the Swedish Model Gets Wrong About Prostitution."

Abolitionist Janice Raymond at least partially blames HIV/AIDS on sex work: "In promoting its economic interests, the sex industry has found its political voice lobbying legislators and becoming a contributor to liberal and progressive causes—for example, to prevent HIV/AIDS, the very problem that the sex industry has helped to create."[75] While the data on STIs are somewhat contradictory (as with most sex work research), and as risk may vary along the socioeconomic spectrum (laws enforcement cites street-based sex workers' carrying condoms as evidence to arrest them), Raymond likely exaggerates sex work's effect on the HIV/AIDS epidemic.[76] Judith Porter and Louis Bonilla note that even though "prostitutes are popularly viewed as vectors of HIV infection," they are not major contributors, at least in the United States, because they are more apt to engage in oral sex, which carries a lower risk of infection than penetrative intercourse.[77] More importantly, when they do engage in penetrative sex, they are more likely to use condoms because of the known associated risks. Still, "the link between prostitution and HIV/AIDS has become a much-debated issue since the discovery of HIV/AIDS."[78] One scholar in the 1980s noted that sex workers "are considered scapegoats for the AIDS panic," and she chronicled multiple newspaper articles that describe sex workers as "health problems" and suggest that people avoid them "like the plague."[79] However, in September 1988 the *New York Times* finally reported on two studies of 627 customers in New York City, in which only three cases of the virus were suspected of having been

[75] Raymond, *Not a Choice, Not a Job*, 125.
[76] Raymond is notorious for her SWERF (sex worker-exclusionary radical feminist) and TERF (trans-exclusionary radical feminist) pronouncements.
[77] Weitzer, *Sex for Sale*, 164–65.
[78] Radatz, "Systematic Approach to Prostitution Laws," 25.
[79] Radatz, 25–26.

transmitted by a sex worker.[80] Participant Tracy Quan (see third and fourth chapters) was quoted in that article: "Educating men about AIDS has just become another part of the job. It's always been part of the job to protect yourself and the rest of society from disease."[81]

Some studies tell different stories, at least in the 1980s and early '90s. "In the U.S., prostitutes have prevalence rates of gonorrhea several orders of magnitude above that of the general population. Researchers have also identified prostitution as a key factor in the rapid spread of syphilis during the mid-1980s, associated with the crack cocaine-for-sex trade, as well as an increase in transmission rates for AIDS and Hepatitis B Virus."[82] In 1992, the National Health and Social Life Survey indicated that 22.9 percent of sex workers reported having had gonorrhea at some point, compared to 4.7 percent of non-sex worker women. Some research indicates that the average sex worker has two to three hundred clients a year. Since males carry a 20 percent risk of contracting gonorrhea "from a single act of vaginal intercourse with an infected woman," and females "have a 60–80% risk of getting the infection from a single act of vaginal intercourse with an infected man,"[83] spread of infections may be a legitimate public health concern. One way to reduce this spread, even if it turns out that sex work does not contribute as much as is estimated on the high end, may be decriminalization and destigmatization. From the Amnesty International decision:

> Evidence indicates that criminalization interferes with and undermines sex workers' right to health services and information, in particular the prevention,

[80] Radatz, 26.
[81] Lambert, "AIDS Among Prostitutes Not as Prevalent as Believed, Studies Show."
[82] Cunningham and Kendall, "Men in Transit and Prostitution," 3–4.
[83] Cunningham and Shah, "Decriminalizing Indoor Prostitution," 2.

> testing and treatment of sexually transmitted infections (STIs) and HIV. Criminalization of sex work has specifically been shown to directly undermine global HIV prevention efforts. For example, police in many countries frequently confiscate and cite the use of condoms as evidence of sex work offences, creating a disincentive to their use and further jeopardizing the right to the highest attainable standard of health.[84]

As Dana Radatz notes in her comprehensive literature review from 2009, "The overall health of a prostitute is often dismissed, as the main focus of public health is placed on her STD and HIV status, and the possibility of transmitting the diseases further. Despite such large amounts of research on the prostitute and community health, it has been found that prostitutes are not large contributors to the spread of diseases, and when they are, it tends to be due to an intravenous drug addiction."[85]

She further notes that minimal research had been done on less obviously manifested health outcomes, "with the exception of post-traumatic stress disorder (PTSD)."[86] Multiple studies confirm that PTSD occurs with much greater frequency among sex workers than in the general population, and the highest levels occur under the strictest criminalization policies. PTSD often results from perpetual stress (being in constant "flight" mode), stigma, and violence, and those are also the highest under criminalization. "Such violence includes but is not limited to being threatened, physically and verbally assaulted, raped, abducted, and kidnapped. Eventually, prostitute women learn to become desensitized by such violence and begin to think of it as a way of life."[87] The previously mentioned study of 130 sex workers in San Francisco reported

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[84] Amnesty International, "Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers," 10.
[85] Radatz, "Systematic Approach to Prostitution Laws," 39.
[86] Radatz, 39.
[87] Radatz, 39.

that 68 percent met the criteria for PTSD diagnosis; a similar study in Washington, DC, found 42 percent of 140 respondents met the criteria.[88] "The literature describes a combination of 'push' and 'pull' factors that prompt women to engage in prostitution. Poverty, a push factor, is a common reason some women enter street-level prostitution. Other push factors include an unstable home life, childhood physical and sexual abuse, and neglect or drug addiction. Pull factors include one's glamorization of the lifestyle, a sense of excitement from dangerous and risky behavior, feeling in control or empowered, encouragement from others, and the desire for economic independence."[89] "Most people have some form of a lurid narrative about drugs, exploitation, childhood abuse, and mental illness come to mind when they imagine the life of a sex worker. However, sex workers' relationships to their identity are far more complex and difficult to characterize than that trite narrative allows for."[90] Turning to mental health in general, this encompasses the exogenous risks and resulting stress, preexisting conditions and stigma, and incentives and amelioration. While physical ills are technically temporary problems (one can heal from wounds and receive treatment for STIs if sought), criminalization's effects on mental health may be more cause for concern.

According to at least one scholar, "Sex workers are more concerned with preventing emotional risks because the risks related to health and violence can be effectively managed."[91] Further, research has only recently acknowledged that stress and

[88] Farley and Barkan, "Prostitution, Violence, and Posttraumatic Stress Disorder," 37–38; Valera, Sawyer, and Schiraldi, "Violence and Post Traumatic Stress Disorder in a Sample of Inner City Street Prostitutes," 149; Radatz, "Systematic Approach to Prostitution Laws," 29.
[89] Cimino, "A Predictive Theory of Intentions to Exit Street-Level Prostitution," 1236.
[90] LeMoon, "We're Not Crazy for Doing This."
[91] Sanders, "A Continuum of Risk?," 566.

its ramifications, such as anxiety, depression, self-esteem issues, eating disorders, etc., must be treated as separate from general physical health and violence.[92] Many researchers are focusing on the cause/effect relationship between mental health and sex work, trying to determine whether sex workers with mental health issues develop them upon entering the trade or whether they enter because they are predisposed to have mental health issues. Many sex workers argue that it can be the optimal occupation among constrained options for those not able to function well in more socially acceptable markets. Laura LeMoon, a sex worker with mental health issues and an HIV researcher, writes for *Tits and Sass*, "Sex work is not a dysfunctional behavior stemming from our disease. Rather, it is often the best choice we can make to adapt to our mental illness. In truth, many people with mental illness find sex work helpful in a variety of ways as an occupational choice. It gives us a less rigorous schedule which allows for more emotional instability. Sex work can also affirm us as something we can excel at when mental illness has hindered our success in more traditional pursuits."[93] She goes on to contribute to the discussion of whether mental health issues beget participation in the trade and how we should think about people who make rational choices:

> People diagnosed with mental illness frequently have their decisions invalidated and undermined by the dominant culture. Many individuals who do not have much experience with mental illness will attribute any socially unacceptable behaviors to "mental illness." In much the same way, people who have never been in the sex industry tend to sideline the decisions of sex workers by inferring that trauma or abuse must have predestined them to a life in the sex industry. When people who are neither mentally ill nor in the sex industry say these things, they are robbing us of our ability to exert agency.[94]

[92] Radatz, "Systematic Approach to Prostitution Laws," 26–27.
[93] LeMoon, "We're Not Crazy for Doing This."
[94] LeMoon.

She conducted many interviews with other sex workers who were also addressing their mental health needs, and she found that the overriding sentiment was one of empowerment. In their own words:

> "Sex work gave me the freedom to sustain myself, work through trauma, and build a sense of self. I don't take shit from anyone; if you're rude to me, you don't get to see me. If you're abusive, I get to leave. And I have handsome, amazing people giving me thousands of dollars a month to spend time with me and tell me I'm beautiful, smart, amazing, and so on. My confidence and self-esteem have never been better, and in turn, I'm able to cope with my mental illnesses in ways that are easier on my body, and healthier for me."[95]
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> "It gave me an easier, more flexible work schedule that left more room for days crying in the closet, or conked out in bed, unable to focus past the stabbing pain in my joints. It gave me the resourcefulness, and daringness to walk away from harmful situations. It came with problems," Johnson adds, "and in some ways it wasn't the best for me in a perfect world, but it was still, by far, the best choice I could have made. Had I not made that choice, I would be a far worse person."[96]
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> "I have a pattern of extreme insomnia stemming from anxiety and depression. If I cannot reliably function at a nine-to-five because I cannot sleep enough [to] be awake enough to do my job, multifaceted freelancing is my best option. I haven't had a nine-to-five job since I was 22—I'm 37 now—and I would rather be medication-free than hurt myself to maintain a regular schedule."[97]
>
> "Just because I'm (sometimes) crazy, doesn't mean I'm wrong. My sex work was not me acting out, or indulging in yet another form of self-harm. It was nothing that entitles people to belittle my full humanity. It's nothing that automatically means that mentally ill sex workers, especially ones who may have other issues too (drug use, etc.) should automatically be deprived of the rights that privileged, able-bodied civilians are entitled to."[98]

In conclusion, LeMoon writes,

> Mental illness can be extremely isolating. Sex work can create a community and a lifeline for us, recognizing and affirming us in ways we aren't around "regular" people. In a world where all too often, mental illness is seen as an abnormality that must be corrected, the underground culture of sex work typically celebrates "weirdos" and "freaks" in ways that mainstream society does not. It can be a refuge for those individuals and communities who are told they do not belong,

[95] LeMoon.
[96] LeMoon.
[97] LeMoon.
[98] LeMoon.

> made to feel demonized by and alienated from the dominant culture. It is not necessarily every sex worker's first choice for a career, but this does not entitle non-sex workers to judge the complex and multi-layered decisions that people with mental illness have to make while navigating the broader culture. Choices made because of oppression, marginalization, and alienation are not any less valid than choices which are not influenced by such factors. We *all* operate in different contexts of constraint, on multiple levels. The autonomy of sex workers and folks living with mental illness must be respected.[99]

Another important consideration is stigma not related to preexisting mental health issues, but rather that which is attendant upon entering the profession. There are broad sources of stigma operating at different levels including within criminal justice and health care systems, in the media, in the minds of the public, and among sex workers themselves.[100] It could be argued that all stigma originates from opinions held by the general population: public opinion theoretically informs policy and institutions, which in turn affect how sex workers perceive themselves. Further, the label "prostitute" (among other words) becomes an epithet for the rest of a woman's life, even after she exits the industry, especially if a criminal record exists to continually hamper her. "Prostitution for women is considered not merely a temporal activity (as it is for men who are clients and often for men who are sex workers), but rather a heavily stigmatized social status which in most societies remains fixed regardless of change in behavior."[101] Indeed, stigma is almost universally recognized as the "primary harm of prostitution," with people on both sides of the decriminalization debate agreeing that sex workers are stigmatized.[102,103]

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[99] LeMoon.
[100] Benoit et al., "Prostitution Stigma and Its Effect," 461.
[101] Pheterson, "The Category 'Prostitute' in Scientific Inquiry," 399.
[102] Radatz, "Systematic Approach to Prostitution Laws," 2.
[103] Not everyone agrees. From Janice Raymond's statement on behalf of the Coalition Against Trafficking in Women at the UN: "[Some] treat prostitution as a personal choice, ignoring the sexual exploitation of prostitution while at the same time announcing that the worst thing about prostitution is stigmatization. But

They are not viewed as full human beings, they are socially invisible, and they internalize those cues. They are described as "fallen," "bad," and "un-rape-able."[104] They have been publicly condemned as contributing to myriad social afflictions including disease, poverty, and crime.

Some sex workers themselves reinforce cycles of stigmatization: they end up believing that they deserve the discrimination and violence they experience. It comes with the territory. This in turn contributes to resignation toward real or perceived barriers to accessing aboveboard law enforcement and health care services, or it leads to acceptance of subpar treatment when they do seek them out. Internalization of stigma is thus linked not only to low self-esteem but also to feelings of disempowerment and the disinclination to seek out public services, resulting in even worse conditions.[105] Again, for example, Benoit et al. write about stigmatization at the hands of the police:

> In many countries, the rights of persons who sell sex are violated by police through verbal harassment, public humiliation, excessive force, invasive searches, and unwarranted arrests. Police in multiple contexts have taken advantage of the power differential between themselves and sex workers, sometimes demanding money or bribes, or forcing them into unwanted sexual acts. . . . Multiple studies have found that once specific individuals are identified as sex workers, they are subject to police interference, harassment, and humiliation in their communities even when not working. . . . Workers say they worry the police will insult them, ignore them, or charge them with a criminal offense. This is particularly the case for sexual assault victims, who sometimes face the false assumption held by some police officers that sex workers cannot be raped. As a result, many sex workers find themselves alienated from protective services.[106]

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the worst thing about prostitution is its violation of and violence against women and children." Raymond, "Report to the Special Rapporteur on Violence Against Women."

[104] Radatz, "Systematic Approach to Prostitution Laws," 34.

[105] Benoit et al., "Prostitution Stigma and Its Effect," 460.

[106] Benoit et al., 462.

Regarding poor health outcomes, studies looking at when and how sex workers seek out health care find that fear of judgment from providers is the main driver of unmet health care needs. In a 2013 study,[107] sex workers reported "concerns that if they disclosed their occupation the health care providers would become fixated on occupational risks at the expense of the workers' overall health concerns."[108] "Sex workers who have disclosed their occupation to health providers have frequently encountered discrimination expressed in a range of ways, including having insensitive and abusive language used toward them, being treated disrespectfully or humiliated in public health care spaces, experiencing physical marginalization within the health care setting, denial of care, and breaches of confidentiality."[109] Highlighted here is that physical health issues *not directly resulting from sex work* go untreated. Apathy and discrimination lead to the worsening severity of common ailments. This is also likely the case when attempting to seek out mental health services, including for conditions that affect much of the general population, such as depression. A depressed sex worker might have a difficult time finding a sympathetic therapist who would not immediately push them to identify their occupation as the primary cause of their depression, or at least as a symptom of it. Mental health is correlated with many variables, not least of which are genetics and brain chemistry, which do not come into play based solely on one's profession or circumstances.

[107] Bungay et al., "Community-Based HIV and STI Prevention in Women Working in Indoor Sex Markets."
[108] Benoit et al., "Prostitution Stigma and Its Effect," 462.
[109] Benoit et al., 462.

Security and reduced stigma do, however, improve well-being, and both could be more readily achieved with decriminalization. Sex workers in the upper echelon of pay and prestige report feelings of satisfaction and empowerment comparable to the general population. A study that looked at the mental health scores of 187 sex workers reported that those who earned on the high end of the spectrum were likely to place in the top quartile of emotional well-being, but those who earned on the low end and worked on the street or indoors non-independently and under poor working conditions were in the lowest quartile of well-being. "Other research [in the Netherlands], comparing indoor prostitutes with an age-matched sample of nonprostitute women, found no differences in their physical and mental health, self-esteem, or the quality of their social networks."[110] This is consistent with what we know from broader studies linking income to happiness, most famously Kahneman and Deaton's paper from 2010: "We conclude that high income buys life satisfaction but not happiness, and that low income is associated both with low life evaluation and low emotional well-being."[111] Maybe what is true for people in other occupations is also true for sex workers: "Money can't buy you happiness, but it sure as hell helps!"[112]

> Surprising as it may seem, indoor prostitutes' self-image can *improve* over time as a result of their work experiences. Diana Prince's comparative study of 75 streetwalkers and 75 call girls in California and 150 legal brothel workers in Nevada found that almost all of the call girls (97 percent) reported an increase in self-esteem after they began working in prostitution, compared with 50 percent of the brothel workers but only 8 percent of the streetwalkers. Similarly, in another study, three-quarters of indoor prostitutes (most of whom worked in bars) felt that

[110] Vanwesenbeeck, *Prostitutes' Well-Being and Risk*; Weitzer, *Legalizing Prostitution*, 27.
[111] Kahneman and Deaton, "High Income Improves Evaluation of Life But Not Emotional Well-Being," 16489.
[112] McLynn, interview by Independent.ie Business.

their life had improved after entering prostitution (the remainder reported no change; none said it was worse than before).[113]

It is important to remember that sex workers and their lived experiences are not monolithic. For example, after comparing the oppression and empowerment paradigms, which tend to deal in absolutes, Weitzer presents the "polymorphous paradigm," which recognizes vastly differing conditions and aspects of the sex worker experience; it is difficult to compare so many variations. "Victimization, exploitation, agency, job satisfaction, self-esteem, and other dimensions should be treated as *variables* (not constants) that differ between types of sex work, geographical locations, and other structural conditions."[114]

In addition to pay, respect, autonomy, etc., perhaps the most obvious difference between indoor and street sex work is the most important: the former implies access to a roof over one's head. Obtaining secure housing is one of the biggest challenges many sex workers face. DC's No Justice No Pride's NJNP Collective Housing project started "in the wake of the passage of FOSTA/SESTA—to ensure safe housing for Black and Brown Trans People, particularly, for those currently or formerly engaged in sex work."[115,116] The organization rents five houses for up to seventy-five people a night with plans to

[113] Prince, *Secret Lives*; Weitzer, *Legalizing Prostitution*, 28.
[114] Weitzer, *Legalizing Prostitution*, 18.
[115] No Justice No Pride, "NJNP Collective Housing."
[116] As further discussed in the fourth chapter, FOSTA (Allow States and Victims to Fight Online Sex Trafficking Act) and SESTA (Stop Enabling Sex Traffickers Act) are the House and Senate versions of legislation that "amends Section 230 [of the Communications Decency Act of 1996] by suspending its protection in cases where online platforms are perceived to be promoting prostitution." By conflating sex work and trafficking and sanctioning any platform the state equates as promoting either, it "undercuts the most crucial statute protecting freedom of speech on the internet and endangers the safety, health, and human rights of consensual sex workers and trafficking victims." Decriminalize Sex Work, "What Is SESTA/FOSTA?"

continue expanding to meet needs. The goal of NJNP Collective Housing is to provide not a place to do sex work but rather a place to live given the discrimination Black transgender women in particular face: many landlords will not rent to them, even if they get their money "honestly" (not from sex work). This is simply one model that demonstrates the challenges to procuring stable housing.[117] Decriminalization would help on at least a few fronts: no criminal record on background checks, the ability to obtain and provide a credit record, the option to have a roommate to share expenses with without being caught under "pimping" or "brothel" statutes, etc. (Almost anytime one sex worker interacts with another, whether sharing an Uber or exchanging information about clients, they are running afoul of the law.) Of course, much as many co-ops have strict rules about quiet hours, and homeowners' associations can dictate the color of one's fence, so too could property owners have no-home-based-business policies, as with most governments' zoning regulations. This becomes less of an issue if sex workers can rent space elsewhere. Ultimately, being able to engage in the work indoors, whether that is where one lives, at a hotel, or in a shared space, necessarily results in greater safety from the police—the most threatening potential encounter for likelihood of harm.

Whether in a criminalized or decriminalized market, on the street or indoors, one thing is very clear: participants should be able to exit the market freely. Andrea Cimino writes that

[117] In fact, this may not be a very good example of the model. During the course of conducting interviews after writing this chapter, it came to light that NJNP leadership may have acted unethically in a number of ways. The decision was made to forgo "airing dirty laundry" here and throughout the dissertation for two reasons: despite multiple attempts, NJNP could not be reached, even before becoming aware of the shortcomings, and wading into the details of sex workers' interpersonal grievances detracts from the mostly shared vision and mission.

> if a person is struggling with normative beliefs from a significant other who is encouraging her continued prostitution, then positive supports and rebuilding family relationships could be a viable intervention strategy. If a woman does not believe she is capable of exiting, then interventions could address her low self-efficacy beliefs. Finally, if a woman has intentions to exit, then the intervention can focus on building her skills or removing environmental constraints. For women who have strong intentions to exit and the necessary skills, minimal intervention may be needed to support her continued resistance of prostitution. By addressing prostituted women's individual needs more effectively, exiting programs can better serve their clients and could run more efficiently.[118,119]

As noted previously, a tremendous barrier to exiting is having a criminal record. Advocates of criminalization claim it has a deterrent effect, as well as that a stint (or more) of incarceration acts as a catalyst for exiting; however, once acquired, a criminal record is permanent. In fact, "having felony charges makes finding legitimate employment very difficult and may [actually] trap women in prostitution."[120] "While decriminalization might not provide an automatic fix for the stigma surrounding sex workers, advocates do believe that through recognizing and normalizing the selling of sex, the stigma toward sex workers will slowly erode. Ironically, that stigma may prevent decriminalization laws from ever being passed. Because of this, it is critical that human rights advocates focus on decreasing the public stigma of sex workers while simultaneously advocating for changes in the law."[121]

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[118] Cimino, "A Predictive Theory of Intentions to Exit Street-Level Prostitution," 1246.
[119] The previous two sentences: "For example, if a prostituted woman has not formed intentions to exit, interventions can be developed to address and change her attitudes, norms, or self-efficacy. For instance, if it appears that a prostituted woman's attitude toward prostitution is positive, suggesting she is still glamorizing the life, an appropriate intervention could focus on the negative outcomes of prostitution." While Cimino has good intentions, she gets it wrong by implying that exiting is always preferable; this speaks to the impact of criminalization on stigma, agency, and language, addressed in detail in the fifth chapter. "Also, Dude, ['prostituted woman'] is not the preferred nomenclature. ['Sex worker,'] please." Coen and Coen, *The Big Lebowski*.
[120] Cimino, "A Predictive Theory of Intentions to Exit Street-Level Prostitution," 1246.
[121] Marshall, "Sex Workers and Human Rights," 66.

Cost and Conclusion

Briefly, there is also the issue of opportunity cost. One of the first cost-benefit analyses of criminalized sex work, Julie Pearl's 1987 review found that the United States' sixteen largest cities spent almost $300 million (adjusted to 2022 USD) to arrest, prosecute, and incarcerate sex workers.[122] Several cities, including Los Angeles, Dallas, Phoenix, San Diego, and New Orleans, spent more on criminalization than on all hospitals and health services; half of the cities "spent more on prostitution control than on either education or public welfare."[123] From a 2003 report from the Sex Workers Project at the Urban Justice Center in New York City: "People convicted of prostitution and prostitution-related offenses who are sentenced to jail serve their sentences in City jails at the cost of $64,000 per year, $175 per day."[124] Adjusted for inflation and spent differently, nearly $100,000 per year would be a pretty comfortable stipend, even in New York City, with which one could afford decent housing, healthy food, etc.

Revisiting the numbers to draw attention to magnitude and issues of equity, in 2009 there were approximately eighty thousand arrests every year for engaging in the sex trade (buyers, sellers, and third parties), with an additional unknown number for loitering or disorderly conduct; more recent records indicate that there are around fifty-five thousand annually.[125] At least one shift in enforcement in the past two decades has been a tendency to target the clients in greater numbers, rather than just the sex workers. Despite this development, and despite recent consideration of international policies that

[122] Pearl, "Highest Paying Customers," 797.
[123] Pearl, 772–73.
[124] Thukral and Ditmore, "Revolving Door," 5.
[125] Weitzer, *Sex for Sale*, 21; Bazelon, "Should Prostitution Be a Crime?"

criminalize only the clients (i.e., the Swedish/Nordic or End Demand model), law enforcement has always "fall[en] most heavily on the prostitute. In 2002, for example, only 9% of all prostitution-related arrests in Phoenix were of men, 12% in Boston, and 14% in Las Vegas."[126] While the current trend is toward more male arrests, as of 2019, only 37 percent of "prostitution and commercialized vice" arrests were men.[127]

A peer-to-peer survey in New Haven, Connecticut, reported in 2020 that among forty-nine street-based sex workers, "83% of respondents had been incarcerated at some point in their lives," and of those, 49 percent were charged with crimes associated with sex work, being unhoused, or drug use.[128] Many cited having a criminal record as a major obstacle to procuring work, and housing and food insecurity are also significant struggles. This research also found disparities in arrests, which disproportionately affect people of color, transgender and gender-nonconforming people, immigrants, and women. SWAN and Yale Global Health Justice Partnership note how criminalization resonates in perpetual ripple effects on families, particularly regarding the foster care system, and in communities, especially when it pertains to whole networks being swept up:

> Conviction and incarceration separate sex workers from their families and friends, disrupting social support systems and devastating communities. The revolving door experiences of arrests, courts, and jails are harmful to the physical and mental health of both sex workers and their communities.
>
> The incarceration of sex workers disrupts their ability to fulfill parental and other familial duties and creates reunification challenges, making it more likely for their children to remain in foster care even after their release.
>
> Families and friends of sex workers may themselves face criminal penalties for "living off the proceeds" of sex work. Those who receive financial support from a

[126] Weitzer, *Sex for Sale*, 30.
[127] Federal Bureau of Investigation, "Crime in the United States: Table 42: Arrests by Sex, 2019."
[128] Global Health Justice Partnership and Sex Workers and Allies Network (SWAN), "Mistreatment & Missed Opportunities," 20.

> sex worker may experience financial hardship while that individual is arrested or incarcerated and unable to work.
>
> Families, friends, roommates, partners, and peers of sex workers can be prosecuted under overbroad anti-trafficking laws that allow their support to be interpreted as "pimping, pandering, or promoting" prostitution. This overuse of prosecution disrupts social support systems and makes it harder for grassroot organizations to provide services.[129]

In addition to many people directly bearing the brunt of criminalization, and the indirect but enormous opportunity cost to society of arresting all these consenting adults, it seems that we as a nation are becoming increasingly concerned about putting people in cages. We describe a number of other state-made phenomena as "crises": "the prison crisis," "the opioid crisis," "the border crisis," etc. And we at least pay lip service to better options than cages. Criminalized sex work may not affect the number of people we typically associate with crises, but it is a crisis nonetheless, and it ought to be conceptualized and addressed as such. This chapter broadly elucidated how criminalization directly contributes to many serious problems: law enforcement negligence, misconduct, and abuse; murder, rape, and other violence; trouble procuring treatment for common physical ailments and relief for mental health issues; stigma; housing discrimination and inability to access public services; arrests and consequences; costs and cages. We can imagine a hurricane that results in medical trauma, PTSD, inability to evacuate, disruption of services, second-class citizens based solely on circumstances, increased opportunity for corruption, billions of dollars in loss, etc. We would not hesitate to say that that disaster constitutes a crisis, and one we should

[129] Sex Workers and Allies Network (SWAN) and Yale Global Health Justice Partnership, "The Harmful Consequences of Sex Work Criminalization on Health and Rights," 2.

ameliorate if we can. Similarly, the state-made crisis created by prohibition must be reconsidered—there is a tsunami of suffering directly resulting from the criminalization of sex work.

CHAPTER THREE: "LET'S TALK ABOUT SEX [WORK]"*

> They're definitely trying to kill us. And I hope, like, I really only believe in the power of the people. I really do. I don't believe our leaders are gonna do shit to save us. It's gonna have to come from the bottom up. It's gonna have to come from the ground up. It's gonna have to come from what it is coming from honestly, which is networks within community. Like, you know, people mailing syringes to each other and Naloxone to each other. It's a lot of just underground machinations and being willing to do shit that might not be totally kosher. Like, a lot of the time.
>
> —Alexander/a Bradley, interview

Having established that the criminalization of sex work is a persistent crisis with historical and current ramifications borne predominantly by women, and particularly those who are BIPOC, LGBTQ, and/or migrant, the research project turns to sex workers' rights activists' rational strategies for overcoming criminalization and stigmatization. It seeks to provide a glimpse into individual and community lives, noting aptitudes and goals, successes and shortcomings, circumstances and agency. It communicates with those who have never met a sex worker, those who have (perhaps unbeknownst to them), those who love sex workers, those who hope to earn the title of "ally," and, finally, sex workers themselves. It looks at how the sex workers' rights community is making positive steps toward well-being, including organizing for decriminalization. It documents experiences and challenges and celebrates successes. It attempts to better understand and share with other communities and allies, members of the public, students and researchers, policy makers, etc., what is working and what maybe is not working so well. In describing and explaining the social phenomenon of criminalization, as well as

* Salt-n-Pepa, "Let's Talk about Sex."

sex workers' rational responses to that phenomenon, it contributes normative components for improving policy.[1] Despite the tremendous injustices resulting from criminalization, it chronicles how this community comes together to support one another and the mission of decriminalization and destigmatization.

When assessing the methods employed, it is important to bear in mind that they relate to the motivation and goals of the larger, overall project, rather than just the limited results and analysis presented in the following chapter. While the data discussed in "Experiencing the Crisis" represent one of the project's aims, again, they constitute less than 12 percent of what was collected and processed. Inspired by methodologies from the natural disaster literature, the project is particularly interested in how sex workers develop self-care strategies and leverage social bonds to deal with the negative effects of the black market, including danger from law enforcement and criminal elements, stigmatization from the public, and obstacles to the provision of public goods. Importantly, it asks how they are making inroads toward ameliorating their crisis via decriminalization. We observe communities in various forms of crisis, such as in post-hurricane and war-torn regions, engage with one another to make the best out of a bad situation. Applied here, the primary research question is: how does the sex worker community experience and overcome its crisis? It asks not only how crisis manifests among the community but also, perhaps more interestingly, how community members overcome it with rather remarkable success and an eye toward the future. Again, it is mostly the former part of the question—about experiencing—that is answered in the

[1] With thanks to committee member Jerry Mayer for helping draw out stated goals.

dissertation, but it could not have occurred without the motivation to understand the overcoming part. The epilogue will have more to say about future research on that aspect of the story.

The research project's subquestions and organization are conceptualized as "The Trouble" and "The Solutions." "The Trouble" is more deductive because much of what we know about how sex workers experience criminalization can be found in the literature—for example, as summarized in the previous chapter—and from what sex workers have told us time and time again. Still, narratives vary quite a bit, particularly those of privilege and empowerment, and each individual experiences the crisis differently. Interview questions often attempted to get at the following: What are the physical and emotional conditions? What are the actual lived circumstances and experiences? What are the particular barriers and constraints faced? How do policy and stigma contribute to perpetuating the crisis? The broad theme of "The Solutions" is more inductive and explores how sex workers' rights activists endure and overcome hardships. What strategies do they employ to improve circumstances? What roles do social bonds, such as those resulting from friendship, (chosen or otherwise) family, work, and community, play in helping sex workers deal with their crisis? What do organizations' formal and informal infrastructures and governance institutions look like? What gives sex workers' rights activists the fortitude to respond to their crisis by organizing to decriminalize, and how do they overcome collective action problems?

Rational choice theory (discussed in detail in the concluding chapter) tells us that sex workers are rational and respond to incentives and constraints as other individuals do.

Criminalized sex work entails a great number of extremely negative conditions; people operating under the constraint of criminalization are experiencing a crisis. An arm of the natural disaster research provides an effective framework and powerful method of data collection for understanding sex workers' rational responses to their crisis. This chapter discusses the methods by which the trouble of criminalization and the resulting solutions are examined.

Literature Review: Community and Crisis

> Community is mutual support. I think that it's just any support that you are giving and receiving at the same time, right? Or maybe not at the same time, but giving and receiving in general. I think that community can look like ebbing and flowing, so it can look like things that you step in and out of. I think that community can look like something that you are very firmly rooted in. I think that community can look like spaces that you all come to for the same reason. I think that community can look like something where it's just your people. I think that I would define community for me as my chosen family. I would just say it's giving and receiving support and some kind of love.
>
> —Frankie Smith, interview

Because the previous two chapters may be considered as fulfilling the requirements of a literature review—particularly the second one, which examined and established the criminalization of sex work as a crisis—this section will focus on the literature as it influenced the methodology. This is because data collection and analysis were very much driven by methodological influences—as were theoretical foundations, research questions, guidance for liaising with the Institutional Review Board (IRB), interview questions, techniques for executing this type of qualitative research, and thoughts about what to do with the data upon collecting it and how to present it. Of all the types of established crises (war, genocide, forced displacement, migration, poverty, overcriminalization, prison, kidnapping, financial, opioid, epidemiological, etc.), this

research was inspired primarily by the natural disaster literature. This body of work serves as an effective template for examining the criminalization of sex work as a crisis, based upon the complementary methodology employed by researchers asking similar questions about what it is like to experience crisis and how people respond. It also indirectly illustrates the application of rational choice theory by assuming that people want to make themselves better off, especially in dire straits.

Led by coinvestigators Emily Chamlee-Wright and Virgil Henry Storr, under the conceptualization and guidance of Peter Boettke, a team of researchers from George Mason University conducted interviews in the wake of 2005's Hurricane Katrina. They sought to answer questions about "what affords societies the ability to respond to and recover from catastrophic disaster, and what forces undermine that capacity," as well as "systemic questions of what makes complex societies work and why they sometimes fail to work."[2] The research project has expanded to talk with people after other natural disasters including Hurricane Sandy and to support the work of researchers in other countries. Notable publications include *The Political Economy of Hurricane Katrina and Community Rebound*, *How We Came Back: Voices from Post-Katrina New Orleans*, *Community Revival in the Wake of Disaster: Lessons in Local Entrepreneurship*,[3] and many articles by various authors, including then graduate students who participated in the data collection and have since joined the research project as scholars. The project adopts an inclusive conceptualization of "crisis," for example, in two edited volumes,

[2] Chamlee-Wright and Storr, *The Political Economy of Hurricane Katrina and Community Rebound*, 1–2.
[3] Chamlee-Wright and Storr, *The Political Economy of Hurricane Katrina and Community Rebound*; Storr, Chamlee-Wright, and Storr, *How We Came Back*; Storr, Haeffele-Balch, and Grube, *Community Revival in the Wake of Disaster*.

Government Responses to Crisis and *Bottom-Up Responses to Crisis*.[4] Much of the natural disaster and crisis research is rich with observations and firsthand accounts of staying afloat (often literally) in times of trouble. Despite a perhaps seemingly myopic focus here, the following selection should not serve as *the* authoritative representation of the breadth and depth of the project and countless researchers' contributions and publications. However, it accessibly articulates the details of and justifications for the methodology, which inspired speaking with sex workers about their crisis of criminalization.

In addition to providing a methodology, *The Cultural and Political Economy of Recovery: Social Learning in a Post-disaster Environment* provides a theoretical framework and related research questions.[5] Researchers sought to understand why some communities rebounded quickly, immediately exhibiting robust signs of recovery, while others stagnated, with residents and leaders unable to make progress. They observed that the variation was not only across states and cities but even within neighborhoods in New Orleans. Questions included the following: "*Why* does one neighborhood rebound, while another limps along? In communities that experience a swift and robust recovery, *how* was their success achieved? In communities that experienced slower rates of return and rebound, what were the particular barriers they faced? What motivated those who did return and how did they carve out effective strategies of action?"[6] This in turn led to a long-term research agenda that asks, "What gives society the ability to respond and

[4] Haeffele and Storr, *Government Responses to Crisis*; Haeffele and Storr, *Bottom-Up Responses to Crisis*.
[5] Chamlee-Wright, *The Cultural and Political Economy of Recovery*.
[6] Chamlee-Wright, 2.

rebound in the aftermath of disaster (and what inhibits it from doing so)?"[7]

Fundamentally, the researchers want to understand the roles civil society, particularly the resources embedded in social bonds, and entrepreneurship play in dealing with a crisis. How do people endure and overcome hardships, and what strategies do they employ when the solutions are not obvious? Chamlee-Wright notes that qualitative data like these are not frequently employed within economics, but they are common within sociology. (And, as the analysis part of my methodology will illustrate, psychology.)

> One of the distinctive (or odd, depending upon one's perspective) features of *The Cultural and Political Economy of Recovery* is the qualitative methodological approach I deploy; distinctive (or odd), that is, relative to most academic economics literature. The analysis presented in *CPER* is based on in-depth interviews with 300 people who had returned to New Orleans and the Mississippi Gulf Coast following Hurricane Katrina, as well as interviews and/or surveys of 103 former New Orleans residents who had evacuated with Katrina but were still living in Houston three years after the storm . . .
>
> The interviews were based on a common set of questions and prompts, but the interview structure was such that it allowed an interviewer or interview subject to pursue any particular topic in greater detail as necessary. In general, interviews lasted from one to three hours. Audio files of the interviews were transcribed and the transcripts were later coded for themes and patterns of interest. Reports capturing each occurrence of a theme could then be coded again for more refined pattern identification within and across communities.[8]

By employing primary and secondary codes, researchers were able to identify themes such as the role of businesses and entrepreneurship, churches, civic organizations, political action, mutual assistance, family, friends, government, schools, and "norms and narratives," the last of which was secondarily coded as "historical narratives," "stories of identity," and "community practices."[9] They found that communities and individuals

[7] Chamlee-Wright, 3.
[8] Chamlee-Wright, "Reflections on Methodology, Disasters, and Social Learning," 87.
[9] Chamlee-Wright, *The Cultural and Political Economy of Recovery*, 189–90.

were more successful dealing with the crisis when they relied on embedded social capital and entrepreneurship. With a vast and varied literature, social capital may be "broadly understood as the effect social networks and shared attitudes can have on economic performance,"[10] or in this case, recovery performance. This included mutual assistance, community leaders, rehearsed habits of association, collective histories and cultural identity, prevalent narratives of independence (and often of neglect by politicians), mental models that embrace pride in oneself and one's community, etc.[11] Communities that tapped into their social capital were even more successful than those that were more affluent or better connected to recovery funds. While my research does not strictly compare the same variables, similar themes manifest within the sex work community.

Also relevant to my application, Chamlee-Wright spends some time arguing that "it has become clear that public policy—even policies and programs aimed at protecting and supporting disaster victims—can undermine this capacity for resilience and social learning."[12] She chronicles multiples instances in which policy hampered recovery efforts by distorting signals, misallocating funds, and engaging in central planning with goals antithetical to those of the community. This does not mean that there is no role for public policy, especially in the form of aid; it just means that a decentralized, polycentric approach, which allows for social learning and bottom-up responses based on local knowledge, must be given weight. She is wary of discounting the experiences of people on the ground.

[10] Dasgupta and Serageldin, *Social Capital*, back cover.
[11] Chamlee-Wright, *The Cultural and Political Economy of Recovery*, 45, 61, 63, 68, 84, and 125.
[12] Chamlee-Wright, 169.

> If public policy is to support rather than undermine the social learning process that emerges within commercial and civil society, it will do so by removing barriers that impede its re-emergence; it will do so by ensuring that the institutional rules of the game are clear; and it will do so by ensuring that programs of support are simple, credible, and administered swiftly. But this of course is easier said than done. Such policy design would require policy makers to possess some appreciation for the capacity commercial and civil society possess for resilience and adaptability. And even if policy makers understand this capacity, political incentives tend to favor the complicated and grandiose in policy design and the overly cautious when it comes to protecting the public. Thus, it is likely that policy improvements along these lines will be hard-won if at all. This suggests that communities will have to continue to find ways to navigate around poorly designed policies that conspire against a robust civil society response.[13]

Again, there are several themes among the above relevant to sex workers, including that there are certainly "barriers that impede reemergence," as is evidenced in the permanency of criminal records. Further, sex workers deal with continually shifting policy landscapes ("You may advertise services on the internet"/"Now you may not"), enforcement ("We'll turn our eye if you live with another sex worker for safety"/"Oops, now it's a brothel; we're going to enforce regulations of association"), and public opinion ("Sex for money is okay, but only if it's filmed"). The "rules of the game" are unclear to begin with, and they vary and change dramatically across jurisdictions and time. Additionally, programs of support for sex workers are not "simple, credible, and administered swiftly," as many sex workers complain of being owed services not rendered, at best, and being abused, at worst. Finally, criminalization does seem to be a case of policy makers' being "overly cautious when it comes to protecting the public," judging by the deleterious effects sex workers experience (if they are to be considered

[13] Chamlee-Wright, 172–73.

members of "the public") and given that policies contradict preferences expressed in public opinion polls.

Ultimately, "post-disaster recovery is a process that is driven largely by bottom-up discovery and action—discovery and action that is fundamentally embedded within a particular social, cultural and political context."[14] Also pertinent when applying this framework to sex workers, the experiences and stories that unfolded suggest that

> their communities possess a capacity for resilience that far surpasses what they are usually credited as having. By investigating the socially embedded resources communities have at their disposal, and the creative strategies that employ these resources, perhaps we have an opportunity to remind people struggling to rebound and rebuild that ultimately *they* are the source of community resilience.[15]
>
> But perhaps more importantly, such narratives can also provide templates that render extreme circumstances more familiar and navigable. Ordinary citizens and community leaders who can effectively identify and deploy such narratives have a powerful set of resources at their disposal.[16]

Several guides were consulted when thinking about how to develop interview questions, as well as how to identify, invite, and interact with participants. Particularly helpful was Chamlee-Wright's "Workshop on Qualitative Research Methods."[17] Interview questions were heavily influenced by "Appendix II: Interview Guide." "Appendix III: Critical Decisions You Need to Make before the Fieldwork Begins and Adjust as the Context Changes and as You Learn More" was invaluable for consideration prior to the interviews. Appendixes describing "The Art of the Good Probe" (IV) and "Coding" (V) were also helpful to think about before engaging. Appendix A contains the

[14] Chamlee-Wright, 4.
[15] Chamlee-Wright, 5.
[16] Chamlee-Wright, 177.
[17] Chamlee-Wright, "Workshop on Qualitative Research Methods."

IRB-approved interview guide, modified from guides developed by the team for their post-hurricane research.

This chapter was also inspired in part by prison gang researcher David Skarbek's methodology, especially as described in *The Social Order of the Underworld: How Prison Gangs Govern the American Penal System*.[18] A contributor to the Katrina project, he more recently used various source materials to explain the proliferation of gangs in the United States' prison system. In recent decades, there has been an increase in the number of gangs and members; many prisons are now clandestinely run by gangs. Rather than explain this phenomenon as simply ever-worse individuals with sheer love of terror and desire to inflict harm, he suggests that gang membership has increased to provide governance where formal systems have failed. In order to understand these institutions, Skarbek turns to the literature from criminology and sociology; data on inmate populations from reports and studies by the California Department of Corrections and Rehabilitation; histories of prisons in the state; legal documents such as criminal complaints, court orders, indictments, testimonies, and appellate court opinions; FBI declassified files; biographies and personal memoirs of former law enforcement officials and inmates; and media reports and documentaries. "I supplement these with conversations with correctional officers, gang investigators, gang experts, police officers, and former inmates."[19] As Skarbek notes, "Each of these types of evidence is imperfect, yet together they provide a compelling picture. Their authors come from both sides of the

[18] Skarbek, *The Social Order of the Underworld*.
[19] Skarbek, 11.

law and from many academic disciplines. Judges have vetted and assessed much of it. It is qualitative and quantitative. I hope to show that the synthesis of these diverse sources provides an accurate and convincing picture of the criminal underworld."[20]

Skarbek's framework is important for a couple of reasons: first, sex work is clearly intertwined with incarceration and extralegal institutions; second, he explicitly references rational choice theory:

> There are two central ideas that make up the rational-choice approach. First, people are self-interested. They pursue ends that they value. This doesn't mean that each person cares only about him- or herself. People often do care more about themselves, their family, and their friends than they do about complete strangers. However, people also give to charity, save people from burning buildings, and perform acts of sacrifice for the sake of justice and honor. People pursue outcomes that they value, both self-interested and altruistic ones. One advantage of viewing the world this way is that it makes it hard to ignore social problems. If people always cared about everyone else as much as themselves, then violent crime and many other social problems wouldn't exist. People would know that these actions harm others, so they simply would not do them. Related to this point, the focus of this analysis is always on how individuals act. We cannot understand gangs, prisons, and the legal system without understanding the individuals who comprise them.
>
> Second, people respond rationally to changes in costs and benefits. If some activity becomes more costly, people tend to do less of it. If something becomes less costly, people tend to do more of it. This does not require that each person be a lightning calculator of pleasure and pain. People aren't robots. They sometimes make mistakes, get confused, satisfice, and struggle through a murky world of imperfect information and cognitive biases. However, when they recognize changes in costs and benefits, they respond accordingly. . . . A person's subjective preferences determine what he or she views as costs and benefits. It is not helpful to ignore an inmate's desire for heroin just because we might not share or approve of that preference. . . . Economics looks at how people strive to accomplish their preferred goals, based on the costs and benefits of doing so.
>
> The rational-choice model applies to criminals as much as it does to everyone else, possibly more so. The punishment for making errors in the underworld are often more severe, and meted out more quickly, than in traditional arenas of life.

[20] Skarbek, 12.

> If you make a mistake in an ordinary job, you may be fired. If you make a mistake as a criminal, you may go to prison.[21]

Skarbek seeks to understand how prisoners experience their conditions and how they respond to costs and benefits:

> Criminals lack access to many formal governance institutions: the legal and social institutions that promote social order and economic activity by protecting property rights, enforcing agreements, and facilitating collective action to provide physical and organizational infrastructure. Governance institutions play a crucial role in every society. Markets, business endeavors, and nearly every sort of cooperative pursuit require well-functioning governance institutions. This includes both criminals who wish to cooperate in crime and the members of society who must cooperate to stop them. However, precisely because they are involved in illicit activities, criminals can't rely on the same governance institutions that law-abiding citizens rely on. To meet this need, criminals must create alternative, self-governing institutions.[22]

Skarbek succeeds in presenting a compelling story explaining why prison gangs emerge and describing their governance institutions, organizational structures, and rules and norms. Initially supposing this research would rely primarily on a similar content analysis of secondary sources as did Skarbek's, it turned out the goal of ten to fifteen semi-structured, open-ended interviews with sex workers' rights activists was met. Still, the research was enhanced by considering that Skarbek looks at a "man-made crisis" (as opposed to natural disasters—though recovery efforts certainly can be hampered by "men") and that he provides a framework specific to criminalized behaviors: there is the behavior that results in a person's becoming incarcerated, followed by the secondarily criminalized behavior vis-à-vis being a gang member. In this vein, sex workers' lasting criminal records may be considered a secondary punishment. Finally,

[21] Skarbek, 3.
[22] Skarbek, 4.

that he looks at extralegal governance institutions provides a rich template for thinking about black markets and rational choices.

Finally, this research also benefited from encountering *How We Came Back: Voices from Post-Katrina New Orleans*, by Nona Martin Storr, Chamlee-Wright, and Storr, which, as the title suggests, consists of firsthand accounts—the voices of those impacted. Along the lines of an oral history, but applied to public policy, this research ultimately aims to capture the period before society became appalled at and ashamed of the tremendous injustices meted out, and especially to memorialize the heroic efforts of those who led the charge to rectify the injustices. The next section details how those voices and their stories were collected.

Data Collection: "Nothing about Us without Us"

> Before I was the National Organizer, I was the Campus Director at Old Pros, and we ran a street-based canvas where we talked to over 50,000 people in New York City, specifically on the Lower East Side. Our pitch was, "Hey, do you have a moment to talk about sex worker rights?" or "Can you spare us a moment for sex worker rights today?" And the amount of people who walked up to us like, "Sex worker rights?!" and being horrified, and then donating at the end, or not donating but being, "I've learned something today. Thank you."
>
> It is mind-boggling how many people have changed their mind about sex work just through one conversation. It's just having that hearts-and-minds canvassing of being, "Let's talk." Have a conversation with a sex worker. Everyone I hired for that was a sex worker. And they all were out. Everyone was out and proud of being a sex worker. So it was just having a conversation with a sex worker and being like, "I'm a sex worker, do you hate me?" And them being like, "I don't know you, of course I don't hate you." "Here you go. Now you know a sex worker. And you probably know more." So it's having those conversations and having that continuing dialogue.
>
> —Frankie Smith, interview

Having selected the type of data best suited to answer my research questions, the next step was connecting with participants. I began attending events. The first was the

DC Council hearing for Bill 23-0318, the Community Safety and Health Amendment Act of 2019, on October 17, 2019. This would have essentially decriminalized sex work in the nation's capital. As I sat among the member organizations and individuals driving this, many from DC, some from out of town, I began to develop my "dream list" of interviewees. That they were testifying meant that they might be considered "activists." I finished and defended my dissertation proposal in late January 2020. A month later COVID hit. While my schedule did not permit me to stay for the full fourteen hours of the hearing on the day that it occurred, I had plenty of time in 2020 to watch it in its entirety, take notes, work on my purposively sampled list of folks to contact, and think about how to recover from being so pandemically waylaid. I ultimately adjusted the research design to move from in-person, semi-structured, open-ended interviews to hoping I could conduct those interviews remotely.

I began to build my dream list based on what those who testified spoke about, whether they indicated openness to being contacted, and perceived likelihood of their agreeing to engage with someone they barely knew about such personal matters. I continued to increase my familiarity with the local DC activist population, predominantly consisting of Black transgender sex workers. I wanted to learn terminology, norms, customs, etc., in order to show that I had done the work before engaging. This was important because various marginalized communities often rightfully speak about being tired: they are tired of starting from scratch with every new would-be ally; they are tired of redundant questions that can easily be Googled; they are tired of explaining "Why this matters." It would not have been welcome to come to the scene signaling I was going to

be asking the same questions they have answered time and time again. To show that I had engaged with the research and attended community events was imperative and provided much needed context; for example, misgendering someone when their pronouns are on their organization's website or in a report would not get me very far.

Still not having contacted anybody, but as the ongoing pandemic necessitated that events were virtually accessible, I remotely attended two on International Day to End Violence Against Sex Workers, December 17, 2020. The first was a panel presenting new research produced in conjunction by HIPS, the O'Neill Institute at Georgetown Law, and the Whitman-Walker Institute: "Protecting DC Sex Workers and Promoting Health and Wellbeing." The second, "End Violence Against Sex Workers Virtual Vigil," was much more intimate, and I am not sure I would have found my way there if not for the online aspect. This was a day of mourning and remembrance, but also of learning from one another (particularly about self-care) and celebration. My dream list grew. Arranged in honor of Black History Month, "Pro-Black, Pro-Hoe: Black Sex Work Activism in 2021" (February 11) and "Decriminalizing Sex Work in DC is a Racial Justice Issue" (February 18) further enlightened me. Many of the hundreds of individuals and partner organizations who participated in the hearing in 2019 had hands in one or more of these events, including members of SWAC (Sex Worker Advocates Coalition), DecrimNow DC, HIPS, O'Neill, Whitman-Walker, etc. I became increasingly familiar with the terrain. Then the vaccines came, and "hot vax summer" opened up in-person events: a drag fundraiser in Dupont in June, a panel on harm reduction in Shaw in September, the

#DecrimPovertyDC campaign launch at Freedom Plaza in October, etc. Despite immersing myself, I was still too nervous to introduce myself in person at any of these.

Shortly before Labor Day, I had finally mustered the nerve to cold contact someone and simply see what happened; I selected the emcee of the virtual vigil. I will forever be grateful that Shareese Mone responded promptly, kindly, and affirmatively. Shortly after Shareese's warm reception and robust interview, I approached another from my dream list, Alexander/a Bradley, described affectionately as a "powerhouse" by Shareese. In addition to interviewing in January (it took us a while to coordinate, as they are incredibly busy managing the outreach arm of HIPS, including overnight shifts in the van), they introduced me to another person from my dream list, Michaelisa Jones, as well as Michelle Spikes.[23] However, I experienced a dry spell after engaging with Shareese but before making arrangements with Alexander/a. Folks interacted pleasantly but briefly, and interviews did not materialize, or, more often, I could not track them down or they did not respond.

I realized I might not be able to tap into the local community as fully as I had hoped: community members work primarily in direct service provision, organizing to meet the immediate needs of those who are engaged in survival sex work or drug use or are unhoused, which means it can be challenging, rightfully, to coordinate given their priorities. I needed to expand my operationalization of "the sex workers' rights activist community," and university policies still precluded in-person interviews anyway. I had

[23] To my knowledge, only one person shared the IRB-approved recruitment language (see Appendix B). Like Alexander/a, most hubs simply introduced us via email or other informal channels. I am aware of at least one spoke who called her hub to vet me.

read Norma Jean Almodovar's book and witnessed her lively, engaging personality in interviews on talk shows and late-night shows pertaining to her ordeal with the Los Angeles Police Department and incarceration. In November, I took a chance and friend-requested her on Facebook. Things took off. After interviewing, she endorsed me to six folks—five of whom accepted interviews, and two of whom went on to introduce others. I listened to, watched, read, and otherwise consumed nearly everything folks had produced before interacting with them. Finally, as my last cold contact, I reached out to Beatrice Codianni, who also self-identified in the form of an interview in an academic journal encountered in a Google Scholar keyword roundup email notification. I was struck by how she spoke about people's specializations and using their varied interests and skills to become allies. I thought she might be open to exploring the potential contributions of this project, and, as with many of the other participants, we exchanged several emails and had an off-the-record meet-and-greet before interviewing.

The process often required thoughtful communication over the course of months to demonstrate that I was committed to being a good steward of folks' lived experiences, especially those whom I had contacted seemingly out of the blue. They have been betrayed by law enforcement, the criminal justice system, public service and medical providers, the feminist establishment, family, etc. Familiarizing myself as appropriate prior to contact was essential, not only for my own edification, but also to have a solid footing on which to begin communicating. Many organizations and individuals send newsletters and are active on social media; these provide reactions to current events, communicate initiatives that activists care about, and facilitate mobilization. Event

videos, websites, books, annual reports, newsletters, Facebook posts, etc., are not analyzed as data as in a content analysis; rather they serve as multiple points of immersion. The new data presented in the following chapter are those that resulted from the recorded interviews.

Data collection therefore initially employed purposive sampling, followed by convenience sampling using a hub-and-spoke method consistent with ethnographic or sociological qualitative research, most clearly drawn from the crisis literature previously discussed. Similar to snowballing, it may be considered a bit less linear and not as concerned with getting "ever-bigger fish" as some models are. It is especially helpful for engaging with difficult-to-reach communities, such as sex workers. The bios below describe the hubs and spokes as well as demographic information and descriptive snapshots. In sum, after a year of preparatory work immersing myself in various spaces; gradually making connections; fostering those connections through emails, phone calls, Zoom sessions, Facebook messages, and texts; applying for and receiving IRB approval; and taking some time for us all to adjust to remote life, it was time to execute the research instrument. On-the-record, Zoom-recorded interviews took place from September 2021 to May 2022, resulting in over twenty hours of audio.

The response rate was good. Two people turned down my request after friendly but brief initial contact. One is a researcher, and I got the impression she does not consider herself an activist. The other—an executive director—sent a generous reply with a lot of good information but was a moonshot to begin with. One person agreed but then

ghosted while going through a difficult personal time. Three simply never responded.[24] In all, sixteen out of nineteen engaged at least somewhat substantively, thirteen resulted in robust interviews, and four became spokes. The dissertation proposal aimed for ten to fifteen interviews; this was achieved in the diverse and representative total. With more avenues to follow, the decision was made to stop at that juncture and turn to analyzing and presenting the results. Time and space constraints here permit only a broad and limited glimpse into lives and themes; ensuing research will continue with more interviews.

On the day of an interview, preparation included sending a reminder email fifteen to thirty minutes before the appointed time with the Zoom link again for ease of access, getting the consent form (Appendix C) ready in DocuSign if it had not been signed previously, and monitoring my email and phone in case of last-minute rescheduling or technical difficulties. Participants received the consent form ahead of time—usually when the interview was scheduled, but often after initial contact as a means of concisely explaining the project and allowing plenty of time for them to review and ask questions. Having been told that the interview would take no more than two hours and that some of that time was dedicated to going over the consent form together, more than one wanted to get that squared away beforehand: "Let's get the paperwork out of the way so we can have some real talk." Technical challenges resulted in a suggested improvement for DocuSign, the secure online signing and tracking software used. While it may have been

[24] Of these, given what was later discovered about the general disarray of one of the organizations, it is unclear whether two of those email addresses were accurate, though I only received an "undeliverable" automated message from one. The third person, though a recommended would-be spoke, uses a general "inquiries" address, so it is also unclear if my email reached her.

user error, there seems to be a glitch where folks on tablets and phones cannot check boxes. After several failed attempts, including resending with fresh documents, and though we were able to get signatures and dates on the forms, we had to get verbal consent on the recording from two of the participants. Interviews ranged in duration from thirty-six minutes to two hours and twenty-three minutes (the latter continued with an off-the-record phone call); average duration was one hour and thirty-three minutes. Two were under an hour; seven lasted between one and two hours; four were over two hours. One occurred in two sessions over the course of three days.

Every participant wholeheartedly wished to be identified.[25] "Wholeheartedly" is not an overstatement.[26] This signals that all may be considered activists. In conjunction with their public-facing efforts to decriminalize sex work, the fact that they enthusiastically wished to have their names and stories told may indicate a sort of self-selection bias, but it also contributes to a working conceptualization/operationalization of "activist." All are current or former full-service sex workers with the exception of one, and that person works extremely closely with their sex worker colleagues and community on outreach, drug decriminalization, and other public health measures and was a key hub of the hub-and-spoke method employed. While there are many types of sex work (porn, webcamming, stripping, phone sex, etc.), as in the previous chapters, the term "sex work"

[25] I am aware of at least four participants who use professional names—for both sex work and their activism. These names are how they are widely and singularly known and so fall within the scope of "identified."

[26] Kaytlin: "I enthusiastically consent to being identified for publications. Please just spell my name right. And let me know, so that we can promote it." Bailey, interview by Malia Dalesandry.

here refers to what is typically called "prostitution": sex work that is criminalized and frequently involves some sort of sexual physical contact for money or other payment.

On the topic of moneys, I made personal donations to organizations and individuals after interviews to support their work.[27] These folks took time and energy, including emotional labor, to engage, and everyone has opportunity costs. Symbolically, too, it is important to me to put my money where my mouth is. I engaged with recurring donations, lump sums, tickets to fundraising events and raffles, Cash App payments, and gift cards. I supported post-surgery gender-affirming care, gave a birthday present, and made purchases from an Amazon Wishlist that went to direct service provision. I was equitable in the distributions, though the modes varied. In discussing and justifying her methodology, political scientist Samantha Majic might call this "reciprocation": "To begin such a research project with sex workers (or other similarly situated communities), researchers require access to the community (and, in this case, the nonprofits that gather and represent them); since access is not always guaranteed, it is difficult to replicate such studies. However, the process of accessing and establishing relationships with these organizations [and individuals] thus illustrates a second potential benefit of qualitative research: reciprocation—namely, the mutually beneficial relationship that may develop between the researcher and the community studied."[28] A list of organizations' websites

[27] With the exception of one, who was unaffiliated and did not get back to me with her selection. In the interview she expressed concerns about crowdfunding and other digital platforms pertaining to exchanging money. She wondered whether, as governments crack down on alt-right entities, they will expand their dragnets. For example, sex workers bore the brunt of "trafficking" crackdowns on Craigslist, Backpage, etc., culminating in FOSTA/SESTA and other First Amendment violations. Overreach affecting sex workers may next apply to GoFundMe, Venmo, and the like, and perhaps even 501(c)(3)s of which the government does not approve.

[28] Majic, *Sex Work Politics*, 147.

from which to learn and to which to donate is found in Appendix D. Modes for donating to individuals are not listed to respect their privacy and because they always instructed that funds at least partially go to the organizations they appreciate or with which they are affiliated.

To summarize, the process by which interviews were gathered and conducted was a learning experience. Words had to be precise, sensitive, and respectful. After a few iterations, a standard introductory email seemed to work really well; it was tweaked for each individual, usually based upon articles they had written, their podcasts and radio shows, the events at which they presented, etc. It was important to come in having done as much background work as possible, ideally with several specific points of engagement related to their activities. It was sometimes difficult to gather the gumption to reach out to someone particularly admired within the sex workers' rights community. These were conversations with some pretty important (and busy) movers and shakers. However, almost as soon as contact was initiated and the project described, folks engaged fully and were across the board consistently warm, patient, helpful, funny, kind, and generous.

A couple of things benefited the data collection aspect of the methodology. Again, there was a lot of learning before engaging, including gaining familiarity with the scene; educating myself to avoid mistakes such as making assumptions or missteps with poor turns of phrases or other faux pas; and acknowledging, apologizing, correcting, and moving on when I did make them. It was also important to prepare from a personal perspective. For example, one Saturday consisted of three two-hour-plus conversations (two preliminary get-to-know-you phone calls and one formal recorded interview).

Though all went very well, it was exhausting. That was a lesson learned as well: ensuring that one has the emotional energy and stamina that the participants and the research deserve. A couple of circumstantial aspects also benefited this type of data collection: the winter weather (many of the interviews took place in January and February 2022) and the pandemic. Both likely contributed to more time indoors, and in the case of the latter, folks' technical experience with interactive online engagement. This also meant that adjusting the research design to access people all over the country flowed naturally. In retrospect, though I am in no way thankful for the trade-offs pertaining to the pandemic, the timing of the inspiration, motivation, connections, and research design worked out.

Participants range in age from twenty-two to seventy-three years, with an average age of fifty. Eight are white, including one who is half Native American; three are Black; two are of South American and Trinidadian/Chinese (see nuance in bio) descent. Eight are cisgender; four are transgender, including nonbinary; one is genderfluid. The following are the people who were and are so generous with their time and energy, emotional and otherwise. These snapshots by no means encapsulate the essence of the individuals nor their contributions to the sex workers' rights movement. Rather, they serve to provide some basic context including demographic information and affiliations and to illustrate my sampling, including cold contact, as well as the hub-and-spoke method. It is important to note that developing the data collection instrument as part of the methodology was in no small part a goal of the dissertation, with the intention to continue the work using these techniques if they proved successful. They have.

Norma Jean Almodovar (she/her/hers) is founder and president of the International Sex Worker Foundation for Art, Culture and Education (ISWFACE—pronounced "ice face"). She is the author of *Cop to Call Girl: Why I Left the LAPD to Make an Honest Living as a Beverly Hills Prostitute*,[29] which details her abuse from the police and subsequent incarceration. She was the 1986 Libertarian candidate for lieutenant governor of California. She was contacted via Facebook after I read her book, and she served as a major hub for this research, brokering five successful introductions, which in turn led to additional spokes. NJ, as her friends call her—and she has many friends—is white, cisgender, and in her early seventies, living in California with her beloved husband of nearly forty years (together for forty-seven—they had to get married to see each other when she went to prison).

Alex Andrews (she/her/hers) is cofounder of SWOP Behind Bars. She began doing sex work in 1984 as a stripper, becoming an escort a couple of years later after a knee injury. Like most of the participants, she experienced multiple arrests. A highly trained hairdresser, dog mom, and amateur potter, she has been helping connect incarcerated people with resources and the outside world since 2008. She does not consider herself an activist (though I would lightheartedly disagree based on her tremendous contributions) but rather a direct service provider. Shortly after the interview, she became the widow of her unwaveringly supportive husband of nearly twenty-five years. Norma Jean brokered Bella Robinson, who in turn introduced Alex. Alex is white, cisgender, in her late fifties, and lives in Florida.

[29] Almodovar, *Cop to Call Girl.*

Kaytlin Bailey (she/her/hers) is founder and executive director of Old Pros. Historian, comedian, and podcaster, she began trading sex at seventeen and came out in 2015; she left the profession with rumblings of FOSTA/SESTA, as well as because she took a salaried position at an advocacy organization and did not want to be a source of vulnerability if arrested. She marries her history degree and expertise in grassroots activism with her comedic chops and communication skills, resulting in highly effective specialized storytelling geared toward seemingly divergent audiences. Norma Jean brokered Kaytlin, who in turn introduced Frankie Smith. Kaytlin is white, cisgender, and in her midthirties, living in New York City with her husband.

Alexander/a Bradley (he/him/his, they/them/theirs, she/her/hers) is outreach and community engagement manager at HIPS. The sole participant who cannot be said to have lived experience with sex work, they have other related lived experience and contribute mightily to harm reduction, particularly as it pertains to drug use and housing insecurity. Alexander/a is white, genderfluid, in their early thirties, lives in Washington, DC, and was contacted after I heard them speak at several events. They are especially thanked for their open demeanor, gentle patience, and invaluable education. They were the hub for Michaelisa Jones and Michelle Spikes.

Beatrice Codianni (she/her/hers) is founder and executive director of SWAN. "In the closet" (the term is used by sex workers as well as the LGBTQ community) for fifty years and having served fifteen years in prison for running with the Latin Kings, she is a featured character in Piper Kerman's *Orange Is the New Black.*[30] She was cold

[30] Kerman, *Orange Is the New Black*.

contacted via email after I encountered her interview in the *Yale Journal of Biology and Medicine*.[31] One of the gentlest souls imaginable, she also displays remarkable mettle and verve as she provides direct services and forges relationships. Beatrice is white, cisgender, and in her early seventies, splitting her time between New Haven, Connecticut, and Florida, where she does some of her important work remotely while adoring her beloved granddaughters.

Michaelisa Jones (she/her/hers) is reentry coordinator at HIPS, where she has also been a client. She has had it rough. Kicked out of the house after coming out at sixteen, she has experience with being unhoused and arrested fifty-two times, and she had just been shot a few days before the interview. Now in therapy and a twelve-step program, she is also positively poetic, possesses almost saintly compassion, and is stronger than she perhaps gives herself credit for. On the dream list of interviewees after I heard her speak at the "End Violence Against Sex Workers Virtual Vigil," Michaelisa is Black, transgender, and in her midfifties, lives in Washington, DC, and is a spoke from Alexander/a.

Bryan Knight (he/him/his), the sole cisgender male participant, provides companionship for men as an escort; he is also an adult film actor and a brilliant comic book author. He asks that the term "Betty White-ish" be incorporated into the lexicon. "She is one of the only people that we, as a whole, have collectively mourned in agreement. 'Betty White-ish' describes the strength and power that come from wise optimism and persistence." Born of South American immigrants and having done full-

[31] Ng, "Safeguarding the Health and Rights of Sex Workers."

service sex work for sixteen years, Bryan is in his late thirties. He lives in New York City with his husband but travels frequently domestically and internationally to meet with clients. Bryan is a spoke of Norma Jean.

Carol Leigh (she/her/hers), "Scarlot Harlot," is credited with coining the term "sex work" in the late 1970s. She is the author of *Unrepentant Whore: The Collected Works of Scarlot Harlot,*[32] among other titles. She founded the San Francisco Bay Area Sex Worker Film and Arts Festival, a project of BAYSWAN (Bay Area Sex Worker Advocacy Network), which she also cofounded and directed. She was a longtime spokesperson for the sex workers' rights organization COYOTE (Call Off Your Old Tired Ethics). Producing and starring in films, plays, and other media, she was white, cisgender, in her early seventies, and a spoke of Norma Jean. Treasured by many, Carol passed away in California in November 2022.

Shareese Mone (she/her/hers) was the first participant and provided much needed wind under sails, a rich interview, and helpful pointers going forward. ("Make it more like it was in the beginning; the flow was natural.") She was cold contacted via email after I experienced her charisma as she emceed the virtual vigil. A formerly incarcerated client turned development coordinator at HIPS, Shareese is Black, transgender, and in her early fifties and lives in Washington, DC. With a gift for mobilizing at rallies and other public events, the lived experience and wisdom of an "auntie," welcoming hugs, an easy laugh, and a big heart, she is preparing to purchase her first home so she can sit with her cat under patio lights and relax a little.

[32] Leigh, *Unrepentant Whore*.

Tracy Quan (she/her/hers) is the author of a novel with semiautobiographical elements, *Diary of a Manhattan Call Girl*,[33] and its two sequels. She was a spokesperson for PONY (Prostitutes of New York) and has published in numerous outlets including the *Los Angeles Times*, the *Guardian*, the *Daily Beast*, *Cosmopolitan*, the *Financial Times*, and the *New York Times*. She is a regular guest on the *Morning Brew* show on public radio in Hong Kong. Born to Trinidadian parents with Chinese ancestry on both sides, Tracy spent her youth in Canada and has described herself as "multiethnic," "post-ethnic," and "regional."[34] She is cisgender and in her midforties, lives in New York City, and is a spoke from Norma Jean.

Bella Robinson (she/her/hers) is a firecracker, in the very best way. Executive director of COYOTE RI, she is quick with stats, stories, and laughs. She became a self-described child bride/trophy wife to an abusive forty-one-year-old a few weeks after she turned seventeen. Bella was incarcerated twice in Florida, including at Lowell, the then-second-largest (now largest) women's prison in the US and especially known for its atrocities against inmates. She moved to Rhode Island in early 2009 to enjoy the indoor-sex-work loophole, and the life she describes under decriminalization is one of prosperity, health, safety, happiness, and peace. She founded COYOTE RI later in 2009 in response to recriminalization. Bella is white, cisgender, and in her late fifties, and she is a spoke from Norma Jean.

[33] Quan, *Diary of a Manhattan Call Girl*.
[34] Vorda, "Tracy Quan: Interview with a Sex Trade Novelist."

Frankie Smith (they/them/theirs, he/him/his) is national organizer at Old Pros, where they apply their coalition-building skills; they are also affiliated with several chapters of SWOP, most locally SWOP Brooklyn. When they were campus director at Old Pros, they organized canvassing and were heartened by the response of talking with over fifty thousand people on the streets of New York City. Kicked out of their family home at fifteen and with one arrest resulting from defending a Black friend from a racially motivated cop, they are an avid proponent of mutual aid and radically anticapitalist. They have been a sex worker (street-based survival and now parlor) for seven years; their partner is also a sex worker. Originally from Portland, Oregon, Frankie is a nonbinary transgender person who is half white, half Native American, and in their early twenties; they were introduced to me at a party at Kaytlin's apartment.

Michelle Spikes (she/her/hers) first came to HIPS as a client having experienced being unhoused for eleven years as well as drug use and multiple arrests. She then volunteered and is now full-time community health worker. Born in California with a childhood spent in in Georgia, she moved to DC with her mom in 2000 and was relieved to find the city more LGBTQ-friendly than Atlanta. She is humble when she speaks about all that she contributes and sings the praises of her colleagues, in particular Shakita, Alexander/a, Ms. Budd, and Ms. Phyllis. "I really look up to them as leaders of our community. 'Cause they really have been doing this work for so long and inspired me to get into it." Michelle is Black, transgender, in her late thirties, a proud dog mom, and a spoke from Alexander/a.

More on Methods: Reflexive Thematic Analysis

> A statistician, a political scientist, two economists, a philosopher, and a dozen sex workers walk into a bar, where the (former) bartender is attempting to earn her doctorate by drawing on the work of several historians, a sociologist, a Nobel laureate, and two psychologists in order to inform public policy.
>
> —Me, trying to explain to my mom what I've been up to for the past eight years

The above description of data collection methods likely indicated intimate familiarity and investment. My personal presentation is the result of another of the selected methods: reflexive thematic analysis (RTA). Before I encountered RTA, exploring options for how to conduct qualitative research was challenging. While *The Cultural and Political Economy of Recovery* inspired me, and Chamlee-Wright's "Qualitative Methods and the Pursuit of Economic Understanding"[35] and Storr and Stefanie Haeffele's chapter "Understanding Disasters: Questions Should Drive Methods and Other Interdisciplinary Lessons"[36] demonstrated the power of qualitative research, as a novice, I needed a manual. I began seeking out detailed, step-by-step instructions for coding and developing themes, but many of the textbooks and guides consulted (some classics, some more obscure), while informative, were often very broad, covering many types of qualitative research and therefore not containing enough detail about any one particular method. Some were too vague or too rigid (or oddly, sometimes both simultaneously) for my purposes. The main takeaway from learning about qualitative research, particularly that using semi-structured, open-ended interviews, is that there is no

[35] Chamlee-Wright, "Qualitative Methods and the Pursuit of Economic Understanding."
[36] Rivera, *Disaster and Emergency Management Methods*, 355–66.

one right way to do it. Through learning, however, I did begin to refine what I was attempting to present and to narrow down ever more precise methods.

Themes are presented in sex workers' rights activists' own words as much as possible. The activist community talks a lot about how crucial it is for those who earn the title of "ally" to provide platforms to amplify voices—as opposed to presenting the narratives of the ally. While I knew that the presentation of the research would necessarily include analysis and interpretation, the feeling that I had to do right by these beautiful folks mounted with every interview. Not that I ever intended *not* to do right, but rather that the important task of being a responsible steward of and doing justice to their stories was becoming increasingly clear. I needed a toolkit that could accommodate. RTA explicitly acknowledges, consistently articulates, and wholly embraces these sentiments.

In their seminal 2006 paper, psychologists Virginia Braun and Victoria Clarke provided one of first attempts to codify thematic analysis. "Thematic analysis is a poorly demarcated, rarely acknowledged, yet widely used qualitative analytic method within psychology."[37] I was immediately struck by the admitted shortcomings, particularly within the pedagogy; this was appealing. They "then provide clear guidelines to those wanting to start thematic analysis [as a beginner], or conduct it in a more deliberate and rigorous way."[38] Maintaining accessibility and clarity and encouragement for those new to qualitative research, their methods' popularity and subsequent applications in other disciplines spurred them to expand upon their prescriptions, notably in two books:

[37] Braun and Clarke, "Using Thematic Analysis in Psychology," 77.
[38] Braun and Clarke, 77.

Successful Qualitative Research: A Practical Guide for Beginners and *Thematic Analysis: A Practical Guide*.[39] The latter in particular refines what they now call "reflexive thematic analysis," though they in fact recognize that they have been describing this method all along, given the weight they place on the researcher's positionality.

In addition to delineating a six-step approach that is intuitive and approachable, among the many attractive attributes of RTA is that it is honest and flexible but also thorough and cohesive. It embraces the researcher's subjectivity, rather than relying on multiple coders to minimize bias, bolster reliability and internal and external validity, and ensure objectivity.[40] Themes do not "emerge" but rather are developed—an active exercise on the part of the researcher, dependent on multiple points of intimate familiarization with the data, spending time away from them, and reflecting on the researcher's personal relationship with them.[41] It is particularly used within social justice and activist applications. It is rigorous without being rigid; it is recursive and humble in its questioning.

Similarly to Braun and Clarke's trajectory, I realized I had been engaging in RTA all along: keeping a dissertation journal since first engaging with this research;[42] presenting a discussion of a theory of language in what is now the concluding chapter;[43] writing a positionality statement for my own purposes, now Appendix E;[44] learning about

[39] Braun and Clarke, *Successful Qualitative Research*; Braun and Clarke, *Thematic Analysis*.
[40] Braun and Clarke, *Successful Qualitative Research*, 278–80.
[41] Braun and Clarke, *Thematic Analysis*, 233.
[42] Braun and Clarke, 270.
[43] Braun and Clarke, 163–66.
[44] Braun and Clarke, 38–39.

my population before speaking with them to understand appropriate terminology and norms;[45] recognizing the ways in which I was interacting with participants given our burgeoning friendships;[46] writing notes immediately after interviews to explore the "feel" of them (and sometimes having to admit and confront my own missteps);[47] presenting participant bios to capture personalities;[48] using "clever" headings to clarify my thoughts (a few of which made it into the final manuscript);[49] signing petitions such as Woodhull Freedom Foundation's to stop the EARN IT Act and submitting testimony to the Rhode Island Senate Judiciary Committee (see Appendix F; "spot on," texted Bella, who invited me).[50] I was more than an impartial observer; I was immersed. To be given a blessing to do what I had already been doing and a framework for processing it was a godsend. Importantly, though, in addition to being clear about my theoretical assumptions and forthright about my unavoidable priors regarding preferred policies, for example, I have to be visible about how these shape the analysis:

> A key tenet of qualitative research is an appreciation that information and knowledge always come from somewhere. Qualitative data are understood as accounts that are *not* produced in the ether. Instead, they are seen to be produced in particular contexts, by participants who come from, and are located within, specific contexts. . . . In contrast to the positivist/quantitative ideal of being able to obtain "uncontaminated" knowledge, with all biases removed, qualitative research recognises that these exist, and incorporates them into the analysis. It recognises the subjectivity of the data we analyse, and the analyses we produce. Subjectivity basically refers to the idea that what we see and understand reflect our identities and experiences—the context we've existed in. . . . Qualitative

[45] Braun and Clarke, 43–44.
[46] Braun and Clarke, 8.
[47] Braun and Clarke, 19–20.
[48] Braun and Clarke, 6.
[49] Braun and Clarke, *Successful Qualitative Research*, 258.
[50] Braun and Clarke, *Thematic Analysis*, 17.

> research does not treat this subjectivity as bias to be eliminated from research, but tends to involve contextualised analysis, which takes this into account.[51]

Not quite as intimate as an autoethnography, participatory action research, or "academic-activism,"[52] the analysis nevertheless necessarily reflects my investment. "Your justification for why you used reflexive TA needs to discuss which particular version you used, and why."[53] Braun and Clarke distinguish between versions on several fronts.[54] The first pertains to orientation to the data. *Inductive* is "where the analysis is located within, and coding and theme development are driven by, the data content." *Deductive* is "where the analysis is shaped by existing theoretical constructs, which provide the 'lens' through which to read and code the data and develop themes." They consider the focus of meaning. *Semantic* is "where the analysis explores meaning at the more surface, explicit, or manifest level," and *latent* is "where the analysis explores meaning at the more underlying or implicit level." There are variations in qualitative frameworks. *Experiential* is "where the analysis aims to capture and explore people's own perspectives and understandings," and *critical* is "where the analysis focuses on interrogating and unpacking meaning around the topic or issue." Finally, there are a couple of theoretical frameworks. *Realist, essentialist* is "where analysis aims to capture truth and reality, as expressed within the dataset." *Relativist, constructionist* is "where analysis aims to interrogate and unpack the realities that are expressed within the dataset."

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[51] Braun and Clarke, *Successful Qualitative Research*, 21.
[52] Connelly and Sanders, "Disrupting the Boundaries of the Academe."
[53] Braun and Clarke, *Thematic Analysis*, 122.
[54] The following are taken from a table; see Braun and Clarke, 10.

Flexibility means that while choices have to be made and explained, the researcher can move between variations in a deliberate way. This research project is predominantly inductive, semantic, experiential, realist, and essentialist, but there are elements of variations. For example, "The Trouble" deals with the ways in which criminalization is problematic. However, we already know it is problematic. The data bear that out; the previous chapter elucidates several of the worst conditions. Though interview questions did not ask specifically about those circumstances identified in the literature, and though my methods involved "starting from scratch" when developing themes, it is not surprising that the people I spoke with clustered around them when thinking about "The Trouble." I therefore approached interviews knowing that it is problematic but wanting to chronicle firsthand accounts of individuals' lived experiences with criminalization and contribute to the conceptualization of it as a crisis. In this way, it is more deductive than inductive. "The Solutions," however, can be said to fall more in the inductive category: I did not have more than a vague idea of what I might hear about the institutions and mechanisms sex workers build and employ to deal with their crisis.

In addition to being attracted to RTA for the space it would give me to be reflective ("reflexive") based on my personal investment, one of my research questions, "How do sex workers experience their crisis?", falls fittingly under Braun and Clarke's "experiential" category, in part because the question itself quite literally asks about experience. Overall, research questions must drive the method selected. "What is important is choosing a method that is appropriate to your research question, rather than falling victim to 'methodolatry,' where you are committed to method rather than

topic/content or research questions."[55] Another justification for using RTA is that I had wanted to organize and amplify voices before I encountered the terms "semantic," "realist," and "essentialist" in this way; again, actively developing themes based on presenting narratives as they had been expressed was something I cared deeply about and was doing naturally before learning about this method. Importantly, though, there are necessarily elements of latency as a function of drawing out themes, particularly in "The Solutions." Pulling together a cohesive story from sometimes dissimilar, sometimes interrelated coping and thriving mechanisms, for example, meant that the flexibility to move between semantic and latent foci of meaning contributed to the richness of developing themes. Finally, though RTA can be used for various types of qualitative data, at the risk of dismissing other types, interviews may be considered the gold standard: Braun and Clarke primarily focus on interviews in their guides; they are the instrument by which they collect data for their own research; and RTA seems to be developed for and geared toward interviews.

Braun and Clarke do not recommend simply listing the phases of RTA because they should be written about as they relate to the researcher's positionality within a report's results and analysis. However, because this section is introducing the method, an exception was made. (Though they number them, they prefer the term "phases" to "steps" because the latter evokes a linear, segmented process, rather than approaching phases as iterative.[56]) While writing up the report entails reflexing at each phase and demonstrating

[55] Holloway and Todres, "The Status of Method"; Braun and Clarke, "Using Thematic Analysis in Psychology," 97.
[56] Braun and Clarke, *Thematic Analysis*, 34.

that process in the presentation, and though it occurred as I moved among phases, I have only recounted my reflexing in the methods section—e.g., data collection—for purposes of convention. They also do not recommend using the passive voice. Similarly, given that I have used first person when describing the methodology (as Chamlee-Wright and others do), but that the next chapter more typically avoids it, they might consider this application reflexive thematic analysis "lite." While these divergences may not fully satisfy Braun and Clarke, as is the case with sex workers, it was the best I could do, given my constraints. "What is most important to realise at this point is that even reflexive TA is not just one approach. Two reflexive TA analyses can look quite different, depending on their distinct approach and research aims. This flexibility requires the researcher to think through how they are doing reflexive TA, and why a particular approach is taken—this is what we mean by being an *active* researcher."[57]

In the spirit of making and justifying choices, the following are the phases, simply listed (and quoted).[58]

1) Familiarising yourself with the dataset: This phase involves reading and re-reading the data, to become immersed and intimately familiar with its content, and making notes on your initial analytic observations and insights, both in relation to each individual data item (e.g. an interview transcript) and in relation to the entire dataset.
2) Coding: This phase involves generating succinct labels (codes!) that capture and evoke important features of the data that might be relevant to addressing the research question. It involves coding the entire dataset, with two or more rounds of coding, and after that, collating all the codes and all relevant data extracts, together for later stages of analysis.
3) Generating initial themes: This phase involves examining the codes and collated data to begin to develop significant broader patterns of meaning

[57] Braun and Clarke, "Using Thematic Analysis in Psychology"; Braun and Clarke, *Thematic Analysis*, 9.
[58] Braun and Clarke, "Doing Reflexive TA."

(potential themes). It then involves collating data relevant to each candidate theme, so that you can work with the data and review the viability of each candidate theme.

4) Developing and reviewing themes: This phase involves checking the candidate themes against the coded data and the entire dataset, to determine that they tell a convincing story of the data, and one that addresses the research question. In this phase, themes are further developed, which sometimes involves them being split, combined, or discarded. In our TA approach, themes are defined as pattern of shared meaning underpinned by a central concept or idea.
5) Refining, defining and naming themes: This phase involves developing a detailed analysis of each theme, working out the scope and focus of each theme, determining the 'story' of each. It also involves deciding on an informative name for each theme.
6) Writing up: This final phase involves weaving together the analytic narrative and data extracts, and contextualising the analysis in relation to existing literature.

The analysis began by using Temi, an AI transcription service, which provided rough drafts from which to begin organizing the data. These were printed in order to follow along when listening to the audio files of the interviews for the first time. Working from printed transcripts allowed for ease of handwritten open coding as headers and marginalia, mostly resulting in single words or short phrases as codes, such as "chosen family," "self-care," "cops," "racism and privilege," "art," "anti-trafficking," "partnerships and allies," "trust," "violence," "nonprofit-industrial complex," "diplomacy," "stigma," "safety," "capitalism, "sticky storytelling," "coming out," "social justice," "big tent," "bodily autonomy," "feminism," "comedy," "purpose," "aunties," "exploitation," "street work," "universities," "abolitionists," "ball culture," "lived experience," "youth expression," "learning from others," "individualism," "radicalization," "mutual aid," "seats at the table," etc. There were hundreds of codes, but

dozens, often written in slightly different ways, were becoming apparently recurring or interrelated.

With notes in the texts, the next steps were creating categories and abstracting, ultimately resulting in five themes, the first of which is presented in the next chapter. Braun and Clarke recommend immersing oneself in the data—familiarization by repeat exposure. Having had the privilege of developing the research design and the interview questions, making the connections with the participants, and conducting the interviews myself meant that familiarization was well underway, but it was important to listen to interviews in their entirety multiple times before refining themes. Braun and Clarke's recommendation to listen in a different order each time was helpful to ensure equitable weight was imbued to each and to refresh myself on how one interview might be interpreted based on the preceding ones. The extensive familiarization with the data promoted the development of themes by being able to fairly easily recall when others had spoken in a similar vein and by continuing to make those connections in the refinement of the themes by virtue of the refinement of the data; a simultaneously performed step was cleaning up the transcripts.

Temi produced Word documents that served as an infrastructure, but quite a lot of time was spent relistening and rewriting. Rough transcripts were not terribly accurate since these were home recordings without microphones and other professional equipment. They also needed quite a bit of tidying because these engagements were not something like prepared presentations with scripts or outlines. Interview questions were semi-structured and open-ended; streams of consciousness often required piecing

together; and it was important to capture speech patterns and other differentiations in order to convey the tone of the subject matter and the personalities of the participants to the greatest extent possible. This also meant deducing and defining everything from colloquialisms to acronyms of organizations mentioned almost in passing to mumbled nicknames of players in localities with which I was not familiar. Therefore, even with more accurate word-for-word AI transcripts, the majority and the bulk of the transcripts would have had to be significantly cleaned up anyway due to the nature of the content. While time consuming, it was very worthwhile because it enhanced the immersion referenced above. Additionally, the handwritten headers and marginalia were incorporated, and second-, third-, and further-round codes and categories were identified, developed, and refined while working within the transcripts.

Next came copying and pasting codes, categories, and their accompanying "data extracts" (Braun and Clarke's term for quotes[59]) into larger thematic documents, incorporating the participants together for the first time. There was a lot of variation in terms of who ended up where (as mentioned, some participants hardly spoke about "The Trouble" but offered deep dives into "The Solutions") and in the depth of the themes as measured by page length. For example, the first theme, the one presented in the next chapter, consisted of eighteen single-spaced pages; it is the shortest. By contrast, the last two, themes of "The Solutions," are the longest at forty-two and forty-nine pages. With these five separate thematic documents and knowing *why* the data were where they were but not necessarily *how* they should fit together (though many ideas for organization had

[59] Braun and Clarke, *Successful Qualitative Research*, 251.

been determined by virtue of the exercise of categorizing), the next steps were printing paper, cutting it with scissors, shuffling it on the office floor, grouping the slips, putting them into long strands of what seemed like the right order of the narrative, and changing things more than a bit as they moved from floor to computer.

Abstraction was achieved by grouping similar categories of related incidents and accounts; narratives and data extracts began to fall under the burgeoning higher-order thematic headings. Most of the more than 150 pages of dense data had to be forgone in this presentation on the advice of my committee and because Braun and Clarke recommend presenting no more than six themes[60] (better thought of as "subthemes" in the context of the overall project), so there is a trove that will have to wait for future research (more on this in the epilogue). After ensuring themes were on the right track and data extracts had been sorted, themes were further refined, especially with regard to transitions between subthemes. Again, it is important to Braun and Clarke that themes do not simply "emerge"; they are generated by the researcher with active input. They therefore do not merely result from the interview questions; while the goal is to answer the *research questions*, the *interview questions* do not necessarily constitute themes by the nature of their organization. Patterns pertaining to the interview questions were of course considered, but the inductive content analysis component, as well as the researcher's reflexing, allows for more refined and broad pattern identification.

Besides my research's use of the passive voice, another deviation from Braun and Clarke's preferred presentation is that data extracts exceed the recommended fifty/fifty

[60] Braun and Clarke, *Thematic Analysis*, 88–91.

ratio with the analytic narrative. This is because firsthand accounts are an important part of one of the subthemes identified in "The Solutions": researchers-as-allies should amplify voices. The decision was made to take as literally as possible sex workers' (and other stigmatized/marginalized peoples') refrain: "Nothing about us without us." What follows are their stories, pleas, strengths, and successes presented in their own words. Quotes have been minimally edited for readability and as they pertain to organization. Clarifications and context from the researcher are contained in brackets.[61]

Limitations

In addition to what Braun and Clarke might call "limitations"[62] of the research—not demonstrating enough reflexing in the results/analysis and divergences in the presentation (use of the passive voice and extra data extracts)—limitations mostly pertain to the usual qualms and caveats qualitative researchers must navigate. Chamlee-Wright offers a rather poetic defense of qualitative research in general, and in-depth interviews in particular, for solving puzzles of complex social phenomena,[63] but there are some common gaps and limitations to address. Pertinent issues are whether the data collected represent the issues they propose to address, how to get from descriptive to inferential conclusions, being aware of the limits of the data, whether the method of evaluation of the empirical data is appropriate, and whether the conclusions are representative of and relevant to other cases. There are typically understood gaps and limitations in the nature

[61] I have been the victim of an individual's persistent attempted defamation merely for undertaking this research. Though a fraction incomparable to the harassment sex workers regularly face, it has been eye-opening. With that experience in mind, names, organizations, and other specifics that could draw additional, targeted ire toward participants have been omitted.
[62] Braun and Clarke, *Thematic Analysis*, 262–65.
[63] Chamlee-Wright, *The Cultural and Political Economy of Recovery*, 27–31.

of the selected data and methodology. Braun and Clarke are not terribly concerned with the issue of reliability—it "is not an appropriate criterion for judging qualitative work"[64]—for two main reasons: the researcher's subjectivity and active participation are celebrated, and being interested in individual experiences and meanings necessitates that knowledge production is not treated as removed from the circumstances in which it was created. Checks and balances such as inter-rater reliability of coding are therefore not only unhelpful but actually problematic because of underlying assumptions about objectivity as the goal.[65] However, qualities such as "trustworthiness" are necessary and achievable: do not selectively omit data that appear to contradict previously held assumptions; do not fabricate interviews; etc.

Of a few forms of validity (construct, internal, external), ecological validity is the most important to consider in qualitative research.[66] The first issue is selection bias on the part of the participants and potential problems stemming from that, including misrepresentation and inability to generalize to the population. This cannot be considered a random sample: by gleaning interviews through Facebook "friendships" and other self-identified sex workers, the sample is limited to those already inclined to be more forthright about their lives than most sex workers likely are. That they are willing to identify themselves may speak to a certain resiliency, which may manifest in more effective coping mechanisms, such as demanding better service from health care professionals or reporting abusive law enforcement officials. However, by conducting

[64] Braun and Clarke, *Successful Qualitative Research*, 279.
[65] Braun and Clarke, 279.
[66] Braun and Clarke, 280.

interviews with people from a wide range of demographics, by meeting them through various channels, and by aiming for that hub-and-spoke effect, which relies on participants' introductions to others, selection bias is addressed within practicable parameters. The results still contribute to knowledge, especially as interviews were recorded and transcribed, which also goes to issues of replicability. Though someone seeking to validate the conclusions would not interview the same people, or perhaps even ask the same questions, the transcripts provide a measure of legitimacy: other researchers can read what the sex workers said verbatim and decide whether "reality" is captured and whether interpretations via the methodology are defensible.[67,68] Of course, participants' realities will vary, and an individual's reality may even vary slightly from day to day.

Pertaining to generalizability, as with reliability and to some extent ecological validity, Braun and Clarke are skeptical of its usefulness. When talking about how qualitative researchers often feel obliged to apologize for sample size, they put forth an interesting thought experiment: "Imagine flipping this around! Can you imagine a report of a factor analysis that effectively *apologised* for not providing a rich and deep analysis of people's subjective meanings? Or a report of a quantitative questionnaire that bemoaned its inability to capture the multi-faceted and contextually located texture of people's everyday lives, or the nuance of language use around the topic of interest?"[69] They do recommend that qualitative researchers strive to connect their sample to broader conversations, and while samples do not simply extrapolate to the population, their

[67] Braun and Clarke, 280.
[68] With thanks to Jerry for helping strengthen claims.
[69] Braun and Clarke, *Thematic Analysis*, 143.

relevance for making claims should also not be discarded. As always, thoroughness, context, and clarity matter.[70] In addition to providing demographics, describing the data collection methods, such as norms and practices, in as much detail as permitted allows the reader to assess viability. This contributes to generalizability to the extent that the researcher desires to claim it.[71]

For purposes of discussion here, thirteen interviews are appropriate for this type of project for two reasons.[72] First, these are semi-structured, open-ended interviews, resulting in more "bang for the buck" per unit of analysis; duration of interviews, for example, was noted. If these were ten-minute phone call surveys with binary answering options, the sample size would be problematic, but given the richness of each sample, thirteen is well within reasonable recommendations. Second, though each participant has different experiences within each theme/subtheme, some commonality of accounts began to appear. Pertaining to an example of one of their conclusions, Storr et al. note that "although we have reason to believe that this is indeed the case generally, we recognize that individual lives are rarely, if ever, perfect and unqualified demonstrations of such patterns."[73] Qualitative research can never truly claim saturation because of the highly individualized nature of experiences, *and this is a good thing*. Though there are more people who wish to participate in future iterations of the project, what is captured here should satisfy feasible expectations for generalizability: i.e., criminalization is a crisis.

[70] Braun and Clarke, "Using Thematic Analysis in Psychology," 96.
[71] Braun and Clarke, *Thematic Analysis*, 145–46.
[72] Braun and Clarke, *Successful Qualitative Research*, 48, 55–56.
[73] Storr, Chamlee-Wright, and Storr, *How We Came Back*, 3.

One concern may be that the interview pool skews toward activists of a mature age: without omitting outliers, the mean is 49.8 years old, the median is 53, and the range is 51 years. It is reasonable to suspect that sex work has changed quite a bit since the matriarchs of the movement first engaged because the world has changed. Consider the advent of the internet and cell phones, which dramatically improved the trade (many spoke about how, prior to FOSTA/SESTA, the internet was a godsend for safety; one spoke about the psychological benefits of no longer being isolated in her apartment tied to a landline); the progression of second-wave and radical (and beyond) feminism; the rise of the War on Drugs and subsequent 1980s' "tough on crime" stance, particularly challenging for already marginalized communities; etc. One response may be that the lyrics are different, but the song remains the same. As sex workers will tell us in the following chapter (and future research), themes are universal and constant: living with stress and fear, the indignity and upheaval of arrests/criminal records, the horrors of police abuse, and the stigma from eerily similar entities as those discussed in the first chapter. While manifestations may differ to a greater and lesser extent, the ongoing problems with criminalization are remarkably entrenched and static.

Additionally, two interrelated points are presented: First, though sex workers typically are not active in their field for as long as people in some other careers are, it would be a mistake to conclude that all of those in the advanced half of the pool have fully retired. Second, most of those who fall in that tail are in the trenches: providing direct services, working with incarcerated sex workers, organizing protests with affected communities, testifying before committees seated next to folks currently "in the life," etc.

Because of their activism, they have extremely close connections with those who are working. (Again, future research will address activities and norms as it delves into the specifics of the ground game.) When they say, "The criminalization of sex work has this or that negative effect," they are speaking from contextualized personal experience, thoughtful reflection as it affects contemporary sex workers, and generalizable familiarity.

A more significant concern may be whether participants accurately represented themselves, especially given the personal nature of the questions and given that this is a vulnerable population. "Social scientific explanations also tend to direct attention away from the tension, contradiction, and messiness that exist at the individual level."[74] Fear of being judged may stunt honesty, and sex workers may subconsciously modify answers to paint themselves in either a more "respectable" or more "downtrodden" light, depending on the stigma they have experienced. However, even if results are slightly distorted, they are far better than none, and distillation of these effects is addressed. Sex workers *do* have an agenda: decriminalization and destigmatization. They are activists. By definition, they are active in changemaking and therefore do not have neutral motivations. This concern may be discounted because understanding those motivations is an inherent objective of the research project: what spurs sex workers to take rational actions to achieve their goals?

Maintaining nobility and credibility in order to achieve their ends may lead to concerns that they omitted revealing immoral or unflattering behaviors (cheating clients,

[74] Storr, Chamlee-Wright, and Storr, 3.

not practicing safe sex, turning a blind eye to someone who may be underage, etc.). However, given the things that they *did* share, there is no reason to believe that self-censorship in this vein is an issue. They spoke about being an "asshole" sometimes; not excluding themselves from the possibility that they are among the percentage of people who are not good; learning tough lessons, such as pickpocketing a regular client, a nice guy, who then never picked her up again; misrepresenting an embarrassing encounter as rape; sending photos of human excrement to the police chief and mayor; getting into trouble with check fraud; engaging in problematic drug use; etc. Many were also surprisingly forthright about challenges within the movement, potentially to the detriment of cohesive messaging, including pursuing competing priorities with scarce resources and tensions among organizations—a refreshingly candid glimpse into the messy knowledge-production process. They shared so much, and though one could never recount an entire lifetime's regrets[75] over the course of two hours, it is unlikely that anything truly significant was intentionally omitted.

A final concern may be my own impartiality, but, again, this is accommodated by RTA: it is to be acknowledged, but viewed as a benefit to the research, rather than a hindrance. Storr et al. agree: "Rather than defend ourselves against harboring such biases, or make an attempt to minimize the importance of such biases, we think it more productive (and more honest) to admit them freely."[76] Among the most personal of the limitations of the research is that only a small fraction of the participants' profound

[75] "Some sex workers are bad, and they are not held accountable because criminalization and laws like FOSTA/SESTA remove places where they themselves can also be held accountable." Knight, interview by Malia Dalesandry.
[76] Storr, Chamlee-Wright, and Storr, *How We Came Back*, 4.

insights is shared here—a good problem to have, based on an ambitious research project that resulted in more robust data than could have been imagined. That poignant fraction follows.

CHAPTER FOUR: EXPERIENCING THE CRISIS

> I think that you could sort of also, like, wrap up the negative stuff very simply: it's very hard to help people that you're hunting, you know? I think there's a lot of language out there about "helping" people in this work that is still very grounded in chasing after them with handcuffs and putting them in cages. And I think it's really important for people to see that. The other sort of foundational knowledge thing that I want people to really understand about sex work is that sex work is a service. Sex workers are not commodities. We can't be regulated like commodities. We don't sell our bodies. We sell our services, you know, like a massage therapist or a doctor, or any other number of people that interact with their clients. . . . Nobody should be arrested or evicted or fired or lose custody of their children because of engaging in this work.
>
> —Kaytlin Bailey, interview

> Everybody says, "Oh, you're doing sex work." "No, babes, I'm doing survival work. 'Cause I'm surviving. This is all I have. I don't have a home to go to. *This* is my home," you know, so a lot of them young'uns are surviving, and we call that survival work.
>
> —Shareese Mone, interview

> There's assholes in every demographic and population, and sometimes I'm an asshole, right? But this idea of stalking people in private and the fact that some of these people hate us—they don't know who we are or where we are, but they hate us. And at the same time, they're freakin' fascinated.
>
> —Bella Robinson, interview

We know criminalization is a crisis from the literature presented in the second chapter and from what sex workers have been telling us for decades. This chapter shares firsthand accounts to illustrate the ways in which themes manifest, particularly pertaining to arrest, safety, police abuse, and stigma. It discusses some of the alternative models popularly considered and their pitfalls. It also shares a limited glimpse into how sex workers' lives would be improved under decriminalization—imagining a better way. While the crux of the argument is that it is criminalization that constitutes the crisis (as opposed to poverty, drug use, discrimination, or some other variable), compounding

crises, exogenous and personal, affect us all in one form and to one degree or another. This does not detract from the thesis that criminalization is a crisis unto itself; it is possible to experience two or more singularly identifiable but potentially interacting challenging circumstances simultaneously.

These are some of the shared and some of the solely burdened events and circumstances that participants experienced during the course of this research: the ongoing overdose crisis in DC due in no small part to the criminalization of drugs (participants have lost friends); the police's perpetual murder of Black people (and the resulting Black Lives Matter demonstrations); the pandemic (particularly horrific for those already existing at the margins); the trucker siege in Ottawa (one of the participants' hometowns; it was occurring when establishing initial interactions and during interviewing); the Roe v. Wade leak and subsequent overturning (transgender sisters and others are as appalled as uterus-having people); caring for a husband who is disabled; getting shot; advanced cancer; the deaths of a father, a mother, and a husband. Sex workers live with stress and tragedy as everyone does, and they display remarkable grace despite the additional and significant burden of having their identities and occupation criminalized. Though all are unimaginably resilient, some are featured here more than others simply because they spoke about the negative effects of criminalization in greater detail. For example, Shareese and Carol from the introduction spoke primarily about coping and thriving *in spite of criminalization*; their exploration as future research is discussed in the epilogue. For now, though, we focus on a few aspects of "The Trouble."

Arrest

> 98% and 97% of New York City arrests in 2019 for prostitution and loitering for the purpose of engaging in prostitution respectively were of female-identified individuals. Similarly, 91% and 93% were people of color. The gender bias in these arrests is likely higher than we know as transgender women are often stereotyped as sex workers, targeted, harassed, and arrested by law enforcement, and then misgendered in reporting.
>
> —Decriminalize Sex Work, "By the Numbers"

The arrest data pertaining to prostitution-related offenses are primarily presented in the second chapter; the narrative here surrounding the participants' remarks will broaden the scope to consider the crisis of criminalization as a whole, particularly the intersection of the War on Drugs, nonviolent parole violations, and poor people's inability to pay to avoid incarceration. For example, the US's three thousand jails contain around 720,000 to 730,000 people each day, technically a rotating cast, though many find themselves repeatedly locked up.[1] This comes at a tremendous cost to society—local spending on jails is $25 billion[2]—but it is a boon to those profiting from criminalization. The majority of participants have been arrested (and many incarcerated). Sex workers, especially those engaging in street-based survival work, often get caught in these cycles of arrest. Michaelisa Jones, reentry coordinator at HIPS, describes this phenomenon:[3]

> I mentioned my record and I got a lot of arrests—it started a vicious cycle. They lock you up, you go to jail, they let you out, you do it again. They lock you back up, you go to jail, they let you out, you do it again. There's no empowerment there, there's no resources there. They make money off of us in the institution, but they don't care. You know what I'm saying? And I realized, this is just a vicious cycle. I'm just coming out, doing the same things, going back in jail, and somewhere I had to get off of this wheel. And that's what a lot of our decriming is about. You're punishing us for simply trying to make it through, simply trying to

[1] Engel, "Deconstructing the Power to Arrest: Lessons from Research," 6; Minton and Zeng, "Jail Inmates in 2015"; Subramanian et al., "Incarceration's Front Door: The Misuse of Jails in America."
[2] The Pew Charitable Trusts, "Local Spending on Jails Tops $25 Billion in Latest Nationwide Data."
[3] Jones, interview by Malia Dalesandry.

> make it through *today*, you know, and if it takes a high or a drink or j [marijuana], please understand and let me get that—as long as I'm not hurting anyone—find my way through. Better yet, why don't you help me find my way through instead of locking me up, you know?

Some sex workers *are* prone to using drugs to cope with criminalization and stigma, including stigma stemming from racism and transphobia, but true harm reduction means decriminalization in order to address lifestyle changes if desired. Frankie Smith, national organizer at Old Pros, talks about *perceived* problems, almost "symptoms," as contrasted with the root problem of criminalization:[4]

> Meeting people where they're at is the name of the game for every kind of mutual aid work. So it's meeting people where they're at with drug use, meeting people where they're at with prostitution, meeting people where they're at with mental health, meeting people where they're at with whatever they're currently dealing with. And I think that the whole thing with criminalization is you're not meeting where they're at; you're arresting the problem. Right? You're arresting the problem. You're arresting what you believe is the problem; you're arresting what you believe is what you need to change about someone's life versus giving them the resources that they need, if they wanna get outta the work, to get outta the work. Or the resources that they need to stay in the work [if they want] and be safe about it. So there's no way to arrest your way out of this issue. There's only a way to decriminalize it and give people the resources that they need to be able to do it safely.

This contributes to the argument that the state-made crisis of criminalization must first be ameliorated before addressing other perceived social problems: it is the clearest-cut policy recommendation, almost binary in its simplicity (criminalization versus decriminalization); it would free up resources for other mutual aid endeavors; and perhaps most importantly, it would reduce signal noise in order to assess more accurately what is *actually* contributing to poverty, problematic drug use, mental health issues,

[4] Smith, interview by Malia Dalesandry.

discrimination, etc.[5] "I think that it's so important that we don't conflate issues, that we see them as connected, but not causing each other. So it's not like prostitution causes drug use causes poverty causes whatever. Prostitution's connected to drug use, sure. It doesn't *cause* anything though; those are just connected because everything is connected because everyone is connected."[6]

Criminalization does not serve the arrestee, nor does it serve society; there are significant long-term costs. In addition to local jails, where many legally innocent people are held for a year or more before they even go to trial because they cannot afford bail, taxpayers lose $80 billion annually to incarcerate people at the state and federal levels .[7] While not all are there for prostitution-related charges obviously, one in five of the incarcerated (four hundred thousand), for example, are there for drug offenses.[8] This is out of the almost 1.6 million arrested yearly for drugs, "more than any other crime category," most of whom are arrested for possession, rather than sale or manufacturing.[9] After noting that many of the remaining four out of five people are there for even less serious crimes, the Prison Policy Initiative begins to get at the United States' prison crisis: "To end mass incarceration, we will have to change how our society and our criminal legal system responds [*sic*] to crimes more serious than drug possession. We must also stop incarcerating people for behaviors that are even more benign."[10] This

[5] Chamlee-Wright, *The Cultural and Political Economy of Recovery*, 45–49.
[6] Smith, interview by Malia Dalesandry.
[7] deVuono-powell et al., "Who Pays?," 12.
[8] Wagner and Sawyer, "Mass Incarceration," 17.
[9] The Pew Charitable Trusts, "Drug Arrests Stayed High Even as Imprisonment Fell From 2009 to 2019," 3.
[10] Wagner and Sawyer, "Mass Incarceration," 17.

includes the one in five people in local jails and one in four in state prisons who are there for inadvertently violating parole, "often for minor infractions like breaking curfew or failing to pay unaffordable supervision fees."[11]

There are tremendous consequences in terms of reengagement in society and future earnings. Less than half of formerly incarcerated people do not have jobs within a year of their release.[12] Among the explanations for post-imprisonment employment challenges are selection, transformation, and labeling.[13] Selection suggests that "unemployment and low wages among the formerly incarcerated may therefore result not from incarceration but from preexisting low employability and productivity."[14] Since sex workers are by definition arrested and incarcerated *for the work itself*, this explanation is not immediately satisfying for this population. Even those who engage in survival work due to limited opportunities are still working; as they say and as will be illustrated in the concluding chapter, they are choosing the best option, given their constraints. Though sex work is not formally recognized as an occupation as many argue it should be (including survival workers), this population who goes to prison should perhaps not be categorized as having "low employability and productivity," just as someone who works in the fast-food industry or has another seemingly limited career should not be put in prison (or stigmatized) for their work.[15]

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[11] Wagner and Sawyer, 28, 25.
[12] National Research Council, *The Growth of Incarceration in the United States*, 233.
[13] Pager, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*.
[14] National Research Council, *The Growth of Incarceration in the United States*, 234.
[15] In fact, later in the chapter, Shareese talks about entrepreneurship and transferable skills.

In this way, however, it could be argued that all people who are imprisoned suffer from selection: a hitman or a burglar might say that they are simply engaging in their profession. Whether because they enjoy the activity that led to their imprisonment or because they felt it was the best option (as opposed to starving, for example), people engaging in other criminalized behaviors could also be considered to be "employed" prior to going to prison. Few would argue that the murderer or robber should go free, much less that laws prohibiting their behavior should be revoked. By contrast, though, there has been an observed shift in the approach to some victimless crimes, such as marijuana possession, as well as that more attention is paid to how mental health is correlated with incarceration. Conversations are being had about how to change people's constraints—via decriminalization in the case of marijuana and via treatment in the case of antisocial behavior. The prohibition of sex work is more akin to the prohibition of drugs than the prohibition of murder from a victim's standpoint: i.e., victims are not immediately discernible, so decriminalization would not result in significant additional costs (risks) borne by society. People who deal marijuana to children or hurt others in car crashes while high are punished for those crimes, just as trafficking minors or robbing a client would be—and associated crimes decrease outside of black markets.

Further, for those engaging in survival work, low employability would be mitigated by decriminalization in at least two ways: First, sex workers would not be in prison. It is quite difficult to receive support while imprisoned; getting access to basic well-being (nutritious food, sufficient sleep, health care) is challenging enough, especially when compounded with the active damage incurred via the experience of being

locked up. Second, sex workers would not have criminal records precluding them from alternative employment. In addition to benefiting in these ways, people who are doing the work because they have limited options *not stemming from criminalization* (unmet mental health needs, discrimination, housing insecurity, etc.) could more effectively receive and integrate support into their lives. When constraints "loosen," options increase. Michaelisa, who was unhoused, did survival work, and experienced fifty-two arrests, has some ideas for broadening sets of options:

> Decrim sex work. Decrim drug use, all of that. It's so necessary right now. We need resources. We need empowerment. The money that you're taking and spending on us in the jail. . . . You can use that money. We can start some type of classes. We can start a trade; we can start therapy. We can start to build; we can use that money instead of keep throwing us in jail and letting us loose so incomplete and unbalanced only to do it again. Let's use some of that money to really build institutions or places where we can go. And I'm not just talking about a drop-in center to give you a sandwich. I'm talking about something that can fill you up with some self-worth. At the end of the day, when you know you've done something good for yourself, you feel better about yourself.

The ways in which criminalization makes people worse off are even starker when considering the effects of the prison experience and the criminal record, the second and third explanations for unemployability as applied to sex workers. Transformation explains "that the experience of incarceration changes inmates in ways that are detrimental to their job readiness . . . as a result of a range of disruptive and debilitating features of prison life."[16] These include becoming suspicious, uncommunicative, or antisocial, having difficulty maintaining (work) relationships, losing skills, suffering from PSTD, etc. Shareese Mone, development coordinator at HIPS, talks about her experience in prison. While she worked hard to make the most of her "transformation," and though

[16] National Research Council, *The Growth of Incarceration in the United States*, 235.

she now has a job that she loves (specifically, helping people *avoid* incarceration because she knows what it is like), there are many people whose transformation is not as happy:

> In my beginning days, it was all about me. In my beginning days, I was doing, I don't know, what people did in the nineties and eighties, the two-thousands. I was enjoying myself with checks and credit cards and things like that. So I was a bad girl, ended up in jail serving some time. Went from a small bit to a big bit. Yeah. And ran some time up and ended up in jail way longer than I was supposed to.
>
> I've become stern. I've become solid, you know? I was determined to come home and change everything. Like, I wanted to come home and get my own place and get my own car and settle down with my own dude. I wanted to change the scenario of what I projected coming in, you know, growing up wild, and stealing, and, I don't know, just running amok. I was doing whatever I wanted to do. Losing everything. I just wanted a good job, and I wanted meaning. I wanted to be content. And now that I'm where I need to be, I feel a lot happier. I feel comfortable. I feel stable.

Bella Robinson, executive director of COYOTE RI, talks about another potential response that comes from being locked up, which, similar to Shareese's, could actually be channeled toward good if given an appropriate outlet, such as activism. However, in neither case is the transformation something that could be called a favor from the state. These are not instances of "tough love" teaching important lessons; they occur *in spite of* the experiences, and both result in reduced job prospects as alternatives to sex work.

> And I think the reason this generation of sex workers is different is usually they could shame you. They're not really interested in keeping us in jail that long. It's about running you outta town and embarrassing you. But this generation, they're finding out they ain't ashamed. And they ain't going away. They're just getting angrier. And I've always had a funny saying, "There's nothing more dangerous than an angry whore." [Laughs] When someone beats you up and robs you, and the cops tell you it's because you're a whore, yeah, you get angry.

By invoking the term "whore," Bella alludes to labeling, the term for formal exclusion "imposed through the web of federal and state laws that restrict those with a

criminal record from a range of labor market activities."[17] However, it also refers to informal exclusion: "Employers express a reluctance to hire individuals with a criminal record, which often is viewed as a sign of untrustworthiness or unreliability."[18] Some of the participants spoke about how having a prostitution charge on a criminal record adds an extra layer of stigma in a way that some other crimes do not. In addition to potentially winding up on a sex-offender registry (depending on the nature of the charges), most sex workers have been accused of trafficking at some point, including trafficking themselves. Further, the labeling aspect comes into play when thinking about unofficial sanctions. For example, even if charges result in a misdemeanor, rather than a felony, and thus do not legally preclude the sex worker from many forms of employment, identification in the workplace can remain a psychological impediment. Alex Andrews, cofounder of SWOP Behind Bars, talks about working with sex workers in prison, identification/labeling, and a realization.[19] (She also inadvertently spent ten years on sex-offender probation; more on this later in the chapter.)

> When I first started teaching the class at jail, I kind of did think that it was the act of prostitution that had caused so much harm in my life. You know what I mean? It did seem that way. And it wasn't until later that I realized that I was fine until after [the effects of] criminalization started happening [to me]. I was okay. I could've continued with one foot in the vanilla world and one foot in the sex work world. I could have continued like that, but not having any labor protections? Being stigmatized and criminalized and identified? All of those things—that's where the real harm was. And it was a very much an "aha" moment for me.

[17] National Research Council, 235; Olivares, Burton, and Cullen, "The Collateral Consequences of a Felony Conviction"; Petersilia, *When Prisoners Come Home*.
[18] National Research Council, *The Growth of Incarceration in the United States*, 236; Holzer, *What Employers Want*.
[19] Andrews, interview by Malia Dalesandry.

Besides society and those arrested or incarcerated, families also pay. In addition to the forgone income of being locked up, there are the costs associated with court fees and fines—families incur almost $14,000 in debt per case[20]—as well as travel, commissary, communication, and health care expenses.[21] Families have to take out loans, and they lose wages taking time off while attending court proceedings and then generally supporting the incarcerated family member. Their wages are garnished and tax refunds withheld in order to repay the loans.[22] "Forty-nine percent [of families with an incarcerated member] struggled with meeting basic food needs and 48% had trouble meeting basic housing needs because of the financial costs of having an incarcerated loved one."[23] One hundred thirteen million adults "have an immediate family member who has ever been to prison or jail,"[24] and the impacts of wealth destruction, debt creation, and decimated educational and career opportunities manifest most tragically and intergenerationally among poor people, particularly along racial lines (those disproportionally arrested and incarcerated to begin with).

The psychological effects on children with incarcerated mothers are especially pronounced; in addition to the initial separation characterized by "intense distress for both mothers and children," [25] resulting in children's "sadness, worry, confusion, anger, loneliness, sleep problems, and developmental regressions,"[26] "maternal incarceration is

[20] deVuono-powell et al., "Who Pays?," 9.
[21] Wagner and Sawyer, "Mass Incarceration," 16.
[22] deVuono-powell et al., "Who Pays?," 15.
[23] deVuono-powell et al., 7–9.
[24] Wagner and Sawyer, "Mass Incarceration," 35.
[25] National Research Council, *The Growth of Incarceration in the United States*, 274; Fishman, "The Impact of Incarceration on Children of Offenders."
[26] Poehlmann, "Representations of Attachment Relationships in Children of Incarcerated Mothers," 679.

associated with a host of negative child outcomes, including poor academic performance, classroom behavior problems, suspension, and delinquency."[27] Pertaining to longer-term outcomes, "children of incarcerated mothers experience internalizing (fear, withdrawal, depression, emotional disturbance) and externalizing (anger, fighting, stealing, substance abuse) problems, as well as heightened rates of school failure and eventual criminal activity and incarceration."[28] Intergenerational effects and the associated societal costs must not be discounted.

Eight of the participants spoke about longtime partners or children; others spoke of siblings, parents, spouses of children, grandchildren, etc. (It is likely that more experience strong familial bonds, but those conversations simply did not come up in the course of the interviews.) They spoke adoringly of family members who ultimately accepted them, though they noted that challenging but necessary conversations can take place over the course of years. Sometimes it is a matter of coming to terms with absence; after some time away, the family decide they would rather have the sex worker in their life than not. Perhaps it is also the case that the public overall has become more open to the idea of sex work. A few participants have been ostracized or estranged, either by coercion or by choice, often because of their being LGBTQ and prior to engaging in sex work. Some people experienced virtually no angst upon telling their families, but although families are accepting, arrests still impact them. Norma Jean Almodovar, who

[27] National Research Council, *The Growth of Incarceration in the United States*, 274; Myers et al., "Children of Incarcerated Mothers."
[28] Myers et al., "Children of Incarcerated Mothers," 11.

literally wrote the book on the Los Angeles Police Department, resulting in her incarceration, talks about the effects on families:[29]

> And then there's the families of the sex worker who are impacted by your arrest, by your prosecution, by your incarceration. Particularly if you have children. Children get taken away from their mothers, and you are treated as a pariah when you try to find a place to rent, get another job, do something outside of sex work. Your life has been totally upended by the fact that you have been arrested. And for a lot of people, who are not like my family who accepted who I am, a lot of families when they find out that their son or daughter are in sex work, they disown them and they want nothing more to do with them. And then you have that issue to deal with because now you're out in public and your family says, "I don't want to know you; leave home." So, I mean, those are the most difficult things to overcome in a criminalized system.

Beatrice Codianni, founder and executive director of SWAN, was also incarcerated for too long.[30] Despite everything, like Norma Jean, she recognizes herself as one of the "lucky ones" in terms of her family accepting her back into the fold:

> I have three sons who were very supportive of me when I was incarcerated for 15 years. They stood by me, you know, they sent me books, they came to visit. When I was taken, my youngest son was 16 years old, and he was 31 when I came home. They went through a lot. I put them through a lot by, you know, being in prison, but they support me in everything I do, and they're loving, and they're Italian boys, so they love their mama. And also I have a daughter-in-law who's wonderful. She's married to my youngest son, and I'm living with them in Port Orange. And I have twin granddaughters, and they're the loves of my life. I waited a long time to be a nonnie.

Finally, the effects of criminalization on the families of clients also ought to be considered. While all of the participants are quite clear on what they want—decriminalization, which definitionally means clients are not arrested—about half took the time to speak in detail about how criminalizing the clients is as bad as criminalizing sex workers (more on this toward the end of the chapter). Alex offers some observations:

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[29] Almodovar, interview by Malia Dalesandry.
[30] Codianni, interview by Malia Dalesandry.

> When we arrest and shame the clients of sex workers, we risk breaking up their families, having them lose their job, they might lose their vehicle or their transportation. When we break up families, we have children that are growing up in one-parent households again, where mommy is mad at daddy and daddy doesn't have a job, and he might be identified as a sex offender or on a prostitution registry somewhere. And we risk those children growing up in a house where there's only one parent, mommy's mad at daddy, and they are more at risk for exploitation and violence. So we're actually doing more harm than good.

Further, Alex notes that sex workers and those in their orbit do not simply substitute their work for other careers. When clients are criminalized, "sex workers or pimps or traffickers or whatever, they don't say, 'You know what, there's just not nearly as much demand for this service. I'm gonna go get that, you know, full-time job with benefits and a salary and a 401k and I get a company car.' That's not how it works. They become more desperate and more violent and more willing to engage in more difficult behavior."

To begin to get at the why of the criminalization crisis, it is suggested that there may be more nefarious causes at play than simply attempting to solve perceived social problems. Kaytlin Bailey, executive director of Old Pros, calls attention to intentions:

> I think the big takeaway here is something that I think unites us to so many other movements—that this is not a problem, not something that we can arrest our way out of. We cannot arrest or suppress or violently erase something older than money, and any efforts to do so—I would call it unintended consequences, but the consequences have been so well known and so well documented for so long, you have to ask yourself, what is this really about? And I think it's really about controlling women, controlling queer folks, controlling overpoliced communities. We didn't criminalize prostitution in this country, really, until the Progressive Era—at the same time that we criminalized abortion and alcohol in an explicit effort to crack down on Black and immigrant communities, which we did. And so I really do believe that a lot of folks in the anti-trafficking movement really want to help, but you have to ask yourself who these policies are really serving. And it's not the people being arrested.

Safety

> So not only are we stalked by ICE, Homeland [Security], the FBI, and the DEA, who partner with local law enforcement, who also drag in the anti-trafficking orgs with them, we're being hunted by serial killers. There's 35 to 50 active serial killers in the United States at any time. And they attack homeless women, sex workers, runaway youth, and drug users.
>
> —Bella Robinson, interview

In addition to being stalked by leviathan as Bella notes, sex workers face serial killers; the media fills readers and viewers in on the gruesome details of the Long Island Serial Killer,[31] the Craigslist Killer,[32] and others. Sex work is, in fact, a dangerous profession, though not usually for the reasons people think it is; by far, the most dangerous threat to safety is the state, particularly cops,[33] as discussed in the next section, rather than clients or serial killers. For now, though, it would be disingenuous to gloss over the risks that nonstate actors pose and assert that sex work does not currently involve additional risks. At the time of this writing, International Day to End Violence Against Sex Workers is next Saturday, December 17. HIPS will hold the Red Umbrella Awards Ceremony 2022; COYOTE RI is hosting a virtual event; many other commemorations will take place around the world. Google Docs and JotForms are being circulated to which people can add the names of those lost this year; names will be read aloud and accompanied by photos. Many of those names will be of Black transgender women. It would also be a disservice, then, not to address contributing factors to the crisis as well as mechanisms by which sex workers could increase their safety—

[31] Kreps, "Police Haven't Given Up on Long Island Serial Killer Search."
[32] Cramer and Murphy, "Files Tell More about 'Craigslist Killer.'"
[33] Vanwesenbeeck, "Sex Work Criminalization Is Barking Up the Wrong Tree," 1633.

mechanisms currently unavailable due to criminalization. “Every year, on December 17th, we gather to honor the sex workers we have lost. Historically this has been primarily focused on those that passed in instances of physical violence. However, COYOTE would like to recognize all of those that have passed, regardless of the exact circumstances of death. Stigma, overdoses, suicides, policing, transphobia, and white supremacy all shorten our lives in many ways; some of which may not be immediately apparent.”[34]

While the decriminalization of sex work and drug use would not solve the problems of racism and transphobia, nor the general stigma toward sex workers, the reduction in other risk factors such as overdoses and murder by the police would be drastically reduced, and almost immediately. Further, sex workers could report crimes against them to law enforcement and reemploy those mechanisms laid to waste by legislation such as FOSTA/SESTA; they could protect themselves in advance from the infrequent but very real dangers that would still exist even under decriminalization. Bryan Knight, international escort, comic book author, and teller of “sticky stories,” pins down the problem of accountability.[35] Sex workers are not off the hook; mechanisms for accountability increase safety for all parties.

> Unfortunately, because of criminalization, systems of accountability [are not available]. The biggest benefit of decrim for sex workers would be that we could vet clients. We can find out who’s a good client and who’s a bad one. Like when we used to have forums and we used to have discussion boards and we had lists to tell us these are our abusers, these are cheats, these are liars, and, like, avoid them. And it was great. We had access to people who were responsible, communicated

[34] COYOTE RI (Call Off Your Old Tired Ethics Rhode Island), “IDTEVASW (International Day To End Violence Against Sex Workers).”
[35] Knight, interview by Malia Dalesandry.

> well, and who paid well. Great. And that also went in reverse. Let's say you had a sex worker who was bad. Some sex workers are bad, and they are not held accountable because criminalization and laws like FOSTA/SESTA remove places where they themselves can also be held accountable.
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> Frankie also elucidates how screening and digital fingerprints work when permitted:
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> I think that when we are all criminalized, there's no justice involved. There's no ability for any kind of accountability for actions taken. . . . And so there's always going be something that could go wrong. And these decentralized things like Backpage that we used to use for screening clients and for making sure that clients are safe have now come to the wayside because [the US Department of Justice] took them down. And then SESTA/FOSTA is destroying all of our online content and destroying all of our online platforms to be able to screen clients. And so it's really leaving sex workers with nothing to fall back on for screening purposes.
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> And so you're just going in blind at this point, to be quite honest, which is really scary, which is a scary thing to do. So it's either you're going in blind or you're getting referred to by a friend or you're checking references [that are easily falsified]. So you never know. It's just always a shot in the dark. Versus if it was decriminalized, and there was no attack on platforms that were utilized by sex workers to be able to screen clients, and screen them well, there could be so many more resources used to be able to screen in a safe manner. So you're not just seeing a random person; you're seeing someone who has reviews and that kind of thing.
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> Tracy Quan, author and radio correspondent, brings the discussion on safety full circle by contrasting the experiences of indoor and outdoor sex workers and their likelihood of exposure to the biggest threat: the state.[36]
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> So here's the thing about violence in connection with the sex worker rights movement. There's plenty of it. Sex workers experience either violence or the threat of violence. Police violence is a huge problem in sex work. There are sex workers, activists, who have been killed. And we have reason to believe that they've been killed connected to their activism. So maybe when you bring up the violence, people sort of go, "Oh, wow, it's really serious."
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> I will say this—the people who oppose our political goals and our political organizing never acknowledge—well, I have not heard them acknowledge—how

[36] Quan, interview by Malia Dalesandry.

> much violence has played a role in the narrative of the sex worker rights movement. . . . What I hear them saying is that we're a bunch of privileged, out of touch, confused, indoor sex workers who don't know what goes on out there. And that is obviously not true. We do know. And in fact, many people work indoors in "nicer"—I'm putting quotes around nicer—lace curtain environments because we *do* know that once you go out, it may indeed be extremely violent, you know, you might be killed.

Police Abuse

> There's also lots and lots of people who are police who seek out sex workers. And I've had people show up at the door with a full uniform and be like, "I'm not going to arrest you, I'm just here to see you." And I'm like, "No. No, this is not okay." But that cognitive dissonance of the on-the-job/off-the-job situation, it's just an insane thing to me this criminalization versus decriminalization of sex work.
>
> —Frankie Smith, interview

As evidenced in the second chapter, sex workers are more often abused by cops than clients—and not just when thinking of arrest as a form of abuse—where abuse is defined by sexual assault and physical violence and harassment. Beatrice tells a harrowing story of a cop raping sex workers; her organization is credited in part for stopping him: "The original police IA [Internal Affairs] investigation was aided by Beatrice Codianni, who organizes sex workers through the Sex Workers and Allies Network (SWAN). She brought the allegation to the attention of the police. Then she brought two sex workers to the department to talk about being forced to have nonconsensual sex with the officer."[37,38]

> Gary Gamarra. So there were four or five women who he coerced to have sex by threatening them—that they were gonna get arrested if they didn't do it. Okay. So the police department was pissed. Pissed. They wanted him, they really wanted him arrested. So they interviewed him, but they didn't give him his Miranda

[37] Bass, "Rape-Case Cop Decertified."
[38] This also a testament to the power of developing relationships with law enforcement officials who think sex work should be decriminalized. Identifying a champion, especially one with lived experience, and harnessing social capital will be discussed in future research.

> Rights because they had to get him to talk. So he talked, and first he said, "Oh," you know, "no." And then he said, "Oh, I fucked up." And this and that. Two women actually came forward. The other three wouldn't come forward. And it took guts. *It took guts*. And it took a long time of me bringing them to meet with Internal Affairs.
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> And then in the end, he got decertified. He can't become a cop [again]. They wanted him to be arrested, but that didn't happen. But he can never be a cop in Connecticut and probably in other states, too, when they see what he did. And the women, they felt kind of let down because they had the courage to come forward, and he wasn't arrested. My community's outraged by this; I'm outraged, but, you know, I'm not gonna give up; we're not gonna give up. And hopefully they can get some more information or some other women will come forward. But when they see what happened to these other two women, they're kind of reluctant to come forward 'cause they figure they're gonna be shut down too.

In addition to recommending that law enforcement treat the sex worker as they ought anyone who lodges a criminal complaint, Beatrice points out the paradox that many of these crimes are only able to occur by virtue of criminalization. Cops cannot rape via threat of arrest if the threat of arrest is moot. Further, and though she could not go into too many details at the time of the interview, a case was unfolding where another sexual assailant (he had sex, roughed up the victim, and would not pay) was *claiming* to be a cop. Law enforcement determined the description did not match anyone in their department or those surrounding and asked for help: "If this guy's going around saying he's a cop—I mean, we want him anyways. If he is a cop, we want him—but if he's not a cop, we want him too, because he's doing this shit. And any relationship, any trust we built up [with sex workers], this guy is destroying."

Therefore, another downside of criminalization and the resulting separate treatment under the law is that anyone can pretend to be a cop to coerce sex workers, which is rape by definition. Following this line of reasoning, if sex work were decriminalized, first, the sex worker could not legally be detained by anyone including

real cops, and second, the sex worker would therefore not have to stop for "fake" cops. It is true that either a real cop or someone impersonating a cop could still physically overpower the sex worker and rape anyway, but it is a different beast—one that entails evading witnesses, using bodily force, potentially getting injured or worse by the sex worker engaging in self-defense, etc. The point is that though this type of crime could happen to any person at any time, sex workers' likelihood of violence from cops and fake cops would be no different from the general population's. Finally, even if that person, real cop or not, still went through with it, with all the brutality required, which would elicit harsher penalties, the sex worker could at the very least report the crime and expect genuine equal protection under the law. Decriminalization actually makes crimes more costly for would-be criminals, and thus less likely, and law enforcement should desire that beneficial outcome regardless of any other, including no longer losing face over impostors threatening arrest with a false badge in order to commit rape.

Nobody knows more about police corruption from the inside than Norma Jean; she talks about the credibility of police, especially as they too engage in black markets. She frames it in part as considering the costs to non-sex workers: crimes with actual victims go unsolved because law enforcement officials simply do not investigate, have too much invested in maintaining the extralegal institutions from which they benefit, or crater cases because they are shown to be corrupt and thus not trustworthy from a judicial perspective.

> Police corruption is the main problem that I know about personally, which I saw when I was on the LAPD [Los Angeles Police Department]. I think that's the worst thing because when you have police who are willing to look the other way for sex, money, and information—unlike they do for crimes where there's a

> burglary or a rape or whatever—although cops don't really pursue many rape arrests anymore—knowing that the police can be corrupted by these laws. And that means there is no such thing as justice because you have cops who are screwing prostitutes; they're getting money from madams. Then the whole criminal justice system is worked by the law that allows police corruption. That's the same for drugs, gambling, and prostitution. And I mean, obviously these are vices—that's why they have a vice squad—that *cops* participate in all the time.
>
> And it means that there is no such thing as justice when it comes to those particular acts. I mean, you can arrest one woman and let another woman go. It really dissolves the credibility of a law enforcement officer when they make an arrest of a prostitute, knowing that they possibly could have had sex with her or him and extorted them. There's no justice for that. So that's the first and my main concern, and that's really what got me motivated. The laws themselves harm everyone, even if they're not a prostitute, because if they can corrupt law enforcement officers, then if you are the victim of a crime and the arresting officer for whoever it is that harmed you is found to be himself or herself corrupt, it blows the case against the person who harmed you and that person can go free and commit those crimes again.

Frankie speaks clearly about cops' cognitive dissonance, which they have witnessed on multiple occasions. In themes not included in this presentation of the research, they also talk frankly and humbly about recognizing their privilege as a white, cis-passing, indoor sex worker. However, even the most privileged sex workers are not immune from dangerous cops under criminalization. The necessary quick thinking, fortitude, and levelheadedness are remarkable under the circumstances; any deficiency on these fronts could be disastrous.

> I'm very much ACAB (All Cops Are Bastards), abolish the police, all of that. A lot of it ties into sex work, and that's where a lot of this started for me. I started doing sex work before I had a lot of my political ideologies today, to be quite honest. . . . But getting into the cops. I think that there is this insane cognitive dissonance of street-based sex work, which I have also done in the past, versus in-person underground escorting, which is going out to dinner or hotel sex work or parlor sex work, like, indoors—closing doors—sex work.
>
> We always hear stories about cops arresting, and then having sex with, which is just a horrible thing, street-based sex workers. So assaulting street-based sex workers. And *all* of my friends that are sex workers have had run-ins with the cops where they didn't know they were cops 'til after the session. And then they

> were like, "Oh, yeah, I'm a cop." And they were like, "What . . . Why are you here?" Or they put on their hat—I had a guy put on a hat, and it was a "blue lives matter" hat. And I was like, "Wait, are you a cop?" And he was like, "Yeah, look, I'm off the job right now." And I was like, "What?! Get out, I don't wanna ever see you again." So bad. Gross, [name redacted], bad, gross, gross.
>
> And it's just figuring out how to operate in those situations and keep your cool 'cause in those situations, they hold the power in that moment, you know? You don't have any power in that moment because they have the power to arrest you right now. They have the power to ruin your life, put that prostitution charge on your record forever. I have a degree in education. And that is always a thing that haunts me [that a criminal record could hamper anything they may want to eventually do with that degree]. And it is continuously horrifying to be criminalized for prostitution in that way.
>
> [Sighs] I think that it's just interesting to have all of these different experiences with the police, run-ins with the police, where you have police showing up at your door to question you and see if you're a prostitute or showing up at your door to go see you as a sex worker. And it can be the same cop, you know, it could be the exact same person who knows you're there now. Especially working in parlor environments where you work the same address every week.

Kaytlin extends Frankie's concerns about the trade-offs between the benefits of regular indoor work in a reliable environment and cops' opportunities to abuse that consistency. Further, she questions whether incrementalism via the law would rectify relations between sex workers and the police, particularly pertaining to ongoing issues of violence and trust. She presents a hypothetical that illustrates a partway point toward decriminalization, recognizing that changes in law do not necessarily correspond with changes in behavior, especially when considering power differentials. Despite the challenges, incrementalism may be an important step toward decriminalization and equal protection, at least from a legislative perspective.

> So a really good example of that [incrementalism] is including sex workers on, like, a patient's bill of rights: you cannot be denied care because of your profession, whether it's criminalized or not. Smoothing the way and removing barriers to vacating your record. So if you've ever been arrested for this work, then it's easier for you—we should be fighting for laws that make it easier to remove that from your record. Getting sex workers in front of legislators to talk

> about Good Samaritan laws or reporting exceptions—like, you cannot be arrested as a sex worker for reporting a crime committed against you.
>
> [But] these kinds of laws under the general system of criminalization often don't help sex workers that much, right? Like, you know, a small-time sex worker in Vermont, let's say, gets attacked, right? Reports the rape committed against her to a police officer. Police officer knows that he's not allowed to arrest her. But now knows who she is, knows that she's a sex worker, and is maybe moved to surveil her or, often, unfortunately, blackmail her or rape her, and force her to provide sexual services under threat of arrest. So I don't think that when these laws are passed, sex workers are sort of rushing to help law enforcement, you know, by reporting crimes committed against them. But it's a great opportunity to help ease legislators into trying to understand the impossible, precarious position that their sex worker constituents find themselves in. And to see us as advocates. As citizens.

Frankie provides a downright creepy example of a particular type of cop—perhaps not physically dangerous, but abusive nonetheless:

> And you also have the police who have the savior complex. You have the ones where it's like, "I wanna take you out of this work. I wanna make you a good girl," you know? "I don't want you to be doing this anymore. Why are you doing this to yourself?" And it's an entire session of them just paying for your time to hope to convince you to do something else with your life. And that happens quite a bit. I don't personally accept those sessions 'cause I screen my clients pretty well, ask for their jobs and stuff like that. And I also don't see new clients very often. But I have lots of friends who are like, "I had another cop come in and say that I just need to change my life." Which is just so weird. It's so awful. Yeah.

Stigma

Cops' shaming sex workers segues fittingly to stigma. The National Alliance on Mental Illness (NAMI) delineates seven types of stigma: public stigma (the general population holds stereotypes/prejudices and engages in discrimination), self-stigma (a person internalizes that public stigma), perceived stigma (accurately or not, a person believes others have negative opinions of them), label avoidance (a person avoids seeking treatment or resources for fear of being labeled as a member of a stigmatized community), stigma by association (also known as "courtesy" or "associative" stigma; a

person aligned with a stigmatized person or community also experiences the effects), structural stigma (institutions perpetuate stigma), and health-practitioner stigma (health care providers perpetuate stigma).[39] While NAMI contextualizes these as they relate to "mental illness and substance-use disorders," all have been encountered during the course of this research as they pertain to sex work. Decriminalization makes space for destigmatization, which in turn makes space to address the mental health issues that some sex workers experience. Additionally, feelings of hopelessness, fear, anger, and stress *directly stemming from criminalization* would dissipate.

Bella talks about how public stigma is ingrained from a young age:

> I started asking, "How old were you when you knew what a prostitute was? And where'd you learn this?" Most of us know by the time we're five, right? Yeah, think about it. And, you know, no one at church or your mama didn't sit you down and tell you, this is what a prostitute is. So we learned from cop shows; when kids are older, looking at porn; even video games—"kill the hooker." But the Black kid said the most interesting thing. He said, "We're driving down the road late at night. There was a woman on the street corner. I said, 'Mama, how come you're not gonna offer her a ride?'" ('Cause decades ago, this is what poor women did when they saw a woman struggling with laundry or groceries.) And his mother said, "Because she's a bad woman." So he wasn't old enough to understand what sex was, but he was already taught that she was a bad woman, you know, and then that feeds into "bad women get what they deserve." Men are not responsible. We're the Jezebels.

Bella's striking observation of stigma being dismissed as "Bad women get what they deserve" applies to male sex workers as well. Perhaps no participant articulates the pain and despair resulting from stigma more emotively than Bryan. What is presented here by no means encapsulates his multifaceted emotional identity, but he begins to indicate how very vile encounters can be. "I had a hater on a social media app who

[39] Grappone, "Overcoming Stigma."

basically wished me dead, and when you get someone who's that angry . . . They're animals. . . . Angry, mean animals who pretend to be human." He also talks quite a bit about fear, especially fear and its relationship to stigma of association.

> I am a little reluctant to talk [about my family]. My paranoid mind is terrified that state-sponsored carceral forces would say, "Well, you knew your kid was a hooker and you were taking money from him to do stuff like pay for college or, like, not be homeless, so you've basically accepted money for illegal things." That's one of my very real fears. . . . So talking about that in an official interview makes me makes me concerned. I wish I could talk more openly about that.

When offered to talk about family, or anything else, off the record or to completely avoid the topic:

> Well, no, I think that people who need to hear this need to know that when people criminalize me and others like me, they are threatening my mom, they're threatening my dad, they're threatening my siblings. They're threatening pretty much anybody I've ever helped with the results of my work, which should not be criminalized. And if I were to put my family through college, if I were to put friends through college, they wouldn't care. They'd still try to hurt me, even though I just wanted to use my funds to survive and try to take care of my family and my responsibilities. So I'm smiling, but at the same time, I'm full of very white, hot rage. I'll probably take a cold shower later to just relieve all this hot rage that I have to internalize every time I think about it.
>
> I can't get people to comprehend the danger [from criminalization] that me and others like me face; it's so frustrating to have them see me live in real life. Like, when I'm with them, I'm not a criminal to them. I'm just a dude doing something different, but it's all these people who don't know me or think they know me and don't know, who just make decisions about my life. They don't know what's going on. They don't know.

While there are a lot of negative emotions surrounding criminalization, Norma Jean also expresses anger, particularly resulting from structural stigma in the form of trauma perpetrated by law enforcement. When asked about emotions that come to mind when she thinks about criminalization, she says:

> Anger is the first one. Harm. So many people when they get arrested and they're broken and they don't know what to do, they don't know how to fix that part of them that undergoes this very traumatic event in their life of being handcuffed and

> helpless. You are now in the possession of some other human being against your will. That's what is against your will, not the sex for money, but being taken in handcuffs and being paraded in front of other cops who laugh at you. If you're, you know, not an attractive sex worker ('cause not every sex worker is attractive), you go in there and they say, "Oh, I don't see how she could possibly be a prostitute. She's too fucking ugly." They're just there humiliating you as much as possible. And it's harmful and it's painful. And it makes me so angry that anybody could think that this is appropriate. Even if you thought the person was being exploited, how is this appropriate? It's not.

More from Bryan on stigma and living with fear:

> They call me an animal. They call me whore, like, the worst language, the worst dehumanizing language and communication, have come from the very people who claim to be wanting to solve the problems that affect my life. That is ironic in the worst way—that these people who claim to help are, in fact, the biggest enemy. Like, people ask me, "Are you afraid that clients are gonna beat you up?" No, I'm afraid of the church lady. I'm afraid of the police officer. I'm afraid of the landlord.
>
> [Under criminalization, sex workers] have had their weaknesses exploited. Landlords who coerce sex workers into sex; otherwise, they become homeless. Neighbors who coerce workers for a cut. Police officers who also coerce sex workers into sex and then arrest them. Police scare me the most because they are functionally immune from accountability of abuse of their power; they are functionally immune.

More from Norma Jean on trauma and fear:

> As a sex worker, when you get arrested by a cop it is very, very traumatic to have your personal integrity, bodily integrity, taken away from you by someone who posed as a potential client. Now you're always going to suspect anybody else that you see to be somebody that's, you know, working undercover and possibly a cop, and you might possibly get arrested again, which is traumatic. So there's the trauma of being arrested by a law enforcement agent, and never being able to trust your clients again for fear that one of them might be a cop or might be working undercover for a cop.

Alex is perhaps a bit less vehement than Bryan and Norma Jean as she talks about her experiences living with stress, but she clearly distinguishes that it is stress *resulting from criminalization*, rather than the profession itself.

> [After starting as a stripper and suffering a debilitating knee injury], I still had bills to pay, so I started escorting with a big cast on my leg. And I was making

> just as much money, so I never returned to the strip clubs, I just continued escorting. I eventually got arrested, and then I got arrested again, and then I got arrested again. And I kind of, I was irritated about it more than anything. I felt like it was just really stupid that I was doing this [getting arrested].
>
> I was a young feminist, with very little understanding of what all that was. I just felt like, you know, I should be able to do whatever I wanted to do with my own body. And it wasn't really anybody else's business. And if I wanted to have a one-night stand, I could have a one-night stand. If I wanted to trade sex for money, I should be able to trade sex for money. I came from very, very privileged point of view.
>
> However, after a couple of arrests, you start to get a little stressed out about it. The first time it was, you know, like, six months Salvation Army [community service], probation—it was no big deal. The second time it was a little more serious. The third time I was facing a year in prison because your third conviction for a prostitution conviction is a felony. So I was facing time in prison and that really scared me. So I decided to try to leave, and it just wasn't that easy. I started to feel more and more desperate. I was constantly in fear. I was constantly stressed out. Over a period of years, it became just a stressful lifestyle. I left the industry for a brief while and stuck it out as a hairdresser.
>
> I taught for Redken. I was part of the team that helped develop the Redken shades. I really loved that job. Eventually I started working for Regis Corporation. I became a regional director. I had a company car, all of that stuff. What I didn't know is that I had an outstanding warrant from Texas, and they decided that they wanted to go through with it. So because I had violated my probation, because I was basically an absconder, they resentenced me to 10 years sex offender probation. This is in 1993. In 2003 my probation was over. I got married in 1998. I decided that the sex industry was the right thing for me again; I felt like I'd be able to make better decisions and, you know, be a little bit more careful.
>
> So I decided to enter again, and ever since then, it's been a pretty pleasant experience. I feel like I make better decisions. I feel like I have the support network that I need. I always keep one foot in the vanilla world just because I think it's a good balance. I know that not everyone can do that, but I do do that. I believe that trafficking is wrong. I think that it's horrible to think that there are people who are forced or coerced into the industry, that aren't fully informed, that don't have a safety network, that don't have good family support, that don't have all of the information they need in order to make good decisions.

She then extrapolates from her experiences as a sex worker in conjunction with her direct service provision to conclude that harm reduction in the form of decriminalization is a key part of reducing the scope of decision-making under the constant constraint of fear.

> My experience with all of my clients who have stories from the sex trade, they morph over time. People who are experiencing horrific violence, they think it's because they're involved in the sex trade, whereas often it's a confluence of events, you know? It might be because they're homeless or underhoused or struggle to pay the rent or because they have intimate partner violence; they may have been sexually assaulted. And all of these come together to create a lot of fear. And when a person is operating in a fearful environment, they're not gonna make the best decisions, you know? I think that people do the best they can under the circumstances they have. And I believe that it is our job to make sure that people are safe and that we need to be less inclined to impose our moral views on them and more inclined to put our human views on them.
>
> People come to sex work for a variety of reasons, and while humbly

acknowledging throughout the interview that her experiences are not those of everybody, Kaytlin describes a bit of her journey and offers a conceptualization of feminism—contrasted with the striking "whore exception."

> My mom has been advocating for abortion access since before 1973; she's the youngest of four girls in New Jersey where it was criminalized. It's something that's really united the family. And so I have always thought of bodily autonomy, and in particular as a woman with a uterus, I felt like sexual autonomy was the bedrock upon which all of my other freedoms sat. It's rather like whether, and when, to become a mother, you know, how many rights do I lose when I have sex? This kind of stuff felt very top of mind, especially going into the classroom every day and getting bombarded with this sort of thinly veiled conservative Christian [stigma]. Jesus was actually fine with sex workers.
>
> It's the diminutization idea that women are devalued in some way by the sex that is done to them or by the sex that they choose to participate in. And I consider myself sort of a contrarian by nature. And so, you know, I raised my hand, I started volunteering with Planned Parenthood. I pushed back against some of the more egregious and obvious pieces of misinformation, but ultimately, I came to my first experiences with sex work from a place of intellectual curiosity and no urgent material need, which because of that privilege, enabled me to, you know, be really extra about my safety precautions and the screening process. And I really did have a lot of negotiating power in those early years because I didn't need the money. And I think that's important context.
>
> A lot of people sort of suffer under the illusion that my experience is unique. And I would push back on that as a historian and somebody who has studied this—girls with a lot of education and deep social resources have been coming to this work for a variety of reasons for millennia. But it did protect me—criminalization was not my top fear—getting caught and having to tell my family was my top fear

> and that whorephobia and the potential consequences of that. Like, my mom marched, took me to the AIDS quilt, we had a lot of queer people in our lives, I grew up going to drag bingo. My mom was really antihomophobia and [yet] would have freaked out in a deeply whorephobic way had she known about this work.

"Sex work stigma is not about right or wrong, but how rules around sexuality perpetuate power structures, particularly race and gender."[40] "Sex worker stigma is rooted in patriarchal, classist, racist, and colonialist attitudes."[41] "Radical feminist discourse present in academic scholarship perpetuates stigma against sex workers."[42] "Discourses of sex workers as 'others' outside of community and as threats to children are complicit in sex work stigma."[43] From a scoping review, and as illustrated in the first two chapters, sources of stigma and rationales for criminalization are not as noble as cursory glances might indicate. "Criminalization is for their own good" does not hold up to scrutiny. Returning to bolder assertions, Alexander/a Bradley, outreach and community engagement manager at HIPS, contends that the targets of criminalization are intentional, stemming from intersectional stigma.[44]

> Gee, I wonder why people are engaged in street-based sex work? Is it possibly anything to do with the fact that, like, I don't know, we have massive discrimination against Black folks and trans folks in the workplace and people can't get jobs and they get kicked outta school and they get kicked out by their family and they're living in the fucking streets and they don't have any other options and it provides flexible hours and lets them make whatever money they wanna make? Is that maybe why? But it's a "problem." Okay, so you got them, what now? Okay, so you've arrested them, now what? Are you gonna give them a

[40] Grittner and Walsh, "The Role of Social Stigma in the Lives of Female-Identified Sex Workers," 1659; Hallgrímsdóttir et al., "Sporting Girls, Streetwalkers, and Inmates of Houses of Ill Repute."
[41] Grittner and Walsh, "The Role of Social Stigma in the Lives of Female-Identified Sex Workers," 1661; Seshia, "Naming Systemic Violence in Winnipeg's Street Sex Trade."
[42] Grittner and Walsh, "The Role of Social Stigma in the Lives of Female-Identified Sex Workers," 1665; Desyllas, "Representations of Sex Workers' Needs and Aspirations."
[43] Grittner and Walsh, "The Role of Social Stigma in the Lives of Female-Identified Sex Workers," 1665; Strega et al., "Never Innocent Victims."
[44] Bradley, interview by Malia Dalesandry.

> job? Now they have a record. So now what? Now what are they supposed to do? Now you've ruined their life even more. It's literally a self-perpetuating cycle intentionally. It's intentional. All of this shit is intentional. It's by design.

Intersectional stigma must especially be considered. Criminalization is used to further stigmatize already marginalized populations. Black transgender women who are sex workers therefore necessarily bear the brunt by virtue of their very being. Three of the participants have this lived experience. All spoke with pride, but it is Michaelisa who bares all as she bears all; her vivid descriptions of living in the streets, suffering from the stigma of who she is in addition to the criminalization of what she did to survive, are heartbreaking:

> My sex work started immediately because the girls told me when I came out there, you're gonna have to survive. And it's your responsibility. So they taught me how to trick. They taught me how to boost. They taught me how to pickpocket. They taught me how to steal. They taught me so many things in the name of survival. And over those years I had become animalistic in the name of survival. And I totally lost myself and lost who I was. I really didn't know who I was because this was at the prime of my life. So a lot of people have latched onto the lifestyle and drugs for obvious reasons. I think that it was my getaway or my go-to, you know, the whole mentality. And I just got lost. I found out that I could be who I wanted to be in the streets, and I just got lost in the streets for years. For years.
>
> It's a very dark and lonely place to be homeless and transgender in the streets. I mean, everything from the way people look at you, like you're an eyesore, to the disregard people have of any needs that you might have. I remember I've been hurt several times out there for whatever reasons. And when you're just simply, "Help me, help me," people just walk past you and look at you like you're an eyesore or you're a disgrace. And it amazed me. I remember being in the streets and it was just amazing how cruel and careless people can be. I wasn't raised like that, you know, but when I went to the street, I saw it firsthand. I experienced it firsthand. So organizations like the ones that I have worked for and the one that I'm working for now, we embrace that. We embrace our people, we embrace all the faults, all of the shortcomings, all of the character defects, all of the trauma—we embrace all of it, you know? And for those that have been through it, we know exactly, exactly how they're feeling.
>
> I've recently been shot, and I thought that it was because of some homophobia or because I am transgender in this bad area, but I came to find out that I was just in

> the wrong place at the wrong time. I live alone, and that's not always a good thing. I'm a people person and I do deal with my own issues, both mental health, emotional. So sometimes loneliness will tap into my depression, and it'll tap into low self-esteem, and it'll start spiraling down.

Lest her resilience be discounted, later in the interview, Michaelisa expresses self-affirming practices that help her overcome her self-stigma; these will be chronicled in future installments of the research project (more on this in the epilogue).

Shareese, with her characteristic optimism and good nature, gets down to it:

> I shouldn't have to wear a "T" on my forehead to say that I'm trans, or to say that what's between my legs is something that, you know, is hurting *you* so bad. I'm like, "Well, why? I'm the one walking with it. And *you* mad?! Why are *you* mad?" [Laughs] So it's just hard to understand why people do some of the things that they do.
>
> I don't treat ourselves as the minorities. I don't see us as the minorities. You know what I'm saying? Us being the LGBTQ community that relates to the LGBTQ things, we don't sit back, "Oh, this is LGBTQ." If this is an event, it's not "LGBTQ," like, come on, we don't even relate to the word. You know, some of us transwomen don't even relate to that we're transwomen because we understand that we are women. When do you drop the "trans"? It's time. Let's drop the "trans." We're not special, we're no different. We bleed. We're human, period. So what I see is just human activities.
>
> I see a community that is being publicized behind things that we need to already be doing within ourselves. Just like prostitution, if you have that ability to get out there and post the ad and service someone and protect yourself all at the same time, you're doing entrepreneurship. That means you could get a developmental job and you can start building things and posting things for your job and doing instead of a nine-at-night to five-in-the-morning, you could do a 9:00 a.m. to 5:00 p.m., you know, and make it make sense.
>
> It's just the switching up and transition and understanding that sometimes we can't walk in the daylight. Sometimes we don't have the ability or the courage to stand on a Metro bus and be humiliated before you get to work or to be at work and to be, you know, pointed out as—you're just trying to do your job comfortably—"Oh, that's the trans woman right there. Oh, but they still beautiful." I mean, "*still* beautiful"?! No babes, I've always been beautiful! [Laughs] I was beautiful *before* I was a transwoman. And now that I *am* a transwoman, you really notice it. [Big grin]

Bryan, like others and somewhat dishearteningly, also tries to understand the why of stigmatization.

> In sex work, ambiguous and paradoxical desire structures are laid absolutely bare. Even people who seem okay on the surface and have nothing to do with the sex industry, have nothing to do with this life at all, they fall under the same principles—the same principles of frailty, jealousy, fear, anxiety, anger, animal reflexes—the kind of reflexive animal responses. And until they're taught differently or until they're pushed back against, they don't change. I'm kind of jealous of these anti-sex worker advocates and anti-sex people because they have absolute confidence and conviction in their wrongness. They have the benefit of not having to doubt how wrong they are. They don't lose sleep at night over their wrongness. They don't lose sleep. And it's like, man, I wish I could sleep that easily. But you have to be pretty ignorant or pretty heartless to sleep that easily.

Alexander/a provides some hope to counteract the despair that Bryan expresses over the intractability of people's worst instincts.

> You're never gonna destigmatize while something is still criminalized. You can work on individual people and you can work on changing individual hearts and minds, but anytime somebody can point to something and be like, "Well, it's illegal . . ." It is inherently stigmatizing for it to be illegal. The groundswell that I've seen is changing community, humanizing and personalizing people, too. This work requires folks to, unfortunately, stand up as people affected and have a voice. I can talk about data and facts and statistics all day. But if people don't have an "oh my God, I know this person."

Like Frankie's one-on-ones with fifty thousand New Yorkers, Alexander/a's observation falls within the narrative policy framework, which suggests that messaging is effective when it "help[s] the audience imagine a concrete, not abstract, problem."[45] In this way, sex workers, through their conversations, are both privatizing *and* socializing the problems with criminalization.

> I think a good example of this is why there's been a shift in the discourse around drugs. 'Cause all of a sudden, a bunch of fucking white people started overdosing. And instead of it being like, "Oh, the dangerous inner-city problem," like, now it's an "everybody" problem. And now everybody knows somebody. There was a

[45] Cairney, "Policy in 500 Words"; Jones, Shanahan, and McBeth, *The Science of Stories*.

radical shift over the past couple years between how we talked about people who use drugs and the way we treat people who use drugs, the way we fund drug use services. All of that is because people started seeing the humanity of people who are actually affected and actually knew people in their life who are affected.

So until we can humanize and bring stories to the table and change hearts and minds in communities—this goes back to what we were talking about at the beginning, about how this is what being an accomplice and doing this hard work looks like. It's doing the shitty part. We're not by ourselves. Just us, just drug users, just sex workers are not gonna be able to push, unfortunately, alone. We need to change hearts and minds beyond because when the obstacles come up, it's always from the pushback. And even with the tremendous amount of work that we had done with sex work decrim, we *still* saw this incredibly violent pushback when we had the hearing that stalled everything. So until we change people's minds about who these folks are—and then do you actually know them or see them as human people?—change, policy change, ain't gonna come. We can do a lot on our own, but we can't change policing and policy and law and funding until we change people's individual perspectives. So from my experience, that is the order that it has to go.

Calling it optimism would be a stretch, but Bryan also begins to envision a way forward:

I used to think that decrim by itself would be the magic bullet to solve problems. And it's only one step. It's one step. The biggest thing that it would give me is it would renew my morale. It would renew morale for so many—okay, it's not fixed yet, but we're heading in the right direction because decrim is the goal. But in addition to the goal, we have to change the story because people who do prostitution and things along the spectrum of sex work are kept that way.

They're locked that way because society wants someone to hate; human beings want someone to hate. And as a mark of our advancement of human rights progress, we are not permitted to hate people for superficial reasons as much as we used to; now there's been a huge backlash as all that suppressed hate has blown up. And we have this rise of fascism and conspiracy-based dogma and cultish behavior. But society wants someone to hate, and people who do sex work and prostitution are easy targets. Like, they're an easy venting space for people to hate. People can blame them and not take responsibility for their own life problems or acknowledge the complexities of a generally unfair world. So that's part of it.

So decrim, for one, would take a lot of the weapons out of the hater's hands, not all of them, but it would take a lot of the weapons out of their hands. And it would lay the groundwork to push back. Let's see. The other thing that decrim would do

that would make things easier: it would help me breathe easier at night. It'd sure help me breathe easier.

Problems with End Demand and Legalization Models

> In the sex industry, if the demand goes down, the supply side simply becomes more desperate and is required to do more risky behavior in order to meet their needs. If demand for services is down for street-based sex workers, and they previously were receiving $50 for a blowjob, you know, they may now only be able to get $20 because there's fewer clients, but they still have to meet that $50 need. So now we've actually increased trafficking—if we're gonna call all adult consensual sex work "trafficking"—we've actually increased people's chances of being exploited. We've actually increased the amount of services they're going to have to provide in order to meet their need.
>
> —Alex Andrews, interview

Increasingly popular among policy makers and the public are models that seek to end demand. "Sexual exploitation and sex trafficking are complex problems with many causes, but the key driver[s] are the sex buyers. Without their money, pimps and traffickers have no incentive to force vulnerable women and men, girls and boys, into the illegal sex trade. When buyers stop buying, the whole system comes to a halt."[46]

> Where the sex purchase ban is enforced, the sex trade becomes less viable and this discourages sex trafficking and pimping. One researcher went as far as to suggest that the sex purchase ban might be more effective in combating pimps and sex traffickers than laws that target them directly.
>
> The Nordic Model has explicit purposes and objectives. Some of the purposes are difficult to measure in the short term, such as improving both equality between men and women and the understanding of free consent in sexual relations. The concrete targets that can be measured in the medium term include a reduction in the purchase of sex and the numbers of women in the sex trade, an increase in the percentage of women successfully exiting the sex trade, and improvement in women's access to rehabilitation.[47]
>
> Criminal legislation has the primary purpose of making it clear what we as a society consider unacceptable and discouraging people from doing those things.
>
> I suspect that there is not a single one of us who has not wanted to punch someone on the nose, at least once in our life. But that thought is followed rapidly by the

[46] Demand Abolition, "End Demand for Sexual Exploitation."
[47] Nordic Model Now!, "Has the Nordic Model Worked?"

> image of being arrested and maybe imprisoned, and so we move on to considering other more positive solutions.
>
> The Nordic Model is no different. It makes it clear that buying people for sex is wrong and it has sanctions that discourage people from doing it.[48]

End demand frameworks like the Nordic/Swedish model, partial criminalization,[49] abolitionist, sex-buyer, entrapment, and equality models, and "partial decriminalization" legislation such as that put forth in New York City[50] purport to punish only the clients and third parties and let sex workers go free. In reality, punishing clients *is* punishing sex workers in at least four ways: by reducing the price of their services, by forcing hasty and thus potentially riskier arrangements since at least one party is criminalized, by letting traffickers rule black markets, and by continuing to perpetuate stigma. Further, these models operate under the premise that sex workers must be saved, and the stickiness of stigma means that they are perpetually discreditable.[51] They can never choose this work; it is therefore not work. Abolitionists who operate as anti-traffickers, referred to by proponents of decriminalization as "the rescue industry," say that all sex workers are exploited and thus trafficked.[52]

Kaytlin describes these types of policies:

> A real trend that started in Norway and Sweden, but is quickly coming to the United States, is criminalizing clients, criminalizing third parties—this idea that sounds good to, I don't know, a think tank where no one in the room has ever sold sexual services, but when applied to real people, living in real communities, almost always increases violence against us.

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[48] Nordic Model Now!, "What Is the Nordic Model?"
[49] Grittner and Walsh, "The Role of Social Stigma in the Lives of Female-Identified Sex Workers," 1672.
[50] Nembhard, Jones, and Jagannath, "Partial Decriminalization of Sex Work Could Cause More Harm Than Good."
[51] Goffman, *Stigma: Notes on the Management of Spoiled Identity*.
[52] Engaging in a bit of reflexing, it is admittedly challenging to pass an ideological Turing test because abolitionists' claims of wanting to help women are belied by the empirical outcomes of their preferred policies and by their vitriol toward sex workers.

> So I see a lot of new threats on the horizon. I think that we as a society are willing to sort of set down the old narrative that arresting sex workers is somehow helpful, but I see a lot of new worse narratives that we might be willing to pick up that I think will be detrimental to sex workers. One of them is the "end demand" model, right? Or the "entrapment model," which really isolates us, criminalizes our clients, our roommates, our service providers, while simultaneously increasing stigma against us and reducing our negotiating power in one-on-one interactions with clients, which almost inevitably increases violence.

Frankie also talks about problems with models that criminalize clients. Rather than calling it "partial decriminalization," it might more accurately be referred to as "partial criminalization" or, most precisely conceptualized, simply "criminalization."

> I think the biggest thing that has been the day-to-day grueling truth of criminalization is screening and being prepared for clients, like, new clients, and taking a chance on meeting new clients. I see new clients very infrequently because of this. I see mostly regulars at this point, which are people that return to me, because I don't feel comfortable screening clients in this day and age. Because a lot of clients want to screen you as well; they want photos and they want all of this stuff because they think that *you* are the cop as well. And they think that *you* are going to criminalize *them* because there is this partial decrim bill that's happening in New York right now, which is criminalizing the people that are seeking out sex workers. And I think that it's seeing this change and this augmentation from "we are all criminalized" to this thing where, like, "*you* are now criminalized." [This makes clients more demanding and unpredictable.] That is definitely something that has been very stark and different.

"Client criminalization rests on the idea that 'ending demand' will ultimately abolish sex work and is therefore markedly abolitionist in nature."[53] Tracy assesses the abolitionists' tools and offers an astute observation about their masterful use of rhetoric:

> A problem we should be aware of is that when they do talk about it, the solution they come up with is to criminalize the purchase of sex and to decriminalize the work. Some of these opponents—I'm not gonna name names 'cause I don't know which ones have done this—some of these opponents will claim that they are for decriminalization because they want to criminalize the purchase and the management of the industry, the managerial class, as it were, and the consumer class, and that they want to decriminalize the providers, the people who are doing the actual physical provision of sex. That's what they'll *say*. Now, we know that

[53] Vanwesenbeeck, "Sex Work Criminalization Is Barking Up the Wrong Tree," 1632.

> this is not a solution and that it actually turns the sex worker into an accomplice or a witness. It's very easy. Like, you can see how the law would play out that you could be seen as an accomplice. So this is their solution, which obviously is not my idea of the solution. It's very clever. They've tried to co-opt the concept of decriminalization basically. But of course they're using it to advocate for more criminalization.

Further muddying the waters, there are indications of attempted de facto partial decriminalization in a few places. "Public officials in some jurisdictions have used discretion to decrease criminalization of the trade. Seattle, Baltimore and the borough of Manhattan in New York City are just a few examples of places where policy change has happened through this subjective process."[54] While this could be viewed as incrementalism, when district attorneys, for example, announce they will not prosecute, cops still arrest people, "leading to confusion or conflict between the police and the district attorney's office."[55] Additional pitfalls include the lack of consistency in offices and reliability of practices of policy makers who are subject to reelection. Further, cops can arrest without technically crossing the champion in office; there are other modes to continue to criminalize sex workers, which also speaks to the need for destigmatization. "Rather, dozens of seemingly minor or unrelated policies, from loitering laws to mandatory HIV testing, are used to justify arrest, target vulnerable populations, enhance criminal sentences and increase charges from misdemeanors to felonies."[56] Due to pushback from activists and communities in Washington, DC, for example, the Metro Police Department is not as frequently arresting sex workers on prostitution charges

[54] McKenna and Boyd, "Examining Alternatives to Criminalizing Sex Work in the United States," 3.
[55] McKenna and Boyd, 3.
[56] McKenna and Boyd, 3.

explicitly. It is, however, arresting them on other charges. Michelle Spikes, community health worker at HIPS, provides an update:[57]

> A lot of the girls are not getting as locked up as they used to be. Like, back in the day, I think they used to railroad the transgender girls. Like, they would have undercover stings, and they would be breaking the law doing the stings, but at the same time, still locking us up just to make that quota, you know? And nowadays it's not like that as much, a lot of the girls are not getting locked up for prostitution. It's usually for other charges now. They're not really getting locked up for that too much. It's either, like, possession of drugs or some type of assault, fight, or something. So I'm just glad that a lot of the prostitution stings has stopped or calmed down at least, you know?

While Michelle counts her blessings, and "partial decriminalization" hints at improvements, an indication of the stickiness of stigma under any form of criminalization may be found in other countries, where formal end demand policies are in place. "Although the most basic tenet of the Swedish model is the non-criminalization of sex workers themselves, many countries, including Sweden, adopt the model while definitely not abstaining from the active and ongoing harassment or even persecution of sex workers in the meantime."[58]

There are also significant problems with legalization models, such as Nevada's, which some sex workers and scholars frame as the state acting as "pimp." Heavy-handed regulations may also violate civil rights, as well as result in exclusionary practices.[59] Additionally, Kaytlin explains the rent-seeking associated with the state's controlling licensing: very few licenses are available, which cost great sums to acquire. Despite the costs, brothel owners lobby for these practices; they do not want decriminalization

[57] Spikes, interview by Malia Dalesandry.
[58] Vanwesenbeeck, "Sex Work Criminalization Is Barking Up the Wrong Tree," 1632; Levy and Jakobsson, "Sweden's Abolitionist Discourse and Law."
[59] McKenna and Boyd, "Examining Alternatives to Criminalizing Sex Work in the United States," 2.

because onerous fees and taxes, which they can recover by passing them on to clients and sex workers, keep competitors out of the market. "Existing brothel owners are sometimes the strongest opponents of new licenses, to minimize competition and maintain the status quo. . . . In short, it is widely perceived that the restrictions on industry growth benefit more than restrict current owners."[60] Sex workers do not tend to have access to the kind of capital required to set up a brothel allowed in the Nevada regulatory framework. Thus, legalization institutionalizes discrimination even as it removes some of the worst aspects of criminalization. It only works for the limited number of sex workers who fit into the owners' rigid structures.[61]

> The other problem that I see is licensing or regulatory capture—legalization and regulation of sex work. We do not wanna nationalize the Nevada model. Nevada is the only state with "legal," deeply regulated prostitution, and it has the highest arrest rate per capita in the world. This is a model that only enriches and empowers brothel owners, which I think is a group of folks that we in the sex worker advocacy world share as a common enemy with the, you know, "big feminist," anti-porn folks. And so navigating this when you're talking to legislators who might be okay with not "rescuing the girls" have a lot of other fucked up ideas about ways to help them that actually hurt.[62]

Because of the highly regulated, highly constrained market, sex workers have less bargaining power, resulting in suboptimal conditions such as having to stay at the brothel for weeks at a time, working long shifts, having their communication controlled, being fingerprinted, registering their automobiles, being subject to rules that govern with whom they may keep company on their days off and whether they can work in proximity to family, having to notify law enforcement when they terminate their employment,

[60] Brents and Hausbeck, "State-Sanctioned Sex," 323.
[61] With thanks to Jerry for helping contextualize this impact of legalization.
[62] Bailey, interview by Malia Dalesandry.

undergoing invasive weekly and monthly exams at their own expense, not having control over who their clients are, not having health benefits, retirement accounts, or vacation pay, etc.[63,64] "Women working in Nevada's legalized brothels are subject to both formal regulations and informal norms that constrain their movement and activities and force them to negotiate their private and professional lives in a manner that is uncharacteristic of any other legal service industry occupation. This is a remnant of social norms and values that treat prostitutes as deviants."[65]

Bryan provides a vignette on legalization and how it does not solve the larger issue of stigma:

> People who hate us will try to find workarounds to say, "Yeah, it's legal, but you can only do it under these very specific conditions." And they pretend that they're honoring the legality in spirit, in law, but they are functionally criminalizing it again. So the difference between criminalization and decrim is a matter of spectrum. [If sex work were legalized], the first thing that would happen is that the general public would be like, okay, and just kind of chill out about it. And there would be this huge backlash from people who hate it, trying to undo it.
>
> And in my case, I would have more state-sponsored verification about the legitimacy of my existence, which I resent. I am legitimate. My coworkers are legitimate. Our work is legitimate. And having to ask the state for permission, for legitimacy, I resent very deeply because the state don't pay my bills. The state don't pay our bills. The state has failed us. Sex work exists because society has failed. It is one of the most mind-blowing things, like, it exists because everything else failed, and it is supposed to be there to help when everything else is fucked up.

Imagining a Better Way

> Laws are changing, and people are evolving. People, they need to keep up with the times. I'm hopeful. I'm very hopeful. Yeah. It needs to [be decriminalized]

[63] See, for example, Symanski, "Prostitution in Nevada," 372; Brents and Hausbeck, "State-Sanctioned Sex," 311; Weitzer, *Legalizing Prostitution*, 88.
[64] By contrast, for example, Frankie shared the process by which their (criminalized) parlor is unionizing. They spoke a lot about what sex workers' "workers' rights" might look like under decriminalization, as well as about work culture at the parlor and at their nonprofit.
[65] Brents and Hausbeck, "State-Sanctioned Sex," 328.

> because, you know, it's not that serious. I mean, everybody gotta be able to make some money, you know?
>
> —Michelle Spikes, interview

The best way to protect the rights, health, and safety of sex workers is true decriminalization,[66] which "implies that no particular laws other than regular employment laws address commercial sex. It starts from an acknowledgment of sex work as work and has the explicit ambition to support the empowerment of sex workers as workers and to reduce the stigma on sex work."[67] The only participant to have experienced this model is Bella, during Rhode Island's inadvertent loophole from 2003 to 2009 (discussed in the second chapter). She shares details about her life under decriminalization, but first she is forthright about operating under criminalization: she made a lot of money and appreciated opting out of a mainstream job, but things were not always pleasant. Still, she is quite clear that she was never coerced or exploited, even though "criminalization and repression make it less likely that commercial sex is worker-controlled, non-abusive, and non-exploitative."[68]

> I don't have to have a job?! Uh, this is cool. At one point I had more money than I knew what to do with; I used to just go give my grandmother a bunch of money that she'd buy bonds with, and we just never spoke about it. I would go to the mall and buy clothes that I never wore. I just didn't know what to do with my money until the drugs came along. Then I knew what to do with my money.
>
> There was a lot of time in my life that was not empowering, but I also have to admit that no one forced me to do it. I never had a pimp. I wouldn't even work for an agency that wasn't female-owned and -operated. Somewhere deep down in me. . . . It's just like when my husband raised his hand, I was like, "Oh, hell, no, motherfucker, men ain't doing this to me." And you know, of course I dated losers and let people take advantage of me. But none of them had any control over my work.

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[66] Macioti, Power, and Bourne, "The Health and Well-Being of Sex Workers in Decriminalised Contexts."
[67] Vanwesenbeeck, "Sex Work Criminalization Is Barking Up the Wrong Tree," 1631.
[68] Vanwesenbeeck, 1631.

Alex framed how people make better choices when they have access to more options and more resources and when their rationality is respected. Whether because of push factors such as leaving an abusive relationship or pull factors such as wanting more money and flexible hours, life gets better under decriminalization, regardless of the starting point. Bella describes her trajectory of self-improvement:

> So the first client I saw when I got outta jail says, you know, it's legal in Rhode Island. And I'm just thinking, you know, guys'll say anything to impress you. And, honey, I Googled that shit, and I packed up my house and I moved. So I got here in March of 2009. And under decrim, I felt free for the first time in my life 'cause, game changer, bitch, I can tell on *you* now! [Directed at cops and clients who would harm her.]
>
> So I get to Rhode Island, and it's a game changer. I'm the new girl. I made money. Like, you know, back then you could make $10,000, $15,000 a month. I also quit dating losers. I had quit doing drugs other than weed (weed is not a drug). I only see daytime men. I'm not seeing anyone after seven, eight o'clock at night 'cause people are drugging and drinking, and I wanna know who you are and what you do for a living. So I started making better choices.

The data on Rhode Island's loophole presented in the second chapter (the state saw a marked reduction in rapes and STIs) are supplemented here with outcomes after New Zealand's 2003 Prostitution Reform Act (PRA), which decriminalized sex work. "Sex workers in New Zealand can determine their work conditions. This means sex workers can meet their clients in a variety of settings, such as a brothel, private dwelling, or outdoors. They can work for themselves, or with friends, from home or an apartment. Sex workers can also do street-based work, or work in brothels which are operated by someone else."[69] The government recognized that "efforts to criminalise clients do not appear to deter demand for sex, and the unintended consequences may increase the

[69] NZPC/Aotearoa New Zealand Sex Workers' Collective, "The New Zealand Model."

vulnerability of women offering sexual services. The PRA reflects a more pragmatic sentiment, recognising that, even if viewed by some as undesirable, the practice of prostitution is likely to remain given ongoing levels of demand by men seeking to purchase sex."[70]

In 2008, the Ministry of Justice reviewed the results of decriminalization and found "no increase in the prevalence of prostitution since 2003, neither in the number of those providing commercial sex nor in those purchasing it"; "fewer reports of street-based sex workers, as many had moved indoors"; "increased reporting to the police of violence against sex workers"; "improved relations between police and sex workers"; and "no evidence of increased human trafficking."[71] Similar to outcomes in Rhode Island, "the Prostitution Law Review Committee concluded that decriminalisation has improved the occupational health and safety of sex workers";[72] however, "despite decriminalisation, the social stigma surrounding involvement in the sex industry continues."[73] In sum, the government concluded that "the sex industry has not increased in size, and many of the social evils predicted by some who opposed the decriminalisation of the sex industry have not been experienced. On the whole, the PRA has been effective in achieving its purpose, and the Committee is confident that the vast

[70] Ministry of Justice, "Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003," 166.
[71] Decriminalize Sex Work, "New Zealand."
[72] NZPC/Aotearoa New Zealand Sex Workers' Collective, "The New Zealand Model."
[73] Ministry of Justice, "Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003," 154.

majority of people involved in the sex industry are better off under the PRA than they were previously."[74]

Revisiting outcomes fourteen years later (nineteen years after the act), a scoping review found that the results hold:[75] decriminalization has positively impacted sex workers' access, agency, and autonomy; they have relationships with their doctors, go for regular checkups, and are empowered to require clients to wear condoms and can refuse clients for any reason; they report quality-of-life improvements including general well-being and greatly improved working conditions; and there are indications of reduced stigma as it pertains to social harm.[76]

Regarding stigma, while there appear to have been some improvements, with more on the horizon, there is still quite a ways to go; decriminalization does not result in immediate destigmatization.[77] Regardless, "there is growing consensus that full sex work decriminalisation, understood as the removal of all sex work-related activities from criminal law and the regulation of sex work as a form of legitimate labour, is the best available legislative approach to promote harm reduction and protect the health and well-being of sex workers."[78] Decriminalization facilitates rights, and therefore justice,

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[74] Ministry of Justice, 168.
[75] Macioti, Power, and Bourne, "The Health and Well-Being of Sex Workers in Decriminalised Contexts," 11–12.
[76] Ryan, "The Sanctions of Justice"; Abel, "Sex Workers' Utilisation of Health Services in a Decriminalised Environment"; Rottier, *Decriminalization of Sex Work*; Armstrong, "'I Can Lead the Life That I Want to Lead.'"
[77] Macioti, Power, and Bourne, "The Health and Well-Being of Sex Workers in Decriminalised Contexts," 16.
[78] Macioti, Power, and Bourne, 1; Kim, "Decriminalisation of Sex Work"; Platt et al., "Associations between Sex Work Laws and Sex Workers' Health"; Rekart, "Sex-Work Harm Reduction"; The Lancet, "HIV and Sex Workers"; UNAIDS, "Sex Work and HIV/AIDS."

helping reduce stigma and discrimination in the long run.[79] The following chapter discusses some of the sources of stigma and discrimination, arguing that opponents of decriminalization necessarily base their arguments on claims of "irrationality." Carol Leigh, artist-as-activist Scarlot Harlot, weighs in here:[80]

> I am so shocked. I never ever thought it would be this fast. I never thought it would spread this fast with hundreds of thousands of activists all around the world, and the world coming to take this as a value that sex workers have rights and should be free to make money at sex work and to be able to organize. But when you look at Australia and New Zealand, even when you have decrim, it's a constant fight to keep it. A constant fight to get it, even though we're going in that direction. So, I mean, you get decrim, and every minute somebody's trying to take it away. So that's depressing too.
>
> So when I see all that [global indications of destigmatization]—"yay"—but then I also think about all the problems or all the ways that people could start complaining about it more if it's more accepted. People just don't wanna see it because they are afraid of prostitution. They learn about the Whore of Babylon. I mean, it's an evil thing to them, and because of their sex negativity, because of the way our culture deals with sex, because we think about women as symbols of sexual exploitation, and children—of course, you talk about sexual exploitation, now you're talking about children. So kind of the human consciousness around sex and sex work is *so* problematic that if there's any hint of more acceptance or more focus, I think that it inspires more people to be angry and to organize against us. So to me, I feel like this is just the beginning. Well, maybe the beginning is decrim.

[79] Goldenberg et al., *Sex Work, Health, and Human Rights*.
[80] Leigh, interview by Malia Dalesandry.

CHAPTER FIVE: SEX WORK AND RATIONAL CHOICE THEORY

> Although it has long been agreed that traditional economic theory "assumes" rational behavior, at one time there was considerable disagreement over the meaning of the word "rational." To many, the word suggested an outdated psychology, lightning-fast calculation, hedonistic motivation, and other presumably unrealistic behavior. As economic theory became more clearly and precisely formulated, controversy over the meaning of the assumptions diminished greatly, and now everyone more or less agrees that rational behavior simply implies consistent maximization of a well-ordered function, such as a utility or profit function.
>
> —Gary Becker, *The Economic Approach to Human Behavior*

> So it is a big temptation to me, when I create a character for a novel, to say that he is what he is because of faulty wiring, or because of microscopic amounts of chemicals which he ate or failed to eat on that particular day.
>
> —Kurt Vonnegut, *Breakfast of Champions*

> There's some people that hear about cancer; they hear about veterans; they think the anti-trafficking war is a good cause, and they're taught that this is what you do, and they don't know better. And they believe it. And then there's people like [names redacted] that are evil bitches, that know exactly the harm they're doing. . . . She said, "We can't let sex workers *or victims* have access to funding or they'll feel empowered."
>
> Now I understand why she did that to sex workers, but you stole the agency of every fucking victim. So you can control the money. You can control the narrative; you can abuse 'em and treat 'em any way you want. . . . And when you think about it, the government is funding this political ideology and narrative that is a misinformation campaign. And they're using our tax dollars to do it.
>
> —Bella Robinson, interview

In addition to discussing some sources of stigma and discrimination, this chapter asks us to employ the economic way of thinking in order to argue that sex workers are rational; it also provides a framework for better understanding their responses to criminalization. Following a presentation of the counterpoint drawn from the public

hearing for Bill 23-0318, the Community Safety and Health Amendment Act of 2019,[1] it engages in an abbreviated exercise suggesting some of the varied philosophical, political, and economic contexts by which sex work could be considered. It then describes and applies rational choice theory. The rational choice musings are drawn primarily from Nobel laureate Gary Becker and conclude that it is rational for sex workers to sell their services and that criminalization as a means of satisfactorily (according to stated intent, at least) modifying actors' incentives is ineffective. The best way to address the negative conditions that some sex workers experience, as well as society's repugnance or apathy, is to analyze sex work from a universal (but not often explicitly elucidated) economic principle. Whether criminalization is due to an influential subset of society's perception of moral problems, genuine concern for the well-being of sex workers resulting in misguided attempts to abolish the trade, or perhaps general ongoing indifference toward reconsideration of the laws, "a transaction which society deems repugnant is not necessarily economically inconsistent, but rather is also subject to the same tendencies and constraints as any other market"[2] and should be reevaluated with that in mind.

Pro-criminalization Counterpoints

"By contrast, the sexual exploitation approach sees prostitution as the oldest oppression, as widespread as the institutionalized sex inequality of which it is analyzed as a cornerstone."[3] There are many people with good intentions who have genuine concerns about decriminalizing sex work. Having addressed the more observable, physical aspects

[1] Council of the District of Columbia, Committee on Judiciary and Public Safety, "Public Hearing for Bill 23-0318, the 'Community Safety and Health Amendment Act of 2019.'"
[2] Dalesandry, "The Nature of the Original 'Firm,'" 34.
[3] MacKinnon, "Trafficking, Prostitution, and Inequality," 273.

of the benefits of decriminalization (reduced STIs, rape, police abuse, trafficking, and violence), the presentation turns to the less empirical and more nuanced concerns, particularly exploitation, though it includes aspects of the former too. Further, having given sex workers many words, this exercise necessarily ought to include the words of folks who do not wish for sex work to be decriminalized. Much like sex workers' mantra "Nothing about us without us," those opposed have a similar motto: "Listen to survivors."[4] Having attended much of the above-mentioned fourteen-hour hearing on the bill to fully decriminalize sex work in the nation's capital, and with the 359-page transcription at hand, I had a rich repository of data extracts and a responsible way to highlight some voices that might not otherwise be heard. Though it had been more than a year since I had listened to it in its entirety, I had notes of themes that struck me, so I selected some keywords to gauge the most salient concerns: "exploit," "crime," "violence," coercion," "rape," "traffic," "STI/D," "abuse," "agency," "consent," "harmful," and "addict." "Exploit" yielded the most apt results to represent those harms not pertaining to more physical ramifications. I selected from diversity of demographics in terms of not only age and race (though all are women) but, more importantly, perspective: those who represent feminist, survivor, and religious organizations, residents of DC neighborhoods, lawyers and licensed mental health care providers, and, of course, those with lived experience. While it is impossible to capture here every variation of concerns expressed over the course of many hours, the following selections represent the range of sentiments.

[4] Polaris Project, "Listen to Survivors."

Christian Nunes, then vice president and now president of NOW (National Organization for Women) and a licensed clinical social worker, testified:

> I'm here to really talk about the holistic implications of passing and decriminalizing prostitution—what that does to a person that's in the act of selling. . . . Prostitution is driven by the demand to purchase sex to fulfill sexual desires that provide means of entitlement, power, and control. Prostitution is driven by the demand for a majority of the consumers, a.k.a. johns, who seek various sexual outlets to allow them to fulfill fantasies of illegal sexual acts such as rape and incest, as well as strong desires to control the person they're having sex with. These interests are explored with sellers of sex because many men, they feel that cannot act out these behaviors with their partners, who they feel may find these acts socially and morally unacceptable. Prostitution is the only form of employment that intersects with forms of violence and other illegal activities, such as drug abuse, coercion, rape, physical abuse, and trafficking. . . . In addition, prostitution is rooted in an imbalanced power dynamic between a person selling sex to meet economic needs and a person buying sex to fulfill sexual gratification. Women, men, and children engage in various sexual acts at the pleasure of the consumer, and many times engage in acts based on financial need purposely for the point of commodification of them as property.
>
> What we neglect to also discuss a lot of times are the emotional, mental, and physical effects prostitution creates or exacerbates in a person selling sex. Those lured into prostitution are often already dealing with cumulative trauma, such as past victimization, daily stresses of social determinants, things like poverty, health concerns, subpar housing, immigration, language barriers, and other issues. The majority of the persons selling sex come from ethnic groups and oppressed marginalized groups such as the LGBTQ community, as well as persons with disabilities. Sellers of sex often experience internal and external physical injuries, infections, vaginal and anal traumas, increased GI issues, health issues, dehydration, fatigue, sexual trauma, forced abortions and miscarriages, and depression and suicidality due to the acts of selling sex. Sellers have a higher prevalence to use drugs to numb out, or they psychologically disassociate to avoid internalizing the acts that they performed. There is no other job in the world that creates a serious sense of injury to the person, or the employee, such as prostitution.

Jane Nicholson, vice president for advocacy at Covenant House, drew attention to the discrimination and severely constrained options transgender youth face. They recognize why they face fewer options, and they carry that stigma into their relationships:

> An overwhelming number of our youth [between the ages of sixteen and twenty] are young people of color, and approximately 30 percent identify as LGBTQ. Recently we've done some studies and found that on average, between 14 and 19 percent have had experiences that fit the federal definition of severe forms of human trafficking. Another nine to 19 percent, while not fitting that definition, have at least at one point in their life engaged in commercial sex. Our studies found that our LGBTQ youth were at especially high risk. I think that many people in this room today believe that it's possible to draw a distinct line between commercial sex and sex trafficking. But in my work, I've found that that line is extremely fluid. The psychiatrist I work with at Covenant House New York and I have seen very few differences in the mental health needs of those who've been trafficked and those who've engaged in commercial sex without a third-party exploiter. The PTSD, anxiety, depression, low self-esteem does not differentiate between the two groups. . . . Young people in both groups begin to feel that there is nothing that they're good for but commercial sex, and they have trouble envisioning themselves in a healthy, non-exploitive romantic or sexual relationship.
>
> Occasionally, a young person has told me while they were in the midst of the life, that it was their choice. However, frequently that same young person later came back to my office now stating that they were a victim of exploitation. Frequently, that was because they realized that their exploiter never really loved them. Our transgender youth are often the most vocal in stating that they want to continue working in the life because no one else will hire them and that they need a means of survival. However, when our team gives them a choice between an educational, vocational path that will provide them with a living wage and commercial sex, they almost always prefer to do something other than commercial sex.

Brenda Myers–Powell, cofounder and executive director of The Dreamcatcher Foundation, described her lived experience and notes the increased transaction costs associated with power differentials:

> And let's talk about these brothels. Do you know that brothels take 50 percent of the cut? And then they charge the people that are working for them other fines and different things. How are you going to regulate that? And I remember working in these places and leaving with less than 30 percent of the 100 percent that I done made. So how are we making it better? Whose pockets are we lining here? Totally not the victims. Totally not the people who want to do this. When I was young, and you would have asked me, "Was it okay for me to be a prostitute?" I would've stood up on the mountain and said, "Yes!" because it was the only freedom I had from molestation and abuse. But it was also the only way that I could live every day without killing myself. I had to say it was okay. I had to say I wanted to do it because if I really looked at it and said it and looked at it

> like it was, I would have committed suicide a long time ago because I felt like a toilet. I felt like men were just disposing themselves in me, and I was nothing. When you talk about decriminalizing the very people that are on the demand side of this, that control, you're talking about harming the victims.

Younger people also testified. Tina Frundt, founder of Courtney's House, played prerecorded messages from the youth she serves. Most are underage trafficking survivors, and engaging in sex with minors and trafficking would still be criminalized, but their claims that decriminalizing all sex work would make it harder to enter places with suspected trafficking may have some merit. Also worth considering is that if sex work were decriminalized, DC could indeed become a hub for sex sellers and buyers, perhaps altering the commercial and cultural landscape of the city. Finally, Tamika, Sarah, and the unidentified last speaker brought up good points about the blurry line of the age of eighteen, especially when considering falsified identification.

> My name is Tamika Jones, and I'm a youth advocate, and I do not agree with this bill. I myself have been through many abuses: physical, mental, and sexual, but the sexual abuse has been and would always be the worst to me. I feel as if you pass this bill, you are putting all these young girls in danger. Just because you say the bill is 18 [years old] and up, that doesn't mean that it's not going to affect people under 18. They recently changed the tobacco law to 21, but that doesn't stop anyone under 21 from still getting it. My point is: this is not right, and it hurts me to think of all the little girls you will put in danger if you pass this bill.
>
> My name's Tiara, and I'm 17 years old. I believe you guys should not pass this bill because of numerous reasons. The first reason is the whole brothel situation. Now, if you guys legalize this, you cannot go inside of a brothel and do any investigation if a child comes to you and tells you that they think another minor is in this house.
>
> Hi, my name is Myra, and I am 16 years old. I'm against the bill because I'm a young survivor who has been in situations like family control and forced to do things that I didn't want to do being manipulated by my mother and her boyfriend. We have a lot of other youth in situations similar to mine; I was trafficked starting at the age of nine. This went on for a long time and nobody knew. It took a couple of years for me to meet Ms. Tina at Courtney's House. This bill will make it hard for kids like me to be helped and to meet people like Ms. Tina.

Hello, my name is Rhapsody Williams. I'm 16, and I will be talking about the decriminalization of buyers and brothel-keeping. I feel as though this is a very important topic because I think that decriminalizing all of these things will literally make DC a mini-Vegas, where tourists can come to just have sex. And as a 16-year-old, I have gone through things I shouldn't have gone through, and I also believe that decriminalizing all of these things will make it harder for girls who are my age and who are in the life to get out of the life. And I also feel as though that just having to decriminalize this shows that it's a major problem. And being already in the shoes of sex trafficking, and meeting somebody like Ms. Tina, shows that not every girl can get out. Not every girl is able to find help, and the fact that this is called a "Safety Act" is not helping nobody feel secure. If anything, it is targeting African-American females, women, men, and children who are in this life. Because of the need that somebody wants them.

My name is Sarah Smith, and I am 21 years old. One winter afternoon, a man approached the concession stand during one of my shifts at the theater I was working at. He placed his order and asked for my number. I smiled and wrote it on his receipt. At the time, I was 17, and he was 28. For about nine months, he showered me with love and affection. As our relationship continued, he became increasingly controlling, but he swore his anger came from a need to keep me safe. In the months leading up to my 18th birthday, he became violent. Pushing and shoving turned into kicking and punching. After I turned 18, he told me that I had to move out of the independent living home where I was currently staying. When I refused, I was held for hours and beaten by him until I agreed to call my case manager and tell her that I was leaving the program. The next day, he told me that I had to start contributing to our family. I assumed that he wanted me to get a job. He asked me if I loved him. Before I could answer, he proceeded to remind me of all that he had done for me in the past. He told me that I would start escorting to help support us. My refusal prompted another attack. He and I began spending our days indoors as he posted ads on Backpage that read "petite 18-year-old, new in town." He waited until my 18th birthday to force me to have sex for money. He knew the laws and how difficult it would be to prove that he was trafficking an adult. This bill will make it nearly impossible for survivors like me to get justice. If you pass this legislation, men like him will face no consequences for this behavior. Pimping will be legal as long as we are over 18, and it's a quote/unquote "voluntary agreement." During this time, I knew that I wasn't consenting, but I didn't know that I was being trafficked or that there was anywhere else that I could go. There will never be enough willing participants to meet the demand that a legal sex trade will bring. I cannot count the number of times tricks went on and on about how excited they were to be with someone so young. Young Black girls will be used to supply this demand if this bill passes. The trafficking of adults exists, and this bill will take away the protections that currently exist for this population.

> [Another speaker] I'm against this bill because this bill is making people get kidnapped, and they would die more easier. Y'all making DC the new Las Vegas, like, this bill is not safe. Even if we are young and underage, the pimps would still make us get a fake I.D. and say we 18, and y'all police gonna be dumb enough to fall for it. And on top of that, y'all can't even come to our house, even if you go to the police to ask for help.

Mary Graw Leary, professor of law at The Catholic University of America, talked about coercion and read from a piece by Janice Raymond, whose quote further articulates concerns that the onus of proving trafficking would be more challenging:

> We've heard, "Well, of course this law holds everything regarding trafficking still illegal." The Trafficking Victims Protection Act, DC's trafficking law, was in response to a Supreme Court case, [U.S. v.] Kozminski, which recognized that coercion is not physical, it is psychological, and that because of that particular challenge in this space, we have to have laws that affect it. I'm going to close, not with my own words, but by just simply pointing out that this notion of consent is really a fictional one, and I'm going to quote from Professor Janice Raymond, who is a long-standing student of this.
>
> > The distinction between forced and voluntary prostitution is precisely what the sex industry is promoting because it will give the industry more legal security and market stability if this distinction can be utilized to legalize prostitution, pimping, and brothels. Women who consider bringing charges against pimps and perpetrators will bear the burden of proving that they were "forced." How will marginalized women ever be able to prove coercion? If prostituted women must prove that force was used in recruitment or in their "working conditions," very few women in prostitution will have legal recourse, and very few offenders will be prosecuted.[5]

Summer Ingram, a resident of Ward 6 in DC and the national director of prayer and mobilization at the Congressional Prayer Caucus Foundation, talked about the glum conditions experienced by those engaging in street-based survival work, the attendant feelings of hopelessness, and the resulting coping mechanisms:

> I sincerely do not mean to hurt or offend anyone with my comments. This is simply my experience. Years ago, I used to work with faith-based groups that helped get prostitutes off the streets of San Diego and Los Angeles. When first

[5] Raymond, "Ten Reasons for *Not* Legalizing Prostitution," 324–25.

> encountering these women, they acted tough as if they wanted to be on the streets, but when getting to know them more, they expressed how they felt they had no worth or value and no other options but to sell their bodies. Oftentimes they were hurt and abused throughout their lives and felt they had no hope of a better future. They abused alcohol and drugs to numb the pain and as a means to endure their reality. I cried for and with these women, and we did all we could to help them understand their true identity and to give them a hope and a future. These groups helped many women heal and persevere to a life they loved. I never heard one woman say they miss the streets. They were glad to be out of harm's way.

Pastor Wanda Thompson, a resident of Ward 8 and licensed psychologist, articulated the predicted outcomes (and those observed in New Zealand) but did not find them convincing. She was more concerned about exploitation:

> I understand that the counterarguments are that decriminalization will be safer because the workers will be able to screen better their partners, that it will prevent the lack of access to medical services, that they will have less instances of HIV, that they will be protected against police brutality, and that it will not lead to an increase in human trafficking. I'm worried that this is not true and that we do not really know what the long-term impact will be on the workers or on our city. I further am convinced that it will lead to more victimizers who will feel freer to abuse and mistreat workers. I also worry about how this will translate to youth who may begin to aspire to sex work as an occupation. I do not believe that anyone should be denied health care, and I certainly condemn anyone, especially those in positions of authority, like the police who would brutalize sex workers. While many describe this as consensual sex, I view it as individuals exploiting the needs of others to make a living. The money spent on these so-called consensual activities could be offered or routed instead to social service agencies to help. I really do not believe there is an equal power differential between workers and their customers, johns, or pimps.

Laura Grossberndt, a resident of DC for eight years, reading the testimony of her colleague Patrina Mosley, the director of life, culture, and women's advocacy at Family Research Council, delved further into the concept of exploitation:

> The bill, as it stands, codifies the term "sex worker" as if to legitimize a woman's sexual exploitation as a profession. The following are some of the services of the so-called "work": being penetrated orally, anally, and vaginally with genitalia, fingers, fists, and objects including but not limited to bottles, brushes, dildos, guns, and/or animals. Being bound and gagged, tied with ropes and/or chains, burned with cigarettes or hung from beams or trees, being photographed or filmed

> performing these acts. Does this sound like a profession? A survey of sex buyers' attitudes towards persons in prostitution revealed that buyers view women as products for them to use as they see fit. To legitimize men buying women for sex is to say that men have a right to women's bodies by default. [The bill] says to pimps and traffickers, "We've got your back." And to victims who endure such hazardous work conditions, "Good luck out there."
>
> Laws are inherently meant to discourage certain types of behavior, and good laws promote the right kinds of behavior. This bill encourages exploitive behavior and would therefore be a bad law. Fully decriminalizing the sex trade would make brothels legitimate businesses, pimps and traffickers business managers, and the district a collaborator in the exploitation of women and children. The commercial sex trade is sexual exploitation. It should never be someone's job to be exploited by another human being. The notion that prostitution will always exist is one reason given for bringing it out of the shadows and making the industry better. But legitimizing something bad in hopes of fewer bad things happening is never an acceptable solution to society's ills. We must confront the injustice of exploitation with justice. Empowering the business of exploitation doesn't protect anyone except the exploiters. With everything we know about the abuse and violence that characterizes the commercial sex trade, equating unobstructed exploitation with victim protection is just as absurd as saying, "Since many of those who endure rape feel the stigma of shame, let's remove all penalties for rape and legitimize it so they won't feel shame." No sensible person would say such a thing. Protecting victims by removing the stigma of exploiting them is an illogical solution. If we fail to see persons caught up in prostitution as who they really are—victims of sexual exploitation—we misapply justice.
>
> Lisa Thompson, vice president of policy and research for the National Center on

Sexual Exploitation, summed up the argument that power and payment ipso facto result

in exploitation:

> The first thing I want to say is that the involvement of minors and adults in prostitution to feed themselves or their families isn't a survival strategy. It's sexual exploitation, and it's evidence of deeply broken social systems, the very systems that we should be working to prioritize fixing, rather than enshrining the right of privileged men to buy these people. Additionally, I wanted to say that there's always an inherent power imbalance in commercial sex exchanges, and it's the person with the money who's the person with the power, and payment for sex is actually proof of sexual coercion.
>
> Researchers reported that some sex buyers actually seek acts that humiliate and harm; they use derogatory language towards those they buy; they seek defecation and urination, rough sex, and engage in physical assault, sexual assault, rape, and in rare cases, murder. Violence and the fear of a trafficker and much-needed

> income from a sex buyer override the safety concerns of the people who are out there being exploited and being sold. . . . All forms of prostitution, but especially fully decriminalized prostitution, constitute an elaborate supply chain of a system of organized sexual exploitation, whereby women, men, transgender persons, and children are offered as public sexual commodities. And many of those caught up in this system are sexually trafficked, and they are all sexually exploited and coerced as I just explained the power imbalance that's innate to all commercial sex exchanges.

Philosophy, Politics, and Economics Frameworks

Of many theoretical paradigms that could be applied to sex work, a basic tension between classical liberalism and variations of illiberalism may be most appropriate. A liberal approach would seem to indicate that regardless of utilitarian outcomes (much less whether engaging in commercial sex is morally good or bad), people should be free to enter into whatever arrangements they prefer. Sex work should not be criminalized; consenting adults are free to make their own decisions, as long as they are not harming anyone else. For example, in *Capitalism and Freedom*, Milton Friedman writes that "the intellectual movement that went under the name of liberalism emphasized freedom as the ultimate goal and the individual as the ultimate entity in the society. . . . The nineteenth-century liberal regarded an extension of freedom as the most effective way to promote welfare and equality."[6] Conceding that there may be some role for government but arguing that it should be minimized, Friedman might say about sex work, "The possibility of co-ordination through voluntary co-operation rests on the elementary—yet frequently denied—proposition that both parties to an economic transaction benefit from it, *provided the transaction is bi-laterally voluntary and informed*."[7]

[6] Friedman, *Capitalism and Freedom*, 5.
[7] Friedman, 13.

Similarly, Nobel laureate F. A. Hayek, based on his prescriptions in "The Use of Knowledge in Society," might agree that people should be left alone to pursue activities that some might consider morally bereft, such as sex work, because real knowledge about what is beneficial is based at the individual level: "It is with respect to this that practically every individual has some advantage over all others because he possesses unique information of which beneficial use might be made, but of which use can be made only if the decisions depending on it are left to him or are made with his active coöperation."[8,9] Hayek might say that only the sex worker knows why she is engaging in a particular exchange; there must be some reason why she is better off participating rather than abstaining. At the macrolevel, there is not enough information to simply forbid the exchange altogether, at least if the goal is to achieve the best possible outcome for each individual:

> This is, perhaps, also the point where I should briefly mention the fact that the sort of knowledge with which I have been concerned is knowledge of the kind which by its nature cannot enter into statistics and therefore cannot be conveyed to any central authority in statistical form. . . . It follows from this that central planning based on statistical information by its nature cannot take direct account of these circumstances of time and place and that the central planner will have to find some way or other in which the decisions depending on them can be left to the "man on the spot."[10]

[8] Hayek, "The Use of Knowledge in Society," 521–22.
[9] While the quotes in this section use male pronouns, female pronouns are used throughout most of the chapter to represent the sex worker. Research, including that presented in the third and fourth chapters, is more inclusive of gender and orientation spectrums; however, the female (cisgender or transgender) sex worker and her (cisgender or transgender; heterosexual) male client are used here to illustrate the baseline theoretical case. There are important differences in conditions and responses relative to spectrums; regardless, while manifestations of criminalization may differ, the theory and methodology are universal. Similarly, much of the exercise uses the terms "wives" and "husbands" for purposes of clarity; "partners" could be substituted in most cases.
[10] Hayek, "The Use of Knowledge in Society," 524.

Often contrasted with liberalism is conservatism (in both the traditional and contemporary uses of the term), especially that which has a particular interest in the regulation of moral order. While not necessarily a conservative, but a writer defending restraint, Jean-Jacques Rousseau probably would not have viewed sex for sale as a legitimate activity under the social contract. As he writes about morality and the civil state, he might consider sex work instinctual, based in physical impulses and appetites, irrational, and immoral—essentially, of the state of nature and thus necessitating formal or informal regulation. "The passage from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct, and giving his actions the morality they had formerly lacked. Then only, when the voice of duty takes the place of physical impulses and right of appetite, does man, who so far had considered only himself, find that he is forced to act on different principles, and to consult his reason before listening to his inclinations."[11]

A moderate position may be suggested in Isaiah Berlin's "Two Concepts of Liberty." He distinguishes between "positive" and "negative" liberty: freedom *to* something and freedom *from* something, respectively. Those who advocate via positive liberty might tend to believe that if people are to achieve true freedom, they must be "liberated" (by coercion if necessary) from the bonds of their baser selves, which might include behaviors such as engaging in commercial sex. However, "to coerce a man is to deprive him of freedom—freedom from what? Almost every moralist in human history

[11] Rousseau, "The Social Contract."

has praised freedom."[12] It seems both of Berlin's senses of the protean word "freedom" are applicable to the consideration of sex work's persistent criminalization; that is, a sex worker may have a claim to negative liberty (freedom from interference that prohibits her from practicing her trade), but it also could be argued that she instead needs freedom from herself (positive action on the part of the state, society, or some other outside force) to be truly free.

Among the most interesting frameworks for future research is the Hayekian one: further considering the knowledge problem, training ourselves not to view sex workers as homogenous, and conceding the impossible calculations that would be necessary to even begin to justify current policies. Also of great interest is scholarship by Nobel winner Elinor Ostrom. The contributions of the Bloomington school—including Ostrom, her husband Vincent, and others—pertain to understanding polycentricity among various governing forces in sex worker communities. For instance, there is federal legislation in the Mann Act; state and local statutes, as well as their exceptions (historical red-light districts, contemporary informally acceptable "strolls," and de facto decriminalization); and the institutions and norms in which sex workers engage, such as local chapters of national activist organizations and the strategies sex workers employ for sanctioning miscreants. Finally, there is value in engaging with the scholarship of James Buchanan (another Nobel laureate) and Gordon Tullock: criminalization no doubt results in public choice concerns, particularly as we think about the vast sums of funds received by anti-trafficking organizations and individuals, including ideologues and public servants whose

[12] Berlin, *The Proper Study of Mankind*, 193.

careers are dependent on abolitionist campaigns. However, for now, and speaking to the basic concept inherent to all these schools of thought, we start with rational choice theory, so that the reader may begin to "think like an economist."

Rational Choice Theory

"I contend that the economic approach is uniquely powerful because it can integrate a wide range of human behavior."[13] The introduction to Gary Becker's book *The Economic Approach to Human Behavior* helpfully and rather succinctly illustrates rational choice theory: rational choice underpins and encompasses all of the things that humans do. More specifically, one is "doing rational choice theory" if one simply "does economics." "Economics is rational choice. What is not economics, but is commonly imported into it in behavioral economics, is psychology, which typically amounts to some justification for why people in some case[s] are behaving 'irrationally.' On this basis (or others), behavioral economics permits explanations of human behavior that involve people behaving 'irrationally' as opposed to rationally."[14]

Further, "since rational choice is an approach rather than a topic or field, while there are innumerable papers written from a rational choice perspective (nearly all of economics, for example), there isn't much on that perspective per se (it being 'common knowledge' among economists, its primary users)."[15] In short, the theory and resulting analyses are applied with two assumptions: scarcity exists (people cannot have everything they want, which means they must make choices), and people are rational

[13] Becker, *The Economic Approach to Human Behavior*, 5.
[14] Leeson, "Re: A Few Questions about ECON 895–5, Email to Malia Dalesandry," January 26, 2016.
[15] Leeson, "Re: Saying 'Hey,' Email to Malia Dalesandry," April 28, 2017.

(they make the best choices they can, *given their incentives and constraints*). "The 'hard part' is in consistently and persistently applying this mode of analysis to *all forms* of human behavior, many of which are puzzling and don't seem like they could be rational, so that [they] can become understandable."[16,17] People often act outside the scope of expected or socially acceptable behavior. Indeed, as Becker notes, "the economic approach does not assume that all participants in any market necessarily have complete information or engage in costless transactions. Incomplete information or costly transactions should not, however, be confused with irrational or volatile behavior."[18] "Moreover, the economic approach does not assume that decisions units are necessarily conscious of their efforts to maximize or can verbalize or otherwise describe in an informative way reasons for the systematic patterns in their behavior. Thus it is consistent with the emphasis on the subconscious in modern psychology and with the distinction between manifest and latent functions in sociology."[19]

The problem, then, seems to be that psychologists, sociologists, etc., use different terms to describe what economists refer to as "constraints."[20] Scarcity is a type of constraint—one is constrained by limited choices due to scarcity—such as in the case of the sex worker who might, under the direst circumstances, be choosing between sex work and not eating. The rational choice, given her constraints, is to engage in sex work. Along these lines, the psychologist might say of the sex worker who was sexually abused as a

[16] Leeson.
[17] See also Leeson, "One Rationality to Rule Them All."
[18] Becker, *The Economic Approach to Human Behavior*, 6.
[19] Becker, 7.
[20] For a philosopher's take on "lacking acceptable alternatives," see Flanigan's discussion, as she contextualizes voluntariness. Watson and Flanigan, *Debating Sex Work*, 248–51.

child or suffers from mental health issues or problematic drug use, "She is engaging in this irrational behavior because of previous trauma that rewired her brain" or "She is addicted to drugs, so her decisions are outside her control and are therefore irrational." Per Becker, the economist would note that constraints can include one's intellectual limitations, previous experiences that shaped one's personality, one's state of sobriety, etc. For example, one could be completely intoxicated and do any number of embarrassing and regrettable things and still be behaving rationally—their constraint is their temporarily diminished mental capacity due to intoxication, resulting in a higher threshold for risk and a greater tendency to discount the future. Becker quotes Jeremy Bentham: "As to the proposition that passion does not calculate, this, like most of these very general and oracular propositions is not true. . . . I would not say that even a madman does not calculate. Passion calculates, more or less, in every man."[21] While Becker believes the economic approach is the most versatile, he is inclusive of insights provided by other disciplines. "Just as many noneconomic variables are necessary for understanding human behavior, so too are the contributions of sociologists, psychologists, sociobiologists, historians, anthropologists, political scientists, lawyers, and others. Although I am arguing that the economic approach provides a useful framework for understanding all human behavior, I am not trying to downgrade the contributions of other social scientists, nor even to suggest that the economist's are more important."[22]

[21] Becker, *The Economic Approach to Human Behavior*, 7.
[22] Becker, 14.

The act of rationally choosing is not recognized as such by most people, but it is always occurring. Each individual makes countless decisions every day, some with much conscious forethought resulting in serious outcomes, good and bad, others seemingly "mindless" that result in varied outcomes of greater or lesser gravity. Further, the more "questionable" the behavior or the outcome of the choice, the more tempting it is for the observer to revert to disclaimers of exceptions to the rational choice rule. "I am not suggesting that the economic approach is used by all economists for all human behavior or even by most economists for most. Indeed, many economists are openly hostile to all but the traditional applications. Moreover, economists cannot resist the temptation to hide their own lack of understanding behind allegations of irrational behavior, unnecessary ignorance, folly, ad hoc shifts in values, and the like, which is simply acknowledging defeat in the guise of considered judgment."[23]

If values can be considered constraints, one might wonder how the sex worker justifies her choices; is she lacking the values that prevent most people from engaging in sex work? Assuming she is not being coerced by someone else with the threat of violence (in which case, it is still rational for her to submit) or out of financial desperation (also rational, given her set of available options), why would anyone choose to be a sex worker over, say, working at a low-paying factory job? "When an apparently profitable opportunity to a firm, worker, or household is not exploited, the economic approach does not take refuge in assertions about irrationality, contentment with wealth already acquired, or convenient ad hoc shifts in values (i.e., preferences). Rather it postulates the

[23] Becker, 11–12.

existence of costs, monetary or psychic, of taking advantage of these opportunities that eliminate their profitability—costs that may not be easily 'seen' by outside observers."[24] So the sex worker is someone who is exploiting an opportunity that others find too costly to engage in—whether because of criminalization, social mores, personal aversion, etc. Despite the terminology, a "constraint" can also be a very loose barrier: the sex worker may have virtually no constraints with regard to the spectrum of aversion. Put simply, she obviously does not find the practice too distasteful; otherwise, she would not be doing it.[25]

There is likely another very rational reason why most people do not participate in buying or selling in this market: fear of physical harm, such as STIs, violence, etc. However, the previous chapters indicate that these risks decrease in markets that acknowledge and broaden the sets of individuals' rational choices. Further, one can be fully aware (or even not so fully aware) of the risks and still conclude that it is better to participate than to abstain. For example,

> good health and a long life are important aims of most persons, but surely no more than a moment's reflection is necessary to convince anyone that they are not the only aims: somewhat better health or a longer life may be sacrificed because they conflict with other aims. . . . Therefore, a person may be a heavy smoker or so committed to work as to omit all exercise, not necessarily because he is ignorant of the consequences or "incapable" of using the information he possesses, but because the lifespan forfeited is not worth the cost to him of quitting smoking or working less intensively. These would be unwise decisions if a long life were the only aim, but as long as other aims exist, they could be informed and in this sense "wise."[26]

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[24] Becker, 7.
[25] In fact, many sex workers report high levels of life satisfaction and feelings of empowerment resulting from their profession.
[26] Becker, *The Economic Approach to Human Behavior*, 9–10.

In short, the rational choice approach highlights that sex workers, even those operating in a criminalized market, must receive benefits that outweigh the costs. Colloquially, a "benefit" almost always implies something positive, pleasant, helpful, etc., but in this case, we can conceptualize it as an individual's choosing the not-worse thing. Benefits might include escaping intimate partner violence, maintaining a certain threshold of blood alcohol content, or not starving. Or they might refer to being able to afford designer clothes, having flexible hours to pursue an advanced degree, or having the time and resources to go on nice vacations with family. In addition to benefits, the rational choice approach necessarily also focuses on costs; in this review in particular, these are the formal (legal) and informal (stigma) prohibitions on sex work. It follows that criminalizing and stigmatizing sex work make it costlier—e.g., more dangerous and more unpleasant. While the costs may deter some number of would-be sex workers, for those who still perceive the benefits of engaging to be greater than the costs, criminalization certainly taxes, punishes, and harms. These costs are higher but borne nonetheless.

In his Nobel lecture from 1992, Becker reiterates themes found in his book, including discrimination, crime and punishment, human capital, marriage, family, and addiction, all of which are quite applicable when thinking about sex work. With regard to discrimination, as discussed in the first chapter, sex work only became criminalized in the United States in the early twentieth century, primarily as a response to waves of immigrants, the northern migration of newly emancipated Black people, and women asserting themselves outside the home and in the workforce. In this way, it was rational

of those who were becoming increasingly less privileged to criminalize sex work by using the public's fear of "otherness" as a means to eliminate competition, maintain the status quo, and retain power.

> The analysis assumes that individuals maximize welfare *as they conceive it*, whether they be selfish, altruistic, loyal, spiteful, or masochistic. Their behavior is forward-looking, and it is also assumed to be consistent over time. In particular, they try as best they can to anticipate the uncertain consequences of their actions. Forward-looking behavior, however, may still be rooted in the past, for the past can exert a long shadow on attitudes and values.
>
> Actions are constrained by income, time, imperfect memory and calculating capacities, and other limited resources, and also by the opportunities available in the economy and elsewhere. These opportunities are largely determined by the private and collective actions of other individuals and organizations.[27]

Because historical motivations for discrimination were discussed previously, and contemporary ramifications will follow, the next few sections apply some of Becker's other areas of interest to sex work.

Criminality

The criminality of sex work has a complex relationship with social mores: is sex work criminalized because of society's aversion, or is society averse because it is criminalized? Further, the criminal justice system is thoroughly intertwined with mental health care needs. For those who perceive sex workers as having mental illness or some other deficiency, incarceration is a second-best solution if they cannot be "fixed." There are also those who support partial criminalization—criminalizing the buyers—because they feel that all sex workers are coerced. In this way, one could say *all labor* is coerced: one cannot obtain necessities for survival without money; therefore, one is "coerced" to

[27] Becker, "Nobel Lecture," 386.

work for money. Conversely, many sex workers swear that they would be worse off if not for their profession. Rather than being destitute or reliant on an ineffective or nonexistent social safety net, they have the independence to tend to their needs as best they see fit. Sex workers are a special class of criminals; they are at once hardened social deviants and girls in need of salvation and reformation. Policies that purport to punish only the solicitors—e.g., "end demand" models such as the Nordic or Swedish—but arresting sex workers' clients is in effect criminalizing the entire market, and these models do nothing about the stigma that sex workers face. Writes Becker, "In the 1950s and 1960s, intellectual discussions of crime were dominated by the opinion that criminal behavior was caused by mental illness and social oppression, and that criminals were helpless 'victims.' . . . Such attitudes began to exert a major influence on social policy, as laws changed to expand criminals' rights. These changes reduced the apprehension and conviction of criminals and provided less protection to the law-abiding population."[28] Regardless of how sex workers were affected by these changing trends, the pendulum seems to have swung back starting in the 1980s with the "tough on crime" stance (violent crime is down, but legislation has increased and incarceration rates are up), and sex workers are still considered in desperate need of help while simultaneously being arrested.

Becker highlights the calculations performed by the President's Commission on Law Enforcement and Administration of Justice, also known as the Crime Commission. These include estimates of the value of, or income from, various victimless crimes,

[28] Becker, 390.

including sex work (and narcotics and gambling—generating the lion's share of the value). The value was twice as much as that of crimes with victims, such as theft, fraud, and vandalism, and more than twice as much as the lost earnings due to homicide, assault, etc.[29] Because crimes of "vice" often result in seizures and hefty fines that go to the state, rather than reparations to victims who are harmed, one could argue that law enforcement is keen to expand that set of crimes and increase the rates of arrest. "Fines are preferable to imprisonment and other types of punishment because they can deter crimes effectively if criminals have sufficient financial resources—if they are not 'judgment proof,' to use legal jargon. Moreover, fines are more efficient than other methods because the cost to offenders is also revenue to the state."[30] A fine may be considered a tax of sorts; it is a cost of doing business. Sometimes formal taxes and licensing fees are substituted for fines—"legalization," which is not ideal as discussed in the previous chapter. Though the initial cost of achieving decriminalization currently precludes it (otherwise it would already be decriminalized), once the cost is lowered and the policy realized, greater efficiency will result from reduced transaction costs and stigma, easier market exit (with sex workers having no criminal records), fewer crimes associated with the black market, etc.

In all, Becker considered

> the theoretical and empirical implications of the assumption that criminal behavior is rational . . . but again "rationality" did not imply narrow materialism. It recognized that many people were constrained by moral and ethical considerations, and they did not commit crimes even when these were profitable and there was no danger of detection. However, police and jails would be

[29] Becker, *The Economic Approach to Human Behavior*, 41.
[30] Becker, "Nobel Lecture," 391.

> unnecessary if such attitudes always prevailed. Rationality implied that some individuals become criminals because of the financial and other rewards from crime compared to legal work, taking account of the likelihood of apprehension and conviction, and the severity of punishment.
>
> The amount of crime is determined not only by the rationality and preferences of would-be criminals but also by the economic and social environment created by public policies, including expenditures on police, punishments for different crimes, and opportunities for employment, schooling, and training programs. Clearly, the types of legal jobs available as well as law, order, and punishment are an integral part of the economic approach to crime.[31]

Human Capital

> Human capital analysis starts with the assumption that individuals decide on their education, training, medical care, and other additions to knowledge and health by weighing the benefits and costs. Benefits include cultural and other nonmonetary gains along with improvement in earnings and occupations, whereas costs usually depend mainly on the forgone value of the time spent on these investments.
>
> —Gary Becker, "Nobel Lecture"

The gender wage gap is an ongoing source of contention a quarter of a century after Becker wrote about how to conceptualize apparent disparities in earnings between men and women. Economists, policy makers, and the public who consider human capital and appropriately apply variables such as those Becker mentions are more likely to reconcile differences in remuneration. Women are rational to take time off from their jobs for childrearing (though whether this responsibility *should* disproportionately fall on women is rightfully debated[32]), to take less dangerous employment, to enter lower-paying careers such as those in the humanities or arts, etc. They are making choices without

[31] Becker, 390.

[32] Flanigan recognizes this when she argues against the notion that sex workers have maladaptive preferences under patriarchal institutions: "For example, a woman's desire to have children may be a result of unfair social expectations that women will perform unpaid reproductive labor, but it could also be the case that she would also desire children in the absence of those expectations." Watson and Flanigan, *Debating Sex Work,* 283.

codified coercion (again, though, they may feel societally pressured) and can be assumed to calculate the benefits and costs of their decisions, including forgone pay.

> Human capital theory gives a provocative interpretation of the so-called gender gap in earnings. Traditionally, women have been far more likely than men to work part-time and intermittently partly because they usually withdrew from the labor force for a while after having children. As a result, they had fewer incentives to invest in education and training that improved earnings and job skills.
>
> During the past 25 years all this changed. The decline in family size, the growth in divorce rates, the rapid expansion of the service sector (where most women are employed), the continuing economic development that raised the earnings of women along with those of men, and civil rights legislation encouraged greater labor force participation by women and, hence, greater investment in market-oriented skills. In practically all rich countries, these forces significantly improved both the occupations and relative earnings of women.[33]

Applying these concepts to sex work, one can understand why women have rationally chosen to engage in it, especially historically. With constraints on the types of jobs available to them (for example, engaging in demanding physical labor such as manufacturing during the Industrial Revolution was not an option), and with their human capital advantage of being female a sine qua non of sex work with heterosexual male clients, this was an attractive career choice, rather than working for low wages in sweatshops or caring for other people's children and homes. And indeed, the declining rates of sex work over the last century are indicative of ever-expanding labor opportunities for women, particularly as the United States became an increasingly service-oriented economy. In fact, sex work was already on the decline by the time the Progressives and other groups made prohibition their goal in the early twentieth century.

[33] Becker, "Nobel Lecture," 394.

Of course, with improving labor market conditions in general, and many more choices of employment available to women in particular, one might wonder why women continue to do sex work at all. Despite declining rates of participation, for many women, sex work is still a more attractive choice than the alternatives, whether because of incentives such as flexible hours and high pay, or constraints such as problematic drug use or discrimination.[34] Perhaps the public can take comfort that with more choices of labor available to women, and with a nominally expanded social safety net, women who engage in sex work are that much more likely to be doing it because it is preferable to any other option, whatever the reasons.

Marriage, Family, and Addiction

> Since many persons are looking for mates, a *market* in marriages can be said to exist: each person tries to do the best they can, given that everyone else in the market is trying to do the best they can. A sorting of persons into different marriages is said to be an equilibrium sorting if persons not married to each other in this sorting could not marry and make each better off.
>
> —Gary Becker, *The Economic Approach to Human Behavior*

Becker's treatment of marriage and the family is particularly relevant when thinking about why engaging in commercial sex is a rational choice for sellers and buyers: a marriage or sex market exists, and childhood experiences shape adult constraints and incentives. Many disciplines explore why and how people choose partners (or do not choose them, as the case may be), but the economic way is the best way to think about sex work because it addresses nonequilibrium lacunae. Three interrelated

[34] It is important to note that the constraints faced by transgender people, particularly trans women of color, are in many ways even more glum than those encountered by cisgender white women in the early twentieth century. See the previous chapter.

points will be made here: sex workers meet a need, they help parties avoid suboptimal marriages, and they are not in competition with women who desire marriage. The second and third points appear to be somewhat in tension; that will be addressed.

Whether for biological or social reasons, many men value sex; however, sex may not be a "service" available to some men. Typically, an exchange functions so that needs/wants can be met, and both parties are made better off. Some scholars have compared marriage itself to sex work, especially historically: wives provide sex to their husbands, and offer their abilities to procreate and perform household labor, in exchange for food, shelter, security, etc., purchased with the more quantifiable compensation men receive for their labor. An unmarried man may purchase many of the services wives typically perform (housekeeping, childcare in the case of a widower, etc.); however, under prohibition, one service he cannot purchase is the sexual component commonly assumed to be an integral part of the marriage contract. Thus, with reduced transaction costs resulting from decriminalization, net benefits would increase because there are currently willing providers and purchasers who would prefer to optimize differently.[35]

Along these lines, with constraints resulting from policy or social mores, some men and women who would otherwise prefer to avoid suboptimal marriages find themselves in less-than-happy circumstances. For example, if a man highly values sex but cannot purchase it, he may marry a woman whom he does not particularly care for and who does not particularly enjoy sex but who is willing to engage in it in order to receive

[35] It is not inconsistent to acknowledge that the status quo is efficient while simultaneously evaluating institutions in order to suggest ways in which the world could be improved. Leeson, "Logic Is a Harsh Mistress."

the goods and services purchasable with the man's income. Likewise, a woman who views sex work as a viable option but who is risk averse and does not wish to engage in a criminalized market may choose to marry a man who makes her miserable rather than turn to a third option that would make her even more miserable, such as the poorhouse. Writes Becker,

> The point of departure of my work on the family is the assumption that when men and women decide to marry, or have children, or divorce, they attempt to raise their welfare by comparing benefits and costs. So they marry when they expect to be better off than if they remained single, and they divorce if that is expected to increase their welfare. People who are not intellectuals are often surprised when told that this approach is controversial since it seems obvious to them that individuals try to improve their welfare by marriage and divorce. The rational choice approach to marriage and other behavior is in fact often consistent with the instinctive economics "of the common person."[36]

This helps explain why some men see sex workers, despite the hazards associated with criminalization, and even though prices seem to have gone up as women have realized more opportunities in the workforce: those men still expect to be better off than if they got married.

Herein lies the tension with the third point—that sex workers are not substitutes for wives: if men choose not to get married because they have access to sex workers, would-be wives and sex workers *are* in competition, at least to some extent. One response may be that while some men do avoid suboptimal marriages because they engage with sex workers (and thus lower the supply of would-be husbands), there may be just as many men for whom wives and sex workers are complements, and if the practice were decriminalized, they need not choose sex workers over marriageable women. "For

[36] Becker, "Nobel Lecture," 395–96.

example, a man may love a woman and want to marry her, and her him, but she loathes sex and he lives for it. They would be happy to marry if only they could outsource his sexual satisfaction. If prostitution is legal, they can outsource without risk, and so they will; if prostitution is illegal, they can't outsource without risk, and so a would-be, happy marriage is never forged."[37]

Bella provides a vignette:[38]

> I find out the majority of my clients are nice guys. You know, the most common thing is "She hit menopause. The kids are in college, but I still love her. I don't wanna break up my family." And actually, a lot of what I do is therapy. I'm not trying to make her [the wife] the bad person, you know what I'm saying? As you get older, over 30 years of your marriage, love and lust has come and gone, right? That's normal. I think when you're 85 and sitting on the front porch, you hope that the person next to you, that you can stand their company for five minutes. Sex gets less important the older you get. I had a client that told me that his wife started falling asleep in the armchair. He finally confronted her, and after menopause intercourse was painful, and she said, "Please don't leave me. I don't care if you go to a spa." And I said, "Dude, had you not talked about it, five years later, she'd still be in the chair [avoiding other forms of intimacy and happiness]."

Further, surveys show that a small percentage of men visit sex workers (see the second chapter); it therefore necessarily must be an even smaller proportion of married men, likely significantly so. As mentioned, competition may have been a more valid concern historically, before women could support themselves. However, as marriages became more companionable ("marrying for love") and less about the division of labor, it seems reasonable to suggest that men who "bother" to get married must be more likely to be committed, and those who prefer to remain single and engage the services of sex workers for whatever reason (lacking time, desiring variety, etc.) are better off not

[37] Leeson, "Re: Malia's Third Field, Email to Malia Dalesandry," July 6, 2018.
[38] Robinson, interview by Malia Dalesandry.

married.[39] Finally, there are those men who simply feel they have no other option for sex due to physical unattractiveness or disability, for example. They may prefer to be married but are unable to find willing partners who meet their reduced-but-still-existing standards. For everyone except the single least marriageable person in the world, there is always someone who would consent to marrying them with enough incentive, though he or she may not be up to the standard below which one would prefer to remain single or engage the services of sex workers.

Ultimately, the distinction between sex workers and wives as substitutes or complements is largely irrelevant; in the data and as discussed above, it seems that for most men, sex workers and wives are entirely different "goods" and thus are not interdependently considered when making marriage calculations. Whether the effect of decriminalizing sex work would result in slightly fewer marriages due to substituting or slightly more marriages due to complementing, most men's decision to marry would be unaffected by decriminalization.

The second important contribution Becker makes when discussing marriage and the family is that he allows for economic explanations for behavioral complexities:

> Parental attitudes and behavior have an enormous influence on their children. Parents who are alcoholic or are addicted to crack create a bizarre atmosphere for impressionable youngsters, whereas parents with stable values who transmit knowledge and inspire their children favorably influence both what their children are capable of and what they want to do. The economic approach can contribute insights into the formation of preferences through childhood experiences without necessarily adopting the Freudian emphasis on the primacy of what happened during the first few months of life.

[39] For a historical glimpse into a seemingly unlikely way wives used to get out of suboptimal marriages, see Boettke, Leeson, and Lemke, "Wife Sales."

> Again, I am trying to model a commonsense idea, namely, that the attitudes and values of adults are enormously influenced by their childhood experiences. . . . Through its assumption of forward-looking behavior, the economic point of view implies that parents try to anticipate the effect of what happens to children on their attitudes and behavior when adults.[40]

Though Becker's main emphasis is familial interaction calculations, particularly pertaining to bequests and eldercare, as with the preceding discussion of values, this also helps explain why thresholds for sex work's acceptance vary so much. It in part means that the cultural norms of the environments in which people grow up contribute to their not finding sex work distasteful, or at least less distasteful than other work or circumstances.[41]

The other side is that unpleasant circumstances in childhood may result in limitations of opportunity and feelings of self-worthlessness.[42] There are constructive debates to be had about whether and how to change people's constraints in their formative years, but the fact is that the sex worker who comes from a broken home and the one whose parents paid for college are both making rational choices. The same can be said of those who had parents who used drugs problematically and may do so themselves. "This analysis of the link between childhood experiences and adult preferences is closely related to work on rational habit formation. . . . The formation of preferences is rational in the sense that parental spending on children [including time, affection, pain avoidance, etc.,] partly depends on the anticipated effects of childhood experiences on adult attitudes

[40] Becker, "Nobel Lecture," 399–400.
[41] The same may be said of people who do not have lived experience but wish to be considered allies, advocates, activists, or Alexander/a's "accomplices." See Appendix E: Positionality Statement.
[42] Again, however, many sex workers, even those who come from unhappy upbringings, report feelings of self-worth at or above the general population's, and they report that their profession actually increases those feelings.

and behavior."[43] While a parent may consider the anticipated effects of her child's environment with greater or lesser care, the result is still the same: the child grows into an adult who makes rational choices from among a set, whether large or limited.

Becker and Kevin Murphy's "A Theory of Rational Addiction" also provides insight as to how both sellers and buyers may extremely discount the future when deciding whether to engage in criminalized commercial sex. "Although fully myopic behavior [addiction] is formally consistent with our definition of rational behavior, should someone who entirely or largely neglects future consequences of his actions be called rational?"[44] Since sex work and perceptions of "drug addiction" and "sex addiction" go hand in hand, asserting rationality in these scenarios is important and actually quite manageable. First, Becker and Murphy point out that "addiction" is not as narrow a term as popular usage might indicate. "People get addicted not only to alcohol, cocaine, and cigarettes but also to work, eating, music, television, their standard of living, other people, religion, and many other activities. Therefore, much behavior would be excluded from the rational choice framework if addictions have to be explained in another way. Fortunately, a separate theory is not necessary since rational choice theory can explain a wide variety of addictive behavior."[45] Further, "a good may be addictive to some persons but not to others, and a person may be addicted to some goods but not to other goods,"[46] so it would be a mistake to conclude that all sex workers who use drugs are "addicts" or that all men who engage with sex workers are "addicted to sex." Finally,

[43] Becker, "Nobel Lecture," 400.
[44] Becker and Murphy, "A Theory of Rational Addiction," 683–84.
[45] Becker and Murphy, 676.
[46] Becker and Murphy, 682.

Becker and Murphy would say that even the minority in each group (sellers and buyers) who are chemically or biologically dependent are still rational because they too make decisions "involving forward-looking maximization with stable preferences";[47] they are simply more myopic than other people regarding those substances/behaviors.

> Since the economic, or rational choice, approach to behavior builds on a theory of individual decisions, criticisms of this theory usually concentrate on particular assumptions about how these decisions are made. Among other things, critics deny that individuals act consistently over time, and question whether behavior is forward-looking, particularly in situations that differ significantly from those usually considered by economists—such as those involving criminal, addictive, family, or political behavior. This is not the place to go into a detailed response to the criticisms, so I simply assert that no approach of comparable generality has yet been developed that offers serious competition to rational choice theory.[48]

"The rational-choice framework assumes that individuals know what is in their self-interest and act accordingly,"[49] but some might argue that decisions are actually constrained by bounded rationality. For transactions to be efficient, according to the standard neoclassical model, several assumptions about an exchange are necessary, one of which is that both parties have adequate information. This (partially) means that both the seller and the buyer have found an agreeable counterpart with whom to trade. Though one can never gain the entire surplus in any transaction or have perfect knowledge, it can be assumed, based on bounded rationality, that both parties feel they have sufficient information "to make an informed and rational decision" as to whether to engage in the exchange.[50] Several challenges may arise from this type of exchange, particularly those dealing with asymmetric information (for example, the client knows he has an STI; the

[47] Becker and Murphy, 675.
[48] Becker, "Nobel Lecture," 402.
[49] North, "Economic Performance Through Time," 362.
[50] Dalesandry, "The Nature of the Original 'Firm,'" 35.

sex worker does not know) and higher transaction costs, which may include paying a third party for protection or to enforce contracts. However, there is little evidence to suggest that these circumstances are any more disastrous "or occur with any more frequency than the failures or shortcomings that result when one unknowingly buys a car with faulty brakes or when an establishment that serves liquor must hire 'bouncers.'"[51] In this way, if the exchange were not relegated to the black market, the sex worker and her client would be free to enjoy more symmetric information and moderate transaction costs.

There are, however, concerns that parties engaging in commercial sex fail to meet the criteria for possessing even bounded rationality. The theory of the rational actor with exponential preferences (full rationality based on time-consistent preferences) is further complicated when juxtaposed with the concept of the hyperbolic discounter: one who makes time-inconsistent, and therefore "irrational," decisions—in this case, wanting immediate gratification. Not only is sex not considered an immediate necessity (such as food, shelter, medical care, etc.), but also this particular type of sex (paid for, criminalized, disparaged, etc.) must imply some sort of hyperbolic-discounting tendency in the buyer. There are likely many cases in which one could argue sellers are not bound by exponential preferences either but rather also act as hyperbolic discounters, such as sex workers who use drugs to cope with criminalization. This likely affects the price they are willing to charge (driving it down), as well as how immediately they spend the money upon receiving it. Without factoring in how the black market resulting from the

[51] Dalesandry, 35.

criminalization of drugs affects the sex work market, perhaps the assumption can be made that if those sellers who use drugs did not do so, and thus did not possess hyperbolic tendencies, they would tend to react to price mechanisms differently. In that case, perhaps sex work should be decriminalized for the sake of fostering rationality by allowing participants to seek harm-reduction services if desired, rather than forcing those behaviors into riskier black markets. Importantly, the argument advanced here does not depend on every sex worker or would-be sex worker being fully rational. Instead, rationality is invoked to suggest that sex workers can (and often do) choose sex work because it is better than the alternatives available to them.[52]

In sum, rational choice theory allows us to understand seemingly nonsensical or harmful behavior, particularly when demystifying puzzling and controversial social issues. Analyzing commercial sex falls well within the capabilities of the toolkit. Further, the economic approach to human behavior helps explain why policies that attempt to abolish sex work fail and actually "tighten" the constraints that keep people engaged in the market when they might otherwise prefer not to be. Instead, society should take steps to loosen the constraints, first and foremost via decriminalization. Additional loosening might include expunging criminal records, increasing the availability of alternative labor opportunities, providing mental health services to address social cues formed in childhood and problematic drug use if desired, ensuring the ability to exit the market with an enhanced social safety net, expanding avenues for immigration, educating the public

[52] With thanks to committee member Virgil Storr and external reader Jess Flanigan for helping clarify the theory's inclusion.

to reduce stigma, etc. These considerations are outside the scope of this review; the purpose here is to describe sex work within the rational choice theory framework and to conclude that sex workers (and their clients) are rational and that their responses to criminalization are therefore also rational—both their stated responses, as well as the specific choices they make to deal with their crisis. "Indeed, I have come to the position that the economic approach is a comprehensive one that is applicable to all human behavior, be it behavior involving money prices or imputed shadow prices, repeated or infrequent decisions, large or minor decisions, emotional or mechanical ends, rich or poor persons, men or women, adults or children, brilliant or stupid persons, patients or therapists, businessmen or politicians, teachers or students."[53]

SWERFs (Sex Worker-Exclusionary Radical Feminists) and the Rescue Industry

> I'm really upset with people, with women, who call themselves feminists and are against sex workers. They wanna keep sex workers criminalized. They're hurting them. I am so angry with them. . . . Sex work is work. You have to understand it's work, and it's criminalized now. And they're just riding the wave with the conservatives and the puritanical people who are anti-women people.
>
> I feel that you can't call yourself feminist if you're anti-women, if you're putting down people who are trying to survive, or people who see this as an opportunity to get outta debt or pay for their college loans or whatever. It's hateful. It galls me when I hear them talking about how sex work makes sex workers—especially those who are just trying to survive—feel dirty, insignificant. It's hateful; it's harmful. And it just perpetuates a myth about fallen women.
>
> They need to shut the fuck up if they're not going to offer resources or help them in any way. And they need to understand this. It's harmful for women, so don't call yourself a feminist if you're not gonna try to love and help and respect all women. You just need to stop it right now. I wanna put them on blast.[54] Yeah, I wanna put them on blast—don't call yourself a feminist.
>
> —Beatrice Codianni, interview

[53] Becker, *The Economic Approach to Human Behavior*, 8.
[54] "To embarrass someone or to make someone look stupid." Urban Dictionary, "On Blast."

The previous section established that the economic approach to human behavior is not what most people typically conjure when they think about economics: cold, quantitative statistics and equations, or the process by which firms determine how to increase profits at the expense of "the little guy." Rather, thinking like an economist often engages with heated emotional intricacies that would seem to be outside economists' domain but in fact benefit the most from their toolkit. The chapter now turns to a few cases that illustrate applications of disavowing versus acknowledging sex workers as rational actors. Policy is theoretically the manifestation of communicated public preferences, and the most vociferous (and well-funded[55]) among the public have certainly affected policy with their rhetoric. In the case of criminalized sex work, among the most active are radical feminists and the rescue industry, who call for prohibition using terms such as "coercion," "oppression," and "exploitation" and who necessarily base their arguments on the assumption that sex workers are not making the best choices they can, given their constraints. This is by definition accusing them of behaving irrationally.

Among feminists who argue in this vein are Andrea Dworkin,[56] Gloria Steinem (technically second wave, though she shares similar views of sex work with radical

[55] The fifty most prominent antitrafficking organizations in the US had estimated budgets of $686 million in 2013 (based on the ones who disclosed their funding, so likely a "very low estimate"); this is in addition to between $1.2 and $1.5 billion per year in federal funding. The campaign against sex trafficking has only grown in the ensuing decade; it is a lucrative industry, above some countries' GDPs. "Yet a 2013 report found only 682 beds available, nationwide, to victims of trafficking, with another 354 more planned for 2014." Moore, "Special Report."

[56] Dworkin, "Prostitution and Male Supremacy."

feminists),[57] Melissa Farley,[58] Donna Hughes,[59] Catharine MacKinnon,[60] etc.[61] Among the most strident is Janice Raymond, for example, who aptly conveys her views in the very title of her book *Not a Choice, Not a Job*. A sample of her sentiments: "If we are simply free to choose cigarettes, foods that put us on the road to obesity, and assault rifles that kill, the corporations that create the 'products' retreat from view. If people are convinced that they willingly choose their poisons, then markets in poisons will prevail and profit. . . . But there are many situations in which defending choice is deceptive and dangerous, and prostitution is one of them."[62] One is left wondering what Raymond would not ban in an attempt to save people from themselves, and Bella wonders why certain feminists get to determine the agenda for every woman:

> They tend to be jealous. I don't know what it is. Even in feminism, they locked Black women out. They said, "Abortion needs to be the priority; your human rights and civil rights, that can wait. 'Cause abortion's gonna help you too." Well, why couldn't we have done both? There's still all these fake feminists 'cause half of them are the anti-trafficking people. To me, a real feminist means I support the choices of every independent individual woman, whether I like those decisions or not. It's not whether I like them, it's they have a right to choose, right? Whether it's their body, whether it's their job, whether it's their marriage—what I think doesn't matter.

Considering coercion and exploitation, Raymond further dismisses sex workers when mischaracterizing and then rejecting her opponents' claims of rational choice:

> Sex work advocates have maintained that women in prostitution are financially motivated, meaning that they do not turn to prostitution out of financial desperation or lack of other economic options. Instead they are viewed as economically rational beings that allegedly weigh the various costs and benefits

[57] Press Trust of India, "Prostitution Is Commercial Rape, Says Gloria Steinem."
[58] Farley, "Fact-Free Rationalizations Used to Promote Legal Pimping."
[59] Shapiro and Hughes, "Decriminalized Prostitution."
[60] MacKinnon, "Trafficking, Prostitution, and Inequality."
[61] Most are also TERFs (trans-exclusionary radical feminists).
[62] Raymond, *Not a Choice, Not a Job*, 20.

> of their economic activities and hire agents who will help them. Sex work advocates reject that "sex workers" [her quotation marks, indicating that she denounces that selling sexual services is work] are more coerced than workers who choose other low-paying jobs.
>
> The economic rationalism model, however, does not take into account the economic exploitation of prostituted women who see their money quickly disappear in a steady stream of diversion of earnings into drugs, alcohol, pimps, drivers, and other so-called protectors.[63]

If her argument is that money disappears quickly in ways she does not see fit or as the cost of doing business, this is not satisfying because many other low-paid (and high-paid) workers "waste" their money too. How would she classify transportation and childcare costs? Would she regulate how everyone spends their paychecks, excoriating them if she does not approve? Frankie addresses the simple linear thinking that prohibition results in eradication by contextualizing within capitalism:[64] "And people argue that sex work is exploitation, but it's like, I have never been exploited as a sex worker. I've been exploited in many ways in my life, in lots of jobs, and under capitalism, but I myself have never been exploited as a sex worker. And look, I have done survival sex work. . . . I think that a lot of people will be like, 'Survival sex work is bad. Therefore, all sex work is bad. Therefore, we need to abolish sex work. Therefore, we need to criminalize sex work.' And that's the easy route, right?"

Others denying rationality focus on the oppression/exploitation angle with claims that *all* sex work is coerced. For example, Andrea Dworkin, who famously described consensual heterosexual sex as "the pure, sterile, formal expression of men's contempt for women," condemned pornography and sex work and moved the debate into the

[63] Raymond, 122.
[64] Smith, interview by Malia Dalesandry.

feminist mainstream.[65] She was supported by Gloria Steinem, who initiated efforts to reject the term "sex work."[66] The argument is that because of its inherent sexual component, it cannot be voluntary and therefore cannot be work. All sex workers are trafficked. "Abolitionists see prostitution as male violence, as the sexualized practice of dominance and control over women who are coerced, with money, into sexual activity in which they wouldn't otherwise participate."[67] Norma Jean offers a theory of why some women want to control the sex of others and counters the coercion/oppression/exploitation angle:[68]

> Then you have the radical feminists who heavily influence the liberals' talking about "this is exploitation." And it's like, "Oh, no, we can't allow women and children to be sexually exploited . . ." So you have these people that think it's exploitative for a man to hire someone and have sex with them because they have issues with their own sexuality. That is the only thing I can think of—that their own sexuality is their problem because I don't have a problem with my sexuality.
>
> And I don't care who anybody has sex with, whether it's for money or whatever else; as long as they're adults, and as long as they consent, I don't care. So what is it that these people have in their heads that they think I'm being exploited? Especially when I tell them I'm not. And why do they keep saying, "Oh, but you don't know you're being exploited"? I'm like, "You want to fucking tell *me* I'm being exploited?"

"More concretely, the alliance between the abolitionist war on trafficking and the radical feminist anti-sexual violence movement has intensified in recent decades. The radical feminist position that sex work is, by definition, a form of violence against women has grown into the proposition that all sex work is, by definition, a form of

[65] Dworkin, *Intercourse*, 175.
[66] Bazelon, "Should Prostitution Be a Crime?"
[67] Mehat, "Shit Liberal Feminists Say."
[68] Almodovar, interview by Malia Dalesandry.

trafficking."[69] Given that there are few actual victims of trafficking,[70] addressing outspoken critics of sex work, Weitzer writes, "As should be abundantly clear by now, the oppression paradigm is first and foremost a prescientific ideology. Its central tenets are not derived from carefully conducted research, which would contradict or radically qualify those very tenets. In short, the oppression paradigm pays little heed to the canons of scientific objectivity, and this is due to its advocates' overriding commitment to abolishing sex work."[71] Further, if we accept the oppression paradigm as implying irrationality because oppressed people cannot exercise agency, "Sex workers are irrational" taints the narrative and invalidates everything sex workers say and do, resulting in a void in which sensationalism rules. "Popular in some academic circles, the oppression framework also predominates in the media, in political discourse, and in policymaking in many countries. The mass media are saturated with stories highlighting worse cases, and news reports usually center on themes of violence, pimping, crimes, disease, and immorality. Government officials in most of the world view prostitution through the same lens."[72]

Bryan, the expert in "sticky storytelling," recognizes this lens and ascribes intentionality, which speaks to the abolitionists' rationally orchestrated efforts to

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[69] Vanwesenbeeck, "Sex Work Criminalization Is Barking Up the Wrong Tree," 1638; Ward and Wylie, *Feminism, Prostitution and the State*.
[70] Despite the billions spent, in 2019 there were 1,607 incidents of sex trafficking (and it is unclear how many of those were simply sex work). There were 1,370 victims in 2020. Of course, no one wants any sex trafficking, but the status quo comes at a cost: (1) sex workers' lives are ruined; (2) they could be helpful identifying victims, currently a forgone opportunity. Federal Bureau of Investigation, "2019 Crime in the United States: Human Trafficking," 1; Feehs and Currier Wheeler, "2020 Federal Human Trafficking Report," 28.
[71] Weitzer, *Legalizing Prostitution*, 15.
[72] Weitzer, 15–16.

capitalize:[73] "And the anti-traffickers—I'm just gonna call 'em 'the rescue industry.' They're not anti-traffickers because they don't actually solve trafficking. Calling them 'anti-traffickers' is a lie. (People can see the quotation marks, right?) Even 'the rescue industry' still gives them a level of credibility, which I don't think they deserve. So I'm gonna call 'em 'the fake rescue industry.' [Laughs] So they're telling stories effectively. I have watched their storytelling. They have literally borrowed from Hollywood movies and are using their formulas—very clever, very, very clever."

Tracy talks about personally directed tactics.[74]

> [I write about] accusations of sex trafficking being used to discredit the sex worker rights movement. Allison finds herself at the center of it. And I made some kind of piquant humor out of it—Allison's receiving these crazy emails accusing her of being a sex trafficker—and I had fun with it, you know, which sounds almost irresponsible, but, hey, you know, I'm an artist; I get to do that.
>
> But the thing is, that really happens to people in the movement; we've all at some point been accused of being a sex trafficker. And even though I made light of it in a chick lit novel, which is in itself a subversive thing to do, it is a scary thing, even when it's just some hysterical person calling you a pimp or a trafficker. It's a little scary because if you know anything about the world, you realize, oh, that's a felony. People go to jail for that. Prison, actually, not just a night. I am *not* a trafficker, but somebody actually accused me of that. And I was very uncomfortable. I was accused of that because I'm known as an activist.

Alex talks about the abolitionists' tools for controlling the narrative, as well as their pivots when numbers do not bear out their claims.[75]

> They have created a vacuum where you just don't get another point of view. I mean, the minute they say "child trafficking," everyone freaks out. "We. Must. Save. The. Children." . . . [She is told about Alexander/a's phrase "the weaponization of children."] We weaponize children; we weaponize rhetoric. We weaponize false information because the anti-trafficking organizations [lists a couple; redacted] have such a loud voice. Now that they're seeing that all of their

[73] Knight, interview by Malia Dalesandry.
[74] Quan, interview by Malia Dalesandry.
[75] Andrews, interview by Malia Dalesandry.

> "you've gotta save the children" thing isn't working as well, it's "all sex workers are victims." Because the public is kind of going, "Eh, *are* they?" They are now starting to shift, and they're saying all porn is bad—"we have to cut off access to the internet." And so they're taking these bigger bites out of our societal structures that allow for freedom of speech, that allow for people to live their lives, and they're wanting to impose harsher penalties on everyone.

The abolitionists have a hypocritical relationship with the very women they purport to wish to help: by ascribing or implying irrationality, they can easily dismiss those who do not further their agenda. *This* would seem to be more appropriately classified as coercion and oppression. From the Urban Justice Center: "Some schools of feminists addressing sex work typically do not want to hear from sex workers unless they tell tales of abuse and oppression, even going so far as to prevent sex workers who do not share their opinion from speaking."[76] In addition to discussing suppression, Bella explains how radical feminists and the rescue industry manufacture victims via legal threats and stigma:

> The war on sex workers is similar to the war on drugs, where in drug cases, you know, you get threatened with 20 years, but if you snitch on someone, you can get probation, and everyone's snitching on each other. And there's 50 codefendants in cases that don't know each other, and it just expands it.
>
> And we see the same thing in the trafficking narrative. So if you're being arrested, you're told you're gonna be on the six o'clock news. Everyone's gonna know; your picture's gonna be splattered all over. But if you'll just say you're scared of Joe or snitch on your coworkers, we can make you a victim. And then you're required to cooperate all the way through court proceedings. So we can understand why someone that's never been outed or arrested, or their family or boyfriend or college don't know, why they would say they're a victim when they're not.
>
> Unlike the anti-trafficking people, we don't hide data that's unflattering. [One of COYOTE RI's surveys asked,] "Have you ever felt like you were exploited or trafficked?" Two or three percent said at some point in their life they did, but

[76] Thukral and Ditmore, "Revolving Door," 19.

> when they got away from their abuser, they were able to go on to do sex work independently.

Without denying the existence or downplaying the experiences of survivors, countless researchers, journalists, nonprofits, and even government agencies have established that the abolitionists simply do not have the numbers to back up their (profitable and rationally contrived) moral panic. Norma Jean, whose number crunching was among the first, bemoans their rent-seeking:

> "You don't understand yourself; you just hate yourself for being a prostitute." These women, they've made it their life mission to destroy sex worker activists like me, and they're just not able to do it. And I don't think they expected us to fight back as hard as we do. . . . And how much do sex worker rights organizations get? How are we supposed to compete with these people that get billions of dollars? I don't understand why they think it's their business. It's like, who the hell do you think you are telling sex workers how to feel, what we should and shouldn't do?

The Amnesty International Decision

As mentioned, based on the data, such as those presented in the second and fourth chapters, many leaders in health care and justice spaces support decriminalizing sex work, including the ACLU, Freedom Network USA, Human Rights Campaign, Human Rights Watch, UNAIDS, and the WHO. In particular, a prominent Amnesty International report that called for the worldwide decriminalization of commercial sex (selling and buying) recognized sex workers as rational actors. Primarily a pragmatic, normative prescription to combat sex trafficking and true coercion, undertones of a deontological stance and articulated or implied rationality are prevalent throughout. For example:

> Law enforcement bodies, other government bodies and clients often make assumptions, based on stereotypes, that sex workers always consent to sex (because they may engage in sex frequently for their work) or, conversely, that sex workers can never consent to sex (because no one could rationally consent to selling sex). These assumptions lead to violation of sex workers' human rights,

> particularly their safety, access to justice and equal protection under the law. Criminalization of sex work often reinforces these problematic assumptions.
>
> Decisions to sell sex can be influenced by situations of poverty and/or marginalization. Such situations do not necessarily undermine or negate a person's consent. Constrained circumstances do not eliminate an individual's ability to make decisions about their own lives, except under particular circumstances that amount to coercion where an individual faces threats, violence or abuse of authority.[77]

The Amnesty International decision recognizes "'evidence that some individuals who engage in sex work do so due to marginalisation and limited choices,' and that countries should 'take appropriate measures . . . so that no person enters sex work against their will, and those who decide to undertake sex work should be able to leave if and when they choose.'"[78] Society should make a concerted effort to broaden the sets of options available to those who would rather not engage in sex work, but this should not be taken to undermine the rationality of those who proactively choose this work or even those who engage in survival work. Further, sex workers' rights advocates wholeheartedly agree with laws seeking to combat the problems of entering the market against one's will and not being able to exit: these involve true coercion. For example, though it may be "rational" to remain in a trafficking situation rather than be killed, nobody who argues from the rational choice perspective would say that this is a reasonable or desirable circumstance in which to make a decision. Beatrice articulates this passionately:

> They're hurting people; they're hurting women. We just gotta go get at them, hopefully educate them, open their minds. It's just horrifying to me that they think they're gonna help women—and men, but, you know, they call themselves

[77] Amnesty International, "Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers," 15.
[78] Purtill, "World's Biggest Human Rights Group Wants to Legalize Prostitution."

> feminists—help sex workers by keeping them criminalized, keeping sex work criminalized. And going after dates, arresting dates, is not helping at all because it's just driving the women and men underground and hiding in the shadows more, and we gotta get them outta the shadows. And these so-called "feminists" are just digging holes for them.

As with the presentations in the second and fourth chapters, and as with a larger theme resulting from the research project and discussed briefly in the epilogue, the Amnesty International decision recognizes that sex workers are not homogenous:

> People of different backgrounds and identities undertake sex work for a variety of reasons and report a diversity of experiences. Some sex workers make the decision to engage in sex work as a matter of preference: for some it can offer more flexibility and control over working hours or a higher rate of pay than other options available to them. For many, the decision to engage in sex work is a reflection of limited livelihood options. For example, it may be one of a limited number of sources of earnings open to irregular migrants who are denied permission to work and therefore rely on informal economies for work. Other individuals may turn to sex work as a means to address immediate needs because of poverty.[79]

Darren Geist, a critic of the decision, argues that legitimized "sex work" (again, his quotation marks, rejecting the label of work) "would establish the legal right of men to buy or rent women's bodies for sexual acts, *and* [italics added] the legal right of men to sell or rent women's bodies to other men for sexual acts."[80] By conflating the two—women selling their sex (sex work) and men taking it to sell to other men (sex trafficking)—he fails to distinguish between voluntary and involuntary acts. Under decriminalization, involuntary acts would still be criminalized. "Despite the fact that Amnesty consistently criticizes law enforcement and laments the corruption and abuses by government and police, it still expects law enforcement to root out sex trafficking in a

[79] Amnesty International, "Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers," 8.
[80] Geist, "Amnesty International's Empty Promises," 2.

decriminalized market and ensure that the market works efficiently and fairly without any regulation. This is an enormous task. Further, prostitution primarily draws from unskilled and disadvantaged 'workers,' which increases the chance for an unregulated market to trigger a race-to-the-bottom."[81] Here too he missteps and demonstrates inconsistency: if policies under decriminalization are impossible to effectively enforce (which is not accurate, given that sex workers are well equipped and eager to suss out true traffickers but currently cannot help do so), why does he think *his* preferred policies are enforceable, especially in light of the empirical results observed thus far under criminalization?[82] Taken a step further, if sex workers are irrational and in need of being saved from themselves, they therefore do not respond to constraints, so why does he suspect criminalization makes any significant difference in their behavior? The argument, broadly understood, is that opponents of the rationality postulate cannot have it both ways. If sex workers are irrational and do not make the best decisions for themselves, they will therefore not respond to policies that prohibit their services—their irrationality precludes them from performing the calculus into which the deterrent effect is intended to figure. In fact, they *are* rational: they respond to criminalization by taking the whole market underground, where everything is riskier and beyond the rule of law.

[81] Geist, 8.

[82] Flanigan offers a similar argument in response to the Nordic model, indicting public officials as "the architects of the unjust circumstances that sex workers face." "If public officials cannot pass or effectively enforce other policies that mitigate women's disadvantage and vulnerability [such as basic income or tax and transfer proposals], the same barriers to effective enforcement would presumably remain for any attempts to criminalize the purchase of sex for the sake of vulnerable groups." Watson and Flanigan, *Debating Sex Work*, 300–301.

Conclusion

> Among the many other comparisons prostitution/a prostitute is considered as less serious/wrong/harmful than a polluting factory, members of the American Communist party, hippies, welfare cheats, tax cheats, sexual harassers, having a child outside of marriage, riding a motorcycle without a helmet, illegal campaign contributions, drunk driving, and crooked lawyers. It is considered more serious/wrong/harmful than student demonstrators, working mothers, students more interested in sports than studies, divorce, keeping found money, interracial marriages, civil rights protests, euthanasia, and beatniks.
>
> —Tom Smith, "Public Opinion on Prostitution"

The above epigraph comes from a 1998 meta-analysis of public opinion over the preceding thirty years. A majority always said sex work ("prostitution") was "never justified," with an even larger share always saying it was "harmful."[83] While instruments, phrasing, and opinions have changed over the years,[84] the frequently presented option of "never justified" should be added to the list of misapplications of the concept of "irrationality." Similarly, "harmful" permits no nuance or context; it does not recognize an individual's complexity or consideration of scarcity, constraints, incentives, or trade-offs; it overlooks the question "Compared to what?" Would we say that starving to death is "less harmful" than selling a sex act? The word does not even address who is harmed—is it marriageable women, schoolchildren, baby Jesus, sex workers, or some other party?

Again, if we think about how people talk about sex workers, including supplanting "irrational" with words such as "coerced," "oppressed," and "exploited," the effect of the abolitionists' rhetoric is clear. As described in the first chapter, terms from the Progressive Era had a similar effect: "feebleminded" and "deviant" were used as

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[83] Smith, 2.

[84] As discussed in the second chapter. However, by contrast, for example, "the National Organization for Women called for the decriminalization of prostitution in the 1970s. But then a strong movement developed within feminism that condemned pornography and prostitution as exploiting women." Smith, 4.

"prostituted" (an action is done *to* someone, rather than that person acting with agency) and "addicted" are used today.[85] Words withholding rationality are used to control messaging and the psychology and conditions of marginalized and stigmatized people: women, BIPOC, migrants, the LGBTQ community, people with unmet mental health care needs, people who use drugs, sex workers, etc. In an effort to address moral and religious qualms, jealousy, disgust, and all the other reasons people stigmatize sex workers, it is argued here that simply slapping the term "irrational" (or one of its synonyms or counterparts) on a perceived antagonist is a subtle, seemingly neutral, but very effective way to denigrate and dismiss those of whom we do not approve. We put the onus on *them*; there is some deficiency on *their* part, rather than a personal aversion on ours. Those who advocate abolition by claiming or implying irrationality are not engaging in good faith. Bella shares how it feels to be silenced:

> And they're looking at you like you're crazy, even though you got the 35 years of experience, and you did all the research, they wanna listen to the people with the lobbyists and the money. And all those people wanna steal our seats at the table. I don't care if you're organizing for undocumented people, people of color, gay people—obviously, the people affected need to be the leaders organizing and have the seats at policy discussions.
>
> Why is that so hard? Why is it? You let them [trafficking survivors] all talk about their bad experiences, but we're not allowed to let people know who we are and what we do and what we're advocating. That seems to me would be a debate. You have both sides. I'm not saying to erase any of those people, even though I didn't like what a lot of 'em said, but it was so biased. . . . I'm really pissed off about it. And I just felt it was really underhanded of them.

[85] Recall the investigator's quote: "I failed to find any organized traffic in women, and I do not believe now, that such an organized traffic exists, nor do I believe, that with the exception of sporadic cases, innocent girls are sold or driven into this life, but nevertheless I regard every prostitute in this country more or less a white slave." (Pliley, *Policing Sexuality*, 56.) This is akin to modern-day claims that all sex workers are trafficked. "Trafficked" loses meaning, and it is a disservice to actual survivors.

Ultimately, sex workers choose their trade for myriad reasons: some because of discrimination, displacement, or disability (though those with mental health issues, for example, are often explicit about the preferable accommodations provided by their work); some because it offers flexible hours, better conditions, and more pay; some because it affords the opportunity to "explore and express their sexuality" and is "empowering and rewarding."[86] Regardless of the reasons why sex workers choose to sell their services, all "should enjoy the same rights and protections as those in other professions" as well as reduced stigma.[87] Further, all parties (with the exception of those who profit from the status quo) would benefit from decriminalization: sex workers, survivors, and society. Therefore, the institutions and mores surrounding sex work's persistent criminalization, particularly the language that we employ and the ensuing assumptions resulting from that language, ought to be reexamined in light of rational choice theory. Society permits many behaviors (within limits) that some find unsavory—gambling, violent sports such as boxing, cheating on partners, even polluting—without resorting to claims of irrationality, and we generally deem that people have the right to do what they want with their bodies and their labor.[88] Even if some find sex work unsavory, that it is criminalized based on "irrationality" is puzzling and inconsistent.

Though there is no perfect solution to address criminalized sex work—i.e., decriminalization will not vanquish all scarcity and harm—policy makers and the public must admit that actors are rational and are making the best decisions possible, given their

[86] Marshall, "Sex Workers and Human Rights," 51.
[87] Marshall, 51.
[88] See (part of) Flanigan's argument in Watson and Flanigan, *Debating Sex Work*, 175.

constraints. If the goal truly is to improve circumstances, harm reduction means letting people choose from among seemingly undesirable options, as well as broadening their sets of more desirable options. This can best be achieved by reducing what the economist calls "constraints," most notably the constraint (and quite often literal restraints) of criminalization. "They use their own biases to push their views on my body. And they have no right to do that. Nobody has a right to force their personal values on someone else, especially not at the point of a gun. And that's how all laws are enforced—at the point of a gun."[89] We should therefore be very selective in deciding which laws are crucial such that we are willing to enforce them in this way—laws against sex workers are not. Theory tells us sex workers are rational, the data tell us sex workers are rational, and sex workers tell us they are rational. We must explicitly reject the claims of radical feminists and the rescue industry leviathan, and instead take up the position of human rights, health, and social justice organizations everywhere: decriminalize sex work. A simple but encompassing phrase was offered when first engaging with participants for this research project: "I recognize the inherent dignity of the individual to control their own body and the conditions of their existence."

[89] Almodovar, interview by Malia Dalesandry.

EPILOGUE: "WHERE DO WE GO FROM HERE: CHAOS OR COMMUNITY?"*

> The real beginning is decrim and then fighting for every single thing around it. But sometimes I think the decrim issue is pivotal and key and symbolic of so many other issues in social justice that I don't know. I have a special belief. I'm a little bit of an essentialist, even though you're not supposed to be. Like, a little bit of a feeling that sex work is so important, it's a magical junction of human consciousness because it's about surviving and poor people in economics. So quite often I do have that belief.
>
> —Carol Leigh, interview

> My experience with this work is that prostitution policy is a philosophical key that opens many doors, you know? It was helpful for me as a middle-class white person to understand the police as an enemy once I became a member of a criminalized population. . . . And so I was more open to the Black Lives Matter movement, defunding the police, and decarceration because of the education that I received as a sex worker advocate. And so I think that there are a lot of different ways to bring people in and that decriminalizing sex work is a part of a larger movement to create a more compassionate and care-based society.
>
> —Kaytlin Bailey, interview

> It's everything. It's absolutely everything. It's all connected. When we talk about prisons, poverty, sex work, survival sex work, drug use—everything is all one kerfuffle that is entwined together. And when we fix one, everything else will start to unravel. When sex work is decriminalized, we will have more access to mutual aid where [resources] can move to other places.
>
> Everything that everyone is working so hard for right now—like nonprofits—I believe that nonprofits are there until they should not be there anymore, right? Like, they're working to become extinct. That's the whole thing. The whole point of me working is to work myself out of a job. So then I can do something else. Then I can work on drug use issues; then I can work on other mutual aid issues; I can work on whatever I need to work on to be able to make the world a better place, which is the whole goal, right?
>
> —Frankie Smith, interview

The past five chapters explored the incentives for and origins of criminalization, situated the research project within the existing literature and established the existence of

* King Jr., *Where Do We Go from Here*.

the crisis, shared the process of getting to know sex workers, contextualized some of their stories, and applied the analysis to theory, concluding that sex workers are rational. The resulting policy implication is that sex work ought to be decriminalized. As mentioned on a couple of occasions, however, the data shared and evaluated in this presentation are a small portion of what was collected; the project has many rich avenues remaining, some of which have been identified.

Future research will include delving into the specific challenges sex workers must overcome when organizing for decriminalization and destigmatization. Such challenges include revisiting social mores, engaging in conversations about capitalism and the state, examining "the nonprofit-industrial complex," and addressing how to connect across the movement, including managing interpersonal relationships and cohesive messaging. Sex workers face overriding power differentials from various institutions, and criminalization leads to asymmetric information and issues of trust. When you are "hunted" (as a few have put it), you have to take more risks, and asymmetric information also applies to trade-offs when developing and "spending" social capital. Given the abuse suffered at the hands of law enforcement, the criminal justice system, and the medical establishment, for example, it can be difficult to know who is safe. Some sex workers engaging in survival work in particular only get involved when their rights are taken away, then tend to fade away when the issue is (sometimes happily, usually unhappily) resolved. Opportunity costs are high when one is just trying to survive. Additionally, that many are unhoused and therefore more transient means extra challenges maintaining contact. Their constraints are such that activism must take a backseat to other priorities—whether

because of lack of access to technology and stable housing or because of trauma and unmet mental health needs.

Another theme explores the ways in which the sex workers' rights movement is comprised of many individuals and is characterized by important differences in experiences with and responses to criminalization. "Sex workers are not homogenous" may seem obvious; for example, it is relatively straightforward, sometimes visibly so, to differentiate between the lived experiences of the street/survival worker and the well-to-do escort. Sex workers acknowledge disparate circumstances, and they recognize hierarchy as it pertains to privilege, especially along racial and (trans)gender lines. Perhaps surprisingly, though vastly varied local knowledge can sometimes lead to competing priorities and thus agendas, the shared mission and sensitivity mean that while there can be tensions, they are rarely based on class distinctions. There were no indications of exclusion on the part of the middle-class sex workers—quite the opposite: all spoke with concern about the additional injustices more intersectionally marginalized folks endure. There was no tone of condescension or feigned pity; they are fully cognizant of their relative privilege and genuinely dismayed at the disparities. Likewise, those who experience criminalization and stigmatization much more harshly did not indicate bitterness, envy, frustration, or any other negative emotion aimed at those who do not have to do survival work. More marginalized and stigmatized folks were just as generous and charitable; there was not a sense of "They don't really understand us." Extreme marginalization does hamper efforts to broaden the scope of organizing, but that is because everything is secondary to direct service provision. Again, organizing for

decriminalization when resources—i.e., time and emotional labor—permit must follow meeting immediate needs.

Sex workers learn as they go.[1] This includes introspection and learning about "self," followed by learning about how best they can contribute—i.e., their comparative advantage within the movement. It also means discerning and communicating formal and informal norms and rules around work culture at their organizations. Hard-earned lessons about how to make decisions regarding whom to engage with include introducing and maintaining relationships with state actors; leveraging relationships at universities with academics, students, and medical researchers; and engaging in diplomacy, especially when particularly harangued. Sex workers are industrious and entrepreneurial and have methods by which they develop social capital. As concentric circles of communities ripple out, some remarkable success stories have been realized through some seemingly unlikely partnerships, including with law enforcement and policy makers (it is good to have a champion). In conjunction with health care institutions, these entities have been among the most notoriously abusive; actors have had to show that they are trustworthy, and sex workers have had to learn how to identify those opportunities least likely to cause harm in order to parse predicted net benefits. These relationships are dependent on trust and diplomacy, and sex workers have developed strategies for engaging diplomatically, which also benefits other partnerships and allyships. Sometimes traditional diplomacy is supplanted by verve and mettle to greater effect.

[1] Again, with thanks to Savannah Sly.

Bookending “experiencing the crisis,” “coping and thriving” explores overcoming the crisis. The pace of social change is slower than desired, but sex workers are making headway, despite “two steps forward, one step back” (entities and laws continually evolve to respond to and thwart progress). This theme focuses more thoroughly on the logistics of partnerships and engaging with allies. One subtheme looks at partnerships with like-minded organizations and coalitions within networks, with a particular focus on intersectional social justice issues. The sex workers’ rights movement is decentralized. This can be beneficial because it allows for bottom-up direct service provision and engagement based on the needs and opportunities of a particular community, which has the local knowledge, but it can also be challenging to coordinate with other communities. Sex workers are like any other group of civil rights activists: anytime you have a bunch of folks who care deeply, you are going to have strongly held opinions and competing agendas, especially in the face of scarcity, constraints, and extralegal institutions. Regarding potential allies in other social justice spaces, sex workers make rational decisions about when to forgo relationships: some are not necessarily toxic, but the marginal cost exceeds the marginal benefit. An example of this is recognizing that sometimes relationships do not result in reciprocation for time and emotional labor rendered. This theme also looks at self-governance, more clearly thought of as group governance related to norms and rules, as well as at community protection as a public good. How are decisions made? What do sex workers do when someone violates those norms and rules or expected behavior? How do they engage in self-preservation and organize for progress by relying on the bonds of community?

Another important subtheme is that specialization is key. Sex workers possess a tremendous array of talents and interests, distinct emotional capabilities, and technical skillsets. For example, an observation that will be developed is the role of art, which is used in self-care practices, as well as activism. Further examples of specialization among this group of gurus are those working with spreadsheets, on website development, in print journalism, or on radio shows; performing standup comedy; producing podcasts; making comic books; penning novels; flexing those hard-earned emotional capabilities; and deploying their experience in academia, social work, grassroots campaigns, public speaking, direct service provision, etc. Yet another component focuses on the individual and what is best described as self-care. It examines how sex workers find the strength to persist in their efforts. It looks at how individuals contribute to overcoming the collective action problem by asking about how they overcome fears of speaking out against leviathan, having a public presence, and being their authentic selves. Finally, "thriving" coalesces around social change strategies that have been successful and the indispensable role of community. Much as with Frankie's quote about wishing to work theirself out of a job, my hope is that the next presentation of this research project will be retrospective. Sex work will have been decriminalized, and remaining themes will contribute to the story of how we got there. I try to envision each subsequent installment released into an ever more destigmatized world. The time is coming when the insights, pleas, and successes that these sex workers shared will serve as a historical narrative of how we all overcame the crisis and embraced community.

APPENDIX A: SEMI-STRUCTURED INTERVIEW GUIDE

As a reminder, I want to understand how people among the sex worker activist community are making positive steps toward well-being in light of the current criminalization of sex work. By documenting experiences, I hope we can better understand and communicate to policymakers, members of the public, researchers and students, and other communities what is working, what maybe isn't working so well, and how we can all do better.

Thank you for signing the consent form. As a reminder it says that you give me permission to interview you. It also says that this conversation is completely voluntary. You don't have to answer any question that you don't want to, and you can stop the interview anytime you want to.

I'm interested in hearing your personal story. If at any time you think I'm not asking the right questions, feel free to stop me and tell me what you think I need to know. I'd like to remind you not to discuss any specific illegal activities that have not been adjudicated in a court of law.

Before we begin, do you have any questions for me?

I'll start recording now.

PERSONAL IDENTITY (description/challenges/successes)

Personal life/relationships

First off, I'd like to get a sense of what your life is like. Where are you from and how would you introduce yourself?

What are three words you would use to describe yourself?

Can you tell me a bit about your family and friends? (partner, children, parents, extended family)

I assume they know you're a sex worker activist? How have they reacted? Are you in contact with them?

Are there particular people you rely on for support? Who are they?

Are you a member of any organizations for fun, hobbies, religious services, extended learning, etc.?

Experiencing criminalization

The bad

What are the three main challenges resulting from the criminalization of sex? Tell me about those.

How do you experience criminalization? What emotions come to mind when you think of criminalization?

Why do you think sex work is criminalized?

How do you deal with groups and individuals who are condescending and hostile to you?

How do you counteract the bad data out there?

Has anything worked particularly well for you when trying to communicate the conflation of sex work with trafficking?

Coping

You have taken on the challenge of a lifetime. What keeps you going?

How do you overcome fear? Of speaking out? Of challenging perceptions and laws? How do you be your authentic self?

What stressors do you have to deal with? How do you cope/overcome them?

COMMUNITY IDENTITY (description/challenges/successes)

What is "community"?

I've heard the term "community" a lot—in testimony, writings, media, on organizations' websites, reports—how do you define "community"? What are three words you would use to describe the activist community?

What does "activism" look like for you?

How did you first get involved with this activism?

When you think back to when you began interacting within your community, what are the things that you did that were critical in the process of building relationships?

Locations and communications

What's the activist scene look like in [your city]?

Do you interact on a national or international scale? What's that look like?

Can you give me an example of a time when your community got together, either in person or by some other method? Tell me about that. Does this kind of thing happen often? What's the feeling or mood? Empowerment, etc.?

How do you keep in touch with your community? (phone, email, Zoom/Skype, social media, etc.)

Self-governance

What are some of the rules or norms within your community? Please give examples.

How are they communicated and enforced? What do you do when someone is "acting up" within your community?

How do you govern and provide for yourself or each other when the government doesn't help?

Can you tell me about a time when your community had to procure necessary resources or provide for self-defense or public goods?

IDENTITY WITHIN THE COMMUNITY AT-LARGE

(description/challenges/successes)

The good

Organizing

It seems like we're in a period of greater public acceptance and a greater push for decriminalization than ever before. How do you think your community is doing in its efforts? Why do you think that is?

Besides yourself, are there other key people who have been working on decriminalization? Would you consider these people to be community leaders? Who are they?

What are the things community leaders have done to get people to acknowledge the problems with criminalization? Why is this important?

What is the most rewarding thing about what your community does?

Partnerships

What are three components or aspects important in a partner organization or individual?

How do you identify opportunities? How do you choose with whom to associate?

How do you manage messaging and politics?

What's the dynamic among organizations like?

Who has decision rights?

What advice would you give sex workers, activists, and allies for developing their communities and/or organizing? Do you have tips for what works, what doesn't, lessons learned, etc.?

Policymakers

Have you forged any relationships with policymakers?

How do you interact with policymakers? What are your tactics to win them over? What's worked? What hasn't?

How do you remain diplomatic in order to be politically relevant and present feasible solutions?

Allies

What does “allyship” look like to you?

How do allies participate? How do you experience sharing your lived experiences with others who don’t have similar ones?

Have you ever found yourself working with an unlikely ally?

WRAPPING UP

What do you wish society knew about you?

Those are all the questions I have. Are there any questions I didn’t ask that I should have? Do you have any questions for me?

Is there anyone else I should speak with?

Thank you so much for your time; can I assume you’d like me to follow up with products?

Background Information

Preferred Name	
Pronouns	
Age	
Race/ethnicity	
Gender identity	
Sexual orientation	
Year they became a sex worker/activist	
Organization(s) (formal or informal)	

APPENDIX B: IRB-APPROVED RECRUITMENT LANGUAGE

Dear colleague/activist/partnering organization/ally/friend,

Malia Dalesandry, a student researcher of public policy at George Mason University, asked me to share this with you. She's recruiting participants for a study that looks at how our sex worker activist community is making positive steps toward well-being, including organizing for decriminalization. By documenting and celebrating our experiences and successes, we hope to better understand and communicate to other communities and allies, policymakers, members of the public, and researchers what's working, what's not working, and how we can all do things better. Despite the tremendous challenges resulting from illegality, we want to chronicle how we come together to support one another and our mission.

This is being done for research purposes, and sex worker activists over the age of 18 of any race/ethnicity, gender identity, sexual orientation, and health status are asked to participate. Additionally, you may participate confidentially. The Institutional Review Board at George Mason University takes its role governing research very seriously, and this project has been extensively reviewed and approved (IRBNet number: 1745086–1). If you agree to participate, you are asked to engage in an approximately two-hour recorded interview via Zoom. Though this is recorded online rather than in person due to the pandemic, Malia can explain the process by which your identity will remain confidential if desired.

Malia can be reached by cell at (740) 856–4061 or email at malia.dalesandry@gmail.com for questions or to sign up. Her faculty advisor is Dr. Virgil Henry Storr, also of George Mason University.

I hope you will consider this opportunity to further contribute to understanding and awareness.

Many thanks,

APPENDIX C: IRB-APPROVED CONSENT FORM

Tentative title: "Persistent Illegality as a Protracted Crisis: Marginalization and Rational Choice within the Sex Work Community"

INFORMED CONSENT FORM

RESEARCH PURPOSE AND PROCEDURES

This study looks at how the sex worker activist community is making positive steps toward well-being, including organizing for decriminalization. By documenting and celebrating experiences and successes, we hope to better understand and communicate to other communities and allies, policymakers, members of the public, and researchers what is working, what is not working, and how we can all do things better. Despite the tremendous challenges resulting from illegality, we want to chronicle how this community comes together to support one another and the mission.

If you agree to participate, you are asked to engage in an approximately two-hour recorded interview via Zoom.

RISKS

There are minimal foreseeable risks for participating in this research. While this research focuses on your community's successes, in the course of thinking about your successes, you may recall unpleasant experiences. If you do feel upset and would like to speak with someone, you can contact the National Alliance on Mental Illness (NAMI) at 1 (800) 950-NAMI (6264) or info@nami.org.

BENEFITS

While there are no direct benefits to you, broader benefits may include additional public awareness, reduced stigma, better assistance, as well as that policymakers may reconsider the status quo of illegality.

CONFIDENTIALITY

You have the option to remain confidential if desired. If so, all identifiers and a code to your pseudonym will be stored separately from your de-identified interview. The recordings will be stored on a locked personal computer and in a private Dropbox folder dedicated solely to the purpose of executing the research and accessible only to the researchers. Recordings will be destroyed as soon as possible after transcribing and de-identifying the interviews. De-identified transcriptions will be stored on a locked personal

computer and in a private Dropbox folder dedicated solely to the purpose of executing the research and accessible only to the researchers. De-identified physical copies of the transcriptions will also be locked in the Principal Investigator's office per Institutional Review Board (IRB) requirements; they will be accessible only to the researchers. While de-identified transcriptions may be digitally stored for longer, the physical de-identified transcriptions locked in the Principal Investigator's office will be destroyed after five years. The de-identified data could be used for future research without additional consent from participants. While it is understood that no computer transmission can be perfectly secure, reasonable efforts will be made to protect the confidentiality of your transmission. Participants may review Zoom's website for information about their privacy statement. https://zoom.us/privacy/

The Institutional Review Board (IRB) committee that monitors research on human subjects may inspect study records during internal auditing procedures and are required to keep all information confidential.

You are instructed not to discuss any specific illegal activities that have not been adjudicated in a court of law.

PARTICIPATION

Sex worker activists over the age of 18 of any gender, age, race/ethnicity, sexual orientation, and health status are asked to participate. Your participation is voluntary, and you may withdraw from the study at any time and for any reason. If you decide not to participate or if you withdraw from the study, there is no penalty or loss of benefits to which you are otherwise entitled. There are no costs to you or any other party, with the exception of your time.

CONTACT

This research is being conducted by PhD Candidate Malia Dalesandry of the Schar School of Policy and Government at George Mason University. She can be reached by cell at (740) 856–4061 or email at malia.dalesandry@gmail.com for questions or to report a research-related problem. Her faculty advisor is Dr. Virgil Henry Storr, also of George Mason University. He may be reached at (703) 993–8127 or by email at vstorr@gmu.edu. You may contact the George Mason University Institutional Review Board office at (703) 993–4121 or irb@gmu.edu if you have questions or comments regarding your rights as a participant in the research. Please reference IRBNet number: 1745086–1.

This study has been reviewed according to George Mason University procedures governing your participation in this research.

CONSENT

☐ I wish to be identified in reports and publications resulting from this research.

☐ I wish to have my identify remain confidential in reports and publications resulting from this research. Appropriate steps (described above) will be taken to ensure my identity remains confidential.

I have reviewed this form, all of my questions have been answered by research staff, and I agree to participate in this study.

_____
Signature

_____
Date of Signature

APPENDIX D: ORGANIZATIONS FOR LEARNING AND DONATING

International Sex Worker Foundation for Art, Culture and Education (ISWFACE)
iswface.org

SWOP (Sex Workers Outreach Project) Behind Bars
swopbehindbars.org

SWOP USA
swopusa.org (this also links to city and state chapters)

Old Pros
oldprosonline.org

HIPS (Honoring Individual Power & Strength)
hips.org

Sex Worker Advocates Coalition (SWAC) (includes HIPS and other member organizations)
hips.org/sex-worker-advocates-coalition-swac

#DecrimPovertyDC
decrimpovertydc.org

Sex Workers and Allies Network (SWAN)
swanct.org

Bay Area Sex Worker Advocacy Network (BAYSWAN)
bayswan.org

Sex Worker Fest: San Francisco Bay Area Sex Worker Film & Arts Festival
sexworkerfest.com

COYOTE RI (Call Off Your Old Tired Ethics Rhode Island)
coyoteri.org

APPENDIX E: POSITIONALITY STATEMENT

I was the ten-year-old at the Christian school, living in a trailer in Appalachia, who told the D.A.R.E. officer that I didn't think people should be arrested for using drugs. Though not a feminist in any established sense of the word, I was the only girl on my high school football team (first-string free safety). I bartended in New York City for almost a decade in the years after 9/11, when the city retained the ruggedness, decadence, and debauchery of the latter part of the twentieth century. I was "White Chocolate" and "Snow White" in my Harlem neighborhood—terms of endearment, truly, despite my being a harbinger of gentrification. I encountered an eight-million-person cast of fascinating characters. I've had a lot of fun and some not-so-fun. I like to think I've always been open-minded. Or perhaps I just have a contrarian streak. I'm not easily offended by (but am curious about) how people live their lives, as long as we aren't grossly, intentionally hurting one another.

I'm not an activist, but I hope to one day be considered an ally. I have a friend who slapped an "Ally" frame on her Facebook profile picture for Pride and called it a day. Her next post extolled Harry Potter, disregarding the implications of supporting the work of an author about whom our transgender friends have complicated feelings. Entertainment media have done a lot to encourage inclusivity, but it's hard to watch fairly recent reruns of *Law & Order: Special Victims Unit* that still refer to "hookers" and

"junkies"; crimes against them are NHI (no human involved). Some of us carelessly use terms like "whore" with our girlfriends, or don't correct family members when they regurgitate the rescue industry's well-funded but completely mythical data. We cannot be allies if we laugh at Amy Schumer's "dead stripper" bit as she supports FOSTA/SESTA—dangerous legislation that has led to the actual deaths of sex workers. Through the course of this research, I've learned that the title of "ally" is one that's earned and bestowed, rather than simply taken. Neither is it static; rather, it is a process that occurs continuously.

It's challenging to speak with these remarkable individuals and not be moved by their recollections of experiencing tremendous injustices. A couple have cried; I struggle not to well up too. We sit together in Zoom silence and reflect. It's difficult to write about instances of violence at the hands of the state, and it's impossible to capture their rightful anger at decades of stigma and not be furious too. We clench our fists and move on with the interview. It's a joy to laugh with them and a privilege to chronicle their successes. I'm humbled and honored to call them my friends and to contribute one small piece to this painful, beautiful, crucial movement.

APPENDIX F: SUBMITTED TESTIMONY

March 30th, 2022

Dear Rhode Island Senate Judiciary Committee,

Thank you for the opportunity to express my support for SB2713. I stand with sex workers, sex trafficking survivors, allies, families, and communities. I've had the pleasure of working with sex workers all over the country as I near completion of my doctoral degree at George Mason University in the DC area.

The data compiled by me and others (over decades) are quite clear—the criminalization of sex work directly contributes to many serious problems: law enforcement negligence, misconduct, and abuse; murder, rape, and other violence; trouble procuring treatment for common ailments and mental health issues; stigma; housing discrimination and problems accessing public services; arrests and consequences; costs and cages. While decriminalization will not vanquish all of these overnight, it will make great strides toward amelioration. As just one example illustrating public health benefits, during your great state's inadvertent six-year indoor sex work loophole, researchers found that decriminalization reduced sexual violence by 31 percent—824 fewer rapes. Other effects included decreasing gonorrhea infections in both sexes by 2,000 cases.[541]

Please join with voters. Democrats, Republicans, and people across the compass increasingly want sex work decriminalized. Approval has been steadily climbing and shows no sign of diminishing. For example, a 2019 poll of 1,000 voters found that 52% support decriminalization, with two-thirds of voters ages 18–44 in support.[542]

Please join with sex workers and allies, as well as leaders in healthcare and justice spaces including the ACLU, Freedom Network USA (a human trafficking advocate organization), Human Rights Campaign, Human Rights Watch, UNAIDS, the World Health Organization, Amnesty International, etc. Sex workers are warm, brilliant, funny, kind, regular citizens who oughtn't be persecuted and prosecuted for simply living their lives.

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[541] Cunningham, Scott, and Manisha Shah. "Decriminalizing Indoor Prostitution: Implications for Sexual Violence and Public Health." Working Paper. National Bureau of Economic Research, July 2014, page 30.

[542] Luo, Nina. "Decriminalizing Survival: Policy Platform and Polling on the Decriminalization of Sex Work." Data for Progress, January 30, 2020, pages 22–23.

The tide is turning, so I urge you, please, do the right thing now. Do the thing that the data bear out; do the politically relevant thing; and, finally, do the moral thing—decriminalize sex work.

Sincerely,

Malia Dalesandry, MPP

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Fairfax, VA 22030

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