

Modern U.S. Sex Work Legislation and Its Impacts on American Society

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List of Key Terms¹

Abolitionist Feminism:	a type of feminism that wishes to abolish the commercial sex industry entirely as it views it as harmful to all women and the privatized family.
Carceral Feminism:	a type of feminism, popularized by abolitionist feminists, that advocates for law-and-order reforms and increased punitive punishments for gender and feminist issues.
Prostitution:	the historical term for exchanging money for sexual services, also referred to as full-service sex work. Often stigmatized, associated with criminality and immorality, and commonly used in legal contexts.
Sex Trade:	the trade of resources (i.e., money, food, housing, drugs, etc.) for sexual services.
Sex Trafficking:	the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of an individual for a commercial sex act induced by force, fraud, or coercion or that occurs with a minor.
Sex Work:	an umbrella term that encompasses several commercial sexual exchanges. A non-exhaustive list of such exchanges includes full-service sex work, street solicitation, stripping, erotic dancing, lap dancing, camera work, fetish modeling, and pornography.
Survival Sex:	a type of transactional sex that typically denotes a significant lack of agency. It is often referred to in situations involving youth, houselessness, and drug dependence.
Transactional Sex:	refers to the informal and nonprofessional trading of sexual services for resources. It can include a variety of behaviors where sexual services are exchanged as part of a social transaction or requirement, such as typical courtship practices and domestic sex.

¹ The citations for all these terms may be found either in the body of the text or as footnotes throughout the document. Additionally, this list of terminology is meant to be an easily accessible reference point for the reader while moving through the paper.

Executive Summary

Sex work has existed for millennia; we know this as every society for which written documentation exists acknowledges it (Jenness, 1990, p. 416). As such, it is often described as the world's oldest profession, and throughout human history, it has taken on a variety of connotations. Some civilizations denoted this profession as sacred and spiritual, while, more recently, it has become associated with immodesty, immorality, and criminality (Welch, 2021, pp. 97-99). This veil of stigmatization continues to trail the profession into modern times. The contemporary legislative narrative around commercial sex work in the United States has its roots in xenophobia, carceral politics, abolitionist feminism, and evangelical Christian ideology (Bernstein, 2007, p. 143; Langum, 1994, p.4; Lou, 2020, p.15). This has led to the conflation of consensual sex work and sex trafficking being at the forefront of modern legislative discourse. Thus, sex workers are often portrayed as lacking agency and in need of saving (Block & Carroll, 2021, pp. 1161-1162). However, there is little to no valid research to back up this narrative, and it directly contrasts numerous micro-level studies engaging sex workers (Bernstein, 2007, pp. 132-134; Weitzer, 2007, pp. 455-467). Nevertheless, it continues to persist and results in numerous negative consequences for those who engage in the sex industry as well as society at large.

However, public perception regarding commercial sex work is beginning to shift. The majority of Americans support efforts to decriminalize commercial sex work (Lou, 2020, pp. 22-23). As such, this paper builds off this shift in perception and endeavors to understand the current state of U.S. sex work legislation. It highlights how the modern anti-trafficking and anti-prostitution rhetoric, which gained traction under President George W. Bush's Administration, continues to shape the current criminalization framework (Weitzer, 2007, pp. 459-461). It also illustrates the numerous negative consequences that commercial sex workers, marginalized communities, and American society must navigate as a result. It then analyzes the case study of Rhode Island, where indoor prostitution was decriminalized throughout the state (Gordon, 2017; *Rhode Island*, 2020), and demonstrates how decriminalization policies can benefit society at large. It concludes by discussing how U.S. sex work legislation may be amended by centering the voices of sex workers.

Furthermore, it acknowledges that decriminalizing sex work is just one step toward correcting the numerous social injustices that occur under a criminalized framework. As such, it is the viewpoint of the author that the U.S. should progress away from its current criminalized framework on both the federal and state levels and should establish legislative precedents that reflect what researchers, advocates, and sex workers argue: criminalizing the commercial sex industry is harmful to all U.S. Americans.

Introduction

Public Perception of Sex Work

Prostitution is often referred to as the world's oldest profession; it has existed for millennia and has been documented in all societies for which there are written records (Jenness, 1990, p. 416). Throughout its existence, this profession has had numerous connotations varying from sacred to sacrilegious to stigmatized. However, more recently, primarily in Christian and Western societies, sex workers and the sex industry have been branded as sinful and immoral, with sex workers specifically depicted as victims rather than as individuals engaged in a profession with their own agency. Today this has resulted in sex workers having to navigate the murky waters of societal moralization along with the resulting ongoing circumstances and systems of violence, as they have often been used as scapegoats. During the Civil War in the United States (U.S.), it was common for a man to evade assault charges by simply accusing a woman of being a sex worker. Whether she was or not did matter in a society fixated on feminine virtue (Welch, 2021, p. 97). During the Black Plague of the 14th century, sex workers were burned alive. This was done as many believed that the bubonic plague resulted from God's ire with humanity and that if society were purified of all its "sinners," almighty God would leave the remainder alone (Welch, 2021, p. 99). Unfortunately, such stigmatization has not changed much in modern times, leading to unfavorable working conditions, debilitating economic environments, increased levels of violence from potential clients and the state, and a general lack of safety, agency, and security for those involved in the commercial sex industry. One 2004 study concluded that "women engaged in prostitution face the most dangerous occupational environment in the United States" (Potterat et al., 2004, p. 784). Thankfully, there seems to be a slow

but general shift in the public perception of commercial sex work in recent years, with the legislation and the regulation of the commercial sex industry becoming hot topics of political and social debate across the globe.

However, since the turn of the 20th century, the discussion of commercial sex work in the U.S. has existed at the fringes of society. Still, sex workers, activists, and advocates have been diligently working to change this over the last few decades. Data for Progress's 2019 national survey found that most respondents supported decriminalizing sex work, with Democrats and Independents overwhelmingly supporting the policy (Lou, 2020, p. 22). The most substantial support was found among the youngest respondents, with two-thirds of respondents aged 18-44 supporting decriminalization efforts (Luo, 2020, p. 23). Survey results also indicated no substantial geographic divide (Luo, 2020, p.23). By 2020, the topic had entered the current national discussion. In the run-up to the most recent U.S. presidential election, Democratic candidates such as Bernie Sanders and Kamala Harris were asked to officially announce whether or not they supported decriminalizing sex work (Dickson, E.J., 2019).

Decriminalizing sex work is a policy that most Americans, particularly younger Americans, support, and they are not alone. Many organizations worldwide, from various disciplines, have come out in support of such policies. The American Civil Liberties Union (ACLU) has supported decriminalization efforts for over four decades (ACLU, 2020). In recent years, human rights organizations such as Human Rights Watch and Amnesty International have also followed suit, touting the importance of human and labor rights (Amnesty International, 2016; Human Rights Watch, 2012; Nguyen, 2019). Furthermore, international health organizations such as the World Health Organization and the Joint United Nations Programme on HIV/AIDS have also come out supporting such policies citing research on the many public health benefits they could have (UNAIDS, 2021; World Health Organization, n.d.). While much of the debate surrounding the decriminalization of commercial sex work rightfully focuses on those involved in the industry, little is dedicated to how such policies could benefit society at large.

Research Question and Research Methods

While public perception towards commercial sex work has begun to shift, many of the narratives surrounding the profession in the U.S. have seemingly remained the same. The conflation of sex work and sex trafficking continues at the forefront of legislative discourse, and the context around the sex trade is often oversimplified and discussed in strict, black-and-white terms. However, the criminalization of sex work is anything but simple. It is a complex social issue with far-reaching implications that affect various aspects of American society. As such, this paper will wade into the discourse of contemporary sex work legislation in the U.S., and it will work to address the following question: How has commercial sex work been legislated in the United States, and how has this impacted sex workers and American society at large? Specifically, this paper will set itself apart from the existing body of research on sex work legislation by highlighting how many seemingly innocuous anti-sex work and anti-trafficking policies affect all Americans, not just those engaged in the sex industry.

Due to the exploratory nature of this research question, multiple qualitative research methods were selected. These methods were chosen as they allowed for the necessary flexibility to holistically understand the complex issue that is the criminalization of commercial sex work, which the rigidity of quantitative methods could not due to the clandestine nature of the U.S. commercial sex trade and the resulting lack of valid data sets (Deny & Weckesser, 2022, p. 1166). As such, a literature review was conducted to better contextualize the origins and future of U.S. sex work legislation and regulation and their impact on the American public. After that, an analysis of the only modern case of state-wide sex work decriminalization in the U.S. was conducted. This case study looks at Rhode Island's decriminalization of indoor prostitution between 2003 and 2009 and the resulting health and safety outcomes observed throughout the state. Additionally, the case looks at the impacts that re-criminalizing all forms of prostitution had on marginalized communities in the state. Finally, to gain more insight into the current state of sex work legislation and regulation in the U.S., three expert interviews were conducted. These interviews were conducted with current and former sex workers who are now active within the advocacy

space and are associated with the Rhode Island chapter of COYOTE, Call of Your Old Tired Ethics. Not only were these experts crucial in understanding the current state of sex work legislation and its impacts, but they provided valuable insight into how sex work legislation could be improved upon to benefit not only sex workers but all Americans.

1. Literature Review

An Overview of Terminology

Individuals participate in the **sex trade** when they trade sexual services for resources. These resources can include money, housing, food, drugs, etc., and can occur within various frameworks. This trade may be legal or criminalized, short-term or long-term, serve as the individual's primary or supplemental income, and be performed with others or independently (Lou, 2020, p.4). Individuals engage in this trade for several reasons, all of which are located on a continuum of "choice, circumstance, and coercion" (Luo, 2020, p.4). Historically, the act and practice of trading sexual services for money have been defined as **prostitution** (Merriam-Webster, 2023). While this term is still commonly used, especially in legal contexts, it has historically been associated with criminality and immorality (McMillan et al., 2018, p. 1518). Recently, it has been replaced with a more value-neutral term, **sex work** (Block & Carroll, 2021, p. 1157). This was primarily the result of activists' efforts to distance commercial sex from historical stigma and root it in discussions of labor, human rights, and individual agency (McMillan et al., 2018, p. 1519). While this term is often used interchangeably with prostitution, it is an umbrella term that describes various "consensual commercial sexual activities between adults" (Block & Carroll, 2021, p.1157). As such, it can refer to several activities within the commercial sex industry, many of which may not include direct physical contact between a sex worker and their client. A non-exhaustive list of such activities includes stripping, erotic dancing, camera work, fetish modeling, and pornography (Block & Carroll, 2021, p. 1158; McMillian et al., 2018, p.1519). For this paper, the terms "sex work" and "sex worker" will be primarily utilized. Other terms will be used upon request, in quotations, or to clarify specific legal and social contexts.

Nevertheless, not every individual that trades sexual services for resources is a sex worker. **Transactional sex** is an ambiguous term often incorrectly used as a catchall for commercial sex. While it does refer to the trading of sexual services for resources, it differs from sex work in that it is often informal and nonprofessional (McMillian et al., 2018, pp. 1520-1521). As such, it addresses a range of behaviors where sexual services may be traded as part of a social transaction or commitment. Some examples may include standard courtship practices or domestic sex. In the U.S. context, it is often utilized to refer to women who are not sex workers but are financially dependent on the men they live with or their children's fathers (McMillian et al., 2018, p.1522). **Survival sex** is a form of transactional sex, but it is associated with necessity and a general lack of options. It denotes significantly less agency than sex work; and refers to the trading of sexual services for resources such as drugs, food, shelter, or cash. In the U.S. context, it is mainly associated with youth, houselessness, and drug dependence (McMillian et al., 2018, p.1523). Finally, sex work and sex trafficking are often incorrectly conflated, which can lead to further stigmatization and ignores the agency of sex workers. Therefore, this paper will utilize the U.S. federal government's definition of **sex trafficking**, which is:

"The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for...a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age" (United States Department of Justice, 2022).

While this is not an exhaustive terminology list—and some future language will be clarified in footnotes—this list highlights various situations where sexual services are traded for resources. Moreover, it illustrates that this trade, and thus the commercial sex industry at large, are not monolithic systems. Therefore, context must be acknowledged and considered when discussing the various aspects of these systems and the people who engage in them. Nevertheless, while anyone of any gender or sexual identity may engage in sex work, it has historically been feminized. As such, much of the following discussion will draw upon feminist discourse and utilize feminized terminology. This does not reflect

the author's opinion but rather the current state of the literature and overall discourse surrounding commercialized sex work.

An Overview of Legislative Frameworks

In the last couple of decades, various governments across the globe have taken different approaches to legislating and regulating the world's oldest profession. In New Zealand and parts of Australia, sex work is fully decriminalized (McKenna & Boyd, 2022, p.3). As such, there is a "complete removal of criminal penalties related to the sex trade" (*The Law & Sex Work*, 2020). To be sure, under this model, criminal penalties have not been removed for acts of rape, abuse, trafficking, kidnapping, etc. (Lou, 2020, p.17). Still, other countries—such as Sweden, Norway, France, Ireland, and Canada—have adopted the Nordic Model. Under this model, there is partial decriminalization, where the purchasing of sexual services is criminalized, while the selling of sexual services is not (*The Law & Sex Work*, 2020). The goal of this model is to end the commercial sex industry by disrupting the demand for it (Lou, 2020, p. 17). Though, in other countries like the Netherlands, Germany, and a few rural counties in the U.S., prostitution is fully legalized (Lou, 2020, p.17). Under this model, the government is the official regulator of the market, and licensing and various regulations are enacted (*The Law & Sex Work*, 2020). Opponents of the latter two models maintain that they are rooted in the victimization trope of sex work and depict sex workers as lacking agency (Block & Carroll, 2021, p. 1166). Nevertheless, these legal frameworks are the exceptions, and in many countries, including the rest of the U.S., sex work is still fully criminalized.

The exact size of the commercial sex industry in the U.S. is unknown. However, one study funded by the National Institute of Justice indicated that the underground sex industry in Atlanta alone brought in \$290 million in 2007 (Dank et al., 2014, pp. 279-280). Part of why it is so difficult to get numbers regarding the U.S. industry is because full-service sex work—i.e., prostitution—is criminalized in all 50 states to varying degrees. Various penal codes throughout the country fully outlaw the sale, procuring, and assistance of sexual service exchange. As such, anyone who works or lives with, or provides services to a sex worker could potentially face criminal charges. This includes fellow sex workers,

drivers, landlords, friends, roommates, partners, and children. The only current exception to this full-scale criminalization can be found in Nevada (Luo, 2020, p. 6). In this state, prostitution is legal in certain rural counties so long as it occurs within a licensed brothel and that brothel is in a county with a population below 700,000 (McKenna & Boyd, 2022, pp. 1-2). However, this is not the only alternative to criminalization that has occurred in the U.S. in recent history. From 1980 to 2009, indoor prostitution was decriminalized throughout Rhode Island. This is the only modern example of the state-wide decriminalization of sex work in the U.S. (McKenna & Boyd, 2022, p.3). Additionally, while this legislation spanned almost three decades, the decriminalization of indoor prostitution was not officially recognized until 2003, when a civil attorney successfully argued that the law did not prohibit selling consensual sexual services behind closed doors. As a result, indoor prostitution remained decriminalized throughout the state until 2009, when all forms of prostitution were re-criminalized (McKenna & Boyd, 2022, p.3).

The Impacts of a Criminalized Framework

Proponents of criminalization often espouse how commercial sex work is inherently exploitative, coercive, and harmful. Yet, Marxists would counter that all labor within a capitalistic system can be classified as such (Block & Carroll, 2021, p. 1167). Therefore, it may not be the exploitative or coercive nature that proponents of criminalization are concerned with but rather what is deemed as the immodest and immoral nature of the labor in question (Welch, 2021, p. 100). This aligns with the narrative that **abolitionist feminists**² and evangelical Christian conservatives popularized throughout the U.S. in the 1990s and 2000s. While these two groups may disagree on other issues, such as same-sex marriage and abortion, these uncanny bedfellows view the commercial sex trade as detrimental to society. However, their reasoning behind their views differs. The feminist groups view the power structures surrounding the commercial sex industry as intrinsically

² Abolitionist feminism is a term that refers to a subset of feminists that wish to abolish the sex industry entirely as they deem it, and more generally, the sale of sexual services, as harmful to all women and the heteronormative ideal of a privatized family. Furthermore, it is a subset of second-wave feminism, which has traditionally lacked intersectionality and been centered around issues that white, educated, upper- and middle-class cis-women are concerned with (Weitzer, 2007, p. 450).

male-dominated and thus oppressive to all women and the privatized family as an extension. In contrast, evangelical Christian groups view the commercial sex industry as a genuine threat to traditional family values and the moral fiber of American society (Weitzer, 2007, pp. 448-452). Overall, proponents of criminalization often portray commercial sex work and the commercial sex industry as inherently harmful and view sex workers as victims who need to be saved.

However, these arguments ignore the agency of sex workers and disregard the trauma many workers face as a direct result of criminalization. Under such a legal framework, various state protections and support systems, such as unemployment benefits, are often barred from commercial sex workers (Block & Carroll, 2021, pp. 1161-1162). Moreover, in response to the COVID-19 Pandemic, many governments developed relief programs to assist their citizens; nevertheless, many sex workers could not access these programs due to the criminalized nature of their work (Lam, 2020, p.778). Likewise, many governments do not classify sex work as work, so it may not be recognized as a small business. As a result, many sex workers could not access various labor protections and economic supports, such as small business loans, disaster loans, or grant assistance that others could (Lam, 2020, p. 778; Welch, 2021, p. 100). This is just one example of the resource-scarce conditions and precarious economic environments that sex workers must navigate under criminalization.

Additionally, the criminalization of sex work often drives the industry to operate underground or on the fringes of society, resulting in a more dangerous work environment with riskier clients and lower bargaining power for sex workers (Block & Carroll, 2021, p. 1162). Nevertheless, it is essential to note that the industry is highly segmented, with the outdoor market having the highest rates of violence (Church et al., 2001). One study indicated that women who actively engaged in the criminalized outdoor market were almost 18 times as likely to be murdered as women of a similar age and race who did not engage in this market (Potterat et al., 2004, p. 782).

However, sex workers do not only face violence from their clients. One of the biggest threats to sex workers under a criminalized framework is state-sanctioned violence. A 2012 report documented how law enforcement and prosecutors used condoms as evidence of

prostitution in four major cities across the U.S. (Human Rights Watch). This practice led to sex workers being hesitant to carry condoms, which led to them having unprotected sexual encounters, putting them and their clients at risk for HIV and other sexually transmitted infections (*US: Police Practices Fuel HIV Epidemic*, 2012). This is concerning as female sex workers' risk for contracting HIV is 30 times higher than the general female population (UNAIDS, 2021). As such, this practice undercut public health initiatives and negated an individual's fundamental right to privacy and their ability to protect their health.

The same report also illustrated that this practice was often the result of profiling rather than having witnessed an individual engage in illegal activity. This led to many transgender individuals being stopped and searched for condoms regardless of if they were involved in the commercial sex industry or not (*US: Police Practices Fuel HIV Epidemic*, 2012). Many sex workers interviewed in the report also described abuse by law enforcement. Transgender women reported being defaced and verbally accosted, while cisgender women described instances where sex was demanded in exchange for not being arrested (*US: Police Practices Fuel HIV Epidemic*, 2012). Under the framework of criminalization, sex workers and members of historically marginalized communities are forced to navigate various forms of violence, not least of which stems from law enforcement. This framework leads to sex workers and members of marginalized communities having to navigate highly stressful environments, which has numerous ongoing negative impacts on their overall health and well-being (Welch, 2021, p. 102).

The Conflation of Sex Work and Sex Trafficking

Furthermore, a common claim proponents of criminalization make is that sex work and sex trafficking are inherently interlinked. They often espouse that prostitution is the leading cause of human trafficking. Despite little to no research to back up this claim, this narrative has nevertheless taken root in public and private sector spaces and furthers a harmful myth that sex workers are victims in need of saving (Weitzer, 2007, p. 454). Additionally, these same proponents often claim that sex trafficking is a huge issue that multiplies year after year (Weitzer, 2007, p.454). However, gaining reliable figures to back up this claim is almost impossible, given the clandestine nature of human trafficking.

Human trafficking statistics are often criticized for lacking methodological transparency and source documentation or are based on inference from limited unverified cases (Weitzer, 2007, p. 456). There is also no universal definition of trafficking or of a trafficking victim, which makes comparing data extremely difficult (Weitzer, 2007, p. 456). Nevertheless, it is within the best interests of these proponents to make such claims, as the magnitude of a social issue determines how much media coverage, donor revenue, and consideration from policymakers it receives (Weitzer, 2007, pp. 455-456).

One often-cited study supposedly backs up these claims regarding human trafficking. This study attempts to conduct a cross-national comparison to investigate the impact that “legalized prostitution [has] on human trafficking inflows” (Cho, Dreher, & Neumayer, 2017, p. 67; Weitzer, 2014, p.13). The researchers were interested in seeing whether the legalization of prostitution either decreased trafficking due to the substitution effect or increased trafficking due to the scale effect. Their research indicated that the scale effect won out and that countries, where prostitution was legal had worse human trafficking outcomes than those where it was illegal (Cho, Dreher, & Neumayer, 2017, p. 68). However, this study has one major flaw: the researchers' dataset.

As previously stated, it is almost impossible to find statistically valid data sets regarding human trafficking. The researchers do acknowledge that their data does not reflect “actual trafficking flows” and head caution when interpreting their figures (Cho, Dreher, & Neumayer, 2017, p.70). Their data set stems from the UNODC and is a hodgepodge of 113 diverse sources. Unsurprisingly, there is no universal definition for trafficking among these sources, and many lack transparency regarding their data collection methods and how countries report their figures. Many of these sources also lump figures regarding smuggling and other irregular migration patterns in with trafficking. So, while the data has numerous issues, the researchers still utilize it to make the grand claim that legalization increases human trafficking (Weitzer, 2014, p.13).

Despite these well-established issues with human trafficking data, the grouping of sex trafficking and sex work is still prevalent in the U.S. legislative discourse. This grouping is exceptionally harmful and exacerbates the stigma surrounding the commercial sex

industry and those who engage in it. Furthermore, this conflation leads to consensual sex workers being targeted by law enforcement, as their attention is directed toward sex workers rather than sex traffickers (Block & Carroll, 2021, p. 1163). Moreover, the anti-trafficking and anti-prostitution rhetoric pushing modern U.S. legislation has repeatedly been utilized to the detriment of all Americans, regardless of if they engage in the sex industry or not.

U.S. Anti-trafficking and Anti-prostitution Legislation

In 1910, Congress passed the White Slave Traffic Act, also known as the Mann Act. It was the first antitrafficking legislation in the U.S. and brought a period of widespread commercialized prostitution to an end (Bernstein, 2007, pp. 132-133). Moreover, it was established to address the concern of “white slavery” and made transporting women across state lines with the intention of “immoral purposes” a felony (Langum, 1994, pp. 3-4; Luo, 2020, p. 15). As such, until 1986, when the law was amended, many individuals in the U.S. could have been charged with committing a federal felony. For example, if an individual transported their girlfriend across state lines—i.e., from New York to New Jersey—with the intent to pursue sexual relations, they could have been charged with violating the Mann Act. Furthermore, due to the language of the legislation, whether these relations occurred or not did not matter; rather, the intention behind the act did (Langum, 1994, p. 4).

Moreover, with an influx of immigrants—particularly Jewish immigrants—coming to the U.S. in the late 1800s and early 1900s, and the remarkable fact that more women were moving to cities and living alone without the supervision of male family members, this legislation was born out of widespread hysteria regarding interracial relationships and white women’s virtue (Langum, 1994, p.4; Lou, 2020, p.15). Even though there was little to no evidence that white women were being forced into the commercial sex industry, outside of economic concerns, anti-White Slave activists successfully enacted legislative change (Bernstein, 2007, pp. 132-133). As such, the Mann Act established the Bureau of Investigation—the predecessor of the Federal Bureau of Investigation—and was utilized to enforce racial prejudice throughout the country for decades (Pliley, J.R., 2014, p.1). For

example, one of the first individuals charged under this law was Jack Johnson, the country's first African American heavyweight boxing champion. In 1913, Johnson received federal felony trafficking charges for traveling across state lines with a white prostitute. It is widely believed that the woman in question was not a prostitute but Johnson's girlfriend at the time (Lou, 2020, p.15; Weiner, 2008). However, the Mann Act is just one example of the federal government attempting to coerce "correct moral conduct" from its citizens (Langum, 1994, p.9).

The narrative around protecting women's virtue as a guise for correct moral conduct has not faded into history. The modern anti-trafficking and anti-prostitution movement in the U.S. has its roots in **carceral feminism**³ and evangelical humanitarianism (Bernstein, 2007, p. 143), and critics have highlighted its many similarities to the white slave scare of the 1900s (Bernstein, 2012, p. 243; Weitzer, 2007, p.467). Both movements portray victims as young, innocent women or girls abducted and forced into the sex industry against their will by villainous men (Bernstein, 2007, p. 132; Weitzer, 2007, pp. 464-467). As such, both movements center around the sexual violation of women and girls rather than the structural and economic environments that allow labor exploitation to flourish (Bernstein, 2012, p.242). Additionally, neither has empirical data to support its claims (Bernstein, 2007, pp. 133-134; Weitzer, 2007, pp. 455-456). On the contrary, modern microlevel research with sex workers indicates that this narrative does not reflect how most would describe their situation. Many maintain their agency and report making conscious decisions to enter the industry and view their work in a neutral light (Weitzer, 2007, pp. 452-454; Weitzer, 2017, pp. 15-20). Finally, both narratives were pushed because of concerns regarding the traditional heteronormative frameworks underpinning the privatized and securitized family, with modern abolitionist feminists specifically concerned about the domestication of men and their sexual exploits outside of the domestic sphere (Bernstein, 2007, pp. 249-250).

³ Carceral feminism refers to a type of feminism that was popularized by abolitionist feminists that advocate for law-and-order reforms, such as increased prison sentences, for gender and feminism issues (Bernstein, 2007, p. 143; Bernstein, 2012, p.236). This feminism-as-crime-control model has often been disguised as international human rights and has been used to support such things as vigilante brothel raids in third-world countries by evangelic Christian groups and local law enforcement (Bernstein, 2012, p.251).

Regardless of history repeating itself, the modern anti-trafficking and anti-prostitution movement gained traction under former U.S. President George W. Bush and his Administration's faith-based initiatives. As such, the movement's opinions were integrated into official U.S. policies and positions that continue today (Weitzer, 2007, pp. 459-461). This includes the conflation of sex work and sex trafficking, as fighting trafficking without also fighting sex work is seen as "treating the symptom instead of the disease" and works toward the movement's ultimate goal of eliminating the entire commercial sex industry (Weitzer, 2007, pp. 454-455). This led to the implementation of the U.S. government's "anti-prostitution pledge," which requires organizations to condemn sex work—i.e., prostitution—to gain federal funding. As such, this can have devastating impacts on public health NGOs working to address the AIDS/HIV epidemic, as they may not be eligible for federal funding if they provide free condoms or do not take a bold anti-prostitution stance (Bernstein, 2012, p. 251; Weitzer, 2007, p. 464). Additionally, strict federal laws against domestic trafficking and prostitution have been enacted, which has led to increased sentencing. Not only do these laws affect commercial sex workers and their clients, but they have been broadly utilized to target people of color. (Bernstein, 2012, p. 242). Young, typically non-white, men convicted of pimping now potentially face prison time of up to 99 years for domestic trafficking, whereas before, they received a few months. Additionally, migrant sex workers are increasingly detained and deported for their supposed protection (Bernstein, 2012, p. 253). A more recent example of such domestic anti-trafficking legislation is the FOSTA-SESTA federal legislation.

In 2018, a package of anti-trafficking bills known as FOSTA-SESTA—which included the Senate-led Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) and House-led Stop Enabling Sex Traffickers Act (SESTA) bills—was signed into law (Albert et al., 2020, p. 1084; Citron & Jurecic, 2018; Jurecic, 2022). Among other things, the package amended the Mann Act and Section 230 of the Communications Decency Act, which essentially made tech companies immune from the majority of liability associated with disseminating third-party content (Citron & Jurecic, 2018; Jurecic, 2022). Supporters of Section 230 advocated that it is "why we have the internet," as it allowed online platforms

to be safe havens for speech (Citron & Jurecic, 2018). As such, a new federal crime of “owning, managing, or operating a website or other [interactive computer service] with the intent to promote or facilitate the prostitution of another person” was established (Albert et al., 2020, p.1132; Jurecic, 2022). Websites and other online platforms must now navigate unparalleled levels of liability, manifesting in possible fines and prison time of up to a decade if the platform owner is found to have violated this law (Block & Carroll, 2021, p.1163). Bipartisan support—including now Vice President Kamala Harris—maintained that it would address loopholes that prevented websites, like Backpage.com, from avoiding liability regarding sex trafficking, yet these claims have not been proven (Citron & Jurecic, 2018; Jurecic, 2022).

Instead, research indicates that this legislation has led to more dangerous working conditions for commercial sex workers and hindered law enforcement’s efforts to investigate and prosecute sex trafficking (Albert et al., 2020, p.1084; Block & Carroll, 2021, pp. 1162-1163; Jurecic, 2022). Additionally, a 2021 Government Accountability Office report indicated that federal prosecutors had almost no use for the additional criminal penalties enacted by this legislation (Jurecic, 2022). Before the passage of FOSTA-SESTA and the removal of Backpage.com, sex workers in the U.S. could advertise relatively easily online, screen potential clients, and share safety information. Now, sex workers report facing higher rates of financial instability as they can no longer easily advertise online and are often required to charge lower fees for their services. Moreover, they report facing increased difficulty accessing online financial tools such as PayPal (Blunt, D., & Wolf, A., 2020; pp. 118-120). Significant safety issues are also reported as workers struggle to screen potential clients and implement other web-based harm reduction techniques (Blunt, D., & Wolf, A., 2020, p. 119).⁴

Nevertheless, while many sex workers report a general fear of discussing their work online, a majority highlight their increased involvement in advocacy and their community

⁴ These claims fall in line with what research indicates. One unpublished study looked at the effects that Craigslist’s “erotic services” section—which was a section of the website that sex workers primarily used to advertise their services—had on female homicide rates. The study’s results indicated that Craigslist’s enactment of this section was associated with an over 17% reduction in female homicide (Cunningham, DeAngelo, & Tripp, 2017).

as a direct result of the passage of FOSTA-SESTA (Blunt, D., & Wolf, A., 2020, pp. 120). Finally, due to the legislation's vague language, experts highlight that it could potentially constrain Americans' first amendment right to free speech in the future (Albert et al., 2020, p. 1085; Citron & Jurecic, 2018). As such, the framework of criminalization not only worsens the working conditions for sex workers, but it also has the potential to set a legislative precedent to severely impact the constitutional rights of all Americans. Therefore, it is in the interest of all Americans to push for the U.S. federal government to consider other legislative frameworks that are more targeted and driven by research involving sex workers rather than moral crusades.

2. The Case Study of Rhode Island

An Overview of the Case Study

Rhode Island is a unique case for analyzing the impacts of decriminalizing sex work for several reasons. First, it is the only modern case of state-wide decriminalization in the United States. Second, the sex industry is notoriously difficult to study since it is an industry that has historically operated underground and, as a result, has been unregulated and thus difficult to measure (Gordon, 2017). Furthermore, when countries like New Zealand or Sweden choose to enact new sex work legislation, the entire country typically adopts this new law simultaneously. While this implementation framework makes sense—clear ethical and practical concerns make enacting a law in one area and not in others problematic—it does constrain how these legislations can be studied and understood. As such, most studies on decriminalizing sex work can only review the effects before and after a new law is enacted. Due to such implementation frameworks, these studies often have no valid control group. This leads to an unclear picture surrounding the impacts of legislating and regulating the commercial sex industry. However, this is not the case with Rhode Island. It is one of the only natural experiments of decriminalization with viable control groups—i.e., other states within the U.S. simultaneously. Therefore, this case is uniquely positioned to provide insights into the impacts of decriminalizing sex work in the U.S. (Gordon, 2017).

Modern Sex Work Legislation in Rhode Island

To understand how indoor prostitution was decriminalized in Rhode Island, it is essential to understand the context in which this legislative anomaly occurred. The 1970s in the U.S. was a time of sexual liberation and welcomed a wave of feminism and activism that considered commercial sex work a legitimate and empowering profession (Gordon, 2017). Margo St. James, a former sex worker and the founder of the sex worker's rights advocacy organization COYOTE—Call Off Your Old Tired Ethics, which will be further discussed later in this paper—was a staunch advocate of this position. In 1976 she targeted the state of Rhode Island as part of her mission to restructure sex work legislation throughout the country (Gordon, 2017). The state's law at the time was so broad that prostitution or "any other lewd or indecent act" was considered a felony (*ACLU Rhode Island Presentation*, 2022, p.3). As such, the national organization, its Rhode Island chapter, and a pseudonymous sex worker filed a lawsuit, *COYOTE v. Roberts*, that challenged the constitutionality of the state's law. They argued that Rhode Island's law was too expansive, infringed on an individual's right to privacy, and was discriminatory towards women (*ACLU Rhode Island Presentation*, 2022, p.3). COYOTE illustrated this last point by highlighting that the arrest of female sex workers in the state far outweighed the arrests of their male clients (Gordon, 2017; *Rhode Island*, 2020).

At the same time, there was a significant increase in the sex industry in the state, particularly in the state's capital city of Providence, and residents were concerned. So, state legislators tried to address the concerns of their constituency and bypass COYOTE's lawsuit by reworking the law in question. Their goal was to expedite the conviction process by downgrading the selling of sexual services from a felony to a misdemeanor (Donnis, 2009; Gordon, 2017). Through this process, the crime of "loitering to solicit for prostitution"—i.e., street solicitation—was changed from a felony to a misdemeanor (Donnis, 2009; Gordon, 2017; *ACLU Rhode Island Presentation*, 2022, p.4). This rewrite led to the dismissal of COYOTE's lawsuit, and the state was required to pay the organization's legal fees (*Rhode Island*, 2020). The court's decision for dismissal cited the state's Attorney General's interpretation of the amended law, declaring that "the amended statute no longer

prohibits private consensual sexual activity between adults” (*ACLU Rhode Island Presentation*, 2022, p.5). A 1998 state Supreme Court ruling also endorsed this updated language. In *State v. DeMagistris*, the court ruled that the law was “primarily to bar prostitutes from hawking their wares in public” and therefore did not concern private, consensual sexual endeavors (*ACLU Rhode Island Presentation*, 2022, pp. 5-6; *Rhode Island*, 2020). Nevertheless, the impacts of this updated language were not fully comprehended until 2003 (McKenna & Boyd, 2022, p.3).

In the early 2000s, Providence police took down two spas and charged four women with prostitution in “Operation Rub Down” (Ehrenfreund, 2014). The defendants turned to civil attorney Mike Kiselica to argue their case. Since Kiselica did not typically work on criminal cases, he reviewed the state’s law. Through his review, he realized that the law did not stipulate anything about indoor consensual sexual services (Gordon, 2017). As such, he began winning cases to the point where he gained the attention of Providence’s then-mayor David Cicilline, who was none too pleased. So, in 2003 Kiselica and the city of Providence went to court (Gordon, 2017). The judge ruled in Kiselica’s favor as he had cited the 1998 state Supreme Court ruling, and the charges against his clients were dropped (Gordon, 2017; *Rhode Island*, 2020). Due to this ruling, from 2003 to 2009, indoor prostitution was publicly acknowledged as decriminalized throughout the state. Not until November 3, 2009, when Governor Donald Carcieri signed House Bill H5044 into law, were all forms of prostitution re-criminalized throughout the state (Donnis, 2009; *Rhode Island*, 2020). This push to re-criminalize all forms of prostitution centered around the need to “crackdown on trafficking” and incorrectly conflated consensual, commercial sex work with human trafficking (*ACLU Rhode Island Presentation*, 2022, p.6).

The Impacts of Decriminalizing Indoor Prostitution

Manisha Shah, an economist at UCLA who studies the global sex industry, and Scott Cunningham, an economist at Baylor University who concentrates on “the economics of risky behaviors,” decided to analyze the impacts of decriminalizing indoor prostitution in Rhode Island, and their research found some interesting results (Baylor University, n.d.; Ehrenfreund, 2014; Gordon, 2017; McIntyre, 2014). Their study specifically looked at how

the public acknowledgment of the decriminalization of indoor prostitution from 2003 to 2009 affected the composition of the commercial sex market in Rhode Island and its effects on sexual violence and STI rates throughout the state (Cunningham & Shah, 2017, p. 1684). The results of their research indicated that the indoor sex market in Rhode Island grew significantly after decriminalization was officially recognized; moreover, they also claimed that sex work in massage parlors specifically increased by over 200% and that transaction prices correspondingly decreased by 33% (Cunningham & Shah, 2017, p. 1694).

Regarding pricing, this matches what basic microeconomic theory suggests would happen when the supply of a commodity dramatically increases in a market. However, there is one major flaw to this claim. To determine the market size, the authors utilized the number of online and newspaper advertisements for adult services. While the number of ads increased after decriminalization was acknowledged, it is still hard to determine whether the size of the commercial sex market in the state changed based on this data alone. One possible explanation for the increase in advertisements is that the industry could now operate in the open. As such, more sex workers and businesses could advertise their services without fear of legal repercussions. Whether these providers existed before the legislative change is harder to determine as there were no previous measurements due to the market's clandestine nature.

The authors then turn their attention to questions regarding sexual violence and public health throughout the state. Cunningham and Shah were interested in testing the hypothesis that decriminalizing sex work would increase violence against women, as some other researchers had previously suggested. Their research found that the opposite was true and that the decriminalization of sex work in Rhode Island was tied to an overall reduction in reported rape offenses throughout the state. From 2003 to 2009, reported rapes in the state decreased by over 30% (Cunningham & Shah, 2017, pp. 1694-1696). This is especially significant because the researchers found that the rates of other reported crimes—burglary, murder, car theft, etc.—did not change significantly during the same period (Cunningham & Shah, 2017, p. 1696). As such, these figures support the argument that decriminalizing sex work decreases violence against women.

Despite expecting a decrease in reported rape offenses resulting from the increased bargaining power of sex workers and thus the increased likelihood that they would report violence post-decriminalization, the researchers themselves were surprised by just how significantly reported rapes decreased throughout the entire state. Although they are unsure why this occurred, the researchers provide one highly controversial hypothesis: that some violent individuals could view rape and prostitution as substitutes (Cunningham & Shah, 2017, pp. 1694-1696). Regardless of the reasoning behind these results, they align with another study conducted in the Netherlands around the same time. This study analyzed the impacts that opening legal street prostitution zones in the Netherlands had on sexual violence and abuse. The results of this study highlight that the first two years of opening these zones were associated with a 30-40% drop in rape and sexual abuse (Bisschop et al., 2015, p. 53). Although these findings are not the centerpiece of this essay, they warrant additional focus and call into question other systemic societal issues that further impact and marginalize individuals engaged in the commercial sex trade and a renewed prioritization of perpetrators of violent sexual crime.

Finally, the researchers turned their attention to public health. Specifically, the authors were interested in seeing the effect decriminalization might have on STIs and looked at rates of gonorrhea throughout the state. Before decriminalization, Rhode Island's infection rates did not differ significantly from other states. However, from 2004 to 2009, gonorrhea rates throughout the state dropped by more than 40% (Cunningham & Shah, 2017, pp. 1698-1699). The researchers offer two main explanations for this occurrence. Firstly, they highlight that the outdoor sex market tends to be riskier regarding public health outcomes than the indoor sex market. Therefore, as clients move away from the outdoor market and into the indoor market, they enter a market with a lower health-risk population. Secondly, the indoor market tends to engage in lower-risk sexual actions—i.e., manual stimulation vs. unprotected penetrative acts—than the outdoor market. As such, both factors could lead to better public health outcomes (Cunningham & Shah, 2017, pp. 1699-1701). Cunningham and Shaw's research overwhelmingly drives home one point: decriminalizing sex work benefits everyone, not just those engaged in the industry.

The Impacts of Re-criminalizing Indoor Prostitution

While the discourse surrounding re-criminalizing all forms of prostitution in the state centers around protecting trafficking victims, the reality looks vastly different. Under Rhode Island House Bill H5044 individuals can only indicate trafficking after they have been arrested and criminal charges have been mounted against them, meaning that the burden of proof to show one was a victim of trafficking falls on the individual (*ACLU Rhode Island Presentation*, 2022, p.7; Donnis, 2009; *Rhode Island*, 2020). This directly contradicts how the U.S. criminal justice system supposedly operates, where the prosecution is meant to bear the burden of proof (Cornell Law School, n.d.). Moreover, this is concerning as it is widely established that victims are often highly fearful of their traffickers and are not likely to provide evidence against them (*ACLU Rhode Island Presentation*, 2022, p.7).

Furthermore, individuals engaged in the commercial sex industry have been arrested to force their cooperation in trafficking investigations. As such, victims of trafficking could be trading one cage for another. Additionally, police have begun referring arrested individuals to Immigration and Customs Enforcement (ICE) officials. Consequently, undocumented individuals will be discouraged from contacting law enforcement if they have been abused or trafficked for fear of being deported (*ACLU Rhode Island Presentation*, 2022, p.7). Moreover, under this legislation, the seizure and forfeiture of any money and property associated with prostitution charges is allowed. Not only is there an exceedingly low burden of proof required for law enforcement under these laws, but it also means that the charged individual could have any money or property taken away from them. Thus, placing them in an even further disadvantaged position (*ACLU Rhode Island Presentation*, 2022, p.7). Overall, this goes against the savior narrative surrounding the push for re-criminalization in the state.

Additionally, women and Asian spas have been unfairly targeted under the guise of antitrafficking. Analyzing the data for prostitution-related arrests throughout Rhode Island from 2016 to 2019, the ACLU found that 94% of individuals arrested under these charges were women (*ACLU Rhode Island Presentation*, 2022, p.10). Additionally, COYOTE Rhode Island found that since re-criminalization, there has been a significant increase in the

number of Asian spa workers arrested and deported. In 2021, 13 of the 16 total prostitution-related arrests in the state were tied to Asian spa workers (Burns, T., 2023, p. 11). One woman was even ordered to forfeit \$650,000 in cash proceeds and assets to law enforcement (Burns, T., 2023, p.14; Serreze, M., 2021). In conclusion, the re-criminalization of all forms of prostitution in the state of Rhode Island has led to marginalized communities facing elevated levels of discrimination and being unjustly targeted by law enforcement.

3. Expert Interviews

Call Off Your Old Tired Ethics (COYOTE)

Call Off Your Old Tired Ethics (COYOTE) is the first and most well-known national U.S. sex workers' rights organization. This self-proclaimed “loose union of women” was founded in San Francisco, California, in 1973 by former sex worker Margo St. James and had multiple affiliate chapters and partners, many of which continue today (Jenness, 1990, p. 403). This organization works to decriminalize prostitution throughout the U.S., end the stigma around sex work, and establish the discussion of sex workers’ rights within labor and feminist discourse (Jenness, 1990, pp. 403-404). This national organization has been fundamental in shifting the discussion surrounding sex work away from sin, immorality, and victimization. It was founded on the idea that sex workers have agency and that their profession is both valid and voluntary; moreover, in the 1970s, the national organization argued that criminalizing such work was a waste of taxpayer dollars (Jenness, 1990, pp. 406-409). Furthermore, it maintains that criminalizing sex work only further represses female sexuality and leads to an increase in violence against women (Jenness, 1990, pp. 411-412). During the AIDS crisis in the 1980s and 1990s, the national organization became an intermediary between the government and sex workers. Not only did the organization advocate on workers’ behalf, but it also provided resources and education where necessary (Jenness, 1990, p. 415). Overall, the modern discussion of sex work and sex workers' rights would not be where it is today without this organization and its founder.

In 2009 Bella Robinson revived the Rhode Island chapter of COYOTE following the re-criminalization of all forms of prostitution throughout the state. This chapter is a coalition of current and former sex workers, victims of trafficking, and allies who advocate

for health and safety policies for those involved in the sex industry. Similar to the national organization of the 1970s, it works to end the stigma around sex work and advocates for the full decriminalization of consensual sex work, basing its arguments in the larger context of human rights, labor rights, and the tenants of individual agency, equity, and empowerment (*What is Coyote*, n.d.). Moreover, it has been at the forefront of sex work advocacy, education, and research in Rhode Island and the country at large. For example, in 2019, this chapter endorsed a Rhode Island House Bill that created a special legislative committee to study the impacts of the commercial sex industry and the decriminalization of sex work in the state (Uprise RI, 2021). Earlier this year, the chapter also came out in support of Rhode Island House Bill 6064. This bill would provide immunity to sex workers, their clients, and trafficking victims when reporting crimes to law enforcement (COYOTE RI, 2023). If this bill succeeds and is enacted into law, it would be one step towards addressing significant issues of inequality and state-sanctioned violence that sex workers face daily within the state.

Interview Research Methods

Three expert interviews with members of COYOTE Rhode Island's team were conducted to further understand the current state of U.S. sex work legislation and regulation. In addition to their work with COYOTE, each expert also engages in sex work advocacy outside the organization. Moreover, each interviewee works or has worked as a commercial sex worker in the U.S., and their experiences working in this industry vary greatly. As such, they each have various levels of privilege and expertise that they bring to this discussion.

The purposive sampling for these interviews happened by chance (Deny & Weckesser, 2022, p.1166). As an individual who has not worked in the sex industry and is not actively involved in the sex work advocacy space, I do not have any formal or informal networks to draw from. This lack of networks, paired with the criminalization of the U.S. industry, means that many individuals were unwilling or unable to engage with me on this topic as I lacked the prerequisites of validity and trust. These prerequisites are imperative when analyzing the complex nature of the sex industry, as there are real consequences for

workers who openly discuss their experiences, especially since the passage of FOSTA-SESTA. So, while I contacted many organizations and individuals via email and on various social media platforms, I received few responses. However, in preparing the case study of Rhode Island, I stumbled across Elana Gordon's 2017 article, which included an interview with the Rhode Island Chapter's Executive Director, Bella Robinson.⁵ Based on this report, I decided to contact various individuals associated with this organization; almost immediately, I was overwhelmed with support and a general interest to participate in my research.

Initially, these interviews were planned to be semi-structured with a predetermined set of questions in an effort to streamline analysis.⁶ However, since the primary value of these interviews was to gain knowledge, they tended towards unstructured collaborative conversations (McIntosh & Morse, 2015, pp. 4-10). Thus, each interview was unique and allowed each expert to share their experience and knowledge. Moreover, all interviews were conducted over Zoom without a set time limit, with interviewees being verbally informed about the purpose, the voluntary nature of these interviews, and how the information gathered would be utilized. Additionally, interviews were recorded after gaining verbal consent from each expert. Following each interview, links to the interviews' audio and video recordings were given to the experts upon their request. Due to privacy concerns, the transcripts and recordings of the interviews have not been submitted along with this document. Finally, all experts consented to use their names for this paper only.

Interview 1: Nicole

The first interview was conducted with Nicole on Tuesday, May 2, 2023. Nicole founded the mutual aid organization VENUS (Valued Existence of Northeastern and Ubiquitous Sex Workers) (*Staff, Interns and Volunteers*, n.d.). VENUS is a "volunteer-run alliance made up of current and former sex workers... [that works to] connect other current or former sex workers with helpful resources, perform community advocacy work, and offer support and solidarity" (V.E.N.U.S, 2022). In addition to holding bachelor's degrees in

⁵ While this article can be found in the references section of this paper, it is also linked below for ease. <https://why.org/articles/prostitution-decriminalized-rhode-islands-experiment/>

⁶ A complete list of initial interview questions may be found in Appendix A.

English and Women & Gender Studies and working with COYOTE Rhode Island to produce various pieces of research, she is a writer that works on such topics as feminism, sex work, addiction recovery, queer culture, and spirituality (*Staff, Interns and Volunteers*, n.d.). Finally, she is a former sex worker, a current activist, and a human with a diverse background in social justice arenas in and outside the sex industry.

Interview 2: Gabrielle Monroe

The second interview was conducted with Gabrielle Monroe on Wednesday, May 3, 2023. Gabrielle has been an active member of COYOTE Rhode Island's advisory committee member for many years and has recently taken over running the organization's podcast: Sex Worker Story-Telling Series (*Staff, Interns and Volunteers*, n.d.). In addition to being a founder of Survivor Siblings and a founding member of Decrim PA, she is also highly active in pushing for sex worker-centered legislation in her home state of Pennsylvania (*About Gabrielle*, n.d.). Gabrielle has spent most of her adult career working as a sex worker. While her experience resides primarily in the full-service sex work sphere, she does have experience in various other arenas within the industry. In addition to being a sex worker, advocate, and activist, she is also a community organizer and sex trafficking survivor (*Staff, Interns and Volunteers*, n.d.).

Interview 3: Bella Robinson

The third and final interview was conducted with Bella Robinson on Friday, May 5, 2023. Bella is the founder and Executive Director of COYOTE's Rhode Island Chapter and a 2022 FREEHER Fellowship Facilitator (*Bella's Bio*, n.d.). She became a sex worker at 18 to escape an abusive marriage, which she had entered to flee the U.S. foster care system. While the federal government did not then consider guardians exchanging something of value for sexual access to a minor as sex trafficking, it very much falls under today's definition of the term (Burn, 2015). Her over 40 years of experience working as a criminalized sex worker and her experiences with the U.S. criminal justice system give her exceptional insight into sex worker rights and trafficking. Bella is a woman who wears many hats. She is a sex worker, an educator, an activist, an advocate for sex workers' rights, and

a staunch supporter of policies that prioritize the safety and autonomy of sex workers (*Bella's Bio*, n.d.).

Interviews Analysis⁷

While the expert interviews tended towards unscripted collaborative conversations, there were recurrent themes. Regarding the public perception of sex work, not all experts agreed it was improving. Nicole's thoughts aligned most with the 2019 Data for Progress survey findings. She commented that it is now "cool to be a stripper and post about it on your Instagram and Tik Tok" (Nicole, 02.05.2023). She emphasized the role that public figures like Cardi B and Amber Rose, who are open about their previous work as strippers, played in shifting the public discourse among younger audiences. She also suggested that the COVID-19 pandemic may have affected this shift, as many Americans established OnlyFans accounts during the global shutdowns. She posited that as more Americans engaged in sex work, they began to view the industry differently. However, Gabrielle and Bella hesitated to say that public perception had improved.

Both stressed that sex workers, specifically prostitutes, continue to be portrayed as victims of abuse and as drug addicts in the media and the public discourse. Bella argued that it has only gotten worse as the Trump presidency "made hate popular again" and that sex workers are "never going to be popular" (Bella, 05.05.2023). She explained that sex workers are often reduced to being one-dimensional and are not afforded the luxury of having multi-faceted identities. As such, society struggles to view them as anything other than their profession, i.e., as mothers, daughters, students, etc. This ties back to the rhetoric that abolitionist feminists pushed, which positioned sex workers in direct opposition to progressive women and the heteronormative ideal of the domestic privatized family. Modern society now has a predetermined idea of who is a sex worker and what is considered sex work. Nevertheless, Nicole emphasized that this stigma has led to sex work not being regarded as respectable work but countered that it "is just like any other job" (Nicole, 02.05.2023).

⁷ Please note that quotations from these interviews have been modified for clarity.

As previously stated, under current legislation, sex work is not considered a viable form of work. Gabrielle, in turn, highlighted that individuals who engage in sex work “have no rights under the law” (Gabrielle, 03.05.2023). She aptly referred to the current state of sex work legislation in the U.S. as “the war on whores” (Gabrielle, 03.05.2023). Additionally, all experts referenced the coercive nature of these legislations, with Gabrielle depicting the current system as “a big money-making scheme [meant] to keep morally wrong women in our places” (Gabrielle, 03.05.2023). Both Bella and Gabrielle discussed how these legislations have allowed law enforcement and various anti-trafficking organizations to profit financially. This is done through civil asset forfeiture and the ever-increasing amount of antitrafficking funding that such organizations receive (Bernstein, 2012, p.252). Bella also noted that Margo St. James’ initial complaint about the discriminatory nature of sex work legislation remains. COYOTE Rhode Island’s recent research indicates that women are again arrested at far higher rates than their male counterparts (Burns, T., 2023, p. 11).

Moreover, all experts unanimously agreed that the current legislative framework does not address sex trafficking in actuality. They stressed that the underlying discourse of such legislation that conflates consensual sex work and sex trafficking is highly harmful. As such, all experts also vehemently opposed the FOSTA-SESTA legislation highlighting how the removal of online platforms has harmed not only sex workers but also victims of trafficking. This is all generally in line with what previous research has indicated. Moreover, Bella posited that the current discourse surrounding the anti-trafficking movement “seems to be about [determining] who’s worthy and who’s not” (Bella, 05.05.2023). Gabrielle also countered that the “best way to end sex trafficking is to end it before the abuse starts” (Gabrielle, 03.05.2023). Drawing from her experiences as a trafficking victim, she underscored the need to educate individuals to recognize signs of abuse. She also lobbied for youth to access the same survival resources, such as EBT cards, that adults receive.

As such, the experts overwhelmingly supported decriminalization policies. They maintained that these policies, rather than legalization or the Nordic model, would better address the injustices resulting from the criminalization of the sex industry. However, they also did not regard it as the final step. Both Gabrielle and Bella highlighted that

decriminalization must be paired with an overall improvement in social services along with immunity laws, such as Rhode Island House Bill 6064, that work to protect sex workers, sex trafficking victims, and clients from coming forward and seeking help from law enforcement. Furthermore, Bella reasoned that sexual assault bills should be passed to address acts of sexual violence perpetrated by law enforcement officials, correctional officers, parole officers, and any other state-sanctioned position of power. Unfortunately, she shared that COYOTE Rhode Island's work to further such bills has often failed due to pushback from state legislators and police unions. Finally, all experts espoused the importance of future sex work legislation centering the voices of sex workers.

Conclusion

The current U.S. legislative framework criminalizes consensual sex work and conflates it with sex trafficking, which causes immense harm to all Americans. Moreover, this legislative discourse is rooted in elements of xenophobia, carceral politics, abolitionist feminism, and evangelical Christian ideology (Bernstein, 2007, p. 143; Langum, 1994, p.4; Lou, 2020, p.15). These elements work together to ultimately frame all commercial sex workers as victims without agency. To date, legislation has been driven by skewed moral crusades rather than sound research and valid data (Weitzer, 2007, pp. 455-456). Moreover, the narrative pushed by proponents of criminalization that all sex workers are victims has workers have often been left out of the discussion. As a result, individuals engaged in the commercial sex industry often work in dangerous conditions and struggle to access housing, crucial financial tools, essential state support, and basic health care. Ultimately, this push for law-and-order reform from anti-trafficking and anti-prostitution advocates has led to the degradation of American society.

Moreover, under this guise of saving victims, numerous instances of state-sanctioned violence have been perpetrated against marginalized communities and sex workers. U.S. law enforcement openly profiles transgender folk, violates an individual's right to privacy, and restricts their human right to protect their health (Human Rights Watch). This says nothing of the numerous accounts from sex workers about police weaponizing their position of power to perpetrate acts of sexual violence against them

(Burns, T., 2023, pp. 17-18). Furthermore, a distressing number of young men and women of color are being shuttled into an ever-harshening system of penal servitude thanks to these legislations (Bernstein, 2012, p. 242). At the same time, migrant sex workers are increasingly likely to be detained and deported for their apparent safety (Bernstein, 2012, p. 253). Also, if a victim of sex trafficking is found and detained, the precedent often falls on them to prove their status as a victim (*ACLU Rhode Island Presentation*, 2022, p.7). This directly contradicts how the U.S. criminal justice system operates, as the prosecution is meant to bear the burden of proof (Cornell Law School, n.d.). As such, law enforcement efforts are only further compounding the trauma that many commercial sex workers and victims of trafficking face daily. Additionally, recent federal legislation can potentially jeopardize the first amendment right of all Americans (Albert et al., 2020, p. 1085; Citron & Jurecic, 2018). Overall, this framework has led to the violation of human, labor, and constitutional rights on multiple fronts.

Given all this information, it is unsurprising that multiple organizations and many Americans are calling for the commercial sex industry to be decriminalized throughout the country (Amnesty International, 2016; Human Rights Watch, 2012; Lou, 2020, p. 22; Nguyen, 2019; UNAIDS, 2021; World Health Organization, n.d.). Nevertheless, decriminalization alone will not promote racial, gender, and economic justice for all. This research paper maintains that decriminalization is just one step toward addressing the numerous inequalities under the current legislative framework. To fully address these concerns, decriminalization policies must be paired with immunity laws for sex workers and victims of sex trafficking so that they no longer fear legal repercussions or state-sanctioned violence for coming forward with information and seeking help from authorities. Additionally, U.S. antitrafficking legislation at the federal and state levels must be amended. Currently, the U.S. government sets aside significant funds to combat human trafficking; however, all these funds are dedicated to addressing what happens after an individual is trafficked (Bernstein, 2012, p.252). Instead, this paper proposes repurposing these funds to implement more harm-reduction techniques—such as providing financial survival resources to minors and educating minors on the various forms abuse can take.

Overall, these various harm-reduction techniques should target the environmental and economic factors that lead to an individual being more likely to be trafficked and thus address the root of the cause instead of its symptoms. If such measures are not enacted, various well-established stakeholders and systems will continue to utilize U.S. legislative precedents to coerce what is deemed as correct moral conduct. This will only lead to the further targeting and over-policing of marginalized communities and the continued degradation of fundamental rights.

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Appendix A

Initial Interview Questions

1. In your own words, please tell me about your prior experience (professional or otherwise) that led you to be associated with COYOTE RI.
 - a. How long have you been associated with this organization?
2. In my research, I find that a lot of the discourse surrounding sex work leads to the discussion of sex trafficking. Why do you think that is?
 - a. How do you think this impacts the discussion around sex work legislation either in the media, amongst the public, or among legislators?
3. My review of the literature shows that the terms decriminalization and legalization are used interchangeably in the public discourse to describe what occurred in RI from 1980 to 2009; however, these terms also have different meanings when discussing the various types of sex work legislation around the globe.
 - a. In your professional experience, how would you differentiate these terms?
4. How would you describe the legislative impacts and shortcomings of the RI sex work legislation enacted from 1980 until 2009?
 - a. What were the biggest wins and losses?
 - b. Do you feel it was far-reaching enough?
 - c. What groups/communities were most impacted?
5. From 2003 until 2009, when the decriminalization of indoor prostitution was openly recognized throughout the state, rape reports in RI decreased dramatically. Do you have any hypotheses as to why this occurred?
 - a. What do you think about the hypothesis that some individuals may view prostitution as a substitute for rape?
6. Why do you think the decriminalization of indoor prostitution was overturned in RI?
 - a. What were the most significant impacts of this reversal?
 - b. What groups/communities were most impacted by it?
7. Would you say sentiments among the public regarding sex work have changed in RI since this reversal?
 - a. If yes, how so and why?
8. Please describe the discourse surrounding sex work in the media.
 - a. Maybe on the state level or nationally.
 - b. Has it changed in any way or remained the same?

9. If you could enact any form of sex work legislation, what would you do and why?
 - a. This can be on a local, state, or federal level.
 - b. What do you think would be the most significant barriers to achieving this?
10. Do you feel your work at COYOTE RI is working towards achieving these goals?
11. What are common misconceptions about sex work?
 - a. How do these misconceptions impact legislation?
 - b. What tends to be emphasized?
 - c. What tends to be missed?
12. Are there non-policy solutions that can address the concerns surrounding sex work?
13. Finally, what are your hopes for the future of sex work?

Appendix B

Expert Interview Log

Interview	Expert Name	Date	Time
Interview 1	Nicole	02.05.2023	4:00 PM EST
Interview 2	Gabrielle Monroe	03.05.2023	10:00 AM EST
Interview 3	Bella Robinson	05.05.2023	4:00 PM EST

Statement of Authorship

I hereby confirm and certify that this master's thesis is my own work. All ideas and language of others are acknowledged in the text. All references and verbatim extracts are properly quoted, and all other sources of information are specifically and clearly designated. I confirm that the digital copy of the master thesis I submitted on May 21, 2023, is identical to the printed version I submitted to the Examination Office on May 22, 2023.

DATE: May 21, 2023

NAME: India English

SIGNATURE: *India English*