

AMERICAN ACADEMY OF CLINICAL SEXOLOGISTS

IDENTIFICATION OF THE POSITIVE SOCIAL INFLUENCES  
OF THE DECRIMINALIZING AND LEGALIZATION OF PROSTITUTION  
IN THE UNITED STATES

A DISSERTATION SUBMITTED TO  
THE FACULTY OF THE AMERICAN ACADEMY OF CLINICAL SEXOLOGISTS  
IN CANDIDACY FOR THE DEGREE OF  
DOCTOR OF PHILOSOPHY IN CLINICAL SEXOLOGY

BY  
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## ACKNOWLEDGEMENTS

To my partner, Johnny Harrison, who stands by me and who oversaw my ailing mother's health care while I attended classes in Florida.

To my friend, Dr. Brian Wieszbicki, who graciously opened his home to me while I attended classes in Florida.

To my friends Checo, Jr, Merle, Rod, and Windle for your loving support and always being just a phone call away.

To my colleague, Dr. Joe Kort, who encouraged me to attend the American Academy of Clinical Sexologists and offered suggestions and recommendations for managing the challenges of balancing school with a private practice.

To Sarah Patterson, Community Organizer, Sex Workers Outreach Project, NYC, who took the time to speak with me by phone, email me a list of useful resources, and inform me of the research of Dr. Ronald Weitzer.

To Dr. Ronald Weitzer, Professor of Sociology at George Washington University, who has effectively researched the subject, written many informative articles and books, and who took the time to reply to my email.

To Dr. William Granzig, who shared his knowledge and experience as a clinical sexologist and who was patient and supportive of me through the challenge of my mother's illness and death while I worked on this project.

My appreciation to the American Academy of Clinical Sexologists and its faculty for providing me with an educational experience I could not obtain anywhere else in the country.

## ABSTRACT

Prostitution has been deemed the world's oldest profession. It has a long history in the United States and the world in general. It is currently legal in a few counties in only one state in America. There remains an undying demand for the service despite its criminal status.

Most data publicly reported in the United States about prostitution is skewed toward highlighting its criminal status (Weitzer, 2012). This study examines the documentation of measurable benefits to sex workers and consumers and identifies the positive social influences to decriminalizing and/or legalizing prostitution in the United States. It presents data based on industry research within and outside the country.

It is not illegal for consenting adults to enter into sexual relationships. Neither is it illegal for adults to exchange goods and services for money. However, the provision and consumption of sexual services for money is considered criminal in this free and capitalist society. Ironically, Americans use sexual concepts to advertise and sell numerous products and services, but sex itself cannot be legally sold or purchased in most of America.

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## PROBLEM STATEMENT

Prostitution is illegal and criminalized in all of the United States except for a few counties in one state, Nevada. Sexuality is a basic, innate aspect of humanity. Its expression between consenting adults should not be illegal in any state. Criminalizing prostitution places an undue burden on consumers by denying them access to safe and healthy forms of sexual expression. It places a burden on sex workers by denying them career legitimacy and protection under laws governing employee labor. It burdens society by spending tax dollars on law enforcement to investigate victimless crimes and by not capitalizing on the revenues of a service industry that is already in existence and cannot be eradicated.

## PURPOSE OF STUDY

This study examines and identifies the positive social influences of decriminalizing and/or legalizing prostitution in the United States. It informs the reader how and why other countries have already successfully legalized this service and how America could benefit from following their example.

This study will focus mostly on prostitution provided by female sex workers to male consumers. This is intended to narrow the subject and focus on the most common aspects of this industry. It is not intended to ignore or diminish the role of prostitutes who are male or transgender or the needs and expectations of their male, female, or transgender clients. The laws currently in place govern all aspects of the industry without regard for gender or gender identity.

## HYPOTHESIS

There are identifiable benefits to decriminalizing and legalizing prostitution in America.

## CHAPTER 1

### FOUNDATION FOR THE STUDY

#### **Terminology**

Prostitution is “defined as sex exchanged for money or its equivalent” (Ringdal, 2004, p. 5). This definition of prostitution is most applicable to the subject of this study since it is the exchange of sex for money that is illegal and criminalized in most of America. “The word *prostitute*, derived from Latin, literally refers to exposure of the genitalia, but the word was not in common use for the sale of sex until the Middle Ages” (Ringdal, 2004, p. 93).

The subject of prostitution is broad and there are multiple variables to consider about how services are delivered and by whom. “The term ‘prostitution’ includes the streetside blowjob, the high-priced escort, ... the teen runaway trying to scrape together enough money for food ..., the legal brothels in Nevada ..., 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” (Weitzer, 2010b, p.235). However, no difference is made between them in the American legal system. That, they all share in common.

Some prostitutes prefer to be identified as sex workers. They believe there is a negative stereotype associated with the term *prostitute*. *Sex work*, however, encompasses the exchange of sexual services for material compensation as well as selling erotic performances or products. “It includes acts of direct physical contact between buyers and sellers (prostitution, lap dancing) as well as indirect sexual stimulation (pornography, stripping, telephone sex, live sex shows, erotic

web cam performances)” (Weitzer, 2012, p. 3). The American legal system does not identify all of this as prostitution and therefore some aspects of sex work are indeed legal in most states.

Since prostitution is an old profession, it has been known by other terms throughout world history. The various terms used are influenced by how the profession is perceived at the time and the unique circumstances in which it exist. Sellers and consumers may use different terms to describe specific services or to classify degrees of quality or price. Outdoor prostitution is often used to reference street prostitutes, also referred to as street walkers, who are at the bottom of the pay scale (Rutter, 2005). Indoor prostitution is used to reference prostitutes who may work in a brothel, agency, or even independently in their own home.

Escorts, also referred to as call girls, provide what some customers describe as the *girlfriend experience*. They are at the top of the pay scale and may work independently or for an agency. These workers offer emotional intimacy as well as sex, but without the responsibility-no strings attached. The customer experiences the encounter as more like a date than a business transaction. Escorts charge more than street prostitutes and their clientele are more affluent. The client is usually seeking a more intimate and longer experience that includes conversation, affection, and companionship. Weitzer (2010b) describes this as “emotional labor” (p. 188). The escort is selling an “illusion” of intimacy. The client is buying a fantasy. Brothel workers, the only form of prostitution currently legal anywhere in the United States, are theoretically at the middle of the continuum.

In American history prostitutes have also been known less formally as women of easy virtue, daughters of joy, prairie nymphs, working girls, girls of the night, street nymphs, sporting girls, painted ladies, unfortunates, soiled doves, daughters of venus, boarders, cottage girls, and

lewd women (Rutter, 2005). Their establishments have been referred to as whore houses, sporting houses, cat houses, houses of ill repute, social clubs, cribs, wine rooms, parlor houses, brothels, pleasure studios, and massage parlors (Rutter, 2005).

In the American old west, parlor houses were upscale and catered to the wealthier and more socially influential men of the community. The prostitutes there “wore fine clothes and lived in elegant rooms” (Rutter, 2005, p.11). Workers and their patrons would gather in the large parlor to be entertained with music, expensive wine, or liquor. Women in these establishments would spend a few hours with their gentlemen customers playing “the game of romance” (p.15). Volume houses demanded that women see as many as sixty customers a day. Patrons were forbidden from removing their clothes and workers never bathed between customers. Needless to say, women who worked in these establishments lived very poor quality lives and died before their time (Rutter, 2005). Cottage girls were independent prostitutes who often worked out of their home. They maintained their own client list and determined their own hours (Rutter, 2005).

### **Legalization Versus Decriminalization**

“Decriminalization refers to the removal of all criminal and administrative prohibitions and penalties on sex work [prostitution], including laws targeting clients and brothel owners. Removing criminal prosecution of sex work goes hand-in-hand with recognizing sex work as work and protecting the rights of sex workers through workplace health and safety standards” (Open Society Foundations, 2012, p.1).

There are three types of decriminalization. Full decriminalization removes all criminal penalties and leaves prostitution unregulated, albeit subject to conventional laws against

nuisances, sex in public, disorderly conduct, or coercion. Under full decriminalization, prostitution could exist in any locale, so long as the parties do not disturb the peace or violate other ordinances. Partial decriminalization would reduce but not eliminate penalties-the charge may be reduced from a felony to a misdemeanor or violation, and the penalty might be a fine instead of incarceration. A third option is de facto decriminalization, which means the offense remains in the penal code, but the law is not enforced. Decriminalization may or may not be a precursor to legalization (government regulation) (Weitzer, 2012, p. 49).

Removal of all criminal laws will increase protection to prostitutes, clients, and the public in general. The criminalization of prostitution prevents prostitutes and their clients from reporting when they have been victims of crimes and their awareness of other kinds of criminal behavior including sex trafficking and abuse of minors. “When sex work [prostitution] is decriminalized, sex workers are empowered to realize their right to work safely, and to use the justice system to seek redress for abuses and decriminalization. Even if sex work is decriminalized, the prostitution of minors and human trafficking can and should remain criminal acts” (Open Society Foundations, 2012, p.1).

Criminal laws contribute to social marginalization not only through the imposition of legal penalties on sex workers prosecuted for specific acts, but also through the assignment of criminal status to all sex workers, regardless of any particular arrest, charge, or prosecution. This sweeping condemnation leads to widespread discrimination, stigma, and ill treatment in social institutions and services, by health providers, police, and the general public. Decriminalization removes one source of stigma, the criminal

label that serves to validate mistreatment or social exclusion (Open Society Foundations, 2012, p.7).

Legalization differs from decriminalization. Legalization decriminalizes prostitution in specific venues or circumstances. Government regulates how the service can be delivered and under what conditions. Regulations can either add credibility to the profession or restrict it so that workers have fewer rights than if they continued to practice under the radar. In other countries regulations have mandated which communities can have establishments, the taxes the establishments will have to pay, licensing fees, requirements for routine exams for sexually transmitted diseases and routine inspections to verify compliance.

Weitzer, (2012) identifies two types of legalization; De Jure and De Facto. De Jure involves decriminalization and some form of government regulation. Some practices will remain prohibited. Legalization in this way can take many different forms. It could vary from state to state and it could change often according to the politics De Jure. Some believe that legalization may be superior to decriminalization at reducing harm to both consumers and workers. De Facto Legalization status continues to criminalize prostitution while simultaneously providing some regulation of it. There is official regulation of the illegal practice. This is different from De Facto Decriminalization which is simply non-enforcement of the law (Weitzer, 2012).

Prostitution is currently legal or decriminalized in many parts of the world. “It would be easier to ask which countries it is illegal in, that would a very short list, with mainly the U.S. where consenting sexual rights are denied” (Davis, 2009, p.1). For example, it is legal in some form in Canada, England, France, Wales, Denmark, Germany, most of Mexico, Brazil, Israel, Australia, Asia, Iran, and New Zealand to name a few.

Some prostitutes prefer decriminalization over legalization. They find legalization to be too restrictive and structured more to benefit brothel owners than the prostitutes. They do not have the control or freedom of an independent contractor or sole proprietor. They want more choice over which clients they service without being obliged to meet the requirements of an employer. In Nevada, “the standard percentage kept” by the brothel “per transaction is 50%” (Anderson, n.d., para. 3). Brothels charge room and board and some of them require workers to share their tips. Other prostitutes like the safety provided to them by legalization with heavy regulations imposed on brothel owners.

Governments may choose legalization as a means to get control over an existing sex trade that has become unmanageable in their jurisdiction. By legalizing the service, they are better able to regulate what they cannot prevent (Weitzer, 2010, p.39). Decriminalization alone will not afford them this regulatory option.

Chances of decriminalization or legalization increase when the following variables exist (Weitzer, 2012):

1. There is support from a majority of the population.
2. Politicians can support the change without losing their next election.
3. It will increase revenue to the government.
4. It is actually engaged in by a large number of people.
5. The social status of participants is high.
6. Youth can be shielded from the vice.
7. Adults who are opposed can still abstain from the vice.
8. The vice can be regulated to private venues away from nonparticipants.

“When prostitution is legal and regulated by the authorities, much of the regulation is designed to control third parties who run brothels and other indoor businesses, forcing them to

improve working conditions and, more generally, empowering workers vis-a-vis managers and owners” (Weitzer, 2012, p.25). Former Surgeon General, Dr. Jocelyn Elders, called for the decriminalization of prostitution in America when she was a keynote speaker at a 1997 International Prostitution Conference. She compared prostitutes to actors, athletes, and models who are also paid for “selling their bodies” (Davis, 2009, p.1).

### **Research**

“A growing number of scholars” study sex work as an occupation (Weitzer, 2007, p.28). Most research is centered around female prostitutes. Ronald Weitzer is a professor of sociology at George Washington University in Washington D.C. He has researched and written on the sex industry in the United States and abroad. He identifies two paradigms regarding social science’s perspective on prostitution: the oppression paradigm and the empowerment paradigm.

The oppression paradigm maintains that sex work is a symptom of a male dominated society. Sex work is viewed as exploitation and violence against women. The goal is to eliminate the entire sex industry. This paradigm describes only the worst aspects of the sex industry (Weitzer, 2010a).

“Data collection procedures in studies based on the oppression paradigm are often either invisible or problematic” (Weitzer, 2010a, p.20). Question-wording in survey research “can make a big difference in the responses obtained”. “...standard practice is to provide the reader with the most important items verbatim...” “This procedure is seldom used in prohibitionist-driven research” (Weitzer, 2010a, p. 20).

A major deficiency in most studies of prostitution, including those by oppression theorists, is the absence of a control group. Samples of prostitutes are not carefully

compared with matched samples of non-prostitutes, and samples of customers are not compared with men who have not paid for sex. Hence, it is impossible to tell whether the views and experiences of those sampled differ significantly from those individuals not involved in the sex trade (Weitzer, 2010a. p.20).

“The way something is defined can make a huge difference in how it is perceived” (Weitzer, 2010a, p. 17). Some research projects have been designed to conclude that prostitution is a “form of violence against women” instead of a legitimate service industry (p.19). Specific scenarios have been taken out of context and generalizations have been made about prostitutes in order to build the case for keeping it criminalized.

The empowerment paradigm holds that sex work can be potentially validating and empowering and qualifies as a legitimate career choice. Sex work is believed to be potentially beneficial to all involved parties (Weitzer, 2010a). Weitzer, (2010) states that some of “the best research on prostitution is ethnographic and centered outside the United States” (p. 39).

Weitzer proposes a third paradigm which he identifies as the polymorphous paradigm. Polymorphism is less polarized and considers the complexities and “structural conditions shaping the uneven distribution of agency, subordination, and workers’ control” (2010b, p.6).

When reviewing the research on this subject, it is important to note the challenges associated with obtaining valid research on prostitution in the United States. Interviews with prostitutes are often done on the street in a very limited amount of time. It is often impossible to do a series of structured interviews. Prostitutes fear arrest if they incriminate themselves. Street prostitutes may face repercussions from pimps or other street prostitutes (Weitzer, 2010b). Also, It is impossible to get a random sampling of prostitutes. There is no way to fully know “the

parameters of either the prostitute or customer population” (Weitzer, 2010a, p. 19). The best attempt researchers can make is to get samples from multiple locations and different types of prostitutes that are not skewed toward any specific subgroup. Research studies of prostitutes rely on samples of individuals the researcher is able to access most conveniently. It is currently not possible to get a true random sample because the risks associated with these workers being publicly identified is too great (Weitzer, 2010b).

Research has been conducted by other scholars at other times in American history and in other parts of the world. Alfred Kinsey conducted research in 1948 which concluded that single men “were more likely than married men to have extensive experience with prostitutes” (Weitzer, 2010b, p. 191). At least thirty-six percent of escorts’ last clients were married. Research by Alfred Kinsey in the 1940’s suggested that as many as sixty-nine percent of American men had visited prostitutes. “... Masters argued that the number was closer to eighty percent” (Weitzer, 2010b, p.235). Even those most opposed to the legalization of prostitution assume that men “are naturally motivated to seek out prostitutes” (Weitzer, 2010b, p. 235). More recent studies indicate that most American men never seek the services of a prostitute. A “recent General Social Survey ... revealed that fewer than one fifth of men in nationally representative samples had ever had sexual experiences with prostitutes ...” (Weitzer, 2010b, p. 235). It is worth acknowledging that men in present time have more opportunities for sexual expression without soliciting a prostitute than men of earlier American generations.

It is important to note that most studies on prostitution around the world have focused on male consumers and female prostitutes. Opposite sex transactions account for the highest volume of sex for sale. It is generally assumed that men who sell sex to other men are gay, but one study

concluded that only three percent identify as gay and that most male prostitutes who have sex with men also have wives or girlfriends. Females seeking male prostitutes are a very small population (Weitzer, 2010, May).

### **A World History of Prostitution**

The act of women exchanging sex for resources, not just money, is evident in most cultures throughout history (Barash & Lipton, 2001). Women have often depended on men for financial support while they remained at home and cared for his children. At times in history, the female's status was determined based on the man to whom she was married. Women have exchanged sex with men for the status they provided socially. This influenced their quality of life and the quality of life of their offspring. There are evolutionary aspects to why women capitalize on prostitution as a means of economic survival. A historical examination is relevant to this study since prostitution has been legal at times throughout history, even in America.

Though prostitution is said to be the world's oldest profession (Ringdal, 2004), this is unlikely true. Earlier humans were likely less inhibited sexually and would have no need to purchase what could be easily acquired for free. Other service professions likely preceded prostitution. Nineteenth century evolutionist, Frederich Engels, claims that "prostitution came into existence within the context of a state, religion, and private ownership and class division" (Ringdal, 2004, p.5).

The sex market has been in demand throughout history. However it is not universal (Ringdal, 2004). Prostitution has not existed in all places at all times. It seems to be most in demand in cultures experiencing an "upsurge in population, urbanization, migration, and economic transformation" (Ringdal, 2004, p.7).

The concept of prostitution is first portrayed in the character of *The Whore* in the four thousand year old epic *Gilgamesh*. The whore is a temple prostitute under the command of the goddess Ishtar (also known as Venus). Ishtar identifies herself as the “protector of all prostitutes” (Ringdal, 2004, p.15) . The temple was considered the residence of the god or goddess in ancient Mesopotamia. Women who sold their bodies and donated their earnings to the temple were demonstrating respect and worship for the god or goddess.

In Greece around 500 B.C., prostitutes were well educated and available for the elite. They were “the world’s first free women”, a freedom they purchased (Ringdal, 2004, p. 54). Male and female prostitutes were common in Athens. The sex trade was lucrative income. Men dominated Greek urban society and worshiped each other’s bodies and masculinity. Sex between men was often free and some considered it an insult if a man expected to be compensated by another man for the exchange of sex. It was a compliment for a man to be desired by another. Greek prostitution was more secular and this trend away from temple prostitution evolved into other parts of the world (Ringdal, 2004).

“In the last centuries B.C.”, there are more than three hundred words for prostitute in the Hindu/Sanskrit language (Ringdal, 2004, p. 71). This suggest a very rich and varied sex market. Prostitutes paid taxes according to income. Their services were considered legal and legitimate and a disgruntled client “could take legal action” against them if they did not fulfill their promises (Ringdal, 2004, p. 73). The Hindu culture enjoyed great sexual freedom.

Male prostitution was most common during the Roman Empire. It was believed then that fellatio was best performed by a man. “... many men specialized in it, or in passive anal sex” (Ringdal, 2004, p. 95). Men seeking “an active male partner might find him in a brothel or

in a gladiator school”. Male street prostitution flourished. They attracted male and female customers. “Rome’s best known prostitutes were its most adored actors and dancers, the superstars of the day” (Ringdal, 2004, p. 96). Male prostitution came much later in China than female prostitution. Male prostitutes there usually took on a feminine role and wore traditional female attire. Early Roman emperors often had hundreds of male and female sex slaves for themselves and their guests. These slaves were not considered prostitutes because they were not paid for their services. Roman soldiers were not allowed to marry so sex workers were in great demand (Ringdal, 2004).

The oldest reference to prostitution in the Bible is found in Genesis. Judah purchases Tamar for his eldest son. When the son died, he hands her over to his next son, Onan. This story occurs around 1000 B.C. when fathers routinely purchased brides and slave women for their sons. A woman’s value was bargained just as men bargained the value of cattle and goats. Women who did not bring a good bride-price were sold by their fathers as slaves. Bride-price is a term used by societies where women are considered by their fathers to be labor power. Fathers are compensated for giving their daughters in marriage based on the value of lost labor they will experience when she leaves the family (Ringdal, 2004). “Rape was considered a violation of another man’s property”, not a violation of the woman (Ringdal, 2004, p. 28).

Augustine, an important figure in the history of Christianity, was ordained Bishop of Hippo in 396. He was a prolific writer and his own words were very important for the formation of church doctrine. When the Western Roman Empire was starting to disintegrate, Augustine developed the concept of the Catholic Church as a spiritual City of God. In the Catholic Church and the Anglican Communion, he is a saint and pre-eminent leader of the church. Before

converting to Christianity and celibacy, Augustine enjoyed a youth filled with many prostitutes. He later commented that the penis has a “strong urge to live its own life, and noted the resulting conflicts between body and soul” (Ringdal, 2004, p. 115). In 386, he commented that “prostitution was necessary in human society as a safety valve, to dam the overflow of unbridled lust. Banish prostitutes from humankind, and capricious lusts will overflow society” (Ringdal, 2004, p. 115). He defended prostitution as a means to prevent general immorality. While he ranked celibacy above marriage and urged Christian men to stay away from prostitutes, he recognized the strength of the male sex drive and offered forgiveness if they could not abstain (Ringdal, 2004).

“Ancient Chinese cities were proud of their ladies of the night, who moved around freely with entourages, were organized in guilds, and paid taxes” (Ringdal, 2004, p. 123). China may be the only civilization where prostitution developed on its own, independent of western influence (Ringdal, 2004). Chinese authorities saw it as their duty to supply their armies with young female prostitutes. In peacetime, these women were sent back to the private sex industry. Many brothels were state owned. Many large bordellos had their own security force (Ringdal, 2004).

During China’s Tang Dynasty, “prostitutes were key figures in the life of elegance and fashion” (Ringdal, 2004, p. 123). A man of power and influence would prefer to be seen publicly with a prostitute instead of a woman from his own home. Being seen in public with a prostitute was a symbol of culture and refinement. Prostitutes were often well educated and capable of intelligent conversation. Men generally married women who were faithful wives and mothers (Ringdal, 2004).

Polygamy was common in the early days of Islam (Ringdal, 2004). Islam discouraged prostitution, especially among Muslim born women. In regions where Islam was the dominant faith, prostitutes were usually of Christian or Jewish descent.

In 1358 the Great Council of Venice declared prostitution “absolutely indispensable to the world” (Ringdal, 2004, p. 139). By the 1400s, organized prostitution was common over half of Europe. Medieval brothels were unusually clean. There were strict regulations regarding how a woman was to properly prepare herself for a client in order to prevent disease and afford him a more pleasurable experience. Churches and governments saw no great harm to morality when their young men sought the services of a prostitute. This practice was very common among students, soldiers, and merchants in Europe (Ringdal, 2004).

Near London, a community known as Southwark was popular for prostitution. Saint Swithin of Winchester developed the community as a special district for prostitution. Secular authorities were delegated to supervise the district but all “profits went to the diocese” (Ringdal, 2004, p. 154). As a result, “London could have more churches built from the proceeds of prostitution than any other large European city” other than Rome. Reformed taxation of prostitution in 1471 increased church revenues considerably. “Thus it was that the whores of Rome contributed to the building of Saint Peter’s Cathedral” (Ringdal, 2004, p. 155).

“Syphilis was first identified among French soldiers in Naples in 1495” (Ringdal, 2004, p. 174). It is “significant to any understanding of social and cultural history following 1500” because it greatly influenced the debate on prostitution (Ringdal, 2004, p. 175).

Prostitutes were considered to be particularly responsible for the spread of the disease.

It was a fact that women paid men money for sex in eighteenth century London. It was more common that young men would provide sexual services for money to other men. In the 1700s, London had many gay clubs, at that time referred to as “Molly Houses” which were frequented by men desiring sex with other men (Ringdal, 2004, p. 212) .

The “World Organization for the Struggle Against State Regulated Prostitution” was founded in 1874 in Liverpool (Ringdal, 2004, p. 260). By the 1880’s all of Europe was seeing a shift in thought about prostitution. This was influenced by protestant Christians’ concept of marriage for love as a means of healing many ills of society. Marriage for love as an eternal institution was promoted as the solution to everything wrong in society. Prostitution represented infidelity and undermined true love. Christianity viewed prostitution differently than the lawyers, doctors and military. “The morality movement became a worldwide phenomenon” (Ringdal, 2004, p. 266). In addition to opposing prostitution, it began to lead the opposition to birth control, homosexuality, masturbation, alcohol use, and gambling (Ringdal, 2004).

In 1881, the chief medical officer of Kristiania, Norway commented that prostitution provided a means of confining specific sexual behaviors that would be morally problematic if not allowed release in this socially condoned institution. Napoleon Bonaparte “maintained that prostitutes were necessary, for without them, ordinary men would accede to their most base instincts and accost respectable women on the streets” (Ringdal, 2004, p. 261). Policemen, physicians and madams regulated and supervised the sex industry in France.

“In 1949, the United Nations adopted a resolution in favor of decriminalization of prostitution for individual prostitutes, which has been ratified by fifty countries”, but not by the United States (BAYSWAN, p.2).

## **An American History of Prostitution**

In the American old west, prostitutes were not considered a threat to marriage or the family unit. As sex became increasingly taboo in the late 19th century, prostitution became a target for self-appointed moral police and ultimately politicians. “ The prostitute has traditionally stood as the symbol of sin, but precisely in this capacity is regarded as a guarantor and stabilizer of morality and matrimony in the rest of society” (Ringdal, 2004, p.1).

As the west was developed in the 1800s there was a need for miners and railroad workers. Conditions were hard and not suitable for children or *proper* women. Many towns were populated almost entirely by men. Prostitutes were often the only women available. They followed workers from town to town. They had to go where their services were most in demand and follow the money (Rutter, 2005).

In the American old west, the vast majority of women entered prostitution for economic reasons. Madams, pimps, and landlords profited most. Conditions for prostitutes were poor and many died from disease, addiction, or suicide (Rutter, 2005). Many entered the profession because, as women at the time, they believed they had nothing more of value to offer. Many were already social outcasts for various reasons. Some were childhood victims of abuse or grew up in families where there was severe addiction or mental illness. Since women were already considered second class citizens at the time, they were dependent on male family members to establish their status in society. Women without a functional male head of household had minimal opportunities for a happy and successful life. Prostitution did at least minimally provide food, shelter, clothing and the social support of other women in the sisterhood (Rutter, 2005).

Women who engaged in premarital sex, even as a result of rape, were considered fallen women who could never be respected in their community. At that point, prostitution might be her only means of survival. “Men were willing to spend time and money with ladies of the evening, perhaps even living with them for awhile...” (Rutter, 2005, p.8). One survey from 1880 revealed that as many as fifty percent of prostitutes had once been married. They were either abandoned or escaping abusive marriages (Rutter, 2005) .

Women also sold companionship to lonely men far from home who had no other access to women. There were few women living in the west at that time (Rutter, 2005). In some towns prostitutes had to be licensed and they were taxed by the city. Restrictions were placed on where they could establish business and how they could market or advertise their services. Wealthy businessmen were often silent partners with the madams who ran the brothels (Rutter, 2005).

The process of seduction was part of the package a man expected to receive when he visited a parlor house. Girls took care of one customer at a time and pampered him. The rooms were decorated with expensive furniture and the linens were of high quality fabric. Men had to make appointments and some women were booked for weeks in advance (Rutter, 2005, p.11). Street walkers were often homeless. Many lived in alleys or barns. They were at the bottom of the scale (Rutter, 2005) .

It is believed that railroad workers are responsible for the red light becoming an American symbol for a brothel. Train conductors and crews used red lanterns as signals. They would use the lantern to make their way to the brothel and would leave it lit on the porch. The red glow was a beacon for other men to make their way to the brothel (Rutter, 2005).

As cattle and rail trade grew so did the business of prostitution. Vice zones were established in towns like Dallas, Houston, and Waco. Prostitution was legal in these zones. Brothels and prostitutes were required to be licensed and their services were taxed to raise money for the towns. Medical exams were part of the licensing process in order to minimize the spread of sexually transmitted diseases (Rutter, 2005). When the cattle trade increased in the 1860's and herds were driven north from Texas, prostitution flourished along the trail (Rutter, 2005). The civil war at this time also increased the demand for prostitutes to service soldiers who were away from home (Rutter, 2005).

Law enforcement was rarely concerned with brothels or their patrons. The madams were often respected by male community leaders as long as they paid their taxes and were licensed appropriately. They were heavily fined for violations and often paid fines with carnal favors. A good madam was a good businesswoman. She took care of her girls and she knew the importance of politics and staying in good standing in her town. Their establishments were often located on the second floor of a building. This helped to prevent unwanted guest from coming in and patrons could not easily leave without paying their bill (Rutter, 2005) .

In New York from 1790-1920, prostitution was central in the life of a "sporting male" (Lowman, 1997, p.6). It was an accepted part of public culture, "structured by the market, organized into institutions, ranging from brothel to theater" (Lowman, 1997, p.6). Walt Whitman once stated that 'among the best classes of men the custom is to go among prostitutes as an ordinary thing. Nothing is thought of it -- or rather the wonder is, how can there be any fun without it' (Lowman, 1997, p.6).

Coincidentally, at this same time, anti-prostitution leagues were beginning to spring up in parts of America. There was a movement across Great Britain to clean up the moral climate. British reformers helped fuel the movement in America as there was growing concern here about disease and white slavery (Rutter, 2005). Victorian thinking was taking hold and the suppression of sexuality was one requirement of a “proper human being” (Rutter, 2005, p.99).

As the Victorian era took hold, “prostitution became one of the great evils of the age” (Rutter, 2005, p.101). Women were at the forefront of this movement to clean up England. “This may have been the first time women felt that they had a political voice” (Rutter, 2005, p. 101). “In a society ruled by monarchy,” average women and men were leading a movement to “literally take back their neighborhoods physically and morally” (Rutter, 2005, p.101).

In America, in 1855, some feminist activity was beginning to focus on “the evils of alcohol” (Rutter, 2005, p.102). This movement began to increase after the civil war. As the movement grew it took on the mission of ending the legalization of prostitution. Fringe fanatics attempted to ban any theatrical production in which women were permitted to show their legs. As it goes with politics, facts were not necessary to motivate a movement of change. It was rumored that as many as fifty percent of prostitutes were white slaves, kidnapped and sold into the trade. Actually only about five to seven percent were caucasian women who were forced into prostitution against their will. Chinese and African slaves were more likely to be sold to pimps and madams (Rutter, 2005).

## **The Current Status of Prostitution in America**

Americans tend to both condemn and patronize the sex industry. New York governor Elliott Spitzer “prosecuted prostitution rings when he served as the state’s attorney general, but resigned the governorship ... after it was revealed in March 2008 that he had spent \$4300 on an escort” and had paid for sex on multiple previous occasions. Louisiana senator David Vitter was well known for his strong position on family values but was later “linked to a Washington, DC escort agency.” He referred to it as a ‘very serious sin’ from his past. “In 2006, the president of the National Association of Evangelicals, Rev. Ted Haggard, resigned after revelations that he had frequently paid for sex with a male prostitute...” In 1988, TV evangelist Jimmy Swaggart, “resigned his church leadership after photos were released of him with a call girl in a New Orleans hotel...” (Weitzer, 2010b, p.4). Ironically some of the nation’s most vocal opponents to legalized prostitution are also patrons. This should come as no surprise since research has consistently demonstrated over the past twenty years that fifteen to eighteen percent of American men admit to buying sex at some point in their lifetime (Weitzer, 2012).

In America, “prostitution legislation is largely devoted to the states.... Almost all states prohibit solicitation for prostitution as well as pimping, procuring, operating a brothel, and running any other business that offers sex for sale...” (Weitzer, 2012, p. 48). Collectively, prostitution appears to be treated uniformly, “with criminalization being the reigning policy” (Weitzer, 2010b, p. 21). Customers may have their names printed in the local newspaper or their faces shown on local television. This has the negative effect of patrons losing their jobs or families and facing extreme stress that some argue is not warranted for a victimless crime (Weitzer, 2010b).

American cities spend an average of seven and one half million dollars on prostitution control every year. This ranges from approximately one million dollars in Memphis to twenty-three million dollars in New York (BAYSWAN, n.d.). “Approximately eighty thousand arrests are made in the United States every year for violation of prostitution laws...” (Weitzer, 2010b, p. 21).

In Nashville, TN, “police pay confidential informants to help arrest indoor prostitutes...” (Weitzer, 2010b, p.26). This process sometimes involves “some form of physical or sexual contact between the informant and the worker. The informants are paid one hundred dollars per bust and are used because police policy prohibits officers from disrobing during an investigation...” (Weitzer, 2010b, p.26). From 2002-2004 one hundred and twenty thousand dollars was spent to foster encounters and seventy thousand dollars was paid directly to informants. The district attorney was astute to point out that it is “contradictory letting a confidential informant engage in the very act you’re trying to stamp out” (Weitzer, 2010b, p.26).

Nevada is currently the only state in the country where prostitution is legal in some jurisdictions. Brothels have been legal there since the mid 1800’s (Albert, 2001). In July of 2008, there were twenty-eight legal brothels across eight of the sixteen counties in the state (Caron, 2008). Licensing requirements vary by county. Prostitutes are considered to be independent contractors and they do not receive any unemployment benefits, health insurance, or retirement packages. Their earnings are reported to the IRS and they are required to pay income tax. It is mandatory that they receive routine testing for sexually transmitted diseases and that they require condoms to be worn by all consumers (Albert, 2001).

Police are rarely called to deal with problem customers at Nevada's brothels. These are one of the safest venues for women to sell consensual sex. Researchers find that the brothels are "free of drug use, violence, minors, [sexually transmitted] diseases or [human trafficking]" (Weitzer, 2012, p. 88). This is contrary to the picture most often portrayed of prostitution in America. Research continues to reveal that brothel workers are not there against their will and generally enjoy their work (Weitzer, 2012).

Nevada's brothel owners aspire to be viewed as respectable citizens in their community. They provide scholarships for high school students and participate in local civic events and organizations. Nevada has proven to be a good pilot for prostitution in America. After four decades, most of the states residents support legalization of prostitution (Weitzer, 2012).

Though prostitution is only legal in one state in the country, it still occurs illegally in the other forty-nine. Indoor prostitution occurs in brothels, bars, massage parlors, tanning salons, escort agencies and private residences (Weitzer, 2007). It accounts for the largest share of the market. "...indoor workers have lower rates of childhood abuse", they "enter prostitution at an older age" and they are better educated (p.29). Police and political officials turn their head when the industry is contributing to the appeal of the community and boosting revenues for local governments and businesses (Weitzer, 2007).

An estimated twenty percent of all prostitutes work on the street. Outdoor workers have higher rates of substance abuse and may even use to help them cope with the adversities of the job. They earn less money than indoor workers and are more likely to be arrested (Weitzer, 2007).

“Crackdown on indoor prostitution can have the unintended result of increasing the number of streetwalkers--thus exacerbating the most obtrusive side of the prostitution trade” (Weitzer, 2010b, p.27). This has proven true in New Orleans for example, where police observe that increased attention to indoor prostitution raises the number of prostitutes who practice on the streets (Weitzer, 2010b).

It is impossible to measure if prostitution is increasing or decreasing in America because we have no reliable baseline data (Weitzer, 2012). Polls can yield different results based on how questions are worded. This is related to multiple factors including sexual ignorance, subculture language the general culture is not privy to, and the taboo associated with discussing the subject publicly (Weitzer, 2012).

## CHAPTER 2

### EXAMINATION OF SOCIAL INFLUENCES

#### **Prostitution as a Career**

The empowerment paradigm holds that sex work can be potentially validating and empowering and qualifies as a legitimate career choice. It is potentially beneficial to all involved parties (Weitzer, 2010b). “Many prostitutes emphasize that they engage in sex work not simply out of economic need but out of satisfaction with the control it gives them over their sexual interactions” (Weitzer, 2010b, p.6).

Prostitutes often report they find their work to be personally fulfilling. It requires vital interpersonal skills that allow them to express compassion and connect emotionally with another individual. Robertson (2012) states the work “can be both enriching and illuminating, therapeutic and rewarding” (p.5). Some prostitutes report that they have gained more self confidence as a result of their work.

Prostitutes are aware their work provides services of value in society. They recognize the rewards exceed sexual gratification and their clients identify multiple benefits resulting from their work. This brings them a sense of empowerment, purpose, and personal healing (Robertson, 2012).

The skills prostitutes learn are not isolated to sexual techniques. The escort business requires “skill in marketing, building and maintaining relationships with clients,” responding to clients’ needs and the variations in the market (Weitzer, 2010b, p. 206). Those who are self employed must develop business skills necessary to keep a good clientele and produce income

while avoiding legal consequences. They may work from their home or meet their clients at an agreed on location such as the client's home or hotel.

A prostitute in Tijuana earns five times the income of the average professional in that city (Weitzer, 2010). Prostitutes in China, often referred to as hostesses, will earn in two hours what urban workers in China make in two weeks. The hourly wage of indoor prostitutes are higher than women in America earn on average. Prostitutes in America, even in legal brothels, do not have access to employer sponsored retirement or healthcare benefits (Weitzer, 2010).

Though prostitutes are often portrayed negatively in American media and literature, there is evidence that much of the information reported about them is biased and not factual. Most do not work on the streets. Most enter the business by their own choice and do not perceive themselves as helpless victims of a male dominated society. In one survey, eighty-six percent of men who purchased sex viewed prostitution as a viable career (Lowman, 1997).

### **Sex Economics**

Economics is a social science which studies human behavior as it relates to working, producing, distributing, and consuming goods and services. It is the "study of choice under conditions of scarcity" (Hall & Lieberman, 2002, p.3).

"Government policy is constrained by the reactions of private decision makers. As a result, policy makers face tradeoffs: making progress toward one goal often requires some sacrifice of another goal" (Hall & Lieberman, 2002, p.16). "All economic decisions made by individuals or society are costly. The correct way to measure the cost of a choice is its opportunity cost--that which is given up to make the choice" (Hall & Lieberman, 2002, p.16).

“A market is a group of buyers and sellers with the potential to trade” (Hall & Lieberman, 2002, p.52 ). Generally, in a capitalist society such as America, the rights of individuals to make choices about the goods and services they chose to buy and sell are valued. Many goods and services legally available in America have consequences associated with them for the consumer and society in general. Obesity rates are at an all-time high due to the over consumption of specific foods which are high in caloric intake and low in nutritional value. This negatively influences the health of individuals, the cost of health care for individuals and employers, and the job performance of American workers. Americans’ choice of diet has high opportunity cost for the country as a whole. There are many opportunity costs associated with keeping prostitution criminal and illegal.

“Sex sells. Literally. While other businesses are folding, ... the brothels remain open” (Ditmore, 2009, para. 1). It is estimated that the sex industry in the United States generates between ten to fourteen billion dollars annually. Male consumers continue to drive the industry, but female consumers of sexually related services and products are increasing (Weitzer, 2010b).

“Prostitution can be organized in a way that yields revenue to the government...” (Weitzer, 2012, p. 82). Taxes and licensing fees can be imposed. In Nevada, brothels and prostitutes are subject to federal income tax and also pay local fees. Americans in general benefit from the federal taxes generated in this one state (Hennessy, 2005). In the 1860’s Tombstone, AZ completely supported their school system on the taxes and fees charged to brothels (Rutter, 2005). Currently, since prostitution is illegal in all states but one, few sellers pay any taxes on income (Weitzer, 2012).

Nevada's brothels are a multi-million dollar industry. For some rural counties in the state, the brothel licensing fees are the "main tax base" (Weitzer, 2010, p.235). The brothels employ more than prostitutes. They also hire cooks, housekeepers, security, managers, drivers, and other support staff. Sex tourists invest money in these small communities by staying in their motels, eating in their restaurants, and shopping in their stores (Weitzer, 2010). There are sex tourists destinations around the world where workers have a "fair degree of control over their working conditions ...and take advantage of opportunities in a global economy" (Weitzer, 2010, p.235).

It is costly and demanding of resources to reduce or prevent indoor prostitution. Decriminalization would reduce costs to the criminal justice system (Weitzer, 2012). It would reduce costs and burden to individuals who face costly repercussions for selling or purchasing sexual experiences.

Licensing of businesses and service providers involves a vetting process. Regulations to protect the public and workers can be part of the licensing procedures. Periodic monitoring and license renewal would serve to keep these businesses in check (Weitzer, 2012). Fees and taxes would generate the revenues to government to hire and train oversight agents, also creating more jobs.

Many men see sex as a commodity rather than an aspect of an intimate relationship. On the other hand, there are men who have regular contact with the same prostitute and view the relationship as intimate both sexually and emotionally (Weitzer, 2010b). Male patrons report that time with an escort guarantees sex for the same price as a nice dinner and an evening out on a date with a woman who may be unwilling to have sex. Some consumers also report that they do

not have the time for a family and regular encounters with an escort allow them to have intimate exchanges without the additional responsibility (Weitzer, 2010b).

Most people do not consider prostitution to be a viable or legitimate business. It is not considered to be a valuable service of necessity despite its long history in America and the world in general. The United States has a strong work ethic and values an individual's right to sell goods and services in exchange for pay. Sex is one of the few, if not only, natural occurrences that is legal among consenting adults unless money is exchanged. Is it reasonable to criminalize an activity that is freely practiced legally by most adults, simply due to the exchange of money (Weitzer, 2012)?

### **The Role of Biology in the Demand for Prostitution**

Everything we do as humans is a consequence of our nature (Barash & Lipton, 2001). Humans arrive in this world with innate biological drives for all things that promote survival of the individual and the species. Sex is one innate biological drive that has allowed the human race to evolve. Without it, humans would cease to exist. Primitive beings ate foods raw with their hands as soon as it was harvested or killed. They ate off the ground or from the vine. Modern man has evolved to eat foods that are washed, cooked, creatively displayed on artistic dishes, using utensils for keeping the hands clean and the food sanitary. No matter how far man has evolved socially, eating is still a primal drive and basic to his survival. Comparatively, sex is a primal drive. There is abundant evidence that humans "have long been prone to have multiple sex partners" (Barash & Lipton, 2001, p.153). Socially, sexual mores attempt to manage man's instinct, sometimes successfully, but the drive itself has never died. This requires consideration

when exploring the demand for sexual services and the case for legalizing or decriminalizing prostitution.

Most clients of prostitutes are heterosexual men. This can be simply explained by exploring the biology of the male brain. Certain behaviors and skills are wired and programmed innately in the brains of males (Brizendine, 2010). Men consistently report having more sexual partners than women. Men are more indiscriminate about sexual partners than females who are more likely to be cautious. Between twenty-five and fifty percent of men in the United States report having extramarital sex at least once. Men also tend to have a greater desire for sexual variety than women. Men have a lower threshold for sexual excitation than women. Men have greater sexual urgency (Brizendine, 2010). Seventy-seven percent of male clients in one survey report that they purchased sex to relieve their “male sex drive” and seventy-three percent said they purchased sex on impulse (Lowman, 1997, p.47). Men have increased sexual excitement when engaged with a new partner (Barash & Lipton, 2001).

A male’s “number-one mate detection circuit” is visual (Brizendine, 2010, p.52). A study from the “University of California found that it takes the male brain only one fifth a second to classify a woman as sexually hot--or not. This verdict is made long before a man’s conscious thought processes can even engage” (Brizendine, 2010, p.68).

Men all around the world demonstrate the same drive for sex, show the same sex readiness behaviors, and become sexually stimulated by the same kinds of visual stimuli. Researchers have discovered that “when a man is sexually attracted to a woman, he wants to have sex with her as soon as possible” (Brizendine, 2010, p.57). The instinctive and primal male brain seeks to carry his genes and DNA forward to the next generation at every possible

opportunity. Instinctively he knows that frequent ejaculation leads to increased chances for offspring.

“Every brain is either male or female and, while they are mostly alike, scientists have discovered some profound differences” (Brizendine, 2010, p.11). Males begin to have fleeting sexual fantasies around age eleven or twelve. “Studies show that from puberty until men’s mid-twenties, they may need to ejaculate one to three times a day” (Brizendine, 2010, p49). The male brain’s reward center gets such a huge surge of pleasure from penile stimulation that it is nearly impossible to resist an opportunity. Scientists believe this strong drive is “biologically required” to keep men primed, fertile, and ready to have sex at the first opportunity (Brizendine, 2010, p49). The visual cortex of the male brain is always looking for opportunities (Brizendine, 2010).

Hormones can determine what the brain is interested in doing. Their purpose is to help guide social, sexual, mating, parenting, protective, and aggressive behaviors. They can affect being rough-and-tumble, competing in sports or attending sporting events, solving problems, interpreting facial expressions and other’s emotions, male-male bonding, dating and mating, ogling attractive females, forming sexual and pair bond relationships, protecting family and turf, fantasizing, masturbating, and pursuing sex ( Brizendine, 2010, p.xxi).

Testosterone begins to masculinize the thoughts and behaviors of males most heavily during puberty. The “sexual-pursuit circuits” in the hypothalamus of a male brain are twice as large of those in the female brain (Brizendine, 2010, p.32). The male’s preoccupation with sex runs on autopilot. The male brain is highly distracted by sexual images or thoughts. The unique chemistry of the male brain causes men to be highly sexually focused in ways that can

sometimes be distracting. Weitzer (2012, p. 20) states one common reason men patronize prostitutes is the need to find relief to a “very burdensome frustration;” the male sex drive.

The ventral tegmental area is located deep at the center of the male brain (Brizendine, 2010). The cells there rapidly produce “dopamine--the brain’s feel-good transmitter for motivation and reward” (Brizendine, 2010, p63). Dopamine is produced by any stimuli which creates pleasure, including sex. Dopamine mixes with testosterone and vasopressin in the male brain when he becomes sexually aroused. This is equivalent to “an addictive, high-octane fuel” causing exhilaration and passion for the object of desire (Brizendine, 2010, p63). Euphoric recall and anticipatory fantasy are triggered in the nucleus accumbens of the male brain, raising levels of dopamine and testosterone when men simply think about sex. Men may have sexual thoughts several times a day anytime they are visually stimulated by an arousing image. Images may come to mind even subconsciously creating sexual impulses he must deal with in that moment (Brizendine, 2010).

In most cultures men are accustomed to being rewarded with sex on special occasions and when their mates wish to reinforce a specific behavior. Men come to think of sex as a means to reward themselves and elevate their mood. At the time of orgasm, a man’s brain is flooded with dopamine, norepinephrine, and oxytocin creating an experience of extreme ecstasy. This “blissful euphoria” is “similar to being high on cocaine” (Brizendine, 2010, p.62). Men may not consciously be aware of what is happening in their brains, but they are unconsciously recording this intense pleasurable experience and will seek opportunities to recreate it over and over again.

Regular sexual activity increases testosterone and hydroepiandrosterone (DHEA) which helps men stay healthy, maintain energy, and stay mentally alert (Brizendine, 2010). The

hormone testosterone also contributes to men being more aggressive, bigger risks takers, and more fierce competitors than women. These qualities can overlay a man's sexual drive to create unique fantasies and desires his primary mate may be unwilling to fulfill.

Though the strong biological drive for sex is innately programmed to facilitate opportunities for reproduction, men have found ways to throw nature off course. Condoms, other birth control methods, and sexual practices that do not lead to fertilization (oral sex, anal sex, masturbation, sex with another male) are examples of ways men satisfy the biological drive while avoiding its biological function. It is no wonder that paying for sex has been part of the male experience universally for much of recorded human existence.

### **Health and Safety**

Criminalization inhibits the freedom of prostitutes to discuss condom use with their clients. Possession of condoms has been considered paraphernalia in some cases of arrest. Prostitutes are cautious about spending time discussing health and safety with potential clients since their conversations are subject to being recorded and used against them. This is especially true for street-based prostitutes who are at higher risk for HIV (Open Society Foundation, 2012).

“... criminalization and aggressive policing have been shown to increase sex workers vulnerability to violence, extortion, and health risks” (Open Society Foundations, 2012, p.1). It prevents their access to justice, health, and social services and “undermines their right to workplace and labor protections” (Open Society Foundations, 2012, p.1).

“Decriminalization of sex work [prostitution] in New South Wales in Australia has been associated with sex workers' decreased risk of occupational injury or insecurity as compared to

other Australian jurisdictions. One important way in which decriminalization promotes safer working conditions for sex workers is by enabling sex workers to organize” (Open Society Foundations, 2012, p.3). Collectively they can establish health services and financial services common to other service professionals’ organizations. “Decriminalization in New Zealand brought sex workers under the Health and Safety in Employment Act, resulting in the creation of occupational health guidelines, which sex workers have used to assert their rights with employers and clients” (Open Society Foundations, 2012, p.3). It is advantageous to the greater society when prostitutes are able to partner and collaborate openly with the appropriate health and safety regulation officers without fear of arrests and the subsequent consequences.

### **Sexual Rights are Human Rights**

The American government has a history of exerting control over its citizens’ bodies and sexuality. Laws place parameters around the sexual behavior of consenting adults, even those who are in legal marriages. Women continue to be challenged on their right to reproductive freedom. Laws against prostitution “intrude into private sexual behaviors and constitute a form of state control” over the bodies of prostitutes and their consumers (Open Society Foundations, 2012, p. 6). American lawmakers legislate their version of morality without ethical regard for individual autonomy. “Decriminalizing [prostitution] is a step in the direction of recognizing the right of all people to privacy and freedom from undue state control over sex and sexual expression” (Open Society Foundations, 2012, p. 6).

## Sexual Healing

“Sex work can be healing work” (Robertson, 2012, p.3). Prostitutes sometimes report a “strong interconnection with sex and healing” for themselves and their clients. Some report they have helped their clients work through sexual traumas such as incest and rape by providing a safe place for exploration of sexuality. Prostitutes report feeling affirmed by their value as healers. Interviews with prostitutes reveal that many feel privileged to see the positive changes in their clients’ lives as a result of the services they provide (Robertson, 2012).

In early history, temple prostitutes were believed to possess powers to heal sexual problems and illness. They were the nurses and sex therapists of their time. They used magic oils for massage and recited sacred texts as part of their healing rituals. Prostitution was sacred. “A woman’s fertility and life creating ability gave her a natural priority of communication with the deity” (Ringdal, 2004, p. 20).

Many prostitutes recognize a parallel between their work and the work of psychotherapists. Weitzer (2010b) suggests that call girls be added to the list of ‘listening occupations’ (p. 200). In a study about why men pay for sex, seventy-three percent of men who purchase sex report doing so to relieve stress (Lowman, 1997). Seventy-nine percent of men who purchase sex describe prostitution as a “valuable service” (Lowman, 1997, p.42). “Prostitution fills a vital role in our society by addressing the sexual and emotional needs of men and women and by providing high paying employment options to men and women who wish to provide sexual services” (Fifteen Reasons, n.d. p.1).

Some men “pay for sexual gratification and emotional solace” because they have not learned to find either elsewhere (Fifteen Reasons, n.d., p.3). In one survey, ninety percent of men

report loneliness as a primary reason they purchase sex (Lowman, 1997). Prostitutes also function as sexual surrogates by teaching social skills these men can transfer into relationships with more traditional sexual partners. Shy and socially phobic men may feel less vulnerable paying for sexual experiences instead of seeking them in more emotionally risky social environments (Fifteen Reasons, n.d., p.3). Sex therapists recognize the value of sex surrogates at providing hands-on therapeutic intervention for treating sexual disorders. Most sex therapists avoid recommending sex surrogacy for fear they will be arrested for promoting prostitution; a consequence that would also result in loss of license.

Indoor prostitutes “are often expected to support and counsel clients, and their encounters may resemble dating experiences, including conversation, gifts, hugging, massage and kissing” (Weitzer, 2007, p.30). Customers of indoor workers often expect them to provide more than sex.

### **The Influence of Criminalization on Violence Against Prostitutes**

There are claims that prostitutes are at higher risk of being victims of violence than other American citizens in general. This violence is sometimes perpetrated by police. In one study of violence in a country where prostitution is criminalized, forty-four percent of prostitutes report being raped at some point in their career by a law enforcement official. “Police workers in these contexts enjoy impunity for their offenses, in part because sex workers [prostitutes] fear they will be arrested or subjected to further abuse if they report these crimes” (Open Society Foundations, 2012, p2). Prostitutes are also unlikely to report violence against them by anyone in general for fear they will be arrested or punished in other ways such as losing their children. The barrier

between prostitutes and the police prevents them from receiving services that are often accessed through the legal system such as legal aid and crisis counseling (Open Society Foundations, 2012).

Criminalization of prostitution forces it into “rough streets and dark alleys” (Robertson, 2012, p.5). Decriminalization of prostitution can “strengthen criminal prohibitions on trafficking, sexual coercion”, and the abuse of minors (Open Society Foundations, 2012, p 6). New Zealand decriminalized prostitution in 2003. It “continues to be ranked in Tier 1 by the United States State Department’s Trafficking Persons report--that is, the country is judged to be among those doing the most effective work on human trafficking” (Open Society Foundations, 2012, p. 6). Prostitutes are able to collaborate with law enforcement when they are not themselves “under the threat of criminal penalties” (Sex is their Business, 2004, p.1). “Legalization would bring it into the open where abuses such as trafficking and under-age prostitution can be more easily tackled” (Sex is their Business, 2004, p.1).

## CHAPTER 3

### EXAMINING ARGUMENTS AGAINST DECRIMINALIZATION AND LEGALIZATION OF PROSTITUTION IN THE UNITED STATES

#### **Building the Case**

Prostitution in America is “increasingly demonized, marginalized, and criminalized as a result of efforts of a robust moral crusade” (Weitzer, 2010c, p 62). “Knowledge regarding sex work is increasingly being distorted by a group of influential activists, organizations, and some academics who regard the sex industry as a universally harmful institution” . Their “passionate commitment to a cause can undermine their objectivity” (Weitzer, 2010a, p.15).

Prostitution takes diverse forms and exists in varying conditions, a complexity that contradicts popular myths and sweeping generalizations. Plenty of evidence challenges the notion that prostitutes across the board, are coerced into the sex trade, lead lives of misery, experience high levels of victimization, and want to be rescued. These patterns characterize one segment of the sex trade, but they are not the defining features of prostitution (Weitzer, 2007, p.30).

Proponents against the decriminalization or legalization of prostitution cite studies concluding high rates of chemical dependency and victimization of prostitutes. These studies are conducted by police and social service organizations who encounter the most burdened of the sex work industry, typically street prostitutes (Sex is their Business, 2004). “This is the population best characterized by the oppression model” (Weitzer, 2007, p 28). Victimization is still “not as prevalent ... as the oppression model asserts” (p. 29). “Taking their clients as representative of all prostitutes is like assessing the state of marriage by sampling shelters for battered women” (Sex

is their Business, 2004, p.1). “If both parties consent, it is hard to see how either could be a victim” (Sex is their Business, 2004, p.1).

Moral crusade discourse has three central characteristics: inflating the magnitude of the problem, presenting only the most shocking cases as if they are the norm, and categorical conviction absent factual evidence (Weitzer, 2010c). The crusade against trafficking and sex work in the United States gained momentum from 2001-2008. It influenced policies about sex trafficking that allowed the government to target “all types of commercial sex” (Weitzer, 2010c, p 64). Almost all of the crusade’s claims about trafficking and sex work are either “unsubstantiated or demonstrably false” (Weitzer, 2010c, p 64). “Some moral crusades are motivated by genuine humanitarian concerns and desires to help victims, while others are mainly interested in imposing specific mores on others, especially when conventional rules appear to be unraveling, thus creating anxiety about the erosion of normative boundaries or threats to a cherished way of life” (Weitzer, 2010c, p 64).

## **Sex Trafficking**

The American government appears to have concluded that there is a definitive link between trafficking and prostitution. However, “prostitution is a type of labor, whereas migration and trafficking involve the process of relocation to access a market” (Weitzer, 2010c, p.72). Fusing stories of kidnapping and trafficking of non-consenting individuals with the sex industry is another means of stripping consenting adults of sexual freedom.

“In 2001, the State Department created a new unit, the Office to Monitor and Combat Trafficking in Persons” (Weitzer, 2007, p.32). Their website describes prostitution as harmful, brutal, and damaging. Other government agencies such as the Justice Department and Health and

Human Services have made similar statements. Politicians earn votes by raising public fear. They make claims of increases in sex trafficking, forced prostitution, and other forms of forced sex work with minimal or no evidence. New Zealand, where prostitution is legal, reported in 2008 that they had received no reports of sex trafficking. They concluded no link between their legal sex industry and human trafficking (Weitzer, 2010a).

While sex trafficking does exist and can be a very lucrative trade, it is unknown how many persons are trafficked across borders annually. Many figures reported by crusaders are unverifiable. Numbers tend to fluctuate drastically from one source to another (Weitzer, 2010c). Also it is unclear how many individuals entering the sex trade are illegally trafficked versus those who enter the business consensually and fully aware of the expectations (Weitzer, 2010c).

### **Victimization of Women and Children**

Forced prostitution of adults and the prostitution of minors are often referenced as reasons to keep prostitution illegal. Why not treat these crimes for what they are, kidnapping and abuse, and not as extreme forms of the sex industry (Sex is their Business, 2004)? Las Vegas, Nevada is reported by the FBI to have one of the highest rates of child prostitution in the United States. Ironically, it is also one of the cities in Nevada where prostitution is illegal (Whaley, 2011). Where there are opportunities to legally purchase the services of a prostitute, incidents of non-consensual prostitution appear to be less (Whaley, 2011).

There are claims that women who enter prostitution as a career are survivors of childhood sexual abuse. While there are cases where this is true, studies are inconclusive when comparing

their rates of abuse to those of women in general (Weitzer, 2007). The majority of women who are childhood sex abuse survivors do not choose prostitution as a career.

There are studies which suggest that prostitutes are likely victims of violent crimes. However, most clients do not commit violence against sex workers or hold views that condone violence (Weitzer, 2012). Most of these studies are conducted in areas where prostitution is illegal. The women in these studies are generally outdoor prostitutes. They have come to the attention of the police because they are breaking the law or because the police are already investigating a crime in which they are a victim (Weitzer, 2012).

Indoor prostitutes are less likely to perceive themselves as victims. Many made a conscious career choice. They express greater job satisfaction than street prostitutes. Psychologist Sarah Romans studied indoor prostitutes as compared to non-prostitutes. She found no difference between the two groups in health, self esteem, and “quality of social networks” (Weitzer, 2007, p.30). Indoor prostitutes in areas where prostitution is legal, generally have a known clientele or they work in a brothel where security is provided (Weitzer, 2007).

### **Sexually Transmitted Diseases**

The spread of sexually transmitted diseases is another common reason identified for keeping prostitution illegal. However, since 1986, when mandatory testing began in Nevada brothels, not a single full-time brothel prostitute has tested positive for HIV (Lucas, 2008, para. 6). “The mandatory condom law was passed in 1988. A study conducted in 1995 ... found that condom use in the brothels was consistent and sexually transmitted diseases were accordingly absent” (Albert, Warner, Hatcher, 1998, p.643-644).

## CHAPTER 4

### CONCLUSION

#### **Concluding Statement**

Legal prostitution can be organized in a way that benefits workers and consumers. Regulations are in place in other licensed professions to protect the public from potential risks. Other countries have successfully implemented regulations that minimize risk of disease, crime, and victimization. In America, Nevada's legal brothels provide the 'safest environment available for women to sell consensual sex for money' (Weitzer, 2007, p 31).

In a 2002 poll, fifty-two percent of Nevada residents support legalized prostitution in their state. A 1991 Gallup poll revealed that forty percent of Americans in general believed prostitution should be legal and regulated by the government. A survey of American men in 2000, revealed that seventeen percent admitted to paying for sex at some time in their life (Weitzer, 2007).

“But when the men or women want to sell their bodies, they should have that full right without encountering punishment or discrimination. If the client behaves decently, the relationship between the sex buyer and sex seller must be considered a purely private transaction” (Ringdal, 2004, p.4). “If neither buyer nor seller suffers from want or acts under physical coercion, a sexual transaction cannot be considered more immoral than any other trade. Efficient sex with specialists may reveal itself to be beneficial for both individuals and society” (Ringdal, 2004, p.8).

## Positive Social Influences Identified

Following is a list of the positive social influences of decriminalizing and legalizing prostitution in America based on the results of this study:

1. Prostitutes find their work rewarding and state that it has improved their self confidence. They find they feel more personally empowered and validated.
2. Prostitution is a viable career choice with above average wages.
3. Prostitutes provide services that can be emotionally and sexually beneficial to individuals who have experienced sexual trauma. Shy or sexually phobic individuals have reported feeling emotionally safer seeking the services of a prostitute.
4. Prostitutes provide experiential sex education.
5. Prostitution provides convenience of sexual expression to individuals who do not have time for building and maintaining long term intimate relationships. The services of a prostitute can be an efficient means of sexual expression when personal circumstances are not conducive to other traditional alternatives. Ninety percent of men who purchase sex report that they are seeking a brief and uncomplicated experience (Lowman, 1997).
6. Legalization would reduce violence against prostitutes by consumers and law enforcement officials. Prostitutes are more likely to report crimes when they are not at risk for incrimination. Criminalization deters sex workers from reporting to police when they become aware of other crimes or are victims of crime themselves. "They have to hide their own work and do not believe the police take them seriously" (Weitzer, 2012, p. 49).
7. Consumers of sex services are less likely to report when they have been a victim of a crime related to the solicitation of a prostitute illegally. Crimes against multiple consumers could be prevented if personal victims and witnesses could report the crime without risk of incrimination. Criminals could be apprehended sooner.
8. Criminalization forces sex trafficking and abuse of minors underground. Decriminalization would allow those of legal age who choose careers in prostitution to assist law enforcement at reducing illegal competition if they face no risk of incrimination. Legalization of prostitution may help reduce sex trafficking by increasing oversight. The demand for illegal options would decrease if legal options were available.

9. Decriminalization and legalization would allow the American government to better track and record the actual demand for sexual services. This data could positively influence how the country manages health and social services as well as primary education related to sexuality.
10. Decriminalization and legalization could allow for increasing local, state, and federal revenues via taxation of sexual services since the American sex industry is estimated to currently generate ten to fourteen billion dollars annually.
11. Where prostitution is legal in America, it has been found that it increases the opportunity of other non-sex related jobs (hospitality, clerical, maintenance, security).
12. Prostitution offers a viable means of participating in a behavior that is innate among humans. It is less of a threat to the institution of marriage and family than an extramarital affair which is the most frequently cited reason of divorce. Fifty-four percent of men who purchase sex report that they are having sexual problems at home. Ninety percent report they are seeking sexual experiences they are unable to obtain with their primary partner (Lowman, 1997).
13. Most human beings report sex to be a pleasurable activity which is also conducive to good mental and physical health. Legalized prostitution increases the opportunities for individuals to engage in sexual activity that might be otherwise unavailable to them.
14. Access to prostitutes has been determined to contribute to the morale of soldiers during times of war and to male workers in remote areas at times of an economic upsurge. A United States National Health and Social Life Survey from 1992 revealed that thirty-six percent of men who have served in the United States military report they have paid for sex at some point in their life. This compares with thirteen percent of men who have not served in the military (Lowman, 1997).
15. Tax dollars spent for enforcing laws against prostitution could be better applied to legitimate crimes. Most exchanges of sex for pay are consensual and harmless. Policing of these transactions costs time and money that could be allocated to reducing crimes that threaten life and property. Criminalization is “costly to the criminal justice system...”. Expenditures for these generally victimless crimes, could be “reallocated to other priorities” (Weitzer, 2012, p. 49). Eighty-five percent of men who purchase sex report that the illegality of the transaction is not a deterrent (Lowman, 1997).
16. Criminalization of prostitution interferes with the sexual freedoms of citizens that should be protected under constitutional law. Decriminalization allows those already working as prostitutes or utilizing the services of prostitutes to do so without legal consequences. Those who choose to not use these services will not be forced to do so. The consequences of arrest of those soliciting prostitutes (loss of employment, loss of income and benefits, public humiliation, incarceration away from family or dependents) are unreasonable in circumstances where the transaction is consensual and without harm.

17. Where prostitution is legal in America, it is regulated to promote health and safety of workers and consumers. Where it is illegal, it exists without regulation and health and safety of workers and consumers is compromised. Potential for robbery, physical assault, and the transmission of sexual diseases increase where prostitution is illegal.
  
18. Decriminalization of prostitution can “strengthen criminal prohibitions on trafficking, sexual coercion”, and the abuse of minors (Open Society Foundations, 2012, p 6). New Zealand decriminalized prostitution in 2003. It “continues to be ranked in Tier 1 by the United States State Department’s Trafficking Persons report--that is, the country is judged to be among those doing the most effective work on human trafficking” (Open Society Foundations, 2012, p. 6). Prostitutes are able to collaborate with law enforcement when they are not themselves “under the threat of criminal penalties”.

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## RESOURCES

The Desiree Alliance at [www.desireealliance.org](http://www.desireealliance.org) is a diverse, volunteer-based, sex worker-led network of organizations, communities and individuals across the America working in harm reduction, direct services, political advocacy, and health services for sex workers.

The Global Network of Sex Work Projects [www.nswp.org](http://www.nswp.org) influences policy and builds leadership among sex workers. It facilitates the development of regional and national networks of sex workers and sex work projects. It is located in Scotland.

Hook at [www.hookonline.org](http://www.hookonline.org) is a volunteer lead program for and about men who work in the sex industry. It provides education and advocacy to male sex workers and their clients.

International Sex Worker Foundation for Art, Culture, and Education (ISWFACE) at [www.iswface.org](http://www.iswface.org) is a resource for sex workers about the sex work industry.

The National Coalition for Sexual Freedom (NCSF) at [www.ncsfreedom.org](http://www.ncsfreedom.org) advocates for sexual freedoms of all adults who engage in safe, sane, and consensual behavior.

PONY, Prostitutes Of New York, [www.bayswan.org/PONY.html](http://www.bayswan.org/PONY.html) is a support and advocacy group for all people working in the sex industry.

Project SAFE, [www.safephila.org](http://www.safephila.org) promotes human rights and public health among female sex workers in Philadelphia.

Prostitutes Collective at [www.prostitutescollective.net](http://www.prostitutescollective.net) campaigns for abolishing laws that criminalize sex workers.

Prostitutes Education Network, also known as Bay Area Sex Worker Advocacy Network (BAYSWAN) at [www.bayswan.org](http://www.bayswan.org), provides articles, research, legal information, blogs, and general information related to sex work in the United States and throughout the world.

Sex Work Cyber Resource Center at [www.sexwork.com](http://www.sexwork.com) contains articles, legal information, and links to other sites relevant to sex workers and those who seek their services.

Sex Worker Education and Advocacy Taskforce (SWEAT) at [www.walnet.org](http://www.walnet.org) provides a variety of education and advocacy services to sex workers in South Africa.

Sex Workers Outreach Project at [www.swopusa.org](http://www.swopusa.org) is an education and advocacy network focused on social justice for sex workers.

George Carlin once said 'sex is legal. Selling sex is legal. Why is selling sex illegal' (Weitzer, 2012, p. 47).