



“The Prostitution Problem”: Claims, Evidence, and Policy Outcomes

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Abstract

Prostitution, payment for the exchange of sexual services, is deemed a major social problem in most countries around the world today, with little to no consensus on how to address it. In this Target Article, we unpack what we discern as the two primary positions that undergird academic thinking about the relationship between inequality and prostitution: (1) prostitution is principally an institution of hierarchal gender relations that legitimizes the sexual exploitation of women by men, and (2) prostitution is a form of exploited labor where multiple forms of social inequality (including class, gender, and race) intersect in neoliberal capitalist societies. Our main aims are to: (a) examine the key claims and empirical evidence available to support or refute each perspective; (b) outline the policy responses associated with each perspective; and (c) evaluate which responses have been the most effective in reducing social exclusion of sex workers in societal institutions and everyday practices. While the overall trend globally has been to accept the first perspective on the “prostitution problem” and enact repressive policies that aim to protect prostituted women, punish male buyers, and marginalize the sex sector, we argue that the strongest empirical evidence is for adoption of the second perspective that aims to develop integrative policies that reduce the intersecting social inequalities sex workers face in their struggle to make a living and be included as equals. We conclude with a call for more robust empirical studies that use strategic comparisons of the sex sector within and across regions and between sex work and other precarious occupations.

Keywords Prostitution-gender inequality · Social inequality · Policy responses · Sex work · Prostitution

Introduction

Prostitution, payment for the exchange of sexual services (Benoit, Jansson, Smith, & Flagg, 2018; Zelizer, 2005), has long been a source of heated debate—about its moral status, legitimacy, as well as policies proposed to deal with it. The controversy stems from our deep-seated beliefs about the people who sell sexual services, about the ethics of sex and of trading sex for money, and the consequences of these for women sellers (and sometimes others). Calls for action on the “prostitution problem” rise to the level of high politics during historical periods marked by global capitalism, international migration, and tensions related to entrenched gender, class, and

race inequalities within and across nations. The current conflation of prostitution with sex trafficking and sex slavery has a historical antecedent in earlier stages of capitalism marked by globalization of markets and the international migration of labor (Constable, 2009). As Day (2010) notes when referring to the contemporary moral panic about prostitution, “[i]t is puzzling initially to find the language of the 1900s repeated in the 2000s without appearing out of place” (p. 819).

Nussbaum (1998) argues that to understand why prostitution is such a troubling topic for so many we need to consider in what ways people who sell sexual services are similar and different than others who sell their bodies and emotions for pay in capitalist societies. She argues that prostitution is not much different from many other jobs like the opera singer, factory worker, nightclub singer, domestic servant, masseuse, and even university professor. She says that all involve selling parts of oneself and often the use of one’s body in exchange for money, and historically doing so has been frowned upon. She suggests that the only difference between sex work and these other pursuits today is that the stigma of exchanging sex for money remains. Nussbaum (1998) concludes that some of our beliefs

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and academic theorizing about prostitution are “irrational” as they do not hold up to real-world experiences of people who sell sexual services, and she suggests that “at least some of our feminist theory may be insufficiently grounded in the reality of working-class lives and too focused on sexuality as an issue in its own right, as if it could be extricated from the fabric of poor people’s attempts to survive” (p. 697).

In this Target Article, we unpack what we see as the two primary positions that undergird academic thinking about the relationship between inequality and prostitution: (1) prostitution is principally an institution of hierarchal gender relations that legitimizes the sexual exploitation of women by men (Farley, 2004; Miriam, 2005; Pateman, 1988), and (2) prostitution is a form of exploited labor where multiple forms of social inequality (including class, gender, and race) intersect in neoliberal capitalist societies (Constable, 2009; Kotiswaran, 2011; Nussbaum, 1998; van der Meulen, 2011; Weitzer, 2007).

While each perspective is concerned about inequality affecting sex sellers, their different starting points for understanding the problem lead to different assumptions about the characteristics of the population involved, different methods for studying them, different interpretations of results (sometimes of the same data), and, ultimately, resulting in divergent policy recommendations as solutions to the problem. Changing individual behavior, particularly male behavior, through imposition of criminal laws, shaming campaigns, and other repressive measures, is a viable policy solution if we assume that the commercial exploitation of women’s sexuality is the core issue of prostitution (Bindel, 2017; Coy, 2012; Farley, 2004; Jeffreys, 1999; Raymond, 1998). Conversely, empowerment of sex workers and granting them occupational and other social rights and opportunities for greater social inclusion is an alternative path forward if we assume that the core issue is global capitalism and neoliberal state policies structured on gender, class, and racial inequalities that intersect in sex work (O’Connell Davidson, 2014; Pitcher, 2015).

Our aims are thus to: (a) examine the key claims and empirical evidence provided to support each perspective; (b) outline the policy responses associated with each perspective; and (c) evaluate which perspective has been the most effective in reducing inequalities and promoting the social rights of people who sell sexual services. Before doing so, we consider in more detail some key methodological issues related to the nature of evidence on the topic, and additional conceptual issues related to policy responses.

Methodological Challenges to Prostitution Research

There are numerous challenges to conducting research with people who sell sexual services, some that are unique to prostitution research. People who sell sex, inject drugs, are HIV

positive, or identify as non-heterosexual are often referred to as “hard-to-reach” or “hidden” populations (Heckathorn, 1997) who share a number of characteristics that challenge researchers: (a) there is no sampling frame, and thus, the size of the membership and group boundary is unknown, making it difficult or impossible to obtain a representative sample; (b) acknowledgment of belonging to the group is threatening because society views their behaviors as illicit or illegal, making them objects of hate or scorn and sometimes prosecution; and (c) some members are distrustful of non-members, do whatever they can to avoid revealing their identities, and are likely to refuse to cooperate with outsiders, or give unreliable answers to questions about themselves and their networks (Benoit, Jansson, Millar, & Phillips, 2005; Bungay, Oliffe, & Atchison, 2016; Lutnick, 2014; Magnani, Sabin, Sidel, & Heckathorn, 2005). To overcome these methodological difficulties, many researchers have adopted respondent-driven sampling as a viable method. In respondent-driven sampling, participants serve as “seeds.” Seeds receive recruitment coupons that describe the study and invite others to an interview. The seeds receive a small honorarium for each referred peer (a maximum of three) who participate in the study (Heckathorn, 2002). Respondent-driven sampling assumes that networks of hard-to-reach populations often overlap and that members are more likely to respond to the appeals of their peers than those of unfamiliar researchers.

Respondent-driven sampling has rarely been used to study people in sex work (for exceptions, see Benoit, McCarthy, & Jansson, 2014; Johnston, Grazin, & Mai, 2006). Most studies of sex work/prostitution instead rely on convenience sampling (participants are recruited because they volunteer or are easier to access), facility-based sampling (participants are recruited from specific clinics, correction facilities, or other sites where some sex workers are found), targeted sampling (ethnographic study of a subgroup of sex workers in a particular place), or time-location sampling (participants are contacted at selected times and locations, often selected from places where sex workers and clients meet such as brothels, escort agencies, massage parlors, and street corners). All of these methods are associated with potentially unacceptable levels of sampling bias if the goal is to generalize to all people who provide sexual services for money (Magnani et al., 2005).

Even more disconcerting is that there is no agreement on definition of the sample population involved in prostitution. Scholarship supporting the perspective that prostitution is principally an institution of hierarchal gender relations argue the population comprises of women only (“prostituted women”). Farley (2018) recently stated in a footnote that “[t]hose in prostitution include women, men, transwomen, and children. We use the term women to include all of these people” (p. 97). While this is an attempt to answer critics, the operational definition assumes a homogeneous category. At the extreme, those who see the prostitution problem as

predominantly caused by hierarchal gender relations are most strongly persuaded by data from the most marginalized women, such as those in prisons, linked to outreach agencies, or in prostitution exiting programs. These research subjects have the least social capital, the most fragile attachment to the labor market, and the weakest social support systems. On the other hand, those who assume that people who sell sexual services are predominantly disadvantaged because of capitalist labor exploitation tend to include more heterogeneous samples in their studies and to sometimes examine sex work from a comparative lens. These strategies allow researchers to tease out the similarities and differences among different groups of sex workers, how their working conditions compare to people in other jobs, and how the sex sector varies across time, place, and along other dimensions. As we show below, these various methodological foci produce different samples of people engaged in sex work, different results, and recommend different policy responses.

Researchers' ideological biases also weaken much of the scholarship on prostitution. As Jaggar (1997) notes, when one believes *a priori* that prostitution is grounded in the sexual exploitation of women, self-reports of women (and others) who sell sex and say they are *not* sexually exploited, or that sex work is no more exploitative than the other kinds of work available to them, get discounted as false consciousness. This is particularly so for women migrants involved in prostitution who are assigned the label "trafficked victim," even when studies find many to be creative and resourceful in challenging situations and see work as a "self-chosen means for social and personal betterment" (Wagenaar, Amesberger, & Altink, 2017, p. 5). Agustín (2006) points out that "'trafficking' is largely viewed as happening only to women, and since some theorists define it and prostitution both as violence against women, non-female migrants are not recognised" (p. 30). The result is limited data from women migrant workers involved in prostitution and their inclusion in sex trafficking statistics, as well as the invisibility of other genders in migrant sex work.

Prostitution Policy Challenges

The methodological challenges outlined above have a strong impact on scholarship about prostitution policy. Wagenaar (2018) contends that both international and domestic policies related to prostitution today are advanced "in a largely evidence-free environment" (p. 13). The array of concepts found in studies supporting both perspectives is mesmerizing. For example, the label abolitionism, mentioned in the nineteenth century American antislavery abolitionist movement (Halley, Kotiswaran, Shamir, & Thomas, 2006), and used by social reformer Josephine Butler to refer to reduced state control over individuals in prostitution, has today come to mean a criminal law approach which aims to

abolish prostitution. The label "neo-abolitionism" (Bernstein, 2007b; Vanwesenbeeck, 2017; Ward & Wylie, 2017) is also currently in vogue and used to refer to prohibition of the purchase and facilitation of commercial sex but not the act of selling (McCarthy, 2014). Neo-abolitionists frame prostitution as a problem of male sexual entitlement (Coy, 2012) and call for the banning of sex buyers' desire for impersonal sex, which they see as linked to aggressive attitudes toward vulnerable women (Farley, 2006; Farley et al., 2015; Farley, Macleod, Anderson, & Golding, 2011). Neo-abolitionists argue that we need a criminal law strategy that "punishes the perpetrators and not the victims of the crime of prostitution" (Raymond, 1998, p. 6), in order to directly tackle men's demand for commercial sex (Coy, 2012).

Other terms used to describe prostitution regulation include criminalization, legalization (or regulation), and decriminalization (Bernstein, 2007a; Carline, 2009; Dewey & Kelly, 2011; Phoenix, 2009; Vanwesenbeeck, 2017; Weitzer, 2014). McCarthy, Benoit, Jansson, and Kolar (2012) employ the following typology: full criminalization (sometimes referred to as pro-abolition), partial decriminalization (sometimes referred to as partial regulation), and full decriminalization (sometimes referred to as anti-abolition or regulation). The latter includes situations in which governments do not explicitly prohibit the sale or purchase of sexual services and situations in which the commercial sex market is perhaps best seen as quasi-legal, that is, neither explicitly legal nor illegal. Halley et al. (2006) and Kotiswaran (2014) employ a similar typology: complete criminalization, abolitionist or partial decriminalization, complete decriminalization, and legalization, while Decker et al. (2015) use these concepts to capture the prostitution regulation continuum: criminalization, partial criminalization, legalization, and decriminalization.

Agustín (2008) argues that these conceptual models are "irrational" to the extent that they "assume an acultural, universalist ethic that does not account for local conditions" (p. 74). Östergren (2017a) shares this frustration, noting that:

Besides the conceptual and methodological difficulties that all comparative policy studies face, there is the morally and politically charged nature of sex work. The more fundamental problem, however, is the lack of a coherent system of prostitution policy classification. When researchers do not share an understanding of which general policy models exist, or even what constitutes a particular model, any comparison of specific policies becomes fruitless. (p. 1)

Östergren and others involved in the European DemandAT project (Östergren, 2017a, b; Vogel & Kraler, 2017) have recently developed a new policy typology—repressive, restrictive, and integrative—in an effort to provide a more nuanced context-sensitive understanding of how the sex sector is governed and the consequences for sex sellers. They acknowledge

that no country or region completely fits these ideal labels, but argue nevertheless that the typology is an advancement over other classification approaches to prostitution listed above that are plagued with unclear concepts, confusing use of categories, and pay scant attention to the unintended and unanticipated consequences of the actual implementation of different policy instruments (Wagenaar & Altink, 2012; Wagenaar, Amesberger, & Altink, 2017).

In our Target Article, we adopted Östergren's (2017a) policy typology and used it to examine the impact of policies about prostitution across and within countries. This includes their intent—from zero tolerance to full integration—and the instruments of their implementation: criminal law, administrative law, and labor and other social regulations. We also examine the impact on the sex work sector, whether illegal, semi-legal, or legal, and sex workers themselves (socially excluded, stigmatized, or full access to labor and other rights). While no country or region completely matches one of Östergren's (2017a) three policy types and all “suffer from inconsistencies” in their impact on the sex sector and sex workers (p. 5), the current overall trend globally is the adoption of more repressive policies to deal with prostitution within and across borders (Pitcher, 2015; Weitzer, 2010).

Next, we examine the claims made by the two competing perspectives on the “prostitution problem,” the empirical evidence supporting these claims, and the policy responses taken in various countries. We evaluate the impact of these responses on the sex sector and their progress in promoting gender equality for women in society (Perspective 1) or social equality for sex workers in work and society at large (Perspective 2).

Perspective 1: The Central Problem with Prostitution Is Gender Inequality

Those who adopt the perspective that prostitution is principally an institution of hierarchal gender relations make numerous claims, three of which we underscore: (1) prostitution is a patriarchal gender relation; (2) prostitution entails the selling of women's sexual self, not their labor; and (3) prostitution and trafficking are so closely linked that they are inseparable.

Scholars advocating for this perspective contest liberalism's definition of freedom “as something in the head, in one's ‘thoughts,’ or as the physical/legal condition of ‘being let alone’” (Miriam, 2005, p. 3). They contend women cannot freely choose to participate in prostitution because they are not autonomous/unsituated subjects within patriarchal societies (MacKinnon, 1982; Pateman, 1988, 1989). Prostitution, while appearing to many people as “natural” or “inevitable,” is thus an institution of women's sexual oppression (Jeffreys, 1999; Van Der Veen, 2001) and a form of female sexual slavery (Barry, 1979) that reinforces their subordination (Dworkin, 1993).

Satz (2010) argues that prostitution “is a theatre of inequality; it displays for us a practice in which women are seen as servants of men's desires” (p. 147), while Kesler (2002) maintains it is “the absolute embodiment of patriarchal male privilege” (p. 219). This is the hidden “sexual contract” (Pateman, 1988) sustaining modern patriarchy that grants the male buyer autonomous sexual consumption but leaves the female seller objectified (Barry, 1995). Pateman (1988) argues that “[p]rostitution is the use of a woman's body by a man for his own satisfaction. Prostitution is not mutual, pleasurable exchange of the use of bodies, but the unilateral use of a woman's body by a man in exchange for money” (p. 198). Pateman (1988) argues that prostitutes' own strategies for resisting such sexual exploitation “amount to negotiating the terms of their unfreedom” (p. 233).

Those adopting this perspective argue that Marx (1964) was wrong when he wrote that “[p]rostitution is only a specific expression of the general prostitution of the laborer” (p. 133). They argue what is being sold in sex commerce is not the same as the labor power sold by the worker to the capitalist (Phillips, 2011). Prostitution alone exploits the seller's sexual self: “womanhood... is confirmed in sexual activity, and when a prostitute contracts out use of her body she is thus selling herself in a very real sense” (Pateman, 1988, p. 207). The prostitute/customer relation is thus an essential relation of domination and subordination of the self, arising only under conditions of gender inequality (Anderson, 2002; Farley, 2018; Satz, 2010): “the inequality that attends such markets is not just contingent; it is an intrinsic feature” (Phillips, 2011, p. 738).

Adherents to this perspective also claim that prostitution is analogous to sex trafficking (Bindel, 2017; Farley, Lynne, & Cotton, 2005; Raphael, Reichert, & Powers, 2010). Raymond (2002) argues “it is impossible to separate the exploitation done to women in local prostitution industries from the exploitation done to women who have been trafficked for prostitution” (pp. 498–499). According to MacKinnon (2011), “[t]rafficking is transportation, transfer, harboring, or receipt of a human being for purposes of sexual exploitation: it is straight-up pimping” (p. 299). The global “sex industry” is a naive “euphemism for the sexual enslavement of women” (Dworkin, 2004, p. 138).

Empirical Evidence for the Gender Inequality Perspective

Research cited to support these claims asserts that entry into prostitution occurs through a series of predisposing factors beyond the personal control of those initiated, including dysfunctional socialization involving parental neglect or isolation from social networks (Dodsworth, 2012; Farley, 2004; Miller, 2002; Stoltz et al., 2008; Vaddiparti et al., 2006; Wilson & Widom, 2010), and childhood experiences of objectification and sexual abuse (Coy, 2009). According to Farley (2018) “[f]amilial sexual abuse functions as a training

ground for prostitution” (p. 98). Similar research identifies a “drift into prostitution” or of being targeted by procurers (Silbert & Pines, 1983; Tyler, Hoyt, & Whitbeck, 2000). For example, Raphael et al. (2010) found that 71% of their participants stated they were recruited into prostitution, with 21% describing acts of violence being perpetrated toward them by their pimp during the initial period of recruitment. Further, Raphael et al. (2010) identified that participants who experienced medium or high levels of coercive control from their pimp experienced “progressively higher levels of current violence” (p. 100) from the time of recruitment to the time of the interview. In a review of various data sources, Farley, Franzblau, and Kennedy (2014) contended that “on average 84% of women in prostitution are under third-party control or pimped or trafficked” (p. 104).

Other studies referenced to support this perspective claim that virtually all prostituted women (92%) have experienced physical or sexual violence (Farley et al., 2004), and two-thirds have been raped while working in prostitution (Farley & Barkan, 1998). Farley et al. (2005) also posit that three-quarters of the prostituted women in their study met the criteria for a PTSD diagnosis, which they link to a lifetime history of violence and sexual assault, both prior to and during the time of being prostituted. Concerning other dimensions of mental health, Kramer (2004) found that over 75% of the individuals involved in prostitution in her study had worse self-esteem after becoming involved in sex work. Disempowerment, substance use, exploitation, and lack of control exacerbates prostituted women’s ability to experience positive self-esteem (Dodsworth, 2012; Gorry, Roen, & Reilly, 2010; Rosen & Venkatesh, 2008; Sallmann, 2010; Smith & Marshall, 2007).

Critique of the Gender Inequality Perspective

While this perspective, and the studies used to support it and justify implementation of repressive policies (see below) are currently in vogue globally, many scholars criticize the evidence provided for its measurement and methodological shortcomings that impair validity of analyses and research results (Wagenaar, & Altink, 2012; Weitzer, 2015; Zhang, 2009). Other research has shown that predisposing factors for entering prostitution were “much less important than was often expected” and typically only applicable to street-based workers (Vanwesenbeeck, 2001, p. 245). Likewise, Jeal and Salisbury (2007) reported that street-based workers were more likely to be motivated to engage in sex work in order to fund their substance use, whereas parlor workers were more likely to be motivated by other economic factors, including the need to pay for living expenses, flexible hours to accommodate childcare, and support dependents as a single parent.

Other studies show that, while human rights violations against sex workers occur globally, the worst abuses occur

in countries where sex work is prohibited through criminal law sanctions, increasing HIV vulnerability, and weakening harm reduction and intervention programs, undermining the argument that criminalizing prostitution will improve the situations of women who are prostituted (Corrêa, & Parker, 2004; Decker et al., 2015). A systematic review of 87 studies from around the globe that examined structural determinants of HIV found an independent link between repressive prostitution laws and a higher rate of HIV infections (Shannon et al., 2015) and the likelihood of violence (Sanders, 2005a).

Critics also call for caution against essentialist thinking about sexual exchange as a means of controlling women’s movement within and across borders (Rubin, 2002). They argue the current conflation of prostitution and sex trafficking rests on dubious grounds and overlooks the agency of migrant sex workers who choose to leave their home countries for improved economic opportunities abroad and sometimes to escape oppressive gender conditions (Global Alliance Against Traffic in Women [GAATW], 2007; Vanwesenbeeck, 2017; Wagenaar et al., 2017; Weitzer, 2015; Zhang, 2009). Not only is there no data consistency across studies of either phenomena (McCarthy, 2014), but the apparent “victim” (innocent young woman, often of color, being forced to have sex against her will) has been difficult to locate empirically (Blanchette, Silva, & Bento, 2003). In reality, it is their situation of being single migrant women in a foreign nation and the criminalization of their sex work that places them in danger of mistreatment by exploiters (Chew, 2012).

Despite these shortcomings, those adopting this first perspective have called for multi-level governmental action to repress prostitution. We examine this response next.

Repressive Policy Responses to the Gender Inequality Perspective

This type of policy response involves a zero-tolerance approach toward prostitution as a practice by using criminal laws to prohibit it, launching media and other campaigns to condemn commercial sex, and implementing exiting programs for prostituted women and rehabilitation programs for men who purchase sex (Thomas, 2009).

The United States is a high-income country that comes closest to fitting under a repressive policy regime today (Weitzer, 2012, 2014). Selling sexual services is illegal in all states except in brothels located in 11 rural counties of Nevada that have a population of less than 400,000 (Brents & Hausbeck, 2001). In U.S., penalties for selling sex include fines of up to \$1000 and jail sentences of up to 1 year; in some states, the fine and penalties are more severe. Sexual contact is not necessary to be charged with prostitution. Simply offering or agreeing to perform a sexual act is sufficient. In most states, the penalties for buying sexual services now emulate those imposed against people who sell the services. Similarly,

third-party involvement in prostitution is fully repressed almost everywhere and pimping or operating a brothel are felonies in most states (McCarthy et al., 2012).

One of the associated programs linked to the criminalization of buyers within the U.S. is the establishment of “John schools,” a diversion “education” program for sex buyers charged under the prostitution law. Instead of paying a fine, they are mandated to participate in a rehabilitation exercise aimed at curbing their behavior (Lowman & Atchison, 2006; Sanders, 2009; Shively, Kliorys, Wheeler, & Hunt, 2012). The stated aim for these types of programs is to “persuade or deter men from buying sex” through discussion sessions covering issues such as “healthy relationships, anger management, sexual addiction, pimping and pandering, human trafficking, and johns’ vulnerability to criminal victimization” (Shively et al., 2012, p. 1). Farley (2018) and Bindel (2017) see this approach as human rights-based that will end the “sex work myth.” These strategies used to punish men who buy sex have been largely accepted by governmental groups and the general public as effective in changing men’s social psychology regarding commercial sex (Shively et al., 2008, 2012).

Sweden’s prostitution policies are similarly predominantly repressive (Östergren, 2017a). Over the last few decades, a wide range of actors—academics, activists, and politicians—have worked together to construct the Swedish prostitution problem as a harmful practice of gender inequality and one that should be eradicated (Harrington, 2012). Ekberg (2004), a feminist consultant on prostitution and trafficking for the Swedish government, states:

[t]he work against prostitution and trafficking in human beings requires a broad perspective and a will to act in a wide range of policy areas. It also requires the involvement and collaboration of a broad variety of public and private actors. In Sweden, this work is undertaken not only by the Swedish government and public authorities but also by the women’s movement, the shelter movement, and other nongovernmental organizations. (p. 1190)

Within Swedish government circles and among the general public, prostitution and human trafficking are understood as one and the same and their eradication was deemed fundamental to the achievement of a democratic society that is centered on gender equality and accepts the stigmatization of men who buy sex in an effort to prevent them from misusing women’s bodies (Florin, 2012). In the years 1983–1993, the Swedish parliament debated more than 50 different motions relating to sex work, over half of which advocated for criminal sanctions for purchasers (Kuosmanen, 2011). The 1998 Sweden’s Sex Purchase Act criminalizes sellers who seek out “prostituted women” (Ekberg, 2004). As noted above,

this approach is sometimes referred to as neo-abolitionism (Bernstein, 2007b; Vanwesenbeeck, 2017).

The Sex Purchase Act seeks to use criminal laws to eliminate the root cause of prostitution, that being “men’s demand for and use of women and girls for sexual exploitation” (Ekberg, 2004, p. 1189) and consequently decrease the demand for prostitution (Svanström, 2004). In 1999, Sweden introduced fines and imprisonment for up to 6 months for buying or attempting to buy sexual services in any location. The law is also extraterritorial: Swedes who buy or attempt to buy sex in other countries that have similar laws can be charged when they return to Sweden. In 1999, 94 Swedish men were charged under the new legislation; in 2005, 460 men were arraigned (Hubbard, Matthews, & Scoular, 2008). However, the law has very rarely been implemented beyond fining perpetrators, with none being imprisoned since the enactment of the sex purchase law (Waltman, 2011).

Similar to strategies undertaken in the U.S., punishment for Swedish sex buyers under this legislation also involves “rehabilitation” to strengthen their moral character and become educated in how to participate in mutual non-exploitative sexual relationships. These types of programs typically allow people arrested for buying or attempting to buy sexual services to avoid a record and imprisonment if they admit guilt, pay a fine, attend the program, and do not recidivate within a specified period (Gurd & O’Brien, 2013; Weitzer, 2012). Official reports indicate they resulted in curbing the number of women in prostitution in Sweden (Harrington, 2012) and reduced the prevalence of trafficking (Jakobsson & Kotsadam, 2013).

Sweden’s repressive approach goes beyond just criminalizing the sex buyer. Punitive laws are also in place to penalize “procurers,” which encapsulates all individuals who make a profit off of the earnings of a sex worker, meaning that it is illegal to act as a manager for sex work-related businesses or to hire safety personnel, or even to have family members who are seen as living off the money earned through sex work (Östergren, 2017a). Further, while Swedish citizens who sell sex are technically “decriminalized” under the law, migrant workers who sell sex can be targeted under separate legislation (Östergren, 2017b) that bars them from “not support[ing] himself or herself by honest means” (Skilbrei & Holmström, 2017, p. 70). Laws in Sweden also empower landlords to repeal contracts with tenants on the basis of sex work activity taking place in the rented unit (Östergren, 2017a). This acts to repress both residential and commercial sex work locations.

A number of other governments have followed Sweden by reducing sanctions against selling while criminalizing the purchasing of sex and most other prostitution-related activities (sometimes referred to as the “Swedish model” or “Nordic model”). Canada is a recent case in point with its enactment of the 2014 Protection of Communities and Exploited Persons Act, as are Norway and Iceland in 2009,

Northern Ireland in 2015, France in 2016, and the Republic of Ireland in 2017 (Harrington, 2017). The European Parliament endorsed a repressive approach in 2014, and the same year the Council of Europe recommended that criminalizing sex buyers is the optimal strategy to combat human trafficking within and across national borders. The United Nations Committee on the Elimination of Discrimination against Women has made a similar recommendation (Euchner & Knill, 2014).

Critique of Repressive Policy Responses to the Gender Inequality Perspective

Critics of the repressive policy response to the prostitution problem argue that it overlooks the economic and social heterogeneity of the sex industry and results in an array of negative consequences (Weitzer, 2012). Even where sex work is completely criminalized, a clandestine sex market usually thrives. In settings of full criminalization of prostitution, police discretion has often resulted in selling being punished more often and more harshly (McCarthy et al., 2012). These gendered enforcement practices ensure that purchasers and third parties are more, rather than less, advantaged relative to sellers; they have greater economic, social, and cultural power and resources than sellers, who are disproportionately drawn from disadvantaged groups (Harcourt & Donovan, 2005).

In Sweden, evidence that its repressive laws have eliminated prostitution remains weak (Dodillet & Östergren, 2013; Halley et al., 2006; Levy, 2014). Levy and Jakobsson (2014) say that “there is no convincing evidence that levels of prostitution in Sweden have decreased since 1999” and that “since it can only be demonstrated that levels of street sex work declined when the law was introduced, it seems that street sex work figures have been assumed to be indicative of overall levels of sex work” (p. 597). This assumption is problematic, since the majority of sex work takes place in indoor venues. The effectiveness of “John Schools” has also been challenged. Research suggests that lower rates of recidivism in these reform programs are more likely attributable to the fear of being arrested again (Levine, 2017). Assessments of prominent “John Schools” such as the FOPP Report compiled by Shively et al. (2008) “leave it to the readers to assume that a drop in recidivism may also have led to a reduction in prostitution and trafficking” (Lovell & Jordan, 2012, p. 3). Further, it has been noted that the law had the effect of displacing sex work into less visible spaces that serve to increase the estrangement between protective and health services and sex workers (Halley et al., 2006; Östergren, 2017b).

In a systematic review of the correlates of violence against sex workers in different regions of the world, Deering et al. (2014) found that maltreatment by police was enabled in countries where prostitution was partly or fully criminalized. Frequency of police-perpetrated physical and sexual assault

against sex workers leads many to see the police as “violent perpetrators[s] with a badge” (Williamson, Baker, Jenkins, & Cluse-Tolar, 2007, p. 27), overriding concerns regarding client-perpetrated violence (Benoit et al., 2017b; Pettifor, Beksinska, & Rees, 2000; Rhodes, Simic, Baros, Platt, & Zikic, 2008). Other common types of police misconduct include non-responsiveness to calls for help and coercing sex workers into sexual acts in exchange for non-arrest (GAATW, 2007; Williamson et al., 2007). The latter is reportedly commonplace in the U.S. (Blankenship & Koester, 2002; Dewey & St. Germain, 2014; Sherman et al., 2015). Repression of prostitution in the U.S. has also been observed to negatively affect sex workers’ ability to utilize condoms; this is due to police services using possession of condoms as evidence of intent to engage in prostitution, leaving those who are attempting to sell sex with the option of either having their stash of condoms used against them if arrested, or not carrying condoms with them at all (Wurth, Schleifer, McLemore, Todrys, & Amon, 2013).

The constriction of the street-based industry under repressive policy regimes has also caused concerns over competition between workers and the increased pressure to take whatever client one can find, even under conditions where the worker is not able to screen the client before entering their vehicle. Because of clients’ fears of arrest, they are unwilling to provide identifying information that was formerly requested by many sex workers (Levy & Jakobsson, 2014). A final concern is that repressive policies have not resulted in increased agency and service provision (Holmström & Skilbrei, 2017). Florin (2012) notes that the Swedish government has done “little to guide or fund targeted service provision” (p. 276) for domestic sex workers, despite the promise to do so. For them, the goal of achieving gender equality remains elusive.

Vanwesenbeeck (2017) contends that criminalization also intensifies prostitution stigma because it fabricates “commercial sex as immoral, illicit, and unlawful” (p. 2) and sex workers as a “disposable population” (Lowman, 2000). By overlooking the role of stigma and criminal law in constructing the deviant status of prostitution, advocates “often underestimate how much of what they identify as harmful in prostitution is a product, not of the inherent character of sex work or sexuality but rather of the specific regimes of criminalization and denigration that serve to marginalize and oppress sex workers” (Zatz, 1997, p. 289).

Nussbaum (1998) states in general about using criminal laws to improve the situation of women in prostitution: “[w]hat seems right is to make them, in general, equals under the law, both civil and criminal. But the criminalization of prostitution seems to pose a major obstacle to that equality.” (p. 720) Sex workers need “the right to work with the law’s protection from harm, be it rape, violence, robbery, or other violations” (Butcher, 2003, p. 1983).

Perspective 2: The Central Problem with Prostitution is Social Inequality

Those who claim prostitution is fundamentally a problem of social inequality also make several claims, three that are highlighted here: (1) prostitution is a legitimate occupational choice for precarious workers in neoliberal capitalist societies; (2) men and trans sex workers face many of the same benefits and challenges as women in sex work; and (3) prostitution and sex trafficking are substantively different phenomena.

O’Connell Davidson (2014) argues that people who exchange sex for money require “recognition as sellers of fully commodifiable labour/services like other workers” (p. 522). Constable (2009) explains that commodification in relation to sex work refers to “the ways in which intimacy or intimate relations ... are bought or sold; packaged and advertised; fetishized, commercialized, or objectified; consumed or assigned values and prices; and linked in many cases to transnational mobility and migration, echoing a global capitalist flow of goods” (p. 50). Recognizing sex work as an economic activity and sex workers as workers who sell their labor for economic exchange does not mean they enjoy complete free choice and non-exploitative working conditions (Sullivan, 2010). Pitcher (2015) states that understanding sex work as commodified labor “does not preclude considerations of exploitation or interrelated issues such as labour market segregation and relative power and disadvantage” (p. 113). The point rather is that exploitation in sex work is a form of economic exploitation. Otherwise, sexual violence is being committed, which is also possible in sex work jobs, as in other occupations.

Those who advocate for this second perspective also claim that prostitution does not only include the selling of women’s bodies (Vanwesenbeeck, 2013). Smith (2012) reasons that other gendered bodies are also “sites of political contestation” (p. 587): “[T]he fact that male and transgender bodies have historically been (and continue to be) placed on the outside of the category ‘prostitute’ is central to—not incidental to—the perpetuation of women-as-victims discourses” (p. 591). Including men and trans people in prostitution studies allows for comparison of their experiences of advantage and disadvantage with women who are sex workers.

This perspective also challenges the conflation of voluntary migrants from resource-poor countries who are seeking more rewarding sex work jobs in resource-rich countries with sex-trafficked victims. In the climate of increasing market globalization, welfare state retractions, and political instability, people are frequently migrating within and across borders for better economic opportunities and sometimes to escape oppressive gender relations at home (Wagenaar et al., 2017). Some find these opportunities in sex work (Agustín, 2005; McCarthy, 2014; McCarthy et al., 2012; Weitzer, 2015).

Empirical Evidence for the Social Inequality Perspective

Capitalist market globalization, rapid technological innovation, and neo-liberal processes such as a decline in unions and retraction of welfare state policies have resulted in a substantial increase of low prestige, precarious work (Kalleberg 2012). Precarious workers tend to lack wealth (e.g., savings, investments), human capital (e.g., education, formal occupational training), and some are on the verge of poverty and hardship (Sallaz, 2017). The majority of workers are in precarious jobs that require caring, emotional, and physical labor skills traditionally performed predominantly by women in homes and communities, including in the food, health, and entertainment industries (Duffy, 2005, 2007; Dwyer, 2013; Hochschild, 2003; Zelizer, 2005).

The same forces that have resulted in an increase in other precarious jobs have resulted in the growth of sexual commerce in the twenty-first century (Abel, 2017; Brents, 2016). Sex work has increasingly become a career option for migrant workers (Agustín, 2007), students pursuing higher education (Roberts, Bergstrom, & La Rooy, 2007), and indoor workers pursuing “vice careers” (Murphy & Venkatesh, 2006). Sex work is thus “not vastly different from other feminized workplaces where sexuality is capitalized on” (Sanders, 2005b, p. 337). The over-representation of women in prostitution is because it is one of the few occupations where women tend to have an economic advantage over men due to the high value placed on the female body within the current commercial market (Mears & Connell, 2016). Bruckert (2002) says stripping “may not always be a ‘nice’ job, but neither are the alternatives. For some working class-women, stripping may be a viable strategy to realize the economic and social benefits afforded by participants in the paid labour force while also offering sufficient flexibility to accommodate their many other commitments” (p. 31).

The rise in precarious work has also meant that flexibility in work is important to people. In their ethnography of a Chicago neighborhood, Rosen and Venkatesh (2008) argue that, in the context of persistent poverty and instability, sex work “offers just enough money, stability, autonomy, and professional satisfaction” and “provides a meaningful option in the quest for a job that provides autonomy and personal fulfilment” (p. 417). Other researchers have studied sex work compared to other precarious service jobs and found that the similarities outweigh the differences (Benoit, Ouellet, Jansson, Magnus, & Smith, 2017d; Hardy & Sanders, 2015; McCarthy, Benoit, & Jansson, 2014; McCarthy, Carter, Jansson, Benoit, & Finnigan, 2018). Kotiswaran (2011) reported that many sex workers in India move in and out of sex work and other work (domestic workers and manual scavengers, etc.) in the “unorganized sector” where the vast majority of the working population is located. From this perspective,

prostitution becomes a “livelihood strategy” and, as with other personal service workers in precarious employment, “sex workers want the same thing—to be able to earn a living without interference, discrimination, harassment or judgement” (GAATW, 2017, p. 21).

The number of men and trans people who sell sexual services is unknown but is estimated by some to be around 25% of the total number of adults employed in sex work jobs (McCarthy et al., 2012) and by others to be about one-fifth of sex workers likely to be men (Dennis, 2008). One study from the UK (Whowell & Gaffney, 2009) showed that men often work in off-street sex markets that are “self-regulated against exploitation” (p. 117). Other studies show that men who sell sex contend with homophobic stigma that parallels the whore stigma imposed on women in sex work (Pheterson, 1990). Jiao and Bungay (2018) describe how the effects of homophobic stigma within their sample of men in sex work in Canada negatively affected their mental health and restricted their social support networks. At the same time, many participants spoke about the strategies they had developed to help navigate stigma through selective disclosure, resisting and reframing the stigma associated with their work, and asserting control over their boundaries with clients (Jiao & Bungay, 2018). These strategies are similar to those used by women when confronting whore stigma (Koken, 2012; Koken et al., 2004; Morrison & Whitehead, 2005; Thompson, Harred, & Burks, 2003; Wong, Holroyd, & Bingham, 2011). Trans individuals appear to be the most disadvantaged gender in the sex industry due to persistent discrimination and transphobia, which severely limit their options for earning a living in the formal labor market and leaves sex work as one of few options available to them (Sausa, Keatley, & Operario, 2007).

Research also shows that most migrants face structural vulnerabilities associated with poverty, unemployment, and political unrest in their home countries. Some find meaningful work after migration, while others end up being trafficked and forced to work in slave-like conditions. The scale of the problem is unknown because of the politics of the evidence. The International Labor Office (2005) estimates that “most people are trafficked into forced labour for commercial sexual exploitation (43%) but many are also trafficked for economic exploitation (32%). The remainder are trafficked for mixed or undetermined reasons (25%)” (p. 14). In regards to forced economic exploitation, women and girls make up just over half of victims, while the vast majority of sex-trafficked victims are believed to be women and girls (McCarthy, 2014).

However, many researchers contend these statistics hide the “invisible labor” of non-Western sex workers (Kotiswaran, 2011) who are “not from the privileged class, gender or race” (Chew, 2012, p. 74). Agustín (2007) observes that “when migrants are women who sell sex, they lose worker status and become ‘victims of trafficking.’ The obsessive gaze on poverty and forced sex disqualifies working people’s

participation in global flows, flexible labour, diaspora and transnationalism” (p. 191). The disregarding of their motivations and experiences downplays their resourcefulness to improve their lives in the country where they migrate for work. In a study comparing migrant and UK-born indoor sex workers, migrant workers (predominantly from Eastern Europe) were younger, saw more clients, and were less likely to use birth control; however, only 5% of the migrant workers in this study fit the narrative of being “trafficked” (Platt et al., 2011). Conflating human trafficking and prostitution also leads to “ineffective anti-trafficking efforts and human rights violations because domestic policing efforts focus on shutting down brothels and arresting sex workers, rather than targeting the more elusive traffickers” (CHANGE, 2010, p. 4). Migrant sex workers are thus often more vulnerable to abuse in the country to which they moved, rather than the country they moved from (Wagenaar et al., 2017).

Women migrants who end up in sex trafficking statistics are usually deported or sent to re-education programs (Corrêa et al., 2014); this affects not only the individual being designated as a victim of trafficking, but also contributes to inflated statistics and improper measurement of the issues that constitute human trafficking globally (Zhang, 2009). Research shows that men and boys are also trafficked across domestic and international borders and forced to labor in poorly regulated sectors such as agriculture and domestic work, leaving them exposed to exploitation (McCarthy, 2014). Men and trans persons who are sex-trafficked are virtually absent from official records (Smith, 2012). The reliance on what Bernstein (2010) refers to as evangelical feminist discourses that present sex workers as women and girls who are trafficked and thus in need of rescue with sex buyers punished, leads to a partial understanding of how risks are either minimized or exacerbated by migration policies for all genders (Bruckert & Hannem, 2013).

Critique of the Social Inequality Perspective

Advocates for the first perspective take exception to this second perspective on at least three grounds. First, they argue that prostitution is qualitatively different from other exploited labor in capitalist societies. Prostitution is a harmful gendered practice that changes women’s bodies into property for men’s use (Phillips, 2011). Women are thus not only economically exploited in prostitution but they are also dehumanized under conditions akin to enslavement (Farley, 2018). Women’s inner connection to, and ownership of, their bodies is severed in prostitution, resulting in unreasonable risks, violence, and victimization, and the entrenchment of gender inequality (Coy, 2009).

Related, while a small percentage of men and trans individuals sell sex for money, the reality is that the vast majority of individuals in prostitution identify as women. MacKinnon

(2011) says that the central reason why those who are prostituted are mainly women is gender inequality underpinning patriarchy, causing unique harms to women.

Finally, critics argue attempts to separate out “sex work” from “forced prostitution” or “prostitution” from “sex trafficking” are futile and take attention away from the “cruelty” endemic to all forms of prostitution (Farley, 2018). Reports of sex-trafficked victims and exited survivors portray a picture of extreme exploitation, abuse, and psychological distress for virtually all prostituted women, sexual privilege for men who purchase women’s bodies, and huge profits for those who control global sex markets (MacKinnon 2011; Raymond, 2002).

Despite these concerns, those adopting this second perspective have called for either restrictive or integrative policies to deal with what they deem to be the prostitution problem. We examine these responses next.

Restrictive Policy Responses to the Social Inequality Perspective

This type of policy response involves restrictions to the sex work sector with the aim of protecting sex workers and society from harms associated with the sex industry. Restrictive policy responses are based on the understanding that sex work will continue to endure regardless of legislation and so “tolerance” is recommended (Östergren, 2017a). Restrictive policies involve a combination of criminal sanctions and administrative laws that have “the potential to protect society, protect prostitutes and protect social order” (Hayes-Smith & Shekarkhar, 2010, p. 44). Such policies result in the sex work sector becoming partly legal/partly illegal and sex workers may receive partial occupational and human rights (Östergren, 2017a). Conventional restrictive policies include mandatory registration and health testing for those wishing to enter and maintain sex sector work, control over the location of sex work businesses via zoning laws, licensing, and special fees (a “sin tax”) for individual workers and sex establishments, and regular inspection by authorities (Weitzer, 2012). Two of the most common restrictive strategies are to allow for the sale of sex in some locations while making it illegal in others and permitting some types of selling but punishing others (McCarthy et al., 2012).

Countries that are usually featured as examples of this approach are the Netherlands and Germany, both of which have become more “rule heavy” in recent decades (Vanwesenbeeck, 2017, p. 2). In 2000, the Dutch government legalized the selling of sexual services but imposed limits on where selling could occur and who could sell. In the Netherlands, any European Union (EU) citizen age 18 and older can legally work in prostitution, pending possession of the proper permits (Weitzer, 2012). Cities are permitted to use zoning

laws to create “tippelzones,” areas where people can sell sex, while restricting the sale of sex elsewhere (Daalder, 2007). Many tippelzones include features to enhance the safety of street-level selling, such as easy access to police, shelters, condoms, and STI testing (Scoular, 2010). Further, municipalities have the power to completely prohibit or limit home-based prostitution (i.e., off-street work outside of a licensed brothel), which may result in police entering residences where they believe unauthorized sex work is occurring and punishing individuals for such infractions (Altink, van Liempt, & Wijers, 2018). Brothels are also captured under municipal control, and owners must purchase a license and follow the guidelines of the municipality in order to remain a licensed venue (Altink et al., 2018).

In an effort to improve safety for sex workers, recent Dutch legislation penalizes all forms of exploitation in the prostitution sector (Huisman & Nelen, 2014). The policy aims to protect people from being coerced into prostitution, protect minors from exploitation and abuse, and reduce illegal immigration for the purpose of prostitution (Netherlands Ministry, 2005). Increasing supervision and control is thus aimed at improving transparency in the sex work sector, with the intent to make it easier to disentangle criminal activities (i.e., human trafficking, underage exploitation), from legal prostitution (Daalder, 2007).

Germany’s policies toward prostitution have changed frequently in the last two decades. Prior to 2002, it was not illegal to own a brothel or work in prostitution in the country (Seals, 2015); however, these activities were considered antisocial by the German Supreme Court (Kavemann, 2007) and as an affront to “good morals” (Crofts, 2002; Kilvington, Day, & Ward, 2001). In addition, sellers did not have access to employment rights like other workers, including health insurance or social security. In 2002, Germany decriminalized most activities connected to prostitution through the passage of the Prostitution Act (Weitzer, 2012). Sex workers were granted legal protection against discrimination and the right to receive social benefits that accompany other legitimate jobs. The law also legalized the selling of sexual services in brothels and most public places, with any venue where sex work occurs having to obtain a license (Hunecke, 2018).

Like the Netherlands, Germany’s prostitution policy has been in a fragile state in recent decades (Wagenaar et al., 2017). This is partly due to pressure from conservatives and others for more repressive laws to control and punish those involved in the sex work sector (Vanwesenbeeck, 2017) and combat the apparent growing problem of human trafficking within and across its borders (Dolinsek, 2016). New regulations came into force in July 2017 under the Prostitute Protection Act. Östergren (2017a) states that this new legislation will “grant authorities extended control over sex workers,” (p.

5) particularly in relation to the mandatory registration and licensing systems that are now in place, which risks “creating a two tiered system whereby those unable or unwilling to comply must operate outside of the law” (2017b, p. 5). In the wake of this new legislation, Dolinsek (2016) states sex workers are being singled out by their unique duty to register in every city they work in; further, sex workers in Germany now have to carry an identification card that classifies them as a legal prostitute and indirectly proves “the voluntary nature of their sexual labour during police controls” (para. 4).

Critique of Restrictive Policy Responses to the Social Inequality Perspective

Research findings vary significantly in regards to the situation of sex workers’ rights in the Netherlands in the current restrictive climate. A study conducted by the Ministry of Justice found that 95% of sellers consider themselves independent entrepreneurs (Huisman & Nelen, 2014), whereas politicians maintain between 50 and 90% of sellers are working involuntarily (Wagenaar & Altink, 2012). While these numbers may reflect differences in political agendas, there also appears to be differences in the circumstances of domestic and undocumented sex workers. In contrast to domestic workers who are legally permitted to work and have protection by the police and the law, the situation of those without work permits is much more precarious: “[t]hey have no rights or protection and, because of their undocumented status, they are open to exploitation by employers, pimps, and sometimes even clients” (Huisman & Nelen, 2014, p. 618).

Domestic workers also face challenges (Altink et al., 2018). In Amsterdam, for example, legalization and limiting the number of brothels has not led to the expected improvements of working conditions for sellers. On the contrary, they now have to comply with industry rules and regulations and pay taxes but do not receive the same benefits attached to other jobs (Huisman & Nelen, 2014). With fewer brothel owners owning more businesses, the power of managers’ vis-à-vis sellers has increased (Vanwesenbeeck, 2017). They are often hired as independent contractors with limited job security, working longer hours for less money, and without benefits. These conditions have resulted in many Dutch sex workers moving out of the red light district brothels to seek a job in the independent escort business or leave the sex industry entirely. They have been increasingly replaced by migrants from outside the European Union (Daalder, 2007).

According to Huisman and Nelen (2014) “there is no doubt that the powerless—the drug addicts, the illegal immigrants, and in general those at the bottom of the social and economic ladder have paid the greatest price for the developments in the sex industry” (p. 624). Overall, the Dutch policy approach has shifted from partial tolerance to greater restriction, making it harder to legally operate as an independent

worker (Altink et al., 2018). Additionally, a more restrictive policy approach toward prostitution has done little to reduce the lingering moral stigma attached to the work, as evident in sellers’ desire for anonymity, even to the extent of not asserting their employee rights (Weitzer, 2012). Vanwesenbeeck (2005) has shown that psychological distress due to “burn-out” among indoor workers in the Netherlands is largely due to the stigma associated with the work, not the work itself.

The German model of legalization faces similar shortcomings to that of the Netherlands, where partial regulation offers some improvements to the health and safety of sex workers yet perpetuates the association of sex work with criminal activity, resulting in the continued legacy of structural and societal stigma (Bruckert & Hannem, 2013; Hunecke, 2018; Östergren, 2017a). Dolinsek (2016) has observed that the German legislation is an example of “regulation to deter” that “is instead designed to regulate and repress the lives and livelihoods of sex workers under the guise of both ‘protection’ and ‘public order’” (para. 3).

Other countries have taken a more regional approach to restricting prostitution, such as a small number of rural counties in Nevada, U.S., some states in Australia, in Senegal, and Tijuana, a city in Mexico. These have shown some improvements for some sex workers but also drawbacks and no overall reduction in inequality faced by individuals in prostitution (Bretns & Hausbeck, 2005; Weitzer, 2014). For example, sex workers in Queensland, Australia, are afforded the ability to work independently indoors and are offered some protection from eviction by landlords, but two or more independent workers are not allowed to share a work space as that would constitute an illegal brothel (Sullivan, 2010). These improvements to the rights and protections of independent indoor workers are also tempered by the prohibition of all unlicensed sex work and all forms of street-based work in ways that does not reduce inequality or stigma for the majority of sex workers who are outside the licensing system. Those working in these types of settings remain criminalized and are often subjected to heavy police surveillance and targeting (McCarthy et al., 2012; Sullivan, 2010). Similarly, in Tijuana, legal status has resulted in some protections for sex workers and decreased victimization; yet at the same time, illegal unlicensed workers are subject to fines, incarcerations, police harassment, less social support, and are more than twice as likely to be assaulted, robbed, or kidnapped than licensed workers (Katsulis, 2008; Weitzer, 2014). Research by Foley (2017) in Senegal demonstrates how workers must abide by certain regulations, including registration with the state and monthly medical screenings. The regulation process creates an institutionalized procedure that serves to exclude and marginalize. The institutionalization of sex work in Senegal delineates the “whores” or “bad” women from the “good” women in society.

It is also important to note that these types of restrictive policies are often framed as serving a protective role for the public in diminishing the visibility of the sex work sector (i.e., targeting street-based workers), and enforcing regulations related to sexually transmitted infections so that the potential of transmission to the public is reduced. Under restrictive policies, the rights or protection of the workers are sometimes undermined when the focus is to minimize the negative effects of the sex industry on the wider population (Vanwesenbeeck, 2017). Brents, Jackson, and Hausbeck (2010) observed that the policies surrounding “safe sex” in Nevada’s brothels were really aimed at “protecting men’s health” and “mark the women as potential carriers for disease” (p. 126).

Integrative Policy Responses to the Social Inequality Perspective

Integrative policy strategies are grounded in an understanding of prostitution as an economic activity that involves choice for many participants but vulnerability and exploitation for some. These circumstances necessitate multi-level government protection through the engagement of labor, administrative, and commercial laws that are enjoyed by workers in other industries (Östergren, 2017a). Given the pervasive stigma sex workers face and their overall social and economic marginalization, additional policies (e.g., progressive migration policies, anti-stigma campaigns, guaranteed minimum income, educational support, etc.) and community initiatives (empowerment programs) also belong within an integrative policy approach (Bekker et al., 2015; Benoit et al., 2018; Swendeman, Basu, Das, Jana, & Rotheram-Borus, 2009; Vanwesenbeeck, 2017).

Those who support the integration of prostitution into society’s social institutions have tended to focus first and foremost on “decriminalization” of the sex worker sector, that is, the repeal of specific anti-prostitution criminal laws (Kotiswaran, 2014), and allowing the institution to operate like any other service job (Hayes-Smith & Shekarkhar, 2010). Under decriminalization, regulation of the sale of sexual services is present, but often moves to the local or municipal level, frequently through a nexus of non-sex work-specific laws and codes addressing liquor licensing, hygiene, public nuisance, labor law, entertainment venues, taxation, as well as laws and policies that pertain specifically to sex work (McCarthy et al., 2012). Decriminalization is based on the assumption that consensual adult sex commerce is or can be separated from the criminal exploitation-led market that involves minors, drug dependency, coercion, trafficking, exploitation, and other related practices (Collins & Judge, 2008). Some advocates for decriminalization also contend this strategy reduces state interference in the private lives of consenting adults (Phoenix, 2009). Zatz (1997) posits

when prostitution is properly decriminalized and regulated, it opens up opportunities for societal mobilization by offering “subversive practical and discursive potential to sex workers, feminists, sex radicals, and progressives more generally” (pp. 305–306).

Sex workers’ rights groups have called for the decriminalization of sex work, including the International Committee on the Rights of Sex Workers in Europe, a sex worker-led collective representing groups led by or working with sex workers in Europe and Central Asia. Advocates for decriminalization argue that it provides the most effective way to protect participants in the sex work sector from exploitation and victimization, and to provide sellers with benefits accorded other workers (Abel, Fitzgerald, & Healy, 2010). Decriminalization is associated with better coverage of health promotion programs for sex workers (Harcourt et al., 2010). Studies show that decriminalization of sex work around the world today would prevent between one-third to half of HIV infections in the next decade (Shannon et al., 2015). Decriminalization also reduces victimization of sex workers by no longer forcing them to work in dangerously isolated locations (Sanders & Campbell, 2007; Weitzer, 2009). Legal permission to congregate in the safety of a brothel, massage parlor, or their own homes and to hire staff to protect them from predatory clients expands sex workers’ rights and increases their safety at work (Brents & Hausbeck, 2005; Sullivan, 2010).

Removing prostitution regulation from criminal laws reduces hesitancy by sex workers to involve the police if they witness or experience a crime (Abel, Fitzgerald, & Brunton, 2009; Benoit et al., 2017a, b; O’Doherty, 2011). Formal acceptance of sex work as a legitimate business activity also makes it easier for sex workers to disclose their work to healthcare providers and receive nonjudgmental health services and other measures to enhance sex workers’ empowerment in their communities (Abel et al., 2010; Decker et al., 2015; Nguyen, Venne, Rodrigues, & Jacques, 2008).

However, decriminalization is a government response that is just the beginning of the process to improve governance of the sex work sector (Benoit et al., 2017a, 2018; Östergren, 2017a; Vanwesenbeeck, 2017). Regulations of some type typically follow and, as Agustín (2008) notes, proponents seldom articulate what types of regulation are in the best interests of participants of the sex work sector. Decriminalization and regulation of prostitution, what Weitzer (2012) refers to as “*de jure* legalization,” is uncommon globally (McCarthy et al., 2012). New Zealand and the Australian state of New South Wales are the only jurisdictions that operate under near full decriminalization, that is, where sex work is not punished through criminal laws, and regulation is based on the health and safety of sex workers, similar to workers in other sectors. New South Wales retains some minor offenses related to street solicitation near churches or schools, and brothels have to be approved by the local government

(Sullivan, 2010). Here we focus on New Zealand as a case example of integration.

Prior to recent developments, it was not a criminal offense to sell or buy sexual services in New Zealand, but it was virtually impossible to do so without breaking the law (Abel, 2011). In 2003, the country passed the Prostitution Reform Act (PRA), with the aim to improve the working conditions, health, and safety of sex workers. The revised law allows adults to sell from their own homes, in brothels, and from the street and other unregulated spaces; it allows up to four workers to sell services from a shared space without requiring a brothel license. Sections 16 and 17 of the PRA specify conditions aimed at aiding sex workers to challenge exploitation and violence: “The law makes it an offence to induce or compel an individual to do sex work, and explicitly states that sex workers have a right to withdraw consent to sexual acts at any time, in line with other legislation” (Armstrong, 2017, p. 71). Many municipalities, however, require regulation of advertising and use zoning laws to control prostitution in public places (Knight, 2010).

New Zealand is also one of the few countries or regions in recent times to use social science evidence to inform its 2003 policy decision, including feedback from diverse workers and genuine involvement of the national sex worker organization, the New Zealand Prostitutes’ Collective, which was originally funded by the government for HIV prevention but has grown into a broader organization aimed at advocating for sex workers’ rights (Abel et al., 2010). Longitudinal evidence shows the PRA has been effective at increasing the health and safety of workers. Most sex workers responding to a survey about the legislation said their rights had improved under the PRA, and over half mentioned they felt more empowered to refuse clients than before the law changed (Abel, Fitzgerald, & Brunton, 2007). At the same time, the number of workers has not increased (Abel et al., 2010). Other research with street-based sex workers has shown that decriminalization has enhanced their ability to keep safe at work and improved their relationship with local police (Armstrong, 2014, 2016).

Critique of Integrative Policy Responses to the Social Inequality Perspective

While the available evidence indicates that New Zealand’s integrative efforts have resulted in substantial improvements in the lives of many domestic sex workers (Abel, 2014), Schmidt suggests it may be an inaccuracy to say it is “morally neutral,” that is, that it circumvents “the ways in which policy based on either abolition or regulation tends to reinforce moral understandings of prostitution, and forces some sex workers into illegal and often unsafe contexts” (2017, p. 47). The PRA, as with all prostitution policy, is the outcome of a struggle among politicians and officials charged with developing effective and humane prostitution policy and at

the same time respond to constituents. Moral biases underlying the PRA are obvious when it comes to the situation of migrant sex workers, who may be permitted to work in any other occupation in the country but not sex work (Östergren, 2017a). Section 19 of the PRA is linked to the Immigration Act 2009, which states that anyone retaining a temporary visa found involved in commercial sex activities, operates a sex work establishment, or invests in one will be deported. Armstrong (2017) argues that:

While the exclusion of migrant sex workers was intended to protect against trafficking, the consequence is that migrant sex workers are forced to work illegally, creating conditions in which exploitation is arguably more likely. While the decriminalisation of sex work has provided an environment that enables openness and transparency, and is therefore conducive to preventing exploitation, this does not extend to all sex workers. (p. 75)

At the same time, wider class, race, and gendered power relations have not been widely affected by the PRA legislation, and prostitution still carries little legitimacy in wider society. As Harrington (2012) puts it, domestic sex workers are “actors in their own self government without disrupting existing hierarchies” (p. 339). Abel (2017) has argued that these issues were apparent in the public discourse about the legislation, which evolved from a human rights approach championed by the country’s national sex worker organization, the New Zealand Prostitutes’ Collective, into a harm minimization narrative controlled by the government of the time (Abel, 2017). The existence of sex work was seen as inevitable and policymakers saw it as their task to “work out the best way of controlling...harms” (p. 145), which falls in line with the narratives often underscoring more restrictive, rather than integrative, policies internationally.

Conclusion

In this Target Article, we identified two primary perspectives that undergird academic thinking about the “prostitution problem” in contemporary capitalist societies, both that draw attention to particular dimensions of inequality: (1) prostitution is principally an institution of hierarchal gender relations that legitimizes sexual exploitation of women by men, and (2) prostitution is sex work where multiple social inequalities (including class, gender, and race) intersect in neoliberal capitalist societies. We examined the key claims and empirical evidence provided to support each perspective, discussed the policy approaches associated with each perspective, and offered an evaluation of each perspective regarding their effectiveness.

The overall trend globally has been to accept the first perspective on the prostitution problem, enact repressive policies to punish men who purchase sex, protect women who sell sex, and to marginalize the sex sector. Nevertheless, we believe that the strongest empirical support, while not as robust as we would like, is for the second perspective. The first perspective argues that prostitution is an extreme practice of sexual exploitation or a form of modern slavery. Yet the empirical evidence provided is weak. It is usually based on small homogeneous samples of women victims who have left the work, while the circumstances of currently working sex workers of different genders are overlooked. Also left unexamined is the impact of criminalization on those who remain in the sex industry and on their support networks.

The data provided by scholars arguing the problem with prostitution is one of social inequality make a more convincing case that the economic exploitation sex workers face has many parallels to the economic exploitation other wage laborers contend with in global capitalist markets, and that sex workers have much in common with other precarious workers who face additional inequalities based on their social class, race, sexual minority status. Precarious workers, similar to sex workers, are also vulnerable to sexual and other forms of violence in their jobs and personal lives, necessitating strategies to empower them through integrative labor regulations and other social policies.

Yet the claims made by both perspectives need to be better supported by robust empirical studies that use strategic comparisons within and across the sex sector, and compares sex work to other precarious jobs. Both perspectives also need better evaluations of the effectiveness of the policy responses they recommend—repressive, restrictive, and integrative—in regards to their impacts on the lives of sex workers and the sex sector in general. There is also urgent need for better empirical data on human trafficking, framed within the broader perspective of global social inequality (Barner et al., 2014; Zhang 2009). To carry out such studies, researchers need access to funding from granting agencies and other funding bodies to launch international collaborations across multiple field sites that include the full diversity of people in sex work, and consultation with them about what they want in regard to protection, resources and services (Arnott & Crago 2009; Benoit et al. 2017c). They should also be asked about their views on the laws and policies that affect their lives (Amnesty International 2016; Benoit et al. 2017a).

Full recognition of sex work as work and of sex workers as deserving of occupational and other social rights will require large-scale social and political change that is unlikely to occur unless there is movement toward greater social equality for all precarious workers in liberal democracies (Kerrigan et al. 2015). Yet there is much that can be done in the meanwhile to improve the situation of sex workers and legitimize the sex sector, regardless of the current prostitution policy regime

(Östergren 2017b; Vanwesenbeeck 2017). A collaborative governance approach (Wagenaar et al., 2017) that is inclusive of sex workers and their support organizations and other relevant stakeholders, has the authority to affect change, and embraces open dialogue can result in positive change for sex workers in their local communities.

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Compliance with Ethical Standards

Conflict of interest The authors declare they have no conflicting of interest.

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