

Sex Work is Work: Feminist Theory and the Fight for Decriminalization

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Translation Major

Abstract

Despite the societal taboos that plague sex work, it remains a profession like any other, and yet, sex workers are still demonized, victimized, legally discriminated against, and physically and sexually abused. This paper aims to examine the struggles that sex workers go through, the motivating factors to joining sex work, and to provide recommendations capable of enacting positive change. We found that most sex workers deal with abuse, sex trafficking, violence, rape, murder, social exclusion, poor mental health, and a higher risk of health hazards, and usually feel inclined to become sex workers because of dire economic need, a poor educational background, and because of racial or ethnic reasons. The methodology section of this paper comprised a content analysis of the four feminist philosophies: abolitionism, neo-abolitionism, legalization and regulation, and decriminalization. Among these, this study proposes the latter – the decriminalization of sex work – as the most ideal solution, showing how the other frameworks reinforce societal taboos, negative perceptions of sex work, and increase the risks associated with the business.

Introduction

Commonly referred to as the “oldest profession,” sex work can be traced back to ancient civilizations, and is defined as “the exchange of sexual services, performances, or products for material compensation” (Freeman, 1990, p.75). Seeing that the profession is intrinsically linked to societal taboo, the discussion surrounding the rights and freedoms of sex workers grows increasingly more divisive. First and second wave feminists view sex work as degrading and vile, and sex workers as victims of exploitation and manipulation. Third and fourth wave feminists, however, regard sex work as empowering to women and a reclamation of female sexuality (Mesce, 2020).

Irrespective of how sex work is viewed, women in the sex industry remain economically disadvantaged, subject to violence, abuse, and discrimination, and without access to justice, healthcare, or safety (Global Network of Sex Work Projects,

2020; Yale Global Health Justice Partnership, 2020). The sex wars that arose in the 1980s resulted in four different philosophies regarding sex work: abolitionism, neo-abolitionism, legalization and regulation, and decriminalization (Mesce, 2020). Despite these philosophes and the solutions that they suggested, sex workers, governments, non-governmental institutions, and the general public have yet to find adequate solutions as sex workers continue to be stigmatized and marginalized. The aim of this study is to examine the dangers of the sex industry and the reasons for joining the industry despite these dangers, analyze the benefits and repercussions of what has been done before based on the four feminist philosophies, and suggest a comprehensive list of solutions.

Methodology

For the purpose of this study, a content analysis was conducted. This choice was the most suitable for the objective of this study – analyzing the different philosophical frameworks, how they define sex work, what solutions they suggest, and whether those solutions yielded effective results enabled us to produce an exhaustive list of solutions.

Literature Review

This literature review highlights the reoccurring structural and systemic barriers that sex workers face, the motivating factors for joining sex work, and the effectiveness or ineffectiveness of the solutions suggested and implemented before by the four feminist philosophies. The literature shows that there are currently more than 41 million female sex workers and 10 million male sex workers worldwide, with 16% of men seeking their services (International Union of Sex Workers, 2023). According to Ecker (2022), there was an estimate of 4.8 million sex trafficking victims in 2016, with 99% of victims being women and girls. Another study by Farley et al. (1998) found that, of the participants in their study, “73 percent reported physical assault in prostitution, 62 percent reported having been raped since entering prostitution, [and] 67 percent met criteria for a diagnosis of PTSD” (p.406). Around 100,000 sex workers are killed each year (International Union of Sex Workers, 2023).

In addition, sex workers are at a greater risk of poor mental health and social exclusion (The Lancet Public Health, 2023). Fear of incarceration may lead sex workers to rethink seeking a doctor for health checkups or Sexually Transmitted Disease (STD) screenings. This same fear may drive women to meet with clients alone rather than tell a friend or partner, and this knowledge of the sex worker’s isolation may encourage the client to sexually assault or harass them (Krüsi et al., 2014). Moreover, ethnic minorities are usually the ones who bear the brunt of sex work arrests, with black women accounting for 42% of arrests, which is more than any other racial group (Rights4Girls, 2021). Those groups also undergo a number of invasive procedures after arrests, such as strip searches, profiling, assault, and sexual extortion (Sankofa, 2016). Migrant sex workers are similar to those groups in the sense that they are “painted as either victims or criminals in discourses that conflate sex work with human trafficking and deny sex workers the right to migrate” (Global Network of Sex Work Projects, 2022, p.2).

The Why

Many question the reasons for joining such a dangerous profession, but the literature shows that many who engage in sex work do not do it willingly and are rather

influenced by external factors. One study stated that “street prostitution is intrinsically related to poverty” (Monroe, 2005, p.69). Other factors include being young and homeless, unemployed, and underemployed (Benson & Matthews, 1995; Brown, 1998; Rothenberg, 1995). Some researchers also suggest that substance addiction and abuse may be another reason as to why women resort to sex work, though this theory is not heavily backed (Dalla, 2002; Farley & Barkan, 1998).

A multitude of studies find an indisputable link between race and sex work (Decriminalize Sex Work, 2023; Farley et al., 1998). In a two-year review of suspected trafficking victims in the US, 40% were Black, and 24% were Latinx, making more than half persons of color (Rights4Girls, 2021). Moreover, im/migrants are overrepresented in precarious, insecure, and informal forms of labor, including sex work due to the fact that they “face economic marginalization, discrimination and racism, precarious immigration status, non-recognition of foreign credentials and training, and exclusion from formal employment opportunities” (McBride & Janushev, 2021, p.153). Exiting the commercial sex industry isn’t as easy as it seems either; those with a strong intent of leaving the industry needed to cross obstacles, such as financial instability and insecurity, social stigma and discrimination, lack of support, skill gaps, and poor educational status, before finding a clean exit (Mazingia & Negesse, 2020).

Overwhelmingly, it seems that men are the main demographic to which sex is sold, with 20% of men purchasing sex at least once in their lifetime (Long, 2021). Men’s “transactions account for nearly 75% of the prostitution market” (Long, 2021, para.2), meaning that those who do it, do it frequently. Research shows that those same men tended to view female sex workers with less empathy, were more hostile, held attitudes that justified and normalized sex work, and were more likely to rape and be sexually aggressive (Farley et al., 2017).

Abolitionism

Abolitionists hold that the government should legislate for the criminalization of sex work; they view sex work as inherently oppressive and degrading. The theory was based on the idea that “freedom and sex were on opposite ends of a spectrum, in which a woman could not ‘choose’ one and also have the other” (Mesce, 2020, p.13), that no one becomes a sex worker willingly, that they were either coerced by a pimp or were sex trafficked, and if neither of those was the case then the individual was influenced by extreme poverty, lack of opportunity, substance abuse issues, and/or past trauma such as child abuse and sexual harassment. Nelson-Butler (2015) argues that some abolitionist feminists don’t believe that all sex work is non-consensual but underscore that sex workers from marginalized ethnic backgrounds face different issues than white women in systemic and structural oppression.

Criminalization proponents, as in both abolitionists and neo-abolitionists, advocate for the interjection of the state and for the legal regulation of pornography and feel that the best way to ensure women’s safety from sex-work-related violence is to penalize both the sellers and the buyers of sex (Mesce, 2020). Radical feminists propose that the only way to end the violence against women is to punish clients, pimps, and participants so that “the entire institution can be destroyed” (Mesce, 2020, p.15). Nonetheless, many criticize this policy approach as “paternalistic” as it paints women

as helpless victims, which further reinforces misogynistic social norms (Raymond, 1999). Not only is the approach flawed in theory but has yielded little results in application; even though sex work is fully or partially criminalized in more than 39 countries (Joint United Nations Program on HIV/AIDS, 2017), criminalization has yet to decrease the market for sex (Mesce, 2020).

In fact, criminalization may lead to an increase in sex work; incarceration due to sex work leads to a criminal record which may discourage employers from giving retired sex workers a chance. This would “trap” sex workers in the industry and force them to go on, despite the constant risk of incarceration, sexual and physical assault, and STD infections. In some areas, criminalization heightens the risk of catching an STD. For example, carrying condoms in the US can be used as evidence for prostitution (Wurth et al., 2013), meaning that sex workers will be scared to carry condoms around with them when meeting clients. The need for work, here, will overpower the need for safety.

Neo-Abolitionism

Commonly referred to as the Nordic/Swedish model, neo-abolitionism is a legal framework implemented in Sweden, Norway, France, and other socio-progressive countries in the West. This framework, rather than punishing women for becoming sex workers, punishes the buying of sex and paints women as merely “victims of circumstance” (Mesce, 2020, p. 15). Neo-abolitionists also argue that women only become sex workers because of a dearth in more viable life choices, such as a lack of education and/or institutional poverty (Farley et al., 2004).

Similar to the abolitionist feminist framework, this model yielded little positive results for sex workers and was heavily criticized within feminist jurisprudence (Mesce, 2020). This is because it leads sex workers to seek business in areas with less police or law enforcement, which often makes sexual transactions more dangerous (Berg, 2014). Scoular and Carline (2014) claim that this approach also ignores the structural causes of exploitation, continues to stigmatize those in sex work, and reduces female agency. This victimizing rhetoric enforced on women “legitimizes law’s power over women’s bodies” (Scoular & Carline, 2014, p. 19). They also argue that criminalization will not eliminate the market but rather will create another that hides from authorities and is much more dangerous for sex workers.

The Global Network of Sex Work Projects (2015) believes that this model has forced sex workers to accept lower wages, compromise when negotiating with clients, and to provide even more services than they offered previously. Buyers may abstain from providing sex workers with any sort of personal information as well, such as their name, phone number, or residence. This prohibits sex workers from reporting them in the event that they become violent. Sex workers may shy away from reporting clients to the police if they get violent to avoid scaring off potential clients. Finally, the illegality of brothels also prohibits sex workers from working in groups, and forces them into isolation, which puts them at a higher risk of violence (Jordan, 2012).

Legalization and Regulation

Liberal “regulationist” feminist frameworks advocate for the legalization of all

forms of sex work including selling, buying, pimping, and brothel ownership, on the condition that those activities are regulated through the government and labor laws. The government would do this by extending labor workers' rights to sex workers and through the taxation of businesses that offer sexual services (Mesce, 2020). This framework is theorized to allow for the legal protection of sex workers, the establishment of unions that defend and advocate for sex workers rights, and for government monitoring such as STD screenings. This framework has been implemented in countries such as Mexico, the Netherlands, Turkey, Iceland, Switzerland, Austria, Denmark, Senegal, Greece, Nevada State in the USA, and Germany (Mossman, 2007; Weitzer, 2012).

Research on the topic, however, has shown that "legalization leads to heavier regulation and increased stigma, and the combination of both often exacerbates the vulnerabilities of many sex workers, particularly those with a migration background" (Regev, 2023, p.1). Additionally, many sex workers have expressed a preference for decriminalization over legalization. In countries where sex work has been legalized, such as Germany, sex workers have expressed concern over the laws that have contributed to discrimination and increased their vulnerability (Douglas, 2021). Raymond (2003) also asserts that the use of condoms remains scarce despite the attempts at regulating sex work. Critics of legalization also hold that this approach leads to an increase in sex trafficking (Raymond, 2003). Overall, it seems that this framework contributes to the sex industry as opposed to mitigating it. This approach also removes female agency and prohibits sex workers from free reign over their business.

Decriminalization

Decriminalization removes all punitive measures associated with sex work and for any person involved. This approach seems to be the most preferred by sex workers, seeing as it offers them the most freedom. Feminists that support the decriminalization framework argue that it can greatly reduce social stigma, open up access to healthcare, and "prompt a higher recognition of the human rights of sex workers" (Regev, 2023, p.23). Currently, decriminalization stands as the only approach which allows sex workers to work individually or collectively (Amnesty International, 2016), and to demand for their rights through mobilizing with other sex workers and starting unions (Lutnick & Cohan, 2009).

Opponents of decriminalization fear that this framework will lead to an increase in sex work, sex trafficking, exploitation, and STD transmission; however, in New Zealand, the only country that has implemented this framework, the sex industry has not increased in size after the New Zealand Prostitution Reform Act (PRA). Studies show that over 90 percent of sex workers viewed the PRA positively and believed that it gave them employment, as well as legal, health, and safety rights (Crichton, 2015).

Recommendations

After a careful analysis of the four feminist philosophies, and their merits and demerits, decriminalization seems at present the most beneficial for sex workers and the best-preserving of their rights. This is why the following recommendations will be based on the decriminalization framework.

- The General Public

Individuals from any gender, race, ethnicity, and socioeconomic status must stand up for sex workers' rights and advocate for them relentlessly; it is only through public pressure that governments listen and implement changes. These individuals are also responsible for constantly and consistently educating themselves on the issues that sex workers face daily and educating those around them in turn. Additionally, the public can vote feminist politicians into power, especially those advocating for sex workers; this supports the legislation of laws representative of the decriminalization framework and that protect the legal and social rights of sex workers. Moreover, it is imperative that the stigma, harmful stereotypes, and misconceptions regarding sex work are deconstructed and challenged through holding others accountable when they make uneducated remarks and through expressing support for sex workers on every existing platform.

- The Media

Representatives in the media such as journalists, news anchors, celebrities, and influencers must leverage their platforms to bring sex workers' issues to light. Their platform and their voice can serve as a tool for awareness and activism. Those same representatives can invite sex workers to share their experiences on their platforms; this lessens the stigmatization and societal taboos that surround sex workers, gives them a chance to expose abusive clients, and helps them spotlight the ever-present inequality and discrimination in the system. This type of activism not only raises awareness, but also humanizes sex workers in the eyes of the general public.

Celebrities and media influencers can additionally use their accumulated wealth to donate to charities and non-governmental institutions that aim to help sex workers in need of money, or sex workers who are trying to leave the industry and get either a new job or attain the education needed for better living conditions. Journalists and news anchors who are constantly involved in framing reality must be extremely cautious on the language they use when referring to sex workers; the word "prostitute" alone holds a very negative connotation and reinforces the stigma intrinsically linked with the profession.

- The Healthcare Industry

The healthcare industry is responsible for providing health services to all without discrimination or bias. Thus, it is imperative that employers in those sectors seek employees who are well educated on the issue. Hospitals and clinics should also seek to train their current employees on how to be non-judgmental when administering care. Since many sex workers get physically abused and/or raped, doctors and nurses should be well equipped to notice the signs of sexual/physical abuse and handle such cases when they come across them. Nurses and doctors should gain these skills through university courses and trainings, as well as through constant awareness raising on the sensitivity of such topics. Hospitals and clinics can also offer free STD screenings for sex workers, free access to

contraception, and awareness sessions on how to prevent HIV infection. Finally, hospitals should support/ fund research initiatives that aim to investigate the health outcomes of decriminalizing sex work.

- Sex Workers

Sex workers must first and foremost, in countries where sex work is legalized and decriminalized, band together and form unions. Such unions will ensure that sex workers have a body capable of voicing out concerns to the government and demanding for their basic rights. Sex workers must educate themselves well on the types of protections offered to them by the government, even if scarce. This is because the stigma surrounding sex work may cause people, lawyers, and legislators to abuse legal loopholes. Thorough knowledge of these laws and loopholes will prevent them from doing so. Sex workers must also speak out on social platforms about the negative experiences they have had in the industry and how those experiences have been a direct result of the lack of adequate laws that protect sex workers' rights. Additionally, sex workers should support each other through forming social networks and groups. They can participate, too, in research revolving around sex work, as well as contribute to the data collection efforts that aim to bring sex workers' dilemmas to the fore.

- Non-Governmental Organizations

Non-governmental organizations can fund sex-worker-led initiatives, such as the Global Network of Sex Work Projects. NGOs can also advocate for sex worker rights when dealing with governments and legislative bodies. NGOs can offer capacity-building sessions and trainings to sex workers to further help them advocate for their rights. They can also aid sex workers in leaving the industry if they wish to leave; this can be through teaching them skills that they can make money off, funding their return to education, and/or teaching them how to search and qualify for jobs. NGOs must advocate for policies and laws that decriminalize sex work and which fully push for sex workers' rights without any loopholes or underlying exploitative agendas. Finally, NGOs must fund research initiatives, hospitals, clinics, and shelters, which all aim to ease the lives of sex workers.

- Governmental Bodies

Governmental bodies are perhaps the most important stakeholder by far, since the laws and policies they create are capable of shaping public opinion and drastically improving sex workers' quality of life. Before making policies, governments must listen to sex workers and their demands, as seen in this paper's literature review. New Zealand listened to its sex workers and offered them the solution that they wanted; this yielded the most benefits to each party involved. In case there are any, the government should also consult with sex-worker-led groups or unions and/or with NGOs that reflect the wants and desires of sex workers. Second, governments should decriminalize sex work and give sex workers the full agency to lead their businesses. Third, the government should allocate resources that help fund healthcare and social services for sex workers. Governments should train

law enforcement officers and government officials on how to treat sex workers with respect. Governments should implement measures that address structural and systemic inequality from the root up, and that aim to have sex work an option only for those who truly want it.

Finally, governmental bodies should monitor the progress of these policies and laws and their implementation, reevaluate their effectiveness, and ensure the absence of corruption during their implementation.

Conclusion

Sex workers are constantly stigmatized, discriminated against, and abused simply due to their profession. This type of stigmatization leaves sex workers unsafe, unheard, and underrepresented in every sphere that matters. Despite feminist frameworks that aim to define and solve the problem, not much has changed up until recently. This further underscores the need for reform, change, and laws that perceive sex workers as humans deserving of rights and equity. Through the comprehensive examination of all the feminist frameworks on the matter, it becomes clear that the most ideal solution, though scarcely implemented, is the decriminalization framework. This path allows for stakeholders to address systemic inequalities, reduce violence and exploitation, and empower sex workers to assert their agency and autonomy, rather than blame the sellers or buyers of sex. As we move forward, it is imperative that policymakers, healthcare providers, NGOs, and communities strive toward centering the voices and experiences of sex workers and toward advocating for their rights and seamless inclusion in society.

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