

## Sample Student Writing: Research Paper

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### **Grade this student received on this assignment:** A

**Positive aspects of this work:** clearly articulated thesis, plausible and well-developed reasons and evidence in support of the thesis, good use of scholarly sources, provides citations with page numbers, thoroughly explains apropos examples, thoughtfully considers possible counterarguments, and conclusion effectively explores some of the broader implications of the argument.

**Problem-areas with this work:** introduction is bland and does not grab the reader's attention, logical analysis of some of the reasons and pieces of evidence is lacking (student does not adequately explain how each reason or piece of evidence supports the truth of the claim), too much of the literature review is copied into the paper—student should do a better job integrating sources to help support the central thesis.

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Sex appears in one variation or another in everyone's life. Whether an individual is engaging in sexual acts or not, they are still a product of it. Why, then, is sex such a taboo topic? Whether it be friends discussing a casual encounter or discussing how much money they've earned from the day, sex is off limits. The immorality of sex and the expectation of remaining quiet about it, unless it is being used for reproduction, becomes obvious in debates surrounding sex work. Sex work is often described as the oldest profession. There is no one type of sex worker- mothers, daughters, sisters and grandmothers may all choose to exchange sex for money. With civilizations having built this into their economies for centuries, it is difficult to conceptualize this as a problem. A divide among and within governments and different groups of people, though, shows that some do conceptualize sex work as a problem. In many states, the criminalization of sex work is the preferred policy to deal with the situation. Other instances are characterized by a partial banning in which buying, not selling, is punished. Additionally, some may choose to decriminalize but not legalize, wherein people cannot be punished, but there are not industry regulations or protections in place. I argue, however, that these systems of criminalization are harmful to the women who engage in sex work and legalization is the policy that should be adopted worldwide. The legalization of sex work has important and positive social, ethical, and public health consequences that benefit both the women engaging in this type of work, and the greater community at large.

This paper will work to show how the legalization of sex work in Australia has helped to bring about many of these positive changes. In contrast, the current laws in place in South Africa that criminalize the selling of sex perpetuate systems of gender inequalities and reinforce harmful gender norms that could be eliminated through legalization. While sex work is comprised of male, female and transgender actors, for the purpose of this work, I will be centering my analysis on female sex workers. This paper will begin with an examination of the current debates surrounding sex work. This will include the view of sex work as morally wrong, as a human right, and as distinctly different from sex trafficking. To demonstrate the need for legalizing sex work, specifically in South Africa, I will be shedding light on a local activist group of sex workers who advocate for decriminalization. I believe the voices and demands of sex workers are largely missing from academic discourses and the current literature surrounding sex work which prevents real progress from coming about. Following this rationale, I will examine the benefits of legalizing sex work. South Africa will serve as a case study to demonstrate the problems that exist because of the criminalization of sex work. Additionally, Australia will be used to detail many of the benefits that have emerged because of legalization. Finally, counterarguments as to why legalization should not be the adopted policy will be explored.

### **1. Debates Surrounding Sex Work**

Before a discussion of policies involving sex work can occur, it is important to understand the differences between each debate surrounding the topics, as well as the implications these debates have. Many identify the selling of one's body as an immoral practice. In contrast, some view the ability to use one's body how they see fit as a human right. Debates also relate to the inaccurate view of all those engaging in sex work as being physically forced into it. This section will provide background knowledge on each of these debates to better explain why I believe legalization is the stance governments should take when determining how best to handle sex work.

### *1.1 Moral Panics*

The debates surrounding policies that either criminalize or legalize sex work often cite the immorality of this profession as a reason for preventing the legalization of this form of work. Many feminists center their moral panic within a critique of capitalism and patriarchy. This “moral panic” is the thought that sex work is a demeaning act that these women were forced into. This argument points to the idea that women are a commodity for men to exploit and lack agency in making their own choices. Because women exist in a world that is dominated by men, the choices they make are influenced by the need to please the dominant forces (Hughes 14). Hughes goes on to argue that while half of the world’s population is viewed as something to be bought and sold, there can be no true equality, nor can these women make truly autonomous decisions (16). Questions of morality come into play when viewing these women’s position as sex workers as a consequence of a male dominated world. Because of the current social hierarchy that places higher social and economic value on men, it is problematic to say that these women chose this life for themselves. This position effectively erases the voices of sex workers and ignores that they chose this type of work. Sex workers are actively pushing for legalization. If the women in the profession want legalization, then their choices should not be ignored, as Hughes’ publication certainly does.

Abolitionist feminists view sex work as the ultimate symbol of oppression. Barry argues that patriarchal systems make it impossible to choose this line of work out of free will. Women enter into sex work under a false consciousness wherein they think they have chosen this for themselves, but in reality, society’s gendered structures have chosen it for them. Because women cannot actually choose for themselves, Barry argues, sex work should not be legal. An additional problem with sex work is the thought that it diminished women to nothing more than a body (Barry 23). Reducing women to sexual objects takes the focus away from them as humans and by extension ignores their human rights. This adds merit to the moral panic surrounding sex work since with this understanding of sex work, it eliminates the access to human rights. As is the case with Hughes’ argument, Barry

ignores the implications of eliminating the wishes of the sex workers themselves. Legalization stemming from the women's efforts legitimizes their autonomy and deconstructs the previous arguments of the oppressed and exploited victim.

### *1.2 Human Rights*

Those who campaign in favor of the recognition of sex work as a legitimate type of work place the need within a rights framework. A popular discourse is that sex work is just that: work. Therefore, these women deserve rights and compensation similar to what they would receive in a different area of employment. The movement behind the rights discourse is that women should have the right to sell their sexual services to whom they want, when they want, and if they want. Since women experience exploitation in various kinds of jobs, sex work is doing no more harm than any other type of employment (McClintock 2). If they have the opportunity to choose where they work, who they have sex with, what hours they want to hold, and whether or not to use safe sex practices, their autonomy and rights will be increased. Without rights for sex workers, many feel the need to settle for unsafe sex because they need the money. Additionally, it is highly dangerous to demand safe sex practices in a situation where the man holds both the economic and physical power. Provided they have rights, sex workers will be given autonomy over their own body and will be able to choose what they want, not what they are forced to do in order to be financially stable.

Legalizing this profession may also help to provide layers of protection that these women would otherwise be denied. Protection under the law would grant security to these women and enable them to reach out for police assistance if they feel they are in danger or if any violence is perpetrated against them. The elimination of the fear of being targeted by law enforcement will also encourage sex workers to inform law enforcement if they feel someone has been coerced into engaging in sex work. It will become highly apparent if someone is working against their will. Law

enforcement will be aided in the discovery of sex trafficking victims by the sex workers which will hopefully lead to a reduction in the rates of victims of trafficking worldwide (McClintock 6).

The pro-sex worker's rights movement pushes for more respect towards women's choices and occupational health and safety standards (Agustin 110). Although sex workers are highly vocal in their advocating for the recognition of their work, rarely are their voices heard when it comes time to create policies surrounding their lives. Recognition of sex workers rights and regulation of health and safety standards provides numerous benefits. Giving sex workers the ability to demand that clients wear condoms helps prevent the spread of HIV, AIDS, and other sexually transmitted infections. Sex workers and clients could also demand that each of them receive STI testing before anyone can engage in sexual acts. This protects both the sex workers and the greater community, since it is the community that is seeking these sexual services. Agustin also highlights the complexity of the sex worker's right movement and the problems with the popular two sided debate. Many of the debates ignore that these women weigh costs and benefits of each situation, discuss options with friends and family, and exercise judgment along their path (Agustin 97). Centering these women's perspectives in talks about sex work will reinforce the autonomy that these women should be afforded in this kind of work.

The recognition of sex worker's rights provides not only tangible improvements to the lives of these women, but it also works to give these women back their voice. Assuming that these women are victims takes away their rights to use their bodies how and when they choose. Placing these women in the victim category ignores that sex work is often a way to make money in vastly greater sums than any other job and discredits their choices as nothing more than a last resort. Assuming sex workers are victims of this work also victimizes them in other ways. Categorizing sex workers as victims often labels them as women of abuse, women who hate men, or women who come from broken homes, further eliminating agency (Aquan-Assee 36). Women's voices must be included in the conversation otherwise we risk erasing their needs.

### *1.3 Sex Work vs. Sex Trafficking*

A common tool used to fight against the recognition of sex workers' rights is to collapse the differences between those who choose to freely engage in sex work and those who are trafficked and forced to complete sexual acts. It is vital that trafficked persons be referred to as people who have been coerced, kidnapped or otherwise forced into working as prostitutes, whereas sex workers are active in their choice (Buffington 154). This distinction is vital when laws surrounding sex work are drafted because laws that collapse the differences across the two categories are missing components that differentiate what these women are doing and how they came to be situated in their position. Because of this, governments often cite the horrific act of trafficking as the reason for not legalizing sex work. If it is legalized, more women will be trafficked. In a later section, I will describe why this stance is problematic and hurts those whom are not trafficked while aiming to protect those whom are.

## **2. Research Rationale**

In order to support my argument that sex work should be legalized and regulated like any other type of work, I will be focusing on the widespread problems relating to the criminalization of sex work in South Africa. In South Africa, all aspects of sex work are currently criminalized. This section will show the problems that arise or are perpetuated because of the criminalization, including rapid spread of HIV/AIDS, high rates of violence against women, and stigmatization among women and the community as a whole. These reasons for the need to legalize will be conveyed through the use of statistics and accounts from sex workers themselves. To further prove that a reason for these problems is the criminalization of sex work, I will describe the climate in Australia, where sex work has been either partially legalized or completely legalized in each state. Here, the transmission of HIV/AIDS has decreased, violence against women has gone down, sex workers are experiencing less stigmatization, and there has been a reduction in police corruption. Although it is highly possible that

there are larger implications that relate to the improvement in these women's' lives, the legalization of sex worker has certainly contributed to each of these positive outcomes, which I will discuss in depth in a later section using interviews from sex workers describing their lives before and after the policy shift and related empirical data.

Before my argument for why the legalization of sex work can be fully developed, it is important to recognize why the focus of this paper is around the criminalization policies of South Africa and the legalization policies of Australia. The amount of violence committed against sex workers is exceptionally high in areas where criminalization is the policy in place. Researchers in South Africa have spent time interviewing these women in order to gain a better sense of the types of violence that are perpetrated against them, as well as how often it occurs. It is not only researchers hoping to shed light on this issue though. South Africa is home to a very active sex worker organization known as SWEAT. The Sex Workers Education and Advocacy Taskforce is comprised of sex workers and allies and is primarily involved with advocating for the decriminalization of sex work and its recognition as real work (SWEAT). Any official roles within the organization require that this member be or have once been a sex worker in order to better advocate on behalf of this population. The presence of this active movement relates both to my desire to focus on South Africa as well as what I see as a gap in the current literature surrounding sex work policies. The erasure of sex workers voices in the literature and political movements does not benefit nor improve the lives of these women and reinforces that they are voiceless victims.

In regards to the focus on Australia, this relates to their varying degrees of legalization. Among the states in the country, some have fully legalized all sex work while other have only legalized parts (Sullivan 92). This will allow a distinction between the benefits and drawbacks of partial legalization and complete legalization to be contrasted with criminalization. Additionally, common links can be drawn between the involvements of strong local movements in the push for decriminalization. Similar to SWEAT, the presence of the "Scarlett Alliance, Australian Sex Workers

Association” played an important role in the fight for legalization and right to safer working conditions, protection from violence and reduction in sexually transmitted diseases (Scarlett Alliance). Because this organization was so successful in bringing about change, it is my hope that by highlighting the power of sex workers’ voices here, a similar understanding can be developed in relation to the need to legalize sex work in South Africa.

### **3. Problems Associated with Criminalization in South Africa**

#### *3.1 Barriers to Condom Use and the Effects of Unsafe Sex*

According to the United Nations’ most recent data, there are over 250,000 sex workers in South Africa (UNdata). Although the data set does not break this number down according to gender, the vast majority of the world’s sex workers, as well as those in South Africa, are female. This number far exceeds that of Australia, which is said to be home to around 20,000 sex workers (UNdata). The difference in these numbers is staggering, and although South Africa has a larger general population than Australia, the ratio between sex worker numbers does not compare. South Africa’s general population is twice as large, according to the World Bank, yet the concentration of sex workers is nearly 13 times that of Australia’s sex worker population. One must question then, what the consequences of so many people engaging in illegal work has on not only these individuals, but the community as a whole.

Sex workers are prominent actors in the spread of HIV and AIDS in South Africa. Though a highly stigmatized profession for these women, the act of purchasing these services is much less so. Because of this, men frequently seek these sex workers out. After sex, these men may return home to an empty apartment or may venture back to their wife and may then engage in sexual acts with her. If this man had already contracted HIV or AIDS, he then transmitted it to this sex worker. Any future clients she has sex with from then on will also contract this disease and reproduce a similar narrative. If he did not previously have the disease but this sex worker did, the sexual encounter will have

provided the path for transmission from her to him and whomever else the client is sexually involved with.

To a privileged Western audience or anyone with autonomy, the answer is simple: wear a condom. But this solution is not an easy one to implement in this South African case. There are many barriers to the utilization of safe sex practices in sex worker/client relationships that manifest in varying ways. In a study conducted by Christine Varga, South African sex workers were interviewed and asked questions pertaining to knowledge and opinions about HIV/AIDS, frequency of condom use, and how the women decided on using or not using condoms with their clients. Among the factors described by these women for not using condoms were the threat of physical violence, a clean and trustworthy appearance of the clients, and financial incentives for going without. Financial incentives for unprotected sex was reportedly the most common reason for going without a condom (Varga 80). When offered larger sums of money for engaging in unprotected sex, it is difficult for a woman to say 'no.' This is her job and source of income, meaning that if she needs to put food on the table for her or her family, she will be inclined to engage in unsafe practices to better provide. The ability to earn more money for engaging in condom-free sex finds its roots in criminalization and sex worker's lack of rights. Legalization would come with regulation in which there may be the opportunity for prices to be set and negotiation to be unnecessary, as is the case in other lines of work. Additionally, legalization would allow these sex workers to demand condom use because they would have more protection to defend against violence. Sex workers, then, would not feel obligated to risk their safety or the client's safety by going condom free.

The narrative of the barriers to condom use by sex workers in South Africa is further complicated by research that has been conducted by Ilse Pauw and Loren Brener. In their piece entitled, "You are just whores- you can't be raped," not only is the stigmatization of this type of work captured, but so is the violence these women experience because of this view. Pauw and Brener describe the difficulties associated with negotiating condom use because of sex work's criminalized

status (465). “Where sex work is criminalized, sex workers have no access to police or legal protection in instances of forced unprotected sex or rape. If sex workers have no control over their environment, their ability to negotiate, and insist on safer sex is minimized” (Pauw & Brener, “You are Just Whores” 465). By declining women the right to protection under the law, clients are able to demand verbally and/or physically that these women engage in unsafe sexual practices. A woman weighing what she views as the costs (risking the development of HIV) and benefits (ability to pay rent and buy food) to unsafe sex and choosing this for herself is one thing, but being forced into this situation is an entirely different issue. Legalization will not only buy these women bargaining power over their own bodies, but it will also provide them protection. If women do not have the ability to refuse sex without a condom or lack the ability to report if they are forced into having sex without a condom, then they are essentially being told their right to safety and safe sex does not matter. This also leads to the continued spread of HIV/AIDS as mentioned earlier. If a client is forced to have unsafe sex with someone infected with the disease, they are placed in the position of spreading this to any future clients they may have. Legalization, therefore, would reduce the threat of forced condom-free sex and will in turn reduce the spread of HIV and AIDS.

Additional barriers to the use of condoms in the exchange of sexual services, as well as with intimate partners is the perceived symbolism of the condom in South African culture. This leads to further implications in the spread of diseases. As is the case with many cultures, masculinity is highly valued and any threat to it is extremely unwelcome and treated with hostility. The condom, argues Varga, is one such example of a threat to the masculinity of South African men. Symbolically, the condom is viewed as something that denotes filth and distrust within a relationship and is thus seen as unacceptable between partners (Varga 81). To engage in the use of condoms would represent an unhealthy relationship. In sexual service situations, clients also often refuse the use of condoms because it reduces pleasure sensations and interferes with the masculine thought that only flesh-to-flesh sex is real sex (Wojcicki & Malala 109). Each of these views reinforces problems with the other.

Men interacting with sex workers are often in relationships and refuse to use condoms in both sexual situations for the preceding reasons. Their pride leads them to believe that condom use means someone in the relationship is being unfaithful— which very well may be them. In turn, they will not use condoms with a sex worker because using one denotes ‘fake’ sex, which they do not want to pay for. Again, the narrative of the increased transmission of HIV, AIDS, and other sexual diseases is reiterated. Policies granting women legal power would enable them to refuse the clients that will not agree to condom use, thereby protecting themselves and their intimate partners as well.

Legalization would certainly aid in the reduction of contraction in HIV/AIDS because of reduced barriers to condom use. It is necessary to acknowledge, though, the steps that these women are taking within this criminalized realm to protect themselves if the government will not. The issue with clients refusing condoms can be combatted with female condoms. Pauw and Brener found from their interviews with sex workers that the use of female condoms provided these women with a better sense of control over the situation. They also tore less compared to male condoms, thereby reducing the possibility of transmitting or contracting HIV (471). For sex workers, legalization would provide more benefits than the implementation of female condoms into sex work alone has done, but I believe this shows the power women do possess in this line of work. A common argument cited for not legalizing this work is that it inherently oppressive, but these women do have agency in their choices and they would only be afforded more autonomy through legalization. A reduction in the barriers associated with condom use stemming from legalization supports my claim that legalization will have important public health consequences. An increase in the usage of condoms will greatly decrease the spread of many diseases therefore benefitting the community as a whole.

### *3.2 The Acceptability of Violence against Sex Workers*

Because the rapid spread of HIV/AIDS is such an overwhelming problem in South Africa, this is the greatest argument for the legalization of sex work in this instance, though the violence that is

perpetuated under the system of criminalization would certainly be affected as well. Violence against sex workers goes generally unpunished. Because these women are viewed as criminals, they are not seen as having the right to protection under the law. This reinforces that violent acts committed against sex workers are not wrong. Violence not only appears in the context of sex worker/client relations, but from those tasked with protecting the people: the police. The perpetration of violence on sex workers from local law enforcement is detailed disturbingly accurate by a sex worker in Pauw and Brener's publication. '[The police] say "you are just a whore, you can't be raped"' (Pauw & Brener, "You are Just Whores" 473). This highlights an apparently global belief that only respectable women can be raped. The law enforcement officer's statement validates to the rest of the community that if a woman is selling sex then one, she always wants to have sex, regardless of if she is working at that moment or not and two, any woman who sells her body for sex is a whore who does not have the same right as a woman who does not engage in sex work. Legalizing this profession would help legitimize these women and provide them with the respectability that women working in other jobs receive. To allow for violence to be committed against women disregards them as human beings with rights. Additionally, women who are assaulted, whether verbally, physically or sexually by the police are unlikely to seek their help if a client harms them, further reinforcing the acceptability of violence against this community. The legalization of sex work would require law enforcement to uphold the same standard of treatment to these women as they would anyone else in the community.

Though there is risk associated with direct violence from the police, indirect hazards present themselves in the form of where this forces their work to be carried out and what this means for client interactions. Violence against sex workers by the police has led these women to engage in these practices in remote, often secluded locations to avoid arrest and other threats of violence. This, unfortunately, just opens the door for the clients to cause harm. "Sex workers... reported that clients beat them, raped them, abandoned them in isolated places, left them naked, and that they were thrown or forced to jump from moving vehicles" (Pauw & Brener, "Naming the Dangers" 80). The

level of violence against sex workers circles back to their lack of rights and regard of them as whores who do not deserve respect. It is ethically wrong for this violence to be legitimized simply because the type of work they do is believed by some to be immoral. Is throwing a woman out of a moving vehicle after you've gotten what you want from her not immoral? If punishment of these crimes will not be taken seriously while sex work is illegal, then the only way to improve the safety for these women is by legalizing and formally legitimizing their rights. Legalizing sex work will reduce the rates of violence they experience, therefore leading to increased positive social benefits for these women because they will possess equal protection under the law. Additionally, this supports my thesis of increased positive ethical outcomes due to the fact that those charged with protecting citizens will not be able to perpetuate violence against these women based on their job.

### *3.3 Stigmatization of Sex Workers*

Criminalization and the stigmatization of sex work go hand-in-hand in making the claiming of rights and the ability to assume total autonomy over one's life exceptionally difficult. The stigma related to sex work stems from traditionally accepted norms of what femininity, specifically respectable femininity, looks like. This type of femininity is generally understood as the proper wife and mother— she does not engage in sexually promiscuous behaviors, does not indulge in alcohol or drugs, and is obedient. Sex work is comprised of nearly the exact opposite characteristics. Since this rhetoric of respectable femininity is commonly understood and reinforced through a system rooted in the gender binary, not only do men view sex workers as undeserving of respect, but the women themselves have internalized this belief. In one interview, a sex worker identified this problematic view of women in relation to men. "It is only a woman who is downgraded from sleeping around...men will always retain their dignity" (Campbell 692). Unfortunately, this woman is not wrong. This double standard allows for, and even encourages, men to seek out sex workers while simultaneously shaming the women for doing it. Legalizing this form of work and placing value on what these women

do would aid in decreasing stigma against these women. Sex workers play an important role in the economy of South Africa and interact with large amounts of the population, similar to almost every other profession. Recognizing sex work as yet another job will help break down the stigma and related consequences.

This stigmatization is also reinforced by women who engage in sex for money when they classify commercial sex work as something that is inherently different. Women who engage in sex for money are said to be doing this for survival. They may be engaging in sex work to find a place to sleep or somewhere to do their laundry (Wojcicki, "Commercial Sex Work" 352). Those who engage in commercial sex work, however, are described by other women as dressing in little amounts of clothing and having sex with men to fund their shopping trips (353). The implications here are obvious. Engaging in sex work for anything more than getting by is not respectable. These women wear short skirts and exhibit characteristics of what some, including police, would signify as a whore. These kinds of stigmatizations cannot occur between women because it makes it easier to marginalize those who participate in sex work for financial benefit. Since it is illegal, these women are viewed as nothing more than criminals scamming for money. The recognition of this as a legitimate form of work would hopefully help to eliminate this issue.

#### **4. Positive Changes Associated with Legalization in Australia**

##### *4.1 Varying Degrees of Legalization*

The policies relating to sex work in Australia vary according to state. Among these variations are the legalization of licensed brothels and the decriminalization of most street prostitution without the need for a license. In New South Wales, there has been a decriminalization of brothels as well as public solicitation for the purpose of prostitution. Every other state, however, still has a complete ban on public solicitation (Sullivan 86). Additional policies include the option of working out of your own home and in licensed brothels. Each of these variations comes with benefits, though there are still

problems within the realm of sex work that still need to be addressed. These topics will be discussed in the following sections.

#### *4.2 Improved Working Conditions and Increased Rights*

Though a broad statement that does involve some over simplification, in general, the legalization of sex work led to an improvement in the working conditions and an increase in rights for sex workers. Though not highlighted in the research on South Africa, prior to legalization in Australia, women could be evicted from homes if they were sex workers. The new policies have provided protection for these women and allows them legal redress if they are evicted under this basis. This regulation provides home security and helps ensure that women will not become homeless because of the type of work they engage in. Additionally, women are able to operate their business, if done solo, out of their home (Sullivan 92). This address the common problem in South Africa of having to conduct business in remote areas out of fear of police persecution. By allowing women to work in a familiar and safe space, the likelihood of being assaulted by their clients is reduced.

Additional benefits to the legalization of sex work are reiterated in narratives of sex workers who describe it as empowering. “Just you, you’re working for yourself, you’re flexible and you’re responsible and you don’t need to rely on anybody else and you look after yourself. It gives you complete control and freedom” (Begum 91). A key differentiator of this type of work compared to many others is the autonomy women have. As described by this sex worker, she is able to determine when she works and relies only on herself, therefore enabling her to decide how often she needs to work. The same publication refers to the intimacy between sex workers. Unlike those engaging in sex work in South Africa, Australian sex workers were able to discuss clients and talk about their interactions (94). This is different than the distinctions and judgements of women involved in commercial sex made by those involved for just money. This involvement of sex work in the regulated

job market has allowed for a shared sense of comradery. If women must not fear for their safety or well-being, they are able to make personal connections and empower one another in their work.

The legalization of licensed brothels has also allowed for an improvement in working conditions for (some) sex workers. According to the Crime and Misconduct Commission of Australia, there are only 25 licensed brothels in Queensland, accounting for only 10 percent of the ongoing sex work. Additional observations describe brothels as sites of less violence due to the use of alarms and client screening in the lobby. Brothels must also uphold occupational hazard standards such as proper lighting, rest areas for workers, and the provision of condoms (Sullivan 92). Again, a direct line can be drawn between the issues of criminalization in South Africa and the legalization of sex work in Australia. As described earlier, a major barrier to condom use in South Africa is client resistance and fear of violence if refusing unsafe sex. These barriers increase the probability of spreading or contracting HIV/AIDS. According to UNAIDS data, nearly 60% of South African sex workers are infected. Without the development of policies that help control the spread of the disease, this number will continue to climb.

The previous benefits mainly evolve around licensed sex work, but the absence of licenses also provides aid to women.

Power of big operators in the...industry has been reduced and conditions are very conducive to small operators (including private workers) starting their own business. Even...in large brothels...employers are now more concerned [with] ensuring that good workers do not leave to start their own business." (Sullivan12)

Under a model that does not require a license, sex workers receive greater autonomy because they do not have to transgress through legal tape to gain rights to work as a sex worker. Furthermore, if the women do not have to rely on the brothel as a place for work, they do not have to follow whatever rules the brothel owners have put in place. Women are allowed greater control over which clients they will serve and what kinds of sexual services they will provide. So, if a man refuses safe sex

practices, the woman is able to refuse him service. If he becomes aggressive toward her, she is able to report this to the police with a greatly reduced chance of this officer either not believing her or assaulting her himself.

Each of these benefits—home security, protection under the law, support from other sex workers, reduced barriers to condom use, and flexibility and self-determination of working styles—all have the ability of appearing in South Africa if a policy of legalization were to be implemented. While these are important implications of legalizing sex work and provide women with the positive social, ethical and public health consequences I argue for, there are still problems under legalization. Less stigmatization stemming from legalization supports my thesis that these women will receive increased social benefits by legitimizing their work and labelling them as equal actors in the economic system.

#### *4.4 Continued Problems under Legalization*

As alluded to, the legalization of sex work in Australia is not without its problems. In the piece “When (Some) Sex Work is Legal,” Sullivan describes the policy preventing the eviction of sex workers from their homes and their ability to work out of this place of residence. This policy however still prevents more than one woman working out of this location (86). Though not inherently bad, this policy seems to limit the sex workers from mobilizing in groups and does not reduce the levels of violence as much as it could. Additionally, this gives more power to licensed brothels because it enables women to work together—if a woman prefers this, she will have to give up some of her autonomy to work in this community. This serves as another problem under legalization. Although it provides women with autonomy, in the case of licensed brothels, it changes the pimp from an individual to the state, therein reducing autonomy over who and what sexual services to provide.

Licensed brothels, as explainer earlier, only account for 10 percent of the sex work that is occurring. This means that a vast majority is still happening privately. Competition among the limited

brothel positions available forces some women to continue to work in the boundaries and allowing them to likely still experience the problems that took root under criminalization.

These problems are not insignificant, but I argue that the benefits far exceed the costs. Legalization will provide numerous advantages to sex workers and those whom they frequently interact with. My final section will explain and refute two common objections to the legalization of sex work to reinforce why criminalization is not best practice.

## **5. Counterarguments to Legalization**

The legalization of sex work is widely contested and opposed for many reasons. The most common and challenging of which is that legalization is nothing more than a reinforcement of patriarchal systems of gendered oppression. Those who argue this point describe sex work as the only viable option available to the women who engage in it. Because of this lack of true choice, or false consciousness, women are not able to truly choose this path. If there were other, better options accessible, then these women would choose those. This is a plausible argument. If women had the opportunity to receive an education and work in a different field, then they surely would. Legalizing sex work does not target the larger systems of gender inequality that is present in today's systems, rather perpetuates it by legalizing the exploitation of women.

This argument misses a key characteristic that I have advocated for throughout the paper: the involvement of sex worker's voices. While it is true that these women are likely from lower classes with limited access to jobs, what makes sex work anymore demeaning than domestic care work? They are both intimately linked to caring for others, yet those who care for children are not scorned. Why? I see two plausible answers. Either those who hold this viewpoint still categorize women as both respectable and playing the part of the 'good' mother and wife or not, or they hold the view that women in other jobs are truly not oppressed. Arguing that women who choose factory work over sex work are not oppressed ignores the systemic inequalities that need to be addressed in order for

legalization or decriminalization to become obsolete. If sex work should be illegal because it oppresses women, then working in factories or caring for another's children should be too.

Second to the view that legalization legitimizes the oppression of women is that this policy will elicit a larger demand for sex workers, therefore increasing the number of trafficked women to fulfill the call. Mainstream debates often ignore that women are capable of choosing sex work as their preferred job and instead labels them as victims of coercion. Under this assumption, if sex work is legalized it is believed there will be a dramatic increase in the demand for sex workers. Because it is impossible for a woman to freely choose this path, there will not be enough women to meet the demand and more and more will need to be trafficked to fill the gap. Keeping in mind the assumption that legalization would lead to an increase in demand, this is a plausible argument. If the demand goes up and there are not enough women who want to be sex workers, then it is possible women will be forced to engage in this work.

This argument wrongly assumes a few things, though. First, it removes female autonomy and assumes that if the demand did rise because of legalization, that women would not freely choose this option. This assumption has already been refuted, as this paper has shown many of the benefits women receive from engaging in sex work. Second, this argument assumes that demand will in fact increase, potentially exponentially. The argument also has the underlying assumption that an increase in the demand for sex workers is bad. If demand does increase, though, this will provide more opportunities for the women engaging in this line of work. Legalization may not result in an increase in demand, however. When drug use was legalized in Portugal, drug abuse was nearly cut in half (Boyd). Similarly, the lifetime prevalence of marijuana use following its legalization dropped nearly 7% in one year (Boyd). This legalization allows law enforcement to focus on bigger issues as opposed to punishing those for engaging in an act that does not harm other people. If sex work follows this trend, rates of sex work will likely not increase and those who choose to sell sex for money will not be punished for a completely legitimate way of earning a living.

Each of these counterarguments are worthy of attention and additional development, but they in and of themselves are problematic because of their assumptions and claims. An analysis of each argument and argument must be thoroughly examined and weighed, in conjunction with the voices of those who matter, when formulating policies.

## **6. Conclusion**

The legalization of sex work not only advances the rights of these women, but helps to advance entire marginalized communities. Although this paper's focus is on female sex workers, the rights of males and transgender folk will also be enhanced. Denying sex workers the right to choose which type of employment they engage in is a direct violation of the Universal Declaration of Human Rights (United Nations). Policies that directly violate human rights cannot and should not be tolerated. The acceptance of denying this right leads me to believe that domestic and international actors do not have a problem withholding human rights if they themselves do not benefit. This is an ethical issue and prevents those that are marginalized from getting ahead whatsoever. If the argument is that these women cannot freely choose sex work because this is the option they were forced to choose, then people should be working to provide more opportunities, which they are not. Hence, it is just as unethical to deprive them of their right to work as it is to force women into selling their bodies for money.

The involvement of sex workers in the push for legalization must occur to project the notion that sex work is work and work is a human right. The presence of local activists groups has strong implications as it shows that these women do not feel what they are doing is immoral, rather labelling them as criminals is. Legalization is the necessary route to improving the social, ethical, and public health consequences of both female, male and transgender sex workers, as well as their non sex worker counterparts.

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