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Looking Beyond Binaries to Avoid Polarization in the Sex Work Debate

During my senior year of high school I found myself sitting in the front row of a female-oriented self-defense class when I learned—for the first time—about prostitution and sex trafficking. We watched numerous heart-breaking videos about young girls running away from home only to be sweet-talked by some pimp and forced into the dehumanizing sex trade. Above all, I was confused as to why I hadn't learned about this global crisis sooner. Each day I found myself asking the question *am I really this sheltered?* In 2010, the CIA estimated that—in the United States alone—around 50,000 women and children are trafficked each year for sexual exploitation (Hepburn 4). As I began inquiring more about sex trafficking, I only became more and more aggravated that this topic is not regularly discussed in the classroom.

Scholarly discussions concerning solutions to sex trafficking almost always entail the debate on the legalization or criminalization of sex work.¹ We don't like to talk about sex trafficking because it means we must talk about sex work; we don't like to talk about sex work because the conversation holds many polarized opinions. At the heart of this debate, there are stark disagreements between the definition of “sex worker” and “survivor of sex trafficking.”² There are *many* different sides of the debate, but for clarity I have narrowed it down to two general sides: those in favor of keeping sex work illegal, and those in favor of the legalization of

¹ For the purpose of this paper, sex work is when a person willingly chooses to work for sex. A survivor of sex trafficking is someone who has been exploited for sex, and never voluntarily chose or consented to working for sex. Throughout this paper, I will try to refrain from the word “prostitute,” because it brings ambiguity: some people associate prostitution with voluntary sex work, and others associate prostitution with human trafficking.

² Most sources refer to it as “victim of sex trafficking,” but I find that the term “survivor” gives more agency back to the person.

sex work: respectively, sex-work-negative feminists and sex-work-positive feminists.³ The sex-work-negative feminists argue that sex work will always involve exploitation, therefore the terms “sex work” and “survivor of sex trafficking” share the same meaning. Opinions that generally fall on this side of the debate are in favor of keeping sex work illegal in the United States, for they fear that the legalization of sex work will lead to the normalization of human exploitation. On the other side of the debate, sex-work-positive feminists argue that sex work itself is not bad, rather the practices (pimping, violence, exploitation, organized crime, brothels, etc.) that accompany sex work are. Sex-work-positive feminists argue that the criminalization of sex work places sex workers in a vulnerable position to be exploited, because they are unable to seek legal help. For this reason, sex-work-positive feminists argue for the decriminalization and sometimes even the normalization of sex work. Unlike the sex-work-negative feminists, who believe the two terms are synonymous, sex-work-positive feminists advocate strongly for a clear distinction between the labels “sex worker” and “survivor of sex trafficking.”

What both sides fail to consider, however, is the mindset that a person can be both a consenting sex worker *and* a survivor of sexual exploitation. This proposed consideration is inspired by one of the key concepts of queer theory, which aims to undo or look beyond linguistically created binaries. Discussing solutions to human trafficking with the mindset that a person can be a consenting sex worker *and* a survivor of sex trafficking would honor the concerns of both sides, while still working towards a productive solution.⁴ Furthermore,

³ “Feminist” is included in these labels because both sides are concerned about the treatment, rights, and agency of primarily women sex workers/survivors of trafficking.

⁴ This proposal by no means suggests that all survivors of trafficking are also consenting sex workers. I acknowledge that there are many people who have been forced into the sex trade without their consent, and they never will consent to it. However, for the purpose of this paper, and for the purpose of narrowing my research, I am specifically concerned with the people who fall into the “gray area.” The people who chose sex work and were also exploited; and even after being exploited they may still desire to continue their career as a sex worker.

progression beyond a binary lens would provide the option of legalizing certain components of sex work and criminalizing other components, as well as provide agency to sex workers and/or survivors of sex trafficking.

Sex-work-negative feminists argue that it is impossible to engage in sex work without being exploited. Their argument is that practices such as trafficking, pimping, exploitation, violence, abuse, etc., will always linger dangerously close to sex work. Therefore, if we want to combat the crisis of human trafficking, we need to move as far away as possible from normalizing sex work. Dr. Que English, member of the New York Alliance Against the Legalization of Prostitution, writes that decriminalizing sex work equates to the “legalization of pimping, brothel owning and sex buying” (English). For Que and many other sex-work-negative feminists, the debate over who is a sex worker and who is a survivor of sex trafficking is not up for debate—nor will it ever be—because those involved with sex work are automatically victims of an oppressive system. Simply put, “prostitution is violence; not sex, not work” (English). Similarly, co-director of the Coalition Against Trafficking in Women, Janice G. Raymond, considers sex work to be modern day enslavement. In the introduction to her book *Not a Choice, Not a Job: Exposing the Myths About Prostitution and the Global Sex Trade*, Raymond writes a compelling personal testimony: “I have learned that working against the sex industry is like working against nothing else that I have experienced. The industry has friends in high places and has become a major lobbyist on behalf of national and international legislation that would favor its expansion” (Raymond x). Raymond argues a point similar to that of Que’s, which is that the negative circumstances that surround sex work will always follow it, so to decriminalize sex work is to decriminalize pimping, violence, abuse, the exploitation of bodies for sex, trafficking,

etc. (Raymond xv). Both English and Raymond argue that in countries where we have seen prostitution legalized, organized crime has followed. Raymond writes that years after prostitution was legalized in the Netherlands, “the pillars of the legalization regime—tolerance zones, licensed brothels, free of organized crime, and a regulated business of prostitution—began to crumble and are now in shambles” (Raymond xv).

It is true that the Netherlands has faced regulation challenges regarding the legalization of sex work. In an article for *The New York Times*, “Amsterdam Tries Upscale Fix for Red-Light District Crime,” Marlise Simons examines the successes and/or setbacks that the Netherlands faced in 2008, eight years after sex work was legalized. After speaking with local brothel owners, Simons discovered that Amsterdam's Red Light District *used* to have a degree of order and the brothel owners *used* to respect law enforcement. Lately (lately as in 2008), it appears that those old rule-following brothel owners have either left the industry, or died and have been replaced with a new wave of brothel owners who have ties with organized crime—which contributes to the increasing flow of human trafficking in the Netherlands. The former mayor of Amsterdam, Job Cohen, even admittedly stated “we’ve realized this is no longer about small-scale entrepreneurs, but that big crime organizations are involved here in trafficking women, drugs, killings and other criminal activities” (Simons).

The sex-work-negative feminists often use the Netherlands as an example of what happens when sex work is legalized—which is that organized crime has proven to follow the decriminalization of sex work. However, sex-work-positive feminists argue that sex work needs to be legalized because the criminalization discourages sex workers to seek help from law enforcement, which places sex workers in a vulnerable position to be exploited and trafficked.

Sex-work-positive feminists refute the notion that sex work legalization was not ‘successful’ in the Netherlands; since 2008, many improvements have been noted in Amsterdam’s Red Light District. Just two years after Simons wrote her article about the Red Light District becoming increasingly tied to organized crime, journalists Joshua Cruz and Swaan van Iterson published an article through *Humanity in Action*, in which they highlighted the many positive reform changes put in place since 2008. Cruz and van Iterson write:

Legalizing prostitution increases safety by allowing a certain amount of control over the industry. One example is that prostitutes now work in secured surroundings where there are cameras in front of every window, and police, both in uniform or undercover, are always patrolling the area. In every brothel, there is an alarm system accessible at a moment’s notice and the press of a button, which can be heard from a considerable distance. (Cruz and van Iterson)

Counter to such improvements that accompany legalization, the criminalization of sex work in the United States has led to many sex workers being denied legal help and/or protection from law enforcement. In their article, “Reducing Violence Against Sex Workers: What are the Policy Options?”, Dara Barlin et al. argue that existing U.S. federal policies that ban sex work “conflate sex work with human trafficking and [prevent] sex workers from accessing services such as healthcare, HIV prevention and support” (Barlin et al. 3). The prohibition of sex work in the United States has led to a negative stigma surrounding sex workers, which often discourages them from seeking legal help if placed in a position of abuse, assault, exploitation, or trafficking. The *Urban Justice Center* released a report in 2009 that included interviews from a diverse array of people involved in the sex trafficking and sex work industry—including immigrant sex

workers, trafficked persons, consenting sex workers, service providers, attorneys and social workers. This report provides valuable insight into the ways in which sex workers and survivors of sex trafficking are treated by law enforcement in the United States. The most common way in which law enforcement officials “combat” sex work and/or sex trafficking is through the use of police raids. It’s no surprise that both survivors of sex trafficking and sex workers describe these police raids as traumatizing, humiliating, and unnecessary (Ditmore 6). Similarly, law enforcement officials even admitted the ineffectiveness of these raids, with one officer stating, “it’s such an overwhelming situation, and why would [the sex workers and survivors of trafficking] trust us?” (Ditmore 9). While Ditmore’s report emphasized the specific ineffectiveness of police raids, the overall nature of the report highlights the result of the criminalization of sex work: sex workers and survivors of trafficking are treated as criminals by law enforcement, which severely discourages them from seeking help from these services.

The criminalization of sex work complicates the matter and creates more conflicts than solutions. Ditmore’s report focuses on the effects of the criminalization of sex work as a whole; more recent reports emphasize the individualized and unique experiences of sex workers and survivors of trafficking. A study released in 2016 by the *Center for Court Innovation* includes findings from interviews with 1,000 youth⁵ across six sites in the United States: Atlantic City, New Jersey; the Bay Area, California; Chicago, Illinois; Dallas, Texas; Miami, Florida; and Las Vegas, Nevada (Swaner et al. v). This individualized study expands upon Ditmore’s findings by suggesting that the criminalization of sex work is not only ineffective and humiliating to sex workers/survivors of trafficking, but also counterproductive. Law enforcement officials often

⁵ The age range for “youth” was defined as individuals between 13-24 years old. It was noted in this study that any person under the age of 18 was immediately classified as a survivor of trafficking, as they were under the legal age of consent.

assume that arresting youth is “for their own good, to get them away from their pimp and off the dangerous streets,” however the research conducted by Swaner et al. suggests that “involvement with the criminal justice system only leads to additional barriers, such as employment, education, housing and benefits and not to safety or the ability to escape an exploiter” (Swaner et al. 10).

Not only do these studies stress that the criminalization of sex work is unproductive, they also challenge the common narrative of pimp-sex-worker relationships. The media often portrays sex workers as victims to a pimp who coerced them into the sex industry, but Swaner et al. noted that pimps were the least popular method used by youth to obtain customers. Swaner et al. found that—while 63% of customers came from the street, 42% from friends, 39% from referrals—only 9% of customers came from a pimp (Swaner et al. 43). Similar findings were presented in an article released by *The ANNALS of the American Academy of Political and Social Science*. This article draws from data collected from 372 active sex workers, the majority of which were minors.⁶ Marcus et al. write, “our findings suggest that stereotypical pimps are far less common and important to sex street markets than would be expected . . . only 10 percent of our sample of minors (n=249) had a pimp at the time of research” (Marcus et al. 231). The reports from Swaner et al. and Marcus et al. offer two takeaways. The first is that the criminalization of sex work is counterproductive to its motive: rather than discouraging youth from engaging in sex work, criminalization creates a dynamic in which youth turn to sex work due to a criminal record that inhibits their ability to leave the sex work industry. The second is that the narrative of pimp trickery and coercion is not as prevalent as assumed.

Sex-work-negative feminists often label youth in the sex trade as victims of a forceful pimp, yet

⁶ Because these sex workers were minors, they are automatically considered to be survivors of sex trafficking. However, as the data suggests, the majority was not being trafficked or exploited by a pimp. This finding indicates that there are other factors that contribute to sex trafficking, and pimps are often just a scapegoat for the blame.

the majority of youth in these studies did not have a relationship with a pimp. Instead, the youth were involved in the sex trade for means of housing, food, and financial security.

The criminalization of sex work and the negative stigma that surrounds sex work in the United States has led to confusion and conflicting opinions regarding the labels “sex worker” and “survivor of sex trafficking.” In an article discussing the relationship between sex work and sex trafficking, Jared Rayborn theorizes that if we educate America that there is a “distinction between prostitution and trafficking, a majority [of America] may become more tolerant to the individual choice to sell sex for a living” (Rayborn 127). Sex-work-positive feminists agree with Rayborn’s claim that differentiating sex work and sex trafficking will erase the negative stigma behind sex work. While sex-work-positive feminists argue that there is a distinction between survivors of sex trafficking and consenting sex workers, the sex-work-negative feminists argue that all sex workers are survivors of trafficking. Furthermore, sex-work-negative feminists argue that all forms of sex work must be abolished, and sex-work-positive feminists argue that sex work must be entirely legalized. However, a large portion of sex work situations are not a cut-and-dry binary categorization, the way the sex-work-negative and sex-work-positive feminists argue. A large majority of sex workers are consenting sex workers *and* survivors of trafficking. Rather than being either/or (sex-work-positive), or entirely victims (sex-work-negative), a lot of cases are both/and. Consider the voice of Laura LeMoon, a guest writer on *Wear Your Voice*, who makes it very clear in all of her opinion pieces that she is both a survivor of trafficking and a consenting sex worker. LeMoon writes, “the reality that I would like to make clear, as someone who is both a survivor of trafficking and a sex worker, is that *the whack-a-mole approach to a social justice problem does not work*” (LeMoon). The

“whack-a-mole approach” occurs when something is a problem and we immediately attempt to eliminate its entire existence. To argue that sex work needs to be either completely abolished or completely legal, or to argue that a person is completely a survivor of trafficking or completely a consenting sex worker, is to adopt a mindset that often leads us to make these “whack-a-mole” decisions.

I admire the sex-work-negative feminists’ desire to protect survivors of trafficking from violence. I also don’t condone pimping, exploitation, or profiting off of a person’s body. Moreso, I admire the sex-work-negative feminists’ passion to prevent human trafficking. At the same time, I admire the sex-work-positive viewpoint that sex work itself is not negative and I support finding a way to remove the negative lingerings from sex work. I applaud their attempts to remove the negative stigma that surrounds sex workers, and provide validation to sex workers. Both sides present a valid reasoning for either the legalization or prohibition of sex work. However, it seems to me that more energy is spent arguing between binaries than time spent focusing on if there is a solution—a system we could create, or recreate—that would provide agency to the sex workers and survivors of trafficking.

Perhaps rather than working to distinguish the labels of sex work from trafficking, we should work to overcome this binary way of thinking: both the sex-work-negative feminists and the sex-work-positive feminists ought to accept the idea that a person can be both a consenting sex worker and a survivor of human trafficking. The theory that we should move past distinguishing the two binaries is a core concept from queer theory. Queer theory aims to break down binaries that are constantly created in society: bad/good, happy/sad, gay/straight, real/fake, healthy/harmful, sex worker/survivor of sex trafficking, etc. Queer theorists Meg-John Barker

and Julia Scheele urge us to avoid this polarized way of thinking, and instead “ask what an idea of representation opens up and closes down. What is included and what is excluded? Might it be a matter of both/and rather than either/or?” (Barker 171). Barker would argue that viewing sex work and sex trafficking as two distinct binaries closes down many possible solutions for combating human trafficking, as it polarizes people into two different sides, and prevents the sex-work-positive feminists and the sex-work-negative feminists from working together. If both sides were able to agree upon the notion that a person can be both a survivor of trafficking and a consenting sex worker, they could theorize together the ways in which we can help sex workers avoid being trafficked, and ways in which we could provide more agency to sex workers.

Parallely, both sides could opt to consider both the legalization and criminalization of sex work. The act of exchanging sex for money can be decriminalized, but acts of pimping, the acts of violating or sexually assaulting sex workers, the act of trafficking sex workers, child sex trafficking, maybe even the act of owning a brothel, etc., can be prohibited and looked down upon. In this way, sex work would technically be both legal and illegal, depending on the specific condition. Furthermore, specific systems could be developed that offer a lot more agency to the sex workers themselves. Many sex workers have already strived for more agency from sites like *Backpage* to find their own clients, so that they aren't working under a greedy brothel owner or pimp. However, in 2018, the U.S. government shutdown *Backpage* at the same time that it signed the Stop Enabling Sex Traffickers Act (SESTA) and the Fight Online Sex Trafficking Act (FOSTA). While sex-work-negative feminists and politicians celebrated this shutdown as a means of combating human trafficking, those in the sex trade had a different reaction: one of anger, feeling misunderstood and underprotected. Emily Witt, an advocate for

sex workers, wrote in *The New Yorker*, “in the aftermath of the new law, sex workers have claimed that efforts to control sex work in the name of public safety are forcing them into riskier situations—working with unknown clients, who they can no longer screen, or on the streets, where the risk of violence is greater” (Witt). Rather than making sites like *Backpage* completely illegal, the U.S. government could have cracked down on specific components of the website, such as the difficult-to-regulate advertisements.

Right around the same time that *Backpage* was shut down by the U.S. government, Melissa Mariposa, a sex worker herself, launched a website called *Red Umbrella Hosting*. The website is described as “a new web host for sex workers, by sex workers” (Dilawar). *Red Umbrella Hosting* encapsulates the very idea of legalizing sex work but prohibiting illegal activities that often accompany sex work, by having a terms of service that can “restrict content like child pornography, sex slavery, and bestiality” (Dilawar). Better yet, because the web server is based out of Iceland, it is “protected by some of the best privacy laws in the world—perhaps the best bulwark available against SESTA/FOSTA” (Dilawar). Mariposa’s creation of *Red Umbrella Hosting* offers us Americans a glimpse into a possible future that would satisfy both the concerns of the sex-work-negative feminists and the sex-work-positive feminists. It allows for safe sex work that is removed from the negative patterns of working under a pimp, being exploited, trafficked, and violated. Another attempt to provide more agency to sex workers is happening in Amsterdam: a group of sex workers are in the process of creating an entirely sex-worker-run brothel. A spokesman for Amsterdam’s mayor said, “one of the things we have changed in recent years is that instead of talking about what is good for prostitutes, we have started to talk to them” (Williams). The efforts made by *Red Umbrella*

Hosting and those made in Amsterdam prove that it's possible to think in such a way that is not constricted by a binary. When we start thinking beyond strict binaries, more creative solutions that offer agency to sex workers and/or survivors of trafficking can and will emerge.

I appreciate the efforts put forth from both the sex-work-negative feminists and the sex-work-positive feminists in the battle to combat human sex trafficking. It disgusts me to think that at this very moment someone is being exploited for sex. At the same time, I think it's extremely important to give agency and validation to the people who consent to sex work. Both sides of the debate are passionate about their viewpoint, which gives us hope for the future. In my view it is clear that the only way that we as a nation can enter a productive conversation for overcoming human trafficking is if both sides agree to see beyond the binary and acknowledge two notions: that a person can be labeled as both a sex worker and a survivor of sex trafficking; and that sex work can be, in some ways, legalized and in other ways criminalized. By unraveling the linguistic binary, we can work in unison not only to protect, but also to provide agency both to sex workers and/or to survivors of sex trafficking. If nothing else, seeing beyond the binary would allow for conversations about sex trafficking and sex work to be more easily addressed in the media and in classrooms.

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