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Sex Work and Criminalization

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Sex work is an important topic for LGBTQ studies, in part due to overlapping concerns of sex worker and LGBTQ communities. Similar to sex workers, many LGBTQ individuals are and have been marginalized, denied rights, and/or criminalized for living outside of heteronormative sexuality. Many scholars have also described sex work itself as a queer act given that sex work occurs outside of married, monogamous, unpaid, reproductive sexual unions. Sex work also often involves sexual contact between members of the same sex, such as a male worker with a male client or two or more female workers having same-sex sexual interactions in front of clients. Further, LGBTQ individuals engage in sex work for a variety of reasons. As a result of these factors—in combination with growing scholarly and activist critiques of the disproportionate incarceration of people of color—the topic of sex work is a vital arena for LGBTQ scholarship and activism. This essay first defines sex work within the context of sexual regulation, including criminalization. It then examines LGBTQ participation in sex work. It concludes with a discussion of anticriminalization activism by and for LGBTQ sex workers.

Sex Work and the Regulation of Sexuality

The term *sex work* refers to sexual activity performed in exchange for money or goods such as drugs, food, and housing. The occupational category of sex work includes a variety of jobs, working conditions, and wages, with corresponding levels of worker self-determination and/or coercion. Sex work may include activity that involves direct physical touch between the worker and the client for the purpose of the client's sexual pleasure (prostitution and escort work, sensual massage, some forms of professional bondage, dominance/submission, sadism/masochism [BDSM]); sex work also may include acts that involve little or no direct physical sexual connection and are rather primarily visual and/or audio (such as pornography, webcamming, phone sex, many forms of professional BDSM, and some forms of exotic dance). Depending on the political–legal context, sex work may be legal, criminalized, or decriminalized.

While there are a diversity of opinions and perspectives on sex work and sexuality, “prostitution” has been associated with bad or deviant sexuality in many of the same ways that queer or gay sexuality is still seen by many as morally corrupt. These negative denotations of sex work and nonheteronormative sexuality are embedded within a cultural logic that deems heteronormative marital sexuality as both “natural” and “good,” and rewarded through institutional mechanisms such as state laws, company policies, religious ideologies, and educational curriculum. Simultaneously, “outsider” sexual expressions such as sex for money and same-sex sexual encounters are labeled *unnatural*, *dangerous*, and *evil*, setting up justifications for social stigmas and criminalization.

Since the passing of the 2000 Trafficking Victim Protection Act (TVPA), sex work in the United States and beyond has been subject to increasingly aggressive policing and criminalization. Scholars have pointed to several critical causes for this shift, including a post–9/11 militarization of local and global policing, and a new form of anti–sex industry rhetoric led by antiprostitution activists. In contrast to previous narratives about sex workers being simply immoral or “sick,” this contemporary reasoning asserts that all or most sex workers—especially cisgender female workers—are trafficked or coerced. This perspective has become institutionalized into international, federal, and local level policing arms (e.g., State Department, Homeland Security, FBI, city police). Under

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these efforts, cisgender girls and women are targeted for rescue from the sex industry and into state-monitored living conditions rather than (or in addition to) criminalization; simultaneously, managers, pimps, and clients of these sex workers are subjected to intensified punishment, including deportation and/or lengthy incarceration sentences. As many sex work scholars have argued, this focus on sex work as the primary concern for antitrafficking efforts has had numerous negative impacts, including intensifying the criminalization of all sex workers including both coerced and consensual workers, facilitating heightened border control and general state surveillance, expanding the criminalization of immigrants and people of color, and diverting attention away from the industries where coercion and trafficking are most common: in occupations such as domestic work and farm work.

Despite U.S. influence on global antitrafficking efforts, laws on prostitution around the world vary widely, ranging from being fully decriminalized (New Zealand), legal and regulated by the state (e.g., Germany, the Netherlands, parts of South America), decriminalized but illegal to organize into brothels (e.g., India, Canada, large parts of Europe and South America), illegal just for the act of buying sex (Norway, Sweden, Iceland—known as the “Nordic Model”), and completely illegal (the United States except for parts of Nevada, much of Africa and Eastern Europe, China). In some countries, prostitution is even punishable by death (Iran, North Korea, Saudi Arabia, Sudan).

LGBTQ Sex Workers

While recent political campaigns in the United States focus on “saving” presumably heterosexual, cisgender girls and women and punishing apparently heterosexual, cisgender men clients and managers, political concern for the lives, rights, and needs of LGBTQ sex workers (and clients) is virtually nonexistent. Although there is a vast body of public health, legal, and social-scientific research on women sex workers, few studies focus on the sexual orientation or desires of female sex workers. This may be due to a lack of federal commitment to fund research on this topic as well as the possibility that researchers may share the same gendered and moral assumptions as policy makers about women who sell sex to men. Yet, sexual and gender orientation are important factors to consider given that contemporary antiprostitution policies in the United States (and for many of its allies, including USAID-dependent countries) are premised on the assumption that sex workers are heterosexual, cisgender women who enter sex work through coercion by a man and who are intrinsically emotionally damaged by having sex for money with men.

The gender and sexual identities of sex workers, as well as their levels of agency versus coercion, are far more complex than dominant criminalized models suggest. LGBTQ and sex worker histories and narratives often reference multiple economic, social, political, as well as personal and sexual connections between queer and sex worker communities; for example, lesbian herstory archivist Joan Nestle describes lesbians and prostitutes as a “historical sisterhood.” Qualitative social scientific research on exotic dancers has also generated documentation of queer desire; as Bernadette Barton found in her ethnography of strip clubs, the structure of exotic dance clubs can facilitate sexual access, exploration, and same-sex desire between cisgender women sex workers. Narratives written by sex workers also illustrate a wide range of sexual subjectivities.

In contrast to most studies of female sex workers, research on male sex workers rarely

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overlooks the topic of sexual orientation and frequently considers the puzzle of how sex workers can perform different sexual orientations with clients versus partners (e.g., when heterosexually identified men sell sex to other men). Also in comparison to widespread assumptions of coercion for female sex workers, researcher and cultural narratives about male sex workers emphasize personal agency and choice—sometimes describing male sex work as essentially an extension of gay sexuality. In the United States, media stories involving men sex workers often focus not on the workers but on the conservative Christian politicians, pastors, and activists who are caught with a “gay prostitute.” In these high-profile cases, arrests are rarely made; instead, the punishment is administered through social shaming and focused more on the stigma of homosexuality than the crime of selling or buying sex.

While sex worker activists argue that criminalization makes all sex workers more vulnerable to discrimination and violence, transwomen sex workers are at disproportionate risk of violence from customers, employers, and police. In addition to aggressive policing and physical violence, transgender individuals also struggle against multiple forms of institutionalized discrimination prior to entering the sex work industry. For example, people enter the sex industry for a variety of reasons, yet transgender individuals are more likely to enter the sex industry due a lack of other economic options, given systemic and severe familial, educational, and job discrimination. Compounding impacts of racism may also bring transwomen of color (as well as people of color across the gender and sexuality spectrum) into sex work at earlier ages than their White counterparts. Transgender sex workers also often experience escalated levels of stigma and have obstructed access to health promotion services and human services, including immigration and asylum. Street youth, who are disproportionately queer and who represent a range of gender expressions, also have high rates of reporting sex work as a means for survival.

LGBTQ Sex Work Activism

While early-21st-century prostitution policies in the United States and beyond have moved toward a model of reformation for cisgender women sex workers, this alternative to incarceration—sponsored by what Laura Augustin calls the “rescue industry”—is rarely offered to men and visibly queer and transgender sex workers. In fact, there is evidence that transwomen of color, who are more likely to work outdoors than White and cisgender sex workers, have in recent years experienced increased policing and criminalization. The race and class disparity of highly criminalized people as well as the abuses garnered by police for what activists term *walking while trans* have spurred a new wave of LGBTQ activism around the human and sexual rights violations of sex workers and those perceived to be sex workers due to their gender identity, race, and class.

Sex workers have long argued that policing and criminalization cause the greatest harms to their well-being, but changing these laws requires those in power to listen to people who are both stigmatized and criminalized. Working with activists from a range of progressive interests (LGBTQ, human rights, immigrant rights, antiracist, and anti-mass incarceration), sex workers have made some progress in bringing attention to the harms of criminalizing sex work policies (e.g., the practice of police using the carrying of condoms as evidence of prostitution). Another avenue that has shown promise has involved sex workers building coalitions with allies in global health; as a result, there have been increasing calls by health researchers, including those at the World Health

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Organization, for fully decriminalizing sex work. These arguments point specifically to strong empirical evidence that criminalization of sex workers (and their clients) contributes to the spread of HIV/AIDS.

Conclusion

In sum, the harms of sex work moralization, stigmatization, and criminalization are disproportionately felt by cisgender and transgender women (who are either targets of “rescue” or incarceration) as well as people of color, immigrants, and LGBTQ youth, for whom sex work may be a temporary means of survival. Decriminalizing sex work alone will not solve issues of systemic oppression and state abandonment of disenfranchised people. But sex worker activists and researchers, which include many from LGBTQ communities, argue that decriminalization of consensual sex work is one key step toward social and sexual justice.

See also [Sex Work and Prostitution, Female](#); [Sex Work and Prostitution, Male](#)

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