

**Putting Sex on the Agenda: Agenda-setting theory and the Decriminalization of Sex Work**

DeAnna Williams

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## Table of Contents

### CHAPTER

I.	INTRODUCTION.....	3
II.	LITERATURE REVIEW.....	5
III.	RESEARCH DESIGN.....	
IV.	CONTEXT ANALYSIS.....	
V.	DATA ANALYSIS.....	
VI.	IMPLICATIONS & CONCLUSION.....	
VII.	BIBLIOGRAPHY.....	

## Chapter 1 INTRODUCTION

In the United States, sexual promiscuity has historically been marked with a deviant label, despite the fact that the concept of sex and sexuality comprise a significant element of our social, political, and economic identities. The current connotations regarding sex work have contained several negative implications that suggest this industry is not only immoral, but deserving of punishment and shame, making the liberalization of sex difficult to implement in a sex-negative culture. The CDC<sup>1</sup> claims that sex workers, people who exchange sexual acts for goods, experience marginalization, which often leaves these workers vulnerable to the state in which our current society views sex outside of marriage and monogamy. Because of the criminalization of sex work, sex workers are disproportionately exposed to violence, lack of access to health care, and increased risk of facing negative repercussions from the justice system; all factors that make reporting issues of abuse and exploitation to law enforcement thus more difficult.

In spite of the notion that sex work is often performed as a medium of survival that provides basic resources such as food and housing that are not deemed accessible through the formal economy, those who engage in sex for reciprocated goods in America are restricted by state law (with the exception of some regulated brothels in Nevada<sup>2</sup>) from receiving financial, physical, and social benefits. In addition, although criminalization has proven to be ineffective in preventing the selling and buying of sex, several states have failed to pass proposed legislation

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<sup>1</sup> CDC, "Sex Workers HIV Risk Among Persons Who Exchange Sex for Money or Nonmonetary Items," Centers for Disease Control and Prevention (Centers for Disease Control and Prevention, March 16, 2022), <https://www.cdc.gov/hiv/group/sexworkers.html>.

<sup>2</sup> Barbara G. Brents and Kathryn Hausbeck, "State-Sanctioned Sex: Negotiating Formal and Informal Regulatory Practices in Nevada Brothels," *Sociological Perspectives* 44, no. 3 (2001): pp. 307-332, <https://doi.org/10.2307/1389709>.

on the total or partial decriminalization of sex work, due to the suggestion of a lack of education and conservative ideology, resulting in the conflation of disreputable terms and concepts.

Through media consumption, access to pornographic imagery and the selling of sex has become much more available, resulting in states looking for solutions to regulate the trade in its complexity. Despite the fact that progressive policy decisions surrounding sex have proven difficult to pass, two states, Maine and Oregon, have recently introduced legislation that would liberalize laws restricting the exchange of sex for goods; however, were both unsuccessful despite both states having Democratic party control, which would typically allow for support of progressive ideas. While analyzing media coverage regarding the two proposed Bills, it was discovered that not only were terms such as “sex worker” and “sex trafficking” used interchangeably, but also that it did not specify the significance of the bills which would make them more marketable to pass. Using interviews with Representatives from both states (which will be discussed thoroughly in the data analysis section of this thesis), the failure to pass these Bills into law may demonstrate the noteworthiness in terminology usage as a way to “sell” a story regarding proposed legislation one way or another.

The Policy Process- which refers to the conceptualization of developing, implementing, or enforcing a policy being proposed for passing new legislation- consists of five stages, in which *Agenda-setting* is arguably the most important step<sup>3</sup>. This stage requires that a concern be converted from a “social issue” to a “social problem”, in an attempt to achieve a political goal. This step also aims to argue that an issue be addressed with serious concern through public outrage and attention. While the issue of sex work decriminalization has raised enough concern

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<sup>3</sup> David Benson and Andrew Jordan, “Policy Process,” Policy Process - an overview | ScienceDirect Topics, OAD, <https://www.sciencedirect.com/topics/social-sciences/policy-process>.

in some states to propose legislation for its regulation, it has not been identified as a strong enough “social problem” that is deserving of immediate attention or change.

This thesis aims to answer whether or not agenda-setting theory can explain if the terminology used in American legislation is manipulated, resulting in barriers to decriminalizing sex work. In addition, this paper will examine two case studies, Bills proposed in Maine & Oregon, to understand why its legislation to decriminalize sex work was unsuccessful in selling its importance as a “public problem”. In addition, this thesis will briefly discuss the significance that decriminalization of sex work can have on sexual exploitation regulation, and the positive impact decriminalizing the trade will have on both clients and workers. In conclusion, this paper will suggest that terminology used during the agenda-setting stage of public policy may distort how information regarding legislation is disseminated, our public officials who propose legislation, and the American people who interpret the issues as a problem worthy of addressing. It is also important to note that in the context of this paper, sex work will be defined as an all-encompassing term to refer to the consensual performance of erotic acts for the transaction of goods. This may present itself in the form of erotic dancing (stripping), pornography, sexual physical contact, etc.

## **Chapter 2**

### **LITERATURE REVIEW**

As previously stated in the introduction section of this thesis, agenda-setting seeks to explain the success of framing a problem as an issue, which makes it difficult to liberalize sex work if we have not been convinced of its importance. While theory regarding sex work exists, literature on the intersection of media influence, public policy, and agenda-setting is sparse, presenting itself in the limitations that have resulted in the failure to decriminalize sex work in

the United States. Agenda-setting allows us to examine the ways in which we navigate public interest regarding policy. In Theodore Stein's (2001) *Social Policy and Policymaking by the Branches of Government and the Public-at-large*, he refers to the concept as the process where "social issues" are morphed into "social problems", with the purpose of achieving a political goal<sup>4</sup>.

In the context of framing an issue as a problem within the media, to paraphrase Stein, as the controversy of the issue rises, the more the public will call for it to be addressed<sup>5</sup>. Since many people in the US have been systematically deprived of access to resources, due to competition within the media to make an agenda well known, not every issue will have the opportunity to be addressed by mainstream media sources, making it thus more difficult for an issue to gain public attention. Social issues develop from having concern for a topic by people or groups, whereas a social problem is created when the public also begins to question its existence. This may seem like a mundane and/ or obvious step in agenda-setting, but framing an "issue" as a "problem" is what allows the topic to be brought to light in the first place.

While agenda-setting theory originally tells us how power and influence is used to set narratives, it also acknowledges that both people and groups have the power to influence said agendas as well. This theory suggests that an agenda will have success if:

1. there is a consensus regarding what the issue is and how it is defined;
2. if there is consensus on the solution to the problem. Suggesting that the proposed solution will be appropriate enough for the government to take action on and that it will have the desired outcome;

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<sup>4</sup> Theodore Stein, "Chapter 5. Issues, Problems, and Agenda Setting," *Social Policy and Policymaking by the Branches of Government and the Public-at-Large*, 2001, pp. 69-90, <https://doi.org/10.7312/stei11682-007>.

<sup>5</sup> Theodore Stein, "Chapter 5. Issues, Problems, and Agenda Setting," *Social Policy and Policymaking by the Branches of Government and the Public-at-Large*, 2001, pp. 69-90, <https://doi.org/10.7312/stei11682-007>.

3. when there is a large amount of public support behind an issue or solution, then the public is educated on the topic and believes that the problem is important enough to be considered for resolution;
4. and if public officials have stated publicly their support for said issue/ solution.

This is important to acknowledge because even our political officials are influenced by media and the framing of agendas. In fact, in 1994 a Missouri Judge was persuaded by media regarding the usage of the drug “crack” to apply strict penalties and sentencing for its users. Scholars have also questioned whether or not the relationship between media and public opinion is a “one-way” concept or “reciprocated”. Social media has also added complexity to the position in which interest groups hold in a democratic system with the influence of both falsified and misleading information. According to Stein, the influence of the media tells us what to think about and how to perceive a topic, but because not everyone has the same privilege to access information, this reinforces the idea that people shouldn't question what they hear or see to be deceptive.

### **Chapter 3**

#### **RESEARCH DESIGN**

This thesis focuses on the role of language and symbols used in the rhetoric surrounding the passage of legislation in both Maine and Oregon. The research in this thesis consists of qualitative secondary and primary data, which resulted in analyzing terminology and connotations within both states' proposed Bills' to decriminalize sex work through the use of content analysis. Additionally, personal interviews were conducted on my behalf with representatives from both states in an attempt to understand the logic behind the Bills' significance. In order to determine how language has influenced efforts to propose

decriminalization legislation, the research in this thesis also analyzes how media sources interpreted the Bills' intent and overall goals, and how this may have led to both states' failure to pass them.

## **Chapter 4** **CONTEXT ANALYSIS**

### **The History of Sex, Sex Work, & Stigma**

Regardless of social interpretations, sex is a natural, biological process that humans engage in for the purpose of reproduction. However, as cultural, religious, and colonial influences have played a role in altering its significance, participation in sex (in the dominant culture of the United States) has become associated with the sacredness of belonging to one monogamous partner. Traditionally, sex between a married man and woman was used as a tool to ensure the legitimacy of a man's child in order to keep track of necessary benefits such as financial or domestic support. This technique has been specifically important for small band and tribal societies, where extended families tend to live amongst one another<sup>6</sup>. But because we live in a society with modern technology and are able to determine the validity of a man's child through DNA testing, the idea of engaging in sex with one partner bound by marriage is not upheld in western society to the same extent. This doesn't deny the existence of stigma towards women who have multiple sex partners, but rather acknowledges society's desire for sex with one person. Because sex has been tainted with negative cultural interpretations, specifically in the context of women having erotic experiences and enjoying it, this has historically caused a demand for sex, with men being the "consumers" and women as the "sellers".

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<sup>6</sup> Paul McDowell, "POLITICAL ANTHROPOLOGY: A CROSS-CULTURAL COMPARISON," in *Perspectives: An Open Introduction to Cultural Anthropology, 2nd Edition* (Arlington, VA: The American Anthropological Association, 2020), pp. 148-181.

The concept of sex in exchange for goods predates biblical scripture. *Lilith*, a mythological woman mentioned in Jewish texts, is believed to be the first wife of *Adam*, whose demand for equality within the relationship was deemed to be disrespectful and unhonorable to the dominance of her husband. Lilith's unwillingness to have sexual relations per the requests of Adam resulted in her death, and she is now said to steal the souls of men while they sleep. While there are several different stories, many misinterpretations regard Lilith as being a sinful, promiscuous woman who engaged in the act of sex in return for benefits<sup>7</sup>. This example is important to interpret as the influence of Abrahamic religions has shifted the way cultures engage in sex through the spread of colonization and eurocentrism<sup>8</sup>.

The history of sex and sex work in America is quite sinister, as White supremacist ideals have complicated the relationship between the two concepts, resulting in the stigmatization of sexuality and sex for the exchange of goods. Inspired by European policy, the United States in the 1860s began regulating the sex industry at the local level through the use of the "Moral's Police", who were tasked with monitoring prostitutes through registrations and requiring medical examinations in order to reduce the spread of "venereal diseases", or what we know today to be referred to as Sexually Transmitted Diseases<sup>9</sup>. However, while sex work began to see its first steps to regulation, it was not at this point formally illegal, as major cities began participating in prostitution culture, also known as "red light districts" that were frequented mainly by men. These regulatory laws however were disapproved of by "Anti-Regulationists", who believed that

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<sup>7</sup> Library of Lilith, "Lilith as Hand of Inanna and the Prostitution Myth: A Cultural Headwind of Dubious Origin," Library of Lilith, August 24, 2022, <https://libraryoflilith.com/articles/academic-theory/lilith-as-hand-of-inanna-and-the-prostitution-myth-a-cultural-headwind-of-dubious-origin/>.

<sup>8</sup>

[https://www.jstor.org/stable/pdf/j.ctv10h9dkd.7.pdf?refreqid=excelsior%3A794bdc21d4ca83826a52e7ab86f4016d&ab\\_segments=0%2F5YC-6646\\_basic\\_search%2F1tr&origin=&acceptTC=1](https://www.jstor.org/stable/pdf/j.ctv10h9dkd.7.pdf?refreqid=excelsior%3A794bdc21d4ca83826a52e7ab86f4016d&ab_segments=0%2F5YC-6646_basic_search%2F1tr&origin=&acceptTC=1)

<sup>9</sup> David Pivar, "n/a," in *Purity and Hygiene: Women, Prostitution, and the "American Plan," 1900-1930* (Westport, CT: Praeger, 2001), pp. 1-2.

the regulation of prostitution kept women in a similar position to slaves, using exploitation that encouraged women to go against the ideals of the Anglo-American republic. As a result, the formation of the American Purity Alliance sought to utilize “preventative reforms” that ensured the protection of both children and women by censoring sexual education, children’s literature and establishing “rehabilitation centers” for former prostitutes.

Regulation of sex work was also intertwined with the concept of race and class, and prostitution was viewed as an urban activity, and because of this matter, White women's participation in such acts was considered to be immoral. David Pivar, author of *Purity and Hygiene: Women, Prostitution, and the “American Plan,” 1900-1930*<sup>10</sup>, emphasizes the significance of this movement's work by detailing the organization's intent to specifically protect the purity of “White life” for the conservation of America. “Race suicide”, a White fear concept, emerged from the eugenics movement out of fear that the “American” (White) race would go extinct, as the birth rate of the said racial group was warned to be falling beneath its own death rate<sup>11</sup>. This alarmist theory increased the need to set regulations on immigration and instilled eugenics laws that prevented and/or restricted the reproduction of people considered to be non-white<sup>12</sup>. We also see the usage of racist implications regarding sex with the passage of the Page Act of 1875 (as regarded as an “anti-prostitution law”), which prevented Chinese women from entering the United States, and prohibited Chinese women from participating in sex work. The narrative used to justify this legislation was based on the assumption that all East Asian women were prostitutes, which was also used as a stepping stone for the passage of the Chinese

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<sup>10</sup> David Pivar, in *Purity and Hygiene: Women, Prostitution, and the “American Plan,” 1900-1930* (Westport, CT: Praeger, 2001), pp. 2-3.

<sup>11</sup> Eugenics Archive, “Race Suicide,” The Eugenics Archives, accessed November 30, 2022, <http://eugenicsarchive.ca/discover/tree/535eedb87095aa0000000250>.

<sup>12</sup> Cynthia Levine-Rasky, “The 100-Year-Old Rallying Cry of 'White Genocide',” The Conversation, October 25, 2022, <https://theconversation.com/the-100-year-old-rallying-cry-of-white-genocide-98378>.

Exclusion Act. It was believed that Chinese women would marry and have children with White American men which would decrease the white population and threaten the American Plan<sup>13</sup>.

Similarly to American slavery, a woman's participation in sex work prior to the 1930s was regarded as a form of "White slavery"<sup>14</sup>, as the concept was not seen to have benefits for women, rather, it was believed that these women operated as tools for men under the commercialization prostitution and capitalism. The term "sex slaves"<sup>15</sup> is widely used throughout anti-prostitution literature, and almost always refers to the participation of White women in the job, signifying that White women are not only too pure to engage in said act but do not have the autonomy to make this decision on their own.

While the regulation of prostitution marginalized sex workers and limited their access to resources, prostitution abolitionists discovered that regulations did not prevent the spread of STDs. In fact, in 1899 it was brought to the attention of the American Medical Association that more "virtuous" wives had been infected with STDs than prostitutes. In efforts to change this, laws regulating the spread of disease were encouraged; however, were fought against as they imposed on the sexuality of men's bodily autonomy<sup>16</sup>. Through this discovery, it had been realized that men were the ones seeking prostitutes through regulated brothels and informal contact, which began to shift the way people thought about sex and sex work

## Chapter 5

### DATA ANALYSIS

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<sup>13</sup> Lee Boomer, "Page Act, 1875," *Women & the American Story*, July 7, 2022, <https://wams.nyhistory.org/industry-and-empire/expansion-and-empire/page-act-1875/>.

<sup>14</sup> David Pivar, "n/a," in *Purity and Hygiene: Women, Prostitution, and the "American Plan," 1900-1930* (Westport, CT: Praeger, 2001), pp. 4-5.

<sup>15</sup> Jessica Pliley, "Vice Queens and White Slaves: The FBI's Crackdown on Elite Brothel Madams in 1930s New York City," *Journal of the History of Sexuality* 25, no. 1 (2016): pp. 137-167, <https://doi.org/10.7560/jhs25106>.

<sup>16</sup> David Pivar, "n/a," in *Purity and Hygiene: Women, Prostitution, and the "American Plan," 1900-1930* (Westport, CT: Praeger, 2001), pp. 25-26.

In Maine, Legislative Document 1592 was proposed to “Remove Punishments for Sex Selling” while also committing to intensifying current laws preventing sex trafficking/exploitation<sup>17</sup>. While the bill was passed in both the House and the Senate, it was later vetoed by the Governor of the state.

During a phone conversation with Representative Lois Reckitt of Maine on November 2nd, 2022 at around 10:50 am, Representative Reckitt detailed to me her opinion regarding why LD 1592 was vetoed by Governor Janet Mills. She pointed out that the important thing to note regarding this Bill is that it does not seek to fully decriminalize sex work. This is because the Bill still maintains the criminality of buying sex; however, the Bill calls for the partial decriminalization of prostitution which would not reprimand sex workers who participate in the act for economic reasons, while punishing those who seek out sex workers. In doing so, it would decrease the demand for prostitution on an economic level, which in turn would decrease the demand for sex trafficking. The Bill also states that the “commercial sexual exploitation of a minor or... person with a mental disability. This statement is important because it acknowledges that there is no such thing as an underaged or non-consensual prostitute, since the idea of sex work includes the consensual participation of the trade, otherwise it would be referred to as “exploitation”.

- 13 Amend the bill by striking out the title and substituting the following:  
 14 **'An Act To Remove Punishments for Sex Selling and Decrease Demand by Increasing**  
 15 **Penalties for Sex Buying'**  
 16 Amend the bill in Part A in section 1 in the first indented paragraph in the 10th line  
 17 (page 1, line 14 in L.D.) by striking out the following: "patronizing prostitution of a minor  
 18 or patronizing prostitution of a mentally disabled person" and inserting the following:  
 19 ~~'patronizing prostitution of a minor or patronizing prostitution of a mentally disabled person~~  
 20 commercial sexual exploitation of a minor or commercial sexual exploitation of a person  
 21 with a mental disability'  
 22 Amend the bill in Part A in section 2 in subsection 10 in the last line (page 1, line 25  
 23 in L.D.) by inserting after the following: "contact" the following: 'in return'

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<sup>17</sup> State of Maine Legislature, “130th Maine Legislature, First Special Session,” LD 1592, HP 1181, Text and Status, 130th Legislature, First Special Session, 2021, [http://www.mainelegislature.org/legis/bills/display\\_ps.asp?id=1592&PID=1456&snum=130](http://www.mainelegislature.org/legis/bills/display_ps.asp?id=1592&PID=1456&snum=130).

What can be interpreted from this Bill is that there is a heavy emphasis on the punishment for sexual exploitation and the protection of the victim.

However, Governor Mills was not convinced by this proposal. In her letter to the 130th Legislature to address her reasoning for the veto, Mills states that she has always been concerned with issues of sex trafficking, as she has spent much of her career as a former Attorney General, District Attorney, and current Governor addressing these concerns and believes that the current regulations in place are strong; whereas LD 1592 is not. She states that there is a fear that decriminalizing prostitution would encourage sex traffickers to exploit more people, as prostitution would, in her words, be “fully decriminalized”, which could be used as a coercion tactic to convince victims that what they are doing is not wrong.

While engaging in prostitution is not now a jailable offense in our state, and while courts and prosecutors strive to treat prostitution as a social services issue rather than a criminal problem, fully decriminalizing prostitution, I fear, will only increase demand and encourage the exploitation of young people by those who profit from the mistreatment of others, undermining the free will of those trapped in difficult and sometimes tragic circumstances.

For these reasons I return L.D. 1592 unsigned and vetoed and urge the Legislature to sustain this veto.

Mills also goes on to mention how Maine would be the first state to eliminate crimes of sex work and compares it to Nevada, which even notoriously known for its regulated brothel districts, has still not decriminalized the trade on a state level. While Mills uses the term “fully decriminalizing prostitution” in her statement; this is not a bill that proposes the full decriminalization of prostitution. Rather, partial decriminalization would not punish the workers, but those who are engaging in sex work<sup>18</sup>. This statement also uses the term “trapped” which

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<sup>18</sup> Janet Mills (Augusta, Maine, n.d.).

signifies that all sex workers are being exploited and does not take into consideration the workers who engage in the trade by choice.

Individuals who question the Bill argue that Maine's partial decriminalization would force sex workers to "protect" their clients, as the Bill only seeks to protect the sellers. This could potentially make it difficult for sex workers to seek help, leading to increased violent encounters, as seen in the Nordic Model of decriminalized sex work<sup>19</sup>. This Bill places emphasis on the idea that individuals who trade sex are victims of the industry, which the Bill seeks to protect while also suggesting that the buyers of sex are to blame for the demand for prostitution, leading to exploitation. The language used in the Bill, while seemingly liberal on the outside, does not actually allow for the protection of consenting sex workers and implies that those who trade sex are in need of a way out; however, while the Bill does state that it plans to put in place health services for victims, it doesn't take into account what's to come next.

In a separate phone call interview with Democrat Representative Roberts of Maine, who voted "NO" on the Bill, stated that this decision was "personal" for her, as she was a foster parent to a child whose birth parent was a sex worker. Representative Roberts claims that we do not have the resources necessary to implement such significant legislation in the country, and that "more needs to be done" before considering decriminalization seriously. When I asked her opinion of what she believes is needed in order for such legislation to pass, she responded that it is "hard to say" since it has never been done before, at least in the United States. Roberts also was very passionate about strengthening sex trafficking laws in order to combat it, implying a heavy emphasis on this concept of exploitative sex.

But there's something missing from the interpretation of prostitution law reform, specifically within the context of this Bill. Unlike how we think of marijuana usage in the US,

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<sup>19</sup> Destie Sprague (Augusta, Maine, n.d.).

prostitution reform does not clearly define what it means to “legalize“ or “decriminalized“ prostitution<sup>20</sup>. While legalization would suggest that sex work would be regulated through the government using licensed brothels, this definition is incredibly broad and can include many different interpretations of the law; whereas decriminalization would suggest disposing of any and all criminality regarding sex work and in doing so would also prioritize the health and well-being of workers<sup>21</sup>. But decriminalization is also broader as some states such as Oregon proposed *partial* decriminalization of sex work as stated by Representative Reckitt in our personal meeting, in comparison to countries such as New Zealand which have already enacted total decriminalization<sup>22</sup>.

In Oregon, House Bill 3088 was introduced to repeal any crimes of prostitution, which did not even gain ground through its proposed committee. In a personal interview with Representative Nosse of Oregon, Noose briefed that HB 3088 was pitched (as a request from the Sex Workers Project at Urban Justice Center) in an attempt to legalize the trade of sex for both the buyer and seller and would prioritize sex work as a profession within the formal economy<sup>23</sup>. Since Oregon was one of the first states to legalize marijuana recreationally<sup>24</sup>. This proved a good example of the liberalized idea that Oregon has been willing to implement into law, so to

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<sup>20</sup> ProCon, “What Is the Difference between the Decriminalization and Legalization of Prostitution? - Prostitution - Procon.org,” Prostitution, April 7, 2020, <https://prostitution.procon.org/questions/what-is-the-difference-between-the-decriminalization-and-legalization-of-prostitution/>.

<sup>21</sup> Sex Workers Education Network, “Prostitution Law Reform: Defining Terms,” Sex work: (formerly prostitutes) Sex Workers Education Network, OAD, <http://www.bayswan.org/defining.html>.

<sup>22</sup> Jessica McCann, Gemma Crawford, and Jonathan Hallett, “Sex Worker Health Outcomes in High-Income Countries of Varied Regulatory Environments: A Systematic Review,” *International Journal of Environmental Research and Public Health* 18, no. 8 (September 2021): p. 3956, <https://doi.org/10.3390/ijerph18083956>.

<sup>23</sup> Julia Shumway, “Proposal to Decriminalize Sex Work Won't Appear on Oregon Ballots,” Oregon Capital Chronicle, May 6, 2022, <https://oregoncapitalchronicle.com/2022/05/06/proposal-to-decriminalize-sex-work-wont-appear-on-oregon-ballots/>.

<sup>24</sup> Oregon Health Authority, “Cannabis Laws in Oregon,” Oregon Health Authority : Cannabis Laws in Oregon : Cannabis and Your Health : State of Oregon, OAD, <https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/MARIJUANA/Pages/laws.aspx>.

him it only made sense that “consenting adults” should be able to do “what they want with their own bodies”. With recent reporting of the increase of sexual exploitation within the state, it is critical that Oregon begin to decriminalize the trade in order to reduce the demand for trafficking<sup>25</sup>. Oregon was also a perfect candidate to be the first state to decriminalize sex work when taking into consideration its efforts to protect the freedom of expression for queer-identifying people<sup>26</sup>. It is important to note that while sex work would be fully decriminalized, laws regarding coercion or force, also known as trafficking, would remain intact.

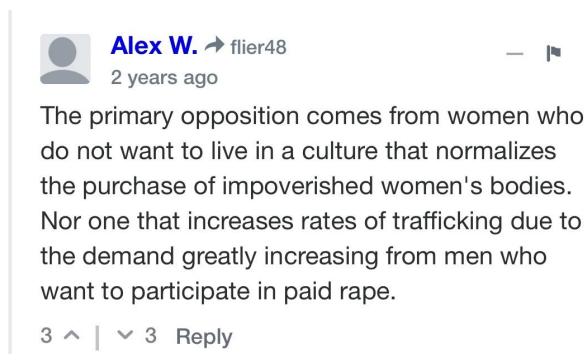
Noose informed me that the terms “sex worker” and “sex trafficking” have been highly conflated, making decriminalizing the trade of consensual sex work difficult to sell as a possible law. As an openly gay man, Nosse considers that many Americans have what he referred to as “hang-ups” about sex, and understands that a concept such as decriminalization may not be able to pass in this country for a while, considering the stigma surrounding sex and sexuality in general. Nosse also informed me that another setback to passing the bill was due to the height of the Black Lives Matter Movement, as many states, including Oregon, were focusing on addressing concerns of police brutality and racial inequality. While Rep. Nosse hasn't invested in the sex work industry himself, he does know that criminalization of the industry reduces one's access to health care, reporting abuse, and even hinders disabled people's access to fulfilling their own sexual needs. Nosse also disclosed to me that he himself knows someone who is disabled who seeks sex workers, as their own identity as a disabled person has created a stigma regarding sexuality.

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<sup>25</sup> Oregon Sex Workers Committee, “Report Reveals Critical Need for Decriminalization of Sex Work in Oregon,” Report Reveals Critical Need for Decriminalization of Sex Work in Oregon, November 4, 2021, <https://www.prnewswire.com/news-releases/report-reveals-critical-need-for-decriminalization-of-sex-work-in-oregon-301416988.html>.

<sup>26</sup> ACLU, “LGBTQ+ Rights,” ACLU of Oregon, June 23, 2017, <https://www.aclu-or.org/en/issues/lgbtq-rights>.

Regardless of the clarification regarding the difference between decriminalization & legalization, or sex work & sex trafficking, there are still individuals who are not convinced by not just the Bills themselves, but the concept of legal sex work in general. See the comment below from an anonymous user on “Wweek.com” under an article regarding Oregon’s proposal to decriminalize sex work<sup>27</sup>:



In an interview with Republican Senator Knopp of Oregon with a local news station, Knopp told reporters that traffickers could possibly “be even more interested in exploiting a child... essentially it wouldn’t be a crime”<sup>28</sup>, which is far from accurate. Later in the interview, the Senator also used the term “enslaved” to refer to workers in the industry, insinuating that most sex workers are in the industry against their own will through the use of force and coercion. As of right now, “commercial sexual solicitation” is punishable by fine<sup>29</sup> in the state of Oregon; ironic, considering that most sex workers are Black, brown, poor, disabled, or have another marginalization that would make paying a fine thus more difficult.

## Chapter 6

<sup>27</sup> Susan Shepard, “An East Coast Advocacy Group Is Using Oregon as a Testing Ground for Decriminalizing Sex Work,” Willamette Week, 2021, <https://www.wweek.com/news/2021/02/10/an-east-coast-advocacy-group-is-using-oregon-as-a-testing-ground-for-decriminalizing-sex-work/#:~:text=An%20East%20Coast%20Advocacy%20Group%20Is%20Using%20Oregon,their%20customers%2C%20and%20third%20parties.%20The%20Newest%20Profession>.

<sup>28</sup> Leslie Cano, “Oregon Legislation to Decriminalize Prostitution Draws Criticism,” KTVZ, March 9, 2021, <https://ktvz.com/news/2021/03/08/oregon-legislation-to-decriminalize-prostitution-draws-criticism/>.

<sup>29</sup> David Lesh, “2022 Guide to Commercial Sexual Solicitation Crimes,” Oregon Commercial Sexual Solicitation and Prostitution Guide | ORS 167.008, 2022, <https://oregoncrimes.com/prostitution.htm>.

## IMPLICATIONS & CONCLUSION

There is no evidence that partial decriminalization makes the exchange of sex safer, and the criminalization of sex has not stopped it, nor has it stopped sex trafficking. Criminalization of sex work harms marginalized people in a number of ways, such as:

1. Prevents access to safe work conditions, leading to increased risk of violence, the spread of disease, etc.
2. Increases the demand for sexual exploitation
3. Increases the risk that sex workers will come in contact with the justice system, negatively impacting their lives.

Suggesting that decriminalizing sex work is not the answer to preventing harm to individuals is detrimental to not only those who participate in the trade, but to those who are marginalized, racially, economically, etc., and who may engage in sex for goods as a way to protect themselves from a system that does not.

While the original hypothesis of this thesis was that terminology used in American Legislation had an impact on the failure to decriminalize sex work, this may not necessarily be the case. While I am not denying that terminology use is important, considering that agenda-setting theory does answer why these bills *may* not have been passed, there is something much more pressing that is keeping such progressive ideas from being implemented in the United States.

Throughout this paper, it has been highlighted that terms such as “sex worker” and “sex trafficking” have been conflated to mean the same thing, despite the fact that sex trafficking refers to the trade of sex through the use of exploitation, while sex work is consensual. One example of when this is pointed out in this thesis is in the data analysis section of this paper

where I discuss how in Governor Mills' veto letter, she uses the term "fully decriminalize" to describe the Bill, although the proposed Bill does not suggest that full decriminalization would be implemented under such legislation. Because these terms have already been clearly defined, it is obvious that the definitions are not what is keeping sex work from being decriminalized. Sex itself is its own barrier. The sex-negative society in which the United States currently exhibits has not begun to facilitate dialogue regarding what it means and/or the importance of understanding basic concepts, such as bodily autonomy, sex for pleasure, and women's willing participation in sex. While agenda setting theory can answer how the salience of these Bills prevented them from passing, we cannot begin to discuss terminology used in sex legislation, before we even get comfortable with saying the word "sex" out loud and interpret it as something worthy of discussing and protecting.

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