

THESIS

STATE INJUSTICE: TRAPPING BLACK WOMEN AS “SEX OFFENDERS” FOR PROSTITUTION  
IN “THE BIG EASY”

Submitted by

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## ABSTRACT

### STATE INJUSTICE: TRAPPING BLACK WOMEN AS “SEX OFFENDERS” FOR PROSTITUTION IN “THE BIG EASY”

This qualitative case study explores the use of a sodomy statute, Crime Against Nature, to criminalize prostitution and its impacts on impoverished Black women located on the streets of New Orleans. Data from in-depth interviews with six participants including a Public Defender, a Prosecutor, a Judge, a Community Worker, and two sex workers, were studied through a critical feminist analytic framework to decipher prevalent themes regarding the state’s implementation of this charge. Major findings include: intersecting race/class/gender oppressions socially track or position Black women in the street sex economy where they are targeted by the state, the regulation of prostitution is performed in ways which permit a sex economy in the French Quarter to cater to tourists while it criminalizes prostitution in poor areas outside of the French Quarter, drug addiction is used as justification by the state to criminalize Black women on the street using this charge, and the ways in which recipients of this charge are further burdened and trapped by the state, which labels them felons and sex offenders rather than offering assistance and protection.

*Key Words:* sex work, prostitution, criminalization, New Orleans, Crime Against Nature, feminism

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## DEDICATION

This project is dedicated to all people in the sexual economy who have endured male violence and abuse in silence. May society make the changes necessary to end injustice and mistreatment towards you.

## TABLE OF CONTENTS

ABSTRACT .....	ii
ACKNOWLEDGMENTS.....	iii
DEDICATION.....	iv
CHAPTER ONE: INTRODUCTION.....	1
CHAPTER TWO: LITERATURE REVIEW.....	13
CHAPTER THREE: RESEARCH METHODS.....	29
CHAPTER FOUR: FINDINGS AND DATA ANALYSIS.....	38
CHAPTER FIVE: RECOMMENDATIONS.....	57
REFERENCES.....	67

### APPENDIXES

A. The Crime Against Nature Statute.....	72
B. Interview Questions.....	73

## **CHAPTER ONE: INTRODUCTION**

Our city is built to appeal to tourists and be this land of, of nightlife and sin and all that shit. So the people that live here have to somewhat perpetuate that because that is just the undercurrent of the city. You don't have to but you do. You're not getting the right back to education so you gonna end up in the French Quarter. Either you're going to be washing dishes or if you lucky you're going to be serving people or a hostess or you gonna be working, working the streets. Whatever hustle it's goin' be whether you a boy or a girl you're gonna end up in the French Quarter. Or leave the city. But at some point I think everybody end up out there. In one capacity or another. (Sex Worker)

But I just hope that they can just stop this law. Cause, focus on other things! It's not us! It's not like we out here robbing, killing, or you know just doing off the wall stuff. We just trying to make a living. I mean a lot of (us) we have kids! I have six girls I have to take care of. I have a husband, my husband understand what I do. I don't just go out and just say 'alright, I'm 'bout to sleep with this guy, that guy', No! I just come, I try and go to work and make a living. Cause it's hard out here. I mean, the economy is wrong. (Sex Worker)

### **Introduction**

This thesis offers an academic exploration of the race, class, and gender issues surrounding the criminalization of prostitution. It uses qualitative case study methods to explore the use of the Crime Against Nature Statute (14:89 Louisiana Criminal Code) in the city of New Orleans. It specifically analyzes elements which structure and support the way in which this charge is used against impoverished Black women on the streets. It offers a detailed analysis of the state through a critical feminist lens. This researcher works from the understanding that those in the position of street sex workers are fighting daily through the lived experience of intersecting racism, sexism, classism, and the stigmatization, punishment, and isolation society projects onto sex workers. This thesis offers vital analytic expansion for the fields of Ethnic Studies, Women and Gender Studies, Sex Work Studies, and Social Science works pertaining to the criminalization of impoverished women of color.

### **The Crime Against Nature Law in Louisiana**

The complete Crime Against Nature statute as it is currently written in Louisiana law can be found in Appendix A. The following discussion will provide the information most essential for the

purposes of this study. There are two different charges police officers can use towards sex workers in New Orleans, Crime Against Nature (14:89) and Prostitution (14:82). They both consist of the solicitation of sex, but Crime Against Nature specifically criminalizes the solicitation of oral or anal sex. The Prostitution charge is a misdemeanor and has fewer consequences for those convicted (Louisiana Criminal Code, 14:82). Depending on the date of conviction, Crime Against Nature has been a felony charge, a misdemeanor charge, and a sex offense (Louisiana Criminal Code, 2012, 14:89.2 Acts 2010, No. 882, §1; Acts 2011, No. 223, §1). It has been used primarily towards Black women involved in street sexual labor, has required hundreds to register as sex offenders, and as a felony charge has been used to increase prison time for many (see, e.g. Flaherty, 2010; Duncan, 2009).

Black's Law Dictionary defines "solicitation" under *Criminal law* as "The offense of urging, advising, commanding, or otherwise inciting another to commit a crime...3. An offer to pay or accept money in exchange for sex" (Garner, 1996). A crime of solicitation is essentially a speech crime, such that it only involves offering money, agreeing to accept or accepting money in exchange for a sex act, or offering sex in exchange for money. Arrests for the charge are generally performed by undercover vice officers who pick up those they profile as prostitutes (which are generally women and transgender women on the streets in poorer areas). Men *soliciting* women or transgender people for sexual acts are not actively criminalized by the state. Thus the sex economy persists; male solicitors (or customers) generally have clemency to perform what underprivileged women are criminalized for (the solicitation of sex).

Crime Against Nature was originally a sodomy statute in French and Spanish colonial law and was included in the written laws of 1805 after Louisiana became a state (Louisiana Criminal Code, 1805). The intent of the original Crime Against Nature law was to target and criminalize homosexuality, which was deemed "unnatural" (Louisiana Criminal Code, 1805). Sodomy statutes are now unconstitutional



nationally after the case of *Lawrence v. Texas* (2003). However, the Louisiana Supreme Court decided in *State v. Thomas* (2005) that its Crime Against Nature statute (14:89) remains good law and is constitutional even after *Lawrence v. Texas* (2003) specifically because it targets prostitution and not same sex relations (Duncan, 2009).

The Crime Against Nature statute has been amended several times throughout its history. It was amended in 1807, 1896, 1942, 1975, 1982, and 2010. Early amendments consisted of slight changes in the wording of the law to help clarify it and to bring it in line with other sodomy statutes in the United States. Significant to this research, in 1982 the wording of the law changed by adding the term “solicitation.” This allowed for law enforcement to more easily apply this charge in the targeting of street sex workers because “solicitation” would suffice for conviction. The statute began receiving increased attention after Hurricane Katrina (2005), and local legislators passed another amendment, which alleviated some of the harshness of the law. This amendment was passed into law in August of 2010 and made it so that those convicted of a first offense of Crime Against Nature (14:89) would receive a misdemeanor rather than a felony, but second and thereafter offenses would remain a felony.

An aspect of the Crime Against Nature statute which has brought the attention of social justice advocates is that it has been a sex offense, meaning it has been used to require “prostitutes” to register as sex offenders. Crime Against Nature was first listed as a sex offense in 1991 by the Registration of Sex Offenders, Sexually Violent Predators, and Child Predators Law (Decision on motion to dismiss document, Audrey Doe, et al. v. Bobby Jindal et al, 2011). Louisiana is the only state in the country which has required those convicted of solicitation of oral or anal sex (prostitutes/ sex workers) to register as sex offenders (Duncan, 2009). Although this statute has gone through some very recent changes (from 2010 to today) and is no longer used to convict sex workers as sex offenders unless a minor is involved, for nearly twenty years this law was implemented so that hundreds of women in prostitution were branded

sex offenders and are currently on New Orleans' sex offender registry (Louisiana Revised Statute Title 14, Ch. 1, Pt. 5, 2010; Duncan, 2009; see New Orleans Police Department Offender Search <http://www.icrimewatch.net/index.php?AgencyID=54320>). Some of the requirements for registered sex offenders are: having "SEX OFFENDER" printed in bold over their driver's license pictures or identification cards, the payment of registration fees, mailing self-paid postcards to the entire neighborhoods in which they reside, and registering as a sex offender to include their home address, place of employment, vehicle information, identification information, and picture on the sex offender database website (Duncan, 2009). For many women in prostitution these requirements are more than they can comply with given their impoverished life circumstances. It was discussed by the participants in this study that many women have been re-criminalized for failure to comply with all registration requirements (ie: for being homeless).

The data on the implementation of the Crime Against Nature charge clearly demonstrates that Black women are targeted more than any other segment of the population in New Orleans. Deeply impoverished, born and raised in New Orleans and dealing with the structural racism/sexism of the city, these women are picked up from the street and charged by male undercover vice officers for allegedly *soliciting* oral or anal sex. "Of the 861 sex offenders currently registered in New Orleans, 483 were convicted of a crime against nature, according to Doug Cain, a spokesperson with the Louisiana State Police. And of those convicted of a crime against nature, 78 percent are Black and almost all are women" (Flaherty, 2010). After release from prison and carrying the label of felon and sex offender, those convicted can seldom find employment or housing and are often forced back to the streets for survival (Flaherty, 2010).

After hurricane Katrina the work of a New Orleans-based organization, Women With A Vision, brought the attention of journalists and The Center for Constitutional Rights to the Crime Against Nature

charge and the ways it disproportionately impacts Black women and LGBTQ people. Women With A Vision is a long-standing organization which provides services for women on the streets or who may be suffering with homelessness, drug addiction, etc. After hurricane Katrina this organization noticed an increased need for legal advocacy and thus they began organizing around this issue. Jordan Flaherty, a social justice advocate and journalist, wrote an article for *Colorlines* synthesizing the issue, which promoted national and local attention to Louisiana's use of the Crime Against Nature charge (See Flaherty, 2010). Furthermore, Women With A Vision and the Center for Constitutional Rights organized to put forth a lawsuit on behalf of nine plaintiffs, each of whom have been convicted of a Crime Against Nature and were required to register as sex offenders (see Audrey Doe, et al. v. Bobby Jindal, et al., 2011). The lawsuit was filed in the United States District Court, Eastern District of Louisiana. Its argument is centered on the ways in which this statute unfairly harms lesbian, gay, bisexual, and transgender people (see Brief of *Amici Curiae*, case 2:11-cv-00388-MLCF-ALC Document 39, filed 6/23/11). This lawsuit is a step towards changing this law. It promotes the understanding that this law is discriminatory in nature and causes undue damage to disadvantaged people.

### **Context of New Orleans**

This thesis analyses New Orleans as a context of oppression for impoverished Black women in particular. The state's use of the Crime Against Nature statute to target Black women in street prostitution involves multiple elements of oppression which are intersecting, including: race, class, gender, and the stigmatization and punishment of women presumed to be lascivious (or punishment of the "whore"). New Orleans is structurally and historically highly racialized in terms of its economic, social, and political contexts (see eg. Parent, 2004). Through observing the city of New Orleans and its Criminal Courthouse and prison, it is apparent that the environment of New Orleans has maintained a racialized structure of poverty and it disproportionately arrests and convicts Black people, often for poverty-induced crimes. It is critical to discuss the dynamics of the context of New Orleans which are

integral to the disproportionate criminalization statistics and which influence the higher vulnerability for Black women to the street and to the state.

A primary aspect of the oppression of Black women is poverty. "Women in New Orleans are most at risk of poverty in the Gulf region" (Jones-Deweever & Hartmann, 2006, p. 88). The city of New Orleans is notorious for having had (prior to Hurricane Katrina) the worst public school system in the country, with a lack of state investment (see e.g. Casserly, 2006). Due to the occupational limitations spurred by a poor education system, the streets of New Orleans have developed over time into an economy which people have turned to for economic sustenance. According to a study conducted by Eva Rosen of Harvard University and Sudhir Alladi Venkatesh of Columbia University, in which about fifty sex workers in Chicago were interviewed, sex work may be a by-product of a low-wage economy, and is both a survival mechanism and a preferred alternative, for many who chose it, over some other forms of informal income (Rosen & Venkatesh, 2008). These researchers discuss that sex work is an aspect of the underground economy which can allow for impoverished people to provide for their families and have some sense of occupational independence (Rosen & Venkatesh, 2008). Structural marginalization, embedded in the racialized social structure of New Orleans, can make sex work a rational economic decision for Black women with limited choices. Sex work and drug sales may supplement or offer an alternative for people who are excluded from dominant society by means of race and socio-economic class. Thus, in New Orleans, Black women are more susceptible than other groups to be tracked or positioned into the street sex economy due to poverty and limited other options.

### **Criminalization of Black Women in Poverty**

In analyzing the role of the state in the oppression of people at the intersection of race, class, and gender oppression, incarceration rates offer compelling evidence that women of color are increasingly impacted by the growing prison industrial complex. Women of color are the fastest growing population in prisons all over the world (Sudbury, 2005). In Louisiana in particular, the rise in women of color

incarcerated since the 1980's is striking. A report done by the Institute on Women and Criminal Justice states that, "In 1977, Louisiana prisons housed 217 female inmates; by 2004, the female prison population had reached 2,386. Louisiana's female prison population was at its lowest with 208 female prisoners in 1978 and peaked at 2,405 female inmates in 2003...Between 1977 and 2004, Louisiana's female prison population grew by 1,000% with an average annual percent change of 9.6% per year" (Women's Prison Association: Institute on Women and Criminal Justice, 2006). Nationally, seventy to eighty percent of women in prison are single heads of households serving time for nonviolent, poverty-induced crimes (Jacobsen, 2008). Also, two thirds of the women incarcerated are women of color and most are poor (Jacobsen, 2008).

Socially and historically embedded poverty creates a context for the state to perpetually limit the life chances for Black women by punishing poverty-induced crimes such as prostitution. The state's harsh punishment of poverty-related crimes works to maintain oppression by limiting people's life chances after receiving a criminal record. In this way the state serves to maintain oppressive structures. These oppressive structures limit possibilities for impoverished Black women and necessitate a continued reliance on the underground sex economy for many. Limited to the only economy accessible to them, these women continue to be criminalized for their social position which was created by poverty. The street is targeted more than any other venue of the sex economy. Eighty five to ninety percent of the arrests for prostitution in the United States are of street sex workers, whereas approximately ten to twenty percent of all prostitutes work on the street (D'Cunha, 1992).

Scholars discuss discriminatory policing as a major factor in the criminalization of people of color in poverty. Police discretion entails locating cues in street encounters, and applying the law to the cues according to the perspective and interpretation of the police officer (Livingston, 1997). Law enforcement officials therefore have the capacity to choose whether to strictly enforce the law or ignore it altogether (Livingston, 1997). Sometimes the mere existence of women alone in certain areas is enough to convict them of prostitution procurement (Sanchez, 2001). Oftentimes the same women are repeatedly

harassed and arrested by law enforcement because they can be more easily profiled as prostitutes (Sanchez, 2001).

Political scientists Beckett and Herbert (2008), claim that racism is in part maintained by law enforcement due to the ways in which racialized groups are treated differently. Researchers have found that police divide people on the basis of identifiers such as race, gender, class, and sexual orientation (Oberweis & Musheno, 2001). Social stigma and preconceived notions of criminal nature increase negative police attention towards racialized groups. Robert J. Sampson of Harvard University and Stephen W. Raudenbush of the University of Michigan conducted a study on the interrelation of social stigma and policing. They found that racial and economic context are more powerful qualifiers of perceived disorder than actual criminalizing acts (Sampson & Raudenbush, 2004). Policies against prostitution are overwhelmingly implemented to target women of color (Silliman, 2002). Social control through policing can affect the poor who are arrested, fined, and effectively removed from public life. It can also encourage stigmatization and can particularly deepen the division and oppression of Black women in poverty. The following quote demonstrates how some political theorists have discussed the way law is enforced to maintain social stigmas, “Law can be a means of preventing or remedying the enactment of stigma as violence, discrimination, or other harm; it can be a medium through which stigma is created, enforced, or disputed” (Burris, 2006). The impacts for Black women charged with a Crime Against Nature may include the reinforcement of their stigmatization as sexually immoral or “unnatural”.

### **Problem Statement**

The majority of those arrested and convicted of a Crime Against Nature are Black women in poverty. Currently there are little or no tools for these women to protect themselves from the state. This research seeks to develop a better understanding of this issue as a social phenomenon while it avoids superficial answers which can reinforce stereotypes and stigmas of women in the sex economy. In order

to promote revolutionary thought aimed towards ending oppression, this study is focused on understanding the role of the state. The state encompasses the legal and political realms of society which dictate policies of criminalization. Actors of the state involved in this particular issue include law enforcement, prosecutors, public defenders, legislators and judges. This research suggests that the state works in ways aligned with the capitalistic system. Thus its criminalization of marginalized women of color in poverty occurs simultaneously with the leniency the state offers for male clientele, particularly in the French Quarter where tourists help to support the city's economy. This study investigates the state's actions within the pre-existing economic context, which is derived from and embedded in historical oppressions. The source of knowledge for this study comes from participants who live and work in New Orleans in connection to the state's implementation of the Crime Against Nature charge. It focuses on discovering participant's perceptions of the impacts of this charge for the population most affected. By directing this research away from stereotypes and stigmas which limit analysis of this issue, this study directly discusses the challenges facing those in the street sex economy and the ways in which the state's criminalization of prostitution further exacerbates the entrapment and injustice women on the street endure.

### **Statement of Purpose and Research Questions**

This qualitative case study aims to expand critical feminist thought and complicate academic analysis of the criminalization of prostitution. It seeks to expose elements underlying this social phenomenon which promote entrapment and injustice for impoverished Black women in New Orleans. By analyzing the perspectives of people who deal directly with this issue, it brings forth special knowledge for academic exploration. The research questions which have guided this study include: How are certain people positioned or tracked into the street sex economy and thus the criminal system; How does the state work to shape society so that there is vulnerability for some and clemency for others

involved in the street sex economy; And how does the context of New Orleans complicate our understanding of the sex economy and the role of criminalization?

### **Research Approach**

This author situates street prostitution in the larger sex economy, seeing the gendered nature of this economy and the choices poverty presents in a realistic light. This research endeavor is in support of a growing movement for sex worker's rights. At this stage of the movement there are multiple challenges advocates face, including the silencing and stigmatization of sex workers, the vulnerability caused by the criminal status of prostitution, and the tendency for outsiders to speak for the group in ways which reinforce a stigmatized and limited understanding of sex workers. Socially and politically powerful agents, including upper and middle class citizens, lawyers, politicians, legislators, religious leaders, hegemonic feminists, and academics often tend to contribute to a discourse which maintains the social arrangement of silencing and punishing this population. There is a connection between the criminalizing of prostitution and the patriarchal punishment of women perceived to be lascivious, with increased consequences for racialized women. The criminalization of prostitution raises questions around the intent of the state when it disproportionately harms the most disadvantaged of women and neglects to criminalize male solicitors who populate the demand side of the sex economy.

### **Assumptions**

New Orleans is a city known throughout the country as a place of sexualized freedom. The law permits adults to drink in the streets, promoting tourists to feel they can behave as they wish. Tourists are often under the perception that for them there are no consequences in New Orleans, whereas they may feel more restricted where they come from. New Orleans is promoted as "The Big Easy" for tourism, attracting Bachelor parties from across the United States. Images of sexualized women cover Billboards as visitors leave the airport and approach the city. Women, particularly white women, are displayed on



Bourbon Street wearing little clothing. Productions such as “Girls Gone Wild” show young women flashing their breasts for beads during Mardi Gras. An assumption by this researcher is that while sex tourism is a large economy helping to sustain the state, it is not targeted for criminalization due to economic and political reasons. Thus sex workers who work in the French Quarter, service wealthy clientele, and appear to “fit in” to society, are much more likely to avoid the state’s criminalization of prostitution. Furthermore, white men are essentially exempt from the Crime Against Nature charge even though this researcher understands there is a high prevalence of male (customers) seeking to solicit (purchase) sex in the tourist district (French Quarter). It is an assumption of this researcher that the culture of dominance, sustained by the state, allows white men to solicit sex and to increase and maintain the demand for sex workers. Meanwhile the culture of oppression, sustained by the state, allows for Black women, particularly the most economically disenfranchised of Black women, to pay for the crime of prostitution, which is more a social consequence of hegemony and poverty. The existence of the sex economy, and the state’s targeting of prostitutes, is constructed by the power dynamics of race, class, and gender.

### **The Researcher**

The interdisciplinary approach of Ethnic Studies, and feminist theoretical frameworks influenced this research from start to finish. Ethnic Studies offered works from various fields, each complicating and expanding the researcher’s understanding of the dynamics of this issue. Political theorists helped to develop an understanding of the state, historical literature offered background and context for understanding structural oppression and hegemony, and the works of women of color feminists offered substantial knowledge to focus the critical lens in analyzing white-hetero-patriarchy. Locating knowledge in participant’s perspectives is a central priority of this study. Thus, its primary source of data comes from in-depth interviews with participants who actively deal with the state’s criminalization of prostitution through the Crime Against Nature statute in New Orleans.

The following chapter will discuss the literary works which have informed the critical feminist lens of this researcher. Chapter three will present the methods used for this study. Chapter four will present the findings of the study and the researcher's analysis of the findings. Chapter five will offer the conclusions drawn from the study and offer recommendations for the legal community, activists, and academics.

## **CHAPTER TWO: LITERATURE REVIEW**

### **Introduction**

This research seeks to discover dynamics of power and oppression affecting Black women who have received the Crime Against Nature charge in New Orleans. The specific research questions which guide this study include: How are certain people positioned or tracked into the street sex economy and thus the criminal system; How does the state work to shape society so that there is vulnerability for some (mostly Black women and transgender women) and clemency for others (mostly men particularly white men and police officers) involved in the street sex economy; And how does the context of New Orleans complicate our understanding of the sex economy and the role of criminalization?

This chapter discusses the theories which have shaped the analytic lens used to interpret the data from this study and to answer the research questions. It focuses on Black feminist and transnational feminist works which have produced key theories to identify the ways contemporary state oppression is situated in and structured by historical oppression of Black women. The literary works used promote an understanding of sex work, stigma, violence and state oppression, from the perspective and special knowledge of Black women. This literature review will begin with a discussion of the terms used to identify people in the sex economy to lay the groundwork of the discourse this study builds upon. Next it will present an overview of transnational feminist and Black feminist thought, highlighting the purpose they serve for this research in particular. Then it will discuss major themes using transnational and Black feminist theories. Major themes include: the issue of clemency the state has provided for men in violating Black women historically and contemporary clemency for those who harm women in marginalized sectors of the sex economy, the use and impacts of stigmas in labeling Black women as sexualized bodies, and Black women's agency in challenging oppression and seeking social justice.

## Terminology and Ideology

Terms chosen to identify people in the sex economy often contain politically and socially motivated meanings. For instance, the term “prostitute” is a historically gendered term generally used to label a woman who sells sex, it is also the contemporary criminal label used in the law. The term “prostitute” suggests permanence to an individual’s identity, it is a branding of sorts. It presents a challenge for many who use the sex economy as a transitional financial decision. Consider the fact that other transitional economies (such as restaurant work) can be used without being associated with a permanent label. Similar to the term “whore,” “prostitute” contains social meanings to label, define, and stigmatize a woman as sexually deviant. Throughout history, “prostitutes” have been treated with social condemnation and physical punishment. The label of the “prostitute” has been used to justify violence and abuse from state and society.

The following quote summarizes critical feminist understanding of the sex economy:

While our approach suggests that social relations involving sexual labor are not inherently tied to specific gendered roles or bodies, there is a persistent pattern through much of history that positions the social gendered category ‘women’ as the sellers or providers of sexual labor and ‘men’ as the group deriving profits and power from the interactions. The subordination of the female and the feminine is the overriding factor for this arrangement in a variety of cultural, national and economic contexts, producing stigmas and social condemnation of persons who defy the socially defined boundaries of womanhood. Categories of ‘good’ and ‘bad’ women (virgin/whore, madonna/prostitute, chaste/licentious women) exist in most patriarchal societies, where the ‘bad’ girl becomes the trope for female sexuality that threatens male control and domination. Female sexual acts that serve women’s sexual or economic interests are, within the context of masculinist hegemony, dangerous, immoral, perverted, irresponsible, and indecent. Construed in this fashion, the image of the whore disciplines and divides women, forcing some to conform to virginity, domesticity and monogamy and demonizing those who transgress these boundaries. (Kempadoo, 1998, p 5-6)

A term generated by critical feminist thinkers and people in the sex economy is “sex worker.” Transnational feminist Kamala Kempadoo writes that “sex worker” “is a term that suggests we view prostitution not as an identity – a social or a psychological characteristic of

women, often indicated by ‘whore’ – but as an income-generating activity or form of labor for women and men” (Kempadoo, 1998, p. 3). The term “sex worker” is less gendered and is more descriptive in recognizing the economic reality of this form of service or labor. One issue with the term “sex worker” is that it may not fairly apply for all people, particularly poorer and more marginalized people who may sell sex for survival or sustenance but not as an income-generating “choice” per say. Some did not personally choose sex work or may have chosen it given a lack of other options. The issue is more complicated than either choice or force, for sexual laborers a more accurate description may be that degree of decision making may actually occur on a continuum or scale, and each individual can vary given their personal life circumstances. Some of the academic works which promote empowerment around sex work often do not discuss some of the forced aspects of the sex economy, particularly for women on the street. Women on the street are severely struggling with poverty. Often times they are struggling with homeless, drug addicted, and hunger. Their experience may not be one empowered around a choice to be “sex workers”, thus the term “sex worker” may not adequately describe the experience of women who are most marginalized in the sex economy.

Women on the street may be the most passionate of sexual laborers for ending the criminalization of prostitution. They see personally the state and social injustices for women on the streets, including inappropriate police activity, male clemency, and violence. Critical feminist researchers could benefit the movement to end the criminalization of prostitution by seeking the knowledge of this group and promoting a discourse which liberates their voices. We should move away from descriptive labels which mark or seek to describe the identity of people in the sex economy. This population is extremely diverse. It may be most appropriate to simply refer to it as an economy, discuss them as laborers, and move towards the actualization of human rights by ending violence, stigmatization, and criminalization.

For the purposes of this research, the term “prostitution” will be used only in reference to the legal definition of sex work as a crime. The primary term used throughout will be “people in the sex economy” to encourage viewing the issue in economic terms and to be inclusive of those who feel trapped in it, those who feel empowered around choosing it for financial purposes, and every variation in between.

### **Transnational Feminism Overview**

Transnational feminist works offer critical perspectives on the state and on the sex economy. The following discussion will present some theories by transnational feminists which have shaped the analytic lens of this researcher. The goal is to enhance understanding of the role of the state, using a transnational feminist lens which works to connect contemporary state actions to global capitalism, historical colonialism, and slavery.

Transnational feminism promotes the construction of analyses via contextualizing contemporary issues in structures developed by historical colonialism. It promotes “deep contextual knowledge about the nature and contours of the present political economic crisis” (xx, Alexander & Mohanty, 1997). It works to draw the connections between the economy and the state in understanding power and oppression. Transnational feminists work to discover the “continuities and discontinuities between contemporary and inherited practices within state and capital formations” (Alexander & Mohanty, 1997).

Transnational feminist theoretical frameworks offer detailed analyses of the context of social power, privilege, and oppression surrounding race, class, and gender. Using this lens helps develop an understanding of sex work as a complex social phenomena rooted in history and adapted over time to meet contemporary ideologies and situations. Of analyses which neglect to contextualize the sex economy in social history, Kempadoo warns “without historicization and geo-political contextualization, they run the risk of universalizing the subject from bounded locations and experiences” (Kempadoo,

1998, p. 13). Such universalizing would maintain the silencing of people in the sex economy and deny their diversity and the complexity of their situations.

Transnational feminists discuss the impacts of racism which structure the sex economy in ways reflective of historical power, privilege, and oppression. Women of color are more likely to be positioned in the street than white women (Kempadoo, 1998). Meanwhile, white women, who have been historically privileged, are typically tracked into less harmful environments (Kempadoo, 1998). Women of color are not as protected by society, and this reality is heightened in the sex economy, where women are more vulnerable to sexual violence (Freeman, 1997), social exclusion (Kempadoo, 2000, p. 78), and state abuse (Atwell, 2002). Transnational feminists discuss these dynamics of racism in “Global Sex Workers” in which “two distinct dimensions are discussed in this collection: racisms embedded in structures and desires within specific local industries, and cultural imperialism refracted through international discourses on prostitution” (Kempadoo, 1998, p. 10). Considering the economic disparity between the races, the intersectional identity of Black women in poverty uniquely positions them in the street. Pertinent to researching the criminalization of street prostitution in New Orleans is the discussion of how race, class, and gender intersect to shape the sex economy and position people differently.

### **Black Feminism Overview**

Black feminist thought is produced through the standpoint knowledge of Black women (Collins, 2000). Patricia Hill Collins writes "Black feminist thought consists of specialized knowledge created by African-American women which clarifies a standpoint of and for Black women. In other words, Black feminist thought encompasses theoretical interpretations of Black women's reality by those who live it" (Collins, 2000, p.22). Black feminist thought offers a critical stance for evaluating social issues by understanding how race, class, and gender intersect to uniquely impact women of color in poverty.

Black feminists have produced critical works in analysis of contemporary oppressions impacting Black people. However, Black feminist works very seldom discuss the topic of the sex economy or its criminalization by the state. In Black feminist works which venture into topics of sex and sexuality, prostitution or the sex economy are rarely mentioned and typically not the focus of exploration. One explanation for this relative silence may be that Black women scholars are faced with historical stereotypes regarding Black womanhood which heightens their need to promote an image of “decency” and avoid potentially stigmatizing topics. White women scholars appear to demonstrate more freedom to speak and write about the sex economy without being permanently labeled or tainted by their work or perspectives. It is possible that historical stereotypes which label Black women as “inherently lascivious” may contribute to the silence of Black feminist scholars in analyzing the sex economy. Black women in poverty are highly populated in the most dangerous sector of the sex economy, the street, and are most criminalized. Thus it is important that scholars promote Black feminist knowledge on this issue. Although there is some silence from Black feminist scholars regarding the sex economy, Black feminist theories remain very important in this study and in constructing the analytic lens used by this researcher.

Black feminist works often discuss how the impacts of slavery are embedded in the treatment and experience of Black womanhood. Black feminists construct a discourse for analyzing contemporary issues as rooted in slavery. “In the United States, the persistence of poor housing, poor health, illiteracy, unemployment, family upheaval, and social problems associated with poverty and powerlessness all constitute new variations of the negative effects of colonialism, slavery, and traditional forms of racial rule” (Collins, 2005, p.55). Collins states that while the structure of oppression has changed in that there is no longer official slavery; the circumstances which surround poverty are linked to state social policies and reflective of the oppression of Black people during slavery. By drawing these connections we see the political, economic, and socio-cultural realities of historical racism, and how they structure the experiences of Black women. Collins (2005) writes, “Chattel slavery established the economic, political,



and ideological framework for the treatment of Black people” (p. 60). The United States is a country structured by a political, economic, and cultural system of slavery. Racist ideologies are embedded in society and particularly resonant in the South. Black feminists assess the multiple challenges systemic in the United States laws and institutions. The experience of oppression for Black women is impacted by the intersections of racism, classism, and sexism, all working in various ways depending on the social context. The intersections of race and gender have positioned Black women at the bottom of the socio-economic complex (hooks, 2000). Discrimination limits their access to employment, housing, education, and health care (hooks, 2000). Policies that are not overtly racist or racialized may disproportionately impact Black people in their implementation due to this structure of systemic oppression.

### **Intersectionality**

Formalized by Kimberle Crenshaw, intersectionality theory is a Black feminist theory for critiquing the structure of anti-discrimination laws. It is a Black feminist theory because it centers the analysis on the experiences and knowledge of Black women. Crenshaw discusses that the law targets either race or sex discrimination but not the intersection of the two. Crenshaw discusses discrimination law as being centered on the experience of Black males or on white women, while excluding Black women’s experience of discrimination which can be both/and sex/race discrimination (Crenshaw, 2000). Crenshaw labels the discrimination Black women experience as intersectional.

This term “intersectionality” has expanded theoretical discussions on power and oppression. Intersectionality is a theory which works to represent the simultaneous experience of race, class, and gender oppression which uniquely impacts women of color.

As stated in one of the most fundamental Black feminist pieces, the Combahee River Collection statement:

We also find it difficult to separate race from class from sex oppression because in our lives they are most often experienced simultaneously. We know that there is such a thing as racial-sexual oppression which is neither solely racial nor solely sexual, e.g., the history of rape of Black women by white men as a weapon of political repression (Ed. G.T. Hull, P.B. Scott, & B. Smith, 1982, p. 16).

Intersectionality is a key critical legal theory to integrate into the analysis of the state's use of the Crime Against Nature charge because it highlights that while laws may not be worded explicitly racist, sexist, or classist, their implementation can disproportionately harm Black women who are intersectionally oppressed. A Black woman in poverty is more likely than other groups to be positioned in or susceptible to street sex work, which is the sector most targeted by police.

Intersectionality theory demonstrates that women of color are uniquely impacted by oppression. Dorothy Roberts (1999) marks the long history of massive reproductive injustice against Black women in the United States. Her critique of contemporary state policies on reproduction marks the continuity of injustice from slavery to today. In her research on Black women's reproductive rights, Dorothy Roberts discusses the ways in which policies on women's reproductive rights uniquely impact Black women at the intersection of race, class, and gender oppression when she writes:

The systematic, institutionalized denial of reproductive freedom has uniquely marked Black women's history in America. Considering this history – from slave masters' economic stake in bonded women's fertility to the racist strains of early birth control policy to sterilization abuse of Black women during the 1960s and 1970s to the current campaign to inject Norplant and Depo-Provera in the arms of Black teenagers and welfare mothers – paints a powerful picture of the link between race and reproductive freedom in America. (Roberts, 1999, p. 4)

### **Stereotypes, Stigmas and Injustice against Black Women**

The stereotypes or archetypes used to label Black women are rooted in the times of slavery. They were constructed to justify the atrocities against Black women by working to separate Black women from White women and defining Black womanhood as that to be defiled and disrespected by society. Appropriate treatment of women was understood as consisting of domesticity, religion, and marriage, and was essentially saved for white women. Black feminists often look at the cultural stereotypes which have

worked as a backbone to oppression. They specifically note stereotypes uniquely placed on Black women, which set them apart and allowed for unfair treatment next to white women or men. These stereotypes are historically entrenched into cultural knowledge and are recycled in contemporary society.

The stereotype of the Jezebel was used against enslaved Black women to suggest inherent lasciviousness and sexual prowess. It was used in various contexts to promote and justify white males to rape Black women during slavery. Joy James (1996) writes, “The image of black women as promiscuous, which was manufactured by white males, deflected attention from racialized sexual violence inflicted by white men” (p. 142). Collins (2005) likewise notes that “the institutionalized rape of enslaved Black women spawned the controlling image of the jezebel or sexually wanton Black woman” (p. 56). The use of the jezebel stereotype went hand in hand with rape. Collins’ use of the term “controlling” seems to demonstrate how the jezebel image has persisted to shape what Black women face in the United States. Collins (2005) writes, “Sexual stereotypes of women of African descent as jezebels not only justified rape, medical experimentation, and unwanted childbearing inflicted upon Black women but it covered up Black women’s protests as well” (Collins, 2005, p. 59). Here Collins specifically states that the stereotype was used for the justification of abuse. She is also considering the limitations placed on Black women’s agency through the stereotyping of their sexuality.

The “whore” archetype has worked as a tool for social control to maintain male dominance over women. Through the use of the jezebel archetype Black women were stereotyped as “whores”, and were distinctly more abused than white women during slavery. Social fear and punishment of the “whore”, rooted in European morality and working to serve men’s political power, was appropriated to Black women during slavery to justify violence and oppression. Roberts writes that “Jezebel was diametrically opposed to the prevailing vision of the True Woman, who was chaste, pure, and white” (Roberts, 1997, p. 11). It can be inferred from the Black feminist thought presented above that in the early history of the United States, a shift in social thinking about the “whore” occurred which served an overall trend of

privileging white women while oppressing Black women. Although historically white women in prostitution could be publicly beaten, killed, and receive no justice, that treatment was now used towards Black women and supported in part by the structuring of their identities as inherently lascivious or sexually deviant.

The following quote by Joy James (1996) links the stereotyped sexuality of Black women with sexual violence:

Given the stereotypical projection of licentious, unnatural, and violent sex onto darker-skinned peoples as sexual reprobates, this deviancy is triply complicated by sexism, classism, and heterosexism. Black women's experiences of violence are shared with all women but magnified by racism and classism, given the stigma of an Africanist sexuality. (p. 142)

As demonstrated by the statement above, Black women are uniquely impacted by sexual violence because of intersecting oppressions. The jezebel archetype combines with an oppressive system upon Black women in poverty to impact the experience of sexual violation for Black women. It may serve ideologically to promote a more violent rape or it may further burden the survivor psychologically.

Patricia Hill Collins (2005) discusses the dehumanization and objectification which has spawned from the jezebel archetype when she writes:

Under chattel slavery, people of African descent occupied a particular place in class relations – their bodies and all that was contained in those bodies (labor, sexuality, and reproduction) were objectified and turned into commodities that were traded in the marketplace. Dehumanizing Black people by defining them as nonhuman and as animals was a critical feature of racial oppression (p. 55).

Joy James advances the analysis regarding the labeling of African Americans as animalistic by examining how it impacted ideas about Black women's sexuality. She writes, "The construction of blacks as animals rather than humans shaped representations of sexuality, defining black female sexuality as a site of bestiality and illicitness" (James, 1996, p. 142). Angela Davis writes "Although he would not pet her and deck her out in frills, the white master could endeavor to reestablish her femaleness by reducing her to the level of her *biological* being. Aspiring with his sexual assaults to establish her as a

female *animal*, he would be striving to destroy her proclivity towards resistance" (Davis, 1998, p.212). Shaping the conception of Black women as animals served to repress attempts for empowerment, and separated Black women from white women.

This theory regarding the separation of Black and White women via the conception of Black women as animalistic is discussed by Patricia Hill Collins in the following quote:

As objects white women become creations of culture - in this case, uncontrolled female sexuality. In contrast, as animals Black women receive no such redeeming dose of culture and remain open to the type of exploitation visited on nature overall. Race becomes the distinguishing feature in determining the type of objectification women will encounter. Whiteness as symbolic of both civilization and culture is used to separate objects from animals. (Collins, 2000, p. 1028)

### **Clemency**

Black feminist literature which discusses the history of violence against Black women (Davis; Roberts; James; Collins) often discuss the ways in which the state sanctioned such violence by offering clemency for the perpetrators. Collins (2005) writes, "Enslaved African women and men alike could be whipped, beaten, and killed with no legal recourse" (p. 57). This issue of clemency thus contributed to the systematic violent oppression against Black women. The social and legal labeling of Black women during slavery permitted the violence to occur by excluding them from the rights to safety and protection (Collins; hooks; Davis; James; Roberts). Likewise, the social and legal labeling of people in the sex economy as criminals prevents them from having state protection. Clemency for perpetrators of violence works to support and sustain violence. White men who raped enslaved women received automatic clemency because Black women were racially defined as being less than human (hooks, 1981). Joy James (1996) writes that the legal status of "property", "(slave, prostitute, wife, child, prison inmate) was said to have no legal rights; similarly, subhuman females had no virtue" (p. 143). Lacking legal protection from violence contributed greatly to Black women's oppression. "This was one of the supreme ironies of slavery: in order to approach its strategic goal - to extract the greatest possible surplus from the labor of the slaves - the black women had to be released from the chains of the myth of femininity...In

order to function as slave, the black woman had to be annulled as woman...” (Davis, 1998). Black feminist analysis of the legal status of enslaved women demonstrates that the state helped to shape the prevalence of violence for Black women by providing clemency for perpetrators. Contemporary women defined through their status as sexual laborers may likewise be considered woman enough to be raped but not woman enough to be protected. There is a correlation between the state’s legal definitions of people and the injustice they may endure.

Dorothy Roberts’ discussion in the following quote demonstrates the connection between legal impunity and the rape of Black women during slavery.

Roberts (1997) writes,

The law also fostered the sexual exploitation of slave women by allowing white men to commit these assaults with impunity....female slaves legally could be stripped, beaten, mutilated, bred, and compelled to toil alongside men. Forcing a slave to have sex against her will simply followed the pattern. This lack of protection was reinforced by the prevailing belief among whites that Black women could not be raped because they were naturally lascivious...for most of American history the crime of rape of a Black woman did not exist. Nor could Black women be raped by Black men. (p. 30-31)

### **State Power**

The state is rooted in the privileging of white males for social and political power and economic gain. The state has served to support the oppressive systems, from slavery, through segregation, and in today’s criminalization system. The power of the state today resembles the long history of privileging white males at the expense of the rights of women and people of color. Transnational feminist M. Jacqui Alexander (1997) theorized through a critical feminist lens how the state has managed to maintain its power structure. She writes, “The colonial structure of the state legitimizes and reproduces itself by instilling the building of a family as central to active citizenship” (Alexander, 1997). Any threat to the white, middle class, heterosexual family is seen and treated as a threat against the nation.

M. Jacqui Alexander (2005) discusses the embeddedness of heteropatriarchy in the state when she writes,

As feminists, we have understood the meaning and limits of state repression. Yet we need a deeper appreciation of the nuanced ways in which heteropatriarchy is indispensable to it. As the organizing episteme within the state, heteropatriarchy is avidly mobilized to serve many fictions. Most significantly, it enables a homosocial, homophobic, and, in a real sense, bankrupt state to position itself as patriarchal savior to women, to citizens, to the economy, and to the nation. (Alexander, 2005, p. 64)

The state manipulates social consciousness so it can appear legitimate and immune while it continues to maintain systems of race, class, and gender power and oppression. Under white heteropatriarchy outcasts are positioned as threats to the nation and seen as deserving of atrocious punishment or social death (see, e.g. political theorist Agamben, 1998). The state legitimizes punishment of Black women who are homeless and may be surviving off of the street sex economy by asserting itself as patriarchal savior of the Christian family. In effect the state manages to further marginalize already desperate people through branding them as criminals. With labels such as “felon”, “prostitute”, and “sex offender”, the state further oppresses people’s life situations, and dissipates any chance they could have for active citizenship.

Davis (2003) discusses the “deeply gendered character of punishment both reflects and further entrenches the gendered structure of the larger society” (p. 61). She states that historically, “female criminals were seen as having transgressed fundamental moral principles of womanhood” (Davis, 2003, p. 70). Black women who are deemed as criminals face social death in the form of isolation.

The following quote discusses criminal status and the ways in which it hinders laborers in the sex economy from seeking justice through the state:

The criminal status of sex work establishes a very large – and gendered – class of people who are considered criminals, and the whore stigma establishes that it is okay to commit acts of violence against us. Together they work to ensure that we don’t even merit the

basic human and civil rights that non-sex-working citizens are entitled to – such as protection by law enforcement, due and just process under the judicial system, or even simple common decency from our fellow humans (Lopez, 2008)

Criminal status excludes people in the sex economy from justice. Criminal status helps to substantiate clemency when sexual violence occurs. "If they are robbed, assaulted, or raped, the criminal justice system will seldom see them as innocent" (Atwell, 2002).

### **Reclaiming Rights and Locating Agency**

Labeled as “criminals,” people in the sex economy are silenced. Authors have written about silence and how it works to sustain oppression. "Suppressing the knowledge produced by any oppressed group makes it easier for dominant groups to rule because the seeming absence of an independent consciousness in the oppressed can be taken to mean that subordinate groups willingly collaborate in their own victimization" (Fanon 1963; Friere 1970; Scott 1985; quoted in Collins, 2000, p. 5).

The following quote by Kempadoo (1998) discusses the implications of feminist scholarship which contributes to the silencing of people in the sex economy:

Clearly the ‘good girls’ are privileged in much feminist theorizing, while sex workers remain relegated to the status of objects, seen to be violently manipulated and wrought into passivity and acquiescence. Prostitution appears to be one of the last sites of gender relations to be interrogated through a critical feminist lens that assumes that women are both active subjects and subjects of domination (p. 9).

Revolutionary thought should encourage a conception of people in the sex economy as sources of their own knowledge, as speaking persons capable of self-definition, as persons who know the world they inhabit better than anybody. Self-definition is essential to liberation.

Kempadoo writes:

By underlining agency, resistances to, and contestations of, oppressive and exploitative structures are uncovered, and the visions and ideologies inscribed in women’s practices made visible. Such analyses position sex workers as actors in the global arena, as



persons capable of making choices and decisions that lead to transformations of consciousness and changes in everyday life (Kempadoo, 1998, p. 9).

Cabezas exemplifies these tenants of agency in her work (2009). Cabezas challenges the fixed identity of a “sex worker” by investigating how “third-world women negotiate new economies and navigate the contact zones between the first and third worlds by using tactical sex” (Cabezas, 2009, p. 4). She seeks to understand how third world women navigate their social and economic context. Through her research she examines the agency of third world women in the sex economy. Cabezas’ work demonstrates that we can investigate and offer important substantive critiques of the state and of hegemony without making victims out of women subjugated by the state system. We can see that the “victim” model is problematic, and that it tends to work more to support the state than it does to critique it. It is not necessary to make sex workers into victims in the discourse in order to produce research on their behalf. We can offer analyses based on the knowledge that oppressed women use agency to navigate their world. From that base researchers can critically examine the social position of people in the sex economy and examine the historically embedded context which sustains their oppression. By seeing the challenges before impoverished laborers in the sex economy, social change becomes possible. For instance, there is far more violence in the sectors of the sex economy most criminalized: ie, much more violence on the street than in exotic dance clubs which are legal institutions. A critical question for researchers might include: in what ways does criminalization increase violence for women on the street? The direction of future research should not contribute to the oppression and stigmatization of those marginalized and silenced; rather it should promote understanding for society to move beyond historical race, class, gender oppressions.

In order to approach freedom there must be an end to the silencing of people criminalized as prostitutes. Currently, the most underprivileged of Black women in the city of New Orleans are also the most targeted by the state. This population is in need of housing and food. Until the state offers the

support services necessary to structurally benefit Black women in poverty, criminalizing them for alleged “solicitation” deters their capacity to improve their lives. The data from this research confirms that this form of criminalization does not work to offer the assistance impoverished women need. Black women in New Orleans are essentially criminalized for being situated in poverty, where the sex economy is sometimes the only available option to get basic needs met.

The intention of this research is to offer a critique of the state by framing the analysis through a critical feminist theoretical framework. This research aims to contribute to feminist works which discuss state oppression. This researcher has purposely not centered the analysis on labeling or diagnosing the population of people in the street sex economy. Rather it builds on the understanding that this population is inherently diverse, complex, and multiply oppressed in large part due to the state’s labeling of them as criminals. It is focused on discovering the oppressive dynamics of the state’s use of the Crime Against Nature statute in New Orleans, and this situation’s embedded structures in historical race, class, gender oppression.

## **CHAPTER THREE: RESEARCH METHODS**

### **Introduction and Overview**

This qualitative case study explores the perceptions of six participants regarding the implementation of the Crime Against Nature statute (14:89) in New Orleans. The purpose of this study is to explore how the use of this charge contributes to the oppression of impoverished Black women in the street sex economy. The goal of this study is to enhance critical feminist thought on the criminalization of prostitution. It investigates the role of the state in relation to the sex economy, sex tourism, and the tracking or trapping of Black women via the Crime Against Nature charge.

There are specific research questions which guide this case study. They were developed using a critical feminist conceptual framework as discussed in the previous chapter. The research questions were used to guide the researcher in constructing the interview questions and throughout the methodology and analysis of the study. The specific research questions which focus and guide this study include: 1. How are Black women who come from a low-income background positioned or tracked into the street sex economy and thus the criminal system?; 2. How does the state work to shape society so that there is vulnerability for some and clemency for others involved in the sex economy?; 3. How does the context of New Orleans complicate understandings of the sex economy and the role of criminalization?

This chapter begins by identifying the rationale behind doing a qualitative case study for the topic being researched. Next it will identify the methods used to recruit participants and the steps taken to ensure the study is succinct with academic qualifications for substantial research. Then it will discuss the research design and research questions in connection to the conceptual framework of critical feminist theories. It will then outline in detail the specific methods used for data collection and data analysis. This chapter concludes with a discussion of the ethical considerations taken by the researcher throughout the case study, the limitations of this study, and suggestions for future research.

## Methods

In the Social Sciences, researchers use a variety of research methods in both the quantitative and qualitative research traditions to develop a better understanding of social phenomena. Case studies can be done using a variety of quantitative, qualitative, or mixed methods (Flyvbjerg, 2011, p. 301). This case study uses qualitative methods to interpret, analyze, and synthesize the knowledge of participants as provided by in-depth interviews. Qualitative methods are particularly useful for uncovering knowledge from the deeply-held perspectives of people who deal with the issue being researched in their daily lives. Bloomberg, et. al. (2008) states that “qualitative research is suited to promoting a deep understanding of a social setting or activity as viewed from the perspective of the research participants” (p. 7-8). The intention of this researcher is to use qualitative research methods to allow knowledge to emanate from people dealing first-hand with the issue. Corbin and Strauss (2008), write that “qualitative research allows researchers to get at the inner experience of participants, to determine how meanings are formed through and in culture, and to discover rather than test variables” (p. 12). The qualitative methodologies used for data collection, analysis, and synthesis help bring to the surface the epistemic knowledge of participants. Juliet Corbin explains that the purpose of doing research “is to *generate a professional body of empirical knowledge*” (Corbin & Strauss, 2008, p. viii). Understanding this issue from the perspectives of participants helps to bring forth the most pressing aspects of the issue as understood by those who experience it in a direct way.

This researcher chose to approach this as a qualitative case study because of the way in which the issue is intimately connected to the context within which it exists, and due to the richness of the data which came from these in-depth interviews. This study analyzes the connections between this contemporary issue and its social context. Thus critical questions are asked from select participants with critical perspectives due to their proximity to the issue.

## **Sampling**

During June and July of 2010, interviews were conducted with twenty participants. The exploratory nature of this case study caused the researcher to seek participants who could offer a variety of viewpoints. Participants who vary in their position or experience of an issue can promote more comprehensive knowledge of a particular phenomenon (Baxter & Jack, 2008, p. 544). Interviews were conducted with: three Black women who are or have been in the sex economy and have personal experience with the charge; five community organization workers who work with and for people in the sex economy; one Criminal Court judge; one prosecutor from the District Attorney's office; one legislator; and seven public defenders for Orleans Parish.

In order to maximize the effectiveness of the study, the researcher employed critical case selection to choose six interviews to serve as the primary source of data for this study. A critical case is defined as "having strategic importance in relation to the general problem" (Flyvbjerg, 2011, p. 307). Flyvbjerg (2011) discusses that the ability for a case study to enhance understanding of a larger social phenomena increases when the researcher strategically selects participants, whereas a random selection would not be as effective (p. 306). The goal was to base the analysis on the words of those who know the situation best due to the length and depth of their experience with it. The six participants selected speak from a variety of perspectives and thus maximize the comprehensive knowledge this study produces (Baxter & Jack, 2008). The researcher selected participants to encourage a balance in perspectives and to not over-represent a particular vantage point. The overall result is a comprehensive and balanced inclusion of various perspectives. The six selected interviews used for this study include: two women in the sex economy who have experienced the charge, one community worker, one criminal court judge, one Prosecutor, and one Public Defender.

## **Recruitment**

Recruitment was performed by providing flyers with information about the research and posting flyers in various relevant locations throughout the city, including the Orleans Parish Public Defender's Office, near bus stops in front of the Orleans Parish Criminal Courthouse, and at various community centers around the city. People interested in being a part of the study could contact the researcher by the information provided on the flyer. The researcher also employed snowball sampling strategies, where participants who had done an interview were given flyers to share with people they thought might be interested in participating. All participants were voluntary and appeared to choose to do the interview because of their interest and passion about the issue.

## **Data Collection Methods**

The interview questions consist of open-ended questions and narrative prompts. Appendix B lists the interview questions. Interviews were conducted in person and recorded with a digital voice recorder. Then they were transcribed verbatim into a personal laptop computer which only the researcher had access to. At no time were names or other identifying information collected or recorded. The researcher categorized participants by occupation. Each participant was given a letter of consent in order to maintain confidentiality and to protect participants from having to share any identifying information. The letter of consent was not signed, instead verbal ascent was obtained. Thus there was no way to link the participants to the data and confidentiality was assured. The process and format of the interviews encouraged rich data from participant's responses. Each participant was asked the same questions since the researcher was interested in the ways each participant, given their respective position, answered questions differently (ie: attorneys, judges, and sex workers each position themselves within their professions, and use caution/ freedom of speech at different times during the interview).

The interview questions were open-ended to encourage narrative elaboration. Charmaz (2006) writes “by creating open-ended, non-judgmental questions, you encourage unanticipated statements and stories to emerge” (p. 26). This benefitted the data by adding exemplary stories which participants offered as they discussed the issue. For instance an open-ended question regarding the relationship between women on the street and police officers brought up stories, both first and second-hand, of police violence and rape of women in street sex work. The elaboration often included personal stories or witness accounts of actual people who are dealing or have dealt with intimate aspects of this issue. Such accounts offered insight into the experience of the charge and the experience of the position of those who are charged. Charmaz (2006), writes “qualitative interviewing provides an open-ended, in-depth exploration of an aspect of life about which the interviewee has substantial experience, often combined with considerable insight” (p. 28-29).

Constant comparative methods were used “to establish analytic distinctions – and thus make comparisons at each level of analytic work” (Charmaz, 2006, p.54). Constant comparative method “generates successively more abstract concepts and theories through inductive processes of comparing data with data, data with category, category with category, and category with concept” (Charmaz, 2006, p. 187). The constant comparative process ensured that themes and categories which occurred after the coding process of these interviews were backed by substantial evidence in the data, as codes overlap one another from various perspective points, improving saturation of the categories and themes. Final analysis began with line-by-line coding, then the codes were organized into categories. Two other researchers participated in further analysis for coding purposes and in identifying and organizing the categories.

### **Data Analysis and Synthesis**

Throughout the process of this case study the data was managed to maintain standards of ethical research and the confidentiality of participants. The analysis follows qualitative research approaches and

works to bring out the richness of the data. The organizing of concepts derived from the data served to thematically organize and categorize the data and identify prevalent themes to enhance knowledge on the issue.

The data was managed using a computer software program specially formulated for qualitative research, *ATLAS ti*. The researcher conducted line-by-line analysis of the six interviews selected in the *ATLAS ti* computer program. The program allowed for the researcher to continuously go back to the data, by pulling up quotations from the interviews with each code. The program also allowed for analysis of the codes and categories according to the number of times codes show up in each of the interviews. Themes emerged from this part of the analytic process, since the frequency of codes demonstrates strength to the categories they belong to (Corbin & Strauss, 2008). The data analysis allowed for central aspects of this issue to emerge from the data, via the line-by-line analysis and later categorization of all codes. Some themes emerged which were not originally anticipated by the researcher. By using constant comparative methods the data was organized into main themes and central aspects, to produce meaning in the results and findings.

The researcher used both the computer software program and manually organized the codes and categories outside of the program. She first coded the interviews manually, then she used *ATLAS ti* to code the interviews. In this process the researcher was able to go over the data numerous times and synthesize the data in the final coding process in the computer program. Once the codes were complete, the researcher printed out all codes, and organized them into categories. She then went back to *ATLAS ti* and organized the themes using the program. This process allowed for deeper analysis by reviewing and finalizing the codes and then the categories a second time. Finally, the categories were continuously linked back to the data by using *ATLAS ti's* program which quickly matches each code to its respective quotation. Then, using the program to map the categories, the program allowed for additional visual assistance for the researcher to analyze and synthesize the data into categories. The categories were then



considered by two other researchers. Both are Associate Professors in Ethnic Studies who are affiliated with Women's Studies. One researcher has a law degree and an extensive background researching sexual violence in tribal communities, the other has a PhD in Anthropology and has extensive knowledge on class and state systems, particularly pertaining to labor and capitalism. Through an iterative process all three researchers further analyzed the categories and refined the categories into main themes.

### **Ethical Considerations**

The primary ethical concern of the researcher throughout the research process, including data collection, data analysis, and the reporting of the findings, was to maintain participant confidentiality. Any information in the interview which was stated by the participant but which the researcher saw to be potentially identifying information, the researcher has not included in presenting the findings. Due to the nature of this research, if there was any information which came from an interview which could be a potential risk to the participant or any other person, the researcher omitted it from analysis.

### **Issues of Trustworthiness**

The researcher insured credibility of the data collected because she conducted all interviews in person. She used a digital voice recorder during the interview, which she then used to transcribe the data into the computer. Thus because she was present during the interview she could interpret the attitudes and perspectives of participants not only by the words they said but also by their body language and facial expressions. Subtle communicative cues enhanced the researcher's interpretation of the interviews. Next, the researcher transcribed the interviews verbatim, this allowed for the researcher to immerse herself in the words of the participants, picking up on tone of voice and other indicators of participant's meanings to their words.

The researcher's interpretation of the context of New Orleans was strengthened because the researcher spent two months in the research site initially, then returned for an additional six months.

Throughout her time in New Orleans she picked up on various elements of the context of New Orleans both via her own witnessing and experiencing of the city, and by her discussions with locals. This contextual data was collected using a journal which she carried with her, as well as a personal computer which she used to store memos and brainstorm the connections between this additional contextual information and the research questions.

Additionally, the researcher insured credibility of this case study by triangulating the various sources of information. The analysis was drawn from various sources of data including participant's accounts of the situation via their in-depth interviews, books on the city of New Orleans and on laws regarding prostitution, and memos which came from the researcher's observations while in the field.

The researcher followed the guidelines for coding the interviews constructed by Corbin and Strauss (2008). Corbin and Strauss (2008) instruct qualitative researchers to follow guidelines for accurate coding in which the codes and the interpretation of the researcher matches the participant's perspectives and experiences. Furthermore the researcher had a senior researcher check her coding and organization of themes. This was done in order to strengthen the quality of the analysis. This iterative process encouraged credibility of the coding process because both researchers independently analyzed that particular part of the interview and shared their results, which were consistent.

### **Limitations of the Study**

This research calls for some quantitative research on the number of arrests of the different identities and the locations of arrest. Throughout this research endeavor, the issue of location emerged numerous times. For example, the French Quarter presents a specific environment of sex work and policing than the Third and Seventh Wards do. Tracking and mapping locations and types of arrests, simultaneous to tracking locations for sex tourism would improve this research. To address this limitation the researcher constructed interview questions regarding location and familiarized herself with

the city of New Orleans and the ways in which location is defined socially. Academic literature regarding the city's construction and the racial and economic factors of location throughout the city's development have also been examined and incorporated into the analysis to try and assess this limitation.

### **Chapter Summary**

In conclusion, this is a qualitative case study of the perspectives of six participants regarding the implementation of Crime Against Nature in New Orleans, Louisiana. The participants were purposely selected based on the depth of knowledge they could provide from their proximity to the issue in their daily lives and through their occupations. Analysis was performed using qualitative coding methods. The results or findings of the study emerged from the perspectives of people who know the issue intimately.

## **CHAPTER FOUR: FINDINGS AND DATA ANALYSIS**

### **Introduction**

The purpose of this study was to explore participant's perceptions of the ways in which the state's implementation of the Crime Against Nature charge impacts social entrapment and oppression of Black and impoverished women in the New Orleans sex economy. The researcher analyzed the narratives of six participants in order to identify main themes regarding this issue. Participants, identified here with their race, gender, and profession include: a white male Judge, a white male Prosecutor, a woman of color Public Defender, a black woman Community Worker, and two black women in the sex economy of New Orleans.

There are four major themes which emerged from the data including: social tracking and how impoverished Black women are socially positioned in ways which contribute to their vulnerability to the street sex economy and to the state's use of the Crime Against Nature charge; contradictory regulation of the sex economy which permits night-life sex-tourism in the French Quarter and criminalizes marginalized women on the streets; the inevitability of convicting people when they are charged with solicitation due to the nature of the charge and lack of defense available; and the hopelessness which ensues from the state's use of this charge. Each of these themes emerged in each of the interviews and cross-data analysis was used to identify these four major themes. Entrapment is an overarching theme which is involved in each of the major themes from this study. Entrapment for the purposes of this research is understood as affecting impoverished Black women by trapping them into the sex economy and into the prison system. Entrapment begins prior to receiving the charge via social tracking and due to the structure of New Orleans as a sex-tourist destination with a historical reputation of indulgence and prostitution. Entrapment becomes solidified through the criminalization system. The overarching theme of entrapment will be further discussed in the discussion which follows the presentation of the themes.

This chapter will begin by discussing each major theme which emerged during the study along with participant quotes, and end with a synthesized discussion of the findings through the analytic lens of the researcher.

### **Major Theme: Social tracking at the intersections of Gender, Race, Poverty, and Drugs**

Quantitative data confirms that the vast majority (78%) of those convicted of a Crime Against Nature and registered as sex offenders are Black women (Flaherty, 2010). The data from this qualitative study identifies that intersectional oppression for Black women in poverty works to track or socially position them into the street sex economy, where policing is more prevalent. Rooted in history, social realities of power and oppression place women of color into more limiting life circumstances, making the sex economy an only option for some. Black women in poverty in New Orleans can more easily become targets of the state due to being socially positioned in poverty and on the streets. The agency of Black women in this position exists within the debilitating aspects of race/class/gender intersecting oppressions. The historical backdrop of a former slave society and the continued oppression of Black people in New Orleans is an underlying explanatory theme as to why and how this injustice has been performed. The following quote by the Community Worker speaks particularly to the ways oppression is performed and felt in the Southern United States. It raises notions of inequality, where for some groups there is freedom and for others there is constriction. The state's use of this charge reinforces historical oppression as it is used against people already situated in intersectional oppression.

I can always feel that as many freedoms as we do have in this country, we also live in a country that continues to keep their foot on the neck of poor women, poor people period. But, it always seems to affect people who are oppressed, already, they're dealing in some form of oppression. Being, you know people always talk about the South versus the North but, being here in the South and the fact that this law disproportionately affects women, and women of color. It would just speak to everything we know about, you know, the country in which we live. (Community Worker)

The track to the street sex economy is related to historical oppression and poverty. Intersectional social injustices uniquely place Black women, as both a gendered symbol of sex, and as a racially limited

or constricted group, into the street sex economy. The following quote exemplifies the position of people socially or economically tracked into the street sex economy:

Sex workers I think are people, predominantly women who are put in a position either socially or economically where they are sort of kind of forced into doing what they have to do in terms of soliciting for Prostitution or Crimes Against Nature. And the difference there is that it's an economic, I think it's an economic issue more than anything. I think it's women in bad positions in life who may feel like they don't have any other opportunities. (Public Defender)

Historical oppressions which constrict people from having economic freedom can make them more desperate for money than people historically privileged. Their motivations to perform in the sex economy may be rooted in feelings of desperation. Without appropriate support from service groups or state services, and due to living in isolation, they can become desperate for a plate of food or a place to stay for the night. Limited from other forms of employment to generate income, the sex economy can become the easiest quick-fix for people in their position. Often times women and girls are propositioned by men for sex throughout their lives, and if they are poorer and on the streets, men driving by and soliciting them can be a common occurrence. Within the context of their socially and economically defined position, the sex economy may even offer some sense of autonomy for women to get the things they need. Desperation is an aspect of poverty at the intersection of race/gender which positions this population into the streets, as discussed in the following quote:

I think it's about the broader issues of race that we have to deal with in this country that is the problem. It's also the broader issues of economics. It goes back to what I told you before, if you don't have an honest way to make a living, you'll find a dishonest way....I mean I would imagine that if you're hungry and you're desperate you'll do a lot of things that a lot of people have never had to do. So, you said yourself, well, more African Americans are getting convicted of crimes does that mean that they're inherently more criminal? No, maybe it means that they're in inherently more desperate a situation. (Prosecutor)

Drugs may be an aspect of their lives due to the desperation of their social and economic position. The following quote discusses the interlocking nature of oppression and drugs, and how drugs and further social limitation become a cycle:

I think economically, they're in poor condition. Most of these people are on the street soliciting are going for drugs. So they don't have a job, they easily could've had prior convictions for something. And this would be their last resort to get money, it's a desperation. You're not going to have a call girl, a topless call girl, we're talking about the girl on the street who has nothing else to sell but herself. She's not working, she's probably I can't say but her education level is probably very low. And the need, the habit is very severe. (Judge)

The different categories of sex workers the Judge discussed in the previous quote exemplify how social position of being in a historically oppressed or privileged group can track people differently and the state may treat these groups differently. Criminalization can work to confine impoverished Black women to the streets. Whereas these individuals are already "dealing in some form of oppression" as the Community Worker stated, they are being criminalized by their state of residence rather than being assisted through much needed services. A subtheme which emerged in the data is that the lack of services available for Black and impoverished women may contribute to the social positioning or tracking element involved in this issue.

### **Subtheme: Lacking Services may contribute to Social tracking**

The lack of appropriate services makes life more challenging and can contribute in several ways to position intersectionally oppressed people into the street sex economy. The possibility of creating a new life without drug addiction and without the streets is challenged by the inability or severe difficulty this population has with finding and maintaining housing and employment. The lack of services available can make drugs a way to cope. Impoverished Black women are in a way positioned to rely on the only thing available and accessible to them: drugs on the streets. Drugs can create a feeling of euphoria for those who otherwise experience emotional pain. It can help one to forget their troubles entirely if only for a moment. When one is isolated and shunned by society, they may find comfort in the way the drugs make them feel. Drugs may ease pain for women who have been harmed by gendered violence, as discussed in the following quote:

Majority of the women regardless of race, have been through some type of sexual trauma, as a child, multiple trauma, violent traumas as a child, and so if addiction was a way to deal with that, you know, there is no systems in place to move them through that. You know. And so they do the things that come easier, and what is the biggest commodity for any woman? No matter where you're from. Our bodies is the biggest commodity we could have. It could be soooo, you could barter with it, you know. It's the one thing we have to sell. We don't produce, we don't do labor like men. We end up self-, sacrificing ourselves. (Community Worker)

The state has a lack of appropriate programs for people in need of assistance. Those who work for the state only have access to what the state provides to handle its population. The following quote demonstrates that people who work for the state are somewhat confined in this situation as well. There is no choice available except prison because the state is lacking in providing services. This sets the stage for a hopeless situation for many targeted by the state.

See, the problem we deal with in this office is, we seek to put drug offenders in prison sometimes people will disagree with that and say it's not a good idea, there's no other place to put em, we put em back out on the streets they're gonna be back in that lifestyle. If we had some sort of rehabilitative program you could put em in, then some people we would be all for that. And so it's, we hope that by getting them in prison, we know we're not gonna save everybody, if we get 10, 20% of people, we win. (Prosecutor)

### **Major Theme: Contradictory Regulation of the Sex Economy**

This theme contains two elements which occur simultaneously and contribute to the injustice being performed towards people targeted by the Crime Against Nature charge. One element is the hyperactivity of police in poorer Black neighborhoods and the entrapment of Black women located in areas where arrests are performed. The other element is the leniency by which the police treat the French Quarter, where there are tourists who enjoy a "centralized" sex economy. The contradictory regulation and performance of the city's policing benefits those historically privileged and harms those historically oppressed. People who are targeted are treated as expendable to the state due to their social and economic status. People who are treated with leniency continue their party activities in the French Quarter and report home to talk about all of their experiences, which helps to maintain the city's reputation as "The Big Easy." Meanwhile, in poor Black neighborhoods the constant, lurking threat of arrest and further



confinement contributes to the oppression of impoverished Black people. The following quotes discuss both of these elements of contradictory regulation:

Police do something called proactive patrol in this city, which literally means they drive in neighborhoods that they think are known for high criminal activity looking for crime, that's what they do...Police activity in general tends to center around Central City, Pidgeon Town which is on the other side of Carrollton...95% of the time they're predominantly Black neighborhoods. People that are arrested in the French Quarter tend to be white people that can afford a lawyer. But since 94% of them come to our office and I'm a good indicator of what the rest of the office is dealing with I would venture to say that there are very few people that are being arrested in the French Quarter. Once in a blue moon I'll see it, and invariably at the first appearance it's generally a white person who is able to hire a lawyer. (Public Defender)

...They have sweep nights, where they just pick everybody up...I have been caught on those nights, and it's not professional prostitutes or escorts, you know for the most part it will be maybe two or three escorts, and maybe a couple of real prostitutes from off the streets, and all the rest will be um people, ya know that that use hard-core drugs that just jumped in the car, you know, trying to get money for their drugs. And out of those three different types of sex workers it'll be a whole um the whole holding cell will be all people with Crimes Against Nature and like a couple traffic tickets a couple drug tickets, ya know it's just their sweep night. And that's what makes the numbers so big. But it's like really entrapment, like the crack-heads, they on crack, and the police out there ya know getting them in the car like 'c'mon I got twenty dollars c'mon c'mon.' They gonna jump in the car and they not gonna think about it. And then they don't even, they don't really be trying to fight em. They stay in there [jail]. (Sex Worker)

The French Quarter offers a “centralized” location for sex tourism and is not generally policed in the same way poor and predominantly Black neighborhoods are. Black women who are confined by poverty into areas such as the Third Ward are “swept up” by police. In some ways “centralized” locations may serve the system of contradictory regulation to allow for the prison system and the tourist economy to both thrive. Black women in poverty are “centralized” in certain areas of the city, and the tourist district is a “centralized” area relatively off-limits for these kinds of arrests. In the French Quarter sex workers and customers have an environment conducive to a sex economy without the lingering threat of criminalization. Tourists do not venture into the Third Ward or other poor Black neighborhoods where criminalization is more prevalent. People dependent on the sex economy who are in areas where their clientele are not wealthier tourists are not benefiting economically in the same way sex workers in the

French Quarter can. Thus those most criminalized are the people who are most impoverished and who can be profiled as potential prostitutes. The following quote offers important insights into the state's use of Prostitution or Crimes Against Nature charges and the unjust regulation of certain people in the sex economy:

French Quarters...have the strip clubs down there, the girls walking the streets, all the escorts for the most part stay in the French Quarters because it's centralized for the guys that's coming. If you go to jail on sweep night everybody gonna be in jail that came from the Third Ward. Everybody from the Third Ward, might be three girls from out the French Quarter, some girls from out the French Quarter and like, 50, 60 women, all different ages shapes and sizes from the Third Ward. And I have never heard of no track in the Third Ward, you know, I've never heard of anybody making money in the Third Ward...if you got somebody out on the street that's hurtin', and they want another hit, when you tell them 'I got twenty dollars' they gonna jump in the car. That's why they fuck with them so hard. It's just a easy win. (Sex Worker)

“Centralized” locations make it so that police can profile prostitutes who are deemed criminal and perform automatic arrests. Chef Mentseur Highway is described in the following quote as one such area:

Cause I could be..if me and you walk, say me and you walk, I say give it till that, you see where that motel sign is? We could walk right there. We both goin' get stopped, and we both goin' to go to jail. If we walk up this strip, all we do is walk! I'm telling you, this the track right here. They goin' to bring us to jail! If we walk two blocks we going to jail...Any woman. Alright, if you go on any strip, any track, you bound to go to jail! It doesn't matter if you white, Black. [Me - just by walking?] I'm telling ya. (laugh)..you wanna go up there and see? I mean I'm being so honest with you. (Sex Worker)

### **Subtheme: Contradictory use of “Morality”**

Participants discussed the contradictions between social definitions of morality and the implementation of this charge towards only one group of people in New Orleans. New Orleans is a tourist-driven economy which relies on the city's image as the “Big Easy”. “New Orleans' main import is tourists, and tourists come here to drink and to do drugs and to do girls” (Sex Worker). It caters to party tourism, “...people come down here to party and indulge in their vices” (Public Defender). Thus it continuously promotes a culture where tourists are free to behave in ways considered inappropriate by typical standards in other cities, such as public intoxication, while Black local people are more targeted by

the police. The connections between tourism and sex work have a long history in New Orleans with the notorious Storyville Prostitution District and legalized brothels in the French Quarter (see, e.g Long, 2004). Today there are images of sex and sexualized women throughout the French Quarter. Billboards advertise strip clubs as visitors exit the airport. So while sex is important to the New Orleans economy, there is another notion of morality accorded impoverished Black women on the street. The following quote discusses the “pass” accorded sex workers in the French Quarter:

It’s certain times of the year that you get a pass on Bourbon Street, and you could just work. And that’s because, like I was saying earlier, our biggest import is tourists, and that’s what they come down here for. So at certain times they just have to give in, you know what I’m saying, to what people are coming here for. Uh, um, during Mardi Gras, um, the only time that they mess with us really hard out there is for election time, and stuff like that. So if they could give that pass to that area, because that’s what’s expected of that area, then just give that pass for real. (Sex Worker)

Police and legislators look the other way when it comes to “moral evils” occurring in the French Quarter. Alternatively, Black people on the streets are targeted by the state to be punished and confined in prison. In an effort to “clean up the streets” privileged people who control the state can serve themselves and other privileged people by hiding people who embody the signs of poverty and oppression. Individual officers, prosecutors, and Judges are workers within the system but they are required to perform under the direction of laws and police Department policies.

Oh and it serves people in power who don’t want to have to deal with the realities of life that poor Black women have to deal with, right, we’re gonna push that out you know, we don’t want to see it. Not in my backyard kind of thing, right, I wanna rid this city of all these moral evils, or this country of all these moral evils...And the people that are making these laws are not Black women they’re fucking generally rich white, rich or white legislators! So it’s sort of moralizing them I think, it serves them, right it serves them to feel better about their lives because they don’t have, and it happens less like I don’t have to see it, right. If they get picked up by the cops at least they’re in jail and I don’t have to see them and they’re not hopefully going to be on my street when they’re soliciting, right. (Public Defender)

### **Subtheme: Justifying the Arrest**

The findings suggest that the Crime Against Nature charge may be another way to criminalize drug use. The women who are arrested on the streets often are struggling with drug addiction. Police can more easily arrest these women on Prostitution and Crime Against Nature charges because the justification for arrest and conviction consists of police testimony that solicitation occurred (verbal assent to perform a sex act) and no hard evidence is required (ie: drugs). The following quotes discuss the gendered nature of drugs on the street and how women are policed as gendered bodies:

It's just the same thing with, um like for boys with um crack cocaine get more time for having crack than you get for having cocaine. So...ya know like crack heads gonna have a little piece of crack on em so they going straight to jail. And boys that's selling crack they gonna have, you know, they gonna have some crack on em so they going straight to jail. And with us it's the only, we have what we sell on us 24/7 whether we selling it or not. (Sex Worker)

...she was on the street for a long time suffered with addiction for a long time, and she said it best she said one night when I got into it with a cop he was looking at me talking about 'why are you out here' she said I just told him 'why do you think, you and I both know why I'm out here.' And her words just kinda, they fit for me. I got it when she said it, cause she was right. This is why we're being targeted, you know what we're doing out here, you know I'm on crack. You know better than I know why I'm out here at three o'clock in the morning. I have an addiction. (Community Worker)

Drug use is considered a legitimate crime by the state. The perception that these women are drug addicted is used to justify the state's disproportionate criminalization of this group. Furthermore, the state polices drug use based on socio-economic class. The following quote demonstrates that women of color who can be more easily profiled as living a life in poverty are perceived as being more likely to be drug addicted; this is used as justification for criminalization:

You know, there's two different kinds of prostitution, there's the people that charge like 50 bucks and then there's the people that charge 500 bucks. Um, the fifty dollar people, those are the people that are living a much more dangerous lifestyle. Um, and I'm not saying that there's not some high-priced hookers that are abusing drugs, and I'm not saying that there's not some streetwalker hookers that aren't. But what I'm saying is that when you're playing the averages, when you put two of them up there and you say which one has the drug habit, I'm gonna pick the streetwalker every day and I'll be right probably more than 70% of the time. (Prosecutor)

The following quote directly connects arrests for solicitation with the criminalization of drug addicted people: “Girls on the street that are arrested for drugs, they’re normally trying to get \$10, \$20 for some heroin. And they will solicit to get that crack or that heroin. And when they do solicitation, they get arrested” (Judge). The rationale of arrest is situated in the criminalization of drug users. However, convicting drug addicted women with a Crime Against Nature charge does not result in drug treatment, it results in a serious criminal label which can further limit opportunities after the conviction.

### **Major Theme: Inevitable Convictions**

Police authority in arresting and charging people in the sex economy has a direct influence on the offence they are convicted of in court. Having the felony Crime Against Nature charge and the misdemeanor Prostitution charge both available to police officers contributes to their authority to determine the degree and severity of a person’s conviction, as discussed in the following quotes:

So the police officers would come out and they could charge either way, they could say ‘alright you solicited oral and vaginal sex.’ They could charge you for Crime Against Nature and Prostitution. And if they wanted to give you a break, they would just charge you for Prostitution. This shouldn’t be the option for the police officer to make. It should be the same crime, same penalty. (Judge)

I caught the Prostitution charge and the Crime Against Nature at the same time, which was crazy. I went to jail for a whole lot of stuff and that was my *first* time ever going to jail. And um, when I went to jail I was in there with a bunch of different women who had the same charge as me. (Sex Worker)

Not only are police able to exercise power during arrest, their role in court is also accorded power. The law is constructed to easily convict people on prostitution charges because the offense is defined as “solicitation.” There is no hard evidence required in presenting the case to the court. Police testimony is the only evidence necessary to convict people charged with a Crime Against Nature. The following quotes demonstrate that there is no defense available in the law against the testimony of a police officer who states that solicitation or agreement to perform sex in exchange for money occurred:

The only thing the state has to show, and the only thing in reality that they would ever show for Crimes Against Nature or a Prostitution charge is they put the cop on the stand, the cop would say, literally could say 'I was driving and this woman asked me, and I pulled over and this woman asked me if I wanted a blow job' that's all he has to say. I can't pre-pre-...it's going to be almost impossible for me to present anything that will refute that cop's testimony. It's just legally very hard to try. In fact I don't think I've ever seen, I think I know of one Prostitution charge taken to trial and they didn't win. I've never actually seen a Crimes Against Nature taken to trial, because it's impossible to try. Cause it's just the cops word against my clients, that's it. I mean I could put my client up there and have her say 'no that's not what happened' but who the fuck are they going to believe in reality, right? They're going to believe the fucking cop. (Public Defender)

They, I mean...The police! They not going to believe us! We don't have no win in the court system. You could tell the judge, I mean you could be telling the honest truth. Judge goin' to look at you 'oh well, it's what he say'. Alright, what about what I say! Alright, cause I'm a [sex worker]. All [sex workers] is not the same! (Sex Worker)

In this way the system treats a serious crime, Crime Against Nature, as a strict liability crime much like parking offenses where there is simply no defense. Due to the intersectional oppression of Black women on the streets, the police can more easily arrest them for solicitation charges, which there is no legal defense for. The position of people charged with a Crime Against Nature is powerless against the state. Due to their financial and social location, they often have no resources to protect themselves. "So women feel pressured into pleading, cause they're not, they know they're not going to win that trial" (Public Defender). With no defense from state prosecution, Crime Against Nature and Prostitution arrests can be inevitable convictions, resulting in inevitable incarceration.

### **Subtheme: Doing Time**

Participants state that people arrested with this charge are held for the maximum amount of time the law allows before ever seeing a Judge and being convicted of the crime. For many, they are pre-disposed to sitting in jail when they are arrested because of the social isolation and poverty in their lives. "These women sitting in there, even though it's a low bond, five hundred dollars which means it's fifty bucks, sixty bucks to get out, she has nobody, she's gonna sit in jail the entire time until the state picks up her charge" (Public Defender). "They keep you in there for sixty days. They have up to sixty days to

charge you with the crime. And um, on the sixtieth day you'll go to court, or your fifty-ninth day you'll go to court" (Sex worker). Seeking, arresting, and prosecuting people with no resources results in inevitable convictions and jail time. The Sheriff's Department is paid per bed filled in the prison per night. The District Attorney's office benefits by having high conviction rates. Thus the state benefits from jailing people who cannot bail out, and from the vulnerable position of those it targets with solicitation charges.

### **Subtheme: Trapping Sex workers as Sex Offenders and Felons**

The consequences for people convicted of a Crime Against Nature contributes to the sustained entrapment of these women. As felons and sex offenders, they become tied to the state and held responsible for fines and fees, in addition to complying with sex offender registration requirements. According to the participants, these responsibilities are often more than people with this charge can afford, and many are forced into a cycle of re-imprisonment and become even more confined to the sex economy.

Regarding sex offender requirements, the Judge said, "I sympathize with the fact that when you get out of jail, you only have 30 days to register with the police. If you just got out of jail, where you going to get \$1,800 from? You're not, the next thing you know, you're back in jail for not registering" (Judge).

The requirements for registered sex offenders are built to follow individuals any time they move. These were constructed to protect people in any area a sex offender resides or moves to, however this assumes that the convicted sex offender is a danger to society. For the women and transgender and gay men convicted of a Crime Against Nature this is not the case. These individuals are being criminalized for their position in poverty and for participating in the street sex economy. Having them register as sex offenders has worked to prevent them from being able to start a new life. "And, if you ever move you

have to notify the sex offender registry, you also have to make sure you comply with not living close to certain schools, churches, whatever. And...you have to pay periodic fees which are very pricey” (Public Defender).

Sex offender laws lengthen the punishment people endure. The following quote demonstrates that women with this charge have been forced to re-register even ten years after being convicted of the charge:

You had women who were charged ten years ago and because they changed the law around registering [Adam Walsh Act, 2005] they actually not only had done the ten years they had to do prior, but they had to go back. So if they didn't register and follow the guidelines *completely* they made them re-register for another ten years as a new charge. Um, for a penalty for not doing it the way it should have been. (Community Worker)

The following quote demonstrates that the challenges associated with this charge force many women to remain in the sex economy, away from their children and excluded from society. Their life becomes limited to two contexts: sex work and prison.

Their life is just miserable. They miserable. That's why they running. I mean they leaving they kids time after time, scared to go home. Scared that the police going to come to their house. I've talked to a lot of girls...and a lot of girls be like 'I can't go home'..Memphis, Texas, Milwaukee. They scared to go home! Cause they going to go to jail! And that's not right!... I have one friend...she been gone away from us for two or three years, she's doing ten years... she just had a lot of Crime Against Nature charges with a lot of checks and stuff, and they just put, they just gave her multiple bills, just multiple. (Sex Worker)

The “multiple bills” the Sex Worker mentioned in the previous quote was discussed by the Public Defender as contributing to the entrapment of these women in the criminal justice system:

So having a felony subjects you to..if you are picked up on another felony in the state, it doesn't matter if it's Crimes Against Nature or any other kind of felony, you are now a double-offender, which enhances the possible sentence that you could get! Right, um, instead of just serving the shorter sentence, the maximum sentence for crimes against nature you'd be subject to twice that amount! Okay, as a multiple offender. They choose to bill you, multiple bill you, right, so that's one thing, cause it's a felony!...So, here's how it works, if you have a prior felony conviction that occurred in the last ten years.. and when I say occurred I mean that loosely...let's say you were convicted in '95, that's over ten years ago but you were on parole until, you know 2000, then that counts because



the process of being under the control of the state until 2000, right, um, and let's pretend it's 2009. So, what happens with that is that if you are...picked up for a second felony the state has the option of charging you for the instant offence that you have just been picked up on, and then subsequent to that, there's another procedure called the multiple bill here in Louisiana...And, unfortunately since a lot of these women are charged with crimes against nature are repeat offenders, okay, they're not rehabilitated, they become repeat offenders, they could end up with a prostitution, I'm sorry, a crimes against nature, a second crimes against nature offence, now they're subject to being multiple billed...Not to mention the fact that if you are multiple billed you are no longer eligible for parole...or good-time...so you have to serve that time flat, which means every single day...I just think that's cruel and unusual in and of itself but so, what the impact is is that with a crimes against nature, since it's a felony it subjects you to that process. (Public Defender)

### **Major Theme: Hopelessness**

All of the participants discussed that this charge puts limitations on people's ability to get a job. The system of continued social isolation, oppression, and entrapment makes people who experience the charge and people who are not criminalized but who witness the criminalization of these women feel hopeless. Coming from a constricted background due to social oppressions, slapped with a felony and branded a sex offender, hopelessness can set in. They are not provided the services they need to overcome poverty and drug addiction. The criminalization they endure makes finding employment more difficult. The following quote specifies the restrictions from social advancement placed on people convicted of a Crime Against Nature:

Um, well, if you are a registered sex offender, like first of all nobody is going to ask you what is on your ID, well how'd you get it. Nobody's going to ask you that, on the job. It affects where you live, where you work, what kind of job, whether you go to school. Because, if you are a registered sex offender and convicted of a felony, and it is a felony, you can't get, um, federal assistance to go to school...Like it basically just puts a stop to anything you can and should be able to do. No school, you probably can get food stamps but if you had a drug offense along with that you can't get that. So, again, like I said in the last question, you can't access anything that would be, that supposedly would be a place in society to help you. You can't access any of it...And then, you know...I just feel like it speaks to the racism we have in this country, and the value of women... The fact that we will charge a woman who is hungry and who may exchange something that probably some women could have been demeaning to them, just to get a plate of food or five dollars to eat, that you would put, do something that would cause so much, that you would imprison them for so long and I don't mean actually a shackle in a cell, because

there are many forms of imprisonment. But that you would do something that will affect the rest of their lives, and how they are able to flourish in this country. I can't go to school, and I can't get a decent job, so I'm really trapped in the system. All those systems, be it welfare, the criminal justice system, I'm trapped. I can't do better by my children so then the children become trapped. (Community Worker)

With the additional cost of court fees and sex offender registry fees, in conjunction with the struggle of every day survival, they can be even more trapped or confined to the sex economy. "You have to register, then you can't get a job, you have to do something to keep paying, and then you end up being a prostitute because that's the only profession you can get" (Judge).

The hopelessness created by this situation affects workers within the criminal justice system because there are no tools provided by the state to help these women. The inevitable conviction and jail time can create a feeling of hopelessness and frustration for the attorney appointed to defend them in court:

And you know what sucks is that I have to go and meet with them and tell them I'm sorry, you just have to sit here until the state decides to prosecute your case number one, and when they do decide there's really not much I can do for you because the cop is just gonna get up on the stand and say this is what happened and no amount of your denying it will ever ameliorate that, especially if you have a prior. (Public Defender)

The following quote demonstrates how the charge increases harm to a person's self-esteem. The oppression and marginalization is internalized as the limitations and social exclusion is solidified through increasing criminalization.

And I just kept going back the more charges I got the more charges I got I just stopped trying to even, when I came home from jail I stopped even playing like I was gonna get a real job, I just kept on coming straight back straight back straight back or whatever, and taking breaks and dancing and stuff. So the more charges you rack up the less you even care about the things that you can't do because you know that you can't do them. (Sex Worker)

## **Discussion**

This critical discussion will encapsulate a broader understanding of the nuanced connections between social history, sex work, and contemporary state oppression. First, it will break down how both sex tourism and economic racism each influence the sex economy and organize it in ways which disadvantage Black women more than other groups involved. Next it will discuss the social condemnation and stigmatization which stem from having gendered laws and gendered morals which are implemented racially and used in ways which disproportionately harm impoverished Black women. This chapter will conclude by discussing how the themes from this study deconstruct elements which work to trap impoverished Black women in the street sex economy of New Orleans.

### **Sex Tourism and the Criminalization of Impoverished Black Women**

The impacts of racism are often realized economically. One example of how racism impacts economic chances for Black people in New Orleans is the public school system. White children and wealthy Black children typically attend private schools, leaving low-income children in schools which, as one scholar states, are “financed inadequately, maintained poorly, and governed ineptly” (Casserly, 2006, p. 197). The faulty public education system has worked over decades to limit prospects for many lower income people. Over time, this has resulted in observable cyclical poverty, high incarceration rates, and an underground economy. “Race, class, and geographical location make some women automatically suspect of being prostitutes” (Cabezas, 1998, p. 86). Police profiling of suspected “prostitutes” results in the automatic arrests made during “sweep nights,” which was discussed by the sex workers in this study.

New Orleans is a major tourist destination which projects an image of culture and freedom, ignoring the realities of racial inequality (Gotham, 2007). Ignoring racism, sexism, and poverty does not make it disappear. Instead, these social ills show up in homelessness, drug addiction, lateral violence, high incarceration rates, and abusive policing. Thus social issues create a climate where Black women

are positioned by a context which is historically structured to be oppressive for low-income and Black people in particular. Adding the gendered aspects of the sex economy create a situation where impoverished Black women may feel they have no choice or that this is their only choice or they could be bombarded with the expectation to perform as sexual laborers for men on the demand side of the sex economy.

Of tourism, transnational feminist Amalia Cabezas writes, “From the discursive construction of the exotic ‘tropics’ to the neoliberal colonial arrangements, tourism’s roots lie in a colonial order of conquest, violence, pillage, and exploitation...” (Cabezas, 2009, p. 29). Any knowledgeable observer of the French Quarter can see that the colonial order is replicated, (for instance the vast majority of people dining are white while cooks are nearly all Black). In “The Big Easy,” entertainment is in the form of sexualized nightlife, drunken behavior on Bourbon Street, and the exploitation of cultural traditions for the visiting white voyeur (ie: Mardi Gras, Jazz, Second line, Cajun food, music, and dance). The law allows adults to drink in the streets, further adding to the impression to the white tourist that they can do whatever they want. In addition, New Orleans has a long history of sex-tourism, with a centralized network of brothels which operated in the French Quarter (Long, 2004).

### **Gendered Morality and Race/Class-specific Criminalization**

This statute labels certain people as criminal and sexually deviant for an act which occurs across all races and generally consists of a male solicitor or pursuer of oral sex. However, Black women disproportionately endure this criminal label. The criminalization of prostitution contributes to the stigma these women endure. Stigma and social condemnation are enforced through the criminalization process. The severity of being labeled with a Crime Against Nature complicates the stigma associated with prostitution because the crime is not clear to the general public, and women become associated with animalistic sexuality or that which is “unnatural.” The labeling of Black women’s sexuality as deviant has been used throughout history to isolate them and justify atrocities against them (Collins, 2005; James,

1996). These stereotypes were used to distinguish Black women from “the cult of true womanhood”, white womanhood, and justified the wrongful treatment of Black women (e.g. Collins, 2005). Therefore, the impacts of this charge today may trigger the historical trauma of being associated with such stereotypes as descendants of enslaved Black women. The social condemnation may be likened to that endured by enslaved Black women, complete with clemency for the perpetrators of rape and violence against them. The gendered intersection of being Black women on the street associates them with social condemnation which labels them as deviant and worthy of punishment as women.

The Crime Against Nature charge increases stigma and social condemnation, resulting in increased assaults to the self-esteem and a likely increase in the level of violence and abuse against their bodies. Social exclusion is increased and solidified with the repercussions of being a criminal, a felon, a sex offender. While there is gendered morality which says prostitution is a sin and a crime, men have clemency to solicit women, to purchase sex, to perform violent acts with clemency, and to continue to point the finger at “the whore.” Women most punished in the sex economy are the most marginalized and oppressed in their social situation. These are most often Black women in New Orleans, descendants of a long history of the oppression of Black people. White women and women of color who have a higher economic and social standing most often service tourists and elite clientele in the French Quarter and are not targeted by the Crime Against Nature charge, thus they are not marked with a felony and sex offense to trap them for the rest of their lives.

## **Entrapment**

Entrapment is an overarching theme of this qualitative study. It consists of the economic realities of historical racism in the context of a former slave society, the prevalence of a gendered sex economy which can be the only option for women in poverty, and state criminalization. Entrapment is solidified by the state through criminalization, while services for impoverished women in particular are unavailable.

Intersectional oppression is solidified while those with social power are free to solicit sex and potentially abuse sex workers with clemency. Criminalization is performed in ways which are selective and justice is not provided those with the least social power.

## **CHAPTER FIVE: RECOMMENDATIONS**

The purpose of this qualitative case study was to explore participant's perspectives regarding the state's use of the Crime Against Nature charge to criminalize impoverished Black women in street prostitution in New Orleans. This study synthesized data from in-depth interviews with people from an array of professional positions to this issue in order to reveal the social elements of race and gender oppressions and to investigate the context of New Orleans as it relates to the sex economy. The researcher analyzed the data and resultant themes discussed by participants from a critical feminist perspective in an effort to critique the state. This chapter will present participant-driven recommendations to the state and the researcher's recommendations for future research. It begins with a brief summary of the major findings, proceeds with recommendations, and concludes with the researcher's reflections on conducting this study.

### **Summary of Findings**

These findings may be useful for people in the legal community and legislature, researchers, community organizers, social services, and for law enforcement. One major finding from this study is that sex work is treated differently by the state depending on where it occurs and who is involved. The data confirms that police arrests for Crime against nature mostly occur in poor Black neighborhoods, and those arrested are mostly impoverished Black women who suffer with drug addiction and are located on the street. Participants discuss that simultaneous to this, the French Quarter is an area structured to cater to tourists, to nightlife activities including drugs, sex, and alcohol. The hub of night life in the French Quarter perpetuates the demand and expectation for sex workers. The data suggests that strategic policing allows for the sex economy which caters to tourists in the French Quarter, while the use of proactive patrol increases the targeting of people in poor Black neighborhoods. Based on the data from these interviews, those targeted are highly vulnerable due to their pre-existing socio-economic status and social

isolation. Thus those most targeted by police are limited in their ability to protect themselves in the courts. They generally cannot afford an attorney, and generally are unable to retrieve funds to bail themselves out of jail. The entrapment experienced by women at the intersection of oppressions becomes more permanent after receiving the Crime Against Nature charge. Participants discuss that stigma greatly increases and becomes inescapable with the added requirement of registering as a sex offender. This contributes to social isolation, and places more limitations on their ability to find another occupation. They are forced more into the margins. If they cannot comply with all the requirements, such as maintaining a place to live, they are subject to being more criminalized by the state with additional jail time and court fees. Participants in the sex economy specifically discuss giving up on other options after receiving this charge.

In conclusion, the findings suggest that the use of the Crime Against Nature law does not help this population to improve their lives but rather exacerbates pre-existing oppression. Between receiving the charge and being required to comply with steep requirements as registered sex offenders and felons, there are no services offered by the state to assist those charged with Crimes Against Nature or Prostitution. Thus their situation economically and occupationally is essentially the same as before the arrest, only with the additional hindrance of carrying the label of a sex offender and convicted felon.

### **Recommendations**

The recommendations provided for the state are participant-driven. Questions which prompted participant-driven knowledge for recommendations to the state were included in the interview questions. Each major recommendation to the state was discussed by the majority if not all participants. Major recommendations derived from participants include: the sex offender registration requirement needs to be lifted; prostitution should be legalized to formulate appropriate sex businesses among adults in safe environments; services should be provided for drug-addicted people including services to cater to women



in street prostitution such as trauma recovery services in conjunction with drug rehabilitation and employment services. Participant quotations will accompany the researcher's articulation of these recommendations. These participant-driven recommendations will be accompanied by theoretical backing from the researcher's knowledge and application of critical feminist thought. Theories will pertain to how the law contributes to the stigmatization and silencing of women convicted. In connection to the concept of stigma, it will discuss how the state works to sustain and support oppression for women in "prostitution."

### **Adjustments to be made in the law**

One participant-driven recommendation for an adjustment in the law is that the sex offender registration requirement be lifted. The writing of the law has been changed very recently, in the year 2011. This recent change clarifies that only people who solicit a person under the age of seventeen is required to register as a sex offender. However, prior to this change in the law hundreds of people who could be considered as prostitutes or street sex workers were required to register as sex offenders. "Of the 861 sex offenders currently registered in New Orleans, 483 were convicted of a crime against nature, according to Doug Cain, a spokesperson with the Louisiana State Police. And of those convicted of a crime against nature, 78 percent are Black and almost all are women" (Flaherty, 2010). Those already on the sex offender registry for this crime have not been taken off of it since the law was changed. They have been greatly impacted by being required to comply with sex offender requirements and the law has not made accommodations for them. Thus a recommendation to the state could be to remove those whose charge was not associated with harming a minor from the sex offender registry.

The following quotes demonstrate participant's account of the sex offender registry requirement and the rationale of using the law to protect people from violent offenders:

“The other thing I would do is I would stop the registration of all, I would look at what the registration should be, I would say, if you are a child molester you register. If you are a rapist you register. If you are charged with an offense where you actually committed a crime, uninvited, then you register.” (Judge)

“And I would say that that sort of registry requirement, um, it’s a long term requirement. It should be limited to people that have actually committed crimes that have harmed other people.” (Public Defender)

A second participant-driven recommendation to the state is to reconfigure its laws regarding prostitution. The criminalization of the solicitation of sex is currently not used towards the demand side of the sex economy. It is seldom but occasionally used towards sex workers in higher economic brackets such as those termed “call girls” or “escorts.” Essentially, the criminalization of prostitution most impacts women and transgender women, profiled as prostitutes by police. There is a great injustice any time only one group is criminalized using a charge such as “solicitation”, which is an act performed by every categorical group in society. From a critical feminist perspective it is particularly stunning that with the prevalence by which men solicit women and transgender and gay sex workers, they are not criminalized for prostitution. Male solicitors of sex workers are what sustain the sex economy. Participants discuss the inevitable nature of the sex economy as reason prostitution should not be criminalized by the state. For New Orleans the sex economy is particularly inevitable due to the nature of the type of tourism the city tends to appeal to. Furthermore, New Orleans has a long history with legalized prostitution (Long, 2004), which has influenced the city culturally in support of the sex economy. Below are participant quotations regarding the inevitable nature of the sex economy as rationale to end the criminalization of prostitution:

So if I controlled the law, if I controlled the city, if you’re gonna have prostitution, New Orleans had the red light district [French Quarter]. If you’re gonna have prostitution, you’re not gonna stop prostitution. Make a way where there can legally be safe environments where everybody is healthy, it becomes an adult to adult situation. It is taxed like a regular business and they can make sure they’re not going to be robbed, etc., etc...I’m supporting it to be decriminalized... I’m trying to do whatever is fair. (Judge)

“Tax it. Legalize it and tax it. Get y’all’s money up the front so y’all could stop putting us in jail and make sure everybody gets uh, um tested for diseases and stuff” (Sex Worker).

It is evident that the criminalization of solicitation is policed and prosecuted in ways which are structurally gendered and discriminatory. This element of the law supports a white-hetero-patriarchal state which persecutes impoverished women of color more than any other group. The act of blame projected upon street sex workers labeled as prostitutes maintains silence, which sustains the structures of oppressive circumstances surrounding their lives and experiences. The shame associated with the historical stigma of “lascivious” women combines with the contemporary labels and punishment under the law to stifle them into silence and isolation. This silence and isolation encourage them to not speak of their experiences of abuse, to not seek justice from the state for atrocities against them. Violence against women in street sex work is well-documented. In one study of 130 street sex workers in San Francisco, researchers found that of the women in the study, 78% had been threatened with a weapon, 82% were physically assaulted, 73% were raped, and 43% were raped more than five times (Farley, Cotton, Lynne, Zumbeck, Spiwak, Reyes, Alvarez, & Sezgin, 2003). The following quote by a participant in this study demonstrates the need for the state to protect women from violent sex offenders rather than prosecute women for their economic and sexual activities:

What they should be doing is looking out for our safety. Looking out for the REAL sex offenders. Let’s get down to the REAL sex offenders that’s sleeping with these lil’ girls. That’s raping these little girls and these little boys and these women, you know. You wanna get really down..Cause that’s what it is. It’s not us, we not- how I’m a be a sex offender? We not sleeping with minors. (Sex Worker)

### **Offer Services and Appropriate Drug Treatment**

“You know, you’re already talking about poverty, you’re already talking about drug addiction. And most of the women we work with, they don’t have insurance so they can go to a nice little recovery place. You know, they depend on state services for treatment” (Community Worker).

A recommendation from the participants in this study, as exemplified in the previous quote, is that the state should improve the accessibility of services for impoverished women on the streets. Specifically, the services most critical are drug rehabilitation, mental health, and occupational counseling and assistance. This researcher suggests that services be available to citizens who are deeply impoverished without the criminal justice system's involvement. This would make it possible for people on the street to seek the services they need to help themselves, and would create a much more hopeful environment for the city of New Orleans and all the people involved in the issue under study.

The following discussion will demonstrate what is at issue for sex workers who are drug addicted, and how they are marginalized from receiving the assistance they need, even within the criminal justice system. Marginalization follows women convicted of solicitation charges through the court system, hindering their ability to get similar services provided to other groups. People with drug charges in New Orleans are eligible for the state's drug court and diversion programs. These programs can help, and participants state these programs have demonstrated that they have been successful because the people who complete these programs have a much lower rate of recidivism than people who do not complete these programs. The following quote highlights the issue of marginalization from current state services which exist for other groups:

And there needs to be a focus on rehabilitative efforts for women. For example, there's drug court, right across the street, they could say as a part of your sentence you've got to be part of my drug court program, right. So they've got to go get counseling and get drug tested and write in journals and meet with counselors and do group therapy and shit like that. There's nothing like that for women charged with sex offences, nothing, nothing at all. I mean there's no..a lot of these women I'm sure could, one might say that they probably had shitty childhoods, they may have been sexually abused as children, um, they may have lots of psychological trauma, but nobody's giving *them* therapy...I'd just like to see Organizations set up specifically to deal with women in this situation. You know like we've got victim's counseling for domestic violence, why don't we have counseling for women that are sex workers, you know. And why don't we have resources for them to help them with job training and getting their GED. Why are there programs for people charged with specific things to cater to them specifically and not to sex workers? (Public Defender)

The findings from this study suggest that the state may ideologically use the element of drug addiction as justification for the criminalization of street sex workers. The findings also suggest that using the Crime Against Nature charge may be an easier arrest and conviction due to the nature of the crime as defined in the law as “solicitation,” thus guilt is proven by police testimony. Arresting women and transgender women on the streets under solicitation charges have been used to “sweep” impoverished people up and place them in prison. However, this system has neglected to offer the assistance needed and has resulted in recidivism for street sex workers, trapped in the system and the sex economy. Given these findings, one recommendation is to offer services to drug addicted people without needing to criminally convict them of a charge. Currently services are only provided by the state through the prison system. Services for impoverished people which assist them out of drug addiction and encourage their productivity in society could be a great benefit to the city and people of New Orleans.

Services should cater to women in this position. Thus services should provide an array of psychological and emotional health services in conjunction with an effective drug treatment program and career and education counseling. The mental health services and therapy should cater to people suffering with the traumas of sexual abuse, violence, fear, and traumas which accompany the severe social oppression.

Drug addiction is so personal in my opinion...most of the people..cause you charge me with the crime against nature that's not going to stop me. If you provided me with any services to help me... Think about it, most of the time people use drugs as a coping mechanism for all of life's ills. Everything that they've gone through as a child it numbs the pain, you know, it takes away all the pain I'm living with. Whatever they're dealing with, normally that's why addiction is in place in their life. (Community Worker)

### **Alternative Approaches to State Injustice**

The state via its legal system and policing, have not demonstrated support for the rights of economically burdened women who may participate in the street sex economy. Rather it has perpetually contributed to their marginalization, and resulted in increasing their vulnerability. Thus we should seek

alternative measures to meeting the needs of this population outside of state remedies. Socially concerned individuals are encouraged to donate time and/or money to community organizations which provide services to women on the street. Specifically, the organization called Women With a Vision in New Orleans has demonstrated its effectiveness in meeting some of the needs of women and transgender women, who may be challenged by the cycle of drug addiction and incarceration, and trapped in the street sex economy. Women With a Vision has been a very small organization focused on promoting women's health, specifically for women on the street. Women With a Vision expanded its efforts into a legal advocacy campaign to align itself with the needs of the population it serves. In order for this organization to continue to grow, it will need community support. Supporting this organization is one way of meeting the needs of homeless women and transgender people who may depend on the street sex economy for survival.

### **Future Research**

Contemporary and future academic research has an important role in constructing the knowledge and discourse from which change for this population can be made possible. It is important to continue to critically analyze the state through a feminist framework. Through a critical lens which observes the situation facing sex workers, it becomes ever more evident that the state supports white-hetero-patriarchy through its implementation of prostitution laws. This state action results in continual deterioration of human rights for those most vulnerable. Researchers can play an important role in this critique by studying the state's connections to the legalized sectors of the sex economy in analyzing the role of criminalization. The state may benefit in multiple ways, partly by the economic incentives to imprison people who cannot bail out of jail, and perhaps in connection to the profit brought by sex businesses. Sex businesses may pay exorbitant amounts to the state to continue their operations. The details of the state's economic incentives to criminalize vulnerable women and transgender sex workers need to be further researched to gain more knowledge into these possibilities.

Furthermore, Critical feminist works need to explore the multiplicity of issues which factor into the phenomenon of the sexual economy. Researchers should seek to work from the realization that the sex economy is nuanced and complicated and includes many overlapping elements which may or may not be an element of a particular sex worker's experience. Elements of the sexual economy can include diverse issues which can be simultaneously at work such as: drug addiction, threat and fear, sexual freedom, economic sustenance, women's agency, abuse, violence, harassment, racism/sexism, poverty, wealth, adventure, state violence, and patriarchy. The sex economy researched and understood in all its complexity reveals ways to improve circumstances for sexual laborers, and can enhance understandings about wider society. Ending violence and stigmatization of sex workers could advance women's rights who are not direct participants in the sex economy. There is space to explore the connections between the condemnation of "the whore" and gendered violence. This research points to drug addiction as a central issue in the criminalization of prostitution. Future research might focus on the links between drug addiction and trauma, including the historical trauma in the lives of impoverished women of color living in the repercussion of substantial historical oppressions and stereotypes which continue to impact their experiences. Researchers may find that the roots of trauma reveal a path for drug recovery, which could then be implemented in services and be an effective way to assist women out of the streets.

### **Researcher's Reflections**

Over the past three years, the course of this research has opened my consciousness to understanding a socially structured system developed by and for white-hetero-patriarchy. This social system of the sexual economy offers a complex variation of experiences for sexual laborers including isolation, oppression, violation, and women's autonomy and agency within lives of limitation. The sex economy both exploits and honors the feminine. Women in the sex economy can enjoy compensation for acts which are so often stolen or left unappreciated in the world outside of the sex economy, particularly for women in poverty.

The most important insight I hope to offer at the conclusion of this study is that the criminalization of prostitution only increases harm towards the most vulnerable and oppressed of sex workers. The state's discriminatory prosecution of prostitution contributes to overall male clemency. However I do not suggest that male solicitors of sex be criminalized, as they can sometimes be kind towards sex workers and can sometimes be brutal, depending on the individual male customer. Sex workers want a legitimate working environment where they can be free from violence and free from prison. When the sexual transaction occurs in a hidden location due to the criminal status of the act, women are left with no protection when they encounter abusive men.

There needs to be a social awareness shift to increase advocacy for people in prostitution. The lack of advocacy for women in the sex economy is a particularly relevant cause of this social injustice. Prostitution is seldom discussed as a social issue. Rather it is one cite where the woman who chooses or is forced given her life circumstances to sell sex is so often held solely responsible. The reality is that prostitution has always existed in the United States from the time of colonization, and historically throughout Europe and Asia. It is an element of society which is endemic to white-hetero-patriarchy. It exists as an economy complete with demand and supply elements of sexualized bodies. Social extensions of the sex economy, such as the gendered ways in which people pursue a romantic interest, are similarly reflected in the sex economy. This social activity of selling sex is determined and defined by the white-hetero-patriarchal system of power. It is entrenched in gendered interactions around sex. To criminalize the women involved in this activity is therefore entirely absurd in rational thinking and exists only due to the sustenance of historical oppressions. The unfortunate reality is that because "lascivious" women are still stigmatized and socially condemned, the movement to end this injustice is too often treated as taboo. Ending silence and involving this topic for more discussion will be beneficial in confronting the oppression of people who work in the sex economy.



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## Appendix A

The Crime Against Nature is currently defined in the Louisiana Criminal Code as “the unnatural carnal copulation by a human being with another of the same sex or opposite sex or with an animal, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 14:42, 14:42.1 or 14:43” (Louisiana Revised Statute 14:89, 2012). Section B states that “Whoever violates the provisions of this Section shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.” (Louisiana Revised Statute 14:89, 2012, Amended by Acts 1975, No. 612, §1; Acts 1982, No. 703, §1; Acts 2010, No. 882, §1). Crime Against Nature by solicitation is defined in the code as “the solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation. B.(1) Whoever violates the provisions of this Section, on a first conviction thereof, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both. (2) Whoever violates the provisions of this Section, on a second or subsequent conviction thereof, shall be fined not less than two hundred fifty dollars and not more than two thousand dollars, imprisoned, with or without hard labor, for not more than two years, or both. (3) Whoever violates the provisions of this Section, when the person being solicited is under the age of seventeen years, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both. Lack of knowledge of the age of the person being solicited shall not be a defense. C. A violation of the provisions of Paragraph (B)(3) of this Section shall be considered a sex offense as defined in R.S. 15:541 and the offender shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950” (Louisiana Criminal Code, 2012, 14:89.2 Acts 2010, No. 882, §1; Acts 2011, No. 223, §1)

## Appendix B

### Interview Questions for Professional's Perceptions of the Crime Against Nature Statute used to Criminalize Sex Workers as Sex Offenders

- ✦ Tell me about your knowledge on the Louisiana statute “crime against nature”. How would you define and describe it? Prompt:used to convict sex workers (persons who sell sexual acts for income) as sex offenders.
- ✦ Without using specific names, how did you first learn about it and in what context?
- ✦ How would you normally define a sex offender? How does this differ from the labeling of sex workers as sex offenders?
- ✦ Tell me what you think the connection of this law is to history. This could include social history in the United States around race and gender, and the connection of New Orleans to France and to Catholicism, etc. (Prompt: 78 percent of those convicted of “crimes against nature” are of African descent, almost all are women – Jordan Flaherty “Her Crime? Sex Work in New Orleans”)
- ✦ What do you perceive to be the purpose of this law? Who is it meant to serve or protect and in what ways? Do you believe it fulfills this purpose?
- ✦ Tell me what you believe the impact is for people convicted under this law. (Prompt for employment, housing, education, food stamps, public services, familial difficulties, etc.) How might the repercussions from being convicted of a crime against nature be more challenging for an African American woman? A transgender woman or man of color?
- ✦ Tell me about what you perceive to be the economic status of sex workers prior to conviction. After conviction what would you say happens to the economic status of sex workers convicted of crimes against nature and required to register as sex offenders?

- ✚ Many people convicted of the solicitation of crime against nature also have drug-related charges. Do you think requiring individuals to register as sex offenders who were doing sex work helps them get out of drug addiction? Please explain.
- ✚ What do you believe are the societal repercussions for the people of New Orleans given these impacts? (Prompt: Ability to contribute to social issues such as education and income hindered by this law – affects whole communities)
- ✚ How does hurricane Katrina factor in to the environment of sex work and of the criminal justice system? How might the hurricane have affected persons convicted of the solicitation of crime against nature and registered as sex offenders?
- ✚ What areas of New Orleans do you believe have the most sex work? Explain types of sex work in which areas (legalized/non-legalized).
- ✚ How does tourism factor into the environment of sex work and of the criminal justice system in New Orleans?
- ✚ Tell me about how you think race may factor in to the environment of sex work and its regulation.
- ✚ In what areas of the City of New Orleans do you think there have been the most arrests for the solicitation of “crime against nature”? Tell me about police activity in general in these areas.
- ✚ In what ways do you think certain people will be impacted differently by this law based on what gender they are, where they live, what race they are, and whether or not they perform legalized sex work versus criminalized sex work?
- ✚ Tell me how you would have the criminal justice system act towards sex workers. Please include both societal and sex worker’s human rights.
- ✚ Is there anything else you wanted to add on this topic?