

**PIMPS, PREDATORS AND BUSINESS MANAGERS:
CONSTRUCTING THE 'PROCURER' IN ONTARIO COURTS**

by

Caitlin Hawkes-Frost

THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

in

Criminology

© Caitlin Hawkes-Frost, Ottawa, Canada, 2014

UNIVERSITY OF OTTAWA

All rights reserved. This work may not be
reproduced in whole or in part, by photocopy
or other means, without permission of the author.

Abstract

The concept of the ‘procurer’ comes from section 212 of Canada’s *Criminal Code*, which prohibits directing, enticing, assisting or profiting off the prostitution of another person. A contentious debate surrounds Canada’s prostitution laws, with a constitutional challenge currently before the Supreme Court. Within this climate of debate, the concept of the ‘procurer’ has moved out of the strictly legal sphere and into a broader discourse, with a range of parties laying their claims to truth on the “realities” of the industry generally and on the procurer specifically. Using a methodology of Foucauldian discourse analysis, this thesis examines Ontario Provincial Court case summaries to consider the contribution of the *Canadian judiciary* to discourse on the procurer. Findings suggest that the judiciary replicates many of the existing stereotypes of prostitution and its participants, such as the procurer as *pimp*, while (re)producing a small counter discourse of the procurer as *business manager*.

Acknowledgements

I would like to thank my two supervisors, Chris Bruckert and Patrice Corriveau, for all of their guidance and constructive feedback on this thesis. I feel very fortunate to have been able to learn from two excellent researchers, who remained patient throughout my learning process and were confident in my work even when I wasn't so sure. Thank you to Ron Melchers for your course in Evaluation and for the research opportunities you connected me to during my time at the University of Ottawa. My graduate experience was all the more enriching (and perhaps a little longer) for each of those contracts. Lastly, thank you to my readers, Steven Bittle and Ron Melchers, for your insightful feedback on my work and for turning my defense into a thoughtful discussion on Foucault, the intricacies of research methodology and the complex regulation of prostitution. Following these experiences, I have come out the other side of this program a much stronger writer and much better researcher.

Finally, thank you to Yves-Etienne and my family for your love and support throughout this process, and to Maki, for keeping me company and warming my lap while I wrote this thesis.

TABLE OF CONTENTS

Table of Contents.....	iv
Introduction.....	1
Chapter 1: Debating the Procurer: A Social and Legal Context.....	6
1.1 The Development of Canada's Prostitution Laws.....	7
1.2 Current Laws.....	12
1.3 The Ideological and Legal Debate	16
1.4 The Constitutional Challenge.....	19
1.5 Situating My Study Within the Debate.....	21
Chapter 2: The Research Literature	23
2.1 On Sex Work Managers (and other affected individuals).....	24
2.2 On Media Analyses of Sex Work Managers	36
2.3 On the Judiciary as "Meaning Maker"	39
Chapter 3: Epistemology, Methodology and Research Procedures.....	46
3.1 Epistemological Assumptions	47
3.1.1 Social Constructionism and the Production of 'Judicial' Knowledge	47
3.1.2 Positioning the Judiciary with Foucault's 'Power-knowledge'	50
3.1.3 Situating My Project Within This Epistemology	54
3.2 Additional Theoretical Concepts.....	55
3.3 Methodological Approach.....	60
3.3.1 Foucauldian Discourse Analysis.....	60
3.4 Research Procedures	62
3.4.1 Data Source.....	62
3.4.2 Sampling.....	63
3.4.3 Analysis.....	67
3.5 Research Limitations	71
Chapter 4: From Vicious Predator to Business Manager: Judicial Constructions of the Procurer	74
4.1 The Predator Pimp	75
4.2 The Exploiter Pimp.....	85
4.3 The Bad Boyfriend (and Pseudo Pimp)	95
4.4 The Business Manager	99
Chapter 5: Discussion & Implications.....	112
Chapter 6: Conclusion.....	127
References	131
Appendix	140

INTRODUCTION

Pimps are not harmless. They should never be perceived by the naïve as being harmless. They provide no beneficial service to society whatsoever... They control and dominate prostitutes in both their professional and in their personal lives. They enslave the females upon whose earnings they prey. They do that by exploiting the survival needs of the homeless and unloved. By threats of violence or by the perpetration of actual violence, pimps dominate those who by nervous disposition, mental make-up and who are impoverished in a need of daily survival requirements, are unable to resist the domination by the pimp. If permitted, pimps such as Mr. Rose will soon control our public streets and urban parks. The horrors they place in the street corners are obliged to pay over most, if not all, of their total earnings or face physical violence by others on the street. That is the way that there is a potential always for the outbreak of street violence and lawlessness. (R v. Rose, 1994)

This extract, taken from an Ontario court decision in a case of procuring, paints a colourful and powerful picture of the threat the *pimp* poses to modern society and the plight of the desperate, “unloved” prostitute whom he exploits. Images such as these “permeate the popular imagination at the mention of the sex industry,” (Bruckert & Law, 2013, p. 7) and persist despite growing evidence and argument that violent pimps and victimized women do not comprise the majority of the adult commercial sex industry. On its own, the term *pimp* evokes a variety of images, including that of a flashy, dangerous and manipulative male, a stereotypical image that remains a figure of contention within the broader socio-political debate on the nature and realities of prostitution.

While a popular term in Canada, ‘pimp’ is not a legal designation. The act of ‘pimping’ in Canada is captured under section 212 of the Criminal Code and its various subsections. The activities prohibited by this law include procuring or attempting to procure a person to have illicit sexual intercourse with another person; enticing a

person who is *not a prostitute* to a common bawdy-house for the purpose of illicit sexual intercourse or prostitution; procuring another person to *become a prostitute*; for the purpose of gain, exercising any kind of control or direction over a person to abet or compel them to participate in prostitution; or living wholly or in part on the avails of prostitution of another person. Thus, while the concept of the ‘pimp’ does not appear in the law, the law is structured in such a way as to “protect” the citizenry from ‘pimping’ activities, such as aiding and abetting entry into, or participation in prostitution, or to prevent/punish economic exploitation of those already working in the industry (Bruckert & Law, 2013, p. 18).

The topics of the *procuring law* and the *procurer* are highly relevant within the current climate of social, political and legal debate on prostitution in Canada. At the core of the debate is a largely ideological division on the “reality” of prostitution as either inherently exploitative and violent, or as a form of legitimate labour, and its participants as either victimized women and pimps, or sex workers and third parties/managers. In Canada, the division is clearly articulated in the constitutional challenge currently before the Supreme Court regarding several sections of Canada’s prostitution laws¹ and the impact they have on those operating in the sex industry. Within this climate of debate, and despite its roots in the language of the criminal law, ‘procurer’ has moved out of the strictly legal sphere and into a broader discourse, with a range of parties laying their claims to truth on the “realities” of the industry generally and on the role and impact of the procurer specifically. The *procurer* remains a contested topic within this debate as variations on the concept are frequently

¹ *Canada (Attorney General) v. Bedford*, 2012.

(re)created through a claims-making process, perpetuating a broader discourse on the topic.

The focus of this thesis is on the contribution of the *Canadian judiciary* to this discourse. The Canadian courts and judicial system are the central mechanism used to interpret and apply the law in Canada, including the procuring laws. This decision-making process, including the language and justifications used by the judiciary paired with the imagery evoked to support their decisions, (re)produces a set of ‘truths’ on what it means to be a procurer. Rooted in an epistemological framework of social constructionism and Michel Foucault’s work on the operation of power and the production of knowledge, this study is premised on the assertion that ‘knowledge’ and ‘truth’ are fluid and dynamic, and (re) constructed through a dialectical process of claims making. With this in mind, and utilizing a discourse analysis method, I examined judicial case summaries of procuring cases in the Province of Ontario to answer my guiding research question, which asks *How have judges discursively constructed the ‘procurer’ in Ontario courts?*

Chapter Outline

In the first chapter of this thesis, I start by discussing the socio-political backdrop and personal interest that gave rise to this research topic. Specifically, I examine the historical origins of Canada’s prostitution legislation, with a particular focus on the procuring laws. Building on this history, I review the current legislative structure, and include a breakdown of section 212 of the Criminal Code, which criminalizes the act of procuring. I then contextualize the ongoing ideological and

socio-legal debate regarding the morality, “reality” and regulation of prostitution in Canada, which was the catalyst that gave rise to this thesis topic.

In Chapter Two, I review the research literature in the areas of ‘pimping’ and sex work management, which is the body of work that is closest in topic matter to my own study. Following this, I review a smaller body of empirical research on judicial *meaning-making*, which helps contextualize the judiciary as a source of knowledge production. The literature review situates my topic within the existing body of research and provides an empirical basis to inform my own work.

Within Chapter Three, I discuss my theoretical approach and detail the methodological steps I took to conduct the study. Specifically, I outline the epistemological assumptions informing my research; namely, those of social constructionism and Michel Foucault’s work on operations of power and the production of knowledge. Together, these theories provide a means of introducing and discussing the concept of *discourse*, which is central to my study, in considering the position of the judiciary as a source of knowledge (re)production. In this chapter, I also introduce some further theoretical work and concepts on gender and gendered regulation, which aid in my analysis of my findings. I conclude with a discussion of the methods I used to conduct the research, including a detailed description of my data, sampling techniques, and analytic procedures.

In Chapter Four, I outline my findings and situate them within the literature, and in Chapter Five, I examine the most pertinent issues to emerge from my findings. Specifically, I examine three areas of findings in further detail, and consider some of the

practical and theoretical implications to come out of this study. In the Conclusion, I address a few limitations of this study and introduce some possibilities for further lines of inquiry. My study concludes with some personal reflections on what the reader should take away from the research.

CHAPTER 1: DEBATING THE PROCURER: A SOCIAL AND LEGAL CONTEXT

This study is not strictly about prostitution, though my interest in this thesis topic arose from the debate and dialogue that continues to circulate in Canada on the topic of prostitution and its participants. What I was particularly interested in exploring for this thesis is the way that prostitution is *talked about*, and more specifically, the way the *participants* in the sex trade are talked about. The implication behind this is that the way we talk about, or more specifically, the way we *represent* people or things holds consequences for those people or things.

Ultimately, as I note in my introduction, I choose to examine the concept of the ‘*procurer*,’ and the way it is constructed by the judiciary in Ontario courts. What led to this topic was a narrowing process, which started with a consideration of the broader “prostitution debate” and eventually led to an interest in the Canadian legal challenge that has, in part, called into question what it means to be a *procurer*. I use this chapter to provide a brief background and context to the development of this thesis.

I start with a short summary of Canada’s current prostitution laws and their historical origins, with a particular focus on the procuring laws. I then provide a basic account of the longstanding ideological and legal debate on prostitution. Following this, I discuss the ongoing constitutional challenge that originated in the Province of Ontario, which highlights the broader debate around prostitution and its participants, and has called into question the use and application of some of the prostitution laws. In this section, I discuss how this challenge has (re)stirred a debate on the concept of the

‘procurer.’ I conclude this chapter by presenting ‘procurer’ as a somewhat contested topic, and propose to examine the *judicial contribution* to discourse on this topic.

1.1 The Development of Canada’s Prostitution Laws

Prostitution in Canada has a long history of social regulation, both formal and informal. In the early to mid-nineteenth century, vagrancy laws were used to control both street-based and brothel prostitution (Shaver, 1996). These laws permitted police to arrest and remove women from the streets who were “known” prostitutes or “morally suspect women” (Grant, 2008, p. 5). While vagrancy laws could apply to individuals who ran or frequented ‘common bawdy houses,’ (i.e. managers and customers), these laws were most commonly used to penalize women identified as prostitutes (Shaver, 1996, p. 207; McLaren, 1986, p. 127).

The legislation during this time was primarily concerned with targeting *visible* prostitution and its participants. In contrast, the more hidden forms of the sex trade were largely tolerated by upper and middle-class men and governments of the time, who saw prostitution as something of a ‘necessary evil’ (McLaren, 1986; Canadian Advisory Council on the Status of Women, 1984, p. 8). In this sense, working-class women were viewed as appropriate sources of sexual release for innately carnal-minded men, which would in turn protect the virtues of middle and upper class women (McLaren, 1986).

In a significant shift from the status quo, the end of the nineteenth century saw the rise of the “social purity” crusades in North America and most other Western nations (Lowman, 2011). During this time, women came to be seen as the “moral

guardians of the family [and family values], deserving protection from licentious men” (Lowman, 2011, p. 4). Female sex workers, who were previously seen as legitimate outlets for men’s natural sexual improprieties (McLaren, 1986), were subsequently re-framed through this movement as victims of the “white slave trade” (Shaver, 1996, p. 208). In this relatively new era of ‘panic’ regarding the need to protect women and girls, the concept of the *pimp-procurer* was born (McLaren, 1986).

In Canada in the early 1870’s, new provisions² were introduced in federal legislation to protect women from “the wiles of the procurer, pimp and brothel keeper” (McLaren, 1986, p. 131). Specifically, the existing vagrancy provisions in the Criminal Code were consolidated and expanded to target bawdy house *operators* and individuals found to be living on the avails of prostitution (Shaver, 1996, p. 208; McLaren, 1986, p. 131). This marked the emergence of legislation concerned with sex work *managers* and those profiting off the exploitation of women and girls.

The broad concern during this time was to protect and/or rescue innocent white women from the individuals who would lure them into the “underworld” of prostitution. Reformers and activists conceptualized female prostitutes as naïve individuals who were tricked or coerced into a life of exploitation at the hands of pimps and procurers, as it was inconceivable that any woman would *chose* to sell sex (McLaren, 1986). There were clear racist undertones to this movement as well, as it separated white victims from racialized predators (Grittner, 1990³). As McLaren (1986) notes, tales of the abduction of white women by racialized *others* served to

² Specifically, by 1892, section 185 of the Criminal Code referred to ‘Unlawfully Defiling Women’ and criminalized a range of procuring activities.

³ While Grittner’s (1990) analysis primarily focuses on the “white slave trade” of the United States, it is included here to help illustrate a parallel situation in Canada, which occurred largely at the same time as the US.

bolster pre-existing racial bigotry, both in England and North America. Further, central to many popular conceptions of white slavery was “the belief that immigrant men from non-English speaking countries were the villains” (Grittner, 1990, p. 66). The more modern notion of the ‘pimp’ as the lecherous exploiter of innocents was borne out of this atmosphere of racial hatred. Grittner (1990, p. 66) highlights the blatant racism underlying this characterization, stating “The ‘dark’ qualities of the foreign pimp (skin, hair, sexual power) were obvious, if discomfiting” to the dominant white middle and upper class of the time.

In addition to this highly racialized atmosphere, the origins of the movement to protect innocent women from “pimps” and procurers lay in economic and class-based arguments about the need to control and regulate women’s role(s) in society. At the same time as the law was expanding to target procuring, the regulation of prostitution expanded to include the “moral regulation of working women, all of whom ‘could be perceived as threatening the moral order of the bourgeois city’ ” (Freund, 2002, p. 233). At the end of the nineteenth century, women’s sexual behaviour was framed as a highly visible gauge of social and moral order and thus, “protecting” women and controlling such behaviour was justified in the name of protecting greater society (McLaren, 1986).

In this atmosphere of racial and class-based tensions, the interests of those with the most social, political and economic capital (including the Church, upper and middle-class white women’s groups and men) “were reflected in the social and legal policies of the era” (Shaver, 1996, p. 209). At this time, it was in the interest of these groups to maintain a particular social order, which included the institution of marriage and family and the domination of male social and economic interests (Sangster, 2001).

Any behaviour, sexual or otherwise, that fell outside this social order was framed as a threat. Prostitution, whether voluntary or through force or coercion, represented a form of uncontrolled female sexuality and a clear violation of women's expected roles as sexually passive wives and mothers. Thus, women who came to prostitution voluntarily or by any means other than direct coercion were framed as "traitors to their gender", which justified their regulation by the law and the use of the legal system to correct their wayward behaviour (Freund, 2002, p. 251). Alternatively, the pimp or procurer who targeted "innocent," middle or upper class white women came to be seen as the ultimate threat to society and a necessary target for criminalization and punishment.

Collectively, the laws created during this time reflected both the prevailing racial stereotypes, as well as the patriarchal roots of the movement; the need to *rescue* women and girls, who were seen as incapable of leaving a life of prostitution on their own but unable to choose to sell sex in the first place (McLaren, 1986). Given the social and economic changes occurring during this era, and particularly surrounding the First World War, prostitution was no longer tolerated as a minor social evil when it came to represent a threat to "traditional" social, economic, gender and class structures (Freund, 2002).

At the end of World War I, and particularly after World War II, prostitution faded as a topic of intense social interest, though according to a number of scholars, the sex industry was no less active (Lowman, 2011; Shaver, 1996). In the early 1970's, public concern re-emerged on the topic, this time with regard to controlling the visibility of street prostitution in residential areas (Shaver, 1996). In 1972, Canada's

vagrancy laws were repealed and new laws were created that criminalized the act of *soliciting* (Grant, 2008). These laws, covered under section 195.1 of the Criminal Code, were intended to deter sex workers from soliciting customers in public spaces (Grant, 2008). While the laws could technically be applied against a customer, research has found that the laws were applied disproportionately against sex workers (Shaver, 1996) and are seldom used against customers or managers, suggesting that the laws continued to control women's sexual behaviour much more so than that of men.

Communication laws, section 213 of the Criminal Code, replaced the solicitation laws in 1985, whereby public communication for this purpose by any party was criminalized (Shaver, 1996; Grant, 2008). These changes were intended to expand the scope of the criminal law to target customers and managers, as well as sex workers. However, similar to the previous *soliciting* law, research suggests that communicating laws continue to disproportionately target street-based sex workers and are less frequently used against customers (Shaver, 1996; van der Meulen & Durisin, 2008).

Since 1983, the federal government has commissioned four reviews of the federal prostitution legislation, in an effort to improve the laws. These reviews include the 1983 *Standing Committee on Justice and Legal Affairs*, the 1985 *Special Committee on Pornography and Prostitution* (The Fraser Committee), the 1998 *Federal-Provincial-Territorial Working Group on Prostitution* and the 2006 *Subcommittee on Solicitation Laws*. The primary focus of these committee reviews has been on the communicating laws. While several of the final committee reports discuss the need to target 'pimps'

and exploitive management schemes, with the exception of the Fraser Committee⁴, no concrete recommendations are made on changes to the procuring legislation (Lowman, 2011; Van der Meulen & Durisin, 2008).

Though contemporary legal reviews and developments in the legislation have focused on the more visible forms of prostitution, particularly the issue of public communication, the history of the law reflects a concern with the pimp and procurer. Indeed, the procuring laws intended to target the lecherous “other” have remained essentially unchanged since their creation in the early twentieth century (Lowman, 2011). These laws remain largely intact today⁵,

1.2 Current Laws

Current Canadian prostitution law criminalizes the majority of acts associated with prostitution, while the act itself (i.e. exchanging sexual services for money or goods) remains legal. The criminal legislation regulating prostitution today spans sections 210 to 213 of the *Criminal Code*. Section 210 relates to the operation and use of “bawdy- houses,” and makes it an indictable offence to be found in, to work in or to own or operate a common bawdy-house. Section 211 of the *Criminal Code* makes it a crime to knowingly transport or direct another person to a common bawdy-house and section 213 makes it an offence to communicate in public for the purposes of prostitution.

⁴ The Fraser Committee recommended repealing aspects of the legislation on procuring and living on the avails of prostitution and adding specific requirements of the use of force or coercion.

⁵ As I discuss later in this chapter, there is a constitutional challenge currently before the Supreme Court of Canada regarding certain subsections of the prostitution offenses contained within the Criminal Code. I review the background and content of this constitutional challenge in the following section.

Section 212(1) of the *Criminal Code* criminalizes procuring and is composed of ten subsections. This section includes several provisions specifically against the act of procuring, and stipulates that anyone who:

(a) procures, attempts to procure or solicits a person to have illicit sexual intercourse with another person, whether in or out of Canada,

(b) inveigles or entices a person who is not a prostitute to a common bawdy-house for the purpose of illicit sexual intercourse or prostitution,

(d) procures or attempts to procure a person to become, whether in or out of Canada, a prostitute

[...] is guilty of an indictable offense and liable to imprisonment for a term not exceeding ten years. The implication behind these subsections is the need to punish anyone who either entices someone who is not already a prostitute to enter the industry, or who procures someone who is already a prostitute to return to working in prostitution. What is notable about these sections of the law, as is the case with the majority of subsections under 212(1) (with the exceptions of 212(1)(h) and (j)), “there is no requirement that the procurement be for gain (financial or otherwise)” (Bruckert & Law, 2013, p. 20). As it stands, the law can criminalize anyone providing advice or encouragement to an individual who might be considering working in the sex industry (Bruckert & Law, 2013).

Sections 212(1)(c), (e),(f) and (g) criminalize aiding or assisting in the movement or concealment of another person as it relates to their participation in prostitution. Specifically, these sections stipulate that anyone who:

(c) knowingly conceals a person in a common bawdy-house,

(e) procures or attempts to procure a person to leave the usual place of abode of that person in Canada, if that place is not a common bawdy-house, with intent

that the person may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,

(f) on the arrival of a person in Canada, directs or causes that person to be directed or takes or causes that person to be taken, to a common bawdy-house,

(g) procures a person to enter or leave Canada, for the purpose of prostitution,

[...] is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years. In addition, section 212(1)(i) criminalizes anyone who “applies or administers to a person or causes that person to take any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower that person in order thereby to enable any person to have illicit sexual intercourse with that person.”

Lastly, sections 212(1)(h) and 212(1)(j) are most pertinent to the traditional conception of ‘pimping,’ as they criminalize conduct related to exercising control, aiding, abetting and gaining from the prostitution of another person. Specifically, the law criminalizes anyone who:

(h) for the purposes of gain, exercises control, direction or influence over the movements of a person in such manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally,

(j) lives wholly or in part on the avails of prostitution of another person,⁶

Section 212(1)(h) may be applied against any individual who is compensated for helping or facilitating another person’s involvement in prostitution, regardless of whether the activity is done without violence, coercion or force. As it is written, this

⁶ This section of the *Criminal Code* has been successfully challenged and struck down in Ontario’s Superior Court, as of March 26, 2012. However, the case will be proceeding to the Supreme Court of Canada for a final ruling on the legitimacy and constitutionality of this subsection. The constitutional challenge is discussed in more detail later in this chapter.

section can be used to criminalize any third party (for example, a driver hired by an escort) that assists or supports another party's participation in the sex industry.

Section 212(1)(j) may be used to criminalize any individuals living on the avails of prostitution, whether they are in a personal or romantic relationship with a sex worker, or whether they are hired as a third party to assist that sex worker's participation in the sex industry. In order for this law to apply, no evidence of exploitation is required, unless the accused and the sex worker live together (Bruckert & Law, 2013, p. 21). That is, the relationship between the sex worker and other party (for example, a receptionist hired to work for an escort agency), need not have an exploitative element for this law to apply. Rather, "any individual who provides goods or services directly related to, or whose income is contingent on, a sex worker's work is understood to parasitically live on the avails of another's prostitution, simply because their income would not exist otherwise" (Bruckert & Law, 2013, p. 21).

Section 212(2) is written as an addition to section 212(1)(j) and specifically criminalizes living on the avails of an individual under the age of 18. It also provides a minimum sentence for this offense, stating:

(2) Despite paragraph (1)(j), every person who lives wholly or in part on the avails of prostitution of another person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years and to a minimum punishment of imprisonment for a term of two years.

Section 212(2.2) provides a further set of aggravating circumstances around living on the avails of an individual under the age of 18, including the use of violence or coercion, for which there is an elevated mandatory minimum sentence.

1.3 The Ideological and Legal Debate

One of the most predominant, long-standing debates surrounding prostitution focuses on the morality of selling sex and thus the appropriate social and legal response to such an exchange. At the core of the debate is a disagreement on the very nature of prostitution as *sex work* or *exploitation* and its participants as *victims* or *workers* and *pimps*, *partners* or *managers*. This ideological disagreement commonly plays out in debates over the socio-legal regulation of prostitution, with radical feminists, conservative governments and religious activists typically on the “abolition” side (see Dworkin, 1993; Barry, 1995; Farley, 2004 & 2005) and “pro-choice” feminists and liberal governments, who typically advocate for de-criminalization, on the other (see Bruckert & Law, 2013; van der Meulen, 2010; Lowman, 2000; 2009;; Weitzer, 2005a; Shaver, 1994).

Those who advocate for the *abolition* of prostitution conceptualize all prostitution as exploitation of women and thus advocate for its abolition through increased criminalization (Farley, 2004). From this perspective, prostitution and violence/exploitation of women are intrinsically connected (Day, 2008). Arguments from this perspective tend to be morally grounded and based in assertions about the inherent damage that the purchase of sexual services causes to women and girls. The (male) client and (male) pimp are central to the abolitionist argument as the ever-present exploiters of women (see Dworkin, 1993; Barry, 1995; Day, 2008; Longworth, 2010), and the image of the violent and parasitic pimp dominates as intrinsically connected to the act of prostitution (Bruckert & Law, 2013, p. 8-9). Groups supporting

this perspective include academics, self-identified prohibitionist feminist groups, community advocacy groups, some levels of government, and religious groups.

In contrast, two perspectives dominate the *pro-choice* side of the debate, which favours decriminalization. ‘Sex as work’ advocates conceptualize prostitution as a legitimate form of labour.⁷ This perspective challenges the assertion that all prostitution is violence against women and seeks to inject counter-narratives on the sex industry, asserting that consensual adult exchanges of sexual services for money can be mutually beneficial and should be considered a (decriminalized) form of labour. From a third perspective, according to Bruckert, Parent & Robitaille (2003, p. 4), ‘sex radicals’ challenge “traditional social constructs of sexuality,” and frame commercial sexual exchanges as a form of sexual liberation from the male institutions of marriage and family. As with the abolitionist argument, the ‘sex as work’ and ‘sex radical’ perspectives originate from a variety of sources, including academia, feminist and activist groups, and some forms of government. Variations of this debate on the nature of prostitution, and assertions on the appropriate legal response, have played out in Canada’s multiple federal government committee reviews, in constitutional challenges before the courts, in activist circles and in academia, where all parties seem to agree only that the law as it stands is problematic and needs to be changed.

While the different spheres of this legal debate have focused most prominently on *Criminal Code* s. 213, the communicating law, other sections of the legislation have also been contested. One fundamental disagreement on s. 212(1), the procuring law,

⁷ The “sex as work” position began to emerge in the 1970’s and was led by a number of sex worker associations who were concerned with framing themselves as legitimate workers and not as victims (Bruckert, Parent & Robitaille, 2003, p. 4).

relates closely to how the law could or should be used. Advocates of de-criminalization, including 'sex as work' activists, have argued that s. 212(1)(j) may capture individuals who merely live with or are supported by the prostitution of another person, such as romantic partners or dependent parents of sex workers (see Shaver, 1985; Lowman, 1998; Lewis & Maticka-Tyndale, 2000; O'Doherty, 2010; Subcommittee on Solicitation Laws, 2006; van der Meulen, 2010; Bruckert & Law, 2013). Further, there are already laws in place in Canada to protect people from abuse and exploitation (Corriveau, 2013). For this reason, there are calls to reform the legislation to ensure that criminal charges only apply in cases where there are actual threats or violence (Lowman, 2011). Further, there are calls from this perspective to reform the law to recognize that consenting adults should be able to sell sexual services without persecution or forced "rescue" by the legal system.

From the abolitionist perspective are claims that the current laws are simply not effective in targeting the *dangerous pimps* that are exploiting sex workers and thus, changes need to be made to expand the reach of the criminal law. A further tenet of the abolitionist argument is that sex cannot be sold consensually and that women in particular need protecting from both "johns" and violent, predatory pimps, who are considered inevitable participants within any prostitution exchange. This perspective is reflected in the writings of some 'prostitution as exploitation' academics and activists (see Dworkin, 1992; Hunter, 1993; Farley, 2004; Farley & Kelly, 2000; Day, 2008; Ramos, 2010). It is also reflected in several of the federal government committee reviews, which concluded that the wording of the procuring law should remain, but that changes should be made to police powers of search and investigation, in order to

better prosecute violent pimps and procurers, who to some extent are viewed as inextricably linked to the act of selling sex.⁸

1.4 The Constitutional Challenge

Another major venue for the prostitution debate, as previously noted, is the courts, which have seen several constitutional challenges made to Canada's prostitution laws.⁹ The most resounding theme behind these challenges is the position held by activists, academics and other groups that prostitution laws in Canada need to evolve, as they create dangerous and unconstitutional working conditions for sex workers (Lowman, 2011; Shaver, 1985; O'Doherty, 2010). In October of 2009, (*Bedford v. Canada*, 2010), three sex workers brought forward a constitutional challenge in Ontario to three provisions of the *Criminal Code* governing adult prostitution: sections 210, 212(1)(j), and 213(1)(c). The challenge was premised on the argument that section 213(1)(c) violates section 2(b) of the *Charter of Rights and Freedoms* (hereafter referred to as the *Charter*), and that sections 210, 212(1)(j), and 213(1)(c) violate section 7 of the *Charter*.

The basis of the applicants' argument is that restriction on public communication, as laid out in section 213(1)(c), infringes the right to freedom of expression set out in section 2(b) of the *Charter*. The applicants also argued that the restrictions set out in sections 210, 212(1)(j), and 213(1)(c) infringe on the right to life,

⁸ See the Special Committee on Pornography and Prostitution (1985), the Federal-Provincial-Territorial Working Group (1996), and the Subcommittee on Solicitation Laws (2006).

⁹ In 1992, *R v. Downey* was the first case to challenge the constitutionality of *Criminal Code* s. 212(1). In a four to three ruling, the Supreme Court judges ruled that the law was demonstrably justified because by "curbing the exploitive activity of pimps," it was "attempting to deal with a cruel and pervasive social act" (Lowman, 2011, p. 19). There are currently two substantial challenges to the law before the courts, originating in British Columbia and in Ontario.

liberty and security of the person, guaranteed in section 7 of the *Charter*. The applicants in this case argued that these provisions not only violated the liberty and free choice of sex workers, but also contributed to violence faced by prostitutes, who are forced to work in more isolated conditions to avoid detection by police and prosecution under the law. Further, the applicants argued that the current laws prohibit sex workers from working together indoors, and from accessing the services and assistance of third parties.

On September 28th, 2010, in *Bedford v. Canada* (2010), Ontario Superior Court Justice Himel entered her decision, stating

The conclusion I have reached is that three provisions of the Criminal Code that seek to address facets of prostitution (living on the avails of prostitution, keeping a common bawdy-house and communicating in a public place for the purpose of engaging in prostitution) are not in accord with the principles of fundamental justice and must be struck down. These laws, individually and together, force prostitutes to choose between their liberty interest and their right to security of the person as protected under the Canadian Charter of Rights and Freedoms. I have found that these laws infringe the core values protected by section 7 and that this infringement is not saved by section 1 as a reasonable limit demonstrably justified in a free and democratic society.

This decision struck down sections 212(1)(j), 210 and 213, making them of no force and effect in the Province of Ontario. However, Justice Himel granted the respondents a temporary stay in this case, meaning that the legislation would stand until a decision was made at the Ontario Court of Appeal.

In early 2012, this case proceeded to the Ontario Court of Appeal. On March 26, 2012, the Court of Appeal upheld Himel's ruling on *Criminal Code* sections 210 and 212(1)(j), agreeing that in their current wording, these two pieces of legislation infringed on the right to life, liberty and security of the person guaranteed in section 7 of the *Charter of Rights and Freedoms* (*Canada v. Bedford*, 2012). The Ontario Court of

Appeal did not, however, uphold Himel's ruling on section 213(1)(c), the communicating law. This case proceeded to the Supreme Court of Canada on June 13, 2013. The decision at this highest court will determine the future of these laws for the entire country. In the interim, despite the rulings at two levels of provincial court that the current laws are unconstitutional, sections 210 and 212(1)(j) will remain in effect pending the decision of the Supreme Court of Canada.

1.5 Situating My Study Within the Debate

In light of the degree of debate surrounding prostitution generally and Canada's procuring laws specifically, ideally, I would have conducted a study that examines exactly how this law has been applied in Canadian courts. This would help inform further debates and decision-making on the fate of the procuring law, and would help determine whether it is, in fact, being used to target non-exploiters and legitimate living arrangements. Unfortunately, this type of study would be very difficult to complete, given the lack of consistent and publicly available data on arrests, charges and convictions in procuring cases.

Nonetheless, the on-going dialogue on the procuring law produces another line of inquiry. There is little agreement between lawmakers, government committees, courts, activists, academics and other groups on what exactly constitutes a procurer or procuring. Is 'procuring' another word for 'pimping' or is it interchangeable with 'sex work management'? Is a procurer a parasite or someone who lives with a sex worker? What does it mean to be a *procurer*? Within the realm of debate on this topic matter, stereotypes prevail, including that of the violent pimp as procurer. The concept itself,

despite its specific origins in the wording of the criminal law, has moved out of the legal sphere and into competing discourses on the 'realities' and regulation of the sex industry and its various participants.

It would be difficult and perhaps unrealistic to try to create a complete genealogy of the discourse on this concept. What is more feasible, however, is to break down this broader conversation into contributing components. Therefore, in this thesis, I examine the *judicial* contribution to this conversation. In consideration of the unique position of the judiciary in interpreting the procuring law and passing judgement on those who are accused of violating it, this thesis examines the ways that criminal court judges have constructed the concept of the *procurer* in Canada.

CHAPTER 2: THE RESEARCH LITERATURE

The purpose of a literature review is to situate one's study within the existing empirical research on a topic. Having illustrated what is already 'known' about the topic matter, one then conducts their research and adds their own contribution to this body of work. Ideally, I would use this literature review to survey the pre-existing research on the various social constructions of the concept of 'procurer'. I would then position my own work in this body of literature. Unfortunately, this was not an option. In my extensive review of the literature, I was unable to find any pre-existing research specifically on my topic. I uncovered very few empirical studies that even referred to procurers or procuring, perhaps because these are technically legal designations and thus are more likely to appear in legal analyses than sociological research.¹⁰

Given this dearth of research, I turned to the body of work that is closest to my topic. In the first section of this literature review, I present the contemporary research on *sex work management* and *managers*. Procuring, in its legal definition under Canadian law, refers to the act of aiding, encouraging or profiting off the prostitution of another person. The individuals whose actions are most likely to meet this definition are those who have some personal or professional relationship with sex workers. Thus, as I try to get at research on procurers and procuring, I come close with research on sex work managers and others who may be criminalized under Canada's procuring laws. This body of work is primarily composed of studies specifically on prostitution that

¹⁰ I also conducted literature searches in the area of legal analyses and was unable to find any research that examined judicial interpretations of procuring. However, as I discuss later in this chapter, I review empirical research on judicial interpretations and contributions to 'knowledge' and discourse on other topics.

make peripheral mention of the other individuals who become involved in the lives of sex workers, including managers and intimate partners. However, I located a small collection of studies specifically on sex work management and its criminalization and the ways that other, non sex-working individuals may be captured under Canada's prostitution laws.

In the next section of this literature review, I present *media analyses* of sex work managers. Much of this research is premised on the assertion that popular media contributes to broader discourses on this population through the representation of sex work managers in film, newspaper, music and so on. This work helps inform my own research, both in its similarity in topic matter and its consideration of one way that social institutions play a role in constructing knowledge on particular concepts or populations.

The final section of this literature review takes a turn away from sex work research and examines empirical and theoretical research on the *judiciary* as a site for knowledge construction. This small body of work considers how judges, through the judicial process, come to establish meaning and thus construct knowledge on particular topics and populations. These studies resemble my own work in their examination of judicial meaning making, and provide a useful epistemological and methodological base on which to explore my own topic.

2.1 On Sex Work Managers (and other affected individuals)

The research literature that directly examines sex work managers is divided; over half of the researchers in this area suggest they are studying 'pimps.' The

remainder of these studies examine other manager-figures and third parties involved in the sex industry, populations that have received considerably less attention from academics. These other individuals are typically referred to as ‘madams’ or simply as businesses. I divided the literature in this way in order to clearly articulate some of the existing interpretations and understandings of this population.

Manager as *Pimp*

Faugier and Sargeant’s (1997) broad literature review in the area of *pimping* highlights some of the contradictory claims within the literature on the identity of the ‘pimp.’ They first identify a common claim in anti-prostitution activism, that female prostitutes are often victims of violent and coercive male ‘pimps.’ They further argue that many anti-prostitution activists frame ‘pimps’ as using violence to control and exploit women and girls (Faugier & Sargeant, 1997, p. 122). This perspective, which is represented broadly within the literature, frames the identity of the pimp as male, violent, controlling and in a position of power and coercion over exploited female prostitutes.

A clear example of this perspective is found in the mixed methods study of Dalla, Xia and Kennedy (2003), who interviewed 43 active sex workers who were looking to exit the trade. Seventeen of their participants reported working for a ‘pimp’ at some point in their lives. In this study, a ‘pimp’ is defined as a man who has “several women working for them in a ‘stable’”, and who has “sexual access to all the women” and where physical violence is “frequently used to maintain power and control” (Dalla, Xia & Kennedy, 2003, p. 1382).

In a similar U.S. study, Williamson and Cluse-Tolar (2002) confirm this particular identity of ‘pimp,’ based on interviews with six women who had worked for a pimp and one working pimp.¹¹ Their findings highlight coercive strategies used by these individuals to bring women into the sex industry and to keep them financially productive and under control. Their study also documents the use of violence and emotional manipulation in order to keep women working.

A 1997 study by Hodgson is probably the most comprehensive Canadian research completed thus far on ‘pimping’, and the findings further reflect this understanding of pimps as violent and exploitive males. Hodgson (1997) presents a comprehensive literature review, content analysis of secondary sources, field observations and in-depth interviews conducted with 194 girls and women, to illustrate the dynamics between “male street sex trade managers” and female street prostitutes (p. 2). He also relies on “interviews, conversations and court testimony from 28 different men” across Canada and the US who have reported being involved in ‘pimping’ activities (Hodgson, 1997, p. 20). The study focuses specifically on males¹² working at street-level, controlling the actions and earnings of predominantly *underage* females¹³. As Hodgson (1997) acknowledges, this is a very specific type of management relationship.

Based on his interviews, Hodgson (1997) formulates a typology of the ‘pimp,’ which includes a set of assumptions around the race, gender and social status of this

¹¹ In this study, a pimp is defined as a man who controls and lives off the proceeds of one or more women (Williamson and Cluse-Tolar, 2002, p. 1088).

¹² Hodgson (1997), reports that the age of the male participants ranged from 15 to 37 at the time of their interview or testimony.

¹³ The female “prostitutes” interviewed for the study were between the ages of 12 and 27 at the time of the interview. Of the 194 who were included in this study, 160 of them were under the age of 18 (Hodgson, 1997).

population. “Societal and street imagery appear to display a romanticized concept of young black males” as the natural candidates to fill the role of *street pimp* and in doing so achieve cultural status that is unavailable through more conventional means (Hodgson, 1997, p. 93). Hodgson’s (1997) observations corroborated this social typology, finding that young, black males coming from low socio-economic backgrounds dominated the street “management” trade, particularly of underage females, while older, white males tended to run the ‘higher end’ of the commercial sex trade, such as escort agencies. Hodgson (1997) argues that the visible nature of the street trade, compounded by the more coercive and often violent measures used to maintain control over underage sex workers, makes these particular “pimps” most prone to police detection and arrest.

In contrast to these findings, Faugier and Sargeant (1997), who use their literature review to present multiple perspectives on the topic, acknowledge that this predominant identity of ‘pimp’ as street-wise, male, violent and coercive may be the residue of a long-standing stereotype.¹⁴ These cultural stereotypes, they argue, often simplify the relationship between parties, which is not always as straightforward as female victimization and male violence. Like Shaver (1996), Faugier and Sargeant (1997) suggest that a ‘pimp’ *could* be a person linked to a sex worker’s social network, a romantic partner, a form of protection, or something in between.

In a more recent Canadian study, Jackson et al. (2009) conclude with similar findings on the often-blurred relationship(s) between pimps and sex workers. The researchers examine sex workers’ perceptions of how their intimate relationships

¹⁴ However, Faugier and Sargeant (1997) do not deny the existence of violent or exploitive pimping relationships.

affect their overall health and well-being. In their interviews with 16 participants, (half sex workers and half partners), they found that sex workers sometimes struggled with a blurring of boundaries between romantic partners and “pimps” or managers. In many cases, sex workers lived with their partners and in some cases supported them financially, which would technically make their partners vulnerable to criminal charges for living on the avails of prostitution.

Participants in this study “spoke in very derogatory terms about [their conception of] ‘pimps’, and partners were discussed as different and separate...” (Jackson et al., 2009, p. 40). Just as in Faugier and Sargeant’s (1997) work, few specific characteristics are provided on the ‘pimp.’ However, the one identity of pimp as violent exploiter is challenged by evidence from sex workers with romantic partners who may meet some of the stereotypical pimping criteria, but who do not consider their partners to be pimps.

Studies conducted in the United Kingdom by McDowell (2009) and Bensen and Matthews (2000) had very similar findings to Canadian research. Both acknowledge the widely held belief that all sex workers, particularly those at street-level, are violently controlled by pimps, but argue that the commercial sex trade is actually regulated by a wide variety of management practices. Further, McDowell (2009) argues that contrary to popular belief, the majority of sex workers in Britain are not controlled and managed by pimps in the popular (i.e. violent and exploitive) sense of the word but rather are self-managed, but may help support or contribute to finances in a relationship with a romantic partner. However, as British law, which is very similar to Canadian criminal law, captures pimps under legislation targeting anyone “living on the

earnings of prostitution or exercising control over a prostitute,” there is the possibility of including romantic partners and naming them as pimps. Bensen and Matthews’ (2000) examination of police vice squads in Britain re-affirm this now established grey area in pimping dynamics, between ‘pimp as exploiter’ and ‘pimp as partner.’

Hoigard and Finstead, in their 1986 Norwegian study, similarly challenge the single reigning definition of ‘pimp’ and encouraged the twenty-six sex-working women they interviewed to identify what they perceived a pimp to be. There was a lack of consensus on ‘pimp,’ both from the women interviewed and from the researchers’ analysis of the 65 reported cases of “pimping” found in the Oslo Police Department records for the period of 1968 to 1982. This culminated in the researchers creating several categories to discuss pimps, including “non-violent boyfriend pimps,” “violent boyfriend pimps,” and “stable pimps” (Hoigard & Finstead, 1986, p. 155).¹⁵

Despite the common use of the label ‘pimp,’ several typologies emerge from these few studies on *pimping*. The discourse within this small breadth of empirical work frames pimps as violent and controlling men, as romantic partners, as business partners or as all of these things. Further, ‘pimps’ can operate on or off-street level. And while much of the other empirical work reviewed here does not provide specific demographic information, there is no indication that the ‘pimp’ demographics identified in Hodgson’s (1997) study, which frames pimps as young, black males of low socio-economic status, are representative of all management relationships, particularly for Canada. The major resonating characteristic in the academic discourse on pimping

¹⁵ Despite their recognition of several ‘pimp’ types, Hoigard and Finstead (1986) maintain the word ‘pimp’ and do not acknowledge any other management relationships, such as, for example, a ‘non-violent boyfriend’ who also operates as a *manager*.

is the 'pimp' as male, while other characteristics such as violence and exploitation, are challenged by researchers who make contrary claims.

Manager as *Madam*

The second most prominent manager-figure represented in academic inquiry is the 'madam,' who is typically framed as an older woman and ex-prostitute, in charge of a house of younger sex workers (Goldstein, 1983). Heyl's (1979) ethnography was the only comprehensive examination of 'madams' located in my review of the academic literature. Heyl documents the life of one woman who worked for over thirty years, first as a sex worker and then as a 'madam' or manager in a number of American brothels.

The subject of this ethnography is white, middle class and female. The story outlines the obstacles and developments in this one woman's life, starting from her departure from her family home at age 15, to her being 'turned out' into the world of prostitution and moving between brothels and independent working arrangements for many years. The ethnography details both her business practices as well as her personal life experiences, including the violence she both experienced and perpetrated against romantic and/or business partners and several stints of incarceration that she served. Interestingly, the ethnography also details the involvement of various 'pimp' figures in the life of the main subject, first in terms of her personal participation in prostitution and subsequently in her business-relationship with a pimp who supplied her with prospective employees.

As the subject of the ethnography transitions out of prostitution herself, and into a position as a full-time "madam" running a brothel, the arrangement of her

business is discussed in detail, including the mechanisms she used to recruit, hire and train other women to become sex workers. The relationship between the madam and her employees is described as “professional,” where employees worked in house and apartment brothels by choice, and not by violence or coercion. The ethnography also highlights the pleasure this woman took later in life, in using all of the knowledge and skills she had acquired over the course of a career, and applying it to run a successful business and to teach other women how to be safe and successful in the sex industry. Heyl’s (1979) ethnography, despite its age, is still unique in its level of detail regarding personal experience and career trajectory in the prostitution industry.

An American study by Goldstein (1983) examines the concept of occupational mobility in the prostitution industry; specifically, prostitutes becoming madams. A madam is defined in this study as “a woman who acts in a supervisory role vis-a-vis two or more prostitutes and who supplies these prostitutes with customers for which she receives a percentage of the fee” (Goldstein, 1983, p. 269). Goldstein examines six cases in this study, and makes a particular distinction between madams and other management-types (such as ‘pimps’) by emphasizing that the relationship between madam and employee is business-only.¹⁶ All six women included in the study describe an early-life entry into prostitution and then a relatively quick transition into work as a madam due to high volumes of demand and a talent for organizing other women. Accounts of work as a madam include both operating a permanent house or apartment (traditional brothel), as well as operating a “phone business,” where the madam arranges meetings between customers and a steady group of sex workers in her

¹⁶ This, as Goldstein (1983) states, is in contrast to the blurred romantic boundaries often found between pimps, boyfriends, romantic partners and sex workers.

employ. None of the relationships are described by Goldstein (1983) as violent or coercive but rather as efficient businesses.

The only other source located specifically on *madams* is a series of sensationalized historical accounts of “Pistol Packin’ Madams” of the Old West (Eriss, 2006). The women portrayed in these stories all worked as brothel managers or owners. In contrast to the generally negative depictions of *pimps* in academic research, the women in these stories are portrayed as folk-heroes, who were revered in their time for both defying the expectations of female behaviour, and providing a high-end, professional working environment for other women looking to work in the sex trade. The resonating characterization of ‘madams’ in Eriss’ (2006) work, which is also reflected in Heyl’s (1979) ethnography and Goldstein’s (1983) research, is that the ‘madam’ is white, middle class and female.

Manager as a Business Structure

There is a small body of research that focuses primarily on the experiences of sex workers but which includes peripheral mention of the management side of prostitution. This includes some description of management practices and sex workers’ experience with management structures. Typically, these descriptions are in reference to off-street management schemes, such as the role of landlords for escort agencies and massage parlours, which are framed as *business-management* relationships.¹⁷

¹⁷ I use the term ‘business structure’ here, as the researchers in this area do not use one specific label to discuss sex work managers, and indeed do not typically refer to any one individual as a manager. Rather, managers in this body of research are typically discussed and characterized as faceless businesses.

In 2005, Lewis et al. conducted a Canadian study examining sex workers' negotiation of risk on the job. Sex workers generally reported feeling safer working in off-street venues, typically because of the presence of other workers and of management and support staff. However, workers also reported that managers and owners often required workers "to perform certain types of services regardless of their preferences or well-being," leading to feelings of victimization or risk (Lewis et al., 2005, p. 163). Thus, there were mixed reports on feelings of satisfaction with the management relationship, though no reports of direct victimization by management.

Benoit and Millar (2001) examined the victimization experiences of both on-street and off-street sex workers. The majority of participants reported feeling safer working off-street, but also claimed to have lower levels of control over the type of client they would accept or the type of service they would provide. Pivot's (2006) examination of the experiences of sex workers and the impact of the law found similar results to Benoit and Millar (2001). They claim that sex workers often moved indoors to avoid violence experienced more frequently on the street. However, participants reported that they had less control over the types of services they offered and the clients they received, typically because of the requirements set by the management.

In 2008, Casey and Phillips examined the indoor sex industry in Victoria, British Columbia. The researchers completed 47 individual, semi-structured interviews with indoor sex trade workers in order to understand the demographics of the indoor population and the level of satisfaction with work. Participants reported mixed feelings about their agencies and employers, highlighting positive relationships with bosses and high levels of self-determination in their work but dissatisfaction with the

pay structures of agency work, such as giving up high percentages of earnings to the agency.

These mixed findings are further reflected in a 2010 study conducted by POWER, an Ottawa-Gatineau based sex workers' rights organization. The researchers interviewed 43 adult sex workers in the Ottawa-Gatineau region, who reported on the specific challenges they face working in the sex industry. Participants' feelings on their relationships with managers and other third parties are mixed; some reported positive experiences working for agencies and bosses, and benefits such as greater stability in their clients and increased safety and security (POWER, 2010). However, similar to other studies, the researchers found some participants were dissatisfied with paying high fees in exchange for 'management services,' such as booking clients and providing drivers.

Overall, few studies were identified that specifically research sex work *managers*, outside the designations of 'pimp' and 'madam.' Typically, only peripheral references are made in these studies to "management structures" or agencies, which tend not to focus on any one person but on the organization as a whole. The significant exception to this dearth of research on sex work management (in Canada in particular) is the report released in March 2013 by Bruckert and Law¹⁸, which focused specifically on 'third parties' in the commercial sex industry.

Bruckert and Law's (2013) study was released close to the completion of this thesis. However, it was necessary to return to the literature review and include their

¹⁸ Bruckert and Law's (2013) report, *Beyond Pimps, Procurers and Parasites: Mapping Third Parties in the Incall/Outcall Sex Industry*, was written based on findings from the larger 'Rethinking Management in the Adult and Sex Industry Project,' a three-year study funded by the SSHRC and undertaken by Christine Bruckert, Patrice Corriveau, Colette Parent, Maria Nengeh Mensah and Leslie Jeffrey.

study, as a significant contribution of sound, empirical research on management and other third party relationships in the adult sex industry. In-depth interviews were conducted with 50 individuals who work/have worked as third parties in the sex industry in the Maritimes, Quebec and/or Ontario since 2000. Following this first stage of data analysis, they conducted focus group interviews with 27 sex workers who work/have worked for or with third parties.

The focus of the study was on mapping these relationships; in essence, drawing out participants' knowledge and experience on the dynamics of third party business relationships in the sex industry. In brief, the study found that sex workers utilize a wide variety of organizational models for selling sexual services in Canada with the participation of a third party. The study also found that third parties take a variety of forms, from drivers to massage parlour managers to advertising agencies and more.

In this finding on the complexity of third party relationships, the study touched on the abundance of persistent stereotypes surrounding third parties and the sex industry, the most prominent being that of the pimp as the violent and coercive villain who is intrinsically associated with all forms of prostitution. According to Bruckert and Law (2013), the prevailing stereotype presents third parties as "individuals who always manipulate, exploit or victimize sex workers" and "sex workers who labour for, or with, third parties as necessarily manipulated, exploited and victimized" (Bruckert & Law, 2013, p. 85). However, by presenting their results on the complexity of third party relationships operating in Canada, including those that are mutually beneficial and consensual, the study both recognizes and challenges those dominant discourses and stereotypes. Further, according to the researchers, their findings provide a counter-

discourse to the stereotypical story of the pimp-victim relationship (Bruckert & Law, 2013, p. 83).

2.2 On Media Analyses of Sex Work Managers

The capacity of the popular media to contribute to ‘common knowledge’ within the public is widely discussed in media studies on representations of crime and deviance (Hallgrimsdottir, Phillips and Benoit, 2005), with varying arguments on the actual capacity of the media to impact public understanding. Some researchers have examined media portrayals of crime and criminalized populations and made assertions about the impact of these portrayals on both public perception and public action.¹⁹ More recently, an emerging body of work has challenged the assertion that there is a simplistic and linear relationship between media portrayals of crime and public knowledge or opinion (see Doyle, 2006).²⁰ Nonetheless, popular portrayals of any phenomenon or population contain a set of claims that are produced for public consumption. Newspapers, films, television shows and other forms of media have all portrayed the commercial sex industry and its participants in different ways, and in doing so, have made various claims about the ‘realities’ of the industry. Each of these portrayals represents a contribution to a broader discourse on prostitution and its participants.

¹⁹ See, for example, Freedman’s (2002) study of violence in the media and its effects on aggression, or Heath and Gilbert’s (1996) analysis of the effects of mass media on fear of crime.

²⁰ Doyle (2006) challenges the assertions made by a number of researchers that media representations of crime, violence, aggression and so on, will cause increases of this behaviour in the public. Instead, Doyle makes a more tempered claim, acknowledging that media representations can be argued to contribute to ‘public knowledge’ or discourse on that topic, but that researchers should not assume a direct relationship between media portrayal and public action.

Hallgrimsdottir, Phillips and Benoit (2005) compared newspaper portrayals of sex workers to the personal accounts of sex workers' lives and experiences in Victoria, British Columbia. The researchers emphasize the importance of examining the popular media as a mechanism of identity creation for marginalized groups. Various forms of media, such as newspapers, serve as the predominant source of information to the general citizenry on an otherwise clandestine population (Hallgrimsdottir, Phillips & Benoit, 2005, p. 267). Thus, by presenting a particular image of 'prostitute' or 'pimp,' for example, the media contributes to popular understandings of these individuals.

In brief, the findings from this study suggest that newspaper accounts focus almost exclusively on street-level sex work, where women and girls are portrayed as coerced or exploited sex workers and men appear only as clients, pimps or law enforcers (Hallgrimsdottir, Phillips and Benoit, 2005, p. 269). The 'pimp' is the only manager figure to appear in any of the newspaper articles examined for their research, and *he* is presented simply as male, violent and dangerous. In essence, according to their findings, the 'pimp' is constructed primarily as a source of risk and exploitation to female sex workers.

In a subsequent study released in 2008, Hallgrimsdottir, Phillips, Benoit and Halby examine the representation and stigmatization of sex industry work in newspaper narratives from 1870-1910 and 1980-2004 in Victoria, BC. Hallgrimsdottir et al. (2008) describe the media as a popular source of publicly consumable information, recognizing that what is "known" about the sex industry and its participants is constructed knowledge and part of a broader discourse, to which newspaper narratives contribute. Further, their study acknowledges the legitimizing

effect of discourse, and states “in addition to making possible what can be known concerning sex work, newspaper narratives (as a modality of discourse) have historically constructed and continue to construct sex work in ways that legitimate certain techniques of speaking about and intervening in the industry” (Hunt, 2002, as cited in Hallgrimsdottir et al. 2008, p. 120).

While the focus of their study was not specifically on third parties or procurers, their findings suggested that in the earlier period examined, prostitution itself was presented as something to be contained from “decent society” and that sex working women were constructed as a source of contagion (Hallgrimsdottir et al. 2008). The narratives offered in the more recent collection of newspaper coverage were predominantly what the authors deemed “risk and slavery narratives,” where young girls were portrayed to be at constant risk of abduction and sexual exploitation at the hands of “predatory pimps” (Hallgrimsdottir et al., 2008, p. 130), an apparently common character in media portrayal of the sex industry.

Another study by Campbell (2006) examined cinema portrayals of the sex industry over the last century, within Western Europe and North America. Like Hallgrimsdottir, Phillips and Benoit (2005), Campbell (2006) identifies the importance of examining media representation as one method of *identity construction*, and argues that multiple social interactions, such as shifting public opinions and trends, influence the particular characterizations that are portrayed in cinema. The analysis found a range of character-types meant to represent the prostitute and ‘pimp’ within cinema. The most frequent portrayal in cinema, according to Campbell’s findings, is that of the “spirited woman or girl” who is talked or tricked into prostitution by a coercive pimp

(p. 341), where the pimp is portrayed as dangerous and parasitic. This discourse of the *pimp* is by far the most prevalent within the films examined in this study. In a few instances, non-violent boyfriends were portrayed in films as playing a pseudo-management role, but Campbell suggests that this narrative was rare.

Campbell further identifies a trend in the Hollywood “Blaxploitation” of the 1970’s, which made a “familiar figure of the flashy black pimp running a stable of sexy women slavishly devoted to him” (p. 343). Several popular films of the 1970’s and 1980’s portrayed the pimp as a young, good looking and manipulative black man, which Campbell suggests was a common representation during those times. This racialized depiction of the young, black pimp is widely, if briefly, noted in the critical literature. And as noted in my background chapter, both Grittner (1990) and McLaren (1986), in their historical accounts of the development of modern prostitution laws, document the wide use of popular media to paint a picture of a racialized villain preying on innocent, white women.

2.3 On the Judiciary as “Meaning Maker”

In this final section of my literature review, I turn away from the sex work research and survey the body of literature that examines the judiciary as a venue for ‘meaning making.’ As I note, there is no pre-existing work in this area on the *procurer* as a product of judicial knowledge construction. However, I use this body of literature as a base on which to situate my own research, which is grounded in similar epistemological understandings of social constructionism that frame the judiciary as a powerful mechanism to create and/or contribute to social meanings.

The empirical research on judicial *decision-making* tends to be outcome-focused, and predominantly concerned with building “rational” models that will predict judicial behaviour. The most common focus of such research is on how legal and extra-legal factors or characteristics, of both judges and litigants, may affect the outcomes of criminal and civil cases. For example, Rollins (2002) conducted a statistical analysis of HIV-related case outcomes as they related to the overall demographics of the case, the individual characteristics of the judge and litigant and the specific language used by the judge.

A similar study by Lindquist and White (1989) examined the outcomes of prostitution-related cases, including each case’s disposition, sentence type and sentence length. Lindquist and White (1989) concluded that the individuals most likely to be found guilty of prostitution offenses were women, repeat offenders and minorities, who also received the harshest sentences. Similar studies have been conducted in the areas of judicial racism (Lopez, 2000) and judicial decision making for contentious topics such as pornography and obscenity (Gewirtz, 1996).

The second body of judicial research I include here examines specific *narratives* used by judges in criminal cases. These studies are more process-focused and examine the language used by the judge to frame each case and theorize on the connection between dominant societal narratives and those that are re-created in the courts. The most common topic of interest in this body of research is sexual assault, and the narratives used by judges to frame both the act of “rape” and sexual assault victims.

In Fuller’s (1995, p. 150) study of the “social construction of rape,” she first presents several dominant explanatory theories of rape, which have emerged from the

sciences, social psychology and popular culture. She then examines the judicial discourse on rape in appeal court case transcripts, and finds that several of these dominant explanations of rape are duplicated in court cases, which in some cases place blame on the victims for their assaults. A similar study by Burns (2004) examines judicial understandings and narratives of gender, sexuality, sex and rape in sexual assault cases in Japan. Like Fuller (1995), Burns (2004) considers how dominant social narratives and stereotypes regarding rape may permeate the courtroom and enter into judicial decision-making.

While sexual assault appears to be a common subject to examine in this body of research (see also Binder, 1995; Kaspiew, 1995), other studies have examined judicial narratives surrounding motherhood (Fegan, 1996), race and gender (Espinoza, 1996), and domestic violence (Crocker, 2005). The research in this area adds to a body of theoretical work on the power of “legal storytelling” or narratives, which emerged from the Critical Legal Studies movement of the early 1980’s (Burns, 2004, p. 86). *Legal* narratives are particularly important to consider as “like any social practice, they are likely to reflect, sustain and reproduce dominant cultural meanings and power relations” (Burns, 2004, p. 86). In other words, judicial narratives help create and reflect constructed cultural meanings (Burns, 2004; Fegan, 1996).

The research in this area typically only goes so far as to examine how dominant social narratives are *replicated* in the courts. The empirical research most informative for my own work is that which theorizes on the power of the judiciary and the courts to both re-create dominant social meanings and produce new meanings. To illustrate this, I conclude this chapter with a review of several empirical studies that consider how the

judiciary can both replicate dominant social narratives as well as contribute to 'new' meanings of legal concepts and identities of particular populations.

The most common focus in this area of research is on how the judiciary establishes the meanings of both legal and non-legal *concepts*. Boyle (1994), for example, explores the ways the judiciary has "grappled with, and come to define the nature of sexual assault" (p. 136). Boyle (1994) centres the judiciary as a source of construction of legal concepts and in her analysis emphasizes the power the judiciary has to take the broad framework of the Criminal Code and to create specific meanings out of it.

In a more comprehensive examination of a similar topic, Los (1994) examines the judiciary as a source of construction for the concept of 'rape' in the 1980's.

Like any other crime, rape is socially constructed. It has been assigned different definitions across time, space and diverse cultures, and it is being constructed daily through multiple interpretations by the victims, police, lawyers, juries, judges, the mass media and many other actors and agencies (Los, 1994, p. 20).

Los (1994) frames the concept of 'rape' as fluid, and examines the judiciary specifically as an important source of meaning construction. In her analysis, Los (1994) documents the evolution and change in sexual assault law through the judiciary, arguing that because the judiciary has been dominated by men, it concludes that the laws are more likely to reflect the interests of men.

Phillips and Grattet (2000) build a more comprehensive theory of this process of judicial construction of meaning in their analysis of the establishment of the legal meaning of 'hate crime.' The researchers track changes in judicial rhetoric across 38 U.S. appellate court opinions from 1984 to 1999, which consider the constitutionality of hate crime legislation (2000). Though their empirical focus is on hate crime, the more

central focus of their article is on building a theory of how the judiciary comes to establish the meanings of particular concepts, a process they refer to as “settling” (p. 568). The judiciary is framed as a source of social “meaning making” in constituting legal categories or concepts, which then move outside the courtroom and come to be accepted into broader social knowledge.

Phillip and Grattet’s (2000, p. 570) analysis is grounded in a theoretical understanding of “moderate” social constructionism, which suggests that categories or meanings are “fluid, encompassing different content across time and space.” Through this understanding of social construction, they challenge the notion that any legal concept is fixed or self-evident, and thus suggest it is worth investigating how particular legal meanings emerge and evolve. In their conception of “settling,” Phillips and Grattet (2000, p. 572) borrow Berger and Luckmann’s (1966) notion of *institutionalization*, which refers to the process by which forms of social action and meaning become widely accepted as “correct” or taken for granted. Essentially, the more institutionalized or “settled” a concept is the less explaining is needed to justify its applicability to the situation.

Phillips and Grattet’s (2000) work helps situate my own, illustrating the power of the judiciary to operationalize the law and institutionalize particular meanings, both within the courts and within broader society. Additionally, the “moderate” conception of social constructionism utilized by Phillips and Grattet (2000) is informative for my own work, as it is premised on the notion that the judiciary have the power to construct not only legal meanings, but also particular identities or populations.

Richman’s (2002) research on the judiciary examines the formation of parental

and sexual identities in child custody cases and is premised on the notion that the law and courts play a role in shaping social meanings. “Just as the social world necessarily influences the making and interpretation of law, the law has the ability to influence, whether coercively or subtly, our social existence” (Richman, 2002, p. 286). Richman frames the *judiciary* as the body charged with interpreting and applying the law, and thus as an important and legitimate source of meaning making.

The focus of Richman’s (2002) analysis is the family law courts, and she examines 235 appellate court decisions from the United States from 1952 to 1999, where one or more parents were identified as homosexual. The judges in these cases engage in “discursive processes that create legal and social meaning and, either explicitly or implicitly shape and redefine the identities of gay and lesbian parents” (Richman, 2002, p. 288). Thus, the concept of *identity formation* is central to Richman’s analysis and she looks to how judges discursively construct what it means to be “gay,” “lesbian,” a “good parent,” a “bad parent” and so on. Richman (2002) utilizes a critical content analysis of judicial decisions, and in her analysis illustrates several recurring characteristics that come to be associated with these various identities.

This review of the literature provides a base on which to build my own research, both in terms of concepts of interest and in my epistemological and methodological approach. In the following chapter, I start by outlining the epistemological assumptions that helped guide my study. My approach to this topic matter is grounded in theories of social constructionism, the assertion that the knowledge and understandings we have are constructed through a perpetual dialectical process of claims-making. I then draw on Michel Foucault’s theory of power-knowledge, to explain the concept of discourse

and how discourse is a key component through which knowledge is (re)produced. In this chapter, I also introduce several other key theoretical concepts that help guide my analysis. Following this, I outline the procedures followed in conducting my discourse analysis, including the data set, sampling procedures, and the multiple stages of coding and analytic procedures used on the data.

CHAPTER 3: EPISTEMOLOGY, METHODOLOGY AND RESEARCH PROCEDURES

The research question guiding this thesis asks *How have judges discursively constructed the 'procurer' in Ontario courts?* In the following, I discuss the steps I followed to answer this question. I first discuss the foundations of *social constructionism*, which proposes that human knowledge and 'facts' are not a direct or natural reflection of our one 'reality,' but are rather perpetually (re)constructed in a process of social interaction (Lock & Strong, 2010). Building on this perspective, I discuss the role of *discourse* as a means of (re)producing knowledge(s). I then incorporate Michel Foucault's theoretical work on the relationship between *discourse*, *knowledge* and *power*. At this stage, I also discuss some additional theoretical concepts surrounding gender and gender roles and regulation, which help shape my analysis.

Following this, I discuss *Foucauldian discourse analysis* as my guiding methodology. This particular approach to research draws on Foucault's conceptions of discourse, knowledge and power, and involves systematically asking one's data a series of questions in order to uncover a history of discourse on the topic. I discuss my specific operationalization and use of this methodology and then outline the specific procedures undertaken to conduct my analysis, including the data collection process, data source, search procedures and case selection. Following this, I outline the procedures followed in conducting my discourse analysis, including the formulation of questions, operationalization of key terms and the multiple stages of coding and

analytic procedures used on the data. I conclude with a brief discussion of the limitations of these choices.

3.1 Epistemological Assumptions

3.1.1 Social Constructionism and the Production of ‘Judicial’ Knowledge

According to Burr (2003), there is no single, reigning definition to describe social constructionism. Instead, Burr (2003, p. 3-5) outlines a set of key assumptions and suggests that any approach, which has at its foundation one or more of those assumptions, can be said to fall under social constructionism. First, social constructionism takes a critical stance towards taken-for-granted ‘knowledge,’ and challenges the view that conventional knowledge is based on objective, unbiased observation of the world. Second, the ways we commonly order or understand our world are viewed as “historically and culturally specific” (p. 4).²¹ Third, our ‘knowledge’ is not derived as a direct reflection of reality, but is rather created through various social interactions. Therefore, what we regard as ‘truth’ “may be thought of as our current accepted ways of understanding the world” (Burr, 2003, p. 4). Lastly, knowledge and social action are seen as intertwined. In this sense, particular understandings of the world are paired with particular actions, and ‘knowledge’ is often used to sustain and justify some patterns of social action while excluding others (p. 5). This relationship between ‘knowledge’ and action is not always linear or clear-

²¹ For example, the designations we use in biology to order the animal kingdom are only one way of doing so, and incorporate a particular set of beliefs and understandings that are reflective of our time and place.

cut, but the basic understanding is that particular versions of knowledge or truth produce or allow for particular outcomes, actions or effects.

Burr (2003) suggests that this social constructionist view of knowledge production is intricately linked with the concept of *discourse*. Conventional understandings of discourse frame it as a dialogue or conversation between people (Howarth, 2000). However, a discourse, in the critical sense, is more than a conversational exchange between individuals. This critical conceptualization of discourse is rooted in the social constructionist assumption that there are always alternate or competing versions of events or issues that are specific to time and place. A discourse then is more than just *talk* about an issue but is “a particular picture that is painted of an event, person or class of persons, a particular way of representing it in a certain light” (Burr, 2003, p. 64). Thus, there will naturally be competing discourses on a variety of topics, issues and populations, and “these various, different and sometimes contradictory ways of speaking about a topic or issue come together... to build up a picture or representation of the issue or topic” (Carabine, 2001, p. 268). This occurs within a continual and fluid process, where any discourse will define and establish what is ‘truth’ at a given moment and may either complement or seek to invalidate other accounts or representations of that issue (Carabine, 2001, p. 268).

The ‘knowledge’ produced and perpetuated through this discursive process has real and tangible consequences. Carabine (2001, p. 268), in her interpretation of Foucault’s work on discourse, suggests that discourses are always *productive*. That is, the way we speak about and represent topics leads to the possibility of actions and tangible consequences. Discourses are constitutive in their own right, and construct a

particular version of any topic or event as *real* (Carabine, 2001, p. 268). As a result, the way that particular populations, issues or ideas are discursively shaped and presented produces real *effects*.

For example, the topic of drug use is portrayed in very different lights depending on the source of information. Popular news media may represent illicit drug-using individuals as criminals or lawbreakers, drawing on discourses of law and order and morality, whereas health-oriented organizations may represent drug users as citizens struggling with addictions and in need of public health intervention. Each representation draws on a very different set of discourses to paint a particular picture of the issue, and each representation produces a very different set of consequences for the population of drug-using individuals. Whereas the ‘criminal’ representation may produce a broadly negative social stigma, the ‘public health’ representation, which also carries a certain stigma, may lead to the development of alternative social policy on health interventions for addiction.

If we conceptualize this process of ‘truth’ production as a competition between different versions of an issue or topic, some versions will hold more legitimacy than others, and may have a greater tendency to be seen as ‘common knowledge’, ‘truth’ or simply “the way things are” (Burr, 2003, p. 67). Returning to the example of drug use, consider where the general public gets the majority of their information on the topic. How much and what type of coverage does the *popular media* devote to drug use versus *public health organizations*? How likely is the general public to receive the same degree of coverage from each of these competing sources of discourse? In this sense,

the popular media might be better positioned to have their version of the topic dominate public discourse or have their version of events accepted as ‘truth.’

Michel Foucault’s work on power/knowledge draws heavily on this concept of competing discourses and the production of knowledge as an exercise of *power*. Although Foucault rejects the notion that one organization or institution ‘holds’ more power than another to produce ‘knowledge’ or ‘truth’ (Foucault, 1977), his work suggests that some individuals and institutions are better positioned or situated to have their version of events *accepted* as truth. In the next section, I discuss Foucault’s work on power/knowledge. Building on the concepts of social construction and discourse, I examine Foucault’s conception of the production of knowledge as an operation of power and draw this theoretical work together with my own research.

3.1.2 Positioning the Judiciary with Foucault’s ‘Power-knowledge’

Foucault devoted much of his writing to reworking dominant conceptualizations of power and control, which factor significantly into his analysis of the relationship between power relations and the production of knowledge. In an historical analysis of power relations, Foucault suggests that dominant operations of power have shifted from a form of social control based solely on sovereignty to a more disguised form of power that operates through all social relations (Seidman & Alexander, 2001). Foucault characterized ‘sovereign’ power as a method of control in a society where authorities at the top overtly controlled the actions of the majority at the bottom (Foucault, 1972, p. 122). This operation of power is illustrated in the relationship between a king and his subjects, and is, in part, premised on the notion that power is something that is

possessed by some and used to dominate others (Fendler, 2010). In opposition to this, Foucault has argued that in modern times, this conceptualization of power is inadequate to analyze the multiple power relations that now operate at all levels of society, between individuals and institutions.

For Foucault, power is something that is *exercised* by all people and all institutions, but is not held (Foucault, 1977, p. 26). In this sense, he rejects the notion fundamental to Marxism that power is possessed by those at the top and used to oppress particular populations (Scott, 2008). Instead, Foucault theorized that power characterized all social relations, as all individuals subtly control their own conduct and monitor the conduct of others (Foucault, 1977, p. 27; Scott, 2008; Fendler, 2010).

One of the most prevalent relations of power that Foucault theorized was power exercised through the (re)production of knowledge. Foucault conceptualizes power and knowledge as mutually constitutive, and argues that power is exercised *through* the production of knowledge, as the knowledge we produce has consequences for the actions we are able to take (Barker, 1998). According to Foucault, there is no power relation without the “correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations” (Foucault, 1977, p. 27). Knowledge does not hold one solid or tangible existence but is rather continually re-shaped through systems of communication and discourses.²² Foucault was particularly interested in *disciplinary* knowledge, which he refers to as

²² Though Foucault does not actively identify with social constructionism, there are clear similarities between the assumptions he makes in his theories about ‘produced knowledges’ and the fundamental assumptions of social constructionist thought.

the 'information' or 'facts' created by disciplines such as psychiatry and medicine (Seidman & Alexander, 2001).

For Foucault, disciplinary knowledge referred to particular *discourses* utilized within the disciplines, where a discourse is defined as the product of collective thoughts and actions that frame an issue or population in a particular way (Carabine, 2001). There is nothing universally 'true' in a discourse; rather, it is a particular way of thinking or version of events accepted in a particular context of time and space (Fendler, 2010). For example, there is a dominant discourse surrounding gender identity and acceptable/expected roles and behaviours for men and women in Western society. There is nothing inherently 'true' in the traditional gender roles assigned to each sex, it is simply the most prevalent conception of gender in our given time and space. There is no permanent divide between accepted and excluded discourse or dominant and dominated discourse (Foucault, 1978, p. 100). Instead, Foucault conceptualized discourse as a perpetual, dialectical process offering competing versions of truth or reality, which hold corresponding consequences for the topic matter or population of interest.

The particular significance of a discourse for Foucault was that it has implications for how individuals or groups of people can live their lives and what may be done to them in the name of knowledge or truth (Burr, 2003, p. 76). For example, modern discourses within psychiatry now frame what was previously thought of as demonic possession as *schizophrenia*, a mental illness. The fact that this is now deemed an illness justifies a particular set of consequences for the 'treatment' of an individual exhibiting these symptoms (Howarth, 2000). Thus, discourses have consequences both

for how we think about particular issues and populations, and for how we may act or are acted upon.

Within these different bodies of ‘produced knowledge,’ some versions of events or populations will have a greater tendency to be seen as more legitimate or ‘truthful’ than others (Burr, 2003, p. 67). These might be thought of as ‘dominant’ discourses, which are no more ‘true’ than any other, but which seem to hold a more legitimate claim to truth for a given time frame, until they are further developed or replaced by another version or explanation. For example, in Western society, medical explanations for illness hold more legitimacy than religious or spiritual explanations, although this was not always the case. In his work on discourse and power-knowledge, Foucault does not explain specifically why some ‘versions of the truth’ are more accepted than others. However, in his analysis of power relations and the production of knowledge, he does talk about *positioning*.

Different social positions (for both individuals and institutions) allow for the exercise of different degrees of power (Feder, 2011). For Foucault, one cannot say that one institution *holds* more power than another. However, one can say that a particular individual or institution is in a better *position* to exercise that power and have their ‘versions of events’ accepted as truth. As Feder (2011, p. 59) states, “It is not that the individual in one or the other of these positions “is” powerful ... but that different positions individuals take up or are assigned afford specific arenas for the exercise of power.” Foucault’s conceptualization of discourse and its relationship to the exercise of power and production of knowledge provides a unique framework to examine the positioning of the judiciary.

3.1.3 Situating My Project Within This Epistemology

Though Foucault was focused on the capacity of the *disciplines* to create knowledge and contribute to dominant discourses, I have expanded this analysis to examine how the discourse drawn upon by *judges* can serve an important knowledge-producing function. The judiciary is not a ‘discipline’ in the sense that Foucault conceived of it and thus will not produce the type of knowledge and corresponding action that Foucault considers in his analysis of disciplinary knowledge. However, the court process, which is guided by a judge, is an apparatus designed to apply the law. Thus, rather than producing a set of claims about what is mental illness and what is appropriate treatment, for example, the judiciary produces a set of decisions that divide populations into particular categories and designations. Further, within their decisions, judges use particular language and imagery to represent the individuals and issues that come through the courts.

Such determinations carry both specific and general *consequences*, as Foucault stipulates in his assertion that the production of knowledge is a key operation of power with corresponding actions or effects (Carabine, 2001). For someone convicted as a procurer, there may be tangible consequences for their future, such as a carceral sentence, probation and so on. More generally, one could argue that this ‘judicial discourse’ or the ways that judges portray this population, contributes to a broader knowledge on this population and on the topic of prostitution generally, similar to the way that media portrayals of a population might contribute to broader understandings of that population. It is with this epistemological basis in mind that I approached my research.

3.2 Additional Theoretical Concepts

In traditional conceptions of empirical study, one works in a linear process, starting with a theory or set of theories and using these to help guide one's inquiry, analysis, findings and discussion. This was not the process I followed with this thesis. Instead, I started with an epistemological backdrop rooted in social constructionism, the concept of discourse, and power-knowledge, as a means of positioning the judiciary with regard to my topic matter. I moved into the analysis with few other pre-conceived theoretical concepts, as I was unsure at the outset what would emerge as striking or pertinent.

Instead of testing or applying a pre-determined theory or set of theoretical concepts, I developed and then utilized a set of questions to ask the data, and out of this analytical process began to emerge a number of themes and patterns of action. With some of these initial findings, I returned to the literature and sought out some additional theoretical work on gender and the regulation of sexuality that would strengthen my analysis. I used these theoretical concepts as additional 'lenses' to inform parts of my analysis and discussion, and to help provide an account of what I found. The following is a brief account of this theoretical work.

Gender & Gender/Sex Roles

Historically, the concepts of gender and sex were conflated and taken as natural divisive categories for the way we think about people (Ryle, 2012). In this sense, for much of the history of Western thought, 'sex' was uncritically conceptualized as a dichotomous trait, where a person falls into either the 'male' or 'female' category (Ryle,

2012). Traditionally, the concept of 'gender' was thought of as a natural and direct reflection of one's sex; a series of traits and actions performed by people according to their 'natural sex' (Posocco, 2013). This conception of gender broadly permeated Western thought on the matter for much of our history (Posocco, 2013), and earlier, naturalistic assumptions (often associated with Western cultural norms) associated particular actions or traits as *masculine* or *feminine* (Hearn, 2013, p. 150).

Stereotypical notions of 'naturally' masculine and feminine traits were heavily criticized in the 1970s and 1980s, both in the academic sphere and by feminist activists questioning the broadly accepted notions about 'inherent' differences between the sexes (Hearn, 2013, p. 150; Ryle, 2012). Based on this criticism, contemporary researchers and feminists have problematized the dichotomous notion and naturalist assumptions about gender, now recognizing gender as something that you do, not something you are (Posocco, 2013, p. 110). More contemporary notions of gender, which are nuanced by social constructionist thought, recognize that gender is not a born trait. Rather, the differences we have ascribed to the sexes²³, and the traits and behaviours that are seen to accompany those sexes, are recognized from this perspective as socially constructed and meaningful only because they are prescribed meaning (Nealon & Giroux, 2003). Thus, so-called "feminine" traits are only feminine because they are labelled and constructed that way.

²³ There is also a rich field of research and critique challenging the dichotomous notion of 'sex' and asserting that this, too, is a social construction. This area of thought is recognized here, as a complementary line of inquiry to my discussion of gender. However, given the scope of the study, this challenge to the dichotomous notion of 'sex' is not explored in any further detail here.

Out of this critique has come a line of research and social theory placing gender as a central frame of analysis. The use of gendered frameworks to analyze particular social phenomena has only increased with the recognition, supported through critical research and inquiry, that gender plays a significant role both in how we order our world and in our day-to-day interactions (Ryle, 2012). One area of gender theory (within the very broad field of inquiry surrounding gender) that provides an additional useful conceptual framework for this thesis is that of *normative* or *hegemonic* conceptions of gender, which feed into gender roles and stereotyping.

According to Shapiro (2010), hegemonic or normative conceptions of gender are those beliefs about the traits and actions that embody men and women that are so ingrained that it becomes hard for people to imagine them differently. In other words, hegemonic norms surrounding gender are those that dominate a particular time or space and are widely accepted as ‘natural’ or given traits (Shapiro, 2010, p. 15). Thus, despite the critiques that have emerged out of feminist thought and academic research recognizing *gender* as socially constructed and not as inherently natural or ‘true’, specific conceptions of appropriate or correct gender behaviour still dominate within particular time and space periods and further, are still often viewed as intricately connected to one’s sex.

Ryle (2012, p. 33-34) refers to these dominating conceptions of masculine and feminine traits as ‘sex roles’ – a set of dominant expectations attached to a particular sex and gender category. From a social constructionist perspective, these particular ‘versions’ are no more ‘true’ than any other, but are rather considered the most widely

accepted. Gender roles have a normative component in that the violation of these expectations for both men and women is notable (Ryle, 2012, p. 34), and people's adherence to such roles is both formally and informally policed through their interactions with others (Shapiro, 2010, p. 15).

According to Hearn (2013), the concepts of 'men' and 'masculinity', for example, are frequently taken for granted as having broadly and implicitly understood meanings. Hegemonic masculinity is associated with particular traits or qualities such as virility and powerfulness (Hearn, 2013). Other characteristics are also commonly applied to men as 'inherently' masculine traits. According to Ryle (2012), the concept of the male as worker and provider is considered a normative male trait:

Work becomes for men an unspoken expectation that is often seen as defining the very core of a man's identity. In almost any industrialized society, adult men are expected to have jobs, and any deviation from this expected course of events is viewed not just as a personal failing on the part of the man, but as a failure to his masculinity (Ryle, 2012, p. 372).

Similarly, normative gender/sex roles are also applied to women. According to Feinman (1994), women's conduct in society is both formally and informally regulated according to their adherence to specific gender role(s) and expectations. The non-conforming woman "can be one who questions established beliefs or practices, one who engages in activities traditionally associated with men, or one who commits a crime" (Feinman, 1994, p. 3). In this view, the non-conformity to gendered expectations presents a threat to social stability and is thus subject to legitimized regulation.

Gender & Sexual Regulation

Feinman (1994) uses the concept of the 'madonna-whore' duality to help conceptualize the way women's conduct (and particularly sexual conduct) is regulated in accordance with dominant gender roles. According to Feinman (1994, p. 3), the concept of the 'madonna-whore' stems from a dual perception of women as having one of two "natures" –the madonna or the whore. This categorizes women into two roles, as either the caring, nurturing producer of children (madonna), or the whore who inflames men's passions. Implicit within this notion is men as the protector of the madonna and punisher of the whore (Feinman, 1994). The whore, in this conception, is the woman who acts outside the role of the madonna, who fails to uphold the qualities of obedience, goodness and virtue. This woman is characterized as a threat to social and moral order, for acting outside her prescribed role, and she is both notable and punished for doing so.

Feminist authors and researchers have studied the regulation of sexuality, in particular, as a highly gendered process. Contained within a broader context of dominant gender norms, which outline particular expectations for *feminine* versus *masculine* behaviour, are specific expectations surrounding sexual behaviour. According to Sangster (2001), the regulation of sexuality has stretched across state and civil society, between the public and private and linked through both formal and informal systems of authority and regulation (p. 85). The construction of sexuality, and appropriate sexual behaviour, are highly gendered (Sangster, 2001), and views of what is deviant in relation to sexuality are subject to change and development (Shaver,

1996). Similarly, what is considered ‘appropriate’ sexual conduct for women versus men is socially regulated, and both formally and informally policed through our interactions with others.

Collectively, these theoretical conceptions of gender as socially constructed, and of hegemonic sex/gender roles and expectations, build on the epistemological assumptions informing this research. They also provide a useful lens to consider some of my later findings. In the following section, I turn to the discussion of the methodological steps I took to conduct this study.

3.3 Methodological Approach

To conduct my analysis, I followed the interpretation of Foucauldian discourse analysis specified by Carabine (2001), in an instructive chapter she wrote on her use of Foucault’s work to create a genealogical account of the discourses present in historical social policy on unmarried mothers. In this section, I introduce the broader concept of Foucauldian discourse analysis and discuss how I adapted and utilized Carabine’s approach to conduct my own analysis.

3.3.1 Foucauldian Discourse Analysis

As a methodology, Foucauldian discourse analysis draws on the interplay between discourse and power, and considers the role of language in the constitution of social life (Willig, 2001, p. 107). In particular, this approach to research considers the role of discourse in wider social processes of legitimation and power. Discourse is

examined both in terms of its constitutive capacity and its corresponding effects or consequences (Willig, 2001).

Foucauldian discourse analysis often takes an historical approach and is used to “explore the ways in which discourses have changed [and developed] over time” (Willig, 2001, p. 107). This historical analysis is what Foucault referred to as a genealogy²⁴ and is used to trace historical shifts in discourse on a given topic as well as the corresponding effects or consequences of that discourse. Despite this emphasis on the genealogical approach, it is also possible to use a Foucauldian discourse analysis to produce a ‘snapshot’ of the power/knowledge networks of a given moment and the discourses that are used to frame a particular topic or population during that time. In both cases, the aim is to identify *how* one’s topic is constituted and with what effects (Carabine, 2001, p. 280).

Foucault did not provide a specific set of instructions on performing this method of analysis. Rather, the intention was to outline an approach that would enable one to “analyze and understand discourse” (Groulx, 2008, p. 42). Researchers from a variety of disciplines have adopted this as a methodological approach, with a range of interpretations on Foucault’s work. The downside to this is a lack of one, concrete methodology to follow in conducting this type of analysis. However, the strength is that one can explore the various interpretations of Foucault’s work to find a well-suited, rigorous methodology that enables one to answer their research question. I found this in Carabine’s (2001) work.

²⁴ For example, Carabine (2001) conducts a Foucauldian discourse analysis on historical social policy documents in order to “trace the ways that sexuality- specifically unmarried motherhood- is spoken of and with what effects” (p. 267). Specifically, Carabine (2001) uses this methodology to create a *genealogy* of the development of discourses surrounding unmarried motherhood from the 1830s to modern time.

I drew on Carabine's (2001) 'snapshot' conception of discourse analysis for my own study. This particular approach permitted me to examine one 'group's' contribution to discourse on a topic during a given time frame. In the final section of this chapter, I detail the steps I undertook to carry out a Foucauldian discourse analysis, including my data source, data collection and analytic procedures.

3.4 Research Procedures

3.4.1 Data Source

My dataset consists of judicial summaries of court cases that include charges under section 212 of the Criminal Code, Canada's procuring legislation. A judicial case summary is a detailed, textual account of a court event, produced by a court reporter based on the wording, summary and decision provided by the judge, and typically made available long after the court hearing. These written accounts include the judge's summary of the background of the case, the details raised in the case by both the Crown Attorney and Defence counsel (if present), any case details raised as relevant by the judge and the determination or decision that the judge has made at the end of the hearing. In criminal court, judicial case summaries are produced after court proceedings such as legal applications (such as for court date changes), procedural and constitutional challenges, preliminary inquiries, trials, sentencing and appeals.

Each summary provides a textual account of the court process and the individuals involved, as perceived and determined by the *judge*. From a social constructionist perspective, all texts are constructed products. No text offers an

objective reflection of reality but rather a particular version of reality *offered by the author* (Charmaz, 2006, p. 39). The particular imagery and labels used to describe individuals, the lines of reasoning and the information raised on court case participants, for example, come together in these cases to paint a particular picture of the *judicial interpretation of the procurer*. Given my objective to examine 'knowledge' produced *by judges on the procurer*, and my choice of discourse analysis as a methodology, this data source provided strong material from which to answer my research question.

3.4.2 Sampling

I examined judicial summaries for cases involving charges laid under section 212 of the *Criminal Code*. As I highlighted in Chapter One, section 212 is Canada's *procuring* law and is intended to target anyone encouraging, assisting or directing another person to participate in prostitution, or anyone living partially or wholly on the avails of the prostitution of another person. As my research objectives are to examine the judicial construction of the 'procurer,' using cases with charges under this legislation was the most logical choice.

My original intention was to examine only summaries involving charges under section 212(1), where the individual involved in prostitution is an adult. However, during my preliminary searches, it became clear that a significant number of the cases I was finding included underage individuals involved in the sex trade. Further, my first and second reading of the material suggested that some of the more interesting findings lay in the cases involving youth. Thus, I decided to include cases involving

underage individuals as the complainant and where charges were pursued under section 212(2) of the Code as well.²⁵ Having decided to utilize both youth and adult cases, it was also my intention to separate the two groups for the analysis, as I expected the cases to differ significantly and thus for the characterization of ‘procurer’ to be qualitatively distinct. In other words, I expected the procurers of underage girls to be called “pimps,” and procurers of adult women to be called “managers.” What I discovered, however, was that there seemed to be several factors other than the *age* of the complainant that were associated with how a ‘procurer’ was characterized (i.e. according to the case summaries, an underage complainant is not always a victim and the accused in these cases is not always a pimp). Thus, the sample, and subsequent analysis included a mix of ages and charges including both youth and adults.

I found the case summaries using LexisNexis QuickLaw, an online legal database, which contains full-text summaries of court proceedings from all levels and jurisdictions of court across Canada. As a Canadian database with perhaps tens of thousands of cases, Quicklaw provides access to a substantial number of judicial case summaries available to the general public.²⁶ Prior to my search, I selected a set of criteria that would determine my initial search parameters. First, I limited the number of cases to include those from 1985 to present day²⁷. Though the procuring laws have remained largely unchanged over the last 50 years, 1985 was a major year for

²⁵ I excluded cases where charges were only laid under section 212(4), which criminalizes obtaining, for consideration, the sexual services of an individual under the age of 18. My initial review of these cases suggested that they did not involve any kind of management or organized prostitution, but rather individualized attempts by adults to seek sex from minors. Thus, I excluded these cases as they were too qualitatively different from my other data and thus not useful to include within my larger data set.

²⁶ There are recognized limitations to using Quicklaw, which I detail in the final section of this chapter in ‘Research Limitations.’

²⁷ The search of Quicklaw was completed in February of 2011.

restructuring prostitution law in Canada. Thus, this year became a logical time boundary for the search.

My second parameter was to examine cases only from the Province of Ontario. I anticipated that there would simply be too many cases countrywide to include, given the timeframe and scope of this research. Therefore, Ontario cases became an appropriate search boundary, to limit the quantity to match the scope of the study. Lastly, I decided to include in the analysis cases from all levels of criminal court, including provincial, superior, appeal and the Supreme Court of Canada²⁸.

Using these parameters, I first conducted a 'Legislation' search within Quicklaw, where the legislative title is limited to "criminal code" and the provision number to "212." This returned all cases that have addressed section 212 either directly or peripherally in their decisions. Less than 100 cases were returned on this search, and I filtered through these, saving only cases where charges were laid specifically under section 212. I then conducted a 'key word' search, searching for key terms in both the executive summary and the body of every case in the database, using the same parameters and conducting individual searches with the terms "212", "procuring", "living on the avails," "living off the avails," and "212(1)." This search produced several hundred summaries, all with multiple criminal charges, which I filtered through individually, selecting only cases where charges were laid specifically under section 212.²⁹ This reduced the number of cases to approximately 80.

²⁸ Although I included Supreme Court of Canada cases in my initial search parameters, I was unable to locate any case summaries including charges under section 212 that proceeded to the Supreme Court.

²⁹ Ideally, I would have sought case summaries where the *only* charges were under section 212. However, this was unrealistic as I was unable to locate any cases that did not include charges for at least two separate

In my subsequent filtering of these cases, I limited my data to include summaries of *preliminary inquiries*, *trials* and *sentencing hearings* only. Of the approximately 80 cases, approximately half were composed of summaries of legal applications, constitutional challenges and appeals. While these cases did include charges under section 212, as a whole, they did not include sufficient details on the case or the individuals involved to warrant their inclusion in my data set. I found little useable information in summaries of legal applications or challenges, where the focus was on technical legal details and not necessarily the events of the case. Thus, these were not included. Additionally, I excluded cases where the procuring charges were dropped by the Crown attorney due to insufficient information, as the judge in these cases suggested the charges were irrelevant or unfounded, and devoted no other space to discussing them.

Ultimately, this filtering process produced approximately 25 relevant, usable case summaries, spanning a course of 27 years of court processes. I organized the cases using a spreadsheet system, where I was able to record the name, dates and pertinent details of each case to ensure I had no duplicates. I then began the analytic process outlined by Carabine (2001) in her interpretation of Foucauldian discourse analysis.

offences. The implication of this is that the language a judge uses to describe an individual in these cases is not limited to their 'procuring' actions alone, but may also reflect other activities for which they were also charged. However, this was inevitable given my data set, and the remedy for this has been to focus my analysis on the judicial discussions of the individual as it relates to their 'procuring' and/or 'living on the avails' activities.

3.4.3 Analysis

Carabine's (2001) guide for conducting a Foucauldian discourse analysis includes eleven procedural steps³⁰, which, she suggests, should be followed but will not always be linear. I used these steps to guide my analysis and, as Carabine (2001) suggested, had to return several times to earlier steps in order to confirm some detail or develop one of my findings. I present this analytical process in two stages, each composed of multiple steps, which are linear only in their final arrangement.

Getting to Know the Data and Drawing out the Discourses

The first stage outlined by Carabine (2001) involves identifying appropriate sources of data, which is followed by immersing oneself in that data. Following my case selection process, I spent time sifting through the case summaries, to ensure that they would provide sufficient information and material for my analysis. I then moved into the 'data immersion' phase, where Carabine (2001) recommends reading and re-reading one's materials, in order to get a feel for the format, style and types of information present. Once I had selected my final group of cases, I conducted my first stage of analysis, which, in my case, involved four readings of the cases. The first was a casual reading, to get a sense of how each summary was laid out and the sections where I would find the most useful information. My second reading was more in-depth, where I sought out information that could start to provide an answer to my research question. At this stage, I started taking broad notes on the summaries, on the side and within the documents, to flag information that was appearing repeatedly. My objective with this second reading was to begin to identify the ways that judges spoke of the

³⁰ See Appendix Item I: Carabine's Guide to Conducting Foucauldian Discourse Analysis.

‘procurer’; namely, the types of information that were raised as relevant, the way the case participants were spoken of and in reference to what details, and so on.

At this stage, I also introduced a short list of variables that I had developed to help guide my analysis. These variables were based largely on past research accounts of sex work managers and the commercial sex industry, and I included them to determine whether they appeared in any patterns within the judicial case summaries regarding discussions of the ‘procurer.’ Specifically, I was interested in whether and how each summary spoke to the *gender and/or sex* of the case participants, their *age*, their *race or ethnicity*, the *relationship* between the complainant and the accused and the *labour sector(s)* in which the sex work occurred. However, I used these variables very loosely, and only as a basic starting point for my analysis³¹. Carabine (2001) does not discuss the inclusion of pre-determined variables in her guide to discourse analysis. However, based on my reading of past research in this area, I felt it was relevant to consider whether any similar patterns were occurring within the summaries.

In my third reading at this stage, as Carabine (2001) directs, I attempted to solidify some of the preliminary patterns that I had noticed in my first two readings. Namely, I tried to verify whether any of my pre-determined variables appeared to be present and how they were spoken of. I elaborated on the notes and flagging I had done in my second reading, attempting to verify whether each flagged topic was persistent enough to be considered a pattern. At this stage, I also considered which topics constituted an ‘object’ of discourse within the summaries. Carabine (2001, p. 283) suggests that one examine one’s data for “objects” of discourse, the tangible topics,

³¹ See Appendix Item II: Variables of Interest for Open Coding.

people or issues around which the discourse seems to revolve. At this stage, I noted that despite my initial intention to examine the ‘procurer’ as the dominant object of discourse, there were in fact three specific objects “spoken of” in the summaries, including the *accused*, the *complainant* and the topic of *prostitution* itself. This third reading culminated in a series of notes detailing prominent themes and patterns that I had noted in the summaries. More importantly however, this third reading helped produce a series of questions to ask of the data, which focused on the accused, the complainant and prostitution as the major objects of discourse.³²

For my fourth reading, I created a spreadsheet document based on these objects of discourse, which incorporated the major themes and categories I had noted in my second and third readings. Each category within this spreadsheet represented a particular question about the data, and included space for additional notes and related quotations. Using this spreadsheet³³, embedded with this set of questions, I carefully read through each case summary a fourth time, noting down any information or statement relevant to each of my questions and categories of interest. For example, I noted every instance where the accused’s relationship with the complainant is discussed, including the different contexts of this discussion, the discourses drawn upon to frame this relationship and so on. This process culminated in 25 spreadsheet documents, one for each case summary, with detailed notes, examples and quotations for each question and category of interest.

Making Sense of the Data

³² See Appendix Item III: Guiding Questions

³³ See Appendix Item IV: Case Summary Analysis Template

In this second major stage of analysis, Carabine's (2001) guideline suggests looking for evidence of inter-relationships between discourses and objects of discourse. This included examining the patterns in how objects of discourse are presented and whether the presence of one particular discourse seems to indicate another. For example, a label that appeared repeatedly within the summaries was that of the *pimp*, and one of the discourses surrounding this was the *pimp as inherently 'bad' or 'evil.'* In this stage of the analysis, I noted how the discourse of the pimp as 'evil' was only employed in cases where the discourse surrounding the complainant framed *her* as a '*victim.*' This examination of inter-relationships made up the bulk of this analysis, and helped guide the final structure of my research findings.

At this stage, Carabine (2001) also suggests looking for *absences* and *silences* in the data or places where particular discourses or characterizations are not used and why. I incorporated this process, to try and account for any cases or language used that did not follow my broader findings. Additionally, this stage involved looking for *counter-discourses*, including instances where cases or objects of discourse were counter to the broader trends found within the data.

The final stage of my analysis included drawing together overlapping and complementary discourses and presenting them in a format that conveyed how they appeared within the case summaries. My overall concern with this analytic process was painting an accurate picture of the objects and discourses present within the texts and of their apparent relationship to one another. I detail these findings in the following chapter, and conclude this chapter with a brief discussion of the study's methodological limitations.

3.5 Research Limitations

The first limitation to my methodology pertains to my choice to use discourse analysis on *pre-existing records*. Dorsten and Hotchkiss (2005) suggest that a drawback of this approach is that such records seldom contain the ‘whole story’ or all the information a researcher is looking for. Similarly, Berg (2007) suggests that given this research approach, one is limited to examining only what is already recorded, which often does not include all of the information one would like to reach. This limitation applies in two ways in this thesis.

First, given my use of Quicklaw as my primary database, my dataset was limited to cases that were recorded and made publicly available within Quicklaw. It is likely that in over twenty-five years of Ontario court processes, there were many more procuring cases that either did not produce a case summary or where the case summary was not made available on Quicklaw. Given my choice of research tools, I did not have access to those cases. While this does produce a degree of limitation, I determined that Quicklaw has the largest, publicly available database of Canadian cases over any other legal research tools available to me and thus is still a strong option for my research. Further, my objective with my data and sampling method was not necessarily to produce a ‘representative’ sample of all procuring cases. Rather, I was seeking to study *the summaries that were made available to the public*, which serve as the public record of proceedings. In doing so, I found a diversity of cases, which served its purpose for my research.

The more significant limitation to my dataset is that I was unable to access any information on court cases that did not receive a written, judicial case summary. This limitation relates more closely to my choice to use judicial case summaries alone to conduct my analysis. The criminal justice system involves a long filtering process of cases, which begin with an arrest and only in a fraction of cases culminate in an in-court prosecution and sentence. Many cases will have charges dropped or will conclude with a plea bargain. For cases that actually go to trial and sentence, only a very small percentage will actually produce a judicial case summary and it may be that only cases with more interesting results or circumstances actually receive a summary. This is a limitation in the sense that I can only analyze and draw conclusions on cases that are available to me in a written narrative and these cases may not be broadly representative of the judicial interpretation of procuring cases generally. However, given that the case summaries are text-based, public records, they still provide the most obvious data to answer my research question, over and above anything else available.

A further limitation to this data set is that it only includes case summaries from Ontario courts, at the exclusion of the other provinces. This was necessary given the available time and scope of the research. However, this limits the degree to which the findings can be generalized to represent all of Canada and I can only draw conclusions on Ontario courts. Nonetheless, examining Ontario cases provides a starting point, which may be expanded in future research.

As to the study's methodology, a limitation to Foucauldian discourse analysis and to other similar methods is the potential for the researcher to be overly selective or

subjective in their analysis, emphasizing some findings while excluding others (Carabine, 2001). A concern with this process is obtaining an 'accurate' representation or interpretation of the data and not simply selecting what is convenient or obvious. This is a valid critique of this type of methodology. However, this particular concern can be addressed through the use of rigorous techniques and reflexivity in the research process. I endeavoured to identify and limit my subjectivity by using a research design that was as systematic as possible. I also tried to be reflexive throughout my analysis, as I considered how my prior interests and assumptions about this topic matter might influence my inclination to look for some findings over others.

In addition to this self-reflection, I followed a rigorous set of analytic procedures, including my systematic use of the same series of questions on each document and my operationalization of key terms behind these questions. My objective with these procedures was to attempt to 'unpack' and produce an accurate representation of the various discourses raised in my case summaries, while recognizing that this method of research will always require some degree of interpretation on the part of the researcher. Given this position, I have taken a variety of measures to ensure that my findings are supported by and grounded in the data. These findings are detailed in the next chapter.

CHAPTER 4: FROM VICIOUS PREDATOR TO BUSINESS MANAGER: JUDICIAL CONSTRUCTIONS OF THE PROCURER

My analysis of these summaries produced a set of findings more complex and interrelated than I had anticipated. In the following, I try to present these findings in a way that both reflects the individual discourses that thread through the data, while illustrating how these discourses come together to paint a particular version of the events and participants of each case. In these cases, judges draw on discourses of gender, morality, greed, “good” versus “evil,” chastity, innocence, threat, risk, legitimacy and victimhood to produce a particular interpretation of what it means to be a *procurer*. A portion of each case summary is composed of ‘factual’ accounts of the case, including details on the participants, their lives, the circumstances of the offense and the corresponding legal decision, such as a determination of guilt or the imposition of a sentence. However, many of these summaries also include the opinions and moral condemnations of the judge, as they speak of the accused, the complainant and the act of prostitution itself.

My analysis uncovered four relatively distinct ‘versions’ or representations of the *procurer* that are present in these summaries, each shaped by a specific set of discourses and ‘facts.’ I present these as my major research findings. Interestingly, the term ‘procurer’ itself is rarely used in these summaries, and instead judges speak of pimps, parasites, abusive boyfriends and business managers in reference to the individuals accused or convicted of procuring others for prostitution. Thus, while the

research question guiding this thesis asks *How have judges discursively constructed the 'procurer' in Ontario courts?*, the answer to this question better reflects the language and labels utilized by the judiciary.

I labelled these four representations with the following: the *Predator Pimp*, the *Exploiter Pimp*, the *Bad Boyfriend (Pseudo Pimp)*, and the *Business Manager*. My goal in this chapter is to “unpack” the various discourses that make up each of these characterizations, with the accused, the complainant and prostitution itself as the major objects of discourse. I also discuss the opposing discourses that surfaced in my analysis, which includes cases and topic matter that differed from or contradicted my broader findings. Although there is no previous research strictly on the ‘procurer,’ I did find a number of overlaps between judicial characterizations of the procurer, and the language and labels found in empirical research on the sex industry and sex work management. There is also significant overlap between the characterizations made by judges and those found in studies on media representations of the commercial sex industry.

4.1 The Predator Pimp

“YOU SIR, ARE A PARENT’S WORST NIGHTMARE. Your predatory conduct must be punished...you engaged in the most despicable, parasitic criminal conduct against young, vulnerable teenage girls.” (R v. M.S., 2006)

Of all the representations of procurer, the *Predator Pimp* is characterized as posing the most significant threat to broader society and innocent girls everywhere. Of the 25 cases I reviewed, I determined nine of them to fall into this category. The

concept of 'predator' is constructed through a combination of characteristics of the accused, the complainant and the act of prostitution; the accused is evil, the complainant innocent, and prostitution is the worst thing that could happen to a young woman and to society at large. In these cases, judges draw on discourses of greed, danger, risk, victimhood, chastity, and morality, which paints a picture of the *predator pimp* as a significant threat to society. Correspondingly, prostitution is framed as intrinsically connected to predatory pimping and thus, as a prevailing social ill.

The Accused as inherently evil

In these cases, which include both trials and sentencing, the accused is exclusively *male*, typically young (under 30 years old) and framed as lazy, greedy and exploitive. The concepts of laziness, manipulation and greed are raised frequently in these cases, where the judge condemns the accused not only for their actions but for their assumed motivation and for their lack of other contributions to society. For example, in *R v. Salmon* (1998), the judge condemns the accused for his motivation, stating, "He did take advantage of her situation, and it was for purely selfish personal and sexual gratification and for assisting himself and his household financially."

The concept of the "parasite" also appears frequently in these cases³⁴. The majority of the individuals in the 'Predator Pimp' cases were referred to as parasites,

³⁴ The concept of "living parasitically," in reference to section 212(1)(j) of the Criminal Code (living on the avails of prostitution), has received several interpretations over the years (see *R v. Grilo* (1991) and *R v. Barrow* (1992)). More recently, in *Bedford v. Canada (Attorney General)* (2012), the Ontario Court of Appeal clarifies that, in 'professional' or non-domestic relationships, there need not be evidence of exploitation or coercion in order for the relationship to be considered parasitic. However, in domestic or personal relationships, there must be evidence of exploitation in order for the dynamic to be considered parasitic and thus for the relationship to be criminalized under section 212(1)(j). Justice Arbour, in *R v. Grilo* (1991) lays out the distinction, stating "The parasitic aspect of the relationship contains, in my view, an element of exploitation which is essential to the concept of living on the avails of prostitution.... The true parasite whom s. 212(1)(j) seeks to punish is someone the prostitute is not otherwise legally or morally obliged to support."

perhaps implying that their actions are harmful not only because they have harmed another person, but because they have failed to support themselves and have failed to contribute to society in any meaningful way. For example, in *R v. Foley* (1998), the judge states “Of course, he was a parasite, while he was living off of her, pregnancy or not.” Similarly, the judge in *R v. Ali* (2004) emphasizes that “Mr. Ali had no other meaningful job.” Several other cases emphasized that the accused had “no other source of legitimate income” (see *R v. M.S.* 2006; *R v. Miller*, 1997; *R v. Rose*, 1994). The implication of this is perhaps that the Predator Pimp is doubly bad, through his harmful actions as a “pimp” and through his lack of “legitimate” employment and thus parasitic position in society.

This portrayal of the pimp as a “parasite” is also present in empirical studies on the commercial sex trade that I surveyed in my review of the literature. Researchers examining sex work management generally present a picture of *lazy* and *parasitic* pimps, who exploit young girls to earn a living. For example, a 2003 study by Dalla, Xia and Kennedy continually refers to “street pimps” and “parasites,” who threaten and exploit the young girls who work for them.

In addition to their discussion of greed and parasitic behaviour, I found that judges also portrayed the individuals in these cases as *dangerous*. The use of violence by the accused/convicted is raised in several cases to emphasize the danger that predatory pimps posed to their victims and may continue to pose to greater society. For example, in *R v. Williams* (1997), the accused is described as a “pimp with a number of previous assaults.” Similarly, in *R v. Miller* (1997), the judge emphasizes the accused individual’s prior record of assault and threats, which “speak to his violent

temperament.” While violent behaviour was not a defining feature of every case, it was a notable feature of the majority of cases of the ‘Predator Pimp.’

This portrayal of the ‘Predator Pimp’ as violent and dangerous replicates the language used in a number of academic studies on the sex industry that have characterized sex work managers generally as “pimps,” and all “pimps” as violent and coercive. For example, Hodgson (1997) studied “street pimps” in Toronto and concluded that this population was predominantly composed of violent, young males. In contrast, studies in the UK by Bensen and Matthews (2000) and McDowell (2009), and in the US by Faugier and Sargeant (1997), acknowledge this popular portrayal of the violent and coercive “pimp” as a particularly staying and dominant stereotype surrounding the commercial sex industry. However, these studies challenge this notion and suggest that, in reality, there is a broader spectrum of identities and behaviour in management relationships within the commercial sex trade. While my own findings suggest that there *are* different ‘versions’ or representations of the procurer produced by the criminal courts, the most dominant and resounding identity to emerge is the procurer as a violent and dangerous predatory pimp, replicating pre-existing stereotypes acknowledged by researchers in this area.

In addition to a portrayal of the procurer as *violent*, my findings suggest that the accused in these cases are framed as *risky* and a *threat* to society by virtue of the characteristics of the individuals they chose to procure. Virtually all discussion of *threat* in these cases overlaps with discussion of the characteristics of the complainant. The ‘Predator Pimp’ is a threat to society not simply because he is a greedy, violent man with exploitive intentions but because he has targeted *young, innocent* women, who are

portrayed as *legitimate victims* who have been ruined by the evils of prostitution. Judges in these cases draw on discourses of *victimhood*, *chastity* and *morality*, portraying the accused individuals as the ultimate predator and the complainant(s) as the ultimate victim(s).

The Victim(s)

"She was very young – 16 years of age – and fell hopelessly in teenage love with the offender." (R v. Salmon, 1998)

The majority of the accused individuals whom I have labelled 'Predator Pimps' are charged under various subsections of section 212(1) of the *Criminal Code*, for procuring an adult individual to become involved in prostitution, with a smaller proportion charged or convicted under section 212(2), for procuring an individual under the age of 18. Thus, some of the complainants in these cases are teen-aged girls, while the rest are young women typically between the ages of 18 and 21. In all of these cases, complainants are referred to as *victims*.

The victims in these cases are presented as young, naïve and vulnerable³⁵. For example, in *R v. Salmon* (1998), the summary elaborates on the exploitive intentions of the accused, preying on a naïve young girl, stating "He had to be aware of her vulnerable position... having fallen in love with him in a teenage puppy love." In two cases, where the victims had run away from group homes, the judges emphasized the vulnerable position in which the girls found themselves, as teenagers with no safe place to turn. In a case where the victim is pregnant, the judge raises this several times

³⁵ I use the term "victims" here as it reflects the language used within these case summaries, where anyone involved with a Predatory Pimp is automatically referred to as a victim. In following sections, I refer to the same individuals as "complainants" and "witnesses," reflecting the language used in the case summary.

throughout the summary, noting this as a compounding factor, making her experience with the pimp all the worse.

In addition to emphasizing the youth and vulnerability of the victims, the summaries all speak, in different ways, to the sexual purity or ‘goodness’ of the girls in these cases who have fallen prey to the actions of the predatory pimp. In the majority of cases, the judge clearly emphasized that the victim had not engaged in prostitution in the past, before meeting the accused. For example, in *R v. Salmon* (1998), the judge specifically labels the complainant as “innocent,” noting her lack of experience in the sex industry, and the cases that raised this issue typically referred to any form of participation in the industry as something that destroys a girl’s *innocence*. The implication of this is that participation in prostitution destroys sexual purity, whether one is a youth or an adult, and that those who have their sexual purity destroyed can be considered victims.

In *R v. Ali* (2004), the judge notes that although the complainant had engaged in sexual intercourse before, she had never participated in prostitution. “She admitted... that she had been sexually active before, but she said that she had never been involved in the sex trade or prostitution offences” (*R v. Ali*, 2004). This statement regarding the previous sexual conduct of the victim could be understood as a way of acknowledging that the victim was not entirely ‘pure’ when she met the accused, but that what was left of her sexual purity was destroyed when she became involved in the sex trade. This interpretation is consistent with the rationale provided in *R v. M.S.* (2006), where the judge acknowledges that a *mitigating* factor in the case is that one of the 15 year old complainants (the only young girl of several who is *not* referred to as a victim), used to

work in the sex trade. The implication then is that there is less of an offense, given the fact that the sexual purity of this girl was no longer in place.

This representation of the ‘pimp’ as an evil predator and the victim as an innocent young girl is clear both in empirical research on the sex industry and in media representations of the commercial sex industry. Hallgrimsdottir, Phillips and Benoits’ (2005) study on newspaper coverage of prostitution in Victoria, BC found that the most prominent image of the sex industry within their sample was that of the violent, coercive pimp who has forced an innocent young woman into the street sex trade. Campbell’s (2006, p. 371) examination of film portrayals of the sex industry found a broader spectrum of “pimp” identities, but by far the most prevalent was the pimp as a dangerous and coercive male who entraps a “spirited” and innocent young woman into a life of degradation.

An exceptional case

I noted one case within my analysis that I deemed to be an exception to the general patterns of language and discourse present in the cases of the ‘Predator Pimp.’ In *R v. Miller* (1997), the accused is portrayed as violent, dangerous and a threat, with all the same characteristics as the ‘Predator Pimp.’ However, the *complainant* in *R v. Miller* (1997) is not labelled a ‘victim’ as are the others, and is instead referred to as a “witness.” The complainant is female, but not underage. More importantly, I would suggest, she is presented as a single mother who is a recipient of social assistance and who has a prior criminal record. She is not constructed as a “victim” but as someone who was complicit in her own prostitution and exploitation. The judge states, “The

witness, unconvincingly, made every effort in her testimony to avoid taking responsibility for her involvement in prostitution... Before meeting the accused, [the witness] was an experienced participant in the adult sex trade.”

Although this case provides some exception to my findings, namely that a ‘Predator Pimp’ is deemed a predator through the individual he victimizes, it is also consistent with my conclusion that the status of “victim” in these cases is reserved for those who meet the requisite requirements of chastity and innocence. My conclusion is further reflected in a closing quotation from the judge in this case, who states “Despite the exploitive character of the accused’s operation, there is no evidence that he *corrupted* or coerced those in his employ to become prostitutes” [emphasis added] (*R v. Miller* 1997). The implication then is that one cannot be corrupted twice, and thus, the complainant in this case might be considered an unchaste and ‘ruined’ woman, with no claim to victim status, despite her involvement with a violent, predatory pimp.

Labour Sector

At the outset of my analysis, I had anticipated that the *labour sector* where the prostitution occurred would factor in to my findings. Specifically, I anticipated that procurers who had their victims/complainants work in the *street* sex trade would be labelled as pimps. What I found however, was that the labour sector did not appear to be a significant factor, nor was it raised as especially relevant when discussing the characteristics and behaviour of the ‘Predator Pimp.’ The victims in these cases operated (or were forced to operate) in all varieties of commercial sex work, including street work, massage parlours, arrangements out of hotel rooms and apartments and

even one business, which the judge refers to as a “common bawdy house... which masqueraded as an adult entertainment service” (R v. Miller, 1997). The thread connecting these particular cases is the condemnation of all prostitution as violence and exploitation, regardless of the specific labour sector in which it occurs.

Prostitution as a Threat to Moral Order

The portrayal of the ‘Predator Pimp’ as *risky* is complemented in these summaries through the presentation of *prostitution* as an inherent threat to society, moral order and young women everywhere. Prostitution is framed as harmful and evil because it implies the operation of a ‘Predator Pimp,’ and the ‘Predator Pimp’ is the ultimate threat through his victimization of innocent young girls, who are considered to be society’s most vulnerable. A threat to this population represents a threat to greater society, and thus, the act of prostitution itself is tied to the potential breakdown of society and moral order.

In *R v. Miller* (1997), the judge begins an extended monologue on the evils of prostitution by stating that “... the contemporary reality of prostitution involves the exploitation, degradation and subordination of women.” There is no recognition offered that there may be different types of prostitution, or different circumstances under which individuals become involved. Rather, the representation is made that by its definition, prostitution is degrading and harmful to women, in large part due to its intrinsic connection to predatory pimping. The judge in *R v. Miller* (1997) elaborates on this, stating

The relationship between pimp and prostitute is almost inevitably inherently coercive and exploitive. The degrading domination of the pimp perpetuates

the prostitute's lack of self-esteem and self-worth. Street pimps promulgate violence as their primary control mechanism. Other pimps, particularly those administering adult entertainment or escort service operations, employ more subtle pressure, including preying on the economic dependency of the prostitutes employed.

This representation of prostitution draws on discourses of victimhood, threat and protectionism, to paint a picture of young women as the most vulnerable segment of society, who may be 'ruined' by the evils of prostitution. Further, the need to punish predatory pimps is justified not only for the protection of women and girls but for greater society. This representation is also clear in *R v. Rose* (1994), where the judge emphasizes the need to punish the evil and protect the innocent in the name of a broader moral order.

Pimps are not harmless. They should never be perceived by the naïve as being harmless. They provide no beneficial service to society whatsoever. For money, pimps such as Mr. Rose enslave prostitutes. They control and dominate prostitutes in both their professional and in their personal lives. They enslave the females upon whose earnings they prey. They do that by exploiting the survival needs of the homeless and unloved. By threats of violence or by the perpetration of actual violence, pimps dominate those who by nervous disposition, mental make-up and who are impoverished in a need of daily survival requirements, are unable to resist the domination by the pimp. *If permitted, pimps such as Mr. Rose will soon control our public streets and urban parks.* The horrors they place in the street corners are obliged to pay over most, if not all, of their total earnings or face physical violence by others on the street. *That is the way that there is a potential always for the outbreak of street violence and lawlessness.*[emphasis added]

In the imposition of the sentence in *R v. Salmon* (1998), the judge also emphasizes the need to protect greater society, stating, "It was necessary to protect the public and young women who fall prey to such pernicious enslavement." Similarly, in *R v. Rose* (1994), the accused is called a "professional pimp of the worst sort," who organizes and promotes prostitution and thus poses a "threat against decent, Canadian society."

In a continuum of characterizations of the *procurer*, the 'Predator Pimp' is at the far end and, along with innocent female victims and the suggestion of a possible social breakdown, the 'Predator Pimp' serves as the prime example for all the evils of prostitution. Comparing my current findings to those of past research studies, it is clear that this image of the pimp is not a new one. Pre-existing stereotypes and images found and perpetuated through both academic work and popular media are replicated in the courts and documented in the case summaries reviewed for this study.

4.2 The Exploiter Pimp

In contrast to the 'Predator Pimp,' in this next set of cases, the word 'pimp' is not always used to describe the 'Exploiter.' However, many of the characteristics of the individuals I deemed to fall into this category are very similar to that of the 'Predator Pimp' and the word *pimp* itself appears frequently throughout these cases. Approximately nine cases in this analysis meet the criteria of 'Exploiter Pimp.' The *accused* in these cases are presented as coercive, greedy and exploitive, but not necessarily violent or 'evil' in the same way as the 'Predator Pimp.' Correspondingly, the *complainants* in these cases are not presented strictly as innocent victims, but as individuals who are somehow flawed by their experience or character and thus do not entirely meet the criteria for a 'legitimate victim'. Similar to the cases of the 'Predator Pimp,' *prostitution* appears as a third object of discourse, and is presented as something damaging and harmful to the young girls involved. However, where the discourse on prostitution differs from the 'Predator Pimp' is that it is not constructed as a threat to

society or moral order but rather, as simply a damaging and undesirable experience for the individuals involved.

The Accused

The accused individuals in these cases range in age from 18 years to over 40 years, which is unique from the 'Predator Pimps', who are almost exclusively under 30. Beyond a brief mention, however, in the majority of the cases, *age* of the accused does not appear as a major object of discussion in these summaries. Similarly, the *gender* of the accused did not appear to be an outward determining factor in how the accused individuals are presented. While these cases are dominated by male accused, there are two exceptions, with a case of a husband and wife and a case of an individual female accused. Despite this proportional difference between men and women, the specific issue of gender is not *overtly* raised in the summaries and both are presented as greedy, lazy, exploitative and harmful.

Just as with the 'Predator Pimp,' moral discourses around *greed* and *laziness* appear frequently in these cases and are said to be the predominant motivations for the actions of the accused. In *R v. Lebar & Lebar* (1997), a married couple charged for procuring and living on the avails of prostitution are condemned for their greed and lack of motivation in pursuing other, legitimate means of earning an income. The accused in *R v Harris* (1991) is similarly chastised, with the judge stating, "Your motivation seems to have been greed, power and sexual gratification." The concept of *laziness* is also a common characterization with the implication being that by choosing to exploit others for a living, one is too lazy to do anything legitimate that would contribute to society in a positive way.

The accused in these cases are also widely characterized as being *exploitative*, both in their actions and in their character. In *R v Lebar & Lebar* (1997), the husband and wife are portrayed as older, experienced criminals, who exploit and profit from the naivety of others. As the judge states, “This husband and wife are prime movers in a group motivated by greed to prey on younger and more vulnerable people” (*R v Lebar & Lebar*, 1997). Similarly, in *R v Mfizi* (2008), the accused is portrayed as someone older and more experienced in exploiting others. The judge in this case summarizes the actions of the accused, stating, “Mr. Mfizi controlled, directed and influenced the complainant’s movements, using violence, threats and coercion” (*R v Mfizi*, 2008).

Interestingly, despite this portrayal of violence and coercion, ‘Exploiter Pimps’ are not demonized in these summaries to the same degree as the ‘Predator Pimp.’ The ‘Exploiter Pimp’ is portrayed as someone who has done bad things, but who is not fundamentally “bad.” And while the *actions* of these individuals are condemned, the majority of the ‘Exploiter Pimps’ are also discussed in terms of having challenging backgrounds and/or prospects for change. For example, in *R v Mfizi* (2008), the accused is a male in his mid-twenties, who starts a pseudo-romantic relationship with a teenage girl. Despite procuring an underage girl and using violence and coercion to have her eventually engage in prostitution, the accused in this case is not called a pimp, nor is he demonized as “evil.” Instead, the “bad choices” of the accused in this case are contextualized when the judge states “... however, it is clear that Mr. Mfizi had a difficult start in life.”

In *R v. Mohess* (1991), the accused is a male in his late twenties, who supplies an apartment to a teenage girl, arranges her sexual encounters with men, and comes by

frequently to collect her earnings. The judge in this case concludes that this cannot be seen as a “normal living arrangement and sharing of expenses,” and thus the accused is convicted of procuring. However, the accused is not called a pimp and nor is he presented as a threat to other girls or society generally.

While the label of ‘pimp’ appeared frequently throughout my analysis, I did not find one solid set of characteristics that define a “pimp” in this set of cases. The term *pimp* is used to characterize a variety of the accused individuals. The accused in *R v Harris* (1991) is deemed a “pimp,” with the judge stating, “In my opinion, the evidence in this case overwhelmingly establishes that the accused was a pimp. That was his reputation and that is what he did for a living.” The details of *R v Harris* (1991) are much the same as the other cases and include an older male encouraging and organizing the participation of young women and girls in prostitution. There are other, very similar cases, however, that do not draw on the “pimp” label.

Based on the language and discourse present, the implication in a number of these cases appears to be that “pimp” need not be a permanent identity or occupation for each of the accused. In *R v Harris* (1991), the judge tempers his portrayal of the accused as a pimp by stating, “The accused, a 28 year old first offender, had been steadily employed except while pimping, and came from a good family environment.” This could be identified as a *moral* discourse, where a distinction is made between bad actions and bad people. The ‘Predator Pimp’ is a bad person, while the ‘Exploiter Pimp’ has done bad things but may still have the ability to change.

The research literature in this area presents a reasonably consistent concept of what it means to be a pimp. Studies on the commercial sex trade that discuss pimps or pimping tend to present an individual similar to the 'Predator Pimp'; namely, a violent, dangerous and inherently evil individual who presents a threat to young girls as well as broader moral order (see Dalla, Xia and Kennedy, 2003; Hodgson, 1997; Faugier and Sargeant, 1997). This image is replicated in media portrayals of the "pimp," as indicated in Hallgrimsdottir, Phillips and Benoit's (2005) study on newspaper representations of the sex industry.³⁶ My findings on the 'Exploiter Pimp' do not contradict the most popular construction of the "pimp" but rather provide a more nuanced version of this stereotypical characterization. Further, this finding reminds us that the concept of "pimp," like the concept of "procurer," is fluid and open to competing interpretations and discourses.

The Complainants

The 'Exploiter Pimp' is constituted largely in relation to the presentation of the victims/complainants, and these *procured* individuals are not presented as entirely innocent victims. Similar discourses of innocence, chastity and morality run through these cases, yet they do not produce the same effect as in cases of the 'Predator Pimp,' which vindicate the victim as someone who has been ruined by the evils of prostitution. Instead, these summaries acknowledge the complainant as someone who has been

³⁶ There are two notable exceptions to this trend in the research literature. Campbell's (2006) study on cinematic representation of the sex industry found a small number of films that constructed the "pimp" as something other than a violent predator; namely, as a pseudo-boyfriend who also serves a "pimping" role. Hoigard and Finstead (1986), in their study of street prostitution in Norway, challenge this singular definition of "pimp" as violent predator and ask their study participants (street-level sex workers) what they believe a pimp to be. Hoigard and Finstead (1986) ultimately create several categories of "pimp" to discuss the managers/partners of their study participants, including violent pimps, violent boyfriend-pimps and non-violent boyfriend pimps. Nonetheless, they also acknowledge the dominant, and socially constructed, stereotype of the *pimp* as a violent, inherently evil predator.

victimized, but whose victimization was perhaps less damaging as she was not entirely innocent to begin with. The past lives, decisions and experiences of these women are raised in the summaries, including their voluntary choice to become involved with the accused, their use of drugs or their previous involvement in the commercial sex trade. Collectively, this information tempers their presentation as victims and instead frames them as somewhat tainted complainants.

The age of complainants in this set of cases ranges from approximately 14 years into adulthood. Correspondingly, the accused individuals in these cases are charged or convicted under a combination of sections 212(1) and 212(2) of the *Criminal Code*. I found no specific patterns connecting the *age* of the complainant to a particular construction of the *procurer* or the *victim*. Over half of the young women in cases of the ‘Exploiter Pimp’ were underage at the time they became involved with the accused and were thus legally unable to consent to participate in the commercial sex trade. However, very few of them are actually presented as *victims*, and are instead referred to as *complainants* and *witnesses*. Similarly, the section of legislation under which the accused was charged (i.e., 212(1) versus 212(2)) did not appear in any significant pattern related to the presentation of the complainant.

The ‘victim status’ of the complainants was tainted either by their past life choices or experiences or their voluntary choice to become involved with the accused. For example, the case of *R v. Harris* (1991) includes five complainants, four of whom are under the age of 18. The case summary consistently notes that all of these girls had run away from home and were, at the time, under some form of care of the Children’s Aid Society (CAS). My initial impression with this case was that the labels of “underage”

and “runaway” helped to frame the complainants as highly *vulnerable* and thus the actions of the accused as somehow more damaging. Yet none of these five girls are referred to as *victims*, and the judge in this case also consistently raises the fact that four of them had engaged in prostitution prior to meeting the accused. In a direct quote to the accused, the summary states “All of these persons, except for T.R. as I recall, had been prostitutes before you came into the picture.” Indeed, the summary characterizes one of the complainants as “a working prostitute who needed a pimp.”

Both *R v. Thomas* (2003) and *R v. Mohess* (1991) provide similar examples of 14-year-old females who had run away from their family home or a group home and were under some kind of care from the CAS. The summaries paint a picture of young, teenage girls, who were, to some extent, complicit in their victimization, in reference to their backgrounds and their active choice to pursue a relationship with the accused. The complainant in *R v. Mohess* (1991) is presented as a teenage girl who is “street smart” and experienced both in prostitution and drug use, and the summary emphasizes the extent to which the complainant meant to “attach herself” to the accused. Similarly, the complainant in *R v. Thomas* (2003) is portrayed as somehow simultaneously “young and vulnerable” but also as sexually experienced and an eager participant in the sex trade, despite evidence that the accused utilized violence and coercion to have her participate.

R v. Mfizi (2008) provides another example. The judge in this case describes one complainant as coming from a “good” background and as “... an A student who went to high school and resided with her parents.” Further, the summary emphasizes the innocence and naivety of the complainant, stating, “She was infatuated with Mr. Mfizi

and was not getting along with her parents.” The summary then goes on to describe the damage done to her, due to her involvement in prostitution, stating the complainant “... testified of the humiliation and violence she suffered” and “The complainant, her mother and her father all filed heart-wrenching victim impact statements.” Yet despite this information, she is never framed as a *victim*, and the information provided in subsequent paragraphs tempers this portrayal of chastity and innocence. The judge goes on to emphasize the degree to which the complainant intended to become involved with the accused in a pseudo-romantic relationship. While the judge does note that this was not a “real” romantic relationship due to the exploitive dynamic, the implication is still made that the complainant was, to some degree, complicit in her own victimization.

R v. Constant (1993) provides a further example, and presents the complainant as a “high school student, living at home, apparently in a nice neighbourhood.” In describing the complainant, the summary states “Given her age, her intentions, the fact that she was residing at home, that she was in school at the relevant time, I find that she is exactly the type of person who parliament would be attempting to protect.” Despite this information, the complainant’s previous experience in prostitution is raised as a mitigating factor for the culpability of the accused. While the judge acknowledges that the complainant had “escaped” her previous life of prostitution, and was thus deserving of protection under the procuring law, the summary still acknowledges that she is not entirely new to the commercial sex industry and nor is she new to the accused. Further, there is no suggestion that the complainant has had her “innocence” ruined by prostitution or the accused.

Discourses around chastity and innocence do not appear as explicitly in these cases as they do in those of the ‘Predator Pimp;’ instead, they are notable in their absence. There is no suggestion of permanent *damage* done to these girls by virtue of their participation (either voluntary or forced) in the adult commercial sex trade. Perhaps because they are constructed as somewhat tainted to begin with, there is no suggestion that their innocence could still be taken or destroyed. Further, there is none of the same outrage or suggestions of moral corruption present as there is in cases of the ‘Predator Pimp.’

Labour Sector

The labour sector does not appear to be a significant factor in terms of how the ‘Exploiter Pimp’ is presented in these cases. The complainants in cases of ‘Exploiter Pimps’ worked in all sectors of the commercial sex industry, including street level, hotels, apartments, out-call arrangements and an escort agency. In *R v. Constant* (1993), the complainant was “dropped off on the street corner to find customers or brought to hotels to meet with customers.” Similarly, in *R v. Goulet* (1989), the accused had a “number of girls working for her in the ‘track’ area of Toronto.” In contrast to this, in *R v. Mfizi* (2008), the accused convinced a complainant to work for an escort agency in order to bring in money to support their domestic arrangement. Yet despite this diversity, the summaries for these cases did not address the labour sector in any detail, nor did they touch on the implications of working in the street trade as opposed to an ‘off-street’ capacity. Further, there was nothing to suggest that the concepts of ‘pimp’ or *victimization* were associated exclusively with street-level sex work.

Prostitution as Individually Harmful

In contrast to the ‘Predator Pimp,’ prostitution was not constructed in these cases as a threat to moral order and women everywhere, but rather as an unfortunate social occurrence. Perhaps because the complainants in these cases do not represent society’s most innocent, the actions of the accused do not constitute a significant threat to greater society, as the accused have victimized an already “tainted” portion of the population. Consequently, prostitution itself is framed as something damaging predominantly only to those involved.

Cases of ‘Exploitive Pimps’ that touch specifically on the issue of prostitution refer to the *individual* harm that the accused has inflicted on the life of the complainant, and no reference is made to the broader evils or social threat of prostitution itself. For example, the accused in *R v. Lebar & Lebar* (1997) are condemned for subjecting the complainant to the evils of prostitution, with the summary stating that involvement in prostitution increases the odds that one will end up in a life of “degradation and crime.” In *R v. Mohess* (1991), the summary discusses the damaging impact that involvement in prostitution had on the life of the complainant, and the summary for *R v. Mfizi* (2008) highlights the “violence and humiliation” suffered by the complainant as a result of the actions of the accused. There is no reference made in these cases to *prostitution* as posing a broader threat to moral order, and discourses of risk, threat and moral order are entirely absent in these cases.

4.3 The Bad Boyfriend (and Pseudo Pimp)

The cases I have assigned to the 'Bad Boyfriend' category are those that fall ambiguously between two labels; appropriately, the 'boyfriend' and a kind of pseudo-'pimp' role. I determined that four of the cases I examined qualified under this category, though I only discuss two in detail here as the other two provided little information or discussion of the participants of each case. 'Boyfriend-Pimps' are exclusively male and the complainants in these cases are exclusively female. The accused are recognized as having some kind of domestic or "romantic" relationship with the individuals they procure and they are framed as somewhat abusive boyfriends with 'pimping' qualities. The complainants, correspondingly, are not afforded a victim label but are presented as complicit in their own participation in prostitution and engagement with a "bad boyfriend." The broader issue of *prostitution* is presented as something secondary to the case.

The Accused

The accused individuals in these cases are charged under various subsections of section 212(1) of the *Criminal Code*, for procuring an adult individual to become involved in prostitution. Yet all four cases also include charges for interpersonal violence and assault. Yet despite the use of violence in these cases, the 'Boyfriend-Pimps' are not framed as particularly dangerous or posing a significant threat. Rather, the assault charges are presented as something related to the domestic relationship and not to any type of forced prostitution. Thus, the violence committed in these cases is afforded very little attention and discussion.

What is more frequently raised to discuss these individuals is the fact that they have no other source of legitimate income, which is similar to how judges have framed the 'Predator Pimps' and 'Exploiter Pimps.' In *R v. D.B.* (2005), the accused started a jewellery business, which the judge dismisses as a weak and illegitimate financial venture. In *R v. Parra* (2001)³⁷, the accused is portrayed as both greedy and lazy, encouraging his pseudo-girlfriend to participate in prostitution in order to feed their drug habits. The summaries in these cases paint the accused as lazy individuals, inclined to let others do the work and disinclined to contribute to society in any legitimate way. Despite this portrayal of greed and indolence, the 'Boyfriend-Pimp' is also not constructed as particularly dangerous or as a parasite.

The concept of the "boyfriend-pimp" is replicated in a minority of empirical studies on the commercial sex trade. Hoigard and Finstead (1986) ask their participants in the street-level sex trade in Norway to define what a "pimp" means to them. Acknowledging their participants' contributions, Hoigard and Finstead (1986) create several categories to discuss "pimps" in their study, including the designations of "Violent Boyfriend-Pimps" and "Non-violent Boyfriend Pimps." In her analysis of film representations of prostitution, Campbell (2006) finds a small number of films that portray the boyfriend of a sex worker in a pseudo-management/pimping role. The representation of the "boyfriend-pimp" is not a new one, but is also not a common representation, in comparison to the pimp as a violent predator.

³⁷ The accused in *R v. Parra* (2001) was acquitted at trial, with the judge stating that the 'Standard of Proof' is not met in the case. However, the judge still devotes considerable space to discussing the participants and dynamics of the case, and thus, the case still provides useful data to examine in the portrayal of what it means to be a 'procurer.'

The Witness and/or Complainant

The absence of the labels of “parasite” and “predator” and the general lack of condemnation of the behaviour of the accused in these summaries may reflect the pseudo-relationship status that the judge characterizes between the accused and the complainants. Just as in every other case, the characteristics and actions of the ‘Boyfriend-Pimps’ are presented most extensively in relation or contrast to the individuals they have *procured*. In these cases, the complainants are represented as young, but not underage, and as having voluntarily become involved in a romantic or domestic relationship with the accused. None of these individuals are referred to as *victims*, and their personal actions and histories are discussed extensively within each summary, to paint a picture of an individual who is tainted by her choices and complicit in her own procurement.

In *R v. D.B.* (2005), several times the judge notes that the complainant has an addiction to drugs, stating, “She left home at fifteen and eventually took up prostitution to pay for her drug habit.” The implication raised by this statement is that the complainant had already worked as a prostitute before meeting the accused and, in fact, was “known to be a prostitute.” The criminal record of the complainant is also raised multiple times, including mention of several past convictions for prostitution-related offenses. The judge states specifically that the offense of procuring is made out by the complainant’s “known status” as a prostitute, and is supported by the evidence that she and the accused live together. By stating this, the judge reaffirms that she is not a *victim* of procuring, but rather, an active participant within it.

Although in *R v. Parra* (2001), the judge does not dwell on the drug habits of the complainant, the summary emphasizes the voluntary nature of the complainant's actions, in her decision first to become involved with the accused and then to engage in prostitution to support the accused. The summary represents the complainant as a "somewhat naïve" individual, who nonetheless agrees to start a relationship, and subsequently work in a body rub parlour and have her work directed by the accused. In each of these cases, the character flaws of the complainants and the 'voluntary' nature of the domestic relationship is emphasized, which in turn diminishes the presentation of the complainant as someone who has been victimized.

The representation of the participants in these cases produces an image of the accused and complainant as co-conspirators in their own deplorable situation. For example, *R v. D.B.* (2005) states there is extensive evidence of domestic violence experienced by the complainant, yet this is tempered by the repeated mention of the presence of crack cocaine use between the two case participants. Similarly, in *R v. Parra* (2001), the judge notes that the dynamic between the accused and victim starts as a "sentimental boyfriend-girlfriend sexual relationship," but diminishes with the development of a violent dynamic between the two, particularly in relation to the complainant's involvement in prostitution. Despite the fact that the complainant in *R v. Parra* (2001) refers to her now ex-boyfriend as her "pimp," and despite the evidence of violence, the judge does not utilize this 'pimp' label and instead constructs a picture of the two as mutually culpable.

Prostitution as Notably Absent

While prostitution is highly moralized and condemned in cases of the ‘Predator Pimp’ and ‘Exploitive Pimp,’ any further discussion of prostitution itself is conspicuously absent in the ‘Bad Boyfriend’ cases. Prostitution itself is addressed only in reference to suggesting that the complainants had engaged in it previously, and that part of their relationship dynamic was that they were engaging in it to contribute to their domestic partnerships. Perhaps because the accused in these cases are not presented as a particular threat to other (perhaps less ‘culpable’) women or society, the action of prostitution itself is not promoted or condemned, but is somewhat ignored, and is secondary to the focus on the domestic relationship.

4.4 The Business Manager

Despite the fact that only two cases presented the procurer in the role of a “Business Manager,” I placed these cases in their own category, as they were too different from the others to be grouped anywhere else. These two cases, which portray the accused as acting in a *management* role and running a *business*, also have distinct characteristics from one another. However, I present them together because, collectively, they represent a significant shift from the types of imagery and characterizations used in the other cases in my study. Instead of referring to the accused individuals as pimps or parasites, they are recognized as running a business, whether or not the business is presented as “legitimate.”

If one conceptualized the various versions of the procurer as sitting on a continuum, the “Business Manager” crosses a line that divides *pimps* (and other highly condemned characters) from *managers*. In contrast to each of the three previous conceptualizations of procurer, in *R v. Suen & Chiu* (1995) and *R v. Barrow* (1998), prostitution is not overtly moralized, the operation is acknowledged as a *business* and the complainants are considered *employees*. I present these two cases separately below, and illustrate both the similarities and differences between the two.

The Illegitimate Business Manager

R v. Suen & Chiu (1995) presents an “Illegitimate Business Manager”, where the operation is still portrayed as a business but the “managers” are presented as somewhat suspect in their operations and motivation. Nonetheless, none of the same damning language is used to describe the accused and the employees are in no way portrayed as victims. This occurs despite the fact that at least one of the “employees” was under the age of majority and thus not in a position to consent to work in the massage parlour. While there is an implication of illegitimacy in the way the operation is portrayed, the overall portrayal is still far more neutral and less overtly judgement-laden than those I have already discussed.

The Accused

The co-accused in *R v. Suen & Chiu* (1995) are charged under Criminal Code section 212(1) for procuring³⁸ and under section 210, for running a common bawdy

³⁸ Interestingly, although the summary mentions that at least one of the “employees” was 16 years old, there are no charges under Criminal Code section 212(2), for procuring an individual under the age of 18. There is no explanation provided for this within the summary.

house. They are a man and woman, both in their late 40s, who are presented as “partners” who share the responsibilities of operating a massage parlour in a suburban shopping centre. There are few personal details presented about the accused in this case. While the “Predator Pimp,” for example, was condemned as evil and parasitic for wanting to profit off the prostitution of others, the accused in *R v. Suen & Chiu* (1995) are specifically and exclusively referred to as “managers” running a “business.”

The only exception to the presentation of personal information is the discussion of *greed* as the motivating factor behind the actions of the accused. This is similar to the other characterizations of ‘procurer’ I have discussed, where greed is consistently raised as a source of motivation. However, instead of evil and specifically mal-intentioned, Suen and Chiu are simply framed as greedy, pseudo business people. There is no indication in the summary that they should be condemned for their *actions* per say, of facilitating the involvement of other people into prostitution. Rather, their negative presentation appears in relation to their poor operation of the business, where they put profit and their own gains above the needs of their employees.

The other aspect of their portrayal that was particularly prominent was the judge’s emphasis on the female manager’s culpability. The summary notes that both Suen and Chiu are intricately involved in the management and day-to-day operations of the massage parlour. However, the judge emphasizes in several places that Suen (the female manager) is equally or even more involved in the business than Chiu. For example, the summary states, “It would appear that Ms. Suen really was the brains behind the whole operation. She was the moving force in this establishment.” In a later paragraph, the summary re-states, in reference to Suen, “She was the brains behind this

operation. She knew, she encouraged and she set out from the beginning to operate a massage parlour where extras – in other words, sex acts – were performed in addition to actual massages.”

This presentation of the female as the driving force behind the massage parlour operation stands in contrast to each of the characterizations of ‘procurer’ I have already discussed, which emphasize the evil or ill-intentioned actions of predominantly *male pimps*. Yet the main accused in this case is female, and she is represented as intelligent, capable and greedy in her operation of the business. In contrast, the male in this case is similarly guilty, but somehow less capable than the female.

A final notable aspect regarding the accused in this case is the lack of demonizing language used to describe their actions in procuring an individual under the age of 18. While there were no specific charges pursued under section 212(2), for procuring an underage individual, the summary for this case clearly states that the accused knew at least one of their “employees” to be 16 years old. The judge also highlights the extensive evidence that suggests that Suen coached and encouraged this 16 year old to provide sexual services to male clients. Despite the fact that the operation is presented as a *business*, though a somewhat disreputable one, I had expected that the accused in this case would be demonized for this at least, for persistently encouraging an underage female to participate in prostitution. Yet unlike the “Predator Pimp” and the “Exploiter Pimp,” who in some cases similarly ‘encourage’ underage girls to engage in prostitution and are subsequently framed as exploitive and mal-intentioned, this is not the case in *R v. Suen & Chiu* (1995).

The *Employees*

As I note, the complainants in this case are not constructed as victims but as *employees* within a somewhat poorly administered business. The summary describes the employees in this case as young women and suggests that Suen and Chiu sought out girls who were “needing money and not living with their parents.” The judge acknowledges that at least one of the “employees” was underage (16 years old), while most were between the age of 18 and 21. Beyond this, there are no personal details provided about the lives of these women, and their experiences and life prospects are not dissected the way they are with the ‘Predator Pimp’ and ‘Exploiter Pimp.’ Further, the moral discourses on sexual purity and innocence present in other cases are entirely absent in this case.

The summary describes a “continual pressure” exerted onto the young girls to provide sex acts to adult male clients at the massage parlour. The summary gives extensive coverage to the actions of Chiu in particular, in counselling and coaxing the employees on their use of makeup, style of dress, interactions with customers, specific sexual acts to provide and so on. Yet despite this, there is no suggestion that the women were victimized in any way by their involvement in this. While the judge notes that both parties are convicted of procuring, in “making two women into prostitutes,” there is also no implication of lasting shame or damage associated with being “made into a prostitute.” This stands in contrast to the presentation of victimhood found in cases of

the ‘Predator Pimp,’ where the accused are condemned for permanently ruining the lives of young women by involving them in the sex trade.³⁹

While the employees in this case are not presented as naïve victims, they are not condemned either, as complicit in their own involvement in prostitution or as tainted by some past failing. In fact, the personal histories of the employees are entirely absent. There is no discourse of blame or culpability or complicity. Rather, they are presented simply as *workers*, who happen to be working in a location that is providing an illegal service.

Prostitution as a morally neutral venture

The overall treatment of prostitution in this case reflects the construction of the accused as incompetent managers and the complainants as their employees. There is no discussion of *prostitution* itself, beyond the operation of the massage parlour, and thus no overt statements about the morality or broader realities of prostitution generally. This is in stark contrast to cases of the “Predator Pimp” and “Exploiter Pimp,” where prostitution is presented as the doorway to moral and social decay. Instead, the summary for this case presents the massage parlour as merely an undesirable business, with no expression of public outrage at this type of operation, nor an expressed need to protect the public either from the evils of prostitution.

³⁹ This difference in representation may relate, in part, to the issue of consent in these cases, where the implication may be that women or girls involved with a “Predator Pimp” had not really consented to participate in prostitution, or there were more obvious threats and use of violence involved in those cases. Nonetheless, given in particular the involvement of a 16-year-old female within the massage parlour, and the evidence of “continual pressure” applied by the accused for this girl to provide sexual services, it is somewhat surprising that there is a total absence of discussions of victimization in this case.

The Legitimate Business Manager

The case of *R v. Barrow* (1998) presents an adult woman operating an escort agency, who is charged with procuring other adult women to become involved in prostitution. The operation is framed clearly as a *business* with eager, consenting *employees*, who are offered reasonable compensation in return for their services. Despite the mutual recognition that the accused is operating a *business*, this case contrasts with the “Illegitimate Business Manager” in that there is no indication in the summary of negative judgment or illegitimacy in the way the operation is run or in the character of the accused.

If one were to consider, again, the concept of the ‘procurer’ on a continuum, then the “Business Manager” sits at the furthest opposite end to the “Predator Pimp.” She is older and female; she is presented as bright, reasonable and business-savvy, and as offering an opportunity for women who are in financial need to make an income. Further, there is no implication that prostitution is evil, a threat or even an unfortunate social occurrence. Instead, the judge expresses some regret that the accused must be convicted, as she does not meet any of the characteristics typically associated with the evils of prostitution, and more specifically, *pimping*.

The Accused

The accused in *R v. Barrow* (1998) is an older woman, presented as knowledgeable in the business world generally and specifically in the adult prostitution industry. According to the summary, she is charged with “having lived off the avails of prostitution of four different women, of having attempted to procure two undercover

police to have illicit sexual intercourse, and of having attempted to procure the same two officers to become prostitutes,” in violation of sections 212(1)(a), (d) and (j) of the Criminal Code. The accused is also presented as a competent and organized *manager*, who runs an escort agency by taking calls from prospective clients and arranging for her employees to meet with clients for sexual encounters. In return for her services, the accused took one-third of the employee’s fees. The summary in this case specifically acknowledges the lack of exploitative behaviour by the accused, and notes that “no escort was ever obliged to do anything unacceptable to her.” To summarize the actions of the accused, the judge in this case states that Barrow “Held out the possibility of substantial earnings from prostitution and offered friendly, non-coercive encouragement and support to become involved” (*R v. Barrow*, 1998).

There is no implication of greed or other motivating factors for the actions of the accused in this case. This is in contrast to nearly every other case I examined in my analysis, where the accused and/or convicted individual was said to have involved other people in prostitution purely out of greed and desire for personal gain. Interestingly, though the judge in *R v. Barrow* (1998) acknowledges that Barrow’s business would produce “substantial revenue,” there is no suggestion that her actions were done out of a (negative) desire for personal gain.

Further, the accused in this case is not represented as having any negative or exploitative intentions. Despite the finding in the case that Barrow did technically attempt to “procure” two individuals, the summary first acknowledges the negative connotations often associated with these actions (i.e. *pimping*) and then goes on to emphasize the fair and friendly *business practices* of the accused. For example, the

summary notes in several places that the accused was concerned for the well-being of her employees and had them check-in part way through each appointment to ensure their safety. Unlike most other cases I examined, the summary does not delve into Barrow's personal life, characteristics or life prospects and any narratives on the lifestyle or personal characteristics of the 'Business Manager' are entirely absent.

This image of the older, business-savvy woman running a brothel of experienced sex workers is not a new one. Though the case summary for *R v. Barrow* (1998) does not use this terminology, the concept of the "madam" is a long established one. As I note in my literature review, there is a dearth of research on this particular population of sex work managers. However, there is a firmly entrenched image of the "madam" as a white, middle class, professional ex-prostitute, who runs a business arranging sexual encounters (Heyl, 1979; Goldstein, 1983). Though in my analysis I located only one case that fit into the category of "Legitimate Business Manager," similar accounts are found in academic research (see Heyl's 1979 study on the life of a madam or Bruckert and Law's 2013 study on third parties) and in popular media (see for example, Eriss 2006).

The Employees

The charges against the accused in *R v. Barrow* (1998) were the result of an undercover investigation, where two female police officers pretended to be interested in working for the business. There is little mention of these officers in the summary, other than to describe the evidence they were able to collect to charge Barrow. However, four other 'employees' are also discussed in this summary who were not

police officers but adult women who voluntarily chose to work for Barrow's escort agency. Two of the women are presented as being in a difficult financial situation, but not necessarily as highly vulnerable to victimization. To describe the background of two of the women, the summary states, "In 1996, she was having financial problems and could not afford groceries for herself and her daughter", as well as "She was having difficulty making ends meet on public assistance for herself and her children." The need and/or desire of these four women to make money is emphasized in the case, and few other details are provided on their lives other than this. Interestingly, similar to the absolute focus on the *actions* of the accused, as opposed to their personal traits or characteristics, any discourse on the purity, innocence, sexuality and life prospects of the *employees* in this case are entirely absent.

While the summary emphasizes that these four women who had worked for Barrow had not previously been involved in prostitution, there is no implication that they were victimized by Barrow's actions in this case. In fact, the judge stresses that the employees could be bringing home significant earnings from relatively little work. While the summary also states that the accused was found guilty of living on the avails of the prostitution of three of the women (not the police officers), there is no suggestion that they were in any way damaged by their participation in the sex trade. This, again, is in stark contrast to previous conceptualizations of victims, whose lives and futures were destroyed by virtue of their involvement in prostitution.

Lastly, while the employees in this case are not presented as victims, nor are they made out to be culpable or complicit in their own involvement in prostitution. In past cases, and particularly within the 'Exploiter Pimp,' there was some indication that

the tainted pasts or choices of the complainants made them less worthy of victim status. This type of discourse is entirely absent in *R v. Barrow* (1998) where instead, the complainants are presented as employees in a consensual and mutually beneficial business relationship.

Prostitution can be victimless

The (im)morality, threat and damage of *prostitution* in this case is constructed as relative to the involvement or (non)presence of a stereotypical *pimp*. In the conclusion of the case summary, the judge in *R v. Barrow* (1998) provides a definition of the “pimp” from the Oxford English Dictionary. This information is used to establish the idea of the “pimp” as a violent parasite who coerces and profits from the prostitution of others. Ultimately, the summary concludes that Barrow does not fit into this traditional notion of a pimp⁴⁰ and thus Barrow’s actions as a *procurer* should not be regarded with the same degree of negativity or judgment. However, the summary also notes that one need not be a pimp to be convicted under section 212, and the judge specifically states that the fact that one runs a business does not change the underlying reality that one is still profiting from the prostitution of others.

In this sense, the summary does not construct prostitution (and more specifically *procuring*) as a threat or social evil, but rather as something that could potentially be victimless but still happens to be illegal. To justify the conviction, the judge states that the focus of each case should be on the offense, not the status or label

⁴⁰ It was a particularly interesting finding that so much space was devoted to describing the *pimp*, given that the legislation and current charges were for procuring and that “pimp” is not actually a legal designation.

of the accused and not the policy implications of criminalizing individuals who “enter into consensual business relationships with adults in the prostitution industry.” This presentation reinforces the image of the accused as a legitimate businessperson who was operating in an area of business that is still illegal. Further, prostitution itself is not demonized, and there is some recognition that it can be done without specific and overt harm to society or the individuals involved.

Looking Ahead

Collectively, these findings suggest that the concept of procurer to emerge from the judiciary is best thought of as a spectrum of representations. Woven throughout this spectrum are discourses on chastity and innocence, paternalism and protectionism, claims to victimhood, legitimacy, threat and risk to society, and “good” versus “bad”, among others. In some ways, these findings were nothing new, and replicated many of the same notions found in previous empirical research on prostitution and sex work management; even more notable were the similarities between the representations of the pimp/manager found in studies of the media, and those found in the current study. Further, my findings support the conclusion of a number of previous studies on the judiciary, that despite the position of the courts as a venue for examining ‘facts’ and applying the law, they also serve a meaning-making function, (re)producing many of same concepts, representations and stereotypes found in other social spheres.

In the following chapter, I identify a few of the more pertinent issues to emerge from my analysis and examine them in more detail. I utilize the theoretical concepts introduced in Chapter Three to help guide this analysis, with a particular focus on the

concepts of gender roles and stereotyping. I also discuss some of the implications of my findings in light of the ongoing debate on prostitution generally and procuring laws specifically.

CHAPTER 5: DISCUSSION & IMPLICATIONS

In review of my findings as a whole, a few issues stood out that warrant further consideration in light of the research literature and the contemporary socio-political climate regarding prostitution in Canada. In this chapter, I highlight and examine three of these issues and consider some of the broader implications of my findings. In the first section of this chapter, I compare the contemporary discussion of procurers, prostitution and the law that I found in my analysis with the *historical origins* of the procuring laws. I draw on the theoretical concepts of the work of Shaver (1996) and Sangster (2001) on the regulatory history of prostitution and women's sexual conduct, in order to highlight some of the similarities between the social, ideological and political motivations that informed the original laws and the language used within the courts today.

Following this, I discuss the highly gendered construction of prostitution and its participants within these cases, where men and women are demonized, chastised or pitied according to their adherence to specific gender expectations. I draw on theoretical work surrounding normative gender roles and gender regulation as a lens to examine and consider the implications of my findings. Lastly, I compare the judicial construction(s) of the *procurer* with some of the broader discussion and debate currently circulating on prostitution, procuring and the Canadian legal system. In this section, I return to the epistemological assumptions underpinning this research, and consider how the concepts of the social construction of knowledge and the operation of discourse are displayed in my findings on the discursive construction of the procurer.

Women's Sexual Conduct and the Origins of the Law

While the focus of this study was initially on the construction of the *procurer*, it became clear throughout my analysis that each case summary paid significant attention to the sex worker/victim/ complainant/witness. My findings suggest that the same patriarchal, paternalistic and classist undertones that informed Canada's original procuring laws are still clearly present within the realm of the courts today. Shaver (1996) and Sangster's (2001) work help to highlight the similarities I found between the historical origins of the procuring laws and their contemporary application as a means of directly and indirectly regulating women's sexual activity in the name of a broader social and moral order.

During the late nineteenth century, the procuring laws were developed as a means of targeting licentious (and foreign) men who lured women and girls into the underworld of prostitution. However, according to Sangster (2001) and Shaver (1996), the more fundamental goal of the "social purity" crusades and the changes to the laws at the time was the need to gain control over women's sexuality and social role(s) in a changing society. Women came to represent the pillars of the preferred social order, which prioritized traditional marriage, family and the social and economic superiority of men (Sangster 2001). During this era of social change, the groups with the most social, economic and political capital, including the Church and white women's groups, perceived a threat to these pillars, and prostitution, including the pimp/procurer came to embody that threat (Shaver, 1996).

To these groups, women's sexual behaviour outside the institution of marriage and family was considered a problem and the procuring laws became part of the socio-legal framework by which women's sexual conduct could be better regulated and controlled (Shaver, 1996). The laws at the time justified removing women involved in prostitution and placing them in reformatories or prisons, and punishing the men with whom they were involved, labelling them as dangerous pimps (Sangster, 2001). Thus, the criminal law became the central mechanism to combat the "threat" of prostitution generally, and pimps and procurers specifically, and in doing so served to regulate women's sexual activity and reinforce "familial roles for men and women" (Sangster, 2001, p. 85).

According to Shaver (1996, p. 206), our current social definitions and understandings of prostitution are still very much "grounded in [the same] nineteenth century notions of social evil and passive female sexuality" and the same underlying desire to regulate women's sexual conduct. Some of the findings from my study very clearly support this conclusion. Contemporary cases involving what I have labelled "Predator Pimps" reflect much of the same language and objectives found in the historical origins of a law developed to reinforce particular sexual and social behaviour for women.

Many of the contemporary cases examined in this study illustrate the patriarchal roots of the procuring law, where women's sexual "purity" is framed as a commodity to be regulated and protected. The women in these cases are presented as "innocent victims," and are described as "pure" and "chaste," with no prior sexual experience. In particular, women and girls who are perceived to have come from

“regular” or middle-class families are perceived as in most need of protection. Women who were chaste prior to their involvement with the procurer and who have adhered to the expectations of sexual passivity and innocence are presented as *victims* and worthy of protection. In contrast, those who have participated voluntarily in prostitution or other sexual activity and who have already violated the expectation of sexual purity are reduced to the status of *witness*.

In the majority of cases of the Predator Pimp, the fate of the *victims* and their sexual purity is connected to the fate of broader society, which is a direct reflection of the origins of the procuring laws and, according to Shaver (1996), a desire to regulate the social and sexual behaviour of women. Chaste and innocent women and girls are presented as the moral pillars of society. Thus, any violation of this status is considered a threat to the social and moral order and any individual who facilitates this is framed as worthy of significant punishment⁴¹. In contrast, the procuring of women who are perceived as already tainted is punished as a violation of the law but not as any significant social threat. The type of language and imagery found in this study reflects the same vested interest in women’s sexuality found in the historical origins of the law, which contain an undertone of valuing and protecting a certain *type* of woman and preserving a *particular type* of social structure (Sangster, 2001).

There are several implications to consider in light of this finding. The first is that, despite significant developments in broader society regarding women’s social

⁴¹ For example, as part of his sentencing rationale in *R v. Salmon* (1998), the judge states “... the courts view this to be a serious offence, that it attracts both the consideration of principles of general deterrence and specific deterrence and the protection of society, in this case as personified by young women who may fall prey to such pernicious enslavement, and as well that sentences must reflect society’s condemnation of and revulsion at this type of offence.”

positioning, and despite considerable evidence that the procuring laws are overbroad and actually undermine the ability of sex workers to implement safety protocols, in their application, the laws have changed very little. The language and imagery evoked in these cases are a clear reflection of their historical origins. This is perhaps not a surprising finding, given that the courts are not immune to outside “common” knowledge and assumptions on the issue, and considering that the same assertions regarding both women’s sexual conduct generally and prostitution specifically have continued in other facets of society. However, it is still worth noting that, in terms of the framing and presentation of women and “pimps” in these cases, the courts are replicating the same social ideals that informed the creation of the laws over 100 years ago.

A further implication to consider is that, despite the fact that these cases are criminal trials and sentencing proceedings for the *procurer*, who is predominantly male in these cases, the focus of much of the language is still on the *women* involved in each case and on *women’s sexual conduct*. In her analysis of the relationship between the law and the regulation of sexual activity, Sangster (2001) highlights the ongoing fixation on *women as the problem* in prostitution. My findings support this conclusion, with the preoccupation within each case on the (sexual) conduct and lifestyle of the victim/complainant/witness, and suggest that within the setting of the judiciary, the discourse surrounding the evils of procuring and prostitution still remains preoccupied with *women’s sexual conduct*.

By reproducing the same assumptions that informed the original procuring law, including the emphasis on protecting “chaste” and “innocent” women, the courts are

perpetuating the message that *women's worth is still inextricably connected to their sexual purity*. Through the contribution to discourse on the procurer specifically, the courts contribute to a broader discourse on women, women's sexuality and sexual conduct. Through this discourse, the courts are playing a role in constructing a particular type of sexual conduct as desirable and acceptable.

Gender Roles and Expectations

A second notable finding from my analysis is the perpetuation of specific *gender roles* within these case summaries. As I note in Chapter Three, this thesis did not start as a gender-based analysis; however, my examination of these case summaries in terms of the construction of the *procurer* uncovered very specific language and discourses surrounding acceptable behaviour for both men and women in terms of their social, economic and sexual roles.

In many cases of the Predator and Exploitive Pimp, the worth of women and girls is equated to their adherence to a particular role of innocence and chastity. This was particularly notable in cases involving girls and women who were framed as coming from "good" neighbourhoods, and as well-behaved and "innocent" in terms of their lack of sexual experience. As I discuss in the previous section, the girls in these cases were portrayed as those most worthy of victim status and protection under the law. In *R v. Constant* (1993), of the complainant/victim, the judge states "Given her age, her intentions, the fact that she was residing at home, that she was in school at the relevant time, I find that she is exactly the type of person who parliament would be attempting to protect."

Building on the expectation that women and girls be both well-behaved and innocent is the presentation of women and girls in these cases as individuals that can be considered permanently damaged due to their involvement in prostitution, whether by their own choice or through someone else's force. In many cases of both Predator and Exploitive Pimps, judges spoke of the damage that had been inflicted upon the victims, devastating both to the parents and to the girl's futures. References were also made in these cases to "ruined" lives and future prospects, bolstering the idea that once she becomes involved in prostitution, a woman or girl's value has been permanently stripped away.

The conception of the 'madonna-whore' duality (Feinman, 1994) is useful here, as it helps demonstrate the dichotomization of the girls/women in these cases into two relatively distinct categories: the innocent who are worthy of protection versus the tainted, who violated the role of 'madonna' through their choices or experiences. The girls in these cases who did not meet the expectations of the 'madonna' were both directly and indirectly chastised as both tainted and unworthy of the same protection afforded to those who upheld the expectations of their gender.

For men involved in these cases, the most overtly gendered expectations relate to their adherence to the role of economic provider. Many of the male procurers in these cases are demonized not only for "preying" on innocent young women or for forcing women into prostitution; they are demonized for being lazy, for not finding "legitimate" work and not fulfilling their appropriate role as economic providers. This finding was consistent across cases of Predator, Exploitive and Boyfriend Pimps, who are chastised for their greed and their failure to contribute to the economy in an

appropriate and social expected manner. This interpretation is consistent with Ryle's (2012, p. 372) assertions regarding hegemonic masculine traits and the worker/economic provider as a key aspect of masculine identity. According to this interpretation, this concept of the man as worker and economic provider is so engrained within normative sex/gender roles that a violation of this role is notable as a "failure of masculinity" (Ryle, 2012, p. 372). In the context of this study, the men who fail to meet the criteria of appropriate 'economic provider' are apparently doubly chastised for this failure.

In contrast, in the few cases where women are charged with procuring, they are demonized differently from the men. The few female procurers in these cases are not chastised for being lazy or for failing to support themselves through legitimate employment. Instead, they are labelled as greedy and aggressive. In the two cases where both a male and female are charged with procuring in relation to the same operation, the female is singled out for her actions. One way of interpreting this is that the women in these cases are stepping outside the dominant gender role of passive females and violating the expectations traditionally associated with being a woman (Feinman, 1994)⁴². For this, they are framed in some sense as doubly bad, for being a procurer *and* a woman⁴³.

⁴² Feinman (1994) might also argue that a woman acting in a role traditionally (or stereotypically) filled by men (such as pimp/procurer), might also fit this category, as violator of normative gender expectations and thus, as a woman in need of regulation and control. The gendered connotation associated with the stereotype of pimp/procurer is a broader issue that could be explored in more detail elsewhere.

⁴³ The one exception to this is the case of *R v. Barrow* (1998), the woman I labelled as the Business Person, and who is presented by the court as a manager and not a procurer. She is also presented as a smart, business-savvy woman who gave an opportunity to other women to make a substantial earning from prostitution. There is no implication that she is breaking gender expectations in her actions, nor that she is greedy for doing so.

One implication to consider in light of this finding, which is perhaps not entirely surprising, is that the courts, like other entities such as popular media, are another source of 'knowledge (re)production' on appropriate gender roles and expectations. Not just a neutral venue for examining the facts and applying laws, the courts serve a meaning-making function in this regard and help perpetuate a very specific set of gender roles for men and women. From a social constructionist perspective, the courts are simply another contributing body to a broader 'knowledge' on gender 'norms.'

The relationship between gender expectations, prostitution and the legal system is not a new area of study. In particular, as I discuss in the previous section, gender, sexuality and prostitution have been explored in some detail by researchers interested in the regulation of prostitution (see, for example, Shaver 1996; Sangster, 2001; McLaren, 1986) and the impact of criminalization of the sex industry (for example, van der Meulen, 2010). However, research specifically on the relationship between gender roles and stereotyping and both the action and construction of *procuring* is a topic area that has received less attention and warrants further inquiry.

The Replication of Stereotypes and Assumptions

The idea for this thesis topic came from the debate circulating in Canada on the nature and 'reality' of prostitution, its participants and the impact of current legal and regulatory structures. I sought to shed some light on the judicial contribution to this debate. What I found within the range of judicial case summaries reviewed for this study was a spectrum of representations, from the procurer as predatory pimp, to the procurer as businessperson. Equally present were competing representations of

victims, complainants, prostitutes and/or sex workers, and a number of assertions regarding the act and industry of prostitution and its alleged impact on society.

The broader finding to emerge out of this study that was perhaps most interesting is that none of these ‘truths’ produced within the courts are anything new or different from what is already circulating within the larger debate. Instead, many of the assertions regarding procurers and the sex industry found within these summaries, are simply replications of the same ‘truths’, stereotypes, arguments and generalizations that already appear in some academic work, government committee debate, pro- and anti-prostitution activism and legislative challenges.

It was beyond the scope of this study to try to create a complete genealogy of this prostitution debate, with its wide variety of participants and all of the assertions and ‘truths’ called upon to support each side. As such, this discussion item should be taken as a small contribution to what should be explored as a much larger topic in and of itself. Clearly, the judiciary does not operate in a vacuum and is not immune to the same stereotypes and generalizations that infiltrate other social and political realms. Nonetheless, it is worth noting that the *judicial contribution* on the procurer largely replicates the same narratives and ‘truths’ produced by every other participant in this debate.

In brief, on one side of the debate surrounding the morality and regulation of prostitution is the assertion that all forms of prostitution necessarily involve an evil, male pimp exploiting a young, female, innocent victim (see, for example, Dworkin, 1993; Barry, 1995; Day, 2008; Longworth, 2010). Examples of this nature and this type

of imagery are drawn upon by prohibitionist feminists, conservative governments and religious institutions (among others) to bolster their argument that all prostitution necessarily involves the exploitation of women at the hands of evil predators. This imagery is also used to justify arguments for harsher legal penalties.

Evidently, there are certainly cases of extreme violence and exploitation experienced by women in the commercial sex industry. Yet what is used to support prohibitionist arguments is still only one story – a particular version of reality that does not encompass all experience but is utilized selectively to support a particular position. To show the ‘truth’ about prostitution, prohibitionists cite extreme cases of exploitation in the sex industry, involving violence against young women perpetrated by evil men, paired with a lack of recognition that other, less sensational and more positive scenarios exist.

The same trend appeared within a number of the case summaries reviewed for this study. Particularly in cases involving ‘Predator Pimps,’ judges create and perpetuate specific narratives on prostitution, drawing on sensational language about the threat that evil pimps pose to decent society and women everywhere. The assertion behind these narratives is that *all* prostitution poses a threat to broader society due to the operation of predatory pimps, as in many of these cases, there is no recognition that prostitution can operate in any capacity other than through violence and exploitation.

There are several implications to consider in light of this finding. The first is that, just as the types of imagery and language found in many of these summaries appear to be replications of the same arguments found elsewhere, in turn, the

narratives and sweeping generalizations about prostitution and procuring found within many of these case summaries provide fodder to the prohibitionist argument. The case summaries themselves provide legitimized 'truths' that can be touted by prohibitionists as the 'reality' of prostitution. In turn, these truths can be used to justify particular courses of action, which is a further implication of this finding.

The nature of a discourse on any topic is that it is not 'true' in itself but may hold a number of competing versions of the 'truth.' According to Foucault, some discourses and the knowledge or claims within them will dominate, holding more prominence or legitimacy than others (Foucault, 1977). Discourses are constitutive in their own right, and construct a particular version of any topic or event as *real* (Carabine, 2001, p. 268). As a result, the way that particular populations, issues or ideas are discursively shaped can produce real *effects* or set the stage for particular actions to be taken and justified on the basis of 'truth' (Carabine, 2001).

The construction of the procurer as the ever-present, predatory pimp, provides a particular 'truth' about prostitution in Canada, portraying it as the gateway to moral and social decay. This contributes to a broader discourse of *prostitution as exploitation* and *procurers as the evil-doers*. Thus, a possible *effect* of this particular judicial contribution to the discourse is that it can be used to justify harsher legislation against prostitution. Prohibitionists can draw upon this particular discourse to justify the implementation of harsher penalties against those involved in procuring, and to support their argument for increased criminalization within the industry. In this sense, this particular discourse has potential, tangible *effects*.

Similarly, but on the opposing side of the debate, the version of procurer as *business manager* may be used to bolster the arguments of ‘sex as work’ activists. ‘Sex as work’ activists have argued that prostitution can be conducted without exploitation, between consenting adults and for mutual benefit (see, for example, van der Meulen, 2010; POWER, 2010; Bruckert & Law, 2013). The ‘sex as work’ argument rejects the assertion that all prostitution necessarily involves the operation of a predatory pimp, and proposes that it can and should be conceptualized as a legitimate form of labour. The corollary of this argument is that prostitution should be decriminalized. To support their argument, advocates of this perspective draw on the imagery of consenting, adult sex workers, operating independently or in a mutually-beneficial, third-party business arrangement, and in doing so, provide a counter-discourse to the ‘all prostitution is exploitation’ narrative.

Two case summaries reviewed in this study support this counter-narrative of the industry, painting a picture of the procurers in each case as *business managers* and outwardly rejecting the notion that all prostitution involves exploitation or a predatory pimp. ‘Sex as work’ activists may similarly utilize these narratives of prostitution and procurer to challenge the dominant discourse of the procurer as exploitative pimp. For example, Bruckert and Law’s 2013 study of third parties in the sex industry references the judge’s portrayal of the accused in the case summary for *R v. Barrow* (2001). In their report, the researchers use an excerpt taken from *R v. Barrow* (2001) to illustrate the scope of the procuring laws in criminalizing those who may encourage others to participate in sex work, even if such encouragement is offered without coercion or exploitation. This narrative is then used to reinforce the argument for changes to

Canada's prostitution legislation. In this sense, this (counter) discourse (re)produced within the courts, of procurer as business manager, can help produce a similar 'effect', by putting in place a set of 'truths' that can be used to justify particular actions; in this case, changes to legislation to permit the legal exchange of sex as a form of labour and business transaction.

This was a particularly interesting finding to emerge from this study as it provides some small insight into both the productive quality of discourse and the position of the judiciary as a source of 'knowledge production'. Typically, research on social constructionism and representation is limited to describing *how* something is represented. For example, as I discussed in the Literature Review of this thesis, researchers examining media portrayals of crime have been hesitant to make claims about the direct effect of media representation on viewers⁴⁴. In the context of this study however, it is interesting to consider how the narratives produced in some of these court case summaries may serve a productive function, in their use as examples of 'reality' to help bolster a particular argument for action or legislative change.

To some extent, this illustrates the unique position of the judiciary as a source of knowledge production in this area. The purpose of the courts and judiciary is to consider 'facts' and apply laws, which in turn produces written summaries of decisions, which contain particular narratives and discourses. These decisions will carry forward as the official record or 'truth' of each case, and in turn, may be used selectively by others in the future to help bolster a particular argument or claim. In this sense, the judiciary plays an active role both in helping shape the concept of 'procurer' in Canada

⁴⁴ See Doyle's (2006) study on media representation of crime.

and in contributing to the broader socio-political debate on the nature and 'realities' of prostitution. To this end, and with consideration to the findings discussed in the earlier part of this chapter, the judiciary also plays a role in contributing to normative discourses on gender roles, gender relations and sexuality, through its particular representations of 'procurer,' which was another notable finding in itself.

CHAPTER 6: CONCLUSION

According to Shaver (1996, p. 203), there are a variety of “political and social forces at work in constructing what is reprehensible or deviant about prostitution.” These forces each play a role in constructing a particular ‘truth’ about prostitution and its participants. The courts are simply another participant in this process, unremoved from the other forces and social entities that contribute to this broader discourse.

Part of what this study found was that the judicial contribution to this discourse is neither new nor unique but a (re)production of the same assertions and arguments circling in other social, legal and political realms. The records of the courts tell four different stories of what it means to be a procurer, with corresponding claims regarding the identity and experience of the victim/prostitute/sex worker, and an accompanying version of prostitution itself, as either the gateway to social decay or an exchange of sexual services for financial gain.

Within these four different versions of procurer, the narrative of ‘procurer as exploitive pimp’ dominates in terms of its prominence within judicial records. In contrast, the story of ‘procurer as business manager’ provides the counter-narrative to the pimp stereotype, and illustrates a prostitution exchange that is neither exploitative nor intrinsically damaging to its participants. Approximately eighteen cases reviewed for this study portrayed the procurer in the role of pimp, as opposed to only two as business manager. Within this particular study, the ‘procurer as pimp’ narrative may have dominated in quantity solely due to the data available, as judicial decisions may

be less likely to be reported and made publicly available when they include fewer sensational details. As Bruckert and Law (2013, p. 83) state, “shorn of moral outrage and absent of salacious framing, management in the sex industry, like management in other sectors, is rather unexciting.” Perhaps this helps explain the dominance of the pimp narrative within the findings of this study, over the less exciting business manager.

Other notable findings to come from this study include the prominence of the patriarchal and paternalistic *origins* of the procuring laws within the contemporary operation of the courts. While perhaps not entirely surprising, this finding is still of interest, considering the number of legislative reviews conducted since the creation of the laws, paired with the sheer number of years that have passed since their inception. Despite this, the same original themes of protectionism and proprietary language over women’s bodies, sexuality and sexual conduct were notable throughout much of the analysis. Equally notable throughout the findings were assertions and imagery surrounding gendered expectations of behaviour, embedded in nearly every summary examined as part of this study.

Looking Forward

The completion of this study has opened up several other possible lines of inquiry for future research. The constitutional challenge currently before the Supreme Court regarding several components of Canada’s prostitution laws⁴⁵ provides its own possibilities. Given the number of (opposing) parties participating in the case, the challenge itself would make an informative case study, and an opportunity for creating

⁴⁵ Canada (Attorney General) v. Bedford (2012)

a more detailed genealogy of the 'prostitution debate' in Canada. A case study of the information presented to the Supreme Court, mapping each parties' claims on the morality and regulation of prostitution, would provide a much more detailed account of the narratives that inform each argument of this broader debate.

Another possibility for research to build on this current study would be to expand the sample of judicial case summaries to include all Canadian provinces, as opposed to only Ontario. Limiting the sample of cases to Ontario was a necessary methodological choice, given the scope of the research. However, Ontario may have its own social or political landscape in this regard, unique from the rest of Canada. Expanding the sample to include cases from across the country would enhance the ability of the study to speak to the discursive construction of the procurer by the *Canadian* judiciary as a whole.

A further possibility for future research might include an analysis of another source of discourse in this topic area. For example, in this study, I discussed some of the arguments made by feminist-prohibitionists against prostitution, and touched on some of the narratives of prostitution and procuring drawn upon by prohibitionists to argue that all prostitution is exploitation. An interesting counter study to what I have just completed would be to begin to map the prohibitionist construction of the procurer as a point of comparison to the judiciary.

Wrapping Up

What the reader should take away from this thesis is a reminder that the 'knowledge' and 'truths' we hold on the issue of prostitution, including its laws and

regulatory structures, and the 'realities' of the industry and its participants are constructions based on specific knowledge and experience. There is no single 'truth' or 'reality' about prostitution or its participants. Instead, there is a collection of differing experiences, and interpretations and representations of those experiences, reproduced and rehashed by those with competing interests in the regulation, moralization and criminalization of prostitution. Within this claims-making process, stereotypes persist, including that of the procurer as *predatory pimp*. What is useful to bear in mind is that this version of procurer does not hold any more 'truth' than any other; it is only one version that contributes to a much more complex story.

REFERENCES

- Badgley Commission. (1984). *Report on the committee on sexual offenses against children*. Ottawa: Canadian Government Publishing Center.
- Barker, P. (1998). *Michel Foucault: An Introduction*. Edinburgh, Scotland: Edinburgh University Press.
- Barry, K. (1995a). Pimping: The world's oldest profession. *On the Issues*, 4(3), 42-49.
- Barry, K. (1995b). *The Prostitution of Sexuality*. New York, NY: New York University Press.
- Benoit, C., & Millar, A. (2001). *Dispelling myths and understanding realities: Working conditions, health status, and exiting experiences of sex workers*. British Columbia: Prostitutes, Education, Empowerment and Resource Society (PEERS).
- Benson, C., and R. Matthews (2000). Police and Prostitution: Vice Squads in Britain. In R. Weitzer (ed.), *Sex for Sale: Prostitution, Pornography, and the Sex Industry*. New York: Routledge.
- Berg, B. (2007) *Qualitative Research Methods for the Social Sciences (7th Ed.)* Boston, MA: Pearson.
- Berger, P. & Luckmann, T. (1966). *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*. Garden City, NY: Anchor Books.
- Binder, L. (1995). "With More Than Admiration He Admired:" Images of Beauty and Defilement in Judicial Narratives of Rape. *Harvard Women's Law Journal*, 265.
- Bindman, J. (1998). An international perspective on slavery in the sex industry. In K. Kempadoo, & J. Doezema (Eds.), *Global sex workers: Rights, resistance and redefinition* (pp. 65). London, UK: Routledge.
- Bindel, J. & Kelly, L. (2003). A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden. London, UK: Child and Woman Abuse Studies Unit: London Metropolitan University.
- Boyle, C. (1994). The Judicial Construction of Sexual Assault Offences. In Roberts, J. and Mohr, R. (Eds.) *Confronting Sexual Assault: A Decade of Legal and Social Change*. Toronto, ON: University of Toronto Press.
- Brucket, C., Parent, C. & Robitaille, P. (2003). *Erotic Service/ Erotic Dance Establishments: Two Types of Marginalized Labour*. Ottawa: Law Commission of Canada.
- Bruckert, C. & Law, T. (2013). Beyond Pimps, Procurers and Parasites: Mapping Third Parties in the Incall/Outcall Sex Industry. SSHRC-funded research study. <<http://www.chezstella.org/docs/ManagementResearch.pdf>>. (Accessed June 2, 2013).
- Burns, C. (2004). Constructing Rape: Judicial Narratives on Trial. *Japanese Studies*, 24, 1.

- Burr, V. (2003). *Social Constructionism (2nd Ed.)*. New York, NY: Routledge.
- Campbell, R. (2006). *Marked Women: Prostitutes and Prostitution in the Cinema*. Madison, Wisconsin: University of Wisconsin Press.
- Canadian Advisory Council on the Status of Women. (1984). *Prostitution in Canada*. Government of Canada.
- Carabine, J. (2001). Unmarried Motherhood 1830-1990: A Genealogical Analysis. In Wetherell, M., Taylor, S. & Yates, S. (Eds.) *Discourse as Data: A Guide for Analysis*. Thousand Oaks, CA: Sage
- Corriveau, P. (2013). Regulating Sex Work: Between Victimization and Freedom to Choose. In Parent, C., Bruckert, C., Corriveau, P., Mensah, M. & Toupin, L. (Eds), *Sex Work: Rethinking the Job, Respecting the Workers*. Vancouver, BC: UBC Press.
- Crocker, D. (2005). Regulating Intimacy: Judicial Discourse in Cases of Wife Assault (1970-2000). *Violence Against Women*, 11, 197-226.
- Dalla, R. L. (2006). *Exposing the "pretty women" myth: A qualitative investigation of street-level prostituted women*. Lexington, KT: Lanham.
- Dalla, R. L., Xia, Y., & Kennedy, H. (2003). "You just give them what they want and pray they don't kill you: 'Street-level sex workers' reports of victimization, personal resources, and coping strategies." *Violence Against Women*, 9(11), 1367-1394.
- Day, S. (2007). *On the game: Women and sex work*. Ann Arbor, MI: Pluto Press.
- Day, S. (2008). Prostitution: Violating the human rights of poor women. Ottawa: Action ontarienne contre la violence faite aux femmes.
- Diana, L. (1985). *The prostitute and her clients: Your pleasure is her business*. Springfield, ILL: Thomas Books.
- Doezema, J. (Ed.). (1998). *Forced to choose: Beyond the voluntary v. forced prostitution dicotomy*. New York, NY: Routledge.
- Dorsten, L. & Hotchkiss, L. (2005). *Research Methods and Society: Foundations of Social Inquiry*. Boston, MA: Pearson.
- Doyle, A. (2006). How Not To Think About Crime in the Media. *Canadian Journal of Criminology and Criminal Justice*, 48 (6), 867-886.
- Dworkin, A. (1993). Prostitution: From academia to activism. *Michigan Journal of Gender and Law*, 1, 1.
- Espinoza, L. (1997). Legal Narratives, Therapeutic Narratives: The Invisibility and Omnipresence of Race and Gender. *Michigan Law Review*, 95, 901-937.
- Esterberg, K. (2002). *Qualitative Methods in Social Research*. USA: McGraw-Hill.
- F/T/P Working Group on Prostitution. (1998). *Recommendations in respect of legislation, policy and practices concerning prostitution-related activities*. Ottawa: Department of Justice Canada.
- Farley, M., & Kelly, V. (2000). Prostitution: A critical review of the medical and social

- sciences literature. *Women and Criminal Justice*, 11(4), 29.
- Farley, M. (2004). "Bad for the body, bad for the heart:" Prostitution harms women even if legalized or decriminalized. *Violence Against Women*, 10(10), 1087.
- Farley, M. (2005). Prostitution harms women even if indoors: Reply to Weitzer. *Violence Against Women*, 11(7), 950-964.
- Faugier, J. & Sargeant, M. (1997). Boyfriends, 'pimps' and clients. In Scambler, G. & Scambler, A. (Eds.) *Rethinking Prostitution: Purchasing Sex in the 1990s*. London, UK: Routledge.
- Feder, E. (2011). Power/knowledge. In Taylor, E. (Ed.) *Michel Foucault: Key Concepts*. Durham, UK: Acumen.
- Fegan, E. (1996). Fathers, Fetuses and Abortion Decision-Making: The Reproduction of Maternal Ideology in Canadian Judicial Discourse. *Social and Legal Studies*, 5, 75-93.
- Feinman, C. (1994). *Women in the Criminal Justice System* (3rd Ed.). Westport, CT: Praeger.
- Fendler, L. (2010). *Michel Foucault*. London, UK: Continuum International Publication Group.
- Flowers R. B. (1998). *The Prostitution of Women and Girls*. Jefferson, NC: McFarland.
- Foucault, M. (1978). *The History of Sexuality: An Introduction, Vol. 1*. New York, NY: Vintage.
- Foucault, M. (1977). *Discipline and Punish: The Birth of the Prison*. New York, NY: Vintage.
- Foucault, M. (1972). *Power/knowledge: Selected Interviews and Other Writings 1972-1977*. Gordon, C. (Ed.). New York, NY: Pantheon Books.
- Fraser Committee. (1985). *Pornography and prostitution in Canada, vol. II*. Ottawa: Minister of Supply and Services Canada.
- Freedman, J. (2002). *Media violence and its effect on aggression: Assessing the scientific evidence*. Toronto, ON: University of Toronto Press.
- Fuller, P. (1995). The Social Construction of Rape in Appeal Court Cases. *Feminism and Psychology*, 5, 2, 154-161.
- Gewirtz, P. (1996). On "I know it when I see it," Supreme Court Justice Potter Stewart's famous opinion regarding pornography. *Yale Law Journal*, 105, 4, 1023-1047.
- Gibson, D. (1992). Constitutional law-charter of rights and freedoms-presumption of innocence-avails of prostitution-pimps, presumptions and predatory laws: R. v. Downey. *Canadian Bar Review*, 71(4), 727.
- Giobbe, E. (1993). An analysis of individual, institutional and cultural pimping. *Michigan Journal of Gender and Law*, 71(4), 727.
- Goldstein, P. (1983). Occupational Mobility in the World of Prostitution: Becoming a

- Madam. *Deviant Behaviour*, 4, 267-279.
- Grant, D. (2008). Sexin' Work: The Politics of Prostitution Regulation. *Journal of Marxism and Interdisciplinary Inquiry*, 2, 1, 61-74.
- Grittner, F. (1990). *White Slavery: Myth, Ideology and American Law*. New York, NY: Garland Publishing.
- Groulx, G. (2008). Repression Meets Responsibility: Canadian Penal Governance in the 'Age of Transformation.' (Unpublished Master of Arts thesis). University of Ottawa, Ottawa, Ontario.
- Hallgrimsdottir, K., Phillips, R. & Benoit, C. (2006). Fallen Women and Rescued Girls: Social Stigma and Media Narratives of the Sex Industry in Victoria, B.C. from 1980 to 2005. *Canadian Research Center for Anthropology*, 43, 3, 265-280.
- Hallgrimsdottir, K., Phillips, R., Benoit, C. & Walby, K. (2008). Sporting girls, streetwalkers, and inmates of houses of ill repute: Media narratives and the historical mutability of prostitution stigmas. *Sociological Perspectives*, 51(1), p. 119-138.
- Hardy, C., Harley, B. & Phillips, N. (2004). Discourse Analysis and Content Analysis: Two Solitudes? In Herrera, Y. & Braumoeller, B. (Eds.) *Symposium: Discourse and Content Analysis*. Weatherhead Centre for International Affairs. Harvard University. Retrieved May 6, 2011 from <http://www.wcfia.harvard.edu/node/763>.
- Hearn, J. (2013). Men, Masculinity and Masculinities. In Evans, M. & Williams, C. (Eds.) *Gender: The Key Concepts*. New York, NY: Routledge.
- Heath, L. & Gilbert, K. (1996). Mass media and fear of crime. *American Behavioral Scientist*, 39 (4), 379 – 386.
- Heyl, B. (1979). *The Madam as Entrepreneur: Career Management in House Prostitution*. New Brunswick, NJ: Transaction Books.
- Hibberd, F. (2005). *Unfolding Social Constructionism*. New York, NY: Springer.
- Hodgson, J. F. (1997). *Games pimps play: Pimps, players and wives-in-law. A qualitative analysis of street prostitution*. Toronto, CAN: Canadian Scholars' Press.
- Hoigard C. & Finstad L. (1992). *Backstreets: Prostitution, money and love*. Cambridge and Oxford, UK: Polity Press.
- Howarth, D. (2000). *Discourse: Concepts in the Social Sciences*. Berkshire, UK: Open University Press.
- Hunt, A. (2002). Regulating Heterosocial Space: Sexual Politics in the Early Twentieth Century. *Journal of Historical Sociology*, 15, 2-34.
- Hunter, S. (1993). Prostitution is cruelty and abuse to women and children. *Michigan Journal of Gender and Law*, 1, 91.
- Jackson, L., Augusta-Scott, T., Burwash-Brennan, M., Karabanow, J., Robertson, K. & Sowinski, B. (2009). Intimate relationships and women involved in the sex

- trade: perceptions and experiences of inclusion and exclusion. *Health (London)*, 13, 25.
- Kaspiew, R. (1995). Rape Lore: Legal Narrative and Sexual Violence. *Melbourne University Law Review*, 20, 250-382.
- Kinnell, H. (2008). *Violence and sex work in Britain*. Portland, OR: Willan.
- Kennedy, A., Klein, C., Bristowe, J., Cooper, B. & Yuille, J. (2007). Routes of Recruitment: Pimps' Techniques and Other Circumstances That Lead to Prostitution. *Journal of Aggression, Maltreatment and Trauma*, 15 (2).
- Lewis, J., Maticka-Tyndale, E., Shaver, F., & Schramm, H. (2005). Managing risk and safety on the job: The experiences of Canadian sex workers. *Journal of Psychology and Human Sexuality*, 17(1/2), 147.
- Lindquist, J. & White, O. (1989). Judicial Processing of Males and Females Charged with Prostitution. *Journal of Criminal Justice*, 17, 277-291.
- Lock, A. & Strong, T. (2010). *Social Constructionism: Sources and Stirrings in Theory and Practice*. Cambridge, UK: Cambridge University Press.
- Longworth, C. (2010). Male violence against women in prostitution: Weighing feminist legislative responses to a troubling Canadian phenomenon. *Appeal*, 15, 58-85.
- Lopez, I. (2000). Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination. *Yale Law Journal*, 109, 8, 1721-1884.
- Los, M. (1996). The Struggle to Redefine Rape in the Early 1980s. In Roberts, J. and Mohr, R. (Eds.) *Confronting Sexual Assault: A Decade of Legal and Social Change*. Toronto, ON: University of Toronto Press.
- Lowman, J. (1986). Street prostitution in Vancouver: Notes on the genesis of a social problem. *Canadian Journal of Criminology*, 28(1), 1.
- Lowman, J. (2000). Violence and the outlaw status of street prostitution. *Violence Against Women*, 6(9), 987.
- Lowman, J. (2001). *Identifying research gaps in the prostitution literature*. Ottawa: Research and Statistics Division, Department of Justice Canada.
- Lowman, J. (2005). Submission to the Subcommittee on Solicitation Laws of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness.
- Lowman, J. (2011). Deadly Inertia: A History of Constitutional Challenges to Canada's Criminal Code Sections on Prostitution. *Beijing Law Review*, 2(2), 33-54.
- Lowman, J., & Fraser, L. (1996). *Violence against persons who prostitute: The experience in British Columbia* (No. TR1996-14E). Ottawa: Department of Justice Canada.
- Maticka-Tyndale, E., Lewis, J. & Street, M. (2005). Making a Place for Escort Work: A Case Study. *The Journal of Sex Research*, 42 (1), 46-53.

- McDowell, L. (2009). *Working Bodies: Interactive Service Employment and Workplace Identities*. West Sussex, UK: Blackwell.
- McLaren, J. (1986). Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws, 1867-1917. *Canadian Journal of Law & Society*, 125-165.
- Nixon, K., Tutty, L., Downe, P., Gorkoff, K. & Ursel, J. (2002). The Everyday Occurrence: Violence in the Lives of Girls Exploited Through Prostitution. *Violence Against Women*, 8 (9), 1016-1043.
- Nealon, J. & Giroux, S. (2003). *The Theory Toolbox: Critical Concepts for the Humanities, Arts and Social Sciences*. Lanham, MD: Rowman & Littlefield.
- Norton-Hawk, M. (2000). The counter-productivity of incarcerating female street prostitutes. *Deviant Behavior*, 22(5), 403.
- Norton-Hawk, M. (2004). A comparison of pimp- and non-pimp-controlled women. *Violence Against Women*, 10(2), 189-194.
- O'Doherty, T. (2007). *Off-street commercial sex: An exploratory study*. Unpublished Master of Arts Thesis, Simon Fraser University.
- Parliamentary Subcommittee on Solicitation Laws (SSLR). (2006). *The challenge of change: A study of Canada's criminal prostitution laws*. Report of the Standing Committee on Justice and Human Rights, Report of the Subcommittee on Solicitation Laws. Ottawa: Parliament of Canada.
- Palys, T. (2003). *Research Decisions: Quantitative and Qualitative Perspectives* (3rd Ed.). Scarborough, ON: Nelson.
- Phillips, S. & Grattet, R. (2000). Judicial Rhetoric, Meaning-Making, and the Institutionalization of Hate Crime Law. *Law and Society Review*, 34(3), 567.
- Pivot (2006). *Beyond decriminalization: Sex work, human rights and a new framework for law reform*. Retrieved October 14, 2010 from <http://www.pivotlegal.org/Publications/reports.htm>.
- Posocco, S. (2013). Gender Identity. In Evans, M. & Williams, C. (Eds.) *Gender: The Key Concepts*. New York, NY: Routledge.
- POWER (2010). *Challenges: Ottawa-area sex workers speak out*. Retrieved February 15, 2011 from http://www.powerottawa.ca/POWER_Report_Challenges.pdf.
- Ramos, N. (2010). 'Ontario to Traffickers: We're Open for Business.' Coalition Against Trafficking in Women. Retrieved February 18, 2010 from <http://action.web.ca/home/catw/readingroom>
- Raphael, J., & Shapiro, D. L. (2004). Violence in indoor and outdoor prostitution venues. *Violence Against Women*, 10(2), 126-139.
- Raphael, J., & Shapiro, D. L. (2005). Reply to Weitzer. *Violence Against Women*, 11(7), 965-970.
- Richman, K. (2002). Lovers, Legal Strangers, and Parents: Negotiating Parental and

- Sexual Identity in Family Law. *Law & Society Review*, 36(2), 285.
- Rollins, J. (2004). AIDS, Law and the Rhetoric of Sexuality. *Law and Society Review*, 36, 1.
- Ryle, R. (2012). *Questioning Gender: A Sociological Exploration*. Thousand Oaks, CA: Sage.
- Sanders, T. (2005). *Sex work: A risky business*. Cullompton, UK: Willan.
- Scott, D. (2008). Michel Foucault and Power-Knowledge. In Scott, D. (Ed.) *Critical Essays on Major Curriculum Theorists*. New York, NY: Routledge.
- Seidman, S. & Alexander, J. (2001). *The New Social Theory Reader: Contemporary Debates*. London, UK: Routledge.
- Shapiro, E. (2010). *Gender Circuits: Bodies and Identities in a Technological Age*. New York, NY: Routledge.
- Shaver, F. (1994). The regulation of prostitution: Avoiding the morality traps. *Canadian Journal of Law and Society*, 9(1), 123.
- Shaver, F. (1996). The Regulation of Prostitution: Setting the Morality Trap. In Schissel, B. and Mahood, L. (Eds.) *Social Control in Canada: Issues in the Social Construction of Deviance*. Don Mills, Ontario: Oxford University Press.
- Shelby, T. (2002). Parasites, pimps and capitalists: A naturalistic conception of exploitation. *Social Theory and Practice*, 28(3), 381.
- van der Meulen, E., & Durisin, E. (2008). Why decriminalize? How Canada's municipal and federal regulations increase sex workers' vulnerability. *Canadian Journal of Women and the Law*, 20, 291.
- van der Meulen, E. (2010). Illegal Lives, Loves and Work: How the Criminalization of Procuring Affects Sex Workers in Canada. *Wagadu: Journal of Transnational Women's and Gender Studies*, 8.
- Vanwesenbeeck, I. (1994). *Prostitutes' well-being and risk*. Amsterdam, Netherlands: VU University Press.
- Weitzer, R. (2005a). Rehashing tired claims about prostitution. *Violence Against Women*, 11(7), 971.
- Weitzer, R. (2005b). New Directions in Research on Prostitution. *Crime, Law and Social Change*, 43, 211-235.
- Williamson, C., & Cluse-Tolar, T. (2002). Pimp-controlled prostitution: Still an integral part of street life. *Violence Against Women*, 8(9), 1074-1092.
- Willig, C. (2001). *Introducing Qualitative Research in Psychology: Adventures in Theory and Method*. Philadelphia, PA: Open University Press.
- Wooffitt, R. (2005). *Conversation Analysis and Discourse Analysis: A Comparative and Critical Introduction*. Thousand Oaks, CA: Sage.

Legislation Cited

Criminal Code of Canada, R. S. C 1985

Cases Cited

Bedford v. Canada [2010] ONSC 4264

Canada (Attorney General) v. Bedford [2012] ONCA 186

R v. Ali [2004], O.J. No 5923

R v. Allan [1992] O.J. No. 1061

R v. Barrow [1998] O.J. No. 2449

R v. Constant [1993] O.J. No. 3332

R v. D. B. [2005] O.J. No. 2593

R v. Downey (1992), 2 S. C. R. 10

R v. Foley [1998] O.J. No. 5954

R v. Goulet [1989] O.J. No. 2473

R v. Harris [1991] O.J. No. 2553

R v. Harris [1991] O.J. No. 2578

R v. Lebar & Lebar [1997] O.J. No. 5655

R v. M. S. [2006] O.J. No. 1347

R v. M. S. [2006] O.J. No. 2774-1

R v. Mfizi [2008] O.J. No. 2430

R v. Miller [1997] O.J. No. 3911

R v. Mohess [1991] O.J. No. 2674

R v. Parra [2001] O.J. No. 5663

R. v. Pierce (1982), 66 C.C.C. (2d) 388, 37 O.R. (2d) 721 (C.A.).

R v. Richardson [1994] O.J. No. 4234

R v. Rose [1994] O.J. No. 2360

R v. Salmon [1998] O.J. No. 3610

R v. Spence [1994] O.J. No. 981

R v. Stone [2010] O.J. No. 1311

R v. Suen & Chiu [1995] O.J. No. 4409

R v. Thomas [2003] O.J. No. 6137

R v. Williams [1997] O.J. No. 5866

APPENDIX

Item I: Carabine's Guide to Conducting Foucauldian Discourse Analysis

1. <i>Select your topic</i> and identify possible sources of data.
2. <i>Know your data</i> – read and re-read.
3. <i>Identify themes</i> , categories and objects of the discourse.
4. Look for evidence of an <i>inter-relationship</i> between discourses.
5. Identify the discursive strategies and techniques that are employed.
6. Look for <i>absences</i> and <i>silences</i> .
7. Looks for <i>resistances</i> and <i>counter-discourses</i> .
8. Identify the <i>effects</i> of the discourse.
9. <i>Context 1</i> – outline the background to the issue.
10. <i>Context 2</i> – contextualize the material in the power/knowledge networks of the period.
11. Be aware of the <i>limitations</i> of the research, your data and sources.

Item II: Variables of Interest for Open Coding

VARIABLES OF INTEREST					
GENDER/ SEX	Male	Female	Trans/ unknown		
AGE	18-25	26-35	36-45	46-55	56+
RACE/ ETHNICITY	Caucasian	South Asian	Asian	African/ Caribbean	Other
LABOUR SECTOR	Street	In-call agency	Outcall agency	In-call private	Outcall private
RELATIONSHIP	Romantic	Non- romantic	Other		

Item III: Guiding Questions

1. How is the 'managee' spoken of in this case?				
2. How is the 'managee' spoken of in terms of:				
Age?	Gender? Gender expectations?	Life prospects?	Personality/personal traits?	
3. How is the 'managee' labelled? (ie. victim, complainant, witness)				
4. How is the 'managee' spoken of in terms of culpability or blame?				
5. How is the 'managee' spoken of in terms of experience in prostitution?				
6. How is the 'managee' spoken of in terms of other sexual experience?				
7. How else is the 'managee' spoken of in this case?				
8. How is the relationship between the 'manager' and 'managee' characterized?				
9. How is the 'manager' spoken of in this case?				
10. How is the 'manager' spoken of in terms of:				
Age?	Intentions towards 'managee'?	Life prospects?	Personality/personal traits?	Gender? Gender expectations?
11. How is the 'manager' labelled/titled?				
12. (How) is the 'manager' spoken of in terms of use of violence? Exploitation?				
13. How else is the 'manager' spoken of in this case?				
14. How is the labour sector spoken of in this case?				
15. How is the issue of prostitution spoken of in this case?				
16. What else is notable about this case?				

Item IV: Case Summary Analysis Template

Case name	Relevant charges		Hearing Type				
As characterized by judge	Age	Life prospects	Personal traits or personality	Victim label?	Past experience in prostitution?	Gender? Expectation related to gender?	Disc. Of past sexual conduct?
Managee characteristics							
Related quotes							
	Exploitive?	Romantic?	Business manager?	Business partner?	Agency owner/manager?	Other	
Relationship b/w manager and managee							
	Age	Intent of relationship	Life prospects	Personal traits/ characterization	Discussion of violence?	Discussion of exploitation?	Title/label given
"Manager" characteristics							
Related quotes							
	Street	Hotel/ apartment	Escort agency	Massage parlour	Independent	Other	
Labour sector							
How is prostitution characterized?							
Related quotes							
Prostitute as a status?							
Related quotes							
GENERAL NOTES/ OBSERVATIONS							
Related quotes							