



FEATURE

Commentary: Sex work is here to stay and decriminalisation improves safety and social justice

Gillian Abel *head of department*

Department of Population Health, University of Otago, Christchurch, New Zealand

Public health focuses on ensuring the conditions in which people can be healthy. It is a societal approach to protecting and promoting the health of population groups. Our aim is to tackle societal conditions that create inequalities so that people can lead healthier lives. At the core of public health is the principle of social justice, and inequalities in health are seen as a human rights or social justice issue.

Social justice for sex workers did not exist in New Zealand until 2003, when they were decriminalised with the passing of the Prostitution Reform Act. Robust research has shown that when sex workers or their activities are criminalised their health and safety is severely compromised,¹⁻¹³ and this was certainly the case in New Zealand.

The World Health Organization defines health as not merely an absence of disease but a “state of complete physical, mental and social wellbeing.”¹⁴ Sex workers struggle to attain this ideal when they live and work within a criminalised environment. They are open to abuse with no legal recourse to action against the perpetrators.

When sex work was recognised as work in New Zealand it became easier for sex workers to negotiate safe sex, dictate what services they will provide, and what clients they will accept.¹⁵ Sex workers can refuse to provide commercial sexual services and can withdraw consent at any time, even if they have previously agreed to provide a service. Power has shifted from brothel operators to sex workers, which means that business practices have had to improve. When exploitation and coercion occur, sex workers can take their case to the human rights tribunal or use other legal channels. There are stronger deterrents to violence, and police are now more proactive in protecting the safety of street based sex workers; interviews with street based sex workers indicate that they are more likely to report crimes, share information, and assist police in investigating crimes against others.¹⁶⁻¹⁸ Murder, rape, and coercive actions against sex workers are dealt with seriously by police and the courts.

Although New Zealand has come a long way in dealing with social injustices to sex workers, the protection applies only to sex workers who are permanent residents or citizens. Migrants with temporary work visas or student visas are not eligible to

work as sex workers. Those who do are deemed as working illegally and run the risk of deportation, which opens the door to exploitative and coercive working conditions.

Globally, policies around sex work are often not based on robust evidence. Values and rhetoric that frame sex workers as victims or trafficked have been more influential in other countries, and this has resulted in policies that have unfortunate outcomes, as Howard’s feature¹⁹ and others describe.^{4,20} Often the victims created by such policies are framed as the ones at fault.

No form of legislation has ever managed to regulate sex work out of existence. Sex work is here to stay. We need to acknowledge that most sex workers are not forced to work in the industry. A large survey of sex workers in New Zealand indicated that only 4% reported that they had been forced to work.¹⁵ Most sex workers say that they freely choose sex work, often in the face of many other alternatives.²¹⁻²³

Decriminalisation is the only form of legislation that has been empirically shown to protect the health and safety of sex workers^{16,18,24,25} and achieve social justice for this sector of the population. It is time for policy makers globally to look past abolitionist rhetoric and make evidence based decisions regarding sex work policy in their countries.

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