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A decade of decriminalization: Sex work ‘down under’ but not underground

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Abstract

New Zealand was the first country to decriminalize sex work. This article provides a reflective commentary on decriminalization, its implementation and its impacts in New Zealand. New Zealand Prostitutes' Collective (NZPC) was the key player in getting decriminalization on the policy agenda and their effective networking played an essential role to the successful campaign for legislative change. There were contentious clauses within the Prostitution Reform Act (PRA) which were of concern to NZPC and others. However, the research which informed the review of the Act has shown that decriminalization has been successful in making the industry safer and improving the human rights of sex workers within all sectors of the industry. The PRA provides several protections for sex workers, which means that their human rights and citizenship can be safeguarded. Yet there has been little movement towards decriminalization in other countries and reluctance by some to draw on New Zealand's experience. Indeed, it cannot be claimed that decriminalization will be experienced in the same way in other countries. New Zealand is a small island with a population of just over four million and movement across its borders is more restricted than countries that are part of the European Union. Nevertheless, other countries may find the arguments used to get legislative change in New Zealand useful within their own context.

Keywords

Decriminalization, legislation, New Zealand, sex work

Introduction

Sex workers in New Zealand celebrated a decade of decriminalization in June 2013. Sex work was not criminalized prior to the passing of the Prostitution Reform Act (PRA) in

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2003, but all activities associated with sex work were, such as soliciting, living on the earnings, operating a brothel and procurement. This meant that it was almost impossible to work as a sex worker without committing an offence which would bring with it a criminal charge. All dealings between sex workers and clients, brothel operators, carers of clients with disabilities and others were clandestine and conducted under a shroud of fear of entrapment. Research done prior to decriminalization showed an industry vulnerable to exploitation, coercion and violence (Plumridge, 2001; Plumridge and Abel, 2000, 2001).

Decriminalization acknowledges that prostitution is service work and this allows sex workers to operate under the same employment and legal rights accorded to any other occupational group. Many see decriminalization as the only way to protect the human rights of sex workers and in so doing address their working conditions. Scambler and Scambler (1997: 185) have noted that decriminalization removes: 'the anomaly of a gender-biased body of legislation exclusive to a particular area of work and prepare[s] the ground for de-marginalizing women sex workers and restoring basic citizenship and other rights to them'. Yet there has been little traction for arguments for decriminalization internationally with only New Zealand, one state in Australia (New South Wales) and more recently Canada going down this route. Decriminalization in New Zealand has seen many positive changes for sex workers with robust evidence to suggest that it is a regulatory environment that should be seriously considered in other parts of the world (Abel, 2010; Abel et al., 2007, 2010; Prostitution Law Review Committee, 2008). However, apart from some isolated interest shown by policy-makers in some states of Australia and in Canada, and some sporadic interest from a few academics in Europe, New Zealand's experience of decriminalization is often seen as irrelevant within the international context. Some people have said that New Zealand is at the bottom of the world, has a very small population and does not have the issues of border crossing which is evident in Europe. While some of the arguments around the size and location of New Zealand may sound convincing I think that this misses the point. There are three aspects of New Zealand's experience of decriminalization that could be drawn on in other countries. First, it is the process that was undertaken to get decriminalization on the policy agenda that can be helpful to others and second, the way the legislation was implemented. Third, it is also useful to look at the impact the legislative change had on sex workers and the wider New Zealand community, and indeed this was drawn on in the court case in Ontario which saw a successful challenge to Canada's laws on prostitution. This article discusses these aspects of New Zealand's experience of decriminalization and concludes with a discussion on the current environment of sex work in this country.

The Process towards Decriminalization

There are two crucial elements in the process towards decriminalization that I think can have relevance in other countries. These are the persistence in drawing back from an engagement in moral arguments regarding sex work in favour of a human rights argument and the inclusion of sex workers' voices in the development of legislation which is aimed at them.

World-wide, the existence of a strong moral discourse on sex work is a key obstacle to getting decriminalization on the policy agenda. This discourse frames sex workers as

helpless victims requiring protection and relocation and has arisen from the debate about trafficking (Kantola and Squires, 2004). The word 'trafficking' has become synonymous with 'sex work' or 'prostitution' in most countries (Wagenaar and Altink, 2012) yet evidence suggests that the issue of trafficking has been grossly exaggerated (Harcourt and Donovan, 2005; Hubbard et al., 2008; O'Connell Davidson, 2006; Weitzer, 2007). Some have an interest in perpetuating the trafficking discourse. It negates any argument for prostitution to be seen as service work if sex workers are framed as victims and not able to choose freely to work in the sex industry (Wagenaar and Altink, 2012) and leaves little capacity to push the arguments which may lead to a legislative change to decriminalization. Wagenaar and Altink (2012) therefore argue for the concepts of trafficking and 'forced prostitution' to be reframed as exploitation. Exploitation, they contend, will allow analogies to be drawn with other occupational groups as exploitation is not particular to sex work. Exploitation, and the context of a criminalized environment which allowed exploitation to flourish, was brought into the argument for decriminalization in New Zealand and this was framed as a human rights issue. There was no engagement in a moral discourse on sex work by those pushing for decriminalization besides the argument that Parliament should not be in the business of legislating morals. The public health and human rights arguments were central to the passing of the PRA and these arguments were able to win round some with a personal antipathy to sex work (Barnett et al., 2010).

It could be argued that the PRA is a model to the rest of the world because it was developed in full consultation with sex workers, was reviewed in consultation with sex workers and is therefore relevant and workable for sex workers in New Zealand. New Zealand Prostitutes' Collective's (NZPC) role was instrumental in making decriminalization of sex work in New Zealand a reality and this role cannot be understated. NZPC is a peer-run organization and it has strong and committed leadership. There has been one National Co-ordinator in the organization's 26 years of existence who has fought tirelessly for the rights of sex workers in New Zealand. It is difficult to draw parallels between the role NZPC plays in New Zealand and the role sex worker organizations play in other western countries. New Zealand is small and therefore there is little place for more than one sex worker organization. In countries like the USA, Canada and Australia there are several sex work-related organizations; some peer run and others not. There is therefore not one unified approach to regulatory change.

NZPC was formed in 1987 and from 1988, in response to the HIV/AIDS crisis, has received funding from the Department of Health (now Ministry of Health). This was in accordance with the Ottawa Charter, to empower sex worker communities to engage with safe sex strategies, such as the distribution of condoms among sex workers. From the outset NZPC was more than a health promotion and health education organization, and in 1989 they became politically active and started the process of raising awareness to the harms caused by the laws in New Zealand. They were strategic in developing close links with researchers so that the arguments they presented in their quest for decriminalization were always evidence based. The researchers that they developed their closest ties to were public health researchers. Some very important research done in the 1990s by these researchers highlighted the harms that sex workers were exposed to because of the laws which were in operation in New Zealand (Plumridge, 2001; Plumridge and Abel, 2000,

2001). This research was utilized in submissions to various Government Select Committees when further restrictive amendments were being considered to the Crimes Act.

NZPC's link to public health researchers was a well-considered one. Decriminalization of sex work has been advocated by public health workers in New Zealand and elsewhere as a strategy for harm minimization. Increasingly, public health professionals have recognized that they need to take a more holistic approach and look at the structural and political issues which underpin sex workers' health and well-being (Chan and Reidpath, 2003; Frieden et al., 2005; Scambler and Scambler, 1995). Human rights are essential to health and well-being, and decriminalization gives sex workers autonomy and the capacity to protect themselves (Pyett and Warr, 1999).

NZPC proved themselves to be very good networkers and made important links to the right people and organizations who joined them in a coalition calling for decriminalization (Barnett et al., 2010). They also gained support from high-ranking Members of Parliament from different political parties who became key players advocating for decriminalization in Parliament. NZPC started to build credibility in the public arena and this credibility was heightened because they were a government funded organization. They networked effectively with lawyers and others to develop the Prostitution Reform Bill which laid out the blueprint for decriminalization. This Bill was submitted to Parliament in 2000 and underwent three readings, returning to the Select Committee twice where submissions were heard and amendments made. Opponents to decriminalization were mainly Christian fundamentalists who thought that the law would 'normalize' sex work which they argued was wrong and against biblical teachings (Barnett et al., 2010). The radical feminist element opposed to decriminalization was not a dominant force in New Zealand. Of 56 submissions made by feminists on the Bill, only 16 were opposed, mainly arguing that sex work was an indicator of gender inequality (Laurie, 2010). They tried to reverse the law and push for criminalization of the client in line with the Swedish model at a Committee of the Whole House in Parliament but this was defeated by a vote of 19 to 96. They also moved to criminalize both the client and the sex worker and that too was defeated by a vote of 12 to 103 (Barnett et al., 2010). There was a national election during this time where the Labour Party was returned to power but with a reduced majority. A small party, the United Future Party (who were opposed to decriminalization) gained some seats in Parliament. The growing opposition in Parliament was reflected in the margin in voting after each reading of the Bill: 87 votes to 21 in the 2000 reading; 64 votes to 56 in the 2002 reading and 60 votes to 59 with one abstention in the 2003 reading when the PRA was passed and decriminalization of sex work became a reality in New Zealand.

The Implementation of the Prostitution Reform Act and Its Impacts

There is little written about implementation of prostitution policy (Wagenaar and Altink, 2012). Implementation of the PRA was largely top-down but the implementation of some clauses within the PRA were devolved to various authorities. The authorities, however, were limited in their powers so as to not subvert the intentions of the Act. Scoular (2010: 13) contends that legislation passed to regulate sex work represents 'political and

social aspirations' of how the sex industry should be regulated and this is lost in its implementation at the local level. This may be relevant in some contexts but this has not been the case in New Zealand. As she points out, the law operates through a number of forums. Brothel operators in New Zealand are required to hold a certificate obtainable through the Registrar of a District Court (sections 34–41). Territorial authorities are given the ability to enact bylaws to control signage and location of brothels (sections 12–14). Police and occupational safety and health inspectors have powers of entry to brothels (sections 24–33). Yet Registrars, territorial authorities, police and health inspectors have to work within the parameters of the PRA and there are sufficient protections within the Act to ensure that the 'political and social aspirations' of decriminalization are not lost.

This is not to say that Territorial Authorities have not tried to implement restrictive bylaws. Warnock and Wheen (2012: 416) have claimed that Territorial Authorities have 'heavily regulated' brothels and pushed them into 'marginal areas' and in so doing have put the health and safety of sex workers under threat. Some Territorial Authorities have made bylaws restricting brothels to the central business district, however to call these areas 'marginal' is misrepresenting the situation. Brothels in most of the big cities sit alongside trendy restaurants, bars and nightclubs. It is true that some of the main cities have strived to keep brothels out of the suburbs but it is inaccurate to depict brothel workers as confined to dark, lonely and potentially dangerous areas in New Zealand.

Sections 12–14 of the PRA on location and signage of brothels are slightly ambiguous. The PRA defines a small owner operated brothel (SOOB) as being a brothel where up to four people can work as equal sex workers without a person in charge. However, it does not distinguish in sections 12–14 between SOOBs and larger brothels. This meant that some private workers working from the suburbs were effectively recriminalized when territorial authorities attempted to enact bylaws restricting brothels to the central business district. This was in contravention of the Act as it meant that a two tiered system would exist and all the protections afforded by the Act would be negated for the affected workers. Some territorial authorities were taken to court where the bylaws were thrown out, but in a few cases the bylaw persists (Knight, 2005, 2010).

Agustin (2008: 83) claims that decriminalization is 'rational in recommending the sweeping away of inefficient, hypocritical, and impossible regimes as a first step in a more progressive governance of commercial sex, but so far, its proponents rarely address what forms of regulation might follow'. All the laws pertaining to sex work in the Crimes Act (1961), the Summary Offences Act (1991) and the Massage Parlours Act (1978) were rendered null when the PRA was passed in 2003, but regulations were put in place to protect sex workers. Many of these regulations are dealt with under the PRA but in addition to this, there are health and safety guidelines specifically for the sex industry which were developed by the Department of Labour in collaboration with NZPC (Department of Labour, 2004). There are therefore protections built into the legislation to safeguard the rights of sex workers.

For example, sections 16–18 were designed to protect sex workers against exploitative management practices, such as the use of bribes or threats to provide particular sexual services. However, these sections can also provide protection against clients and these sections have been invoked in court proceedings since decriminalization. Some

court cases have seen police officers convicted: in one a police officer was charged for bribing a sex worker for free sex in return for overlooking a driving offence (Humphreys, 2012) and in another case a police officer was convicted and received jail time for abusing his power to obtain free sex (Anon., 2010). A client was jailed for nine years for rape in a recent case after taking a sex worker to a remote area and forcing her to have sex, using threats of gang-rape and murder (Clarkson, 2012). It is evident from the number of cases that have come before the courts that the PRA has enhanced the human rights of sex workers in New Zealand. They are gaining some confidence in utilizing the legal system when crimes are committed against them:

So say just the power it's given us as the professionals, that we have the law behind us and we can say, 'Look if you do this, we can prosecute you,' like any other place where they break, you know, the law – Sheila. (Abel, 2010: 241)

Police street patrols are welcomed in many areas as enhancing safety rather than in a criminalized environment where this would be seen as threat:

And the Police weren't around as much (before decriminalization). But when it got legalised the Police were everywhere. We always have Police coming up and down the street every night, and we'd even have them coming over to make sure that we were all right and making sure our minders, that we've got minders and that they were taking registration plates and the identity of the clients. So it was, it changed the whole street, it's changed everything. So it was worth it – Joyce. (Abel et al., 2010: 227)

Sex workers' easier access to justice has also seen many cases where brothel operators have been taken to the disputes tribunal. Most brothel-based sex workers are not employees but independent contractors. Any tradesperson whether employed or contracted, however, is able to take work-related issues to the disputes tribunal. Often sex workers who have a grievance with the actions of a brothel operator are wary about following through with legal action. Many approach NZPC who inform them of their rights and options and assist them in the process of going through the tribunal. Up to NZ\$15,000 can be claimed from a brothel operator if (s)he is found culpable by the tribunal. There has thus been a remarkable shift in the balance of power between workers and brothel operators in the last 10 years. Sex workers are more able to refuse a client without management interference. Research carried out prior to decriminalization reported that 47 per cent of brothel workers had refused to see a client in the previous 12 months, yet research done after decriminalization has reported that 68 per cent of brothel workers had done this (Abel, 2010). Sex workers are utilizing their rights and have more freedom to govern their own sex work:

That has changed, yeah, because before we had to always do it, no matter what, how we felt, we still had to do the job. Because he's paid for your time, you've got to give him that time And you know, back then it was like, 'Mate, you're just going to do, you know, as you're told,' sort of thing. But since it's become legal and since I've been working up here, we don't, if we don't want to do the job, we don't do it, just like that – Hilda. (Abel, 2010: 234)

The sections dealing with protection during penetrative and oral sex stipulates a fine of up to NZ\$2000 for a client or sex worker who is convicted of failing to ensure

adequate protection is used to minimize the risk of acquiring or transmitting a STI. This is not an imprisonable offence and the police are not allowed to collect DNA should an offence be reported. Sex worker rights groups around the world, including NZPC, are not supportive of this clause. NZPC were particularly hesitant because it can create a scenario which can be used against the sex worker by a client or by police entrapment. As yet, neither of these scenarios has occurred. NZPC argue that the need to ensure protection could have been covered under occupational safety and health legislation. Yet the research carried out with sex workers following decriminalization has shown widespread support for this section of the legislation. The Ministry of Health, in collaboration with NZPC, produced pamphlets and posters giving details about the requirements for protective oral and penetrative sex. Participants in the study said that these resources turned the negotiation of condoms into 'a one-sentence statement now. It is not a 10-minute argument' (Weir et al., 2006: 21). Instead of having to argue with clients about using condoms they could merely point to the pamphlet or poster and state that it was not them who mandated it but the law. The onus for safe sex was thus removed from the sex worker:

We always have those pamphlets out in places where they're pretty obvious, so the clients see them. ... They're always right by our products, right by the side of the table on the side of the bed. There are times where – I haven't as yet had to basically tell them 'no' and hand them the pamphlet – but I have referred to the pamphlet and referred to the information on the pamphlet if ever they have suggested unprotected sex. Usually it's a 'no' straight away, and if they bug me, then I refer to that, and usually then they shut up quite fast. But I've been lucky enough not to have anyone that wants to push the subject any further – Trish. (Abel, 2010: 261; Abel et al., 2010: 219)

Brothel advertisements in newspapers prior to the law change sometimes stated that the women working within the establishment were 'clean'. This implied that sex workers in other establishments may not be 'clean' and that medical certificates guaranteed absence of any STIs. Sex workers in New South Wales, Australia, where sex work is decriminalized are commonly required by brothel management to have periodic health examinations (Sullivan, 2010). Section 8 of the PRA, however, acknowledges that medical certificates showing an absence of STIs are only valid at the time of testing and endeavours to counteract discourses of sex workers as 'dirty' by promoting safer sex cultures within the legislation. Should a brothel operator state or imply that sex workers working on their premises are free of STIs as they have been medically examined they are liable on summary conviction to a fine of up to NZ\$10,000.

Section 9 which requires that sex workers and clients must adopt safer sex practices has been used by a sex worker who took a client to court for deliberately removing his condom without her consent during penetrative sex. The client was convicted of removing a condom during commercial sex and fined NZ\$400 (Abel et al., 2010). That the sex worker was able to report this to police and pursue this through the justice system with a favourable outcome is testament to the increased rights afforded by a decriminalized environment.

Undoubtedly, the ability to talk frankly about sex work in New Zealand has been the most remarkable outcome of decriminalization. Sex workers are able to negotiate safe sex and also what services they will (and will not) provide as well as the money attached

to the services both in person and on the telephone without fear of entrapment for prostitution-related offences. Research in New Zealand has shown that over 90 per cent of sex workers are aware of their legal and employment rights and many are arguing that this has given them increased confidence in their interactions with clients:

Well it definitely makes me feel like, if anything were to go wrong, then it's much more easier for me to get my voice heard. And I also, I also feel like it's some kind of hope that there's slowly going to be more tolerance perhaps of you know, what it is to be a sex worker. And it affects my work, I think, because when I'm in a room with a client, I feel like I'm, like I feel like I am deserving of more respect because I'm not doing something that's illegal. So I guess it gives me a lot more confidence with a client because, you know, I'm doing something that's legal, and there's no way that they can, you know, dispute that. And you know, I feel like if I'm in a room with a client, then it's safer, because, you know, maybe if it wasn't legal, then, you know, he could use that against me or threaten me with something, or you know. But now that it's legal, they can't do that – Jenny. (Abel, 2010: 241)

Wagenaar and Altink (2012) argue that in most countries prostitution policy falls within a morality politics domain which negatively impacts on policy formulation and implementation. They characterize morality politics as being: 'driven by explicit ideology, almost exclusively owned by the general public, impervious to facts, discussed in emotionally charged language, concerned more with the symbolism of heroic measures than the details of implementation, and prone to sudden policy reversals' (Wagenaar and Altink, 2012: 285).

It can be argued that New Zealand may be unique in that the PRA cannot be characterized as 'morality politics' and it is testament that a decade later there have been no reversals to any part of the policy implemented in 2003. It was written into the PRA that the legislation be evaluated within five years of enactment. The Chair of the Prostitution Law Review Committee was a retired Police Commissioner and he ensured that the Committee did not deviate from looking at the specific tasks of the evaluation into 'moralistic or political debates on sex work and the law change' (Fitzharris and Taylor, 2010: 108). The Committee undertook only to look at evidence-based research and not consider unsubstantiated reports and opinions. The research that was carried out for the review has shown that there have been many positive and few negative outcomes of decriminalization (Abel et al., 2007; Prostitution Law Review Committee, 2008). The release of the review report met with very little media attention and no public debate.

Current Environment of Sex Work in New Zealand

There has been little public attention given to indoor sex work since the PRA was passed. Sex workers who work in indoor venues are relatively invisible and are able to fly under the radar of moral indignation. Street-based sex workers, however, have not escaped attention. There were some in New Zealand who thought that decriminalization would mean that street-based sex workers could move to work in an indoor setting. The review of the PRA, although noting the vulnerability of the street-based sector and the positive gains made by decriminalization for those working on the street,

also stressed the need for street-based workers to be encouraged to move to working indoors (Prostitution Law Review Committee, 2008). At the time of writing, a Private Members' Bill is hearing submissions in Parliament on street-based sex work. The Manukau City Council (Regulation of Prostitution in Specified Places) Bill ('the Bill') intends to enact bylaws prohibiting prostitution in specified places in Manukau City (part of the greater city of Auckland). There have been several arguments put forward as a 'solution' to the public nuisance effects of street-based sex work to residents and shop-owners in an area where much of the street-based activity takes place in Auckland. If 'the Bill's' proponents succeed, the most likely outcome for street-based sex work is that territorial authorities will be granted the ability to enact bylaws to zone street-based work. Tolerance zones will probably be located in less populated areas to reduce visibility which will increase the vulnerability of street-based sex workers as well as the outreach workers who have to go to these areas to carry out their work. Even in a decriminalized environment, street-based workers are more likely than indoor workers to have experienced refusal by a client to pay; have had money stolen by a client; to have been physically assaulted by a client; to have been threatened with physical violence; to have been held somewhere against their will; and to have been raped (Abel, 2010; Abel et al., 2007). This situation will be exacerbated by making them work in isolated, less public areas. Many street-based workers will refuse to work in these areas and return to work covertly in more public areas. 'The Bill' would give police power to stop vehicles and question and arrest people deemed to be operating in an illegal area. Police will once again be seen as the enemy and the co-operation which has been happening between sex workers and police will end. There will be implications for the human rights of this sector of the sex worker population if 'the Bill' is enacted; their welfare and occupational health and safety will not be promoted and the situation will not be conducive to public health. This will therefore be in contravention of the purposes of the PRA. These arguments have been used in submissions against 'the Bill' and it seems that its momentum within the Parliamentary system has slowed for the time being anyway.

There have been attempts world-wide to eradicate the street-based sector of the sex industry or at least render them invisible so as not to offend the rest of the population. Measures such as kerb-crawling laws, anti-social behaviour orders and limiting street-based work to tolerance zones have been implemented in various parts of the world. Soon after the Netherlands legalized sex work within licensed brothels, tippelzones (areas where street-based workers operated) in Amsterdam, The Hague and Herleen were closed with the idea that all sex workers could then operate from indoor venues (Outshoorn, 2012; Scoular, 2010). In Sweden following the introduction of the criminalization of clients, there are reports that street-based workers are choosing less visible ways to make contact with their clients (Kilvington et al., 2001; Kulick, 2003; Ostergren, 2006). This has posed a number of threats to sex workers' health and safety by driving the industry underground. The limited research coming out of Sweden highlights that sex workers are finding it difficult to assess clients adequately prior to getting into their car as clients are more nervous and wish to conduct business in a more rapid manner. Sex workers are also reporting more emotional stress under the Swedish system (Ostergren, 2006).

Recently a debate has emerged as to whether laws regulating sex work matter or not. Scoular (2010) has noted some common features between contrasting ways of regulating sex work. She has drawn comparisons between Sweden and the Netherlands and noted that both forms of regulation pay little attention to indoor work and police street-based work in such a way as to marginalize and exclude these workers. In her blog, Agustin (2009) disputes:

the usual assumption that these laws make reality on-the-ground very very very different. On the contrary, if someone were to come to Earth from Mars, they would look at commercial sex in the USA, which mostly has mean criminalising laws, and look at it in New Zealand or the UK or Germany, and not *see* much difference at all. The endless debating about legal systems to control prostitution is bizarrely irrelevant, except for its symbolic value.

Legislation is passed within the context of societal values and norms. Sex workers are often positioned as deviant and 'other' and their presence in society challenges accepted social norms around gender, sexuality and sexual relationships. Street-based workers, by virtue of their visibility, do attract the most attention and moral and public nuisance discourses are used to argue for their exclusion from social spaces. This was no different in New Zealand prior to and following decriminalization. The PRA states in section 3 that '(t)he purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) ...' and then proceeds to state the public health, occupational health and human rights purposes of the Act. Further, there was a requirement written into the Act (sections 42–45) that it be reviewed within five years and as part of this review, the Committee should 'assess the nature and adequacy of the means available to assist persons to avoid or cease working as sex workers' (section 42 (1biii)). This statement implies that sex workers are victims and not working in the industry of their free will. In helping people to exit the sex industry, Scoular (2010) has commented on how the law tries to normalize and reconstruct individuals and their actions. People are encouraged to be self-governing and rational or face exclusion. Yet despite the moral overtones written into the Act, implementation has largely upheld the aspiration of safeguarding the human rights of sex workers.

Resident sex workers in New Zealand are seen in the law as being citizens as any other and police investigation of crime against sex workers and sentences passed down to offenders in the justice system have reflected this. There have been three well-publicized murders of Christchurch street-based sex workers since decriminalization. The first two saw the murderers arrested within a short space of time and the maximum sentence was delivered to both. The third victim, Mallory Manning, was brutally murdered and her body dumped in the Avon River in December 2009. Police investigated her murder for over three years and conducted over 1000 interviews before making an arrest in March 2013. They suspect that more than one person was involved in Manning's murder and therefore the investigation continues. This is in stark contrast to the situation in Canada. In this issue, Laing and O'Neill state that citizenship rights are denied to street-based sex workers in Canada. Police have failed to take the issue of many missing street-based workers seriously, thus framing sex workers as a disposable population. Street-based workers are not criminalized in New Zealand and therefore the law requires

that they are given the same legal and employment rights as any other citizen. There are still societal discourses of street-based sex workers as deviant, immoral and public nuisance in New Zealand and there are attempts by some to change the law so that they can be excluded from certain public spaces. Yet, to date, the law has protected them.

In terms of the law and street-based workers, we are arguing semantics in the cases of abolition, criminalization of the sex worker, criminalization of the client and legalization of licensed brothels. Sex workers working from the streets under all these forms of regulation are working in an illegal environment. There is little difference whether they or their clients are criminalized. In all cases, there is some illegality in what they are doing and as such they are positioned as deviant and lacking the citizenship rights of the general population. Therefore, I would dispute Agustin's (2009) argument on her blog that states:

Sex-worker rights activism pushes for New Zealand-type legislation. And yes, laws make a difference to individual sex workers' rights when being harassed or arrested. But the vast majority of activity carries on similarly, if not identically, no matter which law is in place, and that's because prostitution law is often vague and unenforceable, in the end having less impact than people assume.

The PRA is certainly not 'vague and unenforceable'. If all the laws regulating sex work had been scrapped following decriminalization and the protections provided by the PRA had not been put in place, this may have been the case. As others have argued (Scoular, 2010; Wagenaar and Altink, 2012) it is in the implementation of legislation that the underlying intentions are lost. The way is left open for individual interpretations and values to subvert the intentions of legislation if implementation is left to local authorities with no checks in place and this is something Canada needs to attend to with their recent change in legislation. Although, as Warnock and Wheen (2012: 417) argue, some fingers can be pointed at the implementation of the PRA, most notably with regard to bylaws on location of brothels, I think that they are overstating the case that 'New Zealand law reform of sex work has been disingenuous'. Many sex worker rights activists and academics have visited New Zealand in recent years. While not from Mars, they have come from Canada, the UK, the USA, the Netherlands and Sweden and have all been impressed not only by individual sex worker rights within New Zealand, but also by the very different environment in which sex work happens. New Zealand sex workers, unlike those in most other countries, although unarguably still stigmatized to some degree, certainly have citizenship rights. They may be 'down under' but they are not underground.

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