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Sex Work and Hate Crime

Innovating Policy,
Practice and Theory

Rosie Campbell
Teela Sanders

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Palgrave Hate Studies

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*To all the sex workers globally whose lives have been lost to violence;
special remembrance to those in Merseyside known to the authors
Sharon, Vicky, Pauline, Hanane, Suzanne, Anne-Marie,
Maxine and Daria in Leeds.*

FOREWORD

This book is an exciting addition to the literature on hate crime specifically because it focuses on sex workers, who are predominantly excluded from hate crime legislation. In the book, Professor Teela Sanders and Dr Rosie Campbell focus on how some police forces in the UK (Merseyside, North Yorkshire and Cambridgeshire) have treated crimes against sex workers as hate crime laws. We were honoured to be asked to write a foreword for a book written by two such outstanding researchers in the field of sex work. Their research over the years has informed our own work in Aotearoa¹ New Zealand, where sex work is decriminalised.

Sanders and Campbell argue in this book that treating crime against sex workers as hate crime should not be seen as an alternative to decriminalisation, but in a political context which currently does not support decriminalisation, it would help UK sex workers to access justice. We agree that decriminalisation and hate crime policies which include sex workers are not an either/or decision. Decriminalisation is certainly a good and vital starting point for advancing the rights of sex workers globally. Reflecting on 18 years of decriminalisation, we can say emphatically that it has made a significant difference and the research carried out has demonstrated that it has greatly benefitted most sex workers in Aotearoa New Zealand (Abel et al., 2010; Armstrong & Abel, 2020). But there is still more to do to achieve a fully integrative model (Östergren, 2017) of decriminalisation, which would signal that all sex workers are a part of society, deserving of full protection. In Aotearoa New Zealand many migrant sex workers are specifically targeted for crimes as they are not covered by the protections

offered by the Prostitution Reform Act 2003 (Bennachie et al., 2021). Some of these problems could be solved by amendments to the Prostitution Reform Act 2003 and some would require addressing the continuing stigmatisation of, and discrimination against, sex workers. Link and Phelan (2014) suggest that stigma and discrimination can be addressed through changing the balance of power between those who are stigmatised and their stigmatisers. We believe a package which includes decriminalisation, hate crime legislation and anti-discrimination policies might help us achieve this goal.

Decriminalisation enables sex work to be a recognised occupation, and as such, sex workers are entitled to the same rights as all other citizens and residents and to a large extent this has played out in this way in Aotearoa New Zealand. Some sex workers have exercised their rights through the legal system and others through the Human Rights Review Tribunal (Abel, 2018). For example sex workers have taken sexual harassment cases to the Human Rights Review Tribunal (*DML v Montgomery*, 2014; Timmins, 2020) and have established precedents in terms of settlements that have benefitted not only other sex workers, but all people who make these complaints. Yet sex work is still a stigmatised occupation and stigmatisation fosters harassment and violence (Armstrong, 2016). For example street-based sex workers frequently experience verbal abuse and have missiles (eggs, bottles, fireworks) thrown at them, while other sex workers receive abusive calls and texts, often by young men who possibly see it as a rite of passage. Some sex workers are also preyed upon by people posing as clients, whose only intention is to cause harm and do not recognise them as fully human (*R v Marong*, 2018). This is not a failure of decriminalisation—sex workers were vulnerable to violence and abuse prior to decriminalisation and no other legislative context can possibly claim to eliminate all violence. Recognition of sex workers as people with rights can be slow to trickle down and change societal views and prejudices—laws change and hearts and minds have to catch up. A lot more people in Aotearoa New Zealand are pro-decriminalisation than they were in 2003 when decriminalisation occurred (Bellamy, 2012), but there is still work to be done.

Section 21 of the Human Rights Act 1993 includes a long list of prohibited grounds of discrimination, which include sex, marital status, religion, ethnicity, disability, age, political opinion, employment status (i.e. employed or unemployed) and family status. It does not include discrimination on the grounds of occupation. So even though brothels are legally

allowed to operate in Aotearoa New Zealand, banks have discriminated against brothel operators by refusing to do business with them. Nevertheless, some banks have been proactive in supporting the rights of sex workers and have collaborated with NZPC to design criteria they expect operators of businesses of sex work to comply with before being accepted as a customer of the bank. Sex workers who seek employment in occupations outside sex work can currently be legally discriminated against on the basis that they were once a sex worker. We need occupation included as a prohibited ground for discrimination to further sex workers' rights in Aotearoa New Zealand.

Aotearoa New Zealand does not have hate crime included in legislation as a specific offence, but actions, including speech, are taken into account when sentencing an offender (Coughlan, 2019; Duff, 2019). Subsection 9(2)(h) of the Sentencing Act 2002 requires stronger sentences if a crime is committed against someone on the basis of their race, colour, nationality, religion, gender identity, sexual orientation, age or disability. Following a terrorist attack on two mosques in Aotearoa New Zealand, there have been calls to review and broaden hate crime and hate speech laws. We wish that we didn't need hate crime legislation, but there are so many of our experiences which tell us that we do. Eight sex workers have been murdered in Aotearoa New Zealand since decriminalisation. Three of these sex workers were victims of domestic violence, and the other five were street-based sex workers targeted because they were sex workers. There was tremendous sympathy from the wider community and general public for these sex workers who were murdered. However, sex work is still not a highly regarded occupation. Some sex workers have garnered abuse when they have been hounded out of neighbourhoods by having whore shaming graffiti painted on their fence or letters distributed in their neighbourhood outing them as sex workers (Tan, 2018; Truebridge, 2017). There remains a fear of being outed by these vigilante-type actions, with a sense that without legislation there is no means to protect these sex workers. If we are serious that all people are deserving of human rights, it is important that sex workers are fully integrated into all spheres of life, but currently whorephobia and a lack of legal protection restrict this from being realised.

Decriminalisation, while vital in recognising sex workers as people with the same rights as others, is not by itself a panacea. Violence can and does occur in many industries outside sex work. The key difference is the stigma associated with sex work which plays a part in sex workers' decisions about

whether to report such experiences. Building relationships and feeling confident in the system is a way to effect change and reduce stigma. The Aotearoa New Zealand Sex Workers' Collective—NZPC—have collaborated with the New Zealand Police to produce a resource for sex workers who have experienced sexual violence (NZPC and New Zealand Police, 2018). This resource emphasises that sex workers have a right to be safe in their place of work and that should they report incidents to the police, their identity will be kept confidential and their name will not be divulged to the media unless they agree (*Police v Herewini-Te Huna*). They will be able to receive support from NZPC or any other chosen support group, and do not have to go to the police station but can meet with police at one of these venues. For example a sex worker complained about a client who 'stealthed' her by removing a condom and prosecuted him for rape. The court found him guilty (*R v Campos*). There will be sex workers who would prefer to by-pass the police where crimes have been committed against them. For example it's important to acknowledge that some sex workers who are Māori will not necessarily have the same experiences with the justice system as non-Māori. Incarceration figures for Māori are disproportionate to the population. In addition, transgender people, and those who are gender diverse, may also have differing experiences with the police, such as misgendering.

It is vitally important that sex workers are involved in developing policies aimed at them. Their elbows need to be on the table in a meaningful way with government agencies. Clearly, this book and the work of Professor Teela Sanders and Dr Rosie Campbell will expand our knowledge of how to better address hate crimes committed against all sex workers.

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Dame Catherine Healy
Gillian Abel

NOTE

1. Aotearoa is the Māori name for New Zealand. Māori are the indigenous people of the country.

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We would like to thank those people on the ground who have pioneered, committed and stood steadfast in their belief and actualisation of the hate crime approach to crimes against sex workers. Shelly Stoops who was there in the beginning at Armistead. Cheryl Rhodes, Tracy O’Hara, Tim Keelan and Dixie McNeill at Merseyside police and many more officers who wanted to find a different way of policing sex work. Also more recent supporters like John Paul Freer at North Yorkshire and Dan Vajzovic at Cambridgeshire constabularies.

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Rosie Campbell, OBE, is a freelance consultant focused on applied research and third-sector leadership. She describes herself as a ‘pracademic’ having moved between research roles and managing frontline sex work support services, delivering and developing sex work projects and contributing to multi-agency responses to sex work. She has been involved in researching sex work in a range of sectors and geographical areas of the UK for over two decades. She has worked on many research projects ranging from local studies (e.g. ‘Street Prostitution in Inner city Liverpool’ 1996) to large-scale multi-sited national studies (e.g. between 2015 and 2018 based at the University of Leicester she was a researcher on the Economic & Social Research Council funded project ‘Beyond the Gaze’ <https://www.beyond-the-gaze.com/>). A large-scale study of online sex work in the UK exploring the impact of digital technology on sex work and the safety, working conditions and regulation of online sex work, delivered by a team at Leicester and Strathclyde Universities. In 2005–2006 she was a researcher based at Loughborough University on the Joseph Rowntree Foundation funded project ‘Living and Working in Areas of Street Sex Work’ <https://www.jrf.org.uk/report/living-and-working-in-areas-street-sex-work>).

Her particular focus has been on sex worker safety, violence against sex workers, sex work and hate crime, support services for sex workers, multi-agency and community responses to sex work and is published in these areas. With Professor Maggie O’Neill she co-edited *Sex Work Now* and co-founded the UK Sex Work Research Hub <https://www.swrh.co.uk>,