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Defining Violation: Sex-Worker Experiences of Unwanted Incidents

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Introduction: Legal Consciousness and Naming Sexual Assault

Research suggests that sex workers are often effective at enforcing boundaries with clients, particularly in managing the risk of unwanted contact (Comte, 2014). However, what happens when these boundaries are

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breached and how do sex workers understand and label these violations? Decades of research on sexual harassment and assault in the population generally reveal that individuals do not uniformly interpret or label such events when they happen. The process of understanding an incident as problematic involves multiple factors:

1. assessing the severity of the violation;
2. weighing possible next steps;
3. choosing whether and whom to tell;
4. evaluating the likelihood of being taken seriously;
5. anticipating the repercussions of reporting, such as stigma or further violence; and
6. considering what constitutes appropriate remediation or justice.

Although developed to describe civil actions, the ‘naming, blaming, and claiming’ framework (Felstiner et al., 1980) helps illustrate how these harassment and assault decisions are influenced by a range of factors, including an individual’s social position, worldview, and relationships with others and institutions (Calavita & Jenness, 2013; Chua & Engel, 2019; Felstiner et al., 1980). These processes are closely interconnected, but recognising and addressing unwanted contact begins with naming the issue.

Legal consciousness, or the ways people experience, understand, and act in relation to the law (Chua & Engel, 2019), plays a pivotal role in how individuals label and react to violations. As the #MeToo movement has highlighted, acknowledging a violation of consent has been fraught for the non-sex-working population. About 60% of female rape survivors do not identify their experiences as rape (Wilson & Miller, 2016). Victims of sexual violence often struggle with labelling their experiences, feeling powerless and confused about whether the incident constitutes a sexual offence or even an unacceptable act (Peleg-Koriat & Klar-Chalamish 2022). Factors like shame, guilt, and isolation can hinder this labelling process. Those who blame themselves for their situation are less likely to view the incident as harmful (Coates & Penrod, 1981; Felstiner et al., 1980), although this relation may be more complex than some research has suggested (Calavita & Jenness, 2013).

There is a crucial distinction between legally defining unwanted contact as a crime and labelling it as wrong or injurious. ‘Rape acknowledgment’ refers to a survivor’s recognition of their victimisation as rape (Wilson & Miller, 2016), while ‘rape consciousness’ involves comparing their experience with legal definitions and cultural expectations of rape (Oberweis et al., 2021). Despite legal reforms, a rape consciousness persists where many still perceive rape in traditional terms, as requiring force; and cases involving strangers or physical injury are often seen as more credible. Women especially, but all individuals who are ‘out of place’ sexually or seen as too sexual, are less likely to be protected by rape law. The fear of such perceptions can discourage survivors from labelling their experience as rape due to fears of disbelief or further psychological damage (Ahrens, 2006; Patterson et al., 2009).

Gash and Harding (2018) argue that these cultural understanding of legality—defined by Ewick and Silbey (1998, p. 22) as the “meanings, sources of authority, and cultural practices that are commonly recognised as legal, regardless of who employs them or for what ends”—often undermines victims’ experiences. The prevailing legal rules of evidence and conventional ideas about what constitutes a lack of consent can significantly affect victims’ interactions with professionals and legal authorities. In essence, rape law, by restricting the options available for legal recourse and healing, restricts the way individuals name and understand their experiences.

Sex Workers and Double Legal Consciousness

Sex workers occupy a complex position regarding legality when it comes to interpreting violations of consent. In criminalised settings, nearly every aspect of their work falls under the shadow of illegality. For instance, as discussed in Chapter 2, there are unclear legal prohibitions and laws that obscure how they advertise, negotiate, and provide services. In the UK, while advertising is less restricted, collaboration among workers remains illegal. In the USA, the spectre of arrest haunts every aspect of their work.

At the same time, sexual assault is illegal in all jurisdictions. Even with their precarious legal standing, sex workers may still refer to formal laws when confronted with sexual violence. They encounter similar barriers to reporting as do non-sex workers, such as rape consciousness, not being believed, and being retraumatised, but these are further exacerbated by stigma and discrimination.

Inspired by W.E.B. Du Bois's concept of double consciousness—used to describe the dual identities Black Americans navigate in terms of their Black identity and the identity imposed by white society—sex workers too exhibit a form of double *legal* consciousness. This concept illustrates how sex workers (1) manage their work (i.e. their professional identities as entrepreneurs, service providers, and contract negotiators), while (2) confronting societal and legal frameworks that often stigmatise, marginalise, and criminalise their sexuality and, indeed, their very existence. Du Bois captured this tension by describing it as “always looking at oneself through the eyes of others, of measuring one's soul by the tape of a world that looks on in amused contempt and pity” (1903, p. 3). Similarly, sex workers view their negotiations and any violations both through their own business sense and through a lens clouded by legal scrutiny and societal disdain, measuring actions and experiences in relation to the law.

In other words, sex workers face two kinds of legal consciousness that may interact differently in various legal contexts. First, they have, what we term here, a transactional legal consciousness, which involves their understanding and interpretation of how the law relates to their boundaries and consent within the context of individual transactions between themselves and their clients. This concept highlights the unique consent-based negotiations that occur in each professional interaction. But second, sex workers also face a legal system that measures whether they are ‘out of place’ sexually and legally, as individuals, which can cloud their naming of any violence they experience. This double consciousness places them in a fundamentally different position compared to those experiencing sexual violence in their personal lives, complicating how we might understand their legal consciousness around sexual violence.

This chapter investigates how varying legal frameworks and norms related to prostitution and sexual violence influence how sex workers recognise and describe instances of unwanted contact. We examine two

angles of view on this naming and labelling process: (1) survey data from each country on incidents of unwanted contact; and (2) interview data on sex workers' perceptions of incidents that violate the rule of law.

Survey—Distributions of Unwanted Sexual Incidents

What types of unwanted contact do sex workers most frequently encounter? To answer this question, we begin by examining our survey results; here, respondents were asked about the different types of unwanted contact that they had experienced as sex workers, but, importantly, we did not explicitly frame these incidents as crimes. This analysis focuses on responses from individuals who had experienced actual incidents ($n = 483$) and excludes attempted incidents.

As discussed previously in this book, our recruitment strategies limit the ability to generalise these findings to all sex workers. The survey is not able to compare to representative samples among non-sex workers or examine, in detail, incidents of sexual violence outside of participants' sex work experiences (for example, one respondent confided, in the context of an interview, that "I have never been raped while I was doing sex work, but I was raped when I [worked a non-sex-work job] by someone that I hired" [Sebastian, USA, various]). The survey, in conjunction with the interviews, provides a comprehensive insight into the range of events that sex workers experience and their perceptions of these events. It is important to reiterate that we are describing sex workers' experiences of specific events, not the frequency of these events as representative of the broader sex-worker population.

Our survey asked participants to indicate what had happened that *they had not given permission for* in the last 12 months while sex working, along with stating the last time such an incident had happened. Specifically, we asked, "In the last 12 months while you were selling sexual services, how often have any of these things happened to you, without your permission?" We presented participants with a list of potential incidents but did not label them in legal terms. Respondents could select from the following options:

- “The client did not pay you at all”;
- “The client paid you less than was agreed”;
- “You were paid in fake money”;
- “Someone penetrated your vagina or anus, with their penis”;
- “Someone penetrated your vagina, mouth or anus with their fingers or an object”;
- “You agreed to sex, but the other person would not stop when you asked them to”;
- “Someone physically assaulted you before or during sex (e.g. you were hit, kicked or punched)”;
- “Someone had sex with you when you were too drugged or drunk to agree to it”;
- “Someone threatened or harassed you into having sex with them”;
- “Someone removed or damaged a condom during sex (sometimes called stealthing)”.

We followed that up with, “The LAST time something happened to you in sex work without your permission, what was that?”, allowing respondents to choose from the same options.

Survey—Incidents in the Past Year

Figure 4.1, shows the distribution of the kinds of incidents experienced among those who indicated that they had experienced some form of unwanted incident at least once in the past year. These items may not be mutually exclusive events so could be combined by the respondent; for example, one incident of unwanted contact could include penetration, refusing to stop when asked, and a payment problem such as non-payment.

While laws and policies often emphasise physical assault and unwanted penetration, sex workers in our study reported a wide variety of incidents of unwanted contact. Unwanted penetration and assault are crimes in all surveyed locations. However the most common form of incident that sex workers reported concerned issues with payment. In the past year, 44% (213 out of 479) of respondents had experienced

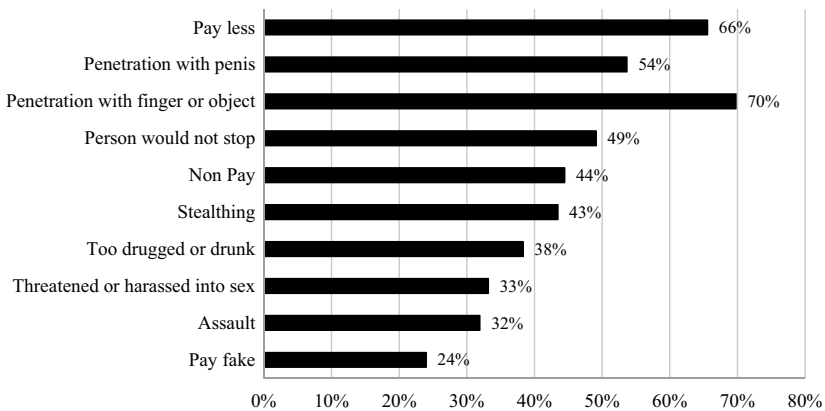


Fig. 4.1 Distribution of incident types reported by individuals experiencing unwanted contact in the last year (number of reports, multiple responses allowed)

non-payment for services, and 66% (301 out of 459) had encountered clients paying less than the agreed amount. Combining all payment-related problems within the last year reveals that 75.57% of sex workers (365 out of 483 respondents) reported at least one issue. However, it should be noted that non-payment (and, likewise, ‘stealthing’) is a legal offence only in Aotearoa New Zealand.

A less frequent, yet significant, category concerned clients attempting to access services without prior negotiation or failing to adhere to agreed terms. These incidents were experienced by a significant proportion of respondents and were reflected in several of our categories involving unwanted penetration. For example, 54% of respondents experienced unwanted penetration with a penis while providing services. Additionally, a substantial number of sex workers reported unwanted penetration by a finger or object, although fewer respondents (331 out of 483) answered this question, potentially inflating its percentage. Respondents more often skipped this question than they did others, by a margin of more than 100 respondents, which could inflate the proportion of reported incidences among those who responded. About the same number of respondents reported penetration with a finger or object (231) as those reporting penetration with a penis (241) or a client

not stopping when being asked to (222). Nearly half of the respondents (49%) reported at least one incident where a client did not stop despite requests, and this was the most common incident after being paid less and unwanted penetration. As sex workers explained in interviews, several incidents often occurred in contexts where the client overstepped negotiated terms, such as during services initially agreed to involving only oral sex or an erotic massage. Based on interviews, as we see below, being paid less than negotiated, the client not stopping, and unwanted penetration may be a part of the same incident for many sex workers.

‘Stealthing’, reported by 43% of respondents, involved clients secretly removing condoms, posing a serious health risk. Condom use is mandated in Aotearoa New Zealand under the Prostitution Reform Act for oral or vaginal sex, with substantial fines for non-compliance. In Nevada’s legal brothels, the public health code requires condom use, holding the brothel accountable for violations.

Notably, even the least common outcomes were reported by a third or more of the respondents. Assault, experiencing sex while under the influence, and threats used to compel sexual activity were each reported as having occurred in the last year by over 100 respondents. Also notable was the fact that, despite being less frequently experienced, the sex workers we interviewed often discussed their most violent experiences first when describing unwanted contact, reflecting prevalent stereotypes about ‘real rape’, as discussed in the following sections.

Survey—The Last Time an Incident Happened

Figure 4.2, focuses on the most recent incidents experienced by respondents. This focus on the ‘last time’ provides a slightly different picture compared to the broader trends of incidents experienced over the course of a year (discussed in Fig. 4.1). For instance, certain behaviours might have become normalised over time and so not be reported as frequently when reflecting on the past year. However, these same behaviours may be recalled more readily when considering the most recent incident. On the other hand, some events are perhaps more likely to appear across the long

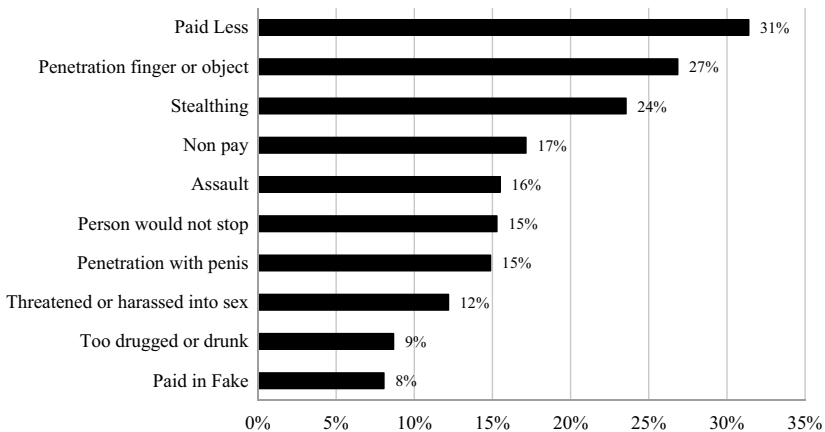


Fig. 4.2 Distribution of incident types reported by individuals experiencing unwanted contact the last time it happened, all sites (number of reports, multiple responses allowed)

term, even though they are or may be one-time events or highly infrequent ones. Seasonal or cyclical trends that affect the incidence of certain behaviours, making some more prevalent at different times of the year, thus impacting the ‘last time’ responses differently than those reflecting the entire year.

Figure 4.2 highlights that, while physical violence often dominates policy, law, and popular discourse, payment issues and stealthing were more frequently cited concerns in our survey. Nearly half of all sex workers, 48.6% (235 out of 484 responses), had experienced some sort of payment problem the last time that there was an incident.

In addition to payment issues, Fig. 4.2 also supports a higher percentage of incidents involving penetration with a finger or an object, with this being the second most common item reported as respondents’ last incident.

Furthermore, a full quarter of respondents identified stealthing—secret removal of a condom as a part of their most recent encounter, marking it as the third most common issue and worthy of note, despite its lower ranking in lifetime-experience reports. The incidence of assault

also notably ranks higher in the ‘most recent’ data than it does in the ‘lifetime’ data.

Figure 4.2 captures a more ‘average’ set of events than does Fig. 4.1, where the less frequent reports likely represent rarer occurrences, and the most frequent reports indicate events most likely to happen. Focusing on the most recent incident provides insights into the typical challenges faced by sex workers, beyond the most extreme or sensationalised cases, potentially offering a clearer view of their daily occupational realities.

Figure 4.3, compares the distribution of ‘last time’ incidents across each of our sites. The distribution is notably similar across all sites. However, these findings should be interpreted with caution as they only represent distributions among individuals who reported incidents and do not suggest a higher frequency of any event at any site. Additionally, as previously stated, more than one type of incident could occur during any given ‘last time’ incident.

Despite the overall similarity, certain differences are worth noting. For example, in Aotearoa New Zealand (ANZ), incidents of penetration with a finger and stealthing are higher in relation to other incidents in that country. In the UK, the prevalence of incidents involving clients drugging or threatening workers stands out. Conversely, in Nevada’s legal brothels, the rarity of these threats and a higher distribution of payment issues is significant.

Given that this project emphasises cross-national comparison, subtle variations in the data may be significant, although we need more in-depth data analysis. Our sampling strategy focused on individuals who have experienced harm, naturally highlighting higher incidences of harm. Further, it is not surprising to find that legal frameworks do not drastically reduce the occurrence of unwanted contact in sex work. This is consistent with criminological research, which suggests that violence is rarely deterred by the threat of punishment; rather, the chance of being caught is a vastly more effective deterrent (National Institute of Justice, 2016). This is especially evident when considering that legal reforms have not reduced cases of sexual violence among the non-sex-working population (Spohn, 2020). Decriminalisation alone does not eliminate sexual violence or solve all workplace issues. However, what does change with decriminalisation and legal variations, as our interviews below will show,

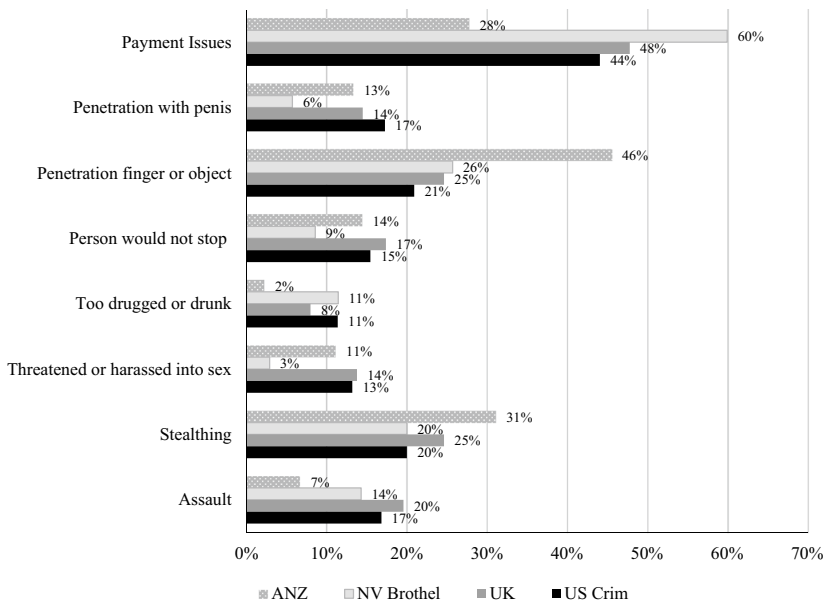


Fig. 4.3 Distribution of incident types reported by individuals experiencing unwanted contact, per cent of all respondents the last time this happened, by site

is how workers perceive these events, along with their ability to report and manage them.

Rape Consciousness—‘With the Law’?

We now turn to our interviews to examine the perception of events and the naming process, and to better understand the incidents behind our survey responses. We asked sex workers to describe incidents “that others might see as a crime or sexual violence while working”.

Rape Consciousness in Criminalised Contexts

As discussed in Chapter 3, many sex workers in criminalised contexts in the USA and UK have only a general understanding of sexual violence and sex work laws in their local jurisdictions, though this knowledge may be inaccurate and lacks detail. They do not believe the law offers them much protection in specific instances. Legal alienation is defined as a cognitive state of psychological disconnection from official state law and the justice system (Hertogh, 2018, p. 55). Ewick and Silbey (1998) found that marginalised individuals are more likely to adopt an ‘against the law’ dimension of legal consciousness. In this orientation, the legal system is perceived as something to be avoided because it is seen as a product of arbitrary power, capricious, and potentially dangerous to invoke. In this form of consciousness, legality is not seen as conditionally appropriate or useful but is condemned outright (Ewick & Silbey, 1998, p. 192). Our data supports this view, showing that participants in criminalised contexts must balance a view of the law as adversary with their attempts to prevent and manage sexual violations. One USA respondent, when asked about experiences with crime, responded, “So all of it [sex work] is technically a crime. Do you mean, like, a sexually violent crime?”.

However, in their initial responses to questions about crime or sexual violence, participants frequently emphasised the most severe incidents involving injury. This pattern in how they thought about their own experiences reflects a typical kind of rape consciousness, where recognition of an experience as rape hinges critically on legality (Oberweis et al., 2021; Wilson & Miller, 2016). Their rape acknowledgement reflects enduring societal and cultural views that equate ‘real rape’ with visible force and injury (Estrich, 1987). In other words, in this respect, their legal consciousness is ‘with the law.’

For example, two UK street sex workers responded to questions about crime and sexual violence this way:

Yeah, definitely. Basically, I was left for dead by a client. He ended up getting two life sentences for it. Basically, he picked me up and I can’t

really remember a lot of it still now, but basically, beat me with a baseball bat and he left me in a lay-by. (Anna, UK, street-based)

I was assaulted by a guy, violence ... I ended up in the hospital. ... and my case was in the newspapers too. Now that guy's in jail for a few years. (Stephanie, UK, street-based)

In both these cases, sex workers defined these incidents as clear-cut instances of violence because they were able to get justice for violent incidents by going to the police. These reflected “real rape” in the eyes of the law. Even in Aotearoa New Zealand, many sex workers talked first about a past violent incident, in answering whether they had ever experienced a crime or sexual violence. For example:

I got attacked like eight years ago... He, like, strangled me and when I was knocked out, he'd bring me back and strangle me ... But he'd just finished attacking one of the other girls before me. Yeah, and I didn't know. Got caught trying to pick up another girl. And he'd just got out of jail, too, after six years. They ended up calling the police and the police got him, and he went back to jail for six more years or something and got killed inside. (Athena, ANZ, street-based)

Many sex workers brought up these kinds of incidents involving injury, force, or lack of an ability to consent, especially in first responses, regardless of how frequently or often this incident may or may not have occurred. Anna, Stephanie, and Athena, like several of the interviewees, immediately followed their accounts of sexual violence by telling the interviewer how the violations they experienced were verified in criminal justice institutions by convictions. While their experiences of reporting and other post-violation actions are the subject of Chapter 5, the fact that they brought up independent verification so prominently in their stories and naming of violation underscores the role of legal validation, through convictions, in shaping sex workers' perceptions of sexual violation.

For Anna in the UK, this external verification was critical in her seeing the violation described above, involving her being left for dead, as the most serious, given that the police often disbelieved her other reported incidents:

And then there's been other times when I've been attacked and that, and the police has just not been interested. I've even had the police turn round and say it's an occupational hazard ... No means no. And no matter what I do, it don't give any man any right to come and — I'm still somebody's daughter, I'm still somebody's sister. Just because I do what I do, don't give no man no right to overstep the boundaries. (Anna, UK, street-based)

Anna's quotes above and earlier reflect the complicated ways sex workers draw on sexual violence law in naming violations in a criminalised context. On the one hand, she was 'with the law', relieved that the law eventually supported her claims (Ewick & Silbey, 1998) as she noted above. She asserted rape stereotypes around injury, physical force, and the eventual conviction. On the other hand, she was "against the law", explaining how the police had told her "It's just part of the job". She rejected their definition of events just because she was a sex worker. To add another layer of complexity, she added that she was someone's daughter and sister. That could have been to just emphasise that she was no different than anyone else. But it also may have reflected a discourse based on the historical roots of rape law, that violations were only violations if the woman belonged to a man in a patriarchal system—a wife, daughter, or sister of a man.

It is worth pointing out that the recruiting process for sex workers from the UK and Aotearoa New Zealand for our study resulted in netting individuals who were much more likely to have experienced sexual violence and reported it to some authority. In general, the UK interviewees had worked in the industry longer, more than 10 years, and many (five of 15) worked on the streets. Eight out of these 15 interviewees talked about an incident that involved physical force. Of those, seven had reported incidents to the police, with three of the perpetrators having then been convicted. All three of these convictions were for incidents that included injury to the sex workers. In addition to force and injury, two UK interviewees first described experiences of unwanted penetration outside the services that were negotiated, and the rest described stealthing, stalking, and online recording. One said she had not experienced any incident of unwanted contact.

Five out of the 14 USA sex workers we interviewed brought up force or the inability to consent, in response to our question about incidents. However, none of these interviewees had experienced positive outcomes with law enforcement; none had been able to use this as a route to verify their concerns. Most did not work on the streets, and none had successful experiences in reporting any injuries through the legal system. Incidents that happened within legal brothels were handled by management.

Cases where sex workers had successfully reported, and perpetrators were convicted of an event, as discussed above, did not reflect the experiences of most sex workers from the fully criminalised context (the USA) in our sample. Only 7% (37 of 512) of respondents who had experienced a violation had reported it to the police. In criminalised contexts, very few situations were verified by legal institutions, or even witnesses, but respondents still described violations that included injury, lack of consent or force; they just used a different word to describe the injury—trauma. Unlike non-sex workers, who may have been confused or struggled to label the experiences, they clearly labelled the situation as wrong. Like Linda and Emily in the UK or Cody in the USA, many had a mental dialogue concerning what they thought the law could do. They emphasised injury but also emphasised the “but” or “just” in naming the kind of injury the law might see as evidence:

It's all just trauma, trauma, trauma, but it's fine. Yeah, just the usual, being robbed, beaten, you know, and worse. I've had, god, I've had loads of knives at my throat. And I just see it as experience, as well as trauma. It's experience but it makes me who I am today; it makes me extra cautious. (Emily, UK, various)

Yeah, but I have been attacked a few times, badly, but you've got instinct and try and go somewhere kind of safe. (Linda, UK, street-based)

Some were a bit resentful, like Nancy, who got no results after reporting an incident to the police. She still ultimately emphasised the injury: a traumatic memory:

We ended up making the whole night of it, we seen a show, we had dinner and then the next morning — and I had a lot to drink — and the next

morning when I woke up, he was having his way, so that happened when I was passed out ... [But the incident] just basically faded away and I moved on with my life. I mean, it's still a traumatic memory, but nothing happened, nothing happened with courts. (Nancy, USA, independent)

In criminalised contexts, these respondents were trapped by the laws and stigma against sex work and alienated from the laws around sexual violence. At the same time, far from seeing this in terms of self-blame, and therefore as not harmful, in the same way as non-sex workers might do, some made pragmatic judgements about the severity of their experience to inform future actions. They labelled the experience as traumatic and strategised actions to take in the future to prevent this harm. Their interpretation of their experiences accepted that they were, in a sense, out of place in engaging in sex for pay, outside of rape laws, but they did not accept that they should be outside the law (Ewick & Silbey, 1998). We see this as a complicated relationship to legal consciousness, where they are both 'with the law' and 'outside the law'.

Rape Consciousness in the Decriminalised Context

In Aotearoa New Zealand, where sex work is decriminalised, sex workers' responses to interviewers' question about crime and sexual violence initially mirrored those from other regions, in highlighting injury where it happened. However, they distinctively emphasised how the law affirmed their boundaries of consent as legitimate. Among the 11 sex workers interviewed in Aotearoa New Zealand, seven reported experiencing some level of force, including one significant case of physical injury. However, every one of these respondents who reported incidents they could not control to the police had been successful in getting a conviction.

Sex workers in Aotearoa New Zealand also consistently labelled both severe and less traumatic incidents as sexual assaults. This contrasts sharply with sex workers in the USA and UK, who often relied on external validation and grappled with self-blame and pragmatic judgements when naming violations. Talia, an Aotearoa New Zealand sex worker with 11 years of experience in both brothels and independent

settings, described a series of encounters that she unequivocally defined as “assaults”. Unlike her counterparts in criminalised locations, Talia did not depend on legal outcomes to validate her experiences; she confidently reported these incidents, either to her employers or directly to the police, as harmful:

I would say for the entire time that I've been a sex worker, there's been elements of sexual violence present in my experiences. Um, so, the things that stand out the most while working at [two brothels] were the customers doing — So, they push on you, they slap you, they bite you, they spread your legs apart and forcefully lick the vagina. That sort of thing is stuff that I did not report to the police, but [I reported them to the brothel management] where events had happened. And then, changing from that and working independently, there's sexual violence still, but it's not, I guess, as frequent as what I think it is at the brothels. Um, and I think that's just that at the brothel, the customer thinks he can get away with it a lot more. Maybe he's tried it on other girls, and they've allowed it. It just seems that they'll repeat the pattern if they're not turned away after the first incident at the door. It seems to recur. Um, so, yeah, I found I was assaulted a lot more while working at brothels than what I have been while working independently. Um, and in saying that, last year, I took three different assaults to the police, two of which I can't discuss because they're current cases. (Talia, ANZ, brothel)

Talia clearly defined these incidents as assaults but blamed brothel management for not handling them as they should. Now that she is working independently, she can be more proactive in both defining these incidents and then reporting the perpetrators to the police.

This proactive stance is indicative of a unique legal consciousness among Aotearoa New Zealand sex workers, shaped by their more positive relationship with law enforcement. At least regarding the sex workers we interviewed, this relationship fosters a ‘with the law’ rape consciousness, supporting their ability to assert their rights and pursue justice should they want to. The success of their legal actions likely reinforces this alignment, as seen in the high rate of conviction for their reported cases. Such

a legal environment empowers them to identify and address sexual violations without the hesitation observed in jurisdictions where sex work remains criminalised.

Naming Violations in a Transactional Context

Sex workers operate within a framework of double consciousness that profoundly influences their understanding of legality and how they acknowledge sexual assault. Unlike non-sex workers, whose experience of assault is deeply tangled with personal relationships, sex workers often view such incidents through the professional boundaries of their work. This work-related, transactional view allows them to define and respond to violations with a set of norms that differ markedly from those governing their personal lives. This transactional view allows them to minimise the confusion and shame that often accompany the recognition and acknowledgment of violations.

Day (1994) found that, for London sex workers, the definition of rape in work versus personal relationships varied significantly. In their professional capacity, the notion of rape included not just physical assault but also breaches of contract such as bounced cheques or the non-consensual removal of a condom. This broader definition contrasts with their narrower view of rape in personal relationships, which was seen as requiring physical coercion. We consider this their 'transactional legal consciousness'.

For example, Aotearoa New Zealand sex worker Carrie described her experience with legal proceedings in a stealthing and assault case, showing how her professional identity influenced her perception of the incident:

The way I kind of perceive it is that in one way it's not personal. You know that client didn't rape me. He raped Carrie [her sex work name], which is a manifestation of his attitudes towards women and towards sex workers. It's not personal. You know, it could have been anyone in that situation. I was the one that showed up. And so having that kind of barrier makes a really big difference as opposed to men that have raped

me in my personal life. That really hurts because it's like, 'Oh, I thought you liked me. I thought we had a good thing going', and, you know, that's really different. That's really upsetting. But with this, it's like you can detach it because it's business. (Carrie, ANZ, independent)

Similarly, Queen, a UK worker, felt that, in her professional life, she was much better at identifying violations of consent:

I'd look back at previous relationships where I could go, 'Actually, that was assault', but I didn't know it was assault. Now that I'm a sex worker, I'm like 'Fuck, that was assault', do you know what I mean? Now that I've been in sex work, it's weird, I actually understand consent so much better than when I was in relationships, to be honest with you. (Queen, UK, various)

These ways of categorising violations are indicative of a double legal consciousness where sex workers navigate two realms: their business operations underpinned by contractual legality and a personal identity that is often alienated from the protections offered by the legal system, especially in regions where their work is criminalised. This alienation from formal legal recourse does not prevent them, however, from using their own legal consciousness to name and label incidents effectively, particularly in contexts where the legality of their actions is ambiguous. They often view these incidents through a lens of professional necessity rather than personal violation, which empowers them to label events as violations more decisively, especially when those acts are unambiguously criminal. This becomes clear in the data we have regarding stealthing and non-payment.

'Stealthing', Professional Boundaries and Rules of Consent

Survey Results on Stealthing

While sex workers frequently emphasised incidents involving violence, force, or coercion in interviews, our survey revealed that non-consensual

removal of condoms, or stealthing, is a more prevalent issue, especially in Aotearoa New Zealand, where 7% of respondents reported assault compared to 31% who reported stealthing (see Figs. 4.3 and 4.4). However, non-consensual condom removal is a significant issue for sex workers across *all* contexts; Fig. 4.4 illustrates that a similar percentage of respondents across all sites reported stealthing as part of their most recent incident.

We should note that stealthing in the Nevada legal brothel category included respondents who worked predominantly, but not exclusively, in legal brothels. Their reports of stealthing did not necessarily occur in these brothels, and it may be that, for a number of these respondents, stealthing occurred while they were working independently.

Comparisons with non-sex-worker populations reveal that stealthing is a widespread issue generally. Reported rates among sex workers may be similar to, or only slightly higher than, those reported by non-sex workers. Various studies highlight that more than 10% of women in non-clinical settings report stealthing over their lifetimes (Gómez-Durán & Martín-Fumadó, 2024), with rates in specific groups, such as Australian sexual health clinics, reaching 32% for women and 19% for MSM (men who have sex with men) (Latimer et al., 2018). Other studies using different sampling methods find rates ranging from 7.9% to 43% for women, and from 5.0% to 19% for men (Davis et al., 2024). When

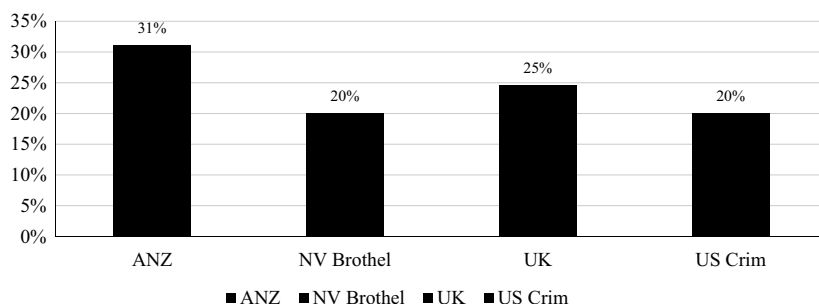


Fig. 4.4 Stealthing—respondents indicating stealthing the last time it happened, by site

compared to the highest rates found in certain clinical or specific demographic studies (up to 43% for women), the rate among sex workers seems less of an outlier.

Sex workers, due to the nature of their work, are at a higher-than-average risk of experiencing stealthing. But their professional boundaries and direct health risks lead to heightened vigilance and potentially higher reporting accuracy. This contrasts with the non-sex-working population, where individuals may not as readily identify or report stealthing. Research finds that non-sex-working women often react with confusion, self-blame, shame, or embarrassment upon discovery of this type of incident (Lévesque et al., 2021) and may not classify stealthing as sexual assault because they had consented to sex, considering it instead as “rape adjacent” (Brotsky, 2017).

Our interviews support the idea that sex workers have a broader legal consciousness around stealthing. Despite the legal ambiguity in some areas, the sex workers we interviewed consistently recognised stealthing as wrong. They name these incidents as violations, mostly naming them as violations of their stated rules. However, their interpretations of it within the criminal context varied depending on the local legal status of sex work.

Stealthing in a Criminalised Context

In regions where stealthing is not explicitly illegal, sex workers still view it as a violation. Yet, their descriptions reflect a use of the law and rape consciousness as benchmarks. For instance, two of the 15 UK respondents and two of the 14 USA respondents mentioned a stealthing incident in their interviews.

Sophia, a UK sex worker, was adamant that a client had broken her condition of consent, aligning her understanding of stealthing with rape consciousness, including her stress on the lack of physical evidence:

He took the condom off and tried to put it in my arse, which I don't do. Those are the two things I've never done. They're basically the two biggest noes, so I just kept saying no. I said no more than five times; I don't know how many times because I weren't counting ... I was injured

mentally, but there were no proper marks because it didn't even go all the way in because I was making that much of a fuss. So, I wasn't physically injured, but mentally it did affect me. (Sophia, UK, independent)

In the USA, Jessica, who currently worked in legal brothels, recounted a stealthing incident while working illegally that had left her feeling profoundly violated—yet, she did not define it as rape:

I've never been raped, I've never been beat on ... but I have had my own share of things that were not OK, or I felt violated ... One experience I will say that I think was the worst that I've had, that I felt violated ... So, I always go to check myself, to make sure nothing's inside that's not supposed to be — and there was. So that's why I started flipping out, and he just stuck to his story that he done it and the condom stayed on, and he didn't do anything wrong. (Jessica, USA, various)

Cody, from the USA, provided a typical insight into understanding sex workers' legal consciousness in criminalised contexts:

I definitely have experienced things that fit under a penal or criminal statute. I've experienced types of harm that don't really fit into any category. But among those things, definitely is sexual violence. The most direct definition is a physical violation of my sexual boundaries. But, also, I see stealthing on here and then the denial of your conditional consent, which is payment, I've experienced that as well. (Cody, USA, independent)

In all of these situations, individuals felt wronged, and some (like Cody) considered such incidents to be sexual violence. Unlike non-sex workers, who may struggle with recognition and reporting of stealthing, due to confusion and self-blame, sex workers explicitly name these acts as clear violations of the boundaries they have meticulously set. However, they were unable to rely on any legal protections regarding stealthing, effectively placing them 'outside' of rape law. While sex workers in criminalised contexts articulate a clear understanding of violations like stealthing, through a nuanced legal consciousness, they often find themselves navigating a legal vacuum.

Stealthling as a Legal Violation in Legalised and Decriminalised Contexts

In Aotearoa New Zealand and Nevada's legal brothels, there are statutes in place explicitly addressing stealthling; however, in both jurisdictions, these are classified under health regulations. In Nevada, these are administrative, not criminal, codes, and are enforced against brothels. In Aotearoa New Zealand, these are part of the Prostitution Reform Act (PRA), which mandates safer sex practices, such as the use of barriers for vaginal, anal, oral, or any activity that could transmit sexually transmissible infections (STIs), with violations subject to a \$2000 fine. Workers we interviewed in Aotearoa New Zealand and Nevada's legal brothels benefit from the legal recognition of stealthling, even at this limited level. Recent court rulings in Aotearoa New Zealand have resulted in convictions for stealthling as a sexual assault crime.

Sex workers in Aotearoa New Zealand described stealthling as a critical violation of the conditions they set out in transactions. They identify stealthling as a health issue, but more importantly, they see it as a violation of their specifically stated rules. Additionally, the respondents were more capable than those in criminalised contexts of aligning these violations of their consent with legally recognised harms. In interviews, nine out of 11 Aotearoa New Zealand sex workers mentioned experiencing incidents of stealthling; all but one had previously reported these incidents, and two cases had, so far, led to successful prosecutions. Meanwhile, sex workers in Nevada's legal brothels did not report experiencing stealthling. However, they emphasised that stealthling crossed boundaries and referenced the law when discussing how they prevented incidents.

An example of the seriousness with which sex workers define stealthling comes from Carrie in Aotearoa New Zealand, who took an incident of forced anal penetration with a finger followed by stealthling, to the police. Law enforcement officers initially wanted to pursue the more severe crime of forced penetration, but Carrie insisted on focusing on the stealthling incident:

The next man [police] that I dealt with, um, he was really interested in pursuing the non-consensual thing in the arse incident, but I went, 'No,

no, I want to talk about the stealthing incident. I want to set that precedent'. ... And he talked about like, 'Oh, you know, the stealthing incident, if that breaches Section 9, that's a \$2000 fine, but a non-consensual finger in the arse is like a \$3000 fine or something', and I'm like, 'It's about the principle. This is the violation that means the most'. (Carrie, ANZ, independent)

Recently, courts in both England and Wales and Aotearoa New Zealand have recognised stealthing as sexual assault, marking a pivotal shift in how such violations can be legally acknowledged. In England and Wales, the High Court held that consent was conditional on a condom being worn (*Assange v Swedish Prosecution Authority*, 2011). As a result, current CPS guidance (Crown Prosecution Service, 2021) encourages recognising conditional consent. In the USA, meanwhile, Maine and California have established laws that frame the non-consensual removal of a condom as a form of sexual assault, illustrating evolving legal consciousness around consent and sexual violence. While in criminalised settings it remains less likely, it is still possible for these laws to be applied to sex workers.

In Aotearoa New Zealand, successful prosecutions of stealthing as sexual assault involving sex workers have not only increased sex workers' awareness of their legal rights but also validated their experiences in the eyes of the law. This legal acknowledgment plays a critical role in how stealthing violations are named and addressed. District Court Judge J. Harrop's ruling in *R v Campos* ([2021] NZDC 7422), stated that the client had "put her employment and income as a sex worker at risk" (p. 5 [14]) and "A sex worker who is raped is no less a victim than any other woman ... there have been significant consequences from your deliberately having sex without a condom on a basis that she did not consent to and that you knew she did not consent to" (pp. 5–6 [16]). As the appeals court said, "The victim consented to protected sex. She never consented to unprotected sex" (Stevens, 2022). This, along with similar rulings in those Australian states where sex work is legal, has helped to reinforce the concept of conditional or contextualised consent specifically for sex workers, empowering them to define stealthing as rape or sexual assault.

This evolving legal landscape empowers sex workers like Jane and Talia from Aotearoa New Zealand, who use the law to define violations of their consent. Jane, with six years of experience in managed brothels, recounted a stealthing incident that she unequivocally considered rape because the client had broken her rules:

So, some people would describe it as stealthing. Um, some people would call it just rape and, you know, there are some people who wouldn't call it anything at all. Um, for myself, I think rape's the correct term. I was working and they decided to take the condom off, even though I'd previously let them know that's not something I was interested in. Yeah, and so went to court for all of that and he's now a convicted rapist. (Jane, ANZ, brothel)

Jane's case highlights how the legal process supported her understanding of the incident and validated her feelings of violation:

[Jane:] Well, I don't know if they normally ask you what you want to charge against. Like do they normally ask you if it's, 'Do you think this person sexually assaulted you?' I don't know. I just went to an interview, said all of that, and the next time I saw a thing about court, it was rape, and I was like, 'Well, I'll run with that'. Yeah.

[Int:] Yeah, did that surprise you in a way? Did you feel like it might ... have been a lesser charge?

[Jane:] Yeah, it surprised me, yeah, being in the work that I did, that I didn't have to say a word and they saw it for what it was.

Similarly, Talia brought "three different assaults" to the police, emphasising that the stealthing violated her established rules:

He decided that he was going to ignore my rules and he put his mouth on my vagina without a dental dam. So that's one I have taken to the police and, um, he ended up pleading guilty to indecent assault. (Talia, ANZ, brothel)

The court's response to Jane's case, where the charge was framed as rape without her having to prompt or argue for it, illustrates a growing alignment between individual experiences of violations and legal responses, which is a key aspect of legal consciousness.

Carrie's insistence on focusing the legal proceedings on the stealing incident, despite police interest in a different assault, highlights her determination to name and address the specific violation that mattered most to her. Carrie's action to set a legal precedent emphasises the active role sex workers are taking in defining what constitutes a violation in their work context, pushing the boundaries of legal recognition.

Not all sex workers, however, initially defined stealing as assault. Chanelle, for instance, shared her early experience:

I was quite new. I was about 19 at the time. I guess I knew it was an assault but not enough to really recognise that this had happened to me. I guess I did a lot of disassociating and that sort of thing when I was working there, so I kind of like, kind of brushed it [stealing] off. I did tell the manager that was on at the time, but I was kind of told just to go back on the floor, 'cause I wasn't like fully in tears or anything else. It was just like, 'Hey, this happened. I'm pretty sure it shouldn't have happened', but yeah, no, 'Okay, fine, off you go'. And I was like, 'Okay, cool'. But yeah. (Chanelle, ANZ, various)

These narratives underscore the significant role of legal consciousness and legal alienation in how sex workers perceive and address incidents of stealing. As legal frameworks evolve, they influence sex workers' ability to assert their rights and receive recognition and support from the legal system. This shift is crucial for understanding the dynamics of naming and labelling stealing violations within the broader context of legal consciousness.

Naming incidents within the setting of work affords sex workers greater clarity than non-sex workers. But it also highlights the marginalised position within the legal system of those in criminalised contexts. Here, the concept of double consciousness becomes relevant. Sex workers operate within dual spheres of legality—engaging as professionals making contracts and as individuals frequently positioned outside protective legal boundaries due to the criminalised nature of their work.

As laws continue to evolve, they have the potential to recognise and validate the experiences of sex workers, shifting the legal landscape to better support their rights and acknowledge their professional boundaries. This shift in legal consciousness is essential for a deeper understanding of the dynamics of naming and labelling violations like stealthing.

Non-Payment as Rape

While stealthing potentially affects both sex workers and non-sex workers, issues related to being underpaid or not paid at all are unique to sex workers. Our survey indicates that payment problems are one of the most reported incidents relating to unwanted contact, with 75.57% of sex workers (365 out of 483 respondents) experiencing at least one form of payment issue.

Survey Results on Payment Issues

Figure 4.5, compares payment issues across our sites. Payment issues are prevalent across all countries but are a larger percentage of the array of issues in USA's and UK's criminalised sectors, compared to Aotearoa New Zealand and Nevada's legal brothels. Interestingly, however, being paid less is reported more frequently in Nevada legal brothels than anywhere else. This discrepancy could be attributed to the smaller sample size at this site, where small variations in responses can significantly impact percentages. In Nevada, terms are negotiated, and payment is made to the brothel before services are provided, suggesting that clients may push for more services once payment has been secured. Additionally, brothel workers' frustration with splitting payments 50/50 with the house could be influencing these reports.

In the USA's criminalised settings, a significant proportion of workers report payment issues, with the UK closely following. Aotearoa New Zealand shows the lowest rates, yet it remains a concern in all areas.

Figure 4.6, shows how sex workers feel non-payment should be labelled. Even though sex workers view their work as work, allowing

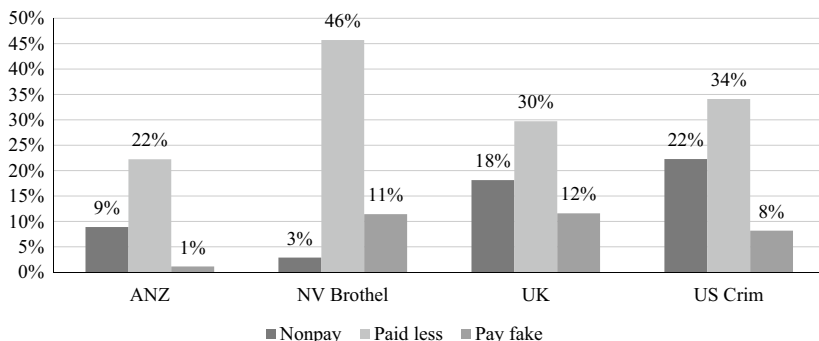


Fig. 4.5 Per cent of respondents who experienced a payment issue the last time it happened, by site

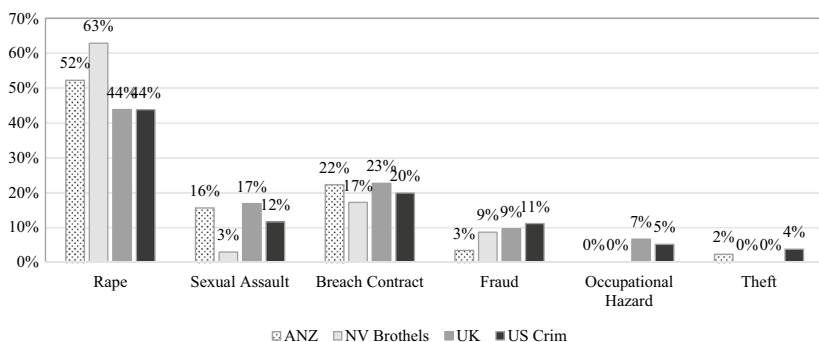


Fig. 4.6 Per cent of respondents who indicated that “if a sex worker has sex with a client, but they do not pay, it should be treated as...”, by site

them to name violations to their contracts distinctly, non-payment is seen far less as a breach of contract, fraud, or theft, but as rape or sexual violence. Comparing countries, about two-thirds of respondents across all sites define non-payment as rape or sexual assault (ANZ 68%, Nevada brothels 68%, UK 61%, and USA criminalised 56%), while between one-quarter and one-third (ANZ 27%, Nevada brothels 26%, UK 32%, and USA criminalised 35%) see it as a workplace violation of breach of contract, fraud or theft.

In Nevada's legal brothels, a higher percentage of workers view non-payment as rape, possibly reflecting a broader trend in managed settings or influenced by the smaller sample size. Notably, only respondents in the USA and UK criminalised markets refer to non-payment as an occupational hazard, a categorisation entirely outside legal frames, which is significant given the larger sample sizes in these regions.

The above findings are important as we consider legal reforms related to non-payment in sex work. Should sex work be treated uniquely, as in Aotearoa New Zealand, or should it be regarded similarly to any other job, with sex viewed just like any other service? Understanding how sex workers perceive non-payment in their workplace is crucial for shaping these legal discussions.

Non-payment in Criminalised Contexts

UK sex workers like Paul, Halley, Sophia, and Harrison may have viewed non-payment as a violation of conditional consent, but, often, did not align these experiences with legally recognised harms. In the USA, difficulties with payment platforms due to FOSTA/SESTA and other anti-sex-work policies make existing problems with non-payment worse. Anti-trafficking measures restrict the use of credit cards for transactions related to sex work. Conversely, sex workers in Nevada's legal brothels, like those in other managed settings, are better positioned to secure payment from clients beforehand.

The interviews show a clear consensus among sex workers that non-payment is a severe violation—a form of violence. For instance:

One time on the job, I was outsmarted, yes. At the end, the client didn't pay me and he absconded with my money and I wasn't able to contact him. Would I consider that an act of violence? Yes, I would. (Halley, UK, independent)

Harrison described a client who complained that his services were too 'pricey' and refused to pay:

So that was violence, the only one. I was like, ‘No, you don’t short-change me; I will say that I was raped’. Well, actually, that was actually sexual violence at that moment. (Harrison, UK, independent)

Jessica described being given fake money:

So I was really upset about it, because I’m like, ‘Wow, I just did that for free’. And they just got [one] over on me, because I didn’t check the money ... Of course you feel violated, because the whole reasoning was to get something in return, so it’s like they just got [one] over. (Jessica, USA, various)

Cody described a regular occurrence where police officers would demand services without payment, offering instead information on the next police stings:

I used to work in a dungeon, which essentially operated like an illegal brothel but most of our clients were seeking full-service fetish-type work. We had cops who came there and they would do the same thing. They expected to have full sessions and not pay or full sessions with partial payment in exchange for insider information about when raids would happen, so that we could prepare ourselves. (Cody, USA, independent)

Anna (UK, street-based) told us that, in her trial, “basically the prosecution made it sound [like] I wasn’t raped, I just weren’t paid, do you know what I mean?”.

Despite recognising these issues as serious violations, sex workers often find themselves outside the protection of the law, or, worse, abused by it.

Non-payment in Decriminalised and Legalised Settings

The stories Aotearoa New Zealand sex workers told us were a significant contrast to those of sex workers in the criminalised USA and UK settings—they had the backing of the law when they were not paid. Brothel workers (both in Aotearoa New Zealand and Nevada’s legal brothels) and Aotearoa New Zealand independent sex workers can be

paid via direct credit into their employer's or their own bank accounts. Illegal workers in the USA have few platforms available to take payment thanks to bills like FOSTA SESTA. Yet even brothel workers in decriminalised and legalised settings still experience the issue of underpayment. Respondents in Aotearoa New Zealand described how the client will take a screenshot of the deposit on their smartphone and show this to the sex worker on their arrival as proof of payment. There have been some instances in Aotearoa New Zealand specifically, however, where the client has reversed the transfer straight after taking the screenshot as banks provide a small window of possibility to do this; brothel workers, as opposed to independent workers, are less likely, though, to experience these problems. For sex workers working in legal brothels in Aotearoa New Zealand and Nevada, laws addressing payment are similar to those for other businesses. For independent workers in Aotearoa New Zealand, issues of non-payment can be taken to the small claim disputes tribunal as a civil case, but they need to know the legal identity and address of the client. If there is evidence of deception, for example, a doctored screenshot, the police can charge as fraud. However, non-payment is not formally regarded as a sexual violation.

Four respondents from Aotearoa New Zealand described incidences of non-payment, and each account provides some insights into why sex workers consider non-payment as rape. Eripaheti, an independent sex worker for two years, described some fake bank transfers and described it as “a theft of time and money; and it's pre-meditated, so that is pretty violent”. The other three had the backing of the law to verify their interpretation of the non-payment.

Christine, who had worked in various sectors including street work off and on for 30 years, described an incident from the street 20 years ago, starting with a clear statement: “I've been raped”. She described having provided services to a guy in his car; when he refused to pay, she gathered an unopened condom wrapper and his registration and told nearby police and he got a seven-year prison sentence. The police, who were nearby, reinforced her evaluation of the situation. Neither she nor the police, saw physical violence as being necessary for this to be defined as assault, although they may have considered the stealthing that was also involved as comprising an important component:

[Int:] Were you injured? Did you have...?

[Christine:] No, no, he just slapped me in the face, but there was no mark until the next day, and I said, 'Yeah, well it was what he done'.
(Christine, ANZ, various)

Hunu, a trans-female, street-based sex worker, recounted how one client tried to get out of paying:

He gave me some money and then like as he got to the ATM, he, like he thought that he could be a cunt and be like, 'Oh my gosh, oh no, this money's gone out of my account. Oh no, who's kind of, like, used my account?' (Hunu, ANZ, street-based)

Hunu had no qualms about defining this as a crime: "I did call the police on him, and I got them to come up actually to the ATM and I was like, 'No, motherfucker, you get my money out'...". She added that the police officers who assisted were "awesome" in validating her read of the situation:

The other chick [police officer] was like, 'No, dude, like you can't expect her to fucking make you come and then not like pay her. What the hell, and then give her some more money. What the fuck'. She was like, 'Why don't you give her tip while you're at it?', you know? I was like, 'Fucking hell. Wow, you're awesome. I've never met anyone like you'.
(Hunu, ANZ, street-based)

In contrast, Sheryl was confused initially regarding her experience, but the law helped her to eventually define this as violence. Sheryl was working independently in a house she rented by the hour and described a case of underpayment: "With my case that I went through the court system with, he underpaid me". She described the case:

It was a regular client. Um, he underpaid me, so it was different that day. He'd just put the money down and came in and, you know, was quite violent and stuff. ... So I didn't even know I had been underpaid or what not. Um, and then it just went from there, so, and then he left. And I sat there for a while thinking, 'Was this right? Was this wrong?' You know,

I knew deep down it was wrong, but I was in shock, I suppose. (Sheryl, ANZ, independent)

Nonetheless, she went to the police and said, “I want to report a sexual assault”. The client was convicted and sentenced to 12 months supervision.

Conclusion

This chapter has explored two primary questions: What types of unwanted contact do sex workers most frequently encounter? And how does the law influence their understanding, interpretation, and definition of these incidents? By examining both survey data and interview data, we have gained insights into the complexities of naming and labelling violations in different legal contexts.

Our findings show that payment problems are the most commonly reported incidents of unwanted contact among sex workers who have experienced an incident, with 75.57% reporting at least one issue with payment in the past year. Despite the predominance of payment-related issues, sex workers also encounter a wide range of other incidents that span various levels of severity and types of contact outside of negotiated services.

Despite differences in the legal context, for the most part, sex workers in different locations report a similar range of incidents. However, there are a few differences. In decriminalised settings, sex workers are more likely to report unwanted penetration with an object or finger and stealthing, while those in criminalised contexts report higher instances of assault.

Despite the predominance of other kinds of contact, in interviews, sex workers were all most likely to respond to questions about incidents involving crime and sexual violence with recounts of the most violent of incidents. Their reflections on these incidents reveal how they draw on the law and a broader notion of legality in naming and understanding their experiences.

Three main conclusions emerge from this chapter. The first involves the relation between legal alienation and rape consciousness. Like other marginalised groups, sex workers experience legal alienation, viewing the law as arbitrary and often useless. However, their rape consciousness reflects a more nuanced relationship with the law. Distinguishing between unwanted contact as a violation of one's own boundaries and unwanted contact as a legally sanctioned crime is important as we move towards possible solutions. Interviews showed that sex workers' most certain recognition of an experience as criminal sexual violence hinged on injury and, where possible, verification by law enforcement. Thus, they possess a rape consciousness shaped by enduring social, cultural, and legal views that equate 'real rape' with force and injury. In this sense, sex workers are 'with the law', as their understanding of a serious violation is reinforced by legal norms and validation from law enforcement. Therefore, their naming at this level was not that different from non-sex workers, although given a particular accent by cultural views of female sex workers as women 'out of place'. This was consistent across all legal contexts. Given the low level of prosecuting successful sexual assault cases generally, this has implications for how we think about addressing severe sexual violence in sex work.

Second, however, this particular rape consciousness discussed above is not how they view all sexual violations. Unlike non-sex workers, sex workers exhibit a transactional legal consciousness separate from how they see sexual violations in their personal lives (Day, 1994). As we saw in Chapter 3, negotiating boundaries and conditions of consent are key components of their work. Sex workers define violations through these transactional obligations and consent agreements with clients. When clients breach these rules, sex workers see the event as a violation, regardless of whether it aligns with legal definitions of crime. This transactional perspective allows sex workers to minimise the confusion and shame often associated with recognising such incidents in personal contexts. This consciousness is particularly evident in decriminalised contexts, where the law supports and legitimises their transactional boundaries, reinforcing their ability to label and address violations confidently.

Finally, when it comes to defining non-payment, sex workers exhibit a legal consciousness that combines elements of what they believe the law

should be with their personal boundaries. Far more sex workers label non-payment as rape or sexual violence, than they do violation of a contract, fraud or theft, reflecting an integration of their professional rules with broader notions of sexual consent and personal violation. In decriminalised settings, where legal frameworks explicitly recognise stealthing (under health codes) and non-payment (under civil codes) as violations (and in the case of stealthing, increasingly, as assault), sex workers are empowered to use these legal definitions to assert their rights and seek justice, leading to a broader and more inclusive understanding of sexual violence.

At the same time, we need to be circumspect about how we advocate for criminal justice solutions to unwanted contact experienced by sex workers. In some ways, we agree with Gash and Harding (2018) that prevailing legal rules of evidence and the conventional ideas about what constitutes a lack of consent can significantly affect victims' understandings of violation and, as we see in Chapters 5 and 6, restrict the options available for legal recourse and healing. This is true across all legal contexts.

The legal context does, however, impact sex workers' understanding and actions. In decriminalised settings like Aotearoa New Zealand, where stealthing and non-payment are recognised by law at some level, sex workers are, as said above, empowered to use legal definitions to name and address violations. This broader legal recognition enables sex workers to have a more expansive notion of violation and a stronger alignment with legal protections. The emerging trend of prosecuting stealthing as sexual violence in Aotearoa New Zealand appears to empower sex workers, giving them greater capacity to recognise these incidents as constituting violations and articulate their experiences accordingly.

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