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Legal Consciousness and Sex Work: Towards More Inclusive Policy

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Introduction

In previous chapters, we have shown that different legal contexts have a profound influence on sex workers' experiences with unwanted sexual contact. We have explored how these legal frameworks influence the perceptions and responses of victims, offering a victim-led perspective.

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Moreover, by using the concept of legal consciousness, we have shown how different legal environments impact sex workers' experiences and actions, providing a comprehensive picture that we hope will lead to greater understanding and more effective policies.

The legal context for sex work, whether criminalised, partially criminalised, legalised, or decriminalised, significantly influences how sex workers negotiate consent, define unwanted contact, assert their rights, and seek justice. In decriminalised settings like Aotearoa New Zealand (ANZ), sex workers report feeling more empowered to handle violations, whereas in criminalised settings, fear of legal repercussions often prevents them from seeking help outside their informal networks.

But to fully understand experiences of unwanted contact, we must distinguish the law around sex work from that around sexual violence, for the two interact. On the one hand, sexual violence laws often fail sex workers in the same ways they fail non-sex workers. Few general victims of violence report to the police and most do not trust the legal system. While our study has focused only on sex workers, reforms to the criminal legal system that help victims of sexual violence generally will undoubtedly benefit sex-worker victims as well. On the other hand, our findings show that sex workers can be both better prepared and less able to deal with unwanted contact than non-sex workers. Their experience in negotiating sexual contracts better equips them to manage boundaries and express conditions of consent. At the same time, material conditions may impact their ability to enforce these conditions, and the stigma and legal status of their work, as determined by sex-work laws, can hinder their ability to respond and to seek justice. Thus, sex-work laws are important in addition to sexual violence laws.

Further, sex workers' perceptions and responses are shaped by more than just formal statutory law (Hertogh, 2004). Sex workers have diverse experiences even within the same legal jurisdiction. Unwanted incidents range from minor boundary pushing to violence. 'Stealth' and payment problems are much more frequent than incidents defined by formal law as constituting sexual violence or those that would trigger a formal legal response. The sector—whether the victim works

independently or in a brothel—matters. Even across brothels, informal workplace policies and cultures differ significantly.

These informal rules, norms, and community support play a more significant role in how sex workers manage and respond to unwanted sexual contact than does formal sexual violence law. To be sure, the law around sex work provides a strong basis for support (or the lack thereof); but many sex workers rely on peer networks and informal community and workplace norms and practices to navigate their safety and consent. For those able to work legally in brothels, workplace support staff, the informal norms embedded in workplace policies and culture, and simply being around peers are all factors that significantly enhance their personal safety. This reliance is even more important in settings where trust in formal legal systems is low, demonstrating the importance of support mechanisms outside of formal criminal law.

Additionally, our research has highlighted that consent in sex work is dynamic. Sex workers engage in ongoing negotiations and establish clear boundaries. But sometimes these boundaries need to change during a sexual service, and sex workers need the power to do this as they see fit. This complexity is often misunderstood or oversimplified by legal systems. The research underscores that consent is not a one-time or inflexible agreement but a continuous process that sex workers manage through their negotiations with clients. This dynamic understanding of consent is crucial for both preventing and addressing any unwanted contact, especially sexual violence in sex work.

The previous chapters have used both qualitative and quantitative data to provide an in-depth and nuanced exploration of our three main goals:

1. To understand how sex workers experience sexual violence by exploring a nuanced, victim-led definition of consent and harm;
2. To examine the dynamics between different legal contexts (criminalised, legalised, and decriminalised systems) and victims' responses to sexual violence and unwanted sexual contact, focusing on how laws, awareness of legal rights, and law enforcement actions help or hinder in managing these experiences; and

3. To explore the extent to which the legal context affects sex workers' actions, perceptions, understandings, and experiences of sexual violence and unwanted contact.

The book's structure mirrors the process that sex workers follow in setting boundaries and negotiating agreements (Chapter 3), defining and interpreting unwanted incidents (Chapter 4), responding to breaches of those boundaries (Chapter 5), and interacting with the formal criminal legal system (Chapter 6). This approach provides a comprehensive understanding of sex workers' experiences with sexual violence in different legal contexts regulating sex work, the factors influencing sex workers' perceptions of formal sexual violence law, and the actions sex workers take when violations occur.

In this conclusion, we focus on the impact of law on both sex work and sexual violence, in terms of sex workers' experiences and their legal consciousness. Section 8.1 discusses the gap between legal definitions and sex workers' lived realities. Section 8.2 addresses three key themes that sex workers identified as crucial for improving working conditions and mitigating sexual violence: empowerment; peer communication; and learning opportunities. We then provide a brief overview of this study's contributions to research on legal consciousness and then compare our findings on the impact of formal law on sex work with sex workers' experiences of violence. Finally, we discuss the policy implications for balancing regulations on sex and labour within sex-work policy.

Law and Experiences of Sexual Violence

The Gap Between Legal Definitions and Lived Realities

Our research finds that there is a big difference between formal legal definitions of sexual violence and the real-life experiences of sex workers. Formal laws on sexual violence often define the issue narrowly, excluding critical concerns for sex workers, like non-payment and 'stealthling'. These limited legal scopes fail to capture the full range of violations that

sex workers face, leading to a disconnect between their experiences and what is legally recognised.

Our data shows that sex workers perceive 'non-payment' as a significant form of sexual violation, both in terms of frequency and in terms of harm. Agreed payment and the clients' use of protection (i.e. a condom) are essential elements of the sexual contract. Sex workers see any breaches of these conditions as violations. Our survey data indicates that 75.6% (365 out of 483) of sex workers who had experienced an incident reported some sort of payment problem. In addition, there are a variety of other breaches sex workers must constantly manage, ranging from minor to violent. These registered on our survey as incidents involving unwanted penetration or a person not stopping when having been asked/told to.

While most clients are respectful of conditions of consent, cultural beliefs about male sexual privilege, combined with racism, classism, xenophobia, cisnormativity, and other systems of inequality, frame how they think of differences between themselves and sex workers, how they will respect boundaries of consent, whether they accept changing conditions of consent or whether they will register a breach as non-consent. Our data shows that sex workers consider it a violation when clients: (1) engage in acts explicitly prohibited prior to the booking; (2) engage in acts not formally discussed; or (3) fail to warn or request consent for certain acts during services.

This broad understanding of sexual violation affects how sex workers mobilise formal legal codes for enforcement and redress. The frequency of formal reporting is very low. In criminalised or semi-criminalised settings, sex workers fear that police will label these events as 'occupational hazards', something expected in their line of work. Any past problematic interactions like this with law enforcement influences their understanding of sexual violence and their willingness to seek formal redress in the future.

There is a clear tension between what sex workers experience as unwanted contact, what the law considers sexual violence, and what sex workers can formally report as such. Law enforcement tends to align more with formal sexual violence laws, which often do not recognise non-payment and 'stealthings'. In contrast, sex workers' understanding

of a sexual violation includes these issues, and they are ranked by some as seriously as physical violence. Stealthing is likely also a serious issue for non-sex workers too. This disparity highlights the need for a more inclusive and flexible legal framework that addresses the full spectrum of violations that sex workers (and others more generally) may face.

Legal Alienation and Barriers to Seeking Formal Redress

We know that legal alienation accounts for many of the barriers to seeking formal redress for unwanted contact. Research finds that marginalised groups have: (1) a disbelief in the effectiveness of the law; (2) a fear of negative consequences; (3) a perception of inefficiency in the formal legal system; (4) the constraint of living in a jurisdiction where there is an absence of formal laws to govern the particular situation they face; and/or (5) a lack of knowledge about the law (Ewick & Silbey, 1998; Hertogh, 2018).

Our survey results show that sex workers have little trust in the justice system and the police across all jurisdictions. However, there was a correlation between sex workers' attitudes towards the justice system and the legal context of sex work. Sex workers in the criminalised USA demonstrated the poorest levels of trust in the police and the justice system, followed by semi-criminalised UK sex workers' low opinions of formal law enforcement. In contrast, decriminalised sex workers in Aotearoa New Zealand felt that they were more likely to be believed and taken seriously when formally reporting incidents. This aligns with our findings that, in decriminalised settings, sex workers are more knowledgeable about their rights, leading to higher trust in the justice system. Nonetheless, even in these settings, sex workers rarely reported incidents or sought formal redress.

Our research reveals a shared perception among sex workers that formal law could be used against them when reporting incidents, although this varied by legal context. In criminalised settings, sex workers' legal status itself acts as a significant barrier to reporting. This barrier is exacerbated by the police's stigmatised perception of sex

workers. In the USA, sex workers felt that police viewed them as deviant and criminal, further discouraging formal reporting. Formal reporting typically occurred only if sex workers were hospitalised.

Even in decriminalised settings, challenges persisted. One sex worker in Aotearoa New Zealand mentioned she did not report stealthing because the use of condoms in sexual contracts is compulsory by law (Prostitution Reform Act, s.9), and she feared the police might think she was breaking the law. Additionally, Aotearoa New Zealand sex workers reported that minor sexual violence happened so frequently that they perceived reporting it to the police as impractical. They regarded such incidents as the 'reality of the job'. This perception indicates that sex workers feel the law does not serve its intended purpose because, in practice, they cannot effectively mobilise it.

Informal vs. Formal: The Role of Workplace Rules, Informal Norms, and Peer Networks

Our research finds that sex workers rely more on informal norms, conventions, and rules than on formal statutory law to prevent and manage unwanted contact. The interview data reveals that, across all jurisdictions, these informal practices guide sex workers in negotiating and enforcing sexual contracts.

Sex workers, regardless of their setting, implement various practices to ensure their personal safety. These include screening clients, outlining services, setting timing and duration ahead of services beginning, and establishing boundaries, either through advertising or verbal agreements. They stipulate terms for the use of condoms or dental dams and develop specific methods for collecting payment. Additionally, they share their location with others for safety. Techniques for managing pushy clients include using certain body movements, articulating specific warnings, and adjusting their tone of voice. These proactive measures help sex workers maintain control and safety in their work environments.

In brothels or managed settings, workplace rules and informal norms play a crucial role, especially in handling violations that are not covered at all by formal laws on sexual violence, such as payment and condom use.

Brothels often handle advertising and payment through various workplace procedures. Health statutes mandate condom use in Nevada's legal brothels and in Aotearoa New Zealand. Brothel workers often mentioned health codes and condom use as part of negotiating boundaries with clients. However, some sex workers in Aotearoa New Zealand reported less support from management regarding condom use. UK brothels do not have the backing of formal law.

In dealing with boundary pushing, sex workers must constantly negotiate and may amend their conditions of consent during the service they provide, for a variety of reasons. Managed settings offer a structured and adaptable framework for sex workers to negotiate boundaries effectively. Workers in brothels benefit from having other workers nearby, for both safety and advice on preventing violations. These settings provide training, management advice, and informal sharing of tricks and tips among workers. The workplace culture determines a broad range of acceptable and unacceptable acts. Security staff and other workers help enforce rules and norms. Sex workers in Nevada and Aotearoa New Zealand mentioned various resources, including panic alarms, CCTV cameras, and support staff (such as managers, security personnel, and receptionists).

In criminalised contexts, these informal mechanisms outside of formal law were essential in protecting sex workers. In Aotearoa New Zealand's decriminalised setting, meanwhile, formal laws were more helpful. Sex workers that we interviewed often referenced formal laws, recounting having quoted sections of the Prostitution Reform Act 2003 (PRA) and case law rulings when managing clients. (Some brothels support Sections 16 and 17 of the PRA, which allow workers to refuse a client and choose their services, or even to change their mind partway through a booking.)

Despite having formal legal recourse, sex workers in both criminalised and decriminalised settings rarely took formal action when experiencing a breach of contract. They reported that informal actions provided a greater sense of security, safety, and justice, preferring informal redress over formal reporting, the latter being something that they did not expect or desire. While brothel environments offered protection through internal mechanisms and support from management, security staff, and

peers, they did not facilitate formal reporting to authorities, leaving a gap in legal recourse.

In Nevada's legal brothels, sex workers believed the police would take them seriously if called, indicating some confidence in the formal legal process. However, even in this seemingly protected environment, they rarely pursued formal reporting. Instead, they often blamed themselves, feeling they should have been clearer in their negotiations or sounded the alarm sooner. Interviews revealed that Nevada brothels would assist sex workers in making formal reports to the police, but most interviewed sex workers did not follow through with this, reporting to us their belief that involving the police would result in no action. This reinforced their reliance on informal norms and rules within the brothel for protection.

Safety measures and support for reporting were inconsistent across brothels. In Aotearoa New Zealand's decriminalised setting, workers often referenced formal laws in client negotiations, quoting sections of the PRA. However, some reported less support from management on condom use and were discouraged from involving the police. Our peer recommendations in Chapter 7 suggest that services and organisations should support the consistent application of formal and informal workplace rules to provide better protection and justice for sex workers.

The structured environment of brothels benefits workers in both criminalised and decriminalised settings by offering dual layers of protection through workplace rules and informal norms. However, this structure stops short of bridging the gap to formal legal systems for enforcing sexual violence laws.

Independent sex workers face a unique set of challenges. Without the support of a brothel's structured rules, they must implement the practices of boundary setting outlined above, typically learned through experience, on their own. Only a few independent sex workers can also rely on a network of peers to navigate their work safely.

This underscores the resilience and resourcefulness required to work independently, but also highlights the absence of formal support structures and the heavy burden on individuals. While independent workers in decriminalised contexts can rely on formal laws if needed, those in criminalised settings must depend solely on informal mechanisms, which sometimes conflict with the formal laws governing sex work.

The Need for Flexibility in Consent and Boundary Setting

We found that sex workers exercised considerable flexibility in defining consent as they negotiated with clients. Our research reveals that sex workers' verbal agreements with clients are binding but also adaptable as a service progresses. Sex workers continuously assess whether clients are breaching consent and determine how to respond. Responses can include warning the client or negotiating higher payments for additional services, and are influenced by various factors, such as financial needs or the relationship with the client, particularly if the client is a regular. For some sex workers, boundaries are rigid, while for others, they are fluid and adaptable.

Versatility is also crucial when sex workers decide how to act upon breaches of agreement. Across all jurisdictions, sex workers reported considering the same factors, such as job security, regular income, and relationships with clients, before taking formal or informal actions. Personal priorities and power dynamics in the situation drive the chosen actions. Some sex workers might consider physically removing either the client or themselves from the situation as being the best option to mitigate breaches of contract.

This dynamic understanding of consent complicates the situation when it comes to how formal law can protect sex workers. We found that, for sex workers, consent is viewed as ongoing, allowing them to withdraw or renegotiate services as needed. This variability highlights that a one-size-fits-all approach to consent, that is necessary in formal criminal law, does not work for everyone. Courts in some jurisdictions are, however, beginning to recognise that consent is contextual, ongoing, and conditional. Nevertheless, the court process remains risky and most victims do not engage with formal systems.

Addressing Challenges in Legal Reform

Our research findings reveal that the flexible ways in which sex workers set and maintain the boundaries of the sexual contract do not easily

translate into the seeking of formal redress. Is reform of formal criminal justice law, then, the best solution? We often look to formal law for answers. However, just as advocating for stricter penalties alone has not effectively addressed sexual violence, our study shows that reforms aimed at improving sex worker safety must ensure they do not inadvertently worsen conditions for sex workers.

The primary objective for sex workers is to stay safe while earning money. Our peer recommendations in Chapter 7 emphasise the need for flexibility. Sex workers need choices in the processes affecting their lives, such as accessing healthcare and deciding whether to engage with the criminal justice system. Our research indicates that providing these choices gives sex workers control and dignity, which are essential for their well-being.

Empowerment, Peer Communication, and Opportunities to Learn

Our research finds three important factors that sex workers mentioned for preventing and dealing with unwanted sexual contact: empowerment; communication with peers; and the opportunity to learn. These mechanisms support each other. For example, in criminalised settings where sex workers could not engage, communicate, or network with their peers, they had to learn by trial and error about setting boundaries. This lack of peer support diminished their power to negotiate and enforce boundaries. They had fewer opportunities to understand or access formal legal processes and were less likely to trust criminal legal and other support services.

Empowerment

Empowerment was a recurring theme throughout the chapters and across the different stages of dealing with sexual violence. Our peer

researchers also frequently highlighted this theme in their recommendations (Chapter 7). This section discusses the importance of empowerment for sex workers and what it means to be empowered.

Being empowered involves having the power to set and enforce one's boundaries of consent and sexual contracts in all sexual exchanges. In negotiating a sexual contract, empowerment means that sex workers can establish their own consent boundaries in a way that benefits them, maintain those boundaries, and seek redress if those boundaries are breached.

Maintaining and potentially extending the boundaries of consent requires constant assessment of actions during a service. Sex workers that we interviewed explicitly stated that they could handle their own safety when they have greater power. One ANZ sex worker said that she felt more powerful than her client because she determined what the client could or could not do. This underscores that central arguments about consent are fundamentally about having power during the service—clients should respect the sex worker's agency and personhood, and ask for consent and, moreover, adhere to it throughout the service. Sex workers had the power to say no to those clients who asked for discounted rates, or for extra or uncomfortable services, and they could end negotiations at any time. This ability required both experience and relative power.

Being empowered also means having the support of formal law, which was most prevalent in decriminalised settings. In ANZ, the use of condoms is compulsory when providing a sexual service (under PRA, s.9). When a client refused to use a condom, sex workers could assert that it was against the law. Official statutes reinforced their ability to negotiate and maintain boundaries.

For workers in criminalised and semi-criminalised settings who cannot rely on the support of formal law, developing a set of skills and knowledge on how to set and maintain boundaries is crucial. Many sex workers, especially in criminalised contexts, experienced their most violent incidents when they first started working, as offenders took advantage of their inexperience in protecting themselves. In these settings, where experiencing violence is part of learning the 'rules of the game', it is

particularly important to learn how to become more empowered in setting boundaries and enforcing them informally.

Our data clearly demonstrates that being or becoming empowered is a process. As sex workers gain more experience, they often change their reactions to violations as they become more aware of the power dynamics at play and how to navigate them. This evolving awareness and adaptation contribute to their empowerment. By learning from others and honing their skills, sex workers can better protect themselves and assert their boundaries, leading to a greater sense of control and safety in their work environments.

Peer Communication

Our research finds that sex workers' ability to interact with their peers is a key factor in safely managing sexual contracts, setting boundaries, enforcing those boundaries, and reporting any violations. Sex workers we spoke to wanted interaction with peers to learn skills, to receive help and to seek justice for others. However, legal barriers often hindered these collective efforts, especially in semi-criminalised and criminalised contexts where such interactions could be construed as trafficking. This limited communication made sex workers less able to learn, and meant they felt powerless and vulnerable. (Our peer recommendations (Chapter 7), likewise, emphasise the need for allowing sex workers to work together.)

The data also shows that a collective sense can be manifested in various ways. Workplace norms, on what services individual sex workers would provide, were crucial in constructing a workplace culture where workers felt empowered to maintain boundaries. Different brothels had distinct collective cultures that influenced client expectations and workers' willingness to do more.

Sex workers were more willing to take formal action when they had close relationships with their peers and co-workers. Our survey data supports this finding. When asked whom they told after their last incident, 39% of sex workers told another sex worker, finding most support through their colleagues and the peer community. By comparison, 24%

of respondents told no one and only 3% reported to sexual violence support charities.

This collective sense of responsibility was crucial in encouraging sex workers to report sexual violence, especially in Aotearoa New Zealand, where recent court cases made clear that formal law may benefit them. Many felt reporting incidents could prevent future harm to others. Indeed, in Aotearoa New Zealand, some saw speaking out as a duty to the community. Building trust and relationships empowered sex workers to seek justice and improve their mental health.

Opportunities to Learn

This theme includes learning about both formal law and informal norms through experience and peer interaction. The ability to interact with peers provides opportunities to learn, leading to empowerment. In this section, we explore *what* sex workers learn, *how* they learn, and *who* they are learning from.

Chapter 3 shows that sex workers learn informal norms for negotiating and maintaining boundaries from peers. Despite some reliance on formal laws in decriminalised settings, managed settings can provide opportunities for training and from both management and co-workers. Practices like ‘big sister’ mentorships help new workers learn negotiation skills. Learning and teaching the ‘rules of the game’ aids in preventing, deterring, and protecting against unwanted contact.

Sex workers also learn through experience. In criminalised settings, there are limited opportunities to interact with others and so sex workers must learn by trial and error because of the inability to communicate legally with other sex workers. Decriminalised and managed settings offer more chances to learn from peers. Informal interactions and shared experiences in these settings help sex workers learn how to educate clients on boundaries and consent.

Experienced sex workers play a crucial role in passing information to less experienced workers about which informal actions to take when experiencing sexual violence. Our peer recommendations (Chapter 7) emphasise the need for sex workers to engage in public education

programmes and specialist services, as they are experts in elements of consent. Continued education on legal rights is also crucial for their empowerment and safety.

Sex workers gain insights into formal law and their rights in the justice system through interactions with law enforcement and various criminal legal institutions, including caseworkers, healthcare providers, juries, and lawyers. Unfortunately, these experiences often lead to a sense of legal alienation. Sex workers across all jurisdictions reported that police often responded to their complaints with disbelief, belittlement, judgement, or unfavourable treatment because of their profession. These interactions led sex workers to believe that reporting to the police would not offer them protection, shaping their attitudes towards seeking justice through the criminal system. Despite the low reporting and high attrition rates, however, Chapter 6 shows that even limited experiences with the criminal justice system can positively shape sex workers' understanding of formal law, including issues of consent and other legal areas.

Contributions to the Study of Legal Consciousness

This book makes important contributions to the study of legal consciousness by exploring the unique context of sex work. Sex workers managing unwanted sexual contact navigate laws regarding sex work and laws on sexual violence. By examining both formal law and informal practices, the research provides a comprehensive view of how marginalised groups, specifically sex workers, interact with the law at all levels. This approach illuminates the complexities of legal engagement and offers valuable insights into the realities faced by sex workers.

A key theoretical contribution highlights how sex workers perceive breaches of contractual agreements, such as non-payment or removing a condom without consent, as serious violations. This perspective both expands traditional legal definitions of sexual violence and calls for more nuanced and flexible legal frameworks that align with sex workers' lived experiences. By emphasising these differences, the book underscores the need for legal reforms, to both sex-work and sexual violence law, that

recognise the dynamic nature of consent and the importance of informal norms and community support in empowering sex workers.

Additionally, the research demonstrates the impact of different legal contexts—criminalised, semi-criminalised, legalised, and decriminalised—on sex workers' legal consciousness. This comparative analysis shows how important legal environments are in shaping legal consciousness and highlights the importance of creating inclusive and effective legal frameworks that account for the realities of sex work.

Comparing Formal Legal Frameworks on Sex Work

The research clearly demonstrates that the legal context in which sex work is situated profoundly shapes the experiences, safety, and empowerment of sex workers. In decriminalised settings like Aotearoa New Zealand, sex workers benefit from a legal framework that provides recognition and certain protections, fostering an environment where they, potentially, can assert their rights more confidently. The aforementioned Prostitution Reform Act offers legal backing that empowers sex workers to handle breaches of consent and encourages them to seek formal redress. However, it is important to note that legal alienation persists. Even in decriminalised settings, sex workers are hesitant to involve law enforcement due to a fear of resultant negative experiences or perceived inefficiencies in the system. This legal alienation is not that different from what non-sex-worker victims of sexual violence experience.

In criminalised settings, sex workers face significant barriers that hinder their ability to protect themselves and seek justice. The fear of arrest and legal repercussions often prevents them from reporting violations or seeking help from authorities. This environment of heightened legal alienation forces sex workers to rely heavily on informal networks and personal strategies to manage their safety and consent. The absence of formal legal protections increases their vulnerability, making it more challenging to establish and enforce boundaries with clients. Consequently, sex workers in these settings have little ability to seek supportive formal legal recourse.

The distinction between how sex workers perceive violations and the public's understanding of sexual assault further explains their responses in these differing legal contexts. In decriminalised environments, sex workers view breaches of agreement, such as non-payment or removing a condom without consent, as serious violations. This understanding helps them navigate their professional interactions with a clearer sense of agency and control. However, this does not always translate into action, as many sex workers still prefer informal resolution methods and may avoid formal reporting due to mistrust or dissatisfaction with legal processes.

Conversely, in criminalised settings, the pervasive stigma and lack of legal support contribute to a more fragmented and precarious experience of consent and violation, where sex workers often feel isolated and powerless. Here, sex workers are less likely to perceive the legal system as an ally and more likely to prioritise immediate safety and practical resolutions over formal legal action.

These findings underscore the critical need for flexible and supportive legal frameworks that recognise the unique realities of sex work. We require an environment where sex workers are empowered to negotiate their conditions of consent and seek justice when violations occur. A holistic approach not only enhances the safety and well-being of sex workers but also fosters a more equitable legal system that respects and protects the rights of all individuals involved in sex work.

Balancing Sex and Work in Policy

How, then, do we address sexual violence—indeed, all unwanted sexual contact—in sex work? The transactional nature of sex work presents a conundrum in addressing sexual violence. There are two main tensions: how effectively the criminal legal system can handle sexual violations, and how well the law can manage the contractual nature of the sex business. Is it SEX work or sex WORK when it comes to dealing with unwanted sexual contact?

Our findings show that there is no single easy answer to these questions. Any solution must both empower sex workers to negotiate the

terms of consent effectively and provide meaningful, effective mechanisms to deal with violations. These mechanisms must protect human rights and sex workers' abilities to earn a living. The same improvements to the criminal legal system (including alternatives to that system) that help victims of sexual violence generally will undoubtedly benefit sex-worker victims as well.

Alongside that, we need to navigate the line between protecting sex workers' rights to negotiate flexible conditions of sexual consent and their rights to negotiate and enforce transactional contracts in their work. Legislatures must reconcile the criminal statutes of sex work while also addressing workplace laws that impact these negotiations and enforcement. Additionally, we need to acknowledge how law interacts with and influences the informal mechanisms that protect and empower workers. This requires a nuanced approach that balances legal protection with the realities of sex workers' experiences.

Finally, social norms, institutions, and structural power dynamics—such as race, class, gender, sexuality, citizenship, and ability—shape sex workers' ability to prevent, think about, define, and manage unwanted sexual contact, just as they do in the general population. The forces of classism, racism, ableism, heterosexism, ageism, xenophobia, cisnormativity, and sizeism, the systems of white supremacy, patriarchy, and immigration policies, and the legacies of colonialism all stigmatise and marginalise sex workers. These systems shape how sex workers understand and interact with the law, as well as influence those who create the laws. Recognising these intersections is crucial for developing laws and policies that truly protect and empower sex workers.

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