



NZPC direct peer to peer work with migrant sex workers and refugees.
Photo credit: NZPC

New Zealand

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New Zealand is a particularly unique context to explore sex worker organising, how sex worker-led organisations interact with the anti-trafficking framework, and respond to instances of coercion and exploitation in sex work. The uniqueness of the New Zealand context is underpinned by the legal framework in place. Sex work was decriminalised in 2003 with the passing of the Prostitution Reform Act (PRA)—a policy for which sex worker-led organisations in all four corners of the world have campaigned for decades. New Zealand is also distinct in that sex workers were directly involved in the process of law reform—the New Zealand Prostitutes Collective (NZPC) spearheaded the campaign for decriminalisation and was recognised as a key stakeholder in the policy process. However, whilst this legal framework is considered best practice from a rights-based perspective, it is not a perfect law and one of its limitations is that temporary migrants are prohibited from engaging in sex work and can face deportation if they violate this rule. This chapter documents the unique story of NZPC’s organising and explores the influence of anti-trafficking discourse in New Zealand from the perspective of sex workers and NZPC representatives. It also highlights the role played by NZPC in responding to the diverse forms of exploitation and coercion that sex workers can encounter, and how the legal framework in place influences their efforts to defend sex worker’s rights.

This research drew on a feminist, participatory approach and as such NZPC was involved throughout the research process. The researcher has a strong relationship with the organisation, having first become involved with it as a PhD student in late 2007, and worked as a volunteer and staff member between 2008 and 2011, while maintaining a relationship in a research capacity after that point. The research was qualitative and involved nine in-depth interviews with NZPC representatives, current sex workers, and an external key informant. While this is a small case study, the researcher has interacted with a very large number of sex workers formally and informally in New Zealand over the past 10 years and has detailed and nuanced insights into sex work in that context, including the challenges faced by temporary migrants and debates relating to trafficking at a local and global level.

The interviews revealed a contradictory picture regarding the legal framework in New Zealand. The situation is very much illustrative of a sex worker-led organising success story, given that the NZPC grew from an informal group of sex workers in 1987 to a well-respected, government-funded organisation that led a successful campaign for decriminalisation. However, while interviews with NZPC informants highlighted the powerful impact of decriminalisation in minimising risks of

exploitation and strengthening the capacity of sex workers to respond to it, significant concerns were raised regarding the fact that migrant sex workers have essentially been left behind. All participants in this research considered this to be highly problematic in that it renders migrant sex workers more vulnerable to experiencing exploitation and violence. Participants overwhelmingly felt that the law needs to change to ensure that *all* sex workers in New Zealand can fully benefit from a context that is explicitly intended to foreground their occupational health and safety.

This chapter begins by briefly outlining the broader socio-economic and political context in which sex work occurs in New Zealand before providing some background into the legal framework surrounding sex work, the composition of the sex industry and the legal response to risks of trafficking and exploitation. It then moves to briefly outline NZPC's organisational story and perceptions and impacts of anti-trafficking discourse and of trafficking as an issue facing sex workers. Key challenges for sex workers in the current context are then explored, focusing on the impacts of prohibiting migrants from engaging in sex work, which is the dominant issue that emerged from interviews with sex workers and other key informants. The chapter ends by discussing the role played by NZPC in responding to these challenges outlining the contradictory nature of the existing legal framework, and ends with providing recommendations which emerged from the research.

Introduction

Socio-economic and Political Context

New Zealand is a high-income country, and ranks highly in several areas internationally, including human development, quality of life, and civil liberties. In 2016, it was 13th in the UN Human Development Index, which ranks countries by living standards, gross income per capita, life expectancy and education.¹ However, contradicting this is a relatively high level of income inequality. The most recent estimates from 2012 gave New Zealand a Gini coefficient score of 33, indicating that it has higher levels of income inequality than the average of 31 for countries in the Organisation for Economic Cooperation and Development (OECD).²

New Zealand occupies a relatively isolated geographic position, located approximately 1600 kilometres from Australia and the nearest Pacific Islands. However, it is a frequently visited country. In the year ending February 2017, 3.54 million visitor arrivals were recorded—the highest number ever.³ To further contextualise this, at the last census, the total population was 4.4 million. Thus, while the country is geographically isolated, it attracts large numbers of international visitors. Furthermore, it is also a popular destination for migrants. The 2013 census revealed that 25% of the population was born overseas.⁴ Thus, while it has been argued that its geographic isolation may mitigate risks of trafficking, it is clear that there is a consistent flow of people crossing New Zealand's borders.

Māori are the indigenous people of the country. New Zealand became a British colony in 1840 and the scars of settlement and colonisation continue in the contemporary context. Māori are more likely than non-Māori to live in poverty, more likely to be victims of family violence, and more likely to be imprisoned. Māori are also the group of sex workers most likely to be arrested on prostitution-related charges when sex work was criminalised.⁵

¹ United Nations Development Programme, *Human Development Reports – New Zealand*, 2016, retrieved 13 June 2017, <http://hdr.undp.org/en/countries/profiles/NZL>.

² Ministry of Social Development, *The Social Report 2016*, 2016, retrieved 20 June 2017, <http://socialreport.msd.govt.nz/economic-standard-of-living/income-inequality.html>.

³ Statistics New Zealand, *International travel and migration*, retrieved 23 June 2017, http://www.stats.govt.nz/browse_for_stats/population/Migration/IntTravelAndMigration_HOTPF_eb17.aspx.

⁴ Statistics New Zealand, *2013 Census QuickStats about culture and identity*, retrieved 14 April 2017, <http://m.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-culture-identity/birthplace>.

⁵ NZPC, *Decriminalisation of Sex Work in New Zealand – Impact on Māori*, 2013, retrieved 10 May 2017, http://www.sexworklaw.co.nz/pdfs/Decriminalisation_of_Sex_Work_in_New_Zealand_-_Impact_on_Maori.pdf.

In the first quarter of 2017, the unemployment rate was 4.9%.⁶ All residents and citizens who become unemployed and are actively seeking work are eligible for a weekly payment via jobseeker support. For individuals who have voluntarily left a job there is a stand down period of 13 weeks before they can receive jobseeker support. However, it is important to note that sex workers are exempt from this, and can receive jobseeker support as soon as they stop working.⁷ There is therefore a financial safety net in place for sex workers who wish to leave sex work, or take a break from working in that area.

Sex Work in Context

Sex work in New Zealand was decriminalised in 2003. The purpose of the law reform was to repeal legislation which criminalised sex work, and prioritise the health, safety and human rights of sex workers.

Sex work in New Zealand was decriminalised with the passing of the Prostitution Reform Act (PRA) in 2003.⁸ This means that it is not illegal to sell sex or to pay for sex, nor is it illegal to facilitate the sale and purchase of sexual services. Under sections 20-23 of the Act, it is illegal to pay anyone under the age of 18 for sexual services, or to facilitate their

involvement in sex work. However, importantly, young people who become involved in sex work are not criminalised. It is also an offence under section 16 to induce or compel any person, regardless of age, to provide or continue to provide sexual services.

The PRA was a contentious piece of legislation that only passed by one vote, following years of steadfast work by NZPC. Opposition to the PRA was largely based on what has been termed 'morality politics',⁹ and was led mainly by fundamentalist faith-based groups and a minority of feminists.¹⁰ There is however a strong feminist, sex worker rights discourse in New Zealand, which to some extent, sets this context apart from other parts of the world.¹¹

⁶ Statistics New Zealand, *Labour Market Statistics: March 2017 quarter media release*, 2017, retrieved 20 June 2017, http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/LabourMarketStatistics_MRMar17qtr.aspx.

⁷ NZPC, *Law*, retrieved 23 June 2017, <http://www.nzpc.org.nz/Law>.

⁸ Parliamentary Council Office, *Prostitution Reform Act, 2003*, retrieved 12 March 2017, <http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>.

⁹ H Wagenaar and S Altink, 'Prostitution as Morality Politics or Why it is Exceedingly Difficult to Design and Sustain Effective Prostitution Policy', *Sexuality Research and Social Policy*, vol. 9, issue 3, 2012, pp. 1–14.

¹⁰ T Barnett, C Healy, A Reed and C Bennachie, 'Lobbying for decriminalisation' in G Abel *et al.* (ed.), *Taking the Crime out of Sex Work: New Zealand sex workers fight for decriminalisation*, Policy Press, Bristol, 2010, pp 57–73.

¹¹ G Abel, 'In Search of a Free and Fair Society: The regulation of sex work in New Zealand' in E Ward and G Wylie (eds.) *Feminism, Prostitution and the State: The politics of neo-abolitionism*, Routledge, Oxon, 2017, pp. 140–154.

Legal context

The overall rationale for the law change was to realise sex workers' rights, address the harms of criminalisation and prioritise the health, safety and human rights of sex workers. New Zealand's law reform process was unique in a number of ways: one being that it focused on improving the lives of sex workers; and another that NZPC played a central role in shaping the law and influencing the policy process.¹² Thus New Zealand became the first country in the world to fully decriminalise brothel-keeping, soliciting, procuring, and living off the earnings of prostitution.

Later research conducted with street-based sex workers indicated that decriminalisation better supports safety strategies, and improved relationships between sex workers and police.

A requirement of the law change was that its impacts would be rigorously evaluated three years following its enactment. The change also required the establishment of a Prostitution Law Review Committee (PLRC) to review the Act and provide a report to the Ministry of Justice. Research conducted to evaluate the impacts of the PRA highlighted numerous benefits. For example, 95% of sex worker respondents felt that they had rights in the decriminalised context.¹³ The research also found that 60% of participants felt more able to refuse to see clients since the law had changed.¹⁴ The PLRC's report concluded that overall the decriminalisation of sex work was achieving what it set out to do, and that sex workers were in a better position than they were prior to the law change.¹⁵ Later research conducted with street-based sex workers indicated that decriminalisation better supports safety strategies,¹⁶ and improved relationships between sex workers and police.¹⁷

Patterns of Sex work in New Zealand

¹² C Healy, C Bennachie and A Reed, 'History of the New Zealand Prostitutes' Collective' in G Abel *et al.*, 2010, pp. 45–55

¹³ G Abel, L Fitzgerald and C Brunton, *The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers*, Department of Public Health and General Practice, University of Otago, Christchurch, 2007.

¹⁴ *Ibid.*

¹⁵ Prostitution Law Review Committee, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, 2008, retrieved 7 May 2017, <http://prostitutescollective.net/wp-content/uploads/2016/10/report-of-the-nz-prostitution-law-committee-2008.pdf>.

¹⁶ L Armstrong, 'Screening Clients in a Decriminalised Street-based Sex Industry: Insights into the experiences of New Zealand sex workers', *Australian and New Zealand Journal of Criminology*, vol. 47, issue 2, 2014, pp. 207–222.

¹⁷ L Armstrong, 'From Law Enforcement to Protection? Interactions between sex workers and police in a decriminalised street-based sex industry', *British Journal of Criminology*, vol. 57, issue 3, 2016, pp. 570–588.

Sex workers work throughout New Zealand, primarily in urban areas in the three most populated cities of Auckland, Wellington and Christchurch. Wellington is the capital city and the political centre; Auckland is New Zealand’s commercial hub and is where the main international airport is located, and Christchurch is the major city of the South Island. Estimating the true population of sex workers is a challenging task, partly due to a high level of turnover, with people frequently moving in and out of sex work.¹⁸ However, the available data suggests that New Zealand is home to a relatively small population of sex workers. Data collected in 2006 estimated the total population of sex workers at a single point in time in the

Contrary to a frequently circulated myth, the current evidence also suggests that there was no significant increase in the sex worker population after decriminalisation.

three major cities, in addition to the provincial areas of Nelson and the Hawke’s Bay, at 2,396,¹⁹ which equates to 0.057% per cent of the total population at that time of 4.185 million. Contrary to a frequently circulated myth, the current evidence also suggests that there was no significant increase in the sex worker population after

decriminalisation.²⁰

Sex workers in New Zealand primarily work indoors—only around a tenth work from the street.²¹ Indoor sex workers work either as ‘managed’ workers in brothels or as private sex workers in their homes or other locations, which they can share with up to four other sex workers without requiring an operator’s certificate. Under the PRA, operators of brothels, where there is someone in charge of the premises, must apply for a certificate from the Ministry of Justice, which involves a simple application process and payment of a NZD 250 (approximately USD 180) fee.²²

Most sex workers in New Zealand are cisgender women; however, there are also male, transgender and gender diverse people engaged in sex work. The largest study conducted with sex workers in the country, involving 777 participants, indicated that sex workers are diverse in terms of their age, ethnicity and social

¹⁸ L Plumridge and G Abel, ‘A “Segmented” Sex Industry in New Zealand: Sexual and personal safety of female sex workers’, *Australian and New Zealand Journal of Public Health*, vol. 25, issue 1, 2001, pp. 78–83.

¹⁹ P Bellamy, ‘Prostitution law reform in New Zealand’, Parliamentary Library Research Paper, 2012, retrieved 14 May 2017, <https://www.parliament.nz/en/pb/research-papers/document/00PLSocRP12051/prostitution-law-reform-in-new-zealand>.

²⁰ G Abel, L Fitzgerald and C Brunton, ‘The impact of decriminalisation on the numbers of sex workers in New Zealand’, *Journal of Social Policy*, vol. 38, 2009, pp. 515–31.

²¹ Abel, Fitzgerald and Brunton, 2007.

²² See: New Zealand Ministry of Justice, ‘Brothel Operator Certification’, available at <https://www.justice.govt.nz/licences-certificates/brothel-operator-certification/apply-for-a-brothel-operator-certificate/#people-who-need>.

backgrounds. Over 50% of participants in this study were New Zealand European,²³ approximately one third were Māori, 5% Pacific, and 12% identified as 'other' ethnicity. Most participants had entered sex work when they were over the age of 18 (81.7% of participants), while fewer than 10% reported that they had begun sex work under the age of 16. Of the 777 participants, approximately one third were educated to tertiary level and a majority of participants reported being involved in other activities in addition to sex work, such as caregiving, volunteer work and/or other part-time or full-time paid work outside of the sex industry.²⁴

Sex Work, Migration and Human Trafficking

The majority of sex workers live in New Zealand on a permanent basis, but New Zealand is also a destination country for migrant sex workers who visit temporarily from a number of regions, including various parts of Asia, Europe, the United States and Latin America.²⁵ Only one research project to date has been completed which has focused exclusively on migrant sex work.²⁶ The research involved a survey of 124 migrant sex workers, a review of anonymised migrant sex worker sexual and reproductive health records, and in-depth interviews with 12 key informants. The findings of this research indicated that migrant sex workers surveyed had entered sex work of their own volition and were, overall, satisfied with their working conditions. There was no indication of unsafe sex practices, which challenges depictions of migrant sex workers as devoid of agency and being forced to engage in such practices.

New Zealand has comprehensive laws to respond to human trafficking, contained under the Crimes Act 1961. This legislation was amended in 2015 with the Crimes Amendment Act,²⁷ following the passing of the Organised Crime and Anti-Corruption Legislation Bill. This change essentially expanded the definition of human trafficking to include 'domestic' trafficking, meaning that individuals within New Zealand who are moved, harboured, recruited, or received for the purpose of exploitation can be identified as a victim of human trafficking. Prior to this change, human trafficking was defined as an entirely transnational crime. This change was enacted to strengthen compliance with international commitments, including the UN Trafficking Protocol.

²³ New Zealand European is an official category of ethnicity which describes people who were born in New Zealand and are of European descent.

²⁴ Abel, Fitzgerald and Brunton, 2007.

²⁵ M Roguski, *Occupational health and safety of migrant sex workers in New Zealand*, New Zealand Prostitutes Collective, 2013, retrieved 22 May 2017, <http://www.communityresearch.org.nz/research/occupational-safety-and-health-of-migrant-sex-workers-in-new-zealand/>.

²⁶ *Ibid.*

²⁷ Parliamentary Counsel Office, *Crimes Amendment Act 2015*, retrieved 20 June 2017, <http://www.legislation.govt.nz/act/public/2015/0095/latest/DLM6150617.html>.

Methodology

The research involved a qualitative approach to elicit in-depth and nuanced insights which would help to inform the overall objectives of the project, which were: 1) to document the history of NZPC organising, 2) to examine their experience of interacting with the anti-trafficking framework and whether and how it had impacted on their work, 3) to explore the strategies used by the organisation to respond to exploitation, and 4) to consider what factors impact NZPC's ability, and the capacity of sex workers more broadly, to respond to situations of exploitation and coercion. A feminist, participatory approach was utilised, and thus representatives of the NZPC were involved throughout the research—from the initial planning stages to finalising the report.

Methods

Due to the sensitive nature of the research, in-depth interviews were considered the most appropriate method to reach the research objectives. A purposive sampling strategy was utilised to ensure that those interviewed had the expertise needed to answer the research questions.

Nine in-depth, semi-structured interviews were conducted in Wellington and Auckland. Interviews lasted between 30 minutes and one and a half hours. Four of the participants were staff of NZPC and were selected on the basis of their knowledge and experience in the organisation. Participants included the National Coordinator who helped found the organisation in 1987, a long-term staff member in the National office who had worked across policy, research and operational roles, the regional coordinator of the Auckland branch, and the migrant community liaison based in Auckland. The purpose of these interviews was to gain insights into the organisational history, perceptions of human trafficking, how the organisation had interacted with the anti-trafficking framework, and strategies used to respond to sex workers who have experienced exploitation. Four sex workers were interviewed—one migrant sex worker from China, one Māori sex worker, and two New Zealand European sex workers—one with extensive experience of travelling for sex work, and another who had worked with migrant sex workers in brothel environments. The purpose of these interviews was to explore perceptions of key issues for sex workers in the New Zealand context, perceptions of trafficking into sex work as an issue, and identify how organisations should respond to sex workers who experience exploitation. One key informant interview was conducted with an external representative of a faith-based organisation who has several years of experience connecting with the NZPC on the issue of human trafficking, and an ongoing interest in anti-trafficking strategies in New Zealand. The purpose of this interview was to elicit an external perspective on the NZPC's role in responding to exploitation that sex workers experience, including human trafficking.

Ethical Considerations

All participants were provided with an information sheet to read, had the opportunity to ask questions prior to their participation, and were required to sign a consent form before the interview. All sex worker participants chose a pseudonym to use in the research. Three of the NZPC key informants wished to be identified by their full name in the research, while one participant (the migrant sex worker liaison) chose to be identified by her role, rather than her name. The external key informant also requested that a description of their role be used, rather than their name or the name of their organisation. All interviews were recorded, transcribed verbatim and reviewed to remove any potentially identifying information, in cases where participants had asked to not be identifiable in the research. Ethical approval to conduct the fieldwork was granted by the Victoria University of Wellington Human Ethics Committee.

Data Analysis

Following transcription of the interviews the data was analysed to identify key themes. Once a draft report had been completed participants were invited to comment on the draft report, and had the opportunity to do so either over email or at a group meeting at NZPC. This process, known as 'member checking', was undertaken to ensure participants felt that the interpretation of the data accurately represented their views and experiences. On completion of the draft, a meeting was held at the NZPC with five reviewers comprised of NZPC staff and volunteers to discuss the findings and final recommendations before finalising the report.

Findings

The NZPC Story

NZPC was established in 1987 by a small group of indoor sex workers who met to discuss forming an organisation to represent sex workers, and were soon joined by street-based sex workers.²⁸ The laws at that time, which criminalised sex work, along with stigma and sexual health were key issues that motivated the establishment of the organisation. Catherine Healy, the National Coordinator and one of the founding members of the NZPC explained:

We wanted to form an organisation and we wanted to stop the police arresting us as well as do something in relation to HIV and the perception that people had about sex workers being... the vectors for disease, but also the perception that people had about sex workers as being lesser... We ... wanted to bring ... different sex workers together as well as have the community centres where we could meet and talk about things that were of importance to us... Sex work related activities were illegal so we wanted to create safe spaces where we could share information and ideas to support our sex work.

NZPC is a unique sex worker organisation for several reasons: one being that it secured government funding from 1988—one year after its formal inception, and the other that they were instrumental in influencing and informing policy relating to sex work, while also delivering vital frontline services to sex workers and supporting sex workers who encounter problems in their work. The organisation has succeeded in working with successive governments without being controlled by them. As Catherine explained:

We have a contract with government, we have relationships with government but we've maintained our own sense of self and our direction, we haven't felt directed or controlled or manipulated or manoeuvred by government.

The NZPC is not a union—sex workers can be involved to any extent they wish and in ways that suit their own interests and schedules.²⁹ It is overseen by a seven-member board, comprised entirely of current or former sex workers. NZPC in the present day fulfils several functions—providing frontline health and advocacy services to sex workers, advising on sex work laws and policies nationally and internationally, informing research, and providing a safe space for sex workers to meet, strategise and share ideas and experiences.

²⁸ C Healy, C Bennachie and A Reed, 2010.

²⁹ I Radačić, 'New Zealand Prostitutes' Collective – An example of a successful policy actor', *Social Sciences*, vol. 6, issue 2, 2017.

The Benefits of Organising

The decriminalisation of sex work would not have occurred had sex workers not begun organising and agitating for change.

Interviews with NZPC staff revealed several important benefits of organising, which would not have been realised had the organisation not been established. The most

significant benefit was the passing of the PRA in 2003—a change that NZPC had worked towards since inception. It is reasonable to conclude that the decriminalisation of sex work would not have occurred had sex workers not begun organising and agitating for change. Organising has also meant that sex workers have built strong connections with other agencies, and have been able to utilise these agencies in a way that works to the benefit of sex workers. NZPC in Auckland, for instance, host a weekly clinic of Work and Income advisors who can assist sex workers who are managing difficult circumstances or wish to stop doing sex work. NZPC also host sexual health services and counselling services in several community bases. Catherine Healy explained:

I think when we first began we didn't think we'd last at all or that we would get off the ground. We thought we'd probably distribute a newsletter that was written by sex workers and then it would probably, you know, collapse but the organisation in fact has developed. You know [we opened] community centres [and we've] taken in other providers such as counselling entities [that] have come in to provide complementary services for us but under our framework, in our place, as well as sexual health providers, family planning providers. We've managed to be effective in challenging law and policy, we've been significant in that regard in terms of leading if you like the push to overturn negative law and policy, we've been very much a party to policy consultations and have had a big influence in determining a lot of policy around sex work.

The organisational story of NZPC is therefore a unique story that reflects a long-term commitment to sex workers' rights, health and safety, that has resulted in a well-respected, strong and stable organisation as an authority on sex work issues.

The Anti-Trafficking Discourse in New Zealand

The discourse surrounding sex work in New Zealand has not been dominated by concerns about trafficking to the same extent that it has in some other regions globally. Even in the process of prostitution law reform pre-2003, anti-trafficking discourse did not play a significant role until the latter stages of the debate. Annah Pickering explained:

At the end, yeah, there were people talking about trafficking because there were people saying you decriminalise prostitution [and] hordes of women will be coming from abroad and you know coming into those borders and the thing was, people panicked, it was a moral panic.

Expanding on this point, Annah explained that while this eleventh hour panic about the potential impacts of decriminalisation was connected to the issue of trafficking, it appeared that it largely related to concerns that the sex worker population would ‘explode’ as sex workers flooded into the country. Some individuals who were anti-decriminalisation hypothesised that ‘we’re going to have prostitutes everywhere’. Thus, while framed as a concern regarding the potential for trafficking, such concerns were also representative of anti-immigration sentiment. However, while there was no evidence to suggest that decriminalisation would be conducive to trafficking, or result in an increase of sex workers, these concerns had a significant impact, enabling the introduction of a clause which prohibited migrants with temporary visas from engaging in sex work or operating a sex work business.³⁰

While framed as a concern regarding the potential for trafficking, such concerns were also representative of anti-immigration sentiment. These concerns had a significant impact, enabling the introduction of a clause which prohibited migrants with temporary visas from engaging in sex work or operating a sex work business

When asked about the presence and impacts of anti-trafficking discourse, research participants also referred to the influence of international debates and, particularly, the annual US Department of State *Trafficking in Persons* (TIP) Report, which has in the past identified New Zealand as a ‘destination country’ for victims of trafficking into sex work. It was felt that overall

the New Zealand government had been effective in responding critically to these claims, on the basis that there is no evidence to date that New Zealand is a destination country for victims of trafficking into sex work. However, one interviewee observed an increase in law enforcement activity which appeared to coincide with the release of the report, noting:

My experience working at grassroots level is when that American document, the Trafficking in Person report, usually comes out in June yearly and so there’s like this pressure I think from I don’t know who—the powers [that] be or the people who

³⁰ See Section 19 of the Prostitution Reform Act.

think that there's things that are happening here in New Zealand that shouldn't be happening... the government departments, particularly like New Zealand Customs, Immigration New Zealand, New Zealand Police, Department of Internal Affairs have this, have a group or some people in those departments that will shift and things will start rolling around before that report comes out. And in my experience in Auckland...we've had brothel raids.

It was also felt that the proliferation of anti-trafficking discourse internationally influenced a minority of NGOs in New Zealand to draw on inaccurate statistics and claims about trafficking into sex work, as the external key informant noted:

Think it's fair to say there's still within some of the anti-trafficking groups that we have in New Zealand there's still that near obsession with sex trafficking... and we've still got this mentality and we over-exaggerate figures as you would well know. So, the same old figures that got no basis to them keep getting rolled out again and again and again.

The proliferation of anti-trafficking discourse internationally influenced a minority of NGOs in New Zealand to draw on inaccurate statistics and claims about trafficking into sex work

It was acknowledged that, while a minority of individuals and organisations continue to

make claims about trafficking into sex work that are not based on evidence, on the whole it is recognised that in New Zealand trafficking appears to be an issue that is associated more with other industries, such as fisheries, agriculture and hospitality, than with sex work. Thus, while anti-trafficking discourse had the unfortunate consequence of shaping aspects of sex work policy in the past, in the current context local debates relating to trafficking are, overall, grounded in evidence and trafficking is not framed nationally as a sex work issue.

Anti-Trafficking Discourse Engagement and Impacts: 'Well, at least I'm not in "Taken" ...'

The anti-trafficking discourse may not have dominated debates in New Zealand but the focus on it by some individuals and organisations, and international interest in it, means that NZPC has had to engage with it. Participants emphasised that NZPC's approach has always been to focus on evidence, and sex workers' observations and experiences. One of the strengths of the organisation is their willingness to

engage with people with diverse ideological positions, which has enabled them to rationalise debates regarding trafficking. As Catherine Healy noted:

We've kept some doors open definitely with anti-trafficking organisations here and we've, you know, communicated with them and met with them and talked. We try and avoid polarisation unless there really is no alternative... And I think because we've tried to avoid polarisation we've done reasonably well at 'dampening down' [...] false stories about sex workers and the reality of trafficking in this country.

Anti-trafficking discourse means that sex work exploitation is portrayed in extreme terms, eclipsing the more mundane forms of exploitation that sex workers experience.

It was clear however that, despite this, anti-trafficking discourse still has impacts for sex workers in New Zealand. The most obvious impact is section 19 of the PRA which prohibits migrant sex work. However, participants explained that anti-trafficking discourse also has less obvious implications for sex workers and NZPC's work to support them. They expressed frustration due to the anti-trafficking discourse

sex work exploitation is portrayed in extreme terms, eclipsing the more mundane forms of exploitation that sex workers experience. This, it was argued, means that actual instances of exploitation are not addressed because such situations are constructed as 'boring' and trivial when set against, as Catherine Healy put it:

...this nebulous kind of fanciful scenario about sex workers who are sex slaves, who are chained to the bed and they're going to be found in somebody's attic somewhere.

This was a source of significant frustration for participants since, as Calum Bennachie put it, officials 'ignore the real issues of coercion and things that may be happening within a brothel and look for this fantasy that doesn't exist'. This point was also raised by the sex workers. Danielle, for instance, felt that anti-trafficking discourse could lead sex workers to be accepting of lesser forms of exploitation:

I feel like all those trafficking narratives also contribute to sex workers being more willing to put up with exploitation. Like you hear a story about I don't know let's use the example girls being locked in a room pumped full of drugs and then sold off to the highest bidder, and you think 'well thank god that's not happening to me'. I mean yeah my management may be treating me badly, they might be making me stay 14 hours at

work every single night, they might be withholding my pay...but at least I'm not being, you know, raped.

She expanded:

And it means you ignore the ways in which you are being exploited, which are the same boring ways that anyone's exploited under capitalism... the kind of exploitation that most of us are facing is the exploitation of working long hours, the uncertain pay, of management trying every trick they can to scam every dollar out of you that they can...it's not the exploitation of being chained to a bed and raped for twelve hours straight... And in saying that that's what we're experiencing just invalidates when something bad does happen to you. And it makes it hard to recognise when bad things are happening when you're always thinking well at least I'm not, you know, at least I'm not in 'Taken.'³¹

Participants strongly rejected the emotional appeal of the anti-trafficking discourse which influences not only how officials respond to reports of 'mundane' exploitation in sex work, but may also influence how sex workers conceptualise the situations that they encounter as managed workers. Thus trafficking 'talk' has important impacts for sex workers in potentially obscuring the true nature of exploitation that can occur in sex work, while also having implications for NZPC when they are attempting to respond to these issues.

Analyses of Trafficking

All participants were asked to describe what trafficking means and involves, and to reflect on the extent to which trafficking into sex work is an issue in New Zealand. Overall their understanding reflected the international definition: it was seen to represent circumstances in which there was movement of a person into a situation that was characterised by deception and coercion. Trafficking was also seen to be characterised by a lack of choice and freedom—as a situation in which an individual would be forced to do sex work against their will without remuneration. The NZPC's migrant community liaison described this as:

³¹ Taken is a 2008 fictional movie which depicts the kidnapping of two young women by human traffickers for the purposes of sexual slavery.

Like it's someone, they come here, they don't know where they go and they come here, they do something against their will, they don't let them go, no freedom, they don't paid or anything like that.

It was also felt by NZPC and sex worker participants that trafficking is an ill-defined, vague term that is used to describe a diverse range of exploitative practices, is conflated with sex work in popular discourse in many countries, and is often used to the detriment of sex workers.

All participants were unequivocal that they had not observed or heard of any cases of people being forced to come to New Zealand to engage in sex work. This is consistent with existing data which shows that despite intensive investigations by Immigration New Zealand, no cases of trafficking in the sex industry have been identified to date. Calum Bennachie noted:

Immigration has continued to visit brothels on a regular basis to inspect to see if there is anybody who could be trafficked and when they go in they do check to see if it's a double wall, if there's hidden cupboards, people under crawl spaces and things like that, so they do a complete search and they have not yet found one person who's been trafficked into sex work in New Zealand

It was also felt by NZPC and sex worker participants that trafficking is an ill-defined, vague term that is used to describe a diverse range of exploitative practices, is conflated with sex work in popular discourse in many countries, and is often used to the detriment of sex workers. Danielle noted:

It's such a poorly defined term that anything can be trafficking if you want it to be. I mean, like I said to you before, by some definitions, by travelling overseas to work I have experienced human trafficking even though I travelled under my own volition.

Similarly, Michelle noted:

I think it's a really vague and ill-defined term. To be honest, my emotional reaction when I hear it, is just my hackles come up, I'm ready for anti sex worker sentiment... and I have seen arguments about human trafficking being used so many times to argue for things that would reduce my rights as a sex worker.

While all key informants were critical of the term trafficking and had not observed any instances of what they felt could be defined as trafficking, concerns were raised regarding the potential to exploit migrant sex workers in the context of the current law. As Catherine Healy explained:

I think it's important to remember that... you know... the conditions are there [and] they're facilitated by the law. The law facilitates the conditions that are required for trafficking by rendering the sex workers who are working as migrants illegal. So, I think you know we keep an ear and an eye definitely, you know we have a concern... the concern is very, very real.

Linked to this point, although sex workers interviewed were adamant that they had not seen or heard of any situations in which an individual was being forced to do sex work against their will, or had been tricked into it, two participants reported that they had heard of migrant sex workers being subjected to unacceptable working

conditions. Amy, a migrant sex worker who was born in China described hearing of sex workers being encouraged to come to New Zealand to work in a brothel for a short time, in which it was suggested they could make large amounts of money. However, when they arrived, while they were able to make a lot of money, they were also expected to be available for work at all times. She explained:

No not forcing but... they asked the girls to come and work for them but they didn't care about the girls—that's my point. So they have them working long hours, like really long hours.

Michelle also expressed concerns about some migrant sex workers having reduced control over their working hours, and unreasonable living costs:

I've seen migrant workers who have planned to come here to work, have gotten in touch with the employer or the brothel owner and had arranged to come here to work and have been staying at the premises. I think that that is potentially problematic, I think that quite often those girls are paying quite high board and expenses and because they were staying on the premises [and] were working really long hours really frequently. And I can't speak for them but I know that a lot of the girls weren't happy with that, would have preferred to have more time off or more flexibility in how they worked.

Thus, all participants expressed a concern that the laws relating to migrant sex work create conditions that facilitate exploitation. While migrant sex workers are

It was also felt by NZPC and sex worker participants that trafficking is an ill-defined, vague term that is used to describe a diverse range of exploitative practices, is conflated with sex work in popular discourse in many countries, and is often used to the detriment of sex workers.

diverse in their experiences and circumstances, they can encounter working conditions that would be considered unacceptable to most local sex workers.

Migrant Sex Work and the Law of Unintended Consequences

All participants were asked to describe what they thought were the main challenges for sex workers in the current New Zealand context. A range of issues were highlighted, such as ongoing stigma and discrimination, issues with exploitative and/or patronising management, and an insufficient supply of clients. However, the most common issue related to the precarious legal status of migrant sex workers, which has a number of important implications in the context of concerns regarding migrant exploitation and trafficking.

Migrant sex workers in New Zealand are disempowered in interactions with clients.

Disempowering sex workers, empowering abusive clients

Migrant sex workers in New Zealand are disempowered in interactions with clients. Their precarious legal status provides an opportunity for abusive clients to make unreasonable demands because, as Lydia noted, they will assume 'this person is ... probably not going to call the police'. In line with this, Amy recalled an adverse experience with one individual who had made a booking with her, explaining:

...One client will say [...] they will think that you don't have a proper visa here and they will say, um, give them a good service and if not, they will tell the police.

Amy also described a specific type of client with a racist view of migrant workers. This type of client would push her boundaries because they had a stereotypical, racialised view of Asian workers as passive. She explained:

Because I'm Asian some clients they travel to Asian country before and they especially like Asian girls cos they think they can do what they wanna do. Cos normally we no like Kiwi girls that really know that we have these rights to say 'no'. Cause in Asia we [sex workers] are being treat really inhumanely. So when this kind of client comes to New Zealand they will think we just like in China ... For example they will grab you and say 'I'm gonna do this' and you can say 'no' but they won't listen to you... you will say 'stop' and they say they want their money back...'Cos they can't get what they want like in other Asian country so they just say [mocking voice] 'Oh I want my money back' (laughs).

Lydia described a situation in which a migrant sex worker had been blackmailed by an individual who had approached as a client and then used the threat of a disclosure to immigration to extort free services from her:

I met a girl once who [...] had a guy yep call her and say that he wanted to make a booking and then... he had shown up and said 'you have to have sex with me for free or I'm going to call immigration'. And she was like [thinking] 'god what am I going to do?' And she couldn't get rid of him so she just did it and then she changed her work name and changed her phone number and then he found her again. And I think it happened to her like three times and she was really scared and really traumatised... she was having a really bad time.

Risk of deportation

Migrants who are found to be doing sex work can be deported, which inevitably creates a fear of contact with authorities such as police.

This means that if a migrant does encounter an abusive client, there is a strong disincentive to report the experience. While it

is an offence under section 16 of the PRA to use the threat of disclosing that a person is unlawfully in New Zealand to induce or compel another person to provide commercial sexual services, the precarious legal status of migrant sex workers means that they are unlikely to report adverse experiences to the police. Amy did not feel that police could provide protection to people who were working illegally, noting, 'if you're illegal you can't call the police. If you're illegal they can't protect you'. She also felt that brothels which employ migrant workers may be reluctant to report minor disputes with clients because 'they will think "Oh I don't want the policemen to be coming to my building"'.

'If you're illegal you can't call the police. If you're illegal they can't protect you'.

In the case that Lydia described, the sex worker was too afraid to report her predicament—although Lydia was confident that a police officer may be willing to employ discretion regarding the sex worker's immigration status. She explained:

She didn't want to call the police because she was worried and I said to her, 'you probably actually could call the police because... cops care that there's not some rapist out there who's trying to rape sex workers. They probably care more about that than passing your details to immigration'... What she actually did was go and get somebody who was going to look after her... I guess that's what happens... If you can't get protection from the law then you have to go and find someone who will protect you in some other way.

Migrants, who have previous experience of being targeted by law enforcement and immigration officials because they have been profiled as a possible trafficking victim or undocumented migrant, may be particularly reluctant to engage with authorities.

Compounding this is the fact that migrants, who have previous experience of being targeted by law enforcement and immigration officials because they have been profiled as a possible trafficking victim or undocumented migrant, may be particularly reluctant to engage with authorities. Lydia described a friend who had multiple experiences of being harassed when she was travelling abroad:

I guess like a lot of indigenous people in colonised places, their whole family is really poor, and people don't expect them to be able to travel and stuff. So they're always getting stopped at borders... and yeah so they have heaps of anxiety around that and they would never call the police.

Stigma, discrimination and peer support

The precarious legal status of migrant sex workers also means that they experience an additional layer of stigma since they are breaking the law, whereas other sex workers are not. This may mean that some migrant sex workers isolate themselves and do not benefit from peer support and information sharing with other sex workers. As Michelle explained:

That fear that you would get caught working illegally and be deported which is like a huge consequence. It's a terrible thing to have to face just because you're doing sex work. And I think that there is kind of stigma to them, like it sets migrant workers aside as they're doing something illegal and the rest of the girls working in the brothel weren't doing something illegal... And also I think... yeah, it makes them less likely to insist on their rights at work being respected.

Migrant sex workers may isolate themselves because they fear that New Zealand born sex workers will inform on them if they become aware of their immigration status. Annah Pickering noted:

We've even had New Zealand-born sex workers who can be really racist and will [...] inform authorities because there's a way migrant workers market themselves—they're very industrious and I find that the New Zealand-born sex workers feel threatened by them.

At the same time, many stand in solidarity with migrant sex workers, if they are experiencing exploitation. Annah Pickering recalled a situation in which a migrant sex worker was supported by New Zealand-born sex workers when they became aware of her situation:

There was these people that were running a commercial brothel in the city and they also had a private establishment in a residential area. They had some migrant workers working at the residential brothel [and] on this particular night one of the workers from the residential brothel got asked to go to the commercial brothel. There were Kiwi workers working in that brothel and she ended up telling them she had been here for you know this amount of time and that she didn't have access to her passport and the owners of this brothel were withholding her passport. And so the Kiwi sex workers, when they heard her story, they were like 'Fuck, you need to ring the police'. With the worker's consent they rang the police, the police came to that brothel and then it just got the ball rolling. That woman she got her money back and she got her passport and then she returned home... I remember the Kiwi workers they just said to me it just blew them away, they were like 'Who the fuck are these people to do that? How dare they do that to her!'

Barriers to reporting

The New Zealand-born sex workers in the case detailed above were clearly shocked to learn of what they considered to be a completely unacceptable situation, perhaps due to the normalisation of sex worker rights under the PRA and

Michelle explained what she would do if she encountered a migrant sex worker who had been exploited: I think that my first reaction would have been to offer to take them here to the NZPC.

an expectation of decent workplace conditions, at least to some extent. However, while this situation had a positive ending,

there is a possibility that contacting police in such a situation could have unintended negative consequences for the migrant sex worker, particularly if they wished to stay in New Zealand. The sex workers interviewed for this project did not feel confident that they would be able to contact the police if a migrant co-worker had experienced exploitation, and they would only contact NZPC. Michelle explained what she would do if she encountered a migrant sex worker who had been exploited:

I think that my first reaction would have been to offer to take them here to the NZPC. I know that the NZPC has resources and

other languages and has workers who can communicate with people who don't speak English. So I think that that would have probably [been] my first move. I think if they felt like they were in real danger I would have let them know that the police wouldn't be horrible to them, but I don't know how likely I would have been to recommend that because of the possible consequences of deportation which, if someone's here on a working holiday, it doesn't seem like such a big deal, but then there's the flow-on effects—if you've been deported from one country for doing sex work you might not be able to get into other countries, it could affect your whole life and all of your options for travel.

Similarly, Amy didn't feel confident that the police would be able to help someone who was working in sex work illegally and said that she would be reluctant to suggest contacting police because 'they will get in trouble [...] the policeman will take them'. When asked what the consequences would be, Amy replied that 'probably they would say "You can't work here—you can't work and you need to go back to your country"'.

Surveillance and control

Migrant sex workers also live with the constant possibility of being identified by authorities in the course of their work.

In addition to facing barriers to reporting adverse experiences, migrant sex workers also live with the constant possibility of being identified by authorities in the course of their work. While brothel raids are not commonplace in New

Zealand, raids are carried out by Immigration New Zealand officials intermittently. Participants also described instances of sex workers being questioned at the border when trying to enter New Zealand, a practice that has also been identified in an Australian study.³² Furthermore, one participant described Immigration officials reviewing the online adverts of sex workers and comparing with social media profiles in an attempt to identify individuals who may be working illegally. Annah Pickering explained:

I've dealt with a migrant worker who was advertising online through [an online platform] and Immigration New Zealand have been going through, they sent her a letter showing her ad and saying you have lied and you've been advertising here, we can prove it because on your Facebook, your Instagram—this is

³² S Pickering and J Ham, 'Hot pants at the border: Sorting sex work from trafficking', *British Journal of Criminology*, vol. 54, issue 1, 2014, pp. 2–19; L Armstrong, 2014.

you... She challenged it but Immigration New Zealand said to her if you don't get out of the country we'll give you this time, if you don't get out at this date [...] we're going to serve you a deportation liability notice. So she ended up negotiating with them that she has a return ticket to her country of origin and she won't come back here.

Media reports of Immigration New Zealand activity in relation to sex work indicate that such enforcement activities have not, so far, identified any victims of trafficking. In 2007 six brothels were raided in Auckland by police and Immigration officers, accompanied by a film crew from the reality television series 'Borderline'. In one of these raids a client jumped to his death from a window to avoid being identified. While it was said that police were present for the raid in case any victims of trafficking were identified, a spokesperson for Immigration New Zealand said that the raids were 'aimed at ensuring prostitution and immigration regulations were not being broken'.³³

Since then, further raids have taken place involving Immigration officers and/or police. In 2012, it was reported that eight brothels were raided and officials located 21 sex workers who were working illegally. Two elected to leave the country voluntarily and 19 were served with Deportation Liability Notices.³⁴ A brothel raid in 2014 did not identify any victims of trafficking or underage sex workers but resulted in three sex workers being served with Deportation Liability Notices.³⁵

The prohibition of migrants engaging in sex work has created a contradictory context in which New Zealand-born sex workers enjoy the benefits of a work context that is characterised by openness and transparency, while migrant sex workers are essentially forced 'underground' and are vulnerable to exploitation and violence as a result. New Zealand's policy of decriminalisation has been proven to be a successful policy;³⁶ however in excluding migrant sex workers it does not go far enough and it is fair to say that **the current policy creates conditions that are conducive to trafficking, rather than protecting against it.** The predicament of

The prohibition of migrants engaging in sex work has created a contradictory context in which New Zealand-born sex workers enjoy the benefits of a work context that is characterised by openness and transparency, while migrant sex workers are essentially forced 'underground' and are vulnerable to exploitation and violence as a result.

³³ B Fawkes, 'Police banned from brothel raids', *The Dominion Post*, 21 February 2009, retrieved 12 April 2017, <http://www.stuff.co.nz/national/1752325/Police-banned-from-brothel-raids>.

³⁴ L Tan, 'Immigration raids catch 21 illegal sex workers', *New Zealand Herald*, 26 April 2012, retrieved 20 June 2017, http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10801461.

³⁵ Stuff NZ (no author), 'Brothel raid sparks court action', *Stuff NZ*, 30 May 2014, retrieved 14 May 2017, <http://www.stuff.co.nz/national/10103579/Brothel-raid-sparks-court-action>.

³⁶ Armstrong, 2016; Abel, Fitzgerald and Brunton, 2007.

migrant sex workers in New Zealand also has implications for how NZPC responds to cases of exploitation.

Responding to Exploitation: NZPC's role and approach

As an organisation that was established by and for sex workers 30 years ago, NZPC has a deep commitment to sex workers' rights and occupational health and safety. This commitment is evidenced in the years of work they committed to decriminalising sex work, in addition to the numerous other ways that they support sex workers' right to reasonable and fair working conditions on a daily basis. NZPC therefore has a significant role to play in responding to the diverse array of exploitative practices encompassed under the trafficking 'umbrella'.

Insider status

NZPC are 'insiders' rather than outsiders and, as a consequence, sex workers and others involved in sex work are likely to share information with NZPC that they would not be willing to share with an organisation that is not part of the community.

The unique value that NZPC brings in responding to exploitation in sex work is that they are part of the sex worker community. They are therefore insiders rather than outsiders and, as a consequence, sex workers and others involved in sex work are likely to share

information with NZPC that they would not be willing to share with other organisations. While I was in NZPC doing an interview, a brothel operator came in and took away resources in different languages that NZPC has developed for migrant sex workers, and disclosed that he has sex workers working in his business who are not from New Zealand. Recalling this interaction, Catherine Healy explained:

An operator at a brothel has just disclosed that he has three workers and felt able to talk about it... who are clearly from another part of the world and then he was able to take some resources and that he knows are targeted at migrant workers—that's trust... That's someone who could actually lose their operator's certificate for hiring migrant workers and is telling us something very sensitive and that's kind of the difference [to outsider agencies]... we're of these communities... We're more insiders than outsiders. And insiders usually share stuff [with other insiders].

NZPCs insider role as a peer-based organisation also means that sex workers are more likely to disclose concerns and adverse experiences to them than other organisations. Their role is particularly important in the context of supporting

migrant sex workers who may fear authorities such as police either because of their precarious legal status, or because of their previous experiences with police in their home countries. Annah Pickering noted:

Some of our migrant workers come from countries where, you know, there's police corruption and immigration corruption and stuff like that... Migrant workers will trust our word, yeah, than over someone like in authority.

All four of the sex workers who were interviewed for this project said that NZPC would be their first port of call if they experienced exploitation or violence, or if they encountered a sex worker who was being exploited. Danielle explained that NZPC's insider status and the work that they undertake is sometimes criticised by prohibitionists who accuse NZPC of supporting exploitation by developing resources for sex workers. She felt that NZPC would be very concerned if they became aware of a trafficking case, noting:

If something happened I think the NZPC would be incredibly supportive to the worker. I mean because they are already, I suppose in some ways, putting themselves at risk by producing information for foreign workers and especially in Auckland by producing information in Chinese... like the anti's will jump on that kind of thing and say 'Oh the NZPC supports trafficking'... It's not, it's just a case of trying to make sure that everyone has access to information that can keep us safe.

The external key informant interviewed also valued NZPC's insider status, explaining that because of this NZPC has unique insights into what is going on in sex work that other organisations are not privy to:

I think Catherine has got, and the people she works with because all her folk are spread around, she is going to hear what is happening quite a bit... They are in all those places that the rest of us are not.... they're going to hear better than the rest of us... more of an opportunity in knowing what's going on.

This also means that they know how to handle problematic situations in which sex workers may be experiencing challenges but have difficulty addressing them, particularly when they wish to continue working at a certain establishment and do not want to damage their relationship with management by making a complaint. An initial strategy for NZPC, depending on the individual situation, is to use an indirect approach to maintain lines of communication with operators—attempting to educate in the first instance, providing an opportunity for the operator to improve their practices. Catherine Healy noted:

We might speak directly to the operators and sort of say look you know 'We don't know if this applies to you or not but we're just saying this [to] everyone'. So it's sort of general approach that there possibly could be a crackdown on how people are managing their staff. So, you know, plant awareness of malpractices and point out that there could be a repercussion.

Challenging exploitation and resolving conflict

When sex workers do wish to use official channels to challenge exploitation, the decriminalised framework means that their complaints are taken seriously by authorities.

Maintaining relationships with brothel operators was considered key since this ensures that communication is actually possible when problems do arise. The interviewed sex workers were also very

clear that NZPC could help them in such situations, by putting pressure on operators on their behalf; like Danielle who explained that if she was fined by an operator, she would contact NZPC because 'I know Catherine is quite capable of putting a bit of pressure on'. The self-determination of sex workers is fundamental to NZPC's approach, which is always driven by what the sex worker wants. For example, while immediately going through official complaint processes is sometimes not the most appropriate response if a problem could be solved informally, if this is what the sex worker wants then NZPC always respects these wishes. Catherine explained:

It does depend [on] what the sex worker wants. We can't override what the sex worker says. [If they say] 'No damn it I want to go straight to the authorities to address this' then that's what we've got to do.

NZPC has also built important relationships with other organisations which can help in such situations, such as Medical Officers of Health who have appropriate knowledge and expertise. They can alert other officials and work with them to formulate a response. For example, NZPC was receiving complaints from sex workers regarding other sex workers offering unsafe sex practices. NZPC worked with the Medical Officers of Health to develop a non-threatening response so that they could contact brothel operators.

When sex workers do wish to use official channels to challenge exploitation, the decriminalised framework means that their complaints are taken seriously by authorities. This is well-evidenced by a 2014 case in which a sex worker, who was supported by NZPC, won a case she had pursued through the Human Rights Tribunal against a brothel owner who had sexually harassed her. The decision of

the tribunal stated that it was not acceptable for the owner of a brothel to use sexual language when communicating with sex workers and ordered the owner of the brothel to pay the 22-year-old woman NZD 25,000 (around USD 21,000 at the time) in damages.³⁷

Developing sex worker rights ‘champions’

The relationships that NZPC has with other organisations are vitally important for facilitating responses to exploitation of migrant sex workers, and would be particularly important if there was a case of human trafficking.

To ensure NZPC can rely on authorities to respond appropriately to sex workers who are experiencing challenges, they work to develop ‘champions’ in organisations who can be called on when needed, and who can also

strengthen institutional knowledge within their own organisations of the best approaches to supporting sex workers. Danielle had been threatened by an ex-partner that he would out her to her family if she did not do what he wanted her to do. She confided in her manager at the time who connected with NZPC. She explained:

My then manager [...] liaised with NZPC and found out the name of a sex work friendly police officer and I went and spoke to him and he was incredibly supportive.

The relationships that NZPC has with other organisations are vitally important for facilitating responses to exploitation of migrant sex workers, and would be particularly important if there was a case of human trafficking. NZPC’s ability to respond to migrant sex workers who experience exploitation is hamstrung by the current law, which means that although migrant sex workers will approach NZPC with problems, they are often very reluctant to take the complaint any further and approach NZPC because they simply want to tell someone about their experience. However, the strong connections that NZPC has with individual sex worker ‘champions’ in governmental organisations means that if a sex worker is willing to make an official report, they are sometimes able to manage this to ensure there are no adverse consequences. Lydia recalled a migrant sex worker who had been helped by NZPC after she had been sexually assaulted, explaining:

³⁷ M Duff, ‘Sex worker gets \$25,000 over harassment’, *The Dominion Post*, 28 February 2017, retrieved 28 July 2017, <http://www.stuff.co.nz/business/industries/9777879/Sex-worker-gets-25-000-over-harassment>

She was worried about immigration and went to NZPC and they helped her. They helped her, like, they talked to the police and then they got the police to talk with her without putting her at risk... like, she didn't end up getting deported or anything... so I think that NZPC are really good at managing that stuff.

Partnerships, and outreach services

NZPC also brings other organisations to deliver services to sex workers under NZPC's sex worker-focused framework. For instance, confidential, free sexual health services are provided which brings many sex workers into the organisation in the first instance. In Auckland, advisors from the Work and Income³⁸ provide a satellite clinic for sex workers who are managing significant challenges in their lives. Annah Pickering noted:

... Like here in Auckland we have, you know, Work and Income are here today... they do social benefits and social housing. So we have developed a relationship with government agencies that can assist our community.

NZPC also provides outreach services to sex workers, including in other parts of the country where there is not a community base. This is particularly important for some migrant sex workers who are known to move around the country, either touring to maximise their income, or to stay a step ahead of the authorities. Outreach services are also important for migrant sex workers in the major cities, and in Auckland, NZPC has a dedicated project, the Migrant Education and Information (MEI) project, which is coordinated by a Mandarin and Cantonese speaking peer educator. The Migrant Community Liaison explained:

Sometimes they find [it] hard to access our office, most of the migrant... they don't know how to get there, even they don't know how to drive... they don't know how to come into us and we just go out and meet them, let them know what is the NZPC... The organisation support all the sex worker and because most of the Chinese worker they not much good English, [w]hen I work here I let them know what NZPC is [and that] we can help them, support them, they can report a crime, the NZPC can on behalf of them to report to the policeman.

³⁸ Work and Income forms part of the Ministry for Social Development and is the organisation responsible for providing financial assistance to people in unemployment.

Developing resources

Developing resources is also an integral part of NZPC's work to address exploitation in sex work. Most often these resources are developed with current sex workers, such as the 'All Business Code of Conduct', which sets guidelines for acceptable conduct and practices in sex work businesses. NZPC can also assist brothel operators to implement this code of conduct.³⁹ The organisation also develops resources in partnership with other organisations, such as a leaflet developed with Immigration New Zealand which provides advice in numerous languages for sex workers who have their passport or wages withheld.

Supporting people who want to stop with sex work

Given that NZPC is committed to sex workers' self-determination, they also fully support anyone who wishes to leave sex work. While participants thought that most sex workers did not require any specific help to leave sex work, for those who do require assistance, NZPC helps them to contact Work and Income to access financial assistance. NZPC will refer sex workers to other services, such as a faith-based refuge for people who are leaving sex work, if this is of interest. Catherine explained:

We describe that place in neutral language and say that 'there's a place where you could stay if you wanted' and that 'it is faith-based and that may or may not be an issue for you. And they will assist you to do other things if that's what you would like' ... We recognise this organisation has a particular ideological approach but we also recognise that sex workers have variable ideological approaches as well.

Supporting young people's safety

A significant strength of NZPC is its commitment to supporting everyone involved in sex work—regardless of their immigration status or their age—to be as safe as possible. For young people who become involved in sex work, this means addressing their immediate needs and circumstances. As Annah Pickering explained:

When I ask young people 'why are you here, why are you working?', they won't actually say 'I'm sex worker - I'm happy and I'm proud'... it will be stuff like 'I need to survive, I need to eat'... With young people I always make sure that, you know, have they got clothes, have they got food, have they got a safe place to sleep.

³⁹ See <http://www.nzpc.org.nz/For-Brothel-Operators>.

The most helpful approach to responding to young people who are being paid for sex was to provide them with practical assistance which would help to alleviate their immediate economic needs and strengthen their support system.

It was felt by research participants that defining young people involved in sex work as victims of trafficking was an unhelpful response since they are usually in this situation because of immediate economic needs, sometimes having run away from home or state care. Danielle felt that automatically defining young

people as victims of trafficking was unhelpful because it could mean that organisations are reluctant to provide practical information that can help to keep the young person safe, noting:

Taking the sort of hands off 'Oh no, no, no sorry we can't help you, can't have anything to do with you because we don't want to be done for trafficking'...that's completely unhelpful.

Similarly, Lydia noted:

Calling them 'trafficked' doesn't help. Like calling them 'homeless' and calling them 'not having a family that they can rely on', that would be better.

Instead it was agreed that the most helpful approach to responding to young people who are being paid for sex was to provide them with practical assistance which would help to alleviate their immediate economic needs and strengthen their support system. This was thought to be an approach that NZPC was modelling. Danielle noted:

I think that coming in heavy handed and telling someone that the choice that they're making is totally wrong is going to alienate people who you could be helping. If you approached it in a more supportive, respectful way, say 'what can we do to help you' and inquire into the reasons why they're doing sex work, inquire into their circumstances... I think that being open-minded and non-judgemental and figuring out ways you could tangibly support them, yep which is stuff that in my experience the PC does really well.

While the NZPC are committed to providing practical support to young people who are involved in sex work, they are also strongly committed to enabling access to justice for young people who are exploited. Annah Pickering noted:

On the streets, you know there's some adults who can be very exploitative... when that's happening... I always say to them 'these are your rights, this is your rights under the law. What do you want to do about it, because we can tell the police and you know get these people put away'. And here in Auckland I've dealt with some cases that we've had people put away who have exploited young people.

Telling someone that the choice that they're making is totally wrong is going to alienate people who you could be helping.

NZPC therefore plays an incredibly important and unique role in working with sex workers to challenge exploitation. Their key strength is that they are a peer based organisation, they are sex industry

insiders and therefore they are most likely to be trusted by others involved in sex work, and they are also ideally positioned to provide services and develop resources that sex workers will have access to and will benefit from.

Trafficking, Exploitation and the Decriminalisation of Sex Work

It is well documented that decriminalisation has had positive impacts in terms of strengthening options for sex workers to challenge exploitation.⁴⁰ The decriminalisation of sex work arguably has important implications for protecting against trafficking. As Catherine Healy noted, decriminalisation has changed expectations of what is acceptable in sex work:

Decriminalisation means that people have a higher expectation of things working well and working properly and that, you know, they shouldn't be coming across situations that are appearing to be unfair or dangerous without a sense that they could do something to put it right. So there's an expectation that things can be put right and that means that you tend to get people who blow the whistle. You know 'who can I tell?' is the first response instead of what we used to hear [before decriminalisation], like well 'there's nothing we can do about it'.

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exploitation or perceive unfair treatment of others. This is well-evidenced by the story told by Annah Pickering earlier in this chapter of a migrant sex worker who was supported by New Zealand-born sex workers who were outraged to learn that she did not have access to her passport. New Zealand's decriminalised framework also means that clients can speak to authorities more easily if they are concerned that a sex worker may be exploited. Calum Bennachie noted:

It often means that clients are more willing to speak out if they suspect a case of trafficking. Because of the illegality beforehand the clients wouldn't really speak out, would they, they wouldn't say much at all because they wanted to remain completely anonymous then, even though they weren't the criminals. Whereas now they're more likely to speak out and report something that they suspect is trafficking.

The assertion that clients are aware of the potential for exploitation, and are concerned about the wellbeing of sex workers, is supported by Amy's experience who explained that as a migrant sex worker she had been asked by clients before providing a service whether she is compelled to work, noting:

Um yeah some client will think you forced to work... They just say to you 'has anyone made you do this?'... I will tell them I'm not being forced and that I think it's a job for me and I do and I enjoy it and um it help me save money. It's good...

NZPC, too, have received phone calls from clients who are concerned about the welfare of migrant sex workers. Annah Pickering explained:

Clients who pay for sex, you know there's good and bad clients and then there's some clients who almost take it upon them to be a social worker, you know, for sex workers because [...] they have this huge endearment towards a sex worker and particularly for some of the migrant workers... a client who pays for sex that has gone into an establishment and has, you know, paid a migrant worker and then she has told him stuff that's happening in there. That client will actually ring NZPC and will say 'look, I'm really concerned, I went to this establishment... I'm really concerned about what's going to happen here.'

Thus, decriminalisation has undoubtedly created an environment of openness and transparency that may help protect against trafficking to some extent. However, it is vital that this is further strengthened by, at the very least, extending rights to migrant sex workers who are holders of temporary permits. Participants expressed

frustration with the current policy which means that decriminalisation has provided better conditions for some but not all sex workers. Lydia explained:

It's really really racist actually to have like the different set of laws, you know, and so like that's really terrible discrimination... people should have equal rights. Yep it just seems really discriminatory and racist and dangerous to make them illegal. So I think they should have the same rights as anyone else and I think if you look at it like the same rights as any other migrant workers then that's a huge step forward.

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The current context in New Zealand is therefore a contradictory one. On the one hand, the decriminalisation of sex work is a protective

factor against the exploitation of sex workers, since they have the right to challenge exploitation. However, the policy which prohibits migrant sex work means that not all sex workers fully benefit from decriminalisation. Migrant sex workers are rendered more vulnerable to exploitation which creates conditions in which trafficking could conceivably occur. While no cases of trafficking into sex work have been identified to date, the vulnerability of migrant workers within the current policy framework means there is no room for complacency. Further change is required to better protect against the exploitation of migrant sex workers in New Zealand.

Conclusions and Recommendations

This report explored perceptions and experiences of exploitation and anti-trafficking tactics, and the NZPC's response to these issues within New Zealand's current legislative framework. The findings indicate that although there is currently no evidence of trafficking into sex work in New Zealand, the existing policy which prohibits temporary migrants (including those with valid work visas) from engaging in sex work creates a vulnerability for the exploitation of migrant workers, including a risk of trafficking. NZPC plays a crucial role in assisting sex workers who have experienced different types of exploitation; however, their capacity to support migrant sex workers is hamstrung by this existing policy. To address this vulnerability and strengthen protection from exploitation, the overall recommendations of this research are:

To the New Zealand government:

1. Establish an inter-departmental committee led by Immigration New Zealand and comprised of a range of key stakeholders including police, the Human Rights Commission, the Ministry of Justice, the Ministry of Women, NZPC and other relevant non-governmental organisations as soon as possible to review the impacts of the current policy on migrant sex work, with a view to changing the law to end this discriminatory policy.
2. In the interim, establish a formal firewall between immigration officials and those who have a responsibility to protect sex workers (such as police), to ensure that sex workers who are working illegally can always report crimes that they experience and access justice without any risk of repercussions.
3. Actively promote the decriminalisation of sex work as a best practice model from which other countries can learn. However, in doing so it should also be recognised that the exclusion of migrant sex workers is a limitation of the current framework which can be improved on through extending the policy to better protect the human rights of all sex workers.

To anti-trafficking organisations:

1. Recognise sex work as a form of work and acknowledge that supporting labour rights is integral to protecting against exploitation, including risks of trafficking. As such, anti-trafficking groups should revise the language they use and refer to labour exploitation instead of sexual exploitation when they are referring to exploitation in the context of sex work.
2. Support NZPC in identifying and calling attention to the harms caused by enforcement of the existing law which prohibits temporary migrants from working in sex work. Stand in solidarity with sex workers in calling for the repeal of this discriminatory clause, and other forms of discrimination against sex workers.

To donor organisations:

1. Identify representative groups of sex workers and organisations to fund who work on community empowerment and human rights.

Lynzi Armstrong is a Lecturer in Criminology at Victoria University of Wellington, and a passionate advocate for the rights of sex workers. Over the past 10 years she has been researching and writing on sex work in New Zealand. Her PhD research, which has been published in several international journals and edited books, focused on the management of risks of violence among street-based sex workers. Her current research focuses on exploring how stigma and discrimination manifest for sex workers in the context of diverse legislative frameworks.