

The New Zealand model: protecting the safety, rights and health of sex workers

A BRIEFING summary

from SCOT-PEP

This is the summary of a longer briefing note on the same issue, available on [our website](#)

New Zealand decriminalised sex work in a single act of legislative reform in 2003; New South Wales, in Australia, achieved decriminalisation in 1995 through a series of small reforms. Since then, this has been come to be known as the ‘New Zealand model’, and has been praised by women’s rights organisations, human rights organisations, and international bodies like the UN and WHO as the best legal approach to protect the safety, rights, and health of people who sell sex.

The New Zealand model repealed the existing penalties for offences such as soliciting and brothel-keeping, and replaced them with laws that were designed with sex workers to protect their safety, health and rights. These new laws include:

- the requirement for brothel managers to be licensed in order to ensure that they have not been convicted of any serious offences, such as violent crimes or sexual offences;
- the requirement for brothel managers to adhere to labour laws such as the occupational health and safety guidelines that were written in consultation with sex workers, and which include (for example) the rule that managers must always provide ample safer sex supplies;
- the right for small groups of sex workers (up to four people) to work together in an informal co-operative, meaning sex workers are legally allowed to work together for safety without needing a manager;
- the right for any sex worker to refuse any client for any reason at any point in the transaction without facing penalties from a manager; a law which emphasises that New Zealand treats sex workers’ consent as crucial; and

- the right for any person to leave sex work and access social security immediately, without having to be subject to the waiting period penalty that they would have if they had ‘voluntarily’ left another job.

The New Zealand model has made sex workers safer from violence and exploitation.

Prior to the 2003 law, street-based sex workers and their clients were at risk of arrest, and so women had to work in isolated, unlit areas to avoid detection. Indoor sex workers were forced to work alone or risk arrest as a result of brothel-keeping laws, and sex workers who worked for a manager were not protected from harassment or exploitation, because labour laws didn’t cover their workplaces. The New Zealand model has meant that both street-based and indoor sex workers can work with friends, and no longer have to hide from the police – making workers less vulnerable to violent individuals. Sex workers who work for a manager are now protected by employment laws that cover workplace safety and forbid harassment.

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The New Zealand government conducted an evaluation into the success of the law in 2007, and discovered that sex workers were indeed using the rights that the 2003 law had sought to protect. Sex workers who are employed by managers report that, as a result of the law, they feel more able to refuse a client, and that they now expect – and receive – support from their managers in doing so¹. Over 90% of sex workers contacted in the evaluation stated that they felt they now had employment rights, health and safety rights, and legal rights². That includes street-based sex workers, of whom 90% said they felt they had employment rights, and 96% said they felt they had legal rights³. Finally, where sex workers' rights are infringed, they now have the backing of the courts: a sex worker in New Zealand took her manager to court for sexual harassment – and won – with the judge commenting: 'Sex workers are as much entitled to protection from sexual harassment as those working in other occupations'⁴. This would not be possible in a criminalised workplace.

The New Zealand model is the best in the world for protecting the health of sex workers and communities.

The New Zealand model is cited by prestigious UK medical journal The Lancet – as well as the World Health Organization – as crucial for tackling HIV and supporting sex workers' access to healthcare and associated human rights. One Lancet study suggested that decriminalisation could reduce new HIV infections by 46% within a decade⁵; and the WHO has stated 'all countries should work toward decriminalization of sex work'⁶. Beyond the issue of HIV, sex workers in New Zealand report that the law is good for their mental health, 'allowing them to feel supported and safe'⁷.

1 <http://www.otago.ac.nz/christchurch/otago018607.pdf>, p12

2 <http://www.otago.ac.nz/christchurch/otago018607.pdf>, p139

3 ibid

4 <http://ohrh.law.ox.ac.uk/sex-workers-equally-protected-from-sexual-harassment-as-other-workers-says-new-zealand-case/>

5 [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)60931-4/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)60931-4/abstract)

6 http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf, p8

7 <http://www.otago.ac.nz/christchurch/otago018607.pdf>, p13

8 <http://www.otago.ac.nz/christchurch/otago018607.pdf>, p35 – 36

9 <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/13-trafficking>

10 http://www.gaatw.org/publications/MovingBeyond_SupplyandDemand_GAATW2011.pdf, p45

11 <http://www.otago.ac.nz/christchurch/otago018607.pdf>, p6

There has not been an increase in sex workers nor trafficking in New Zealand – and there seems to have been a decrease in managers.

One of the concerns about the law was that it would lead to an increase in the number of people working as sex workers in New Zealand. This has not transpired, with the number of sex workers remaining the same as prior to the law⁸, and trafficking into the sex industry practically unknown⁹. The Global Alliance Against Traffic in Women notes that 'decriminalising sex work has the potential to assist anti-trafficking efforts... Sex workers would be more enabled to practice their rights and feel safer about reporting concerns'¹⁰. Conversely, because the law means that sex workers can work with small groups of friends – safely and convivially, without fearing arrest – the New Zealand government's evaluation of the law revealed that decriminalisation has led to a decrease in larger commercial brothels, and more sex workers deciding to work with a friend, rather than for a manager¹¹.

It's not about 'encouraging' sex work, it's about the safety of people who sell sex.

There is no legal model anywhere in the world that has been shown to increase or decrease the number of people who sell sex: all that laws can change is whether people do sex work in safe or dangerous conditions – and the New Zealand model is the legal framework that best ensures safety. Laws that uphold safety were supported by the majority of the Scottish public in polling undertaken on behalf of SCOT-PEP by Survation in 2014, with 68.5% backing decriminalisation, and 86.8% agreeing that sex workers should be able to work together for safety without facing arrest.



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