

New Zealand's *Prostitution Reform Act:* An Effective Model of Sex Work Law Reform

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The New Zealand *Prostitution Reform Act* (PRA) of 2003 is an excellent example of how criminal law reform can “safeguard the human rights of sex workers.”ⁱ Prior to the enactment of the PRA, New Zealand’s prostitution laws were very similar to Canada’s. Prostitution itself was not criminalized, but virtually all activities associated with sex work were, such as soliciting in public, living on the avails, operating a brothel and procuring. Under this criminalization regime, New Zealand sex workers were extremely vulnerable to coercion and violence.ⁱⁱ

Key elements of the legal framework in New Zealand

As of 2003, the PRA decriminalized consensual adult sex work by removing criminal prohibitions against solicitation, living on the avails of adult sex work and operating indoor venues where sex work takes place. The PRA put the following prohibitions and regulations in place to regulate health and safety within the industryⁱⁱⁱ. The input of sex workers was central to these law reforms:

- Prohibitions on prostitution of persons under 18 years of age: It is an offence to arrange for or to receive commercial sexual services from a person under 18. Likewise, it is an offence to receive payment for the commercial sexual services of a person under 18.^{iv}
- Protections for sex workers: It is an offence to induce or compel persons to provide commercial sexual services or earnings from prostitution.^v
- Brothel operator certification system: Every operator of a prostitution business must hold a valid operator’s certificate. However, small owner-operated brothels, which have no more than four sex workers and where each individual sex worker retains control over their earnings, are not required to have an operator’s certificate.^{vi}
- Protections for persons refusing to work as sex workers: Refusal to work as sex worker does not affect entitlements to unemployment insurance.^{vii}
- Prostitution Law Review Committee: This Committee of eleven members appointed by the Minister of Justice was charged with reviewing the PRA’s operation three to five years after its enactment and determine whether the Act was achieving its purpose.^{viii}

ⁱ New Zealand Ministry of Justice. *Prostitution Reform Act 2003*. <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-reform>

ⁱⁱ Plumridge L and Abel G (2000) *Services and information utilised by female sex workers for sexual and physical safety*. *New Zealand Medical Journal* 113: 370–372; Plumridge L and Abel G (2001) *A ‘segmented’ sex industry in New Zealand: Sexual and personal safety of female sex workers*. *Australian and New Zealand Journal of Public Health* 25: 78–83.

ⁱⁱⁱ <http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/sex-industry-a-guide-to-occupational-health-and-safety-in-the-new-zealand/sexindustry.pdf>

^{iv} PRA s. 20.

^v PRA s. 16.

^{vi} PRA s. 34.

^{vii} PRA s. 18

^{viii} PRA, s. 42 – 46

Impact of the New Zealand Prostitution Reform Act (PRA)

The Prostitution Law Review Committee, appointed by the Minister of Justice, made the following findings when assessing the impact of the PRA:

- **Number of Sex Workers before and after the PRA:** The PRA did not result in any growth of the sex industry or any increase in the numbers of sex workers
- **Human Rights:** The PRA was found to have had a noticeable effect in safeguarding the following rights: the right of those under 18 not to be involved in sex work; the right of adults not to be forced to engage in sex work, including the right to refuse a particular client or sexual practice; and the right not to be subject to exploitative, degrading employment practices. Most recently in March 2014, the New Zealand Human Rights Tribunal awarded a sex worker sizeable damages for sexual harassment by a brothel owner^{ix}; this recognition of violence in the workplace would not have been possible in a criminalized industry.
- **Employment Conditions for Sex Workers:** Prior to the enactment of the PRA, the illegal status of the sex industry meant that sex workers were vulnerable to coercion and exploitation by managers, pimps, and clients. Research indicates that there has been improvement in employment conditions and a decrease in violence against sex workers.
- **Health, Safety and Well-being of Sex Workers:** Research has shown that, as a result of the PRA, sex workers were more empowered to demand safe working conditions and negotiate safer sex practices.^x Some sex workers continue to experience adverse incidents such as violence and abuse. However, their improved relationships with police meant they were able to access police protection, and have an increased ability to report violence to police.^{xi}
- **Street sex work:** Street sex worker continue to be a vulnerable segment of the industry, and Māori and transgendered people are over-represented in this population. As one would expect, law reform did not fully address the vulnerability of street-based workers so there are calls for increased supports to improve safety through more access to working in indoor locations and provision of relevant social programs for those seeking to stop doing sex work.
- **Trafficking:** New Zealand's tier ranking is still the highest (most favourable) Tier 1 ranking in the US 2013 Trafficking In Persons (TIP) Report, and has been ever since New Zealand was included in the report in 2004.^{xii}
- **Youth in Sex Work:** In New Zealand, it is an offence to arrange for or to receive commercial sexual services from a person under 18. The PRA did not increase the number of youth in sex work and it remains a small part of the industry.

Removing criminal laws against prostitution is an important step toward increasing health and safety for sex workers and for communities. Canada can look to New Zealand for leadership in the development of laws and policies that promote health, safety and human rights.

ix <http://www.nzlii.org/nz/cases/NZHRRT/2014/6.html>

x New Zealand Government. 2008. *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*. pp 58 and 151-152. <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/documents/report.pdf>

xi Report of the Prostitution Law Review Committee, pp.58 and 151-152.

xii <http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm>