

ARTICLE

No One Is Illegal on Stolen Land: An Anti-Racist Approach to Migrant Sex Work in Aotearoa New Zealand

ANONYMOUS*

This article takes a critical lens to the Prostitution Reform Act 2003. Section 19 of the Act bars migrants from engaging in sex work in Aotearoa—the only profession with this caveat. The justification for excluding migrant workers is deceitfully covered in feigned concerns about the safety of workers, but in this article, I address and analyse the racist roots of this legislation. The article’s title speaks to the intersectional framework through which this research is conducted, putting lived experience at the forefront of academia. Because academic and legal institutions are proximate to and privilege whiteness and cisheterosexism: Marxist feminist, intersectional and decolonial lenses recognise and uplift the theory of lived experience. Communities know themselves better than any law-making entity could and this is revealed throughout the article. Full decriminalisation of sex work is a feminist, abolitionist, racial and labour movement that impacts even those who think they are removed from such issues: someone you love is a sex worker and sex workers are in every community.

* BA/LLB, University of Auckland. To my beautiful whānau, immediate and chosen, for all their support and aroha. To my phenomenal supervisor and supporter, Dylan Asafo, for his steadfast solidarity, guidance and belief in me. To the communities that I am a part of and that I have spoken about: thank you for holding me, teaching me and fighting alongside me. Thank you to my stripper moms, my work wives and industry veterans. Thank you to the ancestral revolutionaries, sex workers and elder queers—particularly BIPOC and transfolk—for paving the way for the rest of us to follow. None of us are free until all of us are free: solidarity forever baby.

BLESSED ARE THE SISSIES
BLESSED ARE THE BOI DYKES
BLESSED ARE THE PEOPLE OF COLOR MY BELOVED KITH AND KIN
BLESSED ARE THE TRANS
BLESSED ARE THE HIGH FEMMES
BLESSED ARE THE SEX WORKERS
BLESSED ARE THE AUTHENTIC
BLESSED ARE THE DIS-IDENTIFIERS
BLESSED ARE GENDER ILLUSIONISTS
BLESSED ARE THE NON-NORMATIVE
BLESSED ARE THE GENDERQUEERS
BLESSED ARE THE KINKSTERS
BLESSED ARE THE DISABLED
BLESSED ARE THE HOT FAT GIRLS
BLESSED ARE THE WEIRDO-QUEERS
BLESSED IS THE SPECTRUM
BLESSED IS CONSENT
BLESSED IS RESPECT
BLESSED ARE THE BELOVED WHO I DIDN'T DESCRIBE, I COULDN'T DESCRIBE, WILL LEARN
TO DESCRIBE AND RESPECT AND LOVE
AMEN

—Mark Aguhar¹

I Introduction and Positionality Statement

I am a survivor. I am an abolitionist. I am a migrant to this country, tauwiwi. I am European. I am Indigenous. I am Asian. I am queer and trans. I am my ancestors' wildest dreams and my aunties' favourite Christmas-time disappointment. I am mixed. I am a student. I am disabled. I am a manifestation and continuation of generations of carceral trauma, and I swear I will free us all. I am a sex worker. I am incredibly privileged to be engaging with this area of the law for an academic exercise instead of bearing the brute of its very real everyday force.

My whiteness and proximity to white structures like academia and law school inherently limit my research. I have the privilege of being a citizen and a sex worker in mostly online spaces. I am perceived to be white, cis-gendered and able-bodied, which has undeniably benefitted me both in and out of sex work.

I come to this work with the interest of several communities I belong to. I come to this work using a Marxist feminist approach in that all work, under capitalist modalities, is inherently exploitative—and asking readers to consider why they do not care if I feel empowered making coffees and why it is so important that I feel empowered in my work. Empowerment in labour in this socio-economic climate seems like an illusion to placate the proletariat, late-stage capitalism's Hobson's choice.

This article discusses s 19 of the Prostitution Reform Act 2003 (PRA) by first interrogating its origins, then looking toward how the law has (or rather, has not) dealt with the issues imposed by this legislation, proposes solutions and finishes with a community-centric conclusion. My research motivations are to expose the racism

1 Mark Aguhar "Litanies to My Heavenly Brown Body" *Call Out Queen Zine* (online ed, Chicago, 1 July 2012) at 23.

underpinning s 19 of the PRA and its disproportionate enforcement, advocate for self-determination at the community level and apply critical race theory (CRT) alongside a prison abolitionist lens to explore possible solutions (preferably outside of the system). I am hoping to learn about how communities can uplift each other.

CRT refers to the body of scholarship borne out of commitment to anti-racism, particularly racism as it is institutionalised in and by law.² Abolitionist thinking is complimentary to CRT here as both schools of thought work within a tension described as a “radical critique of the law (which is normatively deconstructionist) ... and radical emancipation by the law (which is normatively reconstructionist)”.³ When I refer to the “system”, I am meaning the legal and punitive apparatuses that were introduced, maintained and entrenched by colonisation. This system was created by and solely for the demographic from which it was born, therefore, working within this system for the liberation of those whom it excludes seems at best like cognitive dissonance.

I am in conversation with academia. I am in conversation with Asian, queer and sex-working communities. I believe that communities are always best equipped to speak for themselves and can take care of themselves. I will cite sex workers as much as I can. It is important to note that publications from sex workers are not as accessible as other demographics due to the anonymised nature of the profession that stigma demands. Much of the literature used for this article speaks about sex work in binary language, but this should not be considered representative of all the genders who participate in sex work.

This research should be prefaced with the following clarifications. Sex work is work. Sex trafficking is trafficking. Language matters, words mean things, and their meanings are distinct from one another. The scope of this research is limited in that the broad and nuanced nature of sex work cannot be captured. Colourism in sex work and a hierarchy of sex work that is often heavily racialised are very real realities of our profession. Whorephobia is rampant even in the most self-proclaimed “leftist” of spaces and even within the sex work community. This research acknowledges that policing as a practice and the police as an institution are incapable of being divorced from their origins in colonisation and are, therefore, inherently racist. Even when police are called, the sex worker is never the person who is safe.

II The Racist Roots of the Legislation

An author writing under the name Bamboo posted on the blog Mellow Yellow: “No white supremacist colonising state is innocent from anti-Asian misogynist violence.”⁴

In June 2003, Aotearoa became the first country in the world to decriminalise sex work. This is celebrated as a win for human rights by sex workers and our advocates around the country and the world. However, alongside this law came racist, patriarchal and sexist attitudes spearheaded by a section of the legislation. David Ting highlights that “[t]his inequality is too often minimized by a nationalistic narrative that frames the PRA as a legacy of a ‘socially liberal country’ with a ‘human rights ethos’.”⁵

2 Derek A Bell “Who’s Afraid of Critical Race Theory?” (1995) 4 U Ill L Rev 893 at 898.

3 At 899.

4 Bamboo “Transnational Asian Grief and White Supremacist Patriarchal Violence” (20 March 2021) Mellow Yellow <<http://mellowyellow-aotearoa.blogspot.com>>.

5 David Allan Jun-Rong Ting “Understanding the experiences of migrant Asian sex workers in New Zealand: An exploratory study” (MA Thesis, University of Auckland, 2018) at 4.

Consider the following selected subsections of s 19 of the PRA:

- (1) No visa may be granted under the Immigration Act 2009 to a person on the basis that the person—
 - (a) has provided, or intends to provide, commercial sexual services; or
 - (b) has acted, or intends to act, as an operator of a business of prostitution; or
 - (c) has invested, or intends to invest, in a business of prostitution.

- (2) It is a condition of every temporary entry class visa granted under the Immigration Act 2009 that the holder of the visa may not, while in New Zealand,—
 - (a) provide commercial sexual services; or
 - (b) act as an operator of a New Zealand business of prostitution; or
 - (c) invest in a New Zealand business of prostitution.

- (3) It is sufficient reason for the Minister of Immigration or an immigration officer to determine that a temporary entry class visa holder is liable for deportation under section 157 of the Immigration Act 2009 if the Minister or the officer believes, on reasonable grounds, that the holder is engaged in any of the things listed in subsection (2)(a) to (c) of this section.

Section 19 directly targets migrant sex workers in a discriminatory way that has its origins in racist anti-immigration rhetoric, a moral panic that conflates trafficking with consensual labour and the policing of predominantly women of colour's bodies. This means that when migrant workers engage in sex work in Aotearoa, they are currently at the most risk of being exploited, not because sex work is inherently more exploitative than any other kind of labour but because the law does not extend its protections to them. Migrants with work permits are allowed to work in any industry except the sex work industry: "If someone [can] have a work permit to work in any other industry but not in a sex industry, I think that is discriminatory towards the industry itself."⁶

Dame Catherine Healy, founder of the New Zealand Prostitutes Collective, said that when the PRA was introduced:⁷

There was a perception that people would be trafficked from Southeast Asian countries, in particular, and somebody in their wisdom thought it would be sensible to say, "Well, no person can come to this country with the intention of being a sex worker."

Politicians capitalised on pre-existing anti-immigration and Sinophobic attitudes, framing migrant sex workers as "people coming into this country who should not be coming in", and pointing to the "unprecedented" number of international Asian students as a potential threat.⁸ Racism and the assumed paternal protectionism of the neoliberal state were key motivators in the prohibition of migrant sex work.⁹

6 Interview with Hannah, former sex worker and migrant (Alice Snedden, Bad News, The Spinoff, 11 August 2020). Note that a false name is used.

7 Interview with Catherine Healy, Founding Member of the New Zealand Prostitutes' Collective (Alice Snedden, Bad News, The Spinoff, 11 August 2020).

8 Ting, above n 5, at 11.

9 My usage of neoliberal here is in the leftist sense of the word: centre-slightly left virtue signalling. Neoliberal, as in socially liberal, but fiscally conservative: meaning that, under capitalist systems, being socially liberal but without any distribution of wealth can make no

Migrant sex workers occupy an inherently intersectional status because of their socio-economic sitting, race and language skills—meaning that the dominant white neoliberal settler system of law, and even its feminist opponents, often disregard this demographic.¹⁰ Manying Ip and Nigel Murphy discuss this in the below passage:¹¹

New Zealanders have prided themselves on being among the most enlightened political and social reformers. Historically, they upheld the rights of women, and ensured welfare for workers. Unfortunately, in the past, many of these enlightened policies specifically excluded the Chinese and other Asians.

The anti-immigration undercurrent in the PRA is reminiscent of early anti-Chinese immigration policies, creating panic around the perceived threat of Asian migrants and their labour, particularly around the time of the country's gold rush.



“The Yellow Peril” by Richard Goodall.¹²

material impact on the communities a neoliberal claim to be an ally to. As Joseph Schwartz of the Democratic Socialists of America states: “[n]eoliberalism is a form of capitalism in which the state deregulates the economy, destroys unions, decreases taxes on the rich and corporations, and defunds public goods, while repressing and policing the poor, particularly people of color.”: Brandon Richard “WTF Is Neoliberalism?” (20 April 2017) Democratic Socialists of America <www.dsausa.org>.

10 Rafaella Piyoti “Migrant Sex Workers and Intersectionality” *Women in War and International Politics* <www.wiwip-kcl.com>.

11 Manying Ip and Nigel Murphy *Aliens at My Table: Asians as New Zealanders see them* (Penguin Books, London, 2005) at 130 as cited in Ting, above n 5, at 4–5.

12 Richard Goodall “The Yellow Peril” *New Zealand Truth* (online ed, Wellington, 16 February 1907).

While there are Asian sex workers with migrant status, the racist hyper-sexualisation and fetishisation of Asian women contribute to the over-policing of these communities. Grace Yee captured this fetishisation:¹³

Chinese women in New Zealand, like their sisters in Australia, Canada and the USA, continue to be perceived as submissive, easy and eager to please, sexually available, and at the same time, as potentially threatening Others.

Asian migrant sex workers are called “deceptive, rip offs, not worth the money”—with some online platforms using loaded language like “here on tour” or “exclusive for one week”, hinting at migrant sex workers’ illegality—“the consequences of which are compounded for Asian women who already face assumed illegality and scrutiny”.¹⁴ The stratification of Asian migrant sex workers is described by Rafaella Piyoti:¹⁵

Asian sex workers are not considered upmarket and are working for less money compared to what Western, white sex workers earn Ultimately, this reflects the way women are positioned not only in the sex industry but in ... society as a whole.

III Criticism of the Failures of Law and Policy

Not being able to communicate in the ... language, coupled with the fear of law enforcement, doesn’t allow migrant sex workers to access their legal rights and they often find themselves unable to report violent incidents and harassment.¹⁶

The current legislation and its advocates claim that s 19 is focused on harm reduction around trafficking, but this ignores the lived reality of sex workers. Opponents credit these attitudes to:¹⁷

US anti-trafficking policies that conflate consensual sex work with trafficking influence other nations’ sex work laws, encouraging the criminalisation of migrant and street-based sex workers, clients, and most recently, their online platforms.

The way racism and white supremacy operate at the intersections of migrant status, Asian ethnicity, gender identity as a woman, and labour practices mean where it is no longer acceptable to be openly racist in policymaking, these demographics were instead seen as ‘in need of protection’. Furthermore:¹⁸

13 Grace Yee “Speaking as a Settler Chinese Woman in Aotearoa New Zealand: An ‘Utterly Charming Picture of Oriental Womanhood’” (2016) 42(1) *Hecate* 7 at 22.

14 Erin Tichenor “‘I’ve Never Been So Exploited’: The consequences of FOSTA-SESTA in Aotearoa New Zealand” (2020) 14 *Anti-Trafficking Review* 99 at 113.

15 Piyoti, above n 10.

16 Piyoti, above n 10.

17 Tichenor, above n 14, at 101.

18 European Sex Workers’ Rights Alliance “Migrant sex workers speak out” (speeches recorded at the seminar “Surveilled, Exploited, Deported: Rights Violations against Migrant Sex Workers in Europe and Central Asia” organised by the International Committee on the Rights of Sex Workers in Europe, 16 November 2016) YouTube <www.youtube.com>.

Migrant sex workers are working to support their children, families, and sometimes entire communities. And all the thanks they get is criminalisation and deportation The state has been committing human rights violations ... against migrant sex workers.

Migrant sex workers face disproportionate harm and discrimination because of their labour being made illegal. Working for brothels, strip clubs or massage parlours puts workers at the sole discretion of their employer and their employer's sense of fairness—who can leverage their illegal status above them. When migrant sex workers are threatened or exploited or experience violence, they are unable to report it to the police without the fear of deportation and further harassment.¹⁹ Working in establishments or for someone else also increases the visibility of workers and makes them more prone to raids by law enforcement. The current trafficking rhetoric that justifies s 19 works to undermine autonomy and makes workers more prone to raids. Asian sex workers, in particular, suffer because of xenophobic attitudes that are compounded by this law:²⁰

“[W]hether sex work is decriminalised, legalized, or criminalised”, migrant workers, sex workers of colour, street-based, and transgender sex workers still face greater discrimination, economic insecurity, and exposure to violence across multiple legal contexts. ... [T]he racialised policing of Asian migrant sex workers often leads to their deportation, *and* encourages operators to take advantage of their illegal working status under the guise of “protection” from law enforcement.

An international *Trafficking in Persons Report* sparked moral panic around the sexual exploitation and trafficking of women and children in New Zealand around 2006.²¹ In response, targeted raids of brothels suspected of employing migrant sex workers took place. From August 2006 to February 2007, across nine brothels, 31 people who identified as migrant sex workers were found: all were Asian, and none identified as trafficking victims.²² In 2018, Immigration New Zealand deported a Chinese international student working in a brothel along with 26 other Asian sex workers following another series of raids—espousing allegations of racial targeting Asian workers.²³ Tuariki Delamere, immigration advisor and former Minister of Immigration reiterated that the current law dictates police officers need a warrant to enter a brothel or place of service if they want to investigate the immigration status of its workers: “I am sure as hell nine out of 10 times the cops don't have one.”²⁴

19 This may appear contradictory to my earlier statements about the institution of policing; however, sex workers are not a homogenous group. Sex workers should be empowered to decide what courses of justice the individual seeks. Even though I think that the police are inherently racist and incapable of delivering justice, I can simultaneously hold the belief that: (1) any sex worker who does want to go to the police for justice should be empowered to do so, and (2) that the institutions of the police and the justice system should be criticised and improved within their confines so to maximise their ability to deliver the justice that the sex worker seeks. Until we explore and create truly restorative justice systems wherein police would not exist, in the material reality we are currently in, using the police is unfortunately somewhat unavoidable.

20 Tichenor, above n 14, at 103 (emphasis in original).

21 United States Department of State *Trafficking in Persons Report* (June 2006) at 189–190; and Ting, above n 5, at 14–15.

22 Ting, above n 5.

23 Lincoln Tan “Illegal prostitution crackdown: 27 Asian sex workers deported” *The New Zealand Herald* (online ed, 5 June 2018).

24 Tan, above n 23.

The other option for migrant sex workers is to work privately. However:²⁵

Migrant sex workers who work privately reported more concerning experiences. The majority of these workers stated that they feared clients threatening them with deportation. Private workers had experienced unsafe sexual practice, unwanted sexual activities, non-payment and rape under the threat of being reported to Immigration New Zealand.

Dame Catherine Healy confirms that the migrant status of sex workers makes them targets for threat and assault “because it’s known that they are migrants and that they are unlikely to report”.²⁶ A former sex worker and Asian migrant, Hannah, discussed her experiences in the sex industry: “It just puts people in vulnerable places if you need to work underground. ... If your clients know that you’re working illegally, they will try to take advantage of it.”²⁷

Section 357 of the Immigration Act 2009 states that any employer who exploits migrants, unlawful employees or temporary employees can be imprisoned for up to seven years and fined up to \$100,000. However, this legislation currently has no protections against deportation for unlawful workers, and the illegality of migrant sex work means that even when workers are exploited and want to pursue legal action against their employer, they face a myriad of barriers. Legal aid in Aotearoa is unavailable to migrants except for claims on a refugee basis. Shine, and other organisations aimed at uplifting and protecting women, will not help migrants.²⁸ This leaves exploited migrant workers with little to no legal protections that do not simultaneously endanger their visa status in Aotearoa.

Deportation to home countries because of illegal sex work can result in massive amounts of harm upon return. Deportations under s 19 of the PRA have been successfully resisted once, to the knowledge of one immigration lawyer in Aotearoa.²⁹ This was largely because the individual was trans and likely to experience violence upon deportation to their home country because of their gender. This was rationalised by the idea that sex work is a part of identity that is changeable, whereas transness is inherent.

Iain Lees-Galloway, New Zealand’s Minister for Immigration from 2017 to 2020, responded to the harm caused by the criminalisation of migrant sex labour with the following:³⁰

I will be frank. Migrant exploitation is a problem in New Zealand and we do need to tackle it across the board but there’s lots of work out there for people, they don’t have to work in the sex industry.

The defence of this discriminatory law makes evident the whorephobic attitude of “Why don’t you just get another job.” This argument not only ignores the reality and autonomy

25 Reilly Polaschek “The Unsexy Truth of Migrant Sex Work in Aotearoa New Zealand: How Repealing s 19 of the Prostitution Reform Act 2003 Would Make a More Equitable Sex Work Industry” (2021) 8 PILJNZ 5 at 8.

26 Interview with Catherine Healy, above n 7.

27 Interview with Hannah, above n 6.

28 Pooja Sundar, Immigration Law Practitioner “Race and the Law” (guest lecture at the University of Auckland Law School, Auckland, 7 February 2023).

29 Sundar, above n 28.

30 Interview with Iain Lees-Galloway, New Zealand Minister of Immigration 2017–2020 (Alice Snedden, Bad News, The Spinoff, 11 August 2020).

of people's lives but was also originally used against the push for decriminalisation in 2003. When asked what she would say to those with attitudes exemplified by Lees-Galloway, former sex worker Hannah responded by aptly stating, "Well, that's probably not [their] business."³¹

The current law lacks the nuance of understanding that sex work is just work but also that the marginalised experience of sex workers and the way in which the community sustains itself cannot be divorced from identity. The fact is that upon deportation to their respective home countries, the people subjugating deported migrant sex workers to mass amounts of shame and violence do not care if sex work is inherent to identity or not—all they care about is that that person is a sex worker. Regardless of how sex work becomes part of someone's identity, it is part of that person due to the intersectional space it occupies in society, and it is deserving of protection.³²

IV Discussion of Solutions

If I was a lawyer ... [and] I was arguing this in court, right, you would have to prove causation Can you show me the direct line from this [s 19] to the result of no trafficking? Because if I were a person making decisions and here were people who worked directly with the industry telling me this isn't working, there was no necessary hard evidence that could point to a direct connection—a causative connection—between the legislation and the result, I would go "well, fuck. You know better than I do".³³

Alice Snedden eloquently states the most basic solution to this racist problem in the law: listen to the people whose lives it materially impacts. Listen to sex workers! Listen to communities who will always know what they need best. "Before a new legislation or a new law is brought, can you ask us, we are here today and listen to us and ask us what do we want."³⁴

The Nordic model (wherein the purchaser of sex work is penalised rather than the worker) also poses issues because of its partial criminalisation of the sex work industry—pushing workers underground or into isolated working conditions.³⁵ Legalisation puts sex workers too directly under the eye of the state, which inevitably leads to more policing. This means that people who go into survival sex work will be barred from doing sex work or made to do sex work in a way that puts them at risk. Legalisation creates requirements for who can do work without punishment or arrest. This often looks like documentation such as an address, government ID, background check, permits, and applications—immigrants, youth runaways, unhoused, trans people and domestic violence survivors often cannot produce these records or fund them.

Sex worker and activist Dolores French rejects the legalisation model in favour of decriminalisation. In a private interview with Anne McClintock, French maintains that:

31 Interview with Hannah, above n 6.

32 UNAIDS "HIV and Sex Work: Human Rights Fact Sheet Series" (2021) at 3: "Not recognizing sex workers as legitimate workers also denies sex workers the basic health and social safety nets provided to other workers."

33 "Alice Snedden's Bad News: Migrant Sex Workers | The Spinoff" (11 August 2020) YouTube <www.youtube.com>.

34 European Sex Workers' Rights Alliance, above n 18.

35 "The criminalization of the clients of sex workers has also been repeatedly shown to negatively affect sex workers' safety and health, including reducing condom access and use, and increasing the rates of violence." UNAIDS, above n 32, at 3.

“Legalizing [sex work] sees women as a controlled substance—controlled by men.”³⁶ Decriminalisation is currently the best model of sex work and is what sex workers and organisations globally advocate for.³⁷ The current decriminalisation for non-migrant sex work has seen better outcomes for marginalised demographics in sex work—due in large part to removing them from conditions where they were overpoliced and surveilled. “Decriminalisation has reduced the disproportionate incarceration of transgender Māori street workers, who were frequently targeted by police raids but are now more able to work indoors.”³⁸

Full decriminalisation of sex work is a feminist, abolitionist, and labour issue. Patriarchy and capitalism exist in a symbiotic relationship:³⁹

As abolitionists, we should advocate for decriminalisation of sex work as a first and important step to mitigate the carceral conditions that allow violence, abuse and exploitation of sex workers. In the “West”, more policing and hate crime legislation isn’t going to stop this violence or keep Asian massage workers safe. You can’t fight white supremacist patriarchy with white supremacist patriarchal institutions.

Police, prisons, and the law itself are colonial imports from Te Ao Pākehā. Policing and criminalisation work to distract from the underlying systemic issues—capitalism, neocolonialism, racism, misogyny—and disproportionately redirect harm to sex workers of colour. “The invention of racial fetishism became central to the regime of sexual surveillance, while the policing of ‘degenerate sexuality’ became central to the policing of the ‘dangerous classes’”.⁴⁰

From an Indigenous and abolitionist perspective, the question must be posed: who is illegal on stolen land? It is ironic and hypocritical for colonial states and their systems—“who were formed through land theft and unsanctioned settler migration”—to disproportionately police marginalised groups through deportation policies.⁴¹ The New Zealand legal system is being used to enact legislative violence against non-white groups, tangata whenua, and migrants to this country who are deemed “legitimate” by a system that was arguably illegitimately founded:⁴²

[A] settler nation, does not have the final say on who or what comes into the country because it’s not theirs to own When we do that as Indigenous people, it’s reclaiming our sovereignty, our citizenship, and more importantly our kinship.

36 Anne McClintock “Screwing the System: Sexwork, Race and the Law” (1992) 19 *boundary 2* 70 at 90.

37 In 2016, the United Nations Secretary General pointed to decriminalisation of sex work as a method to reduce violence, harassment and HIV risk and called on States to remove the criminalisation of sex work, citing it as a human rights violation. *Implementation of the Declaration of Commitment on HIV/AIDS and the Political Declarations on HIV and AIDS*, UN Doc A/70/811 (1 April 2016) at [53] and [75(f)].

38 Tichenor, above n 14, at 100.

39 Bamboo, above n 4.

40 McClintock, above n 36, at 71.

41 Kenji Kuramitsu “No One is ‘Illegal’ on Stolen Land: A Response to Dr. David Gushee” (3 February 2020) inheritance <www.inheritancemag.com>.

42 Lenard Monkman “‘No ban on stolen land,’ say Indigenous activists in US” (2 February 2017) CBC News <www.cbc.ca>.

A Communities keep themselves safe

It is important to also address the purpose of the PRA. Section 3 reads: “The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use)”. The law, designed to “[safeguard] the human rights of sex workers”, “[protect] them from exploitation”, and “[promote] the welfare and occupational health and safety of sex workers”, in the very same breath unequivocally states that it will not support the very labour it professes to protect.⁴³ There is no other profession with this legal caveat. It seems, then, antithetical to look to legislation to protect migrant sex workers and their labour rights.

[In] all stages of historical development society has established norms for defining when and under what conditions love is “legal” (i.e. corresponds to the interests of the given social collective), and when and under what conditions love is sinful and criminal (i.e. contradicts the tasks of the given society).⁴⁴

Leftist communities often pose the question of what sex work would look like under the abolition of police, prisons, and capitalism—would it still exist? The Internet and leftist theorists have spoken, with many retreating to ingrained whorephobic attitudes that proclaim not only did Marx hate sex workers but that under communism, anarchism or socialism, there would be no framework for sex work to operate within.⁴⁵ In contrast to these widespread attitudes, Alexandra Kollontai, in “Make way for Winged Eros: A Letter to Working Youth” argues that love outside of marriage is antagonistic to capitalism and essential to a wider social liberation project.⁴⁶ Need fulfilment from one person, one relationship, is essential to the individualistic neoliberal ideal of the heteronormative nuclear family. The stigmatisation and demonisation of sex workers only enable the stigmatisation and demonisation of all other marginalised groups who want sovereignty over their bodies.

Decriminalisation of all sex work requires that those in power listen to sex workers. Decriminalisation means that feminists, leftists, and activists need to recognise and demonstrate their solidarity with sex workers in the labour movement. Decriminalisation means that sex workers need to prioritise the needs of migrant workers in our communities. “In private the whore has power. ... The great fear for men, who are running things, is that if whores have a voice”.⁴⁷

43 Prostitution Reform Act 2003, s 3.

44 Aleksandra Kollontai “Make way for Winged Eros: A Letter to Working Youth” in Alix Holt (ed) *Selected Writings of Alexandra Kollontai* (Allison and Busby, London, 1977) 276 at 279.

45 Karl Marx and Frederick Engels *Manifesto of the Communist Party and its Genesis* (Marxists Internet Archive, Ohio, 2010) at 84.

46 Kollontai, above n 44, as cited in Tatiana Cozzarelli “Love and Socialism” (13 February 2018) Left Voice <www.leftvoice.org>.

47 Margo St James “The Reclamation of Whores” in Laurie Bell (ed) *Good Girls/Bad Girls* (The Women’s Press, Toronto, 1987) 81 at 82.