

## CHAPTER 24

# Criminal Justice versus Health and Human Rights Perspectives on Transgender Sex Work

*Tara Lyons*<sup>1</sup>

*Leslie Pierre*<sup>2</sup>

*Andrea Krüsi*<sup>3</sup>

*Kate Shannon*<sup>4</sup>

- 1 Faculty member in the Department of Criminology at Kwantlen Polytechnic University, Surrey, BC, and a research scientist with the Gender and Sexual Health Initiative at the BC Centre for Excellence in HIV/AIDS, Vancouver, BC.
- 2 Research assistant with the Gender and Sexual Health Initiative of the BC Centre for Excellence in HIV/AIDS, Vancouver, BC.
- 3 Post-doctoral fellow at the School of Population and Public Health at the University of British Columbia and a research associate with the Gender and Sexual Health Initiative of the BC Centre for Excellence in HIV/AIDS, Vancouver, BC.
- 4 Associate professor of medicine at the University of British Columbia and director of the BC Centre for Excellence in HIV/AIDS, Vancouver, BC.

### SUMMARY

In this chapter we systematically present the array of factors and issues associated with a criminal justice as compared to a public health perspective on sex work. Focusing on transgender sex workers, we discuss and summarize the different perspectives and controversies involved in this ongoing debate.

### KEY TERMS

criminal justice perspective; public health perspective; transgender sex work

## REFERENCES

- Amnesty International. (2016, May 26). *Amnesty international policy on state obligations to respect, protect, and fulfil the human rights of sex workers*. New York.
- Bhattacharjya, M., Fulu, E., Murthy, L., with Saraswathi Seshu, M., Cabassi, J., & Vallejo-Mestres, M. (2015). *The right(s) evidence—sex work, violence and HIV in Asia: A multi-country qualitative study*. Bangkok: United Nations Population Fund (UNFPA), United Nations Development Programme (UNDP), and Asia Pacific Network of Sex Workers (CASAM).
- Bruckert, C., & Hannem, S. (2013). Rethinking the prostitution debates: Transcending structural stigma in systemic responses to sex work. *Canadian Journal of Law and Society*, 28 (1), 43–63.
- Canadian Public Health Association. (2014, December). *Sex work in Canada: The public health perspective*. Ottawa, ON: Canadian Public Health Association.
- Cohan, D., Lutnick, A., Davidson, P., Cloniger, C., Herlyn, A., Breyer, J., . . . & Klausner, J. (2006). Sex worker health: San Francisco style. *Sexually Transmitted Infections*, 82 (5), 418–422.
- Correctional Investigator. (2014). *Annual report of the Office of the Correctional Investigator, 2013–2014*. Ottawa, ON: Government of Canada.
- Cunningham, S., & Shah, M. (2014). *Decriminalizing indoor prostitution: Implications for sexual violence and public health*. Cambridge, MA: National Bureau of Economic Research.
- DeCuir-Gunby, J. T., Marshall, P. L., & McCulloch, A. W. (2011). Developing and using a codebook for the analysis of interview data: An example from a professional development research project. *Field Methods*, 23 (2), 136–155.

- Deering, K. N., Lyons, T., Feng, C. X., Nosyk, B., Strathdee, S. A., Montaner, J. S., & Shannon, K. (2013). Client demands for unsafe sex: The socioeconomic risk environment for HIV among street and off-street sex workers. *Journal of Acquired Immune Deficiency Syndrome*, 63 (4), 522–531.
- Global Commission on HIV and the Law. (2012). *Risks, rights & health*. New York: United Nations Development Programme, HIV/AIDS Group.
- Goodyear, M. D., & Cusick, L. (2007). Protection of sex workers. *BMJ*, 334 (7584), 52–53.
- Goodyear, M., & Weitzer, R. (2011). International trends in the control of sexual services. In S. Dewey & P. Kelly (eds.), *Policing pleasure: Sex work, policy, and the state in global perspective* (pp. 16–30). New York: New York University Press.
- Government of New Zealand. (2008). *Report of the Prostitution Law Review Committee on the operation of the Prostitution Reform Act of 2003*. Wellington, New Zealand: Ministry of Justice.
- Hwahng, S. J., & Nuttbrock, L. (2007). Sex workers, fem queens, and cross-dressers: Differential marginalizations and HIV vulnerabilities among three ethnocultural male-to-female transgender communities in New York City. *Sexuality Research and Social Policy*, 4 (4), 36–59.
- Krüsi, A., Kerr, T., Taylor, C., Rhodes, T., & Shannon, K. (2016). “They won’t change it back in their heads that we’re trash”: The intersection of sex work–related stigma and evolving policing strategies. *Sociology of Health and Illness*, 38 (7), 1137–1150.
- Krüsi, A., Pacey, K., Bird, L., Taylor, C., Chettiar, J., Allan, S., . . . & Shannon, K. (2014). Criminalisation of clients: Reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada—Qualitative study. *BMJ Open*, 4 (6).
- Lyons, T., Krüsi, A., Pierre, L., Kerr, T., Small, W., & Shannon, K. (2017). Negotiating violence in the context of transphobia and criminalization: The experiences of trans sex workers in Vancouver, Canada. *Qualitative Health Research*, 27 (2), 182–190.
- Namaste, V. K. (2000). *Invisible lives: The erasure of transsexual and transgendered people*. Chicago: University of Chicago Press.
- Nemoto, T., Bödeker, B., & Iwamoto, M. (2011). Social support, exposure to violence and transphobia, and correlates of depression among male-to-female transgender women with a history of sex work. *American Journal of Public Health*, 101 (10), 1980–1988.
- Open Society Foundations. (2012, July). *Laws and policies affecting sex work*. New York: Open Society Foundations.
- Oppal, W. T. (2012). *Forsaken: The report of the Missing Women Commission of Inquiry*. Vancouver, BC.
- Peters, M. A. (2016, April 18). Nordic Model key to beating exploitation of sex workers. CNN. Retrieved from [www.cnn.com/2016/04/18/opinions/prostitution-nordic-model-peters/](http://www.cnn.com/2016/04/18/opinions/prostitution-nordic-model-peters/).

- Poteat, T., Wirtz, A. L., Radix, A., Borquez, A., Silva-Santisteban, A., Deutsch, M. B., . . . & Operario, D. (2015). HIV risk and preventive interventions in transgender women sex workers. *Lancet*, 385 (9964), 274–286.
- Rhodes, T., Simic, M., Baros, S., Platt, L., & Zikic, B. (2008). Police violence and sexual risk among female and transvestite sex workers in Serbia: Qualitative study. *BMJ: British Medical Journal*, 337, 560–563.
- Rhodes, T., Singer, M., Bourgois, P., Friedman, S. R., & Strathdee, S. A. (2005). The social structural production of HIV risk among injecting drug users. *Social Science & Medicine*, 61 (5), 1026–1044.
- Ross, B. L. (2012). Outdoor brothel culture: The un/making of a transsexual stroll in Vancouver's west end, 1975–1984. *Journal of Historical Sociology*, 25 (1), 126–150.
- Sanders, T. (2004). A continuum of risk? The management of health, physical, and emotional risks by female sex workers. *Sociology of Health & Illness*, 26 (5), 557–574.
- Sausa, L., Keatley, J., & Operario, D. (2007). Perceived risks and benefits of sex work among transgender women of color in San Francisco. *Archives of Sexual Behavior*, 36 (6), 768–777.
- Shannon, K., & Csete, J. (2010). Violence, condom negotiation, and HIV/STI risk among sex workers. *JAMA*, 304 (5), 573–574.
- Shannon, K., Kerr, T., Allinott, S., Chettiar, J., Shoveller, J., & Tyndall, M. W. (2008). Social and structural violence and power relations in mitigating HIV risk of drug-using women in survival sex work. *Social Science & Medicine*, 66 (4), 911–921.
- Shannon, K., Kerr, T., Strathdee, S. A., Shoveller, J., Montaner, J. S., & Tyndall, M. W. (2009). Prevalence and structural correlates of gender based violence among a prospective cohort of female sex workers. *BMJ: British Medical Journal*, 339, b2939.
- Shannon, K., Strathdee, S. A., Goldenberg, S. M., Duff, P., Mwangi, P., Rusakova, M., . . . & Boily, M.-C. (2015). Global epidemiology of HIV among female sex workers: Influence of structural determinants. *Lancet*, 385 (9962), 55–71.
- Shannon, K., Strathdee, S. A., Shoveller, J., Rusch, M., Kerr, T., & Tyndall, M. W. (2009). Structural and environmental barriers to condom use negotiation with clients among female sex workers: Implications for HIV-prevention strategies and policy. *American Journal of Public Health*, 99 (4), 659–665.
- Statistics Canada. (2013). *Aboriginal peoples in Canada: First nations people, Métis, and Inuit: National household survey, 2011*. Ottawa, ON.
- UNAIDS. (2015). *2016–2021 strategy: On the fast-track to end AIDS*. Geneva, Switzerland: UNAIDS.
- World Health Organization. (2012). *Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries: Recommendations for a public health approach*. Geneva, Switzerland: World Health Organization.
- . (2005). *Violence against sex workers and HIV prevention*. Retrieved from [www.who.int/gender/documents/sexworkers.pdf](http://www.who.int/gender/documents/sexworkers.pdf).