

**SEX WORKERS AND SEXUAL ASSAULT:
THE HIDDEN CRIME**

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Linda, a Thai woman, has been in Australia for two weeks. She works in a parlour. Last night a client asked and agreed on a price for a half hour service and paid. Once in the room he would not use a condom and said he wanted anal sex. When Linda refused he forced himself on her. This client didn't use a condom and left without paying for the extra.

Tim is currently working on the streets. Last week Tim was working when a man approached him. They agreed on a price and went to his car. Once inside the car the man drove to an empty car park. Once there the client refused to hand over the money. He then grabbed Tim's head and forced him to perform oral sex on him. Once he came, the client stole Tim's bag and forced him out of the car.

As can be seen from these examples sexual assault occurs in the sex industry. Yet this crime is one of the most under reported, not only to the police but also to victim care services including sexual assault services. Both Madeleine Bridgett and Julie Robinson have worked on projects aimed at addressing this issue.

Madeleine Bridgett is a clinical social worker with SWOP (Sex Workers Outreach Project). SWOP aims to minimise the transmission of sexually transmitted diseases (STD's) and HIV/AIDS in the NSW sex industry. SWOP provides a range of health, support and information services to sex workers, their partners, management and clients of the sex industry. SWOP focuses on safety, dignity, diversity and the changing needs of sex industry workers, to foster an environment, which enables and affirms individual choices and occupational rights. In 1998 Madeleine was the project officer for SWERV- Sex Workers Ending Rape and Violence, funded by the Department for Women. SWERV aimed to provide education to sex workers about their rights in relation to violence particularly sexual assault. It also aimed to provide education to both government and non government organisations about sex workers and violence.

Julie Robinson is a social worker employed at Eastern and Central Sexual Assault Service (ECSAS). ECSAS aims to respond effectively to the needs of people sexually assaulted as adults who reside or are sexually assaulted in the Eastern and Central Health Areas of Sydney. ECSAS promotes non violence in the community, especially in the area of sexual assault. In 1997 Julie was the project officer for the Sexual Violence and Sex Workers from Non English Speaking Backgrounds project conducted by ECSAS. This project aimed to examine the issue of sexual violence directed towards sex workers (particularly from a non english speaking background) and to increase their awareness of services especially sexual assault services.

This paper aims to challenge some of the commonly held beliefs about sex work and sexual assault. It will examine the way in which sex industry worker's (SIW's) experience this crime in silence, and subsequently have very little recourse to justice. It will also explore how we can expose this hidden crime.

What is sex work?

The sex work industry in NSW is a very diverse industry in terms of age, gender, socio-economic background, culture, ethnicity, geography, and also in terms of the services provided. SIW's work in different environments such as brothels, the street, or at home. The term 'sex work' is generally misunderstood in our society and largely influenced by myths, the media, and morals. Consequently, some sex workers can feel that they are treated unfairly, particularly the legal and criminal justice system. By definition, the term 'sex work', also known as prostitution, is the "exchange of sexual activities for material gain" (Perkins, 1994:6).

The exchange of sex for payment is not illegal in any State of Australia. Sex work was decriminalised in New South Wales in 1979 and the prohibition on brothels was lifted in 1995 with the introduction of the Disorderly Houses Amendment Act, 1995. Whilst sex work is not illegal per se, many peripheral laws and restrictions remain, which criminalise sex work in certain circumstances. Street sex work is restricted by the Summary Offences Act, 1988 (NSW) which prohibits soliciting in a "public street, near or within view from a dwelling, school, church or hospital" (Section 9).

The hidden crime

There are some groups in our society that are marginalised and stigmatised, resulting in increased vulnerability to abuse and violence. Sex workers, also known as prostitutes, are one of these groups. Evidence suggests that SIWs are vulnerable to sexual violence. According to the Standing Committee on Social Issues, Sexual Violence: Addressing the Crime, Report Number 9, the incidence of violence towards SIWs is extremely high and the type of violence that is committed is often very serious, involving weapons and causing extreme physical and psychological injuries. This report also indicates their attackers often have a history of prior sexual offences and/ or crimes of violence and seek out SIWs because they feel that they are less likely to be convicted for crimes against prostitutes. Despite the high level of violence experienced by SIWs, the reporting of sexual violence by SIWs is low, therefore keeping this crime hidden.

Factors that contribute to sex worker vulnerability

SIWs are vulnerable to crimes of violence for a number of reasons including stigma, lack of exit and retraining programs, the legal restriction placed on SIWs, and legal biases.

Stigma

SIWs often experience discrimination as a consequence of working in a profession that is hidden and stigmatised. Many in society deem the sex industry unacceptable due to the nature of the work. SIWs are often perceived as second-class citizens and as a result they do not have the social or political power to exercise their rights to the same degree as others in the community.

Society denies the existence of the sex industry and consequently does not place much value on the quality of the lives of sex workers. This dis-empowerment results in SIWs feeling that they have little choice about the decisions affecting their lives. SIWs are unable to speak freely about their profession because they fear discrimination. In the ACT, there are laws that protect SIWs from such discrimination, however such protection is lacking in other states.

Lack of Exit and Retraining Programmes

SIWs, particularly street SIWs, do not have equal access to employment opportunities. Some workers wanting to change professions are often faced with discrimination when they disclose that they have worked in the sex industry. Other industries do not value the skills that SIWs have acquired during their employment. Such skills include interpersonal communication, negotiation and business management skills. SIWs require support services that are sex worker friendly so that they can have more choices about the decisions affecting their lives.

Legal Restrictions

Because of legal restrictions surrounding the industry, SIWs are frequently isolated and forced into work areas that can be very dangerous. The existing laws surrounding sex work do little to protect SIWs from violence. These legal restrictions work in a way to keep the industry hidden and unsafe for the people working in it. For example street sex workers are forced into back lanes, poorly lit and abandoned areas which means they are often pressured into quick negotiations with their clients. This prevents SIW's from ascertaining whether the client has a weapon or if they appear to have the potential for violence. While negotiating their services with a client, SIWs are often able to make a reasonable assessment of the client provided they work in a suitable environment. Street sex work could be made safer by laws that reflect an understanding of the sex industry in terms of its diversity, its myths and its practices.

Legal Biases

SIWs are reluctant to report crimes committed against them because they fear the criminal justice system and the community in general will disregard or trivialise their reports or victimise them. There is a perception amongst SIWs that there are people in positions of authority who feel that SIWs deserve to be raped, or see it largely as a part of their job. SIWs who have been sexually assaulted report that they have been unfairly treated by both the legal and health system. They also state that when they have reported these offences to police often they have not been believed and not given the necessary victim support to proceed with criminal charges against the offender / s.

Barriers to reporting

Most women who have experienced a sexual assault are reluctant to report this crime for fear of not being believed. SIWs experience this to a much greater degree due to the prevailing attitudes to sex work. As was stated in Standing Committee on Social Issues, Sexual Violence: Addressing the Crime, Report Number 9, "*Society's traditional contempt for the sex industry profession and its marginalisation of sex workers has meant that many men feel that they "may" rape prostitutes and that these women "deserve" it.*" Attitudes like this result in many SIWs feeling no one will believe they have been sexually assaulted.

As a result of these types of attitudes SIW's are reluctant to disclose their profession to anyone, including the police. There are cases where SIWs have reported sexual assaults to police and have been told that it is part of their job and consequently what they deserve. Sexual assault is not an occupational health and safety hazard. It is a violent CRIME that is punishable by the law. Sex work is a profession that deserves the same protection as other occupations.

Even when SIWs do report they often fail to achieve any form of legal recourse in relation to violent crimes committed against them. This is mainly due to the court process. Evidence suggests that survivors of sexual assault are often re-traumatised when they appear at court and can also experience feelings of guilt and responsibility for the offence. This was highlighted in 1996, by the Department For Women who conducted a report called, The Heroines of Fortitude, which looked into the experiences of women in court, who were survivors of sexual assault crimes. There were 150 cases and in 44% of these, the victim was asked what they were wearing at the time of the offence. This reveals a lack of understanding about the nature of sexual assault and the myths that surround it. Add this to the dilemma of SIWs disclosing they are a sex worker and the result is that SIWs are reluctant to attend court for fear of discrimination, trauma and being personally discredited by the defence counsel.

A further barrier to reporting is that many street sex workers have outstanding warrants for offences committed in the course of their work, and fear being charged when reporting instances of sexual assault. The police need to encourage SIWs to report crimes committed against them and provide them with information and referrals to appropriate services. Police should also ensure that SIWs receive immediate medical and legal support following an assault.

The response to SIWs has in the past been inadequate in terms of victim care. Some parts of society believe sex workers do not experience the same trauma as other women who have been assaulted. In the case of *R v Hakopian* Judge Jones stated that *as a prostitute Miss X would have been involved in sexual activities on many occasions with men she had not met before, in a wide range of situations... On my assessment, the likely psychological effect on the victim ... is much less a factor in this case and lessens the gravity of the offence* (County Court, Melbourne, Sentencing Decision 1991:8). This type of statement highlights the ongoing need for training in this very specialised area.

The nature of the work and the laws governing the industry make the majority of SIWs feel like they have little choice about the decisions affecting their lives. This lack of choice affects their physical and emotional state and their ability to live in safety and dignity.

Women do not ask to be raped nor do they deserve it. It is very difficult for people not involved in the sex work industry to realise that SIWs sell a service, not their bodies. The sexual service is governed by an agreement whereby the individual parties maintain a right to re-negotiate the terms of the service to an agreed and mutually satisfactory resolution like any commercial agreement. It is unacceptable to conclude that SIWs should accept aggression or assault, let alone deserve it. All people deserve the unconditional right to safety from violence or threat of violence at work.

Exposing the hidden crime

SIWs who experience sexual assault are going to continue to miss out on justice unless there are some changes. What is urgently needed is a consultative process and collaborative approach between specialist services, support services, the legal system and the judicial system aimed at giving SIWs better access to legal and social justice. There is also a growing need for ongoing and drastic law reform regarding not only sexual assault but also the sex industry. Current laws governing the sex industry do not protect SIWs but keep the industry hidden. Current laws that exist regarding sexual assault do little to protect victims of sexual assault.

Health and welfare agencies need to be better equipped to deal with sexual assault and sex work issues by making a firm commitment to ongoing training and professional development in the workplace. At a time when budgets in health and welfare are being cut, training is often the first to be compromised. As a health care professional your commitment to your professional development and training is essential to the effectiveness of your work.

What has been achieved

SWOP, through the SWERV project, has involved SIWs in identifying appropriate responses to violence and adequate services for SIWs. Presently, SIWs in New South Wales can make a report of violence to SWOP through the Ugly Mug publication. The Ugly Mug publication provides a non-judgmental and supportive environment for SIWs to report acts of violence, robbery, extortion, rape and assault. It is a closed publication, only available to SIWs. The publication aims to alert SIWs to dangerous individuals hopefully preventing further violence. It is hoped that, in the future, SIWs will feel confident enough to utilise the police in the same way as they have used the Ugly Mug publication. SWOP also founded the innovative and successful Sex Worker Police Liaison Officer Project and it is hoped that this project will continue to encourage SIW's to report to the police so that this crime is appropriately acknowledged.

ECSAS continues to work with individuals and support services to challenge beliefs that contribute to SIWs silently suffering the crime of sexual violence. Outcomes from the Sexual Violence and Sex Workers from Non English Speaking Backgrounds project include the publication of Sex Workers and Sexual Assault Package, and a commitment by ECSAS to continue to work with SIWs to increase their access to support and information in regard to sexual assault. This commitment has resulted in the development of flyers to be handed out on outreach letting SIWs know ECSAS is sex worker friendly and a stronger collaborative approach with services working with SIWs.

SIWs need to be empowered and educated about their rights in relation to sexual assault and violence. Likewise, the police, the judiciary, law and policy-makers and the media need to have a greater understanding of the issues facing SIWs. **It is time that SIWs are allowed to "work freely with dignity, respect and without fear of violence and criminal imputations" (Universal Declaration of Human Rights).**

References

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