Submission to the NSW Law Reform Commission
Review of consent in relation to sexual offences

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Background

The Sex Workers Outreach Project (SWOP) would like to thank the New South Wales Law Reform Commission (NSWLRC) for the opportunity to contribute to the Review of consent in relation to sexual offences. SWOP is a non-government organisation that exists to provide NSW sex workers with the same access to health, safety, human rights and workplace protections as other Australian workers.

SWOP is focused upon sustaining the low rates of sexually transmitted infections (STIs) amongst sex workers; sustaining the virtual elimination of HIV transmission within the sex industry; and reducing hepatitis infections in sex workers. We do this by bringing together sex workers, researchers and clinicians, government and non-government organisations from a range of disciplines, and advocating for a collaborative, holistic approach to the health services provided to NSW sex workers.

SWOP has its origins in the Australian Prostitutes Collective. We have operated continuously since 1984; making us Australia's longest running sex worker community organisation, and the earliest sex worker organisation to receive direct government funding. SWOP has the highest level of direct contact with sex workers of any agency, government or non-government, in Australia.

Overview

Protecting the health and safety, including workplace safety, of NSW sex workers are key drivers in our organisation's work. In this instance, our key reasons for making this submission are twofold. Firstly, we seek to represent the interests of NSW sex workers, whose very work hinges upon consent. When there are weaknesses in sexual offence law, and in the application of sexual offence law, sex workers often bear the brunt of the consequences, because stigma and discrimination against us can make us particularly attractive to perpetrators.

This is all too evident in the case of Adrian Ernest Bayley, who, between 2000 and 2001 committed 16 rapes against 5 street-based sex workers in St. Kilda, Melbourne. Lenient sentencing relating to these offences against sex workers ensured Bayley remained at large to sexually assault and murder Jill Meagher. The connection between lenient sentences for crimes against sex workers, and his partner's murder was not lost upon partner of the deceased, Tom Meagher, who said: "*I'm aware his previous victims in previous cases before Jill were sex workers, and I'll never be convinced that doesn't have something to do with the lenience of his sentence,*[i]".”

SWOP's second reason for making a submission is to enable a positive sharing of sex worker knowledge about sexual consent with the NSWLRC. As people whose very work involves negotiating consent in sexual settings, sex workers have a level of expertise in this area that we would like to see enrich wider understandings of sexual consent and sexual offences. This submission draws upon anecdotal evidence from the sex workers who use our services, and from our organisation's working knowledge of the way consent is entrenched in sex work legislation in the other local and global jurisdictions that NSW sex workers visit.

Sex workers rapidly develop expertise in communicative negotiation of consensual sexual services across a wide range of settings. This includes communicative consent in arenas where others may have scant experience. For example, sex worker organisations like Touching Base[ii] specialise in

training sex workers in negotiating ongoing, clear consent with clients with disability. Migrant sex workers working in NSW quickly develop expertise at negotiating consent across cultural and linguistic barriers. The shifting demographics of NSW contribute to a culturally and linguistically diverse client base that sees all NSW sex workers develop expertise in negotiating communicative, affirmative consent with clients of all cultural and linguistic backgrounds.

Recommendations

Recommendation 1: Sentencing needs to be comparative in all sexual assault convictions, irrespective of the occupation of the complainant, and whether the assault occurred in a work or in a non-work setting.

Recommendation 2: The language of s 61HA needs to be modernised to promote the ideal of dynamic, communicative consent.

Recommendation 3: The language of s 61HA needs to make it clear that acts of physical violence during sexual intercourse negate consent.

Recommendation 4: It would be desirable for the revised s 61HA to make it clear that consent to paid sexual services is no different to other forms of consent – it still must be ongoing and communicative.

Recommendation 5: That s 61HA should specifically include the non-consensual removal or deliberate damage of a condom, popularly known as 'stealthing'.

Recommendation 6: We recommend that s 61HA is updated to reflect Tasmanian provisions about consent, namely section 2A of the Criminal Code Act 1924 that provides that a person does not freely agree to an act if the person 'agrees or submits because of the fraud of the accused' or 'is reasonably mistaken about the nature or purpose of the act or the identity of the accused'.

Recommendation 7: The rate of successful prosecutions under a revised s 61HA would likely be further aided by specialised sexual assault courts and/or specially trained judicial staff.

Sex workers and reporting sexual assault

Finding case history on sex workers who have been sexually assaulted is difficult. However SWOP is certain that sexual offences against sex workers are under-reported and under-prosecuted to a greater extent than they are for the general public.

When sex work is criminalised, it is a barrier to sex workers reporting crimes against them. SWOP is aware that many recently arrived migrants are unaware that sex work is not criminalised in NSW. These workers would rarely report crimes of violence against them to NSW police. There are also migrant sex workers in NSW who may be under the mistaken belief that their visa will be cancelled, which leaves these workers more vulnerable to threats and sexual coercion and less likely to seek assistance if these things occur. Disparaging Australian attitudes to migrants are another barrier, because they can leave migrant sex workers with the perception that they may not be believed when reporting crimes against them.

In SWOP's experience very few sex workers have sought help from NSW police following sexual assault. Their decisions are often based upon stigma and social attitudes to sex work. Complainants who do attempt to access justice have described dismissive attitudes, and having been treated in a prejudicial manner in the criminal justice system. Media reporting on cases with sex worker complainants can leave sex workers with the impression that it is a waste of time to seek legal redress for sexual offences committed against them.

While most clients of the NSW sex industry are respectful, and stick to the agreed sexual services, at SWOP we often hear about clients who are serial offenders at consent violations. They get away with this repeated behaviour because of under-reporting and under-prosecution, and are thus free to continue assaulting other sex workers. They use this success to develop their skills at pushing the boundaries of consent. At SWOP we produce a periodic resource for sex workers to help them identify and avoid these clients who repeatedly violate sexual consent, and hopefully reduce the number of 'soft targets' they can find. While our peer-education works to create a resilient and skilled workforce, we battle against media rape myths about sex workers being 'unrapeable' and less worthy of justice when they are sexually assaulted.

The case of Adrian Ernest Bayley mentioned in the overview of this submission resulted in enough public outcry in Victoria to finally see changes to the Victorian Sentencing Manual. These were changes that sex workers had been lobbying to achieve for thirty years. The manual, written and maintained by the *Judicial College of Victoria*, said, under the topic 'victim is a prostitute': "the prostitute's experience may tend to reduce the weight commonly given in rape cases to the 'reaction of revulsion' of the 'chaste woman'."[iii] Sexual assault is sexual assault irrespective of the occupation of the person who has been assaulted.

The seriousness of the crime of sexual assault is diminished when there is a hierarchy of people who have been assaulted. To return to Tom Meagher, partner of the deceased Jill Meagher,: ""What it says to women is if we don't like what you do, you won't get justice," he said. "And what it says to people like Bayley is not 'don't rape', but 'be careful who you rape'."[iv] When sentencing is not comparative across all types of complainant, sexual offenders can utilise this information to identify 'soft targets'.

***Recommendation 1**: Sentencing needs to be comparative in all sexual assault convictions, irrespective of the occupation of the complainant, and whether the assault occurred in a work or in a non-work setting.*

Consent as dynamic and communicative

It is our view that s 61HA fails to communicate clearly that consent is a dynamic concept. Consent for one set of sexual activities does not automatically entail consent for another set of activities. To be valid, consent must be ongoing and communicative. Consent can be withdrawn at any time, for any reason. Sexual intercourse must cease if consent is withdrawn. To continue sexual intercourse after consent has been withdrawn is sexual assault.

Sex workers often employ the idea of a standard service – an agreed to set of activities – which the client can reasonably expect to take place during their appointment. Clients repeatedly trying to engage in activities outside of this agreed list can expect to have their service terminated (without refund).

Some sex workers also perform additional non-standard services, for example anal intercourse, for a premium. The premium takes into account, and communicates to the client, that these services are not to be expected in a standard sexual encounter. The premium is related to the difficulty in performing the particular sexual activity; whether the activity might require mental and/or physical preparation; the sex worker's own sexual preferences; and wear and tear on the body from performing the specified activity. While these ideas are well-known and shared peer-to-peer amongst sex workers, it appears that courts and juries struggle with these notions.

In the case of *Lazarus*[v], which prompted this review, a dynamic and communicative understanding of consent entrenched in s 61HA would have made it clearer that *Lazarus* was aware that he was engaging in sexual intercourse that the victim had not consented to. From a sex worker perspective, the acts *Lazarus* engaged the victim in require relaxation and preparation, and that is according to people experienced in performing these activities regularly. When *Lazarus* told his victim "to get on her hands and knees in the gravel and had anal sex with her"[vi] it must have been clear to him that he was demanding that a young, virginal and clearly inexperienced person perform a high impact and physically taxing sexual activity, all without the benefit of time, care and lubrication. The burden of dynamic and communicative consent should have weighed very heavily upon *Lazarus*.

***Recommendation 2**: The language of s 61HA needs to be modernised to promote the ideal of dynamic, communicative consent.*

Ongoing consent is negated by acts of violence

While the *Lazarus* case did not specifically include other forms of physical assault, many sexual assaults do. It should also be made very clear in the reworking of s 61HA that acts of violence invalidate ongoing consent.

When the frontal cortex is inhibited by an act of terror, the brain decides on a primitive level to fight, take flight or freeze. Regardless of which biological brain response occurs, an act of violence should be taken to invalidate any ongoing consent that sees a person presumed to be willing simply because they don't struggle or try to get away. Freezing when under threat is a protective physiological response, just as numbing and dissociating is a psychological reaction to traumatic situations.

While sex workers are clearly still subject to the same physiological responses as other people experiencing sexual assault, experience and education often sees us end sexual services when clients are rough or violent. In May 2013, *Michael Joel Kay* choked a Sydney sex worker during a booking at a Kings Cross sex services premises. Indicating clearly that the violence had ended her consent, the "sex worker demanded he get dressed and leave, the documents state, but *Kay* allegedly grabbed her around the neck and started punching her."[vii] *Kay* went on to rob the worker and set fire to the sex services premises ostensibly because "he felt he'd been ripped off."[viii]

While there is no excuse for sexual assault, we would also like to point out that feeling ripped off is a particularly flimsy justification. Here in the decriminalised setting of NSW, anyone who feels unhappy with the supply of goods or services from a sex worker is, under Part 6A of the *Fair Trading Act 1987*, able to take their claim to the NSW Civil and Administrative Tribunal's Consumer and Commercial Division. Paying money for a sexual service does not change the burden of ongoing and communicative consent. Paying for a sexual service does not entitle the client to be violent.

***Recommendation 3**: The language of s 61HA needs to make it clear that acts of physical violence during sexual intercourse negate consent.*

Consent to paid sexual services is no different to other forms of consent

In the case of *Robert John Hall*, who sexually assaulted a sex worker at knifepoint in NSW and got away with it for twenty years, the perpetrator said: "I paid the money now you just lay back there and I can do whatever I f---ing want,". This attitude reflects a consent myth about what sex workers agree to when receiving payment for a sexual service. Agreeing to sexual intercourse does not equate to agreeing to any and all forms of sexual intercourse.

The power of this myth can perhaps be seen in the resulting and woefully lenient sentence detailed in R v Robert John Hall [2017] NSWDC 240[ix] which granted *Hall* a non-parole period of a single year for two violent counts of sexual assault with a weapon. The judgement placed less emphasis on the offender's violence invalidating consent than it did on the offender being "a fully participating, productive member of society"[x] who "has given back to society far more in the last 25 years than many ordinary citizens manage in a lifetime"[xi].

In the recent Royal Commission into Institutional Responses to Child Sexual Abuse[xii], when priests were being held to account for decades old sexual abuse of children, they were not given leniency for being productive members of society in the time since their offences. It belies the seriousness of violent sexual assault to offer this group of offenders this consideration, and sends a clear message to the sex worker who was sexually assaulted at knifepoint twice, that assaults on her person didn't matter. (This also relates back to our first recommendation of comparative sentencing for all sexual assault convictions).

In other global jurisdictions, the consent myth about payment changing the nature of consent has been addressed directly. In the United Kingdom in the case of *Daniel-Nicolae*, Judge Horton said: "I sentence you for rape upon a sexual worker in exactly the same circumstances as the rape of any other woman with whom you had been having consensual sex. The court has no distinction. A sex worker, like any other woman in this country, is entitled to her consent."[xiii] In New Zealand, the only

other jurisdiction in the world besides NSW where sex work is decriminalised, the 2003 *Prostitution Reform Act (PRA) s 17* [xiv]entrenches this in law. This Act makes explicit the 'right of refusal' or right to withdraw consent from providing sexual services for any reason, at any point.

The case of *R v Daly* clearly demonstrates illustrates that in New Zealand, consent is dynamic and ongoing within the context of providing sexual services. In this case, a sex worker withdrew her consent when the client became violent. The High Court judgement stated:

> *On this matter I am satisfied, from the jury's verdict, that the complainant's reaction made it sufficiently clear that she was not consenting to this, and that you could not reasonably have believed that she was, notwithstanding the discussion about rough sex at the start of that evening's encounter. The Crown also emphasises the vulnerability of your victim saying that prostitutes are vulnerable in the course of commercial sexual activity and your offending represents a breach of trust on your part, by ignoring the complainant's protestations and withdrawal of consent.*[xv]

SWOP would like to see the same certainty about payment not changing the benchmark of ongoing and communicative consent entrenched in legislation here in NSW.

Recommendation 4: *It would be desirable for the revised s 61HA to make it clear that consent to paid sexual services is no different to other forms of consent – it still must be ongoing and communicative.*

Condom removal is a sexual offence

Non-consensual acts, and in particular the removal of a condom, invalidate consent. For sex workers, the removal of a condom during sexual intercourse may result in the sexual service being terminated without refund when it is discovered. However condom removal is usually done surreptitiously, and is often only discovered after sexual intercourse has occurred, leaving person who has been assaulted with little recourse under s 61HA.

The issue of sexual assault perpetrators removing condoms is not unique to sex workers, or to sex work settings. "I once went on a date with a man who invited me up to his bedroom, held me down as he initiated sex without a condom, and then read one of my own articles, about sex work, out loud to me as I lay silently next to him."[xvi] That report came from a sex worker about an assault without a condom that occurred in her private life, where the perpetrator seemed completely oblivious to the fact that by ignoring her repeated requests for a condom, he was sexually assaulting her, as evidenced by his behaviour following the sexual assault.

The practice of secretly removing a condom has become popularly known in the media as 'stealthing'. At SWOP we do not use this term, as it minimises the gravity of what is occurring – sexual assault. When a person only agrees to sexual intercourse under the condition that is it protected sex, to deliberately remove the condom invalidates their consent and makes it an act of sexual assault.

There is a relevant case due before NSW courts upon which there has been some media. In the

reporting, “NSW sex crimes squad commander Lina Howlett said sex turns into assault when "consent is not given or [is] withdrawn" but that "unfortunately there's nothing in the Crimes Act relating to removing a condom during sex".”[xvii] SWOP is in agreement that s 61HA of the Crimes Act should specifically include the non-consensual removal of a condom, popularly known as ‘stealthing’.

There is global support for this viewpoint, as evidenced by a Swiss appeals court upholding “a 12-month suspended sentence for a man convicted of deliberately removing his condom during sex with an unconsenting partner”[xviii]. In Canada, the case *R v Hutchinson* saw the Supreme Court uphold the sexual assault conviction and sentence *Hutchinson* to 18 months in prison “on the basis that condom protection was an “essential feature” of the sexual activity, and therefore the complainant did not consent to the “sexual activity in question”[xix].

There is also a considerable body of global and local evidence from people who have experienced sexual assault, that assault without a condom is experienced as a second sexual offence. Here in Australia, in a media piece about the sexual assault and subsequent murder of Eurydice Dixon, writer Amy Rae, reports on a sexual assault committed against her person: “Near the beginning of my time in Melbourne, I was raped. A young man forced himself on me, unprotected, after I told him no.”[xx] Later in the same piece Rae repeats: “the man who raped me without protection”[xxi] before discussing the additional burden the lack of a condom placed on her over and above being sexually assaulted. Rae’s double use of this rape qualifier indicates the significance (and second assault) of sexual intercourse without a condom.

In *‘Rape-Adjacent’: Imagining legal responses to non-consensual condom removal* in the *Colombia Journal of Gender and Law*, Brodsky reports “all of the survivors experienced the condom removal as a disempowering, demeaning violation of a sexual agreement”[xxii] before going on to recommend a legislative response that makes it clearer “’stealthing’ doesn’t just “feel violent”—it is.”[xxiii] Brodsky describes a specific experience of non-consensual condom removal that extends beyond the fear of specific bad outcomes, like pregnancy and STIs. However it is also worth noting that the impact of condom removal by the sexual protagonist with a penis has a heavier burden on the non-consensual receptive partner in terms of risk of exposure to blood borne viruses, and the additional risk of unwanted pregnancy if they are cis-female and fertile.

SWOP also views the practice of deliberately breaking or rupturing of condoms as a form of “stealthing”, and thus we have included deliberate damage to condoms in the wording of our recommendation below.

Recommendation 5: *That s 61HA should specifically include the non-consensual removal or deliberate damage of a condom, popularly known as ‘stealthing’.*

Consent is negated by fraud and significant deception

While s 61HA does mention the negation of consent “under a mistaken belief as to the identity of the other person” in 5(a) and “under any other mistaken belief about the nature of the act induced by fraudulent means” in 5(c) it is our belief that consent negated by fraud and significant deception need to be further clarified.

When a person is defrauded or deceived into sexual intercourse, it has a very similar impact to other forms of sexual assault. At SWOP we have anecdotal evidence of this from sex workers who report being tricked into providing sexual services by clients who they later find out have defrauded them.

As sex workers, it is clear that their consent to sexual intercourse was conditional upon them receiving payment.

NSW law, as it stands, makes justice for sex workers who have experienced consent negated by fraud unlikely; however in in the ACT, this constitutes an offence. The ACT Supreme Court upheld a conviction in *R v Livas*[xxiv] negating consent obtained by fraud when *Livas* did not pay for the sexual services he obtained.

Many sex workers have contacted SWOP about the practice of some NSW Councils to use private investigators to obtain sexual intercourse from sex workers for evidence against businesses operating without correct development consent. We consider these duplicitous practices by investigators as analogous to sex obtained fraudulently. This issue has had some media attention, with our Chief Executive Officer, Cameron Cox, explaining in one article:

> *I have sex on an understanding that I'm sleeping with a client, with someone who wants to have sex. If I knew they were a council worker or a PI, I wouldn't have given my consent meaning they've had sex with me by fraud. In the ACT, they'd go to jail for rape if they did that. We see it as rape and I've had a number of very distressed sex workers call me and wonder if they've been a victim of it.*[xxv]

Sex workers have also anecdotally reported to SWOP that private investigators have been utilised in family court matters, where an ex-partner may be seeking to prove the worker was a danger to their child because of their choice of employment. Earlier this year we made a submission to Review of the Family Law System IP48 that also tries to address this practice.

In all of these examples, sex workers report experiencing distress akin to the distress they might feel when faced with other sexual assault offences. It diminishes the seriousness of sexual assault for non-consensual sexual intercourse to be wielded as a reasonable tool for investigating crime, custody issues or development approval. We are not the only jurisdiction to think so. In Alaska, House Bill 112[xxvi] was introduced to close the loophole allowing law enforcement to engage in sexual contact with victims, witnesses or perpetrators of crimes who are under police investigation. Currently in Alaska, it is only illegal for a peace officer to have sexual contact with persons after they have been arrested.

Here in NSW many sex workers still bear the scars of police brutality stemming from performing sex work prior to the Royal Commission into the New South Wales Police Service. Known as Wood Royal Commission, this investigation ran from 1995-1997 and eventually led to the decriminalisation of sex work as a means to end widespread police corruption that was affecting our industry. Prior to decriminalisation, law enforcement officers were able to regularly demand sex workers give over both money and acts of non-consensual sexual intercourse in order to avoid arrest. Decriminalising sex work in NSW took away this incentive, so we are disappointed to see sexual entrapment of sex workers by some NSW Council authorities creeping back in.

It is SWOP's view that the use of both fraud and deception to obtain sexual intercourse constitute sexual offences; and as such they should both be clearly included in s 61HA. To this end we support the Tasmanian provisions about consent found in section 2A of the Criminal Code Act (1924)[xxvii], namely that a person does not freely agree to an act if the person:

> *(f) agrees or submits because of the fraud of the accused; or*
> *(g) is reasonably mistaken about the nature or purpose of the act or the identity of the accused;*

We would like to see s 61HA to be updated to reflect these provisions.

Recommendation 6: *We recommend that s 61HA is updated to reflect Tasmanian provisions about consent, namely section 2A of the Criminal Code Act 1924 that provides that a person does not freely agree to an act if the person 'agrees or submits because of the fraud of the accused' or 'is reasonably mistaken about the nature or purpose of the act or the identity of the accused'.*

Specialised sexual assault courts/specially trained judicial staff

Sexual assault is traumatic for people who have these acts perpetrated against their person. It is SWOP's belief that we could improve upon the current system in a way that balances the rights of the traumatised person more fairly against the perpetrator's right to a fair trial.

We believe that specialised sexual assault courts, and specially trained judicial staff, could better strike this balance. We also believe that these changes could help to reduce the barriers that result in the under-reporting, under-prosecution, and under-conviction of sexual assault offences.

If people who have experienced sexual assault had their own legal representation, rather than simply being treated as victims of crime, we believe there would be more likelihood of successful convictions.

Rape myths make trial by untrained jury very uncertain for complainants. The idea of having to explain your actions (or perceived inactions, like freezing) to twelve untrained peers plucked at random from the general public is extremely challenging. It's daunting even when you factor in that in Australia, "almost 1 in 5 women (18%) and 1 in 20 men (4.7%) have experienced sexual violence (sexual assault and/or threats) since the age of 15."[xxviii] Not being believed, or the perception of not being believed, can be re-traumatising for those who have experienced sexual assault.

When the person who has experienced sexual assault is a sex worker, the likelihood of justice being realised is further impacted by stigma and discrimination against sex workers. Unhelpful sex worker stereotypes intersect with rape myths, meaning that sex workers are less likely to see a successful conviction and a commensurate sentence for the perpetrator while the system remains in its current format.

Recommendation 7: *The rate of successful prosecutions under a revised s 61HA would likely be further aided by specialised sexual assault courts and/or specially trained judicial staff.*

[i] ABC, *Jill Meagher's husband Tom Meagher says justice system failed her and Adrian Bayley's sentence is a disgrace*, published online 19 June 2013 at http://www.abc.net.au/news/2013-06-19/tom-meagher-says-justice-system-failed-his-wife/4766620

[ii] Touching Base is a charitable organisation that has been operating since October 2000. http://www.touchingbase.org/

[iii] News.com.au, *Victorian Sentencing Manual update takes rape of sex workers more seriously*, published online 24 October, 2016 at https://www.news.com.au/national/victoria/news/victorian-sentencing-manual-update-takes-rape-of-sex-workers-more-seriously/news-story/eacb5b1f10cbc0cc7126c2797b989779

[iv] ABC, *Jill Meagher's husband Tom Meagher says justice system failed her and Adrian Bayley's sentence is a disgrace*, published online 19 June 2013 at http://www.abc.net.au/news/2013-06-19/tom-meagher-says-justice-system-failed-his-wife/4766620

[v] R v Lazarus [2017] NSWCCA 279.

[vi] ABC, *NSW Attorney-General calls for review of sexual consent laws following Four Corners program*, published online 08 May, 2018 at http://www.abc.net.au/news/2018-05-08/nsw-attorney-general-calls-for-review-of-sexual-consent-laws/9734988

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[viii] Sydney Morning Herald, *Man jailed for attacking King Cross sex worker*, setting fire to brothel, published online 9 February, 2018 at https://www.smh.com.au/national/nsw/man-jailed-for-attacking-king-cross-sex-worker-setting-fire-to-brothel-20180209-h0vtx7.html

[ix] R v Robert John Hall [2017] NSWDC 240 accessed 04 July, 2018 at https://www.caselaw.nsw.gov.au/decision/59af69cee4b074a7c6e1873f

[x] R v Robert John Hall [2017] NSWDC 240.

[xi] R v Robert John Hall [2017] NSWDC 240.

[xii] Royal Commission into Institutional Responses to Child Sexual Abuse (2013-2017) accessed online 10 July, 2018 at https://www.childabuseroyalcommission.gov.au/.

[xiii] BBC News, *Man jailed for raping Bristol prostitute*, published online 16 December, 2013 at https://www.bbc.com/news/uk-england-bristol-25404711

[xiv] New Zealand Legislation, Prostitution Reform Act 2003, No 28 accessed 10 July, 2018 at http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html

[xv] *R v Daly* [2014] NZHC 1922 accessed 10 July, 2018 at http://www.nzlii.org/nz/cases/NZHC/2014/1922.html

[xvi] Sydney Morning Herald, *What it's like dating a sex worker*, published online 27 August, 2018 at https://www.smh.com.au/lifestyle/life-and-relationships/what-it-s-like-dating-a-sex-worker-20180226-p4z1rb.html

[xvii] ABC, *Could this be Australia's first stealthing court case?*, published online 19 May, 2017 at http://www.abc.net.au/triplej/programs/hack/could-this-be-australias-first-stealthing-court-case/8534190

[xviii] Reuters, *Swiss court upholds sentence in 'stealthing' condom case*, published online 10 May, 2017 at https://www.reuters.com/article/us-swiss-stealthing/swiss-court-upholds-sentence-in-stealthing-condom-case-idUSKBN1851UN

[xix] *R. v. Hutchinson*. 2014 SCC 19, [2014] 1 S.C.R. 346, accessed online 10 July, 2018 at https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13511/index.do

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[xxi] Archer Magazine, *Victim blaming culture: Eurydice Dixon and the accountability of men*, published online 29 June, 2018 at http://archermagazine.com.au/2018/06/victim-blaming-eurydice-dixon/

[xxii] Brodsky, A., *'Rape-Adjacent': Imagining legal responses to non-consensual condom removal'*, Columbia Journal of Gender and Law, Volume 32, Number 2, 185.

[xxiii] Brodsky, A., *'Rape-Adjacent': Imagining legal responses to non-consensual condom removal'*, Columbia Journal of Gender and Law, Volume 32, Number 2, 210.

[xxiv] *R v Livas* [2015] ACTSC 50 accessed 10 July, 2018 at http://courts.act.gov.au/supreme/judgments/r-v-livas

[xxv] News.com.au, *Sex workers speak out about the crackdown on illegal or non-compliant brothels*, published online 28 September, 2018 at https://www.news.com.au/lifestyle/relationships/sex/sex-workers-speak-out-about-the-crackdown-on-illegal-or-noncompliant-brothels/news-story/19d5f564d8768a11de539f98d54c6c1b

[xxvi] Alaskan State Legislature, HB 112: *"An Act relating to sexual assault by a peace officer against a person who is a victim, witness, or perpetrator of a crime"*, accessed online 10 July, 2018 at http://www.akleg.gov/basis/Bill/Text/30?Hsid=HB0112A

[xxvii] Criminal Code Act 1924 [TAS], Section 2A, accessed online 10 July, 2018 at https://www.legislation.tas.gov.au/view/html/inforce/current/act-1924-069

[xxviii] Australian Institute of Health and Welfare, Family, domestic and sexual violence in Australia, 2018, February 2018 accessed online 10 July 2018 at https://www.aihw.gov.au/reports/domestic-violence/family-domestic-sexual-violence-in-australia-2018/contents/summary