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[DE]CRIMINALIZATION: SOCIAL CONTROL, AGENCY, & INTERSECTIONALITY IN AUCKLAND'S SEX INDUSTRY

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ABSTRACT

New Zealand's 2003 decriminalization of sex work has reduced the incarceration and exploitation of sex workers, as well as the health and safety risks in the industry. Despite these successes, barriers to sex workers' physical, economic, social, and legal rights remain. The 2003 Prostitution Reform Act's (PRA) prohibition of migrants on temporary visas from working in the sex industry intersects with transnational punitive policies towards sex work and societal discrimination against racial and gender minorities, creating widely heterogeneous experiences of decriminalization. Qualitative analysis of semi-structured interviews with a diverse sample of 24 sex workers affiliated with the New Zealand Prostitutes' Collective in Auckland sheds light on the ways race, legal status, and gender moderate the effects of decriminalization. I draw on Foucauldian theories of panoptic social control in a globalized market to frame how decriminalization exposes persistent and intersectionally patterned experiences of discrimination and labor exploitation, with consequences on participants' agency, dignity, and income security at work. In addition to the PRA's exclusion of migrant workers and the persistent stigmatization of sex work, neoliberal socioeconomic inequality in New Zealand limits the reform's abilities to uphold the labor rights and guidelines for occupational health and safety put in place to protect *all* sex workers

SEX WORK LAW IN AOTEAROA NEW ZEALAND

- The Prostitution Reform Act (2003)
 - Section 19 prohibits people without NZ citizenship or permanent residency from sex working
- Influence of Palermo Protocol (2000) and U.S. Trafficking in Persons Report on New Zealand's Crimes Act, Section 98D
- FOSTA-SESTA (United States (2018), which led to the international shutdown of Backpage.com
- Municipal by-laws zoning street work and brothel location

SITE & METHODOLOGY

- Internship & field work at the New Zealand Prostitutes' Collective, February-June 2018
- 4 case-observation participants
- 20 semi-structured interviews; 30-90 minutes long
- Interviews addressed: interactions with the police, management, clientele, peers, the public, as well as discrimination and income management.
- Qualitative data analysis using Nvivo software



SAMPLE

DEMOGRAPHICS	N=24	CAREER PROFILE	N=24
Age		Venue	
20-29	8	Street	4
30-39	9	Managed	9
40-50	7	Private	3
		Managed & street	1
		Managed & private	5
		Private & street	2
Gender		Number of years worked	
Ciswomen	19	<1	4
Transgender women	5	1 to 5	8
		6 to 10	5
		11 to 15	2
		15 to 20	1
		>20	4
Ethnicity		Work legal status	
Pākehā (white)	6	Working legally	17
Māori	2	Working illegally	7
Māori-pākehā	3		
Asian	6	Work legal setting	
Asian-pākehā	1	Pre- & post- pra	2
Pacific islander	2	Post-pra	22
Other	3	Countries of work	
		Only NZ	15
		Nz & abroad (various legal settings)	9
Legal status			
NZ citizenship	15		
NZ residency	2		
Temporary visa	7		

THEORETICAL FRAMEWORK

- Panopticism (Foucault 1975)
- "Managing the rabble" (Irwin 1985)
- Social control beyond incarceration (Kohler-Hausmann 2018)
- Global panopticism and corporate surveillance (Backer 2008)

Social Control

- The Matrix of Domination & mutual adaptation (Collins 2000)
- A critique of power with liberating potential (Dhamoon 2008)
- Intercategorical methodology that avoids reifying normative categories of power (McCall 2005; Yuval-Davis 2007)
- Asymmetrical outcomes within interlocking systems of oppression (Collins 2000; Razack 1998)

Intersectionality

- Subverting false dichotomy of agency "or" victimization in sex work → navigation & mobility (Kempadoo & Doezema 1998; Ham 2017; Hoang 2015)
- The PRA's neoliberal paradox (Abel 2017)
- Embedded agency in fields of power (Battilana & D'Augelli 2009; Foucault 1988; McNay 2013)
- Dignity at work (Bolton 2007; Lamont 2000; Hodson 1996)

Agency

FINDINGS

- Improvements
- Brothel raids and deportation of migrant workers
- Panoptic surveillance: borders, technology, online advertising, banking, taxes
- Informal social control, the assumption of criminality, and "managing the rabble's economic success" (Irwin 1985)
- Social services, housing, job market
- Police surveillance, "risk assessment," & public discrimination on the street
- Exploitative management practices based on the assumption of criminality

Informal & Formal Social Control

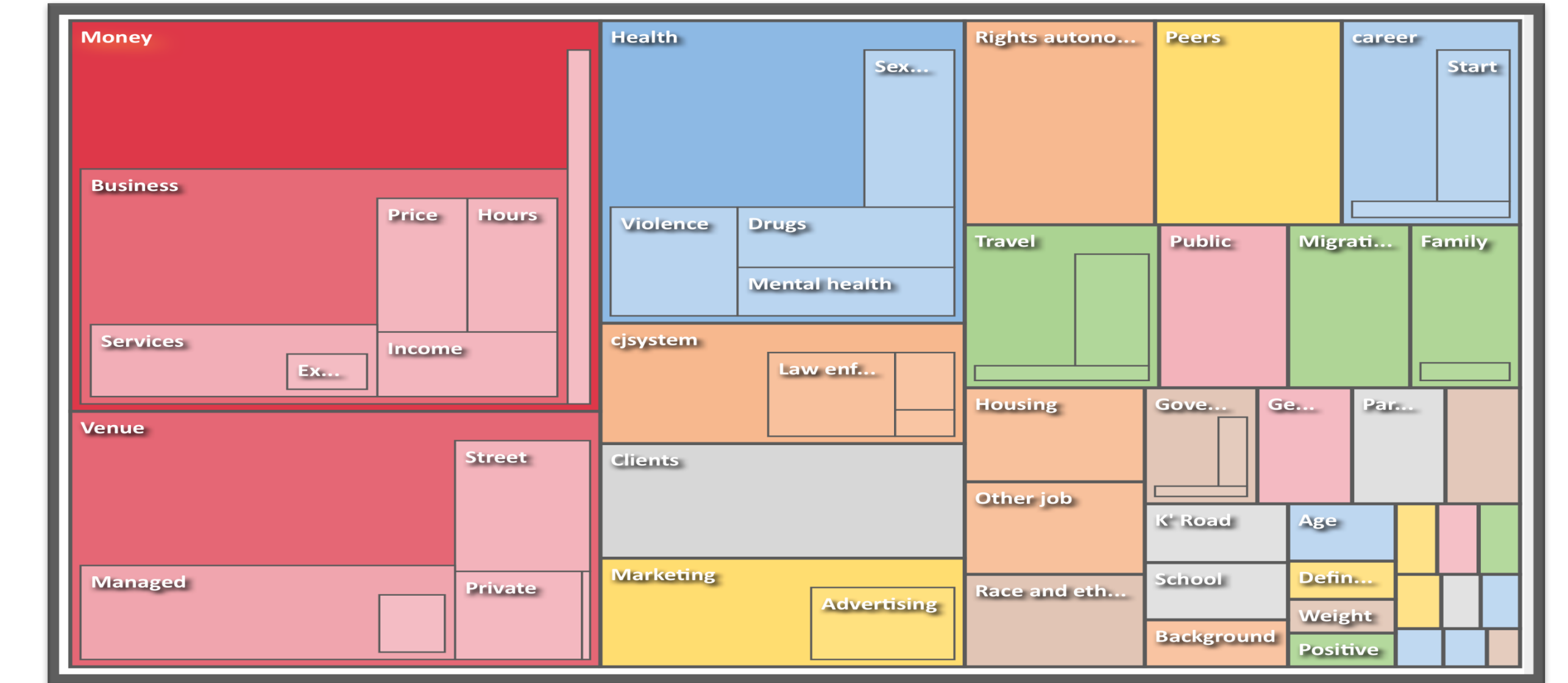
- Improvements
- Mobility
- Choice of venue
- Legal consciousness
- Visa status, coercion, & violence
- Hours
- Services
- Price
- Income & health: unprotected services
- Screening clients
- Marketing autonomy

Agency

- Improvements
- Income generation & maximizing profit
- Income insecurity & precarious work writ large
- Theft & visa status
- Informal criminalization & profit extraction in managed sector
- Online advertising: New Zealand Girls' monopoly, prices, & control
- Racial inequity in income security
- Peer competition & solidarity

Income Security

FINDINGS, CONT.



And sort of that implicit understanding that we still operate as if we are not legal workers. That we don't get any of these rights, we have shady sort of working situations because this presumption of continued criminality ... of continued criminalization ... keeps us safe from cops and immigration somehow?? Just some like weird stupid reasoning where it's like management will tell you like 'we run like this so y'all don't get deported.' And it's like that's a lie. You don't have to charge as ad fees so we don't get deported – Kai (22 year-old private worker, NZ citizen)

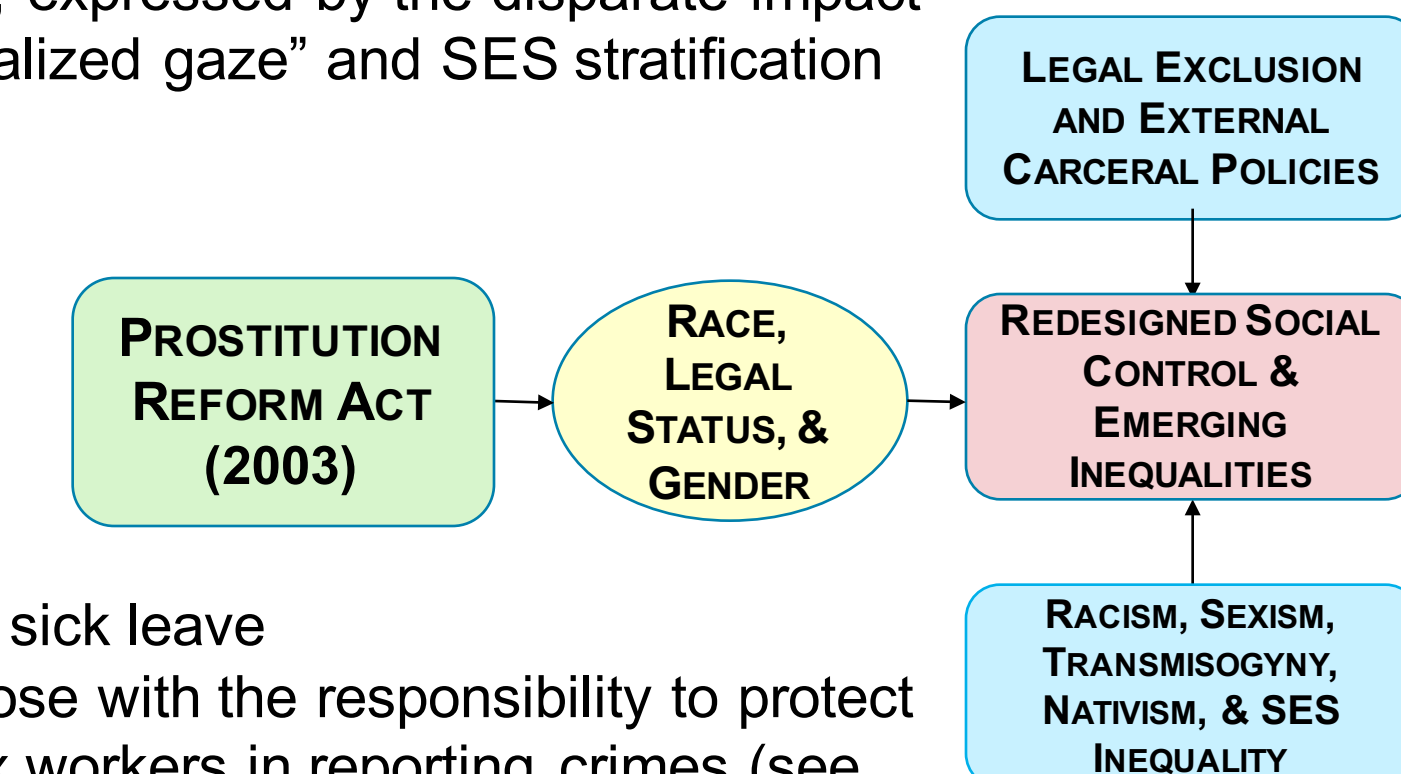
CONCLUSIONS

Discussion

- Market panopticism and the convergence of state and corporate surveillance that maximizes profit (online advertising monopolies, excessive fines and fees for workers, informal social control, and gentrification)
- Convergence of transnational market and state hegemony via surveillance is reliant on 1) the maintenance of the carceral (prohibition of migrants, transnational punitive policies) and 2) interlocking systems of power in the historically rooted and contemporarily persistent matrix of domination, expressed by the disparate impact of the PRA, both of which reinforce "the internalized gaze" and SES stratification within and beyond the sex industry

Policy Implications

- Repeal of PRA Section 19
- Repeal of FOSTA-SESTA and prohibition of online advertising sites' exclusivity clauses
- Repeal of municipal bylaws prohibiting street work
- Greater labor rights protections, including paid sick leave
- Establish a formal firewall between INZ and those with the responsibility to protect sex workers (the police) to support migrant sex workers in reporting crimes (see 2018 New Zealand chapter of GAATW report recommendations)
- Internationally recognized formal differentiation between 1) consensual sex work that requires labor rights and 2) human trafficking, involving all forms of coerced or forced labor.



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