

Intersection of LGBTQIA and Sex Workers' Rights



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Henri & J's Background

1. Henri

2. J. Leigh

- a. Transgender and pansexual sex worker of color who has come from food & housing instability, poverty, disability, familial violence and rejection of trans/queer identities
- b. Majority gay, bisexual, pansexual, and transgender clients (both singles and couples)
- c. Sex work affirmed my identities, provided community support networks, disability inclusion, housing and food stability, greater self-esteem, emotional healing, and a pathway out of poverty

LGBTQIA: Stigmatization & Criminalization

1. Stigmatization of sexual orientation and gender identity

- a. The Defense of Marriage Act, which defined marriage as being between a man and a woman, was not ruled unconstitutional by the Supreme Court until 2015
- b. It was not until 2020 that the Supreme Court ruled that employers cannot discriminate based on gender identity and sexual orientation

https://www.washingtonpost.com/politics/courts_law/supreme-court-says-gay-transgender-workers-are-protected-by-federal-law-forbidding-discrimination-on-the-basis-of-sex/2020/06/15/2211d5a4-655b-11ea-acca-80c22bbee96f_story.html.

2. Criminalization of Same-Sex Behavior

- a. Laws making sodomy illegal were allowed to exist until 2003
- b. "In their 2017 survey, the International Lesbian, Gay, Bisexual, Transgender and Intersex Association (ILGA) reported that 72 nation states continue to criminalise same sex behaviour, with 13 nation states allowing, or allowing for the potential application of, the death penalty."
- c. "LGBT people in nearly all countries worldwide report experiences of stigma and discrimination in some form. This includes structural barriers that result in difficulty accessing housing, education, healthcare and employment, and restrictions on, or abuses of, human rights."

https://www.nswp.org/sites/nswp.org/files/bp_homophobia_transphobia_mpact_nswp_-_2018.pdf

Sex Work: Stigmatization & Criminalization

1. Criminalization of sex work

- a. "Criminalisation has a devastating effect on the health and human rights of sex workers, limiting their access to a range of services. Consequently, sex workers are disproportionately affected by violence and HIV infection."
- b. "Other detrimental legal frameworks include: 'End Demand' legislation (e.g. the 'Nordic Model'), which criminalises the buyers of sex. Under such frameworks sex workers are more vulnerable to violence, discrimination and exploitation – facing harassment, persecution and arbitrary arrest by authorities."

https://www.nswp.org/sites/nswp.org/files/bp_homophobia_transphobia_mpaact_nswp_-_2018.pdf

2. Stigmatization of legal sex work

- a. Massage Without a License
- b. Pornography, webcamming, phone sex stigma
- c. Discrimination in banking, housing, social media accounts, etc.
<https://www.vice.com/en/article/88gvpk/sex-worker-mastercard-discrimination-survey>
- d. Even legal sex work can be weaponized to withhold child custody or visitation rights



3. Conflation with human trafficking

- a. SESTA/FOSTA impacts
- b. When adult consensual sex workers are conflated with trafficking victims, that stigma can prevent access to housing, food, and other services, especially service providers with religious or moral anti-sex work contingency-based services.
- c. Human Trafficking Intervention Courts (HTIC's). "...the social hysteria around human trafficking in the past twenty years has actually harmed many survivors. As with any social phenomenon, fearmongering inevitably coincides with and augments misinformation and miseducation."

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/charlwrev15&div=20&id=&page=>

The Link Between LGBTQ+ History and sex workers

1830s Mary Jones- black transgender sex worker in New York City and New Orleans

1959 Cooper's Doughnuts- police harassment of queer people and trans sex workers at a coffee shop in Los Angeles incited uprising

1966 Compton Cafeteria- police manhandling of a "Queen" in San Francisco kicked off uprising

1969 Marsha P. Johnson, Miss Major Griffin-Gracy, & Silvia Rivera- police harassment of queer people and trans sex workers of color at Stonewall Inn in New York City started what is widely known as the beginning of the U.S. LGBTQ+ rights' movement

“Indeed, the fight for LGBTQ rights was and is inseparable from the fight for sex workers’ rights”

<https://time.com/5604224/stonewall-lgbt-sex-worker-history/>

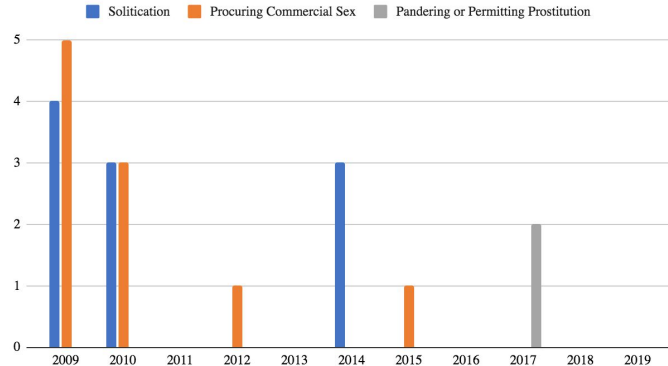


Rhode Island Prostitution & Trafficking Data

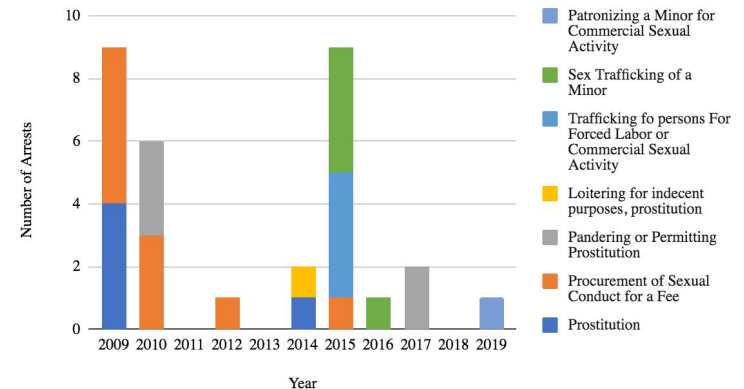
- 1. RI Prostitution-Related Arrest Data**-Between 2009 and 2019, the state saw 21 convictions for prostitution-related crimes, four trafficking convictions for forced labor (sexual or otherwise), five convictions for Sex Trafficking of a minor, and one for Patronizing a minor for prostitution.
- 2. Behind the Curve for Trafficking Survivors**-“it wasn’t until 2010, a full decade after the Trafficking Victims Protection Act (TVPA) went into effect, that criminal record relief for trafficking survivors began to take form...Rhode Island was further behind the curve than most, leading many survivors shouldering criminal convictions that prevent access to housing, jobs, education, and other social services. Polaris gave the state vacatur laws a failing grade in their report (F) for the lack of offenses covered and unrealistic standards of evidence, among other things.

<https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf>

Prostitution-related Arrests in Rhode Island 2009-2019



Rhode Island Sex Work and Trafficking Related Arrests; 2009-2019

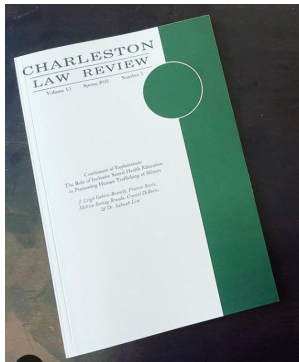


LGBTQ Highlights from “Continuum of Exploitation: The Role of Inclusive Sexual Health Education in Preventing Human Trafficking of Minors”

1. “The structural origin of human trafficking is rooted in centuries of systemic social and economic inequality. These inequities have been continually exploited within hierarchies of access to all kinds of power, including sexual and political agency.”
2. “Queer youth, particularly transgender and non-binary youth, are seven to eight times more likely to trade sex than their heterosexual, cisgender peers.”
3. “[LGBTQ+] youth are at higher risk of exploitation when their identities, feelings, and expressions of gender and sexual orientation are invalidated, ignored, or denounced through formal or informal sexual education.”

4. “Poverty and lack of economic opportunity creates vulnerabilities that trap people into exploitative situations. When economic desperation is compounded with subsequent factors (e.g., racism, sexism, homophobia, transphobia, family trauma, and failed educational systems...), it creates a ripe environment for trafficking. “

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/charlwrev15&div=20&id=&page=>



More highlights...

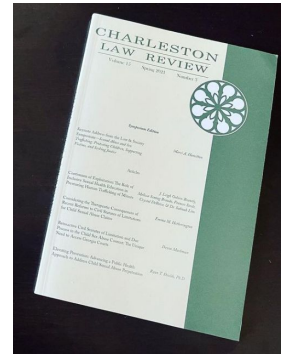
5. “According to a 2015 survey by The National Center for Transgender Equality (NCTE), on average, 5% of transgender, gender non-conforming (TGNC) community members engage in sex work for income each year. 55% of those who engage in survival sex each year are transgender women. Approximately 19% of all study participants had participated in some form of survival sex for money, food, sleeping quarters, or other goods or services.

6. “For queer youth, especially transgender youth, family rejection is a primary force behind exploitation. If you are forced to run away from home—or thrown out of your home—you have to figure out ways to survive. Survival sex is a natural ‘choice’... “

7. “When there is recognition of sexual activity [in school education], curricula often focus almost exclusively on heterosexual relationships. Students with other sexual or gender identities are left without tools to protect themselves during sexual encounters and they experience augmented shame. “

8. “Law, homophobia, misogyny, control of women’s bodies and people’s sexual experiences all coincide and support repressive conditions that foster exploitation, stigmatization, and violence. “

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LGBTQIA Sex Workers

1. “The dual identities of LGBT sex workers therefore have the potential to further marginalise individuals and render them more vulnerable to increased levels of violence, human rights’ abuses, and decreased access to services and justice.”
2. “LGBT sex workers reported facing discrimination, humiliation and denial of services from healthcare workers, either based on their sexual orientation, gender identity, their sex work or any combination of these”

https://www.nswp.org/sites/nswp.org/files/bp_homophobia_transphobia_mpaact_nswp_-_2018.pdf



3. Opportunity- Transgender people (especially transgender women of color) often have fewer options in employment outside of sex work.

“More than one in four transgender people have lost a job due to bias, and more than three-fourths have experienced some form of workplace discrimination. Refusal to hire, privacy violations, harassment, and even physical and sexual violence on the job are common occurrences, and are experienced at even higher rates by transgender people of color.”

<https://transequality.org/issues/employment>

4. STI Infection- LGBTQ+ people have higher rates of HIV/AIDS and other STI’s comparatively with straight cisgender people, although sexual orientation is difficult to determine in research, due to self-reporting “identification”

<https://www.stdcheck.com/blog/lgbt-std-statistics/>

The ties between criminalization, sexual orientation/gender identity stigma, and less safe sexual practice is well documented, especially in sex work.

<https://pubmed.ncbi.nlm.nih.gov/30532209/>

“Decriminalization is a critical element to end AIDS in 2030.”

<https://www.unaids.org/en/topic/decriminalization>

“...33–46% of HIV infections could be averted in the next decade if sex work was decriminalised.”

[https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(14\)60931-4.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(14)60931-4.pdf)



SEX WORK IS WORK

pride
Center of Excellence New York

LGBTQIA clients

1. **Class and Gender Stereotypes in Sex Work Narratives**-the false narrative that wealthy straight white cisgender men are the only clients of poor straight female sex workers is demonstrably false in both arrest and academic research data
2. **Transgender, lesbian, gay, and queer clients**- are definitely represented and can many times explore their gender or sexual orientation in a safe and emotionally healing environment with sex workers, especially if they are closeted with families and feel they have no other outlet for their identity

“We offer something good, even lifesaving. My friend — I’ll call him Dave — told me in the gym a few weeks ago that he helped a 60-year-old man enjoy gay sex for the first time. The man reached out to him, told him he was a virgin to gay sex, and asked for help. When it happened, my friend described the experience as one of the most powerful of his life.”

Laws Disproportionately targeting (and profiling) folks as trans and queer sex workers

1. “...lesbian, gay, bisexual, transgender, and queer (LGBTQ) people are overrepresented at every stage of criminal justice system, starting with juvenile justice system involvement.”

<https://www.prisonpolicy.org/blog/2021/03/02/lgbtq/>

2. Profiling and Arrests of LGBTQ youth

“70% of LGBTQ homeless youth engaged in sex work reported having been arrested on prostitution charges, although they were rarely engaging in sex work at the time of arrest. Only 9 percent had been charged with prostitution-related crimes”

3. Loitering for the Purposes of Prostitution Laws (A.K.A “walking while trans”)

<https://decriminalizesex.work/why-decriminalization/briefing-papers/loitering-for-the-purpose-of-prostitution-lpp/>

Transgender Sex Workers and Incarceration

1. Trans people are arrested, prosecuted, and jailed for prostitution-related offenses at higher rates than other populations
2. Inappropriate gender incarceration (i.e. trans women being housed in male prisons) has lead to:
 - A. Serious long-term mental and physical issues**-attributed to solitary confinement, PTSD, and misgendering

B. Sexual assault by other inmates and peace officers

“According to a report submitted to the United Nations by three sex worker advocacy organizations in 2004, police violence against sex workers has a pattern that includes ‘assault, sexual harassment, public ‘gender searches’ (police strip searches for the purpose of viewing genitalia) and rape’.”

<https://swp.urbanjustice.org/wp-content/uploads/sites/14/2020/08/Fact-Sheet-Sexual-Violence-Against-Sex-Workers-1-1-1.pdf>

C. Death-Layleen Polanco was a transgender sex worker of color who was killed by negligence at Rikers Island when correctional officers laughed at her and waited over 90 minutes to respond after she had a seizure in solitary confinement. Her incarceration was overwhelmingly due to not paying \$500 from bench warrants from being arrested for misdemeanor prostitution and a low-level drug possession offense.

<https://www.rollingstone.com/culture/culture-features/layleen-polanco-transgender-decriminalize-sex-work-847437/>

Recommendations of Laws for RI Regarding Sex Work

1. **Pass House Bill 5467**-grant immunity from prosecution to people engaged in commercial sexual activity if they report to law enforcement that they are victims of or witnesses to a crime.
2. **Pass Full decriminalization of sex work bill**- UNAIDS, the Office of the United Nations High Commissioner for Human Rights, the World Health Organization and United Nations Office on Drugs and Crime called on global leaders “to make detention a last resort, to close drug rehabilitation detention centers and to decriminalize sex work, same-sex sexual relations, and drug use.” <https://www.unaids.org/en/topic/decriminalization>
3. **Repeal “Loitering for Prostitution” and “Loitering for Indecent Purposes” (§ 11-34.1-4) and (§ 11-34-8)** (a) It shall be unlawful for any person to stand or wander in or near any public highway or street, or any public or private place, and attempt to engage passersby in conversation, or stop or attempt to stop motor vehicles, for the purpose of prostitution or other indecent act, or to patronize, induce, or otherwise secure a person to commit any indecent act.
4. **Repeal Section a. In the Human Immunodeficiency Virus (HIV) Law (§ 11-34.1-12)**, which stipulates that:(a) Any person convicted of a violation of any provisions of chapter 34 shall be required to be tested for Human Immunodeficiency Virus (HIV). **No consent for the testing shall be required.**
5. **Pass House Bill 5464**-patients will not be denied appropriate healthcare on the basis of their sex work history
6. **Pass Senate Bill 249/ House Bill 6049**- which would create a new criminal offense of “custodial sexual assault,” which occurs when a peace officer perpetrates a sexual assault while a victim is in their custody

Recommendations of Policies for RI Regarding LGBTQ+ Issues and Sex Work

1. **Redistribution of police resources to sex workers & survivors of trafficking through:**
 - a. Emergency & long-term housing for LGBTQ+ adults (and youth) that is not contingency-based
 - b. Food support for LGBTQ+ people that is not contingency-based
 - c. Ongoing domestic violence prevention, job training, and de-stigmatization campaigns for trans and queer identities and romantic partners of these individuals
 - d. Create an effective anti-trafficking task force by making it mandatory that former survivors and current sex worker organizations lead this, not law enforcement
 - e. Shoring up protections around bodily autonomy (Roe V. Wade Implications)

“Abortion bans have the biggest implications for marginalized women. Poor women, racialized women, migrant women, and rural women have less access to abortion to begin with. Under a ban, they would have even less health care options because they can’t afford to travel elsewhere. They are far less likely to be able to afford a lawyer if they face criminal charges in place where abortion is criminalized.”

<https://rabble.ca/columnists/connecting-the-dots-between-roe-v-wade-sex-workers-and-bodily-autonomy/>

“Activists and supporters of the LGBTQ community say any decision to overturn Roe v. Wade could have significant consequences on vulnerable groups if privacy-related rights like access to contraception or gender-affirming care are threatened.”

<https://www.npr.org/2022/05/05/1096365879/roe-wade-abortion-transgender-scotus-marriage-contraceptives-privacy-rights>