This paper presents findings from a small scale qualitative study which explored the ways in which various groups of respondents conceptualised sex and sexual violation. The study consisted of 19 individual telephone interviews with a self-selecting sample of lay people, two telephone interviews with case workers from an organisation supporting women trapped in or exiting street-based sex work, one focus group with domestic violence support workers and one focus group with police officers. Respondents were asked what they thought the difference was between sex and sexual violation, and then to consider this in relation to a range of hypothetical scenarios which have traditionally proved difficult to bring within the ambit of the criminal law, including sexual activity occurring within abusive relationships. They were then asked to consider several contentious aspects of the current law on rape and sexual assault.

The paper argues for a reframing of the distinction between sex and sexual violation based on a concept of ‘freedom to negotiate’, rather than consent, as per the current criminal law in England and Wales and many other jurisdictions. This alternative framework is developed out of the interaction between the empirical data and normative theory regarding sex and sexual violation. It contributes to literature on sexual violence as well as to discourses on the engagement of lay and (non-legal) professionals with legal concepts.