

Introduction

Prostitution regulation is a fraught issue. It is charged with belief and ideology and there remains a dearth of evidence about the efficacy of various approaches. There is little systematic review and a wide disparity in results from the evaluations that have been done (Mossman 2007). Results are often found to support differences in ideology rather than differences in research findings. The findings about Sweden, for example, where buying sex has been criminalised, depend as much on the convictions of the researcher as they do on the evidence.

Those in support (in particular feminists) [of Sweden's model] point to its success in reducing the number of women visibly working on the streets, and curbing of trafficking. Those opposed to it (sex workers and health organisations) suggest that the number of sex workers has not decreased but the proportion 'hidden' is larger. (Mossman 2007)

Brooks-Gordon (2006) identifies three discourses that dominate writing and policy about prostitution. The first is a traditional moral discourse which views prostitution as immoral, prevalent in the 1900s and contemporised in the 1980s as the exploitation of female sexuality. This links to a second sexual domination discourse, inspired by radical feminism, which views prostitution as victimisation of women. 'In both the modernised moral discourse and the sexual domination discourse women are victims denied agency and sexuality...' In the third sex work discourse '...the prostitute becomes a sex-provider entering into a contract'. In the sex work discourse, Brooks-Gordon says, 'There is recognition... that prostitution law has never contributed to the improvement of women.'

In Queensland, the discourse about prostitution has been primarily moral:

Frequently, discussions about the sex industry and its workers start from the perspective of prostitution as a problem. "The problem", however, is often not articulated clearly and a variety of assumptions are made about the nature of the sex industry and the "causes" and consequences of prostitution. (Boyle et al 1997)

The Prostitution Act 1999 has sat somewhat uncomfortably in the Queensland context at least in part because it attempted, for the first time, to impose a sex work

discourse in a public policy context still largely driven by morality, with the religious right opposed to prostitution on moral grounds finding fellowship among contemporary feminists who view prostitution as exploiting or victimising women. The Prostitution Act has one objective, which is to regulate prostitution. Its original provisions also included establishment of a body, the Prostitution Advisory Council (PAC), whose role was to advise the Minister about programs designed to help sex workers leave the sex industry, and this objective, albeit much weakened, remains part of the Act's current provisions. In a sense there are competing objectives here. On the one hand to regulate prostitution as an industry, as work. On the other, to encourage workers in the industry to leave, to prohibit any advertisement designed to recruit sex workers, implying the industry is harmful. It would be hard to find another industry that has been legitimated to this extent at the same time as people are discouraged to participate in it.

This report sets out key findings of a project undertaken in the second half of 2008 for the Prostitution Licensing Authority (PLA) that explored the question:

How can Queensland better regulate the sex industry?

The project team has interviewed a range of stakeholders including sole operator sex workers (35), brothel licensees (23), clients (34), illegal sex workers (5), industry bodies, and relevant Government and other agencies including the Crime and Misconduct Commission (CMC), Queensland Health, the Queensland Police Service (QPS) and the Department of Premier and Cabinet (DPC). Interstate consultations have included regulatory authorities and sex worker support organisations. A full list of those consulted is included in Appendix A. A description of the key themes arising from the consultation phase of the project is provided at Appendix B.

The project has also had the benefit of studies of prostitution in Queensland which include surveys of the views of sex workers, clients and the community which were undertaken before as well as after the Prostitution Act was passed. In addition, two international jurisdictions have evaluated the outcomes of policy changes to decriminalise or legalise prostitution. These are the Netherlands and New Zealand where, importantly, evaluations have been undertaken recently (published in 2007 and 2008, respectively).

This research project, like others that have preceded it, initially intended to make recommendations about changes in the current regulatory framework based on stakeholder input and research. There are many things that could be recommended. Listening to brothel licensees, a regulatory framework might support outcalls from licensed brothels, although not all licensees would be in favour of such a move. It might support more sex workers or rooms for the brothel, alcohol, or other changes to make the licensed industry function more effectively (thereby curbing the illegal industry). Sole operators might be subjected to registration. But listening to sole operators and advocacy groups, a regulatory framework would support small, cooperative arrangements for sex workers outside the current licensed brothel system and no regulation of sole operators. It is difficult to make recommendations without a clearer statement of Government's position than is provided in the Act, particularly in an area like prostitution which is charged with ideology. The only area where there is absolute clarity about the way forward concerns the health and safety of sex workers which may be more at risk now than when the Prostitution Act was first passed, if for no other reason than the two bodies with some responsibility for their health and safety, the PAC and Self-Health for Queensland Workers in the Sex Industry (SQWISI), are no longer operating.

The key findings of this project relate to three issues:

- the health and safety of sex workers;
- the policy framework underpinning regulation; and
- knowledge about the regulatory framework.

While the second of these issues provides a broad context for the other two, they are reported in priority rather than logical order. Government may not wish to embark on the risky and unpalatable task of developing a statement of principles upon which our sex industry can be regulated. It may not want to provide information for sex workers and clients about what is legal and illegal in Queensland. But the need to take steps to improve the network assuring the health and safety of sex workers, at the very least to bring it back to the levels of support offered at the time the Prostitution Act was first passed, is urgent and important. The review would be remiss not to start with the current situation of sex workers and the risks they face.

The health and safety of sex workers

I started two years ago. I'd never had sex for money so I went along to a brothel to find out how it all works. I didn't know about condoms, lube, none of that. I'd had one partner my whole life. I learned from the other girls...

(Sex worker who started in 2007)

Like all New Zealanders, workers in the sex industry have the right to come home from work safe and well.

(Occupational safety and health services 2004)

I was tied up in a situation where I could not move or get free. So I leave it for your imagination as to what happened. I can't explain what happened.

(Sole operator)

A number of studies in Queensland have looked at various aspects of sex workers and the health and safety issues involved in sex work. The most recent local study of sex workers (Woodward et al 2004) interviewed 247 sex workers in 2003 and found:

- sex workers had a mean age of 32 years;
- the majority were born in Australia or New Zealand;
- the largest proportion of brothel and private workers were single, although about a quarter were married or living with a partner;
- more than half of the brothel and private workers had children;
- about a quarter of the brothel and private workers had a bachelor level degree;
- street sex workers had entirely different demographic and social profiles compared with brothel workers and sole operators. They tended to be younger, single, and had attained a lower educational qualification.