

Shifting Sands: A Comparison of Prostitution Regimes Across Nine Countries

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Chapter 1: Introduction

This study was commissioned by the Home Office as part of Tackling Demand for Prostitution Review (Home Office, 2008) ¹, to update a report undertaken in 2003 for Glasgow City Council (Bindel and Kelly, 2004). The original project examined legal and policy responses to prostitution in four countries. Here that is extended to nine with an enhanced methodology (see Chapter 2). In this introductory section we set out the context and the conceptual framework for the study. Whilst there is widespread agreement across the UK that the current legal framework is problematic, there is no consensus with respect to the available options.

As we noted in the first study, prostitution has proved to be a complex issue for politicians and policy makers, within contexts of changing local and international conditions. Some argue that it is possible to trace regulation of prostitution back to the classical age (Hubbard et al, 2008), but it is in the modern period that we find the roots of current debates. From the mid-nineteenth century to the late twentieth century there were two broad positions: the 'abolitionist' - seeking to abolish the institution of prostitution - and the 'regulatory' - which reluctantly accepts the inevitability of prostitution and the responsibility of the state to regulate it. More recently other possibilities have entered the arena: legalisation and decriminalisation, both of which seek, in different ways, to bring prostitution into the mainstream of social and economic policy.

Most policy analysis draws on some variant (and there are many) of these typologies, not helped by occasional contrary re-workings in which conventional definitions of, for example, abolitionism, are inverted (see, for example, Di Nicola et al, 2005)). Most importantly for us the use of typologies as a shorthand has precluded the careful explication of precisely what activities, and/or individuals, and/or locations are criminalised, regulated, or normalised and in what ways (see also, Outshoorn, 2004b). Our first point of departure is that existing typologies are not only inadequate, but frequently misleading. In reality most countries work with amalgams of at least two approaches - with few, if any, making prostitution in all contexts legal, and law and policy targeting aspects that are considered harmful - at minimum prostitution of minors and trafficking. Moreover, national frameworks are administered at local levels, leading to considerable variations in the extent, locations and regulation of sex markets *within*, not just between, countries. To reflect these complexities throughout this report we refer to 'prostitution regimes'. We originally used this concept in the first study, it has simultaneously been developed by others including Joyce Outshoorn who defines it as: 'laws and practices that

¹ This report was commissioned alongside a Home Office commissioned Rapid Evidence Assessment of the published research literature on tackling the demand for prostitution (Wilcox, A. et al. 2009).

shape prostitution... in distinctive ways' (2004b: 6)². Laws and practices are insufficient however, since, as following chapters will illustrate, historical contexts, political and philosophical underpinnings and existing evidence bases are all critical in shaping approaches. It is the combination of these five elements which comprise prostitution regimes in our thinking.

To explore the political and philosophical underpinnings in a little more detail, one can frame prostitution through a range of concepts. At minimum it can be addressed as an issue rooted in:

- morality;
- health;
- social problems;
- gender orders;
- human rights;
- law and order (including national security);
- migration;
- labour/employment;
- capitalism and globalisation.

Within each of these framings particular understandings of risk, safety, violence and social (dis)order can be mobilised. Whilst specific frames can be used by governments of very different hues, and organisations with markedly different policy goals, certain framings lead towards or away from some policy options and determine which Ministries will have the leading policy implementation role.

We are even more convinced than four years ago that whilst philosophical positions on prostitution are incompatible, there are layers of consensus, in research and practice that are too rarely acknowledged, in the all too frequently polarized and clichéd discussions (see also, O'Neill, 2008). At the same time research cannot, in and of itself, resolve the foundational questions prostitution raises, which are rooted in different understandings of social justice, human rights and gender equality. For example, Julia O'Connell Davidson (2002) asks:

... do the body's sexual capacities constitute property in the person or is it impossible to detach sex from personhood without moral harm? Does prostitution law violate the prostitute's natural right to engage in voluntary transfers of her rightful property, or does the prostitution contract itself violate her natural right to dignity? (p85)

A note on language

We define prostitution following Outshoorn (2004b: 3) as:

² Wagenaar (2006) refers to 'policy regimes' drawing on current social policy theory.

... the exchange of sex or sexual services for money or other material benefits; in more academic terms it can be defined as a social institution which 'allows certain powers of command over one person's body to be exercised by another' (O'Connell Davidson, 1998: 9).

Outshorn (2004b) notes that the majority of commercial sex is: "men buying the sexual services of women, within a set of social relations implying unequal power relationships between the sexes" (p3). This definition is a narrower concept than 'sex work' that includes lap dancing, phone sex and pornography. Whilst there are undoubted links between these activities and prostitution, most do not afford the same 'powers of command' over a woman's body, nor use her body in the same ways, with the additional risks not only of infection, but the potential for assault when in the same, frequently privatised, space. When we refer to prostitution/selling sex or commercial sex we mean, therefore, face to face contact, in which some form of sexual/bodily contact takes place, most commonly penetrative sex³.

Throughout this report we refer to prostitution, choosing not to use the term 'sex work' for the reasons outlined above and because it is associated with particular positions with respect to law and policy. We also do not use the words 'prostitute' or 'punter', preferring those who sell and buy sex. We do this for a number of reasons, including to locate explicitly in language, women who sell sex in the category women, rather than 'otherising' them. A similar argument can be made with respect to men who buy. To reflect the realities of sex markets we talk of 'women who sell sex', whilst recognising that there are some men and transgendered people who are part of the group, and 'men who buy sex', since it is men who comprise the vast majority of demand for commercial sex.

We also make a distinction between laws which target the practices involved in prostitution for seller and buyer and those we designate as 'exploitation of prostitution' offences. The latter are committed by third parties, who profit from the actions of sellers and buyers and include pimping, procurement, living off, brothel keeping and trafficking.

The context for contemporary prostitution regimes

The majority of the countries examined in this study have, historically, taken broadly similar approaches to prostitution, with divergence most evident in the last two decades. For most of the nineteenth century prostitution regimes regulated brothels and attempted to control street prostitution (Self, 2003). Many policed women selling sex through Vagrancy Acts, and a number introduced variants of the Contagious Diseases Acts (CDAs) in the second half of the nineteenth century. Prompted by concerns about the health of the troops these laws gave

³ We recognise that there are some exceptions here, of men who pay for company, or to dress up and act out various fantasies. These are, however, the exception, rather than the rule in paid for sex transactions.

considerable powers to the police and doctors, in garrison and port towns in Britain but wider in other countries, to arrest women suspected of selling sex, subject them to mandatory health checks, and hold anyone found to have a STI in a 'lock hospital' for forcible treatment. British military authorities sought similar legislation in ports used by the British Navy: as British colonies New Zealand, India, Singapore, Canada and South Africa complied.

The resistance to the CDAs, led by Josephine Butler, began in the UK but rapidly spread to many other countries and is widely regarded as the foundation of the abolitionist movement (Jordan, 2007). Part of what Butler was challenging was a fatalist discourse: that prostitution was a 'necessary evil' and would always be with us that was widely articulated at this time. She, and others in the abolitionist movement questioned the presumed 'sex right' of men which is implicit in such thinking, arguing that the institution of prostitution demeaned all women. Whilst the CDAs were repealed in the UK, aspects of them, in the form of registration and mandatory health checks, persisted and persist in some prostitution regimes today.

In the early to mid twentieth century, the focus shifted to trafficking, resulting in the 1949 UN Convention on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. Signatories were expected to abolish brothels and criminalise third parties who profited from prostitution. Many prostitution regimes have their roots in responses to this convention, with a number of European countries repealing laws through which they had regulated brothels, and passing new ones which criminalised pimping, procuring and living off earnings from prostitution (Westmarland and Gangoli, 2006).

The 1979 Convention on the Elimination of Discrimination Against Women (CEDAW) follows this route in calling on state signatories to 'suppress all forms of traffic in women and the exploitation of prostitution'. It was after the widespread international ratification of CEDAW that a discourse on prostitution emerged that sought to locate it as a legitimate form of employment, which some women choose in preference to other options. This in turn led to proposed absolute distinctions between 'free/voluntary' and 'forced' prostitution which form the basis of some of the prostitution regimes examined in this report. Negotiating these divergent positions on prostitution became part of the process in creating the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children, often called the Palermo Protocol. This international convention places responsibilities on state parties to develop counter-trafficking in law and policy, and includes a requirement to address the issue of demand. The subsequent Council of Europe Convention on Trafficking, which the UK is about to ratify, places more emphasis on rights of victims of trafficking which, if extended to internal trafficking, places considerably more policy emphasis on support services, including exit programmes.

Variations in prostitution regimes is most marked in Europe, which has resulted in concerted efforts, by some countries, to disconnect trafficking for sexual exploitation from prostitution. Joyce Outshoorn notes that this: 'is a move that de-genders, as the link to prostitution reminds us who is usually being trafficked, for whom and to what purposes' (Outshoorn, 2004b: 10). One of the ironies of many policy responses is that they have been implicitly framed in gender-neutral ways with respect to public health or morality; thus ignoring the inequalities which determine the gendered contours of prostitution, and are arguably reproduced through it (Matthews, 2008). The most commonly noted European disjunction is that between countries that have a variety of forms of legalisation and Sweden that has criminalised the purchase of sex. There are, however, many countries, including the UK, which do not fit into this binary.

The context in England and Wales

Selling sex is not illegal in England and Wales, but many of the activities that make it possible are prohibited including soliciting, and running a brothel. The current legal position is one directed primarily through policy rather than statute, albeit that the law contains anachronistic elements - the designation of 'common prostitute' seemingly impervious to reform⁴.

Whilst buying sex is not illegal, legislation prohibiting 'kerb-crawling' was introduced in the Sexual Offences Act 1985, as a public nuisance offence, which became an arrestable offence in 2001 through the Criminal Justice and Police Act. This has increasingly been used to deter buyers of sex but enforcement is variable, reliant on marshalling significant police resources for operations. A number of planned operations have been cancelled in London recently as the terrorism/security agenda has become the primary priority for policing.

Policy has undoubtedly shifted from a liberal, public nuisance approach, to concerns about the health and safety of women selling sex and a focus on the buyer, although this is currently focused primarily on the minority who buy 'on street'. Until recently there has been no national policy on prostitution in Scotland, or England and Wales (Matthews, 2008). Policy responses, as a consequence, were inconsistent and complaint led, and as with prostitution regimes throughout much of the world focused on criminalising the "visible aspects" (Phoenix, 2008: 33). A variety of interventions, as in other countries, have been experimented with at different times and in different places - tolerance zones, kerb crawler re-education, media name and shame campaigns, road closures, conditional cautions - but with limited evaluation or sustained monitoring (Matthews, 2008). Support services for women who sell sex have emerged alongside these approaches, often structured through available funding streams (Pitcher, 2006): from an initial limited focus on harm reduction and HIV/AIDS, a number are moving into more advocacy-based approaches, and

⁴ A clause in the 2007 Criminal Justice and Immigration Bill would have removed it, but all the clauses relating to prostitution were removed by government.

have a specific aim of enabling women to exit prostitution (Hester and Westmarland, 2005).

Most recent policy development has taken place through the report *Paying the Price* (Home Office, 2006), the consultation following publication and the development of a Prostitution Action Plan. Throughout these processes government had made it clear that the sex industry cannot be left to self-regulate, and that the main target for intervention will be street prostitution, because of the widely documented harms associated with it (see Matthews, 2008 for an overview). This prostitution regime can be defined as a 'pragmatic fudge', with the focus on reducing street prostitution, reinforced in the Violent Crime Strategy, although paradoxically this is located within what is termed 'private violence' (Coy et al, 2008). Current policy emphasises the context in which prostitution takes place, rather than the acts of selling and buying (see also, Mathews 2008).

Chapter 2: How the study was undertaken

The study aims are four fold:

- to provide an update on prostitution policy within the original four countries;
- to analyse prostitution policy within five additional countries;
- to offer policymakers information on current international approaches to prostitution including evidence of impacts of implementation;
- to feed into the UK government review of demand for commercial sex.

Two recent commentaries (Outshoorn 2004d; Wagenaar, 2008) note the continued dearth of comparative studies of prostitution regimes. Whilst entirely based on secondary analysis we seek to make a contribution to this much needed field of study.

At first glance it might seem that Joyce Outshoorn's book *The Politics of Prostitution* (2004) which documents responses to prostitution in 12 countries⁵, has travelled much of the territory of this report already. However, there are a number of critical differences in terms of the time frames and the countries covered. Most significantly though, Outshoorn's project was to examine and analyse *debates* on prostitution and the extent to which they were influenced by gender analysis, ours is to undertake a comparative analysis of legal and policy approaches.

The methodology from the original four country study, which combined a literature review with commissioned reports from academics/experts in each of the countries examined, has been retained and adapted. The first study relied on a set of open-ended questions to structure accounts, and the descriptive data this generated were not always comparable. In the intervening time the extent to which substantial claims about the impact of policy positions are made with limited evidence to support them has become even more apparent. For both reasons a more systematic approach has been taken, involving the development of a pro-forma which asked for specific information on: the legal framework; policy approach – including underlying values/philosophy; the current evidence base – research, evaluation and official data; and ongoing debates (see Appendix 1). This both ensured more consistency in the reports and that we could use the concept of prostitution regimes as an analytic framework.

The countries chosen for this comparative analysis are the four from the original study – Australia (Victoria), Ireland, Netherlands and Sweden – augmented by a further five – Finland, Germany, New Zealand, Spain and South Africa. The sample comprises a range of prostitution regimes – several that have forms of legalisation (Netherlands, Australia, Germany),

⁵ Australia; Austria; Britain; Canada; Finland; France; Israel; Italy; the Netherlands; Spain; Sweden; the USA.

the most cited examples of criminalising demand (Sweden) and decriminalisation (New Zealand) and several where debate - as in the UK - is current (Finland, Ireland, South Africa, Spain). However even these distinctions are contested, with some arguing that the Netherlands has decriminalised and others that it has legalised. The countries are also diverse in terms of their recent histories, size of population and current governments. Whilst we make no claims to their 'representativeness' the sample does include both those that are most commonly compared and others that are seldom the focus of policy debates.

Experts were commissioned in each country, on the basis of their extensive knowledge of current law and policy, with only one taking part in both studies. They were required to draw on existing research, official data on, and evaluations of approaches to prostitution in their jurisdiction, alongside providing full references for all of the material referred to - much of this is not published in academic journals and some would count as 'grey literature'. In addition, a significant proportion were not available in English, and thus required a native speaker to draw out and summarise the relevant findings. The references all appear in the comprehensive bibliography in this report: Where literature was available in English, and could be accessed, these sources were also read by the authors. The literature drawn on, therefore, is different to that in the Home Office commissioned review of the published literature on tackling the demand for prostitution (Wilcox, A. *et al.* 2009), which has a set of inclusion criteria which may exclude some of the material used by national experts, material which in some cases has been more influential on national policy regimes than research published in academic journals.

All the experts had to complete the pro-forma in full. Data from the pro-formas has been entered into an Excel spreadsheet, and the responses to open-ended questions grouped under the respective questions. The literature review for this report was not a Rapid Evidence Assessment (REA) as the Home Office commissioned one separately (Wilcox, A. *et al.* 2009). Rather it was more purposive, limited to (English) publications on the situation in the nine countries, especially any evaluations. We also sought out other comparative studies and research on the history of responses to prostitution, in order to provide contexts for the emergence of diverse approaches. It involved a thorough search of social science databases, both online and library based, sources used in the 2003 study and any additional materials identified by national experts. Whilst the Home Office commissioned REA (Wilcox, A. *et al.* 2009) has a wider remit, this study has accessed original research and evaluations, both studies should be regarded as complementary and drawing on different knowledge bases.

In analysing the national reports we have looked at the five most common targets of legal regulation: selling sex; buying sex; procurement; pimping and brothels. There are at least four possible responses: totally legal; totally illegal; illegal for categories of persons (for example, those under 16/18; those without a residence permit/visa; those who have not registered

under existing legal requirements); illegal in certain contexts (for example, on the street, in unregistered brothels, in massage parlours/saunas). The potential variations are further multiplied when enforcement, which may be strong, selective or weak (at national and/or local levels) and what overall policy goals are being pursued. A draft of the text for each country was sent to national reporters and they were encouraged to check for factual errors. The next chapter illustrates the complex combinations evident in the nine countries, none of which correspond to the simplistic models which much public debate centres on.

Many commentaries argue that legal intervention is invariably a response to either 'moral panics' or periods of noisy populist debate (Self, 2003). A recent overview, however, takes a more thoughtful stance, suggesting that there are more intricate and contextual underpinnings to legal reforms and policy development (Munro and Stydin, 2007). In the same vein, whilst it is the case that recent responses have tended to be underpinned by concerns about HIV, gendered violence or trafficking (Hubbard et al, 2008) this neglects the widespread invocation of rights based arguments, and expanded understanding of the potential harms of prostitution. We sought data, therefore, which would enable us to examine the philosophical and social policy underpinnings of each regime, alongside asking whose behaviour is controlled, where and how, and what the connections between policy and outcomes are. In the chapters that follow we do seek to present more detailed accounts of the complexity and variation in positions/responses, and to reflect on the extent to which the claims made for different regimes, draw on a strong evidence base (see also Wagenaar, 2008). In Chapter Three we outline the historical context, philosophical underpinnings, legal reforms and current status of the prostitution regimes in the nine countries. Chapter Four explores the knowledge base, including three recent evaluations. Chapter Five presents a comparative analysis of the regimes and our conclusions.

Chapter 3: Nine Prostitution Regimes

In this chapter we present a descriptive overview of the prostitution regimes in each of the nine countries, presented alphabetically, with – as far as possible – similar material. Two sections: are presented for each country: the first providing a historical background; the second covering the current prostitution regime. An important variation that needs to be born in mind when reading this chapter is between countries which have a federal structure (Australia, Germany, Spain), where in addition to the state and local levels there can be considerable differences in implementation across regions. In such countries, it may be inaccurate to speak of ‘a’ prostitution regime, since there are multiple possibilities and realities.

Australia

The cliché of prostitution being the ‘oldest profession’ is challenged by the history of Australia. There is no record of any variant of prostitution⁶ being part of the structure of Aboriginal societies, and it only makes a definite appearance following colonisation (Frances, 1994), beginning, apparently for many of the female deported convicts, on the voyage from the UK to Australia (Rees, 2002). Prostitution was integrated within:

... the social and economic system of the early convict colonies. The numerical predominance of males on the first convict ships (amongst both convicts and gaolers) was from the outset perceived as a social and political problem (Frances, 1994: 29).

Selling sex was a survival option for settler women, its purchase a presumed entitlement for settler men who worked in inhospitable places and dangerous occupations. Migration has thus always been a central feature of the Australian prostitution regime.

As a British colony Australia was enjoined in the mid-nineteenth century to pass the CDAs: many of the states enacted versions which were both wider in reach – not limited to ports or garrison towns – and in application. These powers became part of efforts by politicians and police to ‘clean up’ the streets in the last quarter of the nineteenth century, supplemented in Victoria and New South Wales (NSW) by legislation that, for the first time, made soliciting by women an offence (Perkins, 1991). Additional laws at local/state/colonial levels sought to penalise the keeping of brothels. Throughout this period it is important to note that the intent was not to abolish prostitution, but to restrain it: a policy goal that was to be achieved almost entirely through social control of working class women. The limited targeting of those who organised and profited from prostitution can be seen in the domination of the sex industry in the early twentieth century by a small number of criminal gangs and the implication of police through

⁶ Some histories of prostitution, for example, begin with traditions of exchanging women between peoples in order to maintain alliances and trading routes (see, for example, Rubin, 1975), and there are a variety of forms of ritual prostitution in both historical and contemporary accounts (UN, 2006).

extensive corruption (Frances, 1994). Even more draconian legislation was introduced during World War Two.

This is the historical backdrop against which proposals for different approaches emerged in the 1970s. Once the punitive and discriminatory treatment of women who sold sex was recognised, some of the more anachronistic laws were removed from the statute book, and others no longer rigorously enforced. But as in all jurisdictions prostitution policy was enforced locally, leaving space for conservatives – whether politicians, police chiefs or community leaders – to revert to previous practices. The contemporary Australian women’s movement has been dynamic, with a strong record in law reform and recognition of feminist ideas in the state (Eisenstein, 2006). One target for change has been the cultural value accorded to a ‘tough, rough’ masculinity among the settler community. In this context, the status and treatment of women who sell sex became a symbol for the disrespect of all women in the Australian gender order⁷.

The major shift takes place in the 1990s where, following a period of intense critique and tacit tolerance, forms of legalisation – initially in Victoria – were introduced in most, but not all, states. The principle change has been with respect to brothels, and in some states escort agencies. Some recent commentators have noted the ease of fit between this policy and the neo-liberal politics of the Howard government, especially the emphasis on regulation and rational management (Sullivan, 2007).

Australia is an exemplar of how the simplistic typologies outlined in Chapter 1 disguise considerable divergences, even within states. Each state has a different prostitution regime with respect to which forms of prostitution are legalised, in what contexts, and under which conditions. For example, street prostitution is legal in NSW, tolerated and regulated in a number of others. Brothels are legal, subject to a variety of requirements, in Victoria, NSW, Queensland, Northern Territory and Australian Capital Territory (ACT). NSW terms its approach decriminalisation, the others forms of legalisation. It would require an entire report to examine each Australian state in detail: we focus in the next section, therefore, on Victoria, whilst offering some illustrations of where other states depart from this model.

Current regime

The Prostitution Control Act (PCA), introduced in October 1994, legalised indoor prostitution in Victoria, whilst street prostitution and commercial sex within massage parlours and flats remained illegal. It represents, therefore, limited legalisation since the penalties for what remained illegal were substantially increased, and the regulations for legal operations are considered by many, including unsurprisingly sex businesses, to be onerous.

⁷ Adapted from the work of RW Connell (1987) the concept refers to the legal, social, economic and cultural construction of hierarchical relations between women and men at specific times in particular places. It is preferred to ‘patriarchy’ since gender orders are presumed to vary across time and space.

The rationale for the reform, according to the then Attorney General, began from the 'inevitability' of prostitution, which the state then has a responsibility to regulate. Whilst concern for the rights of women who sell sex had been a strong element in the pressure for legal change, the stated aims of the reform reflect more traditional approaches:

- improvement of health and safety for women who sell sex;
- minimisation of the 'nuisance' and negative impacts on communities;
- tackling the growth of criminal activity.

Under the provisions, selling sex is only legal in an indoor licensed location. Brothels in which more than two women are selling sex require a licence; where one or two women operate from premises they must register and obtain planning permission. Women who sell sex in registered businesses are required to have regular health checks (Sullivan, 2007). Small brothels were the preferred model - with new establishments limited to six rooms. Spatial restrictions also apply to limit impacts on communities: brothels cannot be located in residential areas, or in close proximity to schools, hospitals, kindergartens, and any place of worship (Quadara, 2008: 17). The legislation includes five offences relating to sexual exploitation of children with penalties of 10 to 15 years imprisonment. It also retains offences concerning the exploitation of prostitution: pimping and procurement offences are defined in terms of forcing someone to sell sex, living off the earnings or providing financial support from prostitution, with maximum penalties of between five to 10 years imprisonment. Restrictions were also placed on brothel management with respect to people with criminal records and having an interest in more than one brothel.

With respect to the purchase of sex prohibitions apply, theoretically, to buying on the street and in massage parlours, although this appears to be rarely, if ever, enforced.

The Criminal Code Amendment (Slavery and Sexual Servitude Act) 1999 is a federal anti-trafficking law, which came into force in December 2005 following a public inquiry. Offences relate to sexual servitude and deceptive recruiting, and apply to internal and transnational trafficking (Sullivan, 2007). Penalties range from five to twenty years imprisonment including increments where the victim is under 18. Whilst the law looks extremely strong on paper, it is considered by some to be a 'declaratory' rather than enforceable law reform, since there have been few successful prosecutions (Sullivan, 2007).

The outcome of the PCA has been the emergence in Victoria of what many term a two tier system, but arguably has three tiers. Street prostitution is illegal for all parties and thus forms the bottom tier. There is a large illegal indoor sector, and a legal sector that is considerably more extensive than before the law reform (Sullivan, 2007). Poor conditions remain in the illegal sector and very few small owner operated brothels (SOOBs) have registered

(ibid). Queensland has witnessed similar developments, with estimates there of 90 per cent of brothels being illegal (Mossman, 2007).

Whilst New South Wales claims to have decriminalised commercial sex, brothels are regulated through existing planning laws and street prostitution is subject to zoning. There remain, however, a number of exploitation of prostitution offences: living off the earnings for anyone other than brothel owners; causing or inducing prostitution; selling sex through a massage parlour; advertising prostitution; and soliciting in residential areas.

No Australian state can be said to have fully legalised prostitution, with more or less liberal regimes at the level of statute law and regulatory mechanisms. When combined with the differentials in enforcement and monitoring, one could argue that this is a prostitution regime replete with discrepancies.

Finland

Over the last 150 years Finland has adopted most approaches to prostitution. Until 1907 a system of regulation was in force, whilst between 1907-1945 the emphasis shifted to public health surveillance. Simultaneously, legal reform in 1936 introduced a more prohibitionist approach through a Vagrancy Act that made soliciting illegal. In 1987, a more abolitionist framing was evident through which penalties for women selling sex were removed, alongside enhanced emphasis on, and sanctions against, pimping. The repeal of the Vagrancy Act in 1986 meant an absence of regulation, resulting in an implicit tolerance unless there were complaints about street sex markets. Even here, however, the legal powers available to police were limited. In the 1990s the sex trade increased markedly, reflecting socio-economic changes in Finland and neighbouring countries (Jyrkinen, 2005)

The strongest influences on Finnish policy have been international conventions, Nordic social welfare approaches, and most recently Nordic feminist critiques of prostitution as a barrier to gender equality. Finland has ratified both the UN 1949 Convention for the Suppression of the Traffic in Persons and the Palermo Protocol.

The increase in the 1990's in both tourism, some of which was male sex tourism, and in women travelling from Russia for longer or shorter periods to sell sex, led a renewed focus on the sex industry in research and journalism and the issues 'exploded into public view' (Tani, 2002: 343). This acted as a driver for public debate focused on two issues: the value of displacement activities and the increase of non-Finnish women selling sex (Tani, 2002).

Current regime

The first contemporary policy response with respect to adult prostitution was in Helsinki, where in 1999 the local government enacted municipal ordinances banning prostitution in public places. When, as a consequence,

women and buyers moved to neighbouring areas a national Ordinance Act (OA) law was enacted in 2003 (Tani, 2002). Whilst theoretically applying to all parties, enforcement has, to date, focused on women selling sex. A revision to the Penal Code criminalised trafficking for sexual exploitation: penalties range from four months to six years, and for aggravated trafficking from two to 10 years of imprisonment.

Both selling and buying sex in public places (streets, public transport, parks, and business premises) are prohibited. Indoor settings such as flats and saunas/massage parlours are only legally regulated in relation to possible procurement offences, similar to brothel management offences in the UK, while escort prostitution is not addressed in law. Exploitation of prostitution by third parties is forbidden under the Penal Code with clauses applying to procurement, pimping, living off the earnings, advertising of prostitution and accommodating another person for such purposes. Penalties range from a fine to a maximum of three years in prison, and for aggravated procurement four months to six years of imprisonment.

The prostitution regime in Finland is an attempt to control, not just regulate, prostitution. Whilst not adopting an explicitly abolitionist approach, there is a clear intent to not provide a conducive context for the growth of the sex industry. There is an ongoing debate as to the best routes to achieve this policy goal. Some political parties have supported gender neutral approaches which criminalise both seller and buyer, whereas the Finnish women's movement has been the most vocal supporter for criminalising the buyer (Holli, 2004). Although discussion of 'the Swedish model' has been extensive, the eventual legal reform in 2006 was narrower - criminalising buying sex from a trafficked or procured woman.

Germany

The historical context in Germany is different again: here selling sex has never been criminalised, but a variety of forms of regulation have been in place over the last century. The nineteenth century witnessed a version of the familiar registration and mandatory health check regime. The history most relevant to the current prostitution regime, however, is that of the twentieth century. Under Nazism prostitution was defined as an asocial and degenerate activity, with considerable numbers of women who sold sex sent to concentration camps. At the same time brothels are known to have operated in 10 camps.⁸ With the division of Germany following WWII two different regimes emerge: in Eastern Germany prostitution was formally prohibited, albeit that versions of escort services existed for the elite; in West Germany variants of the nineteenth century registration and health testing model were implemented, although most women avoided registration (Roos, 2002). The rest of this section refers to West Germany and most recently to the reunified country.

⁸ An exhibition at Ravensbruck Memorial Museum, that ran from January-September 2007, documented evidence of prostitution in concentration camps.

From the 1970s the growth of large scale brothels is evident, with the first in Hamburg occupying six floors, quickly superseded by the 10 floor 'mega brothel' Pasha in Cologne in 1972. Some municipalities also operated their own 'Dirnenwohnheime' (literal translation 'whore dormitories'), with the twin goals of decreasing street based prostitution and the involvement of pimps whilst enabling the rational implementation of the health testing requirements. This level of active engagement by the local state with prostitution contrasted with the position taken by German courts, which continued to rule that prostitution offended the moral social order, making all contracts null and void. These legal rulings had many implications for the status of women selling sex, including that they could lose their tenancy and be ineligible for health and social insurance if it became known they were involved in prostitution.

A contested legal case at the end of the 1990s in which a woman lost the licence for her café in Berlin, resulted in a ruling by the judge that prostitution should no longer be considered a form of immorality.

The impetus for reform was fuelled by this unworkable contradiction between parts of the state (Kavemann et al, 2007). In addition the emphasis placed by the German women's movement on autonomy and self-determination was applied, by some, to selling sex.

Current regime

The Prostitutionsgesetz (Prostitution Act) 2001 was implemented on 1 January 2002. Whilst neither selling nor buying sex are prohibited, both are subject to zoning restrictions, and to be legal, brothels in most Lander⁹ are obliged to register. Interestingly, most choose to do this as a 'commercial room letting' not a sex business. Administrative law bans the advertising of prostitution.

The underpinning philosophy here - treating prostitution as a form of employment - is explicit in the policy aims of the law reform:

- to improve the legal and social position of those who sell sex;
- to improve working conditions;
- to eliminate the illegal sex sector;
- to enable women who wish to leave to create alternatives.

Pimping and buying sex from minors is illegal, with penalties varying according to the age of the child/young person. Offences relating to profiting from prostitution are limited to those deemed exploitative: defined in law as keeping more than 50 per cent of the income. Also prohibited is coercion into prostitution, and non-EU citizens without residence permits are prohibited from selling sex. Trafficking was criminalised in 2005 and penalties range from six months to 10 years' imprisonment.

⁹ The term 'Land', plural Länder, describes the 16 states that comprise unified Germany. States form part of the federal government but have their own cabinets and autonomous powers with respect to law enforcement and education.

The federal structure of Germany means that regional (Land), and in some instances city, authorities hold regulatory power. Previous legislation, unchanged by the Prostitution Act, allows for local by-laws “to protect public decency and young people” (note the use here of a more moral discourse of ‘decency’). These make it possible to ban, or limit hours of operation in, brothels in municipalities of less than 50,000 residents. The outcome is a complex picture across Germany. Some of the most significant dissimilarities are:

- there are still Länder which do not accept prostitution as work, and in which brothel owners are not allowed to register as businesses (di Nicola et al, 2005);
- local implementation has extended or narrowed the space in which prostitution is legally permitted - Berlin has few restrictions, Hamburg seeks to limit the sex industry to a few streets, Stuttgart has a single legalised brothel;

There has been a shift away from street sex markets to flats, clubs and bars, which some argue, in and of itself, increases safety. Regulation has also created a two-tier - or possibly three-tier - system, with EU citizens and women from accession countries having potential employment rights that are not extended to non-EU citizens. The differentiation between legal and illegal contexts operates alongside these distinctions.

The prostitution regime in Germany is a form of legalisation that functions through regulation. Defining selling sex as legitimate work is viewed not only as a means of integrating women who sell sex into the formal economy, but also as a mechanism which will simultaneously remove stigma and increase safety. Integration would also ensure access to pensions and health care through social insurance, alongside pre-existing responsibilities to pay tax.

The matter is not settled, however. International attention was focused on German prostitution policy through a syndicated story of women being offered work in the sex industry by government employment agencies (Chapman, 2005), and international attention to the issue of trafficking and the availability of legal access to brothels for male football fans associated with the football World Cup in 2006. Both coincided with a change in national government in 2005, and calls for increased regulation and monitoring have been evident, accentuated by findings from the evaluation of the reforms (see next chapter). Interestingly, the 2007 renewed violence against women action plan, issued by the Federal Government, included a statement that selling sex shall not ‘be considered a reasonable means for securing one’s living’ alongside a commitment to developing more exit programmes (Bundesministerium für Familie, Senioren, Frauen und Jugend, 2007b).

Ireland

Ireland, as a Catholic country, and one in which mass emigration took place in the nineteenth century, has a different historical legacy again with respect to prostitution (Luddy, 2007). The poverty and starvation which affected the entire country in the mid nineteenth century, arguably abetted by an extreme sexual double standard, led to some estimates that by the beginning of the twentieth century Dublin's Monto district was the largest 'red light district' in Europe, with an estimated 400+ brothels (ibid).

The regulation and organisation of prostitution also has strong connections with colonial and military history, with the introduction of the CDAs in 1869, and implementation concentrated on the cities and the garrison towns. The surveillance of women that this entailed was a focus for Irish suffragists, as were the Vagrancy Acts introduced at the turn of the century. Feminists and nationalists united in targeting the discriminatory aspects of these laws, using it as one more argument in the campaign against British rule.

Simultaneously rescue work emerges, with strong connections to religious orders; the Magdalen laundries being an Irish version of the institutions founded in many countries which sought to reform 'fallen women'. Whilst aspects of their operation were undoubtedly punitive and moralistic, Luddy (2007) points out that poor women also used them strategically to tie them over periods of acute poverty and/or the winter months.

At the level of public policy Luddy (2007) argues that two themes predominated across the nineteenth and twentieth centuries: visibility and contamination. The first causing anxiety and the second concerns about the spread of disease and immorality. Both informed a concerted campaign by Catholic organisations against the brothels in Monto, which led to its decline by 1920s; albeit that individual women continued to sell sex on the street and through more informal organised settings.

The issue recedes from public concern for several decades, with a view that the sex industry had diminished. There are reports of 'mobile prostitution' in vans that served rural areas in the 1970s. Evidence for the re-emergence of organised prostitution and brothels can be seen in the advertisements in the weekly *In Dublin* magazine, with a number of operators believed to have amassed considerable profits according to journalistic reports (Reynolds, 2003). Section 23 of the Criminal Justice (Public Order) Act 1994 prohibited the advertising of brothels and prostitution, to be followed by a ban in 1999 by the Censorship of Publications Board of *In Dublin* carrying escort agency advertisements. Criminal proceedings were also brought against the magazine's publisher, Mike Hogan. Whilst this ended print advertising, a website, *Escort Ireland*, had already taken its place. In the same year the Gardai (police) launched a year long operation to target third parties profiting from organised prostitution, which resulted in the prosecution of several Dublin brothel-keepers. The murders of Belinda Pereira and Sinead Kelly, in 1996 and 1998 respectively, also stirred public debate. The demarcation between street prostitution and its links to drug markets and

indoor prostitution which is evident in the UK (Matthews, 2008) can be discerned in Ireland from the 1980s.

Current regime

Prostitution in Ireland is still addressed as a matter of public order and nuisance, with limited recent legal reform and policy development. The Criminal Law (Sexual Offences Act) 1993 Act was introduced in order to provide powers for the Gardai to deal with street prostitution, brothel keeping and pimps. Selling sex is not illegal per se; the offences relate to soliciting in a public place and loitering with intent, which theoretically apply equally to seller and buyer. Pimping and procurement are criminalised through offences of organising prostitution by controlling or directing the activities of a person in prostitution, coercion to practice prostitution for gain, living on earnings of prostitution, and keeping a brothel or other premises for the purpose of prostitution. The Child Trafficking and Pornography Act, 1998 criminalises the use or facilitation of under 18s for sexual exploitation, with a maximum penalty of 14 years imprisonment.

Trafficking for the purpose of sexual and labour exploitation was recently criminalised under the Criminal Law (Human Trafficking) Act 2008, giving effect to the Palermo Protocol. Penalties range from fines to life imprisonment.

Ireland is an example of a traditional prostitution regime, in that it relies on laws and policy positions which have changed little over recent decades, and which still in practice target women who sell sex. Whilst the influence of the Catholic church has undoubtedly waned, debates still draw on a moral, rather than a rights, discourse. The ostensible focus on the exploitation of prostitution is rarely enforced - another sign of a traditional approach.

Netherlands

Regulation of prostitution in the Netherlands in the late nineteenth century was under the Napoleonic code, which required registration and mandatory medical examinations. These laws were repealed when the French occupation ended, only to be reintroduced relatively swiftly. As in a number of other European countries there was a debate about male demand at the end of the nineteenth century, with essentialists arguing sexual release was necessary for male health and progressives that it was possible for men to control themselves. A strong abolitionist stance was evident at the end of the nineteenth century, which was fuelled - as in the rest of Europe - by feminist critiques of mandatory health checks and the tolerance of the exploitation of women in brothels. The Netherlands followed the pattern of introducing laws in the early twentieth century (1911/2), which prohibited brothels, but neither the sale nor purchase of sex were criminalised.

The contemporary prostitution regime has its roots in the 1970s, with feminists putting violence against women on the agenda and within this some arguing for the repeal of the ban on brothels to improve the position

of women in prostitution. This combined with a strong move towards liberalisation in a range of social issues; the most recognised being drugs and the sex industry. In both the policy frame was 'gedoogbeleid' – tolerance and harm reduction – which in the case of prostitution included tolerance zones. An attempt at law reform in 1985 failed when the proposed legislation would have made it impossible for municipalities to refuse to license brothels and the definition of coercion in the Bill conflicted with that in the article of the Penal Code on trafficking (Outshoorn, 2004c). The major cities had an interest in law reform which would allow them to regulate the sex industry. An early attempt in Rotterdam in the 1980s, with the stated intention of implementing mainstream business practices, failed as it was in tension with national law. The Dutch sex industry was by this time extensive, concentrated in the four main cities – Amsterdam, Rotterdam, The Hague and Utrecht – with the De Wallen area of window prostitution in Amsterdam becoming a tourist attraction.

By 1997 the climate for reform was more favourable and guided by twin aims: to ensure better working conditions for women whilst combating the undesirable side-effects accompanying prostitution, which were held not to be inherent to the phenomena itself¹⁰. Outshoorn (2004a) argues that there were several key factors which led to the legal change: a congruence between the predominant framing in Dutch feminism of prostitution as sex work and positions taken by other political actors including parliamentary parties; the pragmatic Dutch approach to policy development; and minimal opposition to the proposed changes. Regulation was, according to the Minister of Justice in 1999, intended to transform the sex industry in order that: 'it can then become healthy, safe, transparent and cleansed from criminal side-effects' (cited in Outshoorn, 2004b: 185)

Current regime

The approach in the Netherlands, implemented in October 2000, has been described as a move from passive to active tolerance; a form of 'liberal realism' (Outshoorn, 2004c). The foundation of the Dutch prostitution regime has been an absolute distinction between voluntary/free prostitution and involuntary/forced: the former was to be tolerated and regulated, the latter combated. According to Wagenaar (2006: 207), the reforms had three broad goals:

- to emancipate women who sell sex;
- to enhance the position of sex business owners;
- to combat the criminal aspects.

The reform involved removing articles from the criminal code that had prohibited brothels and pimping, thus making it legal to operate or own a brothel, providing that those selling sex were over 18 and not forced. Exploitation was to be regulated by administrative and labour law, with the criminality associated with prostitution to be dealt with through the criminal

¹⁰ At the end on the twentieth century Dutch public opinion is reported as concurring with the view that prostitution is a job like any other (Weitzer, 2000).

code. Administrative law enabled local authorities to establish local rules and conditions for both indoor and street prostitution. As with Germany, a number of criminal offences with respect to the exploitation of prostitution were retained, and for some, relevant sanctions were enhanced.

- Profiting from prostitution is punishable, but only where conditions of coercion, deceit, and/or abuse of authority apply.
- The use of coercion, violence, deceit, and/or abuse of authority in recruiting and/or maintaining someone in prostitution is an offence.

The licensing conditions for brothels forbid mandatory requirements to drink alcohol and require that safe sex is practised. The right for those selling sex to refuse clients and/or specific sex acts is also specified in license conditions. Selling sex on the street outside designated zones, if prohibited by local by-laws, is an administrative offence punishable by fine. Selling sex without a work permit is not a criminal offence¹¹ but, as with other illegal workers, if detected, women will be deported as an illegal alien, and brothel keepers will be fined according to the Aliens Employment Act (WAV) and could lose their license. Trafficking has been criminalised from the beginning of the 20th century, with the latest amendment in January 2005 to comply with the Palermo Protocol, and penalties range from six to 15 years imprisonment. Buying sex from children under the age of 18 is illegal across all settings¹².

Improving the position of women who sell sex was to be achieved through labour rights and the requirements within the licensing system regarding safety and health and the prohibition on the use of coercion, deceit or abuse.

Responsibility for regulation of sex businesses lies with local government. Variations across local authorities lend complexity to a prostitution regime that is often represented as a unitary example of legalisation. For example, while five cities have a street prostitution zone (Utrecht, Heerlen, Eindhoven, Groningen, Arnhem), two thirds of municipalities prohibit street prostitution. Whilst in 2004 it was reported that 12 per cent of local governments had adopted 'no brothel' policies, by 2007 a report notes that virtually all municipalities had completed the licensing process and were carrying out inspections to a greater or lesser degree (Daalder, 2007; Flight et al, 2006). All brothels are required to be licensed and meet health and safety requirements, with about half of the municipalities requiring prostitutes who operate from their own homes to have a license. The police still have responsibility for monitoring licensed brothels and have argued that this is at the cost of being able to play a major monitoring and investigative role with respect to the illegal sector.

¹¹ The Aliens Employment Act (1994) prohibits the issuing of work permits for the sex industry.

¹² In October 2002 during a partial review of the decency legislation, a number of relevant sections of the law were amended, particularly with a view to a more effective protection of minors.

There has been considerable reassessment recently in the Netherlands, especially in light of the evidence of continued, and in the view of some, increased, trafficking and the persistence of violence and coercion. A clear problem is that policy has targeted sex businesses and much of the coercion involves pimps who operate in the background. Employment practices in the licensed sector have not noticeably improved since the legal reform. Some local authorities have sought to limit growth through urban planning initiatives. Since 2006 Amsterdam has used the Public Administration Probity Screening Act (BIBOB)¹³ to revoke licences of windows in De Wallen: the majority were held by a very few owners, some of whom had known criminal connections.

Debates are ongoing at local and national levels on the extent and forms of regulation that should be in place. A recent discussion in the Dutch parliament reinforced recognition that prostitution is not 'work like any other' since to hold women to employment contracts would remove their right to sexual self-determination. Political parties now take different positions, with the liberals arguing for a market frame and the left adopting a unionisation and improved working conditions position. Unions have designated selling sex as 'special work' in an 'exceptional branch'. Within the recent debate there has been a political consensus that women selling sex are not typical workers since the moment she refuses her constitutional right to bodily integrity is invoked and neither client nor employer can force her compliance without breaking the law. Prostitution can therefore never be designated the 'fitting work' which adult citizens can be required to undertake in order to retain their social security entitlement (Outshoorn, 2004b: 198).

A bill to introduce a national Framework Law on prostitution is in preparation, with submission to parliament planned for the end of 2009. It is likely to propose mandatory regulation of all forms of prostitution, including escort services, businesses operating on the internet, home based prostitution and self employed individuals.

The prostitution regime in the Netherlands is frequently cited as *the* archetypal example of legalisation, but this misrepresents law and policy at national and local levels. At the formal level there has been legalisation of brothels, within a supposed strong regulatory regime, alongside continued criminalisation of the use of any form of coercion, violence, deceit or abuse of authority. Recent debates signal serious assessment of whether the reforms have delivered on the policy goals. The main critiques have been that: trafficking remains; the need to pay more attention to prostitution which takes place outside fixed locations, including escort agencies; the importance of enhancing investigation by the police of the non-licensed and illegal sector; the relative failure to improve the position of those who sell

¹³ Under this act administrative bodies may refuse to issue a licence (or withdraw it) if there is a grave risk that it will also be used to commit criminal offences or obtain financial benefit from criminal activities. This includes money laundering.

sex; and a new discussion on discouraging demand. To date, however, there have been no formal proposals to re-introduce the ban on brothels.

New Zealand

As with Australia, there is no history of prostitution in New Zealand predating colonisation (Jordan, 2005). The earliest documented instances relate to encounters in the eighteenth century between sailors and Pacific islanders, and whalers and Maori. Colonisation, and the skewed sex ratio, led to an expansion in prostitution, fuelled further by the opening of gold fields. Settler women were specifically recruited to re-balance the sex ratio, but then blamed when they sold sex once in New Zealand (ibid).

The first attempts at regulation were contained in the Vagrant Act 1866, which was replaced by the Police Offences Act 1884. Both enabled women to be labelled a 'common prostitute' and prohibited soliciting. As with Australia, the CDAs were introduced in 1869. There was some resistance from feminists, but not on the scale of the UK, alongside the emergence of philanthropic rescue organisations. Large brothels were common at this point, although single woman establishments grew at the turn of the century. Interestingly, in the early twentieth century police engaged in considerable efforts to eradicate the latter (Jordan, 2005). Similar to most other countries for much of the nineteenth and twentieth centuries New Zealand sought to regulate and control prostitution through the surveillance of women who sold sex.

As the sex ratio became more balanced, the scale of prostitution, and with it policy concern declined, broken only by mild increases in concern during wartime. This ebb and flow in size of the sex industry – and interestingly also 'demand' – can be seen in the observation of the police in 1922 that there were only 104 'professionals' selling sex in the country (Jordan, 2005).

Contemporary debates in New Zealand have focused on the human, not simply labour, rights of women who sell sex, with a concern to balance removing the discriminatory aspects of most laws on prostitution whilst not taking a moral stand for or against selling sex. Both criminalisation and state regulative regimes were thought to violate women's rights in different ways, with decriminalisation considered the least worst option.

Current regime

Prostitution was decriminalised in 2003 under the Prostitution Reform Act (PRA), which passed a parliamentary vote by the narrowest of margins (60/59); indeed its promoters did not expect it to succeed. The purposes of the reform were articulated entirely in terms of the rights and welfare of those who sell sex:

- their human rights should be upheld;
- they should be protected from exploitation;
- their welfare and occupational health and safety promoted.

Under the provisions of the Act brothels and escort agencies are required to have an operator certificate and local authorities must develop a local plan for how prostitution is to be managed. SOOBs (4 women or less) do not require a certificate; this clause was intended to promote operations which women themselves ran and controlled. The remaining prohibitions are those required to uphold the human rights of minors and women in the sex industry¹⁴:

- no-one under 18 can sell sex;
- clients must use barrier protection;
- advertising prostitution on radio and television is banned and local authorities have powers to restrict advertising signs;
- inducing or compelling anyone to sell sex is a criminal offence;
- non-citizens are prohibited from selling sex.

The Prostitution Law Review Committee (2008) state that decriminalisation requires the removal of all prostitution specific laws (for adults whether referring to sale or purchase), with regulation limited to generic employment and health and safety laws. This is not quite the whole story, however, as there are prostitution specific laws and regulations that protect the health and safety of those who sell, including from exploitation by pimps and sex business owners. The concern with exploitation meant two offences were retained: 'to compel a prostitute into performing acts against her will' - which applies to both sex buyers and sex business operators, including pimps; and coercively claiming earnings from prostitution. Penalties for these offences were increased to up to 14 years imprisonment.

Children under 18 are not permitted to sell sex, and as in the UK are defined as having been abused through sexual exploitation. Buying sex from those under 18 is also illegal, as is profiting from commercial sexual exploitation of children, and the PRA removed the defence of ignorance of age. Trafficking is addressed under various pieces of legislation; the 1961 Crimes Act criminalises sex and labour trafficking and the PRA criminalised internal trafficking. Penalties for trafficking offences can be up to 20 years imprisonment.

New Zealand has never had a particularly large sex industry, and this, coupled with its small dispersed population and geographic isolation has meant it is one of very few countries not to have had a considerable increase in trafficking for sexual exploitation over the past decade. The law reform and its implementation was not intended to increase or normalise the sex industry, but rather encourage forms of it in which women who sell sex retained the most control.

¹⁴ Mossman and Mayhew (2008) note that the only human rights relevant to prostitution are: that minors are not sexually exploited; adults are not forced/compelled; that women selling sex can refuse any client or sexual practice; to not to be subjected to exploitative/degrading employment practices.

The prostitution regime in New Zealand represents one of the most innovative approaches in any of the nine countries. The PLRC (2008) note in their evaluation of the new regime that, it neither endorses nor morally sanctions the sale and purchase of sex, but seeks to limit the discrimination historically suffered by women who sell sex. This is not, therefore a regime that seeks to normalise prostitution, or to locate it as a form of dignified employment, but to avoid what are viewed as problematic outcomes of both criminalisation and legalisation.

Spain

Spain, like Ireland, is considered a Catholic country and also like Ireland has suffered a civil war in the last century. It also has some parallels with Germany, in that it was ruled by a dictatorship. Unlike Germany, however, prostitution was tolerated under Franco but subject to surveillance by police.

Following international policy, brothels have been illegal since 1956 but commonly operated as whiskerías or clubs. Ratification of the 1949 UN Convention resulted in Spain taking an abolitionist position from 1963, in which prostitution was considered an affront to human dignity. The law was, however, implemented in a punitive way, with judges having powers to confine women to institutions or ban them from entire cities/areas. Changes in enforcement from 1995 witnessed a move towards decriminalisation, including for pimping, but the Spanish have resisted the concept of 'sex work'. Most recently the focus has been on trafficking.

Current regime

Regulation of prostitution in Spain is through the Organic Law 10/1995. This law repealed all offences relating to selling sex, on the basis that it is either a voluntary activity or one arising from coercion, neither of which should criminalise the seller of sex. There are no offences relating to buying sex. Legal measures are, therefore, confined to addressing the exploitation of prostitution. Pimping and procurement offences include encouraging, promoting, facilitating or profiting from the prostitution of another person. Inducing, promoting or facilitating the prostitution of a minor or a disabled person carries a penalty of imprisonment from one to four years.

The Spanish government has, for over five years, been one of the most progressive in Europe with respect to violence against women (Hageman White et al, 2006), with an extensive law reform passed in 2004. Within this context there has been recent discussion of criminalising clients, whilst one of the largest trade unions called for legalisation in 2005. The Zapatero government has continued to focus on violence against women and, following extensive public debate, on 18 April 2008 the Spanish Parliament decided against legalisation on the grounds that, as it is not possible to separate prostitution from exploitation and trafficking, the state should not afford it legitimacy.

The Spanish prostitution regime does not fit the conventional typology. There is intense debate at the policy level but a legal vacuum in terms of law and regulation with respect to both the sale and purchase of sex. Whilst the government has taken a strong philosophical position, this is not linked, as yet, to legal or policy reforms.

South Africa

South Africa represents a different context again, being a developing country which has witnessed an extremely racialised colonisation. For much of the twentieth century the Black majority were not only living in poverty, but disenfranchised, denied citizenship status and rights. The history of prostitution, and responses to it, are in part shaped by this context, but most recently by the scale of HIV/AIDS in southern Africa.

Trotter (2008) focuses his research on what he terms 'dockside prostitution', in doing so he notes the growth of prostitution in South Africa as it became part of global trade routes, with some early connections with slavery. The CDAs were introduced at the end of the nineteenth century with mandatory health checks and the lock hospitals, to be followed by the ubiquitous Vagrancy Acts. The increase in scale and organisation of the sex industry comes with the gold rush, with evidence of women being trafficked into mining areas. Continued expansion was resisted by the Boers, resulting, in the early twentieth century, in prostitution being focused mostly on Cape Town. There was an attempt to abolish prostitution during the apartheid regime through the Immorality Act of 1950: this criminalised sex between whites and non-whites and the sale of sex. The standard of proof required was so high, however, that police continued to use vagrancy and loitering offences (Trotter, 2008). A tacit tolerance was slowly to emerge, unless surveillance and enforcement served other political ends. The scale of prostitution is considerable, increasingly documented through research on HIV/AIDS, with at least a fifth of women engaging at some point in 'transactional sex' (Dunkle et al, 2004).

The South African Law Reform Commission published a discussion paper in 2006 on trafficking, including a draft bill.

Current regime

From the mid twentieth century selling sex was criminalised: the Sexual Offences Act (1957) prohibited any person from having 'unlawful carnal intercourse, or committing an act of indecency, with any person for reward': procurement, pimping, brothel management and living off the earnings of prostitution were also criminalised. The law was updated in 1988 with 'the exchange of sexual acts for reward' a criminal offence. The penalty was typically a fine. The Criminal law (Sexual Offences and Related Matters) Amendment Act 2007 introduces a range of offences with respect to the sexual exploitation of minors and those 'who are mentally disabled'.

Whilst there has been no recent law reform in relation to adults, the South African regime could be said to have become one of passive tolerance.

Here formal illegality creates a form of de facto legalisation through differential implementation, since criminal prohibitions are not enforced (South African Law Commission, 2002: 74). Buying sex is not illegal. A recent case, *S. v Jordan* [2002], following the convictions of three women for offences relating to brothel management, challenged the constitutionality of criminalisation. While the Constitutional Court held that criminalisation of prostitution did not violate any constitutional rights, the judgement acknowledged the urgent need for legislative review.

A number of discussion papers have been commissioned and published, with most proposing some form of regulation. A proposal for legalisation was part of the 2007 HIV/AIDS plan, on the basis that this would bring those who sell and buy sex into treatment and prevention programmes. It is unclear whether the proposals were to legalise or decriminalise, but the proposal gained global news status when picked up by a politician and transformed into a suggestion that there be temporary legalisation during the forthcoming football World Cup in 2010. Public opinion, however, appears not to support this move.

Sweden

Sweden had traditional approaches to prostitution throughout much of the last century, treating it as a 'necessary evil'. In the nineteenth century women selling sex were subjected to compulsory medical examinations, and following precedents from elsewhere Vagrancy Laws made soliciting illegal, and defined prostitutes as 'socially deviant'. These laws were repealed in 1964, effectively decriminalising selling sex, with a social welfare/social problem approach predominating, marking a break with the old order and heralding the first outreach programmes - in the three largest cities - to promote women's exit from prostitution. The first in Malmo was established in 1977 and by 1981 the number of women selling sex on the street had fallen from 230 to 70¹⁵. Two Commissions reported in 1977 and 1995, both opting for variants of state regulation.

Simultaneously there has been a long debate, from at least 1878, informed by feminist perspectives which sought to question the 'male sex right'. Indeed in Sweden aspects of the 'sexual revolution' are understood as the commercialisation of sexual freedom (Svanstrom, 2004: 230), which Swedish social commentators argue negatively affects both women and men. Feminist activism and the gender equality agenda culminated in commissions on both prostitution and violence against women in the 1990s (Svanstrom, 2005). While the former recommended criminalising both women who sell and men who buy, the 1998 legislation, which sought to implement the UN Beijing Platform for Action, positioned prostitution within the continuum of violence against women. It is the first prostitution regime to decriminalise the sale of sex whilst criminalising its purchase. One commentator notes: 'Sweden has gone from regulating women in

¹⁵ Evaluation of these projects was undertaken, and the results published, but only in Swedish.

prostitution to passing a unique law which criminalises the purchase of sexual services' (Svanstrom, 2005: 49).

In December 2007, a revised action plan against sexual exploitation of children was adopted by the government that includes measures to tackle child sex tourism and prevention.

Current regime

The Swedish reforms were part of a wider law on men's violence against women - 'Kvinnofrid' (women's peace). This law had three policy goals:

- to promote women's equality;
- to protect women from men's violence;
- to build public support for an approach to prostitution which locates it within violence against women.

The long term goal is stated clearly as abolishing prostitution.

Through Kvinnofrid selling sex across all contexts and settings in Sweden was decriminalised in favour of a welfare-oriented approach that offers support to women to exit prostitution. At the same time the purchase of sex is criminalised across all settings. Penalties range from a fine to imprisonment for up to six months. The law defines sexual services narrowly, and thus does not cover all of the sex industry.

A range of exploitation of prostitution offences - including pimping and profiting - cover any person who promotes or improperly exploits 'casual sexual relations for payment' with a maximum penalty of four years imprisonment, increased to six years in cases of 'gross' or 'aggravated' procuring. Trafficking in persons for the purposes of sexual exploitation was criminalised in July 2002 and further extended in 2004 to include internal trafficking and other forms of exploitation. Penalties range from two to 10 years' imprisonment.

Sweden has a tradition of creating public policy through Commissions and generating consensus, and of passing laws that are primarily normative in their intent - setting new norms which over the course of a generation are intended to become accepted standards for behaviour. For example, Sweden was the first country to prohibit parents from hitting their children in the 1970s. This was considered an extreme move by many commentators, unlikely to generate support within, let alone outside, the country. Three decades later this has become a mainstream children's rights position, and change in Sweden has been attitudinal and behavioural, driven by values rather than criminalisation of parents. Many Swedish politicians see their prostitution reforms in a similar vein:

We can succumb to resignation and base our actions against prostitution and trafficking in women on the idea that these practices are inescapable, necessary and something that will always exist and

therefore should be accepted: because men need it, women 'choose' it, or because prostitution has always existed as the 'oldest profession in the world'. Or, we can firmly reject the idea that some women and children, mainly girls, should be seen as commodities that can be bought and sold. Instead, we must have a vision, like we do in Sweden, that it will, in fact, be possible to eliminate prostitution and instead create a society based on gender equality, a society in which prostitution and trafficking in women is seen as incompatible with the dignity and worth of the human person and the equal rights of men and women. (Lise Bergh, State Secretary for Gender Equality, Sweden, 2005)

The Swedish prostitution regime is the only one of the nine to be unreservedly abolitionist in intent. It is also the only regime that can claim to have implemented the section in the Palermo protocol on addressing demand. It also appears that there is widespread public support for the reform: public opinion surveys report that the majority (80 per cent) of Swedes support this approach (Ekberg, 2004).

Shifting Sands

Our title 'Shifting Sands' is intended to draw attention to the variations in prostitution regimes over time and between countries. Whilst not examined in detail in this report we illustrate this through the examples of France and Italy. France moved from legalised and regulated brothels to an abolitionist position in 1960. Whilst selling sex is not illegal, policy has sought to enable women to leave prostitution and to reduce the conditions that create prostitution. There is strong public support for this approach (Mazur, 2004: 123), but it has not been adequately resourced. France has also been a strong voice internationally in resisting the re-positioning of prostitution as legitimate employment. France can be said to have a prostitution regime that has shifted from one fundamental philosophical position to another, and currently has a policy that is strong at the symbolic level but weak in practice (op cit). Italy had a regulationist regime from 1861, but moved to an abolitionist position through the Merlin Law¹⁶ in 1958 that prohibited trafficking, the exploitation of prostitution, and all forms of facilitation. Closure of brothels was understood as freeing women from unjustifiable controls: all that is permitted, therefore, is street prostitution and women using their own premises. The Merlin law has been debated 'never endingly' (Danna, 2004: 165), with the unlikely combination of the Catholic Church and the left its main supporters. Here we have a prostitution regime that is abolitionist at the national level, whilst regulationist at the local: some cities began to target clients in the 1990s, but were prevented from doing so by a legal ruling in 2000 (Danna, 2004: 168); others introduced tolerance zones and crime reduction projects. Silvio Berlusconi has been reported as supporting the reintroduction of brothels (op cit), while in August 2008 mayors in Verona and Padua increased fine penalties for buying sex on the street tenfold.

¹⁶ Named after the socialist woman MP who sponsored the Bill.

In the nine countries examined only Sweden and New Zealand can be unproblematically slotted into one of the typology categories outlined in Chapter One: the former abolitionist the latter decriminalised. All the 'legalised' regimes have limited what forms of prostitution are permitted and under a set of specified circumstances. There are also four countries that do not fit into any of the currently available categories: Finland, Ireland, Spain and South Africa. Few of the countries examined can claim a consistent approach to prostitution, in which the legal framework is settled and consistently implemented. In the next chapter we examine the evidence base across our selected prostitution regimes, including the extent to which they have been evaluated and the stated policy aims delivered.

Chapter 4: A strong evidence base?

Until relatively recently there has been limited contemporary research on prostitution, which partly accounts for the ideological nature of many discussions and debates. During the 1990s, however, an expansion of the evidence base, most marked in relation to trafficking, was noticeable. There was also a welcome increase in evaluative work (see, for example, Kelly et al, 2003; May et al, 2001), including of 11 pilot projects funded by the Home Office Crime Reduction Programme Violence Against Women Initiative (Hester and Westmarland, 2005).

Assessing the impacts of prostitution regimes requires ongoing monitoring, independent evaluation against the policy aims and a strong research culture: in other words a strong knowledge/evidence base. It is the combination of all three that enables assessment of the extent to which policy goals have been met alongside exploration of the unintended consequences that invariably accompany legal reforms. In the study pro-forma, therefore, we asked about not only evaluation of law reform and policy frames, but also recent research and official statistics. One of our key findings supports the observation of Hubbard et al (2008: 148) that 'data is surprisingly piecemeal', especially with respect to the scale of sex industries, the relative size of legal/regulated and illegal sectors, law enforcement and demand. This paucity of key baseline data severely limits the extent to which strong claims can be made about prostitution regimes.

In this chapter we summarise the existing evidence base in the nine countries, from research and official data, across five themes: the extent and locations of sex industries; sex buyers; law enforcement; health and safety - including violence - issues; and support services. Each of these themes are either themselves a common policy goal (increasing health and safety, for example) or have a direct bearing on one (for example, the scale of the illegal industry attests to the success or failure of addressing the criminal associations with prostitution). We also present an overview and discussion of the recent evaluations undertaken in Germany, the Netherlands and New Zealand.

Estimating the scale of prostitution

Overall there is scant reliable knowledge about the scale of prostitution across the nine countries, with virtually no data reported on the number and legal status of sex businesses, and limited information on the numbers of women and the contexts in which they sell sex. The incomparability of the data we were provided with - with some estimates based on police data others on research, some referring to an entire country others to specific locations - means that we have chosen not to present it in tabular format. Indeed several of our national reporters noted that there was so little faith in the estimates for their country that they chose not to use them. The data in this section, therefore, need to be read as the best current estimates, couched by considerable caveats. There are a number of reasons why figures on the size of sex markets can only ever be best estimates,

including that the potential for criminalisation in some jurisdictions will limit disclosure by individuals and businesses. The continued relevance of stigma associated with selling (and buying) sex also preclude honest responses. These limitations lead researchers and stakeholders to produce estimates, which may or may not have detailed explanations of the assumptions that have been made in arriving at particular figures. Furthermore, stakeholders may have interests in lower or higher estimations, depending on the argument they wish to make to policy makers.

The figures also need to be read bearing in mind the relative size of countries and populations - for example, simply comparing estimates of 25,000 selling sex in the Netherlands with 150,000 in Germany¹⁷ might lead to the conclusion that the sex market in Germany is six times that of the Netherlands. However if we factor in size of population they are comparable, with the German only marginally greater (0.0018 compared to 0.00015 per head of population).

There are no official figures for Finland as prostitution is not regulated, although we know that the majority of prostitution takes place indoors, with a small street based sector; in addition 'mobile prostitution' takes place on the border with Russia, with women crossing over and back at the weekends to sell sex. Estimates of the total number vary between a couple of hundred to 8-10,000; a figure of 500 foreign women in the Helsinki region is a generally agreed estimate (Leskinen, 2003).

In Sweden reports by the National Board of Health and Welfare estimate 600 people in total sell sex, split equally between on and off street locations, 57 of whom are men (NBHW, 2004); an estimated fall in street based prostitution of 41 per cent since the law reform¹⁸. The University of Gothenburg found no displacement - parallel increase in off street/Internet advertising - following the law reform (Ekberg, 2004). The Swedish government, law enforcement agencies and NGOs all claim that there has been far less trafficking and involvement of foreign nationals compared to neighbouring countries. The limitations of data for the Nordic countries may be corrected by a research project due to be completed in October 2009.

In the Netherlands an estimate of 25,000 women, most of whom are not Dutch citizens, was published in 2000. Just under a third of municipalities have visible sex industries, including those bordering Germany and Belgium; 12 towns have window prostitution areas; and 10 street zoned areas. There are an estimated 1,270 licensed sex establishments in total in the Netherlands. The most common forms are (window) brothels, followed by sex clubs and private houses. An estimated 35% of the municipalities have sex establishments (Flight et al, 2006). The most recent evaluation

¹⁷ Both widely cited figures, but nonetheless contested. The point here is not their accuracy but how simplistic comparison may lead to erroneous assumptions.

¹⁸ These figures should be treated with caution, there may be some double counting as individuals may sell sex on and off street, and there may be additional hidden markets.

(Daalder, 2007) indicates that both the number of businesses and women selling sex has fallen.

There is a huge range in the estimates of the numbers selling sex in Germany - from 46,000-400,000 - the highest estimate being proposed by the prostitute rights organisation HYDRA. A 2005 paper argued that 200,000 was a 'half way realistic' estimate¹⁹. This disparity and the limited documentation of the methods used to arrive at the figures means that whilst the upper estimate is regularly cited in media reports, researchers express considerable doubts as to its accuracy. There were 940 detected trafficking cases in 2004.

In Ireland in 1999 police estimated 400 women selling sex on the streets in Dublin, but there is no research to back this up, nor estimates for the whole country. Between 2000-2006 76 trafficking cases were identified with a further 75 suspected.

In Victoria, Australia, there appears to be no data specific to the state, although a figure of 20,000 adults selling sex has been estimated for the whole of Australia (Sex Services Premises Planning Advisory Council, 2004). A 2002 police figure of 300-350 women in Melbourne is more than double the 1985 estimate (AGSPAG, 2002).

The commonly cited Spanish estimates are the largest: 300,000-400,000 people selling sex, the majority being women and children, and 90 per cent foreign nationals. In 2006, 1,832 victims of trafficking were identified (U.S. Department of State, 2007). This is the highest figure for detected trafficking cases across the nine countries: it might support the contention that the scale of trafficking is considerably greater in Spain, or that law enforcement is more consistently implemented.

South African data is limited to specific areas, with recent research in Cape Town giving a 'point in time estimate' of 1,209 women: 964 in brothels, 245 on the street - included here were five minors and four cases of trafficking (Gould and Fick, 2008).

New Zealand has the strongest knowledge base, including a considered reflection on different methods used to calculate numbers selling sex. The national figure estimated in 2005 of 5,932 women across all sectors is now regarded as inaccurate (PLRC, 2008). Researchers at the Christchurch School of Medicine using a more rigorous methodology suggest the figure is less than half: 2,332 across five locations including the three major cities²⁰. This comprises 731 selling sex indoors independently, 306 on the streets and 1,206 in managed brothels (Abel et al, 2007). There have been no detected cases of trafficking in New Zealand, which the PLRC attribute to

¹⁹ Auswirkungen des Prostitutionsgesetzes, IV Internationale Perspektive. Sozialwissenschaftliches Frauenforschungsinstitut, Freiburg. July 2005.

²⁰ Auckland, Wellington and Christchurch. The two provincial areas were Napier and Nelson (Abel et al, 2007).

the geographical isolation of the country and the ban on non-citizens selling sex (PLRC, 2008). The number of children and young people selling sex was gauged at 210 in 2005 (PLRC, 2005), albeit that there are doubts about the methodology used to reach this figure. There is little data on sex businesses, however, including the extent to which they have complied with the new administrative regime.

Reflections

The most obvious point to make here is how poor the data on the scale and organisation of prostitution is across the nine countries. Whilst there are undoubted methodological challenges involved where the law criminalises much of the activities associated with prostitution, where aspects are legalised and/or require forms of licence/regulation one would expect some level of official monitoring. The Netherlands appears to be the only country where systematic and ongoing monitoring, as opposed to evaluation, exists. Ongoing monitoring is all the more necessary where policy goals emphasise affecting the organisation and conditions in which prostitution takes place.

We can, however, make a few observations, bearing in mind the limits of the data:

- Street sectors are relatively small.
- Both legalised and unregulated regimes have considerably larger sex industries.
- Sweden appears to have the smallest number of women selling sex even taking population into account.

Demand

Whilst not seeking to duplicate the wider literature review on demand, we report here on the data, or more accurately the lack of it, provided from the nine countries. Whilst there is far less research on customers than on women and children who sell sex, there is a slowly building knowledge base. Evidence on the proportions of men who have bought/currently buy sex was, regrettably, even sparser and less robust. No data was provided for Germany, Ireland and New Zealand.

In Spain, a recent study found the highest prevalence of paying for sex across all developed countries, at one in four men (Belza et al, 2008). This level of demand is of note considering that the estimates of numbers of women selling sex in Spain are also the largest across all nine countries analysed here.

One study reported that one in eight Swedish men had paid for sex (Ekberg, 2004). Similar proportions are reported for Finland, with one 1995 survey (n=2,496) suggesting 11 per cent of men having bought sex (Lammi-Taskula, 1999), and another reporting 14 per cent in 1999 (Haavio-Mannila, 2001). The opening up of borders between Finland and former Soviet Union states, particularly Russia and Estonia, which has increased 'prostitution related traffic' in both directions, affected the practices of Finnish sex

buyers who now travel in large numbers to pay for sex outside of Finland (Marttila, 2006)

The recent Cape Town study provides figures of three buyers per day for women on the streets and zero to five for women indoors (Gould and Fick, 2008). Whilst this tells us little about the number of men who buy, research on HIV/AIDS in South Africa suggests that the proportion is relatively high (Talbot, 2007).

For Victoria, Australia, Sullivan (2005) suggests that the state's 'legal brothels service approximately 3.1 million buyers per year in an adult male population of 1.3 million' (p6). The extent to which multiple purchases are involved is not known. A study undertaken before the law reform in New Zealand estimated that six per cent of men had paid for sex (Dickson et al, cited in Rissel et al, 2003).

Reflections

Studies of men who have paid for sex in other countries (Coy et al, 2007; McLeod et al, 2008) suggest that both legalisation and visibility affect decision-making: both increase the likelihood that men will purchase sex. The lack of research on demand across the nine countries made it impossible to assess these claims across the various prostitution regimes. We have suggestions that the type of regime affects demand, but the evidence remains partial.

Law enforcement

Collecting data on charges and prosecutions was envisaged as providing a simple indicator of the extent to which laws were enforced, especially with respect to the common policy aim of combating the criminal activities associated with prostitution. In requesting data from two years - 1996 and 2006²¹ - we sought to compare across the time frames when the most significant legal reforms took place. As the previous chapter makes clear there are potential charges that can be brought across the jurisdictions about the practices of prostitution and/or its exploitation, with most having anti-trafficking laws and laws prohibiting the involvement of minors. Again information was incomplete across all countries, with no data at all being provided for Victoria, Australia, and South Africa, and only Ireland and the Netherlands providing data across the two points in time.

In Germany, data is limited to pimping and trafficking offences, with 100 prosecutions for the former and 74 convictions, and 175 prosecutions for the latter and 132 convictions in 2006. Similarly for Spain, only data relating to trafficking is available: in 2006 police uncovered 240 trafficking networks, arrested 1,039 persons, and freed 2,288 victims. A total of 272 criminal investigations took place, resulting in 113 indictments and 178 convictions (Bureau of Democracy, Human Rights and Labour 2008). Data

²¹ 2006 was chosen, rather than 2007 or 2008, on the presumption that the outcome of cases begun that year were likely to be available, for some countries only data from 2005 was accessible.

from Finland is also only available for trafficking and procuring, with six investigations and 10 traffickers convicted, with one case alone leading to seven convictions (U.S Department of State, 2007).

The data from Ireland provides sharp contrast since it primarily relates to women in street prostitution. 12 criminal proceedings for prostitution (exact charge unclear) took place in 2005, resulting in three convictions; this compares to zero in 1996. With respect to soliciting, 57 proceedings were begun in 2005 with 14 convictions, a three-fold increase in proceedings compared to 1996 but interestingly the same number of convictions. For loitering with intent, there were 38 proceedings in 2005 with seven convictions, compared to 23 and 21 respectively for 1996. Brothel keeping offences are the same for both 1996 and 2005 at one prosecution and no convictions. No cases for the other exploitation of prostitution offences – pimping or living off – were recorded. Ireland is a prostitution regime that despite recent legal reform has changed little over recent decades: prostitution is still dealt with as a public order issue rather than enforcement of the exploitation of prostitution offences.

The kind of enforcement evident in Ireland is not now possible in New Zealand since the offences for women selling sex have been removed from the criminal code. There are, however, still offences related to the exploitation of prostitution, and potential proceedings under administrative and labour laws. The data provided, however, is limited to cases involving minors, with one conviction in 2002 and three in 2004 against a single offender. Under sections 20-22 of the Prostitution Reform Act relating to assisting under 18s in providing commercial sexual services, profiting from such activities or buying sex, a total of 80 charges had been laid by November 2007, resulting in 20 convictions. The highest sentence so far handed down under Section 23 (breaching prohibitions in relation to under 18s) is two years imprisonment although the maximum sentence is seven years. No charges appear to have been laid with respect to the prohibition of failing to use a condom.

In the Netherlands, available law enforcement data is confined to trafficking offences, with 101 prosecutions in 1996 and 94 convictions, and 191 prosecutions in 2006 with 91 convictions.

In Sweden, current criminal offences relate to the purchase of sex and exploitation of prostitution, and here the data is the most complete, albeit limited in time because of the change in legal constructs. There were 163 charges for purchase of sex in 2006, with 108 convictions; in 2007 189 charges were laid and outcomes are not yet known. Charges for pimping offences have increased from 22 in 1996 with no convictions to 58 charges in 2006 and seven convictions, and 65 charges in 2007. Thirty eight trafficking offences were recorded in 2006, with 27 of these relating to sexual exploitation, and 11 convictions overall. In 2007 the figures are 50 cases with 15 relating to sexual exploitation. It should be noted here that

evidential requirements mean that some trafficking cases are prosecuted as pimping offences.

Reflections

The paucity of data on law enforcement has significant implications for the claims that can be made about the effectiveness of prostitution regimes. It is currently impossible to say about any country – except perhaps Sweden – that the much heralded targeting of criminal elements has taken place. It may be that countries are simply not collecting this data at the national level, or that the aspects of reforms targeting criminality have yet to be enforced. Whatever the reasons, and it is possible both are operating in tandem, there is very little evidence of progress with respect to the exploitation of prostitution offences that remain in some form across all the nine countries. Such exploitation is simultaneously an abuse of women's rights and ensures that other policy goals – with respect to health and safety and labour rights – cannot be realised. Similarly, we found limited evidence of the alternatives to specific laws on prostitution – administrative laws, labour laws – being used in the ways some reforms anticipated and promised²².

Health and safety

A common aim in prostitution policies across the nine countries was to enhance the health and safety of women who sell sex. It is, however, seldom clear what the precise mechanisms for achieving this, especially with respect to violence, were intended to be. How were positive access to health care, increasing safe sex practices and minimising use of drugs to be operationalised? Frequent references to decreasing stigma and developing better employment practices were made, as if by some process of osmosis these would enhance health status and safety. Again, the evidence base is poor, with far more research documenting the extent of problems, rather than exploring whether policy regimes effect change.

A wealth of international research documents the 'common, frequent and pervasive' violence experienced by women who sell sex (Williamson and Folaron, 2001: 457). A five country study found that 62 per cent (n=475) had been raped since entering prostitution, nearly half (46%) more than five times (Farley et al, 1998). The BBC blog running during the period of the murders of five women in Ipswich in December 2006 was replete with postings from women across the globe about the everyday violences they encountered when selling sex.

Country reporters were asked to provide research evidence on: the extent of physical and sexual assault; murders of women in prostitution; physical and psychological consequences; and substance misuse. We also asked whether violence and health consequences were affected by the context of selling sex (street/indoor/brothel), given the many claims made about the relative (un)safety of certain settings in which prostitution takes place. The material presented below reflects the range of evidence submitted. Few

²² For an exception see previous chapter on the use of the BIBOB law in Amsterdam.

countries have systems for tracking the killings of women who sell sex, which as with domestic violence, might be considered an indicator of enhanced safety where the trends can be shown to be down over a period of years.

In Sweden a study is currently ongoing exploring these issues and while no numerical data is available yet, interim findings suggest a high incidence of physical and sexual violence.

In South Africa a study of 349 women involved in street prostitution found that half were under 24 years, 10 per cent under 18, with a significant relationship between the numbers of years spent in the sex industry and hard drug use (Leggett, 1999). A 2001 unpublished study asked about the worst thing about selling sex: 63 per cent (n=59) cited verbal abuse from the community; 49 per cent fear of contracting HIV; 48 per cent drugs; and 42 per cent police violence. A 2005 survey by the same organisation found that 68 per cent viewed prostitution as a temporary job, not a profession (SWEAT, 2005). Research with 1,395 pregnant women in Soweto revealed that 21 per cent had engaged in 'transactional sex' motivated by economic reasons, also associated with problematic substance misuse (Dunkle et al, 2004). Finally, recent research found 20 per cent of women selling in brothels had experienced physical abuse, rising to 37 per cent for those on the street (Gould and Fick, 2008). Health concerns include physical/sexual abuse, sexual health, pregnancy, and reproductive issues (ibid).

In the Netherlands the most recent evaluation (Daadler, 2007) found that the emotional well being of those selling sex is not generally lower than that of other women, although on the measured aspects (including depression, stress, sleeping disorders) all were lower than the first evaluation in 2001. Violence was still a common experience.

A 2005 study found that in Rotterdam an average of seven per cent of those selling sex were HIV positive, with considerable differences between those based on the streets (12%) and in clubs (2%) (Van Veen et al, 2005a). Similar overall figures, and variations, were found in a study in Amsterdam, albeit that here higher rates were found for those with drug addictions (11%) and transgender sellers of sex (17%) (Van Veen et al, 2005b).

In New Zealand a survey of 772 women in the three major cities and two provincial locations, found that in the previous 12 months three per cent had been raped by a buyer (Abel et al, 2007). When the figures were analysed by setting:

- 13.4 per cent of women on the street report physical assault and 5.3 per cent rape by a buyer;
- 10.4 per cent of women in managed indoor premises report physical assault and 3.3 per cent rape by a buyer;
- of women in private indoor settings, 7.3 per cent report physical assault and 1.5 per cent were raped by a buyer (ibid).

Whilst this data does show that indoor settings are less dangerous, the difference, especially in the managed sector, is not that great. The same study found 51 per cent of women in street prostitution, 14 per cent of women in managed settings, and 18 per cent in private premises, identified alcohol or drug use as a factor in their involvement in prostitution. In terms of health consequences, the only data reported is that 58 women who were interviewed reported that their increased rights under the PRA enabled them to feel safer (Abel et al, 2007). Whilst perception of safety will undoubtedly have an impact on levels of stress and anxiety, it is not the same measure as *being* safer.

A German study (n=79) found that more than three-quarters (78%) had suffered physical violence whilst selling sex and almost two-thirds (63%) had been sexually assaulted (Bruckner and Oppenheimer, 2006). A subset in the most recent German prevalence study of violence against women comprised 110 women currently selling sex: 41 per cent had experienced violence as an adult or child in the context of intimate or family relations, whereas 61 per cent had had similar experiences in the context of prostitution (Schröttle, 2004). This is one of the few studies to compare women in and outside the sex industry, finding higher levels of injury and health consequences - including problematic drug use (prescribed and illegal) - among women involved in prostitution. The recent evaluation (Kavemann et al, 2007) of the law reform found that women working in brothels were still often required to consume alcohol.

Data from Ireland is less contemporary, but a 1999 survey found high levels of physical and sexual assault among a group of women who sold sex and were drug users. A wide range of drugs were used and a plethora of health related problems identified including that 38 per cent had attempted suicide, 35 per cent were carrying Hepatitis C and 11 per cent HIV positive (O'Neill and O'Connor, 1999). An interview study with 30 women in street prostitution in Dublin found 80 per cent had been attacked, most commonly by clients (Haughey and Bacik, 2000).

There is very limited recent research on health and/or violence from Victoria, Australia. We do, however, have data on murders of women in prostitution: two working on the street were murdered between 1994 and 1995 (PCV, 1996) and two between 2002 and 2004. The AGSPAG (2002) reported that the majority of women working in street prostitution in Australia had a drug problem.

Reflections

Again the limitations of the evidence base is the most significant finding here, with virtually no longitudinal studies following cohorts of women over the course of reforms, or ongoing monitoring of murders of women in prostitution²³. There has been limited assessment of the health and safety

²³ This refers to formal monitoring by the state, there are advocacy groups who undertake this work, relying on press reports and other public documentation.

of women, a significant gap given the significance of this theme in policy goals across prostitution regimes. The levels of violence sustained by women in prostitution are now widely acknowledged as disproportionate (Mathews, 2008; O'Neill, 2008) and whilst setting has some influence on its scale and seriousness, there is no evidence to date that any setting renders prostitution 'safe': note the two women murdered in a Shrewsbury (UK) massage parlour by a regular customer in 2006²⁴.

It has been presumed that the shift to indoor settings delivers two sets of protections – from problematic drug use and levels of violence. The persistence of street based sectors, and the high levels of drug addicted women selling sex there, suggests that specific and resource intensive policies will be needed to address this group. With respect to safety, the question of potential displacement needs to be considered. It may be that the men most likely to commit violence – and certainly the most dangerous men who select women who sell sex as targets for murder – view street zones as a preferred location. Were street sex markets to disappear however, these perpetrators are likely to target through a different setting.

Recent research on managed brothels also raises issues about their relative safety and the health consequences of different organisational models of prostitution (Brents and Hausbeck, 2005; Farley, 2008). When looking more globally the conditions in which the majority of women sell sex need to be factored in: here 'brothel' invariably means slum areas in which women who sell sex and their children live, and the possibilities of negotiating safe sex are even more constrained.

Services

The rights, and health and safety, of women who sell sex cannot be enhanced simply through policies or law enforcement. Support services, which work from an empowerment perspective and integrate opportunities to exit, are a key element in realising rights and a holistic approach. Arguably, they are likely to be the most effective in addressing existing health issues and supporting women who have already sustained assaults. One would expect, therefore, that ensuring their availability would be part of integrated prostitution policies. We therefore asked country reporters to provide details of the number and type of services (harm reduction, exiting and any other type of service, including funding sources where known) available. Data is incomplete for some countries.

In Sweden, there are a number of long-standing social welfare projects in major cities working with women who sell sex; providing therapy and counselling, outreach and health services. They take an explicit exit focus. In addition some NGOs and individual social workers endorse an implicit harm reduction focus.

Spain has three or four services working with harm reduction approaches and a similar number of exit programmes. If the scale of prostitution is

²⁴ This man reportedly then went home and watched a World Cup football match.

anywhere near the estimates presented above this is a drop in the ocean. The picture is similar in South Africa, with only two NGOs that provide specialised support - SWEAT (Cape Town) and the Reproductive Health and HIV Research Unit (Johannesburg). Both operate from a harm reduction perspective, and there are no services focussed on exiting.

In New Zealand there are six organisations providing services that aim to reduce possible harms arising from involvement in prostitution through support and advocacy, the largest being the New Zealand Prostitutes Collective (NZPC), established in 1987 and funded by the Ministry of Health. The NZPC provides health services and information, and has expanded from offices in Christchurch, Wellington and Auckland to cover five other areas, primarily through staffed phone lines²⁵. Six agencies offer support with exiting, with some being the harm reduction services noted above and others faith based. Research has revealed some ambivalence about service provision - whether specialised services should be promoted or efforts concentrated on ensuring generic services are accessible to those who sell sex (Mossman and Mayhew, 2007). We suggest that this is a non issue, since both are necessary; as recognised with respect to domestic violence there need to be multiple routes into services in a co-ordinated response. The need for emergency accommodation to support those wishing to exit was identified in the recent evaluation report (PLRC, 2008).

The Netherlands has harm reduction services in all major cities, funded by the state (sometimes through municipal health services) and the voluntary sector (with some state subsidies). Six per cent of municipalities offer exit programmes provided by statutory and voluntary organisations: Barbara Kavemann et al (2007) notes that most of the exit services which were founded after the law reform no longer exist, due to funding shortfalls. Services for victims of trafficking are located across the country, with the Foundation Against Trafficking in Women (now Comensha) functioning as the national referral and coordination centre. In cities with designated street zones specific provision for medical aid through drop-in centres exists, provided in the main by NGOs with state funding.

In Ireland there is one service working from a harm reduction approach at a women's health clinic, but they view prostitution as harmful and are seeking to expand their response. A faith- based organisation, with a long tradition of working with women who sell sex, provides support for exit.

Germany has around 15 voluntary sector counselling services, many statutory specialist sexual health units and one voluntary agency focussed on exiting. In addition there are around three self help organisations.

Finland and Victoria both have two services - one focussed on harm reduction, one on exiting.

²⁵ Services are now available in Dunedin and Tauranga, staffed phone lines in Hamilton, Napier, Palmerston North and Taranaki.

Reflections

The provision of services appears to be relatively haphazard, with few countries able to demonstrate either sufficiency to address the scale of local prostitution and/or balance between harm reduction and exiting. The relative lack of exit programmes in some instances is in direct contrast to stated policy goals, and needs to be considered in relation to the significant proportion of women who, when asked, say they want to leave (see Matthews, 2008 for a summary). We note that Sweden is an exception here, with holistic services that focus on exit a feature of local authority provision since the 1970s.

Independent evaluations of three prostitution regimes

In contrast to the previous report, where no systematic evaluations of prostitution regimes were found, three can be reported on here - Germany, the Netherlands and New Zealand - with another ongoing in Sweden. Relatively little official evaluation has been undertaken in Australia, with small studies in NSW, Queensland and Victoria. These concur that improvements in health and safety have been limited to brothels operating within the regulations, which in many states is a minority of sex businesses. Regulatory mechanisms have also proved difficult to implement and sustain. Mary Sullivan (2007) has been keeping a watching brief on the regime in Victoria for almost a decade and argues that it has substantially benefited the sex industry and sex buyers, and arguably made the lives of many women who sell sex more difficult.

What are most commonly known and reported from evaluations are the top level messages, representing the story the governments, who funded the studies, wish to tell. Reading the reports in more detail - albeit not in their entirety, since for the Netherlands and Germany the longer reports and studies comprising them are not available in English - reveals more complex findings and lessons which are frequently overlooked.

Germany

The German evaluation was undertaken by Soffi_K, an independent women's research institute, and focused primarily on whether the intended improvements in rights and status had been delivered to women who sell sex, and on the implementation of law and policy at local levels. This section draws on the English summary of findings (Kavemann et al, 2007). The study comprised three strands:

- a survey of women selling sex (n=305) and face to face interviews (n=20);
- surveys of municipalities; prostitution business operators; advisory centres; police; prosecutors; courts and ministries;
- analysis of 50 court judgements.

The report begins with a reminder that a strong motivation in the reforms was to end the state position on the immorality of prostitution and ensure access for women who sell sex to labour rights, especially the statutory

social insurance system. This coincided with additional law reform ending the discriminatory health check requirements, a shift from a repressive to a more preventative approach. At this basic level the law achieved its aims. The more complex layers of intent, however - to integrate women who sell sex into the formal economy and to target the criminal aspects of prostitution - have proved more complex than envisaged by the law makers.

The German sex industry is extensive and diverse, including various forms of brothels, some window prostitution and managed zones. The law reform has had little influence on the tolerance and exclusion zones. To address the criminal aspects of the sex industry required at minimum two things: detecting women who have been exploited; and enforcing licensing requirements on illegal businesses. The report notes serious obstacles that may prove impossible to overcome. Kavemann et al comment: "it is often difficult to make a clear distinction between coercion and voluntary choice" (p8), arguing that there is a considerable grey area within what is too often presented as a mutually exclusive binary. With respect to licensing and monitoring a government official revealingly remarks that the authorities know that there are strong crime links in the sex industry but that sex businesses are still subject to less scrutiny than restaurants:

From this point of view, dealing with crimes connected to prostitution requires a level of monitoring that the police cannot provide
(Kavemann et al, 2007: 25).

Variations in implementation across the Lander remain since municipalities have taken different stances on the potential for enacting local by-laws to manage local sex markets: Berlin has used this hardly at all whereas Munich has made extensive use of them.

Probably the most interesting and challenging part of the evaluation is the exploration of the multiple impediments to integrating prostitution into employment law, and women who sell sex into the formal economy. Given that Germany is the country that has most explicitly attempted to operationalise the 'sex work' position, these findings are critically important. The main barriers are outlined here.

- Considerable difficulties were encountered in developing employment contracts which covered both the services to be provided and that women who sell sex are not forced into sexual practices or having sex with buyers that they do not want to. There was also debate as to whether any such contract would be enforceable given each woman's absolute right to sexual self-determination (p11).
- There is also little enthusiasm among women who sell sex, and sex business operators, for contracts, which is made even more difficult by the instance that, even in brothels, women are 'self-employed'²⁶. The respective reasons for resisting contracts were different, with

²⁶ In most brothels, like lap dancing clubs, this involves the woman 'renting' a room.

women who sell sex not wanting to lose their relative freedoms and sex business owners resisting the responsibilities of an employer.

- The evaluation concludes it is unlikely that contracts could be created that overcome these barriers, whilst at the same time pointing out that the absence of a contract makes it difficult to prove coercion or exploitation.
- The majority of women interviewed were clear that they did not want any official documentation that stated they sold sex.
- Whilst most women had health insurance²⁷, this was not connected to the law reform, and only 13 (n=245) had declared to their insurers that they sold sex.
- The majority lacked social insurance with a pension element – a problem for many self-employed people. Kavemann et al (2007) note that investing in this kind of provision is not attractive to those who seek quick cash, and are not intending to stay in prostitution.
- Integration into tax structures has proved impossible to resolve, and was not welcomed by women or businesses. Some municipalities have taken the alternative route of levying a tax on businesses for a set amount per woman, per day.

The evaluation recommends the development of minimum standards for sex businesses, and a model contract, whilst noting that the influence of these will be limited as there are few, if any, routes for enforcement. Kavemann et al (2007) conclude that the intention to locate prostitution in wider employment law has not been successful, partly because the law did not specify how this was to be achieved and partly because most women who sell sex did not regard themselves as ‘waged workers’:

The intention to convert this unregulated form of work into a legally regulated type of employment has not been achieved... there is no other profession in which an individual uses their own body and sexual intimacy in a comparable way (p32, p27).

The overall conclusion is that women’s status and material conditions have not noticeably improved (Kavemann et al, 2007: 14), with the hoped for benefits not evident after three years. The reform has actually delivered more for the sex businesses (ibid: 16), and a lack of political will and uncertainty as to how to implement has led to stagnation and contradictions.

Reflections

The inherent difficulties in integrating prostitution into formal employment laws and structures is the strongest evidence that this is not ‘a job like any other’, and efforts to treat it as such reveal a host of contradictions which neither law nor policy can resolve. This in turn compromises the ambition to enhance women’s status, rights and safety.

²⁷ Health care in Germany is a ‘mixed’ system, with all adults expected to have basic health insurance.

The lack of standards and mechanisms for monitoring the illegal sector raises the question of how the German authorities thought the law would improve working conditions for the majority who sell sex. An unanticipated consequence, which may limit law enforcement even more, is evident in a recent legal case. Police pressed pimping charges in 2006 against five men who owned/controlled the brothel Colosseum, which required, amongst other things, that women when in the brothel were naked. The court threw the case out, ruling that the new law defined prostitution as work, and therefore employers can set the conditions of employment. Interestingly, given the re-positioning of prostitution in German law no charges were brought against the brothel owners because they did not pay social security contributions for their employee, nor was the requirement that the women be naked addressed as a labour protection issue.

Netherlands

Several evaluations have been undertaken of the Dutch prostitution regime. The first (Daalder, 2002) concluded that it was too early to make any firm conclusions. Reliable data on the situation before the legal reform was scant, and the administrative changes were still in process. This and another review (Wagenaar, 2004) pointed out that the management of the 'tippelzones' was problematic. A 2004 action plan was produced, which argued for increased surveillance, the outcomes of which were summarised in the previous chapter. We draw here on the second evaluation (Daalder, 2007) and commentaries by a second academic (Wagenaar, 2004, 2007).

The most recent evaluation (Daalder 2007) was built from three separate studies, carried out by three research institutes:

- a survey of municipalities;
- an interview based study on conditions in the managed sector (n=354 women who sell sex, 49 sex business owners);
- the nature and forms of the illegal sector.

In terms of the regulation of the sex sector more consistency is evident than in 2002, with an increase in licensing inspections over the previous three years²⁸. In many municipalities officials and politicians have set maximums for the number of licensed businesses. At the same time sex businesses diversified their operations in order to avoid the regulatory requirements: a figure of 33 per cent of 'windows' in Amsterdam closing²⁹ because they did not wish to comply with the regulations is presented alongside some evidence that escort agencies relocated to areas with lower regulatory standards. The policy focus on regulation of the managed zones and licensed brothels led to a neglect of pimps, who are most likely to exercise coercion and are still commonly involved, especially in relation to women from Eastern Europe, Africa and Asia (Daalder, 2007: 13). The Dutch prostitute rights organisation Red Thread maintain that the law and its

²⁸ The Dutch national rapporteur on trafficking, however, in her 2005 report noted that that vast majority of brothels had never been inspected.

²⁹ <http://www.expatica.com/de/articles/news/amsterdam-buys-red-light-brothels-44129.html>

implementation have increased the control of traffickers and pimps who avoid licensing, and that conditions are worst for non-nationals (Altink and Bokelman, 2006). Nonetheless, they support legalisation as a necessity to improve conditions in the sex industry, and argue for more innovation and action to combat abuse and coercive practices.

The responsibility of the police to regulate the licensed sector has diminished their capacity to actively control the illegal sector. This in turn led to those in the licensed sector being less committed to upholding what is considered good practice (Daalder, 2007: 83). The presumption that by regulating the licensed sector under administrative and labour law, this would free up police resources to control the illegal, has proved inaccurate.

Daalder's reflections concur with those from Germany with respect to the insuperable hurdles in constituting prostitution as employment, and the problematic 'neither/nor' status that this results in for women who sell sex:

... labour relations in the licensed sector have scarcely changed; there has been no significant improvement (2007: 11).

As with Germany the tax issue remains vexatious, with all sides "stubbornly maintaining" that women are self-employed, despite extensive evidence that business owners set terms and conditions in ways that are akin to employment. Wagenaar (2008) notes that even in the regulated sector there is still extensive 'small exploitation'. Daalder concurs with the German evaluation in that: "it is often difficult for third parties to establish that involuntary prostitution is taking place" (p13).

Wagenaar (2008) points to an inherent philosophical problem in the Dutch prostitution regime:

The Dutch policy ... is based on the idealised image of the strong, autonomous and emancipated woman who self-consciously decides she wants to be a prostitute (p4).

This is not the reality for the vast majority of women who sell sex in the Netherlands. At the same time policy makers failed to take sufficient cognizance of the "large, entrenched, well-organised, well-capitalised prostitution sector" (Wagenaar, 2006: 210; 2008) which in and of itself constitutes a barrier to the implementation and achievement of policy goals. Women who sell sex have to contend with long standing marginalisation and exploitative practices that are embedded within the political economy of the sex industry. In his view it is impossible to legislate away the weaker position of women who sell sex, the potentials for exploitation and abuse of power by employers, all of which are multiplied for non-nationals.

In terms of enhancing the well-being of women who sell sex Daalder concludes from the interview study with a large sample (n=354):

.. the prostitutes emotional well-being is now lower than in 2001 on all measured aspects, and the use of sedatives has increased (2007: 15).

Whilst at least 70 per cent of municipalities have some form of services addressing the health and working conditions of women who sell sex (Flight et al, 2006: 15), only six per cent had exit programmes.

Reflections

In terms of the goals set for the Dutch law reform, few can be said to have been unproblematically achieved. A combination of slow implementation and neglect of pimps and the illegal sector have contributed here. The evaluations point to more fundamental issues, which confirm the difficulties encountered in Germany in operationalising the 'sex work' position. The Dutch evaluation also raises two other key issues: the intricacy of addressing the 'voluntary'/'forced' distinction on which the entire policy is based; and the power and control that the sex industry has by virtue of its resources and embedded exploitative practices. Both are challenges to the current prostitution regime and its ability to deliver any improvements in the lives of women who sell sex.

New Zealand

The New Zealand evaluation also comprises four separate commissioned studies alongside an overall concluding report by the Prostitution Law Review Committee (PLRC) itself. The latter concludes that they are "confident the vast majority of people involved in the sex industry are better off under the PRA than they were previously" (PLRC, 2008:168). This message has been widely publicised, but without the substantial caveats that more detailed reading of the report and evaluation studies reveals.

The studies commissioned as part of the evaluation covered:

- an overview of international approaches to decriminalising/legalising prostitution (Mossman, 2007);
- an analytic overview of central government aims and local government responses (Mossman and Mayhew, 2007);
- an interview study with key informants on the PRA (Mossman and Mayhew, 2007);
- a study of the impact of reform on the scale of the industry and the health and safety of women who sell sex (Abel et al, 2007).

In terms of the scale of the industry the conclusion is that there has been no expansion in numbers of women selling. There has been some movement out of the managed sector and into private settings, whilst the street sector has stayed more or less stable (Abel et al, 2007). Women selling sex did report that they felt more supported by the legal system since the reform; at the same time the majority of incidents of violence appear still not to be reported. This change in status appears extremely fragile since in response

to questions about access to health care, the usual concerns about stigma resurface, unchanged by the reform. At the same time evidence of physical and sexual assaults persisting emerged, with the majority of those interviewed making clear that they did not think the PRA could protect them from the violence. The careful conclusion reached by this study (Abel et al, 2007) is that there have been few if any negative consequences from the reform; the PLRC also concludes that the goals of the law reform 'cannot be fully realised in the street-based sector' (2008: 3) and argue for a policy position which will encourage women still operating from the street to either move indoors or exit prostitution.

The review of implementation at local levels (Mossman and Mayhew, 2007) found considerable tensions between the national policy and local actions, with a number of local areas taking restrictive positions. They note that this may be unavoidable, since it is the responsibility of local politicians and officials to reflect community concerns, and these may be in tension with national policy. 19 of 73 municipalities had passed by laws, and few had regular inspection regimes. Indeed the PLRC (2008) concludes that the inspection and monitoring regime has not been effective, with a number of businesses noting that having obtained a certificate they were never again asked to show it, nor had there been any inspections. There is also an acknowledgement that there are currently no enforcement procedures and no mechanisms for monitoring health and safety, since only Medical Officers of Health have inspection powers, and since there were no extra resources allocated they have operated a complaint led response. There is a recommendation that the Department of Labour be allocated resources to become the monitoring body.

The influence of the law reform on practices within the licensed sector appears to have been limited, with those brothels that were operating better prior to the changes continuing to do so, whereas "those which had unfair management practices continued with them" (PLRC, 2008: 4). Moreover longstanding exploitative practices have only been slightly adapted and even been included in some contracts. There is also some speculation that a number of brothels are defining themselves as SOOBs, arguing that if they only have four women per shift, this fulfils the legal definition.

Whilst not providing as much detail as the previous two evaluations, the PLRC also concurs that the employment status of women who sell sex is 'difficult'. They explore the difference between being an 'independent contractor' and an 'employee', and suggest that the former allows women to set their own hours, fees etc, but it also makes them responsible for tax, health and social insurance and health and safety requirements. There is a recognition that this is a key issue and that many policy goals are connected to it, but in the end the PLRC pull back from making any clear statement. Two themes justify this - the wish to not take away the 'right' of all women who sell sex to negotiate conditions with employers and some sympathy for the position of sex business owners, since to make them

responsible for tax and employment rights would decrease their profitability. The PLRC does argue that licensed brothels must accept the general conditions that apply to business, but refuse to impose any mandatory requirements, in part linked to a concern to avoid the two-tier system that has emerged in Victoria, Australia. With respect to further improvements the PLRC places its trust in negotiations between women and owners, and that such voluntary compliance will 'evolve naturally' within the current legislative framework. This, to our eyes, is considerably short of the rights based approach that New Zealand has promised and claimed.

Reflections

Whilst the New Zealand prostitution regime is different from that in Germany and the Netherlands, in that it has not sought to implement a 'sex work' perspective, the PLRC report is surprisingly complacent, appearing to believe that women who sell sex are now in a position to negotiate conditions with brothel owners and managers. Whilst hinting at some of the fundamental issues that the previous two evaluations raised, these are underplayed.

Conclusions

There are a number of important insights that can be drawn from the material in this chapter.

- The knowledge base needed for evidence based policy on prostitution is weak, and in all countries has critical gaps.
- There is widespread agreement across regimes that street based prostitution can never be organised in ways that enhance health and safety, and thus should be discouraged.
- Evaluations of regimes that have attempted to integrate prostitution into the formal economy note a number of barriers, some of which may prove insuperable. All recognise that selling sex cannot be 'a job like any other'.
- Not only can none of the legalisation or decriminalisation regimes examined here provide strong evidence that the law and policy has delivered the promised rights and material benefits to women who sell sex, several admit failure in this respect.
- Regulation is invariably under-enforced and under-resourced, with a lack of clarity in law and policy as to who is responsible. This has led, in many regimes, to unchecked growth in illegal sectors and/or a failure to police the exploitations of prostitution offences. Both create disincentives for the licensed sector to comply with policy goals.
- Violence persists, with no regime being able to demonstrate significantly enhanced levels of safety, and no combination of setting and regime 'safe'.
- Criminalising both sellers and buyers is not gender equality but compounds existing inequalities between women and men, which already structure the sex industry.

- Normalisation of prostitution has not assuaged the stigma that attaches to women who sell sex, with research continuing to document profound reluctance to report violence to the police and unease about accessing health services.
- There is a paucity of support services for women who sell sex across all regimes.

Chapter 5: Comparative analysis

In this chapter we present a comparative analysis of the nine prostitution regimes, beginning with the legal frameworks, what is and is not prohibited across the jurisdictions with respect to selling and buying sex. We then explore some core policy goals/directions in more depth: increasing the rights and status of women selling sex; integrating prostitution into the formal economy; and addressing the criminal aspects. We do not address the issue of demand specifically in this chapter, since it is only in the Nordic countries that there has been any sustained attention to this issue. We return to this issue, however, in our conclusions.

Policy framings, as previous chapters have demonstrated, have both transformed and remained the same over the last century. Across the nine countries the discourse of immorality has receded, and the public health concerns have shifted from an implicit prioritising of the health of buyers to a genuine interest to enhance the well-being and safety of women who sell sex. The concept of ‘fallen’ women has been replaced by perspectives that draw on combinations of vulnerability and agency. Issues of public order and law and order recur in local contexts, with trafficking and the involvement of ‘organised’ crime presenting new challenges.

Variations across prostitution regimes

Tables 2 and 3 present the current legal positions with respect to adults, excluding prostitution of minors and trafficking, since both are criminalised across all regimes. They summarise the respective positions on selling and paying for sex across six settings: the street; brothels; escort agency; flats; sauna/massage parlour; and hotel/bars. Seven possible alternatives were presented to our country reporters: always illegal; always legal; always decriminalised; legal/regulated – ie subject to regulations/zoning; neither legal nor illegal (a potential position which some country experts requested to reflect contexts in which sex was sold/bought – such as hotels – which legal frameworks did not cover); not addressed in law (this category was reserved for aspects of prostitution which were not dealt with at all, such as buying sex); and something else. The relevant number was to be placed in a grid (see key below). Revealingly, a number found deciding what the precise legal position was, especially with respect to buying sex, complex; often because the legal framework focused on a limited range of settings, or the purchase of sex was unaddressed/implicit in legal codes. In some instances we have amended the original codings to ensure consistency of application across prostitution regimes ³⁰.

What the tables illustrate is that none of the regimes have exactly the same layers of permission and prohibition, and many fail to address all contexts in which prostitution may be practiced. Legalisation has focused, in the main, on brothels, albeit that with or without explicit legal sanction street sectors

³⁰ These were checked with the national reporters in a third stage of the process.

may be managed through policy positions. The table confirms what commentators have noted for over a century: far more prohibitions apply to selling sex than buying, even before the question of differential implementation is factored in. The Swedish regime has an attractive symmetry and clarity with selling always decriminalised and buying always illegal. In all the other countries precisely what the legal situation is varies across settings and other conditions.

Key to Tables 2 and 3

- 1=always illegal
- 2=always legal
- 3=always decriminalised
- 4 =legal subject to regulations/zoning
- 5=neither legal nor illegal
- 6=not addressed
- 7=something else

Table 2: Legal positions on selling sex across nine prostitution regimes

	Street	Brothel	Escort agency	Flat	Sauna/massage parlour	Hotel/bar
Australia (Victoria)	1	4	4	1	1	1
Finland	1	1	1**	5	1	1
Germany	4	4	1	4	4	2
Ireland	5	5	5	5	5	5
Netherlands	4****	2***	2	4	2	4
New Zealand	3	3 & 4*	3	3	4	6
Spain	5	5	5	5	5	5
South Africa	1	1	7	1	1	1
Sweden	3	3	3	3	3	3

* Decriminalised where a SOOB, requires an operating certificate otherwise

** Law applies to the agency, and it would count as procurement

*** It is businesses that require a license not those who sell sex

**** Subject to local regulations and policies

Table 3: Legal positions on buying sex across nine prostitution regimes

	Street	Brothel	Escort agency	Flat	Sauna/massage parlour	Hotel/bar
Australia (Victoria)	1	2	2	6	1	1
Finland*	1	1	5	5	1	1
Germany	4	6	6	6	6	2
Ireland	5	5	5	5	5	5
Netherlands	4	4	4	6	6	6
New Zealand	3	3	3	3	3	6
Spain	5	5	5	5	5	5
South Africa	5	5	5	5	5	5

Sweden	1	1	1	1	1	1
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* Buying sex is always illegal if the seller has been procured or trafficked

We conclude, therefore, that apart from Sweden, there are no ‘pure’ prostitution regimes: legalisation is limited; decriminalisation also involves some layers of regulation (Jordan, 2005), and some commentators suggest that decriminalisation requires de facto local legalisation (Visser and Oomens, 2000).

Whilst there has undoubtedly been considerable normalisation of the sex industry in the last decade, none of the countries examined here have set an explicit policy goal of embracing and enabling it. Rather ambivalence about promoting prostitution is evident at the policy level. Where explicit policy goals have addressed sex businesses – in the Netherlands and New Zealand – the stated intent, whether successful or not, has been to limit/remove exploitative practices. It is for this reason that all prostitution regimes set limits and boundaries, albeit drawing the lines of what will be permitted and prohibited in different places. Where this has resulted in considerable growth of the sex industry, including the illegal sector, it has not been a policy goal, but rather the unintended (and frequently unaddressed) outcome of poorly conceived reforms and/or inadequate implementation/enforcement. As Daalder (2002) points out, a policy of passive tolerance can, in practice, result in active neglect.

The position of women selling sex

Two policy goals recur in relation to improving the status of women in prostitution: ensuring that engagement is voluntary and respecting women’s agency and enhancing the health and safety of women who sell sex.

Recent evaluations of the regimes which are based on the binary of ‘free’ and ‘forced’ prostitution all note the difficulty of drawing this distinction in practice, and the as yet unresolved tensions this creates for agencies charged with implementing policy. Table 4 below adapts one from the German evaluation (Kavemann et al, 2007) to illustrate this philosophical and definitional problem.

Table 4: Beyond the simple binary of ‘free’ and ‘forced’ prostitution

Free/voluntary	Constrained choice	Forced
Individuals make considered decisions to enter and remain,	Limited space for action ³¹ : economic necessity; absence of alternatives; drug addiction	Coerced by others on entry and/or to remain

³¹ For an exploration of this concept with respect to trafficking see Kelly, L (2005) *Fertile Fields: Trafficking in Persons in Central Asia*, Vienna, IOM.

with other options for earning money possible		
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There are many examples of how the binary distinction confuses, rather than clarifies:

- whilst all regimes recognise that neither minors nor trafficked women can be considered 'free' to choose to enter prostitution, some argue that once within it the choice to remain is possible;
- whilst some commentators and practitioners include deception and debt bondage, which is part of the Palermo definition of trafficking, in force others do not - with a binary model these conditions can become 'voluntary';
- Switzerland has a policy position that as long as women are selling sex to feed a drug habit they cannot be said to be 'freely' choosing;
- writers from developing countries point to the structural violence which denies options for sustainable livelihoods to countless women who sell sex.

These observations and the evidence base on routes into selling sex make clear that rather than a binary we need to think about women's positions as a continuum; with a range of constraining contexts taken into account. Table 4 offers a simple model of this, and when viewed in this way only a minority of women can be said to have both freely entered and be freely remaining. It is inappropriate, therefore, to base policy on the 'idealised voluntary' position, as Wagenaar (2008) terms it. Effective law and policy, therefore, require an alternative conceptual framework.

Another layer of binary thinking enters here - the distinction between victim and agent - with many arguing that to position women in prostitution as victims is to deny their agency and choices. Here too an either/or position misrepresents the realities for women who sell sex. Kathy Miriam uses the concept of 'disembodied agency' to link the two concepts. We propose that exploring the 'relative space for action' (Kelly, 2007) offers a route through this conceptual impasse. In other words, the key question to ask is what the constraints on agency/choices are. It is difficult to sustain the autonomous, rational actor model of women who sell sex, whilst simultaneously recognising the life contexts conducive to entry into, and remaining in, prostitution. Desperation for money - which can be linked to drugs, debt bondage, a controlling pimp, or material needs - place women in contexts where they take decisions which compromise their safety or involve accepting exploitative conditions. They are not 'victims' in the narrow sense of that concept³² (totally powerless): they are actively making choices (see also, O'Neill, 2001; Phoenix, 1999). These choices, however,

³² This is not the place to explore this issue in depth, but we have in earlier publications challenged narrow definitions of the concept of victim. See, for example, Kelly, L et al (1996) 'Beyond victim or survivor: sexual violence, identity and feminist theory and practice'. In Lisa Adkins and Vicki Merchant (eds), *Sexualising the Social: Power and the Organisation of Sexuality*, London, Macmillan.

take place in conditions not of their own choosing, and within which there are few, if any, options that do not include the potential of sustaining harm or their rights being compromised. Chapter 4 presented data suggesting that some of these dangers are inherent in the institution of prostitution and are thus impervious to change through law or policy.

The lower levels of violence frequently attributed to indoor prostitution are not found consistently in research. Indeed some data (Di Nicola et al, 2005) suggests that in more extensive sex industries, where most transactions take place indoors, levels of violence are similar to those found in street settings elsewhere. This suggests that there are men (and some women) - who buy sex and/or manage and profit from sex businesses - who use violence to control women/get what they want/express misogyny and that precisely where they enact this violence is a function of the structure of local prostitution regimes. To the extent that this is the case the legal framework will not affect levels of violence, merely where it takes place. This analysis concurs with the views of women who sold sex, interviewed for the evaluation of the New Zealand reforms (PLRC, 2008) - that legal reform would not and could not protect them from violence. We also found little strong evidence that different prostitution regimes affect willingness to report assaults. It seems more likely that enhanced reporting is the outcome of local climates of trust built between women who sell sex and state agencies/ individuals/services.

One of the arguments made to support legalisation has been that women enter prostitution to deal with poverty, and that they should not be penalised for this. Jo Phoenix (2008: 31) notes that economic necessity is not the only determining factor, as critical are links with previous violence and a desire for independence/a better life. Yet selling sex exposes women to risks that can entrap them further in poverty, exacerbate their existing social difficulties and increase their dependence on men (Ibid). This is confirmed by the work of Linda De Riviere (2006) who studied 62 women who had on average spent 10 years selling sex, but had exited at least 12 months previously. All had worked indoors - the setting regarded as not just safer, but more lucrative. More than two thirds of the women's children were not living with them³³, and only just over a quarter had regular employment, despite being part of re-training programmes. Using detailed and complex econometric models she concludes that the short-term earnings premium that prostitution *may*³⁴ provide is more than offset by the loss of potential future earnings and human capital. She refers to selling sex as a temporary life experience with permanent impacts on lifetime earnings, which increases women's vulnerability to lifelong poverty.

Integrating prostitution into the formal economy

The legalisation position has always been superficially attractive, with its promise to end street prostitution and provide safer managed settings. This

³³ Several other studies have found high levels of loss of custody of children, but this is rarely foregrounded in discussions of the potential harms of prostitution.

³⁴ The premium is often offset by spending on drugs/alcohol, payments to pimps/brothel owners, fines etc.

has been given further impetus by the 'sex work' discourse (Kantola and Squires, 2004), one variant of which has sought to present prostitution as a 'job like any other'. An implicit presumption in this position is that sex businesses are interested in entering into the formal economy and/or in promoting dignity at work, both of which are questioned by all three evaluations reported on in Chapter 4. Again, the fact that there are examples of better practice should not disguise the extent to which exploitation remains the order of the day. Outshoorn (2004b) concludes her study noting that whilst the 'sex work' framing can be a route to improvements it can also - and possibly simultaneously - herald new forms of state control and underworld involvement. She also observes, but does not expand on, how the shifting practice of prostitution has increased risks for women who sell sex.

Data in Chapter 4 demonstrates that all attempts to treat prostitution as 'a job like any other' have encountered insuperable obstacles, not least being the resistance among sex businesses to becoming employers, and their preference to adapt rather than end their exploitative practices (Wagenaar, 2008; PLRC, 2008). At formal levels across the Netherlands, New Zealand and Germany there is increasing recognition that this is a policy goal which is more complex than imagined. Joyce Outshoorn argues that even in the Netherlands selling sex is regarded as a form of work no woman would choose freely (Outshoorn, 2004c), and Jan Jordan (2005) notes that New Zealand policy treats prostitution as a matter between consenting adults, rather than a form of employment. There are implications here for prostitution policy, since there is now substantial evidence that not only does it not 'fit' existing employment and health and safety regulations, but that regulatory bodies invariably fail to enforce the powers they have been accorded.

Combating the associations of prostitution with criminality

None of the regimes examined in this study could make even weak claims to having addressed, let alone diminished, the criminal aspects of prostitution. It is this that has led, in some countries, to the unfettered growth of the illegal sector.

Given that legalisation has focused primarily on brothels; policies, licensing and enforcement have been targeted at the operators of sex businesses. Whilst operators can use coercion, it is predominantly exercised by pimps who are not always visible and of whose existence operators are not necessarily aware. The fact that the number of women with pimps has not decreased in a number of the regimes that had implemented reforms is cause for concern in itself. When coupled with the virtual absence of prosecutions for exploitation of prostitution offences, it has profound implications for claims with respect to addressing force and coercion.

The alternative model envisaged by New Zealand, of law and policy positively promoting SOOBs - two or three women organising together independent of pimps and organised sex business - has not been entirely

effective either, since most women selling lack the capital to buy and convert a property themselves. SOOBs and independent individuals are still outweighed by the numbers of women in the managed and street sectors. It remains the case that: 'the majority of prostitutes lack the resources to set up their own business' (Hubbard et al, 2008: 146).

A failure across most prostitution regimes, highlighted by Wagenaar (2008), has been to underestimate the structure, power and vested interests in the sex industry, including deeply embedded exploitative practices. These have proved impervious to change across all regimes, and cannot be wished away.

Conclusions

Chapter 3 illustrated that prostitution regimes develop in specific historical contexts and particular conjunctions of debate, stakeholder lobbying and evidence. It supported Wagenaar's (2004) contention that prostitution is not an autonomous issue, but strongly influenced by wider social and policy contexts. Cleavages in policy have been most evident in Europe, with a stand off for more than a decade between 'the Swedish model' and forms of partial legalisation. Chapter 4, however, presented data that revealed more complex engagements with some of the fundamental issues raised by prostitution across a number of regimes, especially given the marked failure of many approaches to deliver on stated policy goals. That so few regimes can deliver the improvements in status, health and safety to women who sell sex suggests that some of these matters of concern are inherent in the structure and practices of prostitution

Whilst there are incommensurate philosophical positions and policy goals, prostitution regimes may or may not have a close fit with the principles on which they are ostensibly based, partly due to uneven implementation and partly to a consistent failure to make clear connections between the overarching aims and the precise mechanisms in law and policy through which they are to be delivered. A number of shared policy goals can be identified across the regimes, even if different routes were used to achieve them:

- that there are criminal associations which need to be addressed;
- street prostitution cannot be made 'safe' and should not be normalised;
- that the exploitation of prostitution by third parties should be prohibited.

On the basis of the materials examined, the case for legalisation is weak and unsubstantiated. The rationale behind both the law in the Netherlands and Victoria, Australia was to "provide more control over criminal behaviour and to ensure women were protected from violence and exploitation". Neither of these aims have been achieved, with organised crime, including trafficking, flourishing in both localities, and the illegal layers of the industry continuing to accommodate women who are funding drug addiction.

Legalisation of prostitution also carries costs. In order to be implemented properly it places significant burdens on police and local authorities to enforce regulations and control the illegal sectors.

Whilst decriminalisation in New Zealand has not had the kind of unintended consequences associated with legalisation, it has also yet to deliver on many of the hoped for changes in the organisation of prostitution, and regulation has been consistently under-enforced. The Swedish reform has also not had unintended consequences which many predicted, and a neglected - by most critical commentators - component of the law is that it decriminalises women who sell sex. There is, therefore, more than one route to decriminalisation for those who sell sex: one which places the criminal responsibility with buyer and one which decriminalises seller and buyer. The evaluation of this approach is still in process.

What emerged strongly from this review is that most approaches to prostitution lack a coherent philosophical underpinning, from which specific short and longer term aims and objectives could be drawn out and evaluated. As a consequence, much discussion and debate is founded on claims based on belief rather than a strong evidence base, or narrow assessments of selected policy goals.

We conclude by returning to our title, *Shifting Sands*, in that with the possible exceptions of Sweden and New Zealand, the prostitution question is not settled in any of the countries examined in this study. Re-assessment is taking place in some, and in others the necessity for legal reform/policy development is generating ongoing debates. There is now a policy flux, with increasing recognition that much heralded reforms have failed to deliver material benefits to women who sell sex and/or had a range of unintended consequences.

To be effective prostitution regimes need to develop holistic responses that address women who sell, men who buy and those who profit simultaneously. Long-term goals must be linked with shorter-term measures in a coherent way. We concur with Roger Matthews' (2008) observation that we need to: "generate evidence based policy rather than provide policy based evidence" (p151).

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Appendix 1: Pro-forma for country reports



PROSTITUTION POLICY REPORT TEMPLATE

The Child and Woman Abuse Studies Unit at London Metropolitan University has been commissioned by the UK Home Office to update a 2004 report on legal and policy responses to prostitution. The original report looked at Victoria(Australia), Ireland, the Netherlands and Sweden. The new study adds Germany, Spain, South Africa, Finland and New Zealand.

We are commissioning experts within each of the nine countries to collate local data. This document provides you with a template for the data we need. Whilst we know that many of you will have position on prostitution, what we ask is that you write this report in as flat a way as possible, relying primarily on law, policy and research data, recognising continuing debates, weaknesses as well as strengths of current approaches. One of our ambitions is to develop more complex understandings of how prostitution is addressed and what we call 'prostitution regimes'. Your report will be fully acknowledged in the final document.

1. Principles and Approaches

1.1 What is the foundation/principle of the approach to prostitution in your country (e.g. gender equality, labour laws, human rights, regulation)?

1.2 When was this approach first adopted?

1.3 If there has been in a change in legal policy responses within the last 20 years, how is the current approach different from the previous one?

1.4 What was the main impetus for change?

1.5 In your current approach, what are the positions explicit/implicit about:

Those who sell sex

Those who buy sex

Those who profit from prostitution

1.6 What are the hoped for outcomes of the current approach?

Over the short term

Over the long term

1.7 Has the approach been assessed/evaluated in the last 10 years?

- Yes - evaluated
- Yes - a government enquiry/policy document
- No

If evaluated, please give us the reference, some idea of the data collected

If evaluated, which of the desired outcomes have/have not been achieved?

What are the main critiques of the current approach in your country?

What in your view are the main strengths and weaknesses of the current approach?

Are there any likely changes of approach in the near future?

2. Legal framework

In order to make accurate comparisons we need to understand the complexity of legal and policy approaches – there may be a law but no enforcement. Even in ‘legalised regimes’ there are often limits the locations in which prostitution can be undertaken. The grids below allow for some of this complexity to be recorded. We ask you to specify the legal position from 7 options across a range of contexts in which prostitution takes place, as well as providing space for you to provide text explaining more complex local variations.

Possible Legal Position: Please choose one for each row in the tables below and put the number of in the column marked ‘legal position’. If there are variations you think significant, please write about them in the text column.

Always illegal	1
Always legal	2
Always decriminalised	3
Legally regulated in some contexts	4
Neither legal nor illegal	5
Not addressed in law	6
Something else	7

SELLING SEX

	Legal Position	Please record here complexities, any clarifications, local variations and if you have put Number 7 in the previous column, details of ‘something else’
Street		
Brothel		
Flats (inc woman’s home)		
Escort Agency		
Sauna/massage parlour		
Hotel/Bar		
Other context (please tell us what)		

BUYING SEX

	Legal Position	Please record here complexities, any clarifications, local variations and if you have put Number 7 in the previous column, details of 'something else'
Street		
Brothel		
Flats (inc woman's home)		
Escort Agency		
Sauna/massage parlour		
Hotel/Bar		
Other context (please tell us what)		

PROFITING FROM

	Legal Position Number	Please record here complexities, any clarifications, local variations and if you have put Number 7 in the previous column, details of 'something else'
Pimping		
Procuring		
Running a brothel		
Profiting from prostitution of another		
Relating to traffickin		

g		
Relating to minors		

2.2 If there are contexts in which selling sex is permissible in law, please answer these questions:

To be legal, do women have to:

	YES	NO
Register with local authorities	<input type="checkbox"/>	<input type="checkbox"/>
Have regular health checks	<input type="checkbox"/>	<input type="checkbox"/>
Work in a recognised environment	<input type="checkbox"/>	<input type="checkbox"/>
Any other requirements	<input type="checkbox"/>	<input type="checkbox"/>

What other requirements

What proportion of women selling sex has met these requirements? (if not known, please state this).

2.3 Do establishments (brothels etc) where sex is sold have to fulfil requirements to be legal?

YES **NO**

If yes, please summarise the main requirements

What proportion of establishments have fulfilled the requirements? (if not known, please state this).

2.4 Are there restrictions on locations where sex can be sold?

YES **NO**

If yes, what are they?

3. Law enforcement

Please provide us with statistical data, if known, concerning law enforcement approaches.

Criminal Processes	1996/1997	2006/2007
For selling sex on the street - Arrests - Prosecutions - Convictions		
For prostitution offences whilst being an irregular migrant - Arrests - Prosecutions - Convictions		
For other offences relating to selling sex - Arrests - Prosecutions - Convictions		
For the purchase of sex on street - Arrests - Prosecutions - Convictions		
For the purchase of sex off street - Arrests - Prosecutions - Convictions		
For pimping offences - Arrests - Prosecutions - Convictions		
For trafficking offences - Arrests - Prosecutions - Convictions		

3.1 How would you describe the overall law enforcement approach?

4. Services and policy

4.1 Is there a government policy on:

	Yes /No	Date introduced	Main aims
Prostitution			
Trafficking			
Sexual exploitation of minors			

4.2 Are these policies linked and compatible?

Yes

No

In some ways

4.3 What are the overall policy goals in respect to:

Women who sell	
For men/trans who sell	
Men who buy	

4.4 Please summarise whether there are services in your country for those selling sex based on these variations in approach:

Approach of service	Y/N	Approximate number of services	State/voluntary sector
Harm reduction			
Exiting			
Other type of service (please tell us what)			

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5. Knowledge base

We are acutely aware of the intensity of debates on prostitution and the relatively weak evidence base. This makes having a more accurate sense of the knowledge base underpinning specific approaches even more critical.

The tables below ask for summaries of the current knowledge base in your country with respect to selling and buying sex and the health issues associated with prostitution.

5.1 Scale of prostitution

Research on	Y/ N	Local/Nati onal	Date	Key findings
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<p>Selling sex</p> <div style="border: 1px solid black; padding: 2px; margin-bottom: 10px;">Numbers selling sex</div> <ul style="list-style-type: none"> - Numbers on street - Numbers off street - Minors - Migrants - Irregular migrants - Trafficked 				
<p>Buying sex</p> <p>Numbers buying sex</p> <p>Number of transactions</p> <ul style="list-style-type: none"> - Per week - Per year <p>Proportion who buy</p> <ul style="list-style-type: none"> - Street - Off street - Both - Abroad (as a sex tourist) 				

5.2 Violence and health issues

Research on	Y/ N	Local/National	Date	Key findings
Physical or sexual assault whilst selling sex: Ever				

<ul style="list-style-type: none"> - All contexts - Street - Off-street <p style="text-align: center;">Last 12 months</p> <ul style="list-style-type: none"> - All contexts - Street - Off-street 				
<p>Health Consequences</p> <ul style="list-style-type: none"> - Physical - Psychological 				
<p>Substance Misuse</p> <p>Illegal drugs</p> <ul style="list-style-type: none"> - Street - Off street <p>Alcohol/prescribed drugs</p> <ul style="list-style-type: none"> - Street - Off street 				

5.3 Research/official data available that informs the policy approach.

Research Question	Y/ N	Dat es	Main findings
Assaults on those selling sex			
Murders of women selling sex			
Murders of men/trans selling sex			
The scale of demand			
The scale of trafficking for sexual exploitation			
The scale of the illegal prostitution sector			
Sense of stigma/status of those selling sex			
Sense of stigma/status of those paying for sex			
The proportion of those selling sex who want to exit			

5.4 Research on attitudes to current policy framework

Research sample	Y/ N	N =	Date	Key findings
Sellers of sex				
Buyers of sex				

General public				

6. Reflections

Please use this section to add anything you feel is relevant to understanding legal and policy responses to prostitution in your country.

Thank you for your time and contribution.