

## *Legalization*

### *The Australian Experience*

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*Although aspects of the prostitution industry in the state of Victoria in Australia have been legalized, the large growth in both the now legal and the illegal sectors and increase in the trafficking of women to meet the large demand for paid sexual services indicate that the legislation has not met its intended purposes of minimizing the harm in prostitution and stemming criminal involvement in and controlling expansion of the industry.*

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*This article explores the results from now two decades of legalization of brothel prostitution in the state of Victoria, Australia (population 4.8 million). Legalization, intended to minimize the harm in prostitution, stem criminal involvement, and control expansion of the industry, can now be seen to have the opposite effect. There are now grounds to believe that legalization has also caused an increase in trafficking of girls and women into Victoria to meet the increased demand in the now expanded and increasingly profitable sex industry.*

In 1984, a newly elected Labor government in Victoria decided that prostitution was principally an economic exchange. It introduced legislation that legalized prostitution in brothels that obtained a valid planning permit. This approach recognized brothels as acceptable commercial enterprises that could be seen as legitimate uses of land for town planning purposes. For this government, prostitution was seen to be a matter of private sexual behavior between consenting adults that should not be

criminalized “simply because money changed hands” (Victoria, 1982).

Legalization in Victoria was not intended to show total approval for the sex industry. The object was what is commonly called “harm minimization.” The prohibition of prostitution was seen to be ineffective against a highly visible massage parlor trade (a euphemism for brothels), increasing street prostitution, criminal involvement, and drug use (Working Party to the Minister for Planning and Environment, 1983). Legalization, it was believed, would diminish the health risks, particularly the risk of sexually transmitted diseases, for either prostituted women or the “clients” (Working Party to the Minister for Planning and Environment, 1983). The appearance of the AIDS epidemic in the mid-1980s was a further stimulus to reform (Pinto, Scandia, & Wilson, 1991).

Legalization, however, brought with it new problems. Ongoing adjustments to legislation became necessary as state policy makers attempted to deal with a myriad of unforeseen issues that are not addressed by treating prostitution as commercial sex—child prostitution, trafficking of women, and the exploitation and abuse of prostituted women by big business. As the industry expands, so does the variety of ways in which women are offered to men for sexual abuse, such as tabletop dancing, and further adjustments are required. No legislators are able to foresee the diverse forms of sexual exploitation from which sex industrialists discover that they can make money. The harms resulting from the sex industry constantly change and develop and have to be constantly readdressed.

The existing model for Victoria’s prostitution law is based on the Prostitution Control Act 1994 (Prostitution Control Regulations, 1995). Under the act, licensed brothels and escort agencies operate legally, although subject to local planning controls determined under the Planning and Environment Act 1997. These controls ensure that sex establishments are not located close to schools and churches and other areas frequented by children, require their exclusion from residential areas, and limit the size of brothels to six rooms. The sex industry is constantly pushing to remove this restriction so that giant brothels can be created. Brothels are not permitted to advertise for workers, and the

industrialists want to change that, although they are permitted to advertise the women who are for sale.

The act also established a Prostitution Control Board composed of lawyers, police, and industry figures to ensure "a rigorous licensing procedure for prostitution services and for the disciplining of licensees" (Victoria, 1994a). There is a requirement that prostituted women are registered and must undergo regular health checks for sexually transmitted diseases and AIDS. Most significantly, street prostitution remains a criminal offence.

By 1997, the Attorney General, Jan Wade, and her supporters were promoting the state's prostitution industry as "a highly regulated, profitable, professional and incredibly well-patronised industry . . . that pays taxes" (Victoria, 1997a). She saw the legislation as a model for other states.

### EXPANSION AND NORMALIZATION OF THE INDUSTRY

Although it was hoped that legalization would control expansion of the industry, in fact it has had the opposite effect. Legalization has led to massive expansion. An investigative report by Victoria's *Age* newspaper in 1999 found an increase in the number of legal brothels from 40 a decade ago to 94 today, along with 84 escort agencies. Each week, 60,000 Victorian men spend \$7 million on prostitution, with the legalized industry turning over more than \$360 million a year and drawing on some 4,500 workers ("Curbing Crime," 1999). With almost 100 licensed brothels and 300 unlicensed brothels, the illegal businesses now largely outnumber "legitimate" sex businesses ("Curbing Crime," 1999). In Sydney, which decriminalized brothel prostitution, the number of brothels had tripled, with most of them illegal (Clennel & McClymont, 1999). A police investigator for the Victorian City of Yarra suggests that the numbers are far higher, because gathering evidence in relation to illegal brothels is virtually impossible (Dunn, 2001).

Since the process began, there has been an explosion of forms of sexual exploitation in the industry. Tabletop dancing, bondage and discipline centers, peep shows, phone sex, and pornography are all developing profitably as part of a multimillion dollar industry of sexual exploitation. Tabletop dancing, in which

women working as dancers perform nude or seminude on tables or podiums while men stare into their shaved genitals from a few inches away, has come under close scrutiny because of its phenomenal growth since its inception in 1992. The 1997 Dixon Report (Victoria, 1997b), a government advisory committee evaluation of the legalized industry, included tabletop dancing in its main terms of reference. The performances include close contact with or touching of men, double acts with other women or men (showers, oil wrestling), and personal or lap dances where the dancer sits on a man's lap "gyrating, twisting and generally stimulating his groin area, or rubbing her breasts in the patron's face" (Victoria, 1997b). Penetration of women with objects that included mobile telephones being inserted into the dancer's vagina or anus was common (Victoria, 1997b). The owner of one of Melbourne's most famous tabletop venues, Goldfingers, was found guilty, on February 10, 2000, of assaulting and injuring one of his workers.

Tabletop dancing is regulated through the Liquor Licensing Commission. The Victorian government has broadened the definition of prostitution in an attempt to close the legal loophole that allowed these prostitution-like activities to exist unregulated. Tabletop dancing venues that provide sexual activities that involve physical interaction and masturbation are subject to the Prostitution Control Act (Office of the Attorney General, 1999).

The annual staging of a trade show for the sex industry illustrates just how acceptable prostitution is in Victoria presently. SEXPO markets prostitution both locally and internationally (via the Internet) through the promotion of brothels, escort agencies, tabletop dancing, pornography, and other forms of sexually explicit "entertainment" and "adult products." Once inside the R-rated exhibition space, crowds attending SEXPO are surrounded by video pornography and huge screens relaying the stripping that takes place on the main stage. For example, a woman in a tiny policewoman's uniform strips, sticks her plastic gun down her G-string, and then offers it to male onlookers to suck. The stripping was transmitted via the Internet around the world, selling Melbourne internationally as the new sex capital of Australia. On stage, women pretended to orgasm, while in booths men paid for personal lap dances by naked women, having paid between \$A10 to \$A35 price depending on whether a woman retains her G-

string or not. The women are sold for little more than the produce advertised at the frozen yogurt stand next door. This public event is held at the state-owned Melbourne Exhibition and Convention Centre. *The Age* newspaper devoted the front page of its business section to SEXPO in 1998 alongside a profile of Australia's sex industry, said to have an estimated annual turnover of \$A1.2 billion ("Business Age," 1998).

### EMPOWERING FOR PROSTITUTED WOMEN?

For feminists, one of the most persuasive arguments underpinning legalization was that once prostitution ceased to be a criminal offence, prostituted women would be able to choose their own working conditions and their clients and, if working for an employer, would have industry health and safety standards in place. The experience of Victoria dispels the claim that legalization empowers women. Large operators now dominate the industry.

This takeover by sex industrialists was aggravated by the failure of Victoria's specialist prostitution licensing board, the Prostitution Control Board, to effectively monitor licensing. Although it was supposedly illegal, multiownership existed, with incidences of one proprietor owning as many as six brothels. Licensing procedures will prove even more inadequate in the future, as 1999 saw the Prostitution Control Board replaced by a general Business Licensing Authority with no specialist knowledge (Prostitution Control Act, 1994/2000).

A further and more fundamental barrier to prostituted women taking control of brothels is that legal parlors tend to be expensive, capital-intensive buildings, allowing for the monopolization of the industry by more wealthy owners. When the 1994 Prostitution Act was passed, brothels were changing hands for more than \$A1 million (Victoria, 1994b). Some concession was made in the Prostitution Control (Amendment) Act 1997 to allow for a cottage type industry in which one or two women could work in private parlors. These remain illegal in residential areas, and only a handful have been allowed.

The only option for prostituted women to work on a small-scale basis legally is in industrial backblocks or docklands. This leaves

already vulnerable women open to violence, fear, and isolation. Prostituted women also face exorbitant costs because they are required to disclose their business to landlords, who in turn charge grossly inflated rents. Women's ability to control their own working environment is, therefore, still extremely restricted, and many women still are active on the streets illegally. A recent government report found that the number of street-prostituted women continues to increase markedly (Attorney-General's Street Prostitution Advisory Group, 2000).

Legalization was also intended to eliminate organized crime from the sex industry. In fact, the reverse has happened. Convicted criminals, fronted by more reputable people, remain in the business. Freh Lelah, who ran Sasha's International, one of Melbourne's inner-suburban legal brothels, has been before the Melbourne Magistrate's court in February 2000 for introducing girls ages 10 to 15 into his business. Lelah had already served a 2-year term for the same offence (Forbes, 1999b).

Trafficking of girls and women into prostitution in Victoria also appears to have exploded. Within a year of the passing of the Prostitution Control Act, it was revealed that Victorian sex industrialists were involved in the lucrative international sex trade run by crime syndicates, which is worth \$A30 million in Australia (Robinson, 1995). The trafficked girls and women are most often placed in off-street venues such as brothels and massage parlors. More recently, an Australian Institute of Criminology study estimated that Australian brothels earned \$1 million a week from this illegal trade (Sutton, Crittle, & Forbes, 1999). Some examples of the trade came to light in 1999. One Melbourne businessman brought 40 Thai women in as contract workers, depriving them of their passports and earnings until their contracts were worked off (Forbes, 1999a). In another case, 25 Asian workers were found in similar circumstances in one of Melbourne's legal brothels (Forbes, 2001).

Information about the size and shape of trafficking in Australia is presently anecdotal because no detailed study has been undertaken. Chris Payne, who headed the federal police operation responsible for investigating sex trafficking in Sydney from 1992 to 1995, stated that up to 500 trafficked women are working illegally in Sydney at any given time on false papers ("Human Trafficking," 2000). His view is that they are being kept in "servile

conditions." They are extremely vulnerable and in no situation to control the conditions in which they find themselves. Sometimes they do not know what country they are in and have not heard of Australia. Mostly, they think they are to work in prostitution, but sometimes they believe they are going to work as waitresses.

The women Chris Payne dealt with and the women involved in the Gary Glazner case in Melbourne, in which 20 to 40 Thai women were held behind bars at the Clifton hotel and put to work in debt bondage in legal and illegal brothels, probably knew their destination in prostitution (Forbes, 2001). Deception was used in the case of "Christina," featured on Lateline in 2000, who came to Australia to work as a cleaner and to learn English. She was told she would have to repay \$40,000 by working in a brothel and was controlled by violence and threats to herself and her family in Colombia ("Sex Slavery," 2000). In the past year, Amnesty International in Australia has been working on the cases of two trafficked women who have died in Villawood Detention Centre. One of the women, who died in a pool of vomit at 20 years of age, was apparently trafficked to Australia at 12 years of age and continuously used in prostitution thereafter (Costello, 2002).

## CONCLUSION

The Victorian experience has demonstrated the folly of trying to separate out various types of prostitution by making certain sectors legal. We have seen that legalization has caused all segments of the industry to flourish. There are now many more illegal brothels than legal and grounds to believe that Victoria is the focal point of a large trafficking industry as well. Legalization has also created a new funding revenue stream for the state that is now difficult to give up. Legalization has proved to have been the signal to the business interests to come in and develop the territory. Traffickers, it seems, prefer to operate where there are brothels to place their goods without fear of harassment, raising the question of what form of regulation of prostitution is best suited to decreasing the traffic in women.

In Western capitalist cities such as Amsterdam, which legalized prostitution in 2001, and London, which is considering legalization, brothel owners are unable to find enough citizens in desperate circumstances who will work in their businesses. They are

importing trafficked women, who are more powerless and provide greater profits (Bodelier, 2001; Kelly & Regan, 1999).

Based on this growing body of evidence from Victoria, there is considerable reason to question the notion that prostitution can be made into a safe and respectable industry. Certainly, compartmentalizing and separating trafficking from other forms of prostitution and dealing with trafficking in isolation from the rest of the local prostitution industry is not warranted from the experience in Victoria.

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