

「娼妓合法化的利弊——外國經驗的探討」

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PROSTITUTION: A STUDY OF THE AUSTRALIAN EXPERIMENT

The following is basically a study of the following book:

Sullivan, Mary Lucille. 2007. *Making Sex Work: A Failed Experiment with Legalised Prostitution*. Pinifex

Introduction

1) Four Legal Approaches to Prostitution

- Criminalization
- Legalization: normally results in the state recognizing some forms of prostitution as a lawful activity, while others continue to be included in the criminal code; a regulatory regime
- Decriminalization
- human rights legal paradigm
- Sullivan argues against the first three & advocates the last approach.

2) The Liberal Feminist Perspective

- The Liberal Feminist Perspective: “equate the right to be prostituted with concepts of women’s rights to self-determination, economic power and sexual autonomy- a woman’s body, a woman’s right.” (2-3);
- “a harm minimization approach, a position which accepts the inevitability of prostitution.” (p. 4) => likely to accept legalization & decriminalization policy

3) The Radical Feminist Perspective

- The Liberal Feminist Perspective: “equate the right to be prostituted with concepts of women’s rights to self-determination, economic power and sexual autonomy- a woman’s body, a woman’s right.” (2-3);
- “a harm minimization approach, a position which accepts the inevitability of prostitution.” (p. 4) => likely to accept decriminalization policy
- analyses prostitution through an anti-violence lens and locates it along a continuum that includes rape, sexual harassment, violence perpetrated by intimate partners, incest and child sexual abuse (2-3); the practice is inherently harmful and dehumanizing, and that legitimizing the industry facilitates trafficking and new forms of sexual exploitation.
- “Kathleen Barry ...defines sexual slavery as: ‘ Present in all situations where women or girls cannot change the immediate conditions of their existence; where regardless of how they got into those conditions they cannot get out; and where they are subject to sexual violence’ ” (p. 26)
- “Liz Kelly, found in one study of 60 British women that ‘the frequency and form of harassment at work depended, to some extent, on how far women’s work role was sexualized’ ... as barmaids ...What does this mean for prostitution where the workplaces are wholly sexualized? ...violence is an intrinsic part of the lives of women and girls in prostitution. ...violence that is commonly a precursor to women entering prostitution, as well as the abuse they undergo routinely while in prostitution... Feminist psychologist Melissa Farley’s ...In a study of prostitution in five countries ...violence [physical assault and rape] and post traumatic stress disorder (PTSD) were widely prevalent among [the] 475 prostituted

people' interviewed. Sixty-seven per cent met the criteria for PTSD. ...This injury to the self and the resulting disassociation practiced by women and girls in prostitution has been described by many survivors of prostitution” (pp. 40-42)

- The harm experienced by prostituted and trafficked women is also identical: ‘post-traumatic stress disorder, severe depression, damage to reproductive systems, damage for sexual assault and beatings , and sexually transmitted diseases.
- Where sex is a dehumanizing experience, it must be recognized as a civil and human rights abuse.
- “Every moment and community for social justice does or should have an interest in recognizing and combating sexual exploitation. Systems of prostitution draw strength from the economic, social and physical vulnerability of girls and women, and reinforce the belief that girls and women are sexual objects... Sexual exploitation exists because people are willing to exploit or use others, and because societies allow it to happen.” ----Standing Against Global Exploitation (SAGE 2005)- A Prostitution Survivor-centred Human Rights Organisation

The Process of Legalisation of Prostitution in Victoria

- “Victoria’s prostitution legislation was modeled on the English legal paradigm, which meant that while prostitution itself was not illegal, associated activities were criminalized. ...In effect these laws rendered prostitution illegal through a series of statutes that related to contagious disease, procuring vagrancy, soliciting, and brothel keeping” (p. 53)
- Victoria’s reframing of prostitution law throughout the 1980s and 1990s reflected a shift away from prohibition and criminality- and moral concerns – towards the regulation of prostitution as ‘sex work’ and as a legitimate employment choice.
- In 1975 Liberals directed the Melbourne Metropolitan Planning Scheme Authority to allow massage parlour operators to apply for a town-planning permit in a similar way to other businesses ...the only restriction being that operators must comply with local zoning laws.... Private parlours ... almost totally beyond the law. Escort agencies => “Massage parlors were concentrated in certain areas in Victoria, mostly around the Melbourne suburbs of St Kilda and South Melbourne.” (p. 56)
- The emergence of residents activism: first in the St Kilda area; residents opposed to the visibility of prostitution to minimize the impact of the prostitution trade on local amenities, the regional retail trade and property values (pp.56 –57).
- “In 1980, the Victorian Parliament opened debate on the overt link between the drug trade, ... police corruption and prostitution. The massage parlour trade was recognised as an easy conduit for criminals to ‘launder’ monies received from drug trafficking ... Premier John Cain’s decision to liberalise Victoria’s prostitution laws began to be seen as a viable way to regulate the illicit trade” (pp. 58-61)
- Originally, Labor’s policy fully endorsed the decriminalization of prostitution. Confronted with the practicalities of treating prostitution as no different from other forms of legitimate industries, Labor withdrew its unconditional support for decriminalization; opted for a harm minimization strategy. ...assumption that prostitution is a harmful activity, but that, as people would continue to participate in the practice, the role of legislation was to minimize the harmful effects.
- In 1984 the Australian State of Victoria legalized prostitution.
- Twelve months later, the Government was forced to admit its failure. Victoria’s prostitution industry was escalating and remained still largely unregulated; no provision within the 1984 Act to prevent multi-ownership of brothels => ultimately allowing a monopolization of the whole brothel industry. The escort services continued to remain unchecked. Tourist literature was dominated by ads for escorts.
- Labor Government commissioned Victoria’s *Inquiry into Prostitution (1985)* (by Neave)
- Neave estimated that there were between 3000 to 4000 people involved in the state’s prostitution

industry: a significant increase from around 2000 at the end of the 1970s.

- The 1985 inquiry adopted as a starting point that prostitution was an exploitative practice that should be minimized, not encouraged or institutionalized as an occupation. The prime cause of prostitution is the economic and sexual inequality of women. However, Neave accepted the inevitability of prostitution.
- Labor Government for decriminalization of prostitution as a whole: prostitution is primarily a private activity between consenting adults. Recommendation to establish a specialist licensing board (pp. 71-73) => Prostitution Regulation Act 1986 enabled certain forms of prostitution to exist, while prohibiting other prostitution activities. For example, multi-storey brothels flourish in Flinders Lane, but discrete prostitution is not permitted in one's own home (pp. 75—76)
- 1992 Victorian state elections => Liberal Party back into power; Premier Jeff Kennett committed to a non-criminalization approach to prostitution => *Prostitution Control Act* in 1994
- Attorney-General, Jan Wade: 'this Government is opposed to prostitution in all its forms'. Even so Wade accepted both the inevitability of prostitution; adopt a harm minimization approach.
- Aims: to ensure that criminals were not involved in the prostitution industry, to minimize its 'impact on the community and community amenities' and to 'ensure that brothels are not located in residential areas or in areas frequented by children'
- a mixture of tolerance and control; planning as a principal means of regulating the industry, requiring brothels to obtain a town planning permit; street prostitution remained a criminal offence, as well as living off the earnings of those in prostitution.
- Significant new clauses in the legislation involved child exploitation and the exploitation of migrants. The 1994 Act increases police powers by giving them the automatic right of entry to suspected illegal brothels.
- 1994 (Child Sex Tourism) Amendment Act introduced harsh sanctions against Australians who had sex with children when travelling overseas. However the consensus that existed on the issue of children in prostitution did not transfer to human rights abuses against women in prostitution who were assumed to 'choose' their abuse.
- a specialist board to control licensing: newly formed Prostitution Control Board. Licensees could operate one brothel business only. But the inclusion of escort agencies within the legal definition of what now constituted the prostitution industry created further legitimacy for the trade by allowing a wider range of prostitution activities to be treated as lawful commercial practices.
- 1994 Act: prostituted women must undergo mandatory testing for sexually transmitted infections (STIs).
- "Prostitution was understood as the 'provision of sexual services', 'the provision by one person to or for another person (whether of or not of a different sex) of sexual services in return for payment or reward' ...Brothel owners and former 'pimps' were identified as 'service providers' ...Parliamentarians and stakeholders increasingly employed the term 'sex worker' ...and the prostitution trade was officially recognized as the 'sex industry' ...
- By 1998 brothel keeping, escort agency services, and prostitution services were defined under The Australian Standard Industry *Classification System* as a 'Personal Service' similar to babysitting services, marriage celebrants and weight-reducing services The prostitution abuse of young people became interchangeable with 'sex for favours' (pp. 86-87)
- Today's situation:
 - 'Sexual services' ranks highest of all personal service industries in terms of revenue (reaching as high as 80 per cent)
 - sex-based industries in Australia are the financial equals of the 50 top-ranking publicly traded companies
 - the industry growing at 5.2 per cent annually between 1999/2005 (p. 2)

The Transformation of the Feminist Movement in Australia

- “The 1995 Australian Council of Trade Union’s Working Women’s Policy continued to reflect the feminist dilemma of how to support prostituted women while simultaneously seeking to legalise the prostitution industry. ... [C]ongress condemns in the strongest terms the recent trends in service industries such as retail, hairdressing and hospitality to promote sales and services through the employment of topless and scantily clad staff. Such developments encourage the perpetuation of sexist attitudes towards women.’ ...formation in the mid-1990s of the Coalition Against Trafficking in Women (CATW) (pp. 88—89)
- “Feminists – both socialists and liberals ...unwittingly found themselves in an alliance with either conservatives or sexual libertarians and economic rationalists ...Liberal feminists’ support for prostituted women, as ‘workers’, was in reality indistinguishable from support for prostitution *per se*. Socialist feminists, who sought to ameliorate the harm of prostitution through industrial rights mechanisms, in practice, would find it impossible to maintain the quasi distinction between supporting prostituted women’s rights as workers, and facilitating the normalization and legitimization of prostitution. Once the industry was legitimate, sex entrepreneurs and big business could readily tap into the profits to be made from merchandising women and girls to male buyers for sex.” (p. 90)
- Victoria’s first prostitutes’ rights organization, Prostitutes’ Action Group (PAG) (late 1970s)
- Prostitutes’ Collective of Victoria (PCV): From Prostitutes’ Rights to Sex Industry Advocates
- The international Prostitutes’ Rights Movement which became strong in the 1980s provided both an impetus and a model for the establishment of successive Victorian State-based prostitutes’ rights organizations – the Australian Prostitutes’ Collective (APC) and the PCV.
- US’’: “the pro-prostitution group, COYOTE, an acronym for Call off Your Old Tired Ethics... prostituted women situating themselves as part of a ‘beleaguered minority group’. ... ‘victim class’ ... struggle for sexual autonomy, ...the International Committee of Prostitutes’ Rights (ICPR), formed in 1985 by COYOTE ...to deny a woman the option to be prostituted, ‘under conditions of her own choosing’, was to restrict women’s ‘sexual choice, economic security, free speech and erotic pleasure’ ...the ICPR urged governments to ‘Decriminalize all aspects of adult prostitution resulting from individual decision’ (pp. 98—101)
- Throughout the 1990s, the PCV became explicitly anti-feminist ... shift from being a marginalized representative of a still largely stigmatized group within society, to a mainstream pressure group with potential union power.
- AIDS phenomenon of the mid-1980s => governments enlist prostitutes on issues of sexual health => PCV promoted itself as a service provider for sexual health (p. 106) => PCV, throughout the 1990s, would progressively extend its ‘client base’ to include the buyers and sex business interests (pp. 108-109)
- “By 1994, the Commonwealth Health Department had provided the PCV with A\$70,000 to produce safe sex literature. A further A\$150,000 was specifically designated to produce materials for those within the industry who came from Non-English Speaking Backgrounds (NESB)... In 1998, the PCV’s income from federal and state funding for AIDS strategies was \$A350, 000 ...60 per cent increase of funds within five years. ...By the beginning of the 21st century, the message emanating from prostitutes’ rights organizations Australia-wide was that ‘responsible’ sexual health management and the legitimization of prostitution as work were intricately linked” (pp. 115—116)
- dependent on State funding => its focus became linked with those of sex business interests, male buyers and the Victorian Government’s public health programs... Collective promoted the rhetoric of sexual libertarianism and economic rationalism. ...celebration of prostitution as a form of sexual freedom. (pp.

92—93)

- “queer politics began to permeate the Prostitutes ‘Collective of Victoria in the 1990s... ‘Through sadomasochism, gay male pornography, sexual practices of public sex and prostitution that celebrated masculine privilege, dominant areas of gay male culture created a hypermasculinity and said this was gayness, and this was good’”
- Foucauldian ideas of ‘transgression’ => Queer gay activists indeed celebrated an included in their ranks ‘gay men who wear drag, transvestism, transsexuals... => Jeffreys concludes: ‘the idea of revolutionary activism that might challenge the material power differences between the sexes, of which gender is simply an expression, has been replaced by the idea...that transgression on the level of dress and performance is revolutionary and will bring down the gender system’ ... ‘women’s issues’ became marginalized
- Within a decade the PCV had not only depoliticized prostitution, but sexual practices constructed around dominant and submissive archetypes were celebrated as being at the cutting edge of sexual freedom. Oppression thus becomes only a subjective experience: the abuse and violence of prostitution is transformed into something that occurs only in the mind of the prostituted woman (pp. 120—123)
- “Women working in the legal prostitution industry were now referred to as ‘brothel workers’ or ‘career prostitutes’... ‘professionals’” (pp. 105—106). However, “only 150 women applied for union membership...most women in prostitution saw their ‘work’ as transient, and not as a career...According to a PCV survey conducted just prior to its attempt at unionization, 64.2 per cent of prostituted women wanted to leave prostitution” (pp. 116—118)
- Collective’s increasing bureaucratization => put aside its socialist-feminist roots & grass-root foundations => increasing tendency to indiscriminately promote women’s sexual servicing of men as totally acceptable; tabletop dancing recognized as a legitimate sector of the prostitution industry ...tabletop dancing ‘can and will, if used correctly, provide [a woman] with a future including independence, strong self-esteem, freedom from financial worries, and the chance to materialise your dreams’ ... the exploitative nature of prostitution ‘will be eradicated when society views sex work as an industry’” (pp. 116—118)
- 1990s: “Collective began to portray prostitution as a highly skilled profession and promoted the idea of the ‘therapeutic power of sexuality’ ...promotes prostitution as economically empowering, sexually transgressive, ... a contract between two individuals of equal status. ...The idea that all forms of sexual practice were permissible progressively seeped into the Collective’s thinking. ...there should be no boundaries to the commodification of women’s bodies including women’s reproductive capacities. ...Breast-feeding in particular is advocated as a ‘prostitution service’ ...men find drinking breast milk either arousing or soothing” (pp. 124—125)
- “Sexual liberalism conveniently blurred the boundaries between sexual exploitation, sexual expression and sexual freedom” (p. 120)
- “in arguing for labour rights and the right of prostituted women to be recognized as legitimate ‘workers’, the PCV equally legitimized their exploiters (brothel owners and other sex business operators) ... its association with major industry lobby groups. In 1993 for example it liaised with the Australian Adult Entertainment Industry” (p. 119) => “blurring the boundaries between the oppressed and the oppressors within the industry” (p. 132)
- “history of the PCV reveals that within the Collective the human rights interests of prostituted women were displaced by political agendas that serviced the State, the pro-prostitution movement and ultimately benefited sex business interests and male buyers. The interests of the these various stakeholders, although commonly portrayed as supportive of prostituted women, are not concerned with women’s empowerment or with creating the means to end the sexual and economic exploitation and abuse that are

inherent in prostitution” (p. 127)

Ch4: Living Off the Earnings of Prostitution: Sex Industry Expansion and Its Beneficiaries

合法化導致淫業擴張。

- legalisation intended to contain the industry and prevent its dominance by big business interests. In reality legalisation has encouraged industry expansion and its takeover by large sex operators, now legitimate business entrepreneurs => demand for prostitution escalated => more women to feed this demand. “Sex business interests and the buyers (now considered a ‘legitimate’ consumer group) continue to be the beneficiaries of the increasing normalisation of prostitution... The Victorian Government also profits from prostitution through taxation, licensing fees and the promotion of prostitution tourism. The irony is that the State’s lawmakers when formulating Victoria’s principal prostitution legislation made it an indictable offence, with a ten year maximum sentence, for a person to ‘live wholly or in part on, or derive a material benefit from, the earnings of prostitution’ (*Prostitution Control Act 1994*s.10[1])” (p. 135)
- “From 1984... to 2004, the number of licensed ‘sexual services providers’ increased from 40 to 184...these figures do not include the growth in illegal prostitution, estimated to be at a minimum four times the size of the regulated sector” (p. 137)
- “many operators avoided ‘the strict proprietary checks’ required under the 1994 Act. ... The 1994 Act specifically stipulates that the Board must refuse an application where a person ‘is not of good repute, having regard to character, honesty, and integrity’” (p154). “However not only did the Board permit people with a questionable reputation to be licensed as a ‘sexual service provider’, but it also failed to make any serious inroads against ownership of multiple brothels. ... The 1999 *Prostitution Control (Amendment) Act* was an attempt by the Liberal Government to tighten licensing procedures... However, the Government ‘s transference of the Prostitution Control Board’s role to the State’s Business Licensing Authority (BLA) in July 1998 demonstrates that any concern to ensure strict licensing procedures and thus protect women against exploitation has disappeared, even at a rhetorical level.” (p. 155)
- “annual turnover of Victoria’s prostitution industry five years after the passing of the *Prostitution Control Act 1994* was \$A360 million per annum... one in six men have paid for sex... 3.1 million purchases of ‘sexual services’ per year-that is in an adult male population of around 1.8 million” (p. 138)
- “Victorian men, who prior to its legalisation in 1984 may never have considered using prostitution, are now comfortable in purchasing a woman for sexual gratification. Legalisation has created an ever-increasing ‘lawful’ supply of women for men’s use... By the mid-1990s, ... there were between 1,000 and 1,400 women in the State’s legal brothels alone...by the end of the decade this figure had risen to near 4,500” (p. 139)
- pro-prostitution advocates within the Government to dominate debate and silence opponents
- “brothels and other sex businesses becoming commonplace throughout Melbourne. Although zoning laws restrict brothels from locating in residential localities, the State’s planning laws allow licensed sex operations in business centres and on local shopping strips close to residential areas” (p. 140)
- “multiple brothels now exist in seven suburban municipalities, while most suburbs have at least a single brothel. ... local communities and their representatives have no authority to restrict brothels if their operators hold a valid license from the Victorian Business Licensing Authority.... Municipal councils have the legal right to refuse applications for brothels where the population is 20,000 or less” (p. 141)
- Russell Savage, a National Party member for the rural district of Mildura: “although a community

survey indicated that 76 per cent of his electorate did not want a brothel, whether or not ‘they are controlled by an act of Parliament...the Government refuses to acknowledge the fact’” (p. 142)

淫業與賭業和酒店業掛鉤。

- “Melbourne’s casino culture and Victoria’s new ‘legitimate’ brothel trade feed into one another.... prostitution ‘services’ are directly provided by the casino staff (mainly escorts) to gamblers and hotel guests of the casino” (p. 144)

淫業入侵學界。

- increasing numbers of both Australian-born and international students were becoming involved in prostitution; in 1998, University of Melbourne Students’ Union set up a support group for students ‘working’ in prostitution (p. 164); “up to ten per cent of those within the industry were university students...If the students are over 18 and involved in legal prostitution this is deemed acceptable...on-campus recruitment by sex industry operators... By 2004, the Student Union of the Royal Melbourne Institute of Technology... had created a web page for students involved in prostitution” (p. 165)

淫業入侵社工界：為弱智和傷殘人士提供「性服務」。

- A developing ‘niche market’ is sex therapy for disabled men... ‘prostitution is like social work’. Teaching sexuality to the intellectually disabled’ is a vital service that prostituted women offer. Prostitution should be offered as a ‘health service’ to disabled people” (p. 174)
- Touching Base= major Australian advocates group connecting the rights of people with disabilities to prostitute women... “has drawn support from mainstream health professional services in its bid for legitimacy” (p. 175)
- “Correctly under the Disability Service Act service providers have an obligation to support sexual lifestyles of people with disabilities. Where prostitution is accepted as a legitimate occupation, this duty of care may extend to ‘delivery and receipt of sex services’. Thus organisations which reject Touching Base’s proposition to assist in the prostitution of women may be open to discrimination” (p. 176)

淫業入侵金融業。

- “it has become both economically viable and publicly respectable for a brothel to be floated as a public company on the Australian Stock Exchange: “Victoria hosted the world’s first stock market-listed brothel, the Daily Planet Ltd, which began operating in 1975 prior to legalisation, and started trading publicly on 3 May 2003 ... a share float opened the way for multi-ownership as the Business Licensing Authority would be unable to vet individual shareholders. To circumvent the Government’s restriction, Daily Planet directors, John Trimble and Andrew Harris, incorporated the brothel’s premises (the building) separately from its sex operations business... The Daily Planet company was reported to have an annual gross profit of A\$2 million per year. Its prospectus offered an 8.4 per cent return” (p. 146)
- “Between May and September 2003, shares rose from A\$0.5 to A\$1.3, with total stock market capitalisation of A\$23.5 million.... the company’s chairman, John Trimble... is a former pimp, who as owner and operator of an illegal brothel since 1975 was involved in criminal activities. Trimble had connections with the Australian Mafia, and is a nephew of Robert Trimble, a prominent Mafia figure... criminal activity remains the norm within the industry irrespective of the legalisation in 1984 of the massage parlour trade. ...The use of ‘front men’ in the company structures allows anyone to own a legal brothel” (p. 147)
- “Under its new name (Planet Platinum Limited), the new company had expanded into tabletop dancing and a chain of Showgirls Bar 20 Strip Clubs” (p. 150)
- if institutions such as banks and superannuation funds purchase brothel company shares, ... ordinary investors in these institutions may well be benefiting from profits generated by prostitution” (p. 151)

合法化並沒有改善妓女的經濟情況。

- “One of the seemingly more compelling arguments underpinning legalisation of prostitution is that women have more control over their working lives once prostitution is no longer criminalised. Victoria’s legal system has in fact delivered the reverse. Industry profits have generally remained with large operators,... prostituted women are financially worse off while their options to choose their own working conditions are severely limited by legal restrictions on how and where they can work. ...Prostitution regulations ... would impact specifically on private workers, ‘those who do not fit the criteria, those who find it difficult to get a permit, those who do not have the cashflow’ ...if the large brothels could also get escort agency licenses, they would be able to offer a huge range of services...women in prostitution were economically incapable of competing against these larger operations and indeed legalisation has only exacerbated the difference between prostituted women and former pimps and brothel owners.” (p. 152)
- “Two significant reports... ‘economics’ is the primary determinant as to why women in the State ‘chose’ prostitution, irrespective of legalisation” (p. 153)
- “many brothel owners defined prostituted women as contractors, not employees, as a means to avoid paying a Work Care levy and group tax” (p. 158)
- “oversupply of sexual services, and so women must compete for buyers... fees charged by prostituted women had not changed significantly over the previous ten years. Women on average earned between A\$400 to A\$500 per week, did not receive holiday pay or sick leave, and worked around four ten-hour shifts per week” (p. 161)
- “while sex businesses benefit exceedingly from rising demand for ‘sexual services’, in real unit prices, that is the money women take home, their earnings have dropped significantly. ... overall ‘owners and managers have increased the level of control over workers by determining services to be offered, fees to be charged and clothes to be worn” (p. 162); “women working in the State of Victoria’s legal industry have not benefited economically and their so-called sexual empowerment consists of ‘choosing’ to remain in a system of sexual exploitation that continues to service men” (p. 184)

轉行服務只是空談。

- In 1994 the Liberal Government: Prostitution Control Board will be to assist organisations involved in helping prostitutes leave prostitution and to disseminate information about the dangers of prostitution... “Such programs were to be financed through brothel and escort agencies’ licensing fees...the warped logic of a government employing monies derived from the exploitation of women to assist them to escape their exploitation... no such programs were ever created” (p. 163); unlikely that the current Victorian Labor Government would reaffirm a commitment to exit programs in circumstances where prostitution is increasingly normalised as ‘just work’.

淫業有專業團體推廣。

- it now allows normal commercial marketing and lobbying techniques => Sex industry-lobbyists. 進入主流文化。“former pimps and criminals have gained acceptance by ingeniously linking the industry with mainstream cultural events....approaching the Australian Football League and other similar organisations with sponsorship offers” (p. 148)
- “Eros Foundation...started in 1992 as a pornography organisation under the umbrella of the National Adult Entertainment Association (NAEA), and then expanded into brothels...to coordinate and integrate the disparate elements that make up the Australian prostitution industry”(p166)
- “a professional lobby group championing sexual and economic liberalism...removal of all restrictions on the sale of sexual services or goods for adults, by adults... campaign to end the Federal

Government's traditional X-rated category for pornographic videos and replace it with a NVE (Non Violent Erotica)" (p. 167)

淫業與政府勾結。

- "The Australian Democrats Party's particularly close links with Eros were highlighted in 2001...both Eros and the Hill Group of Companies (the umbrella company for the Club X pornographic video chain, Australia's largest porn distributor), had made contributions to the Party... Democrats became the only political party to have an attendance at Sexpo... co-sponsored by Eros and Club X... visitors to the stand could receive half price membership to the Party" (p. 168)
- Legalisation allows the Foundation to portray itself as similar to other professional associations and it has access to the same marketing tools as legitimate industry groups... the organisation primarily reflected the interests of those who financially benefited from the exploitation of women" (p. 169)

性博覽會：淫業推廣成爲文化和社會盛事。

- Sexpo: a trade show for the prostitution industry; annual trade show for the 'adult' sex industry, initially held in Melbourne in 1996. Sex business entrepreneurs, the Eros Foundation, and Victoria's politicians, have successfully coalesced to provide support. "Sexpo's success has been largely dependent on the implicit endorsement of Governments...to encourage tourism" (p. 183)
- "Pornography, private lap dances, brothel and escort agencies and sado-masochist 'services' are promoted" (p. 170); "stallholders marketing 'Full Nude Shows' at bars and internet sites. Images of oversized vulvas and breasts flash from screens,...Stage shows...women pretending to orgasm, while in the open stands men sit with their faces between women's thighs. These men pay between A\$20 and A\$35 for a personal lap dance...phone sex at a price of A\$4.95 per minute" (p. 171)
- "work hard to persuade the public that Sexpo offers frank and accurate information on all aspects of 'health, adult entertainment, sexuality, and adult lifestyles'... progressively try to broaden the base of exhibits to include what it terms 'non core (adult industry) traders'... The Sexual Health and Relationship Education (SHARE) exhibition became a feature of Sexpo in 1998" (p. 172)
- "Nonetheless health professions' participation, even if minimal, permits Sexpo's organisers to promote the trade show as 'an important and expensive public service'... it has allowed sex entrepreneurs to mainstream the idea that prostitution is therapeutic" (p. 173)

淫業無助減少性罪行。

- "prostitution does not prevent rape of women. Australian crime statistics on sexual assault over the last decade signify that the national shift towards legalised prostitution does not prevent rape and sexual assault... Australian Bureau of Statistics (ABS), Australia-wide sexual assaults have increased by an average of 0.1 per cent each month since 1995... statistically significant" (p. 178)
- "while overall crime rates fell within the State, rape rose 11 per cent and other sexual assaults were up 1.2 per cent between 2002/03 and 2003/04. ... legitimising prostitution in reality has little to do with preventing sexual violence against women" (p. 179)

Ch5:Unregulated and Illegal:Clandestine Prostitution Under Victoria's 'Model Legislation'

淫業合法化 => 激發需求 => 各種非法淫業也擴大

- "a vast unregulated sector and continued criminal involvement in the trade though, demonstrates explicitly that prostitution cannot be regulated like any other industry... successive State Governments were compelled to introduce further legislative changes to the principal 1994 *Prostitution Control Act* in an attempt to eliminate the covert industry. But the *laissez-faire* mentality that now dominates Victoria's prostitution industry means that any such legislation remains ineffectual...Tabletop dancing, peep shows, gentlemen's clubs, and bondage and discipline centres have all expanded in parallel with brothel prostitution and escort agency businesses... illegal brothel prostitution,...is four to five times

that of the legal industry... Sex entrepreneurs, often associated with criminal elements, own and operate both legal and illegal brothels simultaneously. Women and girls are trafficked for sex indiscriminately between the two sectors. Child prostitution also exists across the spectrum...street prostitution...has expanded...although it remains illegal” (p. 186)

例子：艷舞(卓上舞，脫衣舞)

- “Today’s thriving tabletop dancing trade (including topless dancers and lap dancers) emerged in 1992 and has progressively involved more physical contact, as well as increased harassment and abuse of dancers. Within five years, 35 venues opened and Victoria’s strip-culture quickly transgressed into a state-wide phenomenon...Women dancers...pay club owners for the right to perform out of tips. Management takes up to 50 per cent of their earnings. ... tabletop dancing remained relatively unregulated throughout the 1990s” (p. 187)
- “extensive evidence that club patrons sexually harassed and abused women outside the clubs” (p. 188)
- “in smaller rural communities the impact of the introduction of the trade was particularly devastating for residents. The Salvation Army reported that in one rural area over a period of eighteen months ‘child sexual abuse went through the roof after one hotel introduced tabletop dancing’... criminal involvement in the trade...violence and standover tactics were used by underworld figures to grab control of a city nightclub [the Platinum Club] and turn it into a nude table-dancing venue” (p. 189)
- “Since the 1980s the line between prostitution and stripping has been increasingly blurred, and the amount of physical contact between exotic dancers and customers has increased, along with verbal sexual harassment and physical assault of women in strip club pro-prostitution stakeholders were arguing that the practice be accepted as a legitimate part of the prostitution industry” (p191)
- “women are often forced into acts of prostitution in order to earn tips... Common ‘performances’ involve 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’. Penetration of women with fingers, or objects that have included mobile telephones... tabletop dancing had become more explicit since its introduction and that management frequently required dancers to provide prostitution in VIP rooms” (p. 192)

修改法例？但難以執行。

- Control of prostitution-like services? “*prostitution Control (Amendment) Act 1999* to broaden the definition of prostitution to encompass the various prostitution-like activities that occurred at tabletop dancing venues... However, these added laws governing sexually explicit entertainment exhibit the same unworkability” (pp.193-194)
- “many sex business operators could claim that the performances their clubs offered did not fall within the Authority’s definition” (p. 195)
- “The powerlessness of municipal councils to veto the tabletop dancing trade was highlighted in 2003 when Glen Eira City Council’s decision to reject an application for a sexually explicit entertainment venue was overturned by the Victorian Civil and Administrative Tribunal (VCAT)” (p. 196) => “The VCAT’s decision was premised on the failure of the council to prove that prostitution was occurring on the premises... the 1999 amendment laws provided for no workable mechanisms to detect whether or not prostitution did occur at such venues” (p. 197)
- “criminal involvement in tabletop dancing clubs also continues” (p. 198)
- “Research... Prostitution is multitraumatic whether its physical location is in clubs, brothels, hotels/motels/John’s homes (also called escort prostitution or high class call girl prostitution) motor vehicles or the streets... men’s violence and abuse of women dancers has become normalised in the tabletop dancing industry. Holsopple found in one study of 18 women strippers that they all experienced

physical and sexual abuse and had been subject to verbal harassment, stalking and being propositioned for prostitution” (p. 199)

- “abuse by managers and staff also occurred...women being spat on, having trash thrown at them, their hair or bodies yanked and their costumes ripped to being ‘bitten, licked, slapped, punched and pinched’...buyers ‘often attempt and succeed at penetrating strippers vaginally and anally with their fingers, dollar bills and bottles...expose their penises, rub their penises on women and masturbate in front of them’. Men employ sexual pejoratives...and threaten them... Farley et al. in fact concluded that, ‘women prostituted in stripclubs had significantly higher rates of dissociative and other psychiatric symptoms than those in street prostitution’” (p. 200)
- “the normalisation of such abuse as ‘sex work’ is in direct contradiction to the right of women to workplace equality as well as feminists’ struggles to desexualize the work environment...the growth of the tabletop dancing trade that undermines the trend towards desexualising the hotel industry” (p. 201)

非法妓寨提供更平宜和更「激」的服務

- “Illegal brothel prostitution,...has burgeoned to meet buyers’ demands for ‘cheaper’ or ‘unrestricted’ sexual services... extensive illegal activity in the State of Victoria... around 400 illegal brothels... the growth of the illegal sector is the increased demand for all forms of sex that followed Victoria’s legalization” (p. 202)
- “Victorian Government has indisputably failed to put in place any effective strategies to close down the illegal brothel trade... legal brothels frequently provide vehicles for money laundering from drugs as well as illegal prostitution.” (p. 205)

需求增加 => 人口販賣增加

- “And sex businesses across the spectrum readily exploit victims of sex trafficking and underage girls to meet the increased consumer demand that has followed on from legalization” (p. 206)
- “Estimates of women trafficked into Australia for prostitution range between several hundred and a thousand women at any one time” (p. 207)
- “the issue of consent is complex and most traffickers employ various forms of coercion and deception rather than overt force or violence. Also people may initially consent to a situation of exploitation as they are unaware of the reality of their situation... the reality is that victims of trafficking end up in a situation from which they cannot escape” (p. 208)
- “In the late 1980s, six Thai women were deported after police and immigration officers raided Lady Madisons, a legal brothel” (p. 210)
- “the women are indentured to pay off debts supposedly incurred in bringing them into Australia. They are kept in debt bondage, their passports are confiscated and their freedom severely restricted... Thai women...would have needed to ‘service’ 500 buyers, working six days a week to pay off their debt” (p. 212)
- “the UN Office on Drugs and Crime (UNODC) again listed Australia as a significant destination country for trafficking” (p. 215);
- “The first jury prosecution, under the *Federal Slavery and Sexual Servitude Act 1999*, occurred in June 2006...a Melbourne brothel owner Wei Tang,... The complainants in the Wei Tang case knew they were to ‘work’ in prostitution. In Melbourne they were placed in Club 417” (p. 218)
- 合法化使人口販子更宜引誘婦女，使他們更難被檢控。
- “one of the enticements which trapped these women into sexual slavery was a promise that they could work legally in Victoria’s prostitution industry. No Australian government takes responsibility for the fact that Australia’s acceptance of prostitution has created an easily accessible and growing market for sex trafficking victims...While Wei Tang had her license revoked and lost her business, the brothel remains open under a new operator.... investigations were hampered because ‘there is a legal prostitution

industry in Victoria’... ‘some of the women who were in these brothels...technically were here legally’” (p. 219). “In these circumstances neither council nor police have the right to interrogate women who they may suspect are trafficked into the industry... Government’s failure to acknowledge the intrinsic role of demand in creating a market for trafficked women and girls” (p. 220)

合法化使雛妓問題更嚴重

- There is also a significant child sex trade in Australia. “two decades of legalised prostitution within the State have not eliminated the child prostitution trade... An ECPAT 1998 report,... says the Victorian industry alone exploits 1800 children, the highest of all Australian States and Territories” (p. 225)
- “child prostitution occurs in all sectors of the prostitution industry because it is there to meet the demand created through Victoria’s tolerance of prostitution. The first conviction for offences relating to child prostitution in Victoria related to one of the State’s licensed brothels-Sashas International” (p. 226)

合法化後，街頭賣淫問題加劇，而不是減輕。

- “In 2001, the Attorney-General, Robert Hulls, set up a Street Prostitution Advisory Group (AGSPAG)... focused in the St Kilda area in the City of Port Phillip... its *Final Report* confirmed that under the State’s ‘model’ prostitution legislation, street prostitution had ‘become significantly more prevalent’ particularly ‘in the past 15 years’... violence and rape had increased in parallel with these rising numbers. When the Victorian Labor Government first introduced legalised prostitution in 1984, there were 200 women involved in street prostitution... Currently, the numbers range between 300 and 350” (p. 231);
- 荷蘭經驗。 “The experience of the Netherlands shows that once a designated area or tolerance zone is set up, ... an upsurge in demand for prostitution will inevitably follow. Feminist activist, Julie Bindel, carried out research in the City of Utrecht which houses the country’s major red light district” (p. 233)
- “Bindel’s commentary immediately exposes the lack of health provision and physical protection for women who operate in the red light district... Creating a red light district had also not eliminated day-to-day violence, as many women using the cubicles set aside for prostitution continue to report violent incidences” (p. 234)
- “Amsterdam’s city authorities are currently being compelled to rethink their pro-sex policies. By the end of 2006 one-third of the city’s red light districts are to be closed because of the high level of criminal involvement in the area’s sex trade.... Successive State Governments have argued that they must come at the problem from a value-neutral perspective, indeed championing their nonmoralistic stance” (p. 243)
- “By mid-2004, an Editorial in *The Age* reported that welfare agencies in St Kilda had confirmed violent incidents against street prostituted women were escalating.” (p. 241); culminated in the murder of Grace Illardi, the second woman murdered within two years
- 小結：“as market forces now shape how prostitution operates within Victoria, the Government is confronted with the reality that no legislative framework can ever contain its growth, or dictate how and under what circumstances prostitution occurs.... Victoria’s legislators are unable to foresee the diverse and innovative ways sex entrepreneurs market women and abuse women caught up in a state-tolerated system of sexual exploitation. Every strategy that the Government has put in place to regulate prostitution has failed” (p. 242)

Ch6 : Victoria’s ‘Safe Sex Agenda’: Occupational Health and Safety for the Sex Industry

- Legalisation to promote Occupational Health and Safety (OHS) ? Exs: *The Health(Brothel) Regulations* 1990; *Prostitution Control(Amendment) Act 1999*... promotion of the ‘ the welfare and occupational health and safety of prostitutes’ and ‘ to ensure that brothels are accessible to inspectors, law enforcement officers, health workers and service providers (p. 258)

批判

- “the health risk for both prostituted women and the wider public remains considerable.” (p. 262). “In their study, Pyett et al. reveal that, at a minimum, 20 percent of women working in Victoria’s legal brothels acknowledge having STIs while in prostitution...distortions that include the ‘over-reporting of safe sex practices” (p. 262)
- contrast with the traditional approach: “demanding that workers modify their behavior while dangerous work practices remain intact. ...OHS codes for the prostitution industry make clear that prostituted women must adapt their behavior...to minimize the violence in prostitution as such violence is acknowledged as an occupational health riskThis adaptive approach is inevitable as prostitution work practices and the prostitution work environment are inherently harmful, thus risks to women’s health and safety cannot be eliminated.” (p. 254)
- “OHS standards must reflect the rights of all workers to a safe and healthy work environment based on the assumption that the workplace is not inherently harmful. When it was established that the use of asbestos in buildings lead to asbestosis, authorities recognized that workplaces where asbestos existed could not be made hazard free. As a result its further use was banned .OHS strategies must not workers to modify their behavior so that dangerous work practices can continue. What other categories of workers have to accept STIs as an ‘inevitable’ rather than an accidental consequence of simply going to work?” (p. 278)
- “this narrow focus on safe sex has diminished prostituted women’s right to be safe and healthy, while ensuring that the right of men to purchase women for their sexual gratification remains unchallenged” (p. 279)
- “it is the male buyers who are the main transmitters of STIs, not prostituted women.” (p. 263) “Mandatory testing of women in prostitution...fundamentally penalizes women and leaves unchallenged men’s ‘natural’ right to sex” (p. 265); “inconceivable that medicalization of women in the industry will reduce infection and injury without concomitant medicalization of the male buyers.”
- “Nurses receive compensation and often counseling if a patient passes on an illness whether intentionally unintentionally.” (p. 264) “Most sex business operators do not have workers compensation coverage.”(p. 272)
- “it equally ignores the power imbalance that exists between the prostituted women and buyer. It assumes prostituted women are able to dictate how sex with a buyer will be conducted, which is falsehood.” (pp. 264 – 265) => lack of bargaining power for women
- “as most brothel owners classified prostituted women as independent contractors it was difficult for those within the industry to present a united front in demanding appropriate working conditions” (p. 256)
- “Compulsory testing for STIs ignores the three-month dormancy window for various infections” (p. 267); “further problem of realistically policing women in prostitution to determine whether or not they are ‘working’ while infected” (pp. 267-268)
- “very few inspector to carry out AIDS and STIs tests in brothels ...most of these worked on a part-time base. ...the *2000 Brothel Health Regulations* reduced the state’s responsibility to inspect brothels from once every three months to once a year” (p. 268)
- “allow prostituted women to examine the buyers for STIs... Risk management procedures listed suggest that employers provide a ‘100-watt lamp for employees to perform thorough examinations of their clients’ In the case of outcalls , prostituted women should ‘carry a small torch’... She is supposed to carry out inspections with a torch alone with a man who might threaten or assault her...a supposed expertise in identifying these diseases.”(p. 273)
- “cannot counteract the high-risk of condom breakage and slippage that is inevitable in prostitution”” (p.

- 275). “Under the heading ‘Action to be taken in the event of condom breakage and/or slippage’, the woman at risk is advised to remove excess semen” (p. 275); then “face the onerous experience of constant testing—‘straight away after condom breakage for gonorrhoea...two weeks[afterwards]...for a swab for Chlamydia’, as well as HIV and syphilis tests, to be tested again within three months” (p. 276)
- “HIV/AIDS treatment for women who are at risk due to condom breakage or slippage is post-exposure prophylaxis (PEP)...giving HIV antiviral drugs to a person following high-risk potential exposure to HIV...Best Practice maintains that this should apply to people engaged in prostitution ‘where a condom has broken during penetrative sex...This, however, does not occur” (p. 277)

CH.7 Rape and Violence as Occupational Hazards

- “Are women in prostitution in a position to negotiate how the prostitution act will be conducted?...Does not the buyer’s perception of women in prostitution as sexed bodies, recreate conditions in which acts of violence such as sexual harassment and rape are not only perceivable, but are an expected part of the prostitution transaction? Sexual violence...is not a consequence of aberrant male behavior; rather it is an inherent part of prostitution.” (p. 282)
- “ ‘In prostitution, there is always power imbalance, where the john has the social and economic power to hire her/him to act like a sexualized puppet.’” (p. 282)
- “This concept of prostitution as a transaction between two equal parties... ignores the power differentiation between the buyer and the bought created through male sexual dominance and economic and racial inequalities” (pp. 283—284)
- “buyers revealed an ongoing reluctance to use condoms and that one in five men have unsafe sex...buyer’s perception that their purchasing power entitles them to demand any type of sex they want.” (p. 285); “evidence that brothel owners and buyers in Australia’s legalized prostitution environment coerce women into performing unwanted sex.” (p. 285) Moreover, “women experienced competition from other workers” (p. 286)
- Women use drugs to survive prostitution => cycle of forced dependence
- “A 1994 Australian study determined that the number of those within the industry using intravenous drugs was five to seven times more than the non-prostituted population. The study canvassed both legal and illegal industry sectors... Pyett and Warr’s 1999 research...found that in Victoria, ‘Almost all the street workers and half of the brothel workers reported current or recent injecting drug use’
- “the normalization of violence and rape as work means that women in prostitution struggle to define what is in fact rape and what is supposed to be ‘work’” (p. 292)
- “The PCV’s Hussies Handbook, a self-help manual for prostituted women...it states clearly that ‘Sex workers can be, and are, raped’...However prostitutes’ rights organizations, in accepting prostitution as legitimate work, have little recourse but to attempt to minimize the incidence of rape experienced by women in prostitution, an effort in which their strategies fail.” (p. 292)
- “The services of Pacific Martial Arts are a typical example.... teach women how to adopt ‘submissive but protective postures’ and ‘ how to create a common vision [my italics] with an aggressor” (p. 293). “This program is suggestive of crisis management for hostage situations. In what other non-military profession can hostage negotiations be deemed necessary to cope with the normal workday?” (p. 294)
- “duplicity becomes an acceptable work skill that women in prostitution must acquire to remain safe.... Apart from the unknown consequences for the woman if the man discovers the deception, no other work environment demands fraudulence as essential to being able to conduct work and avoid assault” (p. 295)
- “another interviewee ... ‘The legal system has done nothing for the women in terms of improving their working conditions, in fact, it has done the opposite...There is definitely far more competition, the

clients are extremely demanding, the control over what the women will and won't do is often taken out of their hands...We're put in a position where they type of service we offer is stipulated to us" (pp. 296—297)

- “The sex industry ...is the only industry where unwanted pregnancy could be an occupational hazard” (p. 298)
- “ways around the problem of women working with STIs is for these women to offer sado-masochism and bondage and discipline services(S&M/B&D)...(S&M/B&D) is marketed as a highly attractive form of work” (p. 304). “However S&M/B&D is violence and recreates the dominant-submissive power relations of prostitution” (p. 304)
- “However acting as a dominatrix does not equate to equal power between the woman and the buyer.” (p. 308); “the power of male supremacy is so great that a man can feel very safe even while he chooses to toy with ‘submission’ momentarily... Thus while women may take on the mantle of dominance for a specified period, it does not alter the social structure and power relations under a male supremacist society.” (p. 308)
- “There is extensive anecdotal evidence that violence remains a pervasive feature of Victoria’s model prostitution system. The PCV’s 1992 submission to the Law Reform Commission Victoria...reported that ‘Sex workers (women, men and transsexuals) have been and continue to be targets of rape and other violent acts’...estimated that the PCV WAS RECEIVING ‘an average of 20 reports of violence against sex workers each week’. This figure.. ‘an under representation”” (p. 312)
- “connections between the sex trade and neoliberal dogma...In prostitution it is difficult to question the demand side of the transaction... ‘The religion of the Market rests on a fundamental assumption that all desire and appetites [including the consumption of pornography and prostitution] are valid, and that to criticize any ‘customer preference’ is to become that dreadful thing, a judgmental or Puritanical person – committing the cardinal sin of Interfering with the Free Market” (p. 314)
- “a woman’s demonstration of assertiveness towards a buyer is frequently a precursor to violence” (p. 315)
- “Supporters of legalization have argued that once prostitution was legitimized as work, women who experienced violence would more readily seek assistance from police...in a legalized prostitution system, the boundaries between what constitutes work and what constitutes violence is blurred.” (p. 319). It can sometimes be difficult to immediately tell the difference between when a client has “gone too far” and when a sexual assault has occurred.
- “in addition to the harm associated with contracting STIs and chronic hepatitis, ‘the consequences of sexual and physical violence begin with murder and expand to encompass a range of other harms’. These ‘other harms’, commonly include joint pain, cardiovascular symptoms, neurological problems and respiratory symptoms” (p. 320); “some women ... ‘had worked for so long [in prostitution] that they’d lost control of their bladders, and they’d wet themselves...without even knowing”” (pp. 320 – 321)
- “long term damage manifests itself as depression, fear, anxiety, lack of trust, withdrawal, shame, self-blame, guilt, humiliation, anger or rage headaches, muscle tension, gastro-intestinal upset and genital or urinary complaints, suicidal actions, anorexia alcohol and drug addiction, isolation, eating disorders, sleeping problems, phobias or nightmares” (p. 321)
- “SWOP’s analyses of the effects of the violence of prostitution found that in general, most prostituted women experience feelings of numbness, shock, fear, flashbacks, loss of control, nightmares, depression, anger, desensitization, shame and guilt” (p. 321)
- “application of OHS to Victoria’s prostitution industry helps maintain the invisibility of the real harm of prostitution. It in fact reifies the intrinsically violent nature of the industry” (p. 327)

Summary of Sullivan's Critique of Victoria's Social Experiment

“Victorian Government’s endorsement of the sex trade as a failed social experiment that harms women and girls in prostitution and ultimately affects the civil status of all women.... Normalization of prostitution as work gravely undermines women’s workplace equality and contradicts other avowed government policies designed to protect the human rights of women.....maintaining male dominance, the sexual objectification of women, and the cultural approval of violence against women” (pp. 2—3)

“But legalization not only does not control prostitution’s harms, it produces many of its own making. State endorsement intensifies the commodification of women’s bodies and greatly expands the illegal, as well as legal, sectors of the industry...encroachment of prostitution on public life, its integration into state tourism and the growing role of Australian financial institutions in supporting the industry.” (p. 4)

“...any government’s attempts to treat prostitution businesses as similar to other mainstream workplaces obscure the intrinsic violence of prostitution-violence that is entrenched in everyday ‘work’ practices and the ‘work’ environment” (p. 5)

Sullivan's Proposal: Human Rights Legal Paradigm

- “Sweden’s human right legislative approach that defines the practice as ‘a form of sexualized violence by men against women’ ...part of the country’s 1999 *Violence Against Women Act*, a component of its gender equality national program. The Act criminalises the buying of sexual services and introduced penalties including a gaol sentence of up to six months and fines linked to the buyer’s salary. As prostituted women and children are harmed by prostitution and seen as victims, they do not risk criminalization or other legal repercussions” (pp. 10—11)
- “the Swedish Government also takes responsibility for assisting women exposed to violence. ... allow victims of prostitution and sex trafficking to alter their situation of exploitation- through counseling, education and job training implemented at a municipal level” (p. 11)
- “to differentiate between decriminalization for women in prostitution and the normalization and legitimisation of the prostitution industry and the institutionalization of men’s right to women’s bodies... It also does not differentiate between sex trafficking and prostitution but understands that the latter is a precursor for such trafficking” (p. 337)
- “Pro-prostitution advocates have predicted that the Swedish Act relating to the purchase of sexual services would result in an upsurge in illegal prostitution driving the practice underground. On the contrary there are measurable indications that the legislation has both reduced prostitution generally and curtailed sex trafficking” (p. 337)
- “across the country street prostitution had fallen by at least 30 to 50 per cent and the recruitment of new women has come to a halt. Sweden which has a population of nine million people has no more than 500 women in the street trade” (p. 338)
- “the decline in the number of prostituted women exploited in the country overall. Within a two-year period (1999 -2002) the number fell from 2500 to around 1500. Significantly the number of buyers also decreased by 75 to 80 percent” (p. 338)
- “The NCID estimates that between 400 and 600 women are trafficked into Sweden every year mainly from Eastern European countries. In comparison Denmark where 5500 to 7800 women are prostituted every year, 50 per cent are victims of trafficking...Similarly in Finland up to 15000 women are prostituted annually mainly from Russia and the three Baltic republics of Estonia, Latvia and Lithuania” (p. 339)
- “criminals no longer consider Sweden a good market for their trafficking activities...Denmark, Germany, Holland and Spain are now more attractive to criminals...Such countries either tolerate or have legalized prostitution” (p. 339)
- “In June 2006 the Finnish Government passed law making the purchasing of sexual services a crime in circumstances involving the procuring or trade in human beings” (p. 340)
- “In 2003 the Philippines Government enacted its landmark *Anti-Trafficking in Persons Act (Republic Act 9208)* which established strong institutional mechanisms to protect and support victims of trafficking, as well as criminalizing all perpetrators of trafficking, which includes bride traffickers and organizers of sex tourism...it criminalizes those who buy trafficked women” (p. 340)
- “In 2004 South Korea became the second country in the world to criminalize all purchases of sexual services. South Korea’s Act on the Prevention of Prostitution and Protection of Victims Thereof (APPPVT) 2004 and the Act on the Punishment for Procuring Prostitution and Associated Acts (APPPAA) 2004 are both part of its wider program to reduce prostitution and sex trafficking” (p. 340)

Arguments for Decriminalization

- “Prostitution is then dealt with similarly to other legitimate commercial activities with no specific industry-based regulations.... ..both legalization and decriminalization permit prostitution to be

- recognized as legitimate work, and pimps and brothel owners as legitimate business operators” (p. 8)
- prostituted women as labour in a market
 - Economic Liberalism: “Sex is treated as no different from other forms of economic exchange in capitalism which is determined by supply and demand” (p. 12); prostitution principally as a private sexual activity that fulfils the neoliberal economic goal of free trade
 - liberal individualism: Prostitution is a ‘choice’ based on lack of survival options. For women, marginalized through poverty and lack of education, prostitution is indeed an ‘economic opportunity’
 - “The concept of ‘sex as service’ was introduced by early twentieth century sexologists who considered prostitution a valid means of meeting men’s sexual needs ... Benjamin and Masters ..were already popularizing the idea of prostitution as a ‘sexual service’ in the 1960s. ...men’s use of women in prostitution is commonly measured as a functional response to male sexual needs: a ‘natural biological phenomenon”” (pp. 22-24)
 - “The United Nations (UN) Programme on HIV/AIDS(UNAIDS). ‘With regard to adult sex work that involves no victimization criminal law should be reviewed with the aim of decriminalizing, then legally regulating occupational health and safety conditions to protect sex workers and their clients, including support for safe sex during work. Criminal law should not impede provision of HIV/AIDS prevention and care services to sex workers and their clients.’ ” (P. 14)
 - distinction between trafficking and prostitution: “The Global Alliance Against Traffic in Women (GAATW).a priori assertion that prostitution is only a problem when it involves ‘forced labour’ or ‘forced migration’. Its demands for decriminalization rely heavily on terms such as ‘adult prostitution’, ‘individual decision’ and ‘consenting adults.’ ” (p. 19)
 - “it is the legal frameworks and the social stigma that is attached to prostitution that infringe upon the freedoms of those within the industry... rationalise that normalizing ‘commercial sex as work’ offers prostituted women protection under existing international human rights instruments ...labour rights and the rights of all women to sexual autonomy” (pp. 27-29) => those suppressing prostitution were in fact guilty of human rights violations => prostituted women as belonging to an oppressed sexual minority
 - “all individuals have the right to alienate their bodily property and can choose the way in which this occurs. Pro-prostitution theorists argue that this right extends to the right of women to freely contract their body out for payment ... it is not the women themselves that men purchase, but simply a service similar to other personal services” (pp. 32-33)
 - “Yet socialist feminists generally agree that prostitution embodies women’s subordinate condition ... That prostitution was seen not to be qualitatively different from others areas of work in which women were devalued and paid poorly opened the way for developing a feminist concept of prostitution as a form of women’s labour that should be protected by industrial relations” (pp. 31-32)
 - sexual libertarianism: “equating prostitution with women’s sexual emancipation... Women in prostitution, have the opportunity ‘of exploring a positive sexuality’ ...pleasure and power of sadomasochism ...These ‘restricted sexual activities’ in the contemporary climate encompass ‘cross generation sex (to use their euphemism for child sexual abuse), fetishism, sadomasochism, and the making and use of pornography’ while practitioners are portrayed as courageous transgressors... prostitution is a form of sexual expression.”

Criticisms of the Legalization/Decriminalization Approaches

- fail to recognize the crucial role of buyers in perpetuating the human rights violations that distinguish the prostitution industry from others
- ““When sex becomes the means for a woman’s economic survival, she is highly exposed to the risk of

HIV'. The power differentiation between women without other resources, who are forced to rely on their bodies for a livelihood, and the male buyer, means that their right to refuse sex or negotiate condoms is negated. Thus resorting to interim, crisis-driven strategies (such as safe sex programs) to minimize women and girls' risk of HIV in reality suggests a semblance of protection that does not exist."(pp. 16-17)

<Link between Prostitution & Human Trafficking>

- “An intrinsic component of this new world sex market is the trafficking of millions of people, mainly women and girls, for commercial sexual exploitation” (p. 6)
- “Trafficking thus has a strong race and class component as it involves a big demand and a steady supply of women who are made vulnerable to sex traffickers through inequalities, lack of employment opportunities, violence, abuse, discrimination and poverty.... The number of women and children trafficked between countries for commercial sexual exploitation is estimated to be between 700,000 and two million each year.... The USA's 2006 *Trafficking in Persons Report* found that ‘approximately 80 per cent of trafficked victims are women and girls, and up to 50 percent are minors’..... the majority are trafficked into commercial sexual exploitation.....these numbers do not include millions of victims around the world who are trafficked within their own borders’”(pp. 7-8)
- “Brazil has a vast and well-established prostitution industry, including a thriving sex tourism trade. ...high levels of child prostitution and sex trafficking. Brazil is officially recognized as both a source and destination country for women, men and children trafficked for sexual exploitation... number of children in prostitution is around 500,000, many trafficked internally as part of the sex tourism industry.” (pp. 14-15)
- “The San Francisco prostitution survivor organization, SAGE ... ‘Sex tourism’ is a massive industry in itself, with dramatic and destructive impacts on local cultures, economies, and individual bodies. Essentially, prostitution is one of the weapons, consequences, and foundations of global economic exploitation (SAGE 2005)” (pp. 20-21)
- Vs ‘sex as service’: “Feminists have been critical of his ‘essentialist’, ‘natural’ or ‘hydraulic’ model of sexuality ...because it conceptualizes sexuality simply as an instinct or drive that exists independent of the social context ... normalise prostitution through labeling and blaming the victims of sexual exploitation. ...as ignoring poverty as ‘the one precondition’ for women entering the industry” (pp. 22-24)
- “the asymmetry in power relations between men and women is dismissed just as the asymmetry between employer and employee is ignored in contemporary Industrial Relations law with its focus on individual contracts. ... in contrast to prostitutes’ rights advocates no socialist would pretend that employer-employee relations are equal” (p. 24-26)
- “In practice though any analysis that helps legitimize prostitution as work, even though based on an agenda that seeks to empower women, by default, institutionalizes their commodification” (pp. 31-32)
- “Pateman agrees that the body of a woman and sexual access to that body is the subject of contract, but she wholly rejects the notion that prostitution can be understood as a clearly negotiated contract between two equal parties for a serviceAs a prostituted woman sells her womanhood, she sells something that is integral to her identity and self” (pp. 32-33)
- Priscilla Alexander: “the assumption that ‘prostitutes enjoy sex and have no qualms about enjoying sex as works’ is uncritically advanced.”
- “Once prostitution was defined as ‘choice’ the next logical phase in the struggle for the prostitutes’ rights was to accept the existing social, economic and normative structures of politics, and seek to ameliorate problems associated with those structures” (pp. 32—36); “choice or consent is inconsequential given the ‘predominant social arrangement’ constructed around ‘male dominance and

female submissiveness' ...take no account of the gender power dynamic that is intrinsic to prostitution.” (p. 37)

- Catharine MacKinnon: “Sex equality challenges to laws against prostitution... have not challenged the sex inequality of the institution of prostitution itself, nor have they questioned, as a violation of equal protection of the laws, the criminalization of something mainly women do that is heavily marked by gender inequality and subordinates women in a sex-unequal society” (pp. 36-37)
- “The idea that human rights agency and some feminists are joining with pro-prostitution advocates to promote opportunistic prostitution in developing nations, undisputedly segregates ‘poor’ women as a class set apart for sexual servitude ... If prostituted women need to escape the cycle of poverty that necessitates their sexual exploitation, then women ‘need to be brought into the economic mainstream, not to have prostitution mainstreamed as legitimate work’” (pp. 39-40)
- it is nonsensical to attempt to create the false distinction between ‘forced’ and free prostitution....*Protocol to the United Nations Convention Against Transnational Organized Crime – to Prevent Suppress and Punish Trafficking In Persons, Especially Women and Children...* ‘Trafficking in person’s shall mean the recruitment, transportation, transfers, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments of benefits to achieve the consent of a person having control over another person for the reason of exploitation, forced labour of services, slavery or practices similar to slavery, servitude or the removal of organs(United Nations 2000, Article 3 [a])...’ The consent of a victim of trafficking persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the mean set forth in subparagraph(a) have been used’ (United Nation 2000,Article3[b])” (p.44-p46)
- “Misinformation on the prostitution industry is pervasive and makes invisible the harm experienced by women and girls caught up in systems of commercial sexual exploitation. Prostitution is normalized as natural, inevitable and even a great boon for domestic economies. Simultaneously it is promoted as exemplary of women’s sexual autonomy, an economic opportunity for disadvantaged women, or alternatively a dynamic career opportunity for those in more advanced nations. The people who sustain and benefit most from these claims are the sex entrepreneurs who derive more and more profits from the expansion of global prostitution, and by extension, sex trafficking. These discourses also protect men’s right to purchase women’s and girl’s bodies for their own pleasure. Women and girls in systems of sexual exploitation ...are indisputably the loser in these dynamics. However pro-prostitution advocates are powerful persuaders ...critical to dispel the falsehoods that surround prostitution” (pp. 46-47)
- women on ‘methadone, stereotypical drug users, non-competitive workers and older workers’ often had little option but to work illegally
- “no evidence that the majority of women who engage in prostitution for economic reasons in Victoria have a sense of themselves as professional ‘sex workers’” (p. 126)