

International Approaches to Decriminalising or Legalising Prostitution

Prepared for the Ministry of Justice by

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Contents

<u>Summary</u>	5
1 <u>Introduction</u>	9
2 <u>Clarification of legislative approaches</u>	11
<u>2.1 Criminalisation</u>	11
<u>2.2 Legalisation</u>	12
<u>2.3 Decriminalisation</u>	12
<u>2.4 Unregulated regimes</u>	13
<u>2.5 Categories of prostitution offences</u>	13
3 <u>Directory of countries</u>	15
4 <u>Impacts of legislation</u>	35
<u>4.1 Difficulties in assessing impacts</u>	35
<u>4.2 Broad conclusions</u>	36
<u>References</u>	39

Tables

<u>Table 1</u>	<u>New Zealand and New South Wales (decriminalisation)</u>	17
<u>Table 2</u>	<u>Australian states that have legalised prostitution (legalisation)</u>	19
<u>Table 3</u>	<u>Other countries that have legalised prostitution (legalisation)</u>	23
<u>Table 4</u>	<u>Countries where prostitution is not criminal, but heavily regulated</u>	30

Summary

The Ministry of Justice commissioned the Crime and Justice Research Centre to examine overseas legalised and decriminalised models of prostitution law reform. The work is to inform the statutory review of the Prostitution Reform Act 2003 (PRA) to be completed in 2008.

There have been developments in the legal approach to prostitution adopted by different countries, with a significant shift away from prohibition, towards legalisation and decriminalisation. But it became evident in preparing this review that there is much confusion over the main legislative approaches to prostitution in different jurisdictions. There was often misinterpretation – or at least it could appear so. One difficulty was the variation in the terms used to describe the legislative position, and how they were defined.

We clarify the main three approaches used to classify the jurisdictions covered by this review. These are (i) criminalisation; (ii) legalisation; and (iii) decriminalisation.

Criminalisation

For the purposes of this review, we classified countries as criminalised regimes where it is not legally possible to engage in prostitution, because prostitution or its associated activities would be contravening some law, regardless of the level of tolerance existing. (In some criminalised regimes, there can be a tolerant climate. Prostitution is known by enforcement agencies to exist, but prosecutions are rarely made.)

Criminalisation makes prostitution illegal with related offences appearing in the criminal code. It seeks to reduce or eliminate the sex industry and is supported by those who are opposed to prostitution on moral, religious or feminist grounds. Jurisdictions that have criminalised prostitution subdivide into two groups:

- i. **Prohibitionist** – where all forms of prostitution are unacceptable and therefore illegal. This is the approach taken in most states of the USA and countries in the Middle East.
- ii. **Abolitionist** – a modified form of prohibition which allows the sale of sex, but bans all related activities (e.g. soliciting, brothel keeping, and procurement). Making these related activities illegal effectively criminalises prostitution as it is virtually impossible to carry out prostitution without contravening one law or another. The abolitionist approach often focuses on eliminating or reducing the negative impacts of prostitution. It is one currently operating in countries such as England and Canada.

Sweden is the only country so far to criminalise the *buyers* of sex rather than sex workers. The aim was to end prostitution, rather than regulate it – since it was viewed as violence against women and a barrier to gender equality. Norway and Finland are now considering this approach.

Legalisation

This is where prostitution is controlled by government and is legal only under certain state-specified conditions. The underlying premise is that prostitution is necessary for stable social order, but should nonetheless be subject to controls to protect public order and health. Some jurisdictions opt for legalisation as a means to reduce crimes associated with prostitution.

Key indicators of legalised regimes are prostitution-specific controls and conditions specified by the state. These can include licensing, registration, and mandatory health checks. Prostitution has been legalised in countries such as the Netherlands, Germany, Iceland, Switzerland, Austria, Denmark, Greece, Turkey, Senegal, the USA state of Nevada, and many Australian states (Victoria, Queensland, ACT and Northern Territory).

Decriminalisation

Decriminalisation involved repeal of all laws against prostitution, or the removal of provisions that criminalised all aspects of prostitution. In decriminalised regimes, however, a distinction is made between (i) voluntary prostitution and (ii) that involving either force and coercion or child prostitution – the latter remaining criminal.

The difference between legalised and criminalised regimes has been described as often largely a matter of degree – a function of the number of legal prostitution-related activities, and the extent of controls and restrictions that are imposed. The key difference between legalisation and decriminalisation is that with the latter there are no prostitution-specific regulations imposed by the state. Rather, regulation of the industry is predominantly through existing 'ordinary' statutes and regulations covering employment and health for instance.

The aims of decriminalisation differ from legalisation in their emphasis. While the protection of social order is also relevant to decriminalisation, the main emphasis here is on the sex worker – respecting their human rights, and improving their health, safety and working conditions. Decriminalisation is also recognised as a way of avoiding the two-tier reality of legal and illegal operations, with the latter operating underground.

Currently, only New South Wales (Australia) and New Zealand have adopted decriminalisation. But there are elements of legalisation in both jurisdictions – for instance, brothel operators in New Zealand require certification; and street-based work in New South Wales is still prohibited.

Unregulated regimes

There are some jurisdictions where prostitution is entirely unregulated. A review of 27 countries in Central and Eastern Europe and Central Asia found this was the case in eleven of them. These countries are not included in this review, as there are no reforms intended or legislative recognition of prostitution as either legal or illegal.

Categories of prostitution offences

The legality of different aspects of prostitution varies across different jurisdictions, with some being legal (e.g. prostitution in a state-regulated brothel), and others not (e.g. soliciting on a street). Prostitution involving a seller and buyer may be legal, but the involvement of third parties such as brothel managers or pimps illegal – as in Denmark and Iceland for instance.

Prostitution-related laws vary greatly, but can generally be grouped into three categories: (i) laws aimed at the sex worker; (ii) laws aimed at third parties involved in the management and organisation of prostitution; and (iii) laws aimed at those who purchase commercial sex. The two most significant criminal prohibitions relate to either soliciting in a public place and brothel keeping. The acts of advertising prostitution services or the premises used for prostitution have also been made an offence in many jurisdictions.

A directory of countries

We prepared four tables covering:

- New Zealand and New South Wales which have both decriminalised prostitution (Table 1).
- Five Australian states that have legalised prostitution (Table 2).
- Nine other jurisdictions that have legalised prostitution, starting with those with more liberal systems of legalisation (Table 3).
- Five jurisdictions where prostitution is not illegal but has severe restrictions on it (Table 4).

The tables show:

- The specific legislation that decriminalised or legalised prostitution.
- The legal status of the different aspects of prostitution – i.e. activities that are now legal or still prohibited.
- The key sources used to assess the legal status of prostitution.
- Official reviews or related research that looked at impact of legal approaches to prostitution.
- Any issues or impacts mentioned in the reviews of related research.

Impacts of legislation

Assessing the impact of the legislative approaches was difficult on four fronts.

- i. **Little evaluative research** – Very little research was located that was designed to evaluate the impact of prostitution reforms.
- ii. **Variations in legal frameworks within approaches** – Across legalised and criminalised regimes, the specific legal framework varied greatly. This means that even within one type of regime, the impacts would not expect to be the same.
- iii. **Validity of reports** – There was often poor attention to identifying sources of information, or methodologies used.

- iv. **Conflicting results** – There were conflicting results about impacts, frequently supporting different ideological views. In general, feminist and religious groups have tended to see few positive effects of decriminalisation or legalisation. Those in health organisations, human rights groups and sex worker collectives have generally done the opposite.

While firm conclusions are hard to draw, there is some evidence emerging on four fronts:

- i. **Health, safety and working conditions** are improved in decriminalised regimes (e.g. New South Wales) and to some extent within legalised regimes (e.g. Victoria, Queensland, Netherlands, and Nevada).
- ii. The **social exclusion** of sex workers may have lessened somewhat in legalised and decriminalised regimes. Sex workers in jurisdictions with the heaviest regulation appear to suffer the greatest degree of stigma.
- iii. Difficulties over the **regulation of the industry** are common. Overly restrictive systems make it difficult for sex workers and brothel keepers to operate legally which can result in two-tier legal and illegal operations (e.g. in Victoria, Queensland, and the Netherlands). Problems are exacerbated where there is no legal differentiation between small owner-operated brothels and larger commercial brothels.
- iv. There are mixed reports of the **impact on numbers** of sex workers.

1 Introduction

The Ministry of Justice on behalf of the Prostitution Law Review Committee (PLRC) commissioned the Crime and Justice Research Centre to examine overseas legalised and decriminalised models of prostitution law reform. The work is to inform the statutory review of the Prostitution Reform Act 2003 (PRA) being undertaken by the PLRC. In reviewing the PRA it will be useful for the committee to be aware of the legal status of prostitution in other jurisdictions and consider the impact of reforms that have occurred.

Prostitution over the years has been shaped by economic, demographic, social, and ideological changes, all of which have contributed to what is now more frequently referred to as the 'sex industry'. The ease of international travel has made sex workers more mobile, both voluntarily and through coercion (people trafficking). Changes in regulation in some parts of the world have seen sex workers successfully operate their own sex-for-sale businesses. Mobile phones and the internet have seen changes in how commercial sex can be advertised, both locally and across borders. The voice of sex workers has also been increasingly heard through their own collectives, and submissions to government inquiries.

Accompanying these changes have been developments in the legal approach to prostitution adopted by different countries. There has been a significant shift in the balance away from prohibition, towards legalisation and decriminalisation (West, 2000). The impetus has come from a variety of fronts, including wanting to control associated criminal activity, the spread of HIV / AIDs, and recognition of the human rights of sex workers. At the same time, increasing concern over the trafficking of women and children has led to additional legislation and increased surveillance of the industry (Ward & Aral, 2006).

This review looks at the jurisdictions which have dealt with prostitution by either legalising or decriminalising it. To set some parameters, **Section 2** begins by clarifying definitions of decriminalisation and legalisation, and by considering the different aspects of prostitution to which they apply. **Section 3** presents a directory of countries that have adopted decriminalisation and legalisation. **Section 4** ends with some broad discussion of the impact of this.

2 Clarification of legislative approaches

It became evident in preparing this review that there is much confusion over the main legislative approaches to prostitution in different jurisdictions. Different authors frequently described the legal status of prostitution in a specific country in quite different ways. There was often misinterpretation – or at least it could appear so. One difficulty was the variation in the terms used to describe the legislative position, and how they were defined.

We start, then, with some clarification about the main three approaches that are used to classify the jurisdictions covered by this review. These are (i) criminalisation; (ii) legalisation; and (iii) decriminalisation (Crime and Misconduct Commission (CMC), 2004; Jordan, 2005; Legal Assistance Centre (LAC), 2002; West, 2000).

2.1 Criminalisation

Criminalisation makes prostitution illegal with related offences appearing in the criminal code. Criminalisation seeks to reduce or eliminate the sex industry and is supported by those who are opposed to prostitution on moral, religious or feminist grounds (Gangoli & Westmarland, 2006).

Jurisdictions that have criminalised prostitution subdivide into two groups:

- i. **Prohibitionist** – where all forms of prostitution are unacceptable and therefore illegal. This is the approach taken in most states of the USA and countries in the Middle East.
- ii. **Abolitionist** – a modified form of prohibition which allows the sale of sex, but bans all related activities (e.g. soliciting, living off the earnings of prostitution, brothel keeping, and procurement). Making these related activities illegal effectively criminalises prostitution as it is virtually impossible to carry out prostitution without contravening one law or another (West, 2000). An abolitionist approach often focuses on eliminating or reducing the negative impacts of prostitution (e.g. kerb crawling). This was the approach in New Zealand prior to the Prostitution Reform Act 2003 (PRA), and is the one currently operating in countries such as England and Canada.

In jurisdictions which criminalise prostitution, confusion can still arise about its legal status due to a tolerant climate. Prostitution is known by enforcement agencies to exist, but prosecutions are rarely made. This is most common in *abolitionist* regimes. Prior to the PRA in New Zealand, for instance, it was known that brothels operated under the guise of massage parlours.

Sweden has taken a different approach to criminalisation, being the first country to criminalise the *buyers* of sex rather than sex workers themselves. Prostitution is seen as sexual abuse and an act of violence against women. Proponents of the Swedish legal system hope that by targeting the demand side of the sex industry, they may reduce or eliminate it altogether. Countries such as Norway and Finland are considering this approach (Bindel, 2006).

For the purposes of this review, countries classified as criminalised regimes are those where it is not legally possible to engage in prostitution, because prostitution or its associated activities would be contravening some law regardless of the level of tolerance existing.

2.2 Legalisation

Legalisation is where prostitution is controlled by government and is legal only under certain state-specified conditions. (Legalisation is also referred to as *regulation* by some authors – e.g. Central & Eastern European Harm Reduction Network (CEEHRN), 2005.)

The underlying premise in legalised regimes is that prostitution is necessary for stable social order. Prostitution nonetheless should be subject to controls to protect public order and health (Gangoli & Westmarland, 2006). Some jurisdictions opt for legalisation as a means to reduce crimes associated with prostitution (e.g. organised crime, police corruption, child prostitution, and sex trafficking).

Key indicators of a legalised system are the existence of prostitution-specific controls and conditions specified by the state. These can include licensing, registration, and mandatory health checks. Licenses can be managed by police and the judiciary, elected municipal authorities, or independent specialist boards. Businesses or workers without the necessary permits are subject to criminal penalties.

Prostitution has been legalised in countries such as the Netherlands, Germany, Iceland, Switzerland, Austria, Denmark, Greece, Turkey, Senegal, the USA state of Nevada, and many Australian states (Victoria, Queensland, ACT and Northern Territory).

2.3 Decriminalisation

Decriminalisation is where there has been a repeal of all laws against prostitution, or the removal of provisions that criminalised all aspects of prostitution. It is important to note, though, that in a decriminalised regime, a distinction is made between (i) voluntary prostitution and (ii) that involving either force and coercion or child prostitution – the latter remaining criminal.

The key difference between legalisation and decriminalisation is that with the latter there are no prostitution-specific regulations imposed by the state. Rather, any regulation of the industry is predominantly through existing statutes and regulations. Thus prostitution is recognised as a legitimate business and, as such, it comes under conventional employment and health regulations and is subject to standard local council business and planning controls. Those involved in prostitution have the same rights and responsibilities as other workers (e.g. paying taxes).

The aims of decriminalisation differ from legalisation in their emphasis. The main objective of legalisation is to protect social order. While this is relevant to decriminalisation, the main emphasis here is on the sex worker – respecting their human rights, and improving their health, safety and working conditions.

Proponents of decriminalisation argue that the cost of keeping prostitution illegal largely outweighs the gains, and that prostitution should essentially be seen as consenting behaviour between adults (Jordan, 2005). They argue the injustice of a double standard whereby a sex worker can be found guilty of an offence, but not the client who is typically male. They also point to potential violation of civil liberties that state-regulated legalisation might involve, through controls such as registration and mandatory health checks (Jordan, 2005). In decriminalised regimes, there is typically a shift in power away from the state and clients to sex workers themselves. Decriminalisation is also recognised as a way of avoiding the two-tier reality of legal and illegal operations, with the latter operating underground. Decriminalisation also aims to remove the social exclusion which makes sex workers vulnerable to exploitation and difficult for them to move out of the industry.

Currently, only New South Wales (Australia) and New Zealand have adopted a legal framework based on decriminalisation.

2.4 Unregulated regimes

There are some jurisdictions where prostitution is entirely unregulated – i.e. there are no laws either prohibiting or allowing prostitution. A review of 27 countries in Central and Eastern Europe and Central Asia found this was the case in eleven of them. They included Azerbaijan, Bulgaria, the Czech Republic, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Poland, Slovakia, Slovenia and Tajikistan (CEEHRN, 2005). These countries are not included in this review, as there are no reforms intended or legislative recognition of prostitution as either legal or illegal.

2.5 Categories of prostitution offences

Having outlined the three main legislative approaches to prostitution (criminalisation, legalisation and decriminalisation) the next important consideration is the specific aspects of prostitution to which the laws within a specific approach apply. Prostitution-related laws across jurisdiction vary greatly, but can generally be grouped into three categories: (i) laws aimed at the sex worker; (ii) laws aimed at third parties involved in the management and organisation of prostitution; and (iii) laws aimed at those who purchase commercial sex (Pinto, 1990).

It is important to understand the differing categories of laws, as the legality of different aspects of prostitution varies across different jurisdictions. Within a specific jurisdiction, some aspects can be legal and others remain illegal, which can create confusion when trying to classify the legislative approach. For example, the state of Victoria in Australia is considered to have a legalised approach to prostitution, with laws making prostitution in a state-regulated brothel legal. However, soliciting on the street remains illegal (ie, criminalised). In Denmark and Iceland, prostitution involving an individual seller and buyer is legal, but the involvement of *third parties* such as brothel managers or pimps is illegal.

It is also interesting to note that the penalties for the various offences can range from imprisonment to fines. Particular offences can be found in a country's criminal code or limited to being an infringement or administrative offence. As mentioned earlier, in most jurisdictions there is clear differentiation made between voluntary and involuntary prostitution, with specific offences aimed at people trafficking and child prosecution. The two most common criminal

prohibitions relate to 'soliciting in a public place' and 'brothel keeping'. These offences tend to form the basis of an attempt to criminalise prostitution and are the most frequently prosecuted offences (Egger, 2005).

A breakdown of the various categories of prostitution offences follows:

Laws aimed at the sex worker

These are offences that penalise the sex worker in various ways. Offences relate to:

- The act of prostitution (sale of sex for commercial purposes).
- Soliciting (loitering for the purposes of prostitution). Some laws differentiate between active and passive soliciting.
- The type of prostitution engaged in. For instance, laws can make the act of prostitution illegal dependant on where or how it occurs: in a brothel; outdoors in public places (i.e. street work); as outcall or escort work (i.e. where a sex worker is dropped off / goes to the client); or as an independent sex worker working from a private residence.¹ Further distinctions can sometimes be made by whether a sex worker is working alone or with others.
- Limiting sex work to specific categories. Age constraints are common, and some jurisdictions make it illegal for non-residents to get a work permit for sex work.

Laws aimed at third parties

These are offences that penalise third parties involved in the management and organisation of prostitution. Some jurisdictions make it legal for a sex worker to exchange sex for money, but prohibit a third party from benefiting through:

- Living off the earnings of a sex worker – those who depend wholly or in part on the income of a sex worker (e.g. a pimp or partner).
- Brothel keeping – i.e. those owning or managing and, sometimes those assisting with, operating a brothel.²
- Procuring or pandering – arranging or making someone available for prostitution, especially minors, or if by coercion, fraud or drugs.

Laws aimed at those who purchase commercial sex

These are offences that penalise the 'buyer' such as kerb crawling, or buying commercial sex.

Other laws

The acts of advertising prostitution services or the premises used for prostitution have also been made an offence in many jurisdictions.

1 In some cases this is not differentiated from the legal definition of a 'brothel'.

2 Depending on the definition a country uses for a brothel this can apply to a single worker operating from a private residence.

3 Directory of countries

The discussion above shows the complexity of deciding whether a jurisdiction's legislative approach to prostitution should be classified as legalised or decriminalised. Pinto (1990) commented that the difference is often 'largely a matter of degree' – a function of the number of legal prostitution-related activities, and the extent of controls and restrictions that are imposed.

There are elements of legalisation in the two jurisdictions classified as decriminalised – New Zealand and New South Wales. For example, street-based work in New South Wales is still prohibited; in New Zealand brothel operators require certification, and there are some specific health and safety requirements for operators, sex workers and clients (see Sections 8 and 9 of the PRA). However, both countries fit best into a decriminalised model as in the main they aim for the sex industry to be subject to the same regulations as other businesses, rather than to 'prostitution specific' regulations. This contrasts with jurisdictions classified as legalised regimes, where the sex industry is legal only if it complies with prostitution-specific regulation either at state and / or local level.

The tables that follow show for each jurisdiction:

- The **specific legislation** that decriminalised or legalised prostitution, and date of its enactment.
- The **legal status of the different aspects of prostitution**³ – i.e. those activities that are now legal and those still prohibited by law. Offences related to trafficking and child prostitution are not included as they are not incorporated into any legalisation or decriminalisation process.
- The **key sources** used to assess the legal status of prostitution are noted. Information provided by different sources often varied and it was sometimes difficult to verify accuracy.
- **Official reviews** or **related research** that looked at the impact of legal approaches to prostitution.
- Any **issues or impacts** mentioned in the reviews of related research.

The tables presented are as follows:

- **Table 1** covers New Zealand and New South Wales which have both decriminalised prostitution.
- **Table 2** covers the Australian states that have legalised prostitution.

3 Throughout this paper the term 'sex worker' is used in preference to 'prostitute'. In describing the legal status of prostitution-related activities across jurisdictions, sex worker(s) is used even if the law uses the term prostitute.

- **Table 3** covers other jurisdictions that have legalised prostitution, starting with those with more liberal systems of legalisation.
- **Table 4** covers jurisdictions where prostitution is not illegal but there are severe restrictions imposed upon it.

Table 1 New Zealand and New South Wales (decriminalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
NEW ZEALAND			
<p>Prostitution Reform Act 2003: largely decriminalised prostitution.</p> <p>Key source: The Prostitution Reform Act 2003</p>	<p><u>Legalised</u></p> <p>Brothels (including escort agencies):</p> <ul style="list-style-type: none"> • operators must hold a certificate administered by the Registrar of Auckland District Court, (i.e. central government) • location, advertising and signage regulated by local councils and standard business requirements • four or less workers may run a ‘small owner-operated business’ without holding an operator certificate, but can be regulated by local councils. <p>Individual sex workers:</p> <ul style="list-style-type: none"> • no registration or certificate required. <p>Street-based prostitution – legal:</p> <ul style="list-style-type: none"> • unregulated by local govt, no licence or registration required. <hr/> <p><u>Prohibited</u></p> <ul style="list-style-type: none"> • the use in prostitution of persons under 18 years • for clients or sex workers not to adopt safer sex practices • for operators not to adopt and promote safer sex practices • non-residents (operating or prostituting), i.e. migrant workers • inducing or compelling a person to provide commercial sexual services. 	<p><u>Official reviews</u></p> <p>Act to be reviewed no sooner than the expiry of 3 years, but before the expiry of 5 years</p>	<p>N/A</p>

Table 1 Cont'd New Zealand and New South Wales (decriminalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
AUSTRALIA – NEW SOUTH WALES			
<p>Disorderly Houses Amendment Act 1995: legalised brothels and living off the earnings of a sex worker. The Act also amended the Crimes Act 1900 to abolish the common law offence of keeping a brothel and related common law offences.</p> <p>Summary Offences Act 1988: legalised soliciting in certain areas.</p> <p>Key sources: CMC (2004, 2006); Smith (2003); Australian Legal Information Institute (2007).</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels (NB: definition includes independents operating from private residences):</p> <ul style="list-style-type: none"> regulated by local councils according to normal planning legislation and by standard business requirements can be closed down if found to be ‘disorderly’. <p>Individual sex workers:</p> <ul style="list-style-type: none"> may require council approval as premises that constitute a brothel include those used by only one person. <p>Escort agencies:</p> <ul style="list-style-type: none"> unregulated and do not require planning approval. <p>Street-based prostitution:</p> <ul style="list-style-type: none"> legal in certain areas only (including safe streets and safe houses). 	<p><u>Official reviews</u></p> <p>Brothels Task Force (2001)</p> <p><u>Related research</u></p> <p>CMC (2004); Smith (2003); Sullivan (1999)</p>	<ul style="list-style-type: none"> Health and safety – access has improved for sex workers to health services and OH&S programmes; premises not regulated by OH&S standards (Brothels Task Force, 2001) Working conditions – anecdotal reports of an improvement, brothel operators treating their workers better so they don’t go out on their own (Sullivan, 1999) Illegal brothels – problems in identifying and closing down illegal brothels (those without local planning permits) – insufficient controls or resources available for local councils (Brothels Task Force 2001; Smith, 2003) Local regulation – councils need further support to optimise the potential of the planning system. Some councils were being overly restrictive in applying local planning controls. Brothels limited to industrial zones, raised concerns for the safety of sex workers. An advisory panel was recommended to assist councils (Brothels Task Force, 2001) Small owner-operated brothels (SOOBs) – lack of differentiation of SOOBs and larger commercial brothels in legislation and by local councils, has made it difficult for SOOBs to operate legally as they are prohibited in residential areas (Brothels Task Force, 2001) Growth of the sex industry – unsubstantiated reports of an increase in prostitution (CMC 2004; Smith, 2003), although Sullivan (1999) notes this was mainly a movement of private workers to establish their own businesses.
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> living on the earnings of a sex worker (brothel owners and operators being exempt) causing or inducing prostitution prostitution or soliciting in premises held out as being a massage parlour etc. advertising that premises are used for prostitution, or advertising for sex workers soliciting in residential areas (near or within view of a dwelling, school, church or hospital). 		

Table 2 Australian states that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
AUSTRALIA – VICTORIA			
<p>Prostitution Control Act 1994</p> <p>Key sources: CMC (2004, 2006); Consumers Affairs Victoria (2006); Australian Legal Information Institute (2007).</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels – legal under strict regulations:</p> <ul style="list-style-type: none"> • regulated by local councils and the <i>Business Licensing Authority</i> (BLA) • operators must have a licence from BLA • restrictions on locations and size (no more than 6 rooms – unless operating prior to the Act and applied for licence within 3 months). <p>Outcall / Escort agencies:</p> <ul style="list-style-type: none"> • as above – must be licensed by BLA and meet local council planning controls. <p>Advertising of businesses:</p> <ul style="list-style-type: none"> • only with licence number given by BLA. <p>Individual sex workers:</p> <ul style="list-style-type: none"> • 1–2 sex workers can run a private business (as a brothel or outcall) and are exempt from holding a business licence, but must register with BLA and hold a local council planning permit • sex workers employed by a licensed prostitution service provider are not required to be licensed or registered. 	<p><u>Official reviews</u> Consumer Affairs Victoria (2006), review of related regulations</p> <p><u>Related research</u> Sullivan (1999) CMC (2004), Arnot, 2002).</p>	<ul style="list-style-type: none"> • Health and safety – low prevalence of STDs among sex workers in the regulated sector; legal brothels also seen to provide the safest environment. Poor conditions in illegal brothels (Arnot, 2002; Consumer Affairs Victoria, 2006) • Illegal prostitution – evidence of a two-tier split – majority of brothels operating illegally. Cost and scrutiny involved with licensing and planning permits seen as barriers to operating legally. Street-based prostitution continues (CMC, 2004; Sullivan, 1999) • Regulation (state and local) – seen to be very restrictive – concern councils were reluctant to grant planning permits, and most applicants had to go through a lengthy and costly appeals process. New regulations in 1995 reported to improve the situation (CMC, 2004) • SOOBs – very few ‘exempt’ brothels (1–2 persons business) registered, indicating a problem with the registration / planning controls (Sullivan, 1999).
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • street-based prostitution is illegal for sex worker and client • illegal for a sex worker to work while infected with certain sexually transmitted infections (STIs). 		

Table 2 Cont'd Australian states that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
AUSTRALIA – QUEENSLAND			
<p>Prostitution Act 1999; Prostitution Amendment Act 2001</p> <p>Key sources: CMC (2004, 2006); Australian Legal Information Institute (2007).</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels – legal under strict regulations:</p> <ul style="list-style-type: none"> • regulated by local councils and the <i>Prostitution Licensing Authority</i> (PLA) • operators must have a licence from PLA • restrictions on location and size (a maximum of 5 rooms, and no more than 5 sex workers on the premises at one time). <p>Individual sex worker:</p> <ul style="list-style-type: none"> • no regulation, but must work alone, must use prophylactics. 	<p><u>Official review</u> CMC (2004)</p>	<ul style="list-style-type: none"> • Health and safety – seen to have improved in the regulated (i.e. legal) sector. Compliance with H&S requirements generally found to be good. Concerns over the safety of sole operators who are working alone (CMC, 2004). • Illegal prostitution – estimated 90% continue to operate illegally, with high numbers of outcall or escort services still operating – some fraudulently advertising as sole operators to avoid detection. A small amount of street-based prostitution (2% of industry) still exists (CMC, 2004). • Regulation (state and local) – difficult for brothels to get licences and planning permits from local councils. Approved sites for brothels difficult to find and licence process takes too long and very intrusive. Changes in legislation in 2001 have improved the situation, but further measures still called for. Concerns that government-level oversight bodies were failing to implement the legislation properly (CMC, 2004) • Police corruption – the review noted that police corruption had been excluded from the legal sector of the industry, i.e. where businesses are operating legally with licences (CMC, 2004) • Community – no adverse effects on community amenities by licensed brothels (CMC, 2004)
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • outcall services from brothels • street-based work • advertising that describes the sexual services offered, indicates that the person’s business provides or is connected with massage services, or that might induce a person to seek employment as a sex worker. 		

Table 2 Cont'd Australian states that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
AUSTRALIA – AUSTRALIAN CAPITAL TERRITORY (ACT)			
<p>Prostitution Act 1992</p> <p>Key sources: CMC (2004, 2006); Australian Legal Information Institute (2007).</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels, escort agencies – restrictions are minimal and regulation limited:</p> <ul style="list-style-type: none"> • must register with the <i>Registrar of Brothels and Escort Agencies</i> (RBEA), of the Department of Fair Trading, but no probity investigation conducted as part of the registration process • no limit on the number of rooms for brothels. <p>Individual sex workers:</p> <ul style="list-style-type: none"> • must register with RBEA. 	<p><u>Related research</u></p> <p>CMC (2004)</p>	<ul style="list-style-type: none"> • Regulation – approach taken requires minimal resources by both government agencies and operators (CMC, 2004) • Criminal activity – anecdotal information suggests that, given the lack of probity and ongoing auditing, the industry is poorly regulated and organised crime (including money-laundering) remains a concern (CMC, 2004)
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • street-based work illegal for sex worker and client. 		
AUSTRALIA – NORTHERN TERRITORY (NT)			
<p>Prostitution Regulation Act 1992, 2004</p> <p>Key sources: CMC (2004, 2006); Australian Legal Information Institute (2007)</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Outcall / Escort agencies:</p> <ul style="list-style-type: none"> • legal with licence from the Escort Agency Licensing Board (EALB); no specific planning requirements. <p>Individual sex workers:</p> <ul style="list-style-type: none"> • legal • can run an outcall / escort business but require a licence if they work with or employ anyone else (e.g. driver, receptionist). 	<p><u>Official review</u></p> <p>In 1998 Attorney-General tabled a report on the operation of the Act – in accordance with a legislative five year review (cited in CMC, 2004, p41)</p>	<p>CMC – NT laws criticised for:</p> <ul style="list-style-type: none"> • Regulation – sole operators do not need to be licensed, an increasing number choose this option and hence a smaller proportion of the industry than intended is being regulated (CMC, 2004) • Health and safety – prohibition of brothels has meant workers are denied the opportunity to work in the safest environment. Media reports of recent murders of two escorts in NT have led to calls for a review of the legislation (CMC, 2004) • Brothels – a review in 1998 recommended legalising brothels and chose the Victorian model as the preferred option – but no action taken to date (cited in CMC, 2004).
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • brothels • street-based sex work. 		

Other Australian states

In **Western Australia**, brothels operate under the unofficial 'sanction' of police through an informally established 'containment policy'. While prostitution *per se* is not illegal, virtually all of the activities associated with prostitution are illegal according to the criminal code. A report by a Prostitution Law Reform Working Group in January 2007 has recommended Western Australia adopt a 'minimalist decriminalised' model similar to New Zealand.

In **Tasmania**, exchanging sex for money is not an offence, but there are controls over where sexual services may operate and virtually all of the activities associated with prostitution are prohibited. Tasmania is also reported to be considering introducing a legalised approach to prostitution.

In **South Australia**, all activities associated with prostitution are prohibited. The Prostitution (Regulation) Bill was proposed in 2001, but defeated. There are no indications that there will be further consideration under the current government (Consumer Affairs, 2006).

Table 3 Other countries that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews/research	Issues / Outcomes
NETHERLANDS			
<p>2000 – articles 250bis and 432 removed from Criminal Code: lifting the general ban on brothels and pimping.</p> <p>No legislation governing prostitution was introduced. It has been left to local authorities to formulate and implement policies (authorised through an amendment to Article 115a of the Local Government Act).</p> <p>Key sources: Netherlands Ministry of Foreign Affairs (2007); Home Office (2004); Prostitution ProCon (2007)</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels & Escort agencies:</p> <ul style="list-style-type: none"> operators must satisfy certain conditions and obtain a licence from the <i>local authorities</i> local authorities can lay down rules over the operation of brothels in their jurisdiction (e.g. safety, hygiene and working conditions). The local authority can refuse certain forms of prostitution businesses, e.g. window soliciting. <p>Individual sex workers:</p> <ul style="list-style-type: none"> some local authorities can require sex workers to be licensed (e.g. Heeren), others do not classified as freelance workers with the same rights and obligations as other business people. <p>Street work:</p> <ul style="list-style-type: none"> local authorities can prohibit streetwalking, some confine it to managed zones that have drop-in shelters and ‘working’ areas. 	<p><u>Official Reviews</u> Daalder (2007)</p> <p><u>Related research</u> Bindel & Kelly (2004) LAC (2002) Alexander (2004) Wagenaar (2006) Working Group LRPSS (2004) van der Helm (2004)</p>	<ul style="list-style-type: none"> Demand & supply – appear to have decreased but unclear as to what extent this is the result of legislation (Daalder, 2007). Working conditions – working conditions and health and safety in regulated industry have improved. Legal safeguards now exist against long working hours and unsanitary conditions, they have the legal right to refuse a client and can go to police if they have a complaint (LAC, 2002; van der Helm, 2004). However, misunderstandings and lack of knowledge regarding rights are numerous (Bindel & Kelly, 2004). Confusion still exists over the form of employment relationship, operators insisting sex workers are self-employed despite existence of employee-employer relationships (Daalder, 2007). Safety – real opportunity to report violence and abuse, but also concerns from sex workers over losing their anonymity (LAC, 2002). Regulation – rules vary across local councils, some regions have banned brothels, others have onerous regulations making it difficult to operate legally (Working Group, 2004). An estimated 35% of brothels and clubs have closed because they do not want to pay taxes or adhere to the new regulations (cited in LAC, 2002). Latest evaluation shows an increase in uniformity across municipalities (Daalder, 2007). Registration – sex workers reluctant for fear over losing anonymity, many choosing to work illegally instead (Bindel & Kelly, 2004; LAC, 2002; van der Helm, 2004). Only 5–10% of sex workers estimated to pay tax (Bindel & Kelly, 2004). Criminal activity (trafficking and minors) – reported as having not decreased, but moved to regions with less control (Bindel & Kelly, 2004) ‘Window trade’ has been reduced, reportedly as a result of the legal approach allowing child prostitutes and migrant workers to be targeted (LAC, 2002). Social exclusion – public becoming more accepting towards sex workers, but limited change in social position of sex workers (Bindel & Kelly, 2004). Banks reluctant to allow sex workers to open business bank accounts (LAC, 2002). Migrants – concerns raised over those with illegal status who may be forced to abandon the relatively safe working environment of brothels for illegal work on the street (cited in LAC, 2002). Brothels cannot hire migrants, therefore legalisation does not impact on the greatest proportion of sex workers who are migrants (Alexander, 2004).
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> individuals from outside the European Union and the European Economic Area who do not have a valid residence permit receiving money from prostitution involving a minor in prostitution coercing a person to engage in prostitution, or to surrender income from prostitution. 		

Table 3 Cont'd Other countries that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
GERMANY			
<p>Prostitutionsgesetz (Prostitution Act) 2001: Passed by German Parliament</p> <p><i>Federal system of Government , laws vary across different states/areas.</i></p> <p>Key sources: Home Office 2004; LAC 2002; de Pommereau, 2005; Winkler, 2003</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels:</p> <ul style="list-style-type: none"> varies – legal in some cities, some now pay financial authorities a set fee per day for each sex worker registered (e.g. Stuttgart and Cologne). <p>Individual sex workers – legally recognised:</p> <ul style="list-style-type: none"> have the right to unemployment benefits, sick pay and a pension and must pay tax, etc. some regions require registration. <p>Street-based work:</p> <ul style="list-style-type: none"> legal in some areas (e.g. Berlin), prohibited in others (e.g. Munich), and in Hamburg, limited to the train station at certain times of the day. 	<p><u>Related research</u> de Pommereau (2005); Czajka (2004)</p>	<ul style="list-style-type: none"> Illegal prostitution – very few proper contracts and health insurance have materialised – few willing to pay taxes (de Pommereau, 2005). Human rights – health insurance companies are reluctant to take on sex workers as customers, sex workers still not eligible for same rights and responsibilities as other forms of work (Czajka, 2004).
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> nationals of countries outside the European Union and the European Economic Area who do not have a valid residence permit coercing a person to engage in prostitution living off the earnings of a sex worker. 		

Table 3 Cont'd Other countries that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews/research	Issues/Outcomes
ICELAND			
<p>2007 – New provision in Penal Code: section on prostitution for own upkeep deleted.</p> <p>Key sources: Iceland Review (2007); Prostitution ProCon (2007)</p>	<u>Legalised</u>	<p><u>Related research</u> None located (only recently legalised)</p>	
	<u>Prohibited</u>		
SWITZERLAND			
<p>Legalised prostitution under Swiss Criminal Code (Article 199) in 1992</p> <p>Federal system of government, laws vary across different states/areas. At the national level prostitution is legal. Switzerland has adopted an 'economic freedom' model where an individual has the right to choose how they earn a living, including as a sex worker. At the regional level, health controls and exclusion zones can be applied and act as measures to control or limit prostitution.</p> <p>Key sources: Home Office (2004); The Federal Authorities of the Swiss Confederation (2006).</p>	<u>Legalised</u>	<p><u>Related research</u> None located</p>	
	<u>Prohibited</u>		

Table 3 Cont'd Other countries that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
AUSTRIA			
<p>Reform of Penal Code in 1975: Prostitution was no longer considered an offence, 'illicit sexual acts in public' and 'pimping to exploit' remained offences.</p> <p>Regulations to occur at the provincial level.</p> <p>Federal system of government. Laws vary across different states / provinces.</p> <p>Key sources: Home Office (2004); Prostitution ProCon (2007)</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels:</p> <ul style="list-style-type: none"> • legal in some states. <p>Individual sex workers:</p> <ul style="list-style-type: none"> • legalised in all but one state • those involved are usually required to register and undergo weekly health checks • in some states only legal to work in brothels • must be at least 19 years of age. <p>Street-based work:</p> <ul style="list-style-type: none"> • legal in some states. 	<p><u>Related research</u> Caixeta (2003)</p>	<ul style="list-style-type: none"> • Migrants – the majority of sex workers are migrant workers (90%). • Working conditions – since 2001 migrant workers can apply for a 'an independent worker without residence or work permit' visa. This allows them to work under very strict controls, including proof of a certified workplace, a tax certificate, health insurance, and weekly health check-ups. Concerns raised over the dependency of the migrant worker on the brothel owner that this system creates (Caixeta, 2003).
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • procuring or pandering • promoting prostitution • publishing advertisements leading to illicit sexual practices • illicit sexual acts in public. 		

Table 3 Cont'd Other countries that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
USA – NEVADA			
<p>1971 – Nevada Revised Statutes: prohibited the legalisation of prostitution in counties with a population over 400,000. (thereby legalising brothels in counties under this threshold).</p> <p>1985, 1986 Nevada Administrative Code: imposed STI and HIV tests on legal working sex workers.</p> <p>NB: Counties within the State can make different rules.</p> <p>Key sources: Brents & Hausbeck (2005); Wikipedia.org (2007)</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels:</p> <ul style="list-style-type: none"> • in any county with a population of fewer than 400,000 • must be located a safe distance from schools, churches and main streets • must be licensed (conditions and fees vary across counties). <p>Individual sex workers:</p> <ul style="list-style-type: none"> • must work in a state-licensed brothel • must be at least 18 years old • must be licensed following a background check and health check • must have regular health checks (STI's weekly and blood checks for HIV, etc monthly) • work as independent contractors. 	<p><u>Relevant research</u></p> <p>Brents & Hausbeck (2005); Wikipedia.org (2007)</p>	<ul style="list-style-type: none"> • Safety – legal brothels found in general to offer a safer working environment than illegal ones. Legalisation of prostitution seen to bring a level of public scrutiny, official regulation, and bureaucratisation of brothels that decreases the risk of three types of systematic violence; interpersonal violence against sex workers, violence against community order, and sexually transmitted diseases as violence (Brents & Hausbeck, (2005)) • Deregulation – is supported by groups advocating for the rights of sex workers. Licensing creates a permanent record, gives power to brothel owners leaving little control for sex workers over their working environment. Sex workers required to undergo legal and health checks but not customers; therefore, protecting only the customers. (Wikipedia.org, (2007)).
	<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • prostitution and soliciting other than in licensed brothels, includes outcall / escort services • pandering (forcing, decoying or enticing a woman to become a sex worker and work in a brothel) • living off the earnings of a sex worker • advertising of prostitution • prostitution if HIV positive • prostitution without a condom. 		

Table 3 Cont'd Other countries that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
DENMARK			
<p>1999 penal code provisions repealed – related to the individual practice of prostitution.</p> <p>Key sources: Home Office (2004); Skilbrei (2001); Protection Project (2007)</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Individual sex workers:</p> <ul style="list-style-type: none"> legalised, but is not a recognised field of work, and is not protected under the workers protection laws, unemployment benefits etc. <hr/> <p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> procuring or inducing or keeping a brothel profiting in any other way from prostitution coercing a person to engage in prostitution to rent a hotel room for the purposes of prostitution purchasing the sexual services of a child (under 18). 	<p><u>Related research</u> None located</p>	
GREECE			
<p>1999 New law introduced (title of legislation unclear)</p> <p>Protection against Venereal Disease and Relevant Issues 1981: Governs the registration of sex workers.</p> <p>Key sources: Roumeliotau & Kornarau (1994); Home Office (2004); Protection Project (2007)</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels:</p> <ul style="list-style-type: none"> required to be licensed by the state no more than three people can be employed must not be near (less than 200m) civic buildings such as schools or churches. <p>Individual sex workers:</p> <ul style="list-style-type: none"> registration with police mandatory health checks required for permit – must hold a medical card, updated every 2 weeks must be at least 21 years of age. <hr/> <p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> kerbside soliciting pandering (coercion of an individual into prostitution) inducing females into prostitution (of any age) for financial gain for a male to live off the earnings of a female sex worker. 	<p><u>Related research</u> Roumeliotau & Kornarau (1994); Commercial Sex Information Service (2003)</p>	<ul style="list-style-type: none"> Health checks – report recommended health checks to be requested not mandatory, and expand services to non-registered sex workers (Europap, 1994) Illegal prostitution – strikes prior to Athens Olympics when officials attempted to enforce law on location of brothels, threatening to cut the 600 city brothels to 230. In response to strike authorities suspended their drive to shut the brothels down.

Table 3 Cont'd Other countries that have legalised prostitution (legalisation)

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
TURKEY			
<p>Specific legislation and date (unclear).</p> <p>Local regions administer restrictions on the management of 'genelevs' (state licensed brothels) and the registrations of sex workers.</p> <p>Key sources: Home Office (2004); Simsek, et al. (2003); Bindman (1997); Prostitution ProCon (2007)</p>	<p style="text-align: center;"><u>Legalised</u></p> <p>Brothels:</p> <ul style="list-style-type: none"> • state-licensed brothels (genelevs) • can only employ registered sex workers • operators are not required to pay social security payments for their employees. <p>Individual sex workers:</p> <ul style="list-style-type: none"> • must work in a genelev • must be registered and carry an identity card (must forfeit their ordinary identity card in exchange) • in some regions sex workers must also reside at the genelev • regularly attend clinics for health checks (noting dates of health checks, which can be as often as twice a week) • must be over 18 years, cannot be married and their children are barred from occupying high rank in the army or police, or marrying persons of such rank, although they can work in other areas of government service. <hr/> <p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • unlicensed prostitution • any other forms of prostitution including street-based work. 	<p><u>Related research</u></p> <p>Beattie (2005) Simsek et al. (2003)</p>	<ul style="list-style-type: none"> • Human rights – on the third arrest of a worker found not working in a genelev, they can be forcibly registered and delivered to one (Simsek et al., 2003). • Registration – prevailing trend is against registration; Istanbul is no longer registering new sex workers (Simsek et al., 2003) • Trafficking – clients in Turkey helping to report trafficked women following introduction of a charge-free hotline. Turkish men are reported to have an 'old-fashioned' view of women. They don't mind using sex workers, but they want the woman to be doing this willingly. 'If she's found not to be doing it willingly ... it affects their pride' (Beattie, 2005).

Table 4 Countries where prostitution is not criminal, but heavily regulated

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
SENEGAL – AFRICA			
<p>Penal code (Articles 318 to 325) in 1969: legalised prostitution within a tightly controlled regulatory framework. It is an offence for a sex worker not to be registered.</p> <p>Law amended in 1979 to prohibit registration of female sex workers under the age of 21 years.</p> <p>Key sources: LAC (2002); Open Society Institute (2006); Homalifar (2006); Prostitution ProCon (2007)</p>	<p style="text-align: center;"><u>Not illegal</u></p> <p>Individual sex workers:</p> <ul style="list-style-type: none"> • must be at least 21 years of age • must register with police • must visit regional treatment centre monthly • must carry a valid health card and test negative for STIs • police can check a sex worker has been for regular check-ups • location of work strictly regulated. <hr/> <p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • soliciting • brothel ownership • living off the earnings of a sex worker (pimping). 	<p><u>Related research</u> Bell (2006); Homalifar (2006); LAC (2002)</p>	<ul style="list-style-type: none"> • Human rights – despite legal status, sex workers are still considered social outcasts in this predominantly Muslim country (LAC, 2002). • Health and safety – Senegal first African country to legalise commercial sex (with routine health checks) to curb the spread of AIDs and other STIs. Senegal has one of the lowest rates of HIV/AIDs in Africa; HIV infection rate of just 2% much lower than rates in neighbouring countries. (Prostitution ProCon (2007). Other sources report 50–90% of sex workers do not register, and HIV rates similar for registered and non-registered sex workers (LAC, 2002). Homalifar (2006) notes non-registered workers may have worked for a shorter period and therefore had less exposure. • Senegal is not eligible for US global HIV/AIDs funding because it refuses to change the law that legalises prostitution – funding only available to countries that oppose prostitution (Bell, 2006).

Table 4 Cont'd Countries where prostitution is not criminal, but heavily regulated

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
SINGAPORE			
<p>Penal Code and The Women's Charter⁴ – Laws relating to individual prostitution are absent.</p> <p>Key sources: Australian Federation of AIDS Organisation (2001); Prostitution ProCon (2007)</p>	<p style="text-align: center;"><u>Not illegal</u></p> <p>Individual sex workers:</p> <ul style="list-style-type: none"> • legal if individuals working alone • must be registered and carry a yellow card if they wish to work in designated red light areas • must be at least 16 years old. <hr/> <p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • soliciting • exploitation and control of sex workers by a third party (i.e. brothel owners or pimps) • keeping or managing a brothel • encouraging the prostitution of a girl under 16 years of age is also a criminal offence • any person who sells, lets to hire, or otherwise disposes of a person under 21 years of age for purposes of prostitution • trafficking – the Women's Charter prohibits selling, buying, or obtaining possession of any woman or girl for the purpose of prostitution either inside or outside the country. 	<p><u>Related research</u> WHO (2001)</p>	<ul style="list-style-type: none"> • Illegal prostitution – illegal sex work outside tolerated 'designated red light districts' is extensive and growing. • Migrants – majority of registered sex workers are Malaysian; they also come from Thailand, Philippines, Indonesia, Hong Kong and Taiwan, most are thought to enter legally.

⁴ The Women's Charter is an Act passed by the Singapore government in 1961 which provides the punishment for offences against women and children.

Table 4 Cont'd Countries where prostitution is not criminal, but heavily regulated

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
HUNGARY			
<p>Act About the Organised Crime and Related Areas 1999 (LXXV, Sections 7-11): legalised with many restrictions on individual prostitution (quasi-legal).</p> <p>Key source: CEEHRM (2005)</p>	<p style="text-align: center;"><u>Not illegal</u></p> <p>Individual sex workers:</p> <ul style="list-style-type: none"> • permitted to provide services in tolerance zones designated by local authorities, which must be away from certain protected areas (e.g. close to schools, churches, state administrative offices, etc.) • but must have a valid medical certificate. <hr/> <p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • providing commercial sexual services to a minor • living on the earnings of prostitution (pimping) • promotion of prostitution • involvement in / coercion into prostitution. 	<p><u>Official review</u> Hungarian Civil Liberties Union self-report – cited in CEEHRM (2005)</p> <hr/> <p><u>Relevant research</u> CEEHRM (2005)</p>	<ul style="list-style-type: none"> • Human rights – sex workers are not included in a list of officially registered professions (CEEHRM, 2005). • Regulation – local governments commonly refuse to designate tolerance zones, connected to concerns over the impact on real estate prices. Local human rights organisations and the Hungarian Prostitutes Association insist these local governments are breaking the law if they do not designate a tolerance zone (CEEHRM, 2005).
LATVIA			
<p>Regulations to Limit Prostitution 1998, Amended in 2001: Individual prostitution legalised with many restrictions (quasi-legal).</p> <p>Key source: CEEHRM (2005)</p>	<p style="text-align: center;"><u>Not illegal</u></p> <p>Individual sex workers:</p> <ul style="list-style-type: none"> • must be at least 18 years old • must work alone, and away from areas defined by local authority (e.g. where a minor is present) • must have a valid medical certificate and check-ups monthly • health officials provide a register to police • NB: sex work is not included in a list of officially registered professions. <hr/> <p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • minors and juveniles • foreigners • advertising • individuals who have HIV/AIDs • taking advantage of a person who is engaged in prostitution for the purposes of material gain (pimping) • brothel keeping • involvement in / coercion into prostitution. 	<p><u>Related research</u> CEEHRM (2005)</p>	<ul style="list-style-type: none"> • Human rights – concerns that information contained on official health cards is not considered completely confidential; police raids and client violence continue to occur (CEEHRM, 2005).

Table 4 Cont'd Countries where prostitution is not criminal, but heavily regulated

Key legislation	Legal status of different types of prostitution	Reviews / research	Issues / Outcomes
MEXICO			
<p>No laws in Mexico prohibit prostitution, but procurement is illegal – varying regulation at the regional / local level.</p> <p>NB: Different cities can make their own rules to regulate prostitution mainly through ordinances that guarantee social stability.</p> <p>Key sources: Bucardo et al. (2004); Cuadra et al. (2003); Prostitution ProCon (2007)</p>	<p style="text-align: center;"><u>Not illegal</u></p> <p>Individual sex workers (local regulations can include):</p> <ul style="list-style-type: none"> • must be at least 18 years old • registration, mandatory health checks, and carrying a health card • hours of operation • may work in bars, canteens, and table dance places. 	<p><u>Official reviews</u></p> <p>Centre for Research in Health Systems of the National Institute of Public Health of Mexico (2001), cited in Cuadra et al. (2003).</p>	<ul style="list-style-type: none"> • Human rights – women without access to a health card, either because they are unable to pay for the tests, are HIV positive, or undocumented (illegal) status, must work on the streets. Health control and mandatory testing were not seen to protect human rights of sex workers (Cuadra et al., 2003).
<p style="text-align: center;"><u>Prohibited</u></p> <ul style="list-style-type: none"> • prostitution in public (staying out on the street at night, wearing clothes that are considered not very decent) • brothel keeping • third party procurement (exploitation of the bodies of third parties for economic gain, inducing or serving as an intermediary in commercial sex and the administration of support of brothels). 	<p><u>Related research</u></p> <p>Cuadra et al. (2003)</p>		

4 Impacts of legislation

Reviewing the approaches that different jurisdictions have taken to legalisation or decriminalisation of prostitution raises the question of whether the legislative changes achieved what they set out to do. The broad aims of the two approaches were covered in Section 2.

With legalisation (where some state controls apply), positive outcomes would be:

- eliminating criminal activity associated with prostitution (organised crime, state corruption, child prostitution and people trafficking);
- controlling the spread of STIs and HIV /AIDS; and
- reducing the public nuisance associated with prostitution (e.g. reduced 'litter' from used condoms or needles, and less traffic congestion from kerb crawling by controlling where street prostitution can occur).

With decriminalisation (where there are no state controls against prostitution), positive outcomes would include:

- alleviating the social exclusion that sex workers typically face;
- safeguarding the human rights of sex workers;
- removing 'double standards' whereby a sex worker can be convicted, but a client not so.
- improving health, safety and working conditions for sex workers; and
- giving sex workers the same rights and responsibilities as others.

4.1 Difficulties in assessing impacts

Assessing the impact of the legislative approaches is difficult on four fronts. The first is the most important.

- i. **Little evaluative research** – Very little research was located that was designed to evaluate the impact of prostitution reforms. It was relatively easy to find articles on specific countries and their legal approach to prostitution, but these typically provided commentary, rather than evidence on the outcomes of legislation. Exceptions were reviews carried out in New South Wales (Brothels Task Force, 2001), in Queensland (CMC, 2004), and in Victoria (Consumer Affairs Victoria, 2006). The broad results from these sources are taken up below.

- ii. **Variations in legal frameworks within approaches** – Across the jurisdictions classified as having either a decriminalised or legalised approach, the specific legal framework varied greatly (for instance as regards different aspects of prostitution and the restrictiveness of the different regulations). These differences mean that even within one approach (legislation say), the impacts would not expect to be the same.
- iii. **Validity of reports** – There was often poor attention to identifying sources of information, or methodologies used. Even where methodologies were reported, there are inherent difficulties in assessing the impact of legislation as opposed to other factors such as broad social or economic policy, or other community-based initiatives. (Mossman, 2005).
- iv. **Conflicting results** – There were also conflicting results about impacts attributed to an Act, frequently supporting different ideological views. In general, feminist and religious groups have tended to see few positive effects of decriminalisation or legalisation. Those in health organisations, human rights groups, and sex worker collectives have generally done the opposite.

This final point is illustrated by Sweden. As noted, it was the first country to criminalise prostitution by making it an offence to purchase sex; selling it was decriminalised. The aim was to end prostitution, rather than regulate it – since it was viewed as violence against women and a barrier to gender equality. The uniqueness of the Swedish approach has attracted much attention. Those in support (in particular feminists) point to its success in reducing the number of women visibly working on the streets, and curbing of trafficking (Bindel & Kelly, 2004; De Santis, 2007; Ekberg 2004). Those opposed to it (sex workers and health organisations) suggest that the number of sex workers has not decreased but the proportion ‘hidden’ is larger. They also point to the negative impacts on safety and health for sex workers who have been forced to operate underground (Kulick, 2004; Ostergren, 2007). The claim is also made that the number of men convicted for buying sex has been very small (Bindel & Kelly, 2004).

4.2 Broad conclusions

While firm conclusions are hard to draw, some evidence is emerging that **health, safety and working conditions** are improved in decriminalised regimes (e.g. New South Wales) and to some extent within legalised regimes (e.g. Victoria, Queensland, Netherlands, and Nevada). Improvements in the legalised regimes were limited to those businesses that were operating within the regulations and did not extend to the illegal operations.

There are also reports that the **social exclusion** of sex workers has lessened – but that there is still a long way to go. The stigma associated with prostitution is difficult to remove even when sex work is recognised by the state as legitimate. (For example, in the Netherlands, banks are reluctant to allow sex workers to open business bank accounts, and there have been difficulties in Germany as regards health insurance). Sex workers in jurisdictions with the heaviest regulation appear to suffer the greatest degree of stigma (e.g. Senegal, Turkey, Greece, and Nevada).

Difficulties over the **regulation of the industry** are common, both at state and local authority level. Overly restrictive systems make it difficult for sex workers and brothel keepers to operate legally, which can result in two-tier legal and illegal operations (e.g. in Victoria,

Queensland, and the Netherlands). Problems are exacerbated where there is a lack of differentiation between small owner-operated brothels (SOOBs) and the larger commercial brothels. High compliance costs and prohibiting brothels to industrial areas make it difficult for SOOBs to operate safely and legally. Insufficient support and resources can make it difficult for those responsible to identify and close down illegal operations (e.g. New South Wales). More onerous systems of regulation, which require mandatory health checks and sex worker registration for instance, can impact on human rights (e.g. in Nevada, Greece, Turkey, and Senegal).

There are mixed reports on the **impact on numbers of sex workers**. Some point to increases in advertisements for sexual services in the classified pages of metropolitan and suburban newspapers (e.g. New South Wales); others point to a shift within sectors with sex workers starting to work for themselves.

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