Prostitution: which laws protect women?

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Trafficked from Ukraine – and abused

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"Funerals are what I hate most," says Linda Watson.

Linda, a former prostitute and madam, now runs Linda's House of Hope[1] – a rescue ministry for those trapped in the sex trade as she once was. Linda has saved hundreds of women since her House of Hope opened in Perth in August 1999. But she remains deeply troubled by the deaths – by drug overdose, murder or suicide – of women who have called for help too late.

Pier Kaal was one of them. She died in Perth by her own hand aged 34, on 2 October 2002. Just ten years earlier she had been a beautiful young woman with a great future as a talented ballerina and fashion model.[2]

Her downward slide began in Victoria, where brothels and escort agencies were legalised in the mid 1980s – giving an aura of normality and respectability to prostitution. Pimping is much easier under this sytem, and Pier Kaal's boyfriend followed the classic pattern:

- Shower attention, gifts and affection on your victim, making her fall in love with you.
- Sleep with her, telling her you want to be with her forever.
- Introduce her to drugs, saying they will spice up her life.
- When she becomes addicted, say you have run out of money. Say that if she truly loves you, she will help out by becoming an escort – it's legal, and will only be for a night or two.
- Or a few weeks.
- Then all the time – while you look after her money because she loves and trusts you.

Pier Kaal eventually broke up with her boyfriend-pimp and began working on her own. But the ravages of drug addiction meant that high class brothels and agencies no longer wanted her on their books. Pier began a downward spiral and eventually ended up soliciting illegally on a Perth street.

She was referred to Linda's House of Hope, and for a brief period there seemed to be light at the end of her dark tunnel. But she failed to give up drugs, and went back on the street to pay for them. A man picked her up, offering help and a home – then horribly abused her.[3] In despair, Pier Kaal took her own life. For Linda Watson it was yet another tragic funeral.

Sex slavery in Melbourne and Sydney

On the night of 11 February 2009 a young man set out from his family home in Melbourne's staid Eastern suburbs – never to return.

On that fateful day, Abraham Papo, 27, received a phone call from his ex-girlfriend. She was a Korean girl who had previously worked in a legal brothel in York Street, South Melbourne, then called Madam Leona's.



Linda Watson with a photo of Pier Kaal

The distressed girl was screaming in pain on the phone – saying she had been moved to Sydney and was being harmed.

She said her passport had been taken away and she had been raped and beaten. She told Abraham he had to help her. A man then came on the phone threatening to chop Abraham up if he came near her.

That night, two policemen appeared at the Papo family home with the shocking news: their son had been killed. The killer? A pimp working at Madam Leona's.

Abraham's story featured on ABC1's *Four Corners* program in October 2011[4] – one of several reports of pimping, sex trafficking and sex slavery which have come to light in recent years. Many cases involve legal brothels or escort agencies.

Sex trafficking in legal brothels

The Age has reported on Chinese organised crime syndicates who are running multi-million dollar prostitution rackets across Melbourne, bribing officials and exploiting poor regulation:

The syndicates are linked to human trafficking and arrange for dozens of Asian women to travel from interstate and overseas – often on student visas – to work in brothels. In several instances, figures linked to the illegal prostitution syndicates – including Mulgrave woman Xue Di Yan – are also licensed by the Victorian government to run legal brothels.[5]

The fact that brothels are legal in much of Australia is used by traffickers to help recruit women for sexual servitude. For example, a Korean pimp was reported to have used this approach:

The broker lured the women, saying that they could work without risk, since prostitution is legal in Australia, and make big money. He introduced 25 women to brothels in Melbourne and Sydney since 2007.[6]

Once the women arrive, pimps evade authorities by moving their captives from brothel to brothel and even interstate.

The US State Department has drawn attention to the link between legalised prostitution in Australia and trafficking for sexual servitude since 1999:

Trafficking in East Asian women for the sex trade is a growing problem. Immigration and federal police have developed profiles and identified trends in the industry, but lax laws – including legalized prostitution in parts of the country – make enforcement difficult at the working level.[7]

A legalised sex trade has created a prostitution boom in Australia with a high demand for women and children from Asia – without making them safer.

According to the business research company IBISWorld, the Australian sex industry has ballooned over the past decade. High growth has forced pimps to forge international supply routes to source their "product", which, in the

case of the sex industry, is mostly women and children. Asian women in particular are a consumer favourite…

Legalisation has not made women safer. A 1998 study found 40 per cent of clients do not use condoms. In 2011 a woman in a Blackburn brothel was threatened by a client with a gun after she refused sex acts without a condom.[8] *Three academics who interviewed women in legal brothels in 2011 found that "physical safety" was one of their biggest concerns.*[9]

The history of prostitution law



Josephine Butler: fought exploitation in prostitution

Sex trafficking is not a new problem. It was rife in Britain and Europe in the late 19th century, when it was known as the "white slave trade".[10]

The UK Contagious Diseases Acts passed in 1864, 1866 and 1869, providing for the regulation of prostitutes and legal brothels in military towns. These laws failed to achieve their aim of preventing the spread of sexually transmitted infections. Instead there was significant corruption among brothel inspectors – and any woman suspected of being a prostitute (sometimes merely because she was poor) suffered greatly.[11]

Mrs Josephine Butler, together with the Salvation Army and others, worked tirelessly for the repeal of the Contagious Diseases Acts. The replacement legislation of 1886, later known as the suppression model of prostitution law, was subsequently promoted by the United Nations and adopted in Australian states last century.[12]

United Nations Suppression Convention

The suppression model of prostitution law targets exploitation by pimps, procurers and brothel keepers with heavy penalties, but not the act of prostitution itself. Discreet private prostitution without third party involvement is not an offence – rather, the law targets exploiters who profit from the prostitution of others. The most serious offences are procuring others for prostitution, living off the earnings of prostitution (pimping), running a brothel (or brothel equivalent such as an escort agency), or letting premises for the purposes of prostitution. Soliciting for prostitution in a public place and receiving money in a brothel are less serious offences.

In 1885, following a public outcry against child prostitution, Britain raised the age of consent from 13 to 16.[13] Prosecutors then only had to establish the child's age and that intercourse had taken place – not the payment of money as well – so child prostitution convictions were more readily achieved.

In the 1900s, many European and British Empire nations adopted the UK suppression model of prostitution law. It proved to be effective in reducing rates of sex trafficking, and became the basis of the 1949 **Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others** in the newly-formed United Nations.[14]

This Convention states that: "Prostitution and the accompanying evil or the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community."

Parties to this Convention agree to punish any person who, to gratify the passions of another:

1. *Procures, entices or leads away, for the purposes of prostitution another person, even with the consent of that person;*
2. *Exploits the prostitution of another person, even with the consent of that person.*

The Convention also states that parties agree to punish any person who:

1. *Keeps or manages, or knowingly finances or takes part in the financing of a brothel;*
2. *Knowingly lets or rents a building or other place or part thereof for the purpose of the prostitution of others.*

Sadly, many Western nations have now repealed or failed to police laws based on this Convention. Trafficking of women for prostitution is skyrocketing once more.

Current Australian prostitution laws

The private act of prostitution where there is no public soliciting and no third party profits is legal in all Australian states and territories, but there the commonality ends. New South Wales, Victoria, the Australian Capital Territory and Queensland have decriminalised or legalised brothels and escort agencies. The Northern Territory has legalised escort agencies but not brothels. South Australia, Western Australia and Tasmania have largely retained their suppression laws banning both brothels and escort agencies, but penalties are low, wording is outdated and enforcement is weak.

The **legalisation model** began operating in Victoria in 1984; the ACT in 1992 and Queensland in 2000. In these states, brothels must satisfy several criteria in order to be granted a licence from a supervisory board.

NSW adopted the **decriminalisation model** in 1995, and New Zealand followed suit in 2003. Under the decriminalisation model, almost all prostitution-related laws are repealed. Brothels are treated as legal businesses, just like butcher shops or beauty salons. Regulation is by local councils, which decide where brothels may be sited, although they cannot ban them completely. Council restrictions may be over-ruled by state planning bodies.

The **criminalisation model** operates in most states of the US, but does not exist in Australia. Under the criminalisation model, the act of prostitution – selling sexual services – is illegal, along with other aspects of the trade.

Problems with decriminalisation and legalisation

Media reports indicate that decriminalisation and legalisation models of prostitution law operating in NSW, Victoria and Queensland have been a disaster – leading to a brothel and street prostitution boom with more public nuisance, more involvement of organised crime, and more exploitation of women.

The links between prostitution and drug addiction are "palpable".[15] Linda Watson estimated that over 85% of girls who worked in several Perth sex businesses in the 1990s had a drug habit of some kind, including alcohol, prescription drugs, cannabis, amphetamines, cocaine and heroin.[16]

The decriminalised NSW sex trade is out of control despite several amendments to tighten the law since 1995.[17] In 2000 the then NSW Police Commissioner, Peter Ryan, said there had been 40 shootings in Sydney's south west suburbs in a three month period – all part of a "struggle between rival groups for control of the drugs and prostitution trades in parts of Sydney."[18] The shootings have continued.[19]

Former federal police officer Chris Payne said that based on evidence he had seen, there were hundreds of illegally imported Asian women being exploited in NSW brothels every day. He said, "On the scale we were seeing in Sydney, we used to hear some estimates of anything up to 500 (Asian) women illegally in Sydney at

any given time on false papers, working in these brothels."[20] As *Four Corners* indicated in 2011, this problem remains unresolved.[21]

The high levels of corruption and exploitation have led the Coalition O'Farrell government to announce a move to introduce new prostitution laws in 2012. Like the legalisation model operating in Victoria and Queensland, NSW would then require sex businesses to be licensed by a special licensing authority and be subject to inspection and strict regulations.[22]

However this move is unlikely to lower exploitation and corruption in NSW. Recent reports indicate that sex trafficking and corruption are flourishing in Victoria, despite the passage of new legislation designed to fix these problems.[23]

Queensland, whose legalised, licensed brothel system came into effect in 2000, has also featured in recent news reports of sex trafficking which police have not been able to control.

Mount Isa police district inspector Paul Biggin said officers in Mount Isa and other Queensland mining towns were increasingly dealing with "women and girls who cannot speak English, or who have a very low level of English, and a very low level of education, who are basically being trafficked for sex, from one mining town to the next".[24]

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Former federal police officer Chris Payne

Organised crime, drugs and violence

Queensland's high level of organised crime in prostitution has been documented: "At least 40% of sex workers surveyed by the [Queensland] CMC [Crime and Misconduct Commission], including both legal and illegal workers, indicated that they had been affiliated with members of organised crime groups at some stage during their career in the sex industry, two-thirds stating that this had occurred since the implementation of the Prostitution Act in 2000.

A range of activities, such as importing and selling drugs, illegal immigration, child prostitution, dealing in stolen property and, of course, running illegal brothels and escort agencies, were reported."[25]

In 2010, Chris Hartcher, then NSW opposition spokesman for local government, drew attention to the immigration rackets, money laundering, organised crime and sex slavery "even in legal brothels, with illegal methods being used to 'keep women under control". He noted that "Where there's money and sex, there's always potential for crime and violence."[26]

The Nordic model: bucking the trend

Sex trafficking rates are rising around the world, but some countries are bucking the trend. The "Nordic model" of prostitution law is based on the suppression model and further criminalises the purchase of sex. Sweden was the first to pass such laws, followed by Norway, Iceland and South Korea. Recognising the effectiveness of this model, France and Israel[34] have put this option on the table as well.

1. Sweden

On 1 January 1999, a Swedish law prohibiting the purchase of sexual services came into force,[35] in addition to laws already operating which banned pimping, procuring and brothel keeping.



Sweden now has the lowest number of trafficking victims in the entire European Union.

In April 2004, Swedish MP Tuve Skånberg reported that his country's new prostitution law had begun to deter brothel clients. At that stage there had been few prosecutions because police merely warned first offenders.[36]

In later years, following special police training, the law became even more effective. Patrik Cederlof, Swedish coordinator for the prevention of prostitution and human trafficking, spoke with WA MP Peter Abetz who visited Stockholm on a fact-finding tour in February 2011.[37] Mr Cederlof reported that Swedish police were aware of some 500 brothels operating in their country in 1999. He now challenges opponents to show him a brothel, but they have not been able to do so.

There is still some prostitution in Sweden, but it mainly involves women operating from apartments who advertise on the internet and provide a mobile phone number. Police track these women and encourage them to join exit programs which help them overcome drug addiction and retrain for safer work.

An official review of the first ten years of the operation of the Swedish law found that:

- Street prostitution had halved in Sweden since the law came into effect while remaining the same in neighbouring Nordic countries;[38]
- While the overall incidence of prostitution, including prostitution where contact is made through the internet, had increased in neighbouring Nordic countries, it had decreased, or at least not increased, in Sweden;[39]
- Trafficking in human beings for sexual servitude is less of a problem in Sweden than in neighbouring Nordic countries and the National Criminal Police consider that the ban on purchasing sexual services is a barrier to human traffickers and procurers establishing business in Sweden;[40] and
- The proportion of men in Sweden who purchase sexual services has decreased, with a number of men reporting that the ban had deterred them from continuing to purchase sex.[41]

Overall, the official report concluded that "the ban on the purchase of sexual services has had the intended effect and is an important instrument in preventing and combating prostitution."[42]

Sweden now has the lowest number of trafficking victims in the entire European Union.[43]

2. Norway

Noting the success of the Swedish law, Norway passed almost identical legislation in 2008. It came into effect on 1 January 2009, and a decrease in the number of street prostitutes was soon observed.[44]

3. France

In April 2011 a parliamentary commission report recommended the adoption of the Swedish approach of criminalising the purchase of sex. In December 2011 the National Assembly voted unanimously to support a resolution that France should seek "a society without prostitution" and that sex work "should in no case be designated as a professional activity" – foreshadowing fines and possible prison for clients of prostitutes.[45]

4. United Kingdom

The United Kingdom has gone some way towards adopting the Nordic model. In 2010 a new law came into effect, making it illegal for someone to pay for sex with a

person who is being controlled against their wishes for someone else's gain. Ignorance of the person's situation is no defence.[46]

Recommended laws

1. Ban all advertising of prostitution

Prostitution, like other trades, cannot flourish without advertising. Recognising this basic fact, Argentina passed a law banning all prostitution advertising in 2011. President Cristina Fernandez said the new law was needed because "women need protection from violence and sex trafficking".[47]

Australian women also need such protection. Similar laws should be enacted here, applying to all media and using appropriate wording – to catch any advertisement which could reasonably imply the provision of sexual services.

2. Increase police enforcement powers

Laws to prevent exploitation in prostitution need realistic penalties for procuring persons for prostitution, profiting from the prostitution of others, owning or managing a brothel or escort agency, and renting premises for the purpose of prostitution. The definition of money paid for sexual services should include any kind of commercial consideration.

Police should be given the power to search suspected brothels. There should be adequate resourcing of a dedicated vice squad, with regular rotation of personnel to prevent any suspicion of corruption.

3. Help prostitutes escape prostitution

Many prostitutes are caught in the double trap of prostitution and drug addiction – so any suppression policy should include a determined effort to help women (and young men) quit the sex trade.

The successful Swedish exit program, which includes an effective drug rehabilitation program with a drug-free emphasis, provides a good model.

4. Criminalise the purchase of a sexual service

Like any business, the sex trade thrives on consumer demand. Trafficking of Asian women is increasing in Australia because customers want women who are reputed to be more compliant to customer demands, including for harmful practices.[48]

Prostitution laws should explicitly penalise those who buy or attempt to buy sexual services.

Conclusion

There will always be those who seek to exploit human weakness through selling sex. Laws will never eliminate prostitution – just as they will never eliminate theft or murder.

But laws are vital as governments seek to minimise exploitation and harmful behaviour. The suppression model of prostitution, when supported by effective programs to help prostitutes quit the sex trade, has proven to be far more successful in minimising harm than alternative approaches.

The Nordic model in particular deserves serious consideration by Australian governments.

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