



**The ‘Hypocrisy’ of the Queensland Prostitution Act  
1999**

**Lisa Uusimaki**

**Centre for Social Change Research  
School of Humanities and Human Services  
Queensland University of Technology**

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## **The ‘Hypocrisy’ of the Queensland Prostitution Act 1999**

**Ms. Lisa Uusimaki**

This paper will argue that the aim of the *Prostitution Act 1999 QLD*, which is to control and regulate prostitution by legalizing ‘Boutique Brothels’, is indicative of the Queensland State Government’s blatant disregard and lack of understanding not only of the underlying causes of prostitution, but also for its demand. Whilst the *Prostitution Act 1999 QLD* goes some way to protect the prostitute fortunate enough to secure work in legalized brothels, it does not protect those who will continue to practice prostitution outside the legal sector. The current legislation does not address the stark realities and dangers associated with prostitution and, in particular, street prostitution, where prostitutes are least able to protect themselves from violence or demands for unsafe sex. It will be argued that failing to address men’s demand for prostitution will ensure its continuity and growth and that by avoiding addressing the prevailing unequal socio-economic and culturally defined gender and power relations that prostitution is based upon, the ‘inevitable’ future amendments to prostitution laws will be both discriminatory and hypocritical and, therefore, also inadequate. The Swedish Prostitution Act 1999, which attempts to address the demand for prostitution by making it legal to sell sexual services but illegal to buy sexual services, will be examined as an alternative to the Australian legislation. The Swedish legislation fulfils its international obligations to fight the global sexual exploitation of women and also attempts to determine how to eliminate gender discrimination<sup>1</sup>. It therefore undertakes a more comprehensive and holistic approach to addressing the underlying causes of prostitution. This paper will argue that it will only be through the provision of real economic alternatives and incentives, combined with education about the real dangers

associated with prostitution, that women (and men) would be encouraged to exit the prostitution industry or not enter it to begin with. As well, through the provision and accessibility of support and educational programs, the ‘prostitute user’<sup>2</sup> may learn to take responsibility for and understand the impact and risks of this behavior.

### **The Queensland Prostitution Act 1999**

The aim of the *Prostitution Act 1999 QLD*, in legalizing “Boutique Brothels”, is to regulate and control prostitution and its related activities (Queensland Government, 1999). Whilst single prostitutes operating from private homes have been legal in Queensland since 1992, the added dimension of legal “Boutique Brothels” has been introduced with a view to ‘minimize the harm’ or the potential harm associated with prostitution (Queensland Government, 1999). Street soliciting, escort agencies, massage parlors and unlicensed brothels will remain illegal and are subject to heavy fines (Barton, 1999). A licensed ‘Boutique Brothel’ in Queensland will be limited to five rooms, have between two and ten staff members and will be restricted to commercial and industrial areas. A person seeking to apply for a brothel license must be of ‘good’ repute, have no previous criminal convictions and will be allowed one brothel license at a time (Queensland Government, 1999). The government believes that a legal brothel will act to minimize the harm to the prostitute:

“...a safer environment for staff and clients, will allow prostitutes to receive peer support and relieve the prostitute of the responsibilities of running a business. It will also provide an access point for health and other service providers, to ensure that it is easier to monitor and control safe sex practices so as to safeguard the health and safety of the prostitutes in the industry and the community as a whole” (Barton, 1999).

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<sup>1</sup> Fourth World Conference on Women, Beijing, 1995

<sup>2</sup> The ‘prostitute user’ is used instead of the client.

The government is to be commended on its recognition that there are health risks and risks to personal safety associated with prostitution and, in particular, with street prostitution, and also their acknowledgment that prostitutes are entitled to the same ‘fundamental rights’ to personal safety as the rest of the community (Queensland Government, 1999). However, implicit in the legislation is that these same ‘fundamental rights’ do not apply to prostitutes working in the illegal sector and, as such, represents the disregard of the ‘fundamental rights’ of the most vulnerable. Evidence from Victoria has shown that, although Victoria has had licensed brothels since 1986 (Pinto, Scandia & Wilson, 1990), those with heavy drug and or alcohol dependency as well as those determined to be ‘too’ young<sup>3</sup>, are not able to seek or secure employment in legal brothels. Thus, their ‘only’ alternative is to work on the streets (Pyett & Warr, 1999). Also, the income that can be, or is, made on the streets in comparison to brothels, where “takings are split with the house” (and rarely in favor of the prostitute), is far more lucrative to the street prostitute and, in particular, to the heavy drug user (Perkins, 1991, p.235). Thus, it appears that the assumption that heavier fines, directed particularly at street soliciting, will deter prostitutes away from the streets and encourage them to move into the legal industry, is unlikely to be realized.

While it is clear that licensed brothels do provide a certain amount of safety and support to the prostitute, with ‘strict’ policies on condom use, duration and type of service, by the existence of alarm systems and the right to legal protection, the risks of unprotected sex in licensed brothels still does occur. In Victoria, for example, it has been shown that some licensed brothel managers actively encourage prostitutes to provide sex without condoms. The consequences of this are not only that prostitutes experience

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<sup>3</sup> There are more than 1,200 children (under 16 years) involved in prostitution in Victoria according to the Coalition Against Trafficking in Women (CATW, 1999).

competition from their peers, as opposed to support, but also ‘pressure’ from some prostitute users to provide sex without the protection of a condom (Pyett and Warr, 1999). The resistance to condom use by the ‘prostitute user’ is attributed to condoms ‘reducing feeling’, ‘it’s like wearing a raincoat in a shower’, ‘I am clean’, or ‘I am impotent’ (Perkins, 1994, p.170). When this does not work there is always the offer of more money or the threat of violence. Furthermore, it is not uncommon for prostitutes to pay up-front fees for employment in legal brothels and attract fines from unreasonable brothel owners for being late or “not having matching nail polish on fingers and toes” (Pinto et, al. 1990). There can be no doubt that the *Prostitution Act 1999 QLD* will have ‘some’ success in minimising the ‘harm’ associated with prostitution, however, at the same time cause ‘harm’ to the most vulnerable of prostitutes. The notion of allowing for some ‘harm’ masks the underlying patriarchal socialisation of both women and men in Australia to accept the harm, in particular to women, as par for the course.

### **Prostitution and Australian Culture**

The dominant capitalist patriarchy that characterized the early Australian society saw prostitution as a ‘necessary evil’ that provided important benefits to the community, whilst at the same time condemning those involved in its activities. For example, Sullivan (1994) notes how “politicians and the prevailing sexual culture regarded men’s use of prostitutes as natural and inevitable, as well as conducive to the good order of society” (p.37). The rationale generated not only from the fear of possible social unrest, or the risk of the rape of ‘respectable’ upper class women, but also from the attitude that prostitutes, who were (and still are) largely female, were considered to be an antidote to sexual ‘deviance’ (ie; homosexuality). Whilst female prostitution provided ‘obvious’

benefits and met the so-called 'needs' of the patriarchal society, the dominant and entrenched view of the prostitute as a 'whore' prevailed. She was seen as immoral, deviant, the transmitter of venereal diseases and lazy, and perceived to have deliberately chosen prostitution to escape honest and hard work or 'toil' (Sullivan, 1994). The overwhelming reason why women 'chose' to practice prostitution, however, during the early convict days was a matter of survival and not a matter of 'choice'. It was due to poverty, lack of other employment opportunities and lack of housing, which determined women's entry into prostitution (Summers, 1975; Sullivan, 1994; Frances, 1994).

The results of a 1997 Queensland survey demonstrated that the earlier rationale for the acceptance of prostitution still holds true to a degree. For example, 38.5% of participants in the survey believe that prostitution reduces rape; 21.1% believe it provides a service to those who need it; 65.8% of men believed that prostitution should be regarded as an occupation just like any other; whilst only 39.9% of women surveyed agreed. Of concern is the predominate attitude amongst men, with 70.1% believing that there is nothing wrong with paying for sex, whilst 49.1% of women disagreed (Queensland Government, 1998). The buying power and the resulting domination of a prostitute, perceived as a *natural* right by men, demonstrates obvious disregard and indifference to the woman, her body, spirit and identity and, as such, is a violation of fundamental human rights<sup>4</sup>. It is also indicative of how entrenched the social construction of male and female sexualities remain. Raymond (1998) states that by viewing prostitution as an occupation, it "institutionalizes the buying and selling of human bodies, women, men, and children as commodities in the market place...[and in

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<sup>4</sup> The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 2<sup>nd</sup> December 1949, states in its preamble how "prostitution and the accompanying evil of the traffic in persons for the purposes of prostitution are incompatible with the dignity and worth of the human person."

particular serves to]...reinforce the definition of women as providers of sexual services...[thereby]...perpetuating gender inequality”. Such entrenched views have served not only to initiate but also to maintain the power of the sex industry.

### **The Sex Industry**

The sex industry is a highly organised, diversified, sophisticated and specialised industry, offering a vast range of services, catering for a spectacular range of customer demands, providing specialised venues for sex entertainment and catering for every ‘need’ in terms of price range in the consumer market (Sangera, 1997). With the general public’s increasing access to the Internet, the sex industry has found a new and powerful means of exploiting, marketing and delivering human bodies as commodities to the prostitute user (Hughes, 2000). A conservative estimate is that, globally, the sex industry makes at least \$20 billion a year (Economist, 1998). It is, thus, not unreasonable to assume that the sex industry has an enormous economic stake in ensuring its own survival and expansion and so it is not surprising that it has designed a mind-boggling repertoire of market strategies to attract prospective clientele (Sangera, 1997). The growing ‘demand’ for prostitution supported by a highly organised and powerful sex industry has, in turn, led to its decriminalisation or legalisation in Australia and other countries. The legalisation of the prostitution industry serves to demonstrate the government’s willingness to become a partner “in the ‘massaging’ of [the] egos and bodies” (Sangera, 1997) of the prostitute user, whilst allowing for the sexual violation of the integrity of the human body, whether woman, man or child.

There is a difficulty in establishing ‘exactly’ how much profit the sex industry generates in Australia. This is due not only to prostitution laws differing from state to state but

also to the impossibility of determining the revenue generated illegally. However, the Eros Foundation (The Eros Foundation, 2002), which represents 70% of the legal adult industry in Australia, claims that the 250 “adult” shops found in Australia, generate \$100 million per year and employ 2,300 people; phone sex receives 1.4 million calls per year and generates \$150 million; and there are 640,000 Australians on the adult video mailing list (which incidentally is the second largest direct mailing list behind the Coles-Myers Fly Buys Scheme), with one third of its subscribers from Queensland. Prostitutes in Australia receive 12 million visits per year (The Eros Foundation, 2002) and the income generated through this industry is not known.

### **Reason(s) for prostitution**

In Queensland, from a population of over 3.5 million people (Australian Bureau of Statistics, 2002), there are approximately 2,000 prostitutes according to the mailing list of Self-Health for Queensland Workers in the Sex Industry (SQWISI, 2002). In 1998, the Coalition Against Trafficking of Women (CATW) noted that there were 320 children involved in prostitution in Queensland (CATW, 1999). The main reasons why children were both sold for sex and sold their bodies for sex included the need for accommodation, food, alcohol, clothes and drugs (*Courier Mail*, 1998). Financial hardship is the main factor in determining the entry into prostitution in Australia, particularly for women. According to Connell (1991), women, in particular, suffer from financial hardship in Australia, because of:

“...a combination of lower labour force participation, higher rates of part-time work, a higher rate of dependency on pensions, less saleable training, lower levels of unionisation, higher rates of unemployment and less access to wealth and a massive employer discrimination that has occurred over time.”

(pp.169-173).



The income that is generated through prostitution 'today' is used to substitute unemployment benefits, sole parents benefits, pensions, to support a drug addiction, to pay off a gambling debt, or a credit card, a new car, a house, a trip overseas, provide for higher education, for the provision of one's child's private educational needs, or other family needs. The reason for a large number of women, and some men, from the already established market place 'choosing' to prostitute themselves in the twenty-first century in Australia is the limited promotional opportunities and/or the lack of monetary rewards in their previous areas of work. Indeed, there are 'some' women and men who state that they do not see anything wrong with being a prostitute and 'see' his/her body as a 'commodity' which can provide them greater financial security than other employment (Perkins, 1991, pp.266-271). As such, some women and men perceive the entry into the prostitution industry as economically advantageous, whether they be in it casually, in an opportunistic sense, or otherwise. The sale of one's body, one's commodity, is merely seen as a means to an end.

As we have seen, the reasons why women, men and children 'today' enter prostitution are not only because of poverty, disadvantage and the coercion by the sex industry, but also because of the manipulation involved. For instance, there can be peer or family pressure with parents 'forcing' their children into prostitution or a husband or boyfriend deliberately manipulating his wife or girlfriend by seemingly minimising the impact of prostitution, suggesting 'that all women are prostitutes', 'some do it for dinners', 'clothes' whilst 'others do it for cash' or prostitution is described as 'selling a service' and not about the 'sale of self'. Further reasons for people entering prostitution that can be identified are the 'loss of self' which may occur as a result of earlier sexual abuse,

predatory recruiters, trickery and initial ‘consent’, where women, men and children have no idea what prostitution means or what they have to endure (Raymond, 1998).

### **Health Risks**

Raymond (1998) notes how some female prostitutes suffer the same injuries that women in violent and abusive relationships endure, including bruises, broken bones, black eyes, concussion and the loss of consciousness. The serious consequences from physical violence can be seen in particular in its effect on the reproductive health of female prostitutes. These include unwanted pregnancies, multiple abortions, miscarriages and infertility. Further health concerns in addition to HIV/AIDS include chronic pelvic pain and pelvic inflammatory disease (PID) from sexually transmitted diseases (Raymond, 1998; Pyett & Warr, 1999; Perkins, 1991). It has also been recognized that the psychological and emotional harm, as a result of the violence prostitutes endure, includes social isolation, Post-traumatic Stress Disorder (PTSD), self-mutilation, homicide and suicidal tendencies (Farley, 1998). Farley (1998) also claims that female prostitutes experience significantly more physical assaults and rapes in prostitution than male prostitutes. It is not surprising then that one common form of defense mechanism employed by the prostitute against the violence and abuse is “dissociation” in order to protect their inner-self and their identity (Hoigard & Finstad in Jeffreys, 1997). Dissociation allows for both the justification and rationalization of not only the ‘choice’ to prostitute but, more importantly, to view the sexual harassment, abuse and the violence associated as ‘normal’ and therefore ‘acceptable’. According to Jeffreys (1997), women prostitutes, in particular, are likely to “minimize or deny the abuse they have suffered” (p.158). The years of abuse impact severely on their sense of self-worth and their sexual self, as does the continuous fear of the exposure of their past,

which especially affects those with children. A further concern is that long-term career opportunities for women in the prostitution industry are very limited, with older women, in particular, being left without transferable qualifications and useful work experience.

## **Sweden**

In the recognition of the inherent harms in prostitution, particularly for the women, and the responsibility of the prostitute user, the Swedish government implemented the Swedish Prostitution Act 1999, which allows for the sale of sex but prohibits the purchase of sexual services. The penalty for purchasing sexual services attracts either a fine or up to 6 months imprisonment (Ministry of Labour (Sweden), 1999). According to the Swedish Government (1999), the reasoning behind the legislation is that “even if prostitution in itself is not a desirable social activity, it is not reasonable to prosecute the party that, at least in most cases, is the weaker party, exploited by others to satisfy their sexual drives”. Thus, in addressing the demand for prostitution, the legislation does not further victimize the prostitute.

Prostitution in Sweden has always been very low in comparison to other countries worldwide. For instance, in 1997, out of a population of 9 million people there were an estimated 2,500 prostitutes in Sweden, with the majority of women trafficked into Sweden from various Eastern European countries (Boethius, 1999). The main reason for the low participation rate of Swedish women in prostitution is the relatively high degree of socio-economic equality between men and women. Another reason is the high rate of female employment (70%), with the extensive possibilities to combine employment with parental and household responsibilities, as well as a comprehensive

welfare-service system in place that does not make it ‘necessary’ for women to resort to prostitution for an income.

The newly implemented prostitution legislation was the result of 20 years of continuous studies and commissions on prostitution in Sweden. It was also because of the constant pressure from the Swedish women’s movement arguing that “because prostitution has always existed, does not mean it always must” (Boethius, 1999). The widespread and accepted notion that prostitution has ‘always existed and therefore always will’, not only can, but will change when more women can share in political power. Indeed, the main decisive factor why this law came into effect in Sweden is the high degree of female representation in the Swedish Government where 50% are women, with 43% in parliament, 48% in County Councils and with 42% in Municipalities (Ministry of Labor (Sweden), 1999). When the government approved the law criminalizing the purchaser of sexual services the vote was 181 for and 92 against with an equal number of women and men supporting the new law (Ministry of Labor (Sweden), 1999). The Swedish legislation, unlike the *Prostitution Act 1999 QLD* which merely strives to minimize the already acknowledged harms, clearly symbolizes that the inherent and associated harms with prostitution are unacceptable, intolerable and wrong. The Swedish Government acknowledged that the prostitute user also required assistance in learning to understand the harm that his behavior causes and, as a result, funded and implemented education programs in schools and within workplace institutions to assist the prostitute user in this (Ministry of Labor (Sweden), 1999).

The shortcomings of the *Prostitution Act 1999 QLD* are attributed to a failure to view the issue of prostitution as a direct manifestation of the Australian social context, which

accepts gender inequality, a demand for sexual services, and whose laws dictate that the human body can be used as a commodity. It is deplorable to know that in seeking a 'better' standard of living in the twenty-first century in Australia, a woman, man or child should resort to viewing the human body, self and identity as a 'commodity' that is used and abused for the benefit of another's sexual needs and desires. It is also deplorable to know that the plethora of continuous hypocritical laws that have been and will be introduced in Australia not only 'serve' but also 'support' the already massive prostitution industry and the prostitute user, whilst causing undeniable harm to the most vulnerable. To decrease the demand for prostitution the prostitute user must be both educated and made accountable for the harm caused by their behavior. It is clear that the sex industry exists by means of trading in the bodies and sexualities of human beings and, as such, it is not only an economic venture which has negative health implications, it is also an activity that raises profound concerns about human rights and ethics. The 'low' prostitution occurrence in Sweden demonstrates that greater socio-economic gender equality and a concerted social and legislative effort to reduce the demand for prostitution, in fact, reduces the occurrence of prostitution. This, then, dispels the 'myth' that 'prostitution has always existed and thus always will' or that 'prostitution is a necessary evil'. This is not to claim that Sweden has all of the answers 'yet' but, rather, that they are tapping into and addressing the underlying causes of prostitution. Australia must follow Sweden's lead and not accept prostitution as a necessary 'evil' and refrain from further victimizing the already vulnerable prostitute by merely decriminalizing prostitution. Australia has a responsibility and a commitment to ensure that the fundamental human rights of all Australians are respected and upheld for surely such rights are 'priceless'.

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