

**Submission
No 13**

INQUIRY INTO THE REGULATION OF BROTHELS

Organisation: Sydney School of Public Health, University of Sydney
Name: Prof Chris Rissel
Date Received: 11/08/2015

There is no association between the legal status of sex work and the prevalence of paying for sex

Rissel C,^{1*} Donovan B,^{2,3} Yeung A,⁴ de Visser RO,⁵ Grulich A,² Simpson JM,¹ Richters J⁴

1. Sydney School of Public Health, University of Sydney, Sydney NSW, Australia
2. Kirby Institute, UNSW Australia, Sydney NSW, Australia
3. Sydney Sexual Health Centre, Sydney Hospital, Sydney NSW, Australia
4. School of Public Health and Community Medicine, UNSW Australia, Sydney NSW, Australia
5. School of Psychology, University of Sussex, Falmer, United Kingdom

*Corresponding author: Prof Chris Rissel, Sydney School of Public Health, [REDACTED]

Key messages

- Policies that regulate sex work often aim to reduce the rate of men paying for sex, but these policies can have negative consequences for sex workers
- There was no association between rates of men paying for sex in Australia and criminalised, licensed, or decriminalised legislative approaches to sex work
- The only variable that was associated with paying for sex was not having a regular sexual partner

Background

Diverse voices have been advocating for the decriminalisation of sex work on both human rights and public health grounds,¹⁻³ yet most jurisdictions around the world continue to criminalise sex work. While recognising that legal sanctions are unlikely to eliminate sex work, many politicians choose to use the law symbolically to send the message that they disapprove of commercial sex. Politicians and opponents of sex work often argue that removing legal sanctions could result in a proliferation of commercial sex – an argument that is certainly plausible, but with no evidence to prove or disprove it.

Obtaining authoritative estimates of the size of sex worker populations and the incidence of commercial sex is fraught with difficulty,⁴ compounded by the diversity of types of sex work and by the move towards seeking clients via the internet or social media.⁵ In addition, social

stigma and illegality provide incentives for sex workers to conceal themselves.⁴ An alternative method of measuring commercial sexual activity in a population is to survey representative samples of potential customers. In Australia in 2012–2013, 16.7% of men reported that they had ever paid for sex, and 2.3% in the past year,⁶ both figures similar to a decade earlier.⁷

Men paying for sex with women is by far the most common experience of commercial sex,^{6,7} and is the primary focus of sex work legislation. The prevalence of men paying for sex with men in the past year (0.1%) or women paying for sex with a man or woman (0.5%) is low.⁷

Australia provides a unique natural experiment in the effects of prostitution law. Each state and territory has its own criminal code: some jurisdictions continue to criminalise sex work, some attempt to regulate it through licensing systems, and two jurisdictions – New South Wales (NSW) and the Australian Capital Territory (ACT) – have opted to decriminalise sex work, though the ACT does place some geographical constraints on the location of brothels.^{8,9} In most other social and health service respects, all Australian jurisdictions are broadly similar.

We sought to determine the factors associated with men paying for sex in the past year, with a particular interest in examining how different prostitution laws affect its prevalence.

METHODS

Data were collected as part of the second round of the Australian Study of Health and Relationships (ASHR2); the methods have been reported in detail elsewhere.¹⁰ Briefly, a representative sample of 10,056 Australian men aged 16–69 years were surveyed by telephone between October 2012 and November 2013 and asked a range of questions about their sexual behaviours, including paying money for sex in the past year with a man or woman, plus demographic questions including state/territory of residence. Men who had never had sex or did not report any sexual partners in the last year were excluded from analyses ($n=1377$),¹⁰ leaving 8679 respondents. Missing data for some variables (e.g. did not provide income data) meant they were excluded from the multivariable model, leaving 8651 cases with complete data in the final model.

Jurisdictions were grouped according to their legal approach to sex work, using the categories described by Harcourt et al.⁸ Jurisdictions that had decriminalised sex work comprised NSW and the ACT. Those that had licensing schemes were Victoria, Queensland and Northern Territory. Sex work remained criminalised in South Australia, Western Australia and Tasmania.

Analysis

Weighted logistic regression analyses were used to test the unadjusted and adjusted association between the legal approach to sex work and the proportion of men paying for sex

in the past year. The adjusted model also included demographic and domestic arrangement variables.

RESULTS

Of the 8679 sexually active men who provided data on their experience of sex work, 2.2% reported that they had paid for sex in the previous year, most of this with a woman (96%).

Table 1. Factors associated with sexually active men having paid money for sex in the past year

Correlate	Paid for sex in past year % (<i>n</i> = 8679)	Odds ratio (95% CI)	Adjusted odds ratio (95% CI) ^{A B}
Overall	2.2		
Legal status of sex work in State of residence ^C			
Decriminalised	2.2	1	1
Licensed	1.9	0.87 (0.49–1.51)	0.71 (0.44–1.17)
Criminalised	2.9	1.30 (0.71–2.36)	0.99 (0.54–1.81)
Education			
Less than secondary	1.9	1	1
Secondary	2.5	1.31 (0.70–2.45)	1.28 (0.69–2.39)
Post-secondary	2.1	1.10 (0.58–2.10)	1.45 (0.77–2.74)
Region of residence			
Major city	2.2	1	1
Regional	1.6	0.86 (0.51–1.47)	1.00 (0.58–1.70)
Remote	5.8	2.71 (1.06–6.93)	2.90 (1.02–8.25)
Household income			
Low (<\$28,000)	3.1	1	1
Middle	2.6	0.84 (0.48–1.45)	1.12 (0.62–2.04)
High (>\$83,000)	1.6	0.50 (0.31–0.80)	1.12 (0.67–1.87)
Relationship status (<i>n</i> =8663)			
No regular partner	9.7	1	1
Non-live-in regular partner	3.0	0.29 (0.17–0.50)	0.29 (0.17–0.51)
Live-in regular partner	0.8	0.08 (0.05–0.12)	0.08 (0.04–0.12)

^A Adjusted for all other variables shown

^B Missing data for variables in the multivariable model are excluded, leaving complete data for *n* = 8,651

^C Decriminalised states/territories are NSW and ACT; licensed states/territories are Victoria, Queensland and Northern Territory; criminalised states are Western Australia, Tasmania and South Australia.⁸

There was no significant difference in the proportion of men paying for sex in the past year by the legal approach to sex work in the jurisdiction they lived in (bivariate model chi square $P=0.40$), nor after adjusting for education level, income, and region of residence. At the bivariate level, men residing in remote areas were more likely to report paying for sex, but this effect was attenuated in the multivariable logistic regression analysis. In the adjusted model, not having a regular (sexual) partner or not living with a regular partner were the only variables significantly associated with men paying for sex (Table 1).

DISCUSSION

The legal status of sex work in Australian states and territories was not associated with the proportion of men paying for sex. Only the men's relationship status – not having a regular partner or not living with a regular partner – was associated with paying for sex. Living with a regular partner reduced the likelihood of these men paying for sex more than 10-fold compared to not having a regular partner. Interestingly, remote residence was associated with paying for sex in bivariate and multivariable analysis, suggesting some of these men may be working away from their families, e.g. in the mining industry. For centuries, sex workers have known that men without a regular partner – soldiers, sailors, miners, truck drivers – make the best customers.

The main strength of this study is the representative nature of the sample. The main limitation is that men were not asked where they paid for sex (overseas or interstate), only where they currently live. Also, even where it is criminalised, sex work in Australia is lightly policed, and policing often focuses on street-based sex workers who comprise less than 5% of the sex industry in any jurisdiction.¹¹

There is no doubt that criminalising or licensing sex work (where the unlicensed participants or premises remain criminalised) does harm to the public health and the sex workers' human rights.^{1-3,12} This can include exploitation and trafficking, higher rates of sexually transmissible infections, drug use and risk of physical abuse. Further, until sex work was decriminalised in NSW in 1995 it was also associated with widespread police corruption.¹³ The evidence does not support the position that criminalisation or licensing achieves the aim of reducing the prevalence of use of sex workers. Groups calling for the decriminalisation of sex work include the World Health Organization, UN Women, the Global Commission on HIV and the Law, the UN Special Rapporteur on the Right to Health, and Human Rights Watch.¹⁴

Funding This Australian Study of Health and Relationships (ASHR2) was funded by the National Health and Medical Research Council (grant number: 1002174).

REFERENCES

1. Global Commission on HIV and the Law. Risks, Rights and Health. New York: UNDP 2012.
2. Decker MR, Crago A-L, Chu SKH, et al. Human rights violations against sex workers: burden and effect on HIV. *Lancet* 2015;385:186–99.
3. Anonymous. A personal choice. *The Economist* 2014 (Aug 9th)
<http://www.economist.com/news/leaders/21611063-internet-making-buying-and-selling-sex-easier-and-safer-governments-should-stop> [accessed 19 May 2015]
4. Vandepitte J, Lyerla R, Dallabetta G, Crabbé F, Alary M, Buvé A. Estimates of the number of female sex workers in different regions of the world. *Sex Transm Infect* 2006;82(Suppl III): iii18–iii25.
5. Harcourt C, Donovan B. The many faces of sex work. *Sex Transm Infect* 2005;81:201–6.
6. Richters J, de Visser RO, Badcock PB, et al. Masturbation, paying for sex, and other activities: the Second Australian Study of Health and Relationships. *Sex Health* 2014;11:461–71.
7. Rissel CE, Richters J, Grulich AE, et al. Sex in Australia: experiences of commercial sex in a representative sample of adults. *Aust N Z J Public Health* 2003;27:191–7.
8. Harcourt C, Egger S, Donovan B. Sex work and the law. *Sex Health* 2005;2:121–8.
9. Magnusson R. The role of the law in promoting sexual health in Australia. In M. Temple-Smith, ed, *Sexual Health: A Multidisciplinary Approach*. Melbourne: IP Communications 2014:380-407.
10. Richters J, Badcock PB, Simpson JM, et al. Design and methods of the Second Australian Study of Health and Relationships. *Sex Health* 2014;11:383–96.
11. Donovan B, Harcourt C, Egger S, et al. *The sex industry in Western Australia: a report to the Western Australian Government*. Sydney: National Centre in HIV Epidemiology and Clinical Research UNSW, 2010.
12. Beyrer C, Crago A-L, Bekker L-G, et al. An action agenda for HIV and sex workers. *Lancet* 2015;385:287–301.
13. Parliament of New South Wales. *Select Committee of the Legislative Assembly upon Prostitution*. Sydney: Parliament of New South Wales, 1986.
14. Amnesty International. *Policy consultation on decriminalisation of sex work*, 7 February 2014. Available from <http://www.amnesty.org/en/sex-workers-policy> [accessed 19 May 2015]