

**Submission
No 45**

INQUIRY INTO THE REGULATION OF BROTHELS

Organisation: Williams College
Name: Dr Gregory Mitchell
Position: Assistant Professor
Date Received: 18/08/2015



WILLIAMS COLLEGE

85 Mission Park Drive, Hollander Hall 107
Williamstown, MA 01267
Program in Women's, Gender, and Sexuality Studies

August 11, 2015

To: Select Committee on the Regulation of Brothels
Re: The Decriminalization and Regulation of Brothels

To Whom It May Concern:

I received your call for submissions regarding the licensing and regulation of brothels in New South Wales from various international colleagues who encouraged me to write. I am a professor of transnational sexuality studies at Williams College in Williamstown, Massachusetts in the United States. For the past ten years, I have studied indoor and outdoor sex work in several Brazilian cities, analyzing different policy approaches to different types of sexual markets and businesses. My first book on the subject focused on male sex workers. For the past four years, I have been working on a second project about women in sex trades, questions of sex trafficking, and rates of violence against such women under various policy models. This research is supported by the National Science Foundation and will soon be appearing in the *Annual Review of Policing and Crime* and several other journals. My research is comparative and I have, therefore, been conducting multi-sited transnational research on the ground in the United Kingdom, South Africa, and parts of Europe to compare policy models there to those in Brazil. In this past decade, I have had the opportunity to see the real world effects of sex work policies in lower, middle and upper-tier commercial sex venues both indoors (i.e., brothels) and outdoors. I have conducted research in over a dozen brothels, and feel confident in responding to your request for information.

I want to begin by commending you on your current model, which is one that government workers, NGOs, and social service providers frequently discuss with one another with envy when they face various government attempts to reform sex industries. My expert opinion is that New South Wales is currently observing best practices. There are, indeed, very good reasons to examine the flouting of laws, however. Moreover, it is consistent with best practices to close loopholes that may be allowing illegal or unsafe venues to function. However, there is a great deal of latitude in what constitutes "licensing" and "regulation." There is a tendency when it comes to this subject for government entities to accidentally *over-regulate* such businesses, and it is this over-regulation that can have very poor consequences for women working in sex trades.

WILLIAMS COLLEGE



85 Mission Park Drive, Hollander Hall 107
Williamstown, MA 01267

Program in Women's, Gender, and Sexuality Studies

In brief, each layer of regulation is another opportunity for the exploitation of sex workers. For example, when numerous licenses and certifications are required for all manner of inspections and departments, sex workers often lose money meeting these requirements. Many “brothels” around the world are not consistent with the stereotype from the nightly news. They are often simple flats or locations where a small number of women (sometimes only two or three) are working. Frequently, these women are working together because it provides safety and security. It *decreases* their reliance on pimps and third parties. They may share childcare duties offsite. The brothel may not be a huge venue with a dozen women waiting around scantily clad and ready for transactional sex. Now if these women who are working together need to gain multiple certifications from law enforcement or a third party, each step of the certification process is another opportunity for an unethical man to extract sexual favors, demand free sex, or extract bribes. (Again, this is a general trend and not an accusation about New South Wales, per se.) The licensing efforts I have seen in various countries provide virtually no guarantee of sexual health, improved working conditions, or sanitation of the venue. What such regulatory efforts *do* achieve, however, is the creation of a network of (often male) third parties (i.e., police, bureaucrats, inspectors and so on) who profit off the sex trades and have incentives to further control and police the bodies and sexuality of women. Over-regulation can also drive unlicensed workers (who are more likely to be severely financially deprived, be undocumented migrants, or otherwise very at-risk populations) underground into black market sectors of the sexual economy such as street-based work.

I must also stress that a large number of women (and, indeed, the majority of women in many countries) sell sex temporarily, seasonally, or only when unexpected expenses arise. Such women are almost never licensed or professionalized, and are typically unable to work legally in regulated markets where regulations serve as a barrier to entry. Thus, if the brothels are over-regulated, this encourages these women to work in black market sectors and to seek out third party protection in the form of pimps, where they are more likely to suffer abuse or to be coerced into selling sex on a more permanent basis. Thus, regulation schemes almost always *create* the very exploitation they wish to prevent. For these reasons, decriminalization and *not legalization* is the recommended policy model by the World Health Organization, UNAIDS, UN Women, and the UN Special Rapporteur on the Right to Health.

While I applaud your efforts to ensure that laws are followed and exploitation does not occur in New South Wales, I would urge you and your committee to be mindful as you

WILLIAMS COLLEGE



85 Mission Park Drive, Hollander Hall 107
Williamstown, MA 01267
Program in Women's, Gender, and Sexuality Studies

debate proposals of a few things: (a) the exact type of businesses and commerce that will be affected; (b) who will be pushed out, harmed, or affected by any tightening of regulations or licensing, and (c) what the unintended consequences of accidental over-regulation might be. The best way to gain this information is to listen to the sex workers themselves. My best expertise rests in other geographic areas than New South Wales, but globally I can attest to consistent problems whenever well-meaning individuals become too zealous about creating new regulations in an industry that is unpredictable in many ways. I would therefore urge you to listen to the sex workers about their needs and to proceed with the utmost caution in your endeavors.

Sincerely,

Gregory Mitchell – PhD/MA/MS
Assistant Professor of Transnational Sexuality Studies
Program in Women's, Gender & Sexuality Studies
Affiliate Professor of Anthropology & Sociology
Williams College
Williamstown, Massachusetts
USA