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**THE GAME: THE PERCIEVED IMPACTS
OF THE DECRIMINALISATION OF PROSTITUTION
IN AOTEAROA**

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Abstract

This thesis investigates the perceived impacts of the decriminalisation of prostitution in Aotearoa. It is a feminist analysis of the legislative change from prohibitive prostitution legislation (Massage Parlours Act 1978) to the Prostitution Reform Act 2003. Examination of the perceived impacts of the decriminalisation of prostitution are developed through analysis of submissions on the Prostitution Reform Bill, the Justice and Electoral Committee Report, and parliamentary debates on the subject of prostitution and decriminalisation.

These views about prostitution and the perceived impacts of decriminalisation in Aotearoa are compared and contrasted with interviews of four women who had a collective 50 years' experience and knowledge of the sex industry. Important factors illuminated in the investigation are: the language used to describe prostitutes and prostitution; the differentiation between social, cultural and moral concerns about prostitution; the value system that drives the stigmatisation of prostitutes; and the chasm between actual prostitution experience and public perception of prostitution.

The difference between the Prostitution Reform Act 2003 and the first draft of the Prostitution Reform Bill are shown to be indicative of the public perception that prostitutes are not legitimate citizens or women who are deserving of freedom to commercial sexual activity. The analysis process unearths a reiteration of stories about 'bad women' and finds that clients (men) are viewed as victims of prostitution. The structure of the political lobby in Aotearoa and the notion of a conscience vote are found to be bound heavily within a climate of the moral right. The control, surveillance, and reform of 'bad women' is central to the configuration of the Prostitution Reform Act 2003.

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This is one of the most important parts of the work and that is why it is at the front. Although it is my name on the title page, there are many people who have enabled this research project to reach completion. A mountain of love and thanks to my mother Pam, who during the last two years has provided me with a home, food and financial support.

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An Introduction to the Game

An Australasian colloquial term for prostitution is 'the game'. Until recently, the game worked in a fashion that can be summed up with an analogy to our national game of rugby. Imagine the following scenario: our national team, the ABs (in this case the All Bad-girls) are always forced to play into the wind and penalties are always given against them, not to them. The goal posts are set higher and narrower than the opposing team (the All Good-girls), and are continually shifted. The referees are always biased and every time any of the All Bad-girls is caught touching balls, she is sent off the playing field to the sin bin for an indefinite amount of time and heavily fined.

Prostitutes are a socially distinguished category of women; they are 'bad girls' because they break the cultural bounds of accepted femininity (O'Neill, 1996; Perkins, 1994; Roberts, 1992; Sloan, 1997; Whelehan, 2001; Zats, 1997). The social stigmatisation and legislative control of the prostitute strengthens the good-girl/bad-girl dichotomy and provides justifications for punishing the 'bad' (Kuo, 2002). The attribution of being a 'good-girl' is based on behaviour, not the individual, and is earned or achieved rather than ascribed. Therefore the identity of the good-girl is never fully confirmed and is always under scrutiny (Fox, 1977). Good-girls are not necessarily rewarded; rather they are not marginalised and dismissed as much as bad-girls.

There are many terms used to describe those women who play the game: prostitute, whore, lady of the night, working girl, hooker, harlot, sex worker. The latter term 'sex worker' is courtesy of Carol Leigh, also known as Scarlet Harlot

(1997). It provides prostitutes with a title that defines what they do as work and makes it quite clear the work is about sex. The term 'prostitute' is pregnant with the stereotypical male imagery of the bad woman. She is diseased, deviant, dumb, disadvantaged, damaged and needs to be detained for the greater good of society.

My use of the two terms 'prostitute' and 'sex worker' is based on the premise that all sex workers are prostitutes. Although sex worker is a more politically correct and polite term, sex workers are prostitutes first and foremost and are never allowed to forget it: you can take the sex worker out of the prostitute, but you can not take the prostitute out of the sex worker. Throughout this thesis I shall use both terms 'sex worker' and 'prostitute' to describe sexual service providers. However, when reporting what others have called these women I have repeated their terminology.

In July 2003 the rules of the game changed with the passing of the Prostitution Reform Act. The most immediate impact of the decriminalisation of prostitution was that in Aotearoa adult sex workers (persons over the age of 18) could no longer be arrested, charged and convicted for soliciting or selling sexual services or living off the earnings of the game. Under this legislation workers under the age of 18 are not criminalised but clients using underage workers are liable for seven years' imprisonment.

This thesis investigates the perceived impacts of the decriminalisation of prostitution in Aotearoa. This requires an understanding of how the game is defined, a mapping of the fields of play and an appreciation of the key players including those who pay to play.

Naming the Game

Prostitution is defined as “attending to the sexual desires of a particular individual (or individuals) with bodily acts in exchange for money” (Zats, 1997: 279) and as “commercial sex” (Shrage, cited in Overall, 1994: 527). The sexual services purchased cover a wide range of work including dancers, strippers, phone sex workers and pornography models (Overall, 1992). Whelehan (2001: 35) suggests that prostitution is not relational sex but is sex for recreation in a paid context. Vanwesenbeeck (2001: 243) terms prostitution as “the explicit and direct exchange of sexual services for monetary gain”, while O’Neill (1997) suggests that prostitution is for men. It is considered a victimless crime (Richards, 1982).

These differing definitions indicate a definite discord about what prostitution is in relation to sex and money. Defining prostitution as an exchange emphasises an essence of agreement or contract (Overall, 1992; Zats, 1997). Purchase, on the other hand, acknowledges differing types of payment such as cigarettes, food, and shelter, while accent on sexual services enables all levels of sex work to be considered, not just coitus. Whelehan (2001) acknowledges that prostitution is an economic relationship not always rewarded with money, further indicating the different social configurations of sex and marriage for men and women.

Not all sex work is female vendor and male purchaser-orientated, yet this sector of the sex industry has developed the most interest (Edlund & Korn, 2002; Zats, 1997). This thesis focuses on women, born as women, who work in the sex industry in Aotearoa. This in no way diminishes the existence or importance of the male, transsexual and transgender workers in the industry. Rather, it aims to

illuminate the specific understandings and in some cases misunderstandings of women in the sex industry.¹

International research has identified a variety of reasons impacting on women's decision to engage in sex work. These include: financial necessity (Edlund & Korn, 2002; Hoigard & Finstad, 1992; O'Neill, 1996; Overall, 1992; Pheonix, 1999; Perkins, 1994; Vanwesenbeeck, 2001); single motherhood (Perkins, 1994); women's immoral sexual nature (Pheonix, 1999; Roberts, 1992); medical, criminal pathological or psychological feminine disharmony (Pheonix, 1999; Perkins, 1994); and coercion by others who work, a pimp or a boyfriend, particularly if the woman is young, vulnerable or emotionally needy, or in authority care (O'Neill, 1996; Hoigard and Finstad, 1992).

Factors such as financial necessity, single motherhood and the ineffective state welfare and care systems, focus attention on the practical realities affecting some women's lives. Most other claims by researchers about what causes women to become prostitutes can be understood as patriarchal idealisations of women's sexual identity and behaviour, couched in the discourses of science, morality and culture.

Gender and Policy

Social policy is never gender neutral. State policies are implicitly premised upon gendered assumptions (Kuo, 2002) and idealised feminine identities. Briar (1992), Nolan (2000) and Saville-Smith (1987) explain that in Aotearoa, state policies keep women financially dependent and perpetuate the institutionalisation

¹ In the Justice and Electoral Select Committee Report on the Prostitution Reform Bill it stated that the New Zealand Prostitutes Collective can only estimate the number of workers, placing that number at around 8,500. The specifics of female/male/transgender worker numbers are unknown.

of women's domestic status through the welfare system as well as notions of male breadwinners. Briar and Cheyne (1998) assert that the welfare system, although empowering some women to move out of difficult or destructive circumstances, can also provide new difficult or destructive circumstances for women to live in.

The role of New Zealand women has altered significantly in the last 100 years. While the majority of women still marry and have children, most women also train and carry out paid employment. On average, women spend eight years outside the realms of employment to care for children, and are over-represented in the part-time labour force, earning 81 percent of men's average hourly rates (Nolan, 2000).

The 1991 reorganisation of the New Zealand welfare system reduced the income of sole breadwinners by 25 percent. This, in conjunction with increases in the cost of state-provided housing, the removal of the family benefit, and a rise in the cost of doctors visits and prescription medicine, imposed great financial strain on women who already had limited economies (Briar & Cheyne, 1998).

Repeatedly, the social picture of current prostitution practices are unrealistic and based on generalisations which fail to accurately represent the actual behaviours of prostitutes (Kuo, 2002). The exploitation of prostitutes is facilitated by social, moral and cultural stigmatisation (Kuo, 2002; Whelehan, 2001). Prostitution as a category of female crime is "emblematic of women's role as sexual object" and "rests on and reinforces a sexual double standard" (Schur, 1984: 220–221). Prostitute women are ordinary women (O'Neill, 1997) who come from diverse backgrounds, with varying educational achievements, who have not always done sex work. Importantly, they are often single mothers

(Perkins, 1994), most often in the game in New Zealand because they are within the welfare or education systems (Jordan, 1992).

A Picture of the Game

Contrary to popular opinion, the most drastic level of male control over women in the Aotearoa sex industry does not emanate from 'pimps'. Rather, it comes from the many male operators and owners of parlours who not only take great profits from the women working in their establishments, but who also demand free sexual services from the women using unsafe sex practices (Jordan, 1992). Race and class often delineates where women work in the industry (Jordan, 1992; Robinson, 1987) and there is a hierarchical structure between different sectors of the industry which relates to the public visibility of the worker and the likelihood of police detection (Robinson, 1987).

There are six main options of working environments within the sex industry. Firstly, street prostitution which is the most often publicised and debated and considered to be at the bottom end of the market (Edlund & Korn, 2002; Thompson, 2000). Street prostitutes are considered to make up 10 percent to 20 percent of the sex industry. It is estimated that 40 percent of street workers are not involved with pimps. Often their work is carried out in clients' cars. The advantage of this style of work is the independence and freedom to work wherever. The major drawbacks are vulnerability to violence and an increased chance of police arrest and conviction (Perkins, 1994; Thompson, 2000) prior to July 2003 in Aotearoa.

The second option is massage parlours which are often owned by 'straight'² businessmen and women. The advantages of parlour work are considered to be safety and levels of independence while the disadvantages are fixed working hours and payment of earnings to management (Perkins, 1994; Thompson, 2000).

The third option is brothel prostitution which is often run by a woman known as the 'madam'. The advantage is seen to be mandatory regular health checks while the disadvantage can be the limited freedom, depending on the location of the brothel (Perkins, 1994; Thompson, 2000).

The fourth option for sex workers is escorting. The escort agency offers a period of time with the workers at a particular price which includes the cost of sex. The advantage of this work is the ability for women to work collectively and earn excellent money. The disadvantage is that workers are often unaccompanied and therefore vulnerable to violence (Perkins, 1994; Thompson, 2000).

The fifth option is professional dominance, the fastest growing sector of the sex industry. The services offered are bondage and discipline, dominance and submission, and catering for fetishes. The advantages of this work are increased earning potential, flexibility of hours and independence. The disadvantage is the difficulty in gaining the extensive knowledge and skills involved (Perkins, 1994; Thompson, 2000).

The final option is being a 'ship girl' which sometimes involves direct exchanges of sex for money or often more subtle arrangements between the women involved and the seamen. The women can form associations that are reconnected each time the ship docks in the harbour, sometimes long-term

² 'Straight' in this context refers to being from a non-sex-working background.

relationships can result. For some this is considered a 'way of life' rather than 'a job' (Jordan, 1991; Robinson, 1987).

Those Who Pay to Play

The second set of players in the game are those who pay to play: the clients. Recent statistics show one in five men have paid for some kind of sexual service at least once in their lives (Scambler, 1997). As Prasad (1999) notes, there are significantly more clients, than prostitutes.

British and Australian studies have identified the main reasons offered by clients for visiting sex workers as: a high sex drive, habit, occasion, sexual variety of partners, and having a woman who fills a particular physical ideal. Paying for sexual services is seen as providing opportunities to have unemotional contact, overstep social boundaries, and to fulfil a desire for specialised sexual services not considered 'normal' in relationships (Day, Ward and Perrotta, 1993; Mckeganey and Barnard, cited in Xantidis and McCabe, 2000; Xandis and McCabe, 2000). The triggers clients gave for visiting sex workers were sexual arousal, drinking, boredom, loneliness and feeling good about themselves (Xantidis and McCabe, 2000).

A study by Minchiello (1995, cited Brewis and Linstead, 2000) places clients into six categories: marrieds, easy trade, undesirables, romantics, sugar daddies, and heaven trade. The 'marrieds' are those who are looking for extra sexual activities. The 'easy trade' are those who are clean, quick, and who pay and leave. 'Undesirables' are those who are dirty, violent, obese, and who try to break safe sex rules. 'Romantics' are those who see the encounter as more than paid sex while 'sugar daddies' are generous but often emotionally demanding. 'Heaven

trade' are those who are attractive to workers and inadvertently, tempt workers to consider relationships other than paid sex.

A second study by Vanwesenbeeck et al (1993, cited Xandis and McCabe, 2000) outlines three main types of clients: the business type, the romantic/friendship type, and the misogynist type. The business type see the interaction as purely business; the romantic/ friendship type feel the need to form a friendship; and the misogynist type are interested in having power over women.

A third study by Xantids and McCabe (2000) developed two distinct groups of clients, one characterised by low social sexual effectiveness who appeared motivated by a need for intimacy, and the second described as high sensation seeking, motivated by a need for novelty and variety.

Chetwynd and Plumridge (1993) studied 30 clients of sex workers from Christchurch, Wellington and Auckland. Two-thirds of the sample were either single, divorced or separated/widowed; the remainder were married with one in a defacto relationship. Three reported not working and the rest either identified themselves as white- or blue-collar workers or were non-specific about their work.

All clients used condoms with sex workers, but five clients claimed they were able to get sexual services (vaginal intercourse) without condom use. Half the sample reported always using condoms with unpaid casual partners, and half reported having had regular partners. Over half the sample thought sex workers knew a lot about sexually transmitted diseases and relied upon sex workers' knowledge (Chetwynd and Plumridge, 1993).

Chetwynd and Plumridge (1993) found the two main reasons given for visiting sex workers were the 'straightforward' nature of the interaction which required no emotional involvement, and motives of pleasure, company and

enjoyment and a need for variety. Other reasons mentioned by four clients related to shyness and two suggested the expertise of sex workers. The triggers for visiting sex workers ranged from loneliness, drinking, money and impulse to habit and need for variety.

Conclusions made from this study were that clients' knowledge about HIV transmission was widespread, yet perception of the risk of contracting HIV was not realistic. Attitudes to condom use were positive with regards to paid sex. The biggest danger of contraction and transmission of HIV came from private sexual activities. The researchers note that the small interview sample makes generalisations unwise (Chetwynd and Plumridge, 1993).

Legislative Options for Organising the Game

Two main precepts guide criminal treatment of 'bad-girls'. The first is that a well society is maintained by "firm adherence to a binding moral code" and that consensus on the moral code is easily reached (Tong, 1997: 108). The dominant view being that "the law should not condone any immoral practice or behaviour" (Thompson, 2000: 239). An alternative is to criminalise the client which is currently the system in use in Sweden.

A second model for organising and controlling the sex industry is legalisation which involves various regulatory schemes such as licensing, registration and zoning. This system ensures there are two sectors of the sex industry legal and illegal (Otchet, 1998). This system operates in Nevada and parts of Europe (Thompson, 2000) and in Victoria Australia. This is in contrast to New South Wales, Australia, where decriminalisation is the legislative model. As Thompson (2000) suggests decriminalisation is about rights and freedom:

Under decriminalisation, no new legislation will be implemented specifically directed at prostitution, instead, prostitution will be subject to the same civil business, and professional codes of conduct that cover all legal businesses (Thompson, 2000: 244).

The Game So Far

The research thus cited on prostitution raises a number of issues that impact on the current study. The similarities of triggers and reasons for visiting sex workers given by clients in both international and New Zealand studies draws attention to the ways in which discourses around prostitution are socially and culturally constructed in the western world. Further, it is significant that New Zealand clients indicated a sense of trust with regard to sex workers' knowledge and understanding of safe sex practices. This confers a level of recognition to campaigns for the promotion of safe sex practices by the New Zealand Prostitutes Collective (NZPC), the Aids Foundation and individual sex workers.

Impacting on the current study is the hierarchical structure of employment that has been created by laws that previously prevented those with convictions from working in parlours, brothels and escort agencies. Race and class have also impacted on which sector of the game women will work in. These hierarchical structures have effectively forced street prostitution to occur.

A pertinent issue arising from previous studies is that women working in parlours have had little or no powers of negotiation with management over their hours of work, pay rates, sick leave, holidays, client choice and safe sex practices. The Prostitution Reform Act 2003 legally confers these employment rights to sex workers.

A further issue impacting on the decriminalisation of sex workers in Aotearoa is the situation of the state-reliant sole breadwinner who is most

commonly a woman responsible for children. Benefit cuts, rises in house rentals, and increased costs of living have resulted in state-provided incomes becoming increasingly insufficient for women to provide adequately for their children.

There is still a long way to go to rectify the problems of women's pay inequity, employment opportunities, the cost and access of education and the deficiencies of the welfare system. The most important point of consideration is provided by Jordan (1992) who suggests there is a definite need to investigate the issues surrounding women and the work options open to them in New Zealand.

The passing of the Prostitution Reform Act 2003 was heralded by some as an opportunity for prostitutes to have access to the legislative rights available to other workers in Aotearoa. For others, the decriminalisation of prostitution was viewed as a declining of the moral basis of society. This thesis explores a range of perceptions of the impacts of decriminalisation of prostitution in Aotearoa. It begins with a description of the research methodology.

In Chapter One, *Measuring the Field of Play*, I outline the feminist perspectives employed in the research project and how these were implemented in the research process. Chapter Two, *The Game*, reviews literature around feminist analyses of sex, sexuality, and gender and provides an overview of state policies in relation to women's sexual freedom. Feminist and non-feminist perspectives in relation to prostitution and prostitutes are reviewed, with particular attention to literature that addresses the issues of why women enter the sex industry and what effect this has on their lives.

Chapter Three, *The Status of Play*, focuses on parliamentary speeches and debates on the Prostitution Reform Bill and provides an overview of issues raised in the private and organisational submissions made to the Prostitution Reform

Bill. Chapter Four, *Sex Workers Speak*, offers perspectives from interviews with four women who have sex work experience in Aotearoa.

Chapter Five, *Analysing the Actions and Reactions*, provides a comprehensive analysis of these differing perspectives contrasting insiders and outsiders to the sex industry. *The Final Whistle* offers some tentative conclusions and highlights specific areas of concern with regard to sex work research in Aotearoa.

Chapter One

Measuring the Field of Play: Methodology

This chapter discusses the methodological assumptions that have informed this study of the perceived impacts of the decriminalisation of prostitution in Aotearoa. The feminist principles upon which this research is premised are outlined in the first section. This is followed by a discussion of the ways in which the research process has been informed by three different models of feminist epistemology, namely feminist empiricism, feminist standpoint, and feminist postmodernism.

The second section of this chapter focuses on the various research methods by which data has been obtained. A detailed description of the data collection and the ethical procedures involved in the interview process is provided. The final section of this chapter provides an overview of the theoretical perspectives that have informed the analysis of the research findings.

Feminist Principles Employed in the Research

Harding defines methodology as “a theory of analysis of how research does or should proceed” (Harding, 1987: 3). An imperative point for how feminist research should proceed is the development and implementation of research that regards and respects women as individuals and as a social grouping. The current research is motivated by the desire to record women’s lives and activities, to comprehend women’s experiences from their own point of view and to conceptualise women’s behaviour as a manifestation of their social environment. Klein (1993) suggests there is one major difference of focus for feminist research which is research ‘for’ women not ‘of’ women. This entails an approach

... that tries to take women's needs, interests and experiences into account and aims at being instrumental in improving women's lives in one way or another (Klein, 1993: 90).

Feminist research is about research 'with' women (Wolf, 1996). Women are positioned at the centre of research which aims to analyse the locus of oppression and consider options for emancipation (Joyappa and Self, 1996). Driscoll and McFarland (1989: 186) suggest "the researcher's task by definition, is the search for greater understanding".

Feminist scholarship has critiqued the androcentric and hierarchical characteristics of traditional 'scientific' methodology (Harding, 1987; Smith, 1996; Oakley, 1981, cited Jansen and Davis, 1998). Feminist research methodologies emphasise that the researcher is not disengaged from the research. This necessitates a recognition of power imbalances created by the research process (Acker, Barry & Esseveld, 1996; Ribbens, 1989 and Stacey, 1990, cited in McGraw, Zvonkovic and Walker, 2000) and a commitment to upholding open non-hierarchical relationships between researchers and research participants (Fonow and Cook, 1991).

Mies (1983) has outlined six ethics of procedure that aim to eliminate traditional biases: the removal of value-free ideologies; the elimination of the expert 'view from above'; the extinction of a detached 'spectator knowledge'; the incorporation of research into the process of change altering paradigms; the development of a feminist methodology that revolves around Paulo Freire's methodology of 'conscientizacao'; and the need to encourage further recordings of women's experiences. Reinharz (1992) also suggests the use of a combination of methods is important.

Whereas conventional knowledge-building (scientific method) is based on the premises of 'objectivity' and 'generalizability' (Jansen and Davis, 1998), Mies (1983) suggests this is countered by ensuring that an affinity and rapport is developed between the research participants and the researcher. Finch (1984) maintains the important dimension of this relationship is that gender implications ensure both parties work from a subjugated social position. Yet, as both Finch (1984) and Acker, Barry, and Esserveld (1996) argue, this relationship holds potential for exploitation.

For my own part, the rapport developed between myself and the female participants stems from the fact I hold great respect for sex workers as I consider what they do as 'work'. The prevention of any exploitative relationship was countered by following strict ethical procedures ensuring the interviewees' rights were at the forefront of the research.

Thus I entered the research project as an apprentice or learner (Tolich and Davidson, 1999), in the sense that listening and learning about the experiences of prostitution and impact of the decriminalisation of prostitution was paramount to the research process. In presenting myself as a collector of knowledge and information rather than a purveyor, I aimed to position the interviewees in the role of experts.

With the elimination of a detached 'spectator knowledge' comes the implementation of an interactive/active researcher involved in the actions and struggles of the women's movement (Mies, 1983). One aim of this research project is to further the understandings of actual prostitution practices and those involved in the industry by relating sex worker experiences to non-sex worker views and beliefs about the sex industry in Aotearoa. The intent of the research

is based on Mies's (1983) recommendation that research should aim to alter present paradigms.

The contribution of the research to social change (Tomm, 1989) is a development of an understanding of the stigmatisation of sex work and sex workers in Aotearoa. By understanding the elements of oppression it is possible to develop strategies to lessen stigmatisation processes.

Paulo Freire's methodology of conscientizacao is "learning to perceive social, political and economic contradictions and to take action against oppressive element of reality" (Mies, 1983: 126). Because sex work encompasses social, political and economic arguments a plurality of methods (McCormack, 1989) for data collection was employed to ensure a comprehensive view of sex work in Aotearoa was gained.

Linked to 'conscientizacao' is that feminist researchers should work to encourage other women to partake in the recording of her-stories (Mies, 1983). It is hoped that this research project will promote further production of Aotearoa-based research about sex work from the perspectives of sex workers themselves.

Three models of epistemology stand in the foreground: feminist empiricism which supports the idea that sexism and androcentrism are explicit biases of each individual knower that can be eradicated by more precise treatments of present methodological standards of scientific and philosophical investigation; feminist standpoint theory which premises the idea that all knowledge of individual knowers is bound by varying factors such as class, race and gender; and feminist postmodernism which rebuffs notions of universal truth or reality, opting for the belief that a development and perception of 'plurality' and 'difference' are necessary (Hawkesworth, 1989).

This research project works from the epistemological grounding point that acknowledges that sexism and androcentrism are the explicit bases of how prostitutes and prostitution are known by individuals and possibly how sex workers see themselves. Yet I disagree that this can be eliminated by a more exact use of methodological frameworks. The language used to describe prostitutes and prostitution is implicit in the nature of sexism and androcentrism. This specific image-bound language ensures that precise treatments of methodology make eradication impossible.

Therefore the project prioritises standpoint theory in that the factors of class, race, and particularly gender, in relation to prostitution, bind knowers into specific societal defined expectations about prostitution and prostitutes. Standpoint theory enables the data to be passed through an epistemological sieve, which allows for an illumination of how socially defined expectations about prostitutes and prostitution works to keep sex workers social, cultural and moral criminals. Finally, it is acknowledged that the research project works from a postmodern understanding that no definitive blanket realities for female sex workers will be unearthed.

The Research Process

Employment of a plurality of methods highlights the 'multifaceted' nature of feminism and feminists who work to challenge boundaries, as well as captures the 'complexities' of women's lives (Reinharz, 1992). There are two methods of data collection employed in this research, the first of which is open-ended interviews with women who have sex work experience. The second is a collection of primary sources such as government documents, parliamentary speeches and submissions

made to the Justice and Electoral Select Committee on the Prostitution Reform Bill. Print and broadcasting media attention on prostitution was also monitored.

The gathering of the primary source data was implemented by a variety of means. Those submissions that were available to the public were made available at the Justice and Electoral Select Committee offices in Wellington for a total of four hours. I was given access to a photocopier and in a "mad scramble" attempted to copy as many as possible. I would describe the nature of the collection of the submissions as random, as I started photocopying from the top of the first box and kept copying until I was asked to leave. The result of the rush was that some submissions were not copied. The collection of the government information was gained either through the help of Tim Barnett's office, internet sources such as the Knowledge Basket which hold copies of Hansard, and individuals at the New Zealand Prostitutes Collective.

Research is inherently a process of collective self-education for change (Joyappa and Self, 1996: 27). The collective and collaborative element was encompassed by New Zealand Prostitutes Collective's helping to carry out the research. The Massey University Ethics Committee laid out specific guidelines which ensured that all interviewees were invited by the Prostitutes Collective to participate as well as providing a safe environment for the interviews to take place. A major concern for me in this project was not only avoiding possible power inequalities through interaction with participants and usage of the collected data but also to protect the female participants involved in the sex industry. Both the illegal nature of sex work at the time and pervading negative social attitudes towards women who are involved in the industry place them in a vulnerable position.

It is vital to listen with full attention and concentration (Reinharz, 1992; Tolich and Davidson, 1999) thus empowering the women being interviewed to develop and construct their own meaning and ideas (Reinharz, 1992). Interviewing is a difficult process, like 'walking a tightrope' in that a balance of 'rapport' must occur. The interviewer needs to make the participant feel at ease, offering questions in a conversational manner, yet not being over-sympathetic or manipulative (Oakley, 1987). The researcher should not avoid self-disclosure or interaction and be free to answer any questions posed by the participants. Empathy is the element of regard and 'superficial friendliness' should be avoided (Reinharz, 1992).

An important element of the interview process is ensuring that the interviews are 'non-exploitative' (Joyappa and Self, 1996). All interviews were face-to-face, and were conducted in the safe environment arranged by the New Zealand Prostitute Collective (Appendix 1).

As research questions should be relevant and meaningful to participants (Joyappa and Self, 1996), interview questions were open-ended allowing participants to offer full thoughts and feelings (Tolich and Davidson, 1999). This enabled consideration of the views, feelings and thoughts of the participants in their own words, and allowed the researcher to recognise individual differences within this group (Reinharz, 1992). All of the sex worker interviews were semi-structured interviews, with questions used mostly to prompt interviewees when they stopped talking on a subject. All interviewees were offered the opportunity to suggest topics for discussion that had not been covered.

Because sex work was still illegal in New Zealand at the time the interviews were conducted much care and concern was taken with firstly, the

identity of the interviewees and secondly, with expectations made by the researcher about subject matters. Non-verbal cues were important indications of the comfort levels of interviewees with regard to subject matters being discussed. Self-disclosure was an important part of the rapport-building process. All personal questions asked by interviewees were answered honestly and openly.

In accordance with the requirements of the Massey University Ethics Committee those who agreed to participate first received a letter (Appendix 2) and information sheet (Appendix 3) and then signed consent forms (Appendix 4) which explained that they were free at any time to withdraw, to decline to reply to questions, and to ask to have the tape turned off. The women's names were replaced with an alias that was used throughout the entire process of interviewing and transcription. To ensure confidentiality was maintained I carried out the transcription process and specific elements such as work places, ethnicity, and geographical locations that may have identified the interviewees were not specified.

Interview participants were provided with an opportunity to review the transcript of their interview, and were free to remove or add any further information to their thoughts and views. This was necessary because the interview situation can be an intimidating and a somewhat plastic reality. No matter how effective the interviewer is, often thoughts ideas and statements can be offered by participants which are either regretted or not captured. To ignore this situation is to continue to produce oppressive traditional research structures that cause female participants to reject further participation in research projects.

The Analysis Process

Harding argues that 'inquiry' for feminists is not only "mechanical observation of nature and others but the intervention of political and moral illumination" (Harding, 1986, cited Reinharz, 1992: 175). One of the most difficult issues in the analysis of public policy is that there are no hard and fast rules or structures, feminist or non-feminist, which guide the processes of analysis (Kuo, 2002). Buss (1997) suggests that the public and private divide is a useful analytical tool for firstly, distinguishing governing dogmas that drive the gender divide, and secondly, considering the relationship between law and gender.

Kuo (2002: 31) maintains that to create "useful and defensible social policy" it is vital to carry out extensive analysis of "our concept of the activity being governed". The first important factor in this analysis is understanding the "political and social power arrangements", in relation to the activity itself (prostitution). The second is noting that social policy is not only driven by a values system; social policy in turn creates a value system. Social policy is capable of conveying a variety of meanings and definitive messages about specific identities.

The form of my analysis gives close consideration to the 'dominant concepts' about the activity of prostitution and prostitutes in Aotearoa. This involved consideration of how the values system operated in the social cultural and moral power schedules, assessing what messages the new policy on prostitution was seen to pass on to our nation of voters, and analysing the identities of the prostitute, the pimp, and the client.

This research therefore seeks to gain an understanding of how prostitutes view themselves and their work, and how ‘others’ view prostitution and prostitutes. Further, comparing and contrasting the views of the non-sex work population against the actual experiences of those women who had sex work experience, provides an opportunity to make distinctions between social constructions of the prostitute and prostitution and the lived daily realities of prostitution and prostitutes.

To this end, the submissions made to the Prostitution Reform Bill (Chapter Three) are divided into two categories. In the first category, private submissions is analysed by content that focuses on concerns about morality and concerns about the social and cultural implications of decriminalising sex work. The second category, consisting of organisational submissions from recognised groups or organisations, is analysed by thematic content relating to the specific areas of concern highlighted. In summarising concerns within these submissions, references to authors of submissions have not been made because it is the content of the concerns raised rather than the identities of the individuals and groups that is of interest.

The analysis of all the gathered material offers an opportunity not only to disseminate the possible impacts of the decriminalisation of prostitution but also hopefully to further unearth what the Personal Narratives Group (1989: 4) refer to as “necessary revolution in human comprehension”. Although their discussion is in relation to women’s personal narratives, analysis of the interviews, submissions made to the Prostitution Reform Bill, and the governmental reports, are also relevant to their point in that they are:

especially suitable documents for illuminating several aspects of gender relations: the construction of a gendered self-identity, the

relationship between the individual and society in the creation and perpetuation of gendered norms, and the dynamics of power relations between women and men (Personal Narratives Group, 1989: 5).

Patti Lather believes that feminist research should be linked to empowerment and change in women's lives (Lather, 1988, cited in Reinharz, 1992). My aim is that this study will go some way to aiding the understanding of the complex social implications of prostitution and the decriminalisation of sex work in Aotearoa, specifically the ways in which social perceptions of prostitution and decriminalisation may impact on female sex workers, their families and their lives.

The following chapter offers a review of feminist literature on the junctures between women, sex, sexuality, and gender, specifically in relation to state interventions in the public and private divides, feminist perspectives on sex work, and social research themes on prostitution.

Chapter Two

The Game: The Literature Review

This chapter is divided into three sections. The first reviews feminist perspectives on the relationships between sex, sexuality and gender, and the state with regard to the control of women's sexual activities. The second section focuses on feminist perspectives on sex work and the third section looks more generally at social research around prostitution.

Sexpectations: Women, Sex, Sexuality and Gender

The aim of this section to consider literature that focuses on how society and culture have worked and still do work to create the game of prostitution. The starting point is literature that provides a feminist analysis of the intersections between sex, sexuality, and gender and state policies regarding women's sexuality and sexual activity. Of specific interest is analysis of the ways in which women's sexual autonomy is defined and contained by the social structures of community values, goods and public reason and how these structures create a hegemonic system that reinforces the social and cultural stigmatisation of specific manifestations of female sexuality.

Sex

Linguistically, sex is bound with two meanings: biological categories and the act of copulation (Pringle, 1992). Feminist analysis variously posits sex as political (Millet, 1990), as a social product which is a "vector of oppression" (Rubin, 1984:

293), as male dominated (Pateman, 1988), as having multiple meanings (Holloway, 1984) and as an activity that is treated as a sport (Lydon, 1970).

Most importantly sex is seen as systematic in the oppression of women as a group and as individuals (Lydon, 1970). Sex is imbued with power because it is the control of one group, men over another group women (Millett, 1990). de Beauvoir (1972) maintains that reference to woman as 'the sex' shows the male position as subject in relation to the female position as object (the other). Fundamentally woman is viewed as a sexual being.

Feminist analysis of the relationships between sex and power are varied. Chapkis (1997) suggests there are at least two visions of sex within the radical feminist perspective: one selectively accepts particular sexual practices if they are mutual and loving in their expression; the other opposes all practices as they are seen as stipulations of male dominance. Whereas for Mackinnon (1991) sex is a systematic division of social power, liberal feminist positions emphasise that sex inequality emanates from law and customs. Grant (1993) explains, the failure of Marxist theory to differentiate between class and sex as forms of oppression has led to socialist feminist theory which contends that patriarchy's hold over sex is as important as its hold over capitalism.

As Chapkis (1997) explains radical feminist perspective on sex hold a variety of distinctions:

Those who understand sex to be inherently benign; those who see sex as potentially oppressive but only for those women who "choose" to embrace an identity as "victim"; those who view sex as neither inherently empowering nor oppressive but a contested terrain in which women must organize and demand their rights; and those who understand sex to be a cultural practice open to subversive performance and resignification (Chapkis, 1997: 12).

Sexuality

There are a variety of definitions of sexuality. Barry (1995) suggests sexuality is socially constructed by societal norms and values to fit particular conditions of patriarchy. Oakley (1985: 99) frames it as “the whole area of personality related to sexual behaviour”, whereas Mackinnon proposes that “female sexuality is constructed entirely as an object of male desire” (Mackinnon, 1987, cited Sloan and Wahab, 2000: 60). For Sedgwick, sexuality encompasses more than behaviour or desire:

The array of acts expectations, narratives, pleasures, identity formations and knowledges, in both men and women, that tends to cluster most densely around certain genital sensations but is not adequately defined by them (Sedgwick, 1990 cited Parker, 1993: 20).

Definitions of what is ‘sexual’ vary between cultures and change over time within cultures (Oakley, 1985). Sexuality is therefore a reflection of political and cultural mores and not an innate distinction. Sexualities are not just sexual acts; they are identities, lifestyles and communities (Humm, 1995).

MacKinnon (1991: 111) maintains that to transform the concept of sexuality it is necessary to revise past views of sexual issues “its determinants and its role in society and politics”. Connell (1987: 281) agrees and suggests it involves consideration of the egalitarianism of economic resources, a reorganisation of relationships between adults and children, and sexual character.

An important theme within the literature on sexuality is the role of the church in controlling sexual activity. Segal (1994) explains that in pre-industrial Europe the regulation of sexual behaviour was the realm of the church and was linked closely to moral behaviour. Adams (1997: 15) suggests moral regulation facilitates the formation of “dominant modes of being as not only legitimate, but

desirable” (Adams, 1997: 15). According to Adams, discussions about moral regulation and the process of normalisation that achieves it are discussions about “subjectivity and about the constructions of social subjects” (Adams, 1997: 15). As Lye (1999) notes, although the religious management of proper sexual conduct lessened with the intervention of science on sex, sex is still tied to the thematics of sin.

From the 16th century onwards observation and surveillance became paramount in the systems of social control. By the 18th century, complex documentary and accounts of individuals behaviour were being detailed by police. A society of regulation formulated on discipline developed. Discipline, Foucault suggests is a type of power, which is exercised in relation to moral, social and political matters (Foucault, 1991). The regulatory range encompassed both public and private spheres in the forms of moral (self-discipline) and social/public discipline from the administrative state (Hunt, 1996). Women also suffer self-surveillance and discipline their bodies through regulation such as diets, cosmetics and fashion. This regulation occurs under the watchful eye of the “anonymous male gaze” (Westlund, 1999: 1045).

The modern structure of sexuality was developed by sexologists of the late nineteenth century (Matthews, 1992; Pringle, 1992; Segal, 1994) who were men (Weeks, 1985), with the interests of men in mind (Jackson, 1984; Pringle, 1992). Two men central to this action are Havelock Ellis and Sigmund Freud, who through sexology and psychoanalysis, sexualised the specifics of a ‘normal’ female body and sexuality (Bell, 1994) which is situated in the realms of ‘nature’ and ‘biology’ (Jackson, 1984; Segal, 1994). The result of this was the division of female sexuality into the reproductive and non-reproductive body (Bell, 1994).

The effect of moral and scientific concerns, investigations and observations was to position sex and sexuality as definable objects. Under the spotlight of knowledge, specific ideologies and prohibitions developed, which created boundaries and definitions for the appropriateness of sex and sexuality for the individual and the wider public (Foucault, 1990). Ramazanoglu (1993) suggests that Foucault's concepts of 'normalisation' and 'control and self-regulation' have been useful in signifying social pressures on women to submit to discipline and to conform to norms. Bartky (1990, cited Ramazanoglu and Holland, 1993) contends that although women are subject to disciplinary practices, Foucault's explanation denies the specifics of the regulation of the feminine. In effect, this further silences and reinforces the powerlessness of those on whom the regulations have been imposed.

Although what is considered as 'nature' or 'natural' is measured void of social or political justification (Thiele, 1992) biological theories of sexuality are contested by some feminists as social constructions (Segal, 1994). One example is the male sex drive, which is seen as an "expression of patriarchal power" imparted by social structures. This ensures it is impossible to separate sex from "relations of power and resistance" (Holloway, 1984: 67). Within these power relations sexuality is viewed as reinforcing the oppression of women. A specific point of analysis is the ideology of heterosexuality.

The Heterosexuality of Woman

In 1869 the status of the term 'heterosexual' was one of deviancy for men (Adams, 1997; Cameron and Kulick, 2003). Presently, heterosexual infers male/female intercourse involving penile penetration of the vagina (Holloway,

1984; Jackson, 1984) which is expected to be monogamous, procreative, non-commercial, in pairs and carried out in private between those of the same generation, without apparatus. Any sexual activity contrary to this normative model is deemed abnormal or unnatural (Rubin, 1984).

Feminist analysis has detailed heterosexuality as: socially constructed and problematic (Jackson, 1996); male defined (Pateman, 1988); compulsory and a political institution (Rich, 1993); oppressive (Butler, 1990); a “ruthless subjugation of female sexuality” emotion and intellect (Sherfey, 1970: 223); institutionalised (Dworkin, 1987, cited Jackson, 1996); a coital imperative (Ryan and Gavey, 1998); as institutionalised within society and culture, with specific practices, particular experiences, and political identities (Jackson, 1996); as intrinsic to the construction of gender (Wittig, 1992, cited VanEvery, 1996).

Jackson (1996) suggests analysis of heterosexuality has focused on sexual experiences and practice, particularly on desire and pleasure. Central to the discussion is power and its structure which operates on many levels, and the ability of women to subjugate normative notions of heterosexual relations. Heterosexual practices are not merely a sexual configuration. To give too much weight to sexual desire and practice and identity is to subjugate the many forms of male domination and women’s subordination related to heterosexuality. VanEvery (1996) maintains there is a need to consider the economic and social implications of heterosexual relationships for women.

Cameron and Kulick (2003) suggest that language plays an implicit role in femininity social structures and heterosexuality.

The linguistic features that index femininity linguistically also index heterosexual identity, because of the crucial role played by compulsory heterosexuality in the construction of gender identity and gender relations (Cameron and Kulick, 2003: 50–51)

Language has been identified as the great facilitator of universalisms (Thiele, 1992) and Rubin (1984) suggests sex's linguistic crossover points to a cultural veneer of assumptions about sexuality in that the act of sex is ultimately a male/female paradigm and the relation between theories of sexuality may arise from gender theories.

Further linguistic complications are created by the term 'sexual' which implies a specific type of behaviour imbued with sex (Oakley, 1985). Essential to the sex gender system is markedness of language (Segal, 1994). Masculine is the unmarked which is understood to be "desirable, expected, and familiar", whereas female, the unmarked, is undesirable, unexpected and unfamiliar. In cases of the sex-gender line being crossed the situation is marked with suffixes or qualifiers (Shaktini, 1982: 32). Connell (1987) maintains it is important to view discourse and symbolisation as practices themselves.

McDowell and Pringle (1992: 12) point out that from a post-structuralist perspective "language does not simply describe reality, it actively orders it". For Irigaray (1985) and Butler (1990) language is a definitive element in a feminist analysis of sex and sexuality in that the discourse of sex is male defined and negates women.

Rowbotham maintains the language of theory imparts a particular power and is one of the apparatus of dominance (Rowbotham, 1973, cited Elshtain, 1982). Elshtain (1982: 616) disagrees that the language of theory only serves the dominators and maintains that language and meanings evolve gradually as "social practices, relations and institutions" change and are represented in new ways. Thiele (1992) suggests the exclusion of women is an active process that aims to ensure what is normative is male.

Sex and sexuality are viewed by some feminists as contained well within the paradigms of patriarchal power, confining women (the feminine), to subordinate sex roles, defined by passivity, ignorance, docility, and virtue (Holloway, 1984; Jackson, 1984; Millet, 1971). Which Weisstein (1970: 219) terms a “stereotype of inferiority”. Fox (1977: 805) describes this as “normative restriction” which is a “standard for and goal of behaviour”.

Grant (1993: 77) explains that McKinnon’s argument is that “male sexuality defines all that a woman is”. But Oakely (1998) describes such a position as victim feminism by making the male the enemy; a position which deprives women of agency.

Women are often held responsible for inciting men’s desire yet are not expected to keenly pursue their own sexual desires (Cameron and Kulick, 2003). A term I have devised and shall use to describe the specific patriarchal definition of women’s sexuality, sexual behaviour, action, identity, rights, and wrongs is sexpectations. Not surprisingly sexpectations are further entwined within the construction of gender. Jackson (1996: 27) maintains that the category of heterosexuality which is grounded in gender and heterosexual desire is “premised on gender difference”. Rubin (1984: 308) explains that “although sex and gender are related they are not the same thing”. MacKinnon (1991: 111) sums this up with the analysis that “sex as gender and sex as sexuality are thus defined in terms of each other, but it is sexuality that determines gender”.

Gender

The underlying premise of gender is that males and females are able to be separated into distinct differing categories due to dichotomous ways of acting and

thinking, referred to as traits (Connell, 1987). Confusingly, gender can also denote biology, sex role (preference or identity), and sexual identity. The importance of the severance of sex and gender to feminists was to prove that roles and behaviours were not derived from the 'facts' of sexual difference (Pringle, 1992).

Similar to sexuality, gender holds normative values for women. Schur (1984) describes three gender norms as maternity, appearance and sexual norms. It is through these norms that women's deviance is embellished. Once the status or identity of deviancy is placed upon an individual, other individuals' responses are coloured by that identification. The application of the deviant category ensures numerous qualities or traits believed to be characteristic of the specific deviancy are impinged upon the deviant, which often relate to sex role stereotypes.

Marxist feminists of the 1960s and 1970s deemed gender to be a product of culture and historicity. From this developed the sex/gender distinction based on socialisation theory, which asserts that males and females learn through social settings such as the home, school and the media (Alice, 1997). Gavey (1992) refers to these as 'institutional discourses' which work to impose heterosexual normative practices.

Alice (1997) suggests the notion of 'social construction' failed to highlight the ways in which biology and sex were also socially produced. As well a major quandary created by the sex/gender distinction was the simplistic nature imbued upon woman as a gender, the narratives of their experience, and the basis and experience of oppression. Scott (1996) suggests there is a need to consider a definition of gender from two perspectives:

Gender is a constitutive element of social relationships based on perceived difference between the sexes, and gender as a primary way of signifying relationships of power (Scott, 1996: 167).

Scott (1996: 167–169) maintains specific elements are imperative in the consideration of understanding gender. These include “culturally available symbols” such as Mary and Eve as women and myths of antithesis such as innocence and corruption, light and dark. They also include “normative concepts” that create “fixed binary oppositions” to what is male and female, specifically in relation to notions of kinship and proposed traditional roles of women. Kinship is related to gender but not exclusive to it, so a broader view is necessary which encompasses economy and polity. A further element is the characteristic of gender as subjective identity. All of these elements are intertwined and interdependent yet, operate concurrently.

Two specific identities that woman are endowed with is that of virtuous woman (Madonna) and promiscuous woman (whore) (Bell, 1994). This dichotomy of division of the ‘other’ (woman) into two identities of otherness, good wife/bad prostitute is reflected in state policies on sexual behaviour.

The Role of the State and Sexual Controls

The state “the most sophisticated and complex form of communal life” (Szrednicki, 1976: 6), is viewed by feminists as a major source of male power generation (Saville-Smith, 1987) and ‘objectivity’ is seen as the state’s rationalising norm (MacKinnon, 1991). Liberal feminism defines the state’s sphere as the public domain with the private arena of home and family largely devoid of state intervention (Armstrong, 1992).

Dahlerup (1992) maintains that the boundaries between the public and private domains have become increasingly vague and have changed shape considerably. Important aspects of the spilt are women’s exclusion from the

public arena and the extent of government action. Whereas Baker (1999) proposes that the public and private have always been intertwined, Pateman considers there is a need to rethink the ideology on which the divide is based (Pateman, 1992, cited Baker, 1999). Young (1990: 119) suggests the private should be defined as “that aspect of his or her life and activity that any person has the right to exclude others from”. Turnaturi (1992: 256) maintains state intervention has evolved “beyond the economic sphere into the very structure of society” interfering with that which was by tradition considered to be the private sphere.

From a radical feminist perspective the state is seen to represent male interests and machinates in legislation and systems of power that work against women’s best interests. Whereas Marxist feminism views the state as advancing capitalist accretion and the class security of specific sectors of society (Armstrong, 1992), Dahlerup (1992) argues that this view is too simplistic and it is necessary to consider a more complex form of interconnected structures and relations. In their critique of radical feminism, Jones and Guy (1992: 313) suggest it is important to view “power as various and shifting”.

Connell describes the role of the modern state as centralising concern with the supervision and the production of sexual order through legislation. The implementation of sexual norms by the state is not solely legislative, social policies such as sex education, immigration, and health policies reiterate the state’s stance on sexual behaviour (Connell, 1990 cited Ballard, 1992).

The state’s stance on sexuality is the result of the absorption of religious, medical and psychological determinations of sexuality. The state reiterates sexual values through categorisation and classification of correct or incorrect identities and behaviour and institutionalising numerous forms of discourse and courses of

action (Ballard, 1992). Those who adhere to the traditional family structure are less likely to come under state surveillance (Chunn, 1997).

MacKinnon (1991) suggests that although feminism has described some of the state's handling of the gender difference it has failed to analyse the state's role in gender hierarchy. Dahlerup (1992: 108–109) maintains the aspects that require consideration in the examination of the relationship between the state and women are the determinants and effects of public policy on women, the feminist movement and its problematic relation to the state, and women's level of participation in the political arena and representation. Also important is the consideration of local, regional and national politics rather than "one block of power".

Armstrong (1992: 225) describes the State in Aotearoa as a multiplicity of interactions encompassing particular structures of power functioning through numerous "institutional arrangements". The "institutionalisation of powers is, in itself the product of specific, historically located social processes". These social processes are gender-bound regulating and organising the relationships between gender categories such as the prostitute, the homosexual, and the housewife through policy and policing.

Early Aotearoa immigration policies prescribed the role of women in Aotearoa as "the upholders of moral values and social purity" (Dalziel, 1986: 57). Attempts to limit women's sexual activity occurred through social stigmatisation, specifically defining unwed mothers and prostitutes as social outcasts (Levesque, 1986).

The legislative control of women's sexual activity began with the Act for the Better Prevention of Contagious Diseases 1869. Under this legislation where

there was 'good cause' to suspect a woman was a 'common prostitute', she was forced to have medical examinations; if she was found to be infected she was detained (Levesque, 1986). The premise of the lawmakers was that the government should not be seen to condone prostitution. The law was enforced in Christchurch for 13 years, and in Auckland for four years, and was not repealed until 1910, some 26 years after similar legislation was repealed in Britain (Macdonald, 1986).

The social perspective of women as married mothers dominated Aotearoa reasoning well into the 20th century (Dalziel, 1986). Within the welfare system women have historically been defined in relationship to men and children (Tennant, 1986b). Important factors in the social control of women were birth control and abortion which are heavily indented with moral tenants and male dominated medical ideologies (Fenwick, 1980).

Within emergent welfare state systems, the regulation of sex and the promotion of the nuclear family was paramount (Matthews, 1984). The control and prevention of deviant sexual behaviours aimed to ensure the protection of 'the family' and social stability (Chunn, 1997). The development of the welfare state altered the bounds between what was considered private and public (Baker, 1999). The consequences of state social and economic policies is the preservation of a gender-based division of public and private spheres and gender inequalities (Saville-Smith, 1987).

Primarily the meaning of public is that which is "open and accessible" (Young, 1990: 119). Frazer and Lacey (1993) explain that public values are entwined with references to the identity and status of the value holder and what values are under scrutiny. Collective values rely on reciprocity, solidarity and

community in a fashion that is dependent on mutual views of humanity and morality. Public goods encompass a range of communal facilities such as education systems and sports grounds to honour systems and social practices. Young (1990) suggests that privileged and dominant positions allow some groups to express their ideals of 'common good' to the exclusion of others.

Further related to reciprocity of values is what Rawls (1999) terms public reason which relates to basic moral and political values and how that orders the relationship between government and its citizens. Public reason has five elements:

- 1) The fundamental political question to which it applies; 2) the persons to whom it applies (government officials and candidates for public office; 3) its content as given by a family of reasonable political conceptions of justice; 4) the application of these conceptions in discussions of coercive norms to be enacted in the form of legitimate law for a democratic people; and 5) citizens' checking that the principles derived from their conceptions of justice satisfy the criterion for reciprocity (Rawls, 1999: 133).

MacKinnon (1991: 162–3) suggests that "what counts as reason is that which corresponds to the way things are" and "objectivist epistemology is the law of law". Young (1990) maintains the creation of categories such as deviant, deficient and diseased woman have been created by the discourse of modern reason. This normalising reason is set to the standard of white maleness, which in effect is hegemonic.

Gramsci terms hegemony as a subtle but defiant system of politics and ideology.

Gramsci's concept of hegemony is that a class and its representatives exercise power over subordinate classes by means of a combination of coercion and persuasion ... not of domination by means of force, but of consent by means of political and ideological leadership" (Simon, 1982: 21).

Barry (1995: 87) explains that “ideology is a structured, performed set of ideas that justify particular power arrangements” and that feminism must confront dominant ideologies not only in the state but the home, the public and in the bed.

The ways certain behaviours are governed is political. Gendered social and cultural value systems and perspectives direct attitudes towards specific feminine sexual behaviours, in particular prostitution. Value systems about prostitutes and prostitution play an implicit role in the creation of public policy and social policy on prostitutes and prostitution (Kuo, 2002).

Foucault maintains that our social identities are created through processes of power, which act on each individual directly, forcing us to act in a series of ‘disciplinary processes’. The liberal response to this is to empower, through giving rights. From the Foucauldian perspective this merely places further processes of discipline on the individual (Frazer and Lacey, 1993: 33).

A number of institutional arrangements are present within the social, cultural, and moral systems that endow the Aotearoa state with the ability to maintain gender-based divisions and inequalities and to criminalise women for their sexuality. The main institutional arrangements empowering the state to control women’s sexuality are the structure of culture which is the moral and social ethics of rules, laws, public values, goods, and reason, and collective values within these arrangements laws are the least subtle means of controlling women’s sexuality.

Understandings about the dangerous sexual woman are continually perpetuated through culture, inherited concepts such as religion and morality, symbols such as the family, which are all tied up in the pivotal concept of knowledge or epistemology.

The issue of prostitution and the identity of the whore does not rate well within the public value structure, nor the collective values and public goods systems. Within the public value structure, the identity and status of the value holder (a promiscuous woman) who holds (low) values, which allow her to prostitute herself (trade her femininity for money) dishonouring herself, the family and society. The result is collective values are smashed as morality and humanity are brought into disrepute by these women who contravene sex expectations. Public goods support education, legislation, and policing tactics that oppresses and obsesses about the dangers of the game and those who play it.

The most important consequence of all the speculations about sex expectations is that as Prasad (1999) notes, the religious, moral, medical, psychological, and legislative attention that sex has received imbued sex with a 'value'. The values that are attributed to sex occur not only in a social and moral hierarchical manner; the obviously apparent value that sex has attained is the fact that it has a commercial value.

The most imperative result from the fact that sex has financial potential is made by Roberts (1992), who points out that sex and the sale of it is one of the major consistent commodities women have always had to trade with. The pivotal point is made by Armstrong (1992), Du Plessis (1992) and Saville-Smith (1987) who suggest there is a lack of scrutiny in the incongruity of state policies and insist there is a need for further and fuller investigation into how state policies work to empower or disempower women in New Zealand.

Feminism: What's Wrong with the Game?

This section reviews feminist literature on prostitution and prostitutes. An overview of Marxist, socialist, liberal, radical and existentialist feminist analysis of prostitution is outlined. This is followed by an overview of feminist debates around the nature of prostitution.

Feminist Views of Prostitutes and Prostitution

There are four major feminist schools of thought that have developed specific stances on the rights and wrongs of prostitution: Marxist feminism; socialist feminism; liberal feminism; and radical feminism.

Marxist feminist interpretation of the prostitute and prostitution mirrors the status of labourers who also prostitute themselves. The prostitute, however, is oppressed by capitalism on two levels, firstly as a woman and secondly as a worker who hires out her genitals and orifices. For most Marxist feminists, the fight against prostitution is the fight against capitalism, and involves the plight of the working-class woman who is bought by middle- and upper-class men. The destruction of prostitution would be effected by providing working-class women with jobs that supply them with suitable income and a sense of fulfilment, thus negating the need for prostitution (Tong, 1997).

Sloan and Wahab (2000) explain that Marxist theory places the production of prostitution on the capitalist system involving class and labour, rejecting forces such as sexism, desire and agency. Tong (1997) points out that empirical data shows working-class men patronise prostitutes and that prostitution exists in non-capitalist societies.

In the main deficiencies in the Marxist feminist analysis of prostitution are the inadequacy of the assumption that the existence of prostitution is only valid in a capitalist society, the assertion that women 'would' choose alternative employment if it were available, and the claim that sex workers would be better off in other forms of employment.

Socialist feminist perspectives maintain that the major flaw in Marxist analysis of prostitution is the assertion that if capitalism were dismantled, women and men would be sexual and economic equals. Rather, as long as patriarchal principles prevail through the socialisation of children and configurations of women's reproduction, prostitution will remain (Tong, 1997).

Socialist feminist analysis maintains that the coexistence of patriarchy and capitalism with prostitution creates a classist, racist, ageist, and sexist regime. Prostitution is classist because indigent women service the sexual needs of more affluent men. It is racist because stereotypically women of colour are easily available for servicing the needs of white people. It is ageist because it uses younger women disregarding and discarding older women and it is sexist because of the exploitation of women for male sexual satisfaction. Socialist feminist analysis argues that choice does not exist for women as long as female poverty cycles continue. Patriarchy and capitalism should be criticised and condemned not prostitutes (Thompson, 2000).

There are three key problems with socialist feminist critiques of prostitution. Firstly, that it places prostitutes as victims in that all sex workers are ultimately forced into prostitution through lack of choice. This presupposes that in having alternative choices, all prostitutes would not select a career in the sex industry. Secondly, it is not proven that an absence of patriarchy and/or capitalism would

negate sex work, and thirdly, the implication that older women do not work as prostitutes further emphasises patriarchal sexist and ageist ideals.

Liberal feminist analysis begins from the premise that all individuals are autonomous and individualist, and that little or no state intervention should occur in the private realms of life and thus women should be free to choose to prostitute themselves. A Liberal feminist stance maintains that men and women are the same and should not be treated differently. Current laws prohibiting prostitution are therefore discriminatory towards women and should be eliminated in the interests of creating equality between the sexes and to reduce the fear of criminality. From this theoretical perspective, prostitution does not represent oppression or male dominance; it is potentially empowering because it allows women to define and express their sexuality while gaining economic independence (Thompson, 2000).

The liberal feminist stance is the basis of the decriminalisation debate, the need to free prostitute women from the binds of criminality as a result of their work. The major confounding element of this proposal is the assumed 'equality' that is expected to occur with the elimination of the prohibition of prostitution. The criminal and immoral status of sex work and sex workers is ingrained in two centuries of a religious, medical, psychological, moral, and legislatively defined societal mindset and would not dissipate instantly or easily if legislation were to change. The acceptance of the legitimate professional prostitute could take several generations to filter into individual's and societies' ways of viewing prostitutes.

Radical feminism sees the persistence of prostitution as a result of the institutionalisation of the male sex drive, the active need for sex, the socialisation of female expectation to provide sex and the passive acceptance of meeting male

needs (Tong, 1997). Within this perspective prostitution is equated to female subordination aligned with rape, sexual assault, and domestic violence. Prostitution perpetuates male domination through sex and gender. Sex is viewed as a biological determination and heterosexual interaction which, works to create the oppression and expected submission of women. Consequently women are defined by sex (Jeffreys, 1997; Thompson, 2000).

The problem with radical feminist critiques of prostitution is that prostitutes are portrayed as victims who encourage subordination and support domination. This effectively reiterates gender identities which posit women as passive and men as active. By blanketing all female heterosexual activity as oppression (Dworkin, 1987), heterosexual women are condemned to a lack of freedom of choice of anything other than lesbian sexual activity.

Although the majority of feminist perspectives can be grouped within these four specific schools of feminist thought, there is a fifth group who Tong (1997) refers to as existentialist feminism, who do not view prostitution as abuse or focus on a working-class identity of the prostitute. Existentialist feminism views prostitutes as ground-breaking women who confront and test sex expectations.

It is suggested by Edwards (1997) that the prostitution debate works on two levels, first divide is between those who see prostitution sex as a private matter for individuals freedom and choice, and those who view it as inequality and exploitation. Secondly, there is a definite distinction between freely chosen sex work and forced prostitution and the stance that proposes all sex work is a violation of human rights.

This is the most simplistic divide on which individual feminists could be placed, however, from this departure point the debate becomes a whole lot more

complex. Many feminists disagree on what prostitution actually is (sexually demeaning/sexually liberating), what prostitution is to female sex workers (work/abuse), what levels of agency and freedom prostitutes operate within (employment/education options), whether there is actually an element of choice available to sex workers or that they are coerced, into working by others (pimps/lovers/friends) or by societal structures (capitalism/patriarchy/female poverty).

Specific Problems with Prostitution

Prostitution as a problem has been suggested to be the sexual objectification of women (Mackinnon, 1982, cited Edwards, 1997), or the sexual colonisation of women's bodies through conventions such as marriage and law (Dorwkin, 1989, cited Edwards, 1997). The sexual exploitation of women is considered to stem from patriarchy and heavy world-wide levels of female poverty are thought to provide an understanding of women's continuing involvement in prostitution (Edwards, 1997). Although poverty is considered a precursor to prostitution along with female gender, poverty does not explain why more women than men enter prostitution (Farley & Kelly, 2000).

For some, the foundation of prostitution is its normalisation in the prostitution of sexuality (Barry, 1995), others view it as the direct result of monogamous marriage (Millett, 1990). A further view is that prostitution typifies men's dominance which is created by and fortifies male supremacy (Jeffreys, 1997). According to Overall (1992: 717) "What is essential to prostitution is not sexual activity itself but the buying and selling of sexual activity". Men are in control as bosses and women are the workers. Prostitutes give away personal

power through working long hours and handing over earnings to pimps and thus have a lack of control over their work. Prostitution is not related to individual pathology or immorality, rather, it is an unequal practice characterised by capitalism and patriarchy.

Two reasons proffered as to why prostitution cannot simply be reduced to a subject of patriarchal domination are firstly that because in prostitution bodies are contracted, not taken by force so domination is not the sole ruler as other modes of power are at work, and secondly, clients contract controls of “sexual command over prostitutes”. Importantly, prostitution characterises a form of work as those who are not forced into prostitution by other parties do so to create income (O’Connell Davidson, 1998: 124). Jeffreys (1997: 194) disagrees that prostitution should be regarded as ‘legitimate’ work as it “arises from a particular system of political oppression-male supremacy” and is unimaginable outside the “political construction” of what it means to be a man or woman and “what sex is understood to be, in that system”.

Mackinnon notes that “aside from modelling (with which it has much in common), hooking is the only job for which women as a group are paid more than men” (Overall, 1992: 709). The Wages for Housework advocates viewed all women as trading sex for fiscal support contending that prostitute women were more forthright about what they did and therefore suffer degradation and exploitation as a result (MacIntosh, 1997).

It has been argued that many forms of labour are formulated from patriarchal capitalist societies and the social inequalities they incite. Consequently objections to all labour forms must occur or prostitution must be proven more morally objectionable (Sharge, 1994). Further, apart from the unemployed and

independently wealthy, all workers take money for the use of their body (Nussbaum, 1998).

Pateman (1988) maintains prostitution is a component of the male sex right and is essentially a problem about men. The sex act provides recognition of patriarchal rights over women; through prostitution men are allowed to use women's bodies for their own satisfaction. The concept of prostitution as a contract fails because women enter into it purely with men on the basis of the sex right of men. This sexual contract shows that the construction of difference between male and female is the political difference between freedom for men and subjection for women. The prostitution contract differs from the employment contract because the male customer is not an employer and the female sex worker is not an employee.

Often positioned as intrinsic to prostitution are sexual violence, psychological harm, violations of human rights, sexual harassment, economic servitude, domestic violence, and torture (Farley & Kelly, 2000). Barry (1995: 65) maintains prostitution is "systematic insitutionalized reduction of women to sex" and is the same as rape, in that the notion of consent within the contract does not allow for complete consideration of oppression. Women in prostitution who "treat it as a condition of women's freedom or self-determination" actually "promote their own sexual exploitation". Barry condemns the term 'sex work' as it equates sex to labour (Barry, 1995: 70).

Some feminists have argued that sex work is legitimate work, based on the ideology that all women are placed in a positions of sexual objectification whatever their employment whereas other feminists see fundamental dissimilarities between prostitution and other forms of work and sexual

relationships (Sullivan, 1994). Others suggest sex work is not a profession because it does not require advanced knowledge or skills (Jeffreys, 1997; Post, 1999). Nussbaum (1998) disagrees with the assumption that little skill is involved in sex.

Overall (1992, cited Sullivan, 1994) suggests the danger and injury potential held within prostitution makes it impossible to be classified as work. Perkins (1991, cited Sullivan, 1994) contends this view sighting the fact that injury, danger and abuse for women as workers is not solely relevant to sex work. Nussbaum (1998:679) maintains that injury and danger involved in sex work relates heavily to criminalisation.

Choice like freedom is a relative concept (Jordan, 1992). For some feminists prostitution as a free choice is difficult to accept (Jeffreys, 1997; Millett, 1990) and the discussion about choice is considered to render harm invisible (Barry, 1995) and is an updated version of victim blaming (Jeffreys, 1997). The Coalition Against Trafficking in Women (CATW) contends that “distinctions between free and forced prostitution obscure the powerful structural socio-economic conditions” (Otchet, 1998: 37). Doezema (2000) suggests that often the validity and reliability of trafficking statistics are questionable. Further, there is a need to disseminate between those who knowingly migrate for sex work and those who do not. When sex workers knowingly migrate for work and are lied to about the conditions they will work under, the money they will receive and the debt or bond they will have to pay it is an issue of sex workers’ rights.

Overall (1992) agrees with the theory of coercion being a causal factor of women’s involvement in prostitution in that women are marginalised by poverty, race and class and lack options such as scientific research, music, law, academia

or professional sport comparing sex workers to women who choose to work in factories and supermarkets. Naussbaum (1998) points out that prostitutes may have better working hours, more control over working conditions and a degree of choice over clients and activities while factory workers must perform the same activities continuously.

The comparison of sex work to factory work illuminates a number of particular precepts made about prostitution (and factory work). Firstly, that sex work requires low skill levels, limited intellectual abilities, that workers always have limited options, minimal job satisfaction, do not enjoy their work and would prefer other work options. Most importantly the following two alarming assumptions are made. Firstly, that all sex workers never have other choices of employment such as academia, music, law or scientific research and secondly, that they would definitely choose these over sex work. Jeffreys (1997) suggests it is hard to believe that given the opportunity many women would choose prostitution over law and medicine.

Further, by suggesting options that are traditional male bastions of employment such as academia, law, and medicine as more acceptable options of employment than sex work, patriarchal systems of 'accepted' employment are proliferated.

Boutellier (1991, cited O'Neill, 1997) suggests there are two major feminist approaches, one which places sex workers as victims of male sexuality, in which male sexuality is the eminent matter of concern, and the second which views prostitution as a legitimate form of labour freely chosen by women. O'Neill (1997) sees this as too simplistic a view, citing central concerns of prostitution as the relationship between prostitution and violence, the state, the political

economy, the management of female sexuality, the social organisation of prostitution, and sex tourism. Additionally, clearer answers to the question why do men use prostitutes? are needed.

Overall (1992, cited, Sullivan, 1994) claims that prostitution's lack of a 'reciprocity' creates a damning situation for women, particularly because other forms of traditional female work are able to be done by men whereas sex work is not. Sullivan (1994) rebuts this claim by pointing out that reciprocity and equality are seldom features of interactions and relationships between men and women and that sex work is actually role reversible. The dilemmas of powers involved in the sex industry are contestable and not fundamental only in sex work and for sex workers.

With regards to prostitution more research on women's employment and poverty, violence against women, young people at risk, multi-agency groups involved with health, welfare, and legal matters, and law reform is imperative (O'Neill, 1997). One of the prominent "misogynist myths about prostitution is that she is a vector of disease". Literature on HIV is an extension of this and predominant concern is centred with the wellbeing of the male customer (Farley and Kelly, 200: 36). The advent of AIDS has strengthened infection spreading stereotypes about prostitutes (Overs, 1994).

It has been suggested that feminist theory is insufficiently grounded in the reality of working-class lives and too often sexuality is the central issue (Nausbaum, 1998). Also, that it is necessary for feminists to respect sex workers and their lives, and that it is nonsensical to support sex workers while condemning the industry. Further analysis needs to be carried out which focuses on gendered structures of power in all work situations and personal relations

(Sullivan, 1994). The way forward for prostitutes is to “further an understanding of prostitution as work and fight for workers’ rights” (Overs, 1994: 120).

The imperative points that emanate from feminist debates about sex work and sex workers are that feminism has produced a wide range of views about sex work and sex workers, the major percentage of which deems prostitution as wrong. Often, patriarchal discourses which define sex workers as victims, are further reiterated in feminist discourses about sex workers. Some feminist schools of thought will never accept the validity of sex work or sex workers due to the heterosexual nature of the work. Interestingly, this posits a further problem for sex workers who choose women only relationships outside of their working lives. Creating a chasm of discord between feminism and women who do sex work further forcing a grouping of them (sex workers) and us (feminists).

In the main, both patriarchy and some feminist thought dictates the rights and wrongs of women’s bodies and what they do with their bodies and their sexuality. The issue of women’s individual rights of choice from the sexual spectrum of activity is seldom apparent in some feminist debates about sex work. An important point made by Pendleton (1997) is the suggestion that some feminist analyses of prostitution have worked to further disempower and marginalise sex workers. Jeffreys (1997: 81) contends that such arguments are a “potent weapon against those who wish to be critical about the institution of prostitution”.

Reports of the Game

Through research many assumptions, theories and conclusions have been made about female sex workers. This section of the chapter reviews literature that purports to present facts and truths about sex workers, in particular their

motivations for entering sex work and the effects sex work is calculated to have on those in the game.

Why Women are thought to enter the Game

Studies of prostitution have focused excessively on the issue of why women become prostitutes (Schur, 1984). Presently the leading reason proffered by researchers as to why women enter sex work is financial necessity (Edlund & Korn, 2002; Hoigard & Finstad, 1992; O'Neill, 1996; Overall, 1992; Pheonix, 1999; Perkins, 1994; Vanwesenbeeck, 2001). Single motherhood has also been identified as a key motivation for women doing sex work (Perkins, 1994) and this is also related to financial need. Ingrained beliefs about women's immoral sexual nature is pivotal in assumptions about why women do sex work (Pheonix, 1999; Roberts, 1992), as is coercion by others and placement in authority care institutions (Hiogard and Finstand, 1992; O'Neill, 1996).

Studies of prostitution that place running away from home, homelessness, residential and foster care and childhood sexual abuse have been found to be skewed by the sample structures in that participants are often drafted through jails and social agencies (Vanwesenbeeck, 2001). These familiar factors purported as causing prostitution defer to a large number of women, yet not all these women become prostitutes (Bullough and Bullough, 1996). As Scambler (1997) has shown, very few sex workers have pimps and often peer contact is an important element in the entrance into sex work.

For some workers there are many positive reasons for working such as the money, the flexibility of hours, and the power, control and freedom they have over their own sexuality (O'Connell Davidson, 1998; Whelehan, 2000).

Vanwesenbeeck (2001: 264) terms this “an opportunity for and autonomous life” noting researchers often struggle with the notion that sex workers have positive reasons for working and prefer to think of prostitutes as victims.

A pervading picture of prostitutes is the out of control junky whore. The use of hard drugs is either seen as a causal reason for entering the sex industry or a byproduct of the work (Sharp, 1994). Brewis and Linstead (2000) suggest drugs may make work more tolerable but could also compromise workers’ ability to negotiate safe sex with clients.

Potterat, Rothenberg Muth, Darrow and Philips-Plummer (1998) interviewed 237 prostitutes in Colorado Springs and found drug use 63% higher and sexual abuse 21% higher than the non-sex worker sample group. One hundred and ninety seven of the sex workers were street workers. However, as Sharp (1994) suggests, drug use figures shown in samples may have more to do with selection methods than actual incidence of drug use.

Vanwesenbeeck (2001) maintains that while entrance into prostitution because of hard drugs relates to street workers and much of the literature indicates frequency of disharmonies in the lives of young people involved in prostitution, it is unclear whether these problems are directly or indirectly causal to prostitution.

Another reason proffered to explain women’s involvement in the sex industry is childhood sexual abuse. Dalla (2000) suggests investigations of street workers’ lives reveal long histories of abuse by men, however, approximations of childhood sexual abuse vary between studies. James and Meyerding (1997, cited Dalla, 2000) argue childhood sexual abuse causes a dislocation between emotions and sexual activity and that as a result the sexually abused woman views herself as debased enabling her to associate herself with prostitution. Potterat et al (1998)

and Perkins (1994) maintain that early experience, consenting or non-consenting, is not a clear-cut forecaster of women's involvement in prostitution.

The Researched Effects of the Game

With regard to the effects of sex work on workers the first consideration is the notion of sex being work. Although prostitution is not viewed by all as legitimate work, when it is framed as work it attracts a negative ethos. Ashforth (1999: 146) suggests prostitution is considered dirty work due to the moral (sinful) and physical implications of the work, which is a social construct based on "subjective standards of cleanliness and purity". Consequently, a robust culture is developed amongst sex workers who then use techniques of reframing, recalibrating and refocusing to defend their work. Reframing is where a transformation of the meaning of the work is offered (such as sexual educator) in a manner that denies injury or victimisation. Recalibrating is "finding appropriate ways to gauging the merits of their work" (Ashforth, 1999: 423), most often from co-workers. Refocusing is transference of attention from "stigmatized features of the work to non-sitgmatized features" (Ashforth, 1999: 423), such as income potential.

Scambler (1997) agrees that sex workers have developed their own sub-culture which is defined into two distinct categories of good whores and bad whores. Good whores are those who maintain good work practices such as health and safety through condom usage, making clients wash, avoidance of drugs and alcohol when working, remaining emotionally and sexually detached, and warning other workers about unsafe clients. Bad whores work contrary to these ideals.

Researchers and commentators have attempted to describe the effects of sex work on sex workers through their research projects and social investigations. The most prevalent effect of undertaking sex work is the stigma attached to being a whore.

Prostitutes designations as 'other' that is as women apart from 'normal' women, is a product of the patriarchal societal construction of expected sexual behaviour (Bell, 1994; O'Connell Davidson, 1998; Sloan, 1997; Weeks, 1985). The effect of this breaking of male-orientated sex behaviour boundaries is what Gail Pheterson terms 'whore stigma' (O'Neill, 1996) and what Scamber (1997) terms 'social dishonour'.

Roberts (1992) maintains that whore stigma affects all women and the labelling of women as whores can be traced to the beginning of patriarchal thought. Principal religions used this ideology to separate and dominate women; even today Christians are educated to believe that Eve's carnal desires brought damnation on all of mankind.

Whelehan (2001) considers Goffman's definition of stigma, which is considered to be an attribute or negative quality which is deeply discrediting, as apt to prostitution. Stigma works to create grouping of 'them' where the prevalence of disgrace, exclusion and otherness abound. Mixed with this is Becker's term 'master status', which brands and characterises an individual in one role, delineating groups of 'us' the conformers from 'them' the deviants. The ideology of deviancy is created not through a person's problematic behaviour but through other people's definitions and reactions to a behaviour as being problematic (Shur, 1984).

The works of sexuality experts Charles Baudelaire, Dr Alexander Parent-Dauchelet, William Action and Havelock Ellis, dating from the late 1800s to the early 1900s, painted a picture of prostitute women as abnormal, criminal, deviant, diseased victims who needed controlling, protecting and either punishing or rehabilitating (Bell, 1994). The effects of the social stigma attached to prostitution include limited personal safety, social exclusion and violence, all of which correlate with men's structuring of women's conduct (O'Neill, 1996).

The impact of social stigma is further perpetuated by the illegal status of sex work. Loff, Gaze and Farley (2000), O'Neill (1997) and Vanwesenbeeck (2001) have demonstrated that the illegal nature of sex work creates consequences for prostitutes' health and labour rights. Adams (1993) suggests the police often contrive attacks on sex workers as part of the job and continuing criminalisation further validates violence against sex workers. Research by Valera (2000), Perkins (1994), O'Neill (1997) and Vanwesenbeeck (2001) has shown that prostitutes in general are at risk of serious physical and sexual assault, robbery, murder, physical, and mental health problems, and substance abuse. Street workers, being at the higher end of the risk factor scale, are most likely to be arrested or convicted.

Edlund and Korn (1992) discuss a Montreal study where sex workers were compared to hospital orderlies. Although sex workers earned more and had lower education level, the perceived stress level and actual assault rates between the two professions were on a par. In contrast Valera (2000) found in the study of 100 inner-city prostitutes (not all female) that over half had encountered violence and just under half had been raped and met the criteria for post traumatic stress disorder. Brewis and Linstead (2000) identify two major stress creators:

long hours waiting for business with no way of predicting or controlling the work rate, and always needing to remain alert to danger or letting the professional façade from sliding.

Negotiation of safe sex is difficult for most women (War and Pyett, 1999; Overs, 1994), and research by Vanwesenbeeck (2001) shows a high level of condom use by prostitutes. Economic circumstances are often seen to effect the negotiation of condom use, particularly with regard to street workers. With brothel workers management pressure or client attractiveness or regularity can be mitigating factors in condom use.

The spread of sexually transmitted diseases, particularly HIV, has often been framed as a problem of prostitution (Alexander, 1997; Brewis and Linstead, 2000; Perkins, 1994). Thompson (2000) asserts that no research has been produced that demonstrates prostitutes role in transmitting sexual diseases. Day, Ward and Perrotta (1993) suggest sex workers are the ones who insist condoms are used and provide them and that sex workers are at as much risk of infection from clients as clients are from sex workers. Vanwesenbeeck (2001) maintains research shows HIV infected prostitutes are predominantly intravenous drug users. In some cases sex was exchanged for the drugs. However, the greatest risk of HIV infection emanates from private sexual relationships.

Warr and Pyett (1999) studied 24 Melbourne sex workers involved in street work and illegal brothels. The workers reported their partners' uneasiness about the job and the clients, and their own difficulty in making divisions between sex at work and private sex. Private sex for the workers was most often defined by sex without a condom, and kissing. Most often kissing is not offered to clients (Scambler, 1997; Robinson, 1987). Some workers involve themselves in women

only relationships outside of work, eliminating boundaries between sex at work (with men) and in private (with women) (Brewis and Linstead, 2000; Perkins, 1994).

Containment of AIDS occurs through the empowerment of sex workers by recognising them as a 'category of workers' with specific struggles and requirements (Bullough and Bullough, 1996). HIV infection of prostitutes in Australia, United Kingdom and the United States stems from sharing needles during intravenous drug use, rather than through sexual activity (Brewis and Linstead, 2000).

Another important effect of sex work is the inability of sex workers to share their working status with others such as family, friends, and doctors (Perkins, 1994; Blain, 1994). This is particularly so for those who have children who live in constant fear of having their children removed from their care by authorities (Perkins, 1994), and who in some cases have their children taken from them (O'Neill, 1997).

From a New Zealand perspective, Potter, Martin and Romans (1999) conclude that sex workers often originate from families of lower socio-economic standing, with high levels of interpersonal difficulties, where frequently the mother was the main wage earner. Compared to the sample group of non-sex workers, sex workers researched reported higher levels of sexual abuse, were more likely to have left home at an early age, had become pregnant by the age of 19, and had not completed tertiary study. The researchers note, however, that because of the use of the snowball method of gathering participants, generalisations are inconclusive.

Plumridge and Able (2001) conclude from a survey of 303 female sex workers in Christchurch that street workers started working at a younger age and had less education than non-street workers. A greater number of street workers utilised sex work income for drugs, which were used during working hours. High levels of violence were reported, the most severe being experienced by street workers. Sex workers reported a high level of condom use, yet noted little negotiation with clients.

In another study, Plumridge and Able (2000) reported that the major percentage of interviewed sex workers had health check ups but just over half of those 135 women who visited general practitioners revealed their working status. Other forms of support and information came through organisations such as the New Zealand Prostitutes Collective.

In conclusion, there are six main points to be drawn from this overview of the research on prostitution. The first of which is made by Atkinson and Bowles (1977, cited Ryan, 1997) who suggest that research on prostitution has mainly focused on behavioural deviancy and the social causes of prostitution or personality characteristics of sex workers. Although this point was made 30 years ago it is still a realistic evaluation of the focuses of research on prostitution. The second point made by Sharp (1994) and Vanwesenbeeck (2001) is that sample selection procedures and structures of research on prostitutes often creates skewed and unrealistic results. The third point, as suggested by O'Neill (1997) and Perkins (1994) is that sex-working women are ordinary women with lives outside of the sex work industry. It is very rare that research indicates or acknowledges sex workers as anything but sex workers. The fourth point emphasised by Bullough and Bullough (1996), is that causes cited for forcing or

coercing women into sex work are apparent in many women lives, yet not all turn to sex work. The fifth point made by Loff, Gaze and Farley (2000), O'Neill (1997) and Vanwesenbeeck (2001), is that the criminal status of sex work creates a situation of danger for sex workers. The sixth point, made by Kuo (2002) is that actual prostitution practices are seldom represented accurately.

The aim of the prostitution law change in Aotearoa was to decriminalise soliciting, brothel keeping, and living off the earnings of prostitution. The following chapter follows the legislative change through concerns raised in submissions made to the Prostitution Reform Bill, the Justice and Electoral Select Committee Report on the decriminalisation of prostitution and the parliamentary debates.

Chapter Three

The Status of Play in Aotearoa

The emphatic nature of the decriminalisation legislation was that it promised to change definitive male dominated definitions about the punishment of specific sexual behaviours, namely prostitution. Because such a debate revolves around social imagoes and cultural knowledges about women there were limitations to the fields of discourse. A vital impact on this discussion of prostitution in Aotearoa is that it was inherently a discussion about women. The language present in the dialogue is binary to ethics of the treatment of 'bad women'.

In essence this chapter follows the journey of the Prostitution Reform Bill through the legislative process. By following the process, it is possible to evaluate two distinctive teams of for and against decriminalisation and differing policies and understandings of prostitution. The following brief description of how the legislative process works in our political system mirrors the layout and content of the chapter.

The first draft of the Bill introduced to the House is followed by the first reading of the Bill. If the Bill passes its first reading it is sent to a select committee which studies the submissions made to the Bill reports to the House (Justice and Electoral Select Committee Report). A second draft of the Bill is presented in the second reading and debated by the House, which then votes to allow the Bill to move onto the next stage (the Committee of the Whole House) where the Bill is considered clause by clause. Suggested amendments are presented as Supplementary Order Papers (SOP). A majority vote will move the Bill onto the final stage, where a third draft of the Bill is created and a third

reading of the Bill occurs in the House. This is the final vote and a majority creates an Act. Because the Prostitution Reform Bill was a Member's Bill it is a conscience vote, thus it is up to each individual Member of Parliament as to how they will vote.

The First Draft of the Prostitution Reform Bill

The first draft of the legislation was presented to the House on the 21st of September 2000. At this stage the Prostitution Reform Bill contained 11 Clauses. The purposes of the legislation as outlined in Clause 3 were: to decriminalise prostitution and create a framework which safeguards sex workers' human rights; to protect sex workers from exploitation and provide a legislative framework that ensured protection of sex workers welfare and occupational health and safety; to create an environment conducive to public health; and to protect children from exploitation in relation to prostitution.

The specific words and phrases defined in Clause 4 were 'brothel', 'business of prostitution', 'child', 'coerce', 'commercial sexual services', 'prostitution', 'safer sex practices' and 'sex worker'. These terms related directly to five further clauses and encapsulated how the legislation would operate as policy. Clause 5 stated that no contract for the provision of commercial sexual services is illegal or void on public policy or other similar grounds.

Safer sex practices were delineated in Clause 6 where operators of brothels and businesses of prostitution were described as those who control manage or supervise the conduct of the business of prostitution. They were required to promote safer sex practices by taking all practical steps to ensure the use of prophylactic sheaths by clients, by giving information on safer sex practices to sex

workers and clients, by displaying information on safer sex practices prominently, and by not using sex workers' medical examinations or results from that examination for the purpose of inducing a person to believe the sex worker is not infected with a sexually transmissible disease.

Coercion (Clause 7) meant that no person may coerce or attempt to coerce any person into providing commercial sexual services or into surrendering the proceeds of commercial sexual services provided by that person. The punishment for this offence was a term of imprisonment for up seven years.

The specifics of Clause 8 were that every worker, at any time, may refuse to provide any commercial sexual service, or where the provision of that service has commenced, may refuse to continue to provide that service. Any agreement purporting to remove the right of refusal to provide or continue services once commenced is invalid.

The issue of child prostitution was outlined in Clause 9. Under this clause no person could by contract provide or be party to the provision of commercial sexual services by a child (18 years or under). Mistaken age was not a defence for clients and if caught were liable for up to a seven-year prison term. Children would not be punished. Clauses 10 and 11 listed the enactment's that would be repealed.

The First Reading of the Bill

The first reading occurred on the 8th of November 2000. Ten members of Parliament spoke to the Bill. The main themes that drove the debate of those who were against the decriminalisation of prostitution in Aotearoa were increases in: prostitution; the destruction of family, society, and morality; the spread of

diseases; children involved in prostitution; pimping, trafficking, and crime. Sex for women was illustrated as only rewarding in a monogamous male-dominated relationship.

Sex workers were framed as un-empowered victims with problems but who had the aptitude to entice clientele. Sex workers were referred to as prostitutes or in one case, ladies of the night. Clients were either not mentioned or framed as casualties of prostitution, defenceless to the powers of the prostitute. Although the prostitute was positioned central to the cause of prostitution in the anti-decriminalisation debate, the pimp was also framed as responsible for forcing women to work and coercing men to be clients.

The shape of the anti-decriminalisation lobby's policy on the Prostitution Reform Bill in the first debate was that it normalised sex work. Proposed methods of control over the industry were not considered to be rigid enough and would result in the erosion of social fabric of Aotearoa and the devaluation of moral standards.

Central to the pro-decriminalisation debate was the inequity of the prohibitive prostitution legislation and the effect it has on women's lives. The main impact the proposed legislation would be to legislate for the rights of sex workers. In arguing against feared increases in prostitution, it was acknowledged that the sex industry is demand-driven and that legislative criminal sanctions create criminals, not prostitution. It was further maintained that training and education opportunities for women needed to be improved and increased as a major percentage of those in the sex industry were women. Sex workers were framed as individuals deserving of the same legislative rights as every other worker in Aotearoa. The prospect of a sex worker union was suggested to be a

possible result of the legislation change. Clients were framed as causal to the sex industry and sex workers were presented as women choosing prostitution as a means of employment.

The shape of the pro-decriminalisation policy was that sex workers as consenting adults should be able to sell commercial sexual services without criminal sanctions. Any problems associated with prostitution such as violence, coercion and exploitation would be able to be more effectively dealt with under a decriminalised system. Further, it would be easier for women to exit the industry.

After the first reading on the 8th of November 2000, a majority of 66 meant that the Bill was referred to the Justice and Electoral Committee to enter the select committee stage. The Justice and Electoral Committee called for submissions to be made to the Prostitution Reform Bill. They received and considered 222 submissions and heard 66 submissions in hearings in Auckland, Wellington and Christchurch. Of those submissions I reviewed 122. For the purposes of reporting the content of the submissions I divided the submissions into two categories: private submissions prepared by an individual or several individuals as concerned citizens and organisational submissions prepared by recognised groups or organisations.

Private Submissions

Private submissions can be grouped into two thematic categories: social and cultural concerns, and moral concerns. Submissions based on social and cultural concerns emphasised the perceived effects or damage to the social and cultural health and welfare structures within Aotearoa either currently considered to be engendered by prostitution or thought likely to occur should prostitution be

decriminalised. Submissions based on moral concerns focused on religious beliefs and more general moral issues.

Social and Cultural Concerns

Of the 77 private submissions reviewed, 68 were against prostitution law reform and nine were for prostitution law reform. Within the 68 submissions against the decriminalisation of prostitution there were 22 definitive areas of social/cultural concern identified by submitters. The most reported issue of concern (30 submissions) was for the destruction of or harm to families and family values, due to the decriminalisation of prostitution. Thirty submissions saw this as an outcome.

Twenty-three submissions suggested an increase in drug use would be the outcome of the decriminalisation of prostitution. The third most reported area of concern (22 submissions) was an increase in the spread of sexual diseases. While 21 submissions predicted an increase in crime should prostitution be decriminalised.

The fifth most reported issue of concern (18 submissions) was that prostitution devalues women with a further 16 submissions reporting a likely increase in child prostitution. The seventh most reported area of concern (15 submissions) was an increase in violence against women, with 12 submissions predicting an increase in prostitution. Seven of these submissions quoted a 400% increase in prostitution in Australia. Eight submissions referred to prostitution as damaging to the health of women who work and a further seven submissions reported concerns over the impact of decriminalisation on Maori and Polynesian girls.

The eleventh most reported concern about prostitution and decriminalisation was the failure or inability of condoms to prevent the spread of infection, of the five submissions which noted this concern two submissions provided literature in support of the claims.

Five further issues of concern each raised in four submissions were the temptation of fathers and husbands, an attack on the core of society, increased family violence, increased abortions, and sex being only for marriage. Concern about homosexuality was mentioned in three submissions and the issues of teenage pregnancy, child abuse, suicide, sex addiction and immigration were mentioned twice each in different submissions.

Supporting the Bill

There were nine private submissions that supported the decriminalisation of prostitution of the recommendations made the expectation that private sex workers who work from home would be required to apply for Resource Consent was considered inadvisable as it would throw the business out of proportion. It was also considered unreasonable to have regulations expecting sex workers to display safe sex literature within their private family home.

Amendments to the definition of 'brothel' (Clause 4) were suggested. One specific suggestion was to classify the numbers of workers as four or more. The definition of 'business of prostitution' was considered to impact negatively on private home workers it was also suggested that the definition of 'coercion' be tightened so as to ensure all sex workers were protected from being coerced into sex work against their will. An increase in the term of imprisonment to 14 years in line with section 129A of the Crimes Act 1961, was also recommended. Further,

the definition of 'client' to be added as "Client means any person using the sexual services of a sex worker whether they are a third party to the contract or not".

Concern was raised over the clarity of what recourses clients and sex workers would have over unfulfilled contracts. It was recommended that Clause 5 (provision of sexual services) have the following subclause added and renumbered as "5 (2) Any contract for sexual services is subject to the Contractual Remedies Act 1979 and the Fair Trading Act 1986".

Clause 8 (rights of refusal) required a penalty clause added to guard against any loopholes which enabled lawyers to get clients off charges of continuing to have sex with workers when consent has been withdrawn. Further recommendations made were that current police registers of sex workers be destroyed and that police be banned from keeping registers in the future, imposing fines and or loss of employment for doing so and that further consideration be given to issues of discrimination with regards to transgendered sex workers and any sex worker leaving the industry.

Two submissions specifically recommended that perceptions about prostitutes were often unrealistic. One recommended that what was seen on television does not reflect the reality of the sex industry, that sex workers have normal day-to-day lives, are law abiding, make a valuable contribution to society and most often are mums trying to provide a better life for their children. Further, that most of the submissions made to this Bill would be made from a position of ignorance and with no practical experience of the industry and decriminalisation would not lead to an increase in the number of sex workers in Aotearoa.

The second submission recommended that a great number of attitudes towards prostitutes are fictional. It was recommended that prostitutes do not set

themselves up for violence, present laws prevent prostitutes from reporting violence to police which perpetrators know that to frame prostitutes as victims reinforces the archaic notion that women don't know what's good for them and are incapable of making responsible decisions for themselves. Further, it was wrong to assume that all prostitutes are survivors of sexual abuse and that prostitutes need to be saved from themselves.

It was also suggested that all prostitutes are not drug addicts and that there are drug addicts in many professions. Moreover, rehabilitation should be available to all and that forced rehabilitation seldom works. It was suggested that prostitutes do not suffer from low self-esteem they often have better self-images than others and prostitution is not always a degrading act. Further, that there was nothing wrong with earning an honest living the best way one knows how and that prostitutes are not lazy and trying to avoid real work. In many cases circumstances such as previous convictions, a lack of marketable skills, parents inability to find affordable day care, or homelessness was what prevented prostitutes from finding other work.

It was recommended that prostitution was not an easy way to make lots of money as it was often dangerous and that arresting street workers does not keep them off the street. Rather, giving prostitutes police records limited their chances of finding other employment, and often their only means of paying fines was returning to street work. It was suggested that the spread of HIV and STDs was not down to prostitutes, they were more likely to use condoms than non-prostitutes and were more able to identify an STD. Further, that all clients were not misogynists using prostitution to express their hatred of women. While a small number of clients do hate women, most have more 'mundane reasons' for visiting

prostitutes such as adventure, loneliness, sexual insecurity, convenience, stress-relief, or plain old horniness.

Moral Concerns

Of the 68 private submissions against the decriminalisation of prostitution 21 submissions either stated religious affiliations, quoted scripture, or mentioned concerns about the lowering of moral standards in Aotearoa through the decriminalisation of prostitution. Some of these submissions also suggested possible social and cultural outcomes from the decriminalisation of prostitution, thus are present in both the thematic categories.

The moral concerns expressed within these submissions were that prostitution is 'evil' and 'devious', 'morally repugnant', and 'against all that is right and pure'. One submission stated that the world's number one selling book (The Bible) was against prostitution; another stated that men are supposed to set an example of moral purity and dignity.

Four submissions stated that prostitution 'ruins purity and faithfulness', and one stated that contraception is wrong. One made reference to the New Zealand justice system being built on the Judeo-Christian system of beliefs based on the Ten Commandments. Another claimed that viewing prostitutes as just doing a job is a 'moral cop-out'.

Organisational Submissions

The knowledge and interest base of the 45 groups and organisations submissions reviewed included law, government departments, local government, the sex industry, health, women's issues, youth affairs, human rights, and religious ethics.

Of these, ten stated direct opposition to the legislation and the remaining 35 either supported the legislation emphatically or at least the intent of the Bill, but not necessarily the practice of prostitution.

The information within these submissions is divided into three categories: clause concerns, social and cultural agendas and moral concerns. Clause concerns covers comments and recommendations made with direct regard to specific clauses contained within the first draft of the legislation. Social and cultural agendas foregrounds issues submissions considered to be important and not dealt with adequately within the legislation. Moral concerns, covers submission content that developed an argument against prostitution being decriminalised on the basis of religious ethics and moral grounds.

Clause Concerns

A specific focus of half the organisational submissions was the structure and substance of the first draft of Prostitution Reform Bill and entailed direct comments or recommendations with regard to specific clauses. For example Clause 3 was criticised for failing to set out exactly which human rights it aimed to protect and it was suggested that legislation such as the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990 already provided protection. Further that the ethos of the Universal Declaration of Human Rights did not sit comfortably with prostitution and the mission of The Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW) required states to take all steps to eliminate prostitution. It was recommended that the operation of the Health and Safety Act within the sex industry required further consideration, specifically that codes of practice should be developed between

the New Zealand Prostitutes Collective and Occupational Health and Safety inspectors.

The definitions contained within Clause 4 received considerable attention. Coercion, it was suggested, lacked consideration with regards to threats towards families and whanau members, the precarious immigration positions of some Asian women in the case of male sponsors, and the relationship between drug dependency/abuse and substance suppliers.

The definition of who is considered to be in charge or an operator of a brothel was suggested to be any individual who controls or manages, or takes part in the control or management of a brothel. One suggestion was that it was the owners of businesses of prostitution (rather than managers) who required controlling.

Further consideration of the definition of 'commercial sexual services' was advised. In one instance, this definition was suggested to hide the immoral, sinful and licentious nature of the act of prostitution. With regard to the definition of 'safer sex' the word 'disease' needed to be replaced by the word 'infections'. A tightening of the definition of 'brothel' was highly recommended. The specific amendment suggested in four instances was to ensure family homes of sex workers were excluded.

It was also advocated that 'business of prostitution' should be amended. Concern was raised that private operators would have to apply for resource consent, unlike other people who operated a business from their own home. Clause 5 was singled out for rewriting to make it more comprehensible to the lay reader.

Clause 6 was criticised for failure to define the 'client' for further attention to the requirements for 'safe sex practices' for all sex workers including male prostitutes and clients and for methods of licensing that could be easily enforced. In one instance, safe sex was proposed as impossible to enforce adequately particularly in the case of unregistered brothels which were likely to occur.

It was suggested that local bodies and Health Authorities must be able to inspect physical premises to maintain hygiene in an industry where there is high risk with the exchange of bodily fluid. Specific codes of practice needed to be developed in conjunction with local sex worker representatives and public health experts so as to ensure a two-tiered system did not eventuate. More funding and sexual health clinics also needed to be provided for sex workers.

Mandatory testing was derided because it creates a false sense of security, allows for operators to use such tests to attract clients. It could also encourage clients to expect unprotected sex it was also pointed out that the time lapses between these tests rendered them worthless and that the mandatory use of such tests was against human rights.

A number of ways of dealing with compliance to health requirements were suggested. These included writing the conditions directly into the Bill, requiring local councils to establish bodies similar to liquor licensing authorities, relying entirely on health promotion without enforcement which would avoid creating an illegal sex industry, and putting the onus on operators to ensure workers were in contact with services that provided such information.

With regards to Clause 7 it was suggested that the connection between coercion and rights of refusal was closely linked as the predominant public perception that sex workers were coerced into providing sexual services against

their will were often controlled by drug-dealing violent gang members was incorrect. In contrast, it was suggested that coercion often occurs by routine and undramatic means such as operators withholding money owed (up to \$600–\$800) where the client had paid by credit card or Eftpos and/or justified on the basis of arbitrary fines. One suggestion was that the confiscation of passports should be added; another was that legislation was incapable of ensuring ‘evil’ people were not using the weaknesses of others to make money.

Clause 8 it was suggested required further deliberation with regard to sex workers ability to determine the terms of acceptance and the capacity of operators to discriminate against workers who insisted on safe sex practices. Issues were also raised over definitions of a contract and how clients may seek to regain the fee they have paid if the contract was terminated, specifically given the likelihood that violence could ensue in such situations. It was suggested that enforcement of this clause would require a change in attitude of the police towards sex workers.

In one instance it was suggested that the rights of operators and clients were negated which goes against the fundamental principle that all persons should be equal before the law.

Clause 9 gained significant attention on a number of levels. The issue of defence of a sex crime in relation to consent and proof of knowledge of age regarding mistaken age as a defence was questioned. It was stressed that the clause needed to be brought in line with the Crimes Act 1961. Further consideration of articles 12, 34 and 39 of the United Nations Convention on the Rights of the Child, which was ratified by the New Zealand Government in 1993 was also suggested and it was proposed that the jail terms should be extended.

An important recommendation was that health professionals needed to be able to provide safe sex practice information and condoms or contraceptives to a child without fear of prosecution. It was suggested because the legislation criminalises the client, there was potential danger created for young sex workers. Moreover, it was imperative that community and welfare services, health providers, the police, youth workers and education services addressed issues such as transgender, discrimination, poverty, housing, homelessness, abuse, drug/alcohol dependency, mental health, and violence from clients and the police. Importantly changes in benefit systems were necessary to ensure the need to enter sex work was reduced.

It was suggested that implementation of a system of identification and proof of age similar to liquor sales was necessary, with the onus placed on the client to seek proof of the age of the sex worker. It was argued that a young person may not always be an innocent party and the onus for any offence should not be mechanically positioned on the client. It was noted that there was no emphasis on the client being over 18.

Social and Cultural Agendas

A number of issues and concerns were raised within the organisational submissions that did not relate directly to the clauses in the legislation. These included the need for the Government to address poverty, social disadvantage, violence against women and children, the predominance of degrading sexual images in the media and sexual violence occurring in the media.

It was suggested that liberalisation and legalisation would have no impact on criminal involvement in the sex industry. This was argued on the basis of

Holland's sex industry where prostitution is legalised and has strong links to organised crime. Counter claims were made that removing criminal sanctions would remove criminal activity and interest and that existing laws were capable of dealing with crimes such as money laundering, drug dealing (Misuse of Drugs Act 1975), sexual assault and violence.

The issue of licensing of brothels spread across both ends of the spectrum from suggestions that systems similar to liquor licensing should be implemented to derision of licensing because of the potential outcome of legal and illegal businesses could create a possible culture of corruption and exploitation.

It was recommended that harm reduction strategies need to be implemented with regard to drugs and safe injecting techniques and the use of needle exchange systems. The recognition of sex workers as employees not individual contractors was advised, as was the need for brothels to be run by sex workers and sex workers to have a recognised national organisation. Police registers, which were required in some regions for the purposes of advertising, should be prevented as they were a breach of privacy and have been known not to be confidential. Similar concerns were expressed about issues of privacy in relation to information shared on the internet in the world sex guide.

The issue of who would control the sex industry was of great concern. Most often it was local authorities who were proposed as the most appropriate candidates for organising and controlling the sex industry. The ability of the Resource Management Act 1991 to deal with location and signage issues was questioned as was the ability of local authorities to place blanket bans on brothels, which could defeat the reform. The clarity of the limits of advertising and censorship under a deregulated market were admonished. This related to concern

about the protection of citizens from offence. In contrast it was argued that concern about brothels next to schools and churches was unwarranted as this already occurred and few problems had transpired.

Moral Concerns

Nine of the ten submissions that were vehemently against decriminalisation and prostitution focused on moral concerns. Arguments presented in opposition to the proposed legislation included the negative social impact, the social acceptance and normalisation of prostitution, increases in the so called sex industry, a departure from Christian morality, and increases in sexually transmitted diseases, drug use and wrecked marriages.

The practice of prostitution itself was described as a vice-lust involving mortal sins such as fornication, adultery and contraception (the pill kills unborn children) abortion and homosexual acts. Prostitution was presented as degrading for those involved and as the cause of our country's social problems. In particular, prostitution was bad for society and family life. Scripture quotes such as "there shall be no whore of the daughters of Israel, nor a sodomite of the sons of Israel (Deuteronomy 23:17) and "And likewise also the men, leaving the natural use of the woman, burned in their lust one toward another" (Romans 1:27) were cited as indications of the magnitude of the sin of prostitution.

It was recommended that both clients and prostitutes be legislated against. This was premised upon the belief that support for the rights of prostitutes was an anomaly and against the laws of nature and God, that prostitutes spread venereal diseases and were associated with drugs and serious crime.

The Justice and Electoral Select Committee Report

The first select committee assigned to consider the decriminalisation of prostitution under the 46th Parliament consisted of 11 members. These included National Party members Dr Wayne Mapp (Chairperson), Georgina te Heuheu and Anne Tolley; Labour Party members Tim Barnett, Janet Mackey, Nanaia Mahuta, Nita Ririnui; Green Party member Sue Bradford; New Zealand First member Peter Brown; and Act Party member Stephen Franks.

The select committee process was interrupted by the General Election in July 2002 following which the Labour and Progressive Coalition parties formed a coalition government. Following the election a new Justice and Electoral Committee completed the task of reviewing the relevant material.

The select committee under the 47th Parliament consisted of Act's Stephen Franks (chairperson), Labour Party members Tim Barnett, Russell Fairbrother, Darren Hughes, Lynne Pillay, and Mita Ririnui, National Party members Simon Power and Richard Worth, Green Party member Nandor Tanczos, the United Future Party member Murray Smith and New Zealand First member Dail Jones.

Advice was given to the committees by the Ministry of Justice, the New Zealand Police, the Ministry of Health, the Ministry of Women's Affairs, the Ministry for the Environment and Occupational Safety and Health Service.

The select committee, by majority, deemed that the Prostitution Reform Bill be passed with a number of amendments. The first related to Clause 3, which required restructuring to enhance the clarity of purpose. It was suggested the word 'child' be changed to a person under the age of 18; the definition of 'brothel' be changed to limit confusion over the term; and the definition of 'business of prostitution' be changed to a business of providing or arranging the provision of

commercial sexual services to make it clear escort agencies were covered by the definition. The definition of 'coerce' in the Bill only related to Clause 7. Thus for reasons of clarity the definition in Clause 4 be removed and Clause 7 amended to focus on coercive behaviour rather than a list of prohibited acts.

The term 'commercial sexual services' was narrowed to ensure that it relates to physical participation in sexual acts by one or more persons with and for the gratification of another person or persons. With regard to 'safer sex practices' the committee recommended the definition be omitted from Clause 4 and the terminology updated by substituting the word diseases for the word infections in Clause 6.

The definition of the term 'sex workers' be simplified and amended to mean a person who provides commercial sexual services. With regard to Clause 6 the 'promotion of safer sex practices' the committee suggested there was a need to strengthen and clarify this clause, making safe sex and its promotion compulsory for all sex workers operators and clients. However, the promotion medical examinations were legislated against.

The committee suggested three new clauses be put in place at this point of the Bill. The first was 6A where sex workers and clients must adopt safe sex practices, which referred to the culpability of both clients and sex workers to use safe sex practices and take reasonable steps to minimise the risk of sexually transmitted infections. The second, 6B Health and Safety in Employment, aimed to highlight the application of the Health and Safety in Employment Act 1992 or any regulations or approved codes of practice under this Act. Clause 6C, prohibiting and regulating offensive signage covered concerns about the rights of

prostitution businesses advertising the business verses the local authorities rights to pass by-laws to control what signage may be used.

Amendments made to Clause 7 were that attention should focus on coercive behaviour considered to encompass direct or indirect threat with regard to the employment status, immigration status, drug dependency, or criminal status of the sex worker.

Clause 8 the 'right to refuse to provide commercial sexual services' was redrafted to clarify the protections it provides by providing three subclauses. The first meant that regardless of what a contract contains, any person may refuse to provide or continue to provide commercial sexual services. The second meant that although there was a contract for commercial sexual services it did not mean that consent could not be withdrawn in terms of criminal law. The third preserved the contractual rights of persons entering into contracts for commercial sexual services to seek remedies if the contract was not performed.

Clause 8A was suggested to clarify any concerns about unemployed individuals being forced to consider sex work or threatened with loss of benefit if sex work was not undertaken. The committee saw this as an unlikely event, it considered it necessary to be addressed.

Clause 9 aimed to protect persons under the age of 18 from exploitation. The report suggested new clauses 9 to 9C, recommending section 149A of the Crimes Act 1961 be repealed and its provisions be inserted into the Bill. As well the penalty set out in Clause 9-4 remain at seven years' imprisonment to reflect the seriousness of child prostitution. It also suggested extensions to Clauses 9-1 and 9-3 to include encouraging and facilitating in the provision of commercial sexual services by a child as an offence, and amendment of Clause 9-5 to include

the provision of legal advice and medical services. The offence of absolute liability on the client to ensure the sex worker is over 18 years of age remains.

Further concerns raised in the select committee report were the compliance with the health and safety requirement and powers of inspection. The report suggested that the Ministry of Health should take responsibility for enforcing these provisions. New powers needed to be implemented for this to occur ensuring that inspectors carry identification and need not warn premises of their arrival, and that they have the ability to pass on concerns to the police and other relevant authorities if offences are being committed.

To enforce provisions relating to the age of sex workers (over 18) the police require powers of entry with a warrant. However, it was recommended that the practice of requiring sex workers to register with the police, in order to advertise in newspapers should be discontinued. It is also recommended that the Government consider what support systems needed to be made available to assist young persons to avoid or cease working as sex workers.

A further recommendation was the establishment of the Prostitution Law Review Committee to assess the effectiveness of reforms. Once established, the Committee would report to the Minister between three and five years after the commencement of the Act. Key concerns of the Committee would be the impact of the legislation on the number of sex workers, the desirability of introducing limits or controls on the location and conduct of prostitution such as licensing of sex workers or persons who operate businesses of prostitution, consideration of the nature and adequacy of the means available to assist sex workers to avoid working or exit the sex industry and considering the need for further amendments, including the repeal of legislation.

It was proposed that membership of the review body should be made up of nominees of the Ministers of Health, Justice, Police, Women's Affairs, Youth Affairs, Local Government and Commerce as well as representatives from the New Zealand Prostitutes Collective. With regard to licensing or certification, the concerns focused on individuals in control of the industry and the involvement of organised crime and gang members. The report suggested the District Court should issue certificates with a specific time period. Disqualifying convictions preventing certification would be offences involving violence, sexual offences, drug dealing offences, arms offences and offences related to participation in a criminal gang.

With regard to sex workers working by themselves or in a collective, where no one worker has powers over other workers, there was no need to be certified. Two options were suggested for dealing with the definition of the need of certification. The first required all those who have control over the working conditions of one or more sex workers in all businesses of prostitution to obtain a certificate. The second option was to require those who have control over the working conditions of four or more sex workers to obtain a certificate.

The issue of who enforces certificates remained undecided by the Committee. Some viewed the police as the appropriate agency enabling them to build a relationship with the industry and thus monitor underage prostitution. Others suggested because the ethos of the Bill was improvement of occupational health and safety of sex workers, the Ministry of Health and or Occupational Safety and Health service would be more appropriate agencies to check certificates.

With regard to the limits placed on where prostitution was conducted particularly street prostitution the committee decided the Summary Offences Act 1981 sufficient to deal with inappropriate street prostitution. The majority saw the location of brothels to be the concern of territorial authorities but that limits be placed on the powers of these authorities. The Committee found little evidence that current brothel location caused genuine and widespread offence and no justification that the Resource Management Act 1991 was incapable of dealing with issues surrounding location of brothels.

Some supporters of the Bill had concerns that decriminalisation did not provide suitably and left open questions about coercion, the potential for large brothels, the involvement of organised crime and overall increases in the industry. Those following this view considered decriminalisation required some state controls which should involve policing of crime or drug offences related to prostitution, protection for women and girls from being forced into prostitution, protection for public amenities, and control over the nuisance aspects of prostitution.

With regard to the claim that law reform would lead to increased prostitution the committee found no statistical evidence that supported claims of a 400% increase in the sex industry in New South Wales. The proposed reason for the perceived increase is a less hidden industry and officials advise it was unlikely a four-fold increase would occur in New Zealand.

The report indicated that the New Zealand First member, the Act member, the United Future member, and the National Party members of the Select Committee all opposed the Prostitution Reform Bill.

The Second Reading of the Bill

The second reading of the Bill occurred on the 19th of February 2003 over two years after the first debate. Fifteen Members of Parliament spoke to the Bill on grounds similar to the first general debate about prostitution law reform. The pro-decriminalisation argument drew attention to a change from a climate of fear that existed for workers in the sex industry to one of protection, the benefits of street workers working in registered licensed premises, and the need to recognise that prostitutes deserved rights on the same basis as any other person. Some of those supporting the legislation described prostitutes as drug dependent and discussed the need for rehabilitation programmes.

This changed the shape of the pro-decriminalisation argument from prostitutes being victims of the criminality system to prostitutes being victims of the criminal world. This intoned the notion that women involved in commercial sex industry were encased in the criminal fraternity and its workings and that women who sell femininity to men have to be taking illegal substances to do so. It also conveyed an ethic of sickness or being unwell as a prerequisite to doing prostitution. The greatest policy change to come out of those supporting decriminalisation was discussion about a Supplementary Order Paper which would enable local authorities to prohibit brothels in specific areas and that sought to ensure a licensing system was in place as part of the legislation.

Similar to the previous debate, the anti-decriminalisation argument revolved around the decay of society, family and the destruction of morality. In this debate the argument was angled that 'our' opposition to the Bill was not on the basis of disrespect for prostitutes, rather, that the legislation was bad law and would be unable to uphold the promises it made. It was also lobbied that the legislation

legitimised prostitution and reformed society's attitude to prostitution which 'everyone' saw as unhealthy. It was reiterated that drugs, crime, coercion and the spread of sexual diseases were inherent to the prostitute and would all increase if prostitution were decriminalised. The belief that disproportionate numbers of Maori women would be over-representative in the sex industry, was repeated as was the belief that prostitution was degrading to women. The weightiest swing of the policy sword, in the anti-prostitution camp came, from the suggestion in a SOP to criminalise the client similar to Swedish legislation.

A majority vote of 14 passed the amendments recommended by the Justice and Electoral Committee. The second vote called for the question that the Prostitution Reform Bill be read a second time winning with a majority of six (NZPD, 11.6.2003: 6194–95). The Bill was supported by the entire Green Party, three-quarters of the Labour Party and around half the National and Act Party members. Whereas all of the United Future, New Zealand First and Progressive Party members voted against the Bill moving to the Committee of the Whole House.

Committee of the Whole House

The Committee of the Whole House debates occurred on the 26th of March, 30th of April, 14th of May and the 11th of June 2003. In this process of debate about the Prostitution Reform Bill, the public representatives considered each clause and Supplementary Order Papers. The first debate on the 26th of March 2003 was about the title of the Bill. All of the public representatives who entered the debates expressed views about the title, which conveyed views about prostitution and prostitutes.

The alternative titles contained terms such as society, pimping, solicitation, brothel-keeping, clients' protection, trafficking of men and women, and decriminalisation of prostitution and related activities. The policy structures of those for and against prostitution evolved into more prepared methods of controlling the sex industry and those who were operational within it.

Dianne Yates (Labour) discussed her Supplementary Order Paper (SOP) which aimed to criminalise the client (Yates, in Hansard, 26.3.2003: 4455). Peter Brown (NZ First) agreed with criminal sanctions on the client and raised concern about increases and the lack of control over the industry (Brown, in Hansard, 26.3.2003: 4456). Gordon Copeland (United Future) explained that New Zealand has a higher per capita rate of prostitutes and sole parents than the Netherlands (Copeland, in Hansard, 26.3.2003: 4457). Marc Alexander (United Future) stated drugs, violence, and servitude cannot be separated from prostitution and questioned why "*prostitutes have the right to foist their interests on the rest of us and to gain legitimacy over us*" (Alexander, in Hansard, 26.3.2003: 4458).

Phil Goff, (Labour), discussed his SOP which aimed to empower territorial local authorities to pass by-laws to control the location of the industry and give power to the police to keep individuals with serious convictions out of the industry (Goff, in Hansard, 26.3.2003: 4462). Russel Fairbrother (Labour) stated that any speculation about problems in the Aotearoa sex industry was not backed up with quantitative statistics. Further, the Australian sex industry increase statistics failed as an argument because prior to legislation change there were no Australian sex industry statistics (Fairbrother, in Hansard: 26.3.2003: 4464).

Maurice Williamson (National) stated that the message sent by the Bill was not a promotion of child prostitution, coercion or corruption (Williamson, in

Hansard, 26.3.2003: 4467). While Georgina Beyer (Labour) pointed out that in her experience clients are ordinary men fathers, uncles and grandfathers (Beyer, in Hansard, 26.3.2003: 4470). Harry Duynhoven, (Labour) stated “*this is a moral issue ... purely in terms of what we believe as individuals to be right or wrong*”. He considered a likely outcome of decriminalisation would be careers advisors and an industry training authority for the sex industry (Duynhoven, in Hansard, 26.3.2003. 4472).

John Key (National) questioned parliament’s ability to legislate for morality and described the current law as “*very inequitable*”. He estimated the client population in Aotearoa to be one million and suggested this was unlikely to grow because of the legislation change (Key, in Hansard, 26.3.2003: 4474). Marian Hobbs (Labour) declared support for the Bill because of health and safety issues and the victimless crime aspects of prostitution (Hobbs, in Hansard, 26.3.2003: 4476).

Paul Adams (United Future) stated concern for the breakdown of the family and indicated that women prefer lovemaking as opposed to sex which is quite different for men. He added that prostitutes dress to attract men who are tempted by what they see, stressing that this was a moral issue (Adams, in Hansard, 26.3. 2003: 4478).

Nanaia Mahuta (Labour) described prostitutes as vulnerable to not only prostitution but to drugs and alcohol, describing prostitutes as from lower socio-economic groups and lacking opportunity (Mahuta, in Hansard, 26.3.2003: 4482).

The debate about the title resumed on the 30th of April 2003 with Bernie Ogilvy (United Future) suggesting that the meaning of ‘reform’ as “*improvement of morals*” and had no relation to prostitution (Ogilvy, in Hansard, 30.4.2003:

4482). Murray Smith (United Future) contended that decriminalising the sex industry was akin to decriminalising the home drug manufacturing industry as they were both run by gangs (Smith, in Hansard, 30.4.2003: 5208). Nandor Tanczos (Green), in answer to Christian lobbying that promised damnation to public representatives who supported the Bill, quoted the scripture “*they worship me in vain; their teachings are but rules taught by men*” (Tanczos, in Hansard, 30.4.2003:5212). Russell Fairbrother (Labour) called for a “*level playing field*” and pointed to claims that statistics on the sex industry had no integrity (Fairbrother, in Hansard, 30.4.2003: 5217).

The debate about the title was in fact a debate about prostitution and after one and a half sessions in the House, 61 agreed with the title and 55 were against, with one abstention from Jim Sutton (Labour) (NZPD, 30.4.2003: 5220). All of the United Future, New Zealand First, half the Act and three-quarters of the National Party members voted against the title. The entire Green Party and three-quarters of the Labour Party supported the title (NZPD, 30.4.2003: 5220). From this point on the debate in the House was the structure and substance of the Prostitution Reform Bill.

Tim Barnett (Labour) acknowledged the key issues of debate in relation to the legislation were around the status of prostitution, the definitions in the Bill, decriminalising workers and clients, how the sex industry would be able to advertise, immigration; the promotion of safer sex, the methods of control in place, and the age of workers. (Barnett, in Hansard, 30.4.2003: 5221). He explained that there were better uses of police time than the three operations against prostitutes which had occurred in Auckland in the previous five weeks,

two of which had occurred on nights when the House had been debating decriminalising prostitution (Barnett, in Hansard, 30.4.2003: 5228).

Sue Bradford (Green) suggested an amendment which would ban all radio and television advertisements for commercial sexual services and called for a code of practice to be developed by the Ministry of Justice for the advertising of commercial sexual services in the print media (Bradford, in Hansard, 30.4.2003: 5231).

Dr Wayne Mapp (National) proposed amendments that would give local authorities the power to pass by-laws to regulate where soliciting would take place and to establish offences and to control those who commit "*nuisance in a public place*" (Mapp, in Hansard, 30.4.2003).

On the 14th of May 2003 the debate continued, R Doug Woolerton (NZ First) stated "*it's bills like this that make people outside of this place wonder whether the lunatics have taken over the asylum*" (Woolerton, in Hansard, 14.5.2003: 5744). Keith Lock (Green) suggested there was a need as a society "*to deal with why there is a supply of prostitution*". Prostitution was described as an "*undesirable*" form of sex (Lock, in Hansard, 14.5.2003: 5746). Lianne Dalziel (Labour), discussed her SOP which dealt with immigration issues relating to prostitution (Dalziel, in Hansard, 14.5.2003: 5784). Taito Phillip Field, (Labour) declared opposition to the Bill because "*Parliament's message to the community is important*" (Field, in Hansard, 14.5.2003: 5750).

Janet Mackey (Labour) stated the Bill had "*changed quite dramatically*" and no longer focused on "*meeting the health and safety needs of women who are engaged in the industry, but sought to seek some sort of normalisation*" (Mackey, in Hansard, 14.5.2003: 5751). Steve Chadwick (Labour) noted how particular

groups had “*cast aspersions on women who choose prostitution as a profession and did not mention the men*” (Chadwick, in Hansard, 14.5.2003: 5753). Helen Duncan (Labour) stated that statistics on increases are based on increase visibility of the industry. Whether work was degrading was an individual choice and “*members should not impose their beliefs on other people*”. She also referred to Submissions from people with disabilities who visited prostitutes (Duncan, in Hansard, 14.5.2003: 5756). Edwin Perry (NZ First) stated “*I have been around all those sorts of people in shearing gangs, and in the low life where these people do live*”. He believed that brothels would become drug outlets for prostitutes and “*everybody who goes there*” (Perry, in Hansard, 14.5.2003: 5759).

The final debate in the Committee of the House on the Prostitution Reform Bill occurred on the 11th of June 2003. Opening the debate Lynne Pillay (Labour) stated support for the Bill “*because it is about justice, safety and dignity*” (Pillay, in Hansard, 11.6.2003: 6159). Georgina Beyer (Labour) noted information from Colleen Winn who had been briefly employed in a research project on prostitution by Dr Melissa Farley. Winn had discovered that the research had not undergone any ethical ratification, had used questionable statistical methods, and had been funded by the right wing moral organisation Maxim (Beyer, in Hansard, 11.6.2003: 6159–6160).

Bill Gudegon (NZ First) stated the “*bill is an abomination against society, and it is against the sound social fabric of families*” (Gudegon, in Hansard, 11.6.2003: 6160). In summing up, Tim Barnett (Labour) acknowledged that around six hours was dedicated to passing the title and in that time the nature of the debate had changed. With regard to those against decriminalisation Barnett commented “*By implication they claim to know more about what it is to be a sex*

worker than do members of the Prostitutes Collective” (Barnett, in Hansard, 11.6.2003: 6162).

Edwin Perry (NZ First) stated “*Prostitution will become the centre of influence for criminal activity*” (Perry, in Hansard, 11.6.2003: 6164). Maurice Williamson (National) stated “*I think the least Christian thing one can do is persecute and punish somebody who is involved in prostitution*” (Williamson, in Hansard, 11.6.2003: 6166). Larry Baldock (United Future) commented “*I think it is deplorable that people are attacking minute details of that research as a way of trying to shift the emphasis upon the horrible lifestyles that prostitutes have in this country*” (Baldock, in Hansard, 11.6.2003: 6167). Brent Catchpole (NZ First) stated “*Prostitution always includes the dehumanisation, objectification, and fetishisation of women and children. Decriminalisation makes prostitution no safer or less humiliating for those in it*” (Catchpole, in Hansard, 11.6.2003: 6168).

Sue Bradford (Green) acknowledged Georgina Beyer for exposing the myths that Dr Melissa Farley has been putting forward around the country on behalf of the Maxim Institute (Bradford, in Hansard, 11.6.2003. 6170). Murray Smith (United Future) stated “*Market forces will increase prostitution. There will be more prostitutes ... We will get into sadism, bestiality, and necrophilia*” (Smith, in Hansard, 11.6.2003: 6127). Larry Baldock (United Future) tabled a letter that denied Maxims financing of Dr Farley’s research (Baldock, in Hansard, 11.6.2003: 6174). Peter Brown added that “*The industry will become a front for drug use and drug pushing, and for child prostitution*” (Brown, in Hansard, 11.6.2003: 6175).

The final section of the session of the House was devoted to taking votes on the Supplementary Order Papers and amendments proposed by the members.

There were strong links between themes in the submissions and House debates about prostitution and prostitutes and these suggested legislative directions which significantly sought strong positions of control for local authorities and cornered concerns about advertising and location of brothels.

A majority of 84 voted against Dr Paul Hutchison's suggestion that this legislation would eventually be a vanishing Act; "This act expires 5 years after the day on which it receives the royal assent unless a majority of the House Representatives resolves otherwise" (NZPD, 11.6.2003: 6179–80).

Stephen Franks' SOP 71 which proposed the insertion of Clause 3A to do with protection of freedom of speech, of association, and of religious expression, was voted out by a majority of 49 (NZPD, 11.6.2003: 6180–81). Part of Dianne Yates's SOP 56 that omitted clause 5 clarifying the status of the contract was also voted out with a majority of 73 (NZPD, 11.6.2003: 6181–82).

A majority of ten passed Sue Bradford's SOP 90, the insertion of clause 6BA concerning restrictions on advertising commercial sexual services (NZPD, 11.6.2003: 6182–83). Phil Goff's SOP 91, which provided for local authorities to make by-laws relating to signage and location of brothels was passed with a majority of 17 (NZPD, 11.6.2003: 6185–86).

A majority of 17 voted against Dr Wayne Mapp's SOP 68, which proposed giving territorial authorities power to make by-laws to restrict soliciting and would put in place offence provisions and the necessary police powers (NZPD, 11.6.2003: 6186–87). Phil Goff's SOP 91, which implemented placing additional requirements on territorial authorities when considering an application for resource consent for land use relating to prostitution was agreed to by a majority of 12 (NZPD, 11.6.2003: 6187–88).

Lianne Dalziel's SOP 69, which proposed to amend the Immigration Act to ensure immigration permits were not given to people on the basis of having or intending to provide sexual services was voted in with a majority of 21 (NZPD, 11.6.2003: 6188–89).

A majority of 77 voted against Dianne Yates's SOP 56 which proposed it to criminalise the client (NZPD, 11.6.2003: 6190–91). Mark Alexander's amendment, that every person who was client or provider in the act of prostitution be either fined \$5,000 or be imprisoned for six months, was also voted out by a majority of 91 (NZPD, 11.6.2003: 6191–92).

The final vote was that parts 1 to 3 of the schedule as amended be agreed to which was passed by a majority of five votes with one abstention by Pansy Wong (National) (NZPD, 11.6.2003: 6194–95). All of the United Future and New Zealand First Party, half of the Act Party and over half of the National Party members voted against the Bill. Whereas all of the Green Party and just over three-quarters of the Labour Party members supported the Bill.

On balance, the high majority votes occurred where moral right ideals about the control of prostitution were proposed. In those cases of SOPs and amendments that addressed concerns about local authorities having the by-law power to control signage and location of the business of prostitution and tighter control on possible immigration problems, the majority vote lessened. Very little was made of the one abstention in the penultimate vote in the Prostitution Reform Bill's legislative ride, however, the slim margin indicated a rough ride ahead.

The Third Reading of the Bill

Those in the anti-decriminalisation camp proposed that the only way to reduce the harm in prostitution was to stop prostitution and hence the issue of debate was not whether the Bill was good for sex workers but whether it was good for society. It was anticipated that the Bill was against the values of the average citizen in Aotearoa. Sex was framed as special and not open to commerce and limited moral values were attributed to those supporting the Bill.

The drug addicted prostitute was discussed in relation to her age being between 11 and 12 years of age. The inherent attributes of the sex industry (crime, gangs, drugs, and trafficking) were all predicted to escalate. The legislation was framed as condoning prostitution and privileging prostitutes. Prostitution was framed as non-productive and not as work but as commercial rape. Prostitution was positioned as born of a culture of poverty, disadvantage, childhood sexual abuse, domestic violence, and limited education options. This encased the prostitute as a victim of the male system of domination, and also as the 'type' of person to take her children out to do sex work with her.

The most flagrant attack from the pro-decriminalisation team was on the opposing side's claims that sex workers should be criminals. The removal of the legislative presence in women's sex lives was framed as an empowering governmental action. It was also emphasised that child prostitution and exploitation of workers could be dealt with better under a decriminalised system. The rights of disabled people to be clients of sexual services became the client subject focus. Prostitution was framed as unpleasant, caused by a male demand, and fuelled by economic necessity, not necessarily drugs. The most important ethic of the legislation being that it afforded sex workers human rights.

In the final vote, a margin of one gave ensured the Prostitution Reform Bill passed the House. The one abstention by Ashraf Choudhary (Labour) meant 59 were against and 60 were for the legislation (NZPD, 25.7.2003: 6608). A great deal was made of the final vote that birthed the Prostitution Reform Act 2003 and Choudhary was attacked on many fronts for abstaining in the vote and effectively passing the legislation. Previously Ashraf Choudhary had voted against the second reading and the title of the Bill. The most notable changes of support were National Party members Wayne Mapp, Murray McCully and Pansy Wong who had all supported the second reading and voted against the legislation in the final vote. Winnie Laban (Labour) had previously voted against the legislation and turned around to support the legislation in the final vote.

The Shape of the Prostitution Reform Act 2003

The key features of the final legislation are that the minimum age of workers is 18, clients who use underage workers will be convicted and not able to use mistaken age of the worker as a defence. Local bodies are given powers in relation to the location of new brothels and are able to create by-laws which can influence the areas where brothels can be located. A Review Committee will assess the industry and the impact of the law change then report back to Government within three to five years about how best to control entry into the industry and encourage more to exit. The action of coercing someone to provide sexual services is a crime, which backs up sex workers right to refuse to provide sexual services. Brothel operators must seek a licence from the Court and will be refused if they have criminal convictions. There is a ban on advertising prostitution on television and radio and a code of control will direct print advertising. Local bodies also

have powers to ban offensive signage promoting prostitution services. Operators of brothels have legal obligations to ensure safe sex information and materials are provided and used by workers and clients.

Time Out

The most significant contrast between the first draft of the legislation and the Prostitution Reform Act 2003 is the multiplication in size and levels of control over the sex industry. Importantly each local authority has the ability to ghettoise the sex industry within its region through by-laws dictating legality and illegality within the sex industry. The Court systems involvement in licensing and certification application is a mix between a police check and a passport application. It costs \$205 dollars to apply and must be renewed each year. To apply an authenticated photocopy of official photo identification such as a drivers' licence or passport and a passport-style photograph must be submitted. Certification does not apply to small owner-operated brothels with four or less workers who each control their own earnings from prostitution at this place of work.

The first draft aimed to protect sex workers. The final outcome was legislation that aimed to protect citizens from the danger of prostitution. Although sex workers would no longer be governed by police powers, through local authority powers of control and the surveillance of the Court, they remain trapped by new institutions with new regulations. The stigmatisation of sex work remains alive and kicking within the policies that support the Prostitution Reform Act 2003. The image of the prostitute played a hefty role in the creation of policies about prostitution as it did in the interviews with four Aotearoa women who had

work experience in the sex industry. The subsequent data chapter records sex workers views about their work and the sex industry in Aotearoa.

Chapter Four

Sex Workers Speak

This chapter summarises the interviews of four Aotearoa women who as they prefer to describe the prostitution experience, have been ‘working ladies’. Each of the women selected their alias Jenny, Sarah, Sally, and Sue, to ensure a safe representation of themselves and their experiences. Two of the women, Jenny and Sarah, had sex work experience which began in the 1980s, within the parlour system. Sarah has also had private work experience, however, neither of them does sex work presently. Sue worked privately at the time of the interview and had not had parlour experience. Sally also worked at the time of the interview and has parlour, escort and private work experience.

At the time of the interviews soliciting was still a crime in Aotearoa so those women who came forward to be part of this research placed a lot of trust in me and for that I am thankful. The greatest level of trust came from my need to keep their identities secret. Therefore some of the details of the interviews have been metered to ensure that the only people able to read these interviews and identify Sally, Sue, Sarah and Jenny, are these four sex workers.

The level of openness that these four women honoured me with has enabled me to gather together an intelligent and insightful snapshot of the sex industry in Aotearoa at the present day. I was blessed with the wisdom of a collective 50 years of experience in and knowledge about the sex industry, some of which dates back historically over 20 years.

This particular aspect of the interview group enriched the scope of discussion about the issues relevant to our sex industry. This also enabled an

accurate description of the various changes the sex industry has travelled through due to various social and cultural factors such as AIDS and HIV.

Five general themes can be identified from the interviews. The first 'Into the Sin Bin', includes the fear of criminal punishment for soliciting and the effect that has had on their working and personal lives, their employment conditions, and work status. The second theme, 'Societal Perceptions verses Experience' looks at the sex workers' experiences which are balanced against the major issues of social and cultural concern raised within the private submissions to the Prostitution Reform Bill. As well their comments about more generally expressed moral concerns about prostitutes and prostitution.

The third 'Game Girls' looks at sex workers' reactions to some feminist claims about prostitution and what these workers prefer to be referred to as. A fourth theme 'The Service' looks at the women's views about clients, sex and pimps. The final theme 'Impacts' focuses on the sex workers' views on the decriminalisation of prostitution, in Aotearoa.

Into the Sin Bin

An essential theme throughout the interviews was criminality and the effect the threat of a soliciting charge has on a sex working woman's life. Linked to this is the historical change in the character of the sex industry and the manner in which women are employed within the parlour system, specifically the employment structures and payment methods utilised in the sex industry in 2002 compared to 20 years ago in Aotearoa.

Criminality@work.com

One of the focuses of the interviews was what effect criminality has on sex workers lives both working and personal. All four women commented that a conviction for soliciting is an undesirable outcome for any woman. Sally stated:

We walk on water and live in fear of facing quite serious consequences for doing something we choose.

The most serious consequences of conviction were seen to be family shame when convictions are published in local papers, fines and jail and a police record. Other consequences included limited overseas travel options, being unable to work in registered parlours, prevention of further employment outside the sex industry, possible exclusion from rights to insurance and banking systems, and investigation from the Inland Revenue (who have been notified by the police) which could lead to being audited with the potential to lose your house and any assets.

Sue stated that she would “*have to leave town*” if her family found out. All the women explained that they were selective about who they revealed their working status to. Jenny explained that this level of secrecy about women’s working status extends to all areas of their lives. Whether it is a family G.P., a sexual health expert or a friend, it is not always appropriate to be honest about doing sex work.

Sue agreed as she has found within her social realm there are few people she confided in about her profession. She explained that when she hears the way many men and women outside the sex industry talk about working ladies, she is not impelled to share the truth that often. Sally pointed out that even if sex working women are in the court system, for reasons other than a charge of soliciting, their profession is often disclosed and made relevant to that case.

The effects that it had on the women while they worked were various. Jenny explained that women had to hide their condoms in places like the back of cigarette packets, as they were often used as "*evidence*" for a conviction for soliciting. As well the police were known to raid sex workers' houses looking for drugs to ensure that "*any*" conviction was secured. Jenny had experienced the police watching her house and knew of other women who had experienced the same.

Both Jenny and Sarah commented that while working they were very careful with accepting "*extras*" because the police often sent in undercover policemen to pose as clients. Jenny turned down one out of three clients just in case they were undercover officers, consequently foregoing income. Sarah always had the fear of prosecution in the back of her mind while she worked.

Jenny could think of at least ten women who had been arrested and convicted, in one instance the woman was at university. Sarah commented that many of the women were "*set up*" by the police. Sally also knew of some "*horror stories*" about the way women who are arrested and convicted for soliciting were treated. Sue knew of one woman who had a conviction 30 years ago, who was prevented from entering the sex industry again.

A further effect of prostitution as a crime is the inability of workers to be able to use their money effectively, because sex work is a cash economy. The first and most likely avenue or method of detection and conviction for soliciting or living off the earnings of the game was the Inland Revenue Department. For that reason most working women have distrusted that system over the years and some continue to do so.

Jenny admitted she did not enter her earnings into tax system and Sue explained that she had worked hard in her respectable profession to pay off her house, before she started sex work. She did this so that her house could not be taken away from her if she ended up in the criminal system because of prostitution. However, Sue declares her income to the Inland Revenue and treats her involvement in the sex industry as running a small business.

Sally pointed out there are “*a lot of pitfalls*” to the cash structure of the work. It is nearly impossible to apply for a car loan, as one cannot produce proof of weekly earnings. Also there is a “*security issue*” that surrounds the cash economy as many women are forced to hold their money at home producing a dangerous personal situation. Sally points out the danger.

What's it going to take for one of those men to follow them home one night and whack them over the head.

Jenny explained that the escort agency system started as a means of countering the conviction system which prevented women from working in registered parlours. Sally commented that because of the way many parlours are run a large number of mature working ladies choose to work privately.

Changes in the Game

Apart from working in constant fear of being arrested and convicted, criminality has specific effects on the ways in which women work in the industry and how they are treated within those work environments. This encompasses decreasing pay rates, hours of work, fines, bonds, advertising fees, and limited powers of negotiation with both management and clients. At the time Jenny and Sarah started working the Aotearoa sex industry operated quite differently than it did in 2002.

Jenny who began working in the 1980s explained that at that time those women working in parlours were obliged to sign a waiver form that stated they would not do extras; if workers were caught doing extras the parlour had the right to cease their employment. Also, workers were paid an hourly rate for their massages. The pay rate was dependent on how long the massage was for and which level of nudity the worker did the massage.

Jenny earned around \$100.00 a week in massage fees and received around \$300.00 holiday pay when she left the parlour. She recalls at that time the unemployment benefit (dole) was around \$30.00 a week, for someone under 20 years of age.

Jenny recollects that in the 1980s extras cost around \$100.00 for straight sex, either \$40.00 or \$60.00 for hand relief, noting that "*prices never went up they came down*". During the mid eighties the share market crash, the introduction of GST and changes in entertainment tax accounts (where it was no longer possible to recover 100%) all had a major effect on the sex industry in Aotearoa.

AIDS also had an effect on the sex industry. Jenny explained that hand relief became a more popular client request, rather than full sex. The culmination of all these factors resulted in a situation where "*instead of your regular clients being the icing on the cake your regular clients became the cake*".

A Picture of the Game in Aotearoa 2002

Sarah agreed that prices have not risen since the 1980s and if anything they have gone down. As well the rights of sex workers within parlours have diminished.

Sally stated that because of the lack of rights parlour workers have, the private working situation is the best option:

Parlours and escort agencies treat you like a 12-year-old girl. Parlours and escort agencies have fines and bonds and they make us dress up like Mary Poppins on a bad day. They have set rules for the girls that are just utterly ridiculous and basically they live off our earnings, and they seem to be able to get away with it. Whereas privately what you charge you get for yourself and you're in control of yourself which is what we should be able to do. You're running your own business.

The most drastic change was the introduction of the 'all inclusive' pricing system, where parlours and escort agencies take the money from the client at the door and the women must collect their earnings from the parlour or agency, not the client in the room. Previously negotiations and payments were conducted between the client and the worker, in the room once the massage had started. Jenny pointed out that this removed workers' rights of refusal and negotiation.

You can't say no I'm not going to do you because you're pissed, you've got crabs, you've got discharge or whatever coming from your, you know ... you cannot negotiate anything because it's already been done for you.

Both Jenny and Sally expressed concern about the exploitation of workers, particularly younger women. Firstly with regards to payment, in that women are receiving 40 and at most 60% of the 'all inclusive' fees charged by management. Sally explained that in many cases if the client pays by electronic means such as credit card, parlours withhold the monies and find excuses such as bonds, fines and advertising fees, not to pay the women for their work. Sarah pointed out that there are no other forms of employment where you have to pay a bond to be allowed on the premises.

A second concern was regarding education about how to work safely. Jenny recalled an incident where a worker in the late 1980s had complained about

condoms breaking, but the person had never been taught to use lubrication such as KY Jelly. Sally noted an incident where herself and younger worker (aged 17 but advertised as 19), were on an 'out-call' and the younger worker accepted a glass of wine which had been poured in another room.

Sally pointed out that basic safety measures such as keeping clients in view, not letting them walk behind you, not accepting possibly suspect drinks and knowing how to put a condom on properly are important aspects of knowledge that keep workers safe. Jenny explains that new workers are not being informed properly about how to work safely:

They're being preyed upon. I've heard some pretty bad stories like not being told clients paid for sex and they come once. There's no kissing, there's no going down on the girls, there's no fingers down there. So clients are coming three or four times, they're going down on them, workers are getting rashes down there from bristles and they're getting paid say 80 bucks for an hour with guys pounding on top of them. The body's not made to.

Both Sally and Jenny commented that management within the parlour and escort agency system had stepped into the role of pimping. They explained that over the last 20 years the police have ceased to be as active, in raiding parlours, as they were in the 1970s and 1980s. Jenny pointed out that during this time there was a "Vice Squad" whose members were responsible for the control of prostitutes through posing as clients and arresting the women.

Both Jenny and Sally believed the lessened police concern about convictions has enabled parlour and agency management to feel confident about selling the sexual services of the women workers so openly. Management stepping into the role of pimping has changed the ladies' working lives. Jenny pointed out previously the women had control of their working environment, now they do not.

Societal Perceptions versus Sex Work Experience

A definitive societal perception of the prostitute and prostitution was heavily apparent within the content of the private submissions. The descriptions from actual sex workers' of their experiences illuminates the disparity between the social perceptions and actual experience of, the sex industry in Aotearoa. In this section the leading concerns contained within the private submissions are discussed from a sex worker perspective.

A paramount area of concern in the private submissions to the Prostitution Reform Bill was the effects of prostitution on the family. Other issues raised included drug use and the way prostitution devalues women. For the sex workers, keeping their families safe from the knowledge of their profession was a major concern. As previously mentioned, all four women were selective about which family members and friends they revealed their working status to. Two women made specific reference to the shame of having one's name splashed all over the paper if convicted and the effect it would have on themselves and their families.

Who are Prostitutes in Aotearoa?

In contrast to the stereotypical images of prostitutes as drug dependant dropouts, Sally pointed out that in many cases sex workers are mothers who are working to provide for their family as the welfare system is an inadequate financial provider with regards to clothing, feeding and educating children properly. Sarah agreed and added that benefit cuts and the dramatic rises in the cost of living have made sex work a viable option for women "*without having to change their lifestyle dramatically*".

The second area of concern in the private submissions was an increase in drug use. Sally's reaction to the assertion that sex worker equals drug addict was that "*people need to change their attitude, I mean it's their buzz but it's not true*". Jenny pointed out that contrary to popular belief sex workers are not paid in drugs. In her experience drug use "*wasn't rampant*"; there were some workers who used drugs for recreation and a few workers were on the methadone programme. However, they do not take drugs at or to work as this doubles their chances of conviction. Sarah commented that problems with drug use are not solely a sex industry problem.

That prostitution devalues women was the third major concern within the submissions. All four sex workers pointed out that it is society that devalues women through the stigma that it places on prostitution and prostitutes. Sally commented that "*society has branded us for being a certain character of woman that probably 95% of us are not*". Sue pointed out that sex work makes her feel valued and finds the work rewarding. Sarah explained that sex work had made her a "*stronger person*". All the women spoke positively about their work, their experiences, and the opportunities sex work gave them. Most importantly all of the women spoke positively about themselves. These women's body language was that of people with high self-worth and self-esteem. They held their heads high, all sat with a positive posture, shoulders back and all spoke directly and clearly with honest eye contact.

If you were to meet these women in a group with other women from more 'respected' female professions such as nursing, you would be unable to spot the prostitute amongst them. One reason was because many of the women I met

from the sex industry during the process of this thesis had worked in other professions and chose sex work.

Why do they Choose it?

As Sue pointed out, even if a sex worker is only making \$40.00 an hour, that's considerably more than her sisters who are working at supermarkets and in fast food outlets for \$5.00 an hour after tax. To that I add the gendered pay gap and the lack of pay equity in Aotearoa where traditional female professions such as nursing, struggle to match the pay structures of traditional male bastions of employment like plumbers, mechanics and policemen.

The fourth most reported concern in the private submissions was an increase in prostitution. Sue saw this as unlikely because "*if a woman wants to do it she'll do it anyway ... you've got to be able to do it for money*". This is quite different to going to a bar and picking up someone, something Sue has never done and could not do. She points out that the internet is full of people looking for unpaid casual sex.

Sally pointed out that women enter sex work for a reason, which is most often because they are in a "*financial pickle*" and have to do something to get themselves out of this situation. Sally believed that this situation was often created by the Domestic Purposes Benefit, which she described as "*the biggest joke*", in that the amount of money women receive is "*unrealistic*".

Age-old Concerns

An increase in child prostitution was the sixth most prominent concern in the private submissions. Sally explained that when she first started working ten or

so years ago there were mostly older women involved in the parlour industry. She has noticed a decrease in the age of some of the workers in parlours: “*they’re not like the older wiser mothers that used to be working*”. Jenny, Sarah and Sally all explained that when they started, an older worker would take the young ones aside and share their knowledge of safe work practices.

Both Sally and Sue expressed concern for these younger women. They were often exploited by the parlour owners and, because of their lack of experience, they place themselves in dangerous situations.³

An increase in violence against women was the seventh most apparent concern in the private submissions. Only one worker described a violent sexual incident which occurred on an out-call in a hotel. Because of the implications of criminality for her work she was too scared to report the rape to the police.

With regard to the moral concerns that encase the issue of prostitution, Sally points out that Christian principles of acceptance and non-judgement are lacking with regard to prostitutes.

Jesus himself said to the crowd who wanted to stone Mary Magdalene, those without sin were to cast the first stone, not a single person lifted a rock that day. I think that if Jesus can make a comment like that, I don’t think it’s an area that other human beings can discriminate against us. They’re not higher than him, he’s the big man.

Game Girls

As discussed in Chapter Two, feminist perspectives and analyses of sex work are wide-ranging and diverse, covering the spectrum from condemning prostitutes for colluding in male exploitation of women’s bodies to viewing prostitution as valid freely chosen work. I selected five key issues raised within feminist literature on

³ The ‘younger’ workers being discussed were women who were aged between 17–20, all over the age of sexual consent but who were being advertised as older.

prostitution and invited responses from the interviewees. These were: the terms they preferred to describe their work; their reaction to the idea that sex work is not a legitimate type of work; the charges made by some feminist and non-feminist writers that sex workers have low self-esteem; whether sex workers 'choose' their work; and finally their reaction to the term 'body work' as a description of sex work.

With regard to how each of the women preferred to be referred to, Jenny liked "Sex Workers" over "prostitutes" as it is not a "derogatory term". Sarah prefers 'Working Lady' whereas Sally stated "*I like to call myself a working lady or a prostitute with a big P, I don't like being called a slut or a whore because I'm not*". Sarah agreed that terms like whore and slut are offensive, untrue and abusive.

Legitimate Work

Some feminists have argued that prostitution cannot be considered work or a professional occupation because of a lack of choice, reciprocity and possible injury potential. Sally's reaction to this was that:

they're just silly because it is a job, we go to work...we're professional about what we do we should be entitled to professionalism.

Jenny agreed and pointed out that sex workers provide a professional service:

You know they were people you had a professional relationship with and most of the time they just talked to you that's what the time was spent doing not all bonking or what ever, it was spent providing a service.

Sue considered it a profession similar to a therapist for two reasons: firstly, because it is a service that provides help, and secondly, because there is a demand for that service. She considered that she provides “*companionship, cuddles and affection*”.

When asked to describe skills and attributes the women had gained from doing sex work all four stated that it improved their self-esteem. Sally explained that she had gained counselling skills, reception skills, skills with dealing with public relations, as well as lots of exercise. For Jenny it was negotiation skills, astuteness in reading people quickly and self-empowerment. For Sue it was the ability to have a self-directed work schedule which enabled her to enjoy a life apart from work. For Sarah it was a strengthening of self-worth and reception skills.

Rebutting Some Theories

All of the women viewed working as a choice. Each commented that financial necessity was often a leading factor for women working. However, that did not equal coercion; rather it was a reality of life that women need to earn money to feed, clothe and educate their children, giving them the best opportunities possible, which the welfare system does not.

When asked what they thought of the term ‘body work’ in reference to prostitution, Sally commented that it sounded more like a description of tattooing than sex work. Sue agrees that this is an inappropriate term as the job can have a very “*mentally draining*” aspect to it whereas Jenny thought it was an apt term, as the sex that is involved in the transaction was “*clinical sex*” and nothing like love making that occurs in a relationship.

Sally made the point that often feminists who propose theories about prostitution do so from a position of non-experience. Jenny recalled an event in the mid 1980s where a group of feminists wanted to spray paint over a particular parlour's signage, the irony being, it was one of the best parlours where the owners worked and the girls were well looked after.

The Service

Three of the vital factors of the sex work industry are clients, without whom there would be no demand, the demand for sex, and those who organise the sex work. A societal perception of the prostitute is that she hates men; all of these women spoke positively about the men they provide the services for.

What do Clients Want?

Sue commented for many of her clients it's as much about having someone to talk to, not just someone to have sex with; "*I think we all like contact*". Jenny agreed that the greatest percentage of the service prostitutes offer is talking to their clients.

Sally commented that she feels like a "*Marriage Guidance Counsellor*" and at times when client numbers dwindle "*I never used to blame it on the economy, I used to say that there was a sale at Decker and their wives have run out and brought a couple of g-strings*".

Unpleasant Clients

Sue only talked about two unpleasant clients who one requested "*play acting with children*", another who was known amongst the working ladies as a rapist. One worker contacted the police about this client and the police did nothing about it.

The woman who shared her rape and explained how she did not feel able to go to the police because she was a sex worker also confided that a further consequence of that rape was that she needed to go and have a termination. After the termination, the man who carried it out ended up at her place of work, as a client:

Well I didn't realise who it was, you go for a termination, you've taken a valium the night before, you've taken a valium that morning and then he told me who he was afterwards. That was a violation, that was a line that ... it just wasn't good.

Reasons for Visiting

Sue explained that clients visit her for many reasons. Many of their wives were unable to have sexual intercourse, and, while these men love their wives, “*they just want a bit of body companionship*”. Jenny told of one client whose reason for visiting working ladies was because he had had a “*vasectomy reversal*” and needed to ejaculate a lot. After his wife had a baby, he continued to patronise the working ladies service.

Jenny pointed out that very few clients are capable of an hour of total sexual activity. As a consequence, the major percentage of the activity within the service offered by sex workers is not sex.

Types of Clients

Sally prefers the private clients as they have a better ethos for treating the workers: “*Gentlemen use private ladies, they're a lot more considerate in their manners because they're proud of the private ladies*”. This was in clear contrast to the parlour clients who are “*normally the drunks you get on a Friday night*”

that have been thrown out of every nightclub in town and they've decided there's nowhere else to go so they crawl up to the local parlour".

Sex and Sexual Health

Jenny pointed out that the sex in the working situation is different to the sex that happens in a relationship. Various actions that are intrinsic to relationship sex are not expected to be present in paid sex. These include no kissing, no fingering the vagina, no reception of oral sex, and the client only reaching orgasm once per visit. Her concern was that specific sexual health knowledge was not being imparted to some sex workers. One example is the use of dental dams which are designed to allow the worker to accept oral sex safely.

Sue pointed out that the drastic lowering of prices which has occurred in the Aotearoa sex industry could coerce some workers into accepting more money to have sex without a condom. "*Body companionship*" is the way Sue termed her service, with specific reference to "*lots of cuddles*" and verbal intercourse and in some cases no sexual intercourse. For Sue, sex work avoids the emotional hassles and physical diseases paramount to one night stand sexual relationships sought in bars.

Sally pointed out that condoms should be more heavily subsidised for everyone to buy. She has some clients who bring their own condoms but she always checks the expiry date. For safety reasons, Sally most often pretends to open their condom but swaps it for her own. Sally explained that professional working ladies care passionately about their sexual health and their own safety.

Pimps

Both Sally and Jenny stated that pimps do now exist in Aotearoa and they are the management who are selling the sexual services to the client up front. Clandestine soliciting in the room, with constant fear of being busted by some undercover Vice Squad member, was now a thing of the past. Negotiations about what is going to happen in the room are no longer between the lady and the client but are now between the pimp/management and the client.

As Sally pointed out, management are selling the sex at the door, taking all the money from the client, and dishing it out to the women at leisure. In some cases, under the guise of fines, bonds, advertising fees or towel fees, the sex workers did not receive any money. The reality is women are working hard, for less professional pay than ever before, to make these pimps rich:

In a parlour or escort agency you're running some fat man's business for him to go over to some exotic island once a year. And party it up at your expense and you're the one who's done all the work. While he's just sat on a chair.

Sally pointed the owners and managers of parlours and escort agencies were not being arrested. In some cases where it was a woman who owns the business, she was often running it in just as exploitative a manner as some of the men. Sally and Sue both choose to paddle their own canoe and work for themselves, setting their own prices and doing their own negotiations with clients about what will occur in the service and what will not.

Impacts

The two most significant impacts for the women interviewed from the decriminalisation of prostitution was that working ladies would have rights like other workers and would no longer be criminals. Under a decriminalised system

working ladies would be able to dispute situations like fines, bonds, advertising fees, and the withholding of monies owed by management.

Decriminalisation would ensure that working ladies would no longer be forced into the criminal system, a system that has far-reaching and devastating effects on all aspects of the convicted prostitute's working and personal life in Aotearoa.

Sarah described the impact of decriminalisation as working ladies being able to feel "*like a normal person, basically walking with your head held high ... not looking at it as something to be ashamed of*". Jenny explained that decriminalisation should hand the control of the working environment and negotiations about the service being sold back to the women working.

All the women saw improvements in health and safety issues as an impact of decriminalisation. It would provide safer and more regulated work environments and enable working ladies to be more open to necessary authorities, such as the police and health care providers, about their work. It would also enable networking of safer sex information and materials more efficiently throughout the industry.

Other impacts of decriminalisation mentioned in the interviews were that sex workers could become unionised and that they would be able to be more truthful about their work. All of the women mentioned the fact that under a criminal system, working ladies do a lot of lying to conceal their occupation and to keep themselves safe.

None of the women interviewed foreshadowed the possibility of central government giving local authorities the rights to control aspects of the sex industry on a local level.

As this chapter has shown, the myths about sex workers and the reality of those who work in the sex industry are a heavily divided chasm of reality and reification. The arguments against decriminalising soliciting and earning from the game are heavily bound with the false social perception of sex workers and the sex industry. Finally, the benefits of decriminalisation for working ladies far outweigh the benefits of criminalisation, of which none were identified by interviewees.

In the next chapter, Chapter Five, the analysis of the previous two data chapters is undertaken. This encompasses scrutiny of the role the language in the discussion about prostitutes and an evaluation of the perceived impacts of the decriminalisation of prostitution in contrast to Sarah, Sally, Sue and Jenny's prostitution experiences.

Chapter Five

Analysing the Actions and Reactions

As the previous two chapters have shown, motifs and stories about women and their sexual character are intricately and often subtly woven into the private and organisational submissions as well as parliamentary perspectives in the perceived impacts of decriminalising prostitution in Aotearoa. From a feminist perspective these 'stories about women' embody male-dominated myths and assumptions about gender, sex and sexuality. They function to create a division of women into 'good' and 'bad'. The effect of this dichotomous social and cultural construction of femininity can, within the metaphor of 'the game', be likened to an 'off-side ruling'. If you are in the 'good women's' team you are 'on-side', whereas 'bad women' are always 'off-side'. Importantly men are the ultimate umpires. Not only do they set and revise the ethics of individual judgements, they act as sole arbiters where any ruling can be altered at any time.

Women are encouraged to become 'side-line' referees and support judgements of other women as 'off-side'. This works to dissipate women's social power base as a group ensuring the perpetuation of the 'good/bad women' myths by both genders. The eternal myth machine is systemic and hegemonic in nature and embodies the entire sphere of women's lives it encompasses language, social policy, public opinion and cultural knowledges.

In providing an analysis of the research findings, this chapter considers the role of language in the construction of prostitutes and prostitution. Public opinion about the perceived impacts of the decriminalisation of prostitution are compared and contrasted with the prostitution experiences of the women interviewed. Finally, the key assumptions and concerns within the organisational

submissions and parliamentary debates about the practice of prostitution in Aotearoa are analysed in terms of the operation of practices of the surveillance, inspection, control and containment of women.

The Language of Bad Women

Language is a loaded medium that imparts social knowledges, cultural understandings, moral beliefs, social policies and public opinion. An analysis of the language used around the naming of the proposed legislation reinforces social and cultural assumptions and beliefs about women and their female sexuality.

When the Prostitution Reform Bill first began to be discussed the term 'prostitution law reform' was used to describe the proposed legislation. This was a suitable and accurate description of the action that was being proposed, namely, reform of the prostitution law. As part of the parliamentary process is to debate the title of legislation, the alternative titles suggested throughout the legislative process provide insights into how those parliamentarians who opposed the legislation believed that prostitution practices should be codified.

During the major debates on the title of the Prostitution Reform Bill on 26 March 2003 a number of other titles were suggested: "Clients Protection Bill" (Yates, in Hansard, 26.3.2003: 4455), "Pimping Reform Bill or Pimping Advancement Bill" (Brown, in Hansard, 26.3.2003: 4456), "Prostitution, Solicitation, Pimping, and Brothel-keeping Legislation Act" (Copeland, in Hansard, 26.3. 2003: 4457), "Opening up the Trafficking of Men and Women into Prostitution Bill" (McNair, in Hansard, 26.3.2003: 4457), "Prostitution Perform Bill" (Alexander, in Hansard, 26.3. 2003: 4458), "Society Reform Bill" (Baldock,

in Hansard, 26.3.2003: 4467), and “Decriminalisation of Prostitution and Related Activities Bill” (Hutchinson, in Hansard, 26.3. 2003: 4469).

The language selected for the titles indicates a social positioning of prostitution practices in relation to decriminalisation. Prostitution is regarded as akin to soliciting, pimping, trafficking, drugs, crime and related activities. The prostitution activities the legislation proposes to decriminalise (soliciting and financial gain) are emphatically derided as potentially non-criminal. The legislation is located as a promotion or advancement of the evil relatives of prostitution.

The expressions employed in the proposed titles negates the fact that the ethos of the proposed legislation is about the rights of prostitutes as workers. This negation is furthered by placing clients as being protected and society as being reformed through the legislation. This negation suggests that social policy and public opinion is able to deny prostitutes’ legislative health, safety, and employment rights on the same basis as any other worker in Aotearoa.

That the legislation remained titled as ‘Prostitution Reform’ is an important indicator of the social, cultural and moral perceptions about ‘bad women’ and the messages government wanted to convey; the legislation would ‘reform’ prostitution. The word ‘prostitution’ is one of the most powerful words in man’s language basket, endemic with specific imagery. As a single word, ‘prostitution’ conveys sexpectations, social rules, cultural expectations, stereotypes, falsehoods and consequences for those branded with the term. As a label it robs women of basic human rights and classes them as abnormal non-people who are ‘sick’. One of the basic tenants of the ‘bad woman’ is that she is able to be ‘reformed’.

Similarly, the word 'reform' has many connotations, and both conveys and reiterates social messages about women. By implication it is 'bad women' who need to, and can be, reformed, changed, and improved. A necessary part of the process of being 'reformed' is through containment and correction procedures. Reform carries the impression of improvements for those being reformed and society at large. The title of the Act sent the social message that although prostitutes would no longer be 'criminals' because of their work, they would remain controlled and would, possibly, be improved.

The notion of reform with regards to prostitution was rejected by Parliamentarians who opposed the Prostitution Reform Bill. During the parliamentary debates Dr Hutchison stated that reform was 'inappropriate' because the issue of reform was questionable with regard to prostitution and the legislation (Hutchison, in Hansard, 26.3.2003: 4460). Steven Franks saw reform as a "bid for legitimisation, or normalisation, or destigmatisation" of prostitution (Franks, in Hansard, 26.3.2003: 4473). In the ensuing debate, Peter Brown quoted the dictionary meanings of reform to be "to form anew ... to give up a reprehensible habit ... to improve, or improvement of morals". He questioned whether it was possible to "form anew a prostitute" or to make improvements where prostitutes are concerned (Brown, in Hansard, 30.4.2003: 5206).

The specifically selected language used to describe the prostitute and her practices in the speeches and submissions by those who opposed the legislation portrays definitive social and cultural messages about who a prostitute is: drug-addicted, criminal, disadvantaged, a victim, sexually abused, a particular type of person, lacking in self-esteem, and with limited options.

It confers that what prostitutes do is disgraceful, despicable, demeaning, degrading, dehumanising, evil, and wrong. Prostitution is a horrible lifestyle, the objectification and fetishism of women and children, an evil institution, anti-family, an undesirable form of sex, destructive for men and families, a low-life, akin to drugs and crime. The persistent implication was that the best course of action was to continue to control prostitutes through criminalisation.

The proposed legislation was variously described as blasphemy on the nation, making the unacceptable acceptable, normalising prostitution, law for the corruption, the immorality, the decay of our society, and a misnomer. Most often the legislation was seen or described as legalising prostitution, rather than as decriminalising it. This confirmed that there was limited support to accept prostitutes as not being criminals and it clearly demonstrated a lack of comprehension of what was actually being decriminalised, which was not prostitution.

The use of the term 'decriminalisation of prostitution' in relation to the legislation is also responsible for the clouding of public understanding of the Prostitution Reform Bill. Although this is an accurate description of the action that occurred, decriminalising prostitution does not accurately describe the legislative change. As many parliamentarians pointed out during the debate of the Bill, prostitution itself was not a crime in Aotearoa. A legislative double blind existed prior to the Prostitution Reform Act 2003. On one hand, only those selling sexual services or earning off the game were punished ignoring any men involved in the transaction and blind to the fact that intrinsically one cannot be a prostitute unless soliciting and earning money from soliciting which are constitutive features of prostitution.

During the process of the parliamentary debates, Auckland street prostitutes were arrested by police. Some anti-decriminalisation members of parliament made comment about how it was not a problem that these women had been arrested. This stance reiterated the ethic of social policy and public opinion that prostitutes deserve to suffer disciplinary practices.

Public Opinion versus Prostitution Experience

Evident in the public opinion about decriminalising prostitution are stories about how and why 'bad women' behave in a particular manner. This section of the analysis is where the concerns of the private submission and the public representatives' speeches are compared with the prostitution experiences of the women interviewed.

I use the term "public's opinion" because the data is public representatives' verbatim speeches made in the context of the public arena (Parliament) and written text from individual citizens. Both sources contain opinions about prostitution and the possibility of decriminalisation.

Damage to Families

Just under half the private submissions saw the destruction of families and family values as the result of the decriminalisation of prostitution in Aotearoa. This was also central to many parliamentarians' arguments against decriminalising prostitution. Gordon Copeland stated that statistically Aotearoa had more prostitutes per capita compared to the 'sex for sale capital of Europe', the Netherlands. Statistically, Aotearoa also has a rate of sole-parenthood which is 3.5 times higher than the Netherlands (Copeland, in Hansard, 26.3.2003: 4457).

These figures fit conclusively with what the interviewed women had to say about why women in Aotearoa enter the sex industry and is a view supported in one of the nine private submissions that supported the Bill. Women enter prostitution primarily to keep their families together and enable them to survive financially, because they are sole-breadwinners who are reliant on the inadequate finances provided by the state welfare system.

All the interviewees commented on the immense damage that a criminal conviction and the social stigmatisation of prostitution does to the families of sex workers. In the instances that the families of prostitutes are acknowledged in the public representative's speeches, it is done so through stories about women taking their children to work on the street with them or children being left unattended in cars outside shipyards. In the private submissions most often the mention of prostitutes' families was in relation to children suffering abuse.

What this reveals is a public reification of the idealised male dominated family structure and a lack of acknowledgement of the predominant modern family structure in Aotearoa of single parents which is steadily rising. In 1991 single parent families totalled 151,755 compared to families headed by couples 423,813 (Statistics New Zealand, Census, 1991); by 2001 single parent families had risen to 182,919 whereas families headed by couples which had decreased to a total of 407,793 (Statistics New Zealand, Census, 2001). The increasing number of single parents responsible for the provision and care of children through an inadequate welfare system is ignored. Underpinning this lack of acknowledgement is an inability to accept the 'bad-woman' as a good mother.

This effectively positions prostitutes as causal in the family destruction process and absolves those men, who abscond from facing emotional and

financial responsibilities toward their children, from any responsibility in this process. This mirrors the blaming of prostitutes for prostitution rather than the clients who demand the supply of sexual services. The practice of placing blame for social disorder on women is not a new strategy. As noted previously, this ethic of blame is a retelling of the biblical story of Eve who is held responsible for the ruination of mankind and the destruction of paradise.

The Motivation to Work

Although research has indicated that financial necessity is the leading reason why women enter the sex industry, the ethic or motivation for the necessity to enter sex work was often framed as substance abuse. As the current research has shown, an increase in drug use was predicted in private submissions as well as in parliamentary debates.

As the women interviewed pointed out, drugs are not endemic in the sex industry and drugs are a societal problem, not solely a prostitution problem. A recent United Nations survey found 3.7% of the New Zealand population abused Ecstasy and amphetamines. Drug and Alcohol Practitioners Association Chairperson Tim Harding considered this estimation is conservative and worrying (*Dominion Post*, 26.9.2003: 16).

What is revealed through the junky whore stereotype is a range of social and cultural perceptions about women and sex: women's involvement in commercial sex is not born of occupational free choice, rather it is formulated by a need to finance a drug addiction; women who have sex for money outside of loving or committed relationships with men need to facilitate that action with drugs; drugs

are necessary to the equation because commercial sex is such an unpleasant and unnatural action for women.

What this indicates is that illness is socially and culturally paramount to the image of the prostitute: she is sick from her drug habit, and sick because of her involvement in commercial sex. Whether she is sick (drug-addicted) when she begins the work or becomes ill (drug-addicted) through the work, it is impossible to accept that well women involve themselves in prostitution.

The Spread of Sexual Infections and Diseases

The notion of the drug-motivated prostitute was supported by a second popular story about 'bad women', which is that the malady of the prostitute is contagious as they spread diseases and infections. A third of the submissions saw sex workers as demons of disease. Five submissions suggested that condoms do not stop the spread of disease and two provided literature to backup this claim.

Those public representatives against decriminalisation spoke about how prostitutes spread sexual infections to clients and ultimately to unsuspecting wives and partners. The role the government plays in financing the New Zealand Prostitutes Collective was questioned. Prostitutes' vigilant use of condoms was questioned and the ability of the legislation to enforce condom use was queried and doubted.

One of the impacts of decriminalisation explained by the interviewed women was that condoms would no longer be able to be used as evidence; working ladies in Aotearoa would no longer need to hide their condoms or be afraid of the number of condoms they carried. As well the legislation would support their ability to insist on condom use and refuse to carry out any service

where condom use was questioned. It was even suggested by one interviewee that condoms needed to be more heavily subsidised for everyone.

The legislation deemed safe-sex information and materials to be an important feature in the responsibility of operators, clients and workers. It also meant that operators and managers who attempted to coerce workers to carry out unsafe sex practices with clients or themselves would become liable for conviction. What this reveals is a continuation of the social and cultural perception of the prostitute as the ill woman who contaminates society, by positioning the prostitute as unable to care for her sexual health properly. This represents another level of justification for the control and containment of 'bad women'.

The Amplification of Crime

A further story about 'bad women' is reiterated in the belief that the decriminalisation of prostitution would result in an increase in crime. The perception of existing gang domination of the sex industry and the prospect of increased involvement by gangs was presented as a persistent theme in the arguments against decriminalisation. Any discussion of solicitation, income and brothel-keeping was framed within the language of the criminal ideology. The notion of gangs running the prostitution industry as an argument holds limited credibility as there are no police statistics to back this claim up. Members of Parliament who supported decriminalisation insisted that criminal fraternities are most often interested in criminal activities, not legitimate activities. Thus changing prostitution from illegal to legal was more likely to remove any criminal interest in the industry.

Erasure of the social and cultural notion of the criminal prostitute is a difficult, if not impossible, task. The ideology of the prostitute as an 'offender' is deeply ingrained in the social (legislative), cultural (language), and moral (Christian) philosophies. Cultural and social crusaders, such as medical, psychological and moral experts have employed language which is linked to either scientific 'evidence' or moral examples which 'prove' that prostitutes are offenders. Social structures such as legislation have supported this notion by positioning prostitutes as a problem for over a hundred years in Aotearoa. Blended with this are Christian principles, which have charged prostitutes as moral criminals since the inception of the Bible.

Prostitution Devalues Women

The view that prostitution devalues women was evident in positions within the submissions and parliamentary debates, which constructed sex work as dangerous and risky both emotionally and physically. Proponents of these views held that decriminalisation would result in further exploitation of women and greater empowerment of managers and operators in the role of pimps. This was in contrast to what the women interviewed considered to be the case under the prohibitive legislation. They considered that in many cases with the 'all inclusive' pricing system apparent in many parlours, managers had already taken the pimping role. Therefore the legislation enabled working ladies to take back their powers of negotiation, thus negating the role of the pimp that has developed in Aotearoa in the last ten years.

Green MP Sue Bradford supported this view. She equated the danger or risk to sex workers with the criminalised system which places sex workers in a

vulnerable position socially and culturally. Bradford pointed out that the legislation allowed sex workers to become more empowered and develop methods of working which negated any gang or coercive involvement (Bradford, in Hansard, 26.3.2003: 4461).

The devaluation of women was distinguished by the women interviewed as intrinsic to how sex workers are socially and culturally distinguished as feminine criminals. As noted in the previous chapter, they stressed that it was not prostitution that devalued women but social, cultural and moral attitudes towards prostitution and prostitutes that devalued women who were prostitutes. Each of the four women interviewed explained that sex work itself had been empowering, rewarding and had strengthened their self-esteem. Any negative feelings of self-worth emanated not from the job, rather the social and cultural ethos about the work and those who work.

The story that prostitution devalues women is thus revealed as an entrenched social and cultural system of thought about women's relationship to prostitution and prostitution's relationship to women. This system of thought is cyclical in both method and effect because the social and cultural devaluation of commercial sexual services inevitably leads to the social and cultural devaluation of the provider of those services.

Value, in this system of thought, only ever equates to men's value systems. Men can value sex for money, yet they do not need to value those who provide the sex for payment. Men afford positive values to 'good women', who remain within the bounds of sex expectations and place negative values on 'bad women'. The worth of sex and women need not be associated with each other; it is valued

as acceptable for men to spend money on purchasing sex, yet it is valued as unacceptable for women to accept money for sex.

Child Prostitution

The issue of an increase in child prostitution as a result of decriminalisation has been reported as a significant concern in the private submissions and parliamentary debates. Even though the legislation provides for protection of underage sex workers by criminalising clients, many of the parliamentarians against decriminalisation proposed increases in child prostitution as a most likely outcome of decriminalisation. Any discussion of minors on the streets selling sexual services was blamed as the problem of prostitution rather than as a problem related to a lack of parental care or concern for these children, or a problem related to clients seeking such services. It is significant that the issue of clients seeking underage sex workers was not raised in these debates.

The ethos of sickness or blame for child prostitution occurring remained with the underage sex workers, not the clients who seek underage sexual services. Debate about placing the ethos of ensuring the sex worker was over the age of 18 on the client was framed as unfair, in that expecting clients and/or employers to make certain of workers' ages was positioned as unreasonable. Rather, it was suggested that sex workers should be made to carry identification to prove their age.

Some debate did arise about the welfare system and its inadequacy in dealing with young people who live outside of their families' care, and who have little education and no job opportunities. However, no definitive action to prevent such situations was proposed or suggested.

What this reveals is a social and cultural negation of the role that clients play in the prostitution process as well as a limited acceptance of the actual role the state and welfare system plays in young people's lives in Aotearoa. It also provides evidence of a desire to ignore management practices and operational ethics occurring under the criminalised system. By negating the responsibility of men with regard to social, cultural and moral rules about sex with children, young women who offer sexual services are positioned as temptresses, responsible for causing men to want to have sex with them.

Violence against Women

Detractors from the legislation predicted an increase in violence against women because the police would be removed from monitoring and enforcement processes. Those parliamentarians who supported decriminalisation agreed with the women interviewed that prohibitive legislation prevented women from reporting violent crimes against them and that the proposed legislation would actually provide prostitutes with protection against violent incidents.

As one of the women interviewed pointed out, when she was raped she felt unable to go to the police because of her working status. All of the interviewees felt that decriminalisation would enable women to be confident about reporting violent incidences to the police.

There is an underlying acceptance in the positions for and against support for decriminalisation that commercial sex is paid violence. Any violence that occurs within the sex industry is not due to the criminalisation and stigmatisation of prostitutes. Rather violence is inherent to prostitution as a practice. This position ignores the social and cultural attitude about the practice of providing

sexual services and more importantly, indicates a tacit acceptance of a lack of male liability or accountability for inflicting violence on prostitutes. This amounts to a social and cultural belief that women invite the violence through the act of being a prostitute. It also represents a denial of the violence that many women, whether prostitutes or not, encounter at the hands of men every day in Aotearoa.

Increased Prostitution

Of the 12 submissions that predicted an increase in prostitution as an outcome of decriminalisation, four quoted the 400% increase alleged to have occurred in New South Wales, Australia after decriminalisation occurred there. Within the parliamentary debates, this became a catch-cry of members who were against decriminalisation. Most often it was presented in terms of men (pimps) enticing or coercing more women into the industry. A second vein of concern came from fears about prostitution becoming part of the normal work structure, even to the point where government and non-government employment agencies would encourage or force women to take sex worker jobs.

As previously noted, however, and as pointed out by public representatives who supported decriminalisation prior to the legislation change in Australia no accurate statistics on the sex industry existed in Australia. Figures quoted as increases were based on a large number of pre-existing businesses and operators who were no longer forced to hide from the law.

As was clear from the interviews conducted, limited financial resources provided by the welfare system and the increasing cost of living and education were primary factors in encouraging women to consider sex work as an option.

No clear revelation can be made as to whether the decriminalisation of sex work would induce more women to join the sex industry. However, this research suggests that any further restructuring or decreases in welfare incomes, and increases in costs of living, and education will likely induce more women to enter the sex industry to ensure themselves and their families survive. It is also likely that any figures presented as ‘proof’ of increases in numbers of women involved in the sex industry in Aotearoa in the next five years will most likely be based on operations who have felt able to make themselves more visible.

Women’s Health Destroyed

The position that prostitution damages women’s health was ninth on the agenda of concern in the private submissions. Parliamentarians against decriminalisation also promoted the notion that women’s health would deteriorate because of the ‘sick’ nature of the work. The reasons given in support of this claim were because sex was damaging for women when it was not in a suitable monogamous relationship structure or when it was commercial. Proponents of these views stated emphatically that the rate of sexual infections would rise and this was always positioned as being the fault of the sex worker, not the client.

New Zealand prostitution research (Plumridge & Able, 2000) found that under criminalisation many sex workers did not feel safe about disclosing their working status to health professionals. One of the interviewees in the present study also drew attention to this and stated that decriminalisation would enable working ladies to be more open with health professionals about their working status.

Those members of parliament who supported the Bill agreed that the most likely outcome was that decriminalisation would improve the health of sex workers because they would be legislatively supported over condom use and safe sex practices. Sex workers would be legally protected from being coerced into working and could more confidently approach the police if they were raped or violently attacked or being coerced.

This concern for women's health presents as a retelling of the story about how, for a woman, sex with more than one man (husband/partner) is unhealthy. What is indicated is a fear of the destruction or damage of male dominated social and cultural beliefs about correct sexual practices of women. Sex outside of a committed monogamous heterosexual relationship is unhealthy and damaging on a social, cultural and moral level. On the social level, sex for money is unhealthy and damaging because it is a crime. On the cultural level sex for money is unhealthy and damaging because it disrupts sex expectations and unbalances male dominated family structures. On a moral level, sex for money is unhealthy and damaging because it breaks with Christian precepts.

Ethnicity of Workers

Seven submissions specifically reported concern about the effect decriminalisation would have on Maori and Polynesian girls. In the parliamentary debates those against decriminalisation also positioned Maori women as being more likely to enter the sex industry and most likely to be damaged by prostitution. The issue of trafficking of Asian women was also raised in some submissions. In the parliamentary debates the issue of immigration was also apparent in discussions about trafficking. Minister of Immigration Lianne Dalziel introduced

an amendment which worked to restrict Asian students from entering the sex industry. Members of Parliament who supported decriminalisation countered these claims by pointing out that legislation was already in place that made trafficking an offence incurring a sentence of up to 20 years and a fine of \$500,000.

What these positions fail to acknowledge is that the lack of sex industry statistics in Aotearoa makes it impossible to gauge what percentage of workers are of which ethnicity. What is known is that the Aotearoa sex industry is, by nature, hierarchical (Jordan, 1991; Robinson, 1987). Whether the industry or the women's choices of work situation creates this is unclear. What is also unclear is whether decriminalisation would affect women of different ethnicities in different ways. However, with the passing of the Prostitution Reform Act 2003 the sex industry is now regulated by the same employment legislation as other workers, and this means that discrimination on the basis of ethnicity is, in theory, less likely to occur.

What this indicates is that the view of prostitutes as vulnerable victims is never associated with the criminal system that controls them. Rather, it is seen to be linked to the 'nature' of prostitute women. That ethnicity was not an issue apparent in the interviews suggests that the ethnicity of workers in relation to decriminalisation may have been a further public policy scare tactic about prostitution.

Clients

The supreme story about 'bad women' is told directly in four of the private submissions, which mention 'the temptation of fathers and husbands'. Although

not stated so directly, in the other 64 submissions, the lack of mention of clients assimilates this notion. The few times clients were mentioned, it was suggested they should know better.

The image of clients in the private submissions is that they are victims in the paid sex scenario, coerced into seeking sexual services by prostitutes. These are the same prostitutes who were unable to explain what services they offered for fear of soliciting charges, forced to ask what the client wanted, rather than tell the client the services they offer. The fact that the sex industry is born of the basic economic principle of demand, by men, to which sex workers supply the services, is seldom apparent in the private submissions and the parliamentary debates.

Within the parliamentary debates clients were mostly mentioned in relation to being criminalised under a system similar to Swedish legislation. There were three main proponents of such a system; Dianne Yates, who presented a Supplementary Order Paper to this effect, and Brent Catchpole and Peter Brown who talked about their 'Prostitution (Client Liability and Prostitute Care) Bill' an alternative piece of legislation they were drafting. Steve Chadwick explained that many of the groups that lobbied him over the issue of decriminalising prostitution "cast aspersions on the women who choose prostitution as a profession" yet never mentioned the clients (Chadwick, in Hansard, 14.5.2003: 5753).

One sector of clientele discussed in the parliamentary debates was disabled individuals who are unable to seek physical or sexual attention through 'normal' methods. It was pointed out that caregivers place themselves within a possible criminal role by arranging such services with sex workers.

Again, what is revealed is a social and cultural belief that prostitutes are seen as causal to prostitution, in that they tempt unsuspecting men into buying

sexual services. This process is framed as stealing money from deserving families and wives. What this indicates is a continuing social construction of acceptable male sexual practices for able-bodied men, and the preservation of the social construction of prostitute use: prostitution use is socially and culturally agreeable but being a prostitute is not.

Moral Concerns

Within the parliamentary debates much attention was given to the issue of morality. Those against decriminalisation promoted morality as an issue central to prostitution. The destruction of the moral and therefore social and cultural fabric of Aotearoa, namely Christian laws and beliefs became fundamental in many arguments. Those supporting decriminalisation argued that although prostitution contained moral issues, it was not the place of public representatives to actively engage in the moral judgement of prostitutes or the practice of prostitution.

Biblical examples and quotations of scripture were utilised in some private submissions as arguments against decriminalisation, as well in some anti-decriminalisation speeches. Similarly, some parliamentarians who supported decriminalisation also provided positive biblical accounts of prostitutes. When this occurred they were derided by Christian Members of Parliament who were against decriminalisation for selectively quoting from the bible. Pro-legislation parliamentarians commented about how some Christian groups had sent letters and emails which suggested that those voting for decriminalisation would suffer the moral consequences in hell for eternity.

The women interviewed all believed it was their right not to be judged and to be seen as normal members of society. What this reveals is a perception of

rights about who has the right to use moral argument and who has the right to be seen as morally correct. This links to a point made by some parliamentarians and one of the interviewed women that Christian principles of non-judgement and acceptance are denied in the discussion of socially, culturally and morally defined 'bad women'. It also indicates the selective nature in which one can be demonised. Those public representatives who acted as positive representatives of prostitutes were positioned and labelled with a demon status because of their support. The ethos of concern within the private submissions was centred around what and who prostitutes are. The organisational submissions did, in some instances, work to reiterate the same themes of concern about prostitutes, yet in most cases the content of the legislation was the focus.

The Three Main Dramas in the Act

There are three main matters of subject that ruled the discussion about decriminalising the sex industry in Aotearoa, in the organisational submissions. Similarly there are three major messages that parliamentarians thought the legislation sent the public. The messages and the subject matters are akin to each group. The first is about legitimacy and issues around socially and culturally acceptable behaviours. In the organisational submissions legitimacy concerns centred around the shape of the industry, who would monitor it, how it would be regulated, and by whom. For the parliamentarians in this case it was a fear of being seen to legitimise prostitution.

The second major subject matter was about the term 'right'. Within the organisational submissions this was intrinsic to the right of workers to have legislatively protected working environments and employment contracts, the

right to refuse to provide sexual services, and discussion about the Universal Declaration of Human Rights. For the public representatives it was about being seen to do the right thing, and voting with a conscience. Fear emanated from what message would be communicated to their constituents through their voting actions whether it was 'right' or 'wrong'.

The third subject matter is sex and the nature of it. Within the organisational submissions this rallied specifically around commercial sex and how that was to be defined, ensuring that safe sex practices are able to be openly inherent in the Aotearoa sex industry. For the parliamentarians the message was that sex should be for a monogamous loving relationship with one man.

Issues Around the Legitimacy of Sex Work

The manner in which the organisational submissions most often worked was to express concerns about how the legislation would work in Aotearoa, how alternative wording would alter the meaning of the legislation, and how that would affect sex workers' lives and working situations. The first major subject matter, legitimacy, was expressed through discussions about the definitions of 'brothel' and 'business of prostitution'. This discussion held three elements of the legitimacy argument which are what the guidelines for a legitimate business with regards to how big it would be, how many people it would employ, and who would be responsible for monitoring legitimacy. The next element is whether it is legitimate to have the sex industry in the suburbs and if so, how would that be monitored and who would do so. The final element is how strong the guidelines for legitimacy of business practices would be.

The most definitive wording change discussed in the organisational submissions centred around the definition of a 'brothel' and 'business of prostitution'. How these two terms were to be phrased threatened to have either an impact of liberation or further incarcerate sex-working women. Most importantly it promised to develop further legal sanctions on sex workers through new systems and methods.

The deliberation over the definition of what a 'brothel' would be, revolved around the issue of size, in particular how many sex workers would make a brothel. Defining brothels and business of prostitution as any sex working space meant that private workers would then be required to be involved in specific business practices which required government scrutiny and inspection.

Some of these practices are directly related to the Prostitution Reform Act 2003 such as requiring private sex workers who worked from home to promote safe sex practices through displaying literature or expecting these workers to be open to inspection by state health authorities. However, most of the business practices that would be imposed on private home sex workers, through particular definitions of brothels and business of prostitution, were related to local government requirements for correct business practice which involve specific surveillance procedures and authoritative methods of control. The control is effected through court procedures, the financial penalty system and the cost of being a legitimate business.

The ethic of control and construction was already at work within the parlour scene which was legislatively under police observation. Within the new legislation, this sector of the industry moves to being monitored by legislation which comes under the jurisdiction of numerous government departments and

local government including the Auckland District Court (for operation licensing procedures), Occupational Health and Safety requirements and employment. All these state minions are equipped with the ability to deem illegality to any business. They set and monitor requirements about the standard of the sex industries business practices. When failed practices are discovered within the industry disciplinary measures are taken and punishment procedures ensue to ensure legitimacy is maintained.

Within the parliamentary debates the issue of legitimacy centred around whether the legislation was seen to send a message of normalising prostitution in that the legislation told Aotearoa it was alright or normal to be a prostitute. The government could not be seen to be sanctioning such an industry and encouraging women to enter that line of work. Many of those parliamentarians against decriminalisation suggested that what was being legitimised and normalised was soliciting and pimping by removing the criminal sanctions which was not a legitimate action for a government. In contrast, those for decriminalisation argued that by making sex workers legitimate workers a number of the problems such as exploitation and coercion would be able to be dealt with.

The Rights and Wrongs of Sex Workers and Politicians

The second major subject matter within the organisational debates was about the rights of workers. This discussion revolved around the workers' right to be included in the same employment, health and safety structures as other workers. This extended into a debate about whether, because of the nature of the work, sex workers required different structures such as licensing or compulsory sexual health tests. Arguments against this idea recommended that the practice of sexual

health tests is scientifically inadequate because of the nature of transmission in sexual infections and that compulsory testing is a breach of human rights.

The issue of human rights travelled both ends of the spectrum. Some argued the Universal Declaration of Human Rights does not encompass prostitution easily. Others argued that under prohibition, sex workers were devoid of human rights and decriminalisation would enable workers to have human rights. Several argued that because of the nature of the work and the people carrying out that work, prostitutes did not deserve human rights.

The greatest discussion about the rights of sex workers centred around their right to refuse to provide sexual services. Specific attention was given to this issue legislatively, yet confusion over the nature of contracts ensued. Legislatively it was necessary to ensure workers' refusal could not be overridden by managers and operators and that these groups could be punished for attempting to do so. Difficulty developed over deciding the point at which a contract can be terminated and how that balanced against issues of payment with regard to the fulfilment of a contract.

The rights of the public were evident in discussions about signage and advertising (in that they should not have to be subjected to explicit or graphic signage, bill boards, or print advertisements) and in discussion about solicitation occurring in public places, with fears that sex workers would be outside schools and churches plying their trade. The spectre of the location of actual businesses of prostitution being in suburban areas or next to schools and churches was also raised. Although these issues also relate to the legitimacy argument, they became fundamental to the argument about the rights of society. Not surprisingly the rights of the public won over the rights of prostitutes and so the issue of

deciphering the right and wrong place to have a businesses of prostitution was jettisoned as being down to those in the industry. The course of action taken was to place local government in charge of the regulation of this issue. Through the legislation local governments gained the right to dictate the terms of business practice for the sex industry where signage and location are concerned.

Within the parliamentary debates an obvious concern sometimes expressed and other times subtly imparted was the concern about the individual message politicians' votes would send to their voters. Some public representatives talked about how they had canvassed their area by running phone polls over the issue, others talked about lobby literature they had received from various groups and individuals. The nature of the lobby material was indicated to range from Christian groups threatening eternal damnation to sex workers expressing their concern about the impacts of prohibitive legislation on their work and lives.

The major percentage of those against decriminalisation were in fact against prostitution itself; their ethic about the practice of prostitution was that it is wrong and therefore it was not right to vote for the legislation. Those pro-decriminalisation did not necessarily see prostitution as right however, they believed it was the right to give prostitutes the same rights as other workers.

Sex Plus Money Equals Social Discomfort

An important subject matter in the organisational submissions was discussion about the definition of 'commercial sexual services' and 'safe sex'. Sex itself is a difficult action to define with words, let alone commercial sex. The issue with commercial sex was that it required safe practices such as hygiene and specific materials. The alteration of condoms from criminal evidence to a legislatively

necessary practice became the central concern. Sex workers' rights to insist on safe sex practices such as the use of condoms needed to be legislatively strong so that managers, operators and clients could not question condom use and would be punished by attempting to do so.

The other side of the discussion was that enforcing and policing safe sex practices is difficult because of the nature of the work and the limited resources of government agencies responsible for health practices. Specifically could prostitutes be trusted to adhere to these safe sex practices? This is related to the earlier discussion about private sex workers and requiring them to promote safe sex practices by displaying literature in their homes. Akin to this discussion was where the commercial sexual services would take place and who would be responsible for monitoring those places.

For the public representatives, the message about sex only ever revolved around the notion that for women it was in a loving monogamous relationship with a man. This was stated openly by many speakers and alluded to by others within the discussion about families. This inevitably foisted the ethos of male dominated relationship structures, as normal and acceptable social, cultural and moral expectations.

In conclusion, from a feminist analysis, the main points to be gleaned from these debates are that social, cultural and moral stories about women are divided into two categories 'good' and 'bad'. 'Bad women' are positioned as responsible for the destruction of the family which is essentially society. 'Bad women' are able to be reformed into 'good women' through methods of legislation that provide controls. 'Bad women's' 'bad behaviour' has a coercive affect on 'men's behaviour'.

Men are not responsible for their behaviours, whether it is the use of prostitution services, violence against women, destruction of the family, and the drive of the sex industry. The value of men in society is unrelated to their sexuality, whereas for women it is dominant. Men are excused and women are blamed for prostitution. The social perception of the prostitute is that she is an unwell woman who needs to be saved from herself by those who are better equipped with the power of social and cultural right. Above all, the prostitute should not be afforded rights as she is not a legitimate woman.

The Final Whistle: Conclusions

The perceived impacts of the 'social evil' of prostitution led to the configuration of the Prostitution Reform Act 2003. The arguments contended against prostitution and prostitutes within the public arena were similar to those used during the time of the Contagious Diseases Act 1869, namely, morality, sexual social purity, the spread of diseases, and the preservation of the family so as to ensure cultural right is maintained. Further, women were framed as causal to prostitution and prostitutes were positioned as morally, socially and culturally reprehensible and men (clients) were generally extricated or positioned as victims of women's sexuality.

Therefore it is not surprising that prostitution legislation has turned a full circle and similar to the Contagious Diseases Act 1869, the Prostitution Reform Act 2003 is structured in a regional system. The moral climate of the region will dictate how the sex industry is organised. The location of brothels has emerged as the paramount concern in relation to the rights of the public who are not sex workers. The original aim of prostitution law reform in Aotearoa was to free sex workers from the shackles of criminality. What eventuated were new methods of fixing alternative manacles through different mechanisms. Surveillance and control were paramount in the prohibitive legislation and remained so in what could be termed a quasi-decriminalised model.

The Prostitution Reform Act 2003 stands closer to the legalisation model than it does the proposed decriminalisation model. The state, in the form of the Court system and regional authorities, are heavily involved and the makeup of the Review Committee is greatly influenced by government departments. Sex

workers may be free of criminal sanctions (illegality) from the police, yet are decisively directed and dominated through new mechanisms that have the propensity to designate illegality. It could be said that everything has changed and nothing has changed.

As in 1869 the concern of the government in 2003 was to devise legislation that controlled prostitution yet was not seen to condone prostitution. The ethic of the conscious vote in 2003 did not operate in a fashion that was mindful of the independent views of public representatives. Rather a strong 'party' line emerged on the views expressed in the Select Committee Report and evidenced-based through the parliamentary debates and the voting structure.

As was evident during the parliamentary debates prostitution research and statistics are at times dubious and can be used as a weapon against sex workers. Any further research and statistics produced during the next five years of the Review Committee must be scrutinised and evaluated in terms of who has completed the research, how it has been funded, and what ethical basis underpins it. Vital to accurate estimations of the sex industry is sex worker-based research, preferably designed and carried out by those in the sex industry.

Much of the debate about prostitution was sophistry, based on false reasoning. Discussions were based on socially, culturally and morally biased views of prostitution which have little to do with actual prostitution practices. Further, the discussion was ensnared within language that reiterates and reinforces negative ideologies about prostitutes and prostitution. The only way that prostitution and prostitutes have of ensuring relevant discussions about actual prostitution practices and the women involved in the sex industry is to develop new discourses and understandings about sex work and sex workers.

The impact of the Prostitution Reform Act 2003 is likely to ensure that in some regions there will be ghettoisation of the sex industry and that an illegal/legal divide will develop. Additional propaganda on the state of the sex industry will likely ensue supported by reports in the media about the evils of prostitutes and prostitution in relation to drugs and child prostitution and general danger to society. The development of such directives will likely call for a legislative model similar to that of Sweden.

One of the greatest perceived impacts of the decriminalisation of prostitution was an increase in prostitution. My assessment of the number of advertisements in the *Manawatu Evening Standard* and the *Dominion Post* suggest this to be untrue; the numbers of independent women and establishments advertising have not appeared to increase.

The nature of moral, social and cultural imagoes of the 'bad woman' are deeply ingrained in belief systems, gender-biased legislation, media representation of women, education methods and public reason. The reason why sex workers were not afforded legislative freedom and why a pure prostitution decriminalisation model was unable to be implemented in Aotearoa is explained in the diagram in Appendix 5. The moral, social and cultural strata of thinking is bound in a hegemonic manner to an interwoven system that ensures women are never able to be free of their sexuality. Justifications and right and wrong and most importantly, the definition of a good woman.

Appendices

Appendix 1: New Zealand Prostitutes Collective letter

Appendix 2: Letter to sex workers

Appendix 3: Information Sheet

Appendix 4: Consent Form

Appendix 5: Diagram of conclusions

New Zealand Prostitutes Collective



WELLINGTON • PO Box 11-412, Manners St • Phone 04-382 8791 Fax 04-801 5690
AUCKLAND • PO Box 68-509, Newton • Phone and Fax 09-366 6106
CHRISTCHURCH • PO Box 13-561 • Phone 03-365 2595 Fax 03-374 4100
DUNEDIN • PO Box 5636, Moray Place, Dunedin • Phone 03-477 6988 Fax 03-477 2517
TAURANGA • PO Box 13 092 • Phone 07-571 0640 Fax 07-571 0639

10 May 2002

Massey University Ethics Committee
Massey University
Palmerston North

To whom it may concern

The New Zealand Prostitutes Collective (NZPC) is happy to provide information and resources to Anna Nichol in preparation of her thesis. We will endeavour to provide access to people working in the sex industry for interviewing, and can provide a room at our Wellington office in which interviews can be conducted.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Catherine Healy', with a long horizontal stroke extending to the right.

Catherine Healy
National Co-ordinator
NZPC



Research Project
The Impact of Decriminalisation of Prostitution in Aotearoa

Anna Nichol

To Interested Sex Workers,

This letter is being distributed by the New Zealand Prostitutes collective on behalf of Anna Nichol.

I would like to invite you to take the opportunity to take part in a Masters research project that is investigating the Impact of the Decriminalisation of Prostitution.

I would like to offer you the opportunity to share your views on how you believe the decriminalisation of prostitution might impact on your work.

Enclosed is an Information Sheet outlining the process of the research project and the names and contact details of my supervisors should you have any concerns or questions.

Your interest in participating in this research project should be passed on to the chosen representative at the New Zealand Prostitutes Collective (name of representative) who will organise direct contact between you and I.

This project has been reviewed and approved by the Massey University Human Ethic Committee, PN Protocol 02/27. If you have any concerns about the conduct of this research please contact Professor Sylvia V Rumball, Chair Massey University Regional Human Ethic Committee: Palmerston North, telephone (06) 350 5249, email S.V.Rumball@massey.ac.nz.

I look forward to your response.

Yours sincerely,

Anna Nichol.



Research Project
The Impact of the Decriminalisation of
Prostitution in Aotearoa

Information Sheet

My name is Anna Nichol and I am a Masters student at Massey University. At present I am undertaking a research project for the purposes of a Masters thesis, which will test the possible impact of decriminalisation of prostitution in Aotearoa.

At present there is a Member's bill currently before Parliament, sponsored by Christchurch MP Tim Barnett, which calls for the decriminalisation of prostitution in New Zealand. The Bill is called the Prostitution Reform Bill.

The objectives of this research project are to gain the views of women who work in the sex industry, public stakeholders, Tim Barnett MP on the issue of decriminalisation of prostitution. The submissions made to the proposed bill will be investigated as well as reports and studies carried out by interested stakeholders who either agree with or oppose the decriminalisation of prostitution.

I am inviting you to be part of this research project, which will allow you to comment on the impact, which you believe the decriminalisation of prostitution may have on your town or city. Your participation would involve a single, one-hour interview, which would be recorded on audio tape and transcribed by myself and will not be heard by any other person.

If you agree to participate it is important for you to understand your rights as a participant.

- You are free to withdraw your participation at anytime.
- You can ask to have the recording device turned off at anytime.
- You are free to refuse to answer any questions.
- It will be necessary for you to sign a participation Consent form.
- As a public figure you will be given the choice of whether you wish to have your name attributed to your interview. If you do not wish this to happen, your decision will be respected.





Consent Form for Impact of the Decriminalisation of Prostitution in Aotearoa

I have read the information sheet and have had the details of the study explained to me. My questions have been answered to my satisfaction, and I understand that I may ask further questions at any time.

I understand I have the right to withdraw from the study at any time and to decline to answer any particular questions.

I agree to provide information to the researcher on the understanding that my name will not be used with out my permission.

I agree/ do not agree with having my name attributed to my interview.

I agree / do not agree to the interview being audio taped.

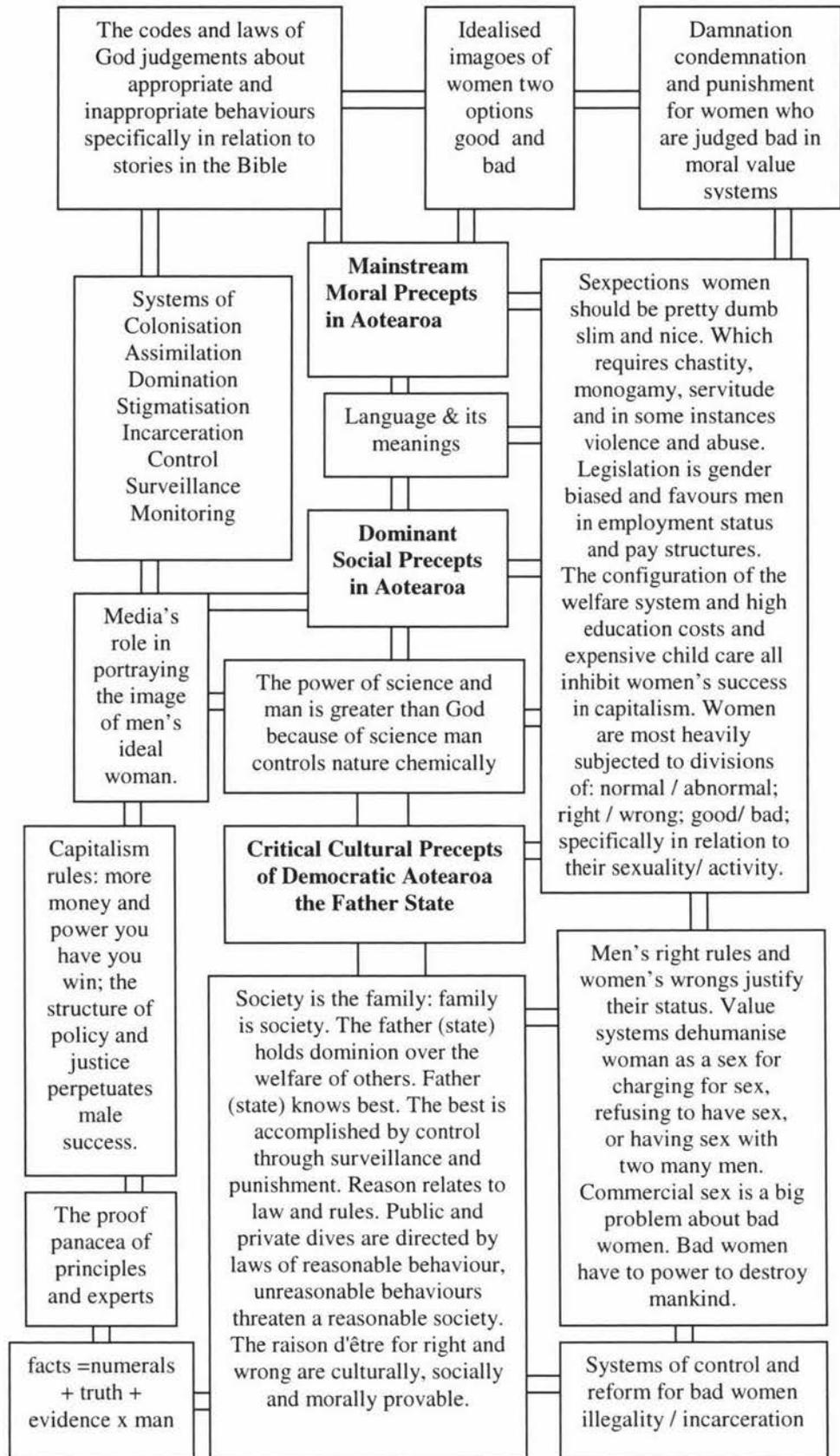
I want / do not want the tape of the interview to be destroyed by the researcher at the end of the transcription process.

I want / do not want the tape to be returned to me after the transcription process is completed.

I also understand that I have the right to ask for the audio tape to be turned off at any time during the interview.

I agree to participate in this study under the conditions set out in the information sheet.

SIGNED:
NAME:
DATE:



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