



## **Report to the South African Law Reform Commission**

### **Preliminary research findings of relevance to the draft legislation to combat trafficking in persons and legislation pertaining to adult prostitution**

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## **Introduction**

In 2006 the Institute for Security Studies (ISS) received funding from the Belgian Government for a two-year research project on human trafficking in South and Southern Africa. At that time the national discourse on trafficking was primarily informed by two pieces of research: a study by Molo Songololo (2000) on the sexual exploitation of women and children in the Western Cape; and a study by the International Organisation for Migration (IOM) (2003) that purported to present evidence of large scale trans-national trafficking in South Africa. Adding to the body of knowledge in South Africa was a series of reports on the services available to victims of trafficking and an assessment of the level of awareness of trafficking by non-governmental organisations (NGOs) and government agencies in four provinces. The reports, prepared by the Community Agency for Social Enquiry (CASE) for the programme Towards the Elimination of worst forms of Child Labour (TECL), covered the Western Cape, KwaZulu Natal, Mpumalanga and Limpopo.

The IOM and Molo Songololo reports were particularly significant because they reflected the only research on human trafficking in South Africa at the time. As such, they informed perceptions of the nature and scale of the problem. However, the intention of these reports was not to provide a clear understanding of the scale or nature of the problem, but to raise awareness about the need for a law enforcement and policy intervention. As such the numbers of trafficking victims quoted by these reports were not based on rigorous quantitative research, but rather on estimates that are likely to be inflated. Such overestimations, while successful in capturing public attention and generating moral outrage, do not provide a sound basis for policy making and resource allocation. Despite these shortcomings, the reports achieved their objective of placing trafficking on the policy-making agenda.

In 2004 South Africa ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially of Women and Children, a supplementary protocol to the international Convention Against Trans National Organised Crime and adopted a National Plan of Action on Trafficking. By 2006 the South African Law Reform Commission (SALRC) had developed draft legislation to allow for the prosecution of those involved in trafficking and to provide support and assistance to victims. It was, therefore, imperative that the ISS research should positively add to what was known about trafficking in such a way as to inform decisions about policy.

In order to prevent duplication with on-going projects and activities, and to identify the most appropriate research intervention, a consultative workshop was held that included a range of NGOs, international organisations (IOM and UNODC) and government agencies and departments. At that meeting it became clear that policy-makers needed a sense of the prevalence of the problem and a clear indication of the needs of victims.

## **Defining a research agenda**

The challenge for the ISS was thus to design a research methodology that would provide a clear indication of the prevalence of trafficking in South Africa and reflect the specific circumstances and needs of victims. During initial consultations concern was expressed that there was a severe gap in knowledge about trafficking for purposes of labour exploitation (including the trafficking of men and boys) and for the use of body parts. Nevertheless, the focus of national and international concern has been on trafficking for purposes of prostitution. The focus of this research project, on gathering more detailed and better

quantitative data about trafficking into the sex work industry (about which a little was already known), rather than about other forms of trafficking (e.g. for purposes of labour exploitation) about which nothing was known, was informed by practical considerations. The researcher believed that adding value to the existing knowledge about trafficking in the sex work industry would be a better use of resources than scanning the sectors about which little is known. The opportunity to collaborate with the Sex Worker Education and Advocacy Taskforce (SWEAT) in Cape Town, and thus have unique access to a difficult-to-access industry reinforced this decision.

It was acknowledged that a detailed and in-depth study that was both quantitative and qualitative would have to be limited to one geographic area if it were to be feasible. The choice of Cape Town as a research location was determined by the fact that SWEAT is based there. In addition, since Cape Town was identified by both the IOM report and the report by Molo Songololo, as a location from which traffickers operate meant that it was a valid location in which to attempt to ascertain the extent of the problem. The IOM study, for example, states that

Cape Town stands out as the principal destination point for trafficked victims from refugee-producing countries, although they are undoubtedly trafficked to other South African cities as well. (Martens et al 2003:14)

This research project, thus sought to open the workings of the sex work industry in Cape Town to scrutiny, so as to confirm or dispel commonsense understandings of how the industry operates, and the extent to which trafficking is a feature of the industry.

The objectives of the ISS/SWEAT study were to:

- Develop a reproducible methodological model for undertaking research in the sex work industry;
- Develop a better understanding of the sex work industry in Cape Town, in particular (i) the size of the industry; (ii) the working conditions of sex workers, (iii) how people enter the industry;
- Determine the extent to which sex workers have control over their working conditions in a criminalised industry;
- Determine the prevalence of trafficking victims in the sex work industry in order to understand and reflect their needs;
- Develop a better understanding of and insight into the complexities of the relationships between pimps, brothel owners and sex workers; and
- Make recommendations about government policy and legislation on the basis of the research findings.

## Limiting bias

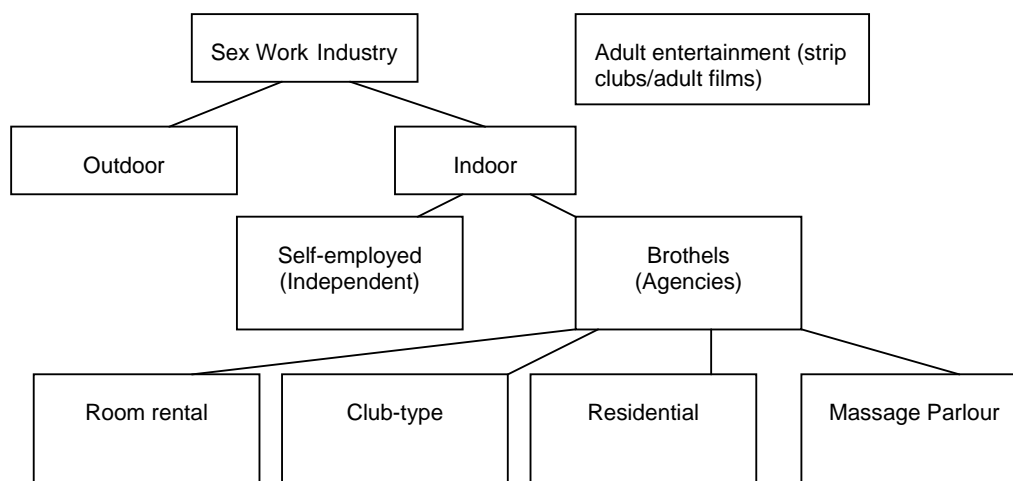
For both the ISS and SWEAT there was clear advantage to collaboration on this project. For the ISS the advantage lay in being able to draw on the experience and knowledge of the industry that SWEAT had gained over eleven years of working with people engaged in sex work. Working with SWEAT also facilitated access to agencies and individual sex workers that would have been difficult, or impossible, for ISS researchers working alone. For SWEAT the advantage lay in being able to undertake detailed research that would provide the organisation with in-depth information on working conditions in the industry, as well as the extent of trafficking into the sex work industry. Yet, there was also a clear disadvantage to collaboration.

SWEAT is an advocacy organisation committed to improving the lives of sex workers through better working conditions, assertions of their rights and through advocating for the decriminalisation of the sex work industry. The ISS is a policy research institute that seeks to inform and improve policy based on the findings of research. It was vital that the research findings should not be influenced by SWEAT's agenda. A way had to be found to limit any bias in the research process that may result from SWEAT's political stance on issues of sex work so that the findings would not be compromised and the impact of policy recommendations thus be reduced.

This problem was addressed through the establishment of two advisory panels to oversee the work of the project, to advise on issues of ethics and to ensure that the research remained rigorous and objective. An academic advisory panel was established that included academics specialised in the fields of social work, gender issues and migration and who had expertise in the development of research methods; a representative from the Department of Social Development; a representative from the Human Rights Commission, and a legal expert. A sex worker advisory panel included sex workers who had experience in the industry and who represented those who work indoors and those who work outdoors. Both panels met at regular intervals during the project to review the proposed methods and findings and to question the process and outcome of the research.

## Terms and Definitions

In this paper reference is made to several terms that require clarification because they have specific meaning in the context of this research. The following chart sets out the distinctions that are explained further below:



The focus of this research was on the sex work industry as opposed to the adult entertainment industry. The sex work industry is defined by the commercial transaction between client and agency/sex worker involving sexual services in exchange for cash. Exchanging sexual services for financial reward is illegal in South Africa. This distinguishes the sex work industry from the adult entertainment, which is legal and does not (overly) involve the sale of sex. It includes strip clubs (e.g. Teazers or Mavericks) and the adult film industry. The focus of this research was determined both by the need to limit the area of work such that it would be manageable for the researchers; and by the fact that SWEAT does not work in the adult entertainment industry.

For the purpose of this study we have drawn a distinction between sex workers who work indoors and those who work outdoors. Indoor-based sex workers are those who work for agencies (brothels) and those who work independently from an indoor space. Outdoor-based sex workers are those who solicit outside on the streets, even if they see their clients indoors. There were several practical reasons for drawing this distinction: different methods were required to map the indoor and outdoor industry; the demographic profile of sex workers in the two sectors differ enormously; and the conditions and environment in which work is conducted differs between the two sectors.

In the indoor sex work industry distinctions can be drawn between those sex workers who work for themselves (independently) and those who work for agencies (a third party). Agencies themselves can be separated into several categories:

- (i) **Room rental agencies** offer rooms on a short-term basis. Women work from these locations as sex workers on a more-or-less permanent basis. In addition, outdoor sex workers may bring their clients here and rent a room for the duration of the booking.
- (ii) **Club-type agencies** generate income not only from the sale of sex but also from the sale of alcohol. Several such agencies also offer adult entertainment (e.g. stripping and dancing).
- (iii) **Massage-parlours or escort agencies** clearly advertise themselves through signage outside the establishment and offer sexual services for sale but do not offer adult entertainment or alcohol.
- (iv) **Residential agencies** are extremely discreet and are operated from residential homes in suburbs or from flats (apartments).

## Research Methods

The specific geographic area for this research was defined as encompassing all (140) suburbs that fall within a 54km radius of the Cape Town city centre (Cape Town and Peninsula Street Guide, 2005).<sup>i</sup>

### Mapping the industry: indoors and outdoors

Any effort to understand the sex work industry better, and particularly to explore the prevalence of trafficking in the industry had to include an accurate estimation of the size of the industry and the nature of relationships within the industry (i.e. whether sex workers work independently or for agencies). This was also vital to ensure that a representative sample could be identified for the purposes of conducting a survey.

The ISS/SWEAT study used a similar methodology for mapping the indoor sex work industry to that used by the Poppy Project in London. The Poppy Project is an organisation

that provides services for women who have been trafficked (Dickson, 2004). The researchers involved in the Poppy Project recognised that without accurate data about the sex work industry, including a reliable estimate of the number of people working in the industry, it is difficult to estimate the resources required to provide assistance to those who have been trafficked<sup>ii</sup>.

To determine the number of people working indoors in Cape Town information was drawn from the adult entertainment sections of the classified advertisements that appeared in the Cape Times, Cape Argus and Die Burger newspapers over a one-month period (3 July – 3 August). The information was captured in a database. In addition, researchers consulted Sex Trader, a national glossy magazine in which individual sex workers and brothels advertise as well as the Sex Trader, Body Heat and Glamour Internet sites where individuals and brothels advertise on-line. This data was verified through follow-up calls. In the case of brothels (including those run from residential homes) the data capturer asked for the number, nationality, age and gender of people working there. In addition, the existing SWEAT database of agencies was used to identify brothels that do not advertise in the newspapers or on-line. Unlike the Poppy project study, the nature and purpose of the study was briefly described to all telephone respondents<sup>iii</sup>. This method allowed researchers to determine a reliable point-in-time estimate of the number of people working as sex workers indoors.

Mapping sex workers who work on the street was a far more complex task. The researchers were, however assisted by members of the sex worker advisory panel who collectively had over 20 years experience working the streets. They were able to provide a comprehensive list of locations where sex workers were known to work (as listed below). It should be borne in mind that the size and nature of the areas, which these locations denote, vary enormously. For example, Voortrekker road (from Saltriver to Belville) and Main Road (from Saltriver to Diepriver) cover over 20km stretches respectively. Whereas the areas around Greenpoint and Seapoint are much smaller, covering some 6 – 10km.

- Voortrekker Road (from Saltriver to Belville)
- Main Road (from Saltriver to Diepriver)
- Greenpoint and Sea Point
- Mfuleni (a barren stretch of road running past informal settlements)
- N7 (the west coast highway)
- Epping Truck stop
- Prince George drive and Muizenberg
- Landsdowne road (running past the Cape Flats townships)
- Strandfontein truck stop
- Koeberg Road (starting in Brooklyn and ending in Milnerton)
- Albert Road
- Kraaifontein truck stop

Researchers visited each of these locations three times, at different times of day and night and in different weather conditions (this is because fewer people will work outdoors in bad weather, for which Cape Town is notorious). The task was complicated by the fact that sex workers often have to hide from the police who patrol the areas by going down side roads and working in places that are poorly lit at night. This not only makes sex workers less safe, but

also means that researchers could not ‘cruise’ the areas in their vehicles, noting when and where they saw people working. Researchers were assisted by sex workers who were familiar with the areas, and who were able to point out the hiding places, in order to overcome this problem. The number of people seen on each trip was marked on a street map. Working sex workers who were encountered were asked how many people they usually work in the area, and whether they were aware of other locations where people work.

In this way a point in time estimate of the number of outdoor sex workers was obtained. The mapping exercise served a secondary purpose in that it allowed researchers to pilot the survey questionnaire designed for outdoor workers.

## **Qualitative data collection**

It was recognized at the outset that quantitative data would have to be supplemented with detailed qualitative data gathered through semi-structured interviews with sex workers and brothel owners. Through these interviews the researchers aimed to increase the knowledge and understanding of the way the business is conducted; what motivated people to become involved in the industry; how easy or difficult it is to leave; and the nature of relationships between brothel owners and sex workers. Owners and managers of brothels were asked about their experiences in the industry; about how they run their businesses, how they recruit staff, about working conditions and about whether they were aware of trafficking or trafficking-like practices in the industry. It is important to note that the term ‘trafficking’ was not used in these interviews. This is because there is no single, commonly shared meaning of the term (and few brothel owners are familiar with the definition provided in the Palermo Protocol). Rather, efforts were made to determine whether the respondents had knowledge of cases in which individuals were deceived or forced to sell sex; or instances in which sex workers were debt-bonded or were trapped in a brothel and their movement restricted.

Over a period of a year the researchers conducted 19 interviews with owners and managers of brothels in Cape Town, representing a third of all brothels. The interviews were conducted in person, usually at the brothel, and were recorded, transcribed and analysed. Efforts were made to interview sex workers from the same brothels, although this was not always possible as in some cases agencies closed or changed hands shortly after the interview. Pairing the interviews in this way, we hoped, would enable us to check and verify information given by both parties. At the time of writing, interviews had been conducted with 15 sex workers. It should also be noted that several brothel managers had also worked as sex workers previously, or were managing while working.

Of the 19 interviews conducted, 14 were conducted with the owners of the agencies and five managers were interviewed. One owner had a room-rental agency, five respondents were owners/managers of massage parlours, five owned club-type agencies and eight were owners/managers of discreet residential agencies. Nine of the interviews were with men, of which eight were owners of their own agencies. Ten of the respondents were women, of which four were owners of the agency and six managed the agency (in most cases for a male owner). Cumulatively the respondents had over 142 years experience in the industry. The average length of time in the industry was eight years, with the least experienced respondent having only been in the industry for 1 month and the most experienced having worked in the industry for 16 years. In short, we were able to draw on a great deal of experience in the industry in Cape Town and thus believe that we have a sufficiently accurate reflection of how the industry works and its dynamics.

In addition to the qualitative interviews, two focus group discussions were held with sex workers (one for the indoor sector and one for the outdoor sector). These focussed on issues



of agency – the extent to which sex workers believed they had control over their working conditions, or not; the nature of the relationships between themselves and third parties in the industry – and their motivations for becoming involved in the industry. During the focus group discussions (with a total of ten sex workers) sex workers were also asked whether they believed they had enforceable rights and what they would like to change about the way in which they work.

## **Surveying the industry**

The primary tool for gathering quantitative data about the nature of working conditions in the sex work industry, and particularly the extent of human trafficking, was a questionnaire-based survey. Data gathered during the mapping exercise allowed the researchers to determine the size of a representative sample (10%) of the industry. Two questionnaires were developed, for the indoor and outdoor sectors. The questionnaires were based both on the findings of the qualitative interviews and on consultations with the advisory panels. The scope of the questionnaires was limited by the amount of time that could be expected to be granted by respondents. This was restricted by the fact that most respondents would be working at the time of the interview and would have to leave if a client came or they had a prior booking (in the case of women working indoors). The questionnaires focussed on the following issues:

1. Working conditions (remuneration/working hours and leave/the extent to which sex workers were required to share their income with a third party etc)
2. Motivations for entering the industry and the process of recruitment
3. Issues of force (whether the individual is or was forced to sell sex, whether s/he is aware of others who are forced and, if so how)
4. Perceptions of the police, and
5. Level of education and post-school training

The survey was piloted indoors and outdoors (the results of which are reflected below). On the basis of the findings of the pilot the questionnaires were refined. A final sample for the survey was determined and weighted by area and gender. At the time of writing 55 survey questionnaires had been administered to indoor sex workers, of a total of 96. During the summer months 25 questionnaires will be administered in the outdoor sector (a total of 121).

## **Findings**

### **Size and nature of the industry**

In mapping the indoor industry we found that it was characterised by an extremely high level of fluidity. Many sex workers' place of employment and employment status changes within a very short period. For example, some of the people who had advertised their services in July 2006 and were working then, said that they were no longer working when the data capturer called just over a month later. The extent to which the fluidity detected through this data collection was a result of people moving in and out of the industry rather than movement within the industry, was not possible to determine and it is assumed that there is both a movement in and out of the industry as well as within the industry. Certainly statements by brothel owners, suggested that they expected to retain a small core of women who work for them for a long period (2 – 5 years), while others move from brothel to brothel (presumably seeking better conditions).

Through the mapping a total of 103 brothels were identified in the 54km radius of the centre of Cape Town. Of that number 67 were residential agencies, 34 were massage parlours or clubs. The specific business model of 2 could not be established.

**Table 1: Number of agencies by type**

<b>Type of Agency</b>	<b>Number</b>
Residential brothels	67
Club/Massage parlours	34
Unknown	2
<b>Total</b>	<b>103</b>

A total of 964 individuals were identified as working in the indoor industry. Of these 110 were self-employed, 670 were working at brothels, the employment status of 184 could not be confirmed. Initially when these results were reported to the sex worker advisory panel, the panel questioned their accuracy. They believed the number should have been much higher. A thorough explanation of the methods and sources used in deriving the number confirmed that all known sources had been consulted and that the number was likely to be as accurate an estimation of the actual size of the industry as was possible to obtain. The gender profile, unsurprisingly revealed that the large majority of people working in the industry are women, although at 85 (almost 10 per cent) the number of men in the industry is not insignificant.

**Table 2: Gender profile of indoor industry**

<b>Gender</b>	<b>Number</b>
Women	867 (90%)
Men	85 (9%)
Transgender	12 (1%)
<b>Total</b>	<b>964</b>

In the eleven outdoor areas that were mapped for this study, 247 sex workers were counted of which 209 were women, 21 were men and 17 were transgender individuals. On average there were 23 people working in each of the eleven areas that were mapped. The breakdown per area is presented in the table below.

**Table 3: Number of sex workers per area**

<b>Area</b>	<b>Number of sex workers</b>
Beach Road	24
Brooklyn	31
Epping	17
Greenpoint	16
Landsdowne Road	35
Main Road	34
Mfuleni	32
N7 highway	8
Muizenberg	8
Voortrekker Road	40
Westbank	2
<b>Total</b>	<b>247</b>

**Table 4: Gender breakdown of outdoor industry**

<b>Gender</b>	<b>Number</b>
Women	209 (85%)
Men	21 (8%)
Transgender	17 (7%)
<b>Total</b>	<b>247</b>

**Motivations for entering and remaining in the industry**

During qualitative interviews respondents were asked to explain how and why they chose to become involved in the industry. This information was used to determine how common it was for people to become involved in the industry as a result of having been forced or deceived. While there were as many different explanations for how they became involved as there were respondents, most said that they had entered the business because the opportunity presented itself when they needed an income. Certainly most regarded sex work as a means

to an end, and the best option available to them. This is despite the fact that several sex workers and brothel owners had previously been employed in the formal sector of the economy.

The findings from focus group discussions with both indoor and outdoor sex workers reflected many of the same issues. In all cases financial responsibilities, or expectations from families or dependents led to entry into the industry. Most of the women in the focus groups had responded to advertisements in the newspaper's adult entertainment section and were aware of the kind of work they were getting involved in. However, in some cases their awareness appears to have been tempered, at least initially, by a measure of denial. The sex workers were unanimous in the view that it is not a job that they like doing, or would choose to do should their range of options have been wider. For most the fact that no specific skills or qualifications were required to do sex work was an important motivating factor for entering the industry. Once working the fact that they were able to earn what they perceived, at least initially, to be good money, kept them involved.

All saw sex work as a temporary job. Some were continuing their studies so that they would be qualified to do other work later. In one case the brothel owner was paying for the woman's studies. The flexibility of the industry – the fact that you can come in and get out easily without having to fulfil contractual obligations – allows sex workers to work when it suits them and not when they can afford to do something else. To some extent, however, for those sex workers who financially support dependents, the notion that they can leave when they choose to, is a fiction, if only because they need to continue earning.

Whether or not sex workers see themselves as doing this type of work as a short term option, rather than a career choice, the fact that earnings are paid immediately (or at least at the end of a week) means that sex workers do not have to wait a month before being paid, and can earn every day (although this does depend on the number of clients at the agency and individuals characteristics of sex workers). These conditions are not easily matched in other sectors of the economy and thus, the industry will remain attractive to women as a source of income for the foreseeable future.

For a few sex worker respondents, their involvement was a consequence of drug dependence. Indeed, during interviews with sex workers reference was often made to the fact that drug dependency was a factor that increased vulnerability to abuse or exploitation.

### **Sex workers and Brothel owners talk about their motivations for entering the industry**

The male owner of a room rental agency gave this explanation for why he opened the agency:

We were running a microphone business, it went down and the technology changed, we had two rooms that two girls rented from the owner and I noticed what they were doing and when our business wasn't doing that well I went to the owner and said look here Mr X, that is a good f...ing business that...I eventually got all my staff placed ... So here we are stuck with an agency. I hated the idea. It was actually a sad time in our lives. We had to do this to survive ... I lost all but one of my friends because their wives were too scared I would be giving them girls.

The owner of a (predominantly) male-to-male agency said that he had entered the industry because his friends had said that there was a need for an agency so that they did not have to cruise the streets to pick up sex workers.

A woman who had worked in the industry and eventually owned her own agency related this experience:

Owner: I saw an ad in the paper 18 years ago for work in a health studio doing massage. I didn't finish matric and my family was struggling. At this health studio they didn't tell me what was happening, I thought it was just massage. So when I saw my first client and he touched me, then asked me for a pelvic, I was startled and said I would go and get one for him. I didn't know what a pelvic was. So I went to the door to call my friend and knocked on the door and she answered the door without her clothes on, just a towel around her and I said where are your clothes, and she told me to be quiet and go away because she was with someone, then I asked her where the pelvics were and she told me I must give him a hand job for R20. At that time it was a lot of money and I thought we can do a lot with R20. I did it and when he came I ran away and never saw that man again.

Afterwards I didn't want to do it again, I wanted to stop. But my friend said 'are you crazy you can make a lot of money'. My friend explained how everything worked. I've been in this industry, on and off, for the past 18 years. I would leave and do other jobs, I worked for Sanlam as a rep, for First Financial Services and for Riva. I'm also a qualified nail technician. But I kept coming back to this industry.

CG: Why?

Owner: Because of the money and the control you have and the independence. In all the other jobs something didn't work out at the end with money. At First Financial Services they kept my money back when the company went down.

Another man who had worked himself as a sex worker had this to say:

I used to work, I did this for 16 years. I started when I was 21 in Cape Town and I started as a straight boy, coming from a totally straight background from the farm. I had to do the man-to-man thing in the beginning – I still think I am straight... this agency...it gives me the opportunity not to work anymore so I don't have to do what I hate doing and that is touching another man. [interviewers got the impression that he was in fact still working himself].

He spoke about being one of very few young men who were selling sex in Cape Town when he started 16 years ago and was able to earn R7 000 a month, more than he could have hoped to earn at the time in formal employment. Another perspective was offered by a woman who had managed agencies in Cape Town for twelve years but who had not sold sex herself:

Manager: well I got divorced and came to Cape Town. I couldn't find a job and then I saw an ad in the newspaper and I started off managing at X in Sea Point, that was like 12 years ago. Then from there I went to [another agency] in Bellville and I was there for eight years and then I came here and this is probably where I'll stay because it's been the best owner and the person that pays the best.

Chandre: so you have good working conditions

Manager: yeah, no that I can't complain about. At X the owner was very abusive towards the ladies, which I did not agree on. Pay was not so good, and as the manager you've got a lot of responsibilities. Then at [the other agency] I worked for eight years, they were very nice people to work for but the pay wasn't good at all, you know it was terrible. In the eight years I worked there I got one raise. I work for Frank [not his real name] now and I am happy with the salary I can come out with it I don't need to stress about it. I've got 3 kids that I look after myself one is unfortunately in rehab now at the moment so, you know it's difficult for me being a single parent. I've finally now for the first time in 16 years gone to maintenance court.

## The Business of Brothels

The professional relationship between a sex worker and brothel is, on the surface, a formal employee/employer relationship. Yet in all cases sex workers are 'employed' on what is essentially a free-lance basis. This particular arrangement in the sex work industry comes with all the disadvantages of freelance work for the sex workers themselves, without any of the benefits of freelancing. Most commonly, when a person works on a freelance basis they are only paid for the specific work that they do. While this has obvious disadvantages over salaried work, the freelancer has the advantage of being able to determine their own working hours (even though that is mediated by the need to generate an income). In the sex work industry while sex workers are only remunerated for each hour that they work, they are also required by agencies to report for duty at a specific time, and to be present at the agency for eight to ten hour shifts. In addition, many agencies impose fines for late arrival or failing to come to work.

Agencies often regulate other aspects of sex workers' working lives too, for example the way they dress, when they are entitled to take time off, whether they may drink alcohol or take drugs, and so on. One agency owner described himself as generous to the women who work for him saying:

Let me tell you what, we don't control them. We don't fine them if they don't come in and we don't fine them if they are late...If a girl becomes a problem we ask her to leave, not because they are late or because they haven't come in for a day or two, but mostly because of the drugs and alcohol.

The advantage to sex workers of this way of working is that they are able to decide at a moment's notice to leave one agency for another. Indeed agency owners expect women to work for a relatively short period of time before moving on to another agency, as discussed above. However, flexibility is the only advantage of this way of working for sex workers, brothel owners are the most significant beneficiary of this informal way of contracting. It is brothel owners that set the rules, determine the fees charged to clients and the fees their 'employees' are required to pay the agency. For each booking, the sex worker is required to pay the agency a percentage (usually between 40% and 60%). In addition, most agencies require sex workers to pay a weekly fee for advertisements that are placed in the local newspapers, in some cases the fee is greatly in excess of what it actually costs the agency to place the advertisement. Most agencies also fine sex workers for various 'offences' including coming to work late. In this way, brothels maximise their profit while ensuring that their 'employees' do a maximum number of bookings. The fees required by the agency are set, even if sex workers do not see any clients, as such it is even possible for sex workers to end up owing the brothel money if they have not had any clients.

One of the managers (who also sees clients) at a small agency, had this to say about how the agency works:

T: We pay for our own ads [advertisements in the newspapers], and we also give half of what we earn to the agency.

NF: What does the agency give you for this money?

T: Well we get our accommodation and this place to work. We are open from 10am in the morning until 6pm at night. And then from 6pm until 11pm at night. But I only go to sleep at 2 or 3am in the morning, because when I have finished working I still clean the place and do the laundry. That is just the way my parents taught me, you don't go to sleep until the place is clean.

NF: Those are long hours you work....

T: Yes it is, it gets a bit much sometimes. You know none of us here enjoy what we are doing, none of us enjoy it. And its difficult to work with others, everyone has their mood swings. You constantly have to be ducking to hide from the moods of others.

It was our experience that sex workers who lived on the premises of the agency where they worked were expected to work extremely long hours without any additional compensation. Where sex workers did not live on the premises, shifts were on average ten hours. In general, residential agencies operate between 9am and 5pm from Monday to Saturday and are closed on Sundays (or sex workers have the option of coming into work on a Sunday if they have not made much money during the week). The hours at club-type agencies may be quite different with long night shifts and later opening times.

This sex worker described her working arrangement as follows:

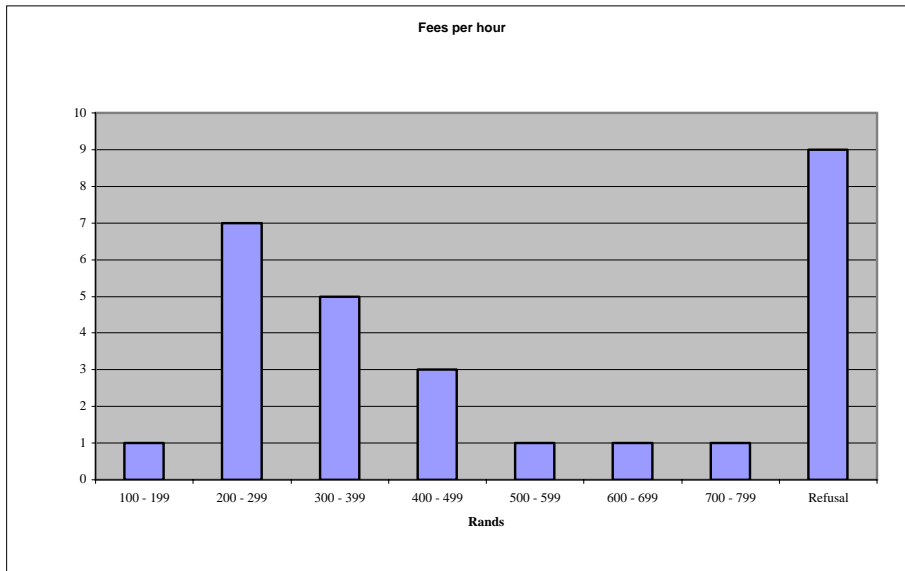
We get 60% and the lady of the house gets 40%. We also give R20 a week for toiletries and R180 a week for ads. I work until 9pm and come in at around 11am. The day shift is 9 – 5, in the evenings we work 12noon – 11pm. You may work on Saturdays if you want to. Sundays the agency is closed but you can work if you want to, some people don't work on Saturday. We get one day a week off but you have to arrange it in advance. You can arrange to take unpaid leave. And if you are sick she [the owner] is understanding.

While she felt that her working conditions (as described above) were reasonable that has to be seen in the light of the fact that her expectations were influenced by earlier, far more exploitative working conditions:

I have worked at two other places. There it was different. You paid R550 a week for adverts at [an agency in central Cape Town], so all the work that you do on Monday or Tuesday is to pay for the ads. We worked Monday to Friday with no days off. They were strict there and you couldn't leave until 7pm. You had to leave then, but there was not public transport at that time. You can't come in later than 9am. There were no options. From Monday to Saturday you worked from 9am to 9pm. You get a R500 or R100 fine for staying away from work. If you leave the agency and want to go back to the agency there is a R1000 fine. It's like that at all the agencies, unless you left for a good reason. If you leave because you are bitchy or because people treated you like junk you have to pay R1000 to come back.

The detail of working conditions and the arrangements between agencies and sex workers vary enormously within the industry. While some at agencies working conditions are considered (by sex workers) to fair and flexible, others are clearly inflexible and exploitative. Indeed, where working conditions in the indoor sector are extremely exploitative they differ little from the exploitative conditions that trafficking victims are subjected to.

Like working conditions, earnings for sex workers vary across the industry. More detailed and representative information about income levels across the industry will be available on completion of the survey of sex workers. However, the findings of the 28 indoor pilot surveys (corroborated by the qualitative interviews) provide some measure. It was found that the average fee for those working indoors is R339 for an hour, with the highest fee being R750 per hour, and the lowest R170 per hour. This is not a clear indication of the individual earnings of sex workers, who still have to cover the agency fees. The graph below shows the spread of income across the pilot sample:



Brothel owners and sex workers reported that their fees are higher if they spend a night with a client (between R1500 and R3500).

The average fees for sex workers outdoors can be expected to be significantly lower since several factors limit their ability to exact a high price for their services. Sex workers in the outdoor sector have said they do not have set charges, but charge as much as they believe their clients will be willing to pay. Several told us that the fact that some of the women working on the street are addicted to drugs and charge only as much as they need for their next fix, means that that they are forced to charge less for their services as clients often know what others are charging. Nevertheless, at least one sex worker told us, she could earn a great deal more on the street than she did in her previous job as a domestic worker.

We did not set out to determine the percentage of sex workers who are the principal or only income-earners in their families, but were told by several owners that the majority of women working at their agencies were single parents who were supporting their children, or were the primary income-earner in their family.

## Clients

Our findings to date indicate that the sex work industry is highly competitive and that few brothels are over-subscribed (while there are busy times women speak about certain periods which are very quiet). Previous studies have claimed that traffickers respond to and are encouraged by a specific demand from clients for young or foreign sex workers. We sought to determine whether this is indeed an expressed demand from clients. In addition, we sought to understand better the client/sex worker 'contract' and the extent to which clients are responsible for physical abuse in the different sectors of the industry. During in-depth interviews with sex workers and brothel owner/managers questions were asked about the profile of clients; what clients ask for; about the prevalence of violence or abuse from clients and whether what clients ask for has changed over time.

We found that clients are predominantly men, who use the services of female sex workers. In a small number of agencies women occasionally make use of the services of male sex workers. There are also some instances where heterosexual couples make use of the services of female sex workers. Clients range in age from 16 – 80 (or older) and, according to both sex workers and brothel owners, most clients are married men. As one brothel owner said:



...this place is not what outside people expect at all. They think that a certain type of man comes here but you'd be surprised is all shapes and sizes of men that come here. It's a sceptical [sic] world and you see what a man really is under all that charm. You must see how the guys run out of here to answer their cell phones when they ring, I mean this could be any place with music in the background, but they run out. But once there was a man sitting here at the bar and he answered his phone. You should have heard how he was shouting at his wife. Saying Pietie will just have to go without shoes because he has no money. Then he put down the phone and paid R700 for a woman.

One agency owner said he had noted a shift towards a younger clientele (between 20 and 30 years old), five years previously he said the average of clients was 30 – 40 years. He explained it,

First of all I think there is a new attitude. You have a lot of these young set earning good money, in good jobs, don't want to be involved, don't want to send flowers tomorrow morning, don't want a phone call only...it's a new attitude, which didn't exist in my day. We wanted to do the whole in-love thing, the dates and all that.

Asked what clients want, one owner had this to say:

CG: What would you say is the profile of clients?

Owner: We have very nice clients, good up market clients, we don't have ructions here.

CG: What is the age spectrum of clients and what do they want?

Owner: We have clients as young as sixteen (and laughed). The oldest one is 74 and all the ages in between. Clients don't just want sex they want someone to talk to. To discuss their problems, the things they can talk to their girlfriends or wives about. I've had a regular for the past 18 years and we will lie in bed and talk for hours. This client is a good friend, but if I see him on the street I won't know him, I'll walk right past him and not even look at him.

Asked whether what clients ask for has changed over time, we were told by several brothel owners that the most significant change is the shift in attitudes towards racial difference, in that more clients ask for women of colour. When owners were asked whether they experience requests for foreign women, the response was that such requests, if made, are infrequent and all said that they did not feel that this was a particular market demand. Owners did speak about the need to ensure that the women who worked for them represented a range of ages and cultural backgrounds. One owner had this to say,

You don't find clients wanting young or foreign girls. But you do get perverts. There was one client who wanted one of the girls to dress-up as a school girl and say 'stop you're hurting me uncle'. That freaked me out. I told him to go and not come back again. I was really cross. It upset the girl too. He could have been fantasizing about one of my children. I once worked in a place here there was a girl who said that she was 18 but some years later I worked out that she must have been sixteen when she started.

The preliminary finding is, therefore, that there does not appear to be a specific demand from clients for foreign women. This would suggest that trafficking of foreign women (or children) into the sex work industry is likely not to be a response to market demand. Rather, traffickers would be motivated by the ability to profit from the exploitation of particularly vulnerable individuals who have limited or no access to resources and support.

The attitudes of agencies to child sex work were consistent, several had experience of clients requesting young girls (although when probed it turned out that they were referring to girls between the ages of 18 and 21); but none were aware of agencies that employed children, and were adamant that they would not employ any underage women as it would threaten their business. Over the course of the research the researchers visited in excess of 20 brothels, at none were young children observed. Several owners did relate cases of girls under 18 seeking work at the agency.

This agency owner expressed himself bluntly:

Clients want 15 year olds. If I were to advertise that I had 15 year olds this place would be booming. But I don't want to be in jail...

In addition to seeking information about market demands of clients, researchers were interested in whether violence and abuse from clients was common in the industry. The majority of those who participated in the indoor pilot survey indicated that they had not experienced violence at the hands of clients. However some agency owners did report isolated cases of abuse and said that clients who were under the influence of alcohol were most likely to be violent or abusive. In the qualitative interviews the response from sex workers who work indoors was varied with some respondents who had experienced verbal abuse, to others who had experienced isolated cases of violence. Some of the experiences are reflected in the following statements by sex workers:

Sex worker 1: No one was ever hurt in my time here. Once I told a client to get off me when he was on top of me because I didn't want him to be on top of me any more – Eventually he did. One client told my friend who also works here 'you're a whore and I can do whatever I want with you' and she burst into tears.

Sex worker 2: One client tried to force himself onto me so I punched him.

Sex worker 3: I had a client who tried to choke me, he was into S and M and hadn't told me, I jumped on him and choked him back.

Sex workers who solicit in the streets are clearly more vulnerable to abuse and violence than those who work indoors, and both in the focus group held with outdoor sex workers and the interviews we found that most had stories to tell of personal experiences with violent or abusive clients. Perhaps most concerning was the finding that sex workers do not believe they have any rights, and certainly don't believe that they would be assisted if they reported such incidents to the police.

## **Indications of trafficking**

In this study the survey of sex workers, indoors and outdoors, is the primary tool for gathering quantitative data about working conditions in the industry and about the prevalence of human trafficking. While we were aware that those who are being forcibly held against their will would be unlikely to answer our questions, we asked respondents to tell us whether they were aware of others who were or are being forced to sell sex against their will. Instead of defining force, we provided an opportunity for respondents who said they were aware of such cases, to describe how they thought the person was being forced. If it were that large-scale trafficking is taking place into the industry, using a random sampling method to survey the industry should be able to pick up indications of trafficking. This is because through the survey questionnaire sex workers are asked:

- how they became involved in this kind of work,
- whether they had been coerced or duped into providing sexual services, and
- how much (if any) of the money they earn through selling such services they personally keep (on the basis that a trafficked person would have to pay over his/her earnings to a trafficker)

The initial findings revealed in the pilot survey (administered to 28 indoor sex workers) suggest that a small percentage of all sex workers in Cape Town are not South African (4 of the 28 respondents) and only one respondent of 28 said they were being forced to sell sex, explaining that addiction to narcotics was responsible for him/her feeling forced. The full results of this quantitative survey will be available in the last quarter of 2007. At the time of

writing 54 questionnaires had been administered of a total target sample of 121 (10% of the total estimated size of the industry).

Since the research is focused on the accessible and 'visible' part of the sex work industry and data has been gathered from open sources including media publications (on-line and hard copy) and through interviews with people in the industry, it was vital to ensure that the methodology provided results that could reveal cases of human trafficking, or indicate the prevalence of trafficking. While observers have been known to presume that victims of trafficking into the sex work industry would be held in places that are hidden and not clearly marked, suggesting that they are more likely to be held in residential brothels than in more formal agencies, our findings suggest that this is not necessarily the case. It has been our experience that debt-bondage of sex workers; and the recruitment of women, that involves deception about the kind of work they will be doing, as well as practices of severe exploitation do take place at formal agencies (clubs and massage parlours). However, our data also suggests that these practices of extreme exploitation are limited to a small number of agencies.

During interviews brothel owners and managers and sex workers were asked a range of questions the answers to which could provide an indication of the prevalence of trafficking, including whether the respondents were aware of the sale of women in the industry.

Of the nineteen owner/managers interviewed, three had knowledge of exploitative or abusive practices at other agencies. One particular agency in Cape Town (a club-type agency) was referred to by two sex workers and a brothel owner as being involved in the trafficking of women from Eastern Europe and Asia. In 2006 researchers visited the agency and conducted an interview with the manager. During the interview the manager confirmed that the agency did employ sex workers from Russia and had previously employed women from Thailand. According to the manager, these women were transported daily from the brothel to the accommodation provided by the owner. However, researchers were told that the women working at the agency were aware, when they were recruited, that they would be doing sex work, they had valid work permits and that they did leave to return home after making money. Attempts to follow-up and obtain an interview with one of the women working there were unsuccessful as the agency closed for a period of time and researchers were concerned about their personal safety after hearing allegations that the owner was involved with organised crime and prone to violence.

The allegations made by a sex worker (whose friend had worked at the agency in question) contradicted that of the manager and included that the women had been deceived about the nature of the work they would be doing when they were recruited; that the foreign women working at the agency were debt-bonded and that their passports were confiscated by the owner until they had paid back their debt. She indicated that she had witnessed the agency owner physically abusing a former, South African employee and threatening her children if she did not return to work for him. A sex worker described the situation at the agency in her own words as follows:

The women there may not leave the premises. He keeps their passports and they live on the premises. For the South African women, he threatens to take their children. He has people who he pays to bring the women over. [The owner] pays R100 000 for a Thai girl, R80 000 for a Russian, R10 000 for a girl from Johannesburg. These girls are not allowed to leave there until they have paid the money back with interest. They have to pay for accommodation and for other things.

These allegations were partially supported by claims made by a brothel owner that he was aware that the owner of the abovementioned agency purchased women from Eastern Europe

and Thailand. While intervention from law enforcement is clearly desirable in order to investigate and address the alleged abuses at this agency, there are a number of factors that may complicate intervention.

As has been made clear, there are allegations that foreign sex workers are debt-bonded by the brothel owner and that their movement is restricted. However, both the brothel owner-informant and the manager of the agency were clear that despite having to pay back what is likely to be an excessive debt, as well as paying for accommodation and other costs, the agency fees are high and women are able to pay back their debt and leave after a period of some months, having made money. While that in no way changes the nature of the exploitation to which the women are subject, it does complicate the task of the police since the women may wish to remain at the agency (and thus resist 'rescue'), and may be reluctant to testify against the owner. These factors will be relevant to the design of appropriate policy interventions.

In addition to allegations of trans-national trafficking, allegations relating to the restriction of movement of South African sex workers and extreme exploitation were also gathered during the qualitative interviews. One sex worker described her experience at a residential agency in Parow:

I was looking for jobs in the newspaper to clean rooms, I wanted a sleepover job. When I got to the place...the girls explained to me that I would be cleaning rooms and selling sex. At the time I was married with two children. I was scared so I left and went home. The boss kept phoning me, I told him I was too scared. I eventually went. It was very private at that place in Parow. We got accommodation and we had to clean the rooms but we got money for doing this...the owner used us. We lived on the premises. He woke us up at night and raped us. Everything with him was without a condom. We were only two girls working there. There were 15 rooms that were rented out to couples and so on.

She also indicated that she was only allowed out of the house once a week to have her hair done. One weekend, having decided that she could not continue at the agency, she left. However, she neither considered reporting the matter to the police, nor did her experience lead her to leaving the industry. When we interviewed her she was working for an agency in the northern suburbs and spoke of being satisfied with the working conditions there,

At this place it is day work or night work – you decide what time you come and go. I do day or night shifts but I don't work weekends. I decide which days and which shifts I want to work. During the day shift the latest you can start is at 10am. Everybody wants to work so everybody is normally here.

We were told of agencies that restrict the movement of sex workers, force them to work long hours and prevent them from leaving the agency by threatening to tell their families what they do. However, it was not clear that force or deception had been used in the recruitment process, nor that the victims of this practice had been moved across borders. This indicates the blurring of issues between trafficking victims (as legally defined) and the experiences of women in the industry who have not been trafficked, but who are subject to conditions of extreme exploitation or abuse.

In total during the 16 months of research the researchers encountered four cases of trafficking, and many more cases of exploitation. The implications of these findings for policy are considered in the section titled 'The Need for Policy Intervention'.

## Working Outdoors

Despite the fact that specific demographic data was not gathered during the mapping process, it was clear through observation that the racial profile of outdoor sex workers differs from those who work indoors. While brothels tend to employ mostly coloured women and a small number of white and Indian women, the majority of women working on the streets are either black or coloured. A 2005 demographic survey of 200 sex workers conducted by SWEAT showed that people working outdoors also tend to have lower levels of formal education than their indoor counterparts. The survey revealed that 76 per cent of indoor sex workers had passed Grades 11 or 12, only 23 per cent of people working outdoors had reached the same level of schooling (SWEAT fact sheet 2005).

While, as will be explained below, the conditions for women working on the street are far more dangerous and difficult than for those who work indoors, several of the women consulted during this research process also said that they preferred working outdoors because they were in control of when they worked and did not have to share their income with a third party.

While this may be the case, at an economic level street-based sex workers who enter the industry to meet the needs of basic survival (food and shelter) have far less negotiating power in their interactions with clients, than those who are working to support a middle-class lifestyle. This is because the pressure to meet basic income needs is arguably far greater. As a consequence one can expect that street-based sex workers have less power to impose limits on clients that define the interaction. Additionally, while street-based sex workers may have an indoor location to which they take clients, more often than not the interaction takes place in a car. When the client picks a sex worker from the street he is in control of the situation as far as the location of the interaction takes place, simply because he is driving the vehicle. While some clients are prepared to accept the advice or suggestion made by a sex worker about where to stop the vehicle, most street based sex workers have experiences of having been taken somewhere they would not like to be, somewhere far from where they feel safe. Many have been dropped far from where they work (many miles) by abusive clients. Indeed, in these situations very often the women walk away without having been paid - having lost any power to negotiate the terms of the interaction.

While experienced street-based sex workers spoke of having learned techniques to reduce the risk of harm during interactions with clients, many spoke to being vulnerable to abuse and harassment at the hands of the police. This was the subject of a study by SWEAT that analysed 48 statements made by sex workers about police abuse (Fick 2006). The analysis revealed that one in six of the women who made statements had been forced to have sex with police officers or were aware of others who had been forced to do so. In some cases having sex with a police officer was a condition to secure their release from detention, or to avoid detention. Many also spoke of physical assault at the hands of the police. During the mapping process for the ISS/SWEAT research study it was found that many street-based sex workers have come to know policemen who harass, rape or beat them and avoid working during times when they knew these officers are were duty.

O'Connell Davidson reported similar findings in her 1998 study. She noted that,

Even in countries where brothel prostitution is legal or tolerated, soliciting in the informal sector is illegal, and this makes prostitutes in the informal sector extremely vulnerable to harassment and extortion...In other cases it is corrupt policemen who must be paid off, either in cash or in the form of sexual 'favours' (this kind of corruption was reported by Jacqueline Sanchez Taylor and myself by women working in the informal prostitution sector in the Dominican Republic, Venezuela, Cuba and South Africa). The fact that the law is invariably

used to punish, exploit and control street prostitutes rather than to protect them from exploitation and violence, and that law-enforcement agents in many countries are among those who physically and sexually abuse prostitutes, further undermines the prostitutes power to enforce or retract from contracts. Policing policies can also impact on the street prostitute's control over health and safety issues. In the past, in Britain and America, being in possession of condoms has been used as evidence that a woman is loitering for purposes of soliciting, for example. Clearly when such a policy is in force, it acts as a disincentive to practice safer sex. It should also be noted that migrant women involved in independent street prostitution are made more vulnerable to all these forms of harassment because of their undocumented status.(O'Connell Davidson 1998:65)

As this sex worker who works outdoors explained, the danger posed by the police is as severe as that posed by pimps, asked what was the most difficult thing about working outdoors, she had this to say:

The only thing that is difficult is the police. I was taking a walk at 7pm in the evening and they wanted to arrest me. But I was just walking, I wasn't doing anything wrong. We keep having to run away from the police. It makes me very nervous when I keep having to worry about the police. Sometimes they ask you for money (the police). They will leave you alone if you give them some money. Other times the things that are difficult are when I am working and I get robbed, the pimps will take your money off you, the pimps of the other girls will steal your money. I am afraid of them so I give them what they want.

The impact of criminalisation of the industry on the conditions of sex workers will be considered in more detail in the section that reflects on policy implications.

### **Child prostitution and access to services**

During the course of mapping the outdoor sector the researchers encountered a child prostitute for the first time during the research process. In this section a detailed account of this experience is recounted as it provided insight into the shortcomings of the current system of service provision.

The child in question claimed she was 13 years old. She told the researchers that she had been selling sex since she was ten. She said that she needed help to get away from an abusive home and from being sexually exploited on the street. The researchers made several attempts to involve the authorities in assisting the child. In the process it was found that:

- The cut-off age for assistance from Child Welfare is 12, as such she was not eligible for assistance;
- None of the shelters contacted by SWEAT were willing or able to provide emergency accommodation for the child while alternative arrangements were made; and
- Although social services was willing and able to assist the child in theory, in practice a social worker merely returned the child to her parents (despite the alleged abuse at home and repeated requests from the child not be returned).

Intervention by SWEAT through the children's court secured better assistance and led to the child's removal from her home to a place of safety. However, the process of securing assistance took more than three days full-time effort by SWEAT staff. This suggests that for less resourced or less knowledgeable people, who need to find support for children at risk, the task would be almost impossible.

In this case the child was not trafficked. Indeed, there was no suggestion, or evidence, that she was forced by adults to sell sex, nor did she directly contribute to the family's income. In fact she was working within walking distance of her home. She had turned to the street to earn money to buy herself clothes and food.

Another two other children were encountered in the area between Lavender Hill (a poor coloured community) and Muizenberg during 2007. These children, aged 14 and 15, both came from dysfunctional families and had taken responsibility for their own survival. Their self-expressed needs were for assistance to return to school and for other forms of employment. Neither were forced to sell sex by others. Yet, neither had access to support or services provided by the state.

These cases clearly demonstrated gaps in the support network for children who are sexually abused or exploited, and require a policy intervention.

Over the 16 month period, a total of three children were physically encountered working in the industry, all outdoors. During interviews with street-based sex workers a small number spoke of knowing of children who were selling sex to support their addiction to drugs. The findings do not support the contention that large, or increasing, numbers of children are forced into prostitution. However, the current study does not claim to address cases of informal sexual networking, or the sexual exploitation of girls and women within gangs. This research very specifically set out to test the claim that the trafficking of children into the sex work industry is rife and growing. Although the findings suggest that while trafficking of children may not be as significant a problem, in terms of absolute numbers, as may have been presumed, there is a broader social problem that does need to be addressed creatively. This includes flexible and accessible care for children who, out of necessity, find themselves on the street; and encouraging the safe reporting of children who are selling sex by adult sex workers.

## **The need for policy intervention**

### **Decriminalisation**

The preliminary results show that the relationships between sex workers, brothels owners and clients are not equal. It has also been shown that exploitation and abuse are common in the sex work industry. Although this may appear to indicate that women in the sex work industry are victims of circumstance, the research has also shown the extent to which women in the industry have agency: they make decisions (perhaps based on their need for survival) and follow those decisions through, even though it means that they have to do work that they dislike. In addition, most are physically (although perhaps not financially) able to extract themselves from the situation they find themselves.

We believe it's essential to recognise the role sex workers play in determining their own circumstances. We also know it would be obtuse not to recognise the effect of the relations of power that result in sex workers having to make the decision to enter the industry in the first place, and the factors that keep them there. Unequal power relations also affect the extent to which sex workers have, or not, any power to negotiate their interactions with clients and place limits on these. The law against adult prostitution acts as a further constraint on the ability of sex workers to determine and control the nature of their relationships with clients and brothel owners. Their status as criminals makes them vulnerable to abuse and exploitation because they do not have recourse to the law.

Even though legal change is not expected to change the social power relations, nor necessarily mean that sex workers are not exploited or abused, such a change may serve to allow sex workers a little more power to negotiate their contracts with third parties (whether that is clients or brothel owners). The mere fact that clients are aware that sex workers are unlikely to report them to the police if they do not pay them, or physically hurt them, and that even if they do the report is unlikely to result in legal sanction, reduces the power sex

workers have to negotiate the transaction. O'Connell Davidson, who is not a protagonist for sex worker rights, nevertheless recognises the role criminalisation of the industry plays in creating the space for exploitation:

...the relationship between prostitute and third party, as well as that between prostitute and client, takes place in a specific legal, institutional, social, political and ideological context, and that this represents another set of constraints upon relationships. In many cases, for example, prostitution is legally regulated in ways which so heavily penalise independent prostitution that law/law enforcement effectively operates as a pressure on prostitutes to enter and remain in third party controlled prostitution no matter how exploitative the third party may be. (O'Connell Davidson 1998:17-18)

O'Connell Davidson concludes that 'prostitution laws and law-enforcement practice typically discriminate against prostitutes, and in so doing, either directly or indirectly enhance brothel owners' powers over them' (O'Connell Davidson 1998:40). Thus, while decriminalising the industry may not shift social power relations, it would go a long way towards making it safer for women who have to do this work to survive.

### **Children in the sex work industry: the requirement for support services**

The cases of child prostitution encountered during the research process highlighted the difficulty that the state and society more generally faces in providing assistance to children in this situation, as the options for state intervention are limited. Children between the ages of 16 and 18 are unlikely to be helped by placing them in a children's in a home (even if that were possible), not least because the children themselves would be resistant to institutionalisation. There is thus a need to develop more creative, and flexible systems of support for children like these. This would need to be the outcome of a different study and broad consultations with *inter alia* relevant government agencies and civil society groups that specialise in working with children at risk.

Discussions and interviews with street-based sex workers revealed that some had encountered children who were forced to sell sex by their boyfriends or pimps, and that despite being concerned for the welfare of the children, they were unable to intervene by seeking assistance from the authorities. When considering policy interventions it is important to acknowledge that adult sex workers themselves are likely to be the first, or perhaps only, adult such children encounter and who are concerned for their well being. Yet, both because of the stigma of sex work and it being illegal, sex workers do not easily turn to the authorities to provide information about such cases. In addition, with limited resources at their disposal their avenues for recourse are extremely limited.

It is our contention that sex workers should be recognised as a valuable resource in the identification of children who are selling sex and who are in need of assistance or intervention by the state. This cannot be done unless trust is built between sex workers and the police.

### **Exploitation and trafficking**

The findings of this research suggest that the number of cases of extreme exploitation (trafficking) in the indoor sector appear to be fairly isolated (the prevalence of such cases will be revealed by the survey). During the 16 month period of intensive engagement with the industry the researchers recorded four cases of practices that suggest that trafficking took place.

While strictly speaking human trafficking represents an extreme form of exploitation



(through which a victim is deceived, forced or induced into slavery-like practices), it is the end point of a continuum of exploitation and/or abuse in which the ‘victim’ is not always as passive as is suggested in the discourse around trafficking. Indeed, determining the most appropriate and least harmful intervention by law enforcement and service agencies is complex. This analysis echoes that reflected in an IOM research report (Anderson & O’Connell Davidson 2003:9), in which it was stated that:

Violence, confinement, coercion, deception and exploitation can and do occur within both regular and irregular systems of migration and employment. The fact that such abuses can vary in severity and thereby generate a continuum of experiences rather than a simple either/or dichotomy, further complicates a meaningful definition of trafficking. At one extreme of the continuum we can find people who have been transported at gunpoint, then subjected to forced labour through the use of physical and sexual violence and death threats against them or their families back home. At the other end are those who were neither charged exorbitant rates by recruiting agencies nor deceived regarding the work for which they were originally recruited, and whose rights are respected. But, between the two poles lies a wide range of experience. The precise point along this continuum at which tolerable forms of labour migration end and trafficking begins will vary according to our political and moral values (pg. 9)

Indeed we would posit that the sale of sex too takes place a continuum of experience, with a variety of levels of control and differing amounts of exploitation.

At one end of the continuum are the transactions that take place in consensual adult relationships. Further along the continuum we find transactional sex where individuals (usually women) who do not have access to resources exchange sexual services for material goods, food, school fees and so on. In such cases the transaction is not likely to be verbalised. The commercial exchange of sex also exists on this continuum and again presents a range of experience, as reflected in this report. This includes individuals who voluntarily enter the industry, experience fair working conditions and are free to leave the sex work industry when it suits them. It also includes individuals who have little control over their working conditions, who are forced to sell sex, and/or whose movement is restricted and who feel trapped. At the most extreme point of the continuum is trafficking.

This raises a number of issues that require consideration. On the one hand, focussing societal concern on trafficking alone, distracts us from addressing the broader, and more complex social issues that a study such as this reveals. If, as is suggested by the preliminary findings, the number of individuals who can be said to be victims of trafficking, and who require assistance from the state, are relatively few in number, and are a small percentage of the population of the sex work industry, intervention by the state may be modest and focussed. The small numbers, in other words, are not a reason not to make resources available to combat the problem. However, there is little justification for addressing this problem without at least giving some consideration to how the lives and circumstances of a larger population with similar experiences can be improved.

It is clear from our findings that those involved in the industry may be an important source of information about cases of human trafficking. At this stage, given the fact that sex workers and brothel owners do not feel that they can report these matters to the authorities, means that the information is either lost, or that more effort and resources will have to be allocated to intelligence gathering by the police. Opening the industry to scrutiny through decriminalisation, encouraging and making it safe for sex workers to approach the authorities with information, and regulating the industry to ensure that working conditions met the same standards as in other industries, would be a positive and appropriate intervention to combat trafficking.

The approach adopted by the researchers raises the question of what our interest and priorities as a society, and state, are with regard to countering trafficking. The definition of trafficking contained in the Protocol to the United Nations' Convention Against Transnational Organised Crime, i.e. the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereafter referred to as the Protocol), provides some guidance as to what states deem to be unacceptable: forcing or deceiving individuals into accepting movement from their country of origin to another where they are subject to exploitation. This appears to be the case particularly if the perpetrators are members of an organised group of criminals. Yet, there seems to be little material difference between this and someone who is exploited and whose movement is restricted and who has not been moved from one country to another. Our concern as a society intent upon ensuring respect for human rights should surely be for anyone caught in a situation of exploitation. The only justification for a focussed attention on one form of exploitation (human trafficking) would be if it could be proved, or strongly indicated, that this form of exploitation is more prevalent than any other and therefore warrants special attention.

Although we come to the conclusion that decriminalising and applying labour legislation to the industry is the best way to reduce incidents of exploitation in the industry and to be able to identify more easily cases of trafficking – it is not to say that doing this kind of work is not often hard and unpleasant for the people who do it. There are women who would choose to do this work rather than any other, but they are probably in the minority. The fact remains that doing this kind of work enables women to earn more money and have more flexibility than they would have doing any other kind of work. This in turn implies that the belief that the state can stop women from having to turn to sex work by offering other forms of employment that would be suitable to semi-skilled or unskilled people is both unrealistic and impractical. If one accepts that argument, the only reasonable conclusion to reach is that it is the responsibility of the state to ensure that the people who do this kind of work can do so as safely as possible, have access to services particular to their needs, and have legal recourse when they are subject to exploitative working conditions.

## Conclusion

Through this research process the number of 'unknowns' about a relatively hidden part of society - the sex work industry, have been reduced. While the findings suggest that the prevalence of trafficking may not be as high as previously presumed, it is not suggested that there is no need for resources to be allocated to combating the problem. However, the study contextualises the problem and suggests that other cases of exploitation are equally deserving of attention and resources. The researchers are aware that the conclusions reached and recommendations made here are contentious and difficult to deal with in the light of the moral objections many have with to sex work. However, as a society committed strengthening a culture of human rights, these are issues deserve attention and consideration.

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<sup>i</sup> It is important to note that sex workers do not work in all of the 140 suburbs and therefore not all of these areas were visited.

<sup>ii</sup> Although both studies focused on using a variety of media sources to identify locations from which sex is sold, there were significant differences in how the methodology was implemented and there were differences in the study imperatives.

<sup>iii</sup> This would not have been an effective method of gathering information had it not been that SWEAT has credibility in the industry.