

WORKING *conditions for women* — *in the legal* — SEX INDUSTRY

The legal status of sex work is something that I've been interested in for over ten years. When I was an undergraduate student studying labour law, it occurred to me that the sex industry was one area that had never really been examined by labour lawyers. A couple of years ago I decided to go back to uni and do a masters degree in law to examine the legal status of sex work. I finished my thesis last year.

I believe that sex work is work, and that sex workers often get a raw deal by being categorised as independent contractors. This means that they are denied many of the benefits that are available to employees (whether full-time, part-time or casual), including entitlements to leave and access to proceedings for wrongful termination. However, I had to satisfy my examiners that there was a legal basis for my beliefs.

Firstly, I needed to introduce the sex industry and explain what parts of the industry I was looking at. As my focus was specifically on women in the legal industry, I also explained why I wasn't looking at male or transgender workers, and why street work and illegal brothels weren't being discussed. I then talked about why I think sex work is work, and not (as some people argue) a form of sexual violence. I discussed three main issues that arise in the literature: whether sex workers can exercise choice over in what they do (they do), whether sex work involves exchanging

a service or is selling a body (it's a service), and whether sex work involves skill (yes it does).

As I'm a lawyer, I then had a go at the legal argument about whether workers are independent contractors or not. There are a couple of court decisions that say that sex workers are employees. There are also some overseas decisions that say that tabletop dancers are employees. I looked at these decisions and the legal tests that are used to work out whether workers are employees or not. Given a number of factors such as the degree of control exercised over rostering, the inability of some brothel workers to leave before the end of a shift and the fact that workers are told what sort of service to provide clients, I concluded that there are grounds for saying that sex workers can be considered as employees.

I then went on to look at what this means in law. I discussed a range of 'protective legal mechanisms' that assist workers, such as the common law contract of employment; awards, enterprise agreements, occupational health and safety law; and anti-discrimination and equal opportunity statutes, and looked at how these could apply to women working in the legal sex industry to improve their working conditions. Lastly, I talked about why I think there have been few improvements to women's working conditions in the sex industry over the years. Not surprisingly, the ongoing stigmatisation of sex workers and the problems of a 'blokey' industrial movement were significant here.

I received lots of help from workers (and one brothel manager), who helped me to understand what conditions in legal brothels and escorts are like. I couldn't have written my thesis without their assistance. If anyone's interested in having a look at the finished product, or talking to me about the issue of working conditions in the legal industry, I'm more than happy to be contacted at kristenmurray@hotmail.com. Working on my thesis opened my eyes to the poor working conditions that sex workers have to put up with, and I'd be very interested in being involved in trying to make them better.

Kristen Murray 