

Authors: S Pudifin and S Bosch

**DEMOGRAPHIC AND SOCIAL FACTORS INFLUENCING PUBLIC OPINION ON
PROSTITUTION: AN EXPLORATORY STUDY IN KWAZULU-NATAL PROVINCE,
SOUTH AFRICA**

ISSN 1727-3781



2012 VOLUME 15 No 4

<http://dx.doi.org/10.4314/pej.v15i4.1>

**DEMOGRAPHIC AND SOCIAL FACTORS INFLUENCING PUBLIC OPINION ON
PROSTITUTION: AN EXPLORATORY STUDY IN KWAZULU-NATAL PROVINCE,
SOUTH AFRICA**

S Pudifin*

S Bosch**

1 Introduction: The importance of understanding public opinion and the terminology used in the prostitution debate

South Africa provides a fascinating setting in which to study attitudes towards prostitution. It has one of the highest crime rates in the world (particularly violent crime),¹ and also one of the highest HIV/AIDS rates² - two 'evils' which frequently plague the prostitution industry. South Africa is also a hub of immigration, with hundreds of thousands of nationals from other countries crossing the border yearly - many illegally - in search of a better life and employment.³ The management of these three concerns and their relationship to the regulation of prostitution in South Africa poses unique challenges for policymakers. Luiz and Roets⁴ describe prostitution in South Africa as an under-researched area "clouded in myth, extreme prejudice and pietist hypocrisy", about which little is understood. Indeed, public opinion on prostitution has received scant attention from academics and researchers, despite the pressing need for empirical research into these opinions, to inform and make relevant the current debates. This paper aims to begin to fill this gap in the empirical research by examining the attitudes of a snow-balled sample of the general public towards prostitution as a social phenomenon, and the regulation of prostitution as a legal phenomenon. In short, it is an attempt to understand what the man on the Clapham omnibus (or in South Africa, perhaps the woman on the Soweto minibus) thinks about prostitution, and what factors might inform their opinions.

* Sarah Pudifin BA (Hons) LLB (University of KwaZulu-Natal); LLM, MPhil (University of Cambridge); Pupil Advocate at the KwaZulu-Natal Bar, Durban; (sarahpudifin@gmail.com).

** Shannon Bosch BA (Hons) LLB (University of KwaZulu-Natal); LLM (University of Cambridge); Attorney of the High Court of South Africa; Senior Lecturer in Law (UKZN School of Law); (Boschs@ukzn.ac.za).

1 UNODC *Eighth United Nations Survey*.

2 UNAIDS 2010 www.unaids.org.

3 USCRI *World Refugee Survey*.

4 Luiz and Roets 2000 *Journal of Contemporary African Studies* 21.

Understanding the interplay between demographic and social factors and public opinion is particularly important in the field of prostitution, both from a social point of view – namely, whether prostitution is tolerated within a society – and from a legal point of view – primarily, whether prostitution is criminalised or not. This is because the regulation of prostitution in both these spheres is to a large extent dependent on the socioeconomic, political, cultural and religious considerations of the population in which it is implemented.⁵

It should be stated at the outset that this paper is exploratory in nature. It aims to present the findings from this limited sample, to highlight the challenges of research in this area, and to emphasise the need for further and better research to be conducted into public opinion on prostitution in the South African context.

Knowledge of public attitudes towards prostitution is crucial for several reasons. Firstly, it explains the mechanisms which structure the market for prostitution, drive the demand for prostitution, and affect the social setting in which prostitutes must operate.⁶ Secondly, it is crucial to the development and implementation of relevant policy and law reform, which accurately speaks to the public's beliefs in this area. Prostitution, like all criminal justice policies in democratic countries, is subject to the realities of electoral politics, and policy-makers must at the very least take the people's views into account, or risk having the policy repudiated by the public. Thirdly, it is only by knowing and understanding public opinion - and examining whether or not those views are driven by misinformation - that appropriate remedial measures can be implemented to educate, clarify misunderstandings, and dismiss stereotypical views.⁷ Finally, in an open and accountable democracy citizens are more likely to view the results of any policy reform as legitimate when their opinions have been sought out and when they have informed such discussions, even if the final policy goes against their own personal views.⁸

5 Karandikar 2008 *Journal of Interdisciplinary and Multidisciplinary Research*.

6 Jakobsson and Kotsadam *What Explains Attitudes Towards Prostitution?*

7 Lippman *Public Opinion*.

8 The heterogeneity of the South African public adds to the complexity of this project. It must be recognised that different sectors of the public may view the subject of prostitution with notably diverse opinion. Tyler "Procedural Justice, Legitimacy and Compliance"; Sanders 2006 www.gender-studies.leeds.ac.uk.

Researching prostitution is notoriously difficult, and it should be acknowledged at the outset that the value of empirical research findings into this field may be limited.⁹ This arises from the fact that, for example, women who work as prostitutes may fear prosecution or persecution if they admit to doing so, and also that people that use the services of prostitutes may not be willing to admit to doing so.

Furthermore, knowing how to deal with public opinion once it has been established may itself be problematic. It is not suggested that public opinion should dictate policy in this area, for the reason that it is not clear that the public necessarily knows what is best for society. Lippmann's classic 1922 book on the subject compares public opinion to Plato's shadows on the wall of the cave – a distorted reflection of the truth, yet completely real to those who see only the shadows. He stresses the importance of taking public opinion into account, but also of acknowledging that public opinion may be based on stereotypes, blind spots, misunderstandings and vague responses to the issue at hand.¹⁰

This paper does not suggest that public opinion alone should dictate policy regarding prostitution. However, the preamble to the *Constitution* confirms that South Africa's democracy is established on "the will of the people", respect for the principles of openness, transparency, accountability and public participation, and consequently understanding public opinion on the issue of prostitution has critical relevance. For this reason, we advocate for crucial decisions affecting the public to be taken by a responsible administrator, with public opinion acting as an aid and not as a constraint.

Terminology

It is worth noting at the outset that the different voices in the "prostitution debate" will make use of different terminology and phrasing in order to bolster their stance on the issue. For example, those arguing that all women in prostitution are exploited tend to use the term "prostituted women", which emphasises their helplessness,¹¹ while those in favour of seeing sex work as a form of employment prefer the term "sex

¹⁰ Lippman *Public Opinion*.

¹¹ Busch *et al* 2002 *Violence Against Women*.

workers" (the term favoured, for example, by the Sex Worker Education and Advocacy Taskforce (SWEAT)). This paper follows the South African Law Reform Commission (SALRC) terminology of "prostitute" and "prostitution", as these words are still the most widely used, generic and familiar terms available.¹²

2 Definitions, limitations and assumptions

Prostitution in South African is primarily regulated by the *Sexual Offences Act*,¹³ under which prostitution is a criminal offence. Section 1 defines prostitution extremely broadly, as "the exchange of carnal intercourse, or acts of indecency for reward". We submit that the realities of South African society render this definition unworkable in the South African context. In particular, South Africa's enormous socio-economic challenges mean that often sexual services are rendered by young women to older "sugar daddies" for financial or non-financial rewards, particularly food, clothes, gifts, accommodation, jobs and influence. These young women do not identify themselves as prostitutes,¹⁴ which we suggest indicates that the Act's broad definition is unworkable in the South African context.

The SALRC similarly felt that the Act's broad definition - which includes any sexual act *accompanied* by a gift or goods - is too wide in scope to be useful, and suggested an alternative definition in which prostitution is "the exchange of any financial or other reward, favour or compensation *for the purpose of* engaging in a sexual act". This definition we feel is more pragmatic and relevant to the South African context, and accordingly this is the definition which we have chosen to use.

Throughout this paper, certain assumptions are made about prostitution and prostitutes. Firstly, it is assumed that the prostitutes in question are female and over 18. Child prostitution raises complex and different issues, and is comprehensively dealt with in South African law under the *Children's Act*.¹⁵ While male and transgender prostitution undeniably exists in South Africa, it probably makes up a much smaller percentage of the total incidence of prostitution, and is certainly far

12 SALRC *Discussion Paper*.

13 *Sexual Offences Act* 23 of 1957.

14 SALRC *Discussion Paper*.

15 *Children's Act* 38 of 2005.

less visible than female prostitution.¹⁶ Secondly, it is assumed that prostitutes consent to their actions (to the extent that it is possible for women to choose to work as prostitutes), and issues of trafficking for the purposes of sexual exploitation and forced prostitution are not addressed. Thirdly, it is acknowledged that when people are asked their opinion on prostitution, they are likely to think primarily of street prostitution (as the most visible form of prostitution) rather than "indoor" prostitution in the form of brothels, escort agencies or massage parlours.

2.1 The legal status of prostitution in South Africa

The central theme of this article is the influence of social and demographic factors on public opinion on prostitution; however, this cannot be viewed in isolation from the legal framework in which prostitution is situated within society. There is a two-way link between public opinion and the law: this article focuses primarily on how public opinion may influence the development of the law, and give the law legitimacy. However, it may also be the case that in countries like South Africa, where prostitution is criminalised, prostitution is more likely to be viewed as a "wrong", and in this way law may influence public opinion on prostitution.

Within the constitutional era, South Africa has seen development in the law relating to prostitution, which may itself reflect changing norms in society.

2.1.1 Legislation

Prostitution *per se* is a fairly new crime in the South African statute books. Until the late 1980s, the exchange of sexual acts for reward was not criminalised (although various acts associated with prostitution, including soliciting, living off the earnings of prostitution and brothel-keeping, were criminalised). In 1988 Parliament amended the *Immorality Act*¹⁷ - the infamous Act which had criminalised sexual relations between different race groups in apartheid South Africa. It was renamed the *Sexual Offences Act*¹⁸. Section 20(1A) of the *Sexual Offences Act* states that:

16 Herbst *Male Sex Workers in Pretoria* 167.

17 *Sexual Offences Act* 23 of 1957.

18 *Sexual Offences Act* 23 of 1957.

Any person 18 years or older who -
(a) has unlawful carnal intercourse or commits an act of indecency with any other person for reward ... shall be guilty of an offence.

The Act goes on to define "unlawful carnal intercourse" rather broadly - to apply to any "intercourse other than between husband and wife" (Section 1), and "for reward", which includes both a monetary reward and any other compensation with pecuniary value (including clothes, food, accommodation and gifts).

Commercial prostitution is regulated by section 20(1)(a) and (c) of the *Sexual Offences Act*. These sections criminalise the keeping of brothels and procurement by pimps.

2.1.2 *Relevant case law*

In this section we deal with three important cases dealing with prostitution in South Africa, which were decided after the commencement of the Final *Constitution* in 1996. These cases illustrate the impact which the *Constitution* has had on the criminalisation of prostitution, and the fact that courts are willing to protect the constitutional rights of prostitutes to equality, dignity, fair labour practices and the right not to be arrested in circumstances where the arresting officer has no intention of instituting a prosecution.

2.1.2.1 *S v Jordan*

In *S v Jordan*,¹⁹ the Applicant challenged the constitutionality of section 20(1)(aA) on the grounds that it violated the rights of gender equality and to equality before the law. The High Court found that the distinction between the merchant and the customer was "obviously unjustified discrimination between not only sexes but also persons".²⁰ The High Court declared the section unconstitutional on this basis. The majority of the Constitutional Court of South Africa held that the words "any other person" in s20(1A) are gender neutral, and include both male and female prostitutes or clients, and apply to both heterosexual and homosexual sex. The majority

19 *S v Jordan (Sex Workers Education and Advocacy Task Force as Amici Curiae)* 2002 ZACC 22.

20 *S v Jordan* 2002 1)SA 797 (T) 800H.

therefore found that there was no violation of the right to equality, as the criminality applied both to the merchant and to the customer.

Following the Constitutional Court's decision in *S v Jordan*, the legislature clarified the position by criminalising the actions of the client in Section 11 of the *Criminal Law (Sexual Offences and Related Matters) Amendment Act*²¹, which now reads:

A person ('A') who unlawfully and intentionally engages the services of a person 18 years or older ('B'), for financial or other reward, favour or compensation to B or to a third person ('C') –

1. for the purpose of engaging in a sexual act with B, irrespective of whether the sexual act is committed or not; or
2. by committing a sexual act with B,

is guilty of engaging the sexual services of a person 18 years or older.

2.1.2.2 *Kylie v CCMA*

In *Kylie v CCMA*,²² Kylie, a sex worker, challenged the termination of her employment under the *Constitution* and the labour laws of South Africa, which guarantee fair labour practices. The Commission for Conciliation, Mediation and Arbitration (CCMA) had held that it did not have jurisdiction to arbitrate the matter, on the ground that Kylie had been employed as a sex worker and therefore was involved in illegal employment. The Labour Court upheld the CCMA's ruling. Kylie subsequently appealed to the Labour Appeal Court, claiming that her right to dignity (section 10 of the *Constitution*) read with the right to fair labour practices in the *Constitution*, and the *Labour Relations Act*, places an obligation on the courts to be vigilant in safeguarding the dignity of the most vulnerable classes of employees, such as sex workers.²³ The Labour Appeal Court upheld Kylie's rights and ordered the CCMA to determine the matter between Kylie and her former employer.

21 *Criminal Law (Sexual Offences and Related Matters) Amendment Act* 32 of 2007.

22 *Kylie v CCMA* 2010 4 SA 383 (LAC).

23 *Kylie v CCMA* 2010 4 SA 383 (LAC) para [52].

2.1.2.3 *SWEAT v Minister of Safety & Security*

The Sex Worker Education and Advocacy Taskforce, a non-profit organisation seeking to promote the health and human rights of sex workers, approached the Western Cape High Court for relief aimed at preventing the alleged continued unlawful and wrongful arrest of sex workers by members of the South African Police Service, in the City of Cape Town. The High Court found for the applicant, holding that SWEAT had shown on a balance of probabilities that the arrests of sex workers took place in circumstances where the arresting officers knew with a high degree of probability that no prosecutions would result.²⁴ The High Court held further that the purpose of arresting a person must be prosecution, and that the arrest of sex workers where arresting officers knew that no prosecutions would result was an unlawful exercise of public power. The High Court issued an interdict preventing police officers from arresting sex workers within the City of Cape Town unless with the intention of bringing them before a court of law.

2.2 *Calls for widespread reform to the criminalised status of prostitution in South Africa*

The developments through the case law described above are small, albeit important "victories" for those who argue that prostitutes should not be criminalised for their work. In addition to these legal challenges, there has been an ongoing minority movement calling for a radical change in the way prostitution is dealt with: namely the decriminalisation or legalisation of prostitution in South Africa.²⁵

Renewed interest in the idea of decriminalising prostitution was initiated when it was announced that South Africa would host the 2010 FIFA Soccer World Cup. In May 2007, the then National Police Commissioner, Jackie Selebi, controversially advised a temporary reprieve on prosecutions for prostitution and public drinking during the event, in order to allow the "soccer hooligans" who were expected to visit the country for the World Cup to have their fun.²⁶ This move was supported by various high profile members of government and certain NGOs, who praised the pragmatic

24 *SWEAT v Minister of Safety & Security* 2009 2 SACR 417 (WCC).

25 Wojcicki 1999 *Agenda* 94-106.

26 Webb 2007 www.iol.co.za.

approach of the Police Commissioner. However, it was heavily criticised from other quarters (especially for its focus on the protection of the clients of sex workers, rather than the rights and vulnerabilities of the women themselves), and in the end nothing came of the proposal.²⁷

The 2010 World Cup proposal to temporarily decriminalise prostitution speaks, however, to over a decade of work done in this area by the SALRC. The SALRC has produced two papers on the subject of Adult Prostitution – the first in 2002 and the second in 2009. The 2002 Issue Paper set out the current criminalised position of prostitution "against the backdrop of complex South African realities, including the socio-economic marginalisation of women and the impact of the HIV/AIDS pandemic".²⁸ It set out the major arguments for and against the criminalisation of prostitution and presented three options for legal reform in South Africa: continued criminalisation (the current regime), legalisation (in which prostitution is permitted within strict regulations), and decriminalisation (in which prostitution is treated as a legitimate form of work). The SALRC Issue Paper did not support any one regime, but merely raised the possibilities for discussion, and invited public comment on the matter.

Seven years elapsed before the follow-up report (the Discussion Paper) was published,²⁹ and once again the document did not recommend potential changes to the law but simply set out in comprehensive detail the current situation and presented the various options for reform. This included a new "partial criminalisation" option in which the actions of third parties such as pimps, clients, brothel owners, traffickers and potentially even clients are criminalised, while the women are protected by law. Following public input from the Discussion Paper, the SALRC will present a report along with draft legislation and submit its recommendation to Parliament, although the time-frame within which this might happen is not known.

27 Mbanjwa 2007 www.iol.co.za.

28 SALRC *Issue Paper 1*.

29 SALRC *Issue Paper 1*.

3 The social context of prostitution in South Africa

The harsh and complex reality of the challenges facing South Africa plays a pivotal role in our understanding of the prostitution industry. In particular one must take cognisance of the socio-economic marginalisation of women, the extraordinarily high levels of violent crime and unemployment, the difficulties with regard to police accountability and responsibility, and the impact of the HIV/AIDS pandemic. While prostitution may be criminalised on the statute books, the black letter of the law does not reflect the reality of this "profession" on the ground. In fact, the reality on the ground is one of "quasi-legalisation", in that sex workers are generally ignored or tolerated by law enforcement officials, with occasional and unpredictable crack-downs and "purges of the patch" by police, primarily in response to resident or business community complaints of public nuisance or disruption.³⁰

When challenged about the inconsistency of law enforcement with regard to prostitution, the police defend their decision to (as they put it) "de-prioritise" prostitution on pragmatic grounds. They cite resource constraints and the abundance of serious violent crime in the country in justifying their decision to often turn a blind eye to prostitutes plying their trade on street corners. Moreover, they contend that the prosecution of prostitution-related offences is immensely time and resource-intensive, as it must be proven (often by way of entrapment) that the prostitute has "engaged in sexual intercourse" or "exchanged an indecent act" for reward. As a consequence criminal prohibitions are routinely not enforced by the police, and without a national policing strategy for prostitution, local police stations are left to deal with the problem as they see fit.³¹

The difficulties posed by attempting to prosecute prostitution under the *Sexual Offences Act* have encouraged the police to resort to arresting prostitutes under laws prohibiting public nuisance, municipal by-laws, or on occasion simply rounding them up in police vans, with no specific charge being laid. In these instances, prostitutes may be held overnight in jail cells or fined before they are released. This leaves them

30 SALRC *Issue Paper 74*.

31 Kuhne 2000 *YOU Magazine*.

vulnerable to abuse and human rights violations without actually addressing the concerns of residents and business.³²

Despite the aversion of police to attempting prosecutions under the *Sexual Offences Act*, the prostitute's life is far from trouble-free, and arrests may be as frequent as they are arbitrary. Gould and Fick's work with prostitutes in Cape Town concluded that 19% of the 164 sex workers interviewed had been arrested in the month before the interview, with a mean of three times in that month and a peak of ten times. Interestingly, women claimed that these random arrests forced them to work even longer hours in order to pay their fines, negating the deterrent rationale and embroiling police and prostitutes in a seemingly inescapable cycle.³³

The legal *status quo* leaves prostitutes especially vulnerable to abuse by clients, pimps and the police alike, and too conflicted and frightened to ask for assistance from formal agencies. Evidence collected by SWEAT - an NGO working with prostitutes in Cape Town - tells a horrifying tale of abuse, violence and the endemic harassment of prostitutes at the hands of the South African Police Force.³⁴ Most commonly, police officers demand free sexual services in exchange for refraining from arresting prostitutes. The women are left helpless, suspicious of authorities and unwilling to report police brutality, because they simply do not know to whom they can turn. Crimes such as rape, assault, robbery and harassment are common but frequently go unreported, as prostitutes attempt to remain invisible to authorities.³⁵

Another difficulty is that working in the bounds of a formally criminal but informally tolerant regime renders prostitutes unable to access the legal protections enshrined in labour law. Unable to unionise or act to ensure safer working conditions, to demand overtime pay or sick leave, or to challenge unfair labour practices, they are left legally vulnerable. In addition, without legal recognition for their work they are denied access to pensions, certain welfare benefits, unemployment insurance, and other basic services. In addition prostitution is regarded as a criminal activity, which makes prostitutes reluctant to access health care and other social services for fear of

32 SALRC *Issue Paper* 89.

33 Gould and Fick *Selling Sex in Cape Town*.

34 Fick 2006 *South African Crime Quarterly* 13-18.

35 Fick 2006 *South African Crime Quarterly* 13-18.

being handed over for prosecution. This leaves pimps and brothel owners free to set their own abusive and exploitative terms, with no legal route for their "employees" to take in challenging them.³⁶

The reality that prostitutes can be arrested at any time but that they are mostly wholly ignored and allowed to conduct their business in the full view of police has driven prostitution underground and supported the stigmatisation and marginalisation of sex workers.³⁷ Add to this the fact that prostitutes are forced to be highly mobile in order to avoid arrest, with this mobility negatively affecting their ability to form meaningful relationships with healthcare workers or NGOs, and it is no wonder that there is a real lack of reliable empirical data approximating how many women are working as prostitutes in South Africa.³⁸

What we do know about prostitution in South Africa is that it is overwhelmingly female, operates across all race groups, and has a large foreign component due to the widespread immigration into South Africa from other African countries. The data that are available confirm that prostitution can be more lucrative than work in the formal labour market. This is particularly so if it is compared to part-time or casual labour, and for most prostitutes there is no other job which would allow anywhere near a comparable wage.³⁹

In essence, we argue that the criminalisation approach has been and is unlikely to rid South Africa of prostitutes. Instead it has made prostitutes more vulnerable to human rights abuses and violent crimes, whilst denying them access to legal remedies for such abuses.

4 Analysing the South African public's views on prostitution

The present work, although exploratory in nature, is the first in-depth survey of its kind on prostitution in South Africa. We examine the subject from both the buying and selling sex perspectives, and also canvas legal and moral opinions on the

36 SALRC *Issue Paper* 81.

37 Moulton "Prostitution in the New South Africa".

38 SALRC *Issue Paper*.

39 Posel *Sex Market in the Inner City*.

matter. In compiling the survey we took the best features of recent surveys conducted in Scandinavia, Britain and the United States, and modified them into an appropriate format for South African respondents.

4.1 Methodology

We used a two-stage mixed-mode survey. The first stage was an internet-based snowball survey, where respondents were encouraged to visit a website⁴⁰ and to complete the survey online. The second stage was a supplementary survey aimed at ameliorating some of the bias which a purely web-based survey might present. It was administered through a paper-based copy of the internet survey, which was distributed by hand to 88 respondents. The paper survey is presented at the end of the paper.

Our study revealed several advantages to using a web survey over a paper-based one. The greatest advantage was the ability to canvass a large volume of respondents (516 in total), spread throughout South Africa, a feat which would not have been possible using paper-based questionnaires only. Furthermore, the facility provided by web-based surveys to prevent a respondent from progressing onto the next page without completing all the questions on a particular page, or from ticking too many boxes, meant that all entries in the web survey were completed. This accounts for the very low level of spoiled surveys.⁴¹ Further advantages were the efficiency of having high-speed results returned in electronic format by email, and not having to arrange for the manual collection of the surveys once they had been completed. A final advantage - in line with previous research - was the discovery that younger respondents were more likely to fill in a web-based survey than a paper-based one.⁴²

Despite these distinct advantages, we concede that web surveys also have potential disadvantages. An internet-based survey naturally contains a built-in bias towards those with the most access to computers – particularly well-educated, affluent, young

40 www.tinyurl.com/prostitutionandpublicopinion.

41 No spoiled surveys were reported on the web-based system. With the paper-based version, only four people had not filled in the questionnaire properly (had left whole pages blank), and had to be excluded from the analysis.

42 Aldridge and Levine *Surveying the Social World*.

white males.⁴³ A community survey conducted by Statistics South Africa in 2007 reported that only 9.4% of the population had access to the internet. This could limit the potential sample population from which the internet-based survey was drawn to just under 10%. Moreover, given this statistic we predict that the demographics within this group would be unrepresentative of the general population of South Africa, particularly in terms of socio-economic status. The respondents in the internet-based survey would probably be well-educated, White, and urbanised.

To address this potential bias in the survey, the supplementary, paper-based survey took the form of a self-completed questionnaire which was distributed to targeted populations within the province of KwaZulu-Natal. Four helpers were trained in the administration of the survey and were used to reach the target sample. The helpers were equipped with blank photocopies of the questionnaire and blank envelopes, into which completed surveys were sealed to maintain confidentiality. Two helpers were domestic workers who lived in disadvantaged "township" areas just outside the city of Durban; one helper was a teacher who worked in a rural school staffed predominately by Black teachers and administrative staff, and the final helper was an inner-city doctor in Durban, who distributed the survey to Black nurses and nursing assistants. None of these individual groups is large enough to warrant individual study, so the results of these targeted surveys were combined to make up the "paper based sample". The paper sample was completed almost entirely by Black South Africans, and the areas sampled strongly indicate that the sample is likely to be more socio-economically deprived than the internet-based one.

4.2 Results and discussion

The key questions which we attempted to answer in the research were:

- a) What are the public's views on prostitution (morally and legally)?
- b) What factors seem likely to influence these views?

The primary drawback with the collected data lies in the field of generalisability, or the inability to extrapolate conclusions to the population at large. However, our

43 Aldridge and Levine *Surveying the Social World*.

project was intended as an exploratory study, and the hope is that it will highlight certain trends which can form the basis for further research. The demographic characteristics of the sample are shown in Table 1 which is annexed at the end of the article.

As expected, in certain key respects the sample is not representative of the South African population. In particular, there is considerable over-representation of White and highly-educated people, and of females. The range of ages in the sample - from 17 to 83 - is, however, skewed towards younger respondents, particularly in their mid twenties. This is perhaps a consequence of using internet-based surveys. One particularly puzzling feature of the analysis is that such a high proportion of respondents seem to have achieved very high levels of education. Almost 90% of the respondents claim to have started or completed higher education (Table 1). This is inconsistent with South Africa census data - despite the question on education being phrased in the same way as those asked in the national census (i.e. "What is the highest level of education you have completed?"). According to 2007 census data, 9.1% of South Africans over age 20 had completed higher education, while 18.6% had started but not completed higher education, and 40.1% had completed matric (the final year of high school).⁴⁴ Taking into account the presumed bias towards highly educated respondents in the internet-based survey, these skewed results might have been expected, however we were surprised to note that the paper-based survey also presented results inconsistent with the census data (although not to the same degree). With the paper-based sample - which included 50 individuals from some of the poorest suburbs in one of the poorest provinces in South Africa - only 5.9 percent reported not having completed high school, again not concurring with official data which place this number at 32.2 percent. Pre-testing had not raised any issues regarding potential misunderstandings of the question on education, so we can only conclude that our random sample might have coincidentally attracted the better educated, or it is possible that respondents (ensured of anonymity) might have inflated their education levels. A further possibility is that as the paper survey was distributed by teachers, nurses and a doctor a bias in favour of the well-educated was inevitable.

44 Statistics South Africa 2007 www.statssa.gov.za.

Another potential issue identified from our examination of the data is the rather large proportion (66.8%) of respondents who considered themselves "religious". We attribute this to the possibility that religious people - who are likely to feel strongly about the issue of prostitution - were more likely to pass the snowball survey on to their (also religious) friends. If there is a positive correlation between religiosity and opposition to prostitution (as hypothesised), this might also mean that our data could be skewed towards opposing prostitution, due to the over-representation of "religious people" in the sample.

4.3 Analysis of the survey

The data from the survey were analysed around a series of hypotheses which were drawn from previous research conducted into public opinion on prostitution in various countries - specifically the United Kingdom, Sweden, Norway, the United States of America, and New Zealand. They included demographic hypotheses (such as "Women are more opposed to prostitution than men, morally and legally" and "Black South Africans are more opposed to prostitution than White people"), and categorical hypotheses (such as "Religious people oppose prostitution more than non-religious people" and "Belief in the importance of gender equality is correlated with lower tolerance of prostitution scores").⁴⁵

A list of the variables and their various measurements is included in *Appendix A: Descriptive Statistics*. Using the collected data, we were also able to calculate a "Total Tolerance Score", based on the attitudes to the following 8 variables:

1. Moral attitude to selling sex.
2. Moral attitude to buying sex.
3. Shame at finding out a family member was working as a prostitute.
4. Belief that prostitution is a reasonable choice all women should be free to make.
5. Belief that women are prostitutes because they have no other options.

⁴⁵ Because the survey attracted a disproportionate percentage (almost 90%) of respondents with higher education, we did not consider the fourth hypothesis, which proposed that respondents with higher education are more tolerant. We feel that further research with less highly educated respondents is needed to examine attitudes more broadly.

6. Legal attitude to selling sex.
7. Legal attitude to buying sex.
8. Opinion on the constitutional rights of prostitutes.

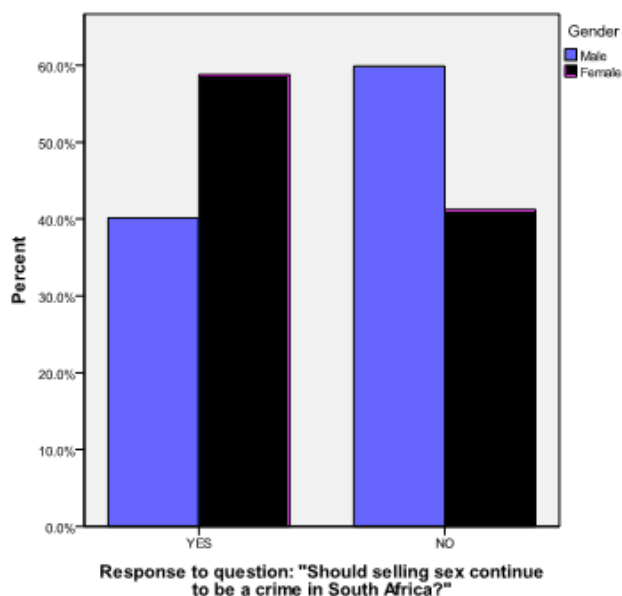
Each of the above questions was answered on a scale of 1 to 5, where 1 was the least tolerant option (e.g. "selling sex is wrong"), and 5 was the most tolerant option (e.g. "there is nothing wrong with selling sex"). Adding scores from the eight questions together for each respondent gave a potential tolerance score out of 40, which was then multiplied by 2.5 to give a Total Tolerance Score out of 100, with a minimum potential score of 20, and a maximum of 100.⁴⁶

4.3.1 Hypothesis 1: Women are more opposed to prostitution than men, morally and legally

Previous studies into public opinion on prostitution conducted in South Africa and abroad have consistently reported that women are more opposed to prostitution than men.⁴⁷ In this study, too, we also found a significant relationship between gender and moral opinion on prostitution. Of the females surveyed 71.2% felt that "selling sex is wrong", and only 7.7% felt that "there is nothing wrong with selling sex". In contrast, of the males surveyed, almost 50% stated that "selling sex is wrong", while 23% (three times as many respondents as in the female sample) believed that "there is nothing wrong with selling sex". This relationship between gender and moral opinion on prostitution was statistically significant ($p < .001$). Furthermore, the results suggest that a clear majority of men surveyed believed that selling sex in South Africa should not continue to be a crime, while most women surveyed believed that both selling and buying sex should continue to be crimes (see Figure 1, below).

46 The Total Tolerance Score was tested for reliability using Cronbach's alpha. The overall α is .873 - well above the lower .7 threshold of acceptability, and therefore indicating good reliability. None of the eight items used in the scale would significantly increase the reliability if they were deleted. This indicates that all items contribute positively to overall reliability. The mean Total Tolerance Score was 48.3 (SD = 23.44), and the mode was 20 (interestingly, the lowest score possible).

47 Cotton *et al* 2002 *Journal of Applied Social Psychology*; Jakobsson and Kotsadam *What Explains Attitudes Towards Prostitution?*; Moutl "Prostitution in the New South Africa".

Figure 1: Relationship between Gender and Moral Opinion on Selling Sex

Chi squared⁴⁸ tests revealed that the differences were significant, and Phi showed that the strength of the relationship was approximately 24%.⁴⁹ ($\chi^2 = 30.5$, $p < 0.001$, $N = 512$; $\Phi = .244$). The Mann-Whitney test⁵⁰ revealed that the Total Tolerance Score was correlated with gender, with females significantly less tolerant of prostitution than males ($U = 21927$, $Z = -4.077$, $p < .001$).

On the basis of the survey results we concluded that the hypothesis was confirmed, and that men are likely to be more supportive of measures to decriminalise or legalise prostitution than women. Cotton *et al*⁵¹ suggested that "men might support prostitution because men are more likely to believe that male sexual urges are an imperative".

This finding may have important policy implications in the South African context, as any move towards decriminalising or legalising prostitution will be resisted primarily by females.

48 A Chi-Squared test examines the independence of two categorical variables. It compares the frequencies observed in each category to the frequency one might expect in each category by chance.

49 Phi measures the strength of associations between two categorical variables in a 2x2 Contingency Table.

50 This is a non-parametric test which tests for differences between two independent samples (in this case males and females). It is the non-parametric equivalent of an independent t-test.

51 Cotton *et al* 2002 *Journal of Applied Social Psychology* 1793.

4.3.2 Hypothesis 2: Black South Africans are more opposed to prostitution than White South Africans

Previous studies into public opinion on prostitution have concluded that Black South Africans are less tolerant of prostitution (and more supportive of a criminalised regime) than South Africans of other races.⁵² This was borne out by our data, which revealed a strong relationship between race and the strength of moral opposition to prostitution. Of the Black respondents surveyed 82% believed that selling and buying sex is wrong, compared with 61% of the White participants and 60% of those surveyed from other race groups. These tendencies were echoed in the questions relating to the legal status of prostitution, with Black participants once again being far more strongly opposed to the decriminalisation of prostitution than those in White or Other race groups, as illustrated in Figure 2 (below).

Figure 2: Relationship between Race and Legal Opinion on Selling Sex

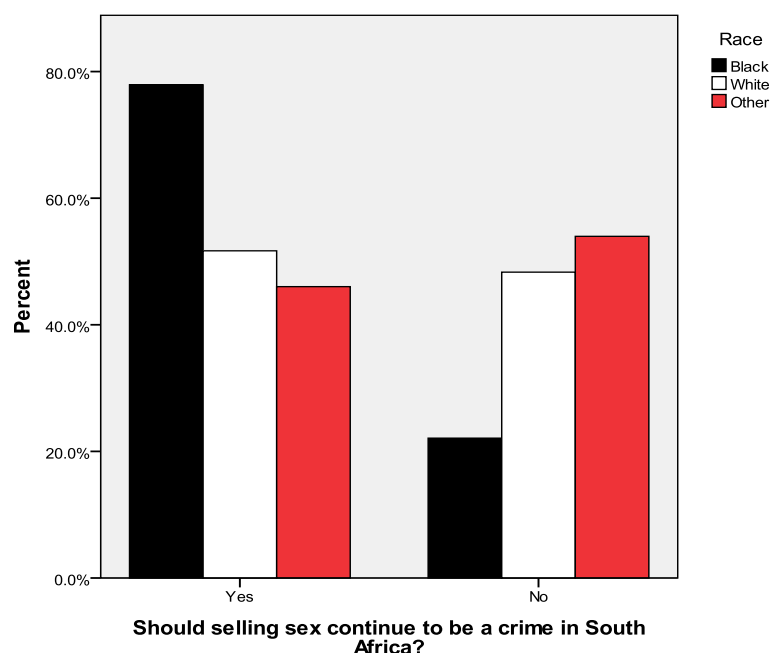


Figure 2 demonstrates that nearly 80% of Black South Africans surveyed believe that selling sex should continue to be a crime in South Africa, compared with just over 50% of White South Africans, and just under 50% of those in other race groups. These differences were significant for all, except for the question relating to the morality of buying sex.⁵³

52 Moulton "Prostitution in the New South Africa"; Wojcicki 1999 *Agenda*.

53 MoralSell: $p = 0.003$; MoralBUY $p = 0.019$; Legalsell $p = 0.000$; LegalBUY $p = 0.004$.

The association between race and the Total Tolerance Score was examined using a Kruskal-Wallis test.⁵⁴ The Total Tolerance Score was found to be significantly predicted by race ($H(2) = 30.348, p < .001$). This result supports Wojcicki's hypothesis that prostitution is opposed by Black South Africans more than White South Africans because it is seen as "un-African".⁵⁵ With over 80% of the South African population being Black, if this result is found consistently throughout the population there is a strong indication that there will be significant opposition to the legalisation of prostitution from the vast majority of South Africans. An alternative explanation is presented under Hypothesis 9 (below).

4.3.3 Hypothesis 3: Older respondents are more likely to believe that buying sex is unacceptable

It was difficult to hypothesise a directional relationship between age and attitudes to prostitution, since previous research in this area has yielded conflicting results. In a survey in Scandinavia,⁵⁶ Jakobsson and Kotsadam found that older respondents were more inclined to believe that buying sex is morally unacceptable, whereas May,⁵⁷ in the United States, found that older respondents were significantly more likely to believe that prostitution should be legal. The analysis we carried out, therefore, was purely exploratory, looking for any relationship between the relevant variables, although the hypothesis is based on Jakobsson and Kotsadam's more recent findings.

Our survey examined the relationship between age and prostitution tolerance, using the Kruskal-Wallis and Jonckheere-Terpstra⁵⁸ tests. Initially, age was divided into quartiles, and there was found to be no significant relationship between age and Total Tolerance Score ($H(3) = 3.24, p = .36$). However, the distribution of ages and the predominance of young respondents made the quartiles disparate (the 1st 2 quartiles spanned 9 years, whilst the 3rd covered a 16-year gap, and the 4th quartile

54 This test is a non-parametric version of a one-way ANOVA, which tests if more than two independent groups differ.

55 Wojcicki 1999 *Agenda*.

56 Jakobsson and Kotsadam *What Explains Attitudes Towards Prostitution?*

57 May 1999 *Deviant Behavior*.

58 The Jonckheere-Terpstra statistic tests if the difference of means between groups (as measured by the Kruskal-Wallis test), is meaningfully ordered.

spanned 33 years), and this may have affected the results.⁵⁹ Therefore, in order to test the relationship using more meaningful categories, we divided the respondents into three age categories: 17-30, 31-50, and 51+, and compared these responses with the Total Tolerance Score. However, upon applying the Kruskal-Wallis tests in examining the relationship between these age groups, and their responses to the questions dealing with moral and legal opinions about buying and selling sex (MoralSell, MoralBuy, LegalSell and LegalBuy), all failed to show statistically significant associations (K = 4.11; 1.30; 0.63 and 0.97 respectively; $p > .10$ in all cases). The current study therefore concludes that there is no statistically significant relationship between age and moral or legal opinion on prostitution.

4.3.4 Hypothesis 4: Respondents who are married or living with a partner oppose prostitution more than those who are single

In the Scandinavian study, Jakobsson and Kotsadam⁶⁰ found that cohabitation and marriage were positively correlated with believing that it is immoral to buy sex. In our survey, respondents were organised into two groups: those who were married or cohabiting, and those who were not. Respondents who opted to "prefer not to say" were excluded from the analysis (thus $n = 507$). Findings from Chi-squared tests indicate that moral opinion on selling and buying sex was not significantly affected by respondents' marriage or cohabitation status ($\chi^2 = .58$, $p = .75$, $\chi^2 = .86$, $p = .65$ respectively).

4.3.5 Hypothesis 5: Religious people are more opposed to prostitution - morally and legally - than non-religious people

It is hypothesised that moral codes associated with religious belief are likely to result in an opposition to prostitution, both morally and legally. With South Africans being predominately Christian (about 79%),⁶¹ and given the Christian churches' firm stance on the immorality of prostitution, we expected this hypothesis to be confirmed in our survey.

59 The overall pattern of age distribution meant that the quartiles were only marginally different in age from the preceding quartile - 1st 25 percent = 17-25 years; 2nd 25 percent = 25-33 years; 3rd 25 percent = 33-49 years; and 4th 25 percent = > 50 years.

60 Jakobsson and Kotsadam *What Explains Attitudes Towards Prostitution?*

61 Statistics South Africa 2007 www.statssa.gov.za.

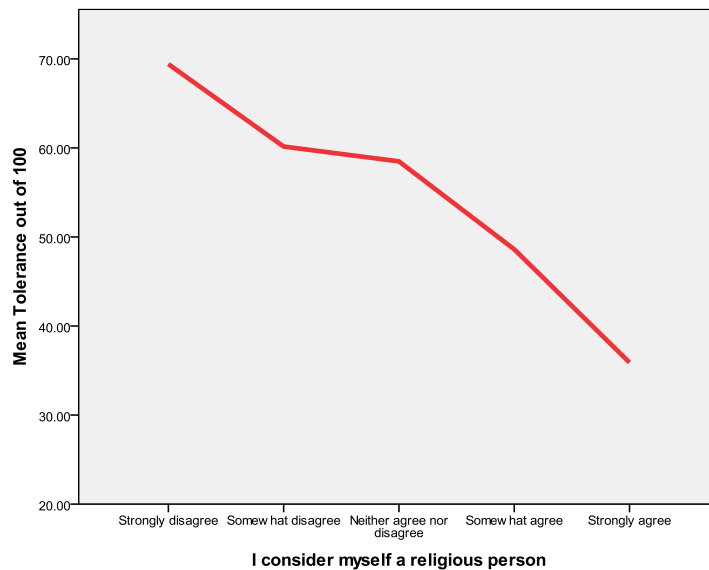
As expected, there was a clear relationship between religiosity⁶² and opposition to prostitution, with people who are more religious more likely to oppose prostitution. Of those who agreed strongly with the statement "I consider myself a religious person", 91.4% (n = 202) reported that "selling sex is wrong", and only 2% (n = 6) felt that "there is nothing wrong with selling sex". Of the respondents who "did not consider themselves religious", 25.9% (n = 25) thought that selling sex is wrong, and the remainder (n = 60) were equally divided between "selling sex is neither wrong nor right" and "there is nothing wrong with selling sex" (35.5% each). For these data, $\chi^2 = 161.4$, and Cramer's V statistic⁶³ is .4 out of a total of 1, which represents a medium relationship between religiosity and moral opinion about selling sex (for both $p < .001$). These results were replicated in the questions dealing with the morality of buying sex and the legal status of prostitution.

The Kruskal-Wallis tests showed that the Total Tolerance Score was significantly affected by religiosity ($H(4) = 139.5$, $p < .001$). Jonckheere's test revealed a negative trend in the data: as religiosity increased, the median Total Tolerance Score decreased ($J = 24790$, $z = -4.40$, $p < .001$).⁶⁴ Figure 3 (below) shows the inverse relationship between mean Total Tolerance Score (min = 20, max = 100) and religiosity.

62 Religiosity is measured by asking respondents to what extent they agree with the following statement: "I consider myself a religious person".

63 Cramer's statistic is the equivalent of Phi, where the contingency table is greater than 2x2.

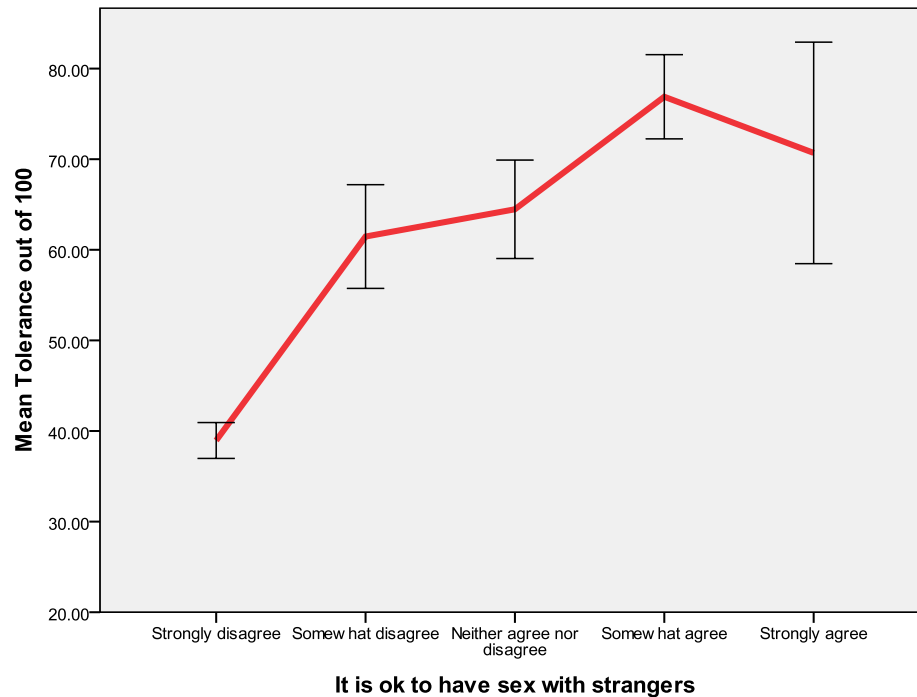
64 The z score is greater than 1.65, and therefore the effect is statistically significant.

Figure 3: Relationship between Total Tolerance Score and Religiosity.

4.3.6 Hypothesis 6: Sexually liberated people are more tolerant of prostitution than persons with more conservative sexual views

The results of the Kruskal-Wallis and Jonckheere tests support this hypothesis. The Total Tolerance Score was positively correlated with sexual liberalism ($H(4) = 165.5$, $p < .001$), and Jonckheere's test confirmed the positive relationship ($J = 54918$, $z = 13.8$, $p < .001$). A z statistic greater than 1.65 is statistically significant. This relationship was also found to be positive and statistically significant for all individual measures of moral and legal attitudes to prostitution.

Interestingly, however, when plotting the relationship, it appears not to be linear. Rather, mean tolerance peaks with those who "somewhat agree" with the statement that it is OK to have sex with strangers, and then falls for those who "strongly agree" (see Figure 4, below). However, this difference is not statistically significant (see overlapping error bars in Figure 4), and probably arises from the low number of respondents who strongly agreed with the idea that it is OK to have sex with strangers.

Figure 4: Relationship between Total Tolerance Score and Sexual Liberalism.

Error bars at 95%.⁶⁵

4.3.7 Hypothesis 7: *Those who accept rape myths are more likely to believe that buying sex is morally justifiable, and that it should be legal*

Rape myths are prejudiced and false beliefs about rape, rape victims and rapists, which are used by rapists to justify sexual violence by partially blaming the victims.⁶⁶ The Responsibility Variable in our study measures one of these myths by asking: "If a woman who is wearing provocative clothing is taken advantage of sexually, is it partly her fault?"

A number of studies in the United States (most notably Cotton's 2002 research) have demonstrated a relationship between the acceptance of rape myths and the belief that buying sex is both morally justifiable and that it should be legalised. The Scandinavian study⁶⁷ failed to confirm this hypothesis, finding no statistically significant relationship between the variables.

⁶⁵ The error bars indicate the uncertainty in a reported measure, which increases for the "strongly agree" category, where there were substantially fewer respondents.

⁶⁶ Cotton *et al* 2002 *Journal of Applied Social Psychology*.

⁶⁷ Cotton *et al* 2002 *Journal of Applied Social Psychology*.

In the South African context, after excluding those who answered "don't care" and "don't know" in response to the question of whether or not paying for sex should continue to be a criminal offence in South Africa, there was a significant relationship between justification of rape myths and support for legalising prostitution ($\chi^2 = 17.99$, $p = .001$, $N = 485$). The Cramer's V statistic is .192 out of a total of 1, which demonstrates a small to medium relationship between the acceptance of rape myths and moral opinion about selling sex ($p = .001$), indicating that support for rape myths can account for just under 20% of the change in the LegalBUY variable. For moral opinion on buying sex, the Kruskal-Wallis and Jonckheere tests showed similar statistically significant results ($H(4) = 21.00$, $p < .001$), with a positive relationship between the acceptance of rape myths and the moral acceptance of paying for sex ($J = 34206.5$, $z = -4.4$, $p < .001$). This supports the hypothesis originally identified by Cotton *et al.* (2002) that there is a relationship between the acceptance of rape myths and the moral and legal justification for buying sex.

4.3.8 Hypothesis 8: Belief in the importance of gender equality is correlated with lower tolerance of prostitution

The Scandinavian study identified a negative relationship between the support for the importance of gender equality and tolerance of prostitution,⁶⁸ but analysis of the South African data did not reveal a statistically significant relationship between belief in the importance of gender equality and the Total Tolerance Score ($H(4) = 2.5$, $p = .65$). This finding may reflect the conflicting attitudes of feminists towards prostitution - some argue that treating men and women equally means rejecting prostitution as the exploitation of women, whilst others believe that tolerance of prostitution is the affirmation of a woman's right to choose, or self-determination. In the end, the potential conflicts may have obscured any relationship between gender equality and the tolerance of prostitution.

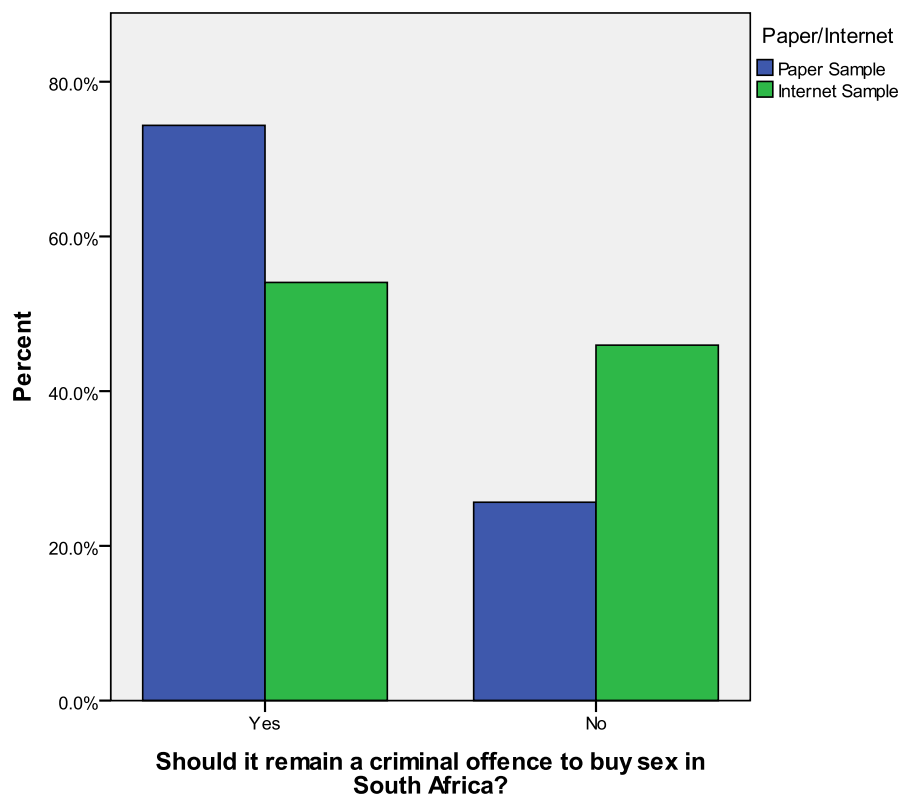
68 Cotton *et al* 2002 *Journal of Applied Social Psychology*.

4.3.9 Hypothesis 9: Respondents of lower socio-economic status are less tolerant of prostitution

The paper and internet surveys (n = 88 and n = 424 respectively) may serve as proxy variables for socio-economic status. Those who answered the survey online were overwhelmingly White South Africans, highly educated, and likely to have a high socio-economic status. However, those targeted in the paper survey were from disadvantaged communities, with a lower mean level of education (although, as discussed above, not as low as might have been expected), and were predominately Black South Africans. This proxy is certainly not perfect, but since this is exploratory research project it was thought useful to see if there were any interesting trends.

The respondents in the paper survey had a lower Total Tolerance Score than those in the internet sample. Using the Kruskal-Wallis tests, there was a statistically significant difference ($p \leq .001$ for all the following variables) between the paper and internet samples for measures of total tolerance, moral opinion on selling sex, moral opinion on buying sex, and legal opinion on selling and buying sex ($H(1) = 33.0; 18.2; 10.6; 10.5$ and 29.9 respectively). The difference between the paper sample and internet sample on the legal status of buying sex is illustrated in Figure 5 (below).

Figure 5: Relationship between Socio-Economic Status and Legal Opinion on Buying Sex



The results of the paper/internet survey comparison are very similar to those under the race comparison conducted in hypothesis 2. Although the justification for the different responses to prostitution between the race groups was based on the "un-African" nature of prostitution (following on from Wojcicki's research⁶⁹), this method of comparison presents another option. Black South Africans are generally of lower socio-economic status than their White counterparts, and it may be that attitudes to prostitution have less to do with race and more to do with socio-economic status.

5 Conclusion and policy implications

The findings presented above should not be over-stated. They represent findings from a small sample ($n=512$) which is not representative of the general population of South Africa. However, we believe that this project was the first of its kind in South Africa, and there are a number of lessons which can be drawn from it, both in terms

69 Wojcicki 1999 *Agenda*.

of the challenges of conducting research in this area, and in terms of the direction for future research into public opinion about prostitution.

One of our major challenges was to find a representative sample of the South African public. Further research which is carried out in this area will need to sample far more people over a much wider area, and ensure that the sample is representative so that the results are generalisable. It is likely that future projects will need to be distributed in languages other than English, and should not rely primarily on computers - which reliance resulted in this case in a skewed sample. In addition, qualitative research should be carried out into how participants in future surveys understand the definition of "prostitution" in the South African context.

Even taking into account the problems of this particular exploratory study with representivity and generalisability, the survey has two key findings in respect of the attitudes of South Africans to prostitution. Firstly, an overwhelming majority of South Africans - from all walks of life - remain strongly morally opposed to prostitution, and would not support legal reforms aimed at decriminalising or legalising prostitution. This is true for both the selling and purchasing of sex. Secondly, our data confirm that these views are strongly influenced by certain demographic and social variables. In particular, race, gender, religiosity, cohabitation status, and socio-economic status were found to be statistically significantly related to opinions on prostitution. Other variables - particularly the belief in the importance of gender equality and the level of education - had no statistically significant relationship with tolerance of prostitution. These two findings have important implications for the future of prostitution policy in South Africa.

The existing legal and policy regime relating to prostitution is currently under review by the South African Law Reform Commission (SALRC). The next step will require the SALRC to draft a report on the issue, which will be released to the public and forwarded to the relevant Minister for debate in Parliament, along with recommended draft legislation. The SALRC has expressed dissatisfaction with the current fragmented and inadequate state of the law, and in their Discussion Paper recommended the adoption of a new Adult Prostitution Reform Act. This would deal

comprehensibly and sensibly with prostitution in South Africa, regardless of what their final recommendation is on the matter.⁷⁰

Despite the plans for a major overhaul of the law on prostitution, little research has been conducted into existing public opinion on prostitution in South Africa, and this study is a small, exploratory step towards travelling this route. Future research will require a similar survey - but of a large, randomly targeted, and nationally representative group of South Africans. In particular, attention should be paid to obtaining the views of representatives from all of the race groups in South Africa,⁷¹ from the least socio-economically advantaged, and from the least educated in society - a group which is notoriously difficult to survey. Achieving this might well require translating the survey into South Africa's eleven official languages.

Once again, it is stressed that the public's opinion on prostitution should not be the sole dictate of the content of the new policy; however, it should certainly influence how the policy is structured, implemented and presented to the public. This paper is not primarily concerned with the recommendation or implementation of new policy on prostitution, although we have demonstrated the ways in which the current quasi-legalised approach in South Africa leaves prostitutes marginalised and open to abuse. The preamble to the *Constitution* of South Africa explicitly protects the rights of the most vulnerable in society, aiming to "improve the quality of life of all citizens and free the potential of each person". Ultimately, although public opinion is demonstrably important, it is the *Constitution* which is South Africa's moral benchmark.

Although no single regime can provide the answers to all of the complex issues surrounding prostitution, we have previously recommended an approach following the 2003 *New Zealand Prostitution Reform Act*.⁷² Our rationale for supporting this decriminalised yet regulated approach is based on the constitutional imperative to view the issue from a human rights perspective. This would be particularly through the lens of section 9 of the *Constitution*, which guarantees the right to equality, and

70 SALRC *Discussion Paper*.

71 The views of race groups other than Black and White in this study were amalgamated into an "Other" category.

72 Pudifin and Bosch 2009 *CILSA*.

section 10, which guarantees human dignity - rather than the traditional approach, which has been to view prostitution moralistically, as degrading to women, and as a threat to family values. In our opinion, *The New Zealand Prostitution Reform Act* is an example of the balance which must be struck between society's aversion to prostitution and the need to protect the rights and health of those who are working in the industry. The purpose of that Act is "to decriminalise prostitution, while explicitly not endorsing or morally sanctioning prostitution or its use" (section 3). The Act aims to safeguard the human rights of prostitutes, protect them from exploitation, and protect the health of sex workers and the public.

In the light of the findings of our survey, any change towards a non-criminalised and human rights-based approach would require that clear and explicit reasons for the change be made available to the public, and a commitment to educating the public on the benefits of the decision, whilst allaying fears that such a change would represent a move towards an amoral and value-less society. The overarching conclusion of this study - borne out by the overwhelming number of responses received by personal e-mail to the survey - is a message for government and policy makers. The message is that the public has a strong opinion on the regulation of prostitution in South African society, that they are extremely keen to make their opinion known, and that they are waiting to be invited to join the discussion.

Bibliography

Aldridge and Levine *Surveying the Social World*

Aldridge A and Levine K *Surveying the Social World: Principles and Practice in Survey Research* (Open University Press Buckingham 2001)

Busch *et al* 2002 *Violence Against Women*

Busch NB *et al* "Male Customers of Prostituted Women: Exploring Perceptions of Entitlement to Power and Control and Implications for Violent Behavior Toward Women" 2002 *Violence Against Women* 1093-1112

Cotton *et al* 2002 *Journal of Applied Social Psychology*

Cotton A *et al* "Attitudes Toward Prostitution and Acceptance of Rape Myths" 2002 *Journal of Applied Social Psychology* 1790-1796

Fick 2006 *South African Crime Quarterly*

Fick N "Sex Workers Speak Out - Policing and the Sex Industry" 2006 *South African Crime Quarterly* 13-18

Gould and Fick *Selling Sex in Cape Town*

Gould C and Fick N *Selling Sex in Cape Town: Sex Work and Human Trafficking in a South African City* (Institute of Security Studies Cape Town 2008)

Herbst *Male Sex Workers in Pretoria*

Herbst MC *Male Sex Workers in Pretoria: An Occupational Health Perspective* (Doctoral Thesis UNISA 2002)

Jakobsson and Kotsadam *What Explains Attitudes Towards Prostitution?*

Jakobsson N and Kotsadam A *What Explains Attitudes Towards Prostitution?* (Department of Economics, University of Gottenberg Gottenberg 2009)

Karandikar 2008 *Journal of Interdisciplinary and Multidisciplinary Research*

Karandikar S "Need for Developing a Sound Prostitution Policy: Recommendations for Future Action" 2008 *Journal of Interdisciplinary and Multidisciplinary Research* 1-6

Kuhne 2000 *YOU Magazine*

Kuhne I "Interview with A Hugget in 'Luxury Life of the High-Class Hookers'" 2000 *YOU Magazine* (March) 2

Lippmann *Public Opinion*

Lippmann W *Public Opinion* (Dover New York 2004)

Luiz and Roets 2000 *Journal of Contemporary African Studies*

Luiz J and Roets L "On Prostitution, STDs and the Law in South Africa: The State as Pimp" 2000 *Journal of Contemporary African Studies* 21-37

May 1999 *Deviant Behavior*

May DC "Tolerance of Nonconformity and its Effect on Attitudes Toward the Legalization of Prostitution: A Multivariate Analysis" 1999 *Deviant Behavior* 335-358

Moult "Prostitution in the New South Africa"

Moult K "Prostitution in the New South Africa: Has Democracy Changed Public Opinion?" (Unpublished manuscript presented at the American Society of Criminology Congress 2008)

Posel *Sex Market in the Inner City*

Posel D *The Sex Market in the Inner City of Durban* (Economic Research Unit, University of Natal Durban 1993)

Pudifin and Bosch 2009 *CILSA*

Pudifin SF and Bosch S "Prostituting the World Cup: A more Practical Approach to Prostitution Policy in South Africa" 2009 *CILSA* 272-288

SALRC Discussion Paper

South African Law Reform Commission *Sexual Offences: Adult Prostitution - Discussion Paper 0001/2009 (Project 107)* (SALRC Pretoria 2009)

SALRC Issue Paper

South African Law Reform Commission (SALRC) *Sexual Offences: Adult Prostitution - Issue Paper 19 (Project 107)* (SALRC Pretoria 2002)

Tyler "Procedural Justice, Legitimacy and Compliance"

Tyler T "Procedural Justice, Legitimacy and Compliance" in Tyler T *Why do People Obey the Law* (Yale University Press Newhaven 1990)

UNODC Eighth United Nations Survey

United Nations Office on Drugs and Crime, Centre for International Crime Prevention *The Eighth United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems* (UNODC Vienna 2002)

USCRI World Refugee Survey

United States Committee for Refugees and Immigrants *World Refugee Survey 2008* (USCRI Arlington, VA 2008)

Wojcicki 1999 *Agenda*

Wojcicki JM "Race, Class and Sex: The Politics of the Decriminalisation of Sex Work" 1999 *Agenda* 94-106

Register of legislation

Children's Act 38 of 2005

Constitution of the Republic of South Africa, 1996

Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007

Labour Relations Act 66 of 1995

New Zealand Prostitution Reform Act 2003

Sexual Offences Act 23 of 1957

Register of case law

Kylie v CCMA 2010 4 SA 383 (LAC)

S v Jordan (Sex Workers Education and Advocacy Task Force as Amici Curiae)
2002 ZACC 22

S v Jordan 2002 1 SA 797 (T)

SWEAT v Minister of Safety & Security 2009 2 SACR 417 (WCC)

Register of internet sources

Mbanjwa 2007 www.iol.co.za

Mbanjwa X 2007 'Legalise Prostitution for 2010' *Pretoria News* 7 December
www.iol.co.za/index.php?set_id=1&click_id=13&art_id=vn20071207081907688C824306 [date of use 19 Apr 2010]

Sanders 2006 www.gender-studies.leeds.ac.uk

Sanders E 2006 Researching Prostitution: The Methodological Challenges of Researching Sex Work in Thailand www.gender-studies.leeds.ac.uk/assets/files/epapers/epaper6-erin-sanders.pdf [date of use 3 Aug 2012]

Statistics South Africa 2007 www.statssa.gov.za

Statistics South Africa 2007 Community Survey of South Africa, 2007
www.statssa.gov.za/publications/P0301/P0301.pdf [date of use 3 Apr 2010]

UNAIDS 2010 www.unaids.org

UNAIDS 2010 UNAIDS report on the global AIDS epidemic
www.unaids.org/globalreport/Global_report.htm [date of use 20 May 2011]

Webb 2007 www.iol.co.za

Webb B 2007 'Legalise 2010 Sex Trade: Selebi' *IOL* 29 March 2007
www.iol.co.za/index.php?set_id=1&click_id=79&art_id=iol1175144830199L242&newslett=1&em=34433a1a20070329ah [date of use 6 Apr 2010]

List of abbreviations

CCMA	Commission for Conciliation, Mediation and Arbitration
CILSA	Comparative and International Law Journal of Southern Africa
SALRC	South African Law Reform Commission
SWEAT	Sex Worker Education and Advocacy Taskforce
UNODC	United Nations Office on Drugs and Crime
USCRI	United States Committee for Refugees and Immigrants

Appendix A: Descriptive Statistics

	Question	Range	Mode	Mean	Standard Deviation
Religion	I consider myself a religious person (rated on scale where 1 = strongly disagree and 5 = strongly agree)	1–5	5	3.71	1.48
Gendereq	Men and women should be treated equally (rated on scale where 1 = strongly disagree and 5 = strongly agree)	1–5	5	4.66	0.86
Rapemyth	If a women wearing promiscuous clothing is taken advantage of, it is partly her fault (rated on scale where 1 = strongly disagree and 5 = strongly agree)	1–5	1	1.89	1.25
Sexlib	It is ok to have sex with strangers (rated on scale where 1 = strongly disagree and 5 = strongly agree)	1–5	1	1.71	1.17
MoralSELL	According to my moral principles, selling sex... (rated on a scale where 1 = selling sex is wrong, and 3 = there is nothing wrong with selling sex)	1–3	1	1.48	0.71

MoralBUY	According to my moral principles,1–3 buying sex... (rated on a scale where 1 = selling sex is wrong, and 3 = there is nothing wrong with selling sex)	1	1.43	0.69
Shame	If a family member was working as a1–3 prostitute I would feel... (rated on a scale where 1 = not at all ashamed and 3 = very ashamed)	3	2.43	0.68
Reaschoice	Prostitution is a reasonable choice all1–5 women should be free to make (rated on scale where 1 = strongly disagree, and 5 = strongly agree)	1	2.51	1.47
Nooptions	All prostitutes would earn money in a1–5 different way if they had other options (rated on scale where 1 = strongly disagree, and 5 = strongly agree)	4	3.48	1.30
LegalSELL	Do you think selling sex should1–4 continue to be a crime in South Africa? (Yes = 1, No = 2, Don't know = 3, Don't care = 4)	1	1.64	0.78
LegalBUY	Do you think paying for sex should1–4 continue to be a crime in South Africa? (Yes = 1, No = 2, Don't know = 3, Don't care = 4)	1	1.55	0.73

Constitution Do you think the Constitution should	1–4	2	1.72	0.75
give women the right to work as prostitutes?				
(Yes = 1, No = 2, Don't know = 3, Don't care = 4)				

Table 1: Demographic Characteristics of the Sample

	N	%
Gender		
Female	351	68.6
Male	161	31.4
Race		
Black	95	18.6
White	322	62.9
Other [†]	95	18.6
Highest level of education		
High school or less	55	10.7
Higher education	457	89.3
Marital status		
Never been married	256	50.0
Married now or previously	256	50.0
Age		
Mean = 37.86 (SD = 14.552), range = 17–83.		

[†] This category includes 7 respondents who chose "prefer not to say" in response to the question on race.

**DEMOGRAPHIC AND SOCIAL FACTORS INFLUENCING PUBLIC OPINION ON
PROSTITUTION: AN EXPLORATORY STUDY IN KWAZULU-NATAL PROVINCE,
SOUTH AFRICA**

S Pudifin*

S Bosch**

SUMMARY

This paper examines countervailing South African public opinion on the subject of prostitution in South Africa, and identifies the factors which might influence these attitudes. It also investigates the complex relationship between public opinion and the law. Whilst engaging in prostitution constitutes a criminal offence under the *Sexual Offences Act 23 of 1957*, it is generally ignored by the police, which results in a quasi-legalised reality on the ground. In recent years there has been growing demand for the decriminalisation of prostitution, and as a result the issue is currently under consideration by the South African Law Reform Commission. The Commission released a Discussion Paper on Adult Prostitution in May 2009, and is expected to make recommendations to parliament for legal reform in this area. An exploratory survey of 512 South Africans revealed interesting correlations between opinion on prostitution and both demographic characteristics (including gender, age, race and education level) and so-called "social" characteristics (including religiosity, belief in the importance of gender equality, the acceptance of rape myths, and a belief that prostitutes have no other options). The survey reveals two key findings in respect of the attitudes of South Africans to prostitution. Firstly, an overwhelming majority of South Africans - from all walks of life - remain strongly morally opposed to prostitution, and would not support legal reforms aimed at decriminalising or legalising prostitution. Secondly, our data confirm that these views are strongly influenced by certain demographic and 'social' variables. In particular, race, gender, religiosity, cohabitation status, and socio-economic status were found to be

* Sarah Pudifin BA (Hons) LLB (University of KwaZulu-Natal); LLM, MPhil (University of Cambridge); Pupil Advocate at the KwaZulu-Natal Bar, Durban; (sarahpudifin@gmail.com).

** Shannon Bosch BA (Hons) LLB (University of KwaZulu-Natal); LLM (University of Cambridge); Attorney of the High Court of South Africa; Senior Lecturer in Law (UKZN School of Law); (Boschs@ukzn.ac.za).

religiosity, cohabitation status, and socio-economic status were found to be statistically significantly related to opinions on prostitution, while other variables - particularly the belief in the importance of gender equality and the level of education - had no statistically significant relationship with tolerance of prostitution. Given that the proposed legal reforms, which will shortly be tabled before parliament, will⁷³ necessitate the consideration of public opinion, it is imperative that studies such as the one presented in this paper be conducted to gauge the likely response which such proposed reforms might face.

KEYWORDS: Prostitution; decriminalisation; public opinion; influence of demographic and social factors