

KNOCKING DOWN THE ONE-ROOM BROTHEL IN HONG KONG

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I. INTRODUCTION: THE LEGAL GREY ZONE

The laws controlling Hong Kong’s sex work industry lie in a legal grey zone. One study estimated that there were at least 200,000 active female sex workers in Hong Kong, and 14% of the male population aged 18 to 60 years reported having visited a

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commercial sex worker in the past six months.¹ However, confusion in the law often arises because paying for intercourse with a sex worker is not illegal, but everything else that leads up to the act is, such as soliciting for sex and using earnings from sex work to rent or even clean an apartment.² The major laws that regulate sex work in Hong Kong forbid controlling another individual for the purpose of unlawful sexual intercourse or prostitution,³ living on the earnings of prostitutes,⁴ keeping or letting premises be used as a vice establishment,⁵ and soliciting for an immoral purpose.⁶ These laws specifically target and criminalize organized prostitution.

“One-woman brothels” serve as a loophole to the numerous restrictions surrounding prostitution.⁷ This type of brothel is exactly as the name implies: one sex worker per apartment unit.⁸ Zi Teng, the primary support group for sex workers in Hong Kong, estimates that about 92% of its sex workers are self-employed.⁹ Unfortunately, since it is illegal for them to hire security or share spaces with other sex workers, one-woman

1. WCW Wong, *The Health of Female Sex Workers in Hong Kong: Do We Care?*, 9.6 H.K. MED. J. 471 (2003), <https://hub.hku.hk/bitstream/10722/132462/1/content.pdf> (however, not only are figures from this 2002 study outdated, but sex work statistics are somewhat unreliable due to the nature of the profession and industry workers’ reluctance to speak about their experiences); accord Michael Kam Tim Chan, King Man Ho, Kuen Kong Lo, *A Behaviour Sentinel Surveillance for Female Sex Workers in the Social Hygiene Service in Hong Kong*, 13 INT’L. J. STD & AIDS 815 (2002), <https://doi.org/10.1258/095646202321020071>, and K.Y. Chow, *STD Control: A Sentinel Surveillance of the STD Clinic Attendees*, 7.2 H.K. DERMATOLOGY & VENEREOLOGY BULL. 52, 53 (1999), <https://doi.org/10.1258/095646202321020071>.

2. Crimes Ordinance, (2017) Cap. 200, 72-73, § 147-147A (H.K.).

3. Crimes Ordinance, (2017) Cap. 200, 63, § 130 (H.K.).

4. Crimes Ordinance, (2017) Cap. 200, 66, § 137 (H.K.).

5. Crimes Ordinance, (2017) Cap. 200, 68, § 139 (H.K.).

6. Crimes Ordinance, (2017) Cap. 200, 72, § 147 (H.K.).

7. AMNESTY INT’L, *HARMFULLY ISOLATED: CRIMINALIZING SEX WORK IN HONG KONG: EXECUTIVE SUMMARY 14* (2016), <https://www.amnesty.org/download/Documents/ASA1741442016ENGLISH.PDF>.

8. *Id.*

9. ZI TENG, *CHINESE MIGRANT SEX WORKERS IN HONG KONG, IN RESEARCH FOR SEX WORK 9: SEX WORK AND MONEY*, 29, 30 (MELISSA DITMORE ED., GLOB. NETWORK OF SEX WORK PROJECTS 2010) (2006), NSWP.ORG/SITES/NSWP.ORG/FILES/RESEARCH-FOR-SEX-WORK-9-ENGLISH.PDF.

brothels leave sex workers vulnerable to robbery and assault.¹⁰ Sex workers are further discouraged from seeking help due to the tenuous relationship they have with the police since officers frequently use coercion and intimidation to take advantage of sex workers.¹¹ Moreover, criminalization and stigmas surrounding sex work prevent sex workers from seeking the help they need.¹²

Prior campaigns to abolish prostitution laws have been unsuccessful. Zi Teng's representative, Elaine Lam Yee-Ling, articulated that, "Hong Kong is very backwards. While there are many movements in other countries on decriminalization, Hong Kong has not changed at all. Part of the reason is lack of awareness by politicians, who may fear losing votes if they support sex workers."¹³ However, younger voters engaged in social and political activism are bringing new perspectives to this old topic.

When juxtaposing Hong Kong's sex work laws with other countries, Hong Kong is unique with its middle-ground conservative social norms and westernized political position, so a full legal transplant of another country's sex work laws may not be viable. Although Singapore shares similar cultural values to Hong Kong, Singapore limits legal prostitution to its government-monitored brothels.¹⁴ However, despite having such licensed brothels, sex workers in Singapore face many of the same issues as those in Hong Kong.¹⁵ Meanwhile, Indonesia's lack of legislation gives rise to uncertainty and exploitation surrounding sex work.¹⁶ On the other end of the spectrum, the Netherlands and Switzerland

10. Laurie Chen, *Laws to Protect Sex Workers Leave Them Vulnerable to Robbery and Violence Instead, Hong Kong Ngos Say*, S. CHINA MORNING POST (Feb. 10, 2018), <https://www.scmp.com/print/news/hong-kong/law-crime/article/2132344/laws-protect-sex-workers-leave-them-vulnerable-robbery-and>.

11. AMNESTY INT'L, *supra* note 7, at 9.

12. AMNESTY INT'L, *supra* note 7, at 60.

13. Sherry Lee, *Campaign to Abolish Prostitution Laws*, S. CHINA MORNING POST (Oct. 23, 2006), <https://www.scmp.com/node/568714>.

14. Kok Xinghui, *Singapore's Sex Trade: Licensed Brothels, 'Sugar Babies,' and Laws You Can Run Rings Around*, S. CHINA MORNING POST (Nov. 20, 2017), <https://www.scmp.com/node/2120339> [hereinafter Xinghui, *Singapore's Sex Trade*].

15. *Id.*

16. Justin Ong, *'Don't Have Younger?' Battling Batam's Festering Issue of Youth and Child Sexual Exploitation*, CHANNEL NEWS ASIA (May 27, 2018), <https://www.channelnewsasia.com/news/asia/batam-child-sex-prostitutes-exploitation-abuse-singapore-10244372>.

have fully decriminalized commercial sex work, and even offer social benefits to sex workers.¹⁷ However, some of these European models may be too liberal for Hong Kong to adopt. As such, applying sex worker laws from other countries to Hong Kong will simply not work.

Hong Kong's current sex work laws pose unnecessary occupational hazards, encourage misconduct by the police, and enforce social stigmas against sex workers. In order to protect some of its most vulnerable members of society, Hong Kong should adopt portions of the Dutch model and consider addressing these issues with more *S.E.X.*¹⁸ The Legislative Council should provide (1) Social programs for sex workers, (2) the Establishment of a code of conduct for police interaction with sex workers, and (3) X-out laws that criminalize organized sex work.

II. TROUBLES IN PARADISE

The current laws regulating sex work in Hong Kong pose unnecessary occupational hazards to those in the industry, leaving sex workers vulnerable to violence from their patrons and misconduct from the police. Sex workers are vulnerable to increased violence and societal condemnation merely because of the nature of their work. Unfortunately, few remedies exist for sex workers when they become victims to the legal system, especially because of the stigmatization they face from a socially conservative society. Because the unique socio-political climate in Hong Kong makes it unlikely to completely eradicate sex work, the current system requires reformation in order to meet sex workers' interests.

A. Occupational Hazards

Sex workers remain vulnerable to violence from their patrons due to the inherently isolating effect of the laws regulating prostitution. Because it is illegal to maintain a vice establishment, sex workers cannot work together, even if it is just two sex

17. ANE MATHIESON ET AL., *PROSTITUTION POLICY: LEGALIZATION, DECRIMINALIZATION AND THE NORDIC MODEL*, 14.2 SEATTLE J. FOR SOC. JUST. 367, 382-84, 394 (2016).

18. S.E.X. is an author-created acronym, explained by the sentence that follows. The topics discussed under each heading serve as foundational pieces to this paper.

workers sharing an apartment to split the costs of rent.¹⁹ This regulation forces sex workers to work alone in one-woman brothels. One study reported that 37% of criminal incidents against sex workers involved some type of weapon.²⁰ A representative from Action for Reach Out (“AFRO”), an organization supporting the concerns of sex workers, stated, that “[s]ome girls actually expect robberies once or twice a month and accept it as one of the risks of their job.”²¹

The isolating nature of the one-room brothel makes sex workers easy targets. In 2008, Nadeen Razaq shocked Hong Kong when he murdered three sex workers in their one-room brothels.²² The murderer raised a defense that debt collectors coerced him into killing the women, even though investigators found a used condom containing the his DNA at the crime scene.²³ These sex workers complied with the law by working alone in a one-room brothel, but doing so cost them their lives. Unfortunately, this was not an isolated event. In 2016, an individual named Gary Leung Ka-Wai specifically targeted sex workers in order to assault and rob them because he knew that they were likely to work alone and keep cash in their apartments.²⁴ Before murdering his victims, the assailant searched for terms online such as, “robbing one-woman brothels,” “the daily profit of one-woman brothels,” “robbery clues,” and “rape DNA.”²⁵ Not only did the assailant rob a victim

19. Crimes Ordinance, (2017) Cap. 200, 66, 69-71 §§ 137(2), 143, 144, 145 (H.K.); *see also* Nga Yan Cheung, *Accounting for and Managing Risk in Sex Work: A Study of Female Sex Workers in Hong Kong* (Dec. 1, 2012) (unpublished Ph.D. dissertation, University of London) (on file with the university).

20. Jessica C. M. Li, *Violence Against Chinese Female Sex Workers in Hong Kong: From Understanding to Prevention*, 57.5 INT’L J. OF OFFENDER THERAPY & COMP. CRIMINOLOGY 613, 623, (2012).

21. CHEN, *SUPRA* NOTE 10 (AFRO is an organization supporting the concerns of sex workers).

22. In July 2009, two men were sentenced to life in jail for unrelated murders of women they hired for sex. One day before Nadeen Razaq was found guilty of three counts of murder, another man was found guilty of cutting up the body of a 16-year-old girl he hired for sex and flushing the pieces down a toilet. Martin Wong, *Murderer of 3 Prostitutes Jailed for Life*, S. CHINA MORNING POST (Jul. 29, 2009), <https://www.scmp.com/article/688248/murderer-3-prostitutes-jailed-life>.

23. *Id.*

24. Jasmine Siu, *Hong Kong Rapist Who Researched Robbing Prostitutes Online Jailed For 11 Years*, S. CHINA MORNING POST (Oct. 12, 2017), <https://www.scmp.com/news/hong-kong/law-crime/article/2115081/hong-kong-rapist-who-researched-robbing-prostitutes-online>.

25. *Id.*

in her one-woman brothel, but he also gagged and raped her.²⁶ Once caught, the assailant told the officers that he paid the sex worker to play a “rape game.”²⁷ Gary Leung Ka-Wai was later prosecuted. These are only a few of many examples of the types of violence that sex workers face in their profession. Because it is illegal for another party to earn a living off of a sex worker’s earnings, sex workers cannot even hire third-party vendors, such as security guards,²⁸ leaving sex workers with very limited ways to protect themselves.

Another occupational hazard that sex workers must face is the danger to their own health. Sex workers are often deterred from using protection, such as condoms, because police officers commonly use the presence of condoms as evidence of solicitation or vice establishments.²⁹ The Hong Kong Department of Health reported that sex workers are considered an at-risk population for HIV infections.³⁰ The U.N. obliges countries to take necessary steps for “the prevention, treatment and control of epidemic, endemic, occupational and other diseases.”³¹ Per recommendations made by UNAIDS, “[c]riminal law should not impede provision of HIV prevention and care services to sex workers and their clients.”³² Hong Kong acts contrary to such recommendations. Thus, Hong Kong’s use of condoms as evidence in cases against sex workers is inconsistent with international standards and equally discourages sex workers from using protection based on the fear that the use of condoms will be used against them in court.

26. *Id.*

27. *Id.*

28. Wong, *supra* note 22.

29. AMNESTY INT’L, *supra* note 7, at 31-32.

30. DEPT. OF HEALTH - SPECIAL PREVENTIVE PROGRAMME CTR. FOR HEALTH PROTECTION, FACTSHEET FOR HARIS - HIV AND AIDS RESPONSE INDICATOR SURVEY 2015 FOR FEMALE SEX WORKER, 2016- 1, ¶ 1 (U.K.).

31. G.A. RES. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, ART. 12(2)(C) (DEC. 16, 1966).

32. U.N. HIGH COMM’R FOR HUM. RTS., U.N. PROGRAMME ON HIV/AIDS, INTERNATIONAL GUIDELINES ON HIV/AIDS AND HUMAN RIGHTS: 2006 CONSOLIDATED VERSION, AT 30, U.N. DOC. HR/PUB/06/09, U.N. SALES No. E.06.XIV.4 (2006).

B. *Police Officers and Prostitution*

Police officers are allegedly some of the worst abusers of sex workers. In 2016, Zi Teng received 615 reports of physical and verbal abuse from officers and clients—an increase from 225 in 2015.³³ These complaints included arbitrary arrests, verbal threats and insults, coerced statements, deprivation of basic rights, unnecessary use of authority, neglect of duty, and theft.³⁴ The increased complaints correlate with the increasing political pressure for Hong Kong to “clean up” prostitution.

Because of the grey areas in the law, police officers can act manipulatively when conducting raids. For example, although it is illegal for sex workers to solicit patrons, it is not illegal for patrons to first approach sex workers. As such, police officers commonly initiate contact with sex workers via messaging, reach an agreement, and then ask the sex workers in person to renegotiate the terms of their agreement.³⁵ At that point, officers are deemed to have sufficient cause to arrest sex workers for solicitation.

There are also many instances where police officers leverage their power and threaten sex workers with arrest to receive free sexual services. While the aforementioned act is illegal, there are cases where undercover cops are given approval to engage in sexual acts with sex workers in order to generate cause for shutting down vice establishments.³⁶ Pursuing “masturbation services” requires approval from the police force’s senior superintendent, and regrettably, such investigations have been approved in previous cases.³⁷ The Legislative Council Panel on Security formed a subcommittee to review police handling of sex

33. Rachel Blundy, *Sex Worker Abuse ‘On The Rise’ in Hong Kong and Most of the Alleged Abusers are Police Officers*, S. CHINA MORNING POST (Dec. 31, 2016), <https://www.scmp.com/news/hong-kong/law-crime/article/2058293/sex-worker-abuse-rise-hong-kong-and-most-alleged-abusers>; accord Press Release, Zi Teng, Statement on the 14th International Day to End Violence Against Sex Workers (Dec. 17, 2016), <http://www.ziteng.org.hk/eng/statement-on-the-14th-international-day-to-end-violence-against-sex-workers> [hereinafter Press Release, Zi Teng].

34. PRESS RELEASE, ZI TENG, *SUPRA* NOTE 33.

35. AMNESTY INT’L, *supra* note 7, at 19-20.

36. LEGISLATIVE COUNCIL, ‘REPORT OF THE SUBCOMMITTEE ON POLICE’S HANDLING OF SEX WORKERS AND SEARCHES OF DETAINEES,’ LC PAPER NO. CB(2)310/09-10, AT 14 (NOV. 18, 2009), <https://www.legco.gov.hk/yr09-10/english/panels/se/papers/se1201cb2-310-e.pdf>.

37. *Id.* AT 15.

workers and searches on detainees.³⁸ The subcommittee found there were rare occasions in which the practical need to conduct undercover operations actually required bodily contact.³⁹ If bodily contact is required, the type of sexual service officers may solicit is restricted “by operational need, and are determined by the officer-in-charge of the operation.”⁴⁰ When the practice is left unchecked, the Hong Kong government is essentially giving police officers a free pass to sexually harass sex workers under the guise of undercover raids needed to collect evidence.

The government does not address the full gravity of the aforementioned problem and does not prioritize the ethical concerns surrounding police officers’ sexual acts with sex workers. In November 2014, the Hong Kong Legislative Council met to discuss sex workers’ personal safety.⁴¹ The Honorable Raymond Chan Chi-Chuen acknowledged instances in which police officers took advantage of sex workers and questioned former Secretary for Security, Lai Tung-Kwok, about the government’s response to sex worker victims.⁴² Lai responded that sex workers were not immune from prosecution for their own crimes, and that there would be two investigations: (1) for the crime that the sex workers committed, and (2) for whatever police misconduct they may have suffered.⁴³ While Lai suggested that victimized sex workers could file their own complaints, he failed to recognize that sex workers face difficulties accessing the legal system to file such complaints.⁴⁴ The meeting concluded with no plans to change the status quo of laws relating to sex work.

38. *Id.* AT 15.

39. LEGISLATIVE COUNCIL, PANEL ON SECURITY: SUBCOMMITTEE OF POLICE’S HANDLING OF SEX WORKERS AND SEARCHES OF DETAINEES, ‘INFORMATION ON ANTI-VICE OPERATIONS CONDUCTED BY LAW ENFORCEMENT AGENCIES IN OVERSEAS JURISDICTIONS,’ LC PAPER No. CB(2)1205/08-09(01), AT 2 (MAR. 2009), https://www.legco.gov.hk/yr08-09/english/panels/se/se_phsw/papers/se_phsw0331cb2-1205-1-e.pdf (there are “rare occasions where it is anticipated that some form of bodily contact is genuinely necessary to achieve the objective of an anti-vice operation and to maintain the cover of the operation”).

40. *Id.*

41. LEGISLATIVE COUNCIL, *OFFICIAL RECORD OF PROCEEDINGS*, AT 2557 (NOV. 26, 2014), <https://www.legco.gov.hk/yr14-15/english/counmtg/hansard/cm20141126-translate-e.pdf>.

42. *Id.* AT 2564-65.

43. *Id.* AT 2565.

44. *Id.* AT 2565.

Demanding that sex workers file their own complaints to report police misconduct is ineffective because filing complaints against a police officer to other officers presents an opportunity for them to cover up the complaint. Currently, if sex workers have a complaint, they must file it with the Complaints Against Police Office (“CAPO”).⁴⁵ Although CAPO oversees this complaint process and refers all investigated cases to the Independent Police Complaints Commission (“IPCC”), only about 3% of cases are actually investigated.⁴⁶ CAPO is designed to be impartial, but the division often notifies police officers when complaints are filed against them, which allows officers to coerce and intimidate victims who file the complaints.⁴⁷ Furthermore, police culture includes fraternizing, supporting the practice of secrecy, and maintaining the code of “don’t give up another cop.”⁴⁸

Even when sex workers’ CAPO reports are investigated, such investigations may not warrant any consequences for the police officer who abused his power if the investigation determines the officer’s actions were “necessary” to complete the operation. This renders the criminal justice system inaccessible to sex workers because it favors police officers. Further, if sex workers come forth with complaints, they risk further trouble with the police, either through criminal charges or future police harassment at their location of business. This adversely impacts sex workers’ ability to attract clients. In this regard, the criminal justice system is not only ineffective in policing sex work, but it also disadvantages sex workers.

C. *Social Stigmas Associated with Sex Work in Hong Kong*

Criminalizing sex workers rather than their patrons stems from a culture favoring patriarchal and conservative values which

45. A Guide for Complainants, COMPLAINTS AGAINST POLICE OFFICE, https://www.police.gov.hk/info/doc/pol/en/Pol_679.pdf (last visited October 7, 2019).

46. Legislative Council, *Official Record of Proceedings*, at 5447 (April 28, 2004), <https://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0428ti-translate-e.pdf>.

47. See generally Kam C. Wong, *Police Powers and Control in Hong Kong*, 34 INT’L J. COMP. & APPLIED CRIM. JUST. 1 (2010) (raising the issue of whether CAPO officers can ever be expected to act independently of their mother organization upon which their career depends).

48. GENE L. SCARAMELLA ET AL., INTRODUCTION TO POLICING 102 (Jerry Westby et al. eds., 2011).

simultaneously dehumanizes sex workers.⁴⁹ Another reason that sex workers do not file reports of abuse or harassment is because society believes sex workers “ask for it,” simply due to their profession. A similar sentiment is embodied in the #MeToo movement, which does not include sex workers as victims.⁵⁰ Victim blaming is prevalent in sexual abuse situations, especially for sex workers, because conservative Chinese beliefs dictate that a “good” woman should be pure.⁵¹

The stigma against sex work is a social construction that labels sex workers as the “other.” This becomes extremely problematic when society’s personal beliefs bleed into the criminal justice system through legislation. Society dictates that sexual women are deviants.⁵² Sex workers are vilified as threats to social order and the home, as they are often viewed as temptresses, working to seduce men to cheat on their spouses.⁵³ The blame, once again, is placed on women rather than men who are equally culpable. Thus, it is difficult for sex workers to garner public support for change because Chinese society is generally unsympathetic to the sex industry.

Working in the sex industry brings unwarranted judgment even though individuals have a myriad of reasons for entering the sex trade. Kendy Yim, the Executive Director of AFRO, explains that there are “women who do sex work because they enjoy it, or because they think it’s a way of contributing to society. It’s not necessarily either a situation of dependence versus full agency. There is a broader spectrum than that.”⁵⁴ Additionally, there are

49. Nga Yan Cheung, *Accounting for and Managing Risk in Sex Work: A Study of Female Sex Workers in Hong Kong* (Dec. 1, 2012) (unpublished Ph.D. dissertation, University of London) (on file with the university).

50. Samantha Cooney, *‘They Don’t Want to Include Women Like Me.’ Sex Workers Say They’re Being Left Out of the #MeToo Movement*, TIME (Feb. 13, 2018), <http://time.com/5104951/sex-workers-me-too-movement/>.

51. Simon Denyer, *State Media Says Women Aren’t Harassed in Chinese Culture. Women Beg to Differ*, WASH. POST (Oct. 17, 2017), https://www.washingtonpost.com/news/worldviews/wp/2017/10/17/state-media-says-women-arent-harassed-in-chinese-culture-women-beg-to-differ/?utm_term=.806997248711.

52. HENDRIK WAGENAAR, ET AL., *DESIGNING PROSTITUTION POLICY: INTENTION AND REALITY IN REGULATING THE SEX TRADE* 29 (2017).

53. Jun Pang, *Thinking Beyond the Stereotypes: The Diverse Experiences of Hong Kong’s Sex Workers*, H.K. FREE PRESS (Oct. 22, 2017), <https://www.hongkongfp.com/2017/10/22/thinking-beyond-stereotypes-diverse-experiences-hong-kongs-sex-workers/>.

54. *Id.*

many sex workers trying to make a living in a climate that is unfavorable to working mothers. One study revealed that only 47.2% of the employers interviewed would offer jobs to mothers with young children.⁵⁵ Given that Hong Kong has limited work opportunities for mothers, it is not surprising that some turn to sex work in order to make a living. Unfortunately, current legislation reflects the condemnation against this marginalized group.

III. A GLOBAL PERSPECTIVE ON SEX WORK: HOW DOES THE REST OF THE WORLD “DO IT?”

There is no one-size-fits-all solution to fix the issues inherent with sex work. Countries regulate the “oldest profession in the world” differently, with each attempting to find a model that best fits their nation’s interests. Some countries completely banned prostitution, while others fully embrace it or find alternatives in between.

Most Asian countries criminalize prostitution.⁵⁶ However, some Asian countries, such as Thailand, legally prohibit prostitution, but in practice, tolerate and regulate sex work.⁵⁷ In Singapore and Indonesia, prostitution is legal, but these countries are amongst the minority in Asia.⁵⁸ Despite the existence of laws that appear favorable to sex workers, such as those in Singapore and Indonesia, sex workers still face a plethora of issues because there is little protection for sex workers.

Countries in Europe, like the Netherlands and Switzerland, have laws favorable to sex workers.⁵⁹ Consequently, the Dutch model and the Swiss’s experimental approach to improving

55. CTR. FOR CHINESE FAMILY STUD., ET AL., A STUDY ON FAMILY STATUS DISCRIMINATION IN THE WORKPLACE IN HONG KONG (2018), <https://www.eoc.org.hk/eoc/upload/ResearchReport/20188211629521937156.pdf>; see Mandy Zheng, *Half of Hong Kong Employers do not Want to Hire Women with Children, Study Finds*, S. CHINA MORNING POST (Aug. 23, 2018), <https://www.scmp.com/news/hong-kong/community/article/2160912/half-hong-kong-employers-do-not-want-hire-women-children>.

56. PROCON, *100 Countries and Their Prostitution Policies*, PROCON (Apr. 23, 2018), <https://prostitution.procon.org/view.resource.php?resourceID=000772>.

57. Cazzie Reyes, *History of Prostitution and Sex Trafficking in Thailand*, END SLAVERY NOW (Oct. 8, 2015), <https://www.endslaverynow.org/blog/articles/history-of-prostitution-and-sex-trafficking-in-thailand>.

58. PROCON, *supra* note 56.

59. *Id.*

conditions for sex workers will be analyzed in order to offer Hong Kong another perspective. Unfortunately, Hong Kong faces distinct challenges that likely preclude it from fully transplanting another country's sex work laws. Nevertheless, it may adopt elements from other countries' legal models which are compatible with Hong Kong's socio-political climate.

A. Singapore: Government Regulation

Singapore's prostitution laws closely resemble those in Hong Kong. Similar to Hong Kong, Singapore makes it illegal to solicit sex work in public places,⁶⁰ maintain a brothel,⁶¹ and live off of the earnings of a prostitute.⁶² While the language of the statutory codes are geared towards women, Singapore's laws contain specific clauses that punish men without additional caning.⁶³ Interestingly enough, the laws surrounding sex work are primarily found in Singapore's Women's Charter – a compilation of laws that cover divorce, “monogamous marriages,” “the protection of family, the maintenance of wives, incapacitated husbands and children, and the punishment of offences against women and girls.”⁶⁴ Placing prohibitory sex work laws in the same code which governs marriage further reflects the idea that sex workers are viewed as a threat to a marriage – a societal belief shared in Hong Kong.⁶⁵

However, unlike Hong Kong, Singapore regulates and monitors a limited number of brothels. Singapore's Anti-Vice Police Department issues licenses and gives clearance to sex workers through work permits.⁶⁶ Licensed sex workers must undergo health check-ups every month and receive a “yellow card” if they receive a clean bill of health.⁶⁷ The yellow card, which lists the sex workers' names and health check-up results, is

60. Miscellaneous Offences (Public Order and Nuisance) Act, 06 Jul 1906, Cap 184, Art 19, 1997 Rev Ed., (Sing.), <https://sso.agc.gov.sg/Act/MOPONA1906>, (last visited Aug. 24, 2019).

61. Women's Charter, 15 Sep 1961, Cap 353, Art 148, 2009 Rev Ed., (Sing.), <https://sso.agc.gov.sg/Act/WC1961>, (last visited Aug. 24, 2019).

62. *Id.* Art 146.

63. *Id.* Art 140(2).

64. *Id.* Part XI.

65. *See* Pang, *supra* note 53.

66. *Current Situation in Singapore*, PROJECT X, <http://theprojectx.org/situation-in-singapore/> (last visited Sept. 19, 2019).

67. *Id.*

essentially their license.⁶⁸ Although the government does not openly list the criteria needed to receive a yellow card, ProjectX, a nonprofit organization which advocates for sex workers in Singapore, collected such information through its outreach programs.⁶⁹ While Singapore does not publicly or officially disclose licensing requirements, to receive a yellow card, an individual: (1) must be between 21-35 years old, (2) cannot be Malay or Muslim, (3) cannot be listed as “Male” on their identification cards; and (4) must be from an approved country (e.g., China, Malaysia, Thai, Vietnam and Singapore).⁷⁰

While government-approved brothels may seem like an ideal solution, the process to get a license along with the highly restrictive requirements discourage compliance. The ProjectX outreach program revealed that sex workers are required to go through an interview process, sign an agreement with the Anti-Vice police, and get a health screening, all before they can receive clearance for a license to engage in legal sex work.⁷¹ This agreement includes the following conditions: the sex worker will not break any local laws—keeping in mind that technically what they are doing is illegal, the sex worker is not permitted to have a Singaporean boyfriend, and once the sex worker’s contract is over, the sex worker will face a travel ban lasting anywhere between three years and indefinitely.⁷² Furthermore, sex workers are not entitled to any form of medical benefits, which means that they must pay for the monthly health screenings themselves, and the brothel is not legally obligated to ensure that safe sex occurs.⁷³ These stifling terms and conditions are the tradeoffs for engaging in legal sex work in Singapore, and come at a stiff price with little to no protection for sex workers.

As a result of the secretive, unfair conditions that Singaporean sex workers must agree to in order to engage in legal sex work, Singapore has rampant “illegal” operations. In fact, illegal sex workers greatly outnumber licensed sex workers in Singapore.⁷⁴

68. Xinghui, *Singapore’s Sex Trade*, *supra* note 14.

69. *Current Situation in Singapore*, *supra* note 66.

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. John Pennington, *Prostitution In Singapore – Are The Police Doing Enough to Combat it?*, ASEAN TODAY (May 31, 2017), <https://www.aseantoday.com/2017/05/prostitution-in-singapore-are-the-police->

While Singapore's efforts to legalize sex work is admirable, the system predominately fails due to the country's legal and societal limitations. Thus, such a model would fail and should not be deployed in Hong Kong because it runs contrary to the interests of sex workers. Hong Kong needs to protect its sex workers, not drive them further underground, as is the result of Singapore's attempted government-regulated brothels.

B. *Indonesia: A Morality Concern*

Meanwhile, Indonesia's solution to prostitution is to not legislate sex work at all. There are no explicit Indonesian laws against prostitution. While the word "prostitution" is mentioned once in the entire penal code, it is used in relation to a vague misdemeanor.⁷⁵ A spokesman for the Indonesian National Police said, "[i]f sex workers haven't committed a criminal act, we can't stop them from using public space or hanging around along the roadside at night even though we're sure they are prostitutes."⁷⁶ Additionally, there are no protections for children who are trafficked into the sex trade because there are no direct laws that prohibit or regulate the industry. Consequently, Indonesia is now a hotbed for child-sex trafficking and there is little to no government action against it.⁷⁷ Contrary to Indonesia, both Hong Kong and Singapore have clear statutes prohibiting minors from engaging in sex work.

However, Indonesia's penal code contains an entire section covering "Crimes Against Decency."⁷⁸ In practice, the government groups prostitution as a crime against decency and morality, but enforcement is dependent on the political views of

doing-enough-to-combat-it/; accord Alvin Kuo Jing Teo et al., *Estimating the Size of Key Populations for HIV in Singapore Using the Network Scale-Up Method*, at 5 (May 10, 2019), <https://sti.bmj.com/content/early/2019/05/08/sextrans-2018-053747>.

75. Specifically, the Indonesian Criminal Code states that "[a]ny person who as souteneur takes advantage of the prostitution of a roman, shall be punished by a maximum light imprisonment of one year." Indon. Penal Code art. 506.

76. Pichayada Promcherchoo, *Indonesia's Sex Trade 'Impossible' To Shut Down*, MALAYSIAN TIMES, (May 15, 2016) <https://www.themalaysiantimes.com.my/indonesias-sex-trade-impossible-to-shut-down> [hereinafter Promcherchoo, *Indonesia's Sex Trade*].

77. See U.S. DEP'T OF STATE, 2019 TRAFFICKING IN PERSONS REPORT: INDONESIA (2019), <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/indonesia/>.

78. Indon. Penal Code arts. 281-303.

the party in office. Currently, there is a push to completely criminalize prostitution.⁷⁹ Unfortunately, the statutory language under CAD is vague, imposing a punishment of up to two years and eight months of imprisonment or a maximum fine of 3,000 rupiahs for any person who deliberately offends public decency.⁸⁰ While CAD explicitly imposes jail sentences of none months for adulterers and nine years for viewers of pornography, it remains vague on the topic of prostitution.⁸¹

Over the last decade, the Indonesian government started shutting down brothels in an attempt to eradicate prostitution, but some authorities feared it only forced the sex trade underground.⁸² The government is currently revising its 100-year-old criminal code, which was adopted from the Dutch, through more explicit laws against “immoral conduct.” However, because the revision has not been shared with the public, there is no clear indication whether the government intends to criminalize, regulate, or do nothing with regards to prostitution.⁸³

Indonesia’s non-legislative solution is clearly not a solution at all. Indonesia is a country that is more socially conservative than Hong Kong, with ironclad laws against what it considers “immoral” conduct and no system to address the sex trade. However, Indonesia is similar to Hong Kong in that its laws do not specifically prohibit individualized prostitution.⁸⁴ Yet, the laws differ because Indonesia completely ignores the issues that allow misconduct to occur. Consequently, Hong Kong can only look to the Indonesian model as a model of what it should not do.

C. *The Netherlands: The Dutch Model*

Although the Dutch once ruled over what is today Indonesia, their approach to regulating prostitution comes from a completely

79. *Livelihoods Hit as Jakarta Shuts Red-Light District*, AL JAZEERA, (Feb. 27, 2016), <https://www.aljazeera.com/news/2016/02/livelihoods-hit-jakarta-red-light-district-closes-160227194033089.html>.

80. Indon. Penal Code art. 281.

81. *See generally* Indon. Penal Code.

82. Promcherchoo, *Indonesia’s Sex Trade*, *supra* note 76.

83. Santi Kusumaningrum, *The Missing Link in the Deliberation on Indonesia’s Criminal Code Bill*, CONVERSATION, (Apr. 11, 2018, 4:55 AM), <http://theconversation.com/the-missing-link-in-the-deliberation-on-indonesias-criminal-code-bill-94512>.

84. *See generally* Indon. Penal Code.

opposite perspective. The Netherlands, arguably famous for its lax prostitution laws, categorizes prostitution into two categories: voluntary and involuntary.⁸⁵ The Dutch generally believe that voluntary sex work should be a valid profession, while involuntary sex work should be prohibited.⁸⁶ The Dutch people have a more liberal perspective about accepting sex work.

Organized prostitution is fully legalized in the Netherlands where legal protections are provided for those participating in the industry.⁸⁷ Sex workers in the Netherlands are treated as independent entrepreneurs and taxed accordingly.⁸⁸ Each local municipality enforces its own rules and regulations to ensure that sex workers in brothels are working voluntarily and complying with licensing laws, and that brothels are not illegally employing minors.⁸⁹ Unlike in Hong Kong, sex workers in Holland can even unionize to fight for better conditions. Furthermore, in order to protect themselves from potential harm, sex workers can install panic buttons in their work spaces, allowing them to notify others if they feel unsafe or have an issue with a patron.⁹⁰ In addition, the government implicitly permits people with disabilities to use their social welfare benefits however they like, including as a subsidy for sex.⁹¹

The relaxed laws surrounding sex work are indicative of a more tolerant society. The Dutch recognize that consensual sex work is a valid profession that is better controlled through legalization and regulation rather than criminalization. This gives

85. Segura Ciara, *What Does Legalization Actually Look Like? – The Netherlands*, STANFORD UNIV. (May 20, 2010), <http://stanford.edu/group/womenscourage/cgi-bin/blogs/sextraffickingandprostitution/2010/05/20/what-does-legalization-actually-look-like-the-netherlands/>.

86. *Id.*

87. Toine Spapens & Conny Rijken, *The Fight Against Human Trafficking in the Amsterdam Red Light District*, 39 INT'L J. OF COMP. & APPLIED CRIM. JUST. 155, 159-160 (2015) [hereinafter Spapens & Conny, *The Fight Against Human Trafficking*].

88. *Id.*

89. *Id.* at 157, 158.

90. André Picard, *Women in Amsterdam's Red-Light District Say Safety for Worldwide Sex Workers Lies in Legalization, Normalization*, THE GLOBE & MAIL (Aug. 10, 2018), <https://www.theglobeandmail.com/canada/article-the-story-behind-amsterdams-infamous-red-light-district/>.

91. Marguerite Ward, *The Surprising Way the Netherlands is Helping its Disabled Have Sex*, MIC (Mar. 13, 2014), <https://mic.com/articles/85201/the-surprising-way-the-netherlands-is-helping-its-disabled-have-sex#.lm2HlHsVH>.

sex workers access to labor rights that they otherwise would not receive if prostitution were illegal. However, like other models, the Dutch Model falls short in several ways.

The Netherlands faces a human trafficking problem linked to their relaxed sex work laws. Due to sex workers' inconsistent self-reporting and a lack of data, studies of trafficking in the Dutch sex work industry are incomplete and inaccurate.⁹² It is estimated that there are about 6,250 human trafficking victims in the Netherlands every year.⁹³ In response, the government attempted to implement tougher legislation against human traffickers but its efforts lacked multi-agency enforcement measures required to ensure success.⁹⁴ Thus, in order to learn from the Dutch's mistakes, Hong Kong must rely on both tough legislation and support from other agencies to enforce the law.

D. Switzerland: An Experimental Success Story

Switzerland legalized prostitution in the 1940s. Protections offered to sex workers in Switzerland are similar to the protections offered by the Dutch in that sex workers pay taxes and undergo regular health check-ups. While attitudes about sex work are more favorable in Switzerland than in Asian countries, like Singapore and Indonesia, residents frequently complained about the various nuisances surrounding sex work, such as noise, traffic jams, and other disturbances.⁹⁵ Zurich's legislators proposed drive-in "sex

92. See generally NATIONAL RAPPOREUR ON TRAFFICKING IN HUMAN BEINGS AND SEXUAL VIOLENCE AGAINST CHILDREN, VICTIMS OF HUMAN TRAFFICKING: PERIODICAL REPORT 2012-2016 11-12, (2018), https://www.dutchrappporteur.nl/binaries/FINAL_BNRM-Victims%20of%20Human%20Trafficking-%20Periodical%20Report%202012-2016_INTERACTIVE_tcm24-353879.pdf [hereinafter NATIONAL RAPPOREUR, VICTIMS OF HUMAN TRAFFICKING] and Anthony Deutsch, *At Least 1,300 Dutch Girls Per Year Trafficked, Exploited*, REUTERS (Oct. 18, 2017), <https://www.reuters.com/article/us-netherlands-human-trafficking/at-least-1300-dutch-girls-per-year-trafficked-exploited-idUSKBN1CN1R2>.

93. Anthony Deutsch, *At Least 1,300 Dutch Girls Per Year Trafficked, Exploited*, REUTERS (Oct. 18, 2017), <https://www.reuters.com/article/us-netherlands-human-trafficking/at-least-1300-dutch-girls-per-year-trafficked-exploited-idUSKBN1CN1R2>.

94. Spapens & Conny, *The Fight Against Human Trafficking*, *supra* note 89.

95. Helena Bachmann, *Sex in The City: Zurich's Prostitution 'Sex Boxes' Deemed Success in Switzerland*, USA TODAY (Aug. 24, 2018), <https://www.usatoday.com/story/news/world/2018/08/24/sex-boxes-make-legal-prostitution-safe-zurich-switzerland-europe/1083444002/>.

boxes” as a solution, which replicates a fast food, drive-through concept.⁹⁶ These boxes would be built in discreet, safe locations, away from residential buildings, with operating hours between 7:00 P.M. and 3:00 A.M. on weekdays, and until 5 A.M. on the weekends.⁹⁷ Fifty-two percent of the city’s citizens voted to build these boxes at a two million dollar price tag with operation costs at approximately \$800,000 per year for maintenance.⁹⁸

In 2013, Zurich opened the country’s first drive-in “sex boxes.”⁹⁹ To use the boxes, patrons must have a vehicle and sex workers must obtain a special permit that costs roughly \$43 per year and pay approximately \$5 per night in taxes.¹⁰⁰ These funds help offset the city’s maintenance fees for the premises.¹⁰¹ After pulling into the sex box, the patron and the sex worker at the booth agree on a price. While there are no video cameras at the sex box to protect both patrons and sex workers, the sex workers have panic buttons to alert the on-site guards if they have any issues.¹⁰² Nadeen Schuster, a city spokesperson for Zurich, stated that five years after implementing the sex boxes plan, the city has met its goals of improving the working environment for sex workers as well as meeting the needs of the city.¹⁰³ Evidently, the concept has proved effective in protecting sex workers against violence and human trafficking.

Zurich’s experimental success in satisfying the demands of all involved parties is an ideal outcome. However, since Hong Kong has one of the most expensive real estate markets in the world with property costing 19.4 times more than the average household income,¹⁰⁴ Hong Kong lacks the resources to implement a similar

96. KRON, *Switzerland’s Drive-In ‘Sex Boxes’ are a Great Success*, *Officials Say*, WBTW NEWS13 (Aug. 27, 2018), <https://www.wbtw.com/news/switzerland-s-drive-in-sex-boxes-are-a-great-success-officials-say/1399132195>.

97. Bachmann, *supra* note 97.

98. *Id.*

99. KRON, *supra* note 98.

100. *Id.*

101. ASSOCIATED PRESS, *Zurich Opens Drive-In ‘Sex Boxes’*, *THE GUARDIAN* (Aug. 26, 2013), <https://www.theguardian.com/society/2013/aug/26/zurich-drive-in-garages-prostitutes>.

102. Bachmann, *supra* note 97.

103. *Id.*

104. Peter Yeung, *What Life is Like in Hong Kong, the Most Expensive City to Live in the World*, *HUFFPOST* (Nov. 20, 2018), https://www.huffpost.com/entry/hong-kong-most-expensive-city-housing_n_5beeb701e4b0860184a79215.

plan. Even if Hong Kong could muster the resources, conservative cultural norms would prevent Hong Kong's citizens from implementing such a liberal concept. Thus, Zurich's successful sex boxes are not feasible in Hong Kong. Nonetheless, the concept of Zurich's boxes is an admirable example of attainable cooperation between the government, residents, and sex workers.

IV. REFORMATION THROUGH S.E.X.

“The commercial sex industry is an open secret in Hong Kong and an inseparable part of our social and economic life.” - CUHK Hong Kong Medical Journal¹⁰⁵

The current laws criminalizing organized sex work in Hong Kong leave sex workers unprotected and vulnerable. However, a full transplant of another country's model for sex work into Hong Kong will not work. While Singapore and Indonesia share some similar cultural beliefs as Hong Kong, Singapore and Indonesia do not have effective systems that protect sex workers. Rather, their systems are arguably worse than that of Hong Kong. Although Hong Kong may not be ready for a liberal model like that in Switzerland, certain aspects of the Dutch model should be adopted. Additionally, Hong Kong's must modify existing laws to improve the many issues that plague the sex industry.

A. *Social Services*

Hong Kong already offers free or low-cost public healthcare for virtually all residents.¹⁰⁶ However, while resources are available for sex workers to receive health check-ups and advice on STI screenings, sex workers may be reluctant to utilize such resources given the societal stigma surrounding sex work. The University of Hong Kong conducted a study that revealed many Hong Kong sex workers felt that formal health service providers would stigmatize them.¹⁰⁷ In fact, many study subjects either concealed their occupation from their doctors or provided

105. Wong, *supra* note 1, at 473.

106. See GOVHK, *Overview of the Health Care System in Hong Kong*, <https://www.gov.hk/en/residents/health/hosp/overview.htm> (last updated Mar. 2019).

107. William C. W. Wong et. al., *Stigma and Sex Work from the Perspective of Female Sex Workers in Hong Kong*, 33.1 SOC. OF HEALTH & ILLNESS 50, 58 (2010) (U.K.).

inaccurate accounts of their sexual history.¹⁰⁸ Looking generally to the Netherlands, it is not farfetched to say that the Dutch government does not require mandatory STI screenings for sex workers in part because the Netherlands believes that such screening requirements would perpetuate the myth that sex workers are unclean. If Hong Kong decriminalizes organized prostitution, it may not be so willing to also offer lax regulations since it is a conservative government with citizens that hold stigmatized views against sex work.¹⁰⁹

As a solution, however, the government should provide additional training to select doctors to foster safe environments for sex workers and help manage potential public backlash. Hong Kong should also enact a program in which those who engage in sex work can confidentially register as sex workers. Such a registration program would then enable social workers and sex workers to connect, thereby allowing the social workers to act as proxy for social needs. These social workers could also improve sex workers' access to alternative job placement training, the health care system, and the justice system. To maintain confidentiality and trust, the social workers must act as neutral third parties when offering assistance, particularly when misconduct arises. Finally, sex workers must be left with an optional or voluntary decision to engage with social workers.

B. *Expectations for Policing Sex Work: A Code of Conduct*

The Code of Conduct regulates police conduct for: (1) undercover operations and (2) special circumstances involving victims.

To prevent misconduct that generally occurs between police officers and sex workers during undercover operations, a Code of Conduct for the police is necessary to ensure that officers do not take advantage of their positions when exercising their authority. This Code of Conduct must specify which police actions are strictly forbidden during undercover operations. For example, officers must not engage in any form of inappropriate physical

108. *Id.*

109. Wong, *supra* note 1 (the article cited argues that Hong Kong may be avoiding the creation of policies for mandatory screening and improved access to treatment for sex workers because many citizens of the public would regard such policies to mean that Hong Kong is “tolerating if not legalizing prostitution”).

contact, including any and all forms of sexual activity. In addition, officers engaging in sex worker related investigations must be prohibited from touching anyone's genitalia through clothing, even when authorized by a superintendent.

Organized sex work must be decriminalized. However, undercover raids are still necessary to ensure individuals are not forced into sex work. To discourage misconduct, officers who obtain coerced statements or use illegal tactics to collect evidence should not be able to use this evidence, similar to how the United States prohibits fruits of the poisonous tree from being introduced into evidence.

The second part of the Code of Conduct should list specific actions an officer must take when engaging with suspected human trafficking victims or minors. For example, if an individual is trafficked into Hong Kong, the officer must provide the victim access to social services rather than immediate deportation. In the past, the government has published procedural guidelines for multiple departments that lists recommendations for handling victims of sexual violence.¹¹⁰ However, these guidelines are suggestions which have no enforcement value. The United States Department of State's Trafficking in Persons Report revealed that Hong Kong's government fails to consistently screen women arrested for prostitution or immigration violations in order to determine whether or not they are victims of human trafficking.¹¹¹ Instead, these victims are often punished for immigration violations, and as a result, often take guilty pleas to expedite their return to their home country.¹¹² While officials encourage victims to participate in the prosecuting their traffickers, victims have no incentive since they are no longer able to work in Hong Kong. Thus, to encourage victims to stay and testify against their traffickers, Hong -Kong should offer a temporary visa allowing trafficked victims to work while they are in court. Police officers should also ensure that victims are aware of their rights.

110. SOC. WELFARE DEP'T, GOV'T OF H.K. SPECIAL ADMIN. REGION, PROCEDURAL GUIDELINES FOR HANDLING ADULT SEXUAL VIOLENCE CASES (2007).

111. U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 215 (2018) (according to the report, the government has "devoted significant resources to a written plan," however, since such plan has not been implemented, its efforts to eliminate trafficking fail to meet the minimum standards required under the Trafficking Victims Protection Act).

112. *Id.*

Currently, there are attempts to improve the relationship between police officers and sex workers through regular visits with police liaisons to maintain communications regarding crime, and through regular meetings with groups advocating for sex workers to openly discuss mutual concerns.¹¹³ However, despite some improvements, the process will take time given the longstanding mistrust between the two groups. The relationship is likely to improve if the government maintains continued communication, establishes active efforts to bridge the two groups, and enacts laws that explicitly protect sex workers from police misconduct.

C. X-Out Laws Criminalizing Sex Work

Certain aspects of organized sex work should be decriminalized. Specifically, the government should repeal Crimes Ordinance sections which regulate organized sex work, including controlling another individual for the purpose of unlawful sexual intercourse or prostitution,¹¹⁴ living on the earnings of prostitutes,¹¹⁵ keeping or allowing a premises to be used as a vice establishment,¹¹⁶ and soliciting for an immoral purpose.¹¹⁷ Repealing these sections would offer protection to legal Hong Kong residents. However, this plan is not a “one-size-fits-all” solution offering blanket protection for individuals choosing to illegally work in Hong Kong. Rather, this proposal is a small step towards creating protection for local resident sex workers, not resolving ongoing immigration issues.

Hong Kong’s draconian laws regulating prostitution are impractical because punishments outweigh the nature of the alleged crimes. For example, Section 137 criminalizes others for living on the sex workers’ earnings and dictates that a person who “knowingly lives wholly or in part on the earnings of prostitution of another shall be guilty of an offence and shall be liable on

113. Viola Gaskell, *Inside Hong Kong’s High-Rise Houses of Prostitution: Who’s Really in Charge?*, THE DAILY BEAST (Oct. 17, 2017), <https://www.thedailybeast.com/inside-hong-kongs-high-rise-houses-of-prostitution-whos-really-in-charge?ref=scroll>.

114. Crimes Ordinance, *supra* note 3, § 130.

115. Crimes Ordinance, *supra* note 4, § 137.

116. Crimes Ordinance, *supra* note 5, § 139.

117. Crimes Ordinance, *supra* note 6, § 147.

conviction on indictment to imprisonment for 10 years.”¹¹⁸ This means a domestic cleaner hired by a sex worker hires to clean his or her apartment could be prosecuted and imprisoned for 10 years. The punishment is even more severe for Section 130 violations, which criminalizes control over an individual for the purpose of prostitution. Under Section 130, a person who harbors “another person or exercises control, direction or influence over another person [...] with a view to that person’s prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years.”¹¹⁹ These laws are intentionally vague with harsh punishments to deter prostitution. However, as demonstrated above, the problem is that police officers are left with great latitude and freedom to intimidate and arrest sex workers and their contractors for trivial matters.

Of course, stringent laws regulating minors, trafficking victims, and people with mental disabilities in the sex trade must remain. Those that do not have personal autonomy must receive protection. However, sex work is an increasingly recognized profession that offers “a decent income, low entry thresholds, and a modicum of control over one’s work situation [...] that can be done part time, in addition to other work.”¹²⁰ Those who choose to work in the sex industry must also receive protection.

Finally, decriminalization of organized prostitution would allow sex workers to contribute to society through paying income taxes. The Central Bureau of Statistics estimates that in the Netherlands, prostitution is taxed at 19% tax and generates £550 million per year, or roughly \$705 million per year in USD.¹²¹ The Dutch government works to close its budget gap by taxing sex workers. Due to a lack of data, it is unknown how much tax revenue Hong Kong truly generates from prostitution. Regardless, tax law is favorable in Hong Kong because the maximum rate for individual income tax, based on a progressive scale, ranges from a

118. Crimes Ordinance, *supra* note 4, § 137.

119. Crimes Ordinance, *supra* note 3, § 130.

120. HENDRIK WAGENAAR ET AL., DESIGNING PROSTITUTION POLICY: INTENTION AND REALITY IN REGULATING THE SEX TRADE 50 (2017).

121. Emine Sinmaz, *Taxman to Visit Amsterdam Sex Workers*, THE GUARDIAN (Jan. 13, 2011), <https://www.theguardian.com/world/2011/jan/13/dutch-taxman-visit-amsterdam-sex-workers>.

mere 2% tax to a 17% tax.¹²² Thus, it is in the best interest of both sex workers and Hong Kong as a city to decriminalize organized sex work and allow sex workers to contribute to society through taxation.

V. CONCLUSION

Amidst the bright colors decorating the red-light districts of Hong Kong, the grey area behind the discriminatory laws against sex workers allow misconduct to fester and spread. The current laws surrounding sex work in Hong Kong create a hostile environment for sex workers forced to work in isolated spaces and left vulnerable to acts of violence. Because sex workers face societal condemnation, the laws that surround sex work operate against them. Sex workers are repeatedly subjected to third-party harassment, including from police officers who exploit sex workers for sexual services and then arrest them. The law does not protect sex workers and they are prevented from reaching out for help.

Despite the different approaches to prostitution across the world, there is no perfect plan that Hong Kong can adopt given its unique position. Specifically, Hong Kong's inherent economic and social constraints may prevent its government from adopting a more liberal model, similar to that implemented in the Netherlands or in Switzerland. Singapore attempts to regulate sex work through government-regulated brothels and Indonesia addresses the issue by not legislating on the matter, yet these systems have also failed in their respective countries. It is clear then that Hong Kong needs a solution that is specific to its own needs. In reforming its laws, Hong Kong should start by (1) providing social services to sex workers, (2) establishing a code of conduct for police officer-sex worker relations, and (3) decriminalizing organized sex work. These steps offer better protections for sex workers than what is currently available. Hong Kong shows no sign of eradicating sex work from its social fabric, so addressing and embracing sex workers will provide them with the rights and protections they deserve.

122. GOVHK, *Tax Rates of Salaries Tax & Personal Assessment*, <https://www.gov.hk/en/residents/taxes/taxfiling/taxrates/salariesrates.htm> (last visited Sept. 13, 2019).