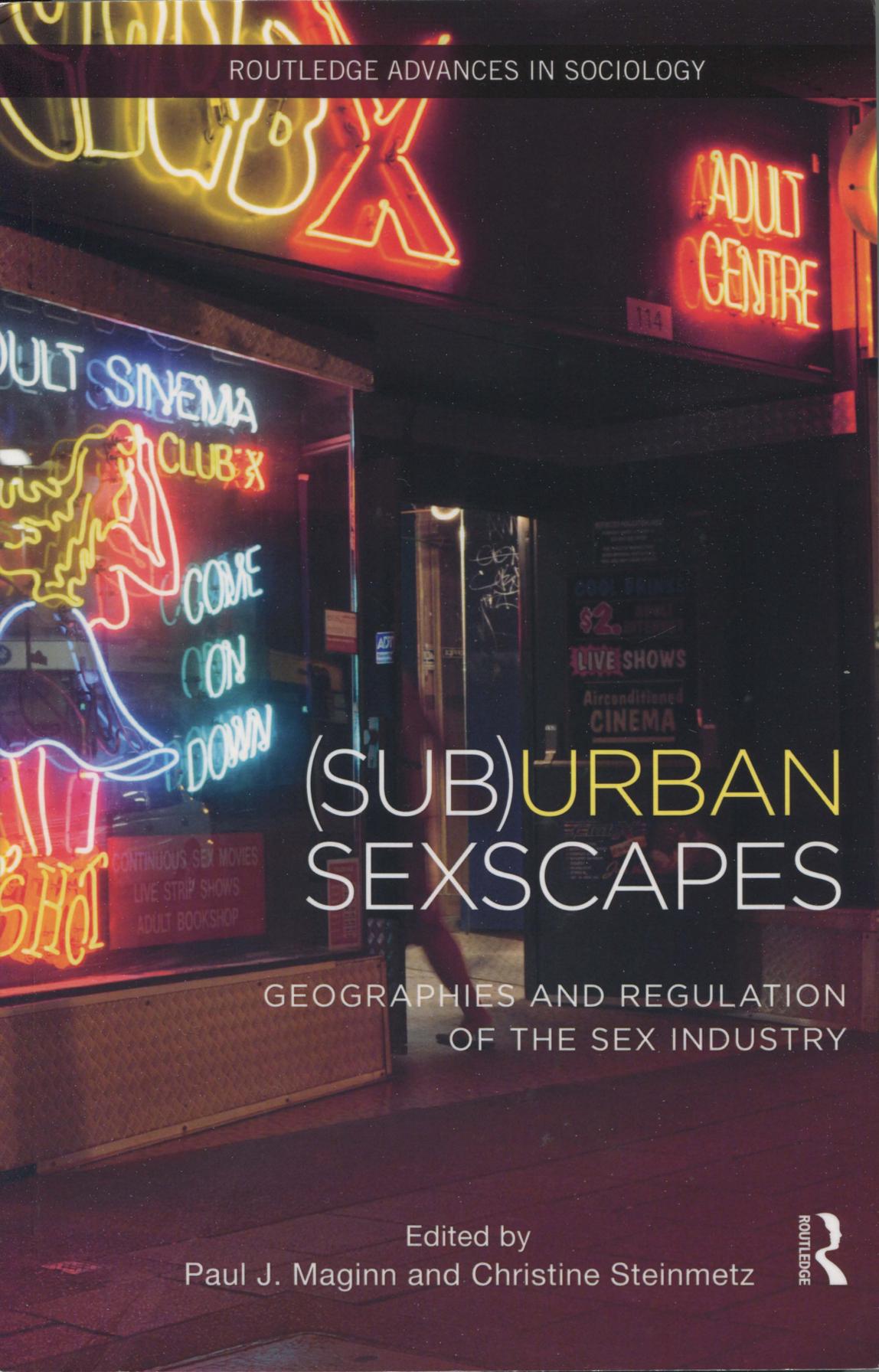


ROUTLEDGE ADVANCES IN SOCIOLOGY



(SUB)URBAN SEXSCAPES

GEOGRAPHIES AND REGULATION
OF THE SEX INDUSTRY

Edited by
Paul J. Maginn and Christine Steinmetz

ROUTLEDGE



(Sub)Urban Sexscapes

(Sub)Urban Sexscapes brings together a collection of theoretically informed and empirically rich case studies from internationally renowned and emerging scholars highlighting the contemporary and historical geographies and regulation of the commercial sex industry. Contributions in this edited volume examine the spatial and regulatory contours of the sex industry from a range of disciplinary perspectives (urban planning, urban geography, urban sociology, and cultural and media studies) and geographical contexts (Australia, the UK, the US and North Africa).

In overall terms, *(Sub)Urban Sexscapes* highlights the mainstreaming of commercial sex premises (sex shops, brothels, strip clubs and queer spaces) and products (sex toys, erotic literature and pornography) now being commonplace in night-time economy spaces, the high street, suburban shopping centres and the home. In addition, the aesthetics of commercial and alternative sexual practices – BDSM and pornography – permeate the (sub)urban landscape via billboards, newspapers and magazines, television, music videos and the Internet.

The role of sex, sexuality and commercialized sex in contributing to the general character of our cities cannot be ignored. In short, there is a need for policy-makers to be realistic about the historical, contemporary and future presence of the sex industry. Ultimately, the regulation of the sex industry should be informed by evidence as opposed to moral panics.

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(Sub)Urban Sexscapes

Geographies and regulation
of the sex industry

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**In memory of my mother
Catherine (Renee) Maginn
(4 December 1944–24 December 2011)
'She would not approve, but she would understand.'
Paul**

**To Annie
'My editorial muse.'
Christine**

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Acknowledgements

The idea for this book was born out of a realization, following the 2010 Australian and New Zealand Association of Planning Schools conference in Christchurch, that we were both interested in and conducting initial research on the planning regulations surrounding the sex industry in Australia. Hence, in 2011 we issued an international call for abstracts for colleagues to take part in a specially convened session – Erotic Cities: Geographies of the Sexual Economy – at the 2012 Association of American Geographers (AAG) Conference in New York.

We were somewhat overwhelmed with the response, receiving enough abstracts to host three sessions. Unfortunately, some colleagues were unable to make the AAG 2012. Nevertheless, we held two presentation sessions, with most of the contributors in this edited volume taking part in some way. We were delighted that Phil Hubbard and Petra Doan agreed to act as discussants at our AAG special sessions as both had just finished major books themselves. Phil had just completed *Cities and Sexualities* (Routledge) and Petra had published her edited volume *Queering Planning* (Ashgate). Needless to say we were even more delighted when they both agreed to contribute chapters to what is now *(Sub)Urban Sexscapes*.

We are especially grateful to the various contributors of this volume for their time, effort and patience in working with us and hope that our idiosyncratic ways of editing were not too challenging. As many academic colleagues can testify, putting together an edited volume can be an arduous task. For sure we have had our fair share of bumps along the way, and things have taken us longer than what our publishing editors – Gerhard Boomgaarden, Emily Briggs and, most recently, the ever so patient Alyson Claffey – would have preferred. Working on this book has been a very positive experience and we hope that it will make a small contribution to not only enhancing scholarly knowledge about the sex industry but also policy knowledge too. We wish to thank the editors at Routledge for their patience and agreeing to publish this book. Thanks, of course, should also be extended to the two external reviewers, who saw merit in our proposal and recommended that it be published.

We were keen that this volume had an appropriate cover in order to capture the essence of the title of the book and convinced Gerhard and Emily to let us commission a graphic designer. The wonderful David Perl from Chemistry Design mocked up half a dozen cover designs for us before we decided on the cover that adorns this book.

As editors/contributors we have found that working together in the same place, whether that be in Perth or Sydney (albeit expensive in flights and accommodation), huddled around a desk and computer, and pacing around the room with books and papers strewn everywhere is the most productive and intellectually stimulating way of writing and thinking.

Paul J. Maginn and Christine Steinmetz

1 Spatial and regulatory contours of the (sub)urban sexscape

Paul J. Maginn and Christine Steinmetz

Introduction

This book presents a series of insights into the complex and dynamic spatial and regulatory contours surrounding the sex industry. Illustrated through a mix of case studies drawn from the UK, US, Australia and North Africa, it focuses largely on legal or compliant sex industry activities such as adult retailing, strip clubs, queer spaces, pornography and BDSM (bondage/domination, sadism and masochism) venues. Sex work/prostitution is, of course, also examined as this activity is one of the most common aspects of the sex industry; it provokes considerable controversy and often occupies an ambiguous legal standing in many countries. The contributors to this volume are urban geographers, planners and sociologists whose interests lie in making sense of the spatialities, mobilities and regulation of sex, sexuality and/or commercialized sex. The primary title of this book – *(Sub)Urban Sexscapes* – seeks to capture the idea that the geographies of the ‘sex industry’ are firmly located within the three spatial domains that define the city:

- the *urban*;
- the *suburban*; and
- the *sub-urban*.

Within each of the domains, commercial sex occupies and cuts across discrete private, public and virtual spaces and invariably provokes an array of regulatory responses. To this end, in this chapter we paint a broad overview of some of the key characteristics of different aspects of the sex industry and the spatial and regulatory contours that surround them. We begin with the most common form of commercialized sex, pornography.

It should be noted that issues such as human trafficking, child pornography, sex with a minor, sexual assault/rape and bestiality are outside the scope of the book. However, it is acknowledged that these illegal practices may be bound up in parts of those areas of the sex industry discussed at the heart of this book. Child pornography, for example, is known to be widely available via the Internet. However, because of the illegality of this type of material it tends to be found more on the ‘dark net’ and shared via text messages and peer-to-peer file-sharing platforms (Wortley and Smallbone 2006; Jenkins 2001). And, in the case of sex work/

prostitution, there can be no doubt that *some* people, mainly women, may have been coerced and trafficked for the purposes of sexual exploitation, and any such acts are reprehensible. However, the claim that *all* women engaged in sex work/prostitution have been coerced and trafficked demonstrates empirical naivety and ideological myopia (Weitzer 2012, 2007; Agustin 2008).

It's all about the porn

At the end of 2013 one of the world's largest pornography sites, *Pornhub*, reported that it had 14.7 billion visitors that year; this equates to 40.32 million visitors per day or 1.68 million visitors per hour (www.pornhub.com/insights). Furthermore, the data from *Pornhub* showed how people were accessing pornography: 51 per cent of viewers used a desktop computer, 40 per cent used a mobile phone and 9 per cent accessed via a tablet. Presumably, those who accessed pornography via desktop computers were doing so from the comfort of their home and/or workplace. Either way, what these data point towards is that pornography cuts across the long-imagined socio-spatial and gendered divide between 'the city' (i.e. the office workplace) and 'the suburbs' (i.e. the residential home). The same might also be true for those who use their mobile phones or tablet devices, but since such electronic hardware are highly portable they effectively allow people to access pornography from almost anywhere – the street, on public transport, at the shopping centre, in a bar or cafe, at university, in a public toilet, and even in the school playground – provided there is telecommunication infrastructure. Put simply, Internet sites such as *Pornhub* and other major free-at-the-point of access pornography websites such as *Redtube*, *You Porn* and *Porntube* appear to have no geographical boundaries in western liberal democracies such as Australia, the UK and the US.

In general terms, the spatial and consumption patterns of pornography have moved in several ways:

- from being largely the preserve of 'dirty old men' to a wider public;
- from print form to being mainly digitized (Internet or DVD); and
- from being stocked in a physical space of 'deviance, immorality and vice' (Coulmont and Hubbard 2010: 191) – the sex shop (often located in the 'zone on transition' within the city) – to now being hosted on a series of servers housed in anonymous air-conditioned buildings dotted throughout the world.

For some commentators, notably 'anti-sex radical feminists', pornography represents a major threat to society, especially in terms of violence towards women and children (Dines 2010; Jeffreys 2008; Dworkin 1998). These claims are succinctly captured by Tankard Reist and Bray, who argue:

[The] largely unregulated pornography industry has colonised *private* and *public* spaces at a rate that presents significant challenges to women's and children's rights. The *mainstreaming* of pornography is transforming the

sexual politics of intimate and public life, popularising new forms of anti-women attitudes and behaviours and contributing to the sexualisation of children. The pornification of culture is leading to a form of hypersexism that entails an increase in physical, sexual, mental, economic and emotional cruelty towards women and children.

(Tankard Reist and Bray 2011: xiv; emphasis added)

In this interpretation, it could be concluded that pornography for anti-sex radical feminists represents the epitome of heteronormative capitalism and patriarchy. An industry dominated by men who produce sexually explicit material, firstly, for their own financial benefit; next, to satisfy the insatiable sexual (and perverted) desires of other heterosexual men; and, finally, to reinforce the secondary position of women by reducing them to commodified sexual objects. As such, those who are opposed to pornography want to see it much more heavily regulated. As a capitalist enterprise, the porn industry, like all industrial sectors, is constantly seeking new ways to maximize its profits via the creation of 'new' products or genres (e.g. gonzo, kink and parody), pushing the technological frontier so that video streaming can be more efficient and cost effective, and offering free content (loss leaders) in order to increase website traffic in the hope of luring visitors to pay a one-off fee or take out a monthly subscription.

Interestingly, this hyper-negative portrayal of the porn industry and claims that porn is a male-centric enterprise has been challenged with the emergence of 'feminist porn', a sub-genre and movement that commenced in the 1980s and now comprises heterosexual and lesbian female porn directors and female scholars who take a pragmatic and/or 'pro-sex' view of pornography. *The Feminist Porn Book* (Taormino *et al.* 2013) is a case in point in that it claims to represent the 'first collection to bring together writings by feminist porn producers and feminist porn scholars to engage, challenge, and re-imagine pornography' (*ibid.*: 9). Moreover, this edited volume pushes back against anti-sex radical feminist arguments that have 'cast pornography as a monolithic medium and industry and make sweeping generalizations about its production, its workers, its consumers, and its effects on society' (*ibid.*: 9). The efforts of feminist pornographers and scholars appear to be ultimately about 'the democratisation of desire' (McNair 2002: 166).

The ubiquity of pornography in the twenty-first century serves to highlight the dynamic spatial contours of not just the porn industry but the wider sex industry. As illustrated throughout this volume, the sex industry and sexuality are deeply woven into the physical, economic, social and cultural fabric of the city and (sub)urban experience. That said, concerns about the accessibility of pornography, its potential negative impacts on children and women as it becomes mainstreamed and normalized have raised questions about the nature and effectiveness of the regulatory contours surrounding pornography and the wider sex industry. There has been a call from certain quarters that more stringent regulations are needed in order to 'stop porn culture' (Dines 2011, 2010) and end prostitution (Jeffreys 2008).

Sexing the suburbs

It is not only pornography that has become increasingly commonplace, especially within urban areas, so too have other forms of commercial sex, adult entertainment, and subcultural sexual practices. Sex industry activities invariably manifest within physical (most typically produced and consumed within the city) and virtual spaces. However, in the last two decades, it would appear that all manner of commercialized and commodified forms of sex can be found in various public and private spaces within (sub)urban, regional and rural locations.

The marital bedroom in a heteronormative coupled household, for example, has tended to be framed as a space *of* and *for* reproductive sex more so than a space *of* and *for* sexual pleasure; this is especially true in societies grounded in particular religious beliefs (Hubbard 2011). Yet commercialized forms of sex in the guise of sex toys, fetish clothing and apparel, and pornographic magazines and films have transgressed this most private and heteronormative of spaces. The prevalence of sex toys and pornography in the bedroom, hidden in the bottom drawer or in a suitcase under the bed, would seem to suggest a more relaxed attitude towards sex and sexuality among men *and* women. Indeed, in relation to gendered sexual attitudes, McKee *et al.*'s 2008 study of Australians' consumption of pornography found that 17 per cent of consumers were women, up from 10 per cent based on an earlier survey by Potter (1996). As McKee *et al.* (2008: 28) have noted, 'you can find porn users everywhere in Australia'.

Similarly, there has been a *feminization* of the adult retail sector with the emergence of erotic or sensuality boutiques that tend to be owned by women, staffed by women, oriented towards female customers and underpinned by a feminine philosophy. These types of adult retail outlets have sought to evade being labelled sex shops and as such they have managed to move into the high street and suburban shopping centres. *Ann Summers*, for example, a British-based sex shop chain that began in 1970, has arguably been at the forefront of the spatial mainstreaming of adult retailing (Kent and Brown 2006) – there are now over 140 stores throughout the UK and Ireland. Interestingly, some of these female-oriented sex shops, and in particular, *Ann Summers*, have managed to directly infiltrate the suburbs by adopting the same sales technique – party planning – initially used by Tupperware in the 1950s (Smith 2007). The *Ann Summers* company website claims that 'There are over 2,500 parties held each week by over 5,000 dedicated ambassadors across the UK'. These ambassadors are almost exclusively female and their parties take place in people's homes where the customers are also predominantly women. This is an international trend; Jackman (2010: 14) comments about the booming erotic retail market in Australia:

Once, sex toys and erotic apparel could only be bought in dingy stores hidden down lanes and in industrial estates. But that was when men bought them. Now, as women around the world are seduced by a marketing push that takes vibrators out of the back alley and into the shopping mall, positioning them as just another must-have fashion accessory for the gal who has everything, the ground has shifted once again. Forget Saturday nights at home waiting for a

man to call – or your husband to come home from the pub. Today, the modern woman is just as likely to be found at a ‘toy party’, discussing the relative virtues of a *Rabbit* versus a *Lelo*, erotic fiction versus film...

In addition to, and complementing the spatial mainstreaming of commercialized forms of sex, there also appears to be an ongoing cultural and commercial mainstreaming of sex and sexuality if sales of E. L. James’s (2011a, 2011b, 2012) *Fifty Shades* book trilogy are any measure of things. The ‘*Fifty Shades* effect’ has been credited with advancing women’s sexual liberation and exploration. This echoes the earlier cultural and commercial impacts of Candace Bushnell’s best seller *Sex and the City* (Johnston and Longhurst 2010), which exemplified the notion that global cities, such as New York, are the epicentres of urban cosmopolitanism. Relatedly, the lifestyle and sexual escapades of the four female protagonists were emblematic of an ‘aesthetic cosmopolitanism’ (Urry 1995) and ‘cosmosexuality’ (see Chapter 2 of this volume). The television series of *Sex and the City* also lays claim to being responsible for a dramatic increase in the sales of a particular sex product.

The spatial contours

In basic terms, the sex industry exists within three broad spatial domains – ‘the urban’, ‘the suburban’ and ‘the sub-urban’. These three spaces intersect with one another and are simultaneously physical, imagined and fluid in terms of their boundaries and structures. The sex industry of course permeates those spaces – peri-urban, ex-urban, rural and remote – well beyond the boundaries of our major settlements. The idea that there is an urban-rural divide when it comes to the sex industry is a spatial myth.

The *urban* is used here to describe, in general, those spaces and places that most people would recognize as constituting or symbolizing the geographical centre of the city – the central business district (CBD) – those gritty spaces that define the city and urban life – the inner-city, industrial areas or zones of transition – and those discrete night-time economy spaces or entertainment precincts, often located within the CBD or inner-city area. The urban is the space where the commercial sex industry tends to flourish as it provides ready access to an ample customer base. As noted by Hubbard (2011), these are spaces which allow people to come together to interact, socialize and offer up the opportunity for transactional sexual encounters via visiting a strip club, a brothel or street-based sex worker, or engaging in casual sex with a stranger they meet in a bar or nightclub. As discussed throughout this volume, while there may be relatively more commercial sex venues within the city, the sex industry is still subject to considerable regulation – licensing, zoning and age restrictions – and monitoring from the police and other governmental agencies.

The *suburban* refers to that space that lies physically beyond the CBD and the inner-city: a space that is symbolically – historically and contemporaneously – associated with the idea(l)s of the nuclear family, homeownership, female

domesticity, monogamy and, ultimately, heteronormativity. As such, it is a space that tends to hold a special place within the political imagination and is reflected in the tight regulatory contours that tend to be drawn around the suburbs to protect them and their inhabitants from the deleterious and socially contaminating effects of the sex industry (Maginn 2011). The reality, of course, is that the suburbs are by no stretch of the imagination commercial sex-free zones. If anything, adult male *and* female suburbanites are one of, if not *the* major driving force, given that the majority of us live in suburbs, sustaining the commercial sex industry as a result of being the main consumers of high street or online sex shops, strip clubs and online pornography. Furthermore, suburbanites are also active agents in the (re)production of commercial sex through their direct involvement in various forms of ‘erotic labour’ such as sex work/prostitution (Davies and Feldman 2005; O’Neill 2005) and escorting (Maginn and Ellison 2014), stripping (Sanders and Hardy 2014), BDSM (Newmahr 2011), pornography (McNair 2012; Attwood 2009) and ‘camming’ (Booth 2010).

The *sub-urban* refers to a range of spaces and practices that may be deemed ‘underground’ and ‘exclusive’ wherein sub-cultural groups such as fetishists and kinksters engage in BDSM practices. Other examples of sub-urban spaces and practices would include: gay beats and glory holes; cottaging and cruising; dogging and swinging (Hennelly 2010; de Visser and McDonald 2007; Bapst 2001). Again, these types of spaces and practices traverse both the urban and suburban and may be found in private (e.g. homes or clubs), public (e.g. parks) and virtual (e.g. social networking sites) spaces.

The regulatory contours

The broad macro-regulatory contours that surround the sex industry are twofold and inter-related. On the one hand there is moral regulation, and on the other hand, political and bureaucratic regulation. The rigidity of our moral regulations on issues of sex and sexuality has ebbed and flowed over time, space, social classes and gender; changes in our moral compass have occurred in response to ‘major political, intellectual and social trends’ Dabhoiwala (2012: 3) and that ‘since the dawn of history every civilization had prescribed severe laws against at least some kind of sexual immorality’ (ibid.: 5). The mid-nineteenth century marks the beginning of the first modern moral panic in relation to sex work/prostitution. Sex work/prostitution was portrayed as not just an immoral activity but a major social and political problem that warranted major government intervention (Hubbard 2011; Sullivan 1997). A renewed moral panic and crusade against sex work/prostitution and pornography has emerged in the last decade or so (Gira Grant 2011; Davies 2007; Weitzer 2006; 2005). As Gira Grant (2014: 39–40) notes:

The contemporary prostitution debate might appear to have moved on from the kinds of concerns moral reformers in the late nineteenth and early twentieth centuries expressed, but it has only slightly restated the questions from, What do we do about prostitution? to, What do we do about prostitutes? According

to the twenty-first-century heirs to the battle for moral hygiene, this is to be understood as a way of focusing on the prostitute as victim, not criminal.

Those at the forefront of this renewed moral crusade – ‘anti-sex radical feminists’ and Christian groups – seem, at first glance, an unlikely coalition given their inherently opposing views on other social issues such as abortion, same-sex relations and gender equality. That is, many anti-sex radical feminists are left-leaning in their political outlook, often lesbian in terms of their sexual orientation, supportive of abortion and opponents of patriarchy. Conversely, Christian organizations tend to harbour neo-conservative attitudes in relation to abortion and same-sex relations. More crucially, however, fundamental religious organizations are a complicit facet of the patriarchal apparatus that discriminates and oppresses women. Weitzer (2006: 33) describes this coalition as a ‘marriage of convenience’, a marriage that hinges on a paradoxical desire to ‘protect’ women, and by extension the family, from exploitation and moral turpitude. Despite the dismantling of some traditional sexual morals, it is clear that others appear to be more stubborn in character, and rightly so in certain cases.

Under normative policy-making conditions it might be expected that policy-makers – political and bureaucratic – would devise and implement policies based on evidence and rationality. However, as exemplified in recent (2014) parliamentary hearings in Northern Ireland, policy issues relating to sex and sexuality tend to be politicized and often framed under the rubric of a moral panic. As Cohen (2004: 1) has noted:

Societies appear to be subject, every now and then, to periods of moral panic. A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnoses and solutions; ways of coping are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible.

In an urban planning policy context, Stein (2008: 176) notes that ‘moral issues are not relevant planning considerations’. This suggests that planning and planners are actively engaged in upholding the technocratic values and rational comprehensive philosophy that underpins their professional practice. As Stein goes on to state, however, this ‘does not mean that [morals] are not considered’ by planners. There are several inter-related reasons for this. First, all modes of bureaucratic planning are embedded within political structures such as local councils or state or national governments and as such controversial issues quickly become political issues. Second, ‘[m]oral issues are ... part of the fabric of a community’ (ibid.: 176), hence they are essentially unavoidable issues. And, finally, ‘moral issues become relevant [planning considerations] when recast as a question of “amenity” in which moral values are critical in the consideration of applications for development approval’

(*ibid.*). Hence, while it may not be possible for community members or political actors to officially object to development proposals for sex industry premises such as a sex shop, brothel or strip club on moral grounds, especially when such activities are deemed legal enterprises, they can assert that such proposals may have negative amenity consequences (car parking, congestion, overshadowing and noise) on a local area and should be prohibited or placed elsewhere where their negative effects will be reduced (see Chapter 13 of this volume).

As noted throughout the academic literature, the various facets of the sex industry, especially sex work/prostitution, have long been the subject of a complex mix of political and bureaucratic interventions under what might be termed the regulationist – suppressionist – welfarist model (Scoular and O’Neill 2007). The implementation of this approach has involved a diverse mix of agents from, most notably, the police, public health and planning (Hubbard 2011; Weitzer 2010; Matthews 2008; Shaver 1985). And, as Maginn (2011) has summarized, this overarching approach is based on an inter-related set of motives that include:

moralistic (i.e. to save women’s minds, bodies and souls from a life of vice); *medical* (i.e. to prevent the spread of sexually transmitted infections); *social* (i.e. to prevent the corruption of society, especially men); and *economic* (i.e. to ensure that men remained productive units of capitalism by protecting them from the temptation of prostitution and the possible ill-health effects from being with a prostitute).

As Maginn and Steinmetz show in Chapter 2, commercial sex premises exist all across the Sydney metropolitan region. Despite being recognized as a legal enterprise and land-use the regulatory landscape across Sydney is by no means universal.

Despite the first sexual revolution between 1660–1800 (Dabhoiwala 2012) and the second in the 1960s, the progressive legalization of homosexuality, the ubiquity of sexualized imagery in newspapers and magazines, advertising billboards, television and films and, of course, the Internet plus the consumption and presence of commercialized forms of sex in all manner of spaces, sex still somehow manages to provoke major controversy and anxiety within the twenty-first century.

The seemingly persistent societal taboos surrounding sex, especially commercialized and/or supposed deviant sexual practices, appear to be perpetuated by a thin yet powerful strata of social and political elites. They seem to be primarily concerned about the *normalization* and *suburbanization* of non-heteronormative sexual interests, production and consumption. The suburbs in western liberal democracies such as Australia, the US and UK have long been heralded as spaces that are quintessentially emblematic of social order, family values and heterosexual relationships. As such, policy-makers, mainly via planning and zoning regulations, policing and health controls have sought to inoculate the suburbs and suburbanites from the deleterious effects of non-heteronormative and commercialized sexual practices. Despite the deployment of different forms of regulation designed to contain, control and even eradicate certain sexual practices and groups, the ‘sex

industry' remains pervasive and in a constant state of dynamism as it reacts to regulatory pressures and market forces. So too do consumer demands and preferences for commercial sexual products and services.

Overview of this volume

This book is divided into two main parts: (i) *geographies* of the sex industry and (ii) *regulation* of the sex industry. Ultimately, all the chapters, on some level, are concerned with both the spatial and regulatory contours that surround the commercial sex industry. The various chapters in Part I give emphasis to the *geographies* of sex industry premises such as adult retail shops, strip/lap-dance clubs, BDSM venues, red-light districts, and virtual spaces. These chapters raise a number of challenging suppositions in relation to where are the 'best' or 'most appropriate' locations, if any, for sex industry premises. More specifically, questions are raised about the need to distance commercial sex premises away from spaces (i) deemed heteronormative ('the suburbs'), (ii) where children may pass through (in)frequently and (iii) considered to entail sensitive land uses (e.g. places of worship, schools), and about (iv) the (in)ability of decision-makers to ascertain what constitutes an adult shop (or other sex premises) in a constantly evolving industry. Additionally, the dangers of implementing policies designed to sanitize the sexualized past of the city, or parts of it, in the pursuit of urban renewal are also considered. In Part II, greater emphasis is given to the regulatory practices. The geography of analysis is international in scope with individual case studies drawn from the 'real world' – the UK, US, Australia and North Africa – and the virtual world (i.e. the Internet). The common thread that runs through all the chapters in this section of the book is the role of heteronormative idea(l)s in framing the regulatory approaches to render the sex industry 'out of sight, and out of mind' by locating premises in peripheral locations. Such actions are underpinned by a desire to maintain and perpetuate social and moral order so as to protect society (and the economy) from the corruptive influences of commercialized and non-heteronormative forms of sex.

Ultimately, what all the contributions to this volume highlight is the simple fact that the sex industry has become increasingly 'mainstream' – spatially, socially, culturally and, of course, commercially – in the face of ardent regulations since at least the nineteenth century that have sought to stop the *normalization* of commercial sex and alternative sexualities. As will be seen throughout this volume heteronormativity looms large in the analysis of the regulation of commercial sex. The following section provides an overview of the basic arguments and ideas that run through the book's individual chapters.

Paul J. Maginn and Christine Steinmetz (Chapter 2) build on the ideas of 'world cities of sex' (Hubbard 2011) and 'urban cosmopolitanism' (Binnie *et al.* 2006) to show that the sex industry (and sexuality more broadly) are constituent elements of what makes a city 'global' and 'cosmopolitan' in character and outlook. Hence, it should come as no surprise to find commercialized forms of sex and non-heteronormative sexualities and practices in global(alizing) cities because they are spaces

of anonymity and atomization (Houlbrook 2006). Indeed, sexual diversity should be expected. Their existence adds to the ‘authenticity’ of the urban experience. Relatedly, the diversity of sexualities that exist within global cities helps thicken the veneer of being cosmopolitan spaces. To this end, Maginn and Steinmetz suggest that when considering a city’s attitude to commercial sex and sexual diversity and the topography of the sex industry what is at stake here is a city’s degree of *cosmo-sexuality*. They explore this concept empirically by analysing the (sub)urban sexscape of Sydney, Australia.

In Chapter 3, Amber Martin’s research on sex shops provides an in-depth exploration of how the adult retail landscape varies dramatically in England’s cities. She begins with an historical perspective of how sex shops have been stereotypically perceived – masculinized, seedy spaces often located in fringe or industrialized areas – but notes that the adult retail sector has evolved and diversified over time. ‘New’ types of adult retail stores – erotic boutiques – with a more upmarket and female customer base have emerged in the last decade. These types of stores, despite being ‘adult only’, have repackaged themselves to look more like a ‘normal’ shop and in the process of doing so they have managed to evade traditional planning and licensing regulations. Simultaneously, policy-makers have been unable to keep pace with the changes in the adult retail sector. Martin argues that this has resulted in subjective and ambiguous decision-making around this type of land-use and business. The chapter provides a colourful description and critical analysis of the shifting geographies and typologies within the adult retail landscape. These changes are indicative of wider society’s shifting attitudes about the visibility of sex and sexuality in our cities and, in particular, on our high streets.

With a population of just over 600,000 and 7.9 strip clubs per 100,000 residents, Portland, Oregon, also known as ‘Pornland’, is a city that has more strip clubs than Las Vegas. Moriah McSharry McGrath’s in-depth qualitative analysis of the strip club scene in Portland (Chapter 4) explores local community perceptions about the neighbourhood impacts of strip clubs. The stereotypical assumption that sex industry premises only transmit negative secondary effects is challenged. McSharry McGrath shows that a complex, but generally positive, set of relations prevail between clubs and their neighbours. It is argued that one of the key reasons why there are so many strip clubs and positive relations between different groups exist is because of a strong underlying libertarian attitude among Portlanders. Ultimately, strip clubs have become a mundane part of Portland’s urban landscape and are ‘inextricably linked with the city’s civic image, appearing in both local and national media’.

Most of the academic literature pertaining to sex work/prostitution focuses on women. In Chapter 5, John Scott, Catherine McPhail and Victor Minichiello break with this tradition by turning the spotlight on the issue of male sex work (MSW). They identify the increasing attention to sex work on a global platform, this interest also now includes male sex workers – although the research on the latter is minimal. Their chapter presents a wide ranging synopsis that highlights similarities and differences between male sex work and female sex work. Furthermore, they show that changes in technology (i.e. mobile phones and the Internet) have had

significant socio-spatial impacts on the structure, organization and mobilities of those involved in MSW. Put simply, their thesis is that telecommunications offers 'new spaces for the expression of masculinity and intimacy'. Relatedly, these technological changes indicate the need to develop more accessible services and support programmes, especially in regional and rural locations in order to ensure better sexual health practices.

Jason Prior and Andrew Gorman-Murray (Chapter 6) adopt a legal geographies approach in their analysis of the multi-scalar governance that surrounds commercial sex within Sydney. They demonstrate that despite being recognized as a legal form of employment, business and land use, commercial sex is still essentially viewed through a moral lens that privileges 'coupled monogamous heterosexuality and reproduction as the social norm'. Furthermore, they note that this standpoint has become institutionalized among various regulatory authorities and thus created a moral geography by trying to separate overtly sexualized spaces from domestic ones. This is evident at the local government level where a number of councils have used planning and zoning to minimize and even eradicate commercial sex premises. Simultaneously, however, there have been 'instances where jurisdictions have sought to challenge this separation through the provision of new *rights*' to sexual minorities. Ultimately, this points to the shifting sands of the moral geographies underpinning Sydney's (sub)urban sexscape.

Undoubtedly, bondage/domination, sadism and masochism (BDSM) remains one of the most hidden and taboo aspects of legal sexual practices. In Chapter 7 Christine Steinmetz and Paul J. Maginn highlight that a BDSM aesthetic has found its way into the cultural mainstream via the appropriation of the materiality associated with this subcultural practice in pop music videos, designer clothing and erotic literature. All of this has essentially had a catalytic effect in terms of the consumptive mainstreaming of BDSM-'lite' merchandise. Relatedly, there has been a growth in people exploring BDSM practices in a number of spaces: the home, BDSM-themed dance party events, commercial or private dungeons and online social networking sites. In short, BDSM has become highly 'suburbanized' as it has found its way into heteronormative spaces. Intriguingly, however, there has been no research on the geography and/or planning regulations surrounding BDSM spaces in Australia. This chapter therefore breaks new ground by exploring the nature of the BDSM scene in Sydney and the regulatory frameworks that surround this land-use.

In contrast to experiences in Portland, Chapter 8 by Phil Hubbard and Billie Lister highlights that the growth in the strip club industry, or sex entertainment venues (SEVs), in the UK over the last 10 years has provoked considerable anxiety among politicians and within certain local communities. Survey research underpinning this chapter suggests that people tend to be ambivalent about the presence of strip clubs within the city, especially if they are located in night-time economy (NTE) spaces. Concerns tend to be raised however when SEVs are located in spaces where children and young people might pass through or use on a regular basis – this of course includes NTE spaces located in city centres – on account of 'dread risks' associated with this land-use. Hubbard and Lister contend

that ‘the contemporary regulation of lap-dancing clubs in British cities creates an imaginary divide between heteronormative spaces of social reproduction and spaces of sexual commerce’. Moreover, they question the political rhetoric used to, on the one hand, frame lap-dance clubs as spaces that attract ‘perverts’ and, on the other hand, ‘privilege’ family spaces and articulate the need to distance commercial sex premises away from spaces where children might routinely be present.

Pornography is arguably the most ubiquitous form of commercial sex. Drawing on Habermasian ideas about the ‘public sphere’ Alan McKee, Brian McNair and Anne-Frances Watson (Chapter 9) highlight that the politicization of sex and the prevalence of pornography within late modern society has given rise to the *pornosphere*. That is, the virtual communicative space within which information and representations of stylized forms of sex and sexuality circulate and provide a window of opportunity for people to express their sexuality and engage in sexual experiences as consumers and/or producers. The *pornosphere* is a dynamic amorphous realm filled with a bewildering array of content that is easily accessible. This ease of accessibility has invariably raised questions about how best to regulate the *pornosphere* so as to protect society, especially children, from material deemed to be beyond community standards. Somewhat controversially, McKee *et al.* raise the rather thorny question of what materials should we allow children to see. They argue that we need to adopt an educational approach to pornography filtered through the use of online community standards developed and enacted by government and parents.

Generally speaking, most red-light districts tend to be the product of market forces as opposed to being bureaucratically planned spaces. There is, however, evidence of such planned sexscapes – Yosahiwara (Tokyo, Japan); and, Boys towns or Zonas de Tolerancia (Mexico) – which reflect government efforts to control and contain ‘illicit’ activities. In Chapter 10 Jean-François Staszak draws on archival research to illustrate the role of colonial French authorities in creating another example of a planned and exoticized red-light district – Bousbir (Casablanca, Morocco) – in North Africa. Drawing on Foucault and Said, Staszak highlights that as a ‘master-planned and gated community’, Bousbir was a deliberate attempt to create a socio-spatially ordered ‘oriental Disneyland for adults’ under constant surveillance within the wider spatial contexts of Casablanca. Moreover, Bousbir was designed and regulated in such a way that ‘prostitutes’ from Moorish, Jewish and European backgrounds were physically segregated from one another and permitted to provide services to men from particular cultural/ethnic backgrounds. European prostitutes could only service European males whereas those of a Moorish background were permitted to see men from any background. These arrangements merely reflect and reinforce colonial authority.

According to the Global and World Cities Research Centre (2012), Atlanta, Georgia ranks as an Alpha+ world city. It is also home to one of the world’s largest corporations – Coca-Cola – and to Delta Airlines, one of the largest air carriers in the US. Furthermore, it is seen as the centre of African-American political power and wealth. To this end, Atlanta may be viewed as having many of the characteristics that define a cosmopolitan city. Yet interestingly, this cosmopolitanism does not seem to

extend to the LGBT community located in Atlanta's fringe areas. Petra Doan (Chapter 11) highlights through a detailed qualitative analysis of planning documents, media sources and in-depth interviews, that zoning and licensing regulations are adversely affecting established LGBT spaces and communities. Strict enforcement of municipal regulations in relation to LGBT establishments (bars and clubs) and adult enterprises have contributed to the closure of several iconic LGBT institutions. Doan documents this 'cleansing' of LGBT areas and suggests that heteronormative and urban renewal pressures underscore this purging of queer spaces in Atlanta. Two major interrelated impacts arise from this: a loss of queer spaces (bookshops, entertainment venues, commercial sex spaces) resulting in an undermining of a sense of community, belonging and place; and, an increase in property values and a lack of affordable housing within LGBT neighbourhoods for younger people who seek to live, work and socialize within these spaces.

Penny Crofts and Barbara Brents (Chapter 12) adopt a legal geographies approach drawing on the concept of *nomosphere* – the 'mutual constitution of the legal and the spatial and their intertwinement with power' (Delaney 2010: 6) – in their comparative analysis of the regulation of sex work/prostitution in New South Wales (NSW) and Nevada, where this form of sex work is legalized. They demonstrate that there are some broad similarities in the evolution of sex work/prostitution in both states with certain areas emerging as major night-time economy hubs such as Kings Cross, Reno and Las Vegas. However, there are stark differences in the contemporary regulatory regimes and spatial patterning of sex work/prostitution in NSW and Nevada. In NSW sex work/prostitution has been decriminalized and as such it exists in a variety of spaces and places. Conversely, legal sex work/prostitution in Nevada is spatially confined to particular counties outside the major gambling centres of Reno and Las Vegas despite these being hyper-sexualized spaces in their own right.

For Chapter 13 Eric Kelly and Connie Cooper bring over twenty years of professional planning experience working for various local government across the US who have sought to regulate the location and presence of legal sex businesses. Adopting a reflective practitioner perspective they establish that sex industry businesses are afforded the 'right' to exist and operate under the First Amendment (freedom of speech) of the US Constitution. Hence, local governments will find it challenging, if not impossible, to ban sex businesses from setting up in their jurisdictions. Nevertheless, since sex businesses transmit negative secondary effects local governments are well within their rights to assert their planning and zoning powers to regulate the location and operation of such businesses. These rights have been supported by various court decisions throughout the US.

Sub(Urban) Sexscapes concludes with Maginn and Steinmetz (Chapter 14) pondering what broad courses of action are needed in order to develop a more effective approach to the socio-spatial regulation of the sex industry. In short, the approach we have in mind advocates a need for policy-makers to be *realistic* about the historical and contemporary presence of the sex industry in the city and its role in contributing to the vibrancy of the urban experience. Relatedly, policy-makers need to acknowledge that efforts to regulate the 'sex industry' into extinction are

a policy and political fantasy. This should not be interpreted to mean that a laissez-faire approach to the regulation of the sex industry be adopted. Rather, commercial sex premises ought to be regulated in the same way as other legalized land-uses and activities. Finally, effective regulation of the sex industry can be more readily achieved through inclusive consultation and participation with the sex industry in policy-making processes.

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Part I

Geographies of the sex industry

2 Cosmo-sexual Sydney

Global city status, urban cosmopolitanism and the (sub)urban sexscape

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Introduction

The inhabitants of all our cities (towns and villages) are, ultimately, the product of (hetero)sexual relationships. This does not mean however that all inhabitants within our cities are heterosexual. This can be readily seen, for example, by the large lesbian, gay, bisexual and transgender (LGBT) communities found in cities such as San Francisco, New York and Palm Springs in the United States, London, Brighton and Manchester in England, Amsterdam and Berlin in Europe and Sydney (Australia). While most of these cities may be seen as somewhat 'global' and 'cosmopolitan' in character it is important to stress that LGBT individuals and communities also exist in stereotypically less progressive spaces such as rural towns. As Gates (2006: 1) has noted, 'news that same-sex couples lived in nearly every county of the United States marked one of most reported on statistics from the release of Census 2000 data'. Nevertheless, the 'fact' that we are essentially the biological products of heterosexual sex and that heterosexuality is the dominant sexuality helps reify the idea(l) that our cities are essentially heterosexual spaces and that this is the *natural* order of things. Subsequently, this gives rise to the notion that the sexuality of and within our cities, historically and contemporaneously, is underpinned and managed by a heteronormative logic and technology. As Hubbard (2008: 643) notes:

heteronormativity is a term that captures the imposition of certain beliefs about sexuality through social institutions and social policies. These ideas concern a 'normative heterosexuality' in which it is assumed individuals' sexual identities conform to a social norm of heterosexual love, sex and reproduction. Far from being one sexual choice among many, this stresses that heterosexuality is culturally hegemonic, with the reproduction of a heterosexual/homosexual binary an important structuring device subordinating the homo-sexual at the same time that it institutionalises the heteronormal ... Politicians accordingly extol the virtues of the (heterosexual) nuclear family and support it with a range of income tax and other measures, while they often decry recognition of same-sex relationships: 'heterosexual

relationships are legitimately public, and deserving of recognition; same-sex relationships are not[.]

The sexual norms that tend to define heteronormativity (i.e. reproductive sex within a heterosexual coupled relationship) also means that sex is associated with particular spaces, most notably the marital bedroom within the family home. Sexual practices that take place outside of these social relations and private spaces have tended to be deemed ‘abnormal’ and ‘deviant’. Yet, despite the omnipotence of heteronormativity, our cities offer all manner of spaces, albeit often marginalized, ‘underground’ and increasingly virtual, for minority sexual groups (gay, lesbian, bisexual, transsexual, sex workers and adult entertainers) and practices (cruising, cottaging, dogging, home-made pornography, BDSM and sexting) to take place (Lewis *et al.* 2013; Johnston and Longhurst 2010; Ashford 2007; Bell 2006; McNair 2002). Of course, heterosexuality is also bound up in these various ‘deviant’ sexual groups and practices in the sense that heterosexuals, mainly males, are often complicit in their production and/or consumption, including engaging in homosexual sex acts with other men via ‘glory holes’ (Bapst 2001).

Drawing on Hubbard’s (2011) ideas about world cities of sex, the role of the sex industry as an important facet of the everyday practices and identity of global cities is outlined. Next the chapter expands Binnie *et al.*’s (2006) concept of ‘cosmopolitan urbanism’, which emphasizes (and critically analyses) the role of sexuality and, in particular, the emergence of queer communities plus the consumption and (re)production of queer spaces in branding a place ‘cosmopolitan’. Put simply, it is suggested that ascertaining the sexual cosmopolitan-ness or, what might be termed, the ‘cosmo-sexuality’ of the city must also include an analysis of the extent and diversity of the wider commercial sex industry and how it is regulated by the state. Finally, an overview of Sydney’s (sub)urban sexscape is presented to highlight the geography and diversity of the commercial sex industry and the broad regulatory contours that surround it in order to ascertain the degree of cosmosexuality exuded by Australia’s largest city.

Sexualizing the global: globalizing the sexual

In his *The World Cities* (first published in 1966), eminent planning scholar Peter Hall sketched out the basic characteristics of what made some of our great cities stand out as world or global cities (Hall 1984). In short, he said that world/global cities are the epicentres of political power, trade, banking, finance and insurance, knowledge and innovation, culture and creativity, and population diversity, as people drawn from around the globe have been attracted to them in search of opportunity. The global (and globalizing) cities that have emerged across the various continental regions do not exist in isolation from one another, rather they thrive upon the fact that they are intricately and intimately related to one another as a result of the development of ‘ever more complex flows of information, money and people’ (Hubbard 2011: 176) between them. In other words, global cities have forged what Beaverstock *et al.* (2000) refer to as a ‘relational metageography’.

While the global cities literature has given attention to the flows of people as units of economic labour, the impacts of globalisation on reinforcing economic inequalities within cities and on certain (minority) communities (Fainstein 2001; Ross and Trachte 1983) and the role of telecommunications in aiding the rapid flow of information, ideas and capital and thus solidifying the relational bonds within the global cities network (Graham 1999) it has, according to Hubbard (2011: 176), tended to overlook the role of 'sex as one of the drivers of the global economy':

Acknowledging the existing networks of business and finance are sexualised in various ways provides one perspective on the importance of sex in the making of world cities. But to suggest the sex industries simply follow existing flows of finance and business is to downplay the importance of the sex industry as one of the drivers of the global economy, and fails to recognize that it has its own distinctive geographies ... financial centres ... tourist areas ... transport hubs ... border zones ... centres of conflict.

(Hubbard 2011: 186)

This is further exemplified by the notion of 'global intimacies' whereby Johnston and Longhurst (2010: 131) highlight the 'flows of intimacy, romance, and sex' through commercialized practices such as wedding tourism, mail-order brides, sex tourism, queer tourism and sex trafficking. For Johnston and Longhurst, these various practices are emblematic of 'embodied geographies of sexualities' (ibid.) whereby individuals move through national and international borders, touch down in discrete spaces and help reify the perceived sexual identities of such spaces as well as the sexuality of those who consume them. Moreover, these practices are seen to be, albeit to varying degrees and in different ways, imbued with notions of heteronormativity, patriarchy and capitalist exploitation.

Hence, for example, they illustrate that the wedding tourism industry in New Zealand (NZ) during the early 2000s used the dramatic natural landscapes of NZ and marketing tag lines such as '100% pure romance' as discursive tropes not only to attract prospective couples, but to reinforce notions of the naturalness and purity associated with heterosexual marriages. This leads Johnston and Longhurst (2010: 137) to conclude that 'Wedding tourism ... is a useful lens through which to highlight the production and global flow of heterosexual bodies'. While wedding tourism may be underpinned by softer forms of capitalist and heteronormative exploitation via the marketing campaigns of the wedding industry and state tourism departments, other types of global intimacy may be the subject of more nefarious forms of exploitation premised on heteronormativity and patriarchy.

Johnston and Longhurst (2010) highlight that a complex array of socio-cultural processes are in play for both men and women involved in the mail-order bride industry. For instance, it has been argued that men have turned to mail-order brides, particularly from Asia, partly because of the erosion of 'traditional' hierarchical gendered relations within Western liberal democracies (Robinson 1996). Foreign brides from particular countries are 'imagined to be more firmly located within

patriarchal familial structures and, paradoxically, are represented as being more suited than First World (usually white) women to maintain “traditional” family values’ (Johnston and Longhurst 2010: 139). Ultimately, it is the men, as the initiators of such transactions, who remain in a position of control and authority whereas the women tend to be seen as ‘socially and economically dependent on their husbands and that they may become victims of domestic abuse’ (ibid.: 140). When seen as (purely) a form of commercial sex, mail-order brides are conflated with other ‘darker sides of global issues related to sex’ (ibid.: 143). For radical feminist scholars and commentators such as Sheila Jeffreys (1999, 2007, 2009), Melissa Farley (2003), Gail Dines (2010; Dines *et al.* 1998) and Julie Bindel (2008, 2013), any form of commercial transaction whereby women are paid for and thus expected to engage in sexual acts/performances, whether they be in private with their husband, in a public place such as a car park or in a commercial space such as a brothel with a client, or in a performative space such as a strip club or the set of a pornographic movie, are all deemed to be prostituted. Furthermore, since the various tentacles of the commercial sex industry – sex work, pornography and stripping – have ‘industrialized and internationalized’ (Jeffreys 1999: 185) those women engaged in such industries are seen as victims of global human trafficking.

Commentators such as Weitzer (2005, 2007, 2011) and Agustin (2006, 2008) however reject claims by anti-sex radical feminists that *all* women engaged in various types of commercial sex work are there as a result of coercion, exploitation and/or trafficking. There can be no denying that *some* women have indeed been directly coerced into the sex industry by another party and transported from place to place or sold on to other parties; and, there is also no doubt that *some* women have taken up sex work as a result of ‘constrained choices’, for example, pay for a drug dependency issue, to help with costs of running a household, or to get through university and pay-off student loans (Roberts *et al.* 2007, 2010, 2013; Magnanti 2012; Hardy *et al.* 2010; Sanders *et al.* 2009; Campbell and O’Neill 2006). Weitzer’s (2012) polymorphous paradigm seeks to capture the complex dynamic temporal, spatial and sectoral ‘constellation of occupational arrangements, power relations, and participants’ experiences’ (ibid.: 16) that exist within sex work.

And, in terms of those women (as well as men and transgender individuals who tend to be overlooked in anti-sex radical feminist analyses) engaged in sex work who are highly mobile and move across borders, the claim that they have *all* been trafficked is seen as essentialist. Rather, as Agustin (2006, 2008) argues there is a need to adopt a ‘migration framework’ to analyse the mobilities of sex work and those engaged in this form of labour. In particular, questions about migrants motivations for getting involved in sex work, the nature and duration of their experiences in sex work, and their relationships with those who have facilitated their mobility, introduced them to sex work and managed their employment all need to be explored:

The argument I am making should not be understood as part of a ‘debate’ over whether migrant women who sell sex are ‘trafficked’ or not, or whether more women have a bad or good experience of migration. Rather, I argue that a

diversity of projects and experiences granted to other migrants must be granted to these as well, allowing them to be studied as transnational migrants, as members of diasporas, as entrepreneurial women, as flexible workers and as active agents participating in globalisation. Not to do so is to further stigmatise people using sex for instrumental ends and perpetuate a tendency to view commercial sex as the end of virtue and dignity.

(Agustin 2006: 43)

The intra- and international migratory flows of those who engage in sex work, opportunistically and/or professionally, tend to gravitate to larger, more globalized cities since these are likely to offer more opportunities, provide for anonymity and be relatively more tolerant, if not accepting, of sexual minorities and non-hetero-normative practices. In the case of heterosexual pornography for example, the San Fernando Valley in Los Angeles (an Alpha global city, according to Global and World Cities Research Centre 2012, and ranked sixth most global city by AT Kearney 2012) constitutes the global hub of porn production and distribution. However, in recent years, media reports have highlighted that Miami and Las Vegas have begun to emerge as increasingly important sites of commercial *pornospheres* (see Chapter 9 of this volume; McNair 2002) due to a combination of factors. These include: less stringent health and safety regulations, lower cost and ease of obtaining film/location permits; lower production costs due to high definition digital cameras; a pool of potential labour (or ‘talent’, to use porn industry vernacular) and agglomeration effects due to a pre-existing sex industry (lap-dancing clubs, legal brothels, (il)legal prostitution/escorting, casino showgirls) Dreier 2014; Sanford 2013). Michael Whiteacre (personal communication, 12 February 2014), an LA-based journalist, writer and director with extensive experience of the porn industry sums it up as follows:

Miami has become a new porn hub in large part because that area of Florida has very liberal attitudes about nudity and public nudity. As for Las Vegas, it’s because of its proximity to Los Angeles, plus the fact that the city has a great supply of strippers and escorts. Miami, and sunny Florida in general also provide access to new talent. It’s a place where people, particularly college aged people, come to play during Spring Break, for example, and it hosts modelling agencies. In both cases talent supply is the key. Production issues are not as important to the equation in porn these days as relatively little equipment is required in the digital era, particularly in the ‘reality’ or gonzo genres. The most prohibitively expensive part of production can be transporting and housing people and equipment.

In other words, cities such as Las Vegas and Miami have a comparative and competitive advantage when it comes to sex and sexualized bodies for a combination of demographic, cultural, commercial and governance factors. Similar comparative advantages are also evident in San Francisco which, again, according to media reports, has become the ‘world headquarters of the gay adult entertainment industry’

(Buchanan 2007) following an exodus from Los Angeles. Of course, it makes sense that San Francisco would be at the heart of gay adult entertainment since it was: the ‘epicenter of the nation’s counter-cultural and sexual revolution’ in the 1960s (Sides 2009: 4); it is the metropolitan area with the largest proportion of same-sex couples in the United States (US) (Gates 2006); and it is home to the Folsom Street Fair, one of the world’s largest events that promotes fetish, BDSM and gay leather sub-culture. The progressive sexual attitude that is generally associated with San Francisco is reflected further by the fact that it is also home to Kink.com, ‘the largest fetish porn production company in the world’ (Wilkey 2012).

Sydney enjoys a similar comparative advantage in relation to sex work/prostitution and queer spaces and tourism. As a result of being the most populated city/state plus having a decriminalized model of regulation in relation to sex work/prostitution, Sydney/New South Wales (NSW) accounts for the largest share of the *legal* sex industry within Australia. A recent survey by IBISWorld (2013), a leading international business research consultancy, revealed that in 2013/14 the sex industry (i.e. brothels, prostitution, escorts and massage parlours) comprised 330 legal businesses and generated revenue of AU\$149 million (US\$143 million). In terms of the geographical distribution of these types of sex businesses 40 per cent were located in NSW, with the majority of these located in Sydney. Melbourne, Australia’s other global(izing) city, where sex work is also permitted but operates under a licensing model, was a close second accounting for 34 per cent of sex businesses.

San Francisco, Los Angeles, Las Vegas and Miami exemplify what constitutes examples of ‘world cities of sex’ (Hubbard 2011) in that they play a pivotal role in contributing to the global flows of sex and sexuality as a result of being major hubs for the production and distribution of pornography, adult entertainment and/or sex work/prostitution, attracting people from around the US and the world to work within the sex industry. This same is also true of other ‘global cities’ such as London, New York, Paris, Tokyo, Amsterdam, Sydney and Bangkok where other types of commercial sex or global intimacy flourish as a result of their cosmopolitan character, attractiveness as (sex) tourist destinations, corporate business practices, cultural attitudes and legal frameworks.

Urban cosmopolitanism and cosmo-sexuality

Since global cities are the major nodal points that capital, information and people flow to, take root and circulate between they may also be viewed as sites of urban cosmopolitanism in that they are spaces which exhibit ‘an openness to, desire for, and appreciation of, social and cultural difference’ (Binnie *et al.* 2006: 7). Urban cosmopolitanism, when viewed through a cultural lens, tends to be conflated with the concept of multiculturalism and claims that the world can be found within a city. Binnie and Skeggs (2004: 40) have critically highlighted that ‘gay culture occupies a pivotal role within the production and consumption of urban spaces as cosmopolitan’. In other words, for a city to be cosmopolitan it must be both multicultural and multi-sexual in its demographic make-up. Adding to this, a city that touts itself

as being a cosmopolitan space might also be expected to embrace those who engage in the production and consumption of commercialized and/or commodified forms of sex such as sex shops, strip clubs, brothels or BDSM parlours. Binnie and Skeggs are right to be reluctant of Richard Florida's (2002: 256) claim that 'homosexuality represents the last frontier of diversity in our society, and thus a place that welcomes the gay community welcomes all kinds of people'. It is arguably the case that 'sex work' may be the last frontier of diversity within our society given the number of jurisdictions where it is still 'illegal' or criminalized and where various nations are currently exploring the introduction of the Swedish model.

It is contended here that in order for our cities to move towards being 'truly' global and cosmopolitan spaces they must embrace the existence of the production and consumption of direct commercial sexual services (e.g. sex work/prostitution and BDSM), adult entertainment (e.g. stripping and pornography) and sexual products purchased via adult retail outlets. Hence, in the case of world cities of sex the overall cosmopolitan character they exude might be termed 'cosmo-sexual'; a socio-political recognition and acceptance of the existence of different minority sexualities, (consensual) sexual practices and commercialized sex.

Although different sexual groups and practices take place at a variety of spatial scales, they are more likely to occur and flourish within larger cities; As the physical manifestation of capitalism, the city offers both anonymity and windows of opportunity to explore one's sexual desires (Houlbrook 2006). This is clearly evident in our major and more globalized cities which provide room for sexual minority groups, particularly gay and lesbian communities, to establish identifiable sexual spaces such as 'beats', 'gayborhoods' (Greenwich Village, New York; the Castro, San Francisco; Darlinghurst and Newtown, Sydney), 'gay villages' (Soho, London; Canal Street, Manchester) or gay pride festivals (Mardi Gras, Sydney; London Pride; LGBT Pride March, New York). Much like the development of ethnic enclaves, the creation of such 'queer spaces' serve to develop and perpetuate a strong sense of identity, cultural practices and social capital that have culminated in helping LGBT communities in their socio-political struggles for social justice and a 'right to the city' (Doan 2011; Bell and Valentine 1995; Knopp 1994).

However, since various forms of commercialized sex have historically been framed as 'immoral' and 'corruptive' they potentially pose a threat to social order, the economic productivity of men and the vulnerability of women and children. Accordingly, politicians and policy-makers have sought to manage commercialized forms of sex via a number of key regulatory frameworks – many of which are discussed in this volume. The degree to which sexual minority groups and practices are accepted by society and seen as being an intricate facet of the (sub)urban fabric can be measured on several broad inter-related fronts. These include: legislation that affords the same rights, opportunities and protections enjoyed by the majority (heterosexual) population (Knopp 1994); the extent of promotion and encouragement of a diverse, dispersed and dynamic sexualities landscape (Sigusch 1998; Knopp 1994); and the modes of governance deployed to regulate the (in)visibility and spatiality of sexual minorities and commercialized forms of sex within wider society and the (sub)urban landscape (see all chapters in this volume).

Hence, when cities have progressive legislative frameworks, take corrective actions when rights are infringed, and adopt liberal(atarian) approaches so as to foster a visible polymorphous sexual landscape in terms of both sexual minorities and commercial sex premises and activities, they may be seen as spaces exhibiting 'a particular set of skills and attitudes towards diversity and difference' (Binnie *et al.* 2006: 13). Cities that adopt such a positive approach can be defined as engaging in 'proactive cosmo-sexualization'. Conversely, those nations and cities that seek to heavily regulate certain sexual minorities and practices that already exist within their (sub)urban landscapes are engaged in 'reactive cosmo-sexualization' or 'anti-cosmo-sexualization'.

The current wave of interest in the Swedish model of regulating sex work/prostitution in countries such as France, Republic of Ireland, Northern Ireland and Scotland is an example of such anti-cosmo-sexualization. Sex work/prostitution has long been a facet of urban life within the capital cities (and other towns) of these nations. More crucially, it is a legal activity, although the related activities of soliciting, pimping and brothel-keeping are all illegal. The recent decision by the French National Assembly to support the banning of the purchase of sexual services (i.e. the Swedish model) has provoked considerable debate within media, political, feminist and intellectual circles as to whether or not this decision, which also needs to be passed by the Senate in order to become law, may taint France's reputation and image as an egalitarian, liberal, and cosmopolitan nation. (Corbet 2013; Chrisafis 2012) Moreover, the ramifications of the introduction of the proposed new laws are likely to be greatest within Paris, the 'city of love'.

The sex industry in global cities such as Paris, London, Amsterdam and Dublin, and not-so-global cities such as Belfast, are argued to be dominated by 'foreigners' or migrants from an ever-expanding European Union and various parts of post-colonial Africa and Asia. In those jurisdictions considering the introduction of the Swedish model, politicians along with certain feminist and religious advocates who support this approach have claimed that the 'majority' of women in sex work/prostitution are the victims of human trafficking. Such claims have been challenged however by a number of commentators on a number of inter-related fronts. These include: the difficulty in obtaining rigorous statistics on sex workers due to the stigma that surrounds sex work and its clandestine nature; a lack of a nuanced understanding as to the motivations and structures that explain why and how people get involved in sex work and its highly mobile nature; and, an ideological and moral predisposition to frame and politicize sex work/prostitution as an inherently deviant activity that poses a threat to society (Magnanti 2012; Mai 2012; Weitzer 2007, 2011; Agustin 2008).

The move to introduce the Swedish model and the rhetorical framing of female sex workers as 'foreigners' points to the veneer of urban cosmopolitanism reflected in global cities as being beset with contradictions. As Binnie *et al.* (2006: 13) have noted 'cosmopolitan identities intersect with and reproduce other socio-cultural distinctions and cleavages, especially class, and ... the encounter with difference is bound into processes of commodification and materiality'. These distinctions and cleavages combined with the commodification *and* bureaucratization of

difference invariably play out in space with the creation of readily identifiable class, ethnic *and* sexual ‘quarters’, ‘bubbles’, ‘enclaves’, ‘districts’ or ‘zones’. Hence, ‘it might be that the cosmopolis is as much a space of containing diversity as one of appreciating and valuing difference’ (ibid.: 17). This is echoed by other commentators who have highlighted how the state has sought to create a ‘moral geography of sexuality’ by discursively framing minority sexualities as ‘immoral’, ‘abnormal’ and/or ‘polluting’ while simultaneously deploying various regulatory frameworks to relegate them to peripheral locations within the city. Historical and contemporary efforts in the quarantining of non-heterosexual groups and commercialized sex practices to discrete locations is about trying to create a ‘symbolically order[ed] urban space’ (Hubbard 2011: 34). To this end, then, this seems to contradict, or at least challenge, the openness and acceptance of difference that underpins the urban cosmopolitanism of global cities. Such socio-spatial ordering is commonplace within all capital city regions within Australia, including Sydney which is often cited as operating a model of best practice in the regulation of sex work/prostitution and adult entertainment as will be shown below.

Sydney’s (sub)urban cosmopolitan sexscape

The Global and World Cities Research Centre (2012) has recognized Sydney as an Alpha+ world city alongside Hong Kong, Paris, Singapore, Tokyo, Shanghai, Chicago and Dubai. This global city status has also been recognized by major international consultancy firms. AT Kearney’s (2012) *Global Cities Index* ranked Sydney as the twelfth most important city. The Wealth Report (Knight Frank 2011, 2012, 2013) ranked Sydney as being in the ‘top 20’ and within an Australian context, Sydney leads the way as a global city through its economic functionality and interconnectedness (PWC 2010).

Simultaneously, Sydney, along with Melbourne, is positioned as Australia’s most multicultural city region (Maginn 2012). To this extent, both cities vie for the mantle of being recognized as Australia’s most cosmopolitan city (Horvath 2011; Binnie *et al.* 2006). In terms of urban aesthetics, Sydney is arguably Australia’s ‘sexiest city’. This is reflected in the iconic skyline of the city which is dominated by the Utzon-designed Opera House, the Sydney Harbour Bridge, and the dramatic physical landscape of the harbour and the city beaches. It is important to note that when discussing Sydney as a global city, what is essentially being referred to here is the City of Sydney local government area (LGA) given the concentration of economic, social and cultural activities.

As a sexual(ized) city Sydney ultimately exudes a polymorphous identity. Normatively speaking, Sydney, as with most other global cities, will invariably be viewed as a heteronormative city (Hubbard 2011; Doan 2011; Knopp 1994). Of course, people’s perceptions of the sexuality of the city they live, work and play in is also structured by the long historical legitimisation and reification of heterosexuality by the state (Hubbard 2011; Johnston and Longhurst 2010). Simultaneously, however, it is also home to one of the world’s largest and most recognizable gay and lesbian festivals – the Sydney Mardi Gras – which seeks to

act as ‘a major beacon for diversity and gay rights on a global scale with a global brand’ (New Mardi Gras 2011: 6).

This acceptance of diversity did not always prevail in Sydney. As Connell (2000: 10) has noted ‘[f]or much of the twentieth century Australia, and Sydney, were enveloped in a “wowsy” image: the moral conservatism of a city of six o’clock pub closing, the dead Sunday and even Bondi bikini inspectors’. However from the 1950s onwards this moral conservatism began to evaporate as attitudes to sex and sexuality shifted. By the late 1970s brothel-based sex work was legalized and ‘homosexuality emerged from the closet’ as increasing numbers of ‘gays moved into Darlinghurst and Surry Hills’ (ibid.: 11). Recent data from the Australian Bureau of Statistics (ABS 2013a) on the size and distribution of same-sex couples (male and female) confirm that Sydney is very much the epicentre of the gay/lesbian community:

Both male and female same-sex couples tend to live in inner-city suburbs of the capital cities. In fact, the top ten suburbs for male and female same-sex couples were all in inner Sydney. While male same-sex couples make up less than 0.4% of all couples across Australia, they made up 10% to 18% of all couples in the ten suburbs with the highest proportions of people in male same-sex couples.

New South Wales was the first state within Australia to decriminalize sex work/prostitution, recognising it as a legal occupation and allowing street-based sex workers to operate in particular areas in 1979. In 1995 the NSW government then moved to recognize brothels as a legitimate land-use and thereby forcing local government planning departments to incorporate them within their local planning schemes (NSW Government 2001; see Chapter 12 of this volume).

Of the estimated 20,000 sex workers in Australia, approximately 50 per cent are based in NSW. The majority work within a variety of indoor spaces, with 40 per cent of sex workers operating from suburban residential properties (Brothels Taskforce 2001). Others work in brothels, online as independent escorts who make outcalls to clients, mainly to hotels, and in outdoor spaces in Sydney/NSW. Only a minority of sex workers actually work in street-based locations despite being legal to do so.

Sydney’s commercial sex industry includes more than direct sexual services. The city is also host to a large range of adult/sex shops catering for diverse groups of sexually curious/adventurous individuals. Adult entertainment such as strip clubs, gay/lesbian bars and BDSM venues all contribute to Sydney’s thriving night-time economy. These types of commercial sex activities have become increasingly visible not only in discrete ‘vice districts’, such as Kings Cross, but also in inner-, middle- and outer-ring suburbs.

Regulatory and geographical landscape of Sydney’s sex industry

As a global and cosmopolitan city, Sydney provides a plethora of spaces for commercial sex related activities that are ultimately the product of global capitalist

opportunism. As noted in the introductory chapter, the sex industry has been subject to two types of meta-regulation: *moral* and *political/bureaucratic*. Invariably, given the moral panics that have, and continue to surround commercialized forms of sex, politicians and bureaucrats have sought to use various forms of regulation – criminal, health and planning – in an effort to ‘sanitize’ the city (Weitzer 2012; Hubbard 2011; Ryder 2004). As discussed above, a number of nations have or are in the process of reviewing the regulation of sex work. This has also been the case in Australia over the last 5–10 years with various states re-considering their legislative approaches to sex work (Tasmanian Government 2012; NSW Government 2012 WA Government 2007, 2011; Porter 2010; PLRWG 2007). In NSW, for example, the Better Regulation Office published an issues paper articulating that there was a need to update the regulation of brothels (NSW Government 2012: 8):

The NSW Government has committed to improving the regulation of brothels. This is due to concerns about a large number of unapproved (‘illegal’) brothels in NSW and to reduce and/or prevent crime and corruption. The Government has agreed that the objectives of a new regulatory system are the protection of residential amenity, protection of sex workers and safeguarding public health, and that the intention is not to target sex workers or their customers.

Regulation

In Australia, the bureaucratic regulatory domain of the sex industry lies predominantly with state and local governments. Put simply, state governments are responsible for creating and overseeing legislation pertaining to the overall control of commercial sex activities whereas local governments, as planning authorities, are responsible for the spatial management of sex industry land-uses. Essentially, this institutional arrangement of the regulatory landscape surrounding the sex industry is multi-layered. That is, different facets of public policy (e.g. public health, police, occupational health and safety, industrial relations, building controls and planning) intersect with one another thereby creating a panoptical governance regime (Foucault 1997; Chapter 6, this volume). This regime is essentially designed to contain, minimize, and, in some instances, eradicate perceived harms and ‘dread risks’ associated with various forms of commercial sex industry activities (see Chapter 8, this volume).

By way of example, in NSW, sex premises (i.e. brothels) were decriminalized in 1995 under the *Disorderly Houses Act 1995* (now referred to as the *Restricted Premises Act 1943*). This *Act* demonstrated a significant shift in political, social and legal attitudes towards brothel-based sex work/prostitution moving it from being *de facto* criminal activity and a policing only matter, to being a legitimate land-use and thus under the purview of local government planning departments (Scarlett Alliance 2011; Papadopoulos and Steinmetz 2011; Sullivan 2010; Boydell *et al.* 2009; Chapter 12, this volume). This does not mean however that the police have no jurisdiction in relation to criminal activities that may take place in brothels.

Despite the state recognizing sex work as a legal business and land-use activity this decision has not been universally welcomed by all local councils. This is reflected in tightly written planning policies designed ultimately to exclude commercial sex premises from locating within certain jurisdictions. This uneven regulatory landscape across the metropolitan area challenges the idea that Sydney is a cosmopolitan city. Rather, it suggests that the city is a patchwork quilt of urban cosmopolitanism and cosmo-sexuality.

Under the NSW planning system local councils regulate the location and number of commercial sex industry premises – sex shops, brothels, home occupation (sex services), strip clubs and BDSM venues – via their local environmental plans (LEPs), also known as town planning schemes in other parts of Australia. This planning instrument provides details on broad zoning regulations and technical planning parameters at the local level. Planning zones define what land uses (i) are automatically permissible, (ii) require consent and/or (iii) are prohibited. For example, the zoning regulations in the City of Marrickville LEP tend to be quite restrictive in relation to where commercial sex activities can occur (City of Marrickville 2011). These regulations are particularly exclusionary when it comes to home occupation sex services premises (HOSSPs) land-uses. Out of 18 zones in the LEP:

- restricted premises (or sex shops) were only permissible with explicit consent in two zones: B2 Local Centre and B4 Mixed Use;
- sex services/brothels/massage parlours were prohibited across 15, and there is a lack of clarity within three zones that did not identify them as permissible or prohibited;
- home occupation (sex services) were prohibited in every zone. Again, this is despite the fact that HOSSPs are recognized under state legislation as a perfectly legal enterprise and where 40 per cent of sex work occurs (Brothels Taskforce 2001).

In contrast, the City of Sydney LEP appears to adopt a more pragmatic planning approach to the zoning of commercial sex industry activities (City of Sydney 2012). These various land-uses are permissible with consent across a number of zones. Restricted premises, brothels and HOSSPs all appear to be permissible with consent in zones B2 Low Density Residential, B4 Mixed-Use, B5 Business Development, B6 Enterprise Corridor and B8 Metropolitan Centre. Interestingly, in relation to this latter zone, the LEP specifically articulates Sydney's global city status and the need to solidify this status. The objectives of zone B8 Metropolitan Centre include:

- To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.
- To provide opportunities for an intensity of land uses commensurate with Sydney's *global status*.

- To permit a diversity of compatible land uses characteristic of Sydney's *global status* and that serve the workforce, visitors and wider community. (City of Sydney 2012)

In addition certain commercial sex enterprises are permissible in other zones. HOSSPs, for example, are permitted with consent in zone R2 Low Density Residential and it would appear that this land-use is permitted with discretion within zone R1 General Residential since it is not listed as a prohibited use. Given this planning regime, plus the fact that the City of Sydney is the economic and tourist epicentre of metropolitan Sydney, it is not surprising to find a commercial sex industry that is both diverse and highly concentrated within this local government area (see Table 2.1, page 34).

Despite Sydney being recognized as a global and cosmopolitan city and the City of Sydney LGA, in particular, having a progressive attitude towards commercial sex industry activities, some technical regulatory curiosities persist. For example, LEPs stipulate that there must be a 75-metre buffer zone between restricted premises (i.e. sex shops) and a 200-metre buffer between sex services premises (i.e. brothels). In addition, such land-uses must not be located adjacent to and/or opposite sensitive land-uses such as places of worship and schools. These prescriptive policies have the potential to limit the overall number of commercial sex industry premises within a local government area. Relatedly, planning policies prevent restricted premises from having their shop fronts at street level. Instead, they tend to be confined to either basement and/or upper floors of buildings (Hubbard 2011). This is in contrast to experiences in other supposedly conservative metropolitan regions in Australia such as Perth and Adelaide. In these two cities, restricted premises can be found at street level in inner-city and outer-suburban locations.

Despite the implementation of strict spatial regulations some 'adult premises', for example, *Sax Fetish* (www.saxfetish.com) located on lower Oxford Street – a predominantly queer space – evades being defined as a restricted premises, even though it sells sex toys, because it mainly sells leather and fetish clothing to a largely gay male and BDSM customer base and defines itself as a clothing store. Similarly, erotic boutiques, as discussed later, also evade being defined as restricted premises – see Martin this volume.

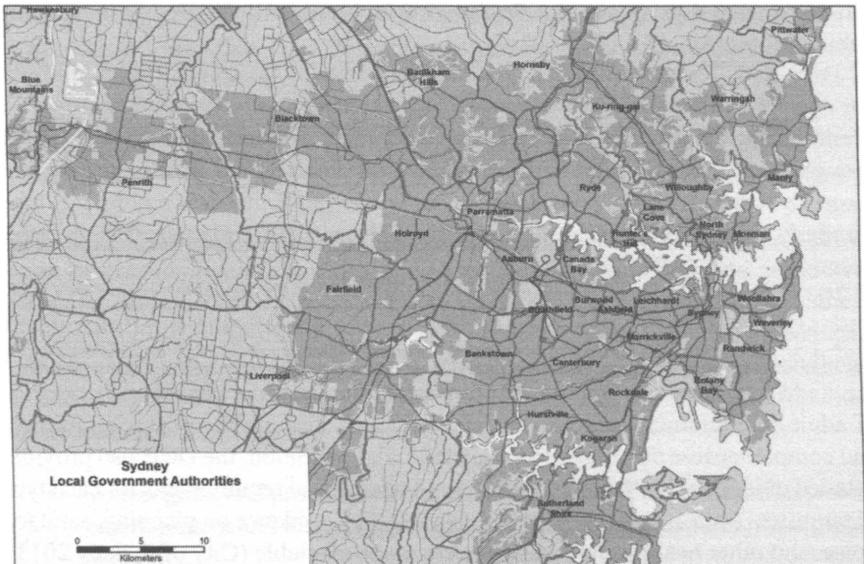
Below the regulatory framework set out in LEPs, the City of Sydney LGA (and City of Marrickville) has produced a specific Development Control Plan (DCP) for adult entertainment and sex industry premises (City of Sydney 2006). The DCP 'seeks to recognise and appropriately regulate the location, design and operation of adult entertainment and sex industry premises through the provision of clear and comprehensive planning controls' (ibid.: 1). In addition, the DCP also provides detailed guidelines on 'health standards and operational requirements for each type of premises' (ibid.). In 2013, supplementary policy guidance on planning, sanitary, noise, and other health-related issues were made available (City of Sydney 2013). In overall terms, the City of Sydney's policy framework – LEP, DCP and development guidelines – for the commercial sex industry 'mainstreams' these spaces and

associated activities by acknowledging that they ‘have a long history within the City of Sydney LGA and have become an *established and accepted* feature of some areas’ (ibid.: 1; emphasis added). This acknowledgment of the role of the sex industry in constituting an important element of Sydney’s character reflects a cosmopolitan attitude towards commercial sex. Simultaneously, it also reflects a desire to create a ‘moral geography of sex’ by ensuring that commercial sex premises are ‘in place’.

While the City of Sydney be a model of best practice when it comes to the regulation of the sex industry it should not be assumed that this is the only LGA where commercial sex businesses prevail. As highlighted elsewhere in this volume – Martin, and Hubbard and Lister – different aspects of commercial sex have moved into more ‘mainstream’ spaces such as the local high street and suburban shopping centres within all manner of cities and towns. This is also the case within Sydney with restricted premises, brothels and other adult entertainment spaces scattered throughout different LGAs within the metropolitan region (see Map 2.1).

Geography and profile of restricted premises

Sullivan (1997: 137) notes that ‘[s]ex shops opened in several Australian capital cities in 1972 and provoked a variety of official responses’. Somewhat predictably, the opposition to sex shops and the sale of pornographic material and sexual aids came largely from politicians who called for these businesses to be prevented and/or restricted from importing and selling obscene merchandise. Similar



Map 2.1 Sydney local government areas.

Source: © Nick Middleton, NJM Spatial

concerns about sex shops were echoed in Britain and France (Coulmont and Hubbard 2010) and Northern Ireland (Royle 1984) during the 1970s and 1980s respectively. Since the early 1970s the sex shop industry has proliferated and diversified in terms of its geography, scale, typology and customer base. Historically, sex shops tended to be located in peripheral and transitional zones within the city, were seedy and sleazy in appearance, mainly stocked pornographic and erotic literature, and catered largely to an older, heterosexual male demographic (Kent and Brown 2006; Manchester 1986; see Martin this volume). Today, however, the adult retail landscape can be differentiated into four major market segments: 'seedy and sleazy'; 'corporate'; 'erotic/sensuality boutique'; and 'specialist', which tend to have distinctive geographies, customer bases and/or philosophies.

The 'seedy and sleazy' sex shop as mentioned above retains its traditional geography and customer base. Corporate adult retailers in Australia (e.g. *Club X* and *adultshop.com*), the UK (e.g. *Ann Summers* and *Harmony*), and US (e.g. *Hustler* and *Adultmart*) are increasingly found on local high streets and in suburban shopping precincts attracting heterosexual couples and single females. Erotic/sensuality boutiques (e.g. *Honey Birdette* – Australia, *Coco de Mer* – UK) are located in up-market retail precincts and serve a sophisticated and female clientele with high disposable incomes. Other female-owned adult retailers such as *Sh!* (UK) and *Babeland* (US) which may be classified as erotic/sensual boutiques, are arguably, 'specialist' sex shops in that they are clearly defined by a feminine and pro-LGBTQ philosophy which is reflected in their exclusively and/or largely female and lesbian customer base (Jackman 2010; Smith 2007; Malina and Schmidt 1997). Erotic/sensual boutiques also tend to be driven by a female-orientated philosophy. Moreover, their approach has been to disassociate themselves from being labelled sex shops as a result of (i) not selling pornographic material but rather erotic literature and art; (ii) selling designer lingerie; (iii) stocking a select range of designer sex toys; (iv) having knowledgeable and well-trained female staff; and (v) holding salons or educational workshops on sex and sexuality. Using these tactics means erotic/sensuality boutiques have the potential to evade planning and zoning regulations.

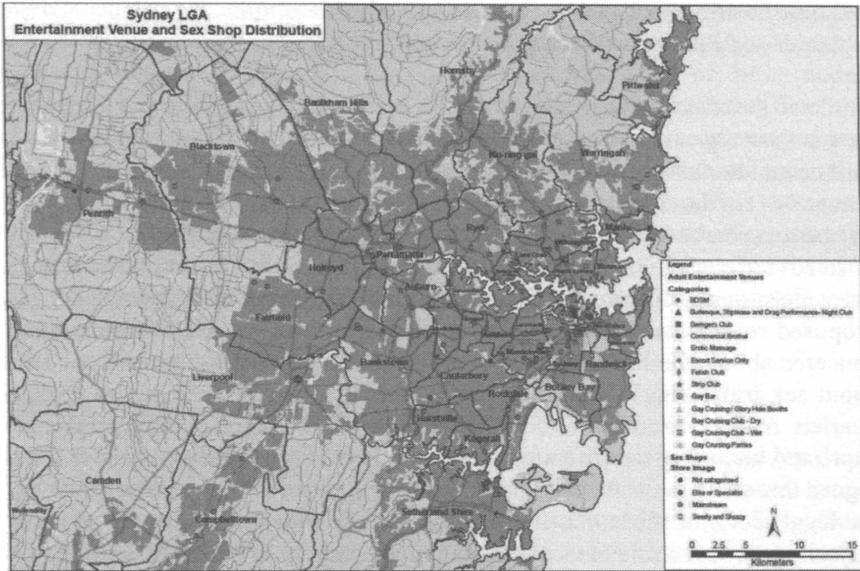
Ultimately, if a city has a diverse adult retailing (and other commercial sex businesses) landscape then it can be said to exhibit a cosmo-sexual character. Moreover, the emergence of erotic boutiques with their designer sex toys and bespoke lingerie and accessories points to the cosmopolite being a consumer elite – a 'highly mobile, [sexually] curious and reflexive subject who delight in and desire to consume difference' (Germann Molz 2011: 35) – thereby reinforcing Urry's (1995) notion of 'aesthetic cosmopolitanism'.

Based on data collected in 2011 via searches on the Internet and Yellow Pages, a total of 61 sex shops spread across 24 local council areas were identified within the Sydney metropolitan region. The 'seedy and sleazy' type of sex shops dominated the landscape, accounting for almost 50 per cent ($n = 30$) of total shops. Corporate sex shops accounted for just over one-third ($n = 21$) of total shops; while there were only 10 (16 per cent) specialist and/or erotic/sensuality boutiques. The City of Sydney LGA had the largest concentration of adult retail stores with some

34.4 per cent of all stores located in this one area. This included seven specialist, nine corporate, and five seedy and sleazy shops. The next highest concentration of sex shops were found in the City of Marrickville which had a total of six stores (9.8 per cent). In this instance, however, the seedy and sleazy type of store was more common ($n = 3$). There were eight sex shops in the two outer-western local government areas of Blacktown (3 seedy and sleazy and 1 corporate) and Liverpool (4 seedy and sleazy). Table 2.1 below provides a more detailed statistical overview of the number and type of sex shops by local government area and Map 2.2 shows the geographical distribution of sex shops (and other commercial sex premises) in the metropolitan area.

Table 2.1 Geography of adult retail stores/sex shops in Sydney metropolitan area (2011)

<i>LGA</i>	<i>Specialist/erotic sensitivity boutique</i>	<i>Corporate</i>	<i>Seedy/ sleazy</i>	<i>Total</i>	<i>Percentage</i>
Sydney	7	9	5	21	34.4
Marrickville	2	1	3	6	9.8
Blacktown		1	3	4	6.6
Liverpool			4	4	6.6
Penrith		1	2	3	4.9
Warringah		1	2	3	4.9
Campbelltown		1	1	2	3.3
Ryde		2		2	3.3
Bankstown			1	1	1.6
Botany		1		1	1.6
Burwood			1	1	1.6
Cantebury/Hurstville			1	1	1.6
Fairfield			1	1	1.6
Gosford		1		1	1.6
Hawkesbury			1	1	1.6
Hornsby		1		1	1.6
Hurstville	1			1	1.6
Leichhardt			1	1	1.6
North Sydney		1		1	1.6
Parramatta			1	1	1.6
Rockdale			1	1	1.6
Sutherland			1	1	1.6
Waverley		1		1	1.6
Wyong			1	1	1.6
Grand total	10	21	30	61	100
Percentage	16.4	34.4	49.2	100	



Map 2.2 Spatial distribution of commercial sex premises, Sydney metropolitan area, 2011.
Source: © Nick Middleton, NJM Spatial

Sex work/prostitution

Up until the end of the 1970s sex work/prostitution in NSW was regulated as a criminal activity. The act of selling, housing, and purchasing sexual services was not only deemed a criminal activity but also an immoral one. As a criminal activity, the regulation of brothels in NSW was initially the domain of the police under the *Disorderly Houses Act 1943*. The policing of prostitution, however, was by no means universal; in fact, it was selective because the operation of established and visible brothels or disorderly houses was considered a ‘necessary evil’ (Pinto *et al.* 1990). According to the Sex Services Premises Planning Advisory Panel (2004: 1), ‘even orderly, well-run brothels could be closed and the sex workers forced on to the streets’.

Despite political and moral concerns about the supposed corrupting effects of prostitution/sex work on wider society and women engaged in erotic labour, closing brothels was not considered to be an effective policy solution to this complex industry. Hence, following the introduction of the *Prostitution Act 1979* selling sex was legalized and a catalyst for the introduction of a pragmatic regulatory framework towards sex industry premises. Despite this pragmatism, an ‘out of sight, out of mind’ philosophy prevailed within political and social circles demanding that sex move off the street and behind closed doors. As a result of these regulatory changes a mix of different types of sex-on-premises venues (SOPVs) have emerged:

- one-person home occupation (sex services);

- home businesses (2-person operated); and
- larger-scale premises offering a number of working rooms (brothels).

Similar to the adult retail landscape, brothels are distributed widely across the Sydney metropolitan region. Again, data collected via desktop research revealed a total of 127 commercial brothels across 28 local council areas. A significant proportion (37 per cent, $n = 47$) of these were located within the City of Sydney and clustered in a small number of suburbs including, Surry Hills, Kings Cross and Camperdown.

In 2011, the NSW State Government flagged its intentions to introduce a brothel licensing system similar to the systems operating in Victoria and Queensland. This proposed reform was premised on increasing political media and community concerns about ‘the links between brothels and organized crime, and concerns about sex trafficking’ (Roth 2011: 15). Sex worker advocacy groups such as Scarlett Alliance and NSW SWOP (Sex Workers Outreach Program) have expressed major concerns about moving to a licensing regulatory regime. It was argued that this approach would promote ‘development of a two tier sex industry; the legal sector or those that can comply and the illegal sector made up of the majority who are unable to meet the excessive conditions of compliance’ (Scarlett Alliance 2010). These same concerns were echoed by SWOP (2011):

Proposals to add a centralised and costly licensing system to the existing local council registration process is a step backwards, potentially pushing many brothels back into the black market and wiping away the health and safety gains made over the last 15 years.

In late 2012 the NSW Government released an Issues Paper titled *Regulation of Brothels in NSW*, stating that it was ‘committed to improving the regulation of brothels’ (NSW Government 2012: 8). Again, proposed new regulations were to be introduced to ‘reduce and/or prevent crime and corruption’ (ibid.) particularly in relation to claims that both legal and non-compliant brothels were implicated in international human trafficking. The Issues Paper highlighted three regulatory options:

- *improve current regulatory system* – this approach involves (i) improve decision making within the planning system and (ii) increase shared information between NSW regulatory bodies;
- *introduce a registration system* – this approach would entail both owners and operators of brothels to be on an official register that could be maintained by a third party advocate or the police; and
- *introduce a licensing system* – this approach would require owners and operators of brothels to be licensed and deemed by the police to be a ‘fit and proper person’.

Despite these three regulatory options, sex worker advocacy groups remain concerned that the government’s preference is a licensing model. If the NSW

Government were to introduce either a register or licensing model these two forms of regulation would essentially run counter to a major facet – ‘cutting red-tape’ – of the ideological standpoint of Liberal governments. Both of these models effectively increase regulatory burden on businesses. It would appear, then, that brothel-based sex work, albeit decriminalized, is being scrutinized through a neo-conservative policy lens rather than a neo-liberal one. As noted earlier, part of Sydney’s cosmopolitan and global city status is partly premised upon its acceptance of diverse sexual identities and activities and is nationally and internationally recognized because of this. Attempts to ‘over-regulate’ the commercial sex industry may have negative consequences not only on sex workers’ health and safety but also Sydney’s reputation as a cosmopolitan and global city.

Adult entertainment

Adult entertainment in the form of strip clubs, gentlemen’s clubs and lap dance bars have become an increasingly visible facet of night-time economy spaces within major cities in the US, UK and Australia. West and Orr’s (2007) synthesis of the adult entertainment industry in the US shows that there were approximately 4,000 adult clubs in the mid-2000s generating \$15 billion annually and employing approximately 500,000 people. Based on these figures and an estimated total population of 309 million in 2010, this equates to 1.29 strip clubs per 100,000 population. However, given that strip clubs are only accessible to adults aged at least 18 years old, the number of strip clubs per 100,000 adults (aged 18 and over) more than doubles to 3.28.

The figure of 1.29 strip or 3.28 strip clubs per 100,000 population is not evenly distributed as some cities have more clubs than others. As McSharry McGrath (see this volume) has noted, Portland (Oregon) lays claim to being the strip club capital of the US where there are an estimated 80 clubs per 100,000 population. Other cities with a relatively high number of strip clubs per 100,000 total population include: Atlanta ($n = 65$); Honolulu ($n = 48$); Las Vegas ($n = 47$) and Houston ($n = 22$). Interestingly, the global cities of New York, Los Angeles and Chicago all had less than 10 clubs per 100,000 population. In absolute terms, however, Houston has slightly more clubs than Portland and New York, with approximately 35 clubs, has more than Atlanta ($n = 28$), Las Vegas ($n = 27$) and Honolulu ($n = 18$).

In the UK context, Hubbard and Lister (Chapter 8, this volume) note that there were 217 approved license applications for sex entertainment venues (SEVs) in England and Wales during 2012. Assuming that this is the total number of clubs and a total population of 56 million this equates to just 0.38 clubs per 100,000 population. While this number may seem relatively low what is important is the geographical location and concentration of clubs. Forty-seven per cent of SEVs ($n = 102$) are concentrated across seven cities – London ($n = 50$), Newcastle ($n = 14$), Birmingham ($n = 9$), Liverpool ($n = 9$), Leeds ($n = 7$), Manchester (7) and Cardiff (6). In the case of London (which is made up 33 local councils), the majority ($n = 20$) of SEVs are located in the City of Westminster, and mainly concentrated in the West End, a major commercial, tourist and night-time economy space. Soho is home

to a number of SEVs, other night-time economy venues that cater specifically to a heterosexual and/or gay/lesbian clientele as well as brothels (known as models' flats) that were raided by the Metropolitan Police in early December 2013. Given the concentration and diversity of commercial sex premises within Soho it may be viewed as a hyper-sexual 'bubble' that plays a significant role in contributing to London's internationally recognized cosmopolitan and global city status.

In some respects Sydney's adult entertainment sexscape resembles London's. That is to say, strip clubs and gentlemen's clubs are largely concentrated within a single local council area (i.e. the City of Sydney). Notably, however, there are only a relatively small number of strip clubs within Sydney; seven of the nine strip clubs within the metropolitan region are located within a single LGA (City of Sydney) with three of these concentrated in the infamous Kings Cross area (Nowra 2013) – a major night-time economy space – and three are located along Pitt Street – a major commercial CBD corridor. The remaining two strip clubs are located in the City of Bankstown, an outer-western suburbs LGA and City of Canada Bay, an inner-western suburbs LGA (see Map 2.2).

Despite being the largest capital city region in Australia with a population of 4.4 million (ABS 2013b), Sydney had fewer strip clubs than Melbourne, it's competing cosmopolitan and globalizing city which had 13 clubs. Curiously, it is Melbourne, rather than Sydney, that is home to two of the most internationally recognized strip club brands – *Spearmint Rhino* and Larry Flynt's *Hustler Club*. This raises the question of why not? Might it be that Sydney, given its large gay/lesbian community and home to one of the world's largest gay pride events, Sydney Mardi Gras, is not perceived as being a sufficiently heteronormative city by the international corporate strip club industry? In addition, could it also be that the strip club industry cannot compete with the degree of sexual intimacy offered by sex workers/escorts and other commercial sex premises such as houses of domination (see Steinmetz and Maginn this volume), swingers clubs, saunas and bathhouses and easy access to pornography? In other words, why would a patron choose to pay to simply watch a sexual performance when they could easily pay for direct sexual services or engage in free casual sex via online applications such as *Tinder*, *Grindr* or *Blindr*?

Conclusions

Cities tend to be perceived as being heteronormative spaces. As such there is a perception or belief that cities have, or should have, a rigid order in terms of the placement and visibility of minority sexual groups and practices. Groups and practices deemed to be 'abnormal' or 'deviant' have historically been framed as being social contaminants that pose a threat to heteronormativity and society more generally and deserving of strict regulation and control. From a planning perspective this has meant that gay and lesbian spaces and commercial sex industry premises have tended to be relegated to marginalized locations or have clustered in 'natural areas' as a result of market forces. Within a global city and urban cosmopolitan context it was shown that sexual minorities and the sex industry are in

abundant supply with all manner of adult retail outlets, sex work/prostitution spaces and adult entertainment venues peppered throughout the (sub)urban landscape. Sydney has many of the characteristics of what was defined a cosmo-sexual city. Despite being a global cosmopolitan city with a progressive planning policy framework in relation to the sex industry and adult entertainment, it is clear that sex and sexuality still provoke a mix of moral anxiety and panic among policy-makers and other segments of society. These issues are explored further in later chapters in this book, most notably, Hubbard and Lister, Prior and Gorman-Murray and Doan.

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3 Sex shops in England's cities

From the backstreets to the high streets

Amber Martin

Introduction

Sex shops in England have traditionally been viewed as masculinized spaces of consumption, frequented in the margins of both the city and the clock; in decaying urban zones, hidden from view and frequented under the cover of darkness. In recent decades there has been a shift towards more fashion conscious, female-oriented 'erotic boutiques', which are positioned in central areas of towns and cities. In light of this market response, this chapter explores the changing geographies of the sex shop industry in England with relation to the regulation of sex shops via a governmental licensing system. It also explores how an ambiguous licensing policy has inadvertently encouraged the development of non-licensed erotic boutiques that have positioned themselves on the high street as opposed to the back streets. The chapter considers how the regulation of sex product retailers is based on highly subjective, localized governmental decision-making and argues that shops that present themselves as light, stylish, fashionable and oriented towards the female consumer, are less likely to be subject to regulation. It thus explores how the differing ways in which sex shops and erotic boutiques are packaged and presented affect their regulation, spatiality and subsequent marginalization or mainstreaming.

Sex shops and the sex establishment license

In the 1960s and 1970s, the majority of England's sex shops and adult entertainment venues were located in London's Soho district which is an internationally recognized hyper-sexual space (Mort 2010). This had developed as a result of Soho's past as a space of prostitution in the nineteenth century (Hubbard *et al.* 2009), and also the centre of the pornography (Malina and Schmidt 1997) and sex industry in Britain in the 1930s (Manchester 1986). From the 1950s onwards, sex shops in Soho took the form of specialized 'book shops', which had both 'front' and 'back' rooms. The front room would stock books of a mildly sexual and erotic nature, which subtly provided a cover for the shop's back room, which would house more explicit pornographic materials, including poor quality film. In 1955, only five of these specialist 'bookshops' were known to exist by the police (Kent and Brown 2006; Manchester 1986), yet they proliferated rapidly in Soho during the

1960s and 1970s. This was due to increasingly relaxed social attitudes towards sex and a greater availability of pornography (Kent and Brown 2006; Manchester 1986). In the late 1970s and early 1980s, the geographic concentration of sex shops moved beyond the boundaries of Soho to include other metropolitan areas throughout England. This outward expansion was promulgated by a chain of sex shops called *Private Shop*, which are still in existence today (see Figure 3.1). These shops are characterized by blue shop fronts, minimal shop decor, concealed windows and are oriented towards the male consumer (Kent and Brown 2006). The use of the colour blue on the exterior of this chain of shops reflects their simultaneously sexualized and masculine character, as the colour blue is commonly associated with male masculinity, pornography (i.e. 'blue movies') and sexual innuendo (i.e. 'blue jokes') (Gaimster 2011).

The proliferation of sex shops across England during the 1960s to 1970s was met with objection and protests from local residents concerned about the lack of government regulation of sex shops. At the time, the only form of state regulation of sex shops was from the police. They would raid shops and confiscate material deemed to be illicit (Manchester 1986), but could not prevent the opening of new sex shops or close them down directly. Manchester further notes that in 1981 Soho residents presented a petition to the government asking them to implement legislation to control the number of sex shops (ibid.). Local authorities were also anxious about their ability to regulate the number and location of sex shops; they petitioned 'central government for powers to exercise control over sex businesses, initially by proposing a change to the Use Classes Order' (Hubbard 2012: 169).¹ However, 'in the UK, sex related land-uses have never constituted a distinct category in the Use Classes Order, meaning that there has been no possibility of



Figure 3.1 Private Shop, Brighton.

Source: Amber Martin

using zoning or planning powers to regulate such stores' (ibid.). This differs from the situation in Australia and the USA (see Chapter 13, this volume).

The lack of planning and zoning regulations led to the introduction of an alternative form of control – a sex shop licensing system—not just in Soho, but across England and Wales (Goudie 1986) following the inclusion of 'Sex Establishment' licensing legislation in the *Local Government (Miscellaneous Provisions) Act 1982* (hereafter *1982 Act*).² Under this legislation, a 'sex establishment' refers to either a 'sex shop' or a 'sex cinema'.³ The *1982 Act*, which is still in place today, requires a sex shop to hold a sex establishment licence based upon two key factors: first, if a shop stocks over a 'significant degree' of 'sex articles' (*1982 Act*, Schedule 4.1) – the definitions of which are explored later; and, second, if a shop stocks R18 videos or DVDs (Hubbard 2012; Coulmont and Hubbard 2010; Goudie 1986; Manchester 1986). The R18 film certification is awarded by the British Board of Film Classification (BBFC) to films deemed to be 'hard-core' pornography which show scenes of real, as opposed to simulated, sexual intercourse (the latter is displayed in 'soft-core' pornographic films which have an 18 certificate) (BBFC 2006). This certification was created by the BBFC and the Home Office in the same year as the *1982 Act* (Petley 2000). Films with an R18 certificate are only legally allowed to be supplied in licensed sex shops or shown in licensed sex cinemas (BBFC 2009) and are not legally allowed to be sold online. The legislation means that sex shops selling R18 pornography are required to hold a sex establishment license, which can only be obtained via making an application and paying a licence fee, both of which must be renewed annually, to their relevant local council. Local governments control the overall number and location of sex shops by granting or rejecting applications for new licenses, and/or denying renewal of licenses to pre-existing shops. The licence is simultaneously both permissive and restrictive, in the sense that it allows shops to sell 'restricted' products, such as R18 DVDs, but only in retail spaces that have been approved by the state; this reveals a form of regulated state tolerance towards sex shops.

The state level at which the sex establishment licensing operates is at a local as opposed to national level, as sex establishment license applications, in which the sex shop is to be located, are processed by each of England's 326 local district councils. The delegation of sex shop regulation to the local authority level occurred because, at the time of the licensing system implementation, 'sex shops were not perceived to be a national problem requiring regulation on a national basis and the licensing scheme is one which gives control a very local character, with devolution of decision making to local authorities' (Manchester 1986: 209). This contrasts somewhat with recent national government interests and policy intervention surrounding the expansion of sex entertainment venues (i.e. strip clubs and gentlemen's clubs) in the UK over the last decade or so (see Chapter 8, this volume).

Valverde (2003: 236) states that:

the legal technology of the license allows governments to ensure that certain spaces, activities and people are under constant surveillance and are subject to

immediate disciplinary measures, but without state officials or centralized state knowledges being involved in this micro-management.

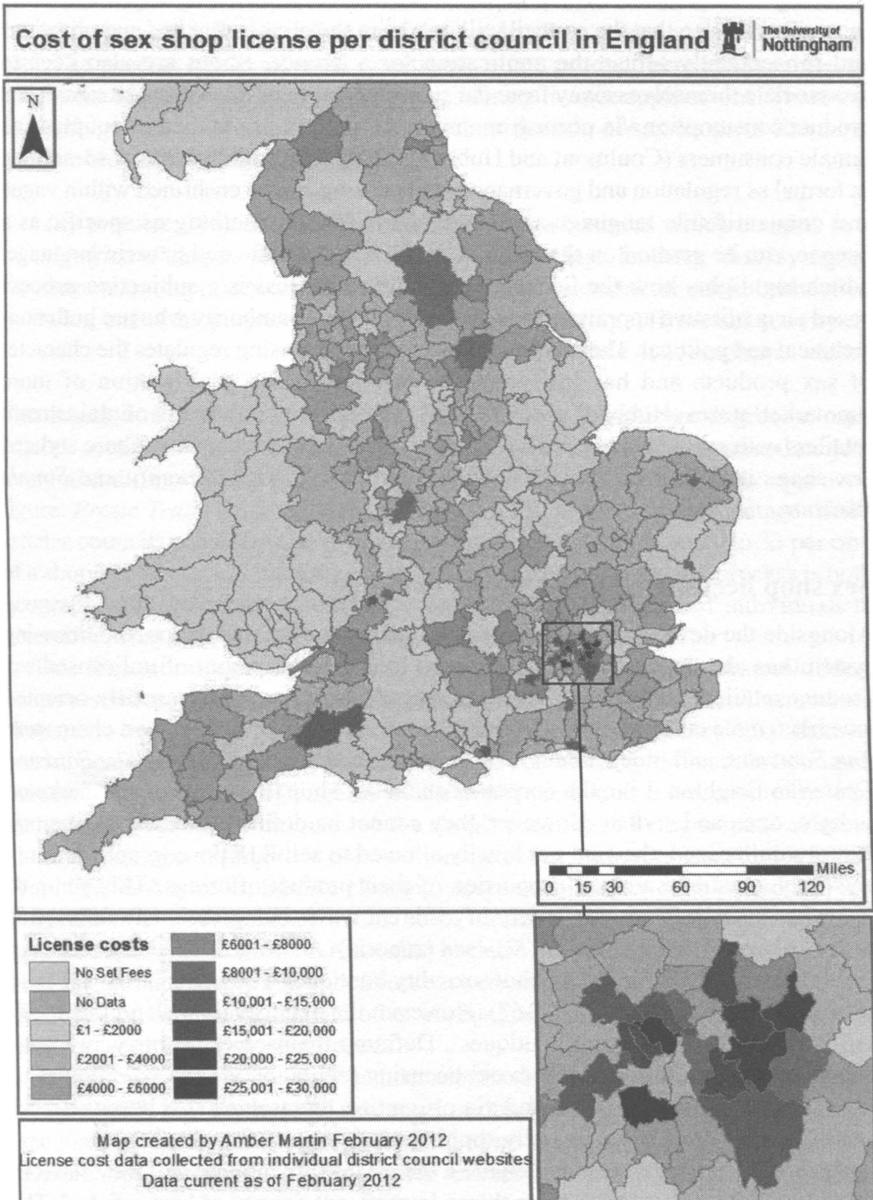
As the regulation of sex shops is devolved to individual local councils this invariably gives rise to a myriad of policy guidelines, licence application forms and processes and outcomes. These outcomes are determined by the individual judgements of local councillors on the decision-making panel. This decision-making arrangement leads Valverde to assert that 'the legal technique of the licence ... externalizes the state's duty to manage risks of urban disorder by delegating it to non-technical, non-expert personnel' (Valverde 2003: 249). It is consequently 'a low-tech, non-expert, pragmatic way of managing the risks thought to be inherent in problem activities' (ibid.: 250). The delegation of sex shop regulation to individuals, albeit democratically elected, in a local authority results in sex shop applications being accepted and rejected based upon subjective, qualitative appraisals of the local authority; such decisions are premised on local, spatially specific knowledge (Hubbard *et al.* 2009). It is also impossible to ignore the role of personality, local politics and prejudice informing the decision-making process and outcome. For example, the co-director of a large chain of sex shops in England explained how the personal relationship that a license applicant has with a licensing officer can 'make or break a licensing application'.⁴ This highlights the individualized and subjective nature of the application process and how it is potentially open to problems of prejudice, favouritism and, possibly, corruption.

Local councils' ability to refuse sex establishment licences were strengthened following the introduction of the *Policing and Crime Act 2009* (hereafter *2009 Act*).⁵ §27, paragraph 5 of the *2009 Act* allows local councils to refuse a licence application if 'the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality'. As a result, councils can set the appropriate number of sex shops for their locality as zero, thus legally allowing the council to refuse any sex shop application as a result (Hubbard 2012). In addition, in local authorities where applications are allowed, applicants are legally required to 'give public notice of the application' (*1982 Act*, Schedule 3, paragraph 10, 7), within seven days of submitting their application, 'by publishing an advertisement in a local newspaper circulating in the appropriate authority's area' (*1982 Act*, Schedule 3, paragraph 10, 8). The applicant is also required to display a notice detailing the application on, or near the premises, where the license is being applied for 'in a place where the notice can conveniently be read by the public' (*1982 Act*, Schedule 3, paragraph 10, 10) for 21 days. This part of sex shop licensing legislation is intended to allow the public to put forward objections to the application (Manchester 1986). This illustrates how newspapers form part of the overall regulatory regime in that a public notice outlining an intention to open a sex shop will invariably attract public objections. Any such public objections provide a 'public interest' basis for the local council to refuse a license application.

In addition to the socio-political regulation imposed by the licensing system, the license application process also imposes a form of financial regulation through the enforcement of license application and renewal fees. In local authorities that permit the application for sex establishment licenses, license fees are charged for each new application and any applications for renewal of a license. Licenses must be renewed each year and thus provide an opportunity for local councils to re-evaluate the condition of their local sexscape. There is no nationally set fee for the cost of a sex establishment licence and there are no central government guidelines to inform local councils on what the income generated from the fees should be used for. Consequently, the cost of a sex establishment licence and fees differ enormously among local authorities across England. Map 3.1 shows that there are huge discrepancies between these fees, with the lowest fee of £246 (US\$379, €285) per annum in the East Hampshire District and the highest, £29,102 (US\$44,805, €33,726) per annum, in the City of Westminster London Borough.⁶ There is a clustering of particularly high licence costs in central London, with the boroughs of Greenwich, Barking and Dagenham, Newham, Merton and the City of Westminster all having annual licence fees of over £20,000 (US\$31,256; €23,453). Other districts with particularly high licence fees include The City of Brighton and Hove (£12,073.70), The City of Portsmouth (£12,000), and the Districts of South Somerset (£10,712), Gloucester (£10,790), Birmingham (£9,935), Doncaster (£8,864), Leeds (£8,098) and Harrogate (£8,240). Conversely, some district council's fees are extremely small in comparison, such as the districts of Epping Forest (£420), Rochford (£424) and Central Bedfordshire (£570). This geographically inconsistent and extreme range of fee costs for a sex establishment license highlights the geographically diverse and localized scale of sex shop regulation.

When applying for a sex establishment licence, the applicant must include the payment of the cost of the licence which, in the majority of district councils, is non-refundable or only refundable in part. It is thus likely that high, non-returnable licence fees might discourage applications for sex establishment licences and consequently prevent the likelihood of new sex shops being opened. This demonstrates how the licence fee, as opposed to just a licence, is a form of tacit regulation in itself. High licence fees also have the effect of altering the kind of sex shops in existence. Manchester (1986) argues that when the licensing system was first introduced in 1982, many smaller independent sex shops closed down as they were unable to afford the high licence fees imposed upon them. In contrast larger corporate chains of sex shop businesses (such as *Private Shop*) had the financial means to pay the licence fee and avoid closure. At present, this is still the case, with higher licence fees in certain districts pricing out smaller independent competitors from the market and also allowing the corporate chain of sex shops to succeed and prosper. This parallels broader developments within retail whereby prohibitive rents and lease arrangements have priced small independent chains out of desirable and central locations that has resulted in the serial reproduction of the chain store format (Crewe and Forster 1993). This therefore adheres to Coulmont and Hubbard's (2010: 189) contention that 'regulation has been complicit in a

process of neo-liberalization that has favoured more corporate sex shops – without this having ever been an explicit aim of those who have argued for the regulation of sex retailing’.



Map 3.1 Cost of sex shop licences per district council in England, 2012.
 Source: Amber Martin

In addition, sex shop licences are granted, or rejected, based on whether the 'layout, character or condition of the premises' (1982 Act, Schedule 3, 12, 3, d, iii) is deemed to be 'inappropriate' (1982 Act, Schedule 3, 12, 3, d). Although there is no given legal definition of what is deemed to be 'inappropriate', this legislation encourages sex product retailers to present their stores as clean, light, professionally run and stylish, so that the council will not deem the premises to be 'inappropriate' and subsequently refuse the application for a licence. Shops are also keen to disassociate themselves away from the stereotypical masculine associations of sex product consumption via placing an emphasis on their orientation to couples and female consumers (Coulmont and Hubbard 2010). This highlights how something as formal as regulation and governance via licensing can be enshrined within vague and unquantifiable language and vocabulary. Thus, something as specific as a licence, can be granted on the basis of the most unspecific and generic language, which highlights how the licensing application process is a subjective process based on qualitative appraisal via individuals in a local authority who are both non-technical and political. This also demonstrates how licensing regulates the character of sex products and has inadvertently encouraged the proliferation of more 'upmarket' stores (Hubbard *et al.* 2009: 185) which are reminiscent of mainstream retailers with more stylized and corporately run retail environments. These stylized sex shops include retail chains such as *Harmony*, *Nice 'n' Naughty* and *Simply Pleasure*.

Sex shop licensing and the 'erotic boutique'

Alongside the development of corporate run, 'upmarket' sex shops, the licensing system has also inadvertently contributed to the development of unlicensed sex product retailers, selling sex toys and lingerie that are predominantly oriented towards female consumers. Examples of these include: the well-known chain store *Ann Summers*, and independent retailers such as *Sh!* in London and *She Said* and *Tickled* in Brighton. Like the corporate chain sex shop, these stores are marketed as light, open and stylish. However, they cannot be defined as sex shops *per se*: they are unlicensed, they are not legally allowed to sell R18 pornography and sex toys only constitute a small proportion of their product offerings. This genre of shops has been defined in a variety of different ways, being variously referred to as 'love shops' (Hubbard 2012: 172), 'sex emporia' (Attwood 2005: 392), 'designer sex shops' (Smith 2007: 167), 'adult sexuality boutiques' (Edwards 2010: 135) and 'erotic boutiques' (Smith 2007: 167). However, the majority of such retailers self-define themselves as 'erotic boutiques'. Defining themselves in this way means that these types of sex shop can avoid licensing regulation via the specificities of the products sold in the shops and via presenting themselves as a bespoke retail space catering to a typical sexually sophisticated, urbane, female clientele.

As discussed above, retailers require a sex establishment license if they sell R18 pornography or if they stock more than a 'significant degree' of 'sex articles'. The term 'sex article' is defined by legislation as; '(a) anything made for use in connection with, or for the purpose of stimulating or encouraging (i) sexual

activity; or (ii) acts of force or restraint which are associated with sexual activity' (1982 Act, Schedule 3, 3a, i, ii). A sex article is thus both non-specific and ambiguous in the sense that the actual products that constitute a sex article are not specifically defined. The founder of a chain of sex shops in England recounted that the classification of a sex product differs immensely between local authorities, so that while one council may define a pair of handcuffs as a sex article, another may not.⁷ The precise nature of what constitutes a sex product here is thus open to judgement of individual local councils considering licence applications. There are also ambiguities in terms surrounding the classification of sex shops in licensing policy which are defined as:

any premises, vehicle, vessel or stall used for a business which consists to a *significant degree* of selling, hiring, exchanging, lending, displaying or demonstrating (a)sex articles; or (b)other things intended for use in connection with, or for the purpose of stimulating or encouraging – (i) sexual activity ...
(1982 Act, Schedule 4, 1; emphasis added)

This legislation does not state quantitatively what a 'significant degree' of 'sex articles' actually consists of, which again results in the term being construed subjectively and differently by each local authority as there is no nationally approved figure. *Erotic Trade Only* magazine (ETO 2011) found that the percentage of sex articles councils consider to be of a significant degree ranged from 10 to 33 per cent of a shop's total stock. This further demonstrates how the licensing process is both geographically inconsistent and based on subjective decisions of individuals to determine what constitutes a 'significant degree of sex articles'.

This legislation ultimately results in sex products, such as vibrators/dildos, whips/restraints, and anal plugs/cock rings, that are normally found in licensed sex shops, also being sold in unlicensed erotic boutiques as long as they only make up a small percentage of the shop's total stock. The non-sex articles in erotic boutiques predominantly consists of lingerie which is not viewed as a sex article by local authorities – yet still contributes to the shop's premise of being a space of erotic consumption due to lingerie's connotations with sex and eroticism (Fields 2007). Similarly, in Australia, BDSM clothing stores such as *Sax Fetish* (Sydney) and *Eagle Leather* (Melbourne) avoid being defined as sex shops (or restricted premises as they are known in Australia) because the bulk of their stock while sex-related (both in activity and subculture) are essentially clothing. As a result, large quantities of lingerie, fetish and other clothing act as a 'buffer' to counteract the need for a sex establishment licence.

Erotic boutiques also place a firm emphasis on their orientation to female consumers. A key example of this is a London-based erotic boutique called *Sh!* (see Figure 3.2). Founded in 1992 by Katherine Hoyle and Sophie Walters, *Sh!* is an erotic boutique that is run by women and for women (Kent and Brown 2006). The founders objected to traditional masculinized sex shops, claiming that they made women outsiders in the sex industry (Malina and Schmidt 1997) and wanted to challenge the traditional notion that sex shops are male only domains (Kent and

Brown 2006). *Sh!* achieved this by not allowing men to enter the stores without female accompaniment to ensure female shoppers the ability to shop and ‘experiment unencumbered by any uninvited male gaze’ (Malina and Schmidt 1997: 358). Malina and Schmidt (ibid.: 352) contend that *Sh!* is designed to move beyond the realms of standardized retailing as it is intended to be ‘a female playspace’ in which customers are offered tea and coffee while they peruse, look at and feel a plethora of sex toys laid out on large counters.

The female orientation of the store is expressed in the shop space by the emphatic use of the colour pink throughout the shop’s interior and exterior, which is also seen in other erotic boutiques including the well-known chain store *Ann Summers*. In Western society the colour pink is symbolically associated with ‘romance and femininity’ and the female gender, while pale pastel pinks are commonly ‘associated with little girls’ (Gaimster 2011: 66). The use of pink throughout the shop draws on the stereotypical association with infantilized femininity. In addition, the pink décor produces an affective sensory experience of being cocooned in a female-friendly ‘safe-space’. This forms a direct dichotomy between blue sex shops ‘for boys’ and pink sex shops ‘for girls’. As erotic boutiques are overtly oriented to female consumers they become disassociated from the stereotypical image of the seedy and sleazy male-oriented sex shop and, as a result, they appear to attract less regulatory scrutiny from local councils.

The ‘designer’ erotic boutique

The diversification of the sex shop sector has also witnessed the emergence of the ‘designer’ erotic boutique. Like erotic boutiques, these are unlicensed shops,



Figure 3.2 Sh! shop exterior, Hoxton, London.

Source: Amber Martin

marketed towards the female consumer and selling lingerie and sex toys. However, rather than placing an emphasis on an overt pink and girlish femininity, they are instead presented as providing designer retail experiences based on luxury and indulgence and via the sale of 'designer' sex toys and lingerie. An example of a 'designer erotic boutique' is *Coco de Mer*, which was founded in 2002 by Samantha Roddick,⁸ and has two stores located in exclusive areas in Covent Garden and Kensington. *Coco de Mer* is an extremely high-end brand that markets itself on the premises of luxury, fashion, style and eroticism. The shop's spaces are constructed as high-end retailing environments through the use of wooden floors, dark wood cabinets and deep red walls. The shops also sell 'designer' lingerie and sex toys, as is exemplified in the following extract from an interview with Samantha Roddick:

we sold a huge range of products and we designed most of them and most of those products were designed in England and they were then, or are still are, all hand crafted and had a huge fashion influence attached to it. So we had like everything for every orifice and everything for every kind of form of sexual expression that actually functioned but we had [Mario] Testino shoot our stuff, Kate Moss in it, or we had Naomi Campbell in our gear.⁹

The reference to the famous fashion photographer Mario Testino and the super-models Kate Moss and Naomi Campbell indicates the high-end fashion influence attributed to the store and the emphasis placed on its 'designer' credentials. It also points to the celebritization of sex and sexuality. Another example of a designer erotic boutique with a similar high-end fashion oriented persuasion is *Myla*, which was launched in 2000 in London, by Charlotte Semler and Nina Hampson. The company currently has stores located in affluent areas of London (including South Kensington, Kings Road, Chelsea and Bond Street) and in high-end department stores such as *Selfridges* and *Harrods*. It also has several international stores in the fashion capitals of Paris, New York and Tokyo. *Myla* offers an extensive range of designer underwear and expensive 'designer' sex toys. 'Charlotte Semler, co-founder of *Myla*, refers to her brand as "the *Gucci* of sex shops ... the polar opposite of *Ann Summers*"' (Attwood 2005: 399), with the expense of the products used to help elevate the brand above the 'sleaze' associated with traditional sex shops (Kent 2005). Put simply, this is an attempt to not only disassociate sex product consumption from the negative stereotypical perceptions of traditional sex shops, but also to circumvent regulation. This demonstrates the 'classing' of sex product retail and how sex product consumption is rendered acceptable when it is considered to be 'stylish' and 'tasteful'.

Geographical marginalization and mainstreaming

The exclusive geographical location of designer erotic boutiques is a key element of their over-arching brand identity as brands become embodied in the built environment (Pallasmaa 2005). Crewe and Lowe (1995) argue that 'pioneering

retailers create differentiated spaces of consumption through locational preferences based around questions of image and identity rather than narrow economically driven criteria' (Crewe 2000: 277). The image and identities of the designer sex shops are reflected via their geographical locations in high end, exclusive retail sites and 'streets of style' (ibid.). For example, *Coco de Mer's* store in Kensington, London is situated near to the luxury designer brand *Chanel*. *Myla* has stores in Notting Hill, Canary Wharf and Bond Street, and concessions in *Harrods* and *Selfridges*.

Conversely, while erotic boutiques are unlicensed and thus free to locate in high-end and busy retail sites, sex shops are geographically marginalized as they are commonly only granted licences in peripheral or 'backstreet' locations in towns and cities. This is because licensing policy gives local authorities the ability to refuse the granting of a sex shop license if they deem the 'character of the relevant locality' (1982 Act, Schedule 3, 12, 3, i) where the sex shop applying for a license is, or will be placed, to be 'inappropriate' (1982 Act, Schedule 3, 12, 3, d). Deeming specific areas to be an 'inappropriate' location for a sex shop purports to the contention that sex premises are perceived as being 'out of place' (Hubbard and Colosi 2013: 67) and have the ability to pollute, contaminate or cause nuisance to their surrounding areas (Hubbard 2012; Hubbard *et al.* 2013; see also Chapter 13, this volume). For example, sex shops are commonly protested against due to concerns regarding their geographical proximity to places that are likely to be frequented by children, such as parks or schools (Hubbard 2012). Subsequently, the chances of a sex shop acquiring a license in close proximity to such areas are highly unlikely. Licensing policy also legally compels sex shops to prevent anyone under the age of 18 from entering such premises.¹⁰

Yet, in contrast to the licensed sex shop, the unlicensed erotic boutique is essentially free to locate in any geographical location with no form of regulation. For that reason, it is not uncommon for erotic boutiques to be located next to toy shops or *Mothercare*¹¹ shops. For example, *Ann Summers* stores are located next to toy shops on the high streets of both Huddersfield and Durham. Additionally, since erotic and designer boutiques evade the licensing system there is technically no age restrictions on who can enter this type of sex shop, consequently children are 'legally' allowed to enter these spaces. The irony and contradictions inherent in this encroachment of erotic boutiques onto the high street is readily apparent. Traditional sex shops remain geographically marginalized and hidden due to concerns that they can pollute and contaminate their surrounding areas and are considered a particular danger to children. Paradoxically, erotic boutiques require no formal regulation or legislation and can thus locate themselves in both designed quarters within the city or on high streets with high foot-fall, adjacent to family stores and children's shops and open for all to enter.

Alongside the spatial regulation and entry restrictions placed on sex shops, local councils can also impose other conditions. Specifically, a sex shop can be compelled to conceal, minimize or restrict 'displays or advertisements on or in such establishments' and 'the visibility of the interior of sex establishments to passersby' under the 1982 Act. Such regulations also exist within Australia (see

Chapter 7 of this volume). Consequently, sex shop facades and window displays tend to lack much in the way of aesthetic design or visual spectacle. This suggests that it is not just the geographical proximity of sex product consumption that sparks anxiety but also the transparency of sex product consumption. In contrast, for the majority of retailers, shop windows and displays are used 'to capture consumers attention and draw them into a store' (Sen *et al.* 2002: 277). The shop window is 'a key instrument of many retailers' communication strategy is their store window displays' (*ibid.*) and visual merchandising (Morgan 2010; Kerfoot *et al.* 2003), in the form of window dressing and styling, are intended to be as attention grabbing and eye catching as possible (Portas 1999).

Conversely, the shop window of the sex shop is the antithesis to the spectacularized and display focused windows of 'normal' retail stores – as the shop front is deliberately intended to not attract attention, to be as 'invisible' as possible, and to conceal the contents of the store rather than to display them. The interiors of many sex shops are completely concealed from the outside world through the use of frosted glass or curtains or blinds. Some sex shops do have window displays, but they are relatively simple (usually consisting of mannequins in lingerie), and the store interior is still completely hidden as the backs of the window displays are opaque. In addition, the entrances to sex shops similarly conceal the contents of the store from the street via, either a boarded wall behind the shop entrance, or a two-door entry system that requires the first door to be closed before the second is opened, so that the store interior is never visible from the street. This concealment approach to sex shops is also evident in the USA and Australia. In Sydney, for example, political sensibilities and planning regulations mean that sex shops are not found at street level; rather they tend to be located in the basement or the first floor of buildings. Paradoxically, efforts to conceal the contents of sex shops from public view inadvertently and inevitably lends an air of mystery and subsequent excitement as both 'thrill and excitement [are] generated by the dangers of transgressing space' (Donnan and Magowan 2010: 17). The enforced concealment of the sex shop interior via the boarding up and frosted windows, blinds and hidden shop fronts, which are intended to make them inconspicuous, actually has the opposite effect; since they don't blend in with other retail shops they stand out as highly visible and prominent.

In contrast to licensed sex shops, the unlicensed erotic boutique is able to have transparent windows, like any other retail spaces, acting as a visual enticement and branding mechanism to encourage the consumer to enter the store (Kerfoot *et al.* 2003; Sen *et al.* 2002). Although some erotic boutiques, such as *Sh!* in London, undergo a form of self-imposed regulation via concealing the store interiors via the use of frosted glass or opaque walls, the majority of erotic boutiques have transparent glass windows and large doorways, allowing passers-by to see directly into the shop and view its contents. In addition, many erotic boutiques have highly sexualized window displays, which can take the form of mannequins or images of models dressed in lingerie in provocative poses. For example, in March 2011, the *Ann Summers* store in Manchester had a large poster in its store window showing an image of a model wearing lingerie and bending backwards on her knees so that

her crotch was made visible. The words ‘expert tease’ were written on the top of the poster. Also, in November 2010, the window display of *Coco de Mer* in Covent Garden, London, housed mannequins wearing lingerie in provocative poses, standing among a plethora of colourful designer sex toys and dildos. These window displays are clearly highly sexualized and show how sexualized imagery is deliberately used to create ostentatious, eye catching and provocative shop windows. Therefore the shop window of the erotic boutique draws upon retailing window dressing strategies like any other retail outlet, by attempting to be eye-catching and to entice consumers in store (van Doorn *et al.* 2008; Kerfoot *et al.* 2003; Sen *et al.* 2002) yet uses the sexual persuasion of the brand to do so.

The highly sexualized window displays of certain erotic boutiques therefore directly contrasts with licensed sex shops, which are forced by legislation to have blacked out windows with no suggestion of sexual imagery (Hubbard *et al.* 2009; Goudie 1986; Manchester 1986). This creates an ironic situation whereby licensed sex shops are legally prevented from displaying sexualized imagery in their shop windows, while shops that don’t fall under the remit of requiring a sex shop licence, can have ostentatious and highly sexualized window displays. This suggests that sexualized retail display is only rendered acceptable in public space if it packaged as a stylish and fashionable retail environment. For example, the manager of a corporate sex shop in Leeds, located on the periphery of the city centre, recounted how they created a ‘sexy Santa’ display Christmas window but the council forced them to remove it on account of it being too sexualized. Yet an *Ann Summers* store, located in a busy shopping street in the city centre, had a similar ‘sexy Santa display’ at the time, but was not required to remove it.¹² This demonstrates how sexualized window displays are only regarded as appropriate for certain retailers and thus highlights how it is the way in which sex product consumption is packaged and presented that sparks regulatory governance, as stylized and fashionable erotic boutiques are able to slip under the regulatory radar while the geographical location and character of sex shops are subject to continual regulation. This results in a dichotomy of legally enforced privacy, secrecy and opaqueness of sex shop store fronts and legislative nonchalance towards the highly visible, transparent and sexualized shop windows of erotic boutiques. This is particularly ironic as the non-licensed erotic boutique is able to locate in central retail locations which are populated by people of all ages and social backgrounds whereas the shop front of licensed sex shops are intentionally desexualized despite being legislatively pushed to the margins of towns and cities.

Conclusions

Ironically, the sex establishment license was brought into being with the intention of controlling the number and geographical locations of sex shops, yet it has contributed to the inadvertent proliferation of non-licensed erotic boutiques in central retail locations. Due to the technicalities of licensing policy, and the granting of licences being based upon subjective decision making of local councils, erotic boutiques subvert the legal requirement to obtain a licence by not selling

R18 pornographic materials, not stocking over a 'significant degree' of sex articles and marketing shops as stylish, fashionable and female-oriented spaces. Therefore erotic boutiques are able to trade unlicensed and as a result are able to position themselves on the high street, in the centres of towns and cities, and, in the case of the designer erotic boutique, in exclusive designer retailing spaces. Whereas licensed traditional and corporate sex shops are at the mercy of local councils to determine where they are allowed to set up and are consequently often positioned in marginalized areas, on the backstreets as opposed to the high streets.

This demonstrates how sex product retailing displays and reproduces sexual activity (traditionally considered a private activity) in public space, and reveals that when sex-product consumption is made fashionable, exclusive, design-led and aligned with female sexuality, it is deemed acceptable and can inhabit the high streets and exclusive retail spaces of the contemporary city without much controversy. This shows that it is the way in which sex-product consumption is packaged and presented that invokes either acceptance and celebration or protest and regulation, suggesting that it is not the allusion to sex in public space that ignites anxiety but the gendered and classed representations of sex.

Notes

- 1 Sex shops fall under the use class 'A1 shops'.
- 2 See www.legislation.gov.uk/ukpga/1982/30.
- 3 In 2009, §27 of the *Policing and Crime Act 2009* amended Schedule 3 of the *1982 Act* via the introduction of 'sexual entertainment venue' as another category of sex establishment alongside 'sex shop' and 'sex cinema', meaning that lap dancing/strip clubs are now licensed under the same legislation as sex shops.
- 4 Interview with the co-director of a corporate sex shop chain, June 2011.
- 5 See www.legislation.gov.uk/ukpga/2009/26/contents.
- 6 Data current as of February 2012.
- 7 Interview with co-director of a corporate sex shop chain, June 2011.
- 8 *Coco de Mer* was sold to a large online sex retailer called *LoveHoney* in 2011.
- 9 Interview with Samantha Roddick, January 2011.
- 10 Furthermore, restricting access to sex to persons aged 18+ years highlights a peculiar socio-legal paradox in the regulation of sexuality in Britain – i.e. the age of consensual sex in Britain is 16. So, it is perfectly legal to engage in sexual intercourse but it is illegal to enter and purchase anything of a sexual nature from a traditional sex shop.
- 11 *Mothercare* is a British retailer that sells goods for babies and young children.
- 12 Interview with shop worker in a corporate sex shop, Leeds, 25 March 2011.

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4 Conflict and coexistence?

Strip clubs and neighbors in “Pornland,” Oregon

Moriah McSharry McGrath

Introduction

The anonymity and bustle of city life have historically created spaces where sexual minorities and sexual commerce can exist with less opprobrium than in smaller communities, yet the high level of interaction between diverse populations also means that the expression of sexuality in urban public space often results in conflict (Knopp 1995). Sites of sexual commerce, in particular, are ripe for conflict (Hubbard 2009; Hubbard *et al.* 2013; Hanna 2005). Although cities are known as sites of sexual culture, sexually oriented businesses have tended to be relegated to their social and spatial margins, viewed as a threat to the safety and morality of “respectable” residents (see Chapters 2, 3, 6 and 8, this volume).

The types of locations of sexually oriented commerce within the city combined with the type of people who engage in commercial sex as owners/managers, performers and consumers confer the notion that such spaces and people are deviant or abnormal (Domosh 1999; Hubbard 1998a, 1998b). These normative ideas about sexuality and gender are codified in land-use policy (Lasker 2002) and reified through their representation in media and the popular imagination. In this way, discourses about sex work can induce and maintain both spatial and social order (Kerkin 2004) and the location of commercial sex activities can consequently be read as a status map of the city. The siting of sexually oriented businesses in marginal locations represents a process of social distancing similar to that documented in studies of conflicts over other “socially noxious” land uses, such as mental health facilities, services for people with HIV, and drug treatment facilities (Takahashi 1998; Dear and Wolch 1992).

Conflict over sex districts crystallized in American cities during the post-war era, and since this time cities have struggled with policies designed to concentrate and disperse sexual commerce (Sides 2006). Disputes over strip club location, for example, can be costly and confrontational for all parties. Clubs may be picketed, employees harassed, and club property vandalized. *The Oregonian* newspaper, which covers the city of Portland as discussed in this chapter, has reported organized protests at new club sites (Beaven 2011), a defamation suit against a community activist who felt harassed by protestors (E. E. Smith 2013), and a suspicious fire at the site where an adult video store was being built (Brettman 2004). In her research on strip clubs in the United States (US), Hanna (2005) has

found other areas of cost and contention. These include: citizen objections to the expense of policing clubs and the filing of lawsuits over failed ordinances, some of which have cost hundreds of thousands of dollars (*ibid.*).

However, changes in the sex industry and evolving attitudes about sexuality have progressively resulted in the mainstreaming of sexual commerce, both figuratively and literally. Some of the longstanding stigma associated with participating in some forms of sexual commerce – such as purchasing pornography or visiting a strip club – has waned (Bretners and Sanders 2010) and sexually oriented businesses have become more commonplace on main streets, central business districts and night-time economy precincts in the US, the UK, and Australia (Van den Nouwelant and Steinmetz 2013; Hubbard *et al.* 2008; Chapters 2 and 3, this volume). These changes demand deepening our understanding of the decision-making processes that regulate sexually oriented businesses and community responses to these businesses, which may themselves be changing in concert with the larger industry.

Portland, Oregon – a medium-sized city with a population of almost 600,000 on the west coast of the US – offers a fascinating opportunity to study these issues because of the unique contours of the local sex industry. A combination of legal, economic, and social forces have resulted in a highly visible “(sub)urban sexscape” (Chapter 2, this volume) that has earned the city the nickname of “Pornland.” Most notable among these factors is the Oregon state constitution, which effectively prohibits land-use controls on sexually oriented businesses (see Chapter 13, this volume). As a result, such businesses are distributed throughout the city and operate virtually unregulated. The variation in the location, clientele, and aesthetics of Portland’s strip clubs provide an insight into the impact of this form of commercial sex business on local neighborhoods and vice versa.

This chapter then focuses on Portland’s strip clubs. The chapter first describes how the city became “Pornland,” by highlighting the factors that have fuelled the growth, visibility and, ultimately, normalization of this aspect of the sex industry. It then describes the variation in community responses to the city’s strip clubs. This reveals the existence of a complex set of relations between clubs and their neighbors that have not been well documented thus far. These complex relationships question the dominant notion, promulgated in the urban planning literature (Hanna 2003; Kelly and Cooper 2000), that strip clubs only exude negative secondary effects and are categorically problematic features of the urban environment. They also offer some suggestion of what communities may expect as the sex industry expands, as well as strategies that may be deployed to reduce or even prevent conflict.

This chapter stems from a larger qualitative study (McGrath 2013) that used situational analysis methods (Green-Rennis *et al.* 2013; Clarke 2005) to explore several aspects of the interaction between strip clubs and their local neighborhoods in Portland, Oregon. The study involved three types of data collection: in-depth interviews, document review, and field observation. A total of 43 interviews were conducted with a wide variety of actors. These included: (i) club owners and managers; (ii) female exotic dancers (strippers); (iii) residential and commercial

neighbors of strip club; and (iv) public employees who deal with neighborhood and business affairs in neighborhoods where strip clubs are located. The documents reviewed included newspaper articles from 2005–12, ballot measure text and pro/con statements, legal decisions relating to sexually oriented businesses, and administrative records (e.g., police records and liquor license records) for three focus sites. Data were analyzed using *Atlas.ti*, a qualitative data analysis software package (Muhr 2007) and ArcGIS 10.1 (ESRI 2010) for spatial analysis. Throughout this chapter, information that was gathered through site observations and interviews is presented using pseudonyms for clubs and interviewees. Quotes from newspaper articles and legal documents retain their original language, which may include the actual names of businesses or individuals.

Becoming “Pornland”

Portland has a national reputation for its sex industry despite having just 0.02 per cent of the nation’s population and falling behind at least twenty other US metropolitan areas in rankings of gross domestic product (US Census Bureau 2013; US Department of Commerce 2013). There are almost 50 strip clubs spread across Portland. Other more populous cities have far fewer clubs (Brunner 2006). For example, Seattle – a larger regional center a few hours to the north in Washington State – has just six strip clubs. Local folklore holds that Portland has the most strip clubs per capita of any US city (Moore 2005). The research that underpins this chapter found a total of 7.5 strip clubs per 100,000 Portland residents in March 2012. By comparison, “Sin City” (Las Vegas) with the same population as Portland only had 26 strip clubs, or 4.5 clubs per 100,000 residents (McGrath 2013).

In the absence of zoning and other regulatory strictures, strip clubs are found throughout Portland, their locations determined by informal social and market processes. There are clubs in the central business district, on the suburban periphery, in industrial areas, and in neighborhood commercial districts. Strip clubs can be found near schools, places of worship, and homes. This contrasts with experiences in other parts of the US, the UK, and Australia (see Chapters 2, 3, 8 and 11, this volume). Strip clubs are often found along or nearby local commercial areas, designated neighborhood main streets by the regional planning agency. This is atypical of most US cities, where sexually oriented businesses are generally relegated to peripheral industrial areas (Cameron 2004).

In addition to their geographic diversity, Portland’s strip clubs also vary widely in terms of their aesthetic and clientele base. Examples include *Casa Diablo*, a vegan club that serves food with no animal products and bans leather and feathers in dancers’ costumes (Hogan 2008; Jesella 2008); *Gata Salvaje* – now closed – that focused on Hispanic clientele (Starr 2005) and several alternative/punk rock clubs, such as *Devils Point* and *Sassy’s*.

A series of legal decisions has laid the groundwork for Portland’s robust sex industry by effectively prohibiting the regulation of sexually oriented businesses. Following a decision by the Oregon Supreme Court in 1970 – *Oregon Bookmark v. Schrunck* (Goodwin 1970) – the state legislature deregulated access to sexually

explicit materials in 1971 (Morehead 2012). The 1982 *State v. Robertson* (Linde 1982) decision by the Oregon Supreme Court decision subsequently established the precedent for obscenity as protected speech and the Court's successive *State v. Henry* ruling (Jones 1987) struck down a state obscenity ordinance. In the wake of these cases, local municipalities, including Portland, attempted to craft ordinances that skirted the constitution to limit clubs in number, location, and/or conduct; virtually all these efforts were abandoned due to legal challenges. As the sex industry flourished, citizen-initiated attempts to alter the constitution were put on the ballot in 1994, 1996, and 2000 but all failed to pass. Two additional Oregon Supreme Court decisions (Gillette 2005a, 2005b) in favor of sexually oriented businesses in 2005 cemented the presence of the industry. These decisions affirmed the right of Oregon's sexually oriented businesses to locate in any area that is zoned commercial and municipalities' inability to enact controls on their hours of operation, alcohol service, or performers' attire.

Oregon's weak economy has also supported the industry's expansion. Spatially, sexually oriented businesses fill an economic niche in metropolitan development by occupying low-value spaces because their presence would not be tolerated in prime retail spaces (Cameron 2004; West and Orr 2007). Tani (2002) argues that sexually oriented commerce tends to expand in times of economic restructuring, and Oregon's economy has experienced major change in recent decades (Jurjevich and Schrock 2012; Cortright 1999). Interestingly, the decline in the US real estate industry since 2008 has been a boon to local sexually oriented businesses. Property owners who might not ordinarily rent or sell their property to a sexually oriented business may no longer have the luxury of turning such tenants away. Even when real estate costs are higher, opening a strip club is generally considered a low-risk investment in Oregon. Clubs do not need to get a license or pay any wages to have entertainers, and obtaining a liquor license is easy and inexpensive. Existing bars can subsidize their operating costs by introducing exotic dancers because dancers pay fees to perform and share their tips with managers, security staff, and bartenders.

Portland's history as a frontier town combined with its more recent past as a politically progressive city have contributed to the city's tolerance of the sex industry. Nineteenth-century Portland was described as a "Wild West" town of sailors and lumbermen, where many of the few female residents worked as prostitutes/sex workers. Indeed, commercial sex has long been a part of the American west narrative (Dando 2009; see also Chapter 12, this volume). In Oregon, as in other western states, this history has fostered libertarian values and resistance to government regulation, particularly when it comes to individual conduct or the use of land. This libertarian viewpoint was reinforced by a series of interviewees who inform the research underpinning this chapter. "Liana," a public employee, drew on the city's history as she connected the libertarian perspective on strip clubs with westward migration: "pioneers who came out here to 'do their own thing' didn't want a lot of rules and regulations about things." Additionally, "Steven," who runs a small business in the residential neighborhood that is home to *The Lagoon*, embodies that spirit today: "My beef is more with government intrusion than it is with Mistress Suzie!" This comment echoed a ballot measure

statement by arts organizations warning against Measure 31 in 1996: “The government – not you and your family – will decide what you can see, read or hear, even in the privacy of your own home!” Consequently, a “live and let live” perspective on strip clubs is common in Portland. As civil rights lawyer Charles F. Hinkle stated in the *Oregonian*:

I don’t really think that it really is a politically sensitive issue in Oregon. There are enough voters in Oregon who like the free-speech clause interpreted as it has been and who have made that clear three different times in referenda on regulating adult entertainment.

(Green 2002)

Mainstream interests, such as librarians’ associations and major tourist attraction *Powell’s Books*, joined with sexually oriented business owners in speaking out against these measures, usually on grounds of free speech. Furthermore, organized religion plays a relatively small role in public life in Oregon (Newport 2012, Killen and Silk 2004) and moral concerns about strip clubs are rarely raised. Again, this contrasts with experience in the UK and Australia (see Chapters 2 and 8, this volume).

Normalization of strip clubs

Ironically, the high visibility of strip clubs and their spatial integration within residential and commercial districts has made strip clubs a mundane part of the Portland’s urban landscape and culture. Strip clubs have come to be inextricably linked with the city’s civic image, appearing in both local and national media about the city. For example, a 2007 press release for the trendy *Ace Hotel* described the city as having “a ‘villagey’ bookishness not unlike Hay-on-Wye and the seediness of Amsterdam with its 56 strip clubs.” Soon thereafter, *ABC News* called Portland “the erotic epicenter of America,” saying that the city promotes “its reputation for sleaze as part of the funky, offbeat culture that thrives here” (Donaldson James 2008). The *ABC* article continued by linking the local arts scene and socially liberal policy decisions such as Oregon’s medical marijuana and assisted suicide laws with the local slogan, “keep Portland weird.” A feature article in the internationally known travel magazine, *Travel + Leisure*, described Portland as having an:

idiosyncratic indie scene, where fair-trade cafés and strip clubs draw the same clientele ... oddly enough, reasonable-looking young couples in the crowd are not an uncommon sight. Strip bars are as ordinary as the city’s ubiquitous microbrew pubs, which are full of evolved frat boys in SNOB (Supporter of Native Oregon Beer) t-shirts.

(Austin 2007)

Similarly, a *New York Times* travel article on Portland (Gross 2009) described a visit to a strip club as an “inevitable” part of a visit and linked strip clubs to the

city's foodie scene, recommending the *Acropolis* strip club to readers on the basis of its organic free-range beef raised on the owner's ranch.

Locally, the retro neon marquee of downtown Portland's *Mary's Club*, which claims to be "Portland's first topless bar," is a landmark for residents and tourists alike (see Figure 4.1). The club's iconic cocktail-waitress logo is a familiar sight on jackets and t-shirts around the city, and *Mary's* was named one of the 10 best strip clubs in the US by *Men's Health* magazine (Gould 2005). Today, the third generation of the Keller family runs the club and the marquee bears an epitaph to patriarch, Roy Keller, who died in 2006. Portland is proud of its famous strippers, such as rock musician Courtney Love, who worked at *Mary's*, and Viva Las Vegas, who immortalized the local scene in her memoir *Magic Gardens* (2009). The strip club industry is a visible, if minor, participant in civic life through activities such as a fundraiser for breast cancer research and one club's annual bikini dog wash, proceeds of which go to the local humane society. Some club owners are also professionalizing, joining forces, and assertively engaging with neighbors and government agencies. Indicators of this professionalization include the formation of a local chapter of the Association of Club Executives and the existence of *Exotic* magazine, a trade magazine that began publishing in 1993. Several club owners who manage multiple properties have been particularly visible during times when there have been threats of additional controls on the industry (Bates 1996).



Figure 4.1 *Mary's*, Portland's first topless bar.
Source: Moriah McSharry McGrath

Strip clubs as neighbors

Though Portlanders have grown accustomed to the presence of strip clubs within their cityscape, the clubs are not necessarily embraced by all people who live and work near them. Opposition to these businesses periodically rears its head at neighborhood association meetings, in editorial pages, ballot measures, or city ordinances. The research upon which this chapter is based uncovered a variety of relationships between strip clubs and their neighbors, ranging from conflict to coexistence. The topography of the relationships between clubs and their neighbors is discussed in detail below via three short case studies.

Neighborhood conflict

Club Glitter, for example, seemed like a classic example of neighborhood conflict. When residents of the adjacent “Roland” neighborhood heard that the club’s owners, who operated another strip club in town, planned to open *Club Glitter* on the site of a restaurant that had been closed for more than a year, the response from the neighborhood association was fast and furious. This was despite the fact that the business would be located at the very edge of Roland on a large commercial street. Initially, the neighborhood association lobbied the state to deny the club a liquor license, ostensibly on the basis of information about the owner’s mismanagement of a property in another state that had been unearthed by a neighborhood association member. The association presented the member’s findings to the media, which seized on the prurience of a strip-club controversy. The liquor license was granted with conditions and once *Club Glitter* opened, residential neighbors kept a close watch on activities at the club and contacted the City whenever they observed anything that could possibly be considered a negative impact of the club. They kept track of infractions related to the special liquor license, going so far as to monitor the owner’s presence on the premises. Acts of vandalism in the neighborhood were attributed to club patrons and aggressively reported to the authorities. Public employees charged with responding to neighborhood concerns were overwhelmed by these reports. One public employee, “Tina,” explained in exasperation:

They think that all the problems in the neighborhood are still coming from *Club Glitter*. There have been five [police] reports within 500 feet of the bar in the last year. I can only attribute two of those to the bar itself. I probably have 500 emails from these people, and I have boxes and boxes of paperwork, and it’s just so ugly.

The neighborhood association continued their campaign against the club in the media and enlisted the support of other neighborhood associations to pressure the liquor control commission to stop alcohol service at the site.

Neighborhood indifference

More typically, neighbors tend to show indifference towards strip clubs, as was the case for most of the people interviewed about *The Lagoon*. For example, one

interviewee who worked nearby commented about the owner: “He’s working retail, as far as I’m concerned.” Most of the other businesses and residential neighbors echoed this disinterest, and it became apparent that some neighbors were not even aware that *The Lagoon* featured nude entertainment. The manager of a nearby restaurant, “Susanna,” contended that the strip club “minded its Ps and Qs,” so residential and business neighbors should have no concerns about its presence.

Neighborhood coexistence

Club Rio was an example of the rare, but by no means unique, phenomenon of a neighborhood embracing their local strip club. The club is a local institution and “Harold,” who recently opened a business nearby, commented that it was “kind of cool” to have his business next door because of the cachet, even if he did not patronize the club. Of all the people interviewed about *Club Rio*, no-one could recall any problems taking place. Even a staunch opponent of strip clubs admitted that he had no information to suggest that anything untoward went on at *Club Rio*. While some of the people interviewed appeared uncomfortable about strip clubs in general, almost all described *Club Rio* as unthreatening, “kooky,” and even charming. Ultimately, while the near 50 strip clubs in Portland are unique and have a diverse range of relationships with their neighbors, a broad and common set of factors underpinning conflict between them is identifiable.

Drivers of conflict

The drivers of conflict operated at both the individual club level and within the larger policy realm, and included actions by individuals, groups and organizations. Conflict basically occurred when clubs were perceived to disrupt the socio-spatial order of the local neighborhood by their mere existence, visual appearance, or how staff and customers interacted with other users of the area. Two powerful themes underlying conflict were: fears of harm to the heteronormativity of family life (see Chapters 6 and 8, this volume); and, the unsettling of the sexuality of the urban environment, what Halberstam (2005) refers to as “metronormativity.” These “dread risks” (Chapter 8, this volume) combine to influence people’s ideas about what is (ab)normal for their neighborhood. When community members feel that the threshold of normality has been breached this is when the potential for conflict escalates.

In overall spatial terms, areas perceived as more urban are considered to be more appropriate locations for strip clubs and have less conflict. Conversely, in areas characterized by low-rise single-family homes with limited commercial activity or public infrastructure, conflict over strip clubs tends to be more overt. For example, as a result of its reputation as a center of both business activity and social services for transient and otherwise in-need people, the densely developed downtown area of Portland which is described as a place where “nobody really lives” is seen as a good location for strip clubs. As Whitney, an exotic dancer, noted: “Somebody who moves into the downtown area has an expectation that

they're going to experience more people, a little more noise, and a little more diversity than someone who moves out in the Southwest Hills" – a verdant suburban-like area where streets wind through residential districts.

Similarly, "Carl," who had worked at a variety of sexually oriented businesses, stated that people who lived in areas further away from Portland tended to raise the most objections. He had dealt not only with angry neighbors but also stonewalling by public agencies that selectively enforced rules on sexually oriented business but not on other businesses. Other interviewees expressed similar sentiments about commercial sex premises. "Fiona," another exotic dancer, stated that:

I think [in] Downtown Portland it's okay. You have to expect all of that and be okay with it. Otherwise, go live in the 'burbs. I think here we can keep it funky and free and be okay with that. ... I think colorful and diversity and just living is fine.

Less urban areas tend to respond differently to the diversity of community life, often demanding government assistance in dealing with small-scale conflicts. As "Nelson", a public employee, noted:

You're dealing with predominantly residential concerns and they tend to be lower-level criminal issues, a lot of liveability stuff. For example, I've [seen] more than one neighborhood meeting on egging.¹ When there is a larger issue that takes place, the community reacts extremely explosively and there's a lot of emotion involved.

Club owners also reported inflammatory responses from some residents in suburban areas, and a resident who lived in an urban neighborhood with a strip club contrasted her experiences there with those in a suburban area where she works. In short, she and her neighbors were content with having *The Lagoon* in their midst. This was not the case however in the suburb of "Orville":

Orville is not a community that would embrace a strip club. This is a point of pride in Orville: [the strip clubs] are not actually *in* Orville. The Roadhouse is in Portland and Samantha's is in *unincorporated* [county name]. It's a fine distinction, but it is made with regularity.

In addition to the perceived "dread risks" posed to the family unit by sexual commerce, strip clubs were also seen as transmitting negative secondary effects on neighborhood amenity through their aesthetic character (e.g. blank street-facing walls, neon signs, and advertisements with depictions of nudity; see Chapter 13, this volume). The owner of *Diamond Dust* described how he seeks to address these neighborhood amenity issues and how neighbors expressed fears in the wake of the opening of the club:

We patrol the parking lot, we keep it clean, we make sure that we don't have any disturbances. We try to be a good neighbor. We have to have a permit for any banner, and our signs aren't offensive. They thought we were gonna have naked girls on it, XXX, Girls! Girls! Girls! Again, the uneducated people watching too many TV shows. As long as it didn't show nudity, we could put anything we wanted to. But we don't because we want to be a good neighbor. We could be jerks, but it doesn't benefit us in any way.

Oregon's liquor licensing policies also contributed to conflict over strip clubs. The regulations make it easy for businesses – strip clubs or otherwise – to serve alcohol because liquor licenses are inexpensive, there are no limits on how many can be issued, and, crucially, they are rarely revoked. The Oregon Liquor Control Commission (OLCC) may only deny a business a liquor license on a few specific grounds, most of which are related to the individual licensee. Some denial criteria are related to the property and its management, such as a history of disturbances at the business location, or failure to provide adequate food service – but these are rarely invoked. When such criteria are invoked they are generally contested by the applicant. Even in the face of complaints from neighbors, the OLCC is very unlikely to deny or revoke a license. Neighbors who had problems with nearby strip clubs or who were hoping to prevent a club from opening by stopping its license application were often aggravated to find out that their desired outcomes were in vain.

There were also temporal drivers of conflict. Clubs were most likely to encounter resistance when they first opened or when there was a larger event that drew attention to sexual commerce. Liana, a public employee, described this dynamic in her recollection of the 1990s:

I particularly remember that point in time when there was a lot more community outcry – proliferation of the nude entertainment as those came more into areas where I don't know that anybody necessarily expected it ... It just ratchets things up, there was more hue and cry and that was a time of those proposed constitutional amendments.

As another public employee, Nelson, explained:

It's always that initial siting process where you get those kind of comments – “to each their own, but not in my house, not in my neighborhood!” But, once you're established, it's not gonna change. People turn a blind eye to it unless the clubs change management and do something different in their format to draw attention to themselves.

This view was echoed by another local business owner who cited the example of a sexually oriented business in a residential area: “[*Babydolls*] is right across from a middle school and there was initial concern and it's been there ten years, no problems at all, and no one pays much attention to it.”

Another temporal aspect of conflict associated with strip clubs relates to their hours of operation. Neighbors seemed less concerned about clubs' potential impacts during daylight hours, which were perceived to be the domain of "normal" businesses and family activities. For example, "Olivia," a neighborhood leader, recounted how a friend of hers had seen scantily clad people outside a strip club. She brushed off concerns about the propriety of this situation because: "This was late, it's 10 o'clock at night, there's not going to be very many kids who are out." However, any visible activity at a strip club during the day was met with consternation.

The role of neighborhood socioeconomic status

Various interviewees affirmed that strip clubs are more likely to be located in less desirable neighborhoods and that residents of these areas tended to raise little resistance to the clubs. The owner of *Daisy's*, for example, confirmed that he selected a rundown location for his business because he knew that there was little chance of neighborhood opposition. A member of a family-owned restaurant close to *The Lagoon* outlined that since the neighborhood was "kinda ghetto" then "if they're [i.e. strip clubs] going to be somewhere, they're going to be here. You come to bars over here, you know where you're going." Low income areas with strip clubs were also described as forgotten and transient places that received little attention from local politicians. There was a view that since low-income residents lived in what might be considered to be industrial and run-down areas they were somewhat numb to the existence of strip clubs and thus resigned to their presence: As "Whitney," an exotic dancer noted:

Obviously there are serious problems with the neighborhoods that these clubs are in. Mostly socio-economical. There's drugs and crime. There's a bum hotel over *Club Rio* and always has been. And then *Rendez-Vous*, that place upstairs is condemned, and it's in [a neighborhood where] there's traditionally not any real people living down there. Which makes a huge difference: when people are living in the neighborhood they tend to take better care of it.

Some of the highest profile resistance to strip clubs in Portland has been by residents of wealthy and politically connected neighborhoods. Public employees described how several such cases had taken up considerable amounts of their time despite the clubs not necessarily causing major problems:

They really aren't doing anything different than any of these other clubs. [The neighborhoods] just have people who have more money and power. They're used to feeling like their voice can be heard. As opposed to somebody who might live out at 92nd and Foster – they have several strip joints, but they tend to be more renters, low income, they're trying to get food on the table. They're just thankful they have a roof over their heads. The people who scream the loudest are the people who have money.

(“Tina”, public employee)

Another public employee suggested that people who had recently moved into newly gentrifying areas were attempting to shut down long-established businesses with few problems simply because they didn't like the idea of living near a strip club and wanted to protect their investments. However, there were also several examples of low socio-economic status neighborhoods mobilizing a powerful resistance to strip clubs. In instances like this, the neighborhood resisted strip clubs specifically because residents felt that its precarious socio-economic status made the community vulnerable to further decline. As these two examples show, the experience of living in a low socio-economic neighborhood may also galvanize a reaction.

Many of the general concerns voiced about strip clubs revolved around the belief that clubs are part of a process of neighborhood blight, and low socio-economic neighborhoods are often in the most precarious situation in this regard. A co-chair of a local neighborhood association made this connection in a statement supporting *Measure 31*:²

Many of the [Portland] outer southeast neighborhoods are economically fragile and ripe for undesirable businesses taking advantage of lower commercial costs. Adult oriented businesses promote negative imagery and gender roles to children and adults. They have TREMENDOUS DESTRUCTIVE POTENTIAL FOR NEIGHBORHOODS on the brink of deterioration.

"Irene", a public employee who works with neighborhood groups, found that the relationship between neighborhood SES and community response to strip clubs was more complex than might be expected:

How much people are willing to fight, I think it's always surprising. That sex store in [Neighborhood A] was maybe six years ago, ten years ago. It was still working class, not fancy. But even then they fought like heck. They did everything to try to stop the store from coming and then did the foot patrol. They even fought after that. They just did not want that. That other store was in [Neighborhood B], that's a working class neighborhood. I don't think that it always has to do with money. Just as much working class families will fight for their kids' safety and the perceived safety than rich people will – they just may have more resources to talk about lawyers and stuff but the impetus to try and fight is still there.

Fostering coexistence

The spatial diffusion of strip clubs in Portland combined with the lack of land-use controls sets the stage for conflict and paves the way for normalization. The relatively peaceful coexistence between strip clubs and other land uses is supported not just by the social effects of spatial normalization but also by policies and the actions of individuals and groups that serve to prevent or resolve conflicts. Policies

and programs are created by the city, with much of the programming taking place at the neighborhood level, whereas group actions generally occur through neighborhood associations and individual interactions are usually between club staff and other business people or concerned neighbors.

Policy and programs

The City of Portland has several policies and programs that establish channels for residents to express concerns about strip clubs as well as formal procedures for managing any negative secondary effects such businesses might have on their surroundings. These administrative tools include: (i) a set of ordinances related to nuisance properties, and (ii) the city's liquor license and neighborhood association programs. Because regulation specific to sexually oriented businesses is not possible, these statutes represent the best opportunities for managing the secondary effects of strip clubs that neighbors fear and/or experience.

A local businessman, "Thomas," who has seen an array of controversies in neighborhoods around the city, contended that although Portland's zoning code does not directly address sexually oriented businesses it does help to quell conflict because it effectively sorts land uses and structures environments and public participation. From this perspective, problems are easier to prevent and resolve due to the city's sophisticated land use controls:

If there wasn't any zoning code, there could be conflict but there wouldn't be a mechanism for dealing with it, and then the conflict becomes more internalized as opposed to something out in public. Here, every interpretation is a public process so it appears to be a conflict even though it's really more of a discussion and a resolution.

The City of Portland's ordinances that target nuisance properties are basically used as tools to control the perceived negative impacts of strip clubs. The Chronic Nuisance statute (*City Code Chapter 14B.60*) is less frequently applied than the Time/Place/Manner statute (*City Code Chapter 14B.120*), which has been central to liquor license enforcement activities in recent years. Public employees who are approached with these concerns work with neighbors to document any violations that could lead to sanctions under either of these rules.

The Chronic Nuisance ordinance allows for the city to close a business and/or restrict access to the property for six months to a year if three nuisance activities have occurred at the site within a 30 day time period. Because the sanction is so severe there is a high administrative burden associated with this ordinance. It tends to be applied to illegal drug houses rather than night time economy venues. The Time/Place/Manner ordinance is a more flexible regulation, designed specifically for establishments that serve alcohol. The rule allows the city to regulate the time, place, and/or manner in which alcohol is served at establishments that have been found to adversely impact the community. The ordinance was adopted in 2004 and the city has been more aggressive in employing restrictions in recent years. The

type of restrictions that might be imposed include: (i) limiting a business's hours of operation; (ii) allowing a bar to sell only one drink at a time to patrons; or, (iii) requiring security patrols on the premises. Several strip clubs have been subject to Time/Place/Manner proceedings.

Portland's liquor license program provides another avenue for public engagement with siting and nuisance issues. The OLCC also solicits local government recommendations on license applications, and Portland has the most stringent process – and the most licensees within its borders – of Oregon municipalities. The program includes a full-time liquor license manager who reviews the applications and works to notify neighborhood associations and help them document any concerns about the application. The license manager works closely with the city's Office of Neighborhood Involvement (ONI) and the Police Bureau's nightlife detail.

The neighborhood association is the key vehicle through which community interests are negotiated with club owners and managers. Not only is the neighborhood association the body that informs the city recommendation on the liquor license application or renewal, but the associations channel community concerns and may, with a mediator from the city, negotiate a "Good Neighbor Agreement" (GNA) with a business. GNA's are both a powerful tool and a "paper tiger" with no enforcement mechanism. GNA's can cover any aspect of business operations, and identify responsibilities for both the business and the neighborhood association. For example, a business might agree to patrol their parking lot every hour to prevent noise and illegal activity, while the neighborhood association might commit to call the business with noise complaints as a way to resolve them without calling the police.

Outside of negotiating Good Neighbor Agreements, the staff at the city's ONI also do outreach to businesses. For example, an ONI staff member walking by a construction site noted that it was to become a sexually oriented business and "knew" that this development had the potential to stir conflict in the neighborhood. So, he contacted the owner and offered support in building a positive relationship with the neighbors.

Despite their successes, these laws and programs have not managed to resolve all of the conflicts that may exist. For example, in an interview with a young home owner, "India," she described her frustration that city agencies were not doing enough to rein in noise, drunkenness, and public urination and sexual activity at the strip club behind her home. She felt as though dealing with the club had taken over her life. Not only was her sleep disturbed by rowdy patrons, but every noise in the yard caused her to jump for her camera so she had evidence of shady activity going on in her yard to add to the logbook she had been asked to compile for the police. This experience is typical of neighbors dealing with concerns about clubs, as demonstrated by discussions in other sources such as *The Oregonian* (Bates 1995) and a report by a civic organization (City Club of Portland Research Committee 2000).

Even when problem businesses are sanctioned, licensees find a way to maintain business as usual. Neighbors, public employees, and dancers had many stories

about businesses who had been threatened with losing their liquor licenses but managed to keep them by transferring the license to someone else or by reducing their share in the investment. The GNA also has serious limitations because it requires voluntary participation in negotiation and self-management after the agreement is adopted. Thus, while the city's existing policies and programs can be effective at resolving problems, they are not fully reliable at doing so.

Site-level interactions

The level of conflict at individual club sites was also strongly influenced by the actions of club owners and staff members. Clubs that had built relationships with the neighborhood and viewed as being responsive to neighbors' concerns were often perceived as good or at least tolerable neighbors. These relationships were built through actions such as seeking out neighbors, by patronizing local businesses, serving a local clientele, or by making changes to the club based on the concerns expressed by neighbors.

Club owners who were proactive rather than reactive were often able to develop effective agreements with neighbors about their business operations. This was reflected, for example, in the approach taken by an adult video store, as described in the *Oregonian*:

When *Fantasy Video* went in at Northwest 17th Avenue and West Burnside Street in Portland, just a few blocks from Lincoln High School, the owner and architect contacted the neighbors. "They initiated it," said Joleen Classen, then executive director of Neighbors West Northwest. "They were clear and open. They went to those public meetings. That couldn't have been fun."

(J. Smith 2000)

The Lagoon had had few conflicts with its neighbors on account of the owner, "Timothy," adopting a proactive approach to neighborhood relations:

That's the last thing we want, for any of our neighbors to dislike us or have any issues. There's a house that's directly behind the [club] and it's kind of a college house. So we're pretty stoked on that because it's always young people that are living in the house and they'll come over to the bar. Anytime anybody parks in front of their house or drops off any garbage, I'm always there to help.

The Lagoon also improved its reputation by being responsive to concerns that did arise. From the owner's perspective, this constituted good business practices:

I'm always really really sincere about anybody that has any complaints about the bar. And I always try to solve whatever issue that they're having because that's the last thing you want, is your neighbors not wanting you there or a disgruntled neighbor. Any time that anybody starts to have a problem with

you, and depending on how much free time they have on their hands, they can make it a real issue for your business.

Reciprocity between clubs and their commercial neighbors also plays a role in helping strip clubs becoming a respected participant in community life. The manageress of a restaurant near *The Lagoon* enjoyed having the employees of nearby sexually oriented businesses as customers because they were regulars who tipped well. She also referred to several club employees as being “sweethearts” and that she could see no reason to object to their presence in the neighborhood since the dancers “covered up” when they were in the restaurant and came around after children had gone to bed. Finally, she noted that the strip club workers were friendlier than many of her other customers, and more reliable sources of income. The owner of a business, “Louis,” next door to a strip club, spoke of the well-mannered manager and the orders for merchandise he had placed with Louis’s business. Similarly, another business owner, “Harold,” who catered to the city’s “creative class” and had recently relocated to Portland, reported that the staff of the neighboring strip club came over to meet him and to check out his business when he was getting settled in. Their visit created a feeling of collegiality and a sense of reciprocity.

Neighbors also appreciated clubs such as *The Lagoon* in that they became local “watering holes” for many community members: as the owner of *The Lagoon* commented, “We get a lot of the neighborhood that comes in. On snow days we’re packed because there’s nothing else to do around there.” Neighbors were less likely to object to clubs when they saw them as a local bar:

The people that go there probably live in the neighborhood. It’s not a place where people are traveling from the other side of town to come there. I don’t know if I would feel differently if it were a regional draw. I think the distinction is “our” strip club is a neighborhood place.

(Mara, neighbor)

This particularly Portlandian notion of the neighborhood strip club is the same one that captured the imagination of the travel writers cited above.

Conclusions: lessons from Portland

As a city whose socio-political landscape has evinced liberal attitudes toward sexual commerce for decades, Portland is an instructive case for locales experiencing the forward march of the sex industry and concomitant “visible spatial sexualization.” Despite its atypical regulatory environment and resulting spatial configuration, conflict over strip clubs in Portland is driven by many of the same forces that operate in other settings. However, as this chapter has highlighted, close examination of local relationships provides a nuanced insight into the dynamics of conflict at strip club sites. The level and type of conflict varies across different settings and time. Second, and perhaps most usefully, conflict can be prevented

and resolved when different actors are open and transparent and proactive in developing relations with one another.

Understanding the changing spatial and social meanings of strip clubs is more than an idle curiosity. As various scholars have shown, the manner in which sexually oriented businesses are regulated speaks to notions and practices of patriarchy (Hanna 2013), heteronormativity (Lasker 2002), gentrification (Hubbard *et al.* 2009; Hubbard 2004; Papayanis 2000), the stigmatization of sex workers (Domosh 1999), and other processes of social stratification and capital accumulation. Indeed, land use conflicts that emerge as a result of commercial sex businesses provides insights into the constantly changing relationships between sexuality, space, and social identity (Hubbard *et al.* 2008). Resolving the spatial role of sexual commerce is necessary not merely for managing a nuisance land use but rather for the creation of a “sexual commons” (Prior *et al.* 2012) that allows for the assertion of diverse sexual rights.

In many ways, the examples of conflict and resistance that permeate Portland’s “(sub)urban sexscape” (Chapter 2, this volume) mirror previous findings about land-use conflict in general and responses to sexually oriented businesses in particular. The fears expressed about harms to family spaces and the association of the city and sexuality align with previous scholarship documenting the presumed danger to children by sexual commerce (Hubbard 2001) and the enduring, but arguably spurious notion of “metronormativity” (Halberstam 2005; Knopp 1995; Hubbard 2012). The temporal aspects of the conflicts surrounding strip clubs adds to the discussion about the role sexual commerce as a key feature of the nocturnal city (Prior *et al.* 2012) and introduces a longitudinal or lifecycle component to our understanding of the conflict provoked by strip clubs and other forms of sex work. Additionally, the ability and motivations of low- and high-income neighborhoods to oppose and protest against strip clubs was revealed to be more nuanced than is generally understood.

Although the configuration of the “sex industry” may be subject to the vagaries of globalization, it is local processes that drive or dampen conflict. As shown in this study of Portland, Oregon, the local policy and cultural contexts operate at a variety of scales, including the hyper-local level, where actions by individual strip club owners in turn contribute to perceptions of strip clubs in the city as a whole. These findings about conflict and coexistence across spatial scales, taken with other research, suggest that different types of sexually oriented businesses may affect their surroundings differently (Edwards 2010). In other words, it would be wrong to assume that strip clubs are always “noxious neighbors” that only transmit negative secondary effects and give rise to conflict (Hubbard *et al.* 2013). The experience of Portland offers concrete examples of how conflicts may be prevented and resolved. Notably, these strategies have little to do with sexuality *per se*. Instead, they tended to revolve around integrating strip clubs into the neighborhood visually and socially and through building lines of communication. An important mediator of these relationships was the city’s community outreach programs, which assured access to negotiation and advocacy services to all neighborhoods. This resource helped create a level playing field in two ways. First, all neighborhoods

had access to the same resources, regardless of the area's socio-economic status. Second, both residents and business owners found advocates in the negotiation process, preventing the primacy of purported family concerns from forestalling any negotiations.

In conclusion, Portland's experience provides insight into what happens when the power to regulate sexual commerce is constrained and strip clubs manifest in places that planners or residents might not choose. The diffusion of strip clubs throughout the city of Portland is not the product of a conscious strategy but rather the outcome of the cultural environment, market forces and policy limitations. As nations such as the US, UK and Australia have become increasingly liberal about commercial sex, this raises the possibility of more cities' (sub)urban sexscapes resembling Portland's. While the findings from this study are not necessarily generalizable or transferable to other settings, they do suggest that sexually oriented businesses – which are increasingly likely to be a part of urban (and rural) community life – need not be treated as a pariah land use. In fact, they may best be managed as other “normal” businesses are, as radical as that notion may seem.

Notes

- 1 That is, vandalizing properties by tossing eggs at them.
- 2 This 1996 ballot measure proposed to amend the state constitution to include a provision that Oregon's obscenity standards must be at least as stringent as federal standards.

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5 Telecommunications impacts on the structure and organization of the male sex industry

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Introduction

The growth in sex as a commodity has been driven by recent economic, demographic, ideological and technological changes and a much broader tolerance towards the expression of sexualities, at least in Western countries (Ward and Aral 2006). There is increasing attention to the fact that global increases in sex work occur not only among female sex workers, but also among cohorts of male sex workers (MSW), and that both males and females can be clients of the industry. Despite this, current research continues to focus predominately on female sex workers, and specifically on street sex workers, even though there are large numbers of MSW and significant changes in the geography of sex work from “outdoors” to “indoors” (Lee-Gonyea *et al.* 2009). Male sex workers provide service to a broad clientele, who are largely, but not exclusively men. While data on this group are lacking, MSWs account for approximately 10 percent of the sex worker population globally (Perkins 1991; Smith and Grov 2011; Weitzer 2005). In Australia, where the regulatory landscape of sex work varies from state to state, a random sample of over 10,000 men, reported that 16 percent had hired a sex worker at some point in their life, three percent of which were MSWs (Rissel *et al.* 2003). There are indications that hiring a sex worker may be more common among men who have sex with men (MSM) than other populations. For example, a community-based survey of 660 sexually active non-monogamous MSM in New York City found that 42.7 percent of participants had either paid for sex, been paid for sex, or both. In this way, commercial sex transactions appear to be an integral element of the sexual landscape in gay communities (Koken *et al.* 2005).

International research suggests that the majority of MSM meet their partners through the Internet (Berg 2009). Despite this, sex industry research has only recently begun to examine the impacts of technological change on the male sex industry. At a broad social level, telecommunications has increased the numbers of male escort workers, created new spaces for sex work encounters, and has extended the reach of sex work to a wider socio-demographic audience (Holt and Blevins 2007). At the behavioral level, research indicates that the needs, desires and experiences of sex workers and clients and the context of their encounters are

different when conducted in cyberspace (Parsons *et al.* 2007). The usage of commercial sex among men needs to be understood within the larger social context of masculinity, power, spatially situated forms of interaction, and the body as commodity. Adopting a post-structuralist account of masculinities, this chapter examines how telecommunications, in changing the structure and organization of male sex work, has opened up new spaces for the expression of masculinity and intimacy. It is argued that support programs need to better understand and engage with telecommunications usage in order to develop successful harm reduction strategies for vulnerable MSWs.

The spatiality of female sex work

It is difficult to comprehend how sex work is structured and organized without appreciating the social and political organization of space as a gendered construct. It has been argued elsewhere that sex work was made a social problem in modernity because new social controls emerged which restricted the movement and visibility of gendered bodies within new spatial contexts (Scott *et al.* 2005; Hubbard 1999). For example, “public” spaces were increasingly masculinized. In such spaces, open displays of sexual promiscuity were highly restricted. Relatedly, expressions of female sexuality were increasingly relegated to private spaces, in particular the marital bedroom. As discussed below, the gendering of space has influenced understandings of female and male sex work.

During the early modern period, female sex work came to be a metaphor for urban disintegration and disorganization. What distinguished the female “prostitute” (or sex worker¹) from other disreputable figures who occupied the urban landscape was an apparent carnality which made female prostitutes appear masculine in manner, if not appearance (see Lombroso 1895). Sex work, increasingly understood as an urban condition and a gendered problem during modernity, was perceived to be disruptive to “natural” social hierarchies and institutions. To borrow Mary Douglas’s (1992) term, prostitutes were “matter out of place” and, for this reason, were linked to pollution and danger. Symbolic of urban encounters and fantasies, the prostitute was desired and feared, degraded and threatening, and regarded with disgust and fascination. Prostitutes were seductive and deadly, and as long as they wantonly roamed the streets men were thought to be susceptible to their erosive charms. The solution to the problem of sex work has been to “contain and control”; restricting its visibility to the private realm or geographic margins of cities and towns (see Chapters 2, 6 and 12, this volume).

In so doing, the solution to disorder was not to eradicate the prostitute’s body, but re-order it. In particular, sex work allowed for volatile and illegible urban landscapes to be ordered and reordered along gender and class lines. For example, early criminologists and sexologists compared those women who inhabited public places to middle-class ladies, whose movement had been more successfully restricted, and whose bodies had come to be representative of “good” social and public order (Ellis 1936; Lombroso 1895). These women were increasingly depicted as the “custodians” of tradition and culture, and in this role

they were to be protected from the impending disorder of urban life (see Wilson 1992).

Concern with sex work has largely remained restricted to public displays of promiscuity in urbanized settings. Research has reinforced distinctions between the public and private spheres – and now the *pornosphere* (see Chapter 9, this volume) – with public or street sex workers providing an accessible population, whether they be visible on the streets or confined in remedial institutions. Women who have restricted their activities to indoor environments have remained less visible to public scrutiny. In this way, the modern dichotomy between the feminine sphere of home and masculine sphere of work was reinforced.

The construction of sex work as an urban phenomenon also reinforced distinctions between rural and urban life. Despite the strong association of sex work with urban spaces, the historical existence of sex work beyond the city limits is regularly acknowledged and is a crucial element of frontier mythology in settler societies (Scott *et al.* 2006). Yet, in these historical references, sex work forms part of a rural community that has ceased to exist through the progressive taming of the frontier. During the late nineteenth century, various expressions of vice in frontier communities became increasingly restricted as communities developed stable agricultural economies, which drew more women and families to the frontier. As with cities during the same period, the object of regulation was not so much to abolish sex work, as to remove the more visible aspects of sex work from sight. Unrestricted modes of *laissez-faire* control gave way to spatial forms of regulation, which removed sex work from the main streets of towns and restricted it to the margins of rural communities (Harvie and Jobes 2001). It is with the restriction of sex work to the margins of rural communities that historical accounts of sex work within rural communities largely vanish, with sex workers rendered “out of sight, out of mind.” The structure of rural communities, with their tighter surveillance and limited economy, did not allow for the continued presence of public (street) displays of sex work. Public displays of sex work failed to manifest in post-frontier communities, preventing the designation of sex work as a “social problem” in these communities.

Simply, sex work has been presented in popular and scholarly discourses as an extreme product of *gesellschaft*² relations (see Tönnies [1887] 1957). Under these conditions sex work is regarded as a by-product of rapid urbanization and industrial progress, which has led to increased sexual diversity and freedoms and contractual relations. In such renderings the cultural complexity and sophistication of urban centers is contrasted with the “traditional sexualities and moralities of the countryside” (Hubbard 1999: 62). Modern urban life has been eroticized with reference to anonymity, voyeurism, exhibitionism, consumption, motion, danger and restlessness (*ibid.*). These various aspects of modernity and urbanity are closely associated with the imagery of sex work. The following section examines ways in which the use of telecommunications in the male sex industry might be challenging views of sex work as “urban.”

The spatiality of male sex work

A masculine association with public space has been important in informing understandings of MSW (see Scott 2003). Historically, MSW has been of significantly less public concern than female sex work. The relative lack of attention might be explained by smaller numbers of MSWs, but MSW has been consistently present in most societies and at particular historical junctures numbers of MSWs have been relatively high. Historical evidence indicates that as early as the eighteenth century commercial sexual contact between men frequently occurred in European metropolitan centers such as London (Norton 1992). However, prior to the modern period, such behavior was often confused with notions of homosexuality and not recognized as sex work *per se*. Scott (2003) has argued this was not only because MSW was conflated with sodomy and/or homosexuality, but, unlike female sex work, MSWs were not associated with the spread of venereal disease. Interestingly, MSW was associated with effeminate behavior and an emergent discourse on homosexuality that linked same-sex desire with gender transgression (Kaye 2003).

A shift in the way in which MSW was characterized in popular and official discourses began to emerge during the mid-twentieth century. The “hustler” became the iconic image of male sex work during this period. These sex workers were likely to be encountered in highly urbanized settings and their work typically involved soliciting pedestrians and motorists with sex exchanged in a variety of locations, including cars, private homes, brothels, and secluded private areas. This early research identified a large number of this cohort as delinquents (McNamara 1994; Harris 1973). There were two directions for research into male sex work. The first, “sociological,” was largely concerned with deviant subcultures, especially delinquent gangs. The second, “clinical,” predominantly followed approaches which understood male sex work in terms of socio-pathology. This early research has attracted significant criticism because of its sampling bias (largely delinquent and/or institutionalized populations; Kaye 2003; Salamon 1989). As with research on female sex work, the focus was largely urban street workers, because of their high visibility and accessibility (Kaye 2007).

A feature of early studies on male sex work was a concern with urban degeneration and its relationship to family breakdown and juvenile delinquency; the city became a metaphor for social and moral decay. Within this narrative framework the nuclear family was presented as a device to explain, understand and resolve potential problems or disruptions associated with urban development. Research typically depicted the city as a “site of temptation” for the naive and ignorant young male (accounts often emphasized the supposed rural origins of male prostitutes) (Harris 1973). Post-war research into male sex work often carried the claim that the incidence of male sex work was increasing in epidemic proportions in urban centers. For example, Caukins and Coombs (1976: 441) presented the city as a space of ever-present danger and corruption:

a gay sex market thrives in the big city. It is a profit-oriented street-corner college for recruiting, training and selling of boys and men to older affluent

homosexuals. To be successful in the profession the prostitute must be young, good-looking, and willing to do anything the customer wants.

Researchers such as Caukins and Coombs would have it that male sex workers came from a stable family environment to be confronted with the organized (homosexual) chaos of the metropolis; the idyllic familial and often rural origins of the male prostitute being contrasted with his present circumstances.

Early studies predominantly adopted a dichotomous understanding of the male sex worker. MSWs were assumed to be either homosexual or heterosexual – the implication being that homosexuality is a homogeneous category and that sexuality is an immutable state (Coombs 1974; Russell 1971; Gandy and Deisher 1970; Deisher *et al.* 1969; Craft 1966). Early researchers seem to have correlated non-masculine behavior, appearance and mannerisms with homosexuality (MacNamara 1965), and hyper-masculine characteristics with heterosexuality (Ginsburg 1967). In this way, MSWs were classified according to their place of work. Those who worked in public spaces were typically represented as “masculine,” which was taken to indicate that they were “heterosexual.” In contrast, males who worked in private spaces were represented as effeminate and thus, homosexual. The “paradox” of public sex work, in which a heterosexual male was found to be engaged in homosexual conduct, led researchers to represent them as victims of homosexual seduction, forced into sex work through desperation to survive. This understanding of MSW strengthened rather than challenged the view of clients as exploitative, while reinforcing the emerging view that the male prostitute was a “victim” of predatory perverts who roamed city streets.

The identification of public space as a masculine sphere had consequences for the way in which sex workers were regulated. While female street workers were considered a largely criminal population, male street workers were often presented as deserving of welfare or medical interventions. Indeed, while the clients of female sex workers often escaped scrutiny, the clients of male sex workers were presented as a criminal or deviant population in the early literature on male sex work (Scott *et al.* 2005). Following HIV/AIDS, MSW was constructed as a public health concern within a medicalized paradigm that focused on gay men as “sex workers,” and presented sex work as a legitimate source of income.

Bauman’s (2003) arguments around “liquid love” have forwarded the proposition that relationships in modernity are somewhat fluid and created the context for sexual script transformation, with studies documenting the growing phenomena of straight identifying men engaging in what is known as “gay for pay.” This has highlighted that the intrinsic nature of sex work is not all oppressive and that there are different kinds of worker and client experiences and varying degrees of victimization, exploitation, agency and choice. It was during this period that call-boys and escorts began to emerge as clear and distinct categories of sex work, appearing in the literature as successful or what is perhaps better termed, “professional prostitutes” (Luckenbill 1987; Perkins and Bennett 1985; Sandford 1975). This allowed economic disadvantage and social exploitation to be questioned as root causes of MSW and increasingly an occupational perspective on male work developed publically and in the literature.

Sex work came to be slowly considered a rational, financially motivated career choice taken up by adult males (Weisburg 1985). Men and women who worked in the sex industry increasingly became to be referred to as “sex workers,” as opposed to the often stigmatized and value-laden term “prostitute” (Burnes and Long 2012). Research began to challenge the dual notions of male sex work as a criminal (MSW as victim) or health (MSW as agent) problem (Minichiello *et al.* 2001). Recent research suggests that male sex workers who identify as bisexual or gay tend to identify sexual pleasure as an important aspect of their work along with other positive work related experiences (Vanwesenbeeck 2012). Table 5.1 provides a conceptualized overview of the primary discursive constructions of male sex work and highlights differences between a deviant and medical paradigm and the impact of AIDS on the sex industry.

Two areas of male sex work remain relatively invisible in the research literature, both of which can be defined spatially. Rural male sex work is largely unknown because it is assumed that only female escorts will be found in these strong heterosexual communities. One reason for this is the tighter social controls that exist around sexual expression in rural and remote locations. Again, as with female sex work, while these locations might not permit public displays of commercial sexual exchange between men, there can be no doubt that such exchanges occurred historically. For example, in many rural locations commercial exchanges involving men are likely to occur at “beats” or “tearooms,” which are public spaces, typically toilets, where men can meet to exchange casual sex, with or without monetary or other inducements.

The second neglected aspect of research involves the global occurrence of male sex work. The sale of sex by male sex workers is not limited to developed countries. Using world-system theory, Dennis (2008) argued that the core of research on sex work is dominated by a focus on the colonial powers of Western Europe with the periphery of sub-Saharan Africa, East and Southern Asia and the Middle East largely ignored. Of recent (2000–2007) articles on female sex workers, 54 percent were based on research in core states (Dennis 2008). This dominance of core states can be explained by the attention given to the global trafficking of women and girls for sex. In terms of MSW, only seven percent of articles on MSW appeared in periphery states (this being an article on rent-boys in Thailand). In this way, MSW, and on a broader level, same-sex desire, are presented as Western phenomena, with the “native” being untainted by homosexual decadence. While homosexual male sexual behavior has been labelled as Western in origin and

Table 5.1 Discursive constructions of male sex work

	<i>Status of prostitute</i>	<i>Status of client</i>	<i>Spatial context</i>
Pre-AIDS (deviant paradigm)	Heterosexual Victim Welfare intervention	Homosexual Agent Criminal control	Public/Street 'Hustler'
Post-AIDS (medical paradigm)	Gay 'Worker'	Ambiguous Deviant	Private/indoors Escort

frequently denied as un-African in particular, significant amounts of male-to-male sexual activity, including commercial sex work, is documented in both Asian and African contexts. MSW in developing countries includes both foreign tourism trade and local clients.

Peter Aggleton's (1999) collection of essays, *Men Who Sell Sex*, was the first serious attempt to present a global account of MSW, with research from South America, South Asia and Southeast Asia. Alcano (2011) has provided one of the first contemporary accounts of MSW markets in Indonesia, the second largest Islamic majority nation in the world. His study provides a vivid account of how masculinity is uniquely constructed, enacted and reproduced in a South East Asian setting. Similarly, Mitchell (2011) examines masculinities with regard to Brazilian rent-boys, exploring how "Latin homosexuality" mediates encounters. Padila (2007) has examined another aspect of globalization with his work on gay sex tourism in the Caribbean. A study in Mombasa, Kenya, found that among the last clients of MSWs, 80 percent were local Kenyans, as opposed to foreign tourists, firmly repudiating ideas about male homosexuality being "un-African" (Okal *et al.* 2009). These studies are important because they show the significance of dynamic and culturally specific constructs of masculinity in the social construction of MSW.

Changes in the structure and organization of sex work due to technology

The social control of the sex industry draws attention to promiscuous bodies in public space, but in reality only about 10 percent of sex work is street-based (Smith and Grov 2011; Weitzer 2005; Perkins 1991). Despite accounting for such a small proportion of sex work, street-based sex work dominates the public imagination and discourse. In both male and female sex work, outdoor work has a generally lower status than indoor work (Allen 1980). Indoor workers tend to be more educated, report fewer financial problems, are more likely to see sex work as a long term occupation, and feel more comfortable with sex work as a rational career choice (see, for example, Minichiello *et al.* 2001; Vanwesenbeeck 2012). Pre-Internet, male escorts placed advertisements in local gay-oriented papers, with clients contacting them to make appointments. A recent study comparing street MSW with Internet escorts reinforces these observations. Mimiaga *et al.* (2008) found that street MSWs were more likely to have lower education levels, unstable housing, be unemployed or have a disability, younger, self-identified as gay and part- or full-time students than Internet-based MSW (also see Maginn and Ellison 2014). They also exhibited a higher prevalence of crack and cocaine use – although Internet MSWs were more likely to have used crystal methamphetamine. Street-based MSWs were more likely to have a history of incarceration and psychiatric hospitalization. The motivation for engaging in sex work was usually financial, with street-based MSW more closely tied to "survival sex" while Internet-based MSW tends to be viewed as a lucrative profession. In terms of race and ethnicity, Internet MSWs are more likely to identify as "white" and escorts who identify as such have been found to charge higher rates for their services (Logan 2010; Pruitt 2005).

The proliferation of the Internet has allowed for changes to the spatial organization of sex work. Changes in sexual mores and the social organization of particular activities are to be expected under any circumstances; but the advent of new telecommunication technologies has revolutionized sexual expression (Quin and Forsyth 2005: 196). Internet escorts are independent owner-operators whose fees are not shared with others – pimps, escort agency or brothel owner – and who compete with one another for clients. Now, the market occurs largely online, with 93 percent of independent sex workers using the Internet to market themselves and their services. Like real city streets, spatial agglomeration occurs at key escort sites on the Internet where customers may be e-strolling. The main Internet sites for MSW include:

- Rentboy.com;
- Backpage.com;
- CityVibe.com; and
- Eros.com.

These sites (and others) allow customers to browse and compare the profiles of MSWs, the services they offer and associated prices.

The *Erotic Review*, an online portal where clients share reports and reviews about their experiences with MSWs had between 500,000 to 1 million unique visitors each month. In 2008 this site contained 500,000 reviews of 94,000 different sex workers. In terms of the popularity of such sites, MSWs have an incentive to concentrate spatially so that clients can readily find them; while clients are incentivized to browse and locate sites where MSWs are based. Online escort sites do not typically profit from the direct economic transactions that occur between escorts and clients. Rather, online escort sites charge escorts a fee to post their profiles and any additional advertisements on the Internet (Cunningham and Kendall 2011). Table 5.2 below provides a cursory history of the Internet escort virtual world as it has evolved since the 1980s and grew into a billion dollar industry by the beginning of this century.

This growth in Internet escorts can be explained by a number of factors. First, the Internet has helped distribute information and awareness of sex services to a wider socio-demographic audience than previously reached via newspapers or adult magazines (Ashford 2009; Lee-Gonyea *et al.* 2009; Holt and Blevins 2007). The Internet affords a degree of privacy and anonymity for men seeking sex with other men. There is no need to “cruise” streets or parks renowned for being male sex worker spaces due to embarrassment or running the risk of being observed by passers-by (Wilson *et al.* 2009; Liao *et al.* 2006). There is a wide range of sub-venues – chat-rooms, online escort agencies, personal pages, bulletin boards – on the Internet where men (and women) offer sexual services and which have contributed to the decline of street-based sex work. This is reinforced by evidence that the location of MSWs is determined more by the size of metropolitan statistical areas (MSAs) rather than the concentration of gay populations. For example, Detroit, Michigan (USA) is the eleventh largest MSA and forty-second

Table 5.2 Evolution of online escort industry

1980s	Sex industry activity was visible online with ads and discussion among sex workers and clients.
1996	The first known website devoted to sex work was developed by an escort in Dallas.
1997	First nationwide online escort advertising service Eros.com appeared in USA.
1997–1999	Spread of graphical browsers marked an important step in the online sex market.
2000	Online magazine <i>Slate</i> , featured a female escort who claimed to have earned a small fortune because of the advantages of the online market.
1999–2006	Wide-scale growth in residential broadband in many countries. Growth of large national classified sites such as craigslist further facilitated the online sex industry
2010	US market for online male sex services exceeded \$1 billion.

Source: Adapted from Cunningham and Kendall 2011: 273.

in gay concentration, but has 51 percent more escorts than Seattle, a city that ranks fifth in terms of the gay concentration index (GCI). As such, the market for male sex work in the US is national in scope and not driven exclusively by gay identified participants, thus indicating that male sex workers may also have a substantial number of heterosexual identified men as clients (Logan 2010). Information on MSW with female clients is relatively scarce; in a study of MSW websites Lee-Gonyea *et al.* (2009) found that a significant proportion of MSWs catered to both men and women.

Furthermore, the Internet provides a number of advantages to more traditional modes of advertising sex work, such as advertisements in print media and agency-based escorts. Advertising in print media requires adverts being repeatedly placed, requires payment, and has limitations in terms of the information that can be included due to costs and legal restrictions on language that can be used (McLean 2013). In contrast, the Internet is less regulated; both legally and in terms of enforcement. Use of the Internet circumvents space limitations of print media so that photographs and information on physical characteristics – including penis size which is often a prominent factor in client decision-making – and biographical sketches of MSWs can all be provided (Lee-Gonyea *et al.* 2009; Pruitt 2005). In some respects, this form of advertising tends to blur the line between sex work and non-commercial sexual interactions as advertisements appear to be more like personal dating sites than commercial advertising.

There is debate as to whether or not Internet-based escort work has displaced older forms of MSW, such as brothels or street work, or has simply augmented these latter forms of sex work (Cunningham and Kendall 2011; Logan 2010; Agresti 2007). What seems certain is that Internet market growth can be explained

by appeal to a broader client market (Ashford 2009). Internet-based sex work has not however universally taken off. There are still some cities – Adelaide and even London – where print media is used extensively to advertise sex services (McLean 2013). Internet MSW might also be on the increase in response to changes in the (il)legality of sex work, as the Internet can be used to circumnavigate legal requirements in settings where sex work has been decriminalized or legalized but now requires registration for tax and health purposes.

The role of the Internet in changing the spatial organization of sex work is not unique. Advances in technology have always provided new opportunities for the pursuit of sexual practices. Historically, the location of sex work has been linked to different technologies; in the nineteenth century, long-haul wagons required stops where horses (and wagon-drivers) could be rested and watered. The sex industry too was located at such stops. The introduction of the motor vehicle allowed customers to cover a broader area in search of sex workers, and additionally provided a mobile venue in which sex acts might take place (Lee-Gonyea *et al.* 2009). The motor vehicle as a site for sex acts provided both clients and sex workers with (relative) privacy and the potential to escape from law enforcement. The telephone and pager allowed the street sex worker to move indoors and led to changes towards escorts and call girls; there was a noted increase in escort agencies for female sex workers with the widespread availability of the telephone after the Second World War (Koken *et al.* 2010). Also, specific kinds of technological advancement have allowed for specific changes – CB radios for sex workers who service truck drivers (Lee-Gonyea *et al.* 2009). Mobile phone technology has also facilitated a wider distribution of the sex industry, with sex workers increasingly utilizing this technology in order to operate outside of metropolitan centers and larger communities. Certainly, online advertisements of MSW show that men are mobile, often working for short time periods outside of their home town. The Internet and telephone allow them to make appointments before traveling to outer metropolitan or rural locations.

Social responses to technology generally take the form of normative and patterned behavioral configurations, what Durkin *et al.* (2006) have called “techniways.” New forms of social “deviance” do not emerge in social vacuums, but arrive from changes in technology and lifestyle and are often employed to extend or elaborate opportunities for sexual gratification. VCRs created a new market for pornography; telephones expanded operations for the sex industry; Polaroid and camcorder allowed for the exploration of new sexual frontiers (Quin and Forsyth 2005); and, mobile phones have provoked “sexting,” the transmission of sexually explicit images and text messages (Lee *et al.* 2013). The Internet is one such techniway; with possibly the most profound impact on our ability to explore and engage in “deviant” sexuality. Cyber spaces exist for BDSM (see Chapter 7, this volume), pedophilia, bestiality and incest and the Internet makes possible the formation and continuity of communities that had difficulty in communicating with one another in the pre-Internet era (see Chapter 9, this volume). The Internet can whet the appetite of the curious and provide people with sophisticated rationalization systems prior to participating in socially marginalized or deviant activities.

The expansion of the Internet has created what Goffman (1963) calls “back places” where people of similar preferences feel no need to conceal their identity and can seek one another out for support and advice (Durkin *et al.* 2006). The anonymity of cyberspace eases concerns over public stigmatization and legal sanctions.

What does Internet male sex work look like?

Background characteristics

Research has suggested that male and female sex workers who advertise on the Internet have different needs and desires compared with other sex workers, comprising a population similar to escorts but a demographically and behaviorally distinct population (Cunningham and Kendall 2011; Logan 2010; Agresti 2007; Parsons *et al.* 2007). For example, Internet MSW appears to be highly opportunistic and many do not identify as gay or sex workers. Also, MSWs tend to pride themselves in being independent and self-sufficient and, for this reason, tend not be in touch with regular outreach services or sexual health clinics. Most work alone and are not in contact with peers or support services (McLean 2013). Cunningham and Kendall (2011) found that the average age of an Internet escort is 28.3 years and their average time in the industry is 5.5 years. In terms of ethnic profile, the majority (61 percent) of escorts were white, 11 percent were black and just 8.6 percent were Asian. The typical Internet sex worker has, on average, 5.4 clients per week of whom 54 percent are regulars. Other studies have also found that escorts differ from male street prostitutes in terms of education, HIV status, sexual identity and socio-economic status (Agresti 2007; Parsons *et al.* 2007; Bernstein 2005). Internet workers were not engaged in survival sex, but worked for money or curiosity, with the majority having other forms of income (Bernstein 2005).

The presentation of the self through the Internet

Self-presentation is an important aspect of online sex work with many Internet-based escorts having their own dedicated websites with photos and descriptions of their services. Most male online escorts advertise physical attributes and preferences and male sites are more likely to feature graphic photographs of genitals, buttocks and sex acts, as compared to female counterparts (Agresti 2007). Physical attributes such as hair and eye color, weight, height, body type and penis size are typically outlined. Agresti (*ibid.*) defined the prototypical male escort in Internet advertising as having a “muscled” “swimmers body” with brown hair and blue eyes. He is Caucasian, stands five feet 11 inches tall, weighing 164 pounds and has about an eight inch circumcised penis.

Sexual positioning is also quite important, with MSWs often describing if they are a “top” (insertive partner), “bottom” (receptive partner) or “versatile” with regard to anal sex (Lee-Gonyea *et al.* 2009). Strategic positioning is an important aspect of information on Internet sites (*ibid.*). One study found that in terms of sexual positioning, 16 percent were tops, 6 percent bottoms and 21 percent were

versatile (Logan 2010: 688). In contrast, Phua *et al.* (2009) found 22 percent tops, 32 percent bottoms and 46 percent non-specific. The social value of sexual positions advertised by male sex workers distinguishes them from female sex workers. Racial stereotyping and stratification is a prominent aspect of advertising and this gives rise to unique values for sexual practices among particular races (see Logan 2010). Phua *et al.* (2009) found 22 percent of escorts use ethnicity as a selling point. Cunningham and Kendall (2011) found that, ethnically, 61 percent are white, 11 percent are black and 8.6 percent are Asian. Such sexual commoditization in the sex industry, from a racial or ethnic standpoint, is poorly understood (Agresti 2007), but can be partly accounted for by the “McDonaldization thesis,” which argues contemporary clients search for sex workers and sexual acts in the same way that they might consult a menu (Ashford 2009).

Logan (2010) found that masculine stereotypes in male escort advertising influence premiums and penalties in the male sex work market. References to masculinity on websites indicate that gay men reify hegemonic norms which are celebrated through ideals such as physical strength and body-building. This may create a situation in which some gay masculinities are subordinated by others (*ibid.*). Men who can fulfill the hegemonic stereotype receive a higher premium. In terms of pricing, there is support for the hegemonic masculinity thesis, with those considered to be “old,” “overweight” or “too thin” incurring penalties. A muscular or swimmer’s build has premium price. Race in isolation does not seem to play a role in pricing. Rather, the premium for black escorts playing a “top” role is high whereas there is a high penalty for black escorts that play a “bottom” role. This works in contrast to the economic concept of compensating differentials where one might expect bottoms to be compensated more for taking higher risks (*ibid.*).

Advantages for Internet male sex workers

The move from existing modes of sex work to the Internet, while following advances in technology, has a number of positive outcomes for MSWs. First and foremost is the ease and convenience of online advertising. McLean (2013) notes the significance of this difference to agency-based escort services where MSWs are required to be physically present at the agency for shifts, both to receive information on clients, but also to ensure that they are allocated clients in an atmosphere of competition with other MSWs at the agency. Detachment from an agency allows for workplace flexibility and access to an increased geographic spread of clients.

One of the key advantages for MSW in the move towards online commercial transactions is economic. In general, escorting is seen as more empowering in terms of money, choice and safety than other forms of sex work due to escorts having a greater control over one’s work schedule (Parsons *et al.* 2007). Moreover, they are independent owner-operators whose fees are not shared with others and who compete with one another for clients. While working through an agency may have some advantages, such as outsourcing requests and bookings, screening out problematic clients and negotiating prices; agency management can keep up to 75 percent of earnings (Pruitt 2005). Finally, it appears that clients of online MSW are

in a higher economic strata and that MSW are able to charge higher rates for the same services performed on the street or through agency contacts (McLean 2013).

The growth of Internet-based MSW has also been explained by its appeal to sex workers from a personal safety and anti-discrimination level (Logan 2010; Lee-Gonyea *et al.* 2009; Phua *et al.* 2009). Internet sex work particularly controls stigma and associated violence for MSW. Okal *et al.* (2009: 812) note that “in the public view, male-to-male sex is often conceived as undermining and challenging powerful assumptions about masculine behavior and what it means to be a ‘real’ man.” This threat to the perceived social order, and affront to masculinity, combined with stigma associated with sex work exposes MSWs to both discrimination and violence when their trade takes place in public spaces (Scott *et al.* 2005). There is potentially less stigma for MSWs who openly identify as gay (Koken *et al.* 2004); a space that the Internet facilitates through the development of techneways specifically orientated as safe spaces for gay men to meet and engage with one another.

In terms of criminal justice, Internet escorts face less risk of arrest with street-based sex work accounting for 85–90 percent of arrests while only accounting for 10 percent of the sex market. Fewer fines lower the costs of supply and, in-turn, online supply increases because of lower costs and reduced risks. There is also increased demand among customers because of lower probability of arrest (Cunningham and Kendall 2011). A key feature for both MSWs and their clients is the perception that online sex work allows for increased safety in commercial sex encounters. Internet advertising allows for a complex mix of anonymity and certainty in a commercial encounter: MSW are able to create personas to maintain their anonymity online, while the inclusion of photographs in online profiles provides for increased client trust. They are able to ensure that they are meeting with the individual they initially contacted and can ensure that they are physically attracted to the MSW before meeting in person (Pruitt 2005). A small minority of Internet sites allow for comments from clients which act as recommendations to future clients and enable increased trust and reliability of the information being advertised (Lee-Gonyea *et al.* 2009). The inclusion of photographs has implications for trust; it ensures that the client is getting the person he wanted to hire and that the person is physically attractive to him. This is significant for clients (Pruitt 2005). For MSWs themselves, the Internet meets a preference for not having to openly solicit clients themselves, but rather for clients to make the initial approach, thereby facilitating MSW anonymity and feelings of safety (McLean 2013).

A range of identity-related reasons are viewed as positive for MSW using the Internet for business. First is the ability to work in the sex industry without having to identify as a sex worker (McLean 2013). The Internet allows men to be propositioned for sex (and charged for it) without having to identify as or interact with MSW. There is limited information on the group of men who choose not to identify as MSW despite their online work in the sex industry, yet there are suspicions that they far outnumber “real” MSW using the Internet for attracting clients. Potentially, unique reasons are enjoyment of sex and the positive sense of self that MSWs get

from their interactions with clients (Lee-Gonyea *et al.* 2009). Second, an important shift in MSW identity associated with the Internet has been the “professionalization” of the MSW industry, with MSWs perceiving themselves as offering more than just a sexual service and portraying themselves as akin to counsellors or therapists to their clients. Thus engagement with MSW through the Internet increases its legitimacy for men engaging in the sex industry and reduces stigma through its association with altruism (Koken *et al.* 2004). Finally, an interesting component of Internet-based MSW is the blurring of lines between commercial and non-commercial sex. Increasingly the personalization of MSW interactions through avenues such as IM and exchange of photographs before liaisons, can allow MSW and their clients to confirm physical and visual compatibility and to delineate sexual activities before meeting (Lee-Gonyea *et al.* 2009).

Disadvantages for Internet male sex workers

With regard to sexual health, Internet and computer-mediated communications have assisted the growth of subcultural sexual behaviors associated with sexual risk, such as HIV-negative individuals seeking out HIV-positive partners (Tewksbury 2006, 2003; Gauthier and Forsyth 1999). Studies are reporting an increase in unsafe anal sex and a new phenomenon known as “bareback sex” (also referred to as “raw” or “skin to skin”; see Gendin 1997), which has been defined as MSM engaging in unprotected anal intercourse or “intentional anal sex without a condom with someone other than a primary partner” (Bimbi *et al.* 2006; Halkitis *et al.* 2005; Tewksbury 2003; Gauthier and Forsyth 1999).

The behavioral and cultural shifts associated with the movement of MSW into cyberspace have led to claims of increases in some sexual risk behaviors, although this is not consistently documented in research findings. “Barebackers” are more likely to use the Internet to meet partners (Reisner *et al.* 2008) and Berg (2009) estimates that there are approximately half a dozen large US websites exclusively catering to men who seek high-risk sexual encounters (Bauermeister *et al.* 2010). A cyber cartography of such sites shows that the behavior is encouraged as an expression of masculinity, courage, freedom and intimacy (Berg 2009). A large study by McFarlane *et al.* (2000) reported that 16 percent of patients presenting at STD clinics indicated that they had sought partners over the net. These were more likely to be gay and male and have a history of STIs and have more sexual partners over past twelve months. Entsch *et al.* (2002) sampled 609 men to find that men meeting partners online had higher rates of methamphetamine use as well as also higher rates of unprotected insertive and receptive intercourse. Mimiaga *et al.* (2008), in a comparative study of street workers and Internet escorts, reported that: Internet sex workers were paid substantially more for sex than street workers, had inconsistent condom use, high rates of unprotected sex, and low rates of HIV status disclosure with clients. They observed that a quarter of their total sample had never been tested for STIs. In contrast, Smith and Seal (2007) reported that Internet male escorts appear to engage in less risky behavior. Carballo-Diéguez and Bauermeister (2004) reviewed messages posted on an Internet message board and found that out

of the 130 messages reviewed, 48 percent could be coded as pro-barebacking. Early research into this phenomenon suggests that a central component associated with barebacking is extreme sexual gratification as an intentional decision and lifestyle choice (Berg 2009).

Other research has indicated that MSWs have higher rates of HIV and STI infection than other populations (see Williams *et al.* 2003; Elifson *et al.* 1988, 1993). Generally speaking, prevalence studies show that MSWs have higher rates of HIV and STIs than female sex workers (Estcourt *et al.* 2000). Male sex workers have been investigated as vectors of transmission of sexually communicable diseases (Belza *et al.* 2001; Morse *et al.* 1991). Overall, the literature does not support the notion of MSWs as vectors of disease (Scaccabarozzi 2005). Research has reported that MSWs are using condoms more frequently with their male clients than with their other sex partners (Belza *et al.* 2001; Estcourt *et al.* 2000).

The above noted, few studies have examined the health of male Internet escorts, despite escorts engaging in a number of different sexual activities with a client at a single meeting – more so than other types of MSW (Minichiello *et al.* 2001). Harcourt *et al.* (2005) characterize Internet male escorts as high-risk sex workers. A recent study by Bimbi and Parsons (2005) found that 23.8 percent of the HIV negative cohort reported engaging in behavior that places them most at risk for infection with casual partners: unprotected anal receptive sex with ejaculation. A contrasting figure of 11.9 percent was reported for the same behavior with clients. The HIV-positive sex workers in the sample reported higher percentages of sexual risk taking that were almost the same for casual partners and clients. Half reported engaging in unprotected anal insertive sex with ejaculation, regardless of partner type.

The creation of new sexual subcultures with innovative pedagogies (Rowe and Dowsett 2008) requires alternate services, in addition to sexual health clinics and sex work organizations. Bimbi and Parsons (2005: 103) argue that given increased utilization of the Internet for MSW “new behavioral intervention approaches, perhaps utilizing the Internet, may be required to engage the attention of these particular MSWs since that is the venue in which they are clearly comfortable operating.” Potentially this includes the use of sex workers as educators, in order to parallel the explosion of engagement on the Web and opportunities for networking, collaborating, sharing and generating interactive web content that is situated in people’s lived experience and focused on participation, rather than delivery (Parsons *et al.* 2007).

Conclusions

This chapter has presented a review of changes to the male sex work industry that have occurred as a result of the increased development of and access to telecommunications. Indeed, expansion of the male sex industry appears to have been strongly facilitated by the advent of Internet accessibility. Despite the emergence of literature documenting MSW and its associated industry, in reality we still know very little about how the virtual world of making public the sexual sale of male

bodies is changing society, public perceptions about male sexualities and the nature and role of sex work in the twenty-first century. What is clear, however, is that we need to know more about Internet-based sex work.

It is clear that there are three main areas in which the Internet has had a significant impact in the organization and identity of MSW. First, challenges to traditional client-sex worker relationships and a blurring between commercial and non-commercial sexual encounters. Second, the emergence of concentrations of significant high-risk sexual practices such as deliberately seeking out HIV-positive partners and intentional unprotected sex acts. Third, it appears that the shift from agency to Internet sex work has significantly increased competition between MSW and decreased traditionally available supportive networks for encouraging safe sexual behaviors. In combination with both sex work and homosexual stigma, it appears that MSW mental health may suffer as a consequence of such changes.

Herein lies the challenge for the MSW industry moving forward. Both poor mental health and the blurring of lines between commercial and non-commercial sex have the potential to increase risk behaviors for MSWs; yet the Internet has yet to provide men working in the sex industry with adequate interventions to assist them in managing mental and sexual health risks. The geographic expansion of the male sex industry through the Internet may have negated many of the negative factors associated with a more geographically contained sex industry, but increased distance and anonymity has made solidarity, a group identity and avenues to information and services much more challenging. New research and the development of Internet-based solutions to these challenges are required in the future.

Notes

- 1 The term “sex worker” is used throughout this chapter to mean “prostitute.” The terms “prostitute” and “sex worker” will be used interchangeably throughout the chapter to reflect particular temporal and cultural contexts.
- 2 Usually translated as society, civil society, or association; maintained through individuals acting in their own self-interests.

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6 Housing sex within the city

The placement of sex services beyond respectable domesticity?

Jason Prior and Andrew Gorman-Murray

Introduction

The solicitation and provision of sexual services for material compensation is played out across the (sub)urban landscapes of our cities, with solicitation and provision for a single transaction often occurring in different locations (Prior *et al.* 2013). Provision of direct sex services, those involving direct physical contact between the client and sex worker, occur across a variety of public, quasi-public and private places, including streets, brothels, massage parlours and private homes (*ibid.*; Harcourt and Donovan 2005). While provision of indirect sexual stimulation may also occur in many of these places, it also occurs through sexual exchanges and performances via pay-to-view TV, the internet and phone sex lines (Prior *et al.* 2013; Hearn 2006). Geographical research emphasizes how sex services, which are viewed as falling outside of ‘respectable domesticity’ – that is, the social norms of heterosexual monogamous relationships and reproduction – have distinctive moral geographies within cities that are often characterized by socio-spatial exclusion, repression, marginalization, separation, and distancing from the spaces and landscapes associated with the sanctity of respectable domesticity (e.g. the home and the residential neighbourhood as its extension; Prior *et al.* 2012; Hubbard 2011). Recent legal geography research has highlighted how these moral geographies are reinforced and sometimes challenged through national, state and local laws, and diverse techniques such as planning, policing, education and licensing through which the laws are administered (Bartel *et al.* 2013; Hubbard 2011; Prior 2008). This chapter contributes to this moral and legal geography research and broader dialogues in socio-legal studies (Valverde 2010, 2005), through a study interrogating the distinctive legal geography that has emerged between sex services and respectable domesticity within the context of Sydney, New South Wales (NSW), since 1979. In particular, it focuses on the shifting rights to the city and conceptions of offensiveness on which it was founded.

Geographical research has highlighted the dynamic nature of the moral and legal geographies of sex services in cities (Hubbard 2011; Sanders *et al.* 2009; Prior 2008). Long regarded as deviant activities, sex services have been subject to laws and techniques that have condemned them to largely marginalized and transitional spaces within the city often associated with vice and criminality (Hubbard 2011). However, partly due to lobbying and activism by, and on behalf of, sex

workers and the rise of a liberal authoritarianism that increasingly regards sex workers and their clients as able to take some responsibility for self-governance (Sanders *et al.* 2009), this is beginning to change, with selective decriminalization of sex services having important and obvious impacts on the moral and legal geographies of sex services in some cities. For example, in the last decade or so there has been an increased visibility of sex premises providing direct and indirect sex services in some cities. Recent research has argued that some forms of sex services have begun to move from marginal 'sites of ill repute' within cities to more 'prime real estate' (Bretns and Saunders 2010; Ryder 2004; Liepe-Levinson 2002; see also Chapters 2, 3 and 8, this volume). Hence, while in some cities all forms of commercial sex services remain subject to moral and legal prohibition which manifests in marginalization and exclusion, in others, such as Sydney, commercial sex has been recognized as a legal activity, with efforts to acknowledge it as a form of work deserving the same respect as other forms of service work (Prior 2008; Harcourt and Donovan 2005). Just as research has revealed the dynamic nature of the geographies of sex services, simultaneously, other research is starting to explore and expose how perceptions of respectable domesticity are geographically and historically specific coincidences of race, class, gender, nationality and sexual norms (Howard 2013; Pilkey 2013; Morrison 2012; Oswin 2010; Gorman-Murray 2007).

In a global context, Sydney has become a significant focus for researching the effects of bestowing sex services with rights to the (sub)urban landscape of the city (Hubbard 2011). Since the late 1970s, the legal rights to solicit and provide sex services in Sydney's public and private spaces have changed dramatically. Two notable changes made by the NSW State Government to the rights of sex services in Sydney stand out, and act as a focus for the present study. First, a complete decriminalization of soliciting for the purpose of sex services in public spaces (public solicitation) following the introduction of the *Prostitution Act 1979* (NSW). Second, and relatedly, in 1995 the state government shifted responsibility for the regulation of sex service premises from the criminal justice system to that of state and local planning (Prior and Crofts 2011). Sex service premises were no longer to be understood as inherently illegal, but as either authorized or unauthorized depending on whether or not they had received planning approval (see Chapter 12, this volume). These legislative reforms significantly impacted upon the established moral geography of sex services in Sydney; sex services were no longer regarded as inherently disorderly, as matter out of place, but incorporated within notions of orderly public and private space (Prior *et al.* 2012).

The present study analyses the legal geography of sex services that emerged in Sydney as a result of the shifts in rights for public solicitation in 1979 and sex service premises in 1995. This legal geography can be broadly understood as a 'rich interstitial form of legal pluralism' that is characteristic of cities (Philipopoulos-Mihalopoulos 2013; Blomley 2012: 1), which in this study involves the laws and legalities of multiple jurisdiction (e.g. the state government, local councils, and the NSW judiciary) and techniques of administration (planning, policing, health inspectors) that converged on sex services in Sydney. In examining

this legal geography emphasis is given to the ‘mutual constitution of the legal and the spatial and their intertwinement with power’ (Delaney 2010: 6). The chapter concentrates on the spatial relationship that is articulated between sex services and the home (and the neighbourhood as an extension of it) between 1979 and 2010, with attentiveness to how this relationship is manifested, collapsed or maintained through a dynamic relationship between the ‘rights’ that are bestowed to sex services and the assumed ‘offensiveness’ of sex services to respectable domesticity.

Two aspects of the legal geography of sex services in Sydney that relate to the new rights proscribed by the state government in 1979 and 1995 are examined: (i) public solicitation and (ii) sex service premises (including larger commercial premises and sex services provided from the home). Over a given year in Sydney it is estimated that the majority of sex services are provided indoors (with 55 per cent from larger sex service premises and 40 per cent from private homes) with no more than two per cent of sex services involving public solicitation (Prior *et al.* 2013). The analysis draws on several primary data sources. For public solicitation data collected included:

- state legislation commencing with the *Prostitution Act 1979* (NSW);
- Hansard records of legislative debates;
- NSW Police Local Area Commands (Police LAC) records for areas of inner-Sydney; and
- NSW local government (local government) planning documents sourced from City of Sydney Council (City of Sydney), and related policies.

For sex service premises data collected included:

- NSW legislation commencing with the *Disorderly Houses Amendment Act 1995* (NSW);
- associated amendments to the *Environmental Planning and Assessment Act 1979* (NSW);
- Hansard records of legislative debates;
- NSW Land and Environment Court documents; and
- local government planning instruments and documents sourced from several local councils across the greater Sydney metropolitan region, and related policies.

These data were analysed using NVIVO software (QSR International, Doncaster, Victoria, Australia). A range of phenomena within the primary data sources were identified and categorized. These included:

- notions of offensiveness and rights relating to sex services;
- the particular law and legalities at different jurisdictional scales (e.g. state, local, judiciary) and techniques used to administer them (e.g. planning, policing); and
- where the data spoke of shifts in the socio-spatial relationship between sex services and respectable domesticity.

The categorized data were then mined to identify interconnections between key themes. How notions of rights and offensiveness were embedded within particular laws, legalities and techniques, and how these altered, collapsed or maintained the spatial relationship between sex services and respectable domesticity were of particular interest.

The legal geography of public solicitation in Sydney since 1979

The decriminalization of public solicitation through the *Summary Offences (Repeal) Act 1979* (NSW) and the *Prostitution Act 1979* (NSW) was introduced by the state government as part of wider public order reforms and presaged a period of unhindered right to solicit for sex work in any public place in Sydney, recognizing that street soliciting did not constitute ‘truly offensive behaviour’ (Walker 1979: 4923). As Frances and Gray (2007: 308) have noted, decriminalizing soliciting in public space not only ‘broke ... with Australian legislative practice but also with legislative trends in other English-speaking countries’. These steps to remove criminal sanctions did not stem from any articulated free-market policies but rather from a concerted feminist campaign that suggested existing laws were outmoded and failed to protect female workers’ from violence at the hands of clients (Frances and Gray 2007).

This new right to the city allowed solicitation to occur legally in Sydney’s streets, parks and neighbourhoods and thus alongside local residents. This section of the chapter explores how, over a decade, the *unconstrained right* to solicit in all public spaces gradually gave way to a more complex legal geography of rights and offensiveness that was more ‘local, proximate and familiar’ (Blomley 2012: 10) to the city. This revised legal geography was not only generated by the state government, but by other institutions – Police Local Areas Commands (LAC) and local councils in Sydney – that have distinct but interconnected legal and regulatory roles over the city’s streets, parks and neighbourhoods.

NSW state government

Almost immediately after the new public solicitation rights were implemented by the NSW state government in 1979, territorial confrontations over the public streets began to emerge between sex workers and local residents, with conflicting views emerging on the impact of the new rights (Perkins 1991; Parliament of New South Wales 1986). The expansion of public solicitation into residential streets in some areas of inner-Sydney during the 1980s prompted opposition from residents who wanted to reclaim their streets (Frances and Gray 2007). One local resident action group asserted that ‘street sex worker[s] have developed an unfounded sense of “territory” ... The residents are now reclaiming the streets’ (East Sydney Neighbourhood Association 2002). These new state laws were seen by many inner-Sydney residents as ‘distant ... interlopers in urban affairs’ (Blomley 2012: 10). In 1983 the *Prostitution Act 1979* (NSW) was amended to create what was seen to be a balance between rights and offensiveness. Soliciting in a public street near a dwelling,

school, church or hospital became an offence; therefore, the focus was on removing public solicitation from the awareness of those who might be offended, in particular those living in residential areas. During the second reading of the *Prostitution (Amendment) Bill 1983* (NSW), it was stated that:

The aim of this legislation is to ensure *that persons who reside in basically residential areas* are not subjected to the flagrant and unseemly aspects of prostitution, which cause severe inconvenience.

(Walker 1983: 5244; emphasis added)

The purpose of this amendment was to contain soliciting to areas that would not cause offence to residents or sensitive land uses. In 1988, the *Prostitution Act 1979* (NSW) was repealed and replaced with the *Summary Offences Act 1988* (NSW). The new solicitation offences were similar to those in the *Prostitution (Amendment) Bill 1983* (NSW); solicitation remained prohibited near a dwelling, school, church or hospital, although the scope of the prohibition was widened to include 'within view' of any of these land uses, thereby ensuring that visual governance had a place within the regulation of street-based sex work.

Police local area commands and local government areas in inner Sydney

While the broader spatial ideals of 'near' and 'within view' had been established by the state over a decade to manage the rights and offensives of soliciting for sex work in public space, it was left to Police LACs and local councils to deploy and develop local interpretation. Equally, while Police LACs were delegated primary responsibility by the NSW government to manage public solicitation, local governments also crucially affected legal geography through the constitution of particular forms of laws and legalities revolving around 'access to, control over, and enjoyment of spaces, buildings, parcels of land, and other largely material entities' (Valverde 2005: 36). These local government deployments had been enacted by 'minor bureaucrats', including planners, environmental health inspectors, and local councillors (Proudfoot and McCann 2008). Ambiguity underlying what was actually meant by such terms as 'near, or 'within view' by the state simultaneously challenged and provided opportunities for Police LACs and local councils to deploy and develop their own local interpretations.

Responding to the perceived and real impact of public solicitation on others in inner Sydney, the City of Sydney (2006b) developed a unique set of planning policies and controls. These formal policies and informal institutional arrangements about rights effectively bridged the rights promulgated within NSW legislation and the concrete reality of the competition for the use and control of limited public spaces within the inner city. The regulation of public solicitation primarily through policing, as opposed to planning, has meant that local councils in Sydney, such as the City of Sydney, were limited in terms of tools that could be used to manage the tension between rights and offensiveness. As a result, policing has resorted primarily to containment policies to restrict its awareness within the city,

predominantly to commercial and industrial areas away from residential areas (Prior and Crofts 2011). For example, in inner Sydney the changes in soliciting laws between 1979 and 1988 had somewhat predictable consequences, displacing solicitation activity by sex workers from mainly residential spaces towards street-based 'beats' in more commercial districts of the inner city.

While the shifting of public soliciting into more commercial areas reduced the overall level of conflict within inner Sydney, the ambiguity emerging from the use of the terms 'near' and 'within view' by the state meant that no clear understanding could be drawn about what constituted a legal territory within inner-city streets for public solicitation (City of Sydney 2006a; Roxburgh *et al.* 2005). Because of the on-going confusion and discrepancy about what was meant by such terms as 'near' or 'within view', the Kings Cross Police LAC, City of Sydney, the Kings Cross Chamber of Commerce and advocates of the sex industry identified a number of precincts as designated areas for public solicitation activities (City of Sydney 2006a). Like the unofficial toleration zones that existed at the time in England and Scotland (Sanders and Campbell 2007) or the *tippelzones* in the Netherlands (Campbell and van Doorninck 2006), these designated areas were not officially recognized but were informal institutional arrangements that comprised part of a memorandum of agreement between different members of the working party (City of Sydney 2006a). In addition to the creation of designated areas, councils sought to use traffic management (including road closures), parking controls, street lighting and urban design to prevent public solicitation in areas outside the designated locations (City of Sydney 2002a, 2002b).

The eventual use of informal institutional arrangements to manage public solicitation in Sydney serves to illustrate the more general argument that rights to the city determined at the level of the state do not always translate into rights at the local level. This is something stressed in academic literature that has begun to explore the law's role in the production of space (e.g. Blumenberg and Ehrenfeucht 2008; Blomley 2004). At the local level it therefore appears that general rights and responsibilities enter a realm where technicalities and rationalities hold sway: 'everyday' use and occupation is always privileged over more abstract claims to human rights and responsibilities (Valverde 2005).

The legal geography of sex service premises in Sydney since 1995

Prior to legislative reforms in 1995, sex premises of all types were illegal land uses and were regarded and regulated by the police and courts as inherently offensive and disorderly (*Sibuse v. Shaw*). The introduction of the *Disorderly Houses Amendment Act 1995* (NSW) by the state government shifted responsibility for the regulation of sex service premises (called brothels in the legislation) from the criminal justice system to that of local government planning (Prior 2008). This shift was in line with those occurring in other western nations, where adult entertainment premises in parts of the US and within the UK are now rarely subject to use of police powers relating to obscenity or public decency, but are typically subject to planning and licensing powers which seek to control the location and

visibility of sex service premises so that those who are offended by such services can avoid them, but ensure that those who wish to access them can (Hubbard *et al.* 2008). Sex service premises were no longer to be understood as illegal or inherently offensive, but as either an authorized or unauthorized land use, depending on whether or not they had received planning approval. The new legislation did not dismiss offensiveness outright. For example, in the reforming legislation, parliament specifically included a section stating:

The enactment of the *Disorderly Houses Amendment Act 1995* should not be taken to indicate that Parliament endorses or encourages the practice of prostitution, which often involves the exploitation and sexual abuse of vulnerable women in our society.

(*Disorderly Houses Amendment Act 1995*, section 20)

The following discussion highlights how the legal geography of sex service premises resulting from the enactment of the *Disorderly Houses Amendment Act 1995* (NSW) was assembled in part upon notions of ‘near’ and ‘within view’ that had evolved within the legal geography for public solicitation over the previous two decades. This legal geography was not only generated by the state, but also by other jurisdictions including the NSW Land and Environment Court (LEC) and local councils in Sydney. Examining the generation of this legal geography through local government exposes how offensiveness is subsumed into planning and building instruments and measures, as a means of circumventing rulings by the LEC that local governments are not able to articulate moral offensiveness in planning for sex service premises. As Valverde (2005) previously argued, the focus on land use bequeaths local governance with considerable power to impose a moral geography that is not easily challenged on other legal scales. In the NSW context, the LEC has paradoxically both reinforced and challenged notions of offensives assumed by the state and local governments.

NSW state government

In shifting the responsibility for the regulation of sex service premises away from the police to local government planning in 1995, applications for the development of sex service premises were hence subject to the same environmental planning and assessment process as other land uses. When determining a development application, local councils must take into account the provisions of any planning instrument and ‘the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality’ (*Environmental Planning and Assessment Act 1979* (NSW), §79C). The term ‘amenity’, is recognized as ‘wide and flexible’, transcending mere physical content (*Perry Properties Pty Ltd v. Ashfield Council*). As stated by the LEC (*Martyn v. Hornsby*), sex premises ‘should be located to minimize adverse physical impact, such as noise disturbance and overlooking. In this regard they are

no different from other land-uses'. However, the reforming legislation provided additional restrictions on brothels that were not applicable to other land uses. Brothels were not to be placed 'near or within view from a church, hospital, school or other place regularly frequented by children for residential or cultural activities' (*Restricted Premises Act 1943* (NSW), §17(5)(a)). The legislation adopted this additional spatial constraint from the public solicitation legislation, explicitly connecting offensiveness and its alleviations with distance and visibility – that is, restrictions on sex service premises being 'near or within view'. The adoption of the vague terms of 'near' and 'within view' provided a great deal of latitude to local councils and the LEC in terms of the way they seek to construct and constitute sex service premises within planning regimes. This latitude is underscored by the tension between the notion of offence and right to provide and access sex service premises within the city, a tension highlighted in LEC planning principles developed for sex service premises:

Sex premises are a legal land use that benefits some sections of the community but offends others. ... However, criteria for locating sex premises should not be so onerous as to exclude them from all areas of a municipality.

(Martyn v. Hornsby per Roseth SC)

In 1996 the state government imposed a further spatial constraint on local councils' ability to plan for sex service premises within local government areas through a directive to local councils which prohibited them from excluding sex service premises altogether from their local government area, although it permitted councils to restrict them to industrial zones in the interests of maintaining the neighbourhood amenity of residential areas (Department of Urban Affairs and Planning 1996).

These two constraints generated a legal geography that separated sex service premises from those land uses associated with respectable domesticity (e.g. homes, residential neighbourhoods, parks), but prevented exclusion of sex service premises altogether from local government areas. In most western cities, there has been a clear anxiety to make sex service premises off-limits to minors (i.e. persons aged under 18 years of age), as well as to distance them from specific cultural and religious groups who object to commercial sex on the grounds of moral offence.

While weighty attention has been paid by the state to the development of legislation and policy to specifically address the offensiveness and rights of more visible aspects of sex services such as public solicitation and brothels (i.e. large commercial sex service premises), it has been noted that there has long been a policy silence by the NSW government on the contribution of the domestic realm (i.e. the 'home') to sex services. This situation has helped to occlude the role the 'home' plays as a site for the provision of direct and indirect sex services (i.e. home-based sex services; Harcourt and Donovan 2005). This silence is significant given that 40 per cent of all sex service transactions within Sydney are estimated to take place within the home, rather than licensed brothels, sex clubs or areas of street sex work (Hubbard and Prior 2013).

As a result of this long silence by the state, local governments have developed significant variations in the way in which they regulate home-based sex services within the parameters of the state's *Environmental Planning and Assessment Act 1979* (NSW). Despite being a legal enterprise under state law, some local councils have excluded home-based sex services from their jurisdictions.

In recent years this policy silence by the state has begun to lift, with the state constructing a variety of definitions for brothels (larger sex service premises) and sex services provided from home within recent legislative reforms. A 'brothel' is now defined within the *Restricted Premises Act 1943* (NSW) as meaning 'other than premises used or likely to be used for the purposes of prostitution by no more than one prostitute' (*Environmental Planning and Assessment Act 1979* NSW §4(1); emphasis added). This separation expressed awareness by Parliament that it was inappropriate to regulate home-based sex services in the same way as brothels at all times. In other words, the state has acknowledged that home-based sex services do not fit neatly into the planning land-use definition of a brothel (Crofts and Prior 2012).

The NSW Land and Environment Court and local government areas in Sydney

Within sex service premises legislation, local councils were delegated responsibility by the state for organizing and expressing planning instruments and building controls for authorized sex service premises. Local council planners and elected officials were also delegated responsibility for processed applications seeking authorization for the development of sex premises, and lawyers and judges in the LEC were delegated authority to hear appeals related to these authorizations and conditions of approval. Consequently, there are significant local variations in the ways in which legislation is interpreted and enacted in Sydney, and thus, in how sex services are locally governed (Sharp 2003). To imagine that the type of processes encouraging the visibility, location and access to sex services in one location applies to another is questionable: it is apparent that particular traditions of sexual permissiveness, religious repression and political interventionism produce very different moral and legal geographies of sex services taking distinctive forms in different local contexts (Prior 2008; Hekma 2005; Kulick 2005; Outshoorn 2004).

The broad notions of 'near' and 'within view' outlined by the state government provided some latitude in the way in which local councils could materialize legislative reforms in planning. Despite this latitude, local councils operated within a specific constraint, namely, in translating offensiveness, local councils were not able to express this in terms of morality. As reported in the LEC case of *Liu v. Fairfield City Council*:

Morality is concerned with abstract matters of right and wrong, good and evil. Generally, [the *Environmental Planning and Assessment Act 1979*, §79] is concerned with concrete planning matters. The capacity of councillors to inquire into and determine a predominant public standard on a matter of

morality must be doubted. It would be surprising if a council acting as consent authority under [§79] was required to consider matters ranging as far from concrete planning matters as issues of morality.

While moral offensiveness might underlie planning, it cannot be articulated as such. The effect of this has been for local councils to translate offensiveness into the planning terms of proximity and visibility. This translation was facilitated by the reforming legislation which already subsumed notions of moral offensiveness within terms ‘near’ and ‘within view’. As a result of these considerations it has become acceptable and standard within NSW to implement planning principles (e.g. within local environmental plans, development consents) that seek to quantify and qualify the terms ‘nearness’ and ‘within view’ in local government areas – it is through these qualifications that the notion of alleviation of offence is materialized in local government areas in Sydney.

Over the past decade quantifiable planning principles for nearness for sex service premises have emerged within local governments in NSW. These reflect differences in perceptions regarding the ‘dread risks’ (see Chapter 8, this volume) associated with sex services and how far they should be located from residential areas. Distances range from 75 metres in some local government areas (e.g. City of Sydney) to 300 metres in other local government areas (e.g. Blacktown City Council) from particular residential zones (Harcourt 1999). The local council planning principles also specify the type of ‘respectable’ land uses that nearness is measured from (e.g. hospital, day care centres) or the nearness of ‘sensitive populations’ they are presumed to affect (e.g. women, teenagers, senior citizens; South Sydney City Council 2000; Harcourt 1999). The dread risks associated with sex premises have been utilized by some local councils as a means of expressing their continued perception of this land use as inherently offensive. These local councils rely upon highly restrictive distance regulations with the aim of excluding sex premises from all but a very few parts of the local government area. The state government has made it clear that deliberately prohibiting sex services from local government areas is not permissible. Nevertheless, some local councils utilize distance to make it difficult and, in some instances, impossible for an operator to receive council authorization for a sex premises.

In situations where offensiveness cannot be addressed through distance it is addressed through visual governance. Accordingly, a second set of quantifiable planning principles has emerged around the phrase ‘in view’. These planning principles include:

- design controls on public access points to ensure sex service premises are ‘discreet (e.g. screens) and discourage clients gathering or waiting on the street’;
- restrictions on signage to the address and telephone number only;
- elimination of traditional indicators of sex premises such as ‘red lights’ which are believed to bring significant attention to premises (*Wei v. Parramatta City Council*; *Huang v. Parramatta City Council*); and

- reflective or blackened-out windows (*Sansiro Group Pty Ltd v. Parramatta City Council*).

This reflects broader research which argues that sex services are increasingly managed through ‘optical governance’ which seeks to manage offence by determining who can see what (Boydell *et al.* 2011; Hubbard 2011).

The ways in which the different local councils within Sydney utilize distance and visibility to regulate diffuse notions of offensiveness has created a patchwork of legal geographies for sex service premises across Sydney. This is largely a product of the large number of local councils in Sydney, their differing political persuasions and, hence, attitudes towards sex work. Within these local legal geographies the regulation of home-based sex services has come to assume two extremes: on the one hand, total prohibition from some local government areas and, on the other hand, inclusion of sex services in residential areas within other local government areas. A few local councils have sought to authorize home-based sex services in residential areas using either the category of ‘home occupation’ (*State Environment Planning Policy Number 4 – Development Without Consent and Miscellaneous Exempt and Complying Development*), or through a special category of Home Occupation Sex Service premises (HOSSP) that may require development approval (South Sydney City Council 2000; see also Chapter 2, this volume). The remaining local councils have sought to regulate home-based sex services using the same legislation that is applied to all other forms of sex service premises under the *Disorderly Houses Amendment Act 1995* (NSW), treating home-sex services as they would any other sex service premises, which precludes home-based sex services from operating near or within view from residential zones, effectively excluding home-based sex services from these local government areas.

This use of offensiveness to guide planning principles for sex services within local government areas has at times been both reinforced and challenged through appeals to the LEC. For example, in *Martyn v. Hornsby* the main grounds for the rejection of a brothel was that the building could be seen from a home next door. The court articulated planning principles that brothels should not be located where they could be *seen* from a home. §17(5)(a) of the *Restricted Premises Act* (NSW) and the planning principles in *Martyn v. Hornsby* revolve around the idea that simply *knowing* a brothel exists in your community and being able to see the building, even if you cannot see what goes on inside it, is offensive enough, and as such, it should not be there. More recently, the LEC has questioned the link between visibility and offensiveness of sex services. In *Hall v. Camden Council*, the Court approved a development application of a sex premises in an industrial area stating:

I accept that it is likely that the nature of the use of the building will become known to people in the area, including to young people who pass the site on their way to and from the playing fields. However, that knowledge of itself would not in my view have an adverse impact on the use of the playing fields or on the amenity of other land in the area or on the community generally.

This result interrogates the assumption of the underlying offensiveness of sex premises. With the legalization of sex service premises and their materialization as authorized premises over the last two decades, the LEC has begun to question the offensiveness of sex premises. In this case, the LEC has appeared to accept that the externals of a sex service premises are not inherently offensive.

In analysing how the legal geography of sex services has emerged in Sydney over the past few decades, the implication here is that local councils charged with maintaining orderliness make context-specific judgments about planning amenity and order that are infused with ideas about what the 'majority' finds unpleasant or distasteful (Millie 2008). This perspective on local legalities has only fleetingly been considered in literatures on sexuality and space, primarily in writing considering how planning helps to perpetuate majoritarian, heterosexual norms (Doan 2011; Prior 2008; Frisch 2002; Chapter 11, this volume).

Conclusions

This chapter has outlined the changing legal geography of sex services in Sydney since the introduction of significant new rights by the state government for public solicitation in 1979 and authorized sex service premises in 1995. As a result of these rights sex services were no longer 'out of place' within Sydney, but incorporated within Sydney's orderly public and private space. In summary, the various jurisdictional laws and legalities (state, local, judicial) and techniques (planning, policing) that govern commercial sex in Sydney have given rise to a 'rich interstitial form of legal pluralism' (Blomley 2012: 1). It is equally important to note that the multi-scalar nature of the legal geographies surrounding sex work opens up potential for contradictory outcomes. Put simply, while sex work is a legally recognized land use and occupation by the state government, some local governments have sought to marginalize or exclude sex premises via their planning powers (Valverde 2005).

The foregoing discussion of the legal geography of sex services in Sydney has shed new light on the mutual constitution of law, morality and space. The analysis reveals how moral geographies of public/private spheres continue to map onto regulations about sex services and are materialized through the governance of distance, proximity and visibility. There is a persistent separation of the private sphere (domesticity, family and home), based on perceptions of the *offensiveness* of sex services and, importantly, where it takes place. Notions of offensiveness have been diffused through local planning, through reliance on measures of proximity, and controls over visibility, in which activities and spaces that have the possibility to offend are concealed. The notion of concealment, while providing an immediate solution to the assumed offensives of sex services to respectable domesticity, perpetuates the belief that sex services are somehow incompatible with residential land use (where sex of course occurs in both contractual and consensual forms), and that their function needs to be disguised, meaning that the moral divide between contractual sex and consensual sex remains in place. Local government and planning, as such, is arguably a form of governance that institutionalizes coupled monogamous heterosexuality and reproduction as the social norm.

As the same time, the analysis highlights instances where jurisdictions have sought to challenge this separation through the provision of new *rights* (e.g. the state government permitting public solicitation in all public spaces, some local councils permitting sex services in residential areas) and challenging perceptions of offensiveness. These contestations strengthen the argument that notions of 'respectable domesticity' are geographically and historically specific, with familial and sexual norms shifting over time and place according to social and political discourses. The analysis suggests that contemporary Sydney is an example of this shift, through increasing attempts by the state, local government and the judiciary to dismantle the separation by introducing new *rights* to sex services and challenging the notion of *offensiveness* on which the separation is generated. Whether or not this separation is inevitable is a question that demands further scrutiny.

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7 The landscape of BDSM venues

A view from down under

Christine Steinmetz and Paul J. Maginn

Different things move us: jeans, uniforms, hoods, tuxedos, leather, lingerie, whips, shoes, silk, latex, corsets, rope, petticoats, cat suits, beards, long hair, crew cuts, tattoos, flannel sheets, feather beds, even knives.

Different people move us too: straights, lesbians, gays, gender benders, bearish men, petite women, heavy and skinny people, the strong-willed and the meek, country, military, and business types, jocks, bikers, hippies, yuppies, techies, and preps.

No one suits everyone, but there is always some willing body for every wanting body.

(Miller and Devon 1988: ii)

Introduction

In the opening epigraph, Miller and Devon (1988) draw attention to the fact that there is someone for everyone; sexual attraction and desire are often about difference, and (as in the case above) can be laden with fetishistic accoutrements. Essentially, sexual preferences and practices are indeed as varied as the spaces they inhabit. Various chapters in this volume have addressed the proliferation and mainstreaming of different aspects of the sex-industry – sex shops (Chapter 3), strip clubs (Chapters 4 and 8) and brothels (Chapter 12) – in urban and suburban contexts. These different types of sex premises have, in the face of opposition from some politicians, elements within local communities and anti-sex radical feminists, gained increasing legitimacy and acceptability as forms of adult entertainment. Furthermore, the rapid growth of the sex industry in the last decade has added to the pre-existing ‘considerable sexual dimensions’ embedded within our cities and towns (Collins 2004: 1631). Collins also notes that while such venues may be ‘characterized by no actual physical contact, but merely comprise the sexual *frisson* from the physical proximity of potential partners or various sexual goods, services, and spaces, they add a level of intrigue to an already complex urban environment’. Expanding on this, Hubbard (2011: xv) argues that a city cannot be understood entirely unless the importance of sexuality is considered – ‘any urban theory that does not acknowledge the importance of

sexuality ignores a vital dimension of social life – as one of the key factors that shapes our experience of the city’. This is particularly true of global and cosmopolitan cities which, because of their scale, large and diverse population bases, industrialized capitalist character and their constant evolution, offer urban dwellers anonymity and a dynamic marketplace that caters to and fulfils a variety of sexual curiosities (Tönnies [1887] 1957). This provides fertile ground for subcultural sexual communities of interest to exist and a ‘context for mappings of sexuality identity’ (Hubbard 2002: 369).

Although adult entertainment venues such as strip clubs and brothels have not gained universal acceptance from the wider community, such activities have become increasingly commonplace within: entertainment precincts in cities (e.g. Soho, London; De Wallen, Amsterdam; and Patpong Road, Thailand); in industrial zones within jurisdictions where sex work is legal or tolerated; and even in residential areas with clandestine brothels and BDSM dungeons operating – according to media reports in Australia (Angel 2013; Ross 2013; Berry 2012). Historically, all forms of sex, especially commercial, tend to pique curiosity, challenge morals, and even provide a degree of titillation to passers-by (Ferriter 2009; Sullivan 1997). Broadly speaking, the socio-spatial acceptability and accessibility of adult entertainment is reflected and mediated in our cities and towns via shifting public attitudes as well as land-use planning and other regulations. The Internet has radically changed the accessibility of commercial sex with significant growth in female and male online escorts (Minichiello and Scott 2014) and, of course, pornography (McKee *et al.* 2008; Chapter 9, this volume). As such, the impact of the Internet has led some, especially anti-sex radical feminists, to posit that society has become ‘hypersexualized’ (McNair 1996, 2012a; Dines 2010) and thus the ‘normalization’ of commercial sex and adult entertainment.

The focus on (sub)urban landscapes within this volume, much like the wider scholarly literature, concentrates on what might be deemed ‘mainstream’ commercial sex premises – queer spaces sex shops, strip clubs and brothels. However, there is one aspect of the sex industry that has received relatively little attention within the urban planning and geography literature: bondage/discipline, domination/submission, sadism and masochism or BDSM. BDSM, as a sexual practice, material culture and community, is by its very nature the most ‘hidden’, ‘underground’ and ‘invisible’ facet of the (sub)urban sexscape (Mulholland 2011). The invisibility of BDSM venues – private and/or commercial – is largely due to two key inter-dependent factors: BDSM is still largely a subcultural practice and is perceived as the most taboo and deviant of legal sex industry activities. This chapter seeks to expose the broad landscape of BDSM spaces in Australia. It does so by contextualising ‘the (local) scene’¹ via, firstly, an overview of the different definitions of BDSM and then highlighting the material culture of this sexual practice. The discussion then moves to highlighting the typology and geography of BDSM spaces within metropolitan Australia before examining how these spaces are regulated via the planning system within Sydney.

Defining BDSM

There is no single definition of what constitutes BDSM – even BDSM practitioners cannot agree about what it means and what defines this sexual culture. Shindel and Moser (2011: 927), state that ‘BDSM is the term many practitioners use to describe one or several behaviours or interests, wherein a power differential between sexual partners has been eroticized’. Interestingly, the term ‘SM’ is typically used within academic and professional literature whereas BDSM is used more often with the community itself as it ‘accurately illustrates the diversity of relevant practices’ (Williams 2006: 335). In their exploration of sexual activities, Rye and Meaney (2007: 41) place SM within the ‘spicy sex’ category stating that ‘S&M’ is a term that collectively describes a variety of sexual behaviours which may involve the administration of pain – both physical and/or psychological. These acts are considered pleasurable and typically include ‘fetishistic’ elements such as leather clothing and whips, and ritualistic activity such as ‘bondage’ (ibid.).

The term has also been used interchangeably as can be seen in Newmahr’s (2010) four-year ethnographic study of an SM community in which the ‘SM’ in ‘BDSM’ is seen as a leisure pursuit (Williams 2009 also echoes this notion). Newmahr extracts the ‘SM’ to differentiate those who merely enjoy a bit of kink in the bedroom to those who are truly a ‘social network of people organized around SM, who practise and observe SM in particular public spaces and attend information and educational meetings’ (Newmahr 2010: 316). Thus, Newmahr’s definition of SM refers to ‘activities that involve the mutually consensual and conscious use, among two or more people, of pain, power, perceptions about power, or any combination thereof, for sensory or erotic pleasure in the context of a public community’ (ibid.: 315). The focus of this definition lies in the fact that SM practice is performed under the gaze of others who inhabit BDSM spaces. Her own experiences as an ethnographer (and active participant in the BDSM scene) reflect the intensity among members and a shared understanding of community protocols. However, not all those who practice BDSM will be active members in ‘the scene’, many people who have an interest in BDSM rituals and protocols often do so in the privacy of their homes. Thus, Stiles and Clark (2009) suggest those who are engaged with these subcultural practices employ their own strategies as agents to remain anonymous and move covertly among the greater ‘vanilla’ community (Rye and Meaney 2007).

BDSM is generally seen as a transgressive practice in the sense that it crosses the boundaries between acceptable or heteronormative sex and the unacceptable or perverse sexual practices. Like most subcultural ‘groups’, understanding and accepting protocols are at the crux of how people relate to one another and define their sense of belonging. Williams (2006: 344), for example, contends that ‘BDSM has its own terminology, standards, and norms, and central to its community is an emphasis on physical and psychological safety and mutual consent’. As a minority subculture, BDSM often parallels and overlaps with gay, lesbian, swinger, polyamorous and other sexual groups. Despite the supposed deviant social stigma that tends to surround BDSM (Stiles and Clark 2009), and the policy restrictions surrounding BDSM spaces, this subcultural scene continues to thrive throughout the (sub)urban landscape.

Not everyone who is involved in a BDSM community or associates with its practices will necessarily relate to all aspects of it. BDSM may be viewed as an overarching term that encapsulates sexual practices that might otherwise be marginalized, even though legal; with sub-cultural and marginalized practices comes marginalized spaces that are the product of the subcultures' own spatial preferences *and* heteronormative-centric policy regulations (see Chapters 6 and 11, this volume). Irrespective of how BDSM is defined, the ritual and meanings embedded within this practice are fundamentally couched in psycho-sexual gratification - on some level - for at least one of the participants. And, essentially, sexual gratification is personal, and people's sexual experiences cannot be simplified by one overarching definition. For example, from a practice standpoint, BDSM does not necessarily equate to heteronormative idea(l)s of sex (i.e. reproductive, penetrative sex in the missionary position); BDSM and associated practices tend to unsettle such ideals.²

Although recent media exposure about BDSM has brought the topic to a mainstream readership this is by no means a 'new' trend. Its history is associated with leather subcultures (military and motorcycle) dating back to the 1940s and became symbolically and culturally important in the 1960s/70s with the rise of queer communities and activism in cities such as San Francisco (Sides 2009; Williams 2006). These themes were carried out by both men in women in the BDSM scene; and, at the time, were being studied by Gayle Rubin,³ a gay activist lesbian who was undertaking research on the gay leather subculture in San Francisco. However, the historical and symbolic significance of leather as a facet of BDSM culture ('Old Guard' and 'New Guard') appears to have become diluted overtime. As Rubin (1998: n.p.) has noted, 'much of what is described when people talk about changes in the leather community comes down to more people, more money, and more commercialization'. The extent to which these historical roots are understood in a contemporary setting with a 'younger generation' has not been completely revealed yet and will take further research to explore their views. A starting point, however, is the materiality associated with this subculture and its practices (clothing, objects used for pleasure/pain and spaces for play). Ultimately, the spatial and practice liminalities of BDSM reinforce the material culture *of* and *within* the BDSM community (discussed later). The materiality of BDSM subcultural practice has expanded and moved beyond its traditional discrete and exclusive spaces and communities. Additionally, in the last decade or so, the BDSM aesthetic has been appropriated by the fashion and music industries, literature and the media. Put simply, BDSM has been brought 'out of the dungeons' and into the glare of the 'vanilla landscape'.

Material culture

Clothing and instruments

The material culture associated with BDSM gives it its aesthetic strength and visibility as a sexual minority interest. There are certain items of clothing and props

made from leather, rubber, PVC, or chainmail that may be directly associated with the symbolic material culture of BDSM. There are also other items of ‘normal’ clothing that have been appropriated and fetishized in some way by members of the BDSM community through modification. An example of this modification and transcendence is the PVC ballerina boot in Figure 7.1 which symbolizes restraint, strength and discipline within ‘the scene’.⁴ The use of PVC and the six-inch heel in the ballerina boot automatically signals that this footwear has a BDSM aesthetic whereas the six inch stiletto shoe in Figure 7.2 tends to be more readily associated with strip culture or pornography (McNair 2012b).

In their seminal book on sadomasochism, *Screw the Roses, Send me the Thorns*, Miller and Devon (1988: v) argue that ‘some hard-nosed SM veterans loathe the invasion by the fashion butterflies, and they have a good point. Trendiness can trivialize that which we feel at the core of our being.’ Clearly, the fashion industry has been a major pioneer in terms of exploiting BDSM themes. Internationally renowned designers such as Hervé Léger (bandage dress), Jean-Paul Gaultier (corset dress/cone bra), Vivienne Westwood (glamour/punk looks) and Dolce & Gabbana (dominatrix collection) have been responsible for ‘mainstreaming’ fetish-inspired wear from the catwalk to the high street. This has been particularly true in relation to women’s lingerie and even men’s underwear (see Figure 7.3). As Amber Martin has outlined in Chapter 3 of this volume, upmarket lingerie and erotic boutiques such as *Coco de Mer* and *Myla* (London), *Baby Likes to Pony* (Sydney), and *Marlies Dekkers* (Amsterdam) to name just a few, have successfully created collections inspired by BDSM that cater to a high-end clientele and celebrities.

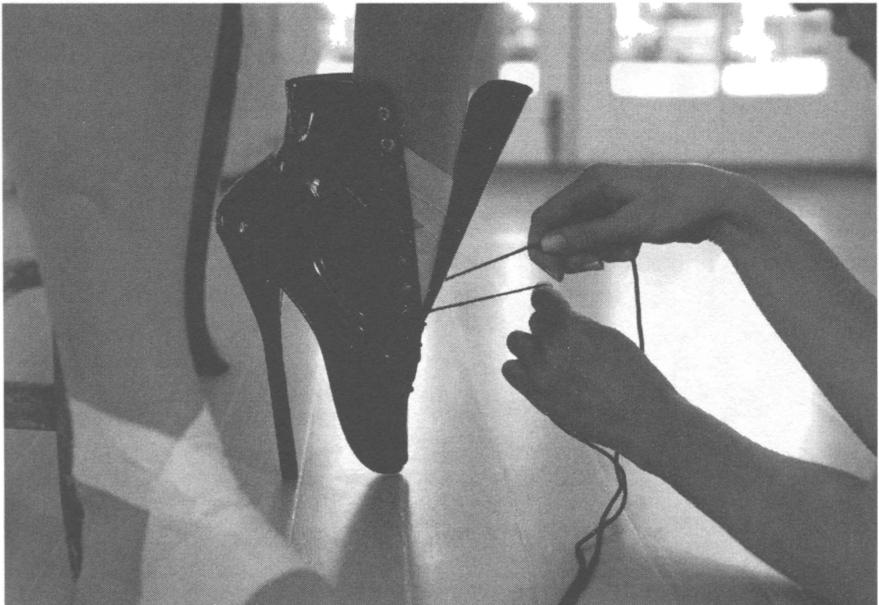


Figure 7.1 PVC ballerina boot.

Source: Larry Nussbaum with Christine Steinmetz



Figure 7.2 Adult entertainers' shoes.

Source: Paul J. Maginn/For Play and Pleasure (Perth)

Over the past twenty-five years the aesthetic appeal of BDSM has been 'borrowed' by others – starting with couture designers all the way to high street fashion retailers such as *H&M*. In September 2013, the mainstream discount department store, *Target Australia*, a retailer providing a 'family-friendly' environment, launched a brand of lingerie labelled 50 Shades of Grey (James 2011a).⁵



Figure 7.3 Window display, *ROB*, Amsterdam.

Source: Christine Steinmetz

Shing, a representative from the company, stated that ‘the brand is an enigma that continues to captivate women, and this collection channels ideas of romance into the evocative lingerie range’ (Robin 2013). This commentary is telling in that it reflects the acceptance of fetish-wear ‘lite’ themes being introduced to a fairly mainstream, if not somewhat conservative audience. Interestingly, the new *Target Australia* in-store collection did not spark any controversy in the media; however, a featured billboard on a busy arterial road leading to Sydney’s central business district was taken down after one week (Carey 2013).

BDSM practices include a variety of instruments and infrastructure to assist in whatever pleasure or pain is required. The basic instruments of BDSM play include items such as: handcuffs, flogger and rope. As the intensity and type of play increases the equipment (ball-gag, harness, collar and leash, needles and branding irons) and infrastructure (rack, Saint Andrews Cross, suspension system, medical table or cages) required becomes increasingly more elaborate and reifies the material culture of ‘true’ BDSM play. Furthermore, when BDSM requires sophisticated infrastructure, space becomes a major consideration, especially within commercial BDSM spaces. Relatedly, policy regulations come to the fore when BDSM spaces move into the commercial realm and try to establish themselves in plain view, like brothels, strip clubs and sex shops, within the (sub)urban landscape.

Literature and pop culture

The Daily Mail (Paxman 2011) proclaimed that the days of ‘chick lit’ were over as a result of a new genre of erotic novels – ‘mommy porn’ (Dymock 2013; Whitehead 2013) – replacing the Mills and Boone and Harlequin romance novels. Academics have argued that the ‘literary’ phenomenon, *50 Shades of Grey* (James, 2011a, 2011b, 2012) has tapped into unexpected audiences and how ‘female sexuality is now expressed and represented ... or how accurately or helpfully the trilogy presents BDSM practices’ (Atwood and Walters 2013: 977); in light of the debate, the books potentially position BDSM as not only desirable and acceptable but moving towards being ‘normalized.’ Despite this, Atwood and Walters (2013: 976) claim that ‘*Fifty Shades* flirts with BDSM [and] is relatively tame in the range of practices its protagonists embrace’. Deller and Smith (2013: 939) suggest that the interest in BDSM generated by the *50 Shades of Grey* trilogy has also provoked female readers to be ‘part of the conversation’ about female sexuality and ‘the books you must have read and/or have an opinion on during the summer of 2012’. Dymock (2013: 888) takes this further and connects the phenomenon to commercial gains; she states, ‘erotic fiction is no longer merely a subcultural genre of literature, but is situated within a range of contemporary feminine products and practices of purchase’. As already noted, this can be seen through the emergence of a branded range of *50 Shades* lingerie (discussed above) as well as a line of sex toys by Lovehoney and a board game by Imagination. Martin (2013: 981) adds to this by noting that ‘*Fifty Shades*’ lends legitimacy and acceptability to the consumption of BDSM products and this is being capitalized upon by retailers. Weiss (2006: 122) concurs that ‘once these representations are displayed in

mainstream contexts, they cease to be exciting'; this echoes Miller and Devon's notion of BDSM fashion becoming trivialized. However, despite its popularity, 'authentic' BDSM practice is still perceived as a deviant activity that unsettles heteronormative and other social norms in western liberal democracies. As such, BDSM 'is not a sexual practice that enjoys the right to public visibility on our streets, and many practitioners do not mention their BDSM practices in their More everyday lives' (Wilkinson 2011: 496).

Weiss (2006: 111) states that twenty years ago, BDSM was considered 'dark and mysterious, unspoken and invisible' but today, there appears to be a tolerance and a level of acceptance of this minority culture. Within a pop culture context – film and music – BDSM has entered the mainstream in a significant way. The BDSM aesthetic has featured in a number of videos across different music genres featuring a range of artists whose identities, sexual, racial and/or gender, have simultaneously added to the subversiveness and normalization of BDSM. The US female singers Madonna, Lady Gaga and Rihanna have used BDSM themes and its material culture to varying degrees in their artistic works. Madonna's (1992) book, *Sex*, broke new ground in terms of the crossover between pop culture and BDSM subculture. Cult movies that have had some level of commercial success include *9½ Weeks* (Kernochan *et al.* 1986) and *The Secretary* (Shainberg 2002) have also added to the interest in this subculture; but as discussed above, the most visible and easily adaptable way in which to 'try out' BDSM is through clothing and other 'lite' fetish items.

In summary, it is fair to say that various aspects of BDSM materiality surround us, albeit some people may not be aware of its connections to a subcultural sexual practice and community. Depictions of BDSM, whether in fashion, or through various media, has 'begun to saturate popular culture, appearing more often and in more contexts, it has also come to signify some more mainstream and more conventional, some less exceptional extreme, or unusual' (Weiss 2006: 111). Whether or not the increased visibility of BDSM has translated into a genuinely higher level of acceptance and/or participation in BDSM is difficult to gauge with any accuracy as well as quantifying exactly how many people are involved in BDSM in domestic and/or commercial spaces. According to the only large-scale representative-sample survey on sexual behaviour, identity and difficulties among the Australian general population ($n = 19,307$) just 1.8 per cent of adults (aged 16–59) had been involved in BDSM in the previous year (Richters *et al.* 2008). Much like sex work/prostitution, discretion, secrecy and stigma still surround BDSM hence the proportion of people who dabble or engage more fully in BDSM may be higher.

BDSM venues: locality and spatiality

Despite the increased mainstreaming of the BDSM aesthetic, BDSM practice still takes place within relatively closed communities and 'underground' spaces, both physical and virtual. Physically, some of these spaces are highly exclusive, hidden, and specialist in terms of their membership and level of intensity of practices that

take place (e.g. suspension or electro play). Other spaces are more public and less intense in regards to the level of psycho-sexual interaction between participants. If anything, these latter types of spaces tend to be more about aesthetic exhibitionism, voyeuristic exploration and potential experimentation in 'the scene'. Ultimately, this may lead some participants to being invited into more exclusive spaces (Newmahr 2010, 2012). On the other hand, and not surprisingly, BDSM spaces may also be accessed via the Internet.

Virtual BDSM spaces

There is no doubt that the Internet has had a major impact on enhancing the visibility of and accessibility to BDSM practices, as well as all other sexual practices. In September 2010 Shindel and Moser (2011) performed a simple search on Google for 'BDSM'; their search resulted in 'over 24 million hits' (ibid.: 927). For this chapter the same search in January 2014 revealed a total of 72,400,000 hits, an increase of just over 200 per cent. Equally as interesting, their search for 'BDSM porn' revealed 3.1 million hits; by 2014 there were 7.43 million hits, a 140 per cent increase. The online social network site *Fetlife* (www.fetlife.com), arguably the world's largest kink and fetish online community, was also surveyed by Shindel and Moser (2011). In September 2010 there were 571,542 members but by January 2014 it had increased by a staggering 361 per cent to 2,634,997 members. However, like any other social network, these numbers merely reflect member profiles. There could very well be multiple profiles for one person. This would also be possible for dating sites or Facebook and member profiles are only indicative of member profiles, not necessarily individual members. The *Fetlife* website boasts the following statistics on its homepage:

2,634,997 members have shared 13,951,122 pictures and 118,174 videos, participated in 3,543,687 discussions in 65,994 groups, are going to 223,822 upcoming events and reading 1,259,266 blog posts.

(www.fetlife.com, 24 January 2014)

Essentially, *Fetlife* serves the same purpose as other social networks (e.g. *Facebook*) – but the content is geared toward BDSM interests and lifestyles. For instance, one can search for people with similar interests and curiosities, events in their local area, inter-state or overseas (an important feature in terms of expanding one's geographical understanding of where BDSM is practised and where communities tend to cluster), subscribe to blogs, view a gallery or enter a chat room. These types of virtual BDSM spaces allow for anonymity with participants adopting sexually loaded pseudonyms and chose whether or not to post images of themselves on the website. For those wishing to remain totally anonymous photographs tend not to be posted or if photographs are posted facial images may be hidden with the aid of a mask or photographs may be body shots highlighting the type of clothing they prefer. Profile name and imagery can act as a signal as to the type of BDSM practices people are interested in and what type of role (e.g.

submissive/dominant/switch) they assume within playspaces. Ultimately, *Fetlife* provides a space for people to explore and challenge their sexual boundaries.

Notably, the *Fetlife* website provides a geographical breakdown on the number of online 'kinksters'⁶ at the national, state and city level. In the UK, for example, there were a total of 266,113 registered profiles; the 'top 3' kinkster cities (based on profile numbers) were: Greater London (6,753), Glasgow (5,462) and Birmingham (5,026). These figures, taking into consideration the large population bases within each of these cities, highlight that the online BDSM community is widely dispersed throughout the UK. Conversely, in neighbouring Ireland, a traditionally conservative and religious nation, while there were only 16,623 registered profiles the majority (54.7 per cent, $n = 9,081$) of these were concentrated in Dublin. A similar pattern of spatial concentration is also evident in Australia. Australian *Fetlife* profiles total 98,268 with over half of these located in New South Wales (NSW) (26.9 per cent, $n = 26,428$) and Victoria (26.5 per cent, $n = 26,050$)⁷. When Queensland profiles ($n = 19,439$) are included the proportion of online kinksters in the eastern states of Australia increases to almost 75 per cent.

Wilkinson (2011) argues that some physical BDSM spaces (private and/or commercial) are exclusionary in that access to them is restrictive due to economic, and mobility issues; they are, 'clubs where you have to pay, need the right dress code, must be above a certain age and need transport to get to cities where they are often located' (ibid.: 499) and therefore suggests that the Internet is a space, albeit virtual, that is not 'fixed and hierarchies are constantly challenged and reiterated' (ibid.). Wilkinson situates virtual BDSM spaces within a 'spatial rights' framework, a framework that is often confusing and contradictory within the UK. That is, while it is permissible for individuals to consume 'extreme' BDSM practices in real physical spaces it is not permitted to be downloaded from the Internet under §63 of the *2008 Criminal Justice and Immigration Act* (UK Parliament 2008). This policy is seen to infringe upon personal rights to sexual citizenship (Boydell *et al.* 2009; Hubbard 1999; Perkins 1992). Furthermore, given the nature of the law surrounding the consumption of virtual extreme (BDSM) porn and this may further stigmatize and marginalize BDSM practitioners and push the more extreme (yet legal) elements of 'the scene' further underground within the (sub)urban sexscape.

Presently, however, virtual BDSM spaces such as *Fetlife*, *Evil Monk* and *Adult Match Maker* facilitate in bringing established and/or 'newbie' practitioners together in real spaces where the focus may be on learning and information sharing about BDSM practices and material culture, and/or directly consuming BDSM via engaging in or observing play. For example, *The Stockroom*, a Los Angeles-based adult store that specializes in fetish clothing and equipment, and *überServices*, a Sydney-based BDSM events company, both host educational classes on various aspects and levels of BDSM. The owner, Miss Dee, states: 'I'm perpetually astounded that we put out an announcement for a new workshop and within 20 minutes it's sold out; the demand for what we're doing is quite remarkable' (Vida-Douglas 2011: 20). Even female-owned and customer-oriented sensuality boutiques such as *Coco de Mer* (London), *Sh!* (London) and *Babeland* (New York) and sex-positive adult retailers such as *The Pleasure Chest* (Los Angeles, Chicago

and New York) have hosted salons or workshops on BDSM and other sexual practices.

The 'mainstreaming' of BDSM as a result of the Internet has, somewhat paradoxically, provided an anonymous platform for searching out 'like-minded' people. Pre-Internet, BDSM existed within 'underground' spaces where access was largely premised on 'being-in-the-know'. Long defined, until recently, as a paraphilia and deviant practice by the American Psychiatric Association (2013) it is not surprising that those engaged in BDSM formed tight social and communication networks in order to maintain confidentiality. Contemporaneously, however, access to certain spaces within 'the scene' has been made significantly easier due to the onset of the Internet. Spaces of direct engagement and consumption of BDSM may be typologized into three basic spaces: (i) organized events, (ii) commercial, and (iii) private. This is by no means a definitive typology and the different types of spaces sometimes overlap with one another in terms of the geography, temporality and the degree of play that takes place within them. This typology is merely a starting point in helping develop an understanding of the geographies and planning regulations surrounding BDSM venues. In geographical terms, these three types of BDSM venues exist in both underground and above ground spaces, across urban and suburban environments 'hiding in plain view' (Prior *et al.* 2013: 354; see also Chapter 12, this volume) in what one might classify as mundane, ordinary and 'vanilla' buildings.

BDSM event spaces

In broad terms, BDSM event spaces may be characterized and distinguished according to their location, mobility, temporality and permissibility of BDSM play and nudity. In Australia, for example, BDSM 'institutions' such as *Hellfire* (Sydney and Queensland) and *Provocation* (Melbourne) as well as events such as *Chains* (Melbourne) and *ClubFreak* (Perth) occur on a regular and relatively frequent (i.e. monthly) basis and generally in the same venue. Crucially, these types of BDSM events do not take place in a dedicated BDSM space. Rather, they 'colonize' other dedicated spaces zoned as licensed venues (i.e. bar, nightclub, pub) which are subject to liquor licensing and related regulations rather than sex premises regulations *per se*. As a result of this, the degree of BDSM play will generally be limited. That is to say, extreme BDSM practices, full-nudity, and sex are generally prohibited.

These types of BDSM events/venues are more akin to a 'dance party' where the emphasis is on overtly sexualized exhibitionism, voyeurism and experimentation with BDSM 'lite' practices and represent the entry-level of the commercial BDSM scene. Such is the popularity and durability of *Hellfire* (Sydney), it has earned the moniker, 'the McDonalds of the S&M world' (Vida-Douglas 2011: 22).

Given the fact that the aforementioned BDSM club events or parties often operate from licensed premises (as well as other non-descript venues) as opposed to dedicated and permanent BDSM spaces, which would be deemed sex industry premises in NSW and Victoria, they tend to fall outside the ambit of planning

regulations. Relatedly, they would also elude health and safety regulators on account of the ‘house rules’ within these particular types of spaces which limit extreme BDSM play.

Commercial BDSM places

Compliant commercial BDSM spaces are differentiated from BDSM event spaces by the degree of play and planning regulation that surrounds them. For example, some sex workers in brothels offer BDSM services to their clients. Brothels are legally defined as commercial sex premises in states such as NSW, Victoria and Queensland (see below for definition) and are generally subject to planning and zoning regulations overseen by local councils. BDSM-specific venues such as houses of domination (*The Kastle*, Sydney; *Fetish House*, Melbourne) are also defined as sex industry premises and thus subject to planning regulations. Simultaneously, there are some commercial BDSM events and spaces within Australia (and elsewhere) that operate clandestinely in order to evade formal bureaucratic planning, and health and occupation regulations. One key reason for evading such regulations are the costs associated with establishing (purchasing/leasing premises and fitting them out with play spaces and equipment) and operating (licensing fees) dedicated commercial BDSM-specific venues (and ‘sex on premises venues’, or SOPVs). It could be speculated that another reason why some commercial BDSM-specific events/spaces evade complying with formal rules and regulations is to reify the subversive material culture of this practice.

Private BDSM places and spaces

Private BDSM play spaces embedded within residential dwellings in basements, attics, or out buildings also tend to evade formal regulations. In terms of planning regulations they do so because they are an incidental use to the primary land-use (i.e. residential) they are located within. Furthermore, these types of spaces are privatized in the sense that they tend to be exclusive with access to them via invitation-only by the host(s) – master and/or mistress – of the event. To this extent then, private play spaces constitute an ‘underground’ space. However, this type of underground space arguably challenges stereotypical imaginations of what and where (i.e. a dark, dank secluded basement in a dilapidated industrial building) people would consider an ‘underground’ BDSM venue. As Weiss (2006: 122–3) succinctly argues:

In the popular imagination, the ‘really sick and twisted side’ of SM cannot be tainted by capitalism or appear in America’s suburban living rooms. It exists outside these banal locations, somewhere unreachable, unviewable, and unseen. It is something undisciplined and transgressive ... BDSM symbolizes something risky, dangerous, mysterious, extraordinary, glamorous, urban, underground, scary, off-limits, and cool.

While some private play spaces may charge invited participants an 'entry fee' this is usually imposed to help cover basic costs for any food and drink that may be provided by the host(s) or even the hire of specialist equipment. It is difficult to conceive of them being commercial enterprises in the same way as houses of domination and BDSM event parties such as Hellfire/Provocation who need to generate a revenue stream in order to stay in business. Details about where and when private play parties will be held tend not to be advertised openly on the Internet, although details may be communicated to prospective participants within private online chat rooms, text messages and word of mouth. Ultimately, there has been no major in-depth scholarly analysis of private play spaces, although Newmahr's (2010) ethnography of BDSM allowed her to move through the various dimensions of the 'scene' in 'Caeden'. The lack of research on this aspect of 'the scene' is not that surprising given the intrinsic value placed on discretion and confidentiality within BDSM communities and the stigma that still surrounds this subcultural practice.

BDSM, legal status and planning regulation

How sex industry premises are defined and managed in regard to planning and zoning has implications on their geographical placement and visibility within the (sub)urban landscape. In jurisdictions where commercial sex activities (e.g. sex shops, strip clubs, brothels and BDSM venues) have been 'legalized' by a higher government authority (state or national government) via specific legislation or protected under a nation's constitution (see Chapter 13 of this volume on freedom of speech protections for sex businesses under the US Constitution), such activities are obliged to be recognized as 'legitimate' land-uses and thus subject to planning and zoning regulations. As noted throughout this volume and the wider academic literature, planning authorities have tended to tacitly accept commercial sex premises as legitimate businesses but use planning and zoning policies to relegate them to marginal locations and control the design (internal and external) and signage. All of this is undertaken in an effort to limit the transmission of the negative secondary effects associated with sex industry premises. This is reflected, for example, in a recently completed planning report by Willoughby City Council in Sydney:

With the passing of the Disorderly Houses Amendment Act (DHAA) 1995, Willoughby City Council adopted planning controls for the regulation of brothels, (new sex services premises), within Willoughby City which were gazetted in 1998 under [Willoughby Local Environment Plan] 1995 and the previous [Development Control Plan] 21 – Brothels, now Section G.1 of the consolidated [Willoughby Development Control Plan]. In 2006 Council amended WLEP 1995 to introduce the 100m distance requirement between sex services premises, due to concern with possible clustering of the uses in the local business zones (in particular Penshurst Street). These controls are designed to ensure that sex services premises operate in *appropriate* locations

and do not result in a loss of amenity or create adverse social and environmental impacts.

(Willoughby City Council 2013: 129; emphasis added)

Paradoxically, restrictions imposed by some local planning authorities on sex shops, for example, whereby they are required to black out their facades and window displays with hoarding merely draws more attention to these stores thereby heightening their very existence within the (sub)urban landscape (see Chapter 3, this volume). Furthermore, the imposition of prescriptive visual design controls on sex shops can also reduce the wider visual amenity of the local area they are situated in, and increase their negative secondary effects, the very problems that planners seek to ameliorate.

Online social networking sites such as *Fetlife* and *Adult Match Maker* clearly demonstrate that BDSM communities, events and venues exist in a diverse range of geographical contexts throughout Australia, the UK, Ireland, the US and Europe. Despite the apparent spatial omnipotence of BDSM in Australia, Bennett (2012) has highlighted that its legality is complex within Australia at least. Put simply, there are two legislative frameworks that operate across Australian states: common law (ACT, NSW, South Australia and Victoria); and Criminal Code (WA, Queensland, Northern Territory and Tasmania). On top of this, Bennett (2013) highlights that within the contexts of the right to privacy and mutual consent, BDSM practices intersect with a range of specific areas of law: censorship, discrimination, assault and manslaughter. Hence, when people have been prosecuted for engaging in BDSM activities it has tended to be mainly on the basis that some degree of serious harm or injury (bruising, internal/external bleeding or burns) has been incurred and thus deemed to have broken laws relating to assault or other related serious crimes.

Building on Bennett (2012, 2013), the lurking fear of prosecution as a result of engaging in extreme BDSM practices, even under consensual arrangements and when not actively policed by the relevant regulatory authorities, is arguably another contributory factor as to why certain commercial and private BDSM events/spaces are underground. Moreover, given the legal complexity, ambiguity and politically sensitive nature of the regulatory authorities that tend to surround the sex industry (e.g. sporadic police clampdowns on sex workers, public health inspections of brothels and campaigning on (im)moral issues during political elections) it is not surprising that local governments, as both a planning agency and political entity, might exhibit a policy aversion to commercial BDSM-specific venues. As far as can be ascertained from a review of local town planning schemes (TPSSs) in Perth, Adelaide and Melbourne, for example, there is no explicit mention of BDSM or BDSM-specific venues. Rather, BDSM venues are more likely to be encapsulated within broader commercial sex and adult entertainment land uses within local planning schemes:

Adult entertainment premises: the use of land for the exhibition, display, or performance of any entertainment or act which is sexually explicit such as

nude dancing or lap dancing, and to which admittance by minors is restricted by law.

(City of Adelaide 2013: 395)

Sexually Explicit Adult Entertainment: Land used to provide nude dancing, lap dancing and all other forms of sexually explicit entertainment for adults only. It may include the provision of food and drink.

(City of Melbourne 2013: s.22.11)

This is in stark contrast to Sydney where various local environment plans (LEPs) and development control plans (DCPs) explicitly recognize BDSM venues as a specific land-use that require specific and prescriptive regulations, spatial and health-related, about their location, design and operation. As noted by Steinmetz and Papadopoulos (2011), the City of Sydney's Adult Entertainment and Sex Industry Premises DCP (AESIP-DCP) may be viewed as a model of best practice in the planning regulation of sex industry premises (City of Sydney 2006). To begin with, the AESIP-DCP acknowledges from the outset that 'adult entertainment and sex industry premises have a long history within the [City of Sydney] Local Government Area and have become an established and accepted feature of some areas' (ibid.: 1). This speaks to Hubbard's (2011) point that cities cannot be fully understood unless they are recognized as inherently sexual(ized) spaces. Next, the AESIP-DCP indicates that the sex industry is generally unproblematic as 'many premises operate in a discrete manner and seek to comply with Council's requirements for development consent' (City of Sydney 2006: 1). This echoes recent findings about the invisibility and comparatively less negative amenity impacts of brothels in residential areas within the City of Sydney and City of Parramatta (Prior *et al.* 2013; Prior and Crofts 2012). Nevertheless, concerns remain about the 'negative amenity impacts' (City of Sydney 2006: 1) and 'dread risks' (Chapter 8, this volume) that stem from sex premises:

Whilst the impact of individual premises can vary in relation to their nature and scale, the accumulation of premises may exacerbate any negative amenity impacts. It is therefore important that land-use planning controls seek to reduce any negative impacts whilst allowing the development of adult entertainment and sex industry premises in suitable locations, and of an appropriate scale and operation.

(City of Sydney 2006: 1)

Ultimately, the City of Sydney uses a mix of planning instruments to guide its own decision-making on the development approval and operation of commercial sex premises and also as a means of advising prospective applicants seeking to establish a sex business, of their obligations as a business operator. The LEP and DCP are statutory and non-statutory planning instruments respectively, with the latter

supporting the former. The LEP sets out the planning zones and development controls and stipulates what zones commercial sex premises may or may not be permitted. The AESIP-DCP (City of Sydney 2006) and the *Development Guidelines: Sex Industry and Adult Entertainment Premises* (DG-SIAEP) (City of Sydney 2013) sit below the LEP and DCP but overlap with one another, providing detailed information on the regulatory levers that manage 'the location, design and operation of adult entertainment and sex industry premises' (City of Sydney 2006: 1). The DG-SIAEP gives considerable emphasis to the public health and sanitation aspects of operating a commercial sex premises.

In broad terms, BDSM venues are defined as a 'sex industry premises', a land-use that also includes brothels, safe house brothels (used by street-based sex workers), sex on premises venues (SOPVs) and swingers clubs. More specifically they are defined by the City of Sydney (2006: 5) as 'premises where the *primary* services provided is bondage and discipline, sadism and masochism, or similar role plays and activities. Premises may also provide a sexual service.' According to this definition then, BDSM sex industry premises may be either venues in which direct commercial services, whereby a client pays a sex worker/prostitute to perform a sex act on him/her, or venues where there is an admission fee to gain entry and where sexual encounters take place between patrons but no direct service provider-client commercial exchange takes place. To this end, then, compliant and above ground BDSM-specific venues such as houses of domination or BDSM parlours wherein a mistress/master is paid directly by a client to provide psycho-sexual gratification via flogging, caning, humiliation and/or needle-play, for example, would be officially defined as a sex industry premises and treated much in the same way as a brothel. As such, this type of venue would, under current policy, need to be rendered *invisible* within the (sub)urban sexscape via restricting its location away from residential areas and limiting signage lest it should have negative amenity impacts on residential areas generally or provoke offense among users of sensitive land uses such as schools or places of worship (Hubbard 2011). As is often the case, particularly with larger scale premises, industrial zones have traditionally been viewed as the only viable location for commercial sex premises. As discussed extensively throughout this volume, these locations have become increasingly inappropriate given the fact that they increase the health, occupational and personal safety risks to those who work in the sex industry (Boydell *et al.* 2009; NSW Department of Planning 2006; Harcourt 1999; Hubbard 1999).

Compliant, 'above ground' BDSM-specific venues in Sydney are required to follow a long list of rules and regulations as set out in the AESIP-DCP (City of Sydney 2006) and DG-SIAEP (City of Sydney 2013). In addition to the zoning and planning controls and associated architectural and building controls that must be adhered to, prospective operators of BDSM venues are required to submit a Plan of Management (PoM) outlining various aspects of the day-to-day management of the premises and business. An extensive range of issues are to be included in the PoM of all operators of sex premises: (i) safety systems for staff and patrons; (ii) access for health service providers; (iii) cleaning and sanitation; (iv) health and safety training of staff; (v) storage of sex-related products (condoms, equipment).

BDSM venues are required to provide additional information in their PoM (City of Sydney 2012: §4.4, p. 20):

- (a) details of all activities likely to be conducted on the premises that may be high risk conduct including:
 - (i) documentation about how the activities will be undertaken in a safe manner; and
 - (ii) procedures to control infection, with details for each separate activity, including the safe practice of each activity, cleaning and disinfection methods and agents, and any sterilisation procedures;
- (b) induction and training procedures that enable workers to perform skilled or higher risk activities only after they have been trained in the procedures and observed by experienced staff performing these safely; and
- (c) monitoring and safety strategies, both within the working rooms and through external monitoring of the working room by other staff or management.

The extreme nature of some of the practices involved in BDSM, potential harm that may be caused to participants, the complex legal landscape and stereotypical (mis)perceptions about this subcultural practice reflects the degree of regulation – planning, zoning, health and safety – and operations surrounding this land-use. What is interesting here, however, is the fact that the City of Sydney has adopted a pro-active policy approach to BDSM in recognizing it is as not only part of the wider sex industry but as an implicit facet of the city’s sexual identity. This reinforces the idea of the cosmo-sexuality of the (sub)urban sexscape within cosmopolitan and global cities such as Sydney (Chapter 2, this volume).

Conclusions

There has been very little planning or geographical scholarship on the nature, spatiality and regulation of BDSM in terms of its material culture or as a physical land-use. This chapter has sought to address this gap in the literature by painting a broad picture of the increased visibility and mainstreaming of BDSM practices. Its aestheticism has been appropriated by the fashion and music industries and, more recently, by the literary world with the emergence of ‘mommy porn’ and a new wave of erotic literature that has been consumed en masse by a ‘conventional’ audience. Consequently, BDSM ‘lite’ products are available across a spectrum of retail environments not just the adult sex shop. Put simply, BDSM has become highly ‘suburbanized’. Regardless of the mainstreaming of BDSM practices, those who engage in ‘real’ BDSM practices in ‘real’ venues – event parties, commercial parlours/dungeons, or private parties – are still seen as being somewhat deviant. To propose that commercial BDSM-specific venues need to be kept out of sight and out of mind so as to minimize their ‘negative amenity impacts’ as well as their potentially corruptive and physically harmful influences on society would be inadequate – to both those who respect and abide by the subcultural norms and values and for those who wish to access the community.

Rendering BDSM venues as ‘invisible’ or ‘hidden’ via the planning system (and other related regulations) helps to perpetuate the subversive mystique that surrounds this practice and community members. At the same time, however, although the regulatory frameworks that surround commercial BDSM-specific venues in Sydney are necessary for occupational and health and safety reasons, there is a risk that ‘the scene’ might be over-regulated. Where regulation is seen to be too onerous this may drive some prospective commercial BDSM enterprises deeper underground and thus potentially expose participants to a greater degree of risk in venues in people’s homes, abandoned warehouses and other non-compliant spaces.

Notes

- 1 The term ‘the scene’ is used within BDSM communities to denote membership and involvement in BDSM activities.
- 2 We acknowledge and respect the complexity of BDSM and assume that the practise is between two or more consenting adults.
- 3 Gayle Rubin is a feminist, activist and currently a professor of cultural anthropology. She is widely known for her role in creating Samoïs – the first lesbian SM/educational and political group (see www.lsa.umich.edu/anthro/people/faculty/ci.rubingayle_ci_detail).
- 4 Modification in BDSM may also include the body (scarification, tattooing and brandings) – see Williams (2009).
- 5 *Target’s* 50 Shades of Grey lingerie have been officially endorsed by the author E. L. James.
- 6 The term ‘kinkster’ is used here as a catch-all term to embrace the wide range of people interested and/or engaged in BDSM and fetish lifestyles.
- 7 No city level data are readily available on the Fetlife Australia webpages.

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Part II

Regulation of the sex industry

8 Sexual entertainment, dread risks and the heterosexualization of community space

Phil Hubbard and Billie Lister

Introduction

Striptease clubs, mainly in the form of lap-dancing or ‘gentleman’s clubs’, represent the most obvious and visible manifestation of the sex industry in British cities, and have hence excited considerable political and media debate since they became widespread in the late 1990s (Magnanti 2012; Hubbard 2009). Within such debates, clubs are generally represented in dichotomous terms as either a site of harmless titillation for a consenting and knowing adult audience or as a space of exploitative and demeaning work for women who are forced to present themselves as the passive object of the male sexual gaze (Bindel 2004). Yet the debate about lap-dancing clubs in British society extends to consider not just the practices and performances within the club but the impact of clubs on the places and communities where they are located. Here, some suggest that such clubs are beneficial in terms of their ability to attract business tourists, corporate clientele and stag groups, and can be important in regenerating declining night-time economies in a time of recession: others allege they create hotspots of anti-sociality and ‘vice’ (Patiniotis and Standing 2012; Colosi 2010; Hubbard *et al.* 2009).

In the light of these dichotomous representations, we conducted research to explore community attitudes towards premises offering striptease entertainment on a regular basis (see Hubbard and Colosi 2013). Despite media coverage highlighting either support for, or vehement opposition against, such venues, we found that most were fairly ambivalent. Indeed, our survey of 941 adults living in towns or cities with lap-dancing premises suggested that only around 3 per cent identified them as a source of particular nuisance, a figure which was much lower than was the case for pubs, nightclubs or food take-aways, all of which were named as causing particular problems of noise, anti-sociality and littering. While around one in ten of our respondents appeared markedly opposed to the presence of lap-dancing clubs in British cities, the majority (55 per cent) suggested they were appropriate in city or town centre locations. Against this, only three per cent claimed clubs are suitable in residential areas. Tellingly, 46 per cent felt clubs are not suitable near colleges or universities, 65 per cent near religious facilities and 83 per cent near schools.

The idea that most people are reasonably sanguine about lap-dancing clubs, but balk at the idea of clubs being located near to schools or in residential areas where

children may be present, is the focus of this chapter. Indeed, in this respect attitudes towards lap-dancing clubs are pretty much in line with attitudes to brothels, sex-on-premises massage parlours, sex clubs and cinemas, all of which have tended to face substantial community 'NIMBY' opposition when located in areas where they might be encountered by children (Hanna 2011; McCleary and Weinstein 2009; Prior 2008). For all this, the inappropriateness of sex premises in areas where children may be routinely be present is rarely articulated or explored: apparently, we live in societies where such discussion is not required. This was demonstrated to us repeatedly in our survey-when we verbally quizzed people as to why lap-dancing clubs should not be located near schools, the dominant response was they perceived that their presence in close proximity to them was 'simply wrong'. But if we assume that children and minors are not allowed on lap-dancing premises, and that any displays of nudity or pornography are not visible from the exterior of the premises, it is worth questioning what the harms caused to children might be when such clubs are opened, and how these are mitigated via their distancing from facilities used by children.

Given the wider results of this study have been described in detail elsewhere (e.g. Hubbard and Colosi 2013), the particular focus of this chapter is to question why we, as societies, feel the need to distance sex premises (such as lap-dancing clubs) away from spaces where children might routinely be present. The intent is not to explore definitions of sexual maturity or consent, or challenge the dominant consensus that removing sex premises from the sight of children is a sensible precautionary step to take. Rather it is to consider what this approach achieves in terms of reinforcing a moral geography in which particular 'dread risks' are located outside and beyond the boundaries of a sanctified, safe heterosexual family that is assumed to be the 'right and proper' environment in which to raise children. We do this by describing the way that the geographies of lap-dancing clubs in Britain have been shaped by such moral assumptions, with dominant modes of regulation being both implicitly and explicitly informed by discourses of community safety in which the vulnerability of the child is assumed to take precedent over other considerations, and where the geography of 'family space' is manipulated in line with such assumptions. To begin, therefore, we explore the justification for the introduction of new powers to control the location of lap-dancing clubs in British cities, noting that these were informed by specific concerns about the inabilities of existing legislation to fully consider the sexual nature of the entertainment on offer when licensing lap-dancing clubs, and hence to offer adequate protection to the public. The first section details the introduction of the *Policing and Crime Act 2009*, which was intended to give communities more say over the presence of striptease and sexual entertainment venues in their local authority area. The second section describes the way that this regulation has been enacted so as to allow or discourage clubs in particular communities, noting a strong tendency to locate such clubs away from spaces associated with families. The final section explores the justification for such actions, considering the moral geographies they reinforce. We note connections to wider debates on the social, sexual and moral segregation of our cities which emphasize the normalization of heterosexual family norms, and the marginalization of forms of sexual practice which present a challenge or risk to the maintenance of such norms.

Controlling lap-dancing clubs in Britain: the 2009 Policing and Crime Act 2009

Spaces where nudity is presented as a form of entertainment have long aroused suspicion in Britain and elsewhere as sites associated with multiple forms of ‘vice’ and criminality (Price-Glynn 2010; Jeffreys 2008; Mort 2007; Lasker 2002). Burlesque theatres, sex cinemas and striptease clubs have hence often enjoyed only a precarious existence, with striptease generally pushed from the centre towards ‘areas of ill repute’ where it existed out of sight of ‘polite’ society, principally in inner-city pubs and working men’s clubs where striptease performance was incorporated into normative – and inevitably patriarchal – cultures of homosociality: a notable cluster can still be found in the East End of London (Sanders and Hardy 2012). In this context, the emergence of highly visible and prominently advertised lap-dancing clubs at the heart of many British cities in the mid-1990s was a significant development, arguably symptomatic of the mainstreaming of commercial sex (Bretners and Sanders 2010). Distancing themselves from allegations of sleaze and criminality, such venues typically purported to offer adult entertainment that is harmless, tasteful and well managed, with many venues styling themselves as up-market ‘gentlemen’s clubs’ (Colosi 2010; Jones *et al.* 2003). This resonates with the evolution also found in adult sex shops, which have overwhelmingly shifted from their ‘traditional’ seedy reputation to being gentrified and increasingly feminized spaces of sex retailing (see Chapters 2 and 3, this volume).

The first ‘US-style’ lap-dancing clubs opened in the mid-1990s, with chains *For Your Eyes Only* and *Spearmint Rhino* establishing clubs in London and the southeast. By the turn of the millennium most British towns and cities possessed at least one club, the majority independently owned venues which had formerly been pubs or nightclubs but had seen the potential of this new leisure format (see Figure 8.1). By the mid-2000s, there were an estimated 300 clubs in England and Wales (Jones *et al.* 2003), their proliferation seen to be the result of multiple factors, including an economic downturn that threatened the vitality of a night-time economy that had become a significant source of employment:

The proliferation of strip clubs in the UK ... occurred as a result of an interplay between generic licensing under the *2003 Licensing Act*, the financial crisis encouraging young women who face the brunt of economic downturns to seek out cash-in-hand work, and the highly financially exploitative economic structures which enable clubs to ensure income from dancers, regardless of the level of demand.

(Sanders and Hardy 2012: 518)

The implication here is that clubs prospered via arrangements where dancers pay to dance, relying on cash-in-hand tips, and club-owners reaped the rewards of enhanced sales of alcohol by those attracted to venues by the promise of sexual entertainment. Yet this quote also hints at what was seen by some as ‘regulatory deficit’: displays of nudity in clubs did not fall within the remit of obscenity law (given the sight of a naked body is unlikely to be regarded as capable of

corrupting or depraving an adult viewer by a jury in any trial), meaning such clubs were able to open with a waiver to a general alcohol license. While planning permission would theoretically be required to convert a pub or club to a lap-dance club because the latter is *sui generis* in land use terms, few local authorities seemed to be aware of the need for such permission to be granted, assuming that the conversion of a nightclub to a sexual entertainment venue would not represent a material change of use. In the words of opponents, this meant that it was as easy to open a lap-dancing club as any 'ordinary pub or karaoke bar' (Object 2008: 3).

As had been the case with sex shops some thirty years earlier (Coulmont and Hubbard 2010) the emergence of visible 'sex commerce' on the British high street



Figure 8.1 *Spearmint Rhino*, Yelverton Road, Bournemouth.

Source: Alwyn Ladell

thus excited considerable comment. In many instances, plans to convert premises into lap-dancing clubs have provoked vociferous local campaigns of opposition alleging that such venues would create noise and nuisance, attract undesirable elements, and compromise the safety of women, families and young people in their vicinity (for accounts of such campaigns, see Hadfield and Measham 2009; Hubbard 2009). The frequency of community campaigns against lap-dancing clubs, coupled with protracted campaigning by those regarding lap-dancing as gendered exploitation (see Hubbard and Colosi 2013), ultimately led to the introduction of new licensing provisions into the *Policing and Crime Act 2009* (hereafter *2009 Act*). The *2009 Act* came into effect in England and Wales on 6 April 2010, granting considerable discretion to local authorities to refuse a license application for new 'sexual entertainment venues' (SEVs), defined as 'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organizer or the entertainer' (§27, para. 3). Here, 'relevant entertainment' is defined as 'any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)' (*2009 Act*, §27, para. 3). According to Home Office guidance, a licence maybe refused if the applicant is deemed unsuitable by virtue of previous conviction, or where:

the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality [or] that the grant or renewal of the licence would be inappropriate, having regard (i) to the character of the relevant locality (ii) to the use to which any premises in the vicinity are put; or (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

(Home Office 2010: 10)

In terms of the complaints from some community groups, the previous licensing regime allowed for little consideration of whether a lap-dancing club was appropriate in a given local, whereas the new regime grants licensing officers considerable leeway to refuse a licence if the number of clubs in an area exceeds the number which a local authority considers is appropriate for that locality. The number of clubs deemed appropriate can be zero. Again, this echoes the situation with adult sex shops (see Chapter 3, this volume). However, there remains no set interpretation of what constitutes a locality, with appeal cases relating to sex shops suggesting this remains a matter for the appropriate authority to decide on the facts of the individual application (Coulmont and Hubbard 2010). Kolvin (2010: 65) concludes this provision 'gives the authority a high degree of control, even amounting to an embargo, on sex licences or particular types of sex establishment, within particular localities', noting 'the width of the discretion is consolidated by the absence of any appeal against a refusal on this ground'.

Regulating sexual entertainment venues: policy and practice

While the *2009 Act* acknowledged the widespread anxiety about lap-dancing clubs, it stopped short of banning them, leaving the ultimate decision about their suitability to local councils. The *2009 Act* is not compulsory: however, the vast majority of local authorities have decided to adopt the provisions, with research by Poppleston Allen (2011) revealing that 89 per cent of local councils had adopted the legislation by November 2011, including some which have no lap-dancing clubs within their jurisdiction. Though there is no requirement to do so, most of these have also developed and consulted on policies intended to guide future applications. Home Office (2010: para. 3.23) guidance suggests:

it is reasonable and potentially useful to future applicants for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment.

Given brothels and other sex-on-premises venues (e.g. saunas) are technically illegal in the UK, for most local councils this is the first time that they have been encouraged to consider the appropriateness of sex-related land uses in different locales. In this regard, a number of councils – including Coventry, Hackney, Haringey, Mid Sussex, Richmond, Wellingborough, Whitley Bay and Winchester – have drawn up policies specifying that any new lap-dancing clubs would be entirely inappropriate in all areas within their jurisdiction, thereby effecting a ‘nil limit’ by suggesting a presumption to license refusal because of a lack of suitable locations. An example of how this blanket ban is justified is provided in the draft *Sexual Entertainment Venue Policy* of the London Borough of Tower Hamlets (2009: 11):

It is the Council’s view that having regard to each locality and recognizing that because of the mix of uses, the character of the individual localities, the strategic vision of the Council and the existing locations of particular types of premises in those wards, it would be inappropriate for sex establishments to be located in the individual localities ... Further, the association that sex establishments have with a part of the ‘sex industry’ and adult entertainment means that they are not suitable for location in those parts of the borough associated with commerce, family, retail and entrepreneurship, nor are they appropriate for location in residential areas or areas frequented by families and children.

A key part of the case here for discouraging licence applications is that clubs are inappropriate in any areas where children might be present. Yet given that licensing decisions must be legally defensible and not unreasonable, the onus here is on the local authority to demonstrate that it has considered all possible locations and found no possible site where children will not be affected. Although Tower Hamlets baldly state all wards are unsuitable, in other cases a more convincing analysis is presented in which buffer zones of 500 or 1,000 metres around schools and

community facilities are mapped out, showing that there are no suitable sites. This approach, for example, has been adopted by Camden and Coventry, whose SEV policies include maps showing the location of premises which they regard as 'sensitive' and worthy of protection.

Ultimately, most local council policies have specified that any application for an SEV licence will be considered on its merits and in the light of local objections, an approach considered legally defensible given the prospect of judicial review or appeals by aggrieved applicants in the face of licence refusal. Here it is typically stressed that licence applications will be decided with reference to the character of the surrounding area, and with particular regard for:

The proximity of residential premises, including any sheltered housing and accommodation of vulnerable people; the proximity of educational establishments to the premises; the proximity of places of worship to the premises; access routes to and from schools, play areas, nurseries, children's centres or similar premises; the proximity to shopping centres; the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive).

(Wigan Sexual Entertainment Venue Policy, 2010)

Again, this identification of 'sensitive' land uses underlines the desire for the creation of a 'buffer' between sex premises and spaces where vulnerable people might be present. Though there is some notion that this could extend to vulnerable adults, the mention of play areas, schools and leisure centres makes explicit that the protection of children is currently a key priority for those charged with licensing lap-dancing clubs in British cities. However, this policy guidance is just that – guidance – with licence applications determined by licensing committees formed of elected local councillors who deliberate on the evidence presented to them by licensing officers. In each case, this evidence includes full copies of the representations made by local residents and relevant local stakeholders (including the police). Government advice is clear here on procedure:

When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

(Home Office 2010: 11)

The reference here to paragraph 12 relates to the sections of the *Local Government Act 1982* which now also applies to SEVs and stipulates the basis on which a

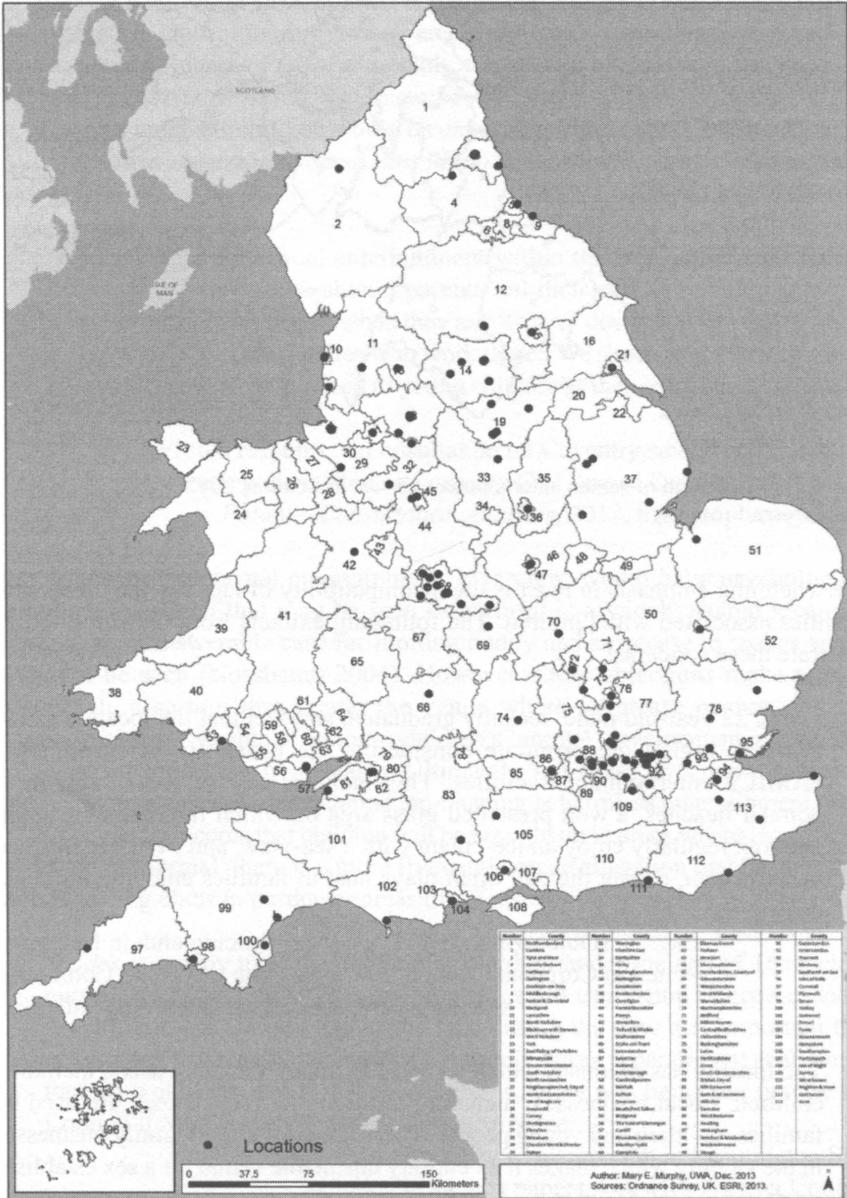
licence can be refused: (a) that the applicant is unsuitable to hold a licence; (b) that if granted the licence would be run by or for the benefit of an unsuitable person; (c) that the number of SEVs in the relevant locality equals or exceeds the number set by the authority; or (d) that the grant would be inappropriate having regard to the character of the locality, the use of other premises in the locality or the layout, character or condition of the premises for which the application is made.

This suggests that it is the responsibility of the local authority to solicit the views of local residents as to the suitability of an application before determining whether it should be permitted or not; if a licence is granted, then representations may guide the imposition of licensing conditions (for example, limiting opening hours, banning advertising on the street, employing security staff to maintain the order of those leaving the club and so on). However, the idea that objections based on moral considerations cannot be admitted is intriguing given the fact that many objections appear underpinned by a disgust of, and a disapproval of, lap-dancing as opposed to environmental objections (e.g. the creation of noise, littering, parking nuisances or light pollution). This means that those who feel that lap-dancing is sexist, degrading, harmful or shameful are unable to cite these beliefs as a legitimate grounds for licence refusal, but must instead argue that a venue is unsuitable in a given locality. In practice, this means that in letters of objection to lap-dancing venues, objections based on grounds of morality entwine with those made on environmental, safety or aesthetic grounds, with many opponents of clubs arguing that they pose a threat to community cohesion and public order on the basis of what appear to be moral judgments, both real and imagined, about the clientele of such premises.

It is worth considering the objections raised to SEV licence applications since the new legislation was introduced in April 2010. Given there was a twelve month 'transitional period' in which existing clubs were allowed to continue trade without the new licence, here the analysis is limited to the first year in which local authorities granted or refused SEV licences, noting that 217 venues sought licenses in this first year with a total of 16 licences being refused. This equates to a refusal rate of just 7.3 per cent. Interestingly, 43 per cent of clubs were not objected to at all. In other cases the number of objections was substantial with 10 per cent of clubs receiving upward of thirty objections. This is a relatively large number when compared to most applications for pubs, restaurants or fast food take-away businesses. Additionally, petitions were presented to licensing authorities objecting to some clubs, with some of these containing hundreds of signatures. Maps 8.1 and 8.2 below highlight the geographical distribution of SEVs throughout England at the county level and London respectively.

Reviewing the 1,413 objection letters to applications made to lap-dancing clubs up to April 2012 reveals the ways that morality infused many of the objections that were nonetheless considered by local authorities as legitimate. Common to objections is that the letters make reference not to the unsuitability of clubs in general, but the proposed location (mirroring classic NIMBY discourse). Opponents thus draw attention to the incompatibility of a lap-dancing club with other neighbouring land uses, and emphasize the potential impact on local residents and businesses

(Chapters 4 and 13, this volume). Here, the common suggestion made is that location of important amenities in the immediate vicinity of premises would directly expose users of those amenities to specific harms and/or externalities. While places of worship are mentioned in a number of objections, the



Map 8.1 Distribution of sexual entertainment venues in England, 2012.

Source: Mary E. Murphy



Map 8.2 Distribution of sexual entertainment venues in London, 2012.
Source: Mary. E. Murphy

overwhelming emphasis in most is the incompatibility of lap-dancing clubs with facilities associated with children. The following extracts from objection letters illustrate these concerns:

I am a 22 year-old male, recently graduated, and feel that the location of the venue is highly inappropriate considering the proximity of surrounding FAMILY entertainment facilities. This includes one of Newquay’s most popular beaches, a well presented grass area on which families with small children regularly enjoy an ice-cream with a sea-view, and even the attached venue which, during the day often plays host to families enjoying food and drinks.

(Objection to *Wild Cherry* lap-dancing club in Newquay, cited in Cornwall Council, Miscellaneous Licensing Committee agenda papers, 27 October 2011, Appendix Six)

The locality has premises which are used by many sensitive users, including children. Local businesses, including those on the High Street, are used by families, children and young people. There are also several family businesses in the vicinity which makes it an entirely unsuitable venue for a sex establishment.

(Written objection to *The Pad* licence application, Bedford, 2012, Bedford Borough Council REF/SEV/002/12)

These types of objections, mirrored elsewhere, emphasize the general undesirability of lap-dancing clubs in areas where children are present. Other objectors were more explicit about why this is the case:

I believe that there are places where such an establishment would be more appropriate, rather than in such a prominent part of London. This area is situated in close proximity to key areas of the city, including that of Oxford Street and Regents Park. As a result, the area is often a popular place for families to visit. Would the council really feel comfortable knowing that families and their children would be exposed to such sexual imagery?

(Written objection to *Spearmint Rhino* licence application, Camden 2012, APP/SE-NEW/00003)

Having venues for sexual entertainment within the sight of popular family areas is a disgrace. How should parents tell their children about the *moral degradation* of these places when they ask 'Oh yes down the road that's where men go to see the naked ladies who work there.' We should not allow this kind of entertainment to be exposed to young children as they learn about the reality of the world around them.

(Written response to consultation on Coventry sexual entertainment venue policy, cited in *Coventry City Sexual Entertainment Venue Policy – Consultation Analysis*, 2012, n.p.; emphasis added)

The argument that sexual entertainment, if in view, would have psychological impacts on children that may be seen as harmful is a widely shared idea, and presents an unanswerable case for limiting nudity and striptease to spaces where it cannot be seen (Nussbaum 2004). However, these objections make a more contestable assertion that seeing the venue where striptease occurs, and not striptease itself, is capable of harming children's 'normal' development, and potentially warping their view of sexuality. Ultimately, this relies on a moral judgment that it is wrong to teach children that lap-dancing is harmless entertainment.

But beyond concerns that children will be brought up in areas where lap-dancing is viewed as 'normal' there is a more frequently made allegation that the presence of lap-dancing clubs in particular areas threatens children's safety:

Shades is nearby to premises used by children under the age of 16, such as nurseries, a Martial Arts Class and Warwick and Leamington Dance Academy. As children are making use of the area during the day, it is important that parents can feel reassured that their children's safety is paramount at all times. Parents would not feel that their children's safety was being put first by the Council if *Shades* were to be granted the licence.

(Objection to *Shades* lap-dancing club in Leamington Spa, included in agenda papers, Warwick District Council Regulatory Committee, 14 June 2011, Appendix 23)

I have just read with alarm the proposal to allow two licensed sex clubs in the town ... how can we maintain a safe town if these and others like them take over the town centre especially as ... one will open at 12 noon. What about the other shops ... the cafes and hairdressers? I have a teenage daughter and I will no longer feel she is safe going out in the evening with the kind of clientele that this is going to encourage at night.

(Objection to clubs in Maidstone, REF 06907911, cited in Maidstone Borough Council Licensing Committee Agenda Papers, 22 October 2012)

These types of representations – which are very common – assert that the presence of clubs will make specific areas unsafe for both children and teenagers – particularly girls – with the implication here that the clientele of lap-dancing clubs needs to be regarded as capable of acts of criminality that pose particular threat to minors. What is perhaps most interesting about such objections is that the specific threat that the clientele of lap-dancing venues pose remains unstated. Rather, objections make a general claim that lap-dancing entertainment is capable of attracting individuals whose morality is in doubt, and who are frequently described as ‘unsavoury’ and ‘undesirable’:

Parts of the town centre already have a reputation for being unsavoury at night and this needs to be addressed and cleaned-up rather than escalated by attracting more unsavoury characters. As well as being a residential area many school children come through town – including our town centre all-girls school – using rail and bus links and having a strip club close by is unnecessarily intimidating and irresponsibly makes them more vulnerable to attack.

(Objection to *Shades* lap-dancing club, Leamington Spa, included in agenda papers, Warwick District Council Regulatory Committee, 14 June 2011, Appendix 42)

I am most upset that as a mother of young girls my children will have to walk into town to get the train and or bus past these sex clubs. What kind of undesirable people will be hanging around and will these clubs/shops attract to the town centre? For a council that promotes family and community so well please, please think before you allow these clubs to open! I and many other mothers will be very worried for our daughters walking in town during the day or going out at night!

(Objection to *Shades* lap-dancing club in Leamington Spa, included in agenda papers, Warwick District Council Regulatory Committee, 14 June 2011, Appendix 35)

In some cases, it is the nature of the entertainment on offer that is posited as criminogenic in the sense that it is deemed capable of exciting, but not satiating, men's sexual appetite:

The character and operation of this business has a negative impact on residential and business communities in the area in a number of ways ... friends and family often report feeling intimidated by the club's customers who loiter at the entrance before entering, or while smoking. These are men who are in a high state of sexual excitement (it is after all the function of the club). Drunkenness is a serious problem. Customers – often young men who have been 'trawled' from pubs and clubs elsewhere – are very intoxicated even before entering and more so when leaving. Having been relieved of all their money, these men are often angry as well as sexually frustrated.

(Objection to *Playhouse Gentleman's Club*, Twickenham, included in agenda papers, Richmond-on-Thames Licensing Sub-committee, 23 January 2012, Appendix A2)

The crimes that clients are supposedly capable of committing still remain unstated here, but the implication is clear; customers leaving clubs will prey on vulnerable local women and even children. Here, the 'dread fear' of a sexual attack, rape or molestation of a child is alluded to, invoking what has become one of the most powerful fears in contemporary British society – that of the predatory paedophile (Jewkes and Wykes 2012; Hayes *et al.* 2011; Kemshall 2009; Furedi 2008).

Justifying exclusion: dread risks and the maintenance of 'family space'

Our analysis of objections to lap-dancing clubs in British cities suggests that most objectors claim clubs do not belong in 'family areas'. This underlines that many opponents regarded sexual entertainment as contrary to norms of coupling, parenting and domesticity, their imagined negative impacts on public order seemingly based on stereotypes of 'unsavoury characters' and predatory males who have rejected, or are unable to form, monogamous relationships (Sanders 2008). This locates the 'dread risk' of child sexual abuse beyond the family, arguably diverting attention from the 'real sites of sexual harm to children; men in paternal/familial settings and a socio-economic context that constructs children as sexually desirable' (Jewkes and Wykes 2012: 935). The 'pervert', the solitary and masturbatory male who is insufficiently socialized or domesticated, has of course been an important figure prompting many protests against the siting of adult businesses. In the contemporary era, this figure is regarded as synonymous with the paedophile, and those who oppose sex businesses implicitly argue for the vulnerability of the children to would-be child molesters (Coulmont and Hubbard 2010).

Moral panic about the paedophile, whipped up by a hysterical media (Furedi 2008), has made the protection of the child an unanswerable argument for the censorship and control of 'other' sexualities, and this is particularly the case when the sanctity and protection of the family home is endangered. In this respect, there are strong parallels between the ways in which licensing procedures seek to distance sex premises from family space and the spatial restrictions enacted on registered sex offenders in much of the urban West, which effectively prohibit them from residing near schools and places where children locate, forcing them to locate

in more deprived and higher crime neighbourhoods (Mack and Grubestic 2010). Removing potential or known sex offenders from areas where children are present is entirely logical, yet it ignores the fact that most actual child abuse happens within the private sphere of the family (Jewkes and Wykes 2012; Bragg *et al.* 2011).

This licensing of SEVs in British cities is thus informed by ‘common-sense’ assumptions that they are incompatible with certain other land uses, and need to be distanced or zoned away from ‘family spaces’ of residence, education, leisure, and retailing. Indeed, where licences have been refused, explanations have alluded to the incompatibility with such land uses. So, while the ‘dread fears’ of child sex abuse and paedophilia are not explicitly noted, there is an implicit acceptance that some degree of distancing of lap-dancing clubs from ‘family space’ is sensible, pragmatic and common sense. There is then a precautionary logic in play here given the lack of evidence that lap-dancing clubs are actually associated with criminality (Sanders and Hardy 2012), but given we live in societies where we are all ‘riskophobes’ (Hebenton and Seddon 2009) and actual risk is no longer a basis for decision-making, the adoption of a risk-averse approach is understandable. From a governmental perspective, ruling that lap-dancing is illegal would be difficult given the impossibility of policing striptease, and the potential allegation that this is an infringement of civil liberties (Hanna 2011). Rather, ‘visible precaution’ is practiced, with public fears addressed through a licensing process that is able to consider these fears through a deployment of local, common-sense knowledge about ‘what belongs where’ (Hubbard and Colosi 2013: 73).

In a wider sense, allowing sexual entertainment venues to persist under certain conditions, rather than banning them outright, reflects wider shifts in the regulation of sexuality. Michel Foucault, in a 1978 radio debate, spoke of a transition from a prohibition of certain acts to the protection of society from ‘dangerous individuals’. He termed this ‘a new regime for the supervision of sexuality whose function is not so much to punish offences against these general laws concerning decency, as to protect populations and parts of populations regarded as particularly vulnerable’ (Foucault 1988: 75). Foremost, for Foucault, was the protection of the family – the most significant consequences of the deployment of sexuality being ‘the affective intensification of the family space’ (Foucault 1980: 109). Yet while family time refers to ‘the normative scheduling of daily life (early to bed, early to rise) that ... is governed by an imagined set of children’s needs ... [and] beliefs about children’s health and healthful environments for child rearing’ (Halberstam 2005: 5).

Family space is evidentially a more elastic concept that includes the home but can also include other spaces deemed integral to social reproduction – the school, leisure venues, shops, religious facilities and so on. Here, the connection between child-rearing and the norms of heterosexuality need to be stressed given they remain integral to the governance of sexuality; heterosexuality’s emphasis on futurity, inheritance, and generation has clearly made family spaces both an economic and *psychic* investment (Edelman 2004). Accordingly, this is an investment that many people seek to protect, with the gating of many residential communities indicative of tendencies for homeowners to want to live in strongly

ordered and exclusive family spaces (Aitken 1999). But even without gating, family space can display strong exclusionary tendencies towards those perceived not to fit in. Edelman (2004: 17) argues that heterosexual society as a whole expresses its hopes and couches its fears for the future in the figure of the child, with any perceived threat to the child 'terroristically holding us all in check' and requiring actions to ensure that heterosexual historical norms unfold as the future.

Distancing lap-dancing clubs from 'family spaces' certainly appears unobjectionable given the potential 'dread risks' associated with sex premises. Ultimately, distancing is a form of social ordering that reaffirms the connection between commercial sex and the socially marginal (including lesbian, gay, bisexual, and transgender), rendering it potentially more disturbing and constructing it as 'other' to the assumed moral codes of heteronormative residential tracts (Doan 2011). The fact that the spatial regulation and planning of sex premises reinforces dominant ideologies that connect property, propriety, and family life is then an important theme in research on sexuality and space (Papayanis 2000), and important in appreciating the way that urban space reproduces and reinforces heteronormative values. As Oswin (2010) notes, the actions of the state and the law serve not just to marginalize gays and lesbians, but also 'queer' a range of other groups and practices. While commercial sex and striptease is not necessarily 'queer', though some venues cater for LGBT communities (Weitzer 2010), we insist that a queer theoretical approach is useful for understanding why the state seeks to distance these sites of 'perverse' sexuality from 'family' areas, permitting venues to open only if they can be accommodated within commercial spaces of nightlife and do not disturb the dominant moral geographies of heteronormativity (Hubbard 2011; see also Chapters 6 and 11, this volume).

Conclusions

Commercial sex premises of various types have often faced opposition from community groups who adopt a variety of tactics designed to force their relocation or closure (Chapter 2, this volume; Hanna 2011). This chapter (along with others in this volume) has explored how such opposition has shaped the visibility and location of lap-dancing clubs in British cities. While we have noted that most people appear ambivalent about lap-dancing, and are not particularly opposed to striptease entertainment in general, we have stressed that there is much more community anxiety evident about the presence of clubs in particular spaces. As has been documented elsewhere (e.g. Sanders and Hardy 2012; Hubbard 2009), public concern about the inability of the state and law to control the location of clubs encouraged the introduction of new powers under the *2009 Act* which, in turn, allowed local authorities to set policies intended to protect 'family spaces'. Irrespective of such policies, applications for clubs remain contested in many instances, particularly where they are felt to be inappropriate given the nature of surrounding land uses. Noting such judgments of incompatibility are ultimately subjective, campaigners often invoke the figure of the 'innocent' or 'vulnerable' child to present an unanswerable case for regulation, suggesting that the potential

risks of locating commercial sex premises in or near residential spaces outweigh the rights of adults to perform, or view, striptease.

Considering the ways in which the contemporary regulation of lap-dancing clubs in British cities creates an imaginary divide between heteronormative spaces of social reproduction and spaces of sexual commerce, this chapter has argued that this represents a politics of location in which futurity and inheritance is linked to distinctive sexual imaginations and representations of the 'family'. Objections that represent the consumers of sexual services as potential sexual offenders who threaten the integrity and safety of community are (in theory) not supposed to influence the decisions made about the appropriate locations for SEVs given they are underpinned by moral judgments about the values and dispositions of those who consume sexual entertainment (Kolvin 2010). Irrespective, such objections have, in many instances, proved persuasive, and certainly validated policies designed to limit lap-dancing clubs to non-residential locations.

In making this argument, this chapter has contributed to an understanding of the geographies of the sexual city by demonstrating that (hetero)sexuality is often integral to the construction of both family and community space. Although lap-dancing clubs persist in British cities, their growth and expansion has been curtailed by policies dictating they are incompatible with family space, and some existing clubs have been struck down by licensing hearings putting due weight on the objections of local residents concerned with the impact of clubs on the community, and particularly younger generations (Hubbard and Colosi 2013). Questioning this privileging of family space within dominant political and planning discourses is, we contend, important in order to unpack the way that dominant practices of regulation reproduce the 'heterosexual city'. After all, since the inception of town and country planning in the late nineteenth century, dividing the city into distinctive and legible zones has been one of the key ways that planners and urban governors have sought to impart an order on the metropolis, with plans and policies typically making distinctions between retail cores, industrial areas, business districts, residential suburbs and so on. In a context where sex is thought to properly belong in residential spaces where it is safely domesticated in the context of reproductive, monogamous relations, the costs and benefits of this approach need constant evaluation, not least given family spaces are rarely as safe and ordered as urban governors might imagine.

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9 Sex and the virtual suburbs

The *pornosphere* and community standards

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Introduction: from physical spaces to virtual spaces

In the ‘real’ urban and suburban worlds, zoning laws have traditionally worked to designate certain areas or districts as permitting the display or consumption of sexual culture as ‘red light zones’ (with reference to the traditional signifier of the urban brothel; Aalbers and Sabat 2012; Hubbard 1998, 1997). Such zoning laws have worked to protect residential areas and institutions such as schools and religious facilities from the overt marketing and sale of ‘adult’ sexual artefacts and services (see Chapters 2, 3, 6, 8 and 11, this volume).

Virtual spaces do not function in the same way as the physical spaces of the offline world, and thus require a different approach to their management. Between an inner-city sex shop and the leafy streets of a middle-class residential area, there are boundaries of space and time to be overcome before commercialized forms of sexual culture can be accessed. There will likely be a requirement to travel, often to a non-local sex shop or sex-on-premises venue (e.g. brothel, sauna or massage parlour) in order to reduce the embarrassment of being observed entering or leaving such businesses, thereby incurring temporal and financial costs. The online environment, by contrast, may be navigated with the aid of no more than a computer or smart phone and an Internet connection. There is near-instantaneity of user engagement, and an ease of access that the red light zones of the real world cannot offer. Many porn sites (e.g. www.redtube.com, www.pornhub.com, www.thehun.net) are free at the point of access, allowing even those without buying power or credit cards – children and young people, for example – to enter at zero marginal cost.

Ease of access by children in particular has been a key driver of public and political debate around the regulation of pornography in the digital environment (Oswell 1999). Before the Internet, sexual culture was in a very literal sense ‘adults only’, in the same way that bars and casinos were. One had to be an adult – over 18 years of age in most jurisdictions – to enter and consume.¹ In the virtual world, however, not only can minors (under 16 years of age) easily access explicit sexual culture intended for the use of consenting adults; the networked public in general has access to the most extreme and diverse sub-genres of pornography – age (mature

and teen), physical features (BBW, i.e. ‘big, beautiful women’), ‘race’ (ebony, interracial, Asian), sexuality (hetero, gay, lesbian, transgender) and fetish (cross-dressing, bondage-domination-submission-masochism (BDSM), role play). Most worryingly, of course, is the fact that illegal material such as child pornography can also be sourced on the Internet (Wortley and Smallbone 2006; Khan 2000). Material that might once have been available only via murky underground routes is now only a few clicks away for the reasonably competent net user. The global reach of the Internet, and its inherently hard-to-censor structure, limits the capacity of states to regulate or prohibit such access, whether accidental or intentional. Nor is it clear what categories of sexually explicit material should be controlled online, even if the tools to do so were available. This chapter looks at the management and zoning of online sexual culture – the web sites which make up the *pornosphere* (McNair 2013). It explores the concept of ‘community standards’, which has been a central part of the management of sexually explicit materials in the offline world, and asks what it might mean to talk about ‘community standards’ on the Internet. And finally, it uses the concept of *virtual-community standards* to revisit the question of managing access to sexually explicit materials on the Internet.

From public sphere to pornosphere

The expansion and increased accessibility of pornographic material in digital media environments has accelerated the emergence of an expanded *pornosphere* (McNair 2002, 2013), within which sexually explicit texts circulate and are consumed in unprecedented quantities, with relatively few constraints by comparison with the analogue era of physical artefacts such as magazines, video tapes and DVDs. China, for example, which outlaws pornography, nonetheless has the greatest number of consumers of online porn in the world, and a thriving *pornosphere* of sexual communities that exist outside the law (Jacobs 2012). The Chinese authorities may try, but they increasingly fail to ban pornography or scare people away from its use. Indeed, in a country where the public sphere is tightly controlled, the *pornosphere* has become a site of political and cultural dissidence, including, but not restricted to, the use of sexual metaphors and icons.

Jürgen Habermas’s (1989) *public sphere* is a widely understood concept in media and cultural studies and has provided a useful framework for analysing the content, style and democratic functionality of political media. By ‘public sphere’, Habermas (1989) meant that communal communicative space within which information about and analysis of public issues circulated. Newspapers and books – the traditional platforms for the presentation of this information – had a physical reality, and were read in real locations, such as the coffee houses of early modern Europe, the homes of educated citizens of democratic societies, or in trade union and political party reading groups. Taken as a whole, the intellectual sum of these spaces – the cognitive network which they formed – comprised an abstract *public sphere*; that is, not a physical entity, though certainly a real object. The public sphere, then, links the individual citizen-reader to the collective, and thus to the democratic process.

The public sphere communicated knowledge, and enabled debate about the significance of that knowledge as a foundation of deliberative democratic systems. Upon its existence, and the freedom of circulation of texts that it requires, rests the integrity of deliberative democracy, and the capacity of citizens to be informed and enfranchised to make rational political decisions (Dryzek 2002; Elster 1998). The public sphere not only informs the public of what is happening in the realm of public policy – that is, the issues upon which they will exercise voting rights; It also promotes and structures debate between competing positions on the meanings to be drawn from the ‘facts’ of public life.

Over time, as the feminist critique of patriarchy gained ascendancy, and forms of identity politics – including sexual identity – emerged, the nature of the Habermasian public sphere was revised to include forms and content which departed from the normatively approved arenas of public and state policy (such as economics, foreign policy and defence; McNair 2000; McKee 2005). The concepts of politics and public discourse expanded to incorporate the ‘personal is political’ social movements of second wave feminism and the post-Stonewall gay liberation movement. Sexuality and related issues such as sexual abuse, domestic violence, gender relations, sexual discrimination, and sexual culture all came to be seen as legitimate, ‘serious’ topics of public policy discourse. They were discussed in traditional political media outlets (because they often involved policy debates, such as the recent debates on marriage equality and adoption rights which have taken place in a number of countries), but also in formats that straddled the information-entertainment boundary, such as daytime talk shows and reality TV shows. From the 1980s onwards US-based television presenters such as Ricki Lake and Oprah Winfrey in the US, and their counterparts elsewhere would engage their massive TV audiences with pioneering discussions such as what it was like to grow up gay in a conservative mid-western town, the causes and consequences of child sexual abuse or domestic violence, or the ethics of Madonna singing about abortion in a pop video.² Although a sexually explicit pop culture text, such as the 2013 music video by actor/singer Miley Cyrus – in which she was naked while swinging on a wrecking ball – may not be considered pornography in itself, the video does represent part of the ‘pornographication’ of mainstream culture which has accompanied the evolution of the *pornosphere*. Videos such as this give rise to not only intellectual critiques but also public discussions about issues such as: how is agency distributed in the video? Is Miley a deluded victim of patriarchal conventions of female bodily display, or a post-feminist ‘bad girl’ exercising her right to self-objectification? Here, and often, the boundaries between the *pornosphere*, the public sphere, and sexualized popular culture overlap (Goode and McKee 2013).

The evolution of the *pornosphere* may be viewed as Habermasian in that it is connected to changes both in communications technology and political culture. Digital technologies have enabled an expanded public engagement with sexual politics to be accompanied by increased access to, and consumption of, sexual representation or knowledge. Where the public sphere is about ‘politics’ – including sexual politics – and the information required to enable public participation in political debate, the *pornosphere* circulates in the form of explicit sexual represen-

tation information about sexual behaviour and performance, enabling private participation in sexual experience and expression. One does not need to view porn to be able to have good sex, of course, but pornography does provide users with access to the realm of sexual experience beyond their own bedrooms and private spaces. People learn from porn, are educated by it (a negative 'effect', for some critics; Dines 2010; Dines *et al.* 1998), and *may* choose to copy or model some of their own sexual behaviours on the behaviours represented in the content watched online or on DVD. Anti-porn commentators often assert a harmful 'copy-cat' effect of porn. They argue, for example, that depilation (shaved genitalia) is 'learnt' from watching female (and male) performers. Without assuming a neat cause-effect relationship on behaviour here, one can certainly say that users of porn will learn that depilation is for some people a sexual act, or a personal style that enhances the erotic.

The *pornosphere*, like the public sphere, has expanded and transformed over time. In the early modern era it was a realm accessible only to educated or wealthy men, in conditions of strict patriarchal and heterosexist social relations. Aretino's *Postures* circulated among the wealthy elites of sixteenth-century Europe (McNair 1996). The first explicit novels benefitted from print technology to reach a wider, but still restricted group (in the same way that the early public sphere was an elite zone). It was only from the mid-nineteenth century, with the invention of photography and mechanical reproduction of images, that the masses began to access pornography on a scale recognizable to us in the twenty-first century. This expansion of the *pornosphere* remained largely a male preserve, with categories such as 'women's porn' and 'gay porn' emerging into public view only in the post-1960s period of the sexual revolution (McNair 1996).

Thereafter, successive waves of technology have expanded the *pornosphere* to the point where it can be accessed, or connected to, anywhere in the world where digital communication is available. This is a sphere servicing many sub-cultures, or communities, defined by sexual orientation, sexual preference, lifestyle and sexual-political outlook. This expansion and diversification, combined with its easy accessibility raises questions about what is the most effective means of policing it, especially in relation to young people and minors.

Community standards in the pornosphere

'Community' has been a key term for understanding the physical regulation of pornography in the offline world for at least forty years. Following *Miller v California* in the US (1973) a key judicial test as to whether a given object is obscene has been whether 'the average person, applying contemporary community standards' would find that the work appeals to prurient interest. 'Community' in this context has generally been understood at the level of towns rather than streets on the one hand, and the local rather than the global community on the other hand. Similar applications of 'community standards' are found in other jurisdictions.³

Physically co-located members of a community have clearly defined 'borders' that they assert in order to protect themselves and others from exposure to explicit materials. The convention that porn magazines be placed on the 'top shelf' of

newsagents or in opaque plastic shrink wrap at service stations is undertaken in order to shield them from the view of children and others who might be offended or harmed in some way is an example of border protection. In this legislative context, producers and distributors of pornography would promote their products in locales where ‘the community’ would tolerate sex shops or adult stores, and ‘either avoid certain jurisdictions or engage in self-censorship to limit the risk of prosecution’ (Lane 2001: 287).

The contentious history of sexual censorship demonstrates that the concept of community standards was problematic even in the period when ‘community’ was broadly contiguous with geographical location. In the digital era, however, where community seems to have no geographical boundaries censorship has become practically unworkable. In the famous obscenity trial concerning D. H. Lawrence’s *Lady Chatterley’s Lover*, an English judge appealed to an imagined community thus: ‘is this the kind of book you would want your wife and servants to read?’ Even as far back as 1960, this characterization of the community – wealthy men with servants at their disposal – was far from representative of the British population as a whole, and may well have contributed to the failure of the prosecution. Such usage is now unthinkable.

Community can now be a reference to a group of individuals linked not by geographical location, but by sexual lifestyle, orientation or fetishism. In the twenty-first century such communities of interest are increasingly freed from physical geography (see Chapter 7, this volume). Connected in cyberspace, members may be based literally anywhere in the world where there is access to the Internet.⁴ Thus, the resident of Number 2 Main Street in Mid Town may well have in common a zip code with the resident of Number 3, but belong to a separate online community defined by its interest in BDSM, or a niche category of sexually explicit material such as ‘sneaker porn’ (Paasonen *et al.* 2007). Communities in the *pornosphere* are defined by the *differences* in their moral, ethical and behavioural standards, and several may coexist within a given city’s limits or state’s borders.

Within the *pornosphere* there exist virtual ‘suburbs’ that operate both independently and inter-relationally with other suburbs. Special interest groups – community centres, if you will – emerge so that like-minded people have a place to go and feel a sense of belonging and acceptance. While the larger suburbs of the *pornosphere* are populated with all-purpose porn sites that cater to both the mainstream and the outliers (e.g. *YouPorn*, *PornHub*), there also exist online communities that cater to more niche tastes. These regions of the *pornosphere* – comparable to the hip neighbourhoods and suburbs of cities where different segments of the community tend to gather and live with like-minded others – service the needs of their communities, and community members may work with the creator(s) for the betterment of that community. Examples of such co-creation include sites devoted to feminist pornography, alt.porn, and kink or fetish porn (*Kink.com* and *FetLife*).

Alt.porn allows its inhabitants a higher level of engagement within the community, at varying levels of payment, according to *how* they engage with that community: ‘On alt porn sites, users generate content, share subcultural know-

ledge, and form affective ties with the sites and their performers ...[where] what is at stake is a form of affective engagement and immaterial labor' (Paasonen 2010: 1301) and where the 'relations of economic and cultural production and consumption... are also relations of community' (Attwood cited by Paasonen, *ibid.*). A key feature of alt.porn, and other communities within the *pornosphere*, is the ability for members of the community to generate their own content and become 'producers' (Christensen and Jansson 2011: 216).

FetLife is predominantly a social networking site or community for BDSM practitioners, which also enables user generated content, with no membership fees. *FetLife* describes itself as an accepting place where its members are able to learn about and explore their sexuality. Christensen and Jansson (2011: 220) suggest that 'networked sociality [such as *FetLife*] may serve as a hub for building communal solidarity amongst marginal groups, who cannot act out their lifestyle choices and identificatory pursuits in the conventional and surveilled confines of society'.

Feminist and female-centric porn site *Bright Desire* (<http://brightdesire.com>) is an example of a community which emerged out of what the creator saw as a gap in the market – a suburb waiting to be populated – but also as a *reaction* to the male-dominated *pornosphere*: 'I liked porn but I really didn't like how most of it was marketed. I hated the way it ignored me as a viewer. It was always aimed at men and spoke only to them' (Ms Naughty 2013: 71). Forming this community enabled the creator to establish a new and more comfortable suburb within the *pornosphere* to meet not only her own needs, but also the needs of her community.

There were always sexual sub-cultures, of course, embedded in urban and suburban environments, but their existence as online communities is new to the internet era, and changes the nature of the challenge in regulating their cultural consumption. The question is: whose community standards, and which communities should prevail in policy-making around the regulation of the Internet, and how do these relate to the standards of public speech, display, and performance expected of a particular geographical location? Internet porn users in Tehran – and there are many – will find the standards of their local community, defined as these are by a strict theological doctrine violently opposed to women's sexual expression and homosexuality (among other things), incompatible with those of their online peers in the US or Egypt. Alt.porn enthusiasts in San Francisco on the other hand, may well find that their online sexual preferences and 'community standards' are shared by many of their neighbours. The regulation of the two dimensions of community – the geographical and the online – are subject to different policing regimes.

Magazines, videos and other kinds of physical porn texts will be limited in their availability according to the terms of nationally specific legislation such as the Obscene Publications Act (UK). Such laws predate the Internet and in many cases electronic media in general, and may well not be applicable to the online environment. By contrast, where legislation has been introduced to police the Internet, as in the UK's recent outlawing of 'extreme' pornography and sexually violent material (Attwood and Smith 2010), it has proved to be largely ineffective. One reason for this is simply that there is no single 'community standard' – national or otherwise – which could provide a framework for regulation of sexually explicit

online content. BDSM porn, women's porn, gay male porn and alt.porn all conform to differing standards of what is acceptable and undesirable, erotic or off-putting, transgressive or tame. In addition to the diversity of standards in taste and decency within a national jurisdiction, much of the pornography available through the online *pornosphere* in a given nation state, such as the United Kingdom, is produced and uploaded to the internet in another geographical location, where different standards (and legislation) apply.

Two questions immediately arise:

- How can the contrasting standards of divergent sexual communities be reconciled within a globalized, digitized *pornosphere* where everyone has access to more or less everything?
- Are there 'community standards' which we might regard as genuinely communal, and which could provide an overarching regulatory framework for the *pornosphere*? By this we mean not merely standards around the sexual exploitation of children and adults, which should have universal application to the regulation of pornography, but standards relating to the acceptance of difference and diversity, or the appropriateness of consenting public sexual display?

A third question is also relevant here. Given the immense quantity of sexual information contained within the *pornosphere*, and assuming that we endorse the value of this information to those who wish to consume it; can it be part of the regulatory agenda to enable signposting and gatekeeping of the *pornosphere*? For example, if we accept (as much research suggests we should; Watson 2014) that comprehensive, age-appropriate sex education is a key element of healthy sexual development then how do we balance that with a desire to ensure that children are not exposed to inappropriate material?

Policing the pornosphere

There is substantial 'community' agreement, in most liberal democracies, in favour of the prohibition of non-consensual sexual materials, and especially those involving physical violence. This does not include fantasy materials such as consensual BDSM, where adults make informed decisions to partake in sexual acts for audiences (although this kind of material often gets caught up in legislation intended to police non-consensual violence). There is a clear distinction between such materials and non-consensual material. Non-consensual sexually explicit material includes content such as upskirt photographs and, most recently, revenge porn (posting sexually explicit photographs or videos of an ex-partner online as a form of revenge against them; Franks 2013), and rarer materials such as films of actual rapes shared on social media. Such content is increasingly the object of self-policing by producers, distributors and online community members, and subject to prosecution where laws are broken. In January 2014 in the UK, for example, two people – internet 'trolls' – were convicted of tweeting sexually intimidating

messages to feminist campaigner Caroline Criado Perez and others (Prynne 2014).

The non-consensual material that has raised most public concern in recent times is child sexual abuse materials.⁵ As Jenkins (2001: 4) has noted:

Many other forms of deviant behaviour have their reputable defenders, or at least libertarians who assert that these activities should not be severely penalized ... For child pornography ... there is no such tolerance, no minoritarian school of thought that upholds the rights of individuals to pursue their private pleasures ...

Since the rise of the Internet in the late 1990s governments around the world have invested considerable resources into stopping the production and distribution of child abuse materials, and there have been many examples of success in dismantling networks of child sex abusers, as in the cases of the international collaborations around *Operation Ore* in the UK and USA, and *Operation Spade* in Canada, Australia and elsewhere (Levy 2013).

Intolerance of child sexual abuse materials is practiced by mainstream commercial producers of pornography. The Association of Sites Advocating Child Protection (ASACP – originally the abbreviation stood for Adult Sites Against Child Pornography) – is an American network of adult organizations established in 1996 to help stop child sexual abuse images online. Sponsors include IT companies such as Manwin, adult industry organizations such as AVN, technical solutions companies such as Epoch payment solutions, and websites including *YouPorn*, *Abby Winters* and *Southern Charms*.⁶ Member organizations agree to abide by the ASACP Code of Ethics, which includes a commitment to follow regulations regarding record keeping for performers, the requirement to ‘State in a prominent position on all access pages ... that all models were 18 or older at the time of depiction’, and the commitment to ‘Promptly report any suspected child pornography to ASACP’. ASACP also provides members with a list of ‘unacceptable terms’ for meta-tagging, including ‘adolescent’, ‘child’, ‘kiddie’, ‘lolita’ and ‘underage’.⁷

The ASACP also operates an online hotline for consumers to report suspected child sexual abuse images.⁸ Between 1996 and 2009, over 500,000 notifications were made to this hotline:

With the help of proprietary analytical software, these reports are categorized, with confirmed cases of child pornography generating ‘Red Flag’ notifications. These are forwarded to the appropriate government agencies and association, and they identify hosting, billing, IP address, ownership and linkage of the suspected CP [Child Pornography] site.

(ASACP 2010: 3)

As well as forwarding ‘red flag’ reports to agencies including the FBI, the Center for Missing and Exploited Children, and relevant international agencies, ASACP notifies ISPs and online payment processors ‘when their web hosting and billing

services are abused by [child pornography] operators' (ibid.). In their 2010 report ASACP suggests that while the US is not often the source of production or companies that distribute child sexual abuse material, many of the servers and payment processors for child sexual abuse images are hosted in the US. This is not surprising given that 'the largest concentration of hosting and billing services [for the Internet generally] reside on servers in the US' (ibid.). However they also note (ibid.: 4) that:

There has been a dramatic overall decline in the actual amount of CP images hosted within the borders of the United States, as web hosting companies have ramped up efforts to prevent, identify and remove illegal content.

In 2005, ASACP passed on 1,742 Red Flag reports, 2,162 in 2006, 1,743 in 2007, 1,075 in 2008 and 540 in 2009. Over the same period reports of child sexual abuse materials that were not on websites but other online platforms such as Peer to Peer, BitTorrent, newsgroups, Instant Messaging, and chat rooms rose from 4,431 in 2005 to 8,761 in 2009 (ibid.: 9–11). ASACP suggests that the reduction in the number of commercial websites offering child sexual abuse materials is due to the 'substantial progress being made by governments, law enforcement agencies, child protection coalitions and related organizations in fighting the commercial exploitation of CP' (ibid.: 16). In these ways, then, the community of mainstream pornography organizations work with government and regulators to exclude images of child sexual abuse from the Internet, and contributes funds to that process. Self-regulation of this kind relies on self-interest, and 'big porn' recognizes that any association with child sexual abuse materials is bad for mainstream business.

There are other forms of sexual practice that some members of other communities think are abhorrent, but are not illegal – for example, gay sex or BDSM. In contrast to the case of child pornography, 'big porn' has supported the development of online communities for these groups. Gay men or BDSM practitioners can find websites, social networking groups and all of the apparatus of an online community to support their sexual practices (Chapter 7, this volume).

As outlined above the ways in which consumers can navigate the *pornosphere* pose interesting questions about the condition and nature of sexual culture, particularly in relation to the BDSM 'suburbs'. With most *pornosphere* communities the boundaries are relatively clear. If you want to find gay male pornography, you can search for websites that are exclusively gay (e.g. *badpuppy*, *Hunkhunters*, *gaymaletube*) or you can visit a generic porn site like *YouPorn* and find material that is organized into the category of 'gay' or 'bisexual'.

The situation with BDSM is somewhat different. There are explicitly signalled BDSM sites online (such as *Kink.com* and *FetLife*), but the boundary between 'vanilla' and BDSM material in the *pornosphere* is becoming more porous. The key term here is 'rough sex' – sex in which partners are physically and verbally aggressive, where they might pull hair, or slap each other on body parts other than the face (face slapping tends to remain the provenance of explicit BDSM) and name-calling, but all in the context of consensuality. This material is not always

segregated into distinct communities, risking accidental exposure for those who may find it offensive or disturbing.

It is important to emphasize that ‘rough sex’ is not automatically problematic. Between consensual partners it is a *valid* form of sexual encounter that many people find enjoyable. And, in the vast majority of pornographic texts ‘rough sex’ is presented as precisely that – pleasurable, liberatory and erotic fantasy. But in relation to our concerns – how to help consumers navigate the *pornosphere* in ways which allow them to maximize their enjoyment of materials while simultaneously preventing their exposure to material that might disturb them – this is a major regulatory challenge. BDSM sexual communities put a strong emphasis on negotiation, discussion, and setting up boundaries before a scene begins, choosing safe-words and considering what will happen if safe-words are used. While BDSM pornography does not always illustrate this full range of negotiation practices it can include some illustration of the negotiation process (as happens on *Kink.com*), and if consumers self-nominate as members of a BDSM community and search out such materials, then community infrastructure provides a context to make sense of these representations. By contrast, images of ‘rough sex’ may be found without any intent to engage with BDSM, or the community standards of negotiation and consent that it provides.

Two points are worth making here. The first is that the ‘rough sex’ may be exnominated in the *pornosphere* as everyday sex precisely because the kinds of people who enjoy pornographic representations of sexuality may not often be the kinds of people who value romantic, monogamous, loving engagement as the best kind of sex. If you value intimate sex between two people as the ideal, then introducing a camera to the situation for the benefit of voyeurs to become part of your sexual practice may not fit into your preferred practice of sexuality. Second, it is worth remembering that consumers are not a ‘mass’ who are ‘impacted’ or ‘effected’ by representations they consume. We know from decades of research that consumers – including adolescents (Watson 2014) – are critical consumers of media who are perfectly capable of explaining the generic imperatives behind media representations. If consumers encounter representations of ‘rough sex’ it does not follow that their own personal values and sexual identity will change so that they begin to practice ‘rough sex’.

With these caveats in place, it is still worth raising the point that online searches for sexually explicit materials in the *pornosphere* are less likely to produce images of gentle, vanilla sex – even for members of communities who might be seeking precisely those kinds of representations – and to think about whether better online signposting might address this issue.

Sex education and the pornosphere

Our research suggests that one of the few genuinely national ‘community standards’ that can be identified in many developed countries is the refusal to see child sexual abuse materials as a valid part of the *pornosphere*. However, there is less consensus about another issue which is often conflated with this in public

debates (McKee 2010). That is, the question of what kinds of material children should be able to access online. When governments attempt to regulate online pornography, it is often done within a framework of harm reduction, particularly with a view to protecting children. This approach has been seen in western countries such as the UK, the USA (Nair 2010: 230) and Australia.

The question of what children need to be protected from is disputed, however, with different communities having different positions. Take for example a website such as *Scarleteen* (www.scarleteen.com). This sexuality education website, much of it written by young people for a peer user group, includes frank and open discussion on a whole range of sexual issues, including gay, lesbian and transgender issues, rape and sexual harassment and BDSM. Members of some communities – such as Catholic educators – might worry that adolescents should be protected from being exposed to any information about sex, even material such as this which is created specifically for them (AAP 2012). By contrast, members of other communities would support comprehensive, age-appropriate sex education for young people. The former position is supported by centuries of religious tradition; the latter by research which shows that young people who received comprehensive sex education wait until later to have sex and have lower rates of sexually transmitted infections (STIs) and unplanned pregnancies (Kirby 2007). Once again we return to the question of managing different community standards for online materials about sex.

Our position on this issue returns to the issue of signposting. The responsibility of educating young people about the positive aspects of sexuality, not just the possible negative outcomes such as STIs and pregnancy (as has tended to be the case in most countries) lies with the government (through schooling) *and* parents. The domains of healthy sexual development identified by McKee *et al.* (2010) include:

- agency;
- resilience;
- awareness and acceptance that sex is pleasurable;
- freedom from unwanted activity;
- an understanding of consent and ethical conduct more generally;
- open communication;
- understanding of parental and societal values; and
- awareness of public/private boundaries.

Online materials such as *Scarleteen* could make a potentially important contribution to this learning for young people.

On this basis, we suggest that governmental attempts to censor all sex on the Internet in the name of protecting children are misguided, and could, ultimately, be damaging to sexual health. When the Australian government attempted to introduce an Internet filter that would exclude all sexually explicit material commentators pointed out that filters that excluded pornography could also exclude information about cervical and breast cancer (Meloni 2008). The question of whether websites

such as *Scarleteen* are appropriate for adolescents in the context of a broader sex education agenda is one on which there is social division along religious and moral lines, and certainly no community consensus.

There is no argument here for the introduction of an ‘anything goes’ regulatory regime. Rather, we suggest that provisions can be made, learning from the lessons of online ‘community standards’, to help members of different groups navigate sexual materials online in appropriate ways. The Netherlands provides an instructive example. Sexual health outcomes in the Netherlands are better than in either the United States or Australia, with Dutch young people waiting longer to have sex, having lower rates of teen pregnancy and lower rates of STIs (Weaver *et al.* 2005). The Netherlands has comprehensive sex education throughout formal schooling and a culture in which it is accepted that parents talk openly to their children about sex throughout their childhoods (Brugman *et al.* 2010). But while nudity is seen on Dutch television and is not met with the same horror as in other Western countries, there remain in place laws that address ‘offences against morality’. In relation to sexual culture and young people, these include showing sexually explicit materials to minors.

Legal and technical remedies for controlling sexually explicit spam and pop-ups are to be fully supported. While an adolescent may seek out information about sexual development, this is very different from having an unsolicited website pop up, or an email arriving including sexually explicit materials (Paasonen 2006). A clear rating system for websites so as to prevent ‘netizens’ from stumbling upon sexually explicit materials by accident are to be fully supported as well. Many websites already state clearly on their front pages that they are only suitable for people over the age of 18, and that they include sexually explicit materials that members of some communities might find offensive. Signposting of this type helps promote informed engagement with these materials, and the power to choose whether to consume or not. Some critics protest that this doesn’t stop young people from accessing sexually explicit materials. But this is a different problem from that of accidental exposure. Policing the former means preventing young people from accessing information about sex that they are actively seeking out.

Once again, members of different communities differ on their positions about the appropriate limits of accessibility. For example, one parent interviewed for earlier research about pornography and sex education commented that:

You can get great *Sex for Lovers* [tapes] ... about couples wanting to improve their relationships and it’s very open, and it’s something even I would leave out for my children as they grow older to see ... by the time they’re sort of getting to sixteen and you know, they’re out there with their mates and things like that, I think some of the porn gives them the wrong idea on how to treat women ... So I would encourage them to look at some of these other more educational ones that talk about emotions and things like that, that are very important in a relationship.

(McKee 2007: 119)

Members of more sexually conservative communities would rather that young people have no access to any information about sex from any mediated source, learning about the pleasures and pitfalls through trial and error with their spouse. Signposting would facilitate members of these different communities, with very different community standards, in navigating their way through a shared online world.

There is a strong case for the introduction of mandatory and comprehensive formal sexuality education in schools across all domains of healthy sexual development: ‘competence in mediated sexuality’, one of the fifteen domains outlined by McKee *et al.* (2010). Young people should know what is *real* and what is scripted and artificial when they visit the *pornosphere* as adults, including a strong focus on the ethics of pornography production. Finally, there is a pressing need in western countries like Australia for support for parents in being open with their children about sex and sexuality. There exist valuable resources that inform parents as to what levels of knowledge about sex and sexuality young people should have access to, and at what age that knowledge should be delivered: a good Australian example is Jenny Walsh’s *Talk Soon, Talk Often* (2011). This book reassures parents that they should not have a single ‘talk’ about sex with their children once in their lives, but should rather answer their questions honestly and in age-appropriate language as soon as they start asking them. This creates open communication so that they are more likely to turn to their parents for advice later in their lives.

Conclusions

The concept of ‘community standards’ has been an important one in policing the exchange and consumption of sexually explicit materials across physical ‘borders’. We have argued here that adopting and adapting the concept allows for a productive way of thinking about how virtual sexualized cultures function, and for addressing the emerging regulatory agenda. We talk of adaptation because the concept of ‘community standards’ necessarily evolves when the geographical element is removed. Not only are members of the online BDSM community dispersed across the world, for example, but also the different subgroups within the BDSM community are likely to have more in common than the radical differences between, say, a conservative Christian or Muslim heterosexual man and a radical lesbian sadomasochist who happen to live in the same town, and thus in the same geographical ‘community’. Bearing this in mind, we have shown that the concept of ‘community’, and through it, ‘community standards’ can be a useful one in understanding how the *pornosphere* functions.

We can identify a range of online communities who participate in the *pornosphere* – gay men, BDSM practitioners, pro-porn feminists – many of whom are engaged in a process of developing ‘community standards’ for their online spaces. The example of child sexual abuse materials was used to illustrate how self-regulation of offensive or illegal material by community standards is currently happening in the *pornosphere*. On this basis, we conclude by recommending maximization of the navigability of the *pornosphere* and minimising consumers’ risks of exposure to material that they don’t want to see – including ensuring that

pre-pubescent children do not have sexually explicit materials presented to them. Geographical metaphors allow us to think about the *pornosphere* as analogous to the built environment – or what this volume has defined as the ‘(sub)urban sexscape’ – and to insist that if we have adequate signposting and clear public statements about the existence and nature of a variety of sexuality communities and virtual suburbs, then the *flâneurs* of the *pornosphere* may find their sexual travels to be safer, more interesting and more useful.

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Notes

- 1 Before the internet young people often had their first encounter with pornography when they stumbled across a stash of pornographic magazines in a park or other public place – or indeed, in the bottom of a male relative’s wardrobe (McKee *et al.* 2008).
- 2 We have previously argued that the significant progressive changes in social attitudes to sexual politics and diverse sexual lifestyles recorded in recent social surveys (McNair 2013) have been driven not least by the exposure given to the issues in popular media formats which, while entertaining their audiences, also have the clear intent to inform and educate about issues which not long ago may have been taboo, or marginalized to the point of invisibility. The public sphere, expanded and hybridized as suggested here, has performed its normative role, but in the zone of sexual and personal politics.
- 3 In 2009 the United States Court of Appeals for the Ninth Circuit ruled that in the case of the Internet, the relevant standard in the USA is the *national community* – raising the intriguing possibility of trying to determine a consensus about taste and morality across all fifty states and over three hundred million people. This determination has not yet been tested and other Circuit Courts have chosen to ignore it, retaining local community standards in obscenity judgements.
- 4 With the caveat that (despite the development of automated translation resources such as Google Translate) there is an extent to which online citizens are still limited by language groups so that, for example, a community of Chinese queers using Mandarin may not overlap extensively with Western queers who use only English to communicate online.
- 5 Philip Jenkins (2001: 4) argues that public awareness of child abuse materials first emerged in the mid-1970s: ‘By definition, the subjects of child pornography cannot give any form of informed or legal consent to their involvement in this trade, and it is a reasonable suspicion that, even when children are just depicted nude, they are subject to actual molestation. A broad public consensus accepts the assertion that possession or use of this kind of material is the direct cause of actual criminal behaviour’.
- 6 See www.asacp.org/index.php?content=members.
- 7 See www.asacp.org/plain.php?content=terms.
- 8 See www.asacp.org/index.php?content=report.

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10 Planning prostitution in colonial Morocco

Bousbir, Casablanca's *quartier réservé*

Jean-François Staszak

Brothels and colonies, here are two extreme types of heterotopia.

(Foucault 1997)

Introduction

The above quote by Michel Foucault lies at the heart of this chapter which is concerned with Bousbir, a red-light district (*quartier réservé*) established in Casablanca, Morocco, by French colonial authorities in 1923. Using a cultural geography lens, this chapter questions the material and symbolic geographies of Bousbir so as to facilitate an analysis of how and why this particular 'sexscape' (Brennan 2004; Chapter 2, this volume) came into existence, and how it was understood by those who visited the district.

The analysis focuses on the imaginative geographies that Bousbir may have reflected and reproduced during its most dynamic years as a *quartier réservé*. Imaginative geography is a concept coined by Saïd (1978) and subsequently developed by geographers such as Gregory (1995) to designate 'representations of other places of peoples and landscapes, cultures and "natures" – that articulate the desires, fantasies and fears of their authors and the grid of power between them and their "Others"' (Gregory 2009: 369–70). This focus on 'western' representations (and interpretations) of Bousbir as a space and place does not mean that the lived experiences of the people, mainly local women, who lived and worked in Bousbir when it was a *quartier réservé* are rendered invisible or unimportant. Bousbir's sex workers are documented by a socio-ethnographic study, commissioned by the French administration and conducted by two medical doctors, J. Mathieu and P. H. Maury (first published in 1951). This study generated a wealth of in-depth information about many aspects of the lives of the sex workers: their identities, their professional activities and their bodies. Ultimately, however, this ethnographic study only reflected the voices of 'white' men as opposed to the women who worked in Bousbir.

There have been very few studies of Bousbir. The history of the district was nearly forgotten prior to 2003. However, interest in Bousbir was reignited in that year with the publication of Christelle Taraud's book on colonial prostitution in

French North Africa, as well as the reissue of Mathieu and Maury's study with an introduction by Abedmajid Arrif. Taraud broke the silence surrounding France's colonial involvement in prostitution, and exposed how it was essential to and institutionalized by French colonial authorities. Arrif made Mathieu and Maury's study accessible and, moreover, inscribed it in the broader context of French colonial sociology. A few years later, Driss Maghraoui (2008), drawing on Mathieu and Maury, highlighted, from a town planning perspective, that Bousbir was a place of experimentation.

This chapter provides some new information about Bousbir, but its main input relies on the analytical focus on the imaginative geographies embedded in the district by two different stakeholder groups: town planners and architects who imagined this enclosed city within a particular urban ideology, and those who visited Bousbir in hopes of 'realizing' their oriental fantasies. The chapter is structured in four parts. First, an overview of the ideological, historical and spatial contexts that underscore Bousbir's very existence is outlined. Next, drawing on Foucault's (1980, 1995, 1998, 2009) theories of bio-power and apparatus, the material geography of Bousbir is analysed in order to understand the rationalities of this (sub)urban sexscape. Third, the imaginative geographies of Bousbir's urban landscape and architecture are explored via an orientalist lens (Saïd 1978) to demonstrate the exoticization and eroticization imposed on the space. The chapter concludes with an overall contemporary narrative of Bousbir today and reflections on relevant ethical issues tied to its history as a 'red-light' district.

Building a quartier réservé in colonial Casablanca

Most red-light districts around the world were or are located in neighbourhoods whose original intent was not for the purpose of sex work. In many Western cities such as Amsterdam, Hamburg or Paris, red-light districts typically occupy a few blocks of a lower-socio-economic district in the city center, often conveniently located close to a train station or harbour that offers a ready supply of largely male clients (Hubbard *et al.* 2008; Hubbard and Whowell 2008; Ashworth *et al.* 1988). These (sub)urban sexscapes are the product of socio-economic forces as opposed to being 'planned' spaces.

There are some rare cases where red-light districts have been specifically planned and designed. The oldest and largest was Yoshiwara, built in the city of Edo (present-day Tokyo) in 1652. This district was an enclosed city with a unique door and a grid-pattern layout, and is estimated to have had 3,000 female sex workers. Moreover it was a transient space, moving around the city following numerous destructions and reconstructions. The district was not outlawed until 1958 (Seigle 1993; De Becker [1899] 2000). It was known around the world in the nineteenth century for its exotic geishas and 'tea-houses', depicted by Japanese painters (including the famed Utamaro) and then in Western postcards.

Red-light districts were also purposefully planned in places such as Mexico. 'Boys towns' were built in Colina Dublan or El Valle during the US military occupation of Chihuahua (1916–17). Providing US troops with local sex workers,

these districts had a Mexican manager and an assigned US military physician (Curtis and Arreola 1991). Perhaps on the base of this model, compound zones or *Zonas de Tolerancia* were built during the 1950s in cities such as Nuevo Laredo or Reynosa to clean up the tourist areas of these border cities and confine prostitution to a walled district in the periphery of the town (ibid.; Kelly 2008). In 1949, Curaçao local authorities, concerned with the uncontrolled development of prostitution in the city centre of the Dutch colony, granted a license to build a zone of 25 pavilions so as to keep sex workers out of town, on the road to the airport. This compound, named Campo Alegre, is today a well-known sex-resort for international tourists 'with more than sexy 120 girls'¹ (Martis 1999).

Bousbir contains elements of all these other planned sexscapes: it is similar to Yoshiwara in terms of its design; the role of imperialist armies resonates with the Mexican Boys towns; and, it was visited by tourists as a sex resort. Despite these similarities, Bousbir's historical, geographical and political-economy contexts differentiate it from these other places.

In the late nineteenth and early twentieth century, British, French and Belgian colonial authorities were concerned with prostitution (Howell 2009; Lauro 2005; Levine 2003; Taraud 2003, 2006). On the one hand, it was accepted that European men had sexual 'needs' that should be fulfilled by indigenous (female) sex workers. Relationships with sex workers were considered a better solution than having local mistresses or *petites épouses* (little spouses); the former offered only temporary and circumscribed relationships while the latter were seen to involve deeper and riskier relationships. On the other hand, prostitution was 'known' to propagate venereal diseases and thus could weaken colonial armies, and might lead to miscegenation, which in turn could threaten the white race. Moral and social contamination was also an issue: prostitution was believed to generate crime and disorder (Corbin 1996). Furthermore, colonial prostitution was not compatible with one of the official purposes of colonization: civilizing barbaric countries. The emancipation of local women – for instance, from the (in)famous harem – was part of the 'white man's burden'.

For all these reasons, colonial prostitution was thought as a 'necessary evil' that French local authorities shouldn't try to eradicate but rather regulate, and even organize. Police, judges and doctors were all engaged in the institutionalization of colonial prostitution and the regulation of risk. Such actions are a perfect illustration of the exercise of bio-power, a 'set of mechanisms through which the basic biological features of the human species became the object of a political strategy' (Foucault 2007: 1). The solution to the 'problem' of prostitution was first thought of in medical and legal terms: the registration of sex workers, their regular inspection, their sanitary detention and the licensing and inspection of brothels. Two additional features of regulation concerned urban policy: the zoning of vice districts and the control of public space (Howell 2000: 323). Confining street prostitution within a special district away from the colonial part of the city was sometimes used to assist in controlling sex workers and their clients, avoiding sexual and moral contamination, and keeping this activity away from innocent or prying eyes.

Prostitution was carefully regulated in North Africa for several key reasons. First, this part of the French Empire contained a large, mainly male, European population, especially colonial soldiers. Next, the regulation of prostitution was more advanced and uncontested in France than in other European countries such as Britain (Levine 2003; Corbin 1996). Finally, coercive policies were easier to implement in colonies. In French North Africa, indigenous sex workers were registered and controlled, and more systematically contained in red-light districts, usually in or close to the *médina* (the pre-European Arabic city) or the *mellah* (the Jewish district) as in the Tunis Sidi Abdallah Guèche district (Kerrou and M'Halla 1991). But it was in Casablanca, when local authorities were developing the master plan for the new city at the end of the 1910s that they arrived at the novel idea of building a new and *ad hoc* district so they could exert greater socio-spatial control over street prostitution, and simultaneously provide clients with a safer environment and therefore a better experience.

This solution had popular appeal. By the 1930s, modern colonial red-light districts were being planned in cities such as Marrakech, Fédala (present-day Mohammédia), Port-Lyautey (present-day Kénitra), Tunis and Meknès – only the last was actually built and accommodated around 200 sex workers. Bousbir's model also spread beyond North Africa. In 1947, French Indochina military authorities suggested building a *quartier réservé* in Saigon, 'patterned after that of Casablanca (Bouss-bir)' (Hardy 2004: 179), and would later be known as the *Parc aux Buffles* and housed some 200 local female sex workers. A journalist reporting on the Bousbir model proudly proclaimed that 'the example of Casablanca will be imitated' was indeed correct (*Afrique du Nord illustrée* 1931: 17). The Bousbir model was also criticized in the media. A journalist from the *Singapore Free Press* (1932) expressed some (well-founded) doubts about the role of Bousbir in reducing venereal disease, and suggested that the Singapore plan for regulating prostitution was a more effective model.

It comes as no real surprise that a modern and 'rational' spatial solution to the 'problem' of colonial prostitution was first conceived in Casablanca, this was after all a place of urban and social experimentation and a showcase of the French Empire (Maghraoui 2008; Cohen and Eleb 2004).

Casablanca was a small Moroccan harbour on the Atlantic Ocean with 12,000 inhabitants before French colonization (French Protectorate in Morocco was officially established in 1912). By the end of the 1910s, Casablanca had experienced significant urban growth as the result of construction of a new railway, a modern port, and industrial expansion. It also became a major centre for French colonial administration and economy, and was considered the main European urban centre in this part of North Africa. By 1920, Casablanca's population had grown to 100,000, some 40,000 of whom Europeans. Europeans lived in the new city built by French authorities. In contrast, Moroccan workers, many of whom had migrated from the countryside, lived in specifically designed settlements (*ville indigène*) or in the spontaneous self-made *bidonvilles* – a term coined in the 1930s in Casablanca to designate local slums partly made out of metal cans (*bidons*) on the periphery of the city.

The French architect and town-planner Henri Prost (1874–1959) led the design of Casablanca's master plan (1917–22). He was eager to build a rational city, modern and beautiful, and to segregate European and 'indigenous' populations and activities. Different architectural teams designed the European districts according to modern French planning and design styles (art nouveau and art deco), but they also drew part of their inspiration for the Moroccan district from local architecture and urban morphology.

Prostitution developed in Casablanca, not only in response to growing demand from European males, but also as a result of local workers migrating from the countryside. Local female sex workers proffered their services around the harbour facilities and in a miserable and insalubrious district (Derb Bousbir), close to the walls of the old *médina*. At the end of the 1910s, a decision was made to ban street prostitution within the city and to build a new district out of town, where sex workers could be more easily confined and controlled. This spatial segregation of prostitution only applied to indigenous sex workers and street prostitution. Notably, European prostitutes could still live and work in secluded registered brothels within the city. The new district – Bousbir (named after Derb Bousbir) – opened to the public in 1924.

Bousbir: a hypermodern apparatus?

The decision to purposefully build Bousbir was most likely taken or approved at the highest level of colonial administration by Maréchal Hubert Lyautey (1854–1934) who was the *Résident général* of the French protectorate in Morocco, from its establishment in 1912 to 1925. Unfortunately, archival data examined thus far has failed to reveal any information about the exact role of the hero of French colonization in that matter. Henri Prost and his team who led the development of Casablanca's master plan were the first to study the district (Meffre 2010) and thus responsible for choosing the location of Bousbir. In H. Prost's words, establishing Bousbir was about 'ending debauchery' or at least 'containing it and preventing it from corrupting the marginal parts of the city' (quoted by Meffre; *ibid.*: 64).

The decision to build the *quartier réservé* also coincided with a shift in policy in terms of how best to regulate prostitution. Before 1921, prostitution was regulated by the police. However as prostitution came to be increasingly seen as a public health issue, Casablanca's municipal health and hygiene services took charge of the prostitution 'problem' and proposed Bousbir as its 'solution'. As Bernard (1935: n.p.) has noted, 'the police had to give way to doctors'. This is not to say that the police played no role in regulating prostitution in the new district. The gate to enter Bousbir also doubled as a police station; hence the police controlled who entered the district and more importantly who should not exit.

The new Bousbir was located five kilometres from the city centre, at the southern outer-limit of the agglomeration, on the road to Marrakech. Bousbir was just to the south of the new *médina* (the Habous district), but separated by railroad tracks. Photographs taken during the construction of the district show that it was not included in the urban space at the time. It is clear that the aim was to keep prostitution out of sight and out of the minds of the European population. As a

result of Bousbir's remoteness from the city centre a dedicated bus line for clients – between 1,000 to 1,500 clients a day (Bernard 1935) – was established so as to limit their contact with 'innocent' travellers.

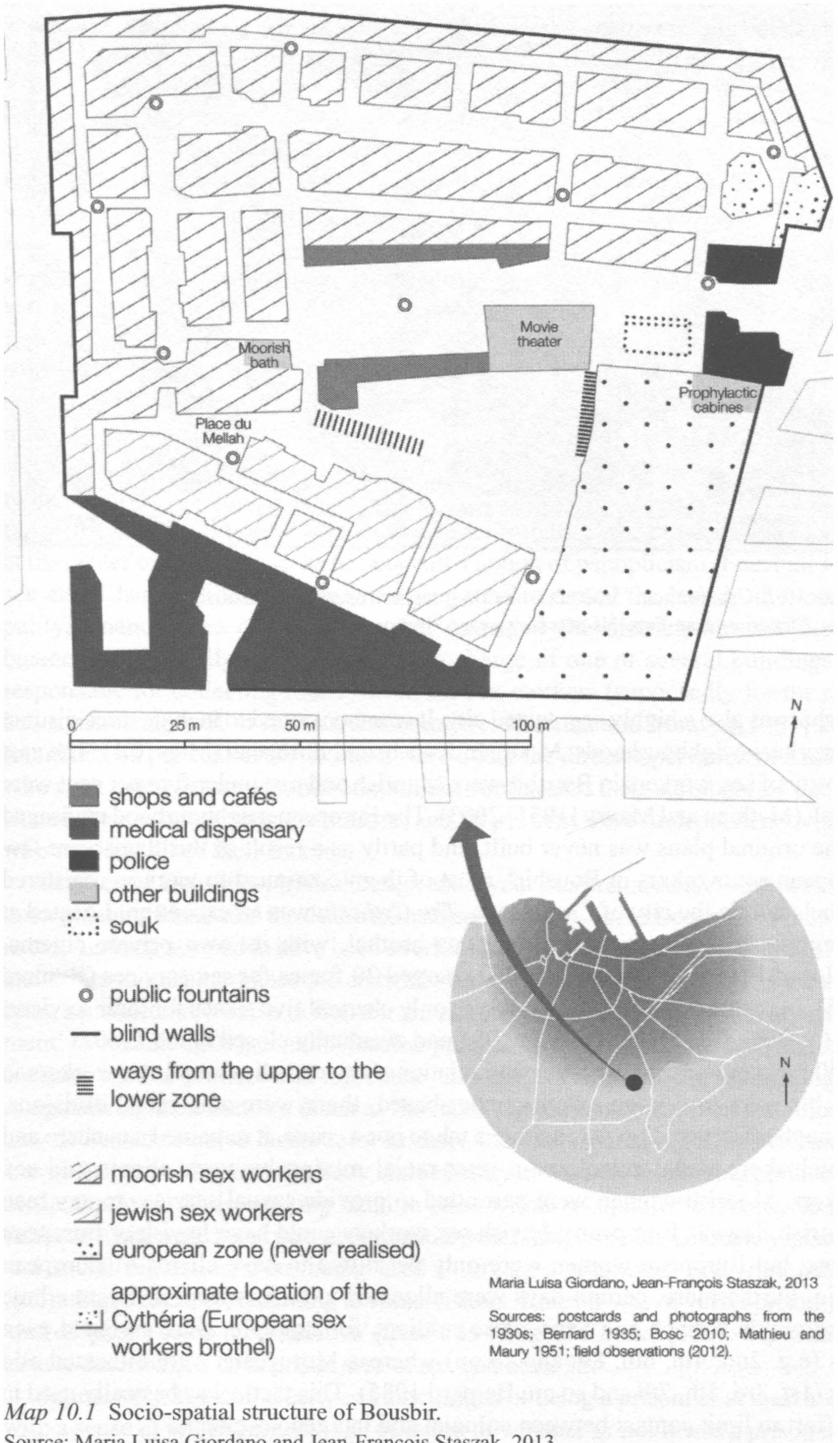
Edmond Brion (1885–1973), a leading architect was put in charge of designing and building the new district. Brion, together with Auguste Cadet (1881–1956), led the main architecture agency in Casablanca, and had designed many public and private buildings in the city, including mosques, banks, post offices, palaces, apartment buildings, and the Habous district (Meffre 2010).

Given that Bousbir was based on a grid pattern with a single gate entrance just like Yoshiwara, it would appear that Brion found his inspiration for the layout of Bousbir in the Japanese red-light district. Brion was a connoisseur of Japanese wood-block prints,² he couldn't have ignored those depicting this district. Furthermore, he could have seen Yoshiwara's plan in De Becker's well-known monograph about the district ([1899] 2000). Yoshiwara was indeed so famous and its layout so similar to Bousbir's that Hendrik De Leeuw, a popular author of travel narratives and adventure literature, did not fail to notice that Bousbir's gate was 'not unlike the gates of the old Japanese Yoshiwaras' (De Leeuw 1951: 68).

The new district covered an area of 160 × 150 metres (see Map 10.1), was completely enclosed by 30-foot-high blind walls and had one ornate door, which was closed to car traffic (see Figure 10.1 and 10.2). The district comprised two neighbourhoods that were formed as a result of the topography of the site. The larger and upper neighbourhood included the entrance and a corridor leading to the main square, and was organized around a grid of main and secondary streets. A slope connected the upper neighbourhood to the lower and smaller part (see Figure 10.3), which was organized according to a similar spatial pattern. Twenty-one blocks of different sizes (from 2 to 52 apartments) and up to three levels were used either for housing or commercial services. Drainage was collected by a sewer. A dozen public fountains were distributed throughout the district giving ready access to fresh water. Most of the facilities were gathered around or close to the square: a movie theatre, a bath-house, a post office, a souk, shops, restaurants, cafés, cabarets, dance halls. Two police stations (one – with a jail – belonged to the municipality, the other to the army) monitored the gate. A medical dispensary was located on the southern edge of the district, somewhat out of sight.

Between 450 and 675 female sex workers,³ with an average age of 21, lived and worked in the district. Some 63 per cent of them came from the Casablanca region. No less than 42 stores sold all manner of products including: food, beverage, tobacco, cloth, shoes, charcoal or entertainment to the visitors and the inhabitants. Put simply, Bousbir was indeed a secluded and self-contained city, 'a city within the city', 'a true town' (Grancher 1956: 233) – a microcosm of the greater metropolitan area.

Bousbir was a regulated city. Visitors and sex workers were monitored by the police at the gate to the district. Sex workers were registered and not authorized to exit the compound, except twice a week after getting a special permit approved by both the police and a doctor. Each sex worker had to visit the doctor once a week, and go each morning to the dispensary to have her genitals checked and cleaned.



Map 10.1 Socio-spatial structure of Bousbir.

Source: Maria Luisa Giordano and Jean-François Staszak, 2013



Figure 10.1 Casablanca: ‘Vue aérienne du quartier réservé dit “Bousbir”’.

Source: Flandrin – Jean-François Staszak’s own collection

Bousbir was also a highly segregated city. It was envisioned to include three distinct sex workers neighbourhoods: Moorish; Jewish; and European (Map 10.1). The vast majority of sex workers in Bousbir were Moorish and just under five per cent were Jewish (Mathieu and Maury [1951] 2003). The European neighbourhood envisaged on the original plans was never built, and partly as a result of this there were few European sex workers in Bousbir⁴, most of them continued to work in registered brothels within the city of Casablanca. *The Cythéria* was an exception. Located at the entrance of Bousbir, this luxurious brothel, with its own private cinema, employed European sex workers and charged 20 francs for sex services (Bernard 1935). In comparison, local sex workers only charged five francs for their services. *The Cythéria* faced bankruptcy in 1934 and eventually closed in the 1940s.

While socio-spatial divisions and relations between clients and sex workers in Bousbir were to a large extent gender-based, there were also racial divisions. Although miscegenation was neither a taboo nor a crime, it remained a concern and as such there were ‘rules’ about inter-racial mixing between clients and sex workers. Moorish women were permitted to provide sexual services to any man (Moorish, Jewish, European); Jewish sex workers could have Jewish or European clients; but European women were only permitted to have clients of European origin. Furthermore, certain days were allocated to clients from different ethnic backgrounds. French and Senegalese soldiers, for example, were assigned even days (e.g. 2nd, 4th, 6th, 8th and so on) whereas Moroccans were allocated odd days (1st, 3rd, 5th, 7th and so on; Bernard 1935). This tactic was basically used in an effort to limit contact between colonial and indigenous clients.

Bousbir's dispensary was also spatially organized so as to segregate sex workers according to their ethnicity. Bousbir's dispensary was not reserved just for local women working in the district: all legal sex workers in Casablanca had to come to the dispensary once a week to get medical check-ups. This included the European sex workers who worked in the brothels outside the district, and, if they were ill, they had to remain there until cured. It was considered inappropriate for European sex workers to walk across Bousbir to reach the dispensary, or that they intermingle with local sex workers during any visits to the dispensary. The dispensary, therefore, had two separate entrances with a door directly to the outside for European sex workers who came from the city. In addition, within the dispensary, local and European sex workers had separate rooms and refectories. This strict but complex socio-spatial regulation within Bousbir (between sex workers, between clients, and regulating their relations) merely echoed the spatial segregation that prevailed in most colonial cities in French North Africa.

Bousbir was a 'privatized' space in the sense that it had been built at the request of the Casablanca municipality by La Cressonnière, a private company created to run the district and whose office was located in the middle of the district. Being located at the center of Bousbir speaks to Foucault's notion of panopticism (Foucault 1995; see also Chapter 6, this volume). La Cressonnière rented the land to the municipality, financed the construction, and managed the district, but not the sex businesses. Typically, a 'madam' was in charge of one or several buildings and responsible for collecting money from the sex workers (supposedly for the rent), and transferring part of it to La Cressonnière. Mathieu and Maury ([1951] 2003) found that 48 per cent of sex workers were under the direct supervision of a madam who took care of their accommodation but confiscated their earnings; 24 per cent shared their earnings with the madam; and 28 per cent were 'independent' workers who retained all of their income.

To reiterate, Bousbir's physical design and layout was premised on Western rational town planning ideals and the desire to instil social order. As De Leeuw (1951: 16) has noted, 'nothing seemed to have been overlooked by these French experts in their zeal and desire to metamorphose the erstwhile mess into a modern town'. The efforts to bring a planned orderliness to Bousbir are emblematic of the notion of 'great confinement' (Foucault 2009), a multi-faceted process through which modern European societies tried to produce and reproduce 'rational' social norms by segregating and marginalizing their outcasts (such as the mad, vagrants and prostitutes), confined in new dedicated coercive institutions. In short, the socio-spatial regulation of Bousbir was about controlling both the body and sexuality of women, reinforcing political and medical power, while working hand in hand within a capitalist economy so as to facilitate white male heterosexual domination and (s)exploitation. Ultimately, planning and social regulation were being used to create a 'sanitized' and 'rationalized' (sub)urban sexscape. According to some visitors, Bousbir was 'a velvet prison', or a kind of 'prison camp for venal love' (Boulié 1947: 6). McClusky (1957: 14) was more critical describing it as 'a prison area of sex and other sin'.

Figuratively, Bousbir clearly exhibited signs of being a prison, or at least a space with a sense of imprisonment. The question of whether or not it was a prison in the

literal sense is difficult to discern as far as the coercion actually imposed on the sex workers is difficult to evaluate. It is unclear, for example, just how strict the main gate to Bousbir was policed and whether the permits to leave the district were a formality or rarely awarded. The economic coercion sex workers had to suffer should also be taken into account. Because of financial arrangements with brothel madams, most women were unable to accumulate wealth from their earnings, and some 70 per cent were heavily indebted to their madam (Mathieu and Maury [1951] 2003; Lépinay 1936). Hence, leaving Bousbir was not an option. If sex workers were physically confined to Bousbir, and received no reward for their work, then indeed Bousbir would appear to be nothing but a prison and a system of sex slavery. However, since the extent of control cannot be accurately discerned caution must be taken in relation to the lack of agency expressed by sex workers. It seems plausible that some sex workers may have been exhibiting some form of (constrained) rational choice. Relatedly, it would appear that the sanitary and security conditions of sex workers in Bousbir were relatively better than those of the women who worked clandestinely on the streets of Casablanca, who could have been more exposed to the clients' and the pimps' violence, not to mention police repression. In short, it would appear that a 'polymorphous' sexscape (Weitzer 2010) may have prevailed in colonial Casablanca and Bousbir.

There is no clear evidence to support the proposition that a significant proportion of women engaged in sex work in Bousbir during the colonial era, unlike some women engaged in sex work today in liberal democratic nations, were there by free or rational 'choice'. Classical criminologists and neo-classical economists may have thought of prostitution as the logical result of free-market mechanisms and of sex workers maximizing their utility, but it does not seem to have been the case in the colonial red-light district. A survey by Lépinay, who was the doctor in charge of Bousbir's dispensary, found that 'of 139 resident prostitutes picked randomly from among 500, 93 [67 per cent] are satisfied and want nothing other than to work on their own account, instead of enriching a Madam [who] abuses them and feeds them badly' (Lépinay 1936: 205). Simultaneously, the remaining 46 (33 per cent) respondents were 'indignant women who would like to leave the *quartier réservé*' (ibid.: 205). It is difficult to ascertain the rigor of this survey therefore the results must be treated with a degree of caution. The fact that the doctor felt the need to inquire about satisfaction levels among sex workers would seem to suggest that workers were enduring problems. There were indeed sex workers who tried to escape Bousbir but such efforts were in vain, however. Those that fled were likely to be quickly 'rearrested on the streets and, after a few days in jail, returned to the district' (Lépinay 1936: 204). Thirty-seven per cent of Bousbir's sex workers were indeed forced to live there after having been arrested during police raids and convicted for illegal prostitution (Mathieu and Maury [1951] 2003).

In Bousbir itself, the police were more eager to control and convict sex workers rather than their clients who may have committed any crimes against sex workers. The police in Bousbir were far more likely to respond to complaints against sex workers from unsatisfied clients, and put drunk or insulting sex workers in

Bousbir's jail. According to Lépinay (1936: 204), 'if a prostitute has been beaten or robbed (which happens quite often), she has no recourse' against the clients. It is clear that for some sex workers Bousbir was a place of abuse and coercion and thus can be viewed as a 'true' prison for these women.

It is worth noting at this stage that Bousbir could be defined as an entangled assemblage of materiality and ideology exercising medical, social, racial and sexual control. Or what Foucault (1980) termed *dispositif* (apparatus; see also Agamben 2009). But the actual efficiency of this apparatus is questionable. First, if Bousbir was about controlling prostitution it is clear, given that the huge majority (98 per cent according to Mathieu and Maury [1951] 2003)⁵ of Casablanca sex workers did not live or work in Bousbir, that it was a failed model. Although Bousbir was envisioned to replace inner-city prostitution it simply never had the capacity to absorb and contain this dynamic, diverse and ever-growing sector of the economy, dominated by low-end illegal indigenous street sex workers. Second, if Bousbir was about containing venereal diseases, then this too was a counterproductive endeavour considering that the prevalence of these diseases among Bousbir's sex workers was higher than among the numerous clandestine street-based sex workers in Casablanca (*ibid.*). Third, if Bousbir was thought to keep prostitution hidden or out of sight, the district rather gave it more visibility – so much so, that Bousbir became a generic term in French for referring to any zone of prostitution. As an apparatus set up to exercise social, moral and medical control over prostitution, Bousbir only managed to give the illusion that this 'necessary evil' was under control. If anything, Bousbir unwittingly and unconsciously presented a more acceptable image of prostitution.

Despite this, Bousbir should not be considered a failure. Rather, the district came to fulfill a function that had relatively little to do with control, but more with imagination. Put simply, Bousbir succeeded in offering to Western visitors and tourists an exoticized and eroticized heterotopia (Foucault 1997) consistent with their orientalist fantasies (Saïd 1978). Hence, Bousbir might be more akin to a 'theme park' than an apparatus.

Bousbir: An orientalist fantasy?

Understanding Bousbir as an apparatus for the colonial control of prostitution is consistent with its (official) purpose, its master design, and the way sex workers and clients were controlled. But this apparatus ideal does not fit with Bousbir's architecture, or with the expectations of many visitors. From an architectural perspective, rather than an urban planning one, and when viewed from the street rather than from above, Bousbir does not resemble a modern(ist) city. A naive Western visitor might perceive Bousbir to be a *médina*, the traditional old centre of an Arabic town, completely walled, with its single door and narrow streets. Indeed, the courtyards, horseshoe arches, domes, decorative or glazed green tiles, ornamental pillars, public fountains and carved wood doors all suggest Moorish architecture. As is evident in the photographs below (see Figures 10.2 and 10.3), the buildings were deliberately designed to conform to the traditional urban

landscapes of pre-colonial Moroccan cities. Visitors accordingly celebrated ‘the exquisite architecture of this city of the *Thousand and One Nights*’ (De Leeuw 1951: 68).

So, what matters most here are the imaginative geographies of the architect and visitors, especially their orientalist fantasies (Saïd 1978) as opposed to the rationalities of control exerted by town planning rules and regulations.

Building new indigenous towns, such as Casablanca’s new *médina*, French architects would draw inspiration from local architecture considered suitable for the local people. In Bousbir, however, a different approach was adopted. The urban landscape was not (only) designed to suit the local sex worker population, its design was intended to please European visitors first and foremost. Bousbir looks like a Moorish city because the architect thought this is what the clients were seeking. Believing that colonial prostitution had to be regulated and spatially planned, Brion designed the district according to modern Western rationality. Simultaneously, he thought that he had to provide the European clients of the sex workers with an exotic experience within a picturesque landscape. He thus designed Bousbir’s architecture according to their oriental fantasy. A synecdoche operates in Western imaginative geography, extending the eroticization of the exotic body (Saïd 1978) to the landscape where the encounter takes place (Staszak 2012). As the French writer P. Mac Orlan ([1934] 2009: 7) noted, in a *quartier réservé*, ‘the setting matters more than the actors’. This was exemplified in a series of telling postcards from Bousbir that give prominence to the built environment and its neo-Moorish architecture. Intriguingly, despite Bousbir being an adult theme park less than half of the 93 postcards that have been retrieved through archival research depict images of sex workers identifiable as such. The exotic and erotic appeal of Bousbir then, appears to be embedded in the curvaceous and voluptuous form within neo-Moorish architecture.

The district was not simply a modern urban solution to the problem of colonial prostitution; it may also be viewed as an ‘oriental Disneyland’ dedicated to adults. Bousbir is essentially about sexuality and desire. Its success came to be less about the control of prostitution and more about the incarnation of Western imaginative geographies and the satisfaction of the colonial gaze. As Mac Orlan, for example, has noted ‘Bousbir is magic city or a Luna park specializing in the rides of the popular Venus’ (Mac Orlan [1934] 2009: 44), and that ‘it’s to a degree a *quartier réservé* for colonial exhibition’ (ibid.: 47). And, he recalled the sight of ‘some thirty nude young women, who rather nicely recreate a canvass of Ingres, Chassériau, or Delacroix [well-known orientalist painters]’ (ibid.: 51). Mathieu and Maury ([1951] 2003) also noted that, ‘for the tourists, the crowd, the noise, the lights, the settings, the extras with too much make up, and forced cheerfulness, bring back to life the forgotten images of distant colonial exhibitions and stimulate memories of a literary Orient fantasied as mysterious’ (ibid.: 73); it’s ‘an erotic legend’ which takes up ‘all the fables of the *One Thousand and One Nights*, and all the clichés of the Orient’ (ibid.: 38) The visitor, they added, ‘comes here like a provincial who rents a seat in the theatre and thus buys a few hours of forgetting’ (ibid.: 73). Others have echoed Mathieu and Maury’s perception of Bousbir as a space of and for

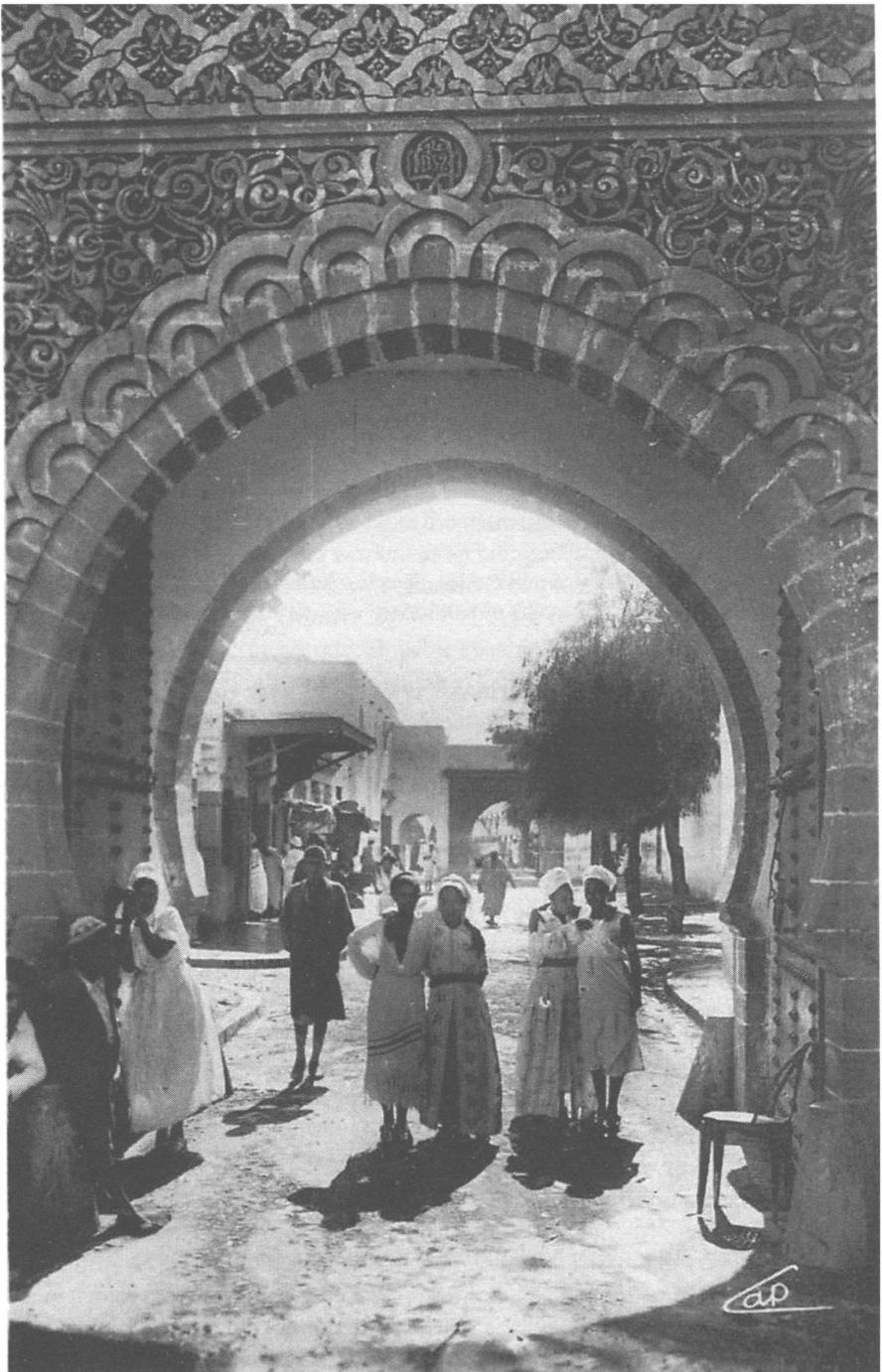


Figure 10.2 Casablanca: La porte du quartier réservé.
Source: Flandrin – Jean-François Staszak's own collection

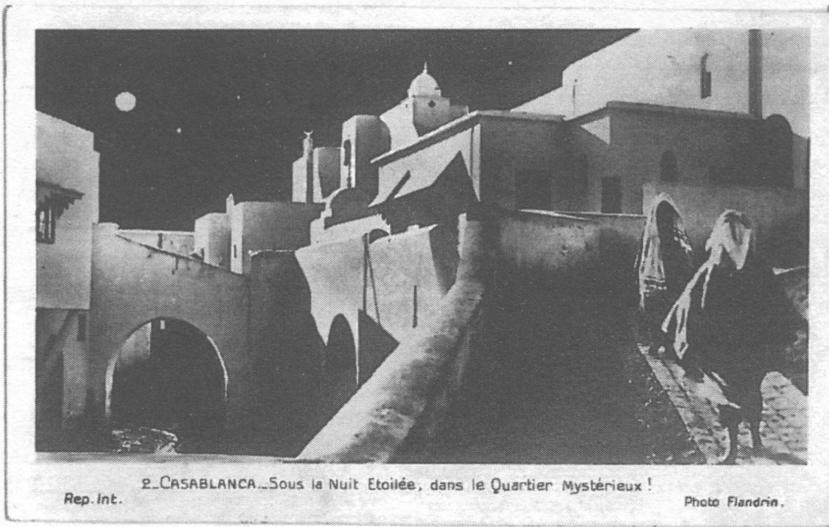


Figure 10.3 Casablanca: ‘Sous la nuit étoilée, dans le quartier mystérieux!’.

Source: Flandrin – Jean-François Staszak’s own collection

adult fantasies. Jules Gindraux, a US Air Force pilot who visited Bousbir in the mid-1940s, noted: ‘Inside was a Hollywood version of a Kasbah’ (Gindraux 2004: 52), probably referring to the famous movie *Algiers* (dir. J. Cromwell 1938, starring Charles Boyer and Hedy Lamarr). The French author M. E. Grancher said, ‘the town, specially built, looks like a set’ and lavishes ‘an atmosphere of Arab tales’ (Grancher 1956: 238–40). For De Leuw (1951: 69), Bousbir was ‘something of a show and Coney Island combined’. Despite the ‘authenticity’ of Bousbir being questioned, this did not seem to be an issue of major concern for European visitors who nevertheless enjoyed the experience. Just as in a theme park, a theater or a zoo, the authenticity of the place was not something that Bousbir’s visitors were expecting or looking for: they knew the place was fake and enjoyed it as such. To fulfil its purpose, Bousbir did not have to reflect Moroccan realities but exotic fantasies.

The exoticization of prostitution was not uncommon in Europe. In France, high-class brothels, such as the famous *Chabanais* in Paris, furnished their rooms with oriental items and decorated thematically according to specific exotic locales (e.g. Japan, China, North Africa; Canet 2011). Others, such as the *Palais Oriental* (built in 1925) in Reims or *La Casbah* in Mailly-le-Camp (a military camp comprising 10,000 soldiers in northern France during the first decade of the twentieth century) carried the fantasy of the Orient in their names, and their buildings drew inspiration from Moorish architecture. The exotic was erotic because indigenous women in the colonies were viewed and treated as potential prostitutes. In a sense, the Empire itself was perceived as one enormous brothel. The eroticization of the exotic body and the appeal of inter-racial sex are by no way specific to Bousbir nor to French colonies. For instance, the attraction of *Storyville*, New Orleans (in)famous red-

light district between 1897 and 1917, was much based on the eroticization of the female octoroon's body and on the promise of 'sex across the color line' (Landau 2013; Long 2004).

In essence, sex workers in Bousbir were performing an erotic role in an oriental setting. Their performance was not limited to sexual intercourse. At the entrance of the district, dressed in their oriental outfits or with eroticized European clothes, heavy make-up on the face and tattoos on their bodies, sex workers approached potential clients, holding their arm, revealing a leg or breast, telling obscene jokes, singing bawdy songs, and taunting prospective clients in front of their friends (see Figure 10.2). This performance continued in the cabarets, where sex workers performed belly dances and striptease. In more secluded places (forbidden to female visitors), some sex workers performed pornographic shows similar to those performed today for sex tourists in Patpong Road, Soi Cowboy and Nana (Bangkok's red-light districts; Roux 2011; Manderson 1992) – titillating acts such as smoking or accepting a banknote and returning the change without using their mouth nor their hands, for example.

Inevitably, Bousbir quickly became the main touristic attraction in Casablanca. According to A. Laprade, who worked as an architect and town planner with Prost, 'this charming and enclosed district became the place to stroll for every tourist setting foot in Morocco' (Meffre 2010: 64). As a result of Casablanca being the main harbour of the Protectorate, Bousbir became an early and obligatory stop on the tourist trail to the city and the country. Roumy (1934: 11) notes that 'during cruise season, buses bring floods of foreigners armed with Kodaks, and eminent guests, be they politicians, artists or athletes wishing to see this capital of prostitution'. According to an early guide-book, *Casablanca et sa région* (Editions Inter-Pressé 1934: 10), 'tourists who are interested in studying human nature should go to the walled city of Bousbir, the new district for public women... Free entrance, all visitors authorized, not recommended for children and young girls'. The map of Casablanca in the 1939 *Michelin Guide* to Morocco includes Bousbir as a stop for tourists in the city.

Visitors to Bousbir included both local (European and Moroccan) clients and European tourists. Whereas the locals may have been seeking sexual services this did not appear to be the main purpose of tourists who visited the district. According to a sex worker quoted by Mathieu and Maury ([1951] 2003: 144), tourists almost never had sex with the sex workers. Many of them came as couples or in a group with a guide. Just as with most of today's tourists in Amsterdam's red-light district, De Wallen, they did not travel to be participants, but rather observers. It is likely that even some locals, both European and indigenous, may have visited Bousbir to walk its streets, enjoy the scenery, have a drink, listen to music, watch a belly dance show, look at the girls, and enjoy the exciting and peculiar atmosphere – without the intention of engaging the services of a sex worker. For the modern male *flâneur*, 'the fact that her sexuality is on sale is itself an attraction' (Buck-Morss 1986: 120).

There is something more in Bousbir than the exotic and the erotic. Bousbir was located just in front of Casablanca's famous Bidonville: a slum of 'a most picturesque appearance' (De Leeuw 1951: 68), which was also reproduced on

postcards and became a tourist destination in its own right. Indeed, the two went together: the tourist ‘will first have the unforgettable panorama of Bidonville, this incredible city swarming with hundreds of human beings living in more than primitive conditions. Just beside, his eyes will be attracted by a majestic door’ (*Afrique du Nord illustrée* 1930: 8). This door, of course, led to Bousbir, a ‘modern delightful Babylonian cesspool’ (De Leeuw 1951: 69).

A visit to the *quartier réservé* and Bidonville may be viewed as a form of ‘slumming’ whereby tourism is based on a voyeuristic curiosity about the spectacle of human misery or deviation (Heap 2009; Koven 2006). Bousbir was a spectacle. The show was about the architecture, the urban and social scenery, the animation, the music, as well as the transgressive performances of the sex workers. Indeed, in this regard, sex workers are part and parcel of Bousbir’s oriental landscape (Figure 10.1). Bousbir should not only be viewed as a prison. It was also a theatre, where actresses performed a scripted role on a stage set, and where spectators enjoyed the show.

Bousbir stood as a world apart. As one visitor noted, ‘these high walls, this monumental door may seem ludicrous and unnecessary. I don’t believe, however, that they are useless. They serve to isolate one world from another. It’s not much, of course, but it certainly contributes to a particular kind of poetry that the name alone of Bousbir evokes’ (Saint-Aignan and Laurent 1950: 19). ‘Passing through the entry gate, unique and solemn . . ., one believes one has made an enormous leap in space and even in time’ (Edition de l’*Afrique du Nord illustrée* 1937: 77–8). The walls and the door (Figure 10.2) provided an ontological and symbolic rupture between Bousbir and the surrounding (real) world, so that visitors understood they were entering another kind of reality. This impression was reinforced by street names which referred to the sex workers who lived there and their supposed origin (e.g. Marrakchia, Fessia and Meknassia). Hence, visitors walking through Bousbir were not merely experiencing a district of Casablanca, but all of Morocco, and all its imagined erotic delights.

If Saïd’s (1978) *Orientalism* is a key reference for analysing the imaginative geographies of which Bousbir is made, Foucault’s (1997) concept of heterotopia defines the place perfectly. The district is one of those:

real and effective places which are outlined in the very institution of society, but which constitute a kind of counter arrangement, of effectively realized utopia, in which all the real arrangements, all the other real arrangements that can be found within society, are at one and the same time represented, challenged, and overturned: a sort of place that lies outside all places and yet is actually localizable.

(Foucault 1997: 332)

Thinking of Bousbir as an orientalist sexual heterotopia helps to understand the fundamental ambiguity of a place where racial and sexual order was established and transgressed altogether. In short, Bousbir is a site simultaneously located inside and outside of Casablanca; an urban landscape that acted as a signifier of socio-

spatial regulation and control but also signified a space of sexual transgression for its colonial masters and tourists.

Conclusions: contemporary heritage and memory

In conclusion, Bousbir may be viewed as a sex prison and an orientalized pornographic theme park. For sure, Bousbir did not succeed in protecting men and especially soldiers from venereal diseases, but it did succeed in fulfilling and realizing their fantasies. Despite the success of Bousbir on this front, the French authorities closed Bousbir as a *quartier réservé* shortly prior to Moroccan independence in March 1956. In Casablanca, France and around the world, Bousbir was the subject of considerable criticism: 'The place is a world legend, and for good reason. But it is also a place to turn most stomachs – at least those of men who believe that women have a higher natural destiny than sex slavery and debasement' (McClusky 1957: 57). Its existence challenged medical practitioners' fight against venereal diseases and feminists, socialists and anti-colonialists thought it was a moral and political disgrace. After all the image and reputation of France was at stake. Furthermore, the district was identified by French authorities as a source of violence. On 8 April 1947 French *Tirailleurs sénégalais*, when on leave, shot Moroccan troops and exacerbated nationalist contestation. On 16 April 1955, 675 women were expelled from Bousbir with most of them returned to their regions of origin. Bousbir ceased to be a red-light district.

The district was not destroyed, but was used to provide homes for Moroccan auxiliary forces (*Mokhazni*), including those soldiers returning from the French colonial war in Indochina (1946–54). Some of them and their descendants still live in Bousbir. A school and a police station have been built, and a new gateway has been opened on the north side of the district. The architecture of the district has changed little, except for additional floors added to some buildings, and decay due to the passage of time and lack of maintenance. The lurid past of Bousbir has been slowly and gradually eradicated. Streets that were formerly named after sex workers are now named after flowers in what appears to be an attempt to erase this facet of Bousbir's lurid history.

A new memory is being built, which, though unfounded, seems more appropriate. In 2012, during an interview with a well-educated person working in Bousbir about the origin of Damas Square, the new name given to the lower neighbourhood's main square, he explained that the name was a tribute to the caravans which came to Bousbir from Syria prior to French colonization. He added, rather proudly, that Bousbir was the oldest part of Casablanca. Bousbir's inhabitants may believe that they live in an old Moorish district because the place was designed to look that way.

Ironically, Bousbir's neo-Moorish architecture, which in the past was meant to please the orientalist fantasies of Western visitors, now features as part of the contemporary discourse among current residents in their quest for identity and historical legitimation. The colonial script and theater that had long defined Bousbir are in the process of being rewritten and rebuilt.

Historical memory aside, Bousbir is on the verge of being recognized for its local architectural heritage. Casablanca lacks much in the way of touristic attractions when compared to Marrakech, Rabat, Fès or Meknès. The principal heritage and tourist value of Casablanca lies in its colonial *Art déco* and *Art nouveau* architecture, and the new *médina* built by Cadet and Brion. Bousbir's touristic potential has been recognized by the fact that it has been classified as an area of architectural significance that needs to be protected. There is no recognition, at present, of the embedded history of Bousbir as a '(sub)urban sexscape'. It is quite likely however that, sooner or later, Bousbir's *quartier réservé* will find its place again in tourist guides⁶ and be subjected to a 'new' voyeuristic gaze. This may pose difficult questions and challenges for local residents in the sense that they and Bousbir itself may be 'labelled' (Becker 1963) with a 'whore stigma' (Pheterson 1996). The new *médina*, a hundred meters from Bousbir, has been beautifully rehabilitated so its neo-Moorish architecture is now one of the main tourist attractions in Casablanca. The reason why Bousbir has not benefited from the same privileged treatment, despite its similar design, may be because rehabilitation runs the risk of exposing its sexual history.

To conclude, in exposing the sexual history of Bousbir this chapter may in fact provoke anxieties among some people who do not wish to know about this real or imagined past. This invariably raises potential ethical questions for which there are no easy answers. When Mathieu and Maury's study was republished in 2003, photographs of sex workers had the faces blurred so as to make them unidentifiable. But in terms of the district itself, there is no equivalent solution. Anonymizing the place could help protect its inhabitants, but how could we understand anything about Bousbir without knowing it is located in Casablanca? Geographic (and historic) context is vital in order to understand the socio-spatial and relational dynamics of place. Finally, who is to decide what the inhabitants of Bousbir should or should not know about the place where they live? The *aporia* is of course that there is no way to ask them if they do want to know this history without revealing it.

Acknowledgements

My principal sources of information on Bousbir have been Mathieu and Maury ([1951] 2003) and Bernard (1935). Louis Bernard, who was then director of administrative services of Tunis city, had been commissioned to visit Algiers and Casablanca in order to study the possibility of building a red-light district in Tunis. His unpublished report provides valuable information on Bousbir. I particularly thank Gislhaine Meffre for introducing me to Casablanca and sharing her great knowledge of the work of her grandfather, Edmond Brion, the architect of Bousbir. I'm also most grateful to Jacqueline Alluchon for showing me her important documentation on Casablanca. My visit to Bousbir was facilitated by the association Casamémoire, which works for the preservation of architectural heritage in the city. Mustafa Benfaida generously shared his impressive knowledge of Meknès, and organized my visit to El Mers, its former *quartier réservé*. I am in debt to the

inhabitants of Bousbir and El Mers who warmly welcomed me to their communities and kindly entertained my questions. I also want to thank the librarians of the Archives Diplomatiques in Nantes (France), where I had the opportunity to delve into the materials (Archives de Souveraineté) from the French Protectorate in Morocco. I am in debt to the editors of this book and to Daniel Hoffman for their critical readings of an early version of this chapter.

Notes

- 1 As specified on Campo Alegre website: <http://campoalegresex.com/start.php>.
- 2 According to his granddaughter Gislhaine Meffre (personal communication).
- 3 The exact number of sex workers in Bousbir varies according to the source and the period. It seems to have been at its lowest in the mid-1930s, because of the economic crisis (Bernard 1935). A few written testimonies mention ambiguously male or transvestite dancers in Bousbir, who may have been sex workers. But there appear to have been very few, if any.
- 4 The number of European sex workers in Bousbir seems to have reached its peak in the mid-1930s, when they were more or less 25 (Bernard 1935). In the 1950s, there were almost none.
- 5 Mathieu and Maury's estimation is based on the questionable idea that 25 per cent of the female Casablanca Muslim population that could, based on their age, work as prostitutes, actually did. This idea was consistent with the colonial prejudice toward indigenous women, by which they were all seen as potential prostitutes. On the other hand, it is true that the matrices of race, class and gender domination made Moroccan women easy prey for colonial men. Even if Mathieu and Maury's estimation is biased, and probably inaccurate, it appears that Bousbir did not gather more than a small proportion of Casablanca's sex workers.
- 6 Bousbir is not mentioned in today's tourist guides. J. McGuiness's *Morocco* (2009) is an exception. He mentions the district and its appeal but interestingly tries to dissuade the visitors: 'Another interwar building project was the Bousbir neighbourhood – rather less noble, but still with vernacular architectural motifs inspired by the médinas of Rabat and Salé. Bousbir ... was Casablanca's red-light district. ... Visitors to Bousbir may find themselves unwelcome in a poor residential neighbourhood with a past that most would prefer to forget.'

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11 Regulating adult business to make spaces safe for heterosexual families in Atlanta

Petra L. Doan

Introduction

Throughout much of the twentieth century, harassment and overt discrimination from heteronormative local governments towards the lesbian, gay, bi-sexual, and transsexual (LGBT) community have resulted in the location of queer social activities in marginalized areas where a variety of sex-related businesses were situated. For most local government officials there was little distinction between adult entertainment, sex work, and gay/lesbian bars. Municipal crackdowns on these “pleasure zones,” usually forced the relocation of gay and lesbian venues from one area of the city to another. In the late nineteenth and early twentieth century Chauncey (1994) describes a gay scene in New York City (NYC) that shifted from place to place depending on the level of owner tolerance for non-normative clientele. Similarly, in San Francisco in the early twentieth century the Barbary Coast and the Tenderloin district, somewhat further inland, were two “sex districts” where gays and lesbians were tolerated (Sides 2006). Subsequently, the gay establishments were forced into the North Beach area due to police crackdowns on the existing gay bars near the waterfront. It was not until the owners and operators of gay/lesbian bars formed the Tavern Guild that the more stable gay neighborhood of the Castro was able to develop (Stryker and van Buskirk 1996).

Harassment from city authorities was the common denominator in these relocations of LGBT individuals as these marginalized people sought spaces in which they could gather without being discriminated against. In the United States (US), various legal measures (Kennedy and Davis 1993) – sodomy laws, disorderly conduct ordinances, prohibitions against cross-dressing – and regulatory mechanisms (Doan 2011; Prior 2008) – licensing and zoning – have been used to constrain non-normative populations. While many of these laws are no longer enforced, or in the case of the sodomy laws found to be unconstitutional (*Lawrence v. Texas*, 539 U.S. 558, 2003), the use of municipal regulations to restrict LGBT community spaces has left deep wounds and a legacy of mistrust of municipal institutions.

Following a brief review of the literature on regulating sex and entertainment districts, this chapter examines the case of Atlanta, Georgia, where the LGBT community continues to be harried from place to place by the strict enforcement of municipal regulations related to nightclubs, sex work, and adult enterprises. The chapter argues that a secondary effect of such purification of gay residential areas

is rising property values, more frequent public complaints about LGBT venues that offend heterosexual sensibilities, the loss of affordable housing for young LGBT people who work in and patronize those venues, and the eventual decentering of the LGBT community.

In particular, this chapter examines the use of zoning and licensing procedures to cleanse LGBT areas. This section begins with an exploration of the heteronormative pressure on the LGBT community through strict adherence to licensing procedures for LGBT establishments (bars and clubs) that contributed to the closure of several iconic LGBT institutions. Next the chapter reviews a public campaign to pressure transgendered sex workers to stop operating in Midtown and the related 2013 proposed banishment ordinance for repeat sex worker offenders. Finally, the chapter examines municipal efforts to re-zone the nearby Cheshire Bridge corridor as an explicit effort to shut down adult enterprises. This case study is based on a detailed review of planning documents, newspaper accounts, and interviews with business owners, planning staff, and former patrons of these establishments.

Regulating sex and entertainment districts

Hubbard *et al.* (2009: 186) note “the presence of sex in the city [still] provokes anxiety and controversy, with spaces of commercial sex – prostitution and pornography in particular – often regarded as disturbing signs of a city’s potential to harbour sexual [and social] disorder.” Such “pleasure zones” or so-called red-light districts are often viewed by municipal officials as blights on the urban landscape that must be purified for the good of the wider heterosexual population (Hubbard 2000, 2004). For example, in NYC increasing complaints by new residents of gentrifying neighborhoods have supported the strict enforcement of the cabaret law that narrowly restricts social dancing venues, even those which were on site before the neighborhood began gentrifying (Hae 2011). Local government enforcement prioritized the quality of life of the gentrifiers over the expressive rights of racial and sexual minority groups who patronized many of these clubs and had few other places to socialize.

Municipal action to purify these areas may vary from zero tolerance regulations for sex work (Hubbard 2004), attempts to zone out pornography (Papayanis 2000), or the control of adult entertainment districts through the use of command and control systems based on licensing and/or land-use zoning (Ryder 2004). Ultimately, the larger intent is to purify the city and make it safe for heterosexual families (see Chapters 6 and 8, this volume). Hubbard (2012: 31) adds that “the regulation of sexuality through the regulation of urban space remains important in ensuring the city works as a site of social reproduction.” This urban order is ensured by the use of various legal instruments including zoning, licensing, and other attempts to regulate morality. LGBT businesses and individuals often feel the brunt of these regulations. The heterosexist nature of most planning initiatives (Frisch 2002) and the reluctance of many planning practitioners to acknowledge that LGBT communities are deserving of planning attention and protection (Doan 2011)

have exacerbated the regulatory impacts on LGBT enterprises in many cities in the US and elsewhere. Prior (2008: 350) argues that land-use and zoning regulations in Australia are the primary instruments used to regulate gay bathhouses in Sydney and finds that:

the placement of sex industry premises has and continues to be guided by a range of discourses as to how they contaminate and pollute neighbourhoods, destroy their lifestyles and legitimate businesses, and, if placed too close to sensitive land uses such as schools or churches, can corrupt their vulnerable users.

In subsequent work, Prior and Crofts (2011) illustrate the ways that planning officials used the idea of urban disorder caused by bathhouses as the basis for establishing these regulations. Other regulatory means to purify neighborhoods include the strict enforcement of liquor licensing procedures in order to harass gay bars and the expansion of zoning ordinances to restrict adult businesses. LGBT bars and nightclubs fall into a grey area not technically considered adult businesses (although those with active “back rooms” might be so construed). Areas undergoing significant redevelopment and gentrification, with a distinct LGBT presence, are often targets of heightened municipal scrutiny and strict interpretation of existing regulations.

In addition, LGBT neighborhoods are changing and are often subject to considerable gentrification and redevelopment pressures. Some scholars have suggested that there is a natural progression from deteriorated urban area to gay village to gentrified neighborhood (Collins 2004). But others suggest a more nuanced and particularistic understanding is needed. For instance, Ruting (2008) questions the evolutionary nature of these shifts and suggests that other factors including the level of social acceptance of gays and the presence or absence of supportive municipal policy must also be considered. Doan and Higgins (2011) echo the importance of decisions at the city level in the case of Atlanta where Special Public Interest Zoning was used to short-circuit neighborhood input in order to fast-track the revitalization of Peachtree Street (see Map 11.1). It is interesting to note that while this redevelopment occurred in the historic Midtown “gayborhood,” none of the relevant planning documents for this area ever mention the LGBT population.

Increasingly, LGBT individuals and couples have been moving out of these inner-city “gayborhoods” and relocating to other areas and suburban settings. Gorman-Murray and Waitt (2009) have suggested that these other areas are more appropriately characterized as “gay-friendly neighborhoods” (for example, in the Atlanta area, Decatur, North Druid Hills, East Atlanta) where LGBT people live in areas with a majority of heterosexuals who are by and large supportive of their LGBT neighbors. However these neighborhoods can also become zones of contention when it comes to LGBT nightclubs and other sexually explicit businesses. As long as LGBT people “behave” in homonormative fashion (Duggan 2003) they are welcome, but noisy bars and overtly sexual businesses may not fit the heteronormative standards for such places thus creating distinct possibilities for



Figure 11.1 Backstreet (formerly on Peachtree Street).
Source: Petra Doan

conflicts over land uses. Transgendered individuals almost never fit within the homonormative framework and are likely to be highly scrutinized and most at risk from stringent crackdowns on sex work since “people who have experienced profound social stigma and marginalization may feel that sex work is the only employment option” (Doan 2011: 105).

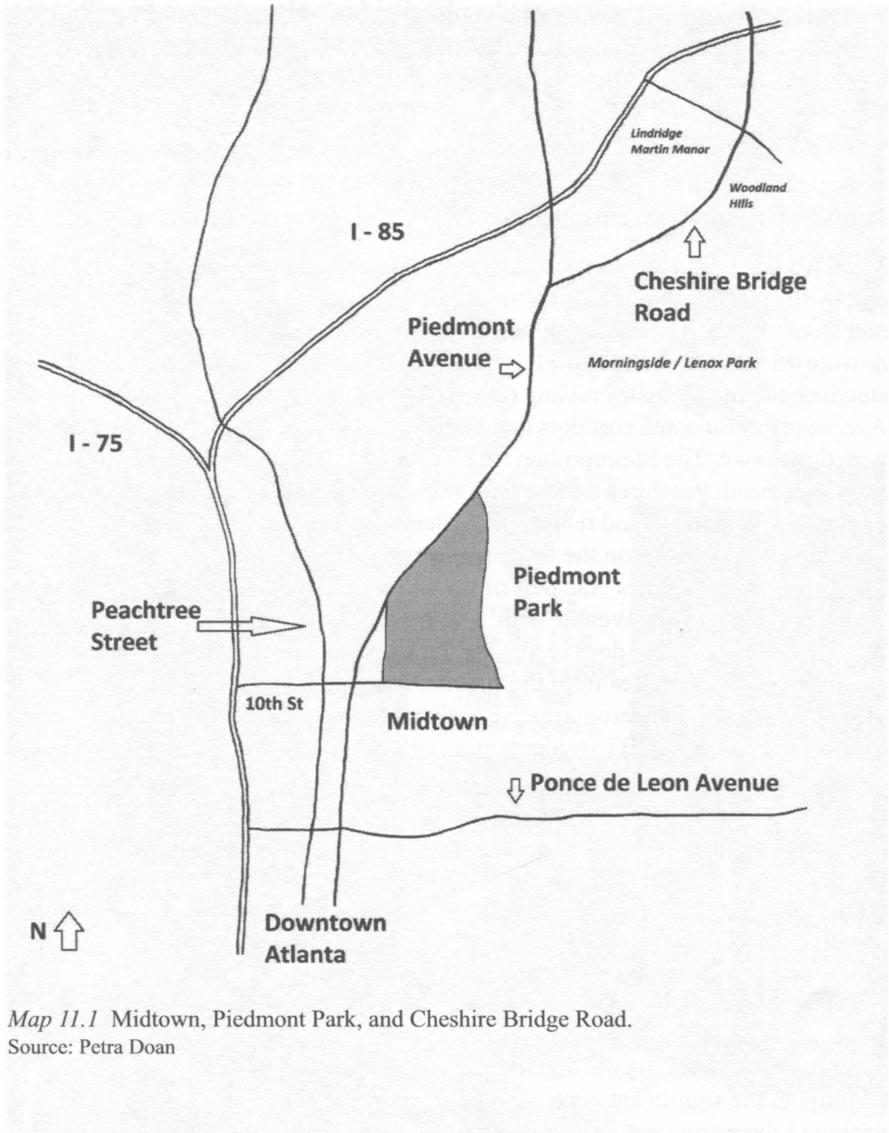
Pressure on Midtown nightlife

Midtown has been the heart of Atlanta’s LGBT community since the early 1970s and by the late 70s was the location for half of the 27 gay bars in the city (Reitzes and Diver 1982). The Midtown neighborhood is located to the north and east of downtown Atlanta (see Map 11.1) near Piedmont Park which has been a long standing site of gay male cruising (Howard 1997). Peachtree Street and Piedmont Avenue are north-south corridors that bisect Midtown and link the northern suburbs with downtown. The Metropolitan Atlanta Rapid Transit Authority (MARTA) that runs underneath Peachtree with several stops in the Midtown area has brought new high rise development and related gentrification pressures along Peachtree Street.

A recent Task Force on the Peachtree Street Corridor has promoted the Peachtree Vision that imagines “the best of the Champs Elysees, the Magnificent Mile, Broadway, and Fifth Avenue with a Southern twist” (City of Atlanta 2007). Although the statement does recognize the many different “faces of diversity,” it clearly envisions families from the suburbs bringing their children to the corridor to see the sights – a heteronormative vision that does not mesh with many of the existing uses of the LGBT residents and visitors to gay Midtown and its environs.

Doan and Higgins (2011) have described the closure of gay and lesbian bars in the Midtown area due to several types of discriminatory policies such as: the expansion of Special Public Interest Zoning into the Midtown neighborhood, the strict enforcement of liquor licensing laws (Woods 2004), as well as overtly homophobic actions. This latter category includes: the bombing of a lesbian bar named *The Other Side* (Sack 1997) and the overly zealous police raid on the *Eagle*, a leather bar (McWilliams 2011; Rankin 2009). Closing gay bars can have a ripple effect on other nearby LGBT activities, and appears to have had that impact in Midtown (Lee 2007a).

In the case of Atlanta the high rate of closures appears linked to other forces in addition to the significant gentrification trend in the city. The gay club scene was anchored for many years by several large clubs – *Backstreet*, *The Armory*, *Metro Video Bar*, and *Bulldogs* – all along Peachtree Street. The case of *Backstreet*, the most iconic gay bar in Midtown, is instructive (see Figure 11.1). This establishment operated for many years as a private club which allowed it to legally serve liquor 24 hours a day. While the exterior façade of the club on Peachtree Street was not very well cared for, the interior consisted of four floors of bars and dance-floors that was the throbbing heart of gay Midtown. Because of its visibility, *Backstreet* became ground zero in the efforts to get gay clubs off of Peachtree Street. An interview with the owner of an important LGBT bookstore in Midtown provides useful historical context on these efforts:



Map 11.1 Midtown, Piedmont Park, and Cheshire Bridge Road.

Source: Petra Doan

As new condos were developed in Midtown in the late 1990s, Backstreet had many residents in close proximity, something that wasn't true before ... Some neighbors (many of whom had just moved into the neighborhood) were concerned with drinking, drugs and crime in the area. But there was a bigger constellation of forces that operated here ... Peggy Denby was a leader in the *Midtown Neighborhood Association* and *Keep Atlanta Beautiful* had recently moved into the Dakota Condominiums, which was directly across from *Backstreet*. She was a leader in getting the club closed down. She would get neighbors to call up to complain about all the noise and the trash on the street

from the club. The front of the building was in disrepair and had become an eyesore compared to the brand new developments on Peachtree Street. It was just one of the excuses used for claiming, *Backstreet* was not a good neighbor.

A member of the Midtown Ponce Security Alliance (MPSA) indicated to a news reporter in 2004 that he would “do what he can to ensure *Backstreet* remains closed” (Henry 2004). This kind of implacable resistance to an iconic gay institution was an integral part of the gentrification process. Other sources suggested that the MPSA had been involved in a range of controversial “clean-up” efforts including “trying to close the *Metro Atlanta Task Force for the Homeless*, trying to close subsidized housing, and the targeting transgender or transsexual pedestrians whom they suspect of being prostitutes” (Cardinale 2009), as will be discussed in greater detail below.

After pressure from such strident critics of gay clubs, local government officials acquiesced and began heightened enforcement of liquor licensing regulations on *Backstreet*. In Atlanta private 24-hour clubs were allowed on a members-only basis, but many clubs like *Backstreet* would sell low-cost memberships at the door in place of a cover charge. In addition, the local government changed its policy on allowing new private 24-hour clubs, although *Backstreet* was initially grandfathered in along with several other clubs. Subsequently the local government rescinded the grandfathering decision and banned all 24-hour clubs. *Backstreet* appealed this decision, but they were denied by the US District Court and were forced to shut down. Subsequently the License Review Board denied *Backstreet's* application to re-open as a restaurant and cabaret with bar service after a city council representative, Debi Starnes, spoke against the re-opening of the club (Henry 2004). Later when *Backstreet's* owners tried to operate as an alcohol-free dance facility, it was closed again for failing to obtain a dancehall license (which allows an establishment to permit dancing until dawn with no alcohol served). When the owners applied for a dancehall license, this application was also denied. At this point the owners simply gave up and closed their adjacent property, a bar called *The Armory*. Since that time a condominium tower, the *Viewpoint*, has been built on the block that housed both *Backstreet* and *The Armory*.

There has been some discussion of whether gay and lesbian bars can survive in the twenty-first century (Lee 2007b); a gay city council member for this district, Alex Wan, also wondered whether bars are as central a part of the “scene” any longer:

Backstreet has been replaced by technology to a certain degree ... That is kind of an extreme, but it is kind of true. The dance clubs are struggling not because there are less gay people but because people just don't do that as much as they used to.

One impact of these prominent bar closures has been a shifting of the “gay culture” of Midtown away from the long-standing gay neighborhood into more peripheral areas. Adriaenssens (2011) examined historical advertising in the gay press for

LGBT businesses in Midtown and notes that during the 1990s as many as 17 establishments were located in Midtown, but by 2011 there were only four LGBT businesses remaining. In 2012, *Outwrite Bookstore and Coffeeshop* also closed. This well-known bookstore had been located at the corner of 10th and Piedmont since 1996 and for over 15 years was a visible symbol of the queer community in Atlanta. The former owner links the closure of the bars with his decision to close the bookstore as follows:

As the clubs closed, there were less people out on the street at night, making it, in some ways, feel less safe. At the *Outwrite*, we could see a sharp decline in LGBT tourists who would come to Atlanta on the weekend. Where the nightlife had been a major attraction to visitors, it now became less appealing and many of those tourists stopped visiting or shortened their trips. And that was one of the things that cut into our business. We saw our tourist business go from a regular boost from Friday afternoon through Monday morning to a Saturday and Sunday only weekend tourist business; the business just began drying up.

(Interview, Philip Rafshoon, March 2013)

In fairness, he also recognized that other factors played a role in the declining sales at the store. These included: the opening of a new big box bookstore (*Borders*) at a nearby location, changes in people's book-buying habits (internet purchases), and the rise of e-readers. In any case, the loss of this queer institution in Midtown as a venue for political organizing, for meeting friends, and for staying abreast of the latest literature has created a large hole which will be very difficult to fill. A longtime political activist, "Joe," described the situation as follows:

There is a strong perception that 10th and Piedmont is the heart of the LGBT community in Atlanta. A very real perception. A lot politically goes with that perception. It is the heart and soul of the Atlanta community; when the community has a need to gather, whether it was to rejoice that Colorado's Amendment 2 was struck down by the Supreme Court... We gathered as a community at *Outwrite* Bookstore and then spilled out into the street. Now that *Outwrite* is closed, I worry about where we will gather in June of 2013 when the US Supreme Court rules on the two marriage cases it is considering.

(Interview, "Joe," March 2013)

Sex work and the banishment ordinance

Pressure to "clean up" Midtown also includes regular harassment of LGBT sex workers in the area. In their media releases the MPSA specifically targeted "cross-dressing prostitutes" (though the terms transgender and sex-worker are more widely used in academic discourse) by circulating photos and detailed descriptions of "repeat offenders" on the MPSA website and in its neighborhood circulars. A

recent article in the queer press reports that the Vice President of the MPSA drives around in an MPSA vehicle and “describes his patrols not as policing or vigilantism, but as a form of protest” against the presence of cross-dressing sex workers in Midtown (Nourae 2008). Unfortunately, he sometimes confused transgendered individuals who are out at night with cross-dressing sex workers according to several transgender rights activists quoted in the same article. Several MPSA circulars have described a “gang of transvestite prostitutes” as threatening Midtown residents (Midtown Ponce Security Alliance 2013). The Atlanta police dismissed this claim as hyperbole, reporting that there is neither greater crime in this neighborhood than in other Atlanta neighborhoods, nor evidence of sex workers operating in gangs. However a police spokesperson did suggest that when citizens follow and shine very bright lights on people walking in the street, the response of most people would be fairly strong (Bagby 2012).

In February 2013, the Chief of Police and the Mayor proposed an ordinance, Stay Out of Areas of Prostitution (SOAP), that was aimed at the problem of repeat prostitution (McWilliams, 2013). This proposed banishment ordinance (if accepted as proposed) specified that upon conviction for acts of solicitation of a sexual act (cf. Municipal Ord. Sec. 106.127) that the offender must serve 15 days in prison, pay a fine of US\$250, and must stay out of “Areas of Prostitution” as defined each year by the Atlanta Police Department for the remainder of the probationary period (165 days). For a second offence the perpetrator would stay longer in prison (60 days), pay an increased fine of US\$1,000 and may be banned from the corporate limits of the city for the remainder of the probationary period (120 days).

While this ordinance does not specifically target Midtown sex workers it does cover the entire city. The MPSA sent out a number of circulars and flyers to members of the Midtown Neighborhood Association, instructing them to show up at the February 2013 city council meeting to support the SOAP ordinance. However, a number of other social justice and LGBT activists also attended the meeting and raised such an outcry that the ordinance was tabled. The constitutionality of the ordinance was questioned along with its basic fairness. Three LGBT rights organizations submitted a letter opposing the ordinance in which the signatories indicated the legislation:

is rooted in homophobia, transphobia, and racism. We fall prey to a myriad of allegations that are baseless simply because we are viewed as “different.” It is a result of lifelong discrimination that we are forced into underground economies and are subject to the most egregious forms of violence, bullying and marginalization. By and large, engaging in sex work is an act of survival, not of choice.

(Quoted in Bagby 2013a)

In addition, a group of LGBT Midtown residents sent a letter that criticized the MPSA for excessive focus on transgender sex workers and cross-dressing individuals as reported by *Project Q*:

We live and work in Midtown, one of the areas most mentioned in this conversation. The news seems obsessed with a few people's claim that there are condoms and syringes littering our sidewalks. This is simply not true. ... We understand that some of our neighbors are getting an outsized amount of attention in this debate. As Midtown residents and business owners, we want to make it clear that they do not speak for the entire neighborhood and, in fact, the vast majority of us would much prefer to see the Council lead with solutions to help these women leave the streets for good. Please do not allow this terrible policy to be enacted in the name of Midtown residents and businesses.

(Quoted in Hennie 2013)

In a subsequent interview with Councilor Alex Wan in March 2013, he indicated that the SOAP ordinance is "dead, and likely to stay dead." Whether the MPSA agrees with this pronouncement remains to be seen.

Zoning out adult businesses on Cheshire Bridge

The next battleground in the efforts to clean up LGBT areas in Atlanta focused on the adult businesses and night clubs along the Cheshire Bridge Road corridor to the north and east of Midtown (see Map 11.1). Cheshire Bridge Road runs parallel and just south of I-85 between Piedmont and Lavista Roads. An examination of city planning documentation and zoning ordinances provides some interesting insights into the motivations behind what has been termed the "Battle for Cheshire Bridge" (Wan and Cardinale 2013). In 1999, a study of Cheshire Bridge Road was conducted under the auspices of the *Livable Cities Initiative* with the participation of a number of neighborhood residents, a handful of local businesses, representatives of developers, and City of Atlanta planning staff (City of Atlanta 1999).

The history section of the Cheshire Bridge study indicated that Woodland Hills and Lindridge-Martin Manor (refer to Map 11.1) were initially developed in the post-World War II era as cheap housing for returning veterans and as such the houses were small and inexpensive. During the 1960s the Cheshire Bridge Road corridor became commercialized, and during the next decade many of the original families moved to larger homes in the suburbs, leaving the area in a state of decline. In 1971 a drag bar, the *Sweet Gum Head* at 2284 Cheshire Bridge Road, opened and provided weekly drag shows that were quite popular (Chenault and Braukman 2008; see also Henry 2002). The Cheshire Bridge study also suggested that during the 1980s a number of singles and childless couples began moving into the adjoining neighborhoods drawn by the lower rent in the area. Because the report does not consider the sexual orientation of these singles and childless couples, it is difficult to know how many would have identified as LGBT. It seems likely that some of these people were attracted to the presence of the LGBT entertainment on the corridor. US Census 2000 data suggest that this might be termed a gay-friendly neighborhood with a small, but significant, number of same-sex partner households (5.3 per cent of households) – although, there is no way to identify the sexuality of un-coupled individuals.

The Cheshire Bridge study proposed that the corridor be re-zoned using the Neighborhood Commercial (NC) designation that had been used in other dense commercial corridors (Edgewood, Virginia Highlands, and Little Five Points). The fact that existing lot sizes, density, and the overall scale of buildings were quite different on Cheshire Bridge was not a problem because all existing uses were grandfathered in. The goal of the proposed re-zoning was to create a “delightful street featuring shade trees, outdoor cafes, fountains, public art, and an eclectic mix of restaurants, neighborhood businesses and specialty stores” (City of Atlanta 1999: ii). The study furthermore suggested that a heterosexual family orientation was “another idea for improving the corridor’s market image and unifying the corridor not just internally but with the surrounding neighborhoods” (*ibid.*: §3:7).

These proposals to create a heterosexual family space in Cheshire Bridge ignore the likelihood that a number of singles and couples in the area belong to a different “family” (i.e. LGBT). Accordingly, the recommendations of the Task Force appear to be intended to drive those non-normative elements out of the area. These recommendations completely ignore the fact that many of the enterprises along this corridor and some of the neighborhood residents are in fact LGBT. The authors of the report do make clear that they perceive a detrimental impact of adult businesses on prospects for future development, suggesting that:

the greatest hurdle to the successful redevelopment of Cheshire Bridge is the development paradox affecting the corridor. Although developers readily acknowledge that Cheshire Bridge has a near perfect location and ideal demographics, the private sector has been slow to invest, due in part, to the market image of Cheshire Bridge as a seedy run-down red light district.

(City of Atlanta 1999: §3:3)

Some of the identified problems with adult businesses include: large illuminated signs, windowless buildings, as well as their general state of disrepair that “constitute little more than a visual blight” (*ibid.*: §3:5). The report further suggested that these establishments “attract other businesses which while not technically adult businesses, provide many of the same goods and services and are perceived as such by the public” (*ibid.*: §3:6). This appears to be a veiled reference to gay clubs as distinct from adult businesses. The only oblique reference to an LGBT presence is in the Cheshire Bridge study’s “Table of Adult Businesses and Clubs” in the appendix, which lists nightclubs (some of which are gay) and adult enterprises in a single undifferentiated table (see Table 11.1). The failure to distinguish between adult businesses and LGBT-oriented clubs is part of the hetero-normalizing assumptions of this report. In an interview with planning staff from the City of Atlanta, officials indicated that no city planning documents made any reference to or acknowledged the presence of the LGBT population.

In 2005 the Atlanta City Council accepted the Cheshire Bridge Study recommendations and revised the zoning along the corridor by adopting the Neighborhood Commercial (NC) designation. Two NC districts were proposed, one at the south end (NC-5) and one at the north end (NC-4) of the Cheshire Bridge

Table 11.1 Adult businesses and clubs in 1999 in Cheshire Bridge study area

<i>Key</i>	<i>Address</i>	<i>Adult Business</i>	<i>2013 Status</i>	<i>Orientation</i>
1	1739 Cheshire Bridge Rd	Inserecton		LGBT
2	1888 Cheshire Bridge Rd	Palomino Club (now Onyx)		STR8
3	1891 Cheshire Bridge Rd	Uptown Novelty		STR8
4	1893 Cheshire Bridge Rd	Naughty Girls Lingerie		STR8
5	1905 Piedmont Circle	The Male Room (now Peek-A-Boo)		
6	1907 Piedmont Circle	Living Lingerie Modeling	(Closed)	
7	1916 Cheshire Bridge Rd	Showgirls	(Closed)	
8	2043 Cheshire Bridge Rd	Bare Necessities (Now BJ Roosters)		LGBT
9	2050 Cheshire Bridge Rd	Doll House		STR8
10	2205 Cheshire Bridge Rd	Southern Nights Video		LGBT
11	2275 Cheshire Bridge Rd	Starship		LGBT
12	2284 Cheshire Bridge Rd	24K Club (now Bliss)		LGBT
13	2175 Cheshire Bridge Rd	The Poster Hut	(Closed)	LGBT
14	1905 Piedmont Road	Hot Spot Lounge (now Kamal's)		STR8
15	2075 Piedmont Road	Tattletale Lounge		
16	1890 Cheshire Bridge Rd	Club Menergy	(Closed)	
17	2065 Cheshire Bridge Rd	Coconut Club	(Closed)	
18	2069 Cheshire Bridge Rd	The Heretic		LGBT
19	2115 Faulkner Rd	The Chamber (now The Jungle)		LGBT
20	1789 Cheshire Bridge Rd	Industry	(Closed)	
21	2345 Cheshire Bridge Rd	Buddies (was BJ Roosters)		
22	1086 Alco Rd	Opus #1		LGBT
23	2329 Cheshire Bridge Rd	Club 112	(Closed)	

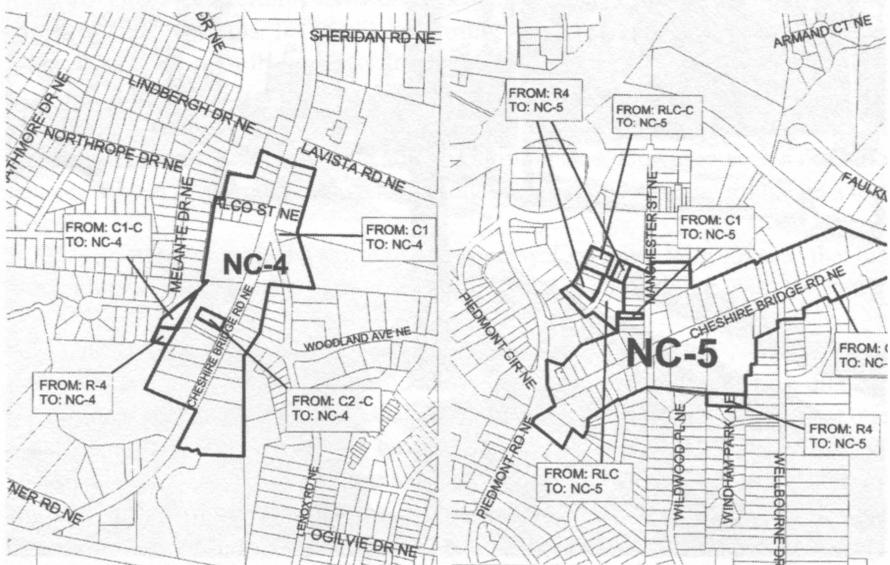
Source: Adapted from Cheshire Bridge Road Corridor Study, 1999 with additions in **bold** by the author.

corridor, leaving an industrially zoned area in the middle outside of the NC designation (see Map 11.2). The NC designation established a number of non-conforming uses, including adult enterprises, auto repair shops, and car washes, but recognized and permitted any existing non-conforming enterprises. The NC land-use designation called for any new businesses to adhere to a number of structural changes: converting parking lots to the rear of the building, plus using the larger front setbacks for wider sidewalks, street furnishings, and landscaping to accomplish the more walkable feel envisioned in the Task Force Report. In addition, the NC zoning established square footage requirements for various kinds of permitted enterprises: less than 2,500 square feet/232 square meters for bakeries, laundries/dry cleaners, and tailor/dress-making shops; less than 8,000 square feet/743 square

meters for most other permitted uses with the exception of grocery stores which could be up to 15,000 square feet/1,394 square meters.

It is not clear to what extent the gentrification and cleansing of Midtown has resulted in more gay bars opening along the Cheshire Bridge corridor where the mix of adult entertainment venues (mostly heterosexual strip clubs and porn shops) provided a more accepting location. It is clear that businesses and LGBT customers along Cheshire Bridge are concerned that what happened in Midtown could happen here as well. Adriaenssens (2011) found that in 1990 there were nine LGBT establishments along Cheshire Bridge that featured a variety of LGBT themes, including: drag show cabarets (*Lipstix*), sports bars, as well as two AIDS service organizations. By 1998 the same author found that the number of LGBT establishments had increased to include *The Chamber* (a BDSM club) and *Mid-City Fitness*. However, by 2011 the number had dropped somewhat with a mix of gay clubs, gay-oriented porn shops, and a gay strip club.

While the category adult business does not technically include LGBT night clubs, there are a number of LGBT-oriented establishments that are classified as adult businesses. In 2013 several gay porn shops continue to operate in this area including: *Inserction*, *Southern Nights*, *Starship* as well as *Bliss* which is a gay strip club. Other adult establishments along the Cheshire Bridge strip such as: *Uptown Novelty* (see Figure 11.2), *Naughty Girls*, *Doll House*, and *Onyx* mainly cater to a straight clientele. By 2013 the list of gay clubs was reduced to *The Heretic* (see Figure 11.3), *The Jungle*, and *BJ Rooster's*. Several establishments have closed including the gay country and western bar, *Hoedowns*, and the BDSM club known as *The Chamber* which has been replaced by *The Jungle*.



Map 11.2 NC-4 and NC-5 from the Atlanta City Council Ordinance.

Source: City of Atlanta, proposed zoning map changes

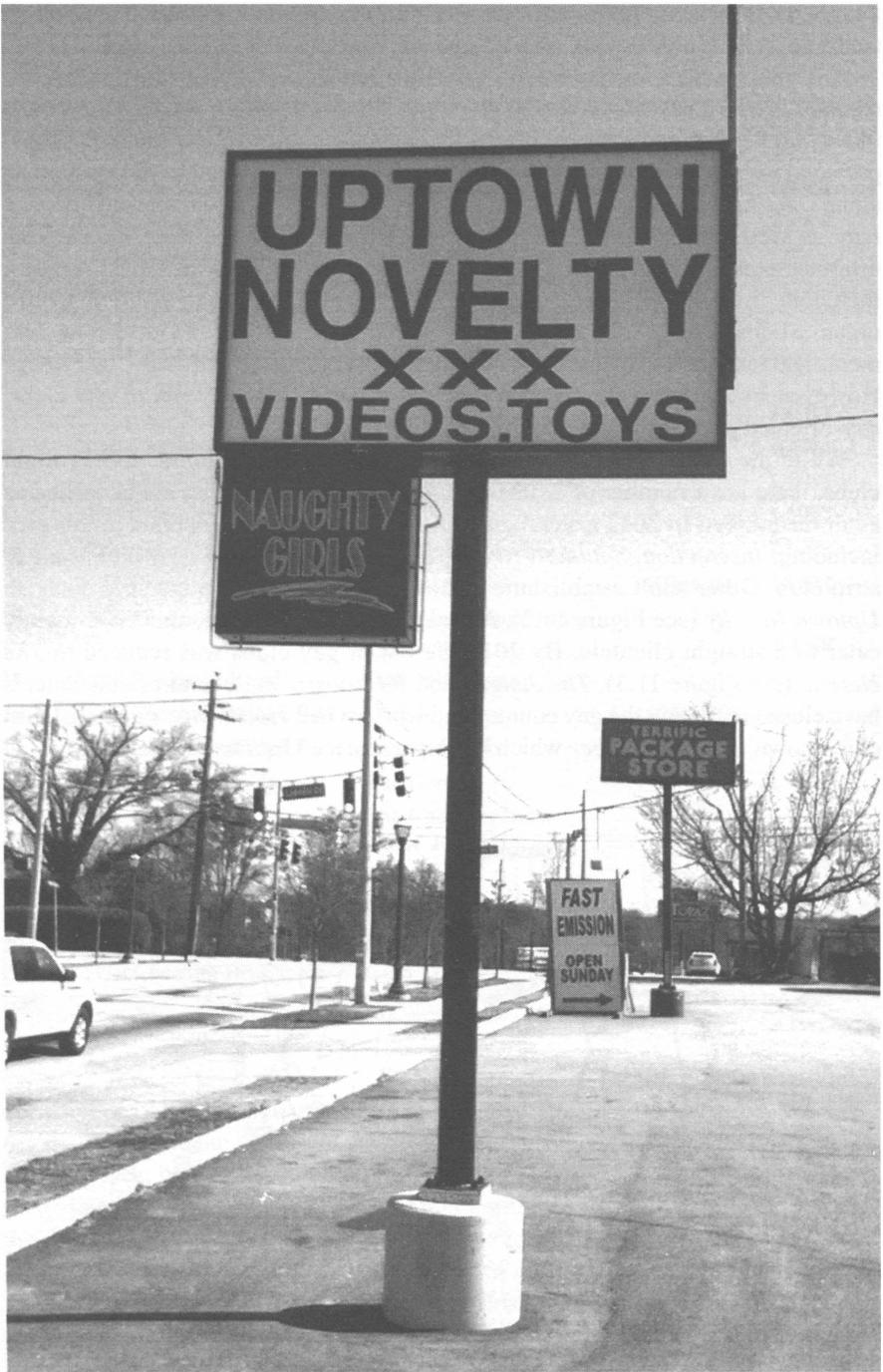


Figure 11.2 Adult businesses on Cheshire Bridge Road.

Source: Petra Doan

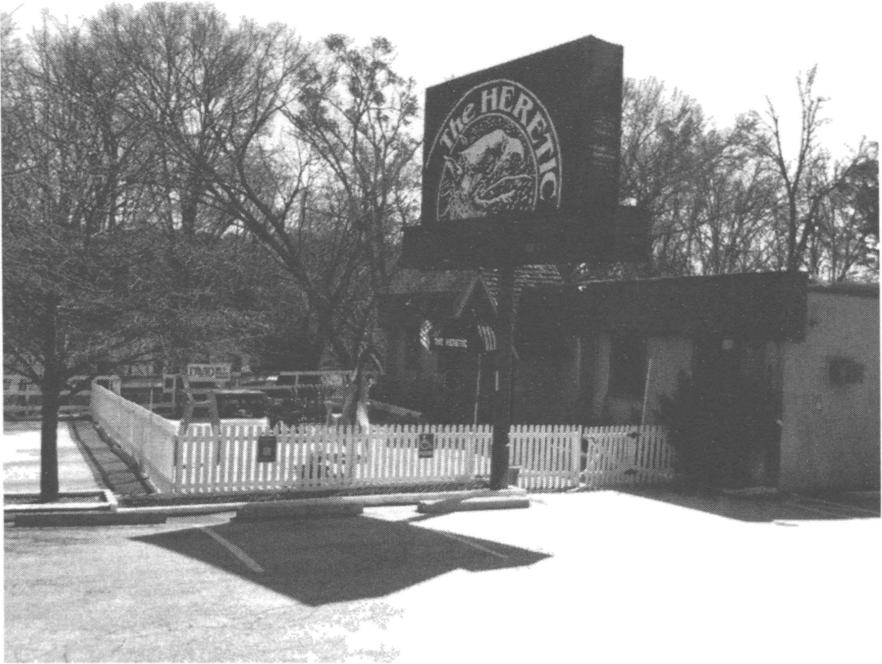


Figure 11.3 The Heretic on Cheshire Bridge Road.

Source: Petra Doan

In 2012 City Councilor Alex Wan proposed a zoning change that would remove the grandfather status for non-conforming uses and allow non-conforming businesses to remain in business for two years to allow them to re-coup their investment before being forced to close. According to Wan, this type of measure is based on Georgia Supreme Court case law that allows local governments in principle to shut down pre-existing non-conforming uses. However, such a measure has never been implemented to date making the proposed Atlanta ordinance a test case.

This proposal provoked a storm of controversy. Councilor Wan stressed that his legislation is only intended to have an impact on non-conforming uses:

This is really targeted at non-conforming uses within the Neighborhood Commercial (NC) designation. Adult businesses, auto repair shops, and car washes are all not permitted uses. Except if you are a permitted use and not one of those three and yet you have 8,001 square feet, then you are a non-conforming use. So if you are a restaurant with 8,001 square feet, right now you are a non-conforming use. And the legislation as written would say you have two years unless you can prove you need more time. This is a problem. That was not the intent of the NC designation of the amortization legislation... 8000 square feet on Cheshire Bridge is a very different conversation than the

8000 square feet on the corner of Virginia and Highland. Virginia Highland is another NC, Kirkwood, Edgewood, Little Five Points all NC. 8000 is a lot and it overwhelms those intersections. Cheshire Bridge is a little different because land lots are much bigger and it is a four lane highway or road so 8,000 may not be the right threshold for Cheshire Bridge for conforming/non-conforming uses.

(Interview, Alex Wan, March 2013)

When asked about the 1999 Report's failure to distinguish between gay clubs and adult enterprises, Councilor Wan responded as follows:

That was the 1999 study, but what was actually implemented and codified in terms of planning from the city's perspective in 2005 does make a distinction between clubs and bars, largely because the city views them very differently. The NC designation supports bars and clubs, but it does not prohibit them, except for a random square footage threshold. It does lump all adult businesses together, porn shops, sex clubs, strip joints are all kind of lumped together. But that said, I don't have a problem with that, the three of them being lumped together, because from a neighborhood development perspective I don't know that there is a distinction between or why you would want to make a distinction ... Adult businesses versus clubs are very different things. I argue or would submit to you that, the gay clubs, the dance clubs, probably have more clientele and impact more people than the adult businesses. And I respect that and I understand the importance of that as a communal place and therefore made sure that those places were protected and are excluded from this ordinance.

(Interview, Alex Wan, March 2013)

Because the size restrictions would have required some existing permitted use businesses to close within two years, in April 2013 the proposed Zoning Ordinance was amended yet again to specify that only non-conforming land uses had to meet the square footage requirements, allowing permitted land uses to exceed the size restrictions in the NC ordinance (Blau 2013). This amended zoning ordinance was passed by the city zoning committee in May 2013, but several days later was voted down by the full Atlanta City Council after numerous complaints by the businesses affected and their patrons (Bagby 2013b).

The more critical question about gay clubs that was not addressed is: if the desired redevelopment had occurred, would the "new" inhabitants of the proposed apartments and condominiums have been equally tolerant of the gay clubs as Councilor Wan? Several business proprietors serving the LGBT community also raised concerns and questions about the redevelopment of Cheshire Bridge. A business manager on the corridor, "Sam," said he had:

mixed [feelings] about the possibility for redevelopment along the strip; on the one hand if I get 10–15 per cent more customers this would be good for

business, but on the other hand I'm concerned that all these changes will have an effect on the gay-friendly nature of the strip.

Another business manager, "Fred," also indicated similar concerns. He said: "If redevelopment brings in lots of new people and changes the nature of the corridor, then my business might suffer." Both respondents also echoed concerns that what had happened to Midtown could be repeated on Cheshire Bridge. Finally, "Mary," an LGBT business owner not located in Midtown or Cheshire Bridge, felt that these changes were part of a larger pattern and were likely to have large ripple effects throughout the Atlanta LGBT community.

It is clear that one of the underlying motivations in the attempted removal of adult businesses is the desire to attract more high-end investors. Both Selig Enterprises and Fuqua Development have properties or development proposals for the corridor (Wenk 2012) and seem eager for these changes to occur so that their redevelopment can begin in earnest. Matthew Cardinale, editor of the *Atlanta Progressive News*, is quite concerned about how this high-end development will change his neighborhood:

I have been fortunate enough to live off of Cheshire Bridge since 2011, in a jewel of a multi-racial community on Woodland Avenue, that is one of the last bastions of affordable, multi-family rental housing in all of Buckhead and Midtown. This is what Wan and his second-wave gentrifiers wish to destroy the most, so they can make way for more repulsive condos and luxury apartments made of ticky-tacky that no working family can afford. Cheshire Bridge, in my view, became the new Midtown several years ago after the second wave of gentrification in Midtown entered full swing, displacing the working class homosexuals who fixed up the place. So, do we, the gay community, allow *The Jungle* and *The Heretic* to go the same way as *Backstreet*? Do we allow another community to be yuppified, buppified, and sterilized – forcing us, the gays who wish to party, to some industrial area in the outskirts like Mr. Wan envisions, perhaps Fulton Industrial, where we can dance the night away in one of the worst pollution hotspots in all of the metro Atlanta area?

(Wan and Cardinale 2013)

When Councillor Wan was queried about the need to protect LGBT neighborhoods, so that Cheshire Bridge would not follow Midtown, he responded as follows:

Well, my mandate is to improve the quality of life of my constituents, it is to enhance the community in whatever way I can, and part of that effect is increased property values. What you are saying is fair; that one of the consequences is the folks who can't afford the increases must then find other places to be. And one of the things that gets lost in that, are these gayborhoods. I understand why Midtown was considered a gayborhood, I just don't see it as much on Cheshire Bridge, but perhaps I need to look into a bit more closely.

(Interview, Alex Wan, March 2013)

Towards a better understanding of “queer space”

There are critical lessons to be learned from this case concerning the fragility of “queer spaces.” While the level of acceptance in US society for LGBT individuals is increasing, the ability of this community to establish and preserve queer spaces is constrained for several reasons. Definitions of who are included under the queer umbrella is part of the issue – do transgendered sex workers, for example, constitute part of the community or are they a nuisance? The definition of what constitutes an LGBT space is also challenging. As with any other space, queer spaces are in a constant state of flux; they are either emerging as a queer space or in a state of decreasing queerness due to resurgent gentrification. Furthermore, most Census statistics do not reveal sexuality (in the US context same-sex partners are now recorded, but not those who are single) or gender identity, making it somewhat difficult for planners to make the case for preserving queer spaces.

The increasing gentrification of the Atlanta case is a prime example of the often transient nature of LGBT neighborhoods. Local government can act to further the interests of capital (large developers and financial investors) by treating LGBT clubs and social gathering places as nuisances that need to be cleansed from the urban environment, or it can seek to recognize the unique character of the neighborhood (see for example: the Castro in San Francisco, Boystown in Chicago, Canal Street in Manchester, England, the Gay Village in Toronto, Canada, and Lower Oxford Street in Sydney, Australia, to name a few) by investing in marketing and in some cases celebrating the diversity that these places represent.

Local authorities also have a choice about how to treat businesses with a more adult nature that often include LGBT enterprises with more overtly sexual interests. Porn shops and sex clubs are often subject to heavy regulation intended to “preserve property values,” but as the Atlanta case makes clear such regulation appears to be more about preparing urban land for redevelopment. In the case of Cheshire Bridge Road, gay clubs and adult enterprises have existed along this section of the city for at least 40 years and anyone who moved to an adjacent neighborhood knew just what they were doing. Arguments about “preserving a family orientation” are really about attempts to change the character of the street so that some people can benefit while those who own, work and patronize the clubs will be pressured to move to some other unspecified location. While representatives of the local authority argued that this move was not about closing gay clubs in particular, the fact that so many gay clubs had been closed in Midtown over the past decade made this an intensely political battle. When one of the few spaces that LGBT clubs are allowed to operate is in an adult entertainment area, efforts to close down adult enterprises are easily confounded with anti-LGBT efforts. It is hard to disentangle which form of discrimination is operative and thus makes the regulatory process a highly contested one.

Conclusions

This chapter has examined a range of actions taken by municipal officials and citizen groups in Atlanta to “clean up” the Midtown district and surrounding areas.

Any one single action might seem innocuous, but the ongoing pattern of municipal actions has to be seen in its entirety. While the stated intent of these actions may have been to stimulate redevelopment and “increase property values,” the cumulative effect of these actions has been to force LGBT institutions to close and individuals to move away from Midtown. These actions include: the shuttering of all-night private clubs; stringent enforcement of licensing for bars and dancehalls that forced *Backstreet* to close for good; the harassment of transgendered individuals who may or may not have been involved in sex work; the proposed city-wide SOAP ordinance vigorously promoted by the Midtown Ponce Security Association; and the proposed re-zoning of Cheshire Bridge intended to drive out adult enterprises including related LGBT venues.

LGBT residential areas are changing throughout the US and Canada as neighborhoods struggle to cope with gentrification, the ongoing ravages of the HIV/AIDS epidemic, and changes in lifestyle and technology that have undermined both gay clubs and bookstores. In the US, the Castro in San Francisco has experienced such increases in property values that many young LGBT people can no longer afford to live there (Buchanan 2007), and the Gay Village at the intersection of Church and Wellesley in Toronto has experienced an exodus of gay residents and businesses due to high rents (Balkissoon 2009). However, some cities are being proactive to ensure that safe residential and recreational zones for the LGBT community are preserved (Dubrow 2011). Atlanta has not chosen to follow this path, but instead is attempting to cleanse these neighborhoods of any hint of non-normative sexuality to make them attractive places for heterosexual families that a generation ago fled to the suburbs.

Although Atlanta city officials take pride in the informal slogan of “Atlanta, city too busy to hate,” this chapter has suggested that the city has also become so obsessed with property values and traditional family values, that it has become the city too busy to preserve and protect its non-heterosexual neighborhoods. In fairness, several respondents also noted that Atlanta has not done a good job preserving any of the ethnic or minority neighborhoods in the city. However, the overall impacts of the actions reviewed in this chapter seem likely to once again have a disproportionate effect on sexual and gender minorities and force LGBT activities to the margins of the city.

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Charletta Jacks, Director of City Planning, City of Atlanta
"Joe," politically active gay man
"Mary," LGBT business proprietor
Philip Rafshoon, former owner of Outwrite Books
"Sam," LGBT business manager
Alex Wan, City Council Representative for District 6
Tom Weyandt, Planning Advisor to Mayor Kasim Reed

12 Legal landscapes of erotic cities

Comparing legal “prostitution” in New South Wales and Nevada

Penny Crofts and Barbara G. Brents

Introduction

The night-time economy is increasingly important to globalized cities and scholars are beginning to pay attention to how sexuality is implicated in the development of the urban landscape (Hubbard 2012a; Doan 2011; Prior and Crofts 2011; Collins 2006; Bell and Valentine 1995). Cities have always been places where the free flow of sexual liberalism creates a bounty of sexual commerce and a panoply of sexual identities. While erotic dance, pornography, and sex clubs have become increasingly mainstream (Sanders and Brents 2010) – the sale of sex – remains largely in the shadows, highly stigmatized, often illegal.¹ Little of what we know about the (sub)urban sexscape comes from international comparisons, especially those looking at those few global cities where prostitution is legal. This chapter explores two world cities of sex (Hubbard 2012b):

- Sydney in New South Wales (NSW), Australia; and
- Las Vegas in Nevada, United States (US).

NSW has been recognized as having the most liberal legislation on prostitution in Australia (Sullivan 2010) – the sale of sex is decriminalized and brothels are legal in the city of Sydney. Las Vegas’s economy has prospered dramatically as “Sin City” is in the only state in the US where prostitution is legal, yet prostitution is not legal in the city of Las Vegas.

This chapter will compare the development of sexual regulations and the contemporary legal landscape. The following discussion demonstrates that despite both states legalizing brothels, there are important differences. This chapter examines several key issues. First, the Nevada and NSW regulatory regimes are contextualized, highlighting common assumptions and factors, yielding different outcomes and organization of space. Next, the contemporary legal regimes are detailed. In both regimes the conceptions of space condition the legal approaches. These include: local versus regional controls; perceptions of disorder; and, the importance of visibility in the (il)legality of sex work. In both states, and in particular, Sydney and Las Vegas, global flows of migrants, servicemen and tourists have important implications for the constitution of their legal regimes. The chapter concludes with a focus on the constitution and

evaluation of space. Although both states have taken into account similar factors in the legal regulation of brothels, the resulting moral geographies are very different.

Space and sex work

While there has been a great deal of analysis of sex work in terms of health, safety, and violence (Lewis *et al.* 2005; Wahab 2005; Lowman 2000; McKeganey and Barnard 1996) there has been relatively less research on the political economy, or geography of sex work. This investigation draws upon the insights of legal geography, particularly the concept of nomosphere, to begin to illuminate points of comparison in the regulation of sex work. Delaney (2010: 6) coined the term “nomosphere” to integrate analysis of law and space, to emphasize the “mutual constitution of the legal and the spatial and their intertwinement with power”:

That space signifies is incontestable. But what it signifies is dos and don'ts, and that brings us back to power.

Law is one of the discourses that contributes to the production or constitution of meaning in lived material spaces; it signifies the “dos and don'ts” (Lefebvre 1991). The concept of the nomosphere is a reminder when examining the law to consider not only the impacts on people, but also, on space. In turn, materiality is constitutive of law (Manderson 2005) – law is given material, spatial and cultural expression in particular settings, impacting on the legal, social and spatial relations of specific communities (Hogg 2002). Law is an expression of power – not only in its constitution of meaning but through enforcement.

Nomosphere then refers to the cultural-material environs that are constituted by the reciprocal materialization of the “legal” and the legal signification of the socio-spatial, and the practical, performative engagements through which such constitutive moments happen and unfold (Delaney 2004). Nomosphere is used in this chapter to question how traces of the spatial imaginary variously condition legal performances – such as the policing and regulation of sex work – and how legal materialities condition spatial imaginaries – such as expectations of city and rural living and the (un)acceptability of the intersection of vices. The concept of nomosphere is a reminder that spatial and legal meanings are not inert and pre-existing but are contingent and constructed. It encourages us to think beyond the binaries of law and space, and instead to consider the ways in which legal meanings circulate through spatial forms, and vice versa. This concept of nomosphere highlights the historical contingency and contested nature of the legal regulation of brothels, and provides an explanation for the different moral geographies in Nevada and NSW despite the common legal element that brothels are lawful enterprises in both states.

Contextualizing regulatory regimes: contesting vice in (sub)urban space

As former colonies, both NSW's and Nevada's prostitution laws have historically been based on British common law, which addressed prostitution indirectly as vagrancy or nightwalking. In other words, laws targeted individuals (women in particular) who were in the "wrong public spaces" as problems related to regulating social disorder (Luker 1998). In both regions, the criminal justice system was historically dominant in the regulation of sex work. Not surprisingly, as cities grew, problems related to "vice" were to be controlled through containment seen to separate "normal" sexualities (i.e. families, monogamy and heterosexuality) from "abnormal." In the early 1900s regulators and the criminal justice system passed laws reinforcing gendered discourses of morality in identifying (in)appropriate spaces for sex work. These histories also highlight approaches when dealing with outsiders, migrants and transients in growing global cities. During and after World War II, the flow of tourists and US military personnel impacted the organization of sex work. However, despite these commonalities the ways in which moral discourses unfolded in the US drove the contemporary nomosphere of sex work in a different direction from that of NSW.

Development of the regulatory regime in Nevada

While sex work and red-light districts flourished in industrialized and highly populated eastern US cities such as New York City, Boston, Philadelphia in the late 1800s, by the early 1900s middle- and upper-class reform movements agitated for laws to control the large influx of immigrants and poor people whose sexuality and family life was seen as producing social disorder (Best 1998; Luker 1998; Gilfoyle 1992, 1999; Hobson 1990). National, state and local laws were passed to legislate "proper moral" behavior against drinking, gambling, obscenity and prostitution. Among these were local regulations for licensing saloons and dancehalls so they could be monitored for potentially harming public health and safety. These laws placed control for monitoring "lewd" behavior, both of individual women and businesses under the criminal justice system. During World War I laws increasingly targeted working-class women seen to threaten the health of US soldiers, and many US cities passed laws criminalizing vagrancy, living off the earnings of a prostitute, pimping and inducing women to enter prostitution. Cities in the mid-west and eastern US, for example, eventually criminalized prostitution altogether (Luker 1998; Gilfoyle 1992; Hobson 1990). Similar to Sydney, these laws drove prostitution underground and fostered an extensive shadow economy.

However, the arid western third of the US was just beginning to populate. Nevada, in particular, did not have a significant population until a gold rush in the late 1800s brought 40,000 white settlers to the state. The state's early mining economy developed in fits and starts, as Nevada's largest cities came and went in the space of a decade as mines prospered then dried out. One southern Nevada town, Goldfield, rose from one tent to 20,000 and fell back to 5,400 between 1903 and 1910 leaving it still the second largest city in Nevada at that time. It fed

the tiny supply town of Las Vegas, whose population would not pass Goldfield's peak until after World War II. Reno, Nevada's largest town in 1910, did not reach a population of 20,000 until 1940 (Brents *et al.* 2010).

In these boom and bust mining towns, adult entertainment and sexualized service industries were among the more staple components of the local economy. Most towns had saloons, dancehalls, brothels and cribs located in specific sections of town, near, but often off main streets. Like the rest of the US prior to the turn of the twentieth century, the few official zoning ordinances were justified under a legal discourse designed to separate red-light districts deemed potentially harmful to the public health, safety welfare and morals from other parts of the town (Brents and Hausbeck 2001). Brothels brought economic stability, and as towns like Ely, Winnemucca, Elko, Beatty, Reno and Las Vegas kept their brothels as a result of the development of railroads and later intra- and inter-state highways. Until the 1950s, few laws addressed prostitution except those regulating a brothel and dancehall's distance from main streets, schools and churches, and laws against living off the earnings of a prostitute.

The laws that attempted to control morality in the industrialized eastern US cities never had much of an effect on Nevada's nomosphere initially. The rugged west with its mining and ranching economy developed a neoliberal ideology early on and resented federal regulators who attempted to control social and economic life. Not only did Nevada resist the regulation of morality and vice, by mid-century, they began to capitalize on it. The state benefitted from its "Wild West" image as tourism increased generally in the 1920s through to the 1940s. In a strategic move to capitalize on the tourist thirst for vice, the state officially legalized gambling, and "quickie" marriages and divorces in the 1930s. Shortly after World War II the state's largest cities, Las Vegas and Reno grew tremendously as a result of changing sexual morals and several large federal military projects in the state. Today these remain the only urban areas in a very rural state having grown almost entirely from a global tourist and service economy.

During World War II a nationwide crackdown on prostitution to protect the "health" of servicemen closed most of the remaining brothels in the US. Interestingly, during World War II there was a huge increase in gambling related tourism. After World War II the federal government launched highly publicized attacks against organized crime and targeted syndicates that controlled Las Vegas and Reno gambling. Elected state and local leaders in the big cities of Reno and Las Vegas now depended on the casino economy and had too much to lose if gambling were to be made illegal. In order to make gambling appear legitimate, prostitution was declared illegal.

By the 1960s, the resort cities of Reno and Las Vegas, now with populations nearing 50,000 and 130,000 respectively, shut down prostitution but this practice continued in rural counties. As gambling brought more tourists to urban regions, rural-based brothels became more dependent on those passing through town – tourists, truckers and miners – en route to Reno and Las Vegas. In the late 1970s local officials in a few rural areas began to enact codes to license and operate brothels (Figure 12.1). Urban legislators battled to criminalize prostitution in the

entire state, but were only able to achieve a compromise law in 1971. The compromise made prostitution illegal only in those counties with a population over 400,000. This inadvertently gave rural counties the freedom to legalize prostitution. Local cities and counties unwilling to change the status quo passed ordinances licensing those brothels that already existed and made independent prostitution illegal (Brents *et al.* 2010).

Development of the regulatory regime in New South Wales

Similar to the US, Australia, prior to the twentieth century, viewed prostitution as a crime of disorderly behavior in the “wrong” spaces. In NSW, prior to 1908, there were no explicit offences for prostitution. Rather, prostitutes were prosecuted for “loitering,” “riotous” or “indecent behaviour” under successive *Vagrancy Acts* (1851, 1901, 1902). In 1908, legislation began to explicitly regulate sexual morality in public spaces. The 1908 *Police Offences (Amendment) Act* amended the *Vagrancy Act (1905)* to create the offence of “being a known prostitute, [who] solicits or importunes for immoral purposes any person who is in a public street, thoroughfare or place.” The 1908 *Act* also created new offences effectively of pimping, living off the earnings of a prostitute, and being the owner, occupier, agent or manager of any property who induced or suffered women he knew to be a common prostitute to be in such premises for the purposes of prostitution. As



Figure 12.1 *The Resort at Sheri's Ranch*, Pahrump, Nye County, Nevada.
Source: Barb Brents

elsewhere, the *Act* effectively reorganized but did not eliminate prostitution in Sydney. This is an example of nomosphere. That is, the enactment of law produced spatially whereby, in this case, the demand for prostitution remained unchecked, but women who had previously worked freelance were driven indoors to become employees of big brothel operators (Select Committee of the Legislative Assembly on Prostitution 1986).

While the legislation from the 1920s to the 1940s prohibited men from running brothels, it did nothing to stop women from controlling and running criminal enterprises. This was depicted in the Australian television series *Underbelly: Razor*, broadcast by Nine Network in 2011, where the key female characters, Tilly Devine and Kate Leigh, ran illegal “grog” and prostitution businesses in Sydney. Devine provided a range of sexual services depending on the customer. She employed elite “call girls” for state politicians, prominent business figures and visiting overseas guests of significance and “tenement girls” for poorer clients (Writer 2001). Leigh was a criminal entrepreneur and known as “The Queen of the Underworld,” she sold illegal alcohol, drugs and prostitution. Both of these women depended on support from male-led criminal gangs and bribes to the police.

In Sydney, the inner-city, particularly the Kings Cross area, became a center for organized crime with police, as well as potential customers and workers looking for illegal activities such as gambling, prostitution, “sly grog” and drugs. Not surprisingly, at the same time, Kings Cross had also become noted for its cosmopolitan and sophisticated ambience, including music and theatre. During the 1920s the city of Sydney experienced more apartment construction than any other local government area in the state. The flats brought a “‘modern high rise culture’ with them, a new, ‘free’ style of city living” (Kirkpatrick 2007: 48). By the end of the 1920s, Kings Cross was known as the place where continental Europeans fleeing the rise of fascism chose to live (Spearritt 1978).

Out of this entertainment and vice district grew a thriving “(sub)urban sexscape” (see Chapter 2, this volume). During and after World War II, Kings Cross became known as a red-light district with a growth in nightclubs and strip clubs, black market trading and rampant prostitution (Butel and Thompson 1984). This was due to architectural and geographical specificities, including the convenient location of a naval base nearby. During World War II, Kings Cross was inundated with American servicemen who resided while on leave in a number of the old mansions and other adapted use residences. The notion of Kings Cross as an entertainment and red-light district attracted people to the area, in turn confirming its reputation.

Legislation was promulgated specifically with Kings Cross in mind. The *Disorderly Houses Act 1943* (NSW) created offences of being an owner or occupier of a declared premise. A declaration that a place was a “disorderly house” enabled prosecutions to be undertaken for the offences of owning, occupying or being found on such premises. Initially, the main purpose of the reforms was to keep American servicemen out of “sly grog” shops and unlicensed nightclubs by closing the venues. The local government was concerned that nearby residents may be disturbed by drunken and/or indecent behavior by servicemen visiting such premises. At roughly the same time the federal government in the US was passing

regulations against prostitution purporting to protect soldiers from disease. In NSW legislation was also introduced to protect the community from the American soldiers, who were “over-paid, over-sexed, and over here” (Darian-Smith 2009).

At the end of the 1960s a second influx of American servicemen “invaded” Kings Cross. Rest & recreation (R&R) leave from the Vietnam War began in October 1967 and lasted until August 1970 (Ellis and Stacey 1971). A new crop of visiting soldiers over-ran Kings Cross’s now established entertainment, illegal casinos and sex businesses. This confined geographical space became infamous for crime, vice and corruption. Subsequently, new and harsher prostitution offences were introduced under the *Summary Offences Act 1970 NSW*. As a consequence of these reforms “prostitution became less visible, literally and figuratively” (NSW Select Committee 1986: 246).

Despite attempts to control prostitution, business thrived. Paradoxically, these new harsher laws increased the power of pimps and certain brothel owners and facilitated police corruption. Brothel owners and sex workers paid police so that they could not only operate in specific geographic areas but they also received their protection. Following a series of thwarted attempts in the 1960s by the NSW police to use to the *Disorderly Houses Act* to close brothels and other premises that supported sexual deviance,² the NSW government amended the *Disorderly Houses Act* to enable closure. The selective enforcement by police did not revolve solely around the protection of particular workers and operators, but was also geographic. The focus of the police was on Kings Cross, reflecting and reinforcing an assumption of the absence of this type of vice outside of the city (Prior and Crofts 2011).

Between the 1970s and 1990s, while the US (except Nevada) had fully criminalized prostitution, Victoria, Queensland, the Northern Territory and Western Australia amended laws to allow some forms of brothels and/or indoor prostitution (Sullivan 2010). NSW was the earliest state to change prostitution laws, and in 1979 NSW decriminalized most prostitution related offences; these have continued in the same form to the present day.

Although legislative reforms in the 1970s had removed the offence of keeping a brothel, the NSW police undermined these reforms. They resuscitated the rarely used *Disorderly Houses Act 1943* and an increasing number of declarations that a premise was a disorderly house were sought. During the early 1990s police reliance upon the *Disorderly Houses Act 1943* (NSW) to shut down brothels was aided by the decision in *Sibuse Pty Ltd v. Shaw*, where the Supreme Court held that a brothel was a disorderly house whether it was well run or not. For a short period this decision lead to an intensification of NSW police closures of brothels and other forms of sex industry premises.

In 1995, the *Disorderly Houses Act 1995* (NSW) provided in section 16 that a “declaration under section 3 may not be made in respect of a premises solely because... the premises are a brothel.” As a consequence of this amendment, local councils were given the power to regulate sex-services premises through their planning powers, governed by the *Environmental Planning and Assessment Act 1979* (NSW). Brothels are now technically able to operate like any other legitimate business.

Both Sydney and Las Vegas developed thriving sexual economies despite any legal prohibitions, in part driven by regional and global economies, tourists and migrant workers (soldiers, miners, truckers and seamen). In both states, legal images and meanings circulated through spatial forms that were legible to potential customers, workers and law enforcers. In both cities, prostitution was initially tolerated, and operated in a quasi-regulated status of patronage and payoffs overseen by the criminal justice systems. Since the early twentieth century, sex work regulations were informed and shaped by assumptions about appropriate spaces for sex work. In both NSW and Las Vegas, police and law enforcement had considerable power in interpreting and carrying out (or not) the law. In Nevada, the city of Las Vegas legitimated the vice of gambling by separating and excluding prostitution from those downtown spaces where profitable casinos now operate. As with the regulation of other forms of commercial sex (see Chapters 2, 3, 8, and 11, this volume) brothels were relocated to peripheral locations outside big city limits. The increasing visibility of prostitution in these urban areas made them more susceptible to the post World War II dominant nomosphere in the US that considered prostitution a moral crime. Even in rural areas that permitted brothels that aim was to keep them off main streets and restrict advertising to keep them less visible. In the US nomosphere, prostitution was legally and spatially outlawed. At the same time, Las Vegas then and now continues to capitalize on its reputation as “Sin City.” In contrast, in NSW, gambling and prostitution were historically limited and restricted to a small geographic area in the inner city, with an aim to protect the suburbs and family values from the vices of the city. The NSW nomosphere now permits the legal inclusion of prostitution within the confined spaces of the city.

Current local regulations

Both NSW and Nevada’s systems have been strongly influenced by their emergence as globalizing cities and economies that rely heavily on commercial sex including prostitution and other form of adult entertainment in the form of cabaret shows, cocktail waitresses and showgirls. While morality politics framed politics in the early twentieth century, contemporary neoliberalism provides the important backdrop for twenty-first century regulation in both regions, though not without contradictions.

The chapter now moves to comparing the current nomosphere in the two globalizing cities of Las Vegas and Sydney. The focus here is on: (i) the regulatory authority and structure; (ii) business and worker regulations; and (iii) locational restrictions. What becomes clear is that both systems are organized to control the visibility of sexual commerce, regulating sexuality through the ordering of space. This is done slightly differently in each region. Both systems are relatively decentralized, though in different ways. Despite an anti-regulatory neoliberal rhetoric toward most businesses in the US, local districts regulate brothels as a moral threat, imposing tight restrictions ostensibly to protect public safety, health and welfare. Prostitution is not allowed outside brothels. NSW tacitly regulates brothels in the same way as other legitimate businesses – more regulations are

imposed on businesses generally than in the US, but there are far fewer rules for sex businesses. Notably, in NSW sex work outside of brothels is decriminalized and sex workers are able to work legally, whether on the streets, on call, from home, or in a commercial brothel. This is not to say that sex workers can operate anywhere. They are restricted from operating in certain locations such as near schools or places of worship. The regulatory regime surrounding sex work in NSW is far more neoliberal in its approach than the US, including Nevada.

Regulatory authority and structure in New South Wales: the planning model in practice

There are more than 150 local councils in NSW with more than 5,500 legal planning instruments. These planning instruments are similar to, but exceed in their conditions and requirements, US planning codes. They specify zones (for example, residential, industrial and commercial), what type of building can be constructed and what businesses can operate where, and conditions of consent including operating hours, lighting, noise impacts, and occupational health and safety. These planning regulations specify what fits where, demonstrating the insight of the concept of *nomosphere* – the relationality between law and space. NSW has incorporated sex-services premises within the existing planning regime. The focus is primarily upon the regulation of the business, rather than individual sex workers. Brothels are regulated like any other legitimate business according to the central concerns of planning. In order to open a brothel, the operator must submit a development application to their local council in the same way as any other proposed business. Conditions of council consent require not only that a proposed business will have assessed amenity impacts for the area and satisfied council conditions relating to appropriate zoning, size, operating hours, lighting and so on but also that the operator will meet state and federal legislative rights and responsibilities pertaining to occupational health and safety, worker rights, wages, taxation and building standards. While in some areas in NSW sex-services premises have been regulated more restrictively than other businesses (Crofts 2007), the inclusion of sex-services premises within general planning frameworks means that existing procedural and substantive legal structures are assumed, required, and applied (Figure 12.2). Workers' rights and conditions flow from the regulation of the business as a business, rather than through regulation of individual workers. Councils have responded to their responsibility for regulating the sex industry in a variety of ways, applying existing regulations to brothels or developing brothel-specific planning policies (Crofts 2003).

Despite great variation across councils in the regulation of sex-services premises, the inclusion of these types of businesses within a planning regime imports a procedural and legal framework that is applicable across the state. Planning instruments are regulatory documents that must comply with existing state legislation and policies. While many local councils and communities may not want a brothel in their local area, operators can still receive authorization via planning, whether from the local council, or through appeal to the Land and Environment Court



Figure 12.2 A brothel in a mixed commercial/residential zone in a suburb in Sydney.
Source: Christine Steinmetz

(LEC). Under the *Environmental Planning and Assessment Act 1979* (NSW) local councils must take into account the amenity impacts of a potential development. “Amenity” is recognized as “wide and flexible,” and includes concerns such as parking, noise, lighting but transcending mere physical content (*Perry Properties v. Ashfield Council*, 2001). The LEC (and other state planning tribunals/courts) has been clear that morality is not a planning consideration.³

The LEC has emphasized the need for hard and fast evidence of (potential) negative impacts upon amenity. There is a great deal of variation in terms of how local councils in NSW regulate sex premises. In concrete planning terms, variations include where brothels are permitted to operate and how much parking space is required. Furthermore, the extent of variation is determined to a large extent by how welcoming a council is to brothel proposals. Some councils, such as City of Sydney, regard brothels as potentially lawful businesses, whereas other councils would prefer to exclude brothels from their local government area (Crofts 2007; see also Chapter 6, this volume). However, incorporating sex-services premises within the existing planning regime allows for these types of businesses to be regarded as “legitimate.” The possibility of appeal to the LEC, while expensive and time consuming, has been a significant aspect of regarding

and regulating sex-services premises as ordinary businesses. The LEC has tended to apply pragmatic planning policies that can overcome localized restrictive council policies (*Hang v. Strathfield Municipal Council*, 2005; *Sun v. Campbelltown City Council*, 2005).

Regulatory authority and structure in Nevada

Nevada, like NSW, relies mainly on local laws (city and county) to regulate brothels. Since enacting the 1970 state bill outlawing brothels in only one county, state-level politicians want nothing to do with legislating brothels. Nevada state leaders still today fear that tourism may be adversely affected if its legal brothels are too “visible.” At the same time, the state has strongly resisted eliminating brothels to protect local rule – the rights of localities to decide for themselves. As a result, the only state laws governing brothels are those from the early 1900s, regulations against third parties, pimping, pandering, and zoning brothels away from schools and churches. State health codes responding to the AIDS epidemic in the 1980s required testing of sex workers for HIV and various sexually transmitted infections (STIs).

Some 30 to 35 legal brothels currently exist in the state, and most are in very sparsely populated rural regions in Nevada.⁴ In all, there are 16 counties in the state of Nevada, and 108 cities. Currently, only five cities – Ely, Elko, Wells, Carlin, and Winnemucca – and seven counties – Churchill, Esmeralda, Lander, Lyon, Mineral, Nye, and Storey – license and regulate brothels (see Table 12.1 and Map 12.1). These cities and counties have enacted specific ordinances that govern brothels. All of these local ordinances are similar, varying only in wording – ordinances specify application processes, specify brothel locations, spell out restrictions on licenses and employees, special fees, appeal procedures, zoning, health regulations and penalties (Brents and Hausbeck 2001). Larger counties tend to have more detailed regulations on things like signage, license application procedures and site plan proposals. A few counties allow brothels to run escort services, where both clients and workers can leave the brothels. Counties also differ in the numbers of brothels they allow, ranging from one to five. Some counties specify fences around the brothels, others do not. Sex workers must be 21 years of age in most counties, although in a few counties the age limit is 18.

Governments in urban areas such as Las Vegas and Reno have largely opposed regulated prostitution. Both the resort and gambling corporations who dominate both cities’ economies fear that commercial sex will somehow “offend” the sensibilities of tourists and want to make sure tourists have few reasons to leave resort properties. Ironically, of course, a very large illegal prostitution industry exists in Las Vegas. Small town and rural county governments support prostitution because citizens accept brothels in confined, isolated areas, and also because they get a significant percentage of tax dollars from these businesses. The tension between urban and rural governments has resulted in very little centralized guidance from the state.

Table 12.1 Nevada County brothel laws

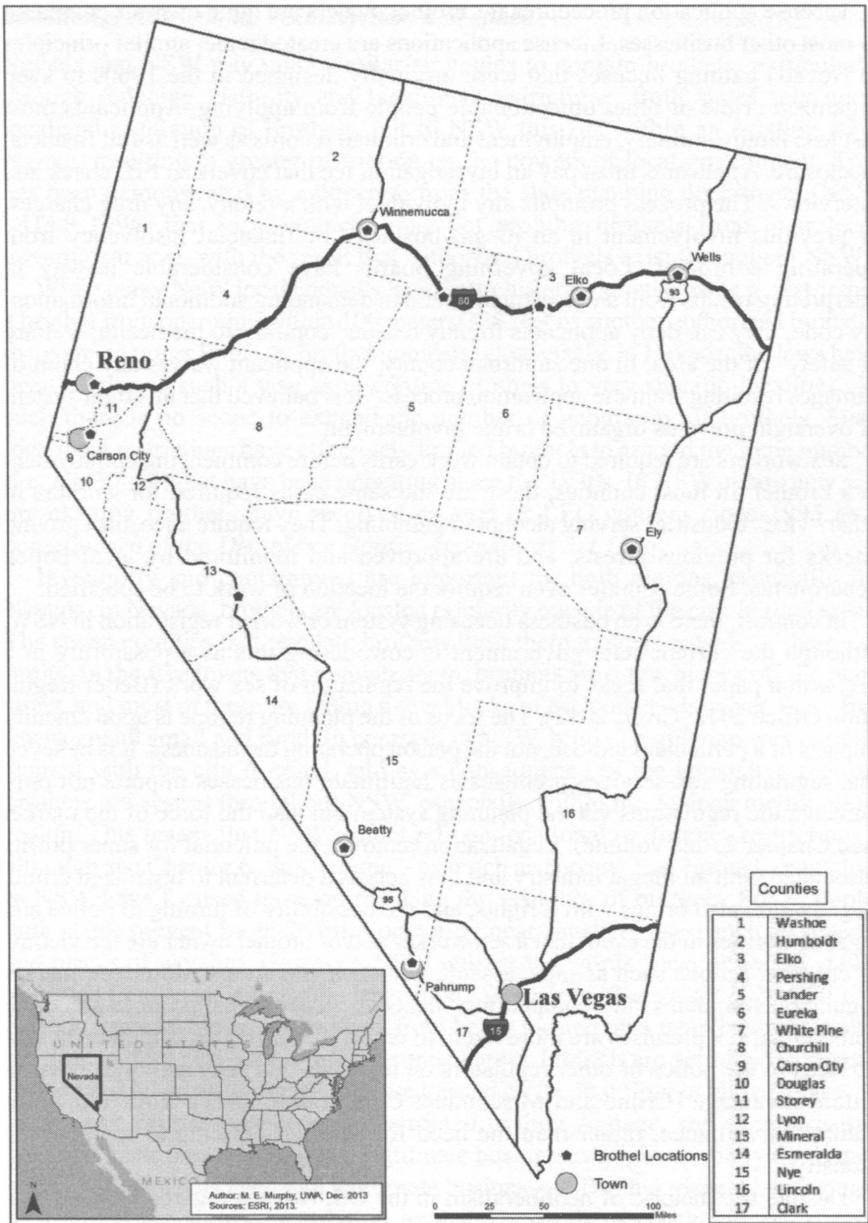
<i>Counties</i>	<i>Currently operating brothels</i>	<i>Within one hour drive of major Metro area</i>	<i>Population per square mile, 2010*</i>	<i>Licensing ordinances</i>
Carson City	prohibited by county law	yes	382.1	
Clark	prohibited by state law	yes	247.3	
Douglas	prohibited by county law	yes	66.2	
Washoe	prohibited by county law	yes	66.9	
Lincoln	prohibited by county law	no	0.5	
Pershing	prohibited by county law	no	1.1	
Eureka	no written ordinance	no	0.5	
Churchill	none open	yes	5.0	
Elko	2 in Carlin	no	2.8	Carlin
	4 in Elko	no		Elko
	2 in Wells	no		Wells
Esmeralda	none open	no	0.2	
Humboldt	2 in Winnemucca	no	1.7	Winnemucca
Lander	2 in Battle Mountain	no	1.1	County law
Lyon	4 outside Carson City	yes	26	County law
Mineral	2 in/near Mina (licensed but not currently open)	no	1.3	County law
Nye	5 near Pahrump	yes	2.4	
	1 near Beatty	no		County law
Storey	1 in Sparks	yes	15.3	County law
White Pine	2 in Ely	no	1.1	Ely

* From *US Census Bureau State & County QuickFacts*,

<http://quickfacts.census.gov/qfd/states/32000.html>. Last Revised: Saturday, 27 July 2013.

Regulating businesses and workers: to license or not to license

Unlike NSW, Nevada brothels are required to have privilege licenses reserved for those categories of businesses requiring “special” regulation to protect the public from health, safety, moral and welfare issues that supposedly emanate from prostitution. Other businesses included in these categories: those serving alcohol; gaming; and businesses involving any sexually oriented activities (e.g. strip clubs, adult video stores and swingers clubs). Two bodies oversee the regulation of brothels, county commissions or city councils that comprise of three to seven elected politicians who serve terms of four years. These bodies empower criminal justice agencies such as the county sheriff or city police to investigate applications and monitor adherence to licensing requirements. Privilege licenses are completely revocable for any cause deemed harmful to the health, safety and welfare of the general public and have no vested privileges or rights. While for years this revocability remained broad and vague, local codes have increasingly specified cause,



Map 12.1 Distribution of Nevada brothels by county.
Source: Mary E. Murphy

hearing and investigation procedures. At the same time, even these newer ordinances allow for “emergency” revocation of licenses for public health or safety reasons.

License application procedures for brothel owners are quite onerous compared to most other businesses. License applications are created under similar principles to Nevada gaming licenses that were originally designed in the 1960s to keep organized crime or other objectionable people from applying. Applicants must disclose family, military, employment and criminal records as well as full financial disclosure. Applicants must pay an investigation fee that covers an FBI check and interviews. The process prohibits any individual with a felony, any drug charges, or previous involvement in an illegal business, or financial insolvency from operating a brothel. Local governing boards have considerable leeway in interpreting results from an investigation and in demanding additional information. By code, they can deny applicants for any reason “contrary to the health, welfare or safety” of the area. In one suburban county, the applicant waives any claim of damages resulting from the application process.⁵ It is believed that this tight system of oversight prevents organized crime involvement.

Sex workers are required to obtain work cards before commencing employment in a brothel. In most counties, these are the same cards required for workers in other “vice” industries serving alcohol or gambling. They require a fee, background checks for previous arrests, and are approved and monitored by local police departments. Some counties even require the location of work to be specified.

In contrast, there is no business licensing system or worker registration in NSW, although the current state government is considering this as a possibility in a discussion paper that seeks to improve the regulation of sex work (Better Regulation Office 2012; Crofts 2012). The focus of the planning regime is upon amenity impacts of a particular land-use, not the person operating the business. It is believed that regulating sex-services premises as legitimate businesses imports not only bureaucratic regulations via the planning system but also the force of the market (see Chapter 2, this volume). Legalization removes the potential for super profits associated with an illegal industry and thus acts as a deterrent to organized crime. Legalization also brings with it rights, and the possibility of turning to police and legal authorities in the event that a sex worker and/or brothel owner are the victims of criminal actions such as rape, assault, extortion and so on. Moreover, market regulation stimulates “fair competition” hence owners of legal brothels and other commercial sex premises are more likely to report illegal or non-compliant sexual services to the police or other regulators on the basis that such activities have an unfair advantage (Crime and Misconduct Commission 2011). This allows for natural surveillance, rather than the need for external policing to regulate the industry.

Despite the rhetoric of neoliberalism in the US, Nevada regards brothels as a special category of business, subject to strict localized rules and variations, and limited rights, and primarily regulated by police. In contrast, in NSW, there is some local variation, but brothels are broadly regulated and regarded under the existing state planning regime in the same way as any other legitimate business. Although the US is often regarded as an exemplar of the operation of the free market in the area of commercial sex, NSW appears to be placing greater trust in the free market and existing business regime than the US.

Locational restrictions: visibility, sex, and space

Nevada and NSW rely upon similar strategies to contain brothels, particularly through reducing visibility and locational restrictions. Both states rely upon localized regulation of brothels, but in NSW this fits within an existing state regime, resulting in greater restriction on the powers of local government. This has been demonstrated by a directive from the state planning department (NSW DUAP 1996) that local councils may not prohibit brothels from their local government area, with the result that authorized brothels exist throughout NSW.

While many NSW local councils have anti-clustering provisions (e.g. restricting a brothel from operating within 100 meters/328 feet of another authorized brothel), there are no upper limits on brothel numbers. Conversely, in Nevada, the laws have been written in such a way as to confine brothels to very specific localities. As such there is no scope to expand the number or geography of brothels. Such locational restrictions have effectively limited brothels to around the same number (i.e. $n = 30-35$) that have been operating since the 1930s. In NSW, many new and pre-existing brothels have received council or LEC consent since 1995 as a consequence of the *Disorderly Houses Amendment Act 1995*.

Invisibility and containment are important for both regions, especially for Nevada. In Nevada, brothels are located primarily outside of the city, in rural areas. The seven counties that regulate brothels limit them to areas outside of their city limits. In the five towns that regulate them, brothels are a few blocks off the main street, and most of these are within a few blocks of each other. However, these five towns are all small and rural. In contrast, in NSW, brothel regulation was initially framed with the city in mind, and as a consequence of the legislative regime, brothels are spread throughout NSW, especially within the Sydney metropolitan region. This means that NSW cannot rely on locational or distance restrictions – although see Chapter 6, this volume – as much as Nevada has. Instead, regulators in NSW have focused more on reducing the visibility of brothels. For example, both states prevent brothels from operating near sensitive uses, such as schools and places of worship. However, NSW utilizes the words “near or *within view*,” imported from street solicitation legislation (*Summary Offences Act 1970 NSW*). In Nevada, state law prevents brothels from being located on a main business street, whereas in NSW, in many local government areas, brothels are permitted to operate in commercial areas, provided they are located on the first floor or above. Likewise in Nevada, brothels are severely restricted in their signage, and cannot readily advertise their presence as other legitimate businesses might normally do despite being recognized as legal and legitimate businesses. Brothel owners have sought to overturn the signage restriction imposed upon them via the courts; federal appeals courts however have ruled that states have the right to restrict advertising by commercial sex premises because of the impacts such businesses might have on the health and welfare of citizens.

So how do people know the whereabouts of brothels if they are not permitted to use signage to advertise their existence in the urban landscape? In short, the answer to this question is threefold. First, claims about the existence of a brothel in a local neighborhood tend to travel by word of mouth. Next, travel guidebooks

published by independent authors often highlight “exciting” and risqué aspects of cities and other destinations. Finally, the internet and social media are used by brothels and independent sex workers to advertise their existence, location and range of services. A major focus of planning regulations in NSW has been on the (in)visibility of brothels, so that there are “no overt indications that it is being used as a brothel” (*Martyn v. Hornsby*). Council planning policies do not permit the use of the traditional red-light associated with brothels to be used to signify that sex services are available at a particular property or building. Rather, signage can only be a number, not a name. Furthermore, waiting rooms must be provided so that clients do not loiter outside buildings or on the streets. As a consequence of this aesthetic regulation which seeks to render brothels invisible or non-descript in the urban landscape it has had the opposite effect (see Martin’s discussion on sex shops in Chapter 3 of this volume). Brothels in NSW, especially Sydney, are “recognizable” by the fact that they tend to have high security, double glazed reflective windows, and the lack of outward signage highlighting the name of the business. Figure 12.2 shows a photo of a typical inner-city brothel in Sydney. Simultaneously, however, recent research by Prior and Crofts (2012) has shown that many people who live near brothels within Sydney tend to be oblivious to their existence and secondary effects. Prior and Crofts (*ibid.*) surveyed 401 residents who lived within 400 meters (1,312 feet) of a sex-service premises. Respondents lived in two areas of Sydney: inner-city Sydney and outer-suburban Parramatta. Respondents were asked if they were aware of any sex-services premises located in their neighborhood. If they answered yes, respondents were asked to rank the overall effect, using a Likert scale of –3 (extremely negative) to +3 (extremely positive), of the sex services premise on their local area. In total, almost half (44 per cent, 173 out of 401) of those surveyed were unaware that they lived nearby a sex-services premise. Of the remaining survey respondents (56 per cent, 228 out of 401) who were aware of sex-service premises, just under half (49 per cent, 122 out of 228) stated that the business had no effect (positive or negative) upon the local area. Within the remaining half nearly as many residents rated the overall impact positively (24 per cent, 55 out of 228) as there were rating it negatively (27 per cent, 62 out of 228). Accordingly, just under three quarters of the residents surveyed (74 per cent, 296 out of 401) either experienced no effects as a consequence of the nearby sex-services premise or did not know of its existence. This suggests that even though sex-services premises are sited in the city and near homes, visibility and awareness of these businesses is low.

Specificities of vices in space

The concept of *nomosphere* encourages analysis of the assumptions about where prostitution is most appropriately placed. Why are brothels restricted to particular areas and excluded from others? These assumptions underpin the locational restrictions upon brothels in relation to other human vices. The intersection of gambling and prostitution has had important implications for both regions in the regulation of space. Historically, gambling and prostitution coexisted in both states.

Vice squads paid close attention to these businesses because they generated super profits and were likely to be controlled by organized crime. Paradoxically, police corruption was also commonplace when it came to the regulation of gambling and sex work. However, Nevada's history has demonstrated that legalizing vices relies to a large extent on distinguishing one vice from another to make one look more "legitimate." In Nevada, this reflected the relative power or "mobilisation of bias" (Bachrach and Baratz 1962) articulated by a large and growing corporate casino and tourist resort industry based mainly in urban areas. In contrast, those engaged in sex work, as independent workers or brothels owners, simply do not have the resources, especially financial, to influence policymakers. In the 1950s and 1960s when Nevada was shrinking its prostitution industry, it was under a great deal of scrutiny from federal officials seeking to bring Nevada in line with the nation's laws against vice. They sacrificed open prostitution and independent women's abilities to profit from selling sex. Like the laws that motivated early 1900s anti-prostitution laws in the US, these moves in the 1970s reinforced gendered views of appropriate sexuality – proper women do not profit from their sexuality.

The spatial intersection of gambling and prostitution in NSW is complex. The red-light district of Kings Cross in Sydney proffered vices of illegal gambling, liquor and prostitution. This highly confined, but visible, geographical space was associated with crime, vice and corruption, while also being a center for legal entertainment. The co-location of vices was accepted because it was confined and subjected to specific policing practices. However, in 1995, following the opening of Sydney's one and only legal casino – Star City – it would appear that NSW-based policy-makers were following Nevada in the sense that they were trying to separate gambling and prostitution. The City of Sydney, the local government charged with planning responsibilities, banned brothels from within 200 meters (656 feet) of the casino then local environmental plan (LEP). The premise for this decision centered on concerns that "illegal or undesirable" activity might concentrate around the casino. However, despite ostensible similarities with Nevada, differences are apparent. First, casino gambling makes up only 18 per cent of total gambling in Australia, whereas 55 per cent of gambling takes place on electronic gaming machines (Productivity Commission 2010). In NSW, most gambling takes place in clubs and pubs spread throughout the state. While brothels cannot operate from within pubs and clubs, there are no restrictions on brothels operating nearby (ibid.). Second, Star City Casino opened in 1995, just as brothels were legalized by the state government under the *Disorderly Houses Amendment Act 1995*. In the most recent draft of planning documents (Sydney LEP 2012), brothels are no longer banned from the casino area – arguably because with more than 15 years of regulating sex work and brothels as legal businesses, they are no longer deemed to be associated with "illegal or undesirable" activities.

Conclusions

Although Nevada and NSW are classified as having legal prostitution, this chapter has highlighted important differences in the way these states have constructed

diverse “(sub)urban sexscapes” of legality and illegality in relation to prostitution. Nevada and NSW have made different choices regarding local versus regional regulation and in their reliance on policing versus planning. While both places began with similar cultural approaches to prostitution, and even developed vice districts where gambling and prostitution co-existed, the US has largely kept prostitution illegal, even while gambling has become more acceptable. While Nevada’s rural brothels are legal, they still operate in a context where sex work is considered a vice and in need of specific regulations. In contrast, NSW brothels are part of a spectrum of sex services provided in a broadly legalized framework. This means that the nomospheres of the sexscapes in the states of Nevada and New South Wales vary which has been expressed and enforced through a state-specific constitution and evaluation of brothels. Spatial variations in the two regions reflect and reinforce different regulatory approaches, expressed in choices of reliance on distance or visibility. The differences in the perceived acceptability of an intersection of gambling and prostitution highlights the complex and developing nomos in Nevada of sex work as both legal and illegal and the different developing nomos in New South Wales of sex work as orderly, legal and regulated. Despite the “mainstreaming” of the sex industry as exemplified, for example, in the number and range of sex shops/adult stores (see Chapters 2 and 3, this volume) and the growth in the number of adult entertainment venues (see Chapter 8, this volume) that is common in global cities, it is clear that prostitution remains in an awkward and contradictory position within the sex economy. In particular, the question of the (in)visibility of sex work in comparison to other elements of the sex economy is an interesting one. It is increasingly the case that in a neoliberal political environment, more and more sex businesses are regulated like other “normal” businesses (Brents and Sanders 2010). As Martin has noted in relation to sex shops (Chapter 3, this volume), businesses in this facet of the sex economy have been presenting themselves to look like a “regular” business and as such they are less likely to be singled out for special surveillance. However, a great deal of ambivalence continues to surround prostitution. Regardless of whether or not they are legal, decriminalized or illegal, sex work is often engaged in continuous legal and political battles against forces seeking to contain and monitor the industry as a vice, and to at least, render it invisible. A number of jurisdictions – Republic of Ireland (Department of Justice and Equality 2012), Northern Ireland (Maginn and Ellison 2013; Morrow 2012), Scotland (McNab 2013) and France (Chrisafis 2012; Willsher 2011) – have recently reviewed the regulation of prostitution/sex work with the view to introducing new legislation designed to criminalize the sale and/or purchase of sexual services.

Paradoxically, despite the spatial marginalization of the brothel industry within Nevada, Las Vegas, casinos, and the city in general, remain a highly, if not, hyper-sexualized space. Las Vegas is advertised as “Sin City,” and an erotic playground, especially with the now iconic advertising campaign: “What Happens in Vegas, Stays in Vegas.” This hyper-sexual identity is communicated via nationwide advertising campaigns as well as local billboard advertisements, casino shows, strip clubs within the city and, of course, the dress code of the cocktail waitresses within

the casinos. Ultimately, while sexualized bodies are overt and a complicit component of the gambling industry's strategy to offer patrons a "good time," the actual sale of sex is rendered invisible. Meanwhile, although Kings Cross retains a hyper-sexual identity as a red-light district, much of the sex work in NSW takes place outside and beyond this gaudy space in far more pragmatic and discreet spaces. The concept of nomosphere emphasizes that law and space should not be considered as binary categories, but rather a call to pay attention to the complex reciprocal materialization of the legal and the spatial. The different spatial, legal, and moral geographies of "prostitution" in Nevada and "sex work" in NSW highlight the imbrication of law and space in the construction, expression and communication of meaning.

Notes

- 1 The terms prostitution/prostitute and sex work/sex worker are highly contested and are used by different groups to signify particular meanings. The term "sex work" is currently preferred by members of the sex industry to emphasize that paid sex services are a form of employment, and this is the term we will use in this paper. We realize that there are important debates about whether or not the exchange is simply labor. In addition, there have been some efforts to reclaim terms with historically negative connotations such as prostitute and whore. This paper will be very specific in using the terms prostitution to refer to institutions surrounding the sale of sex acts in the public marketplace as distinct from other forms of sexual work, including erotic dance, pornography and sex clubs. In addition, the terms prostitution and prostitute are used in historical and current legislative approaches in both Nevada and New South Wales. Where we need to be more general in referring to a broader array of sexual institutions or sexual labor, we will use the terms sexual commerce or commercial sex. When we are referring to workers we will use the term sex workers.
- 2 The impetus for the 1968 amendment was a decision of the NSW Court of Appeal in *Fergusson v. Gee* (1967), which refused to declare an East Sydney house disorderly just because it was used for prostitution. The Court held that even though prostitution occurred in the house, this conduct did not amount to "indecent conduct" as required under section 3(1)(a). The Court proposed that Parliament, if it saw fit, could amend the Act. The resulting *Vagrancy, Disorderly Houses and Other Acts (Amendments) Act 1968*, read as follows: "3. (1) The *Disorderly Houses Act 1943* as subsequently amended, is amended by inserting at the end of paragraph (d) of subsection one of section three the following word and new paragraph:- or (e) That the premises are habitually used for the purpose of prostitution, or that they have been so used for that purpose and are likely again to be used for that purpose."
- 3 Councils can develop and/or apply regulations in ways which make it very difficult for brothels to receive development consent. This can be done in a variety of ways – with restrictive parking, locational, security, operating hours, size of business policies. Where operators have appealed to the LEC, the court has considered council policies critically to determine if they are overly restrictive. For example, some councils have imposed parking requirements that are not required of developments with similar amenity impacts. If an operator has the money and time to appeal to the LEC, this requirement may be overturned, because the Land and Environment Court has accepted that sex services premises have different operating hours from existing businesses in the area, and clients tend not to park at the premises (*Liu v. Fairfield City Council*). This

was reiterated by Commissioner Moore in *Zhang v. Canterbury*, stating “it is a well accepted position that this Court is not a court of morality.”

- 4 Nevada is one of the biggest states in the US in terms of size with only two major population centers. Las Vegas has 2 million people and contains 72 percent of the state’s population. Reno has 400,000. The rest of the state’s population is spread over 100,000 square miles. The majority of rural counties have fewer than six persons per square mile (US Census Bureau American Factfinder 2009). It is in these rural counties that legal prostitution exists.
- 5 Storey County Code 5.16.150.

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13 From perception to reality

Negative secondary effects and effective regulation of sex businesses in the United States

Eric Damian Kelly and Connie B. Cooper

Introduction

This chapter focuses on the planning regulation of lawful sex businesses (i.e. adult bookstores, adult novelty stores, video viewing booths, and strip clubs) in the United States (US), the negative secondary effects created by these businesses, and the perceptions and realities that surround them. This research is informed by extensive academic *and* professional planning experience, particularly in terms of writing local ordinances regarding the regulation of sex businesses in major US cities such as Detroit (Michigan), Fort Worth (Texas), Kansas City (Missouri), and Memphis (Tennessee). The chapter combines findings from academic literature, reports prepared for local governments, and original fieldwork that entails visiting sex businesses, conducting surveys and legal research, testifying in court cases and drafting zoning and licensing ordinances that have been upheld by the courts. The findings from our research quite often differ from what local elected officials and their constituents believe and think about sex businesses. The overall intent of this chapter is to offer a critically reflective account (Schön 1983) of how planners have and ought to manage these often perceived contentious land uses.

Within the US, most medium-sized to large cities regulate the physical location and exterior characteristics of sex businesses through zoning ordinances. Many also regulate how those businesses operate through licensing ordinances that impose limits on operating hours, interior layout, lighting and behavior of customers and performers. Increasingly, as sex businesses have moved into peri-urban and rural areas, smaller towns and counties have begun adopting ordinances regulating sex businesses.

Today, regulation of sex businesses has become one of the more challenging tasks facing local governments in the US. There are three interwoven themes that create this complexity: local regulation, constitutional protection and negative secondary effects. Outlined below is brief overview of these themes, which are discussed in greater detail later in this chapter.

- *Local Regulation:* Cities, towns and other local governments in the US regulate the use of property and the location, intensity and scale of particular land uses

through zoning (Deems *et al.* 2013; Kelly 2010). Less commonly, licensing and similar local laws are used to regulate the operations of businesses such as taverns, pawn shops and other types of businesses that local officials believe pose particular operational problems. Local governments use both types of tools to regulate sex businesses (Rohan 2013).

- *Constitutional Protection*: The US Constitution protects freedom of speech and freedom of the press, protections that have been interpreted to extend to a variety of types of communication that are sometimes unpopular (Lewis 2007); judicial interpretations of those principles have extended this protection to books, other media and performances that some would view as pornographic (Rohan 2013; Williams 1999). In court decisions discussed in more detail later in this chapter, the US Supreme Court and lower courts have interpreted those constitutional provisions to impose significant limits on the discretion of local governments to regulate sex businesses.
- *Negative Secondary Effects*: One of the legal principles that has emerged from this conflict between local regulation and constitutional freedoms is that local governments are permitted more flexibility in regulating sex businesses if the documented purpose of the regulations is to mitigate “negative secondary effects” of such businesses (Kelly and Cooper 2004). Commonly documented “negative secondary effects” include: (i) increased crime rates around such businesses (McCleary 2008); (ii) decreased property values within a significant radius of such businesses (Cooper Consulting *et al.* 2008); and (iii) neighborhood blight and unintended encounters.

In short, local governments that are accustomed to considerable deference from courts in their use of zoning and other ordinances to regulate local land uses, often face constitutional challenges (citing violations of protected speech or communication) when they implement similar regulations pertaining to businesses that offer sexually oriented books, videos and live performances. Consequently, local governments defend such regulations by demonstrating that these regulations are intended and reasonably expected to reduce the “negative secondary effects” of the sex businesses.

Sex businesses in the United States

In discussing commercial sex businesses, it is important to more fully understand lawful sex businesses in the US. These descriptions are based on critical engagement with academic literature and personal site visits to over 500 sex businesses in the course of professional planning practice working with local jurisdictions. Sex businesses may be placed in one of four categories: (i) adult cabaret; (ii) adult cinema; (iii) adult video arcade; and (iv) adult retail stores (Kelly and Cooper 2000).

Adult cabaret

One of the most widely known lawful sex businesses in the US is the live entertainment establishment called a “cabaret,” “strip club” or “gentlemen’s club.” These

venues provide nude or partially nude stage performances by women in exchange for tips. This is perhaps the least significant activity at most of these clubs. The stage shows are but one facet of the entertainment that takes place. Performers also conduct private dances at individual tables or in backrooms and it is through this type of performance that they make the majority of their income (Lane 2004; Egan 2003; Frank 2002). The *Ultimate Strip Club List* (www.tuscl.net), a popular website where customers comment on these backroom performances, often indicates the degree of nudity and sexual gratification experienced during these private dances which may involve full-body contact with full or partial nudity and some customers even experiencing sexual climax.

This raises an interesting issue as to whether or not such activities constitute stripping or prostitution. In the US, prostitution is illegal in all but one of the 50 US states; Nevada is the exception (see Chapter 12, this volume). Technically speaking, it could be argued that providing sexual release through physical contact constitutes a form of prostitution. Indeed, this is the case under some state laws. For example, in Indiana, the law provides in part that anyone who “fondles, or offers or agrees to fondle, the genitals of another person; for money or other property commits prostitution” (Burns Ind. Code Ann. §35-45-4-2). Similarly, a Texas statute prohibits “engaging in sexual conduct for a fee” (Texas Penal Code §43.02) and includes within the definition of “sexual conduct” “any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person” (Texas Penal Code §43.01). There is a significant emphasis in adult cabarets on the connection between the performers and the audience (Egan 2003; Frank 2002; Hanna 1983). One can view these connections as a form of enhanced performance, as Hanna and Egan tend to do, but one can also view these activities as legally tantamount to prostitution, as defined by some US statutes. Yet there are only a few reported court decisions in the US that show examples of prosecutions of lap-dancing as prostitution, perhaps suggesting some social ambivalence about enforcement of the laws on this subject.¹

Adult cinema

Although adult cinemas were at one point a significant part of the sex business landscape in the US (Douglas and Tewksbury 2008; Delany 1999), they have effectively been replaced by web-based porn via sites such as www.redtube.com (free) and www.pornhub.com (combination of free and pay). Additionally, with the availability of explicit DVDs from sex shops (see Chapter 3, this volume) or adult video arcades, much of the appeal of the adult cinemas has been replaced by these alternatives. Interestingly, despite the rise of Internet porn, a small number of older theaters were still in business in 2013 and might be viewed as “institutions.” They include, for example, the *Ambassador Adult Cinema* in Colorado Springs, Colorado, *The Strand Theater* in Kansas City, Missouri, and *The Fiesta Drive-In* in El Paso, Texas. These adult cinemas offer not only on-screen adult movies but adult videos for rental or purchase. Adult cinemas differ from mainstream movie theaters in that they only show pornographic movies depicting

female and male genitalia and various forms of explicit sexual intercourse (Flint 1999; Muller and Faris 1996; Di Lauro and Rabkin 1976). Moreover, these adult cinemas were not just about the screening of pornographic movies. Such cinemas historically offered patrons, almost exclusively male, an opportunity to participate in the shared experience of semi-public masturbation, mutual masturbation and, in some cases, full sexual intercourse (Delany 1999; Harper 1992).

Adult video arcade

A more individualized type of sex business is the adult video arcade or “peep show” as it was historically known. Today, adult video arcades are usually ancillary uses to adult retail stores or cinemas, with individual booths located at the back or along either side of dimly lit hallways. The booths are typically 3 × 5 feet (0.9 × 1.5 meters) with a chair or bench and a coin or token operated video screen connected to a central video feed for viewing about five minutes of sexually explicit video. The booths may have locking doors, or where local ordinances prohibit doors, operators sometimes use saloon doors, curtains or an L-shaped booth design to provide customer privacy.

As with adult theaters, sexual activity often occurs in booths at adult video arcades. Hence, these booths are referred to as “masturbation booths” (Kelly and Cooper 2000) or “wank tanks” in Australia (Richters and Rissel 2005), and are places for anonymous sex via “glory holes” (holes drilled between two viewing booths) – see Figure 13.1. Clearly the major appeal of these businesses is the opportunity to masturbate in a semi-public setting or to engage in sexual activity with one or more strangers. The social trends that feed this are widely studied (Attwood 2009; McNair 1996; Weatherford 1986) although the studies of activities in the booths themselves are more pragmatic and less academic.

Adult retail store

A retail store that carries some adult merchandise is unlikely to have anything like the negative secondary effects associated with an adult retail store. For example, adult oriented goods and media are available in a variety of retail contexts in the US. For example, drugstores such as CVS and Walgreens carry condoms as well as vibrators; bookstores like Barnes & Noble sell erotic literature, anatomy books and explicit sex guides; and, mainstream video stores may include backrooms stocked with significant quantities of hardcore pornographic media (Kelly and Cooper 1999). The distinguishing feature between a traditional retail outlet that sells some sex products and an adult retail store is the proportion of the store devoted to adult merchandise, typically measured by a count of merchandise items or percentage of floor space.²

Furthermore, adult retail stores, including adult media stores or novelty stores, often advertise in XXX publications or adult-oriented Internet sites. Adult stores also have sexually suggestive names – *The Love Boutique*, *Pleasure Chest*, *Good Vibrations* and *Babeland* – and often use provocative signage and window displays



Figure 13.1 'Glory hole' in adult video arcade (Perth, Western Australia).

Source: Paul J. Maginn

to promote the fact that they are adult retail spaces. Intriguingly, some adult retail stores attempt to avoid being classified as an adult store by manipulating their inventory and floor space to fall outside the metrics (percentage of sexual merchandise versus non-sexual merchandise) used by local government to define an adult store. Some stores stock large quantities of non-sexual merchandise – pencils, plastic drawing tools, candy bars, outdated magazines and old paperbacks – in an effort to offset the large proportion of sex videos and magazines stocked and sold (Kelly and Cooper 1999, 2000). Despite such efforts these types of stores still have negative secondary effects on property values similar to other sex businesses (Duncan Associates *et al.* 2008). Of concern is that some of these stores have been known to attract people who expose themselves and engage in other unlawful or untoward behavior (Hefley 2007).

Regulatory tools

Most regulation of land uses in the US takes place at the local government level. The two major tools used by local governments are zoning – which deals with the location of a land use and some related issues – and licensing, which addresses

how the business is operated. Through zoning, a community can regulate the location of sex businesses as well as associated site issues such as building scale and siting, parking, exterior lighting and, even, some interior design issues. Zoning in the US, however, is a relatively static tool; once a use is permitted under the respective zoning classification, the landowner has the legal right to continue to operate regardless of future changes in zoning regulations.

In contrast, licensing is a more dynamic tool that controls the daily operations of a business. In the US it is common to license many types of businesses that create a risk of operational problems. Often included under state and/or local licensing laws are liquor stores, bars, pawn shops, massage therapists, fireworks stands and of course sex businesses. The advantage of licensing is that local governments can suspend or revoke the license of a problematic business. If a city can show a pattern of illegal activities within a sex business, such as associated incidents of public masturbation or prostitution, it may be possible to suspend or revoke the business's operating license. In contrast, under US property law, when an area has been zoned for particular uses and a relevant business has been established in that zone, landowners have property rights that can only be breached when due compensation has been paid. Thus, licensing provides a tool for motivating management of sex businesses to enforce the law without requiring the constant presence of police officers at each establishment.

Constitutional framework

Although conservative action groups and a sometimes almost puritanical attitude of citizens may lead to pressures to suppress or significantly limit the presence of sex businesses (O'Toole 1999), the First and Fourteenth Amendments to the US Constitution, as interpreted in a number of significant contemporary decisions by the US Supreme Court, make it clear that communicative aspects of sex businesses such as movies, books, magazines, videos and dance are protected under the US Constitution; these decisions thus provide major countervailing forces to political pressures to curtail these businesses. The First Amendment was part of the *Bill of Rights*, ten amendments to the Constitution drafted when the founders realized that the Constitution itself created a new form of government but did little to protect citizens from possible abuses by that government (Aynes 2009). The First Amendment reads:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.³

The Fourteenth Amendment was adopted after the US Civil War to make it clear that the protections of the Constitution, including the *Bill of Rights*, affect activities of state and local governments as well as the national government. It reads:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.⁴

Although there is nothing in the First or Fourteenth Amendments about sex businesses, the US Supreme Court has broadly construed the First Amendment's reference to "freedom of speech, or of the press" to apply to works considered by some to be pornographic and later to adult movie theaters, erotic dancing and adult stores (Rohan 2013; Cooper Consulting *et al.* 2008). The issues are both legally and politically complex. In general, cities and towns in the US have a great deal of local autonomy in crafting zoning regulations. When a local government has to defend a law in court, it typically enjoys a "presumption of validity." In other words, if the court case is essentially a draw, the local government wins.

The US Supreme Court has held, however, that where government regulations intrude on basic constitutional rights, such as basing rules on the content of any kind of message, that presumption is reversed,⁵ making the defense of the law more highly scrutinized. When regulations infringe upon constitutionally protected rights the rules change in that the doctrine of "strict scrutiny" applies which turns the presumption of validity against the local government.

The US Supreme Court has generally taken the view that any regulation that is based on the *content* of a message potentially infringes on such rights. It is virtually impossible to craft regulations that distinguish a sexually oriented bookstore from a general bookstore without dealing with content, and the same issue arises with cinemas and live performances. Thus, regulations that make such distinctions are immediately constitutionally suspect.

Notably, in a critically important decision, the US Supreme Court gave local governments a way out. In *Renton v. Playtime Theatres, Inc.*,⁶ the Court, citing one of its own earlier decisions, held:

zoning ordinances designed to combat the undesirable secondary effects of such businesses are to be reviewed under the standards applicable to "content-neutral" time, place, and manner regulations.⁷

In 2002, in the *City of Los Angeles v. Alameda Books, Inc.*, the US Supreme Court revisited this issue in a case involving the Los Angeles city council's decision to expand upon its interpretation of a two decades-old study (Los Angeles Department of City Planning 1977) to impose additional restrictions on how a city crafts regulations related to sex businesses. There the Court said:

In *Renton* we held that a municipality may rely on any evidence that is reasonably believed to be relevant for demonstrating a connection between speech and a substantial, independent government interest. This is not to say that a municipality can get away with shoddy data or reasoning. The municipality's evidence must fairly support the municipality's rationale for its ordinance.⁸

The Illinois State Supreme Court provided the following cogent summary of what is meant by “fairly support” and the “shoddy data” law as it evolved after the Supreme Court decision:

While the courts will not permit legislative bodies to rely on shoddy data, we also will not specify the methodological standards to which their evidence must conform. The Chicago city council knows the streets of Chicago better than we do. The experience of other jurisdictions and of the City itself leaves little doubt that the secondary harms to which section 4-60-140(d) of the Municipal Code are addressed are real and not merely conjectural.⁹

In a practical sense, this means that if a local government can show that its sex business regulations were adopted with the “predominate intent” of mitigating the “negative secondary effects” associated with those businesses (rather than with the intent of censoring expression), then the local government will have a level playing field in court – not the “presumption of validity” that it would enjoy in most other cases but at least the ability to present its case in a neutral forum. That is the legal root of the “negative secondary effects” doctrine. Local governments considering new or amended regulations for sex businesses must consider whether the local officials adopting the regulations have a basis for a “reasonable belief” that (i) the businesses to be regulated have negative secondary effects, and (ii) that the proposed regulations will mitigate those effects.

There is another piece to this legal formula, however. Applying principles from other free expression cases, the US courts, beginning with a decision of the US Supreme Court, have made it clear that a local government that restricts the location of constitutionally protected sex businesses must provide “alternative avenues” of communication in the form of available sites elsewhere in the community. This doctrine raises some tricky issues. In *Schad v. Borough of Mt. Ephraim*,¹⁰ the Court held that the small town in New Jersey could not ban all live entertainment from its borders, because that would violate the First Amendment. A few years later, in *Renton v. Playtime Theatres*, the Court dealt more in-depth with this issue. In *Renton* (and subsequent cases), the US Supreme Court held that any community limiting the location or operation of sex businesses protected by the constitution must allow those businesses someplace in the community. Multiple courts have made it clear that providing reasonable alternative sites means designating sites at which such businesses can locate “by right” without the need for any sort of discretionary permit or legislative approval. It is the provision of requiring alternative sites by right that is often met with local opposition by residents who are opposed to sex businesses from moral, religious, or concern for negative economic impacts. In an attempt to placate constituents, local governments use a number of mechanisms to severely restrict sex businesses, some of which arguably encroach upon issues of constitutionally protected speech.

In recent years, an argument has been put forth by sex business proponents that “off-site” retail sex businesses such as adult novelty stores do not share the same negative secondary effects caused by “on-site” sex businesses such as adult

cinemas, video arcades and cabarets. However, a federal appellate court in Tennessee has rejected arguments by the sex industry that retail-only businesses do not have negative secondary effects, citing a 2007 court case in Texas:

Plaintiffs are incorrect to suggest that the County cited no findings relevant to the secondary effects of the contested types of businesses (off-site and combination stores). In fact, the Ordinance relied on a number of judicial decisions, which held that evidence of secondary effects produced by off-site or retail-only sexually oriented businesses was sufficient to justify their regulation. For example, in *H & A Land Corp. v. City of Kennedale*, the Fifth Circuit stated that the City of Kennedale “cannot reasonably believe its evidence [of secondary effects] is relevant unless it sufficiently segregates data attributable to off-site establishments from the data attributable to on-site establishments.” 480 F.3d 336, 339 (5th Cir. 2007). That Circuit considered the evidence offered by the City and found that a 1984 Indianapolis study and a 1986 Oklahoma City study indeed isolated the effects of off-site establishments on property values, which sufficiently “support[ed] the belief that off-site sexually oriented businesses cause harmful secondary effects.” (Ibid). Similarly, in *World Wide Video of Wash., Inc. v. City of Spokane*, the Ninth Circuit upheld Spokane’s regulation of retail-only stores on the basis of testimonial evidence from residents complaining of a variety of negative effects associated with this category of businesses. 368 F.3d 1186, 1197 (9th Cir. 2004). The Indianapolis and Oklahoma studies relied on by Kennedale and the testimonial evidence relied on by Spokane were also included among the findings made by the County in enacting the Ordinance.¹¹

As has been noted above, the constitutional foundation of freedom of expression enjoyed within the US, has been the foundation upon which substantial litigation has erupted in relation to sex businesses. Land use laws empower local governments to regulate sex businesses within their respective jurisdictions, but only by closely adhering to the legal standards discussed above. The negative secondary effects that stem from sex businesses and why they must be closely regulated are outlined below.

Negative secondary effects

This section discusses “negative secondary effects” of sex businesses focused primarily on two forms of *measurable* secondary effects: (i) increases in crime rates in and around sex businesses; and (ii) decreases in property values around such businesses. Other types of “secondary effects” such as neighborhood blight and unintended consequences or spill-over effects are also briefly highlighted.

Increases in crime

There is substantial evidence that some or most adult businesses attract criminal

activity. Secondary effects are realized in terms of “victimless” vice crimes (prostitution and drugs), predatory personal crimes (assault and robbery), predatory property crimes (theft and auto theft, etc.), “opportunistic” nuisance crimes (vandalism and trespass), and disruption of order (public drunkenness and disturbing the peace) (McCleary and Weinstein 2009). Much of the work on this subject is based on “routine activity theory,” a concept first espoused in the 1970s (Felson 1998; Cohen and Felson 1979). The essence of this theory is that many criminals seek convenient opportunities for crimes, typically seeking victims who are likely to be carrying cash or other valuables, who may not be fully on their guard and who may be less likely than others to report the crime due to the location or circumstances under which it occurred. Scholars also have applied this theory to areas around bars and other liquor establishments (Lipton and Gruenewald 2002; Block and Block 1995) and adult businesses (McCleary and Weinstein 2009).

One of the first significant studies of the relationship between crime and sex businesses was completed in Los Angeles (Los Angeles Department of City Planning 1977). This report included a study conducted by the Los Angeles City Police Department that analyzed crime over a seven-year period (1969–75) within the Hollywood district of Los Angeles during which time the number of adult entertainment establishments increased eight-fold from 11 to 88. The study found an overwhelming increase in prostitution, robberies, assaults, thefts and proportionate growth in deployment of police personnel. It concluded that all are representative of blight resulting from the clustering of adult businesses within the area and that the adult businesses contributed to or were directly responsible for crime.

Over a decade later, McCleary and Meeker (1991) in a study for Garden Grove, California, also found that sex businesses generate significant negative secondary effects. The study revealed that crime such as assault, robbery, burglary, and theft rose significantly whenever an adult business opened or expanded its operation. Given the nature and magnitude of these effects McCleary and Meeker (*ibid.*: 4) concluded that adult businesses on Garden Grove Boulevard constituted “a serious public hazard.” In contrast, professionals who regularly work as expert witnesses for the sex business industry often challenge findings of negative secondary effects (Linz *et al.* 2006a, 2010). In responding to a critique by Linz of an unpublished local study arguing that sex businesses transmit negative secondary effects (McCleary and Meeker 1991, 2006) and discussing Linz’s own work (Linz *et al.* 2004, 2006b), a federal appellate court said this:

We do not suggest that Dr. Linz’s work is flawed. To the contrary, we construe it in the most charitable light possible. However, the most we may fairly say of his work is that it is a minority viewpoint within the secondary-effects literature. As suggested by two of our sister circuits – and as we state clearly now – federal court is simply not the appropriate forum for Dr. Linz and his colleagues to wage methodological combat with other studies on the secondary effects of adult speech. At best, the appellants have demonstrated that the State of Tennessee and Shelby County faced a choice between two reasonable

alternative viewpoints when assessing the need for the challenged regulations. The appellants effectively ask us to second-guess the deliberative judgments of both legislative bodies. We decline to do so.¹²

It is important to note here that the standard that the Supreme Court has established is that the legislative body adopting the law must have before it evidence from which it “can reasonably believe” that sex businesses cause “negative secondary effects.” Thus it is not necessary to resolve the scholarly debate; a local government must merely have credible evidence before it to “reasonably believe” that the increases in the crime rate are attributable to such businesses. It is important to recognize the conflicts surrounding this issue. A gentlemen’s club, for example, may operate entirely within the law, leading its operators to assert that they are doing everything right. However, it may still attract incidental criminal activity to the neighborhood that may lead to legitimate neighborhood complaints.

Diminution of property values

The other significant measurable negative secondary effect of adult businesses is their impact on the values of surrounding properties. Studies have used trends in property values from tax assessors and surveys of appraisers (Oklahoma City Community Development Department 1986; Indianapolis Department of Metropolitan Development 1984) to affirm that sex businesses have a negative effect on property values. A 1984 study in Indianapolis (*ibid.*) examined six representative locations having adult entertainment sites (the study area) and six physically similar locations with no adult entertainment sites (the control area). It found that although the housing base within the study area was distinctly higher in value than the control area, its value appreciated at only one-half the rate of the control area’s appreciation and only one-third the rate of the wider township between 1979 and 1982.

In the US, the vast majority of real estate transactions involve a mortgage, secured by the property. Lenders determine how much they will lend based on the appraiser’s valuation of the property. The impact appraisers have on the market value of real estate is the rationale behind surveying appraisers as to their professional opinion as to the impact sex businesses have on residential and commercial properties (Smolen and Hambleton 1997).

As part of their Garden Grove Study (McCleary and Meeker 1991) issued a questionnaire to over 900 real estate professionals, with a response rate of 15 percent, asking them about the impact of sex businesses on property values. Survey respondents overwhelmingly responded that proximity of adult businesses decreased property values for commercial, single family residential and multiple family properties. The survey data clearly indicated that real estate professionals felt adult businesses were associated with decreased property values and decreased quality of neighborhood for both residential and commercial areas.

Similar results were found in two 2008 surveys of credentialed real estate appraisers¹³ in Texas and Florida (Cooper Consulting *et al.* 2008; Duncan Associates

et al. 2008). In the Florida survey, which was distributed electronically to 842 appraisers, 805 were successfully delivered and generated 213 responses (26.5 percent). In overall terms, 90.8 percent of respondents were of the view that sex businesses would have a negative effect on the value of a single-family home located within 500 feet (152 meters) of them. Different types of sex businesses were deemed to be relatively more detrimental than others. Gentlemen's clubs/strip clubs were considered by 93 percent ($n = 198$) of respondents to be the sex business most likely to have negative secondary effects. A similar proportion (92.5 percent) of respondents ($n = 197$) felt that peep booth businesses also transmitted negative secondary effects. And, adult video and media stores and lingerie and adult novelty stores were by 90.1 percent ($n = 192$) and 87.7 percent ($n = 187$) of appraisers to have negatively impact on residential property prices. In response to the question "at what distance would there be no measurable impact," more than 85 percent said that negative impacts would extend anywhere between 500 feet (152 meters) to a half mile (805 meters) for all sex businesses outlined above. Furthermore, when asked about the negative impacts of the sex business on the market value of a community shopping center (used as a proxy for general retail property), the number of appraisers reporting that they would have a negative impact on the value of such a center located within 500 feet (152 meters) while relatively high were lower than impacts on residential property values. Video peep businesses were seen to have the most impact on shopping centers (67.8 percent, $n = 144$). This was followed by: gentlemen's club/strip clubs (61.2 percent, $n = 130$); adult media and video store (58.4 percent, $n = 124$); and lingerie and adult novelty store (50.7 percent, $n = 108$). Although the latter two figures are not significant, it is important to remember that the legal test is whether there is evidence before the legislative body from which its members can "reasonably believe" that there are negative secondary impacts.

Unlike previous surveys of appraisers conducted in Indianapolis (Indianapolis Department of Metropolitan Development 1984) and Oklahoma City (Oklahoma City Community Development Department 1986), the Texas and Florida surveys (Cooper Consulting *et al.* 2008; Duncan Associates *et al.* 2008) disguised their real intent (i.e. impacts of sex businesses) by including questions about the impacts of a variety of other land uses.

Other secondary effects

Neighborhood blight

Other secondary effects, such as neighborhood blight, are more difficult to measure, although they are often cited in court cases and local reports. "Neighborhood blight" is the deterioration of buildings, exterior premises and public facilities due to lack of maintenance and/or investment or the intrusion of land uses that are incompatible with the existing context of the neighborhood. It is more difficult to measure than crime rates, but often plays a pivotal part in sex business court cases.¹⁴ In upholding the Detroit ordinance that required separation of adult theaters from one another and from other "regulated uses," the US Supreme Court noted:

At that time the Detroit Common Council made a finding that some uses of property are especially injurious to a neighborhood when they are concentrated in limited areas. In the opinion of urban planners and real estate experts who supported the ordinances, the location of several such businesses in the same neighborhood tends to attract an undesirable quantity and quality of transients, adversely affects property values, causes an increase in crime, especially prostitution, and encourages residents and businesses to move elsewhere.¹⁵

In dealing with blight and sex businesses, many sex business proponents often argue that these businesses are in blighted areas because these locations are the only areas zoned to allow them to operate. Invariably, opponents of sex businesses counter with the argument that sex businesses contribute directly to the blight.

For many people, sex businesses tend to be perceived as “locally unwanted land uses” or LULUs (Popper 1981). Such uses fall into two broad categories. First, land uses that everyone *needs* but that no one *wants* next door (e.g. landfills and sewage plants). Second, that uses for constitutional or other reasons, are allowed in most communities but need special attention (e.g. pawn shops, sex businesses, and halfway houses). The Detroit ordinance requiring distance separation of sex businesses was upheld by the US Supreme Court as an “anti-skid row” ordinance. This ordinance was amended to include “adult theaters” to a list of existing “regulated uses” that were required to be separated from one another and from residential areas.¹⁶

Unintended encounters or spill-over effects

One of the major purposes of zoning in the US is to mitigate problems of land use incompatibility (Kelly 2010). One way to do that is to minimize the extent to which individuals going about their ordinary lives are confronted with uses and activities that they may consider undesirable. Someone going to an entertainment district for the evening should not be particularly surprised to encounter people who may have been drinking, but someone dropping a child at kindergarten is likely to be very surprised to encounter condoms along the way.

In our professional practice we have conducted research in at least two communities with numerous and longstanding sex businesses that have had few complaints levelled against them (see Chapter 4, this volume). However attitudes changed among residents and city leaders within both communities when a sex shop opened across the street from the Catholic high school in one community and in the other, when a sex shop opened in a small retail strip center along a major pedestrian route to an elementary school.

“Spill-over effects” are associated with these “unintended encounters” in that they most often occur in proximity to a neighboring incompatible use or activity. They often involve residents or customers in proximity to sex businesses encountering men exposing their genitals, women walking along in what some people

might consider to be provocative or risqué clothing, men urinating in public places, and litter from opened packages of condoms or sex toys (Duncan Associates 2000).

Although sex businesses may create land use compatibility issues for communities, opposition to these types of businesses is not always premised on their negative secondary effects as outlined above. Quite often opposition from local communities and organizations is based on moral or religious grounds.

Moral and religious perspectives

The regulation of sex businesses is fraught with complexity due to shifting social attitudes towards sex and sexuality (Hubbard 2011). There are those who take an extreme view of the issue of sex businesses, protesting even businesses that sell a publication as mild as *Playboy*. And there are those who “support” sex businesses if the growth in the number of strip clubs and sex shops (see Chapters 2, 3, and 8, this volume) and consumption of pornography (see Williams 1999; Chapter 9, this volume) are any indication of the mainstreaming of sex in our society (Attwood 2009).

Regardless of moral or religious viewpoints, it is fair to say that most people would prefer not to live adjacent to a sex business, especially those that have extended opening hours, serve alcohol and are frequented by large volumes of transient populations. Public policy on the issue at the local level does not fully reflect this essentially bi-modal set of views on the issue for one simple reason. In the US, individuals who are most opposed to sex-related businesses are often vocal, citing their respective religions for their authority and for a means of galvanizing support. Then there are those who occasionally “support” sex businesses through the consumption of retail products or live performances but are generally reluctant to speak up. Professional involvement at public hearings and other meetings show that those who speak in favor of adult businesses tend to be the owners, operators and their lawyers. Local policy-making on this issue is not framed so much by a debate over pros and cons of allowing a range of sex businesses in various locations but more on the cons of sex businesses, balanced only by the significant constraints imposed by the First Amendment to the US Constitution. Thus, it is important to recognize this social context, as this explains the emphasis on the need to base decisions about sex businesses on their secondary effects and regulate them based on constitutional foundations as discussed earlier in this chapter.

In working with local governments it is not uncommon to encounter conservative activist groups that prefer to see sex businesses eliminated or heavily restricted. The American Family Association (www.afa.net), for example, founded in 1977 by a First United Methodist Church pastor in Southaven, Mississippi, focuses on traditional family values and advocates for strong regulation of sex businesses. Another religious group active in seeking to restrict sex businesses is the Citizens for Community Values (www.ccv.org), founded in 1983 by a pastor of College Hill Presbyterian Church in Cincinnati, Ohio. Elsewhere other activist groups opposed to the hyper-sexualization of society include Stop Porn Culture, a Boston, Massachusetts-based organization fighting against the proliferation of

pornographic media; and, UK Feminista, a London, England-based organization that was instrumental in creating stricter licensing of lap dancing clubs in England (Cochrane 2013).

Certainly similar concerns underlie the actions of some citizens who lobby for restrictions of sex businesses and may influence the view of some public officials. It is clear however, that most public officials have at least a basic understanding of the restrictions that the US Constitution's First Amendment places on them and that they cannot constitutionally censor protected speech by banning lawful sex businesses from their communities.

Applying the tools: do they make a difference?

How can planners and policymakers effectively and legally manage sex businesses that are protected under the First Amendment? In short, there are a number of regulatory tools that can be deployed so as to reduce, if not minimize, the negative secondary effects associated with sex businesses. In short, these include: (i) locational controls; (ii) site controls; (iii) interior design controls; and (iv) licensing and operational controls.

Locational controls

Studies of land uses that are considered "criminogenic" typically show that crimes occur within about 500 feet (152 meters) of that business (McCleary and Meeker 1991; Felson 1987). Thus, separating sex businesses from residential areas by at least 500 feet (152 meters) has the potential to mitigate negative secondary effects on residential areas. However, as the surveys of appraisers discussed above indicated, the negative effects of sex businesses on residential property values may extend up to half a mile (805 meters). Although it is not practicable to separate all sex businesses from all residential areas by such a distance, increasing the separation distance contributes to mitigating negative secondary effects. Similarly, the linear nature of much commercial "strip zoning" along major roadways in the US often makes it difficult to achieve such large distance separations while still making an adequate number of sites available (Kelly and Cooper 2000).

Studies have shown increased criminal activity when two or more sex businesses are clustered in proximity to one another (Denver Zoning Administration *et al.* 1998; McCleary and Meeker 1991; Los Angeles Department of City Planning 1977). Thus, local requirements to separate sex businesses from one another contribute to mitigating cumulative negative secondary effects related to increases in crime.

Site controls

Requiring on-site parking for sex businesses reduces the risk of unintended encounters between customers, employees and neighbors. Well-lit parking lots and sidewalks around a sex business can reduce the likelihood of inappropriate

activities occurring outside the establishment (Newman 1973). Landscaped buffers between sex businesses and other uses can also reduce land use conflicts but, paradoxically, they may also increase public safety risks by providing hiding places for opportunistic criminals (Newman and National Institute of Law Enforcement and Criminal Justice 1976). While these standard zoning tools assist in addressing some of the negative secondary effects stemming from sex businesses, they are not enough in and of themselves to protect property values or to reduce criminal activity and unintended encounters that may arise, regardless of how well maintained and managed such venue may be.

Interior design controls

Many of the concerns that public officials have in relation to sex businesses relate to inappropriate or illegal displays of nudity, sex acts and drug transactions (Kelly and Cooper 2004). Eliminating backrooms and private booths at sex businesses can do more than anything else to reduce such unlawful activity. Bringing all live performances and movies into one large, open room, with lighting suitable to the medium, creates a social environment that tends to moderate behavior, allows management to monitor and control activities on the premises, and allows law enforcement officers to make efficient compliance checks. Requiring that performers remain on a stage and that audience members remain in-situ reduces the chances of illicit sexual activities occurring between performers and audience members. This is a restriction that the industry resists because it reduces the revenues for dancers and, at least in the opinions of some, reduces the quality of the experience enjoyed by customers (Hanna 2012; Eaves 2002).

These internal controls have the potential to reduce the incidence of unlawful activities within sex businesses and as a result reduce crime rates associated with them. In theory, this should reduce the negative secondary effects of urban blight and unintended spillover effects.

Licensing and operational controls

Licensing the business and requiring a licensed manager to be on duty at all times also limits problems in and immediately around sex businesses. A major function of licenses in the US is to extend a “privilege” to a person or business that can be taken away if that privilege is abused. The threat of losing a business license is a powerful incentive to a business to manage its own affairs, and licensing the manager reinforces that message. Much of the unlawful activity that occurs at sex businesses is of a relatively minor nature and can be quickly resolved via good management. A licensed manager on duty can deal with such issues if he or she and the organization that employs the manager are motivated to do so (see Chapter 4, this volume).

Many adult cabarets have one or more security officers, sometimes armed. Through a licensing ordinance, local governments can make a business responsible for preventing certain activities occurring in proximity to their business. A number

of studies have shown that positioning attentive “guardians” along a street helps to significantly reduce crime rates (Newman 1996).

Conclusions

The regulation of sex businesses has become one of the more challenging tasks facing local governments in the US today. This challenge centers on achieving a balance between legitimate community concerns about the negative secondary effects of sex businesses and the First Amendment rights of sex business owners, their employees and customers.

Regulation of sex businesses is one of the most litigated areas of land use law today in the US (Rohan 2013). Communities that have tried to bar most, or all, sex businesses have generally lost court challenges to their local ordinances. In that context, a community must make reasonable provisions for the existence of some sex businesses; it is also clear that a community need not necessarily allow every such establishment to offer the full range of sexually oriented activities. US courts have recognized that a sex business (such as an adult book store) is different from other businesses offering similar products that are not sexually oriented; thus, the community can adopt and implement different zoning and licensing regulations for sex businesses, provided that the effect of these regulations is not a complete ban on all such businesses. However, as noted throughout this chapter, the real policy debate in the US focuses not on the pros and cons of sex businesses. Rather the debate is between on the desire of some people to suppress sex businesses in society on the one hand, and the constitutional protection afforded to sex oriented books, magazines, videos and media, as well as to live performances on the other.

Notes

- 1 “Reported decisions” may be misleading. Most US municipal and state trial court decisions are not reported in the US; such cases only become reported if they are appealed, which many are not. Thus, there may be more such prosecutions than we realize.
- 2 In a study for Kansas City (see Kelly and Cooper 1999) a number of other cities were contacted regarding their implementation of ordinances regulating sexually oriented businesses. Although some attempted to define a sexually oriented business based on the percentage of sales that were sexually oriented, anecdotal evidence indicated that it was far too easy to “ring up” an item in an innocent category to make this a useful measure.
- 3 The First Amendment is part of the so-called “Bill of Rights,” the collective name of the first 10 amendments to the US Constitution to addresses the concerns that the constitution, which focused almost entirely on the structure of the federal government, did not include protections of personal freedoms and certain states’ rights.
- 4 US Constitution, Fourteenth Amendment.
- 5 *Boos v. Barry*, 485 US 312, 108 S. Ct. 1157, 99 L. Ed. 2d 333 (1988).
- 6 *Renton v. Playtime Theatres, Inc.*, 475 US 41, 106 S. Ct. 925, 89 L. Ed 2d 29 (1986).
- 7 475 U.S. at 49, 106 S.Ct. at 929–30, 89 L.Ed.2d at 38–9, citing and partly quoting *Young v. American Mini-theatres*, 427 U.S. 50, 96 S. Ct. 2440, 49 L. Ed. 2d 310 (1976).

- 8 *City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728, 1736, 152 L. Ed. 2d 670, 683 (US 2002).
- 9 *City of Chicago v. Pooh Bah Enters.*, 224 Ill. 2d 390, 865 N.E.2d 133, (2006).
- 10 *Schad v. Borough of Mt. Ephraim*, 452 U.S. 61, 101 S. Ct. 2176, 68 L. Ed. 2d 671 (1981).
- 11 *Richland Bookmart, Inc. v. Knox County, Tenn.*, 555 F.3d 512, 525 (6th Cir. Tenn. 2009).
- 12 *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729, 738–39 (6th Cir. Tenn. 2013).
- 13 The authors surveyed appraisers with the MAI (Member of the Appraisal Institute) designation, the premiere certification for appraisals of commercial properties and for those involved in litigation, and SRA (Society of Residential Appraisers), a separate credential for those who conduct primarily residential work.
- 14 See, for example, *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. Tenn. 2013) and *Palmetto Props., Inc. v. County of Dupage*, 375 F.3d 542 (7th Cir. Ill. 2004), cert. den. 543 U.S. 1089, 125 S. Ct. 965, 160 L. Ed. 2d 899 (2005).
- 15 *Young v. American Mini Theatres, Inc.*, 427 US 50, 54–5, 96 S. Ct. 2440, 2444–5, 49 L. Ed. 2d 310, 316–17 (1976).
- 16 *Young v. American Mini Theatres, Inc.*, 427 U.S. 50, 52–588, 96 S. Ct. 2440, 2443–45, 49 L. Ed. 2d 310, 315–17 (1976).

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14 Conclusion

Towards pragmatic regulation of the sex industry

Paul J Maginn and Christine Steinmetz

Introduction

Sub(Urban) Sexscapes has brought together a series of discussions surrounding the contemporary spatial, cultural, and commercial geographies and regulation of the sex industry using case studies from Australia, the UK, the US and North Africa. The focus has largely been on 'legal' sex industry activities as well as some 'illegal' activities such as sex work/prostitution, that exist within the three primary spatial domains that constitute the city – urban, the suburban and the sub-urban. This is not to say that commercial sex only exists within the city. Commercialized forms of sex are also found in regional and rural spaces (Pini *et al.* 2013).

There are two opposing themes that cut across all chapters within this volume. On the one hand, it is evident that there is a spatial, commercial and cultural *mainstreaming* of various aspects of the sex industry. Brents and Sanders (2010: 43) argue that the 'concept of mainstreaming involves two interrelated factors, economic integration and social integration'. What this means in terms of economic integration is that sex industry businesses seek to replicate the aesthetics and practices of 'majority, conventional, ordinary, normal businesses' (*ibid.*). However, since sex industry businesses have tended to be viewed as problematic and criminogenic the transition to being 'normal' requires considerable rebranding and marketing. This is exemplified for example by the emergence of erotic boutiques such as *Coco de Mer* and *Myla*, within the adult retail sector who exhibit all the characteristics of a high-end fashion store. Simultaneously, the emergence of erotic boutiques, corporate adult retail chains such as *Ann Summers* and *Private Shop* and online stores such as *Lovehoney*, *Adultmart* and *Pleasure Chest* have contributed to a social mainstreaming of sex toys.

Furthermore, the presence of sexualized and eroticized bodies and stories in movies, literature, music videos and commercials promoted via billboards, newspapers and magazines, television and in-store displays is yet a further indication of the social mainstreaming of the 'sex industry'. Arguably, the most concrete expression of both the economic and social mainstreaming of commercial sex is where governments have recognized sex work/prostitution as a legitimate form of labour and introduced legislative and regulatory frameworks that enable sex work to prevail and offer protections for those engaged in this form of labour. There are a number of jurisdictions that stand out in this regard. They include: New Zealand and New

South Wales, Australia, where sex work is ‘decriminalized’ (McNeill 2013), or under what Weitzer (2013) terms ‘minimalist legalization’; the states of Queensland and Victoria in Australia also recognize sex work, but use a licencing model to regulate the industry (Sullivan 2010; Quadara 2008; Crofts and Summerfield 2006); the Netherlands (Aalbers and Deinema 2012) and Germany (Weitzer 2012) are two more states where sex work is legalized, in that sex workers can operate from specific areas and venues (e.g. Amsterdam’s famous sex windows in De Wallen); and Nevada is the only state in the US where prostitution is legalized (Bretns *et al.* 2010).

This would seem to suggest that there is not only a relatively high degree of social acceptance of commercialized forms of sex; it might also tacitly suggest that these types of activities are, in effect, already normalized albeit at different socio-spatial scales. Simultaneously, on the other hand, there have been increased efforts to regulate particular aspects of the sex industry, most notably, sex work/prostitution, strip clubs and pornography. The primary motives for greater regulatory intervention come largely from particular political, religious and feminist moral vanguards whose mission appears to be preventing the normalization of commercial sex via the upholding of heteronormative values and portrayal of those in the sex industry, particularly women (and children), as victims of patriarchy, human trafficking and sexual exploitation.

These contemporary efforts to regulate commercial sex and sexuality, in general, are by no means new. Dabhoiwala (2012: 13), for example, notes that during the Reformation, ‘[t]hroughout the western world, the period saw an intensification of Christian propaganda, and action, against fornication, adultery, prostitution and sodomy’. The Victorian era sees the emergence of another significant moral campaign against commercial sex. The Victorian desire to regulate commercial sex coincided with rapid urbanization, population growth and intra- and international migration. Consequently ‘the city’ was perceived as a space of ‘immorality, viciousness and danger’ (Houlbrook 2006: 135) to prevailing social norms (Hubbard 2012; Shaver 1985).

Throughout history, then, and in the face of severe regulation and punishment for engaging in sexually immoral practices (e.g. adultery, prostitution and sodomy), people have continued to supply and demand different forms of transactional sex and engage in alternative sexual practices (e.g. BDSM). Why is this? One reason for this, of course, is that sex is at the very heart of human existence due to the biological imperative in sustaining the human race. Another reason is that sex offers humans immense pleasure and contributes to a healthy lifestyle. Finally, sex provides us with a medium through which we can explore and express our sexual identities. From an evolutionary biology perspective McGuire and Gruter (2003: 36) argue that males who employ the services of female sex workers do so because of (i) a ‘male-evolved desire for sexual variety’ (ii) an inability ‘to obtain matings in any other ways’ and (iii) ‘to engage in sex acts that they cannot indulge with current sex partners’. Furthermore, they argue that females engage in prostitution because of (i) a ‘desire for short-term mating (while lower than males, the desire is present) and (ii) a desire to ‘[exploit] male sexual desires for resources (probably recurrent over evolutionary history)’ (*ibid.*).

History also shows us that government efforts to (over-)regulate certain activities and products via prohibition have tended to have major unintended consequences. The prohibition of alcohol in the US during the 1920s and early 1930s, for example, is a case in point. The banning of the manufacturing, distribution, selling and consumption of alcohol, largely on moral grounds, resulted in the creation of a large underground alcohol industry that was controlled by organized crime. Furthermore, the decision to prohibit alcohol was by no means universally supported by the American population, rather it emerged as a result of a longstanding campaign by the Anti-Saloon League which was initially supported by evangelical protestant churches who subsequently forged a coalition with elements of the business by portraying prohibition as having a net positive effect on economic growth by ‘reducing illness, absenteeism and accidents and increasing expenditure on consumer goods’ (Hall 2010: 1165). But as Thornton (1991: n.p) argues from an economic rationalist perspective:

National prohibition of alcohol (1920–33) – the ‘noble experiment’ – was undertaken to reduce crime and corruption, solve social problems, reduce the tax burden created by prisons and poorhouses, and improve health and hygiene in America. The results of that experiment clearly indicate that it was a miserable failure on all counts. The evidence affirms sound economic theory, which predicts that prohibition of mutually beneficial exchanges is doomed to failure. The lessons of Prohibition remain important today. They apply not only to the debate over the war on drugs but also to the mounting efforts to drastically reduce access to alcohol and tobacco and to such issues as censorship and bans on insider trading, abortion, and gambling.

The only ‘vice’ activity explicitly missing from Thornton’s list is of course the production and consumption of commercialized (and consensual) forms of sex ranging from erotic literature and art through to pornography in magazines, videos/DVDs and streamed over the Internet, and various forms of erotic or sexualized labour including burlesque, BDSM, stripping and sex work/prostitution. Where governments have sought to ban certain sexual(ized) products and/or practices on the basis that they are deemed in some way immoral or harmful to wider society the inverse intended outcome seems to win out. That is, banning things may lead to piquing people’s interest and rather than deterring them from consuming banned items or participating in illegal practices said items and practices become highly desirable and coveted because they offer risk and adventure. Ultimately, since these goods and services cannot be legally obtained via formal channels this provides a window of opportunity for ‘black marketeers’ to fill the void (Brooks-Gordon 2006).

If history is any measure of things, then, contemporary regulatory efforts designed to eradicate sex work/prostitution via the Swedish model, or seriously limiting the supply of other forms of commercial sex/adult entertainment via the imposition of costly licensing and strict zoning policies look set to ‘fail’. Furthermore, as Weitzer (2012: 206) intimates, given the ‘ubiquitous cultural

sexualization' of liberal western democracies this does 'not augur well for *abolishing sex work*' (emphasis added). That is to say, the abolition or over-regulation of sex industry activities is likely to result in parts of it withdrawing into the recesses of the shadow economy both within the city and cyberspace. This creates a policy paradox. These hidden physical and virtual spaces are invariably more difficult to monitor and regulate as they provide an opportunity for criminal elements to assume control of these parts of the sex industry. The consequences of this are: increased exploitation of women (and men) who work in the sex industry by third parties and increased risk of threatening behaviour and violence from clients. This runs counter to the very aims of those who support the Swedish model and other efforts to curtail various forms of adult entertainment.

Despite a plethora of regulatory interventions aimed at creating a moral geography of the city since at least the 1600s, commercialized sex has remained a constant feature of the urban experience. Even in the US where sex work/prostitution is illegal in every state (except Nevada), where police sting operations are used frequently to capture both sex workers and clients ('johns') and the carrying of condoms can be used as evidence to indicate that someone is engaged in prostitution, sex work continues to thrive in outdoor, indoor and virtual spaces (Gira Grant 2014). In light of this, this would seem to suggest that policy-makers need to adopt a more pragmatic regulatory approach to this vexed issue. Echoing and elaborating upon Weitzer's (2012: 206) regulatory framework, wherein he imagines 'an alternative to the conventional wisdom' about the nature and structure of sex work/prostitution we present an outline pragmatic regulatory framework for the broader sex industry. Our framework overlaps with Weitzer's and comprises three basic inter-related components (i) understand that the city is a sexual space (ii) recognition of the complexity and structure of the sex industry and (iii) policy best practices.

The sexualized city

It is important that those politicians and policy-makers with direct responsibility for regulating the 'sex industry' recognize that the city is not an inherently asexualized space; nor can they expect to create such a space. The sexualized nature of the city is reflected symbolically, physically, culturally and commercially in our sociological and geographical imaginations; imaginations which are informed by our lived experiences. For example, the city and the suburbs have traditionally been seen as masculine and feminine spaces respectively. This gendered perception has been reinforced by the phallic architecture of the central business district in the modern metropolis and the protective womb-like domesticated space associated with the suburban home. Relatedly, as a number of authors in this volume have noted, both the city and the suburbs have tended to be viewed as heteronormative spaces. Despite the sexual diversity of the contemporary cosmopolitan city, the legal recognition afforded to LGBT communities, political and other institutional actors and elements of wider society still express anxieties about the emergence of queer spaces and their socio-cultural spill-over impacts, especially on children.

Finally, politicians and policy-makers seem to deny or overlook the historical and contemporaneous role of commercial sex in the city and the urban experience. For those in decision-making roles, a first step in making more informed and evidence-based decisions about how to regulate the commercial sex industry, we suggest the following as a starting point:

- *Sexual diversity training and awareness.* In much the same way that politicians (local councillors, state and national elected members) and policy bureaucrats (e.g. local and state government planners) have received training on gender equity and multiculturalism as our cities have become more ethnically diverse, the same should also hold true in the face of the increasing diversity of sexualities within the city. Put simply, such training needs to move beyond simple binary notions of heterosexuality and homosexuality to include those who belong to transgender, transsexual and intersectional identities. Furthermore, it is incumbent on policy-makers to devise strategies and implement courses of action designed to inform and increase the awareness and knowledge of their citizens of the changing sexual landscape within the city and embrace sexual representativeness as a policy objective.

Complexity of the sex industry

While the city in overall terms is a highly sexualized space and different forms of commercial sex businesses – legal and illegal – can be found across all cities, there are jurisdictions (local government areas) where the sex industry is more commonplace and in plain view, and even recognized as being a fundamental aspect of a city's economy and identity (City of Sydney 2006, 2013; Brents *et al.* 2010; Sides 2006). Simultaneously, there are jurisdictions with fairly recent experiences of legal commercial sex enterprises such as strip clubs and lap-dance bars. In these situations, proposals for such venues or applications to renew licences have tended to provoke stereotypical heteronormative and feminist reactions (see Chapter 8, this volume). Relatedly, when proposals for brothels or BDSM dungeons are presented these too provoke negative perceptions often conflating indoor sex work with outdoor forms of sex work. But as various commentators have clearly illustrated there are significant differences in the structure and nature of these two broad sectors of the sex work market in terms of the risks for workers and the impact of externalities on surrounding land-uses. Again, policy-makers charged with regulating the sex industry should base their decisions on solid evidence and a nuanced understanding of the structure and nature of the sex industry as opposed to moral panics that rely on conjecture, crude stereotypes and essentialist arguments. All policy-making should of course be guided by a moral framework but that framework should be premised on the strictures of social scientific research (i.e. 'empirically grounded and theoretically nuanced', in the words of Weitzer 2012: 203). To base policy on a particular religious and/or ideological framework that is underscored by nothing more than a sense of moral superiority, is in itself

arguably an immoral act and undermines the normative principles of not only policymaking but democracy itself.

To this end, then, there is a policy imperative that political and bureaucratic decision-makers, especially local government planners and planning sub-committees, need to be informed and educated in understanding the complexities of the sex industry on a number of key fronts. These include:

- Types of commercial sex businesses and venues and their geographical placement within the city and what factors – bureaucratic and/or market – explain their location and transformations in the structure and character of commercial sex premises.
- Impacts of different commercial sex venues, if any, in relation to causing a nuisance, attracting crime, disrupting amenity, negatively affecting property values on surrounding land-uses and so on.
- Understanding the type and profile of people who supply and demand sexual services – there is an urgent need to recognize that a diversity of genders, sexualities, age groups and ethnic groups are engaged in the production and consumption of sexual services.
- Motivations as to why people choose to be involved in the sex industry as a provider of sexual services and/or performances and why clients use the services of sex workers and consume other forms of adult entertainment. Of particular note here is a need to recognize that not all those engaged in erotic labour have been coerced into the sex industry and where people have chosen to enter the sex industry there may be a myriad of reasons explaining their choices.
- Definitions and understandings of the range of sexual and intimate services demanded and supplied by clients and workers since not all forms of erotic/sexualized labour necessarily entail penetrative forms of sex.

Best policy practice

Weitzer (2012) offers a set of policy standards – visibility, eligibility, health, safety and rights – from which stem a suite of policy prescriptions to guide the regulation of sex work/prostitution. These various policy standards and prescriptions can also be adopted to manage other aspects of the sex industry. Time and space prevents a detailed discussion on all of these standards and prescriptions, hence the focus here is on those that we consider to be the most important and have a general applicability across the sex industry broadly defined.

To start with, we concur with Weitzer that there is a need to recognize and accept that *consensual* commercial or transactional sex (e.g. street- or indoor-based sex work/prostitution, BDSM, camming or pornography) should be ‘officially recognized as work and that participants [and enterprises] be accorded the rights and protections available to those involved in other occupations [and industries]’ (Weitzer 2012: 207). Doing so will help in relation to alleviating the social stigma that surrounds sex work and sex workers, reducing violence and exploitation

towards sex workers from clients, managers and the police, and engendering confidence among sex workers to engage with various branches of the state, especially the police when they encounter violence, harassment and discrimination (Gira Grant 2014; Brooks-Gordon 2006; Sullivan 1997). In terms of other forms of commercial sex, recognizing and treating such enterprises on an equal footing can help reduce immature and stereotypical perceptions of sex shops and strip clubs as inherently 'dirty', 'perverted' and 'exploitative' spaces, or that participants in BDSM suffer from psychological or psychiatric disorders.

(In)visibility

Weitzer favours minimizing the visibility of sex work/prostitution and 'keeping it largely out of sight' (Weitzer 2012: 208) arguing that this will 'reduce the chances that residents and others will mobilize to recriminalize (ibid.). There are two main ways that this objective can be achieved. On the one hand, and this has been traditional planning policy practice, sex industry premises have been granted zoning permission in peripheral locations in an effort to render them invisible. Such practices were based, in broad terms, on the belief that isolating the sex industry from other parts of the city would minimize negative secondary effects and protect the moral fibre of local communities. It would appear that Weitzer is broadly supportive of this approach, especially in jurisdictions with no established history of red-light districts. While there may be some merit in this approach it needs to be carefully balanced against the occupational and health and safety risks that might befall sex workers if their place of work is isolated, poorly lit, and lacking in other services such as public transport, healthcare and the police.

On the other hand, policy regulations designed, firstly, to allow sex premises such as sex shops to resemble other 'ordinary' retail outlets, and, secondly, assume a discrete presence in everyday spaces (residential areas or mixed use areas) via controls on signage, window displays and parking, can also render so-called controversial land-uses invisible. As Martin (Chapter 3) notes, planning and zoning policies that force adult retail stores to blacken out their frontages merely serves to draw attention to them and creates negative impacts on local amenity. A more pragmatic approach would be to create a framework that encourages sex shop owners to be more creative about the external design of their stores. Conditions that restrict the inclusion of obviously offensive products and materials in shop front windows can also be used. Furthermore, recent research in Sydney on the disorderliness of brothels has been brought into question with a significant proportion of local residents 'far less aware of the existence of commercial sex premises within their local area (56.9 per cent; 228 out of 401) than they were of other known types of commercial premises such as cafes/restaurants (91.8 per cent; 368 out of 401) and pubs/bars and clubs (88 per cent; 353 out of 401)'. Moreover, only 27 per cent of survey respondents (62 out of 228) were of the view that brothels had a negative impact (Prior *et al.* 2013; also see Hubbard *et al.* 2013; Hubbard and Prior 2013). While 24 per cent felt they had a positive impact. A primary reason for the relative

lack of concern about brothels is due to the fact that they are discreetly embedded within the suburban sexscape.

Eligibility

It is difficult to disagree with Weitzer's prescriptions that minors should be prevented from participating and/or consuming commercial sex in all its forms. Curiously, however, while it is legal to have sex at 16 years of age in many western liberal democracies, it is illegal for persons under 18 years of age (21 years of age in some nations) to consume mediated forms of sex (McNair 1996). This issue not only raises philosophical questions about the eligibility of consuming and participating in different forms of commercial sex, it also raises a policy question as to how to close, what appears to be, a socio-legal paradox.

Licensing is a common regulatory tool used across all business sectors. If we are to be fair and equitable in licensing commercial sex premises or businesses, associated fees should be similar or on par with comparable businesses. For example, as a form of retailing, sex shops should not be expected to pay licensing fees far in excess of other retail outlets. In terms of other forms of commercial sex, regulatory regimes that insist on sex businesses, managers and workers to all be licensed points to regulatory overkill. Moreover, such onerous licensing approaches deter people from complying. As Weitzer (2012: 210) notes '[w]hen the regulations are extensive, expensive, stigmatizing, and perceived as arbitrary or discriminatory compared to other businesses, this amplifies the temptation to opt out and operate illegally'.

A rights-based approach

There is a need to ensure that policy-makers recognize and uphold the rights of sexual minority groups such as LGBT communities, sex workers and alternative consenting sexual lifestyles as they form an intricate part of the tapestry of advanced and civilized liberal democracies. And as such, their rights, in terms of identity, safety and protection from discrimination and violence and access to services, especially health, are upheld to the same extent as all other citizens. This reinforces the need for sexual diversity training among policy-makers.

In order to uphold the rights of sexual minorities and various types of sex workers and to ensure the development of effective regulatory policies on the sex industry, it is vital that policy-makers actively engage and involve the sex industry. This must include actors at all levels or points within the sex industry – from owners through to performers to sex workers. In urban planning such collaborative policy approaches are *de rigueur* in relation to policies and projects that affects local communities, in general, and minority groups, more specifically.

Achieving all of the above will invariably be a challenge for policy-makers, practitioners, the commercial sex industry, and individuals who work, in some form, within the sex industry. Nevertheless, ignoring or denying the role of sex, sexuality and commercialized sex, in contributing to the overall character of our

cities and towns is not a policy option. Relatedly, in seeking to regulate the sex industry as it manifests across the suburban sexscape a pragmatic as opposed to moralistic approach is required. Effective policy-making is based on the collection of solid empirical data and careful rigorous rational analysis.

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(Sub)Urban Sexscapes brings together a collection of theoretically informed and empirically rich case studies from internationally renowned and emerging scholars highlighting the contemporary and historical geographies and regulation of the commercial sex industry. Contributions in this edited volume examine the spatial and regulatory contours of the sex industry from a range of disciplinary perspectives (urban planning, urban geography, urban sociology, and cultural and media studies) and geographical contexts (Australia, the UK, the US and North Africa).

In overall terms, *(Sub)Urban Sexscapes* highlights the mainstreaming of commercial sex premises (sex shops, brothels, strip clubs and queer spaces) and products (sex toys, erotic literature and pornography) now being commonplace in night-time economy spaces, the high street, suburban shopping centres and the home. In addition, the aesthetics of commercial and alternative sexual practices – BDSM and pornography – permeate the (sub)urban landscape via billboards, newspapers and magazines, television, music videos and the Internet.

The role of sex, sexuality and commercialized sex in contributing to the general character of our cities cannot be ignored. In short, there is a need for policy-makers to be realistic about the historical, contemporary and future presence of the sex industry. Ultimately, the regulation of the sex industry should be informed by evidence as opposed to moral panics.

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