

15-08-2015

The Committee Manager
Select Committee on the Regulation of Brothels
Parliament House
Macquarie St
Sydney NSW 2000

Submitted via email directly to:

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To whom it may concern,

Please accept this submission to the Inquiry into the Regulation of Brothels within NSW.

Who Are We?

Sex Worker Outreach Program Northern Territory (SWOP NT)

SWOP NT is a peer based health promotion service that engages sex workers and works with other sex industry stakeholders within the Northern Territory to work safely with competence in knowledge of the industries legal and Work Place Health & Safety requirements. The SWOP project is located within (NTAHC) Northern Territory AIDS & Hepatitis Council, Darwin, as a NTAHC program and is funded for 30.4 hrs week to deliver peer services across the Territory. We advocate to reduce stigma and discrimination against sex workers via information sessions to health and legal sectors to ensure access, equity to services for sex workers. SWOPs' peer led health promotion via outreach and broader programming aims to improve sex workers lives by holistically addressing issues that includes human rights.¹

Sex Workers Are the Experts

SWOP NT reiterates the importance of the key stakeholders being sex workers as best placed to evaluate any systems of any regulation of sex work. SWOP NT as a peer program is opposed to any regulation that will inhibit sex workers being able to work safely that includes access to services. Sex workers within the SWOP NT program do not support the proposed regulation of brothels in NSW. We are adding our concerns and voices in line with supporting the submissions made by SWOP NSW and Scarlet Alliance, Australian Sex Workers Association in maintaining decriminalisation in NSW.

SWOP NT has engagement with sex workers who work within our territories jurisdiction and as FIFO workers from and to other states including NSW. Our submission expresses via direct experiences of sex workers working under a two tiered licencing system within the Northern Territory and the experiences of FIFO workers from other states the detrimental impacts licencing has had upon sex workers privacy in regulations that continues to compound stigma and discrimination against sex workers .

Licensing Doesn't Work

¹SWOP NT sex workers are challenged by mandatory lifelong police registration if working at a registered escort agency. Private sex workers must work alone out of hotels. Sex workers who are not registered with an agency who work with another privately in a hotel room or other accommodation and or as street workers are criminalized. <http://www.ntahc.org.au/programs/sex-worker-outreach-program>

Sex Workers in the NT are calling for the decriminalisation of sex work to ensure that sex workers privacy and safety is recognized to enable access to workplace services with existing business mechanisms. NSW has in place a solid system of compliance through the Decriminalisation of sex work. Any system that deviates from Decriminalisation via for example over regulating with specialised licencing constraints creates a two tiered system where some workers are able to work legally and others are then by default of sex industry specific legislation criminalized.

Criminalization increases vulnerability to Blood Born virus (BBV's) & Sexually Transmitted Infections (STI's) by fuelling stigma and discrimination that facilitates barriers for sex workers to access to sexual & reproductive health services and safer sex prophylactics and educational support networks, Such as SWOP NT and other peer programs and or organisations. SWOP NT as a primary harm minimisation service acknowledges that removing legal penalties for sex work allows for the reduction of stigma and discrimination, opens doors for access to wider services as sex workers in NSW and New Zealand under a decriminalized system are currently able to benefit from directly.

Sex Workers as the primary key stakeholders and direct evaluators of work place health and safety and allied health and legal professionals all over the world have endorsed Decriminalisation of sex work to ensure sex workers human rights are actively being supported. The full Decriminalisation of sex work holistically has now been ratified as best practice implementable in policy positions and joint academic research, journals /publications by respected organisations Scarlet Alliance Australian Sex Workers Association², UN Development Programme (UNDP), the UN Population Fund (UNFPA), the Joint United Nations Programme on HIV/AIDS (UNAIDS)³, The Lancet medical journal, Amnesty International, (APNSW) Asia Pacific Network of Sex Workers⁴, NSWP Network of Sex Worker Projects, all recognise the value of decriminalisation and the failure of licensing models in effectively regulating the sex industry. The definitive word on sex industry licensing comes from The Kirby Institute's 2012 Report to the NSW Ministry of Health, which states that licensing is a 'threat to public health' and should not be regarded as a viable legislative model.⁵

We know from sex workers direct experience in the Northern Territory and as FIFO workers to other states in Australia that licensing models;

- Impede compliance as licensing creates a two-tiered system whereby many sex workers incur obstacles due to over regulation of the industry, that in turn gives sex workers less options in how and where work can be provided legally and safely as "any" exclusive regulation in licensing of the sex industry by default criminalises the very area the regulation is proposed to constrain

² DECRIMINALISATION OF SEX WORK -The evidence is in accessed at HIV Australia | Vol. 13 No. 1 | March 2015, Jules Kim, Scarlet Alliance, Australian Sex Workers Association, "Sex workers have been advocating for decades for the full decriminalisation of sex work and now it seems we have very persuasive evidence from [The Lancet series on HIV and sex workers](https://www.afao.org.au/library/hiv-australia/volume-13/HIV-Australia-13-1-2020-targets/decriminalisation-of-sex-work#.VdQFu_mgqko).¹ Launched at AIDS 2014 " https://www.afao.org.au/library/hiv-australia/volume-13/HIV-Australia-13-1-2020-targets/decriminalisation-of-sex-work#.VdQFu_mgqko

³ Dec 11, 2012- The new WHO guidelines recommend that countries work towards decriminalization of sex work and urge countries to improve sex workers' access health services. <http://www.unaids.org/en/resources/presscentre/featurestories/2012/december/20121212sexworkguidance>

⁴ <https://apnsw.wordpress.com/>

⁵ UNAIDS, UNFPA, UNDP, Sex Work and the Law in Asia and the Pacific, 2012, UNDP Thailand, accessed at on 23 October 2012, page 7. <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/sex-work-and-the-law-in-asia-and-the-pacific.html>
[ii] Prostitution Licensing Authority, Queensland, Annual Reports 2001-2011, Statements of Financial Performance. When calculated, the Government Contributions across each year in the first ten years of licensing have added to \$6,959,000. In 2010-11, the PLA received \$561,565 in licensing fees, but the total expenditure for that year was \$1, 339, 663. <http://www.swop.org.au/node/508>
[iii] Donovan, B., Harcourt, C., Egger, S., Watchirs Smith, L., Schneider, K., Kaldor, J.M., Chen, M.Y., Fairley, C.K., Tabrizi, S., (2012), The Sex Industry in New South Wales: a Report to the NSW Ministry of Health. Sydney: Kirby Institute, University of New South Wales, p.7 <http://www.acon.org.au/wp-content/uploads/2015/04/NSW-Sex-Industry-Report-CSRH-2012.pdf>

- Add expense to public purse, the licensing of sex work has inflated administrative expenses and low compliance. Licensing of sex industry businesses in Queensland has cost tax payers more than \$7 million over a ten year period, and only resulted in 24 licensed brothels leaving the majority of the industry illegal;⁶
- Compounds stigma and discrimination within the industry and publically in relation to how and where sex workers work as in legal or illegally. Licencing does not support sex workers agency in being able to monitor work environments for workplace / occupational health and safety.
- Will dissolve Decriminalisation that is already implemented in NSW that is so important to preserve to maintain for visibility for transparency of the industries business / sex workers to continue to build constructive relationships with health and legal service providers, sex workers peer networks, and other referral agencies. Decriminalisation importantly assists in lifting levels of stigma and discrimination that has enabled sex workers and other industry business managers to report crimes to police and seek when necessary additional legal support to prosecute hate crimes against sex industry workers.
- A prime example of domineering and dangerous legislation over the privacy and rights of sex workers in the Northern Territory is the regulatory requirement for sex workers who work under an escort agencies management to mandatorily register with police authorities. This legislation was introduced initially with the intention to protect sex workers. The regulatory condition on escort agency workers has caused extensive harm to sex workers and to agency operators/managers in relation to privacy issues, disclosure of sex workers information inappropriately and the lifelong recording of sex workers personal details as required that resides in the Police Commissioners care⁷
- Are not required as under decriminalisation sex industry workers / business comply as other external business and workers in other industries. Discriminating laws and regulations are not best practice full decriminalisation is, specific licencing with the aim to manage non-compliant brothels differently to other non-compliant businesses is archaic and if implemented will be redundant as councils are required to provide openly for sex industry businesses of various sizes and scales within their local area. Stigma and discrimination creates barriers for sex workers and sex industry businesses already, if governing bodies add specialised licencing then this will not only compound further stigma and discrimination against sex industry workers but will further complicate any attempt at compliance.

Decriminalisation is the best practice model of Sex Industry Regulation

Evidence shows that decriminalisation is the world-renowned, best practice model for sex work regulation, and that it has brought high rates of compliance, minimal opportunities for corruption, increased transparency and improved safety for sex workers. Decriminalisation also removes the threat of police corruption which was one of the main reasons NSW was decriminalised in the first place. Licensing models rely on police as the regulators creating an environment where police corruption is possible. The risk to decriminalisation in NSW is an issue that potentially affects all sex workers in Australia. Currently sex worker organisations and projects look to NSW as the leader in sex industry regulation in Australia having successfully implemented the best practice model of decriminalisation resulting in positive health and

⁶ Licensing of sex work has enormous administrative expense and low compliance. leaving the majority of the industry illegal.”[ii] Janelle Fawkes, CEO, Scarlet Alliance..accessed at <http://www.swop.org.au/node/508>

⁷ Jul 9, 2015 - All sex workers working for an agency have to register with the Northern Territory Police. Accessed at [Escort licensing - Department of Business - Northern ... www.dob.nt.gov.au](#) Home > Gambling & licensing > Licensing

safety outcomes for sex workers. Sex workers in other states and territories continue to campaign for decriminalisation using the evidence that points to high level of public health outcomes experienced in NSW. Loosing decriminalisation in NSW will inevitably make it harder for other states and territories to lobby for best practice sex industry regulation.

Conclusion

“Evidence shows that decriminalisation is the world-renowned, best practice model for sex work regulation, and that it has brought high rates of compliance, minimal opportunities for corruption, increased transparency and improved safety for sex workers. The UNAIDS, UNFPA, & UNDP Report Sex Work and the Law in Asia and the Pacific 2012 recognises the value of decriminalisation and the failure of licensing models in effectively regulating the sex industry.”⁸

Evidence also shows that there is a knock on effect from decriminalisation of sex work which reaches into the overall community. In, 2003, due to an unintentional accident, Rhode Island decriminalised sex work, resulting in most workers moving indoors. What occurred was what was termed a ‘Natural experiment’ which occurred between periods 2004-2009. During this time a sharp decrease in rape and STI’s occurred. There was a decrease of 31% in rapes and a 39% decrease in female gonorrhoea over this time period. It can only be concluded this is a result of workers operating in safer working conditions due to having agency to contact the authorities in the event of issues arising. It lead to a decrease of police corruption, criminal activity, and it had the overall effect of improving the lives of the general population of women, not just sex workers.⁹

On behalf of Northern Territory sex workers SWOP NT wishes to thank the committee for an opportunity to submit our voices within our submission as sex workers. We in sincerity ask the committee to have pride in maintaining New South Wales Decriminalisation that globally has been ratified as best practice and work towards recommendations from sex workers as experts that preserves this important step in the rights for workers in the sex industry

Any measure taken to legislate specifically in relation to decriminalised working environment will inevitably criminalise sex workers. NSW decriminalisation must stay intact amendments that risk decriminalisation should not be considered for adoption. Sex Workers must be able to work freely.

SWOP NT would like to finish with a statement from a Northern Territory sex worker “If people in power really want to make change in this country, my country as an Aboriginal person then they want to get serious about “closing the gap” and support decriminalisation in NSW. For us as sex workers in the Northern Territory decriminalisation is one of the many steps forward assisting us to be visible to access services from other peers in safety and without shame, I support the decriminalisation of sex work to keep us safe, as we are some of the most vulnerable workers in Australia”¹⁰

Yours sincerely

SWOP NT officer/s

On behalf of Northern Territory sex workers
Sex Worker Reference Group (SWRG)

⁸ UNAIDS, UNFPA, UNDP, Sex Work and the Law in Asia and the Pacific, 2012, UNDP Thailand, accessed at <http://www.snap-undp.org/elibrary/Publications/HIV-2012SexWorkAndLaw.pdf>

⁹ Accessed insert from FIFO sex worker SWOP NT SWRG <http://www.vox.com/2014/7/15/5898187/prostitution-rhode-island-decriminalized>

¹⁰ SWOP NT Sex Worker Reference Group (SWRG) meetings, sex worker participant, I support the decriminalisation of sex work to keep us safe, as we are some of the most vulnerable workers in Australia”