

INQUIRY INTO THE REGULATION OF BROTHELS

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The Committee Manager
Select Committee on the Regulation of Brothels
Parliament House
Macquarie St Sydney
NSW 2000
Submitted online: <http://www.parliament.nsw.gov.au/regulationofbrothels>

To whom it may concern,

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

Who Are We?

Respect Inc is a non-profit community based association of past and present sex workers focused on the rights and wellbeing of sex workers in Queensland. Our objectives include providing appropriate health promotion programs to sex workers and providing a legitimate voice for Queensland sex workers, advocating for legal and other social policies to support sex workers' human, civil and workplace rights.

Respect Inc is funded by Queensland Health and we have operated since 2010 to deliver peer education and community development services to sex workers in Queensland.

Sex workers are the experts

Respect Inc does not have a vested financial interest in any particular model of sex industry legislation. We are motivated to argue for models of legislation that are best for sex worker occupational health and safety. Sex workers are the key stakeholders in this process and as a sex worker's organisation that is made up of past and current sex workers we wish to add our voice to this debate.

Respect Inc supports the submissions made by SWOP NSW and Scarlet Alliance who wish to maintain the current model of decriminalisation. We would warn against giving undue weight to submissions made by brothel owners' groups/associations as they often have financial incentives and do not argue in the best interests of sex workers.

In particular our submission draws on our experience of the licensing model of regulation that has been used in Queensland since 1999 which has been ineffective in providing workplace health and safety for the majority of sex workers in Queensland (see Respect Inc ,Crime and Misconduct Commission review submission 2011 <http://www.ccc.qld.gov.au/research-and-publications/browse-by-topic-1/legislation-reviews/2011-review-of-the-prostitution-act-1999-qld-1/review-of-the-prostitution-act-submissions>).

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Licensing doesn't work - decriminalisation is the best model

Countless studies demonstrate decriminalisation is the best-practice approach to regulating the sex industry in contrast to approaches such as licensing that have failed in many other places. The UNAIDS, UNFPA, The Lancet medical journal and recently Amnesty International 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.

Licensing is expensive

We know from experience in Queensland that licensing models are expensive and cover only a small part of the industry. Licensing of sex work has an enormous administrative expense and low compliance because of onerous probity checks and high fees. There will be additional expenses for the policing that will be needed due to low compliance.

Running the Prostitution Licensing Authority in Queensland 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.

In the 12 years from 2000-2012 in Queensland there were only 56 applications to council to approve a brothel and of those only 36 were approved, only 65% of applications, that is an average of 3 per year approved (PLA Annual Report 2012).

In the 15 years since licensing started, there are still only 23 licensed brothels in operation. In the last 6 months, 3 licensed brothels in Queensland have closed doors citing financial reasons.

Low compliance creates a two-tiered system

In Queensland we have ended up with a two-tiered system where around 70% of the industry is criminalised and only a small % is licensed.

In Queensland, individual sex workers cannot run their own co-operative businesses (brothels) because of the onerous probity requirements and the costs. Sex workers who wish to work together in co-operative arrangements must apply for licenses which require police checks. These licences start at around \$19000 per year for a licence for one room, with annual renewal costing around \$16000. If two sex workers were to apply to do this together it would cost them around \$560 per week just for licensing fees, before they opened their doors. Then they would be required to hire a receptionist to be on premises at all times that they wished to work.

The licensing system does not allow sex workers to have control over their own work and occupational health and safety. In Queensland more than 70% of sex workers do not work in licensed brothels and are policed under the Criminal Code. This legal framework makes it very difficult for sex workers to work together, or with friends, family or co-workers, to keep themselves safe. Licensed brothels with high overheads can be particular about which sex workers they employ, preferring to have young and attractive females on shift, and there is sometimes pressure to perform services that the sex worker would prefer not to provide. In a decriminalised system there will always be an option for marginalised sex workers to work together in co-operatives.

Decriminalisation is better for sex workers' sexual health

Sex workers have low rates of HIV/STIs and it has been shown that sex workers in decriminalised frameworks have better sexual health status than those in licensing (LASH study 2007, Kirby Institute <http://kirby.unsw.edu.au/projects/law-and-sexworker-health-lash-project>). This study shows that mandatory testing, as we have in Queensland for sex workers who work in licensed brothels, does not improve sexual health amongst sex workers.

Licensing is not necessary

Licensing systems are not necessary because sex industry businesses are not different to other businesses and do not require special laws and regulations. Under a licensing model of regulation councils still need to provide for sex industry business planning approval. There will always be compliance issues with sex industry businesses if, due to discrimination, councils do not make it possible for sex work businesses to obtain planning approval. In Queensland, discrimination by councils in the approval process was such a problem it became necessary for the government to legislate for a 'special independent planner' who could veto the decision of local councils. This has been a failure in Queensland where there is a special exemption for small towns (population under 25,000) to make a blanket 'no approval policy' for brothels. By 2012 there were 200 of these exempt towns which meant that each year since the licensing began there had been an average of 3 brothels approved while 16 towns obtained exemptions.

Licensing will not stop 'trafficking'

Most Asian sex workers in Queensland work outside of the licensed system and we do not believe that there is a 'trafficking' problem either way. In fact decriminalisation would support positive relationships with police and other welfare organisations making it easier for workers to seek help if they need to.

Licensing makes police the regulators for most sex workers

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. In Queensland, Respect Inc works every day with sex workers who are targeted by police. We have lobbied for years to remove police as regulators in Queensland. Police spend an inordinate amount of time posing as clients to entrap sex workers who are working together or who may be entrapped into offering unsafe sexual services. After 15 years of licensing in Queensland it has become apparent that this will never change until a decriminalised model is introduced.

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 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. Losing decriminalisation in NSW will inevitably make it harder for other states and territories to lobby for best practice sex industry regulation.

Conclusion

We thank the committee for the opportunity to make this submission and hope that the committee will recognise the importance of maintaining decriminalisation in NSW for sex workers health and safety and continue producing the high levels of compliance and public health outcomes currently enjoyed in NSW. Furthermore we wish to warn against the implementation of a licensing system which will prove expensive, counter-productive and set NSW on a path of endless legal review.

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For the Respect Inc Management Committee