

**Submission
No 139**

INQUIRY INTO THE REGULATION OF BROTHELS

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The Committee Manager
Select Committee on the Regulation of Brothels
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To the Select Committee,

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

Who Are We?

The 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 encourage workplace safety and accordance with the industry's legal, health & safety requirements. SWOP's peer-led health promotion, through outreach and broader programming, aims to improve sex workers' lives by holistically addressing their issues – including human rights.¹

Sex Workers Are the Experts

SWOP NT emphasises that sex workers are the key stakeholders in the industry and therefore are best placed to evaluate any regulatory systems. As a peer program, SWOP NT is opposed to any regulation that will inhibit sex workers' ability to work safely, and this includes reduced 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 in line with our support for the submissions made by SWOP NSW and Scarlet Alliance, the Australian Sex Workers' Association, to maintain decriminalisation in NSW.

SWOP NT engages with both sex workers working within our territory's jurisdiction, and FIFO workers coming from and going to other states including NSW. Our submission expresses the 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: that licencing has detrimental impacts on sex workers' privacy and compounds stigma and discrimination against sex workers .

Licensing Doesn't Work

Sex Workers in the NT are calling for the decriminalisation of sex work to ensure that sex workers' privacy and safety is recognized, thus enabling access to workplace services with existing business mechanisms. NSW has in place a solid system of compliance through the decriminalisation of sex work. A system that deviates from decriminalisation, for example by over-regulating with specialised licencing constraints,

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>

creates a two-tiered system where some workers are able to work legally and others are then criminalized by default.

Criminalization increases vulnerability to blood borne viruses (BBVs) & sexually transmitted infections (STIs) by fuelling stigma and discrimination. This sets up barriers preventing sex workers' free access to sexual & reproductive health services, safer sex prophylactics and educational support networks, as provided by SWOP NT. SWOP NT, as a primary harm minimisation service, argues that removing legal penalties for sex work leads to the reduction of stigma and discrimination, and opens doors for access to wider services. The experiences of sex workers in NSW and New Zealand under a decriminalized system currently demonstrates this.

Sex workers as the key stakeholders, and health and legal professionals all over the world have endorsed decriminalisation of sex work to ensure sex workers' human rights are actively supported. The holistic decriminalisation of sex work has now been ratified as best practice by respected academics and organisations including Scarlet Alliance, the Australian Sex Workers Association², the 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, the Asia Pacific Network of Sex Workers (APNSW)⁴, and the Network of Sex Worker Projects (NSWP). These 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 in NSW 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, 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. This gives sex workers fewer options for how and where work can be provided legally and safely: any exclusive regulation in licensing of the sex industry necessarily criminalises the other, unlicensed aspects of the industry;
- Add expense to the public purse: the licensing of sex work has inflated administrative expenses, with low compliance. Licensing of sex industry businesses in Queensland has cost tax payers more than \$7

² DECRIMINALISATION OF SEX WORK -The evidence was accessed in 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). 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 to 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 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>

million over a ten year period and only resulted in 24 licensed brothels, leaving the majority of the industry illegal;⁶

- Compound stigma and discrimination within the industry and publicly in relation to how and where sex workers work, i.e. legal or illegally. Licencing does not support sex workers' agency in being able to monitor work environments for workplace health and safety;
- Will dissolve the decriminalisation already implemented in NSW, that is so important for transparency in the industry. Sex workers need to continue to build constructive relationships with health and legal service providers, our own peer networks, and referral agencies. Decriminalisation importantly assists in lifting levels of stigma and discrimination, enabling sex workers and industry managers to report crimes to police and seek 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 mandatory requirement for sex workers who work under an escort agency's management to register with police. 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.⁷

Specific licencing with the aim of managing non-compliant brothels differently from other non-compliant businesses is archaic and unnecessary for NSW. Stigma and discrimination creates barriers for sex workers and sex industry businesses already, and if governing bodies add specialised licensing then this will only add further stigma and complicate any attempt at compliance.

Decriminalisation is the best practice model of sex industry regulation

Evidence clearly shows that decriminalisation is the world-renowned, best practice model for sex work, 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, as it has successfully implemented the best practice model of decriminalisation and achieved positive health and safety outcomes for sex workers. Sex workers in other states and territories continue to campaign for decriminalisation using the evidence of the 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

"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

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

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 the 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 2004 and 2009. During this time a sharp decrease in rape and STIs occurred. There was a decrease of 31% in rapes and a 39% decrease in female gonorrhoea over this time period. It can be concluded that this is a result of workers operating in safer working conditions and having the agency to contact authorities when issues arise. It led to a decrease in police corruption and criminal activity, and 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 the opportunity to submit our voices as sex workers. We in sincerity ask the committee to have pride in maintaining New South Wales’ decriminalisation, that has been ratified globally as best practice, and represents an important step for sex workers’ rights.

Any measure taken to regulate the working environment will inevitably criminalise some sex workers. NSW’s decriminalisation must stay intact, and amendments that risk the status of 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, that is my country as an Aboriginal person, then they want to get serious about “closing the gap” and they want to support decriminalisation in NSW. For us as sex workers in the Northern Territory decriminalisation is one of the many steps forward that would assist us to be visible and able to access services from our 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 officers

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”