

**Submission
No 135**

INQUIRY INTO THE REGULATION OF BROTHELS

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The NSW Legislative Assembly Inquiry into the Regulation of Brothels

19 August 2015

Background and Introduction

1.1 The Life, Marriage and Family Centre is an agency of the Catholic Archdiocese of Sydney and has been established to extend the research, policy, educational and pastoral activities the Church undertakes with respect to life, marriage and family issues. The Catholic Church has a long and ongoing tradition of caring for people, especially those who are vulnerable, and of promoting authentic relationships that are beneficial for individuals and for society. We strive to put into practical expression our belief in the equal and intrinsic worth of every human being, made in God's image and deserving of respect, dignity and love.

1.2 Catholics hold strong beliefs about the dignity of the human person, and we affirm the unique dignity of women. St John Paul II expressed the Church's recognition of the dignity of women in his encyclical *Mulieris Dignitatem*:

*"...the Church gives thanks for each and every woman: for mothers, for sisters, for wives; for women consecrated to God in virginity; for women dedicated to the many human beings who await the gratuitous love of another person; for women who watch over the human persons in the family, which is the fundamental sign of the human community; for women who work professionally, and who at times are burdened by a great social responsibility; for "perfect" women and for "weak" women - for all women as they have come forth from the heart of God in all the beauty and richness of their femininity..."*¹

If we as a society truly believe in the dignity of women, then what we do in practice should reflect this belief. Legalised brothels encourage the demand for prostituted women and foster an environment for human trafficking and illegal brothels to flourish, in order to meet this demand.

¹ St John Paul II, *Mulieris Dignitatem*, 31.

1.3 The Life, Marriage and Family Centre regards the *Inquiry into the Regulation of Brothels* as an important opportunity for our elected representatives to enhance the protection of women, especially vulnerable women, in New South Wales. The purpose of this submission is not to present detailed legal analysis and opinion, but to argue the general case for changes in the regulation of brothels in New South Wales and to discourage prostitution and the continued operation of these premises by adopting an alternative, pro-woman approach, which aims at reducing and deterring the demand for brothels.

Facilitating Prostitution: the reality of brothels

2.1 Prostitution commodifies women and as such is an affront to their inherent dignity. Prostitution promotes an underlying view of sexuality that characterises a woman as a “thing” to be consumed, instead of a person to be respected, loved and cherished. In prostitution, sexual activity is in no way a mutual gift but is solely about one person procuring sexual services in exchange for money. A woman’s sexuality is a gift and the reduction of her sexuality to a commodity is an affront to her inherent dignity.

2.2 Women who enter the sex industry often do so under some form of duress or disadvantage and so cannot be said to have made the decision with true freedom. Research has shown that an alarmingly high number of women in the sex industry have a history of abuse, poverty and drug addiction.² Studies show that between 50% - 90% of prostituted persons were victims of sexual abuse as children, 70%-95% were physically assaulted in prostitution, 60%-75% were raped in prostitution, and 75% have been homeless at some point in their lives.³ In addition to this, there are exceedingly high rates (68%) of post-traumatic stress disorder (PTSD) among prostituted persons. Research shows that these disturbingly high rates of PTSD remain steady regardless of the different prostitution laws in various countries, which suggests that prostitution is intrinsically traumatic.⁴ A 2006 study of prostituted women in Sydney found particularly high rates of trauma, with 75

² Max Waltman, “Sweden’s prohibition of purchase of sex” (2010), 4-5

³ Melissa Farley et al., “Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder,” in *Prostitution, Trafficking and Traumatic Stress*, ed. Melissa Farley (Binghamton, NY: Haworth Maltreatment & Trauma Press, 2003), 43, 56, available at www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf

⁴ Waltman, *op. cit.*, 6 & Farley et al., *op. cit.*, 61: “In a previous study, although we found more physical violence in the street compared to brothel prostitution in South Africa- we found no difference in the incidence of PTSD in these two types of prostitution, suggesting the intrinsically traumatizing nature of prostitution...In the present study we compared stripclub/massage, brothel and street prostitution in Mexico and found no differences in the incidence of physical assault and rape in prostitution, childhood sexual abuse, or symptoms of PTSD.”

percent reporting some form of child sexual abuse, and 50 per cent reporting at least one attempt at suicide.⁵

2.3 Women who prostitute themselves regret entering the sex industry. With violence, abuse and coercion the norm for women in prostitution⁶, it is unsurprising that studies have shown around 89% of women in prostitution want to escape.⁷ There is also evidence demonstrating that it is not until women have escaped prostitution that they have a greater awareness of the severity of the violence committed against them during their time in the sex industry.⁸

2.4 There are significant social and health problems that arise from prostitution. Of particular concern are the long-term negative impacts on persons who have been prostituted. Research reveals that, because of the exploitation in prostitution, ‘the symptoms, the trauma, the ruined psychic and social development it entails for the prostituted persons, as well as the lack of a realistic alternative means for income that follow, prostituted persons are rarely reintegrated into the community on equal terms.’⁹

Alternatives to the Current Regulation of Brothels in NSW

3.1 If any other ‘profession’ had as alarmingly high rates of violence and mental and physical health issues as the sex industry does, it would be considered unacceptable. We need to look for genuine alternatives that protect women in prostitution, provide those who want to escape with realistic and holistic options, and ultimately reduce the demand for prostitutes in NSW. Loosening regulations is not the answer, since jurisdictions in which prostitution has been decriminalised or legalised have seen the subsequent expansion of brothels, sexual exploitation and the rise of a ‘prostitution culture’.¹⁰ Loosening the current regulations would also directly conflict with the dignity of and respect owed to all women.

3.2 There are positive, effective, woman-affirming alternatives to the current regulation of brothels in NSW. In 1999 the Swedish government brought in the Law Prohibiting the Purchase of Sexual Services, which states:

A person who obtains casual sexual relations in exchange for payment shall be sentenced—unless the act is punishable under the Swedish Penal Code—for the purchase of sexual services to a fine or imprisonment for at

⁵ A Roxburgh, L Degenhardt, J Copeland, “Posttraumatic stress disorder among female street-based sex workers in the greater Sydney area, Australia.” (2006), *BMC Psychiatry*, 6:24.

⁶ Farley et al., *op. cit.*, 35-36

⁷ *Ibid.*, 56

⁸ *Ibid.*, 55

⁹ Waltman, *op. cit.*, 16

¹⁰ *Ibid.*, 22

most six months. Attempt to purchase sexual services is punishable under Chapter 23 of the Swedish Penal Code.¹¹

This legislation recognises that it is unreasonable to punish those who sell sexual services because they are often the victims of exploitation.¹² Instead, the law prohibits the purchasing of sexual services. The Swedish model takes a ‘zero tolerance’ approach towards sexual exploitation in prostitution and recognises that it is the ‘consumer’ who drives the supply for such services.¹³ While this legislation targets those *purchasing* sexual services, there are no criminal or legal repercussions for persons *selling* sexual services. The Swedish government has also contributed considerable funding towards enforcement of this law, and towards assisting persons in prostitution who want to escape.¹⁴ Following these legal changes, street prostitution in Sweden has decreased by 30%-50% and recruitment of new women for prostitution has almost stopped.¹⁵ In neighbouring Denmark, where they do not have the same prohibitions, the number of prostitutes is ten times that of Sweden despite Denmark’s smaller population.¹⁶

3.3 Following Sweden’s lead, a number of other countries have since adopted aspects of the Swedish model in their own prostitution laws, including Norway, Iceland and parts of the United Kingdom.¹⁷ These countries have recognised the importance of protecting women in prostitution, and of prosecuting those who purchase sex and thereby participate in and perpetuate sexual exploitation. The promising results in Sweden and these other countries that have adopted similar laws has also prompted more countries to reconsider their own laws on prostitution, including France, Estonia, Lithuania, Venezuela and South Africa.¹⁸

Conclusions and Recommendations

4.1 Prostitution is the commodification and exploitation of women. All women have inherent dignity but acts of prostitution are an affront to this dignity. A majority of women involved in prostitution have suffered alarmingly high rates of abuse, poverty and drug addiction, and prostitution causes further harm to these women, many of whom suffer from post-traumatic stress disorder as a result. The sex industry has unacceptably high rates of abuse, exceeding 60%, and 89% of ‘workers’ would leave if they could. The normalisation of violence and the use of coercion in initiating and retaining a person in prostitution is appalling and cannot be ignored. If we as a

¹¹ Gunilla Ekberg, “The Swedish Law that Prohibits the Purchase of Sexual Services: best practices for prevention of prostitution and trafficking in human beings”, *Violence Against Women*, Vol. 10, No. 10, (October 2004) 1192

¹² *Ibid.*, 1188

¹³ *Ibid.*, 1189

¹⁴ *Ibid.*, 1192

¹⁵ *Ibid.*, 1193

¹⁶ Waltman, *op. cit.*, 23-24

¹⁷ *Ibid.*, 26

¹⁸ Ekberg, *op. cit.*, 1207

society truly respect and care for women, we need to seriously examine options for new regulations that protect women and target the demand for brothels.

4.2 The Swedish model which prohibits the purchase of sexual services but does not criminalise the selling of such services is an efficient and worthwhile model to consider. One of the reasons Sweden has been a leader in this legislation is because, for many years now, they have recognised that prostitution is inherently harmful, that it sexually exploits women, and that it normalises violence and sexual discrimination.¹⁹ In NSW we too can and should reject the normalisation of prostitution and all its harms, and we should continue to affirm the inherent dignity of and respect for women. It is essential that our NSW elected representatives seriously consider their responsibilities to vulnerable women, and their hopes for the kind of society we want to create, in reviewing the current legislation on the regulation of brothels.

Thank you for the opportunity to make a submission on this important matter. Please contact me on [REDACTED] or [REDACTED], if I can be of further assistance.

Yours sincerely,

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¹⁹ Ekberg, *op. cit.*, 1190