

**Submission  
No 32**

## **INQUIRY INTO THE REGULATION OF BROTHELS**

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**Date Received:** 17/08/2015

Nell Gwynn, [REDACTED]

15/08/2015

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

To whom it may concern,

I am a [REDACTED] full service sex worker, working in brothels and privately, and I am writing to make a submission to the Inquiry into the Regulation of Brothels in NSW. At the bottom of this document, in the page after my signature, you will find all necessary documents, links, and research reports containing any statistics, facts or cases mentioned in this submission, as well as providing support for the decriminalisation model. Sex workers' voices must be prioritised in this matter, as we are *key stakeholders* in the process of evaluating the regulation of brothels in NSW.

As a sex worker currently working in a licensing system, I can attest to the failure of this model to provide sex workers with occupational health and safety, equity, general safety, and the basic labour rights that every worker deserves.

The licensing model places police as our regulators, thus opening the door to police corruption, resulting in discrimination, abuse and violence against sex workers by law enforcement agents. In fact, police regulation of the sex industry in general, and the non-compliant sector in particular, brought on such high rates of police corruption in NSW under a licensing model, that it was a central reason for the original instatement of decriminalisation.

Another consequence of the licensing model is a two-tiered sex industry, with licensing requirements often being senseless and excessive, thus excluding countless workers from operating legally. This tends to affect workers who belong to the more disadvantaged and marginalised intersections within the sex industry, such as trans individuals and people of colour, to the greatest extent.

Some concerns have been raised in relation to issues with the decriminalisation model, leading to the questioning of its efficacy.

Firstly, the perceived non-compliance of sex industry business is being interpreted as a downfall of decriminalisation. However, upon examination it is found that this non-compliance is driven by certain councils' and councillors' failure to follow the model appropriately. Fear of losing votes has lead these to refuse to consider Development Applications from brothels and sex workers operating from home, thus forcing them to work in non-compliance.

Councils are attempting to claim that this is guided by planning and amenity impact of sex industry business, however it has been demonstrated, through research and experience, that these businesses have minimum to no amenity impacts. Research conducted in 2008 demonstrated that in 13 years of decriminalisation, only one brothel was ordered to cease operations as a result of amenity impacts, and there were no complaints against private sex work amenity impacts. This indicates that refusal to consider sex industry businesses Development Applications is rooted in stigma, not reality. The perception is that brothels are 'outlaws... inherently awful, disorderly... warranting and requiring exclusion from the community by councils', despite the Land and Environment Court predicating that 'offensiveness and morality are not relevant planning considerations'. Furthermore, every sex industry business Development Application that was

rejected by councils and then proceeded to submit the same application to the Land and Environment Court, was found to meet the amenity requirements for approval. However, not every business can afford to do this, and the government should be inclined against this revision as well, as it is an unnecessarily costly process for both the businesses and the councils.

Another issue that is rooted in prejudiced perception rather than reality is the handling of non-compliant sex industry businesses. The terminology often used for non-compliant brothels is “illegal”, a term which is not used to describe non-compliant businesses in any other industry. This terminology is decidedly erroneous and inflammatory, and contributes to the misguided notion that sex industry businesses should be regulated by police. As demonstrated earlier, this type of regulation only brings on corruption and violence towards sex workers. Non-compliant sex industry businesses should be regulated by the same agents and means as any other industry.

Finally, organised crime and trafficking concerns seem to be another fallacious focus. The Land and Environment Court recognises that there is no evidence of organised crime involvement in the sex industry. In regards to trafficking, Government statistics of it are consistently low, while the media grossly inflates and overstates them for the sake of sensationalism. As such, both organised crime and trafficking should not be a cause for distress in Australia in context of the sex industry.

Furthermore, if decriminalisation is properly implemented, it in fact makes it far easier to thwart trafficking and help victims if cases do arise, as financial and other resources can be focused on them, rather than redundantly and arbitrarily spent on the over-regulation of the industry.

The decriminalisation model carries with it very clear and immense benefits. Australia’s National Strategies, and the Kirby Institute Annual Surveillance Report both recognise that correct implementation of the decriminalisation model contributes to achieving and maintaining inordinately low rates of HIV and STIs. Furthermore, The Lancet presented current evidence at AIDS 2014, demonstrating that the decriminalisation of sex work would have immeasurable impact on the HIV epidemic, reducing HIV rates by up to 46% within a decade, which will in turn induce cost saving thresholds of tens of millions of dollars globally. This model also provides sex workers with improved access to occupational health and safety promotion/ resources, and general healthcare, compared with licensing environments such as Victoria, WA, and ACT.

It is hence easily observed that a judiciously implemented decriminalisation model is the best legislative and regulatory model for the sex industry, advancing the interests of sex workers, the government, and the general population, leading to growth and development in numerous principal areas of life, including political, financial, welfare, and social functions of society.

It is my hope that you decide to continue improving the operation of the decriminalisation model, rather than revert back to a licensing system, when sex workers, sex work organisations, human rights agencies and others, are all working to achieve the opposite, and shift licensing and criminalised states into a decriminalisation model.

Yours,  
Nell Gwynn\*

\* I am using my work and advocacy related name, as the whorephobia I have been subjected to by my family, as well as restrictive and discriminatory ██████████ sex industry laws, have dictated that I cannot openly live as a sex worker and speak for myself and my community without grave repercussions.

Below I have attached all the necessary resources, reports and support documents, which will confirm any claims made in this submission, as well as make a case for the importance of decriminalisation, and the prioritising of sex workers' voices in making this decision:

Australian Government Department of Health and Ageing, Sixth National HIV Strategy 2010- 2013, Commonwealth of Australia, Canberra, 2010, 16. Kirby Institute, HIV, Viral Hepatitis and Sexually Transmissible Infections in Australia Annual Surveillance Report, University of New South Wales, 2011, p8, Figure 46, Figure 34.

Christine Harcourt, J O'Connor, S Egger, C Fairly, H Wand, M Chen, L Marshall, J Kaldor, B Donovan, (2010), 'The Decriminalisation of Prostitution is Associated with Better Coverage of Health Promotion Programs for Sex Workers', Australian and New Zealand Journal of Public Health, 34:5 at 482

Land and Environment Court of New South Wales, Martyn v Hornsby Shire Council [2004] NSWLEC 614, 2004, accessed at <http://www.lawlink.nsw.gov.au/lecjudgments/2004nswlec.nsf/00000000000000000000000000000000/00/45b396e658d9f27eca256f420004a76a?opendocument> on 12 August 2015.

NSW Government and Workcover, 'Health and Safety Guidelines for Brothels', 2001, accessed at [http://www.workcover.nsw.gov.au/\\_data/assets/pdf\\_file/0014/15134/brothels\\_health\\_safety\\_guidelines\\_English\\_0120.pdf](http://www.workcover.nsw.gov.au/_data/assets/pdf_file/0014/15134/brothels_health_safety_guidelines_English_0120.pdf) on 12 August 2015.

The Lancet Series on HIV and Sex Workers, July 2014, accessed at <http://www.thelancet.com/series/HIV-and-sex-workers> on 30 October 2014.

Liu, Lonza and Beauty Holdings Pty Limited v Fairfield City Council (1996).

Penny Crofts, 'Brothels: Outlaws or Citizens?' (2010) International Journal of Law in context, 6:2, 151.

Scarlet Alliance and Nothing About Us Without Us, Submission to Shadow Attorney General Chris Hatcher on Sex Industry Regulation in NSW, September 2010, 10.

Christine Harcourt et al., 'Sex Work and the Law', Sexual Health 2(3) 121-8 at 125.

Amnesty International, 2015, *Draft policy on sex work*.  
<http://www.swop.org.au/sites/default/files/Amnesty%20Draft%20Policy%20Sex%20Work%202015.pdf>