

# PRINCIPLES FOR MODEL SEX INDUSTRY LEGISLATION

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SECTION ONE  
BACKGROUND:

legal approaches  
regulating the  
sex industry

## *Introduction*

Prostitution laws in Australia have been influenced by the English Abolitionist approach of the turn of the century that seeks to control or eradicate activities associated with the sale of sex. These activities include organising, operating or managing sex industry businesses or receiving direct financial benefit from the labour of sex workers - usually defined as 'living off the earnings of prostitution'. Under abolitionist influenced laws individual sex workers may or may not be criminalised for the sale of sexual services depending upon the sector of the sex industry in which they work. However, in practice, abolitionist influenced laws do not allow for sex work to be freely practiced since the control of associated activities limits the ability of individual workers to make choices regarding where they can work and in what manner.

Recently, changes have been driven by the need to control the perceived impacts on the broader community and unrealistic, offensive stereotypes. These impacts include ensuring that 'public morality' is not offended, the protection of minors, managing public health concerns with respect to sexually transmitted infections (ACT, 1991), the control of organised crime and illegal drugs (CJC, 1991) and local government planning issues (Neave, 1984).

Another significant influence on the law reform agenda is the equivalence of sex work with violence both towards the women who work in the sex industry and with respect to its impact on women in the broader community. Those supporting this view wish to eradicate the sex industry whilst claiming to support individual sex workers (Jeffreys, 1997). Little consideration is given to the role laws regulating the sex industry play in determining occupational conditions.

These approaches underpinning sex industry law reform are rejected by sex workers and their organisations who locate discussions regarding sex industry law reform within a framework of work. Recognition that sex work is labour facilitates law reform objectives to focus upon human rights, occupational health and safety, and working conditions (Banach, 1999; Metzenrath, 1997). Positioning sex work as a labour issue does not ignore the conditions under which many sex workers operate but challenges assumptions regarding sex work. The violence and exploitation that sex workers around the world may experience is acknowledged but it is criminal laws regulating the conditions within the sex industry and the stigmatisation of sex workers that creates the conditions for this exploitation.

This document sets out the principals that should guide sex industry legislation to ensure a balance of stakeholder needs. It demonstrates through evidence that many of the perceived "problems of the sex industry" are addressed when sex workers' occupational health and safety, working conditions, and their human rights are the primary goals of reform agendas. Sex industry legislation that fails to address these issues has been shown to fail the world over. This is demonstrated repeatedly by the fact that whilst various jurisdictions have attempted to prohibit certain

sectors of the industry and support others, they all continue to exist and in some cases flourish. Current laws in the majority of Australian States and Territories (particularly Tasmania, Queensland, South Australia and Western Australia) are negatively impacting on sex workers' health and safety, undermining public health outcomes and initiatives, setting the conditions for police corruption and control of local industries, failing to regulate working conditions, forcing sectors of the sex industry underground, criminalising sex workers, encouraging discrimination against sex workers, limiting sex workers' access to legal mechanisms to address crimes committed against them and ignoring and denying basic human rights.

## SECTION TWO

# PRINCIPLES FOR MODEL SEX INDUSTRY LEGISLATION:

- \* decriminalisation
- \* sex work is legitimate employment
- \* choice of employment
- \* occupational health and safety
- \* public health & mandatory testing
- \* local planning laws and zoning
- \* community attitudes to sex work
- \* discrimination & human rights
- \* sex slaves and foreign sex workers
- \* myths - pimps, drugs and minors

# PRINCIPLES FOR MODEL SEX INDUSTRY LEGISLATION

## Principle 1: Decriminalisation

That all laws criminalizing the sex industry be removed and the industry be regulated through standard business, planning and industrial codes/laws.

Most criminal laws regulating the sex industry reflect a lack of understanding of it, particularly in relation to health measures and the specificities of the various sectors that comprise it. These laws reflect stereotypes of sex workers as deviate, irresponsible victims in need of protection by the state and turned sex workers into a criminal sub-class of people (mostly women). This is demonstrated by police statistics which confirm that women are the most likely targets of police activity to curb sex work. For example, in the year 1992-1993, over 70% of persons arrested in South Australia for sex work related offences were female. The majority of arrests during this period were for 'living off the earnings of prostitution' - an offence supposedly aimed at the pimps and exploiters, traditionally associated with men. Women accounted for 85% of the arrests under this charge (South Australian Statistical Services, 1992-1993). In Victoria, for the same period, 65% of arrests for prostitution related offences were women, 294 women were arrested for soliciting or loitering, whilst only 2 men were arrested for 'inviting prostitution' or "gutter crawling"(Victorian Police Statistical Review 1992/93). In Queensland, laws that came into effect on 1st of July 2000 reflect the construction of sex workers as criminals. Under the *Prostitution Act 1999* any person with a criminal record relating to running, organising or managing a brothel will be prevented from holding a licence to operate a brothel. Given that operating a brothel in Queensland has been illegal over the past century (although tolerated at times), that corruption allegations against police for extorting money from brothels lead to an increase in arrests and that receptionists are often charged for 'assisting in keeping premises', a significant proportion of current sex industry personnel have criminal records which exempt them from applying for a licence. The intention of the law is to exclude undesirable or criminal elements from the sex industry, but the effect it will have is to exclude many sex workers from participating in the organisation or management of their own industry. Since these workers want to continue to work in the industry, they will do so illegally and will be branded criminals (Banach, 1999a).

Being labelled and defined as a 'criminal' has the consequent implication of restricting numerous life choices for sex workers. Some of these include the denial of the right to freely travel (many countries deny entry to known prostitutes) and difficulties in changing jobs (many jobs entail perusal of a person's

criminal record and if a person wishes to conceal employment in the sex industry there is often problems in explaining gaps in employment history). The consequence of a criminalised sex industry is that many sex workers are more likely to come in to contact with the police force and are exposed to police harassment, and extortion attempts.

Working within a criminalised framework means that many sex workers are denied the same access to workplace benefits that other Australian employees enjoy. This is particularly relevant with respect to conditions such as sick leave, holiday pay, workers compensation and superannuation entitlements. Even payment for work services provided is not guaranteed as workers must rely upon the honesty of brothel or escort operators to make payment. If the operator chooses not to pay a sex worker, then that worker risks being charged with an offence if s/he contacts police in order to seek legal redress.

The existence of laws that criminalise sex work maintains and promotes false stereotypes about sex workers in the public consciousness. This leads to the stigmatisation of sex workers as deviant and immoral people who represent a health risk to the general community. They are also conceptualised as victims without the skills necessary to obtain other employment. This stigmatisation and criminalisation has profound impacts on a group of people based purely on an occupational choice. To avoid discrimination and stigmatisation many sex workers maintain a fiction that they do not work in the sex industry that can lead to high levels of stress for leading a 'double life'. This is particularly relevant for women who have children.

Sex workers working under criminalised frameworks are also denied the same access to legal remedies to address crimes committed against them, including crimes of violence. This ranges from anti-discrimination protections to judicial remedies relating to rape and other crimes of violence. In the rare cases that crimes of violence against sex workers proceed to court, judicial outcomes have reflected a belief that sex workers are not worthy of the same degree of legal protection as other women. This dissuades sex workers from utilising these legal remedies and reinforces the assumption that sex work is inherently dangerous and the women who choose to work in the industry accept the risk associated with their work choice (Banach, 1999). These types of judicial responses send out the message to perpetrators that sex workers are easier targets who may be offended against without redress.

The sex industry is the only industry in which laws actually have the effect of minimising occupational health and safety. Laws that regulate the sex industry should support occupational health and safety outcomes and improvements in working conditions.

General criminal laws are adequate to address deception, fraud, violence, and exploitation of minors in the industry. There is no necessity to frame specific



legislation within sex industry laws to address these issues. Similarly, sex industry or public health laws should not specifically target the sex industry but should be generalised in relation to the whole sexually active population. Creating special laws that relate to sex workers does not achieve desired public health outcomes because they generally rely upon mandatory testing. This approach cannot guarantee sexual health status as it does not apply to all sexually active people and in particular clients. A more affective approach would be to encourage all sexually active people to have periodic health screening for STIs and become more acquainted with their own bodies through general population education campaigns. Mandatory health laws framed in sex industry legislation further stigmatises sex workers whilst being largely irrelevant as sex workers have the lowest rates of sexually transmitted disease and enjoy better sexual health than the general community. It is sex workers who require protection from clients and sex industry operators who may seek sexual services without a condom (Metzenrath, 1999).

Sex industry laws are often concerned with regulating all aspects of operation. Sex industry businesses are no different to other service industries and do not require unnecessary and complicated regulations to comply with conditions of legal operation. The task of law reform is lessened by seeking parallels to other industries and applying similar legislative obligations. An awareness of the differing requirements of the various sectors of the sex industry allows for workable and appropriate application of regulations. For example, whilst a registration/legalisation approach may be appropriate for brothels it is unlikely that this approach would be successful for private or street workers.

Registration when it occurs within other industries tends to apply to professional associations with the purpose of ensuring that the people practicing in that field have the necessary skills. For example, doctors, hairdressers, dentists etc. are not controlled by specific government legislation but are members of their own professional bodies. When registration is applied to sex industry businesses or individual sex workers the intention is usually as a form of government surveillance. Registration should never apply to individual sex workers as it is an invasion of basic human rights and perpetuates stigmatisation.

Examples of applying standards similar to other service industries relates to restrictions on advertising and alcohol. Many jurisdictions restrict the advertising of sexual services and for the recruitment of staff within the sex industry. The sale or serving of alcohol is generally restricted in brothels as they are prevented by law from obtaining liquor licenses. In the Australian Capital Territory both advertising and alcohol are not restricted under sex industry regulations and there has been no increase in the prevalence of either people entering the sex industry or alcohol related violence/consumption. These restrictions are not applied to any other industry and sex industry laws should correlate with standards applicable for other recognised industries.

Sex industry laws should assist sex workers to exercise greater control over their work environment by articulating sex industry industrial responsibilities. Industrial work conditions cannot be implemented in the sex industry under laws that deny sex industry businesses are workplaces. Current available legal remedies and industrial mechanisms are generally unavailable to sex workers who work illegally. It is important sex industry businesses meet their obligations to their employees and that laws regulating the sex industry support this obligation.

The following table sets out the types of laws that may apply in the various state and territory jurisdictions and the implications for sex workers who must work within these legal frameworks.

<b>Law</b>	<b>Implications</b>
* Living off the earnings of prostitution	* Restricts how sex workers can spend their money. A sex worker cannot choose to support their partner, adult children or any other adult without exposing that person to criminal prosecution.
* Procuring (includes recruiting people to work in the industry under threat, coercion or with drugs)	* Stereotypes the sex industry as requiring specific legislation to prevent procurement; * Criminal laws exist in every jurisdiction to deal with procurement in all industries.
* Soliciting	* Assumes that soliciting is always overt and offensive, when many men like being approached for sex and sex workers know how and who to approach. The same is generally true for clients; * Specific laws directed at the sex industry are not necessary and merely reinforce stereotypes about sex workers, primarily street workers; * Public nuisance laws exist in every jurisdiction to deal with offensive public behaviour.
* Compulsory testing of sex workers for sexually transmitted infections	* Stigmatises sex workers as diseased and irresponsible; * Isolates sex workers, rather than clients or the general community, as responsible for STI transmission;

	<ul style="list-style-type: none"> <li>* STI tests do not provide proof of sexual health due to window periods for various infections. Further, tests are not always 100% accurate;</li> <li>* Encourages clients to request services without prophylactics as they assume sex workers are clean.</li> </ul>
* Restricting brothels and private workers to industrial areas	<ul style="list-style-type: none"> <li>* Industrial areas are inappropriate for night time activity as they are badly lit, isolated and present security risks for sex workers;</li> <li>* Restriction to industrial areas is not economically viable for private workers;</li> <li>* By definition private work takes place in residential areas and is discrete and devoid of nuisance problems such as noise and parking;</li> <li>* Sex work is not an industrial activity but is a commercial services industry.</li> </ul>
* Registration of individual sex workers	<ul style="list-style-type: none"> <li>* Registration stigmatises sex workers;</li> <li>* It is unnecessary to register sex workers;</li> <li>* Privacy concerns arise for sex workers such as who has access to information, how is it protected and maintained, what types of information is required and for how long is it kept.</li> </ul>
* Licensing and probity checks	<ul style="list-style-type: none"> <li>* Excludes many sex workers from ownership of sex industry businesses as they may be excluded from applying for licenses due to past sex industry related charges;</li> <li>* The expense of applying for licenses for sex industry businesses is usually prohibitive and individuals and small operations are unable to afford application/licensing fees.</li> </ul>

<p>* Regulations - planning permits, licensing, permits, land use approval, landlord approval etc.</p>	<p>* The administrative and legislative requirements to comply with a myriad of regulations are complex and costly;  * Regulatory mechanisms may apply to small operators or private workers who are unable to comply with detailed approval processes;  * Strict regulatory requirements encourage the creation of a legal and illegal industry operating alongside each other.</p>
<p>* Local Council jurisdiction over location of sex businesses</p>	<p>* Planning locations may be highly restrictive and selectively directed at sex workers and sex industry businesses. For example, private single workers may be forced to comply with land use provisions  * Many councils use local powers to deny sex workers and businesses location permits arbitrarily;  * Sex workers and businesses must undertake expense legal action to overturn unlawful council decision to refuse to grant a licence;  * Local councils may use powers as a revenue raising measure;  * Many businesses refuse to comply with complex and expenses processes and continue to operate illegally.</p>
<p>* Brothel keeping, * Permitting premises to be used for the purposes of prostitution</p>	<p>* Denies workers the relative economic and physical security of legal brothel work;  * Prevents workers from forming collectives to pool their resources to meet costs of premises, reception staff, security, etc.</p>

# FACT SHEET: ONE

## Decriminalise the Sex Industry

### **Regulating the Sex Industry is Easy**

- \* All criminal laws relating to the sex industry specifically must be repealed;
- \* A decriminalised industry is more open to scrutiny as it is more easily accessible;
- \* Specific sex industry regulations may be considered under certain circumstances where the benefits are the support of occupational health and safety and rights for sex workers;
- \* Existing business, industrial, planning, health and criminal laws are sufficient to regulate the sex industry; and
- \* Decriminalisation facilitates the breakdown of stereotypes and myths about sex work and sex workers.

### **Sex Workers are not Criminals**

- \* Sex work must be decriminalised to ensure that workers in the industry are not classified as criminals;
- \* Labelling sex workers as criminals restricts their life choices and is a basic denial of human rights;
- \* Treating sex workers as potential criminals rather than workers denies sex workers access to workplace benefits such as sick leave, holiday pay, workers compensation and superannuation entitlements;
- \* Sex workers who are labelled as criminals are unlikely to access judicial remedies for crimes of violence; and
- \* Classifying sex workers as criminals promotes false stereotypes about them as unhealthy, immoral, unskilled victims.

## **Criminal Laws Undermine Employers Industrial Responsibilities**

\* In an environment where sex work is decriminalised, sex workers take more pride in the work they do and are more likely to challenge unfair and discriminatory practices in the sex industry.

## Principle 2: Sex Work is Legitimate Employment

*Sex industry laws must acknowledge employment in the sex industry as legitimate work rather than being concerned with regulating activities perceived as associated with the sex industry such as organised crime, local government planning concerns, police corruption and public health concerns*

Public discourses (general public, feminist, political) on the sex industry, and expressed in legislative aims have failed to include industrial rights within the framework of discussion and debate.

Sex industry legislation must acknowledge that prostitution is work and that the workers who work in that industry are entitled to the same industrial rights and protections as other workers.

As a consequence of the criminal law's intervention in sex work, contracts made with respect to prostitution may be void for illegality, or for being contrary to public policy. Individual sex workers can make valid contracts with their clients - the provision of private sex work services is not illegal. Sex work, however, invariably involves the worker in numerous commercial arrangements besides the client-worker relationship. For example, a sex worker may lease or hire out premises for the purposes of conducting her/his business. An escort worker might hire a driver to transport her/him between jobs, providing her/him with a degree of personal security. Even though these arrangements are of an undeniably commercial character, the law may not uphold them if the sector in which the sex worker operates is illegal.

The illegality of activities associated with sex work allows workers to be exploited by brothel owners/operators. At the basis of any employment relationship is a contract of service between the employer and the employee. If there is no contract of service, there is no employment relationship. Without such a relationship, workers must rely on the honesty of their 'employer' to pay them, and to provide reasonable terms and conditions of employment. Also, without such a relationship, workers are not entitled to statutory employment protection, such as non-wage conditions specified in industrial awards, superannuation entitlements, workers' compensation and occupational health and safety.

In those jurisdictions where brothel keeping is illegal, rates of pay and other non-wage conditions for brothel workers remain largely at the discretion of brothel owners or operators. Brothel workers often complain of being required to work

long hours and of having no control over their clientele. Brothel workers do not receive paid sick leave (even when their condition may be work related) or paid holidays. While it is true that many other service providers (such as trades people) do not have contracts of employment, other self-employed persons are free to enter independent contracts to insure their income and work related health. Brothel workers do not even have this choice.

This situation stands in direct contrast to the ACT and Victoria where sex workers can enter work related contracts as evidenced by a number of successful workers compensation and unfair dismissal claims. On the assumption that at some time in the future, sex workers will negotiate an industrial award with employer groups, then permanent full-time and part-time employees will be entitled to paid sick leave, maternity leave and holiday pay. This will keep many workers out of the social security system, on which they are presently forced to rely in times of sickness or pregnancy.

Acknowledgement of sex work as work has a positive effect on the economy through the collection of the GST and other taxes. In addition, sex workers can benefit by claiming work incurred expenses and legitimises their income. Whilst the payment of tax on income is a requirement under federal statute irrespective of the legal status of the work performed to derive that income, sex workers feel cheated and are reluctant to pay tax when they don't enjoy the same rights as workers and citizens as other taxpayers.

The point of view that equates sex work with sexual exploitation (particularly sexual exploitation of women) fails to understand that every area of work is based on utilising some or all parts of the body. Academics utilise their intellect through their brains and to a lesser degree their hands when they write. Models utilise their entire bodies, naked at times; bus drivers use their hands, legs and brain for concentration. Sex workers utilise their entire bodies including their genitals. It is illogical to construct this as "sexual exploitation" simply because the genitals are involved. Those who work in the industry (and we should not deny or ignore sex workers but listen to what they have to say, given that it is their lived experience!) see it as work. For some sex work represents other things too (e.g. a means of sexual expression, etc.), but primarily they see it as a job. If the "sex work as sexual exploitation" view is analysed and explored, it follows that at the base of its assumptions is that women are incapable of having and enjoying sex outside of the context of an emotionally committed relationship. Why does sex become "exploitative" simply because money is exchanged for a negotiated service? It can be argued that since the sex that occurs within the context of sex work is so well negotiated that it is the most consensual kind of sex.

If prostitution is decriminalised, sex workers working for employers should be treated as such for industrial benefits (IGCA, 1991).



# FACT SHEET: TWO

## Sex Work is Legitimate Employment

- \* Sex work should be recognised as work for industrial, and other legal rights as it has already been for tax purposes;
- \* As participants in the Australian workforce sex workers are entitled to work in healthy and safe environments with appropriate working conditions;
- \* The police do not control or regulate any other Australian workplaces and the sex industry should be no difference; and
- \* Sex industry reform debates in various Australian jurisdictions must include sex workers. They are the ones who will work under any legal or administrative changes and have a right to participate in discussions regarding the regulation of their own industry.

### Principle 3: Choice of Employment

*That laws regulating the sex industry include all sectors of the sex industry and not be directed at forcing sex workers to operate in a limited legal framework*

Laws that limit the sectors of the sex industry in which sex workers can legally work fail to recognise that the various sectors are shaped by market forces, the legal environment and the variety of needs of clients and sex workers. The reasons that sex workers choose a particular work environment include: flexibility of hours, greater personal control over choice of clients and money received, managerial and administrative requirements, types of services provided, skills required, security, fear of a criminal record, privacy issues and general work conditions offered. Likewise, clients access the sector that meets their particular needs such as speed of service, cost of service, level of privacy offered, likelihood of being seen by someone they know, type of services offered and the surrounds. Therefore, sex workers and clients may ignore laws that restrict their favoured choice of work environment regardless of the consequences and penalties. For example, in Queensland, where between 1992 and 1999 private work (defined as operating alone from your own premises) was the only lawful sector in which to work, did not have the desired effect of eradicating brothels. Since the law limited the mechanisms that private workers could adopt to protect themselves, such as employing support staff or working with another worker, it was perceived by many sex workers (unfamiliar with this work environment) to be too dangerous and it is these workers who continued to work illegally in brothels or in collaboration with other workers. A direct consequence of forcing Queensland sex workers to operate in one sector of the sex industry has been a significant rise in violence and other crimes against sex workers (SQWISI, 1996a & b). In fact, six sex workers have died as a direct consequence of Queensland laws. In addition, there was a substantial increase in street work and whilst the number of brothels was reduced they did not disappear altogether.

Generally, sex workers who have chosen private work as their preferred work option have been workers who have had experience in other sectors of the industry (e.g. brothel, escort) and have therefore acquired the skills to “go out on their own”. In a sense they have been through an apprenticeship in more supportive sectors of the industry. Without the choice or ability to do this, sex workers are left isolated and vulnerable to those who seek to cause them harm.

The consequences of limiting employment opportunities for sex workers are detrimental not only to sex workers but the broader community. Laws that prohibit work in specific sectors of the sex industry undermine occupational health and safety by forcing sex workers underground as sex workers need to clandestinely stay one step ahead of the law. This limits sex workers access to legal

remedies to address crimes of violence, encourages unfair employment practices and conditions, allows unregulated and unenforceable occupational health measures, allows for local police control and local government control in determining how and where sex workers may operate promoting conditions conducive to police corruption, and provides the opportunity for criminal control of the industry.

Criminalising work options for sex workers is also a denial of basic human rights. Australia has an obligation under international conventions to guarantee its citizens the right to work and *free* choice of employment under favourable conditions (Universal Declaration on Human Rights).

Where legislation is deemed necessary it must recognise and incorporate all sectors of the sex industry with the primary aim of supporting occupational improvements in all sectors of the sex industry. Legalisation introduced to tightly regulate or control the sex industry is not necessary and will only act against occupational health and safety outcomes. Further, it has failed in every state where control/licensing models have been introduced. For example, in Victoria a legal brothel industry operates alongside an illegal industry. Street work remains highly criminalised yet this has failed to halt street work, even though violence against Victorian street workers is apparently increasingly (Pyett & Warr, 1996). Alternatively, in New South Wales where street work has been decriminalised violence against street workers remains significantly lower.

It is essential that the law does not require individual sex workers to be registered, as sex workers concerned about privacy, confidentiality and discrimination would refrain from registering thus forcing them to work illegally. Workplace reforms cannot be achieved where certain sectors of the sex industry are forced underground to avoid criminal charges.

# FACT SHEET: THREE

## Choice of Employment for Sex Workers

### **Consequences of limiting employment options in the sex industry**

- \* Restrictive laws discourage the application of occupational health and safety standards throughout the sex industry;
- \* Restrictive laws fail as they force some sex workers to ignore the law in order to work in the sectors of the sex industry in which they feel secure and safe;
- \* Restrictive laws are detrimental to the broader community as they force illegal sex workers underground thereby setting the conditions for the emergence of police corruption, organised crime and limited access to health services;
- \* Restrictive laws are detrimental to sex workers as they are less likely to report crimes to police and encourage unfair and exploitative employment practices; and
- \* Restrictive laws deny sex workers basic human rights and contravene Australia's obligations under specific international treaties.

### **Areas of the Sex Industry which should be lawful:**

- \* The following areas should be decriminalised: street, brothel (small and large), escorts, and private work;
- \* There are approximately 25,000 sex workers in Australia, 90% female, 8% male and 2% transgender working in the following sectors: 10% street, 70% brothel, 10% escort, 10% private. Many escort workers also work from brothels; and
- \* As in any industry, the sex industry organises in response to market demands and changing technology. For example, escort work did not exist prior to the wide availability of the telephone.

## Principle 4: Occupational Health and Safety

*That the priority aim of sex industry legislation be to maximise occupational health and safety provisions for sex workers.*

Sex industry legislation has a direct impact upon the health and safety of sex workers. Criminal laws have a significant role in shaping unsafe work conditions including violence against sex workers; limiting sex workers' access to legal mechanisms to address crimes of violence; limiting sex workers' access to health information and services; impeding the adoption of safe sex practices; and perpetuate the myth that sex workers are a significant vector of sexually transmitted infections (STI) in Australia.

One of the most compelling arguments for decriminalising the sex industry to improve health outcomes is the police use of safe sex paraphernalia to obtain convictions against sex workers. Currently, in South Australia police routinely confiscate condoms and safe sex literature produced by SASIN (the sex worker organisation in South Australia) to use as evidence of prostitution taking place in court proceedings. The effect of such policing practices is that sex workers are reluctant to carry quantities of condoms and other safe sex paraphernalia. These sorts of police practices endanger sex workers and the general community and are diametrically opposed to achieving stated public health policy objectives. Police should not have any role in the sex industry other than to respond to complaints and investigate the commission of a crime.

The major health and safety concerns for sex workers under criminal laws are as follows:

- \* Research demonstrates that laws criminalising sectors of the sex industry hinder the implementation of STI education and prevention strategies and occupational health and safety standards in the sex industry. Criminalised frameworks do not support the development of mechanisms and standards to enhance the occupational health of sex workers and hinder public health initiatives (IGCA, 1991:20);
- \* Those sex workers most marginalised by their work environment (e.g. street workers), as determined and influenced by legal constraints, are at greatest exposure to health risk (Pyett and Warr, 1996);
- \* Sex workers working illegally are unlikely to disclose their occupation when accessing health care therefore a range of sexual health tests may not be conducted;
- \* Sex workers are more vulnerable to sexual assault and other violence when they work illegally as they perceive police do not take crimes against them seriously and clients are aware of the propensity for sex workers not to report crimes of violence to the police (Banach, 1999a);
- \* Criminal laws operate against the development of organisational and industrial safe sex cultures as sex workers and establishments are reluctant to keep material

on premises regarding safe sex practices and street workers may not carry condoms or lubricant for fear of seizure by police (Banach, 1999b);

\* Occupational health and safety standards can not be implemented in those sectors of the sex industry that remain illegal as they are unenforceable; and

\* Increased occupational stress on sex workers due to the necessity to lead a double life to minimise stigmatisation.

In order to maximise occupational health and safety in the sex industry all that is required is the development of guidelines or a legally enforceable code of practice. This approach has been adopted as the primary means of regulating many industries. The Scarlet Alliance (national forum for sex worker right organisations) has developed model guidelines for OH&S in the industry which covers some of the following issues: condom breakage and slippage, dis-infection and cleansing techniques for premises and tools of the trade, safe sex practices, visible check of clients for signs of STIs, drug use policy, etc. (Scarlet Alliance, 1999).

Legislation that requires adherence to inappropriate and coercive practices such as compulsory STI testing should be rejected. An educative approach to health practices is more effective (see principle 7). Further, laws that allow for the introduction of safe sex materials into evidence to secure penalties against sex workers mitigate against health practices in the sex industry and must be repealed as a matter of urgency.

# FACT SHEET: FOUR

## Sex Workers have a right to Occupational Health and Safety Standards

### **Criminal Laws Undermine Occupational Health**

- \* Criminal or restrictive laws hinder the implementation of sexual health education and prevention strategies;
- \* Under criminalised frameworks health priorities are undermined by policing strategies that include seizing safe sex paraphernalia as evidence for prostitution related offences;
- \* Criminal frameworks force sex workers underground where they are less likely to disclose their occupation when presenting for sexual health testing, thus limiting the types of tests undertaken; and
- \* Sex industry and public health laws are directed at sex workers not the client rather than encouraging best practice occupational health standards in the sex industry.

### **Criminal Laws Undermine Occupational Safety**

- \* Sex workers are more vulnerable to sexual assault and other violent crimes under criminalised frameworks as they are less likely to report crimes to police.

**Occupational health and safety standards cannot be implemented in illegal sectors of the sex industry as they are not recognised in law**

## Principle 5: Public Health - No Compulsory Testing

*That public health concerns be met through removing criminal sanctions, so that sex workers can confidentially access health services and promote safe sex practices as an industry standard.*

All states and territories have public health and criminal laws that cover unacceptable behaviour by all citizens in relation to public health concerns including communicable and sexually transmitted infections. In relation to STIs, they include provisions on “knowingly transmitting an STI”, notifying a sexual partner of an infection prior to sex, quarantining people and sanctions for recalcitrant behaviour.

Since sex workers are more aware of sexual health and safe sex practices than the rest of the community they should not have special laws targeting them in relation to STIs. Generalist provisions within public health and criminal codes suffice to deal with offences whether committed in the private context or the professional realm of sex work.

In addressing the perceived risk of the spread of STIs through sex work, some legislatures have responded by forcing sex workers to be “compulsorily” tested for STIs. There are numerous inherent flaws in adopting this approach. For one, it has led to a mentality within the sex industry of brothel operators requiring sex workers to present sexual health clearance certificates. In some instances it has led to corruption, such that an operator will require a sex worker to see a doctor of the operator’s choice and the results being handed directly to the operator rather than the worker without regard to privacy.

Compulsory testing in itself is detrimental to health outcomes as it creates a false sense of security in clients and workers. Clients believe that a sex worker is free of STIs because she/he has been tested and are more likely to request sexual services without the use of prophylactics. Mandatory testing of sex workers does not assist sex workers in avoiding sexually transmitted infections, as a client’s sexual health status is unknown (Metzenrath, 1999).

In addition, test results are unreliable as the ‘window period’ for each infection varies and an individual’s STI status cannot be assured even at the time of testing. For example, someone may have practiced unsafe sex and contracted an STI, go for testing the day after and they will be shown to be free of STIs because it may take a couple of weeks for a disease to produce symptoms for testing. Further, by promoting the use of compulsory testing as a legislative tool to allay community fears only perpetuates stereotypes of sex workers as diseased. This is reflected in high premiums for workers compensation and health insurance. The Insurance Council of Australia has justified their high premiums by relating that they view



the sex industry as a high risk for HIV and violence (personal communication). There are numerous other industries which have a greater impact on public health, yet legislators have not adopted the draconian measures applied to the sex industry. For example, the food industry (restaurants, take-away shops) are responsible for the death and intoxication of large numbers of people every year, yet food handling workers in restaurant kitchens are not required to be compulsorily tested for various communicable diseases (e.g. Hepatitis A and B). Likewise, neither health care workers nor their clients are required to be compulsorily tested for blood borne diseases yet needle stick injuries are an every day occurrence in health care settings and contraction of a blood borne disease occurs far more easily through direct needle contact than through a broken condom through sex. The pornographic film industry does not have compulsory testing even though the actors in most films do not use prophylactics on a regular basis.

Health concerns in relation to the sex industry should be contained within enforceable occupational health and safety codes or guidelines that include the compulsory use of prophylactics, the provision of safe sex tools by employers (include safe sex literature for clients and workers), policies on condom breakage, visual inspection of clients for STIs, etc. The sex industry has shown it is responsible by developing its own guidelines on OH&S (Scarlet Alliance) which should be adopted by parliaments in all jurisdictions. In addition, from time to time general population campaigns should be conducted in order to increase general sexual health knowledge of the community. These could be done in much the same way as governments deal with smoking, breast cancer, skin cancer, drink driving, etc.

Sex workers should not be prevented from working in the sex industry if they have an STI. Prohibition is premised on intercourse being part of every service, when sex workers offer many services which do not expose clients to STI contraction. During the period of treatment, sex workers can provide services that do not expose clients to risk, such as massage and masturbation, massage and oral sex, bondage and discipline and other fantasy scenarios not requiring penetrative sex. If the STI is contracted through work, STIs should be seen as industrial diseases and workers retrained to perform other work.

The IGCA in 1992 examined the public health implications of sex industry laws and concluded that laws criminalising the sex industry reduced the “effectiveness of measures designed to prevent the spread of STDS” (1991: 20).

The most successful means of achieving health outcomes for sex workers is peer-based education conducted through sex worker organisations. It is therefore imperative that state and territory governments recognise the expertise of peer-based approaches delivered through sex workers community organisations and adequately fund them to continue and expand their work. This model, initiated in Australia is being replicated the world over with great success.

# FACT SHEET: FIVE

## Public Health and Mandatory Testing

### **Public Health Principles**

- \* Good public health outcomes are best supported through decriminalisation of the sex industry. General public health laws and criminal laws that deal with health issues are sufficient to cover personal or work behaviour;
- \* Criminal laws force sex workers underground where it is difficult for them to disclose occupational status for fear of discrimination. This may impede sex workers from obtaining a range of sexual health services;
- \* A public health focus must recognise clients as a sexual health risk to sex workers and support the promotion of safe sex practices as an industry standard rather than promote the myth that sex workers are vectors for the spread of sexually transmitted infections;
- \* Peer-based approaches to providing health and safety services to sex workers are the most successful means of providing safe sex knowledge which can be converted into safe sex practices; and
- \* All sexually active people should be educated to have periodical health screening for STIs, given the high levels of herpes, chlamydia and warts in the general population.

### **No Mandatory Testing**

- \* Since sex workers are more aware of sexual care than others, sex industry laws should not contain requirements for mandatory sexual health testing and registration of sex workers;
- \* As sex workers provide a wide range of services, many which pose little or no risk of STI transmission sex workers should not be excluded from working with an STI;
- \* Health related regulations are best served through the development of enforceable occupational health and safety standards; and
- \* Occupational health and safety standards should include the compulsory use of prophylactics, provisions of safe sex tools by employers.

## Principle 6: Local Planning Laws and Zoning

Differing local planning laws and zoning provisions apply in various Australian jurisdictions for private sex workers, street workers and brothels. This approach has mainly been adopted in jurisdictions controlling the industry under a legalised or decriminalised model with regulations. In some jurisdictions planning provisions are contained both within state laws and local council laws. In Victoria, to operate a brothel, operators and private workers (defined as one or two sex workers working together) need to register with the Prostitution Control Board (PCB) after they have received a planning permit from their local council. The brothel must be in an industrial zone, at a distance greater than 100m from a residential area, greater than 200m from churches, schools, kindergartens or places that children frequent and if renting the premises written approval must be sought from the owner of the building. Private brothels can apply for license and license fee exemption. In NSW, different councils have different policies, but the majority have forced brothels (including private workers, as the law defines one person operations as brothels as well) into industrial areas, and in some cases commercial. In the ACT, where there is no third tier of government, the Prostitution Act 1992 provides for the restriction of brothels to prescribed locations. Current prescribed areas are limited to industrial suburbs. Private sex workers (one worker working from a premise) can be located in residential, commercial or industrial areas as long as they are registered. In the case of private workers, both in the ACT and Victoria, privacy protections are in place so that personal and work details are not available to the general public whereas information relating to brothels is freely accessible.

Whilst local councils in most states have legal jurisdiction over the location of brothels, state legislation may also specify brothel location. This approach reflects the history of sex industry law reform in Australia with governments regulating the sex industry in a highly restrictive manner. This over-regulation is unnecessary as sex industry businesses should be treated in a similar manner to other commercial enterprises. In relation to the location of brothels and private workers, state legislation specific to the industry should either be more prescriptive or leave planning issues to local councils to apply general planning principles. The evidence so far indicates that many local councils have been unable to make consistent and fair decisions regarding applications for brothel locations (Harcourt, 1999:32). The implications from arbitrary and inconsistent local authority guidelines and policy regarding brothel location has been that many sex industry businesses are unwilling to make applications for permits to legally locate fearing they will be rejected and to avoid closure must embark on expensive and lengthy appeal procedures. For example in NSW, since decriminalisation, the Land and Environment Court heard a total of 93 cases regarding Development Applications (DA's). Local council brought 53 cases to court, winning 40 of these cases - a 75% success rate. This rate must be under-

stood in the context of local councils closing down existing brothels by restricting brothels to industrial zones or severely limiting location sites. In addition, brothel operators took 40 cases to court, winning 37 of these cases - a 92% success rate (SWOP and ACON: 2000: 3). When sex industry businesses have a right under law to seek application and are denied on the basis of a moral objection to their existence the appeal process has generally upheld the law and granted application (Sunny SK Liu v Fairfield City Council; Linda v Cameron Willoughby City Council; Cherie Finlay v Newcastle City Council).

Local authorities discretionary powers have favoured big business, contributed to sustaining an illegal brothel sector and do not treat sex industry businesses on an equal footing with other commercial enterprises. Further, they undermine the intention of sex industry legislation where that intention is to legalise sex industry businesses. This is damaging to sex workers as they continue to work for businesses that are criminalised although a framework for legal operation exists. As a result, the appropriate health and safety guidelines adopted by specific councils cannot be enforced. (1)

Sex industry businesses should be subject to consistency and continuity in planning decisions. Sex industry businesses are a commercial enterprise and must integrate into local communities subject to the same regulations as other commercial enterprises. They should not be subject to special provisions that set them apart from other businesses but should be in accord with sensible urban design.

Good urban design responds to the public and private domain. It should meet and support its users' needs, be accessible and identifiable to those requiring entry, and meet privacy and amenity requirements both within and without while minimising opportunities for crime. These outcomes should be achieved within a design which is visually and functionally appropriate to its setting. Additional amenity issues such as noise attenuation, traffic regulation, lighting etc. are more easily achieved within the context of good design (Harcourt, 1999:34).

The onus should be upon local authorities to ensure that their urban design visions sensibly address issues that arise not seek to exclude or scapegoat sex industry businesses. Local authorities should not be able to disallow approval for brothel location on other than legitimate planning grounds as subsequent appeals are wasteful of resources. Local Councils must provide evidence that a business is not suitable for that locality based on pre-determined criteria that applies to all commercial enterprises (Banach and Hamilton, 1997:48).

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1. See South Sydney Brothels Policy

An issue of serious concern is where individual sex workers are considered private home businesses and are subject to local authority planning permission. In some local authority jurisdictions (such as the Gold Coast - QLD) whilst individual sex workers are legally permitted under the Prostitution Laws Amendment Act 1992 to work from their own homes they must first seek local permission. This requires that an individual sex worker place signage out the front of her/his premises advertising that s/he is seeking permission to operate a small business from home and the nature of that business. Such an approval process is potentially dangerous as it publicly identifies the location of a sole operator. It is also unlikely to be a successful means of achieving sensible planning outcomes as individual sex workers are unlikely to comply with such provisions.

Zoning or the creation of 'red light' districts for both individual sex workers and brothels has been suggested as a means of 'controlling' the proliferation of sex industry businesses. The relegation of sex industry businesses or sex workers to red-light areas is likely to be in isolated industrial areas that place sex workers at risk. As they are generally unpopulated at night, little safety mechanisms exist. They are also unlikely to meet occupational health and safety standards in the sex industry businesses as the buildings and facilities are designed for industrial purposes (Harcourt, 1999:36).

# FACT SHEET: SIX

## Local Planning Laws and Zoning

### **Local Planning Laws**

\* Under local planning laws sex industry businesses should be treated in a similar manner to other commercial enterprises. This means consistency and continuity in local authority planning decisions.

\* Local partnerships which foster a collaborative approach, create opportunities to find mutually acceptable solutions. Local councils should be encouraged and supported to create working partnerships, which engage all the stakeholders, such as members of the sex industry, businesses, residents, health care providers and relevant community organisations in a joint effort to achieve regulation of the industry. Local initiatives need to be supported by strong leadership and clear guidance from state governments.

\* Sex industry businesses should not be subject to special provisions that set them apart from other businesses.

\* Local authorities' discretionary powers have favoured big business and contributed to sustaining an illegal brothel sector. This is damaging to sex workers as they continue to work for businesses that are criminalised even though a framework for legal operation exists. Therefore, the appropriate health and safety guidelines adopted by specific councils cannot be enforced.

\* Local authorities should not be able to disallow approval for brothel location on other than legitimate planning grounds as subsequent appeals are wasteful of resources.

\* Local Councils must provide evidence that a business is not suitable for that locality based on pre-determined criteria that apply to all commercial enterprises;

\* Individual sex workers should not be subject to local planning laws, and in particular should not be subject to the same laws as large brothels.

### **Zoning**

\* The creation of 'red-light' areas or zones is not acceptable as it segregates the sex industry into poorly lit, under-resourced and unsafe work areas.

**Local authorities should ensure that sex industry businesses are integrated into any urban design vision**

## Principle 7: Community Attitudes to the Sex Industry

One of the greatest myths in politics is that if parliamentarians support sex industry law reform, they will incur voter backlash. There are pockets of voters who through an allegiance to a particular moral agenda will always oppose support for a well-regulated, decriminalised sex industry. Nonetheless, they have not managed to influence the outcomes of elections over this issue. Evidence indicates that voters choose their voting preference on such major issues as the economy, health and education.

In order to oppose reforms, politicians from all sides of politics have invoked community moral standards and panic mode polemics such as: “we’ll have brothels popping up on every street corner,” “What about the children?” etc.

However, on the basis of empirical evidence available in Australia, these attitudes are out of step with the community. It has been shown that the community generally supports sex industry reforms and is more realistic about the consequences of attempting to suppress its operation.

Two recent pieces of empirical research have been conducted in Australia to gauge community attitudes to sex industry law reform and are worth reporting. Both studies were conducted in Queensland and employed similar methodology to test for validity over-time and ensure that sample sizes were large enough to provide a reliable indicator of community attitudes. The first was conducted by the Criminal Justice Commission (1991) and the second by Police and Corrective Services (1998). The sample size for the first report was 1833 and for the 1998 report 2361. The results of both surveys were similar and the following findings from the 1998 report are reported below.

- \* 59.4% of Queenslanders’ agreed or strongly agreed that there is nothing wrong with a person paying for sex;
- \* 61.9% believed that a sex worker should be allowed to provide services from his or her home;
- \* 63.5% believed that two or more sex workers should be allowed to work from premises in a non-residential area, including 71.7% of 35-44 year olds;
- \* The main restrictions that should apply if brothels were allowed to operate related to “restricting the places at which brothels can operate (92.0%), keeping a register of sex workers (89.0%) and restricting the type of people who can own/or operate brothels (88.8%)”;
- \* Only 21.0% of people believed that there were no benefits from allowing brothels to operate. The main reasons given for allowing sex work to operate was that it benefits both sex workers and the community by “providing a healthier work environment”.

\* The concerns expressed by respondents to allowing brothels to operate related to “The location of brothels”, “Spread of STD/AIDS” and Health of prostitutes”.

The only sector of the sex industry that the community expressed any significant opposition to was street work with 93.2% of respondents believing that soliciting in a public place should remain an offence. (2)

It appears that community attitudes have not changed over-time between the 1991 sample and 1997 sample although the reasons that respondents support sex industry law reform may have changed. Primarily this is because the first survey was conducted in 1990 following a Commission of Inquiry (1989) had identified widespread police corruption and claims of organised crime in the sex industry. The second survey was conducted following the murder of a number of sex workers and may have influenced respondents understanding of occupational safety issues at the time.

The random telephone sampling method adopted for the survey of community attitudes highlights a high level of support for sex industry reforms. This type of methodology relies upon community perceptions as no educative information is provided to influence the outcome of the survey. It is likely that community support for sex industry law reform would be even higher if the community were educated about the benefits of reform and issues relating to the location of brothels, health and street work.

These results are even more significant when it is considered that sampling was undertaken in a State that is renowned for conservative community attitudes. Interpretation of both pieces of research together suggest that the community supports law reform not only because they fear the consequences (police corruption, organised crime) of continuing to suppress sex work in Queensland but because they also believe that sex work can not be suppressed and should not be subject to criminal laws as such an approach does not benefit the community.

Further, increasing support for legalising the sex industry over time is seen in a number of surveys from 1960 to the present. For example in 1960, in a national newspaper poll of 1,045 people, 45% supported legalising the sex industry. In 1985, in a poll conducted by the Sydney Morning Herald of 2,027 people, 75% agreed with legalising the sex industry. The current levels of community support reported in the Queensland studies are consistently reflected in other states (see South Australian Social Development Parliamentary Committee, 1998).

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2. Police and Corective Services. (1998) Review of Prostitution Laws in Queensland: Discussion Paper. Queensland, Police and Corrective Services:105



This increase in support over time can be explained by the formation of sex worker rights organisations who have promoted a number of issues in the public arena, the media has increased the coverage and range of issues covered in relation to the sex industry, the advent of HIV placed greater focus on the industry, and more sex workers are “out”. All these issues have had the effect of educating the community on sex industry issues, and they have responded by showing a greater acceptance of sex work as a work option.

# FACT SHEET: SEVEN

## *Community Attitudes*

- \* Government fears regarding potential voter backlash if they support sex industry reforms are unfounded;
- \* Research demonstrates that most members of the community do not support criminalisation of the sex industry;
- \* Research demonstrates that most members of the community support brothels, escort and private sex workers;
- \* Research demonstrates that the community is more concerned that an illegal sex industry sets the conditions for the emergence of police corruption, organised crime and poor occupational health and safety standards<sup>3</sup>; and
- \* Support education programs to change social attitudes which stigmatise and discriminate against sex workers.

**Sex Industry Law Reform is a Vote Winner**

## Principle 8: Discrimination and Human Rights

Discrimination harms sex workers in both their professional and personal lives. Professionally this discrimination is apparent in the restrictions on how sex workers may operate and include:

- \* Restricting sectors of the sex industry in which sex workers can legally obtain employment;
- \* Lack of occupational health and safety standards;
- \* Preventing sex workers access to health services;
- \* An absence of workplace benefits and conditions (e.g. Work Cover, leave entitlements, superannuation, workplace fines for breaching rules);
- \* Employment on a contract rather than employee status;
- \* Special local council provisions to approve location of sex industry businesses, including private sex workers;
- \* Preventing sex workers' access to small business opportunities required to establish successful businesses;
- \* Mandatory health checks for sexually transmitted infections (STI) as a requirement of employment;
- \* Discrimination on the basis of health status;
- \* Fear of public identification or retribution limiting sex workers access to legal remedies to address unfair work practices;
- \* Police harassment and corruption;
- \* Restrictive advertising practices (e.g. Pre-payment of advertising, designated area of the paper in which permitted to advertise, the design, size and wording determined by the publisher, higher cost of advertising);
- \* Difficulties in obtaining goods and services to operate a sex industry business (e.g. higher rent/lease agreements, income protection and business insurance coverage, credit card and other banking facilities such as loans and other credit arrangements); and
- \* Stigmatisation of the profession.

### **Personal discrimination may affect sex workers by:**

- \* Limiting sex workers access to legal remedies to address crimes of violence due to a perception that crimes against sex workers are not taken seriously by the police;
- \* Preventing access to justice and legal remedies to address crimes of violence in a work setting;
- \* Work affecting personal relationships because friends/families/partners fear criminal prosecution or police attention for associating with sex workers;
- \* Exposing friends/family/partners to the risk of prosecution for sex industry offences such as "living off the earnings of prostitution";
- \* Silencing sex workers from disclosing previous or current work in the sex industry for fear of discrimination when seeking alternative employment, membership of organisations or undertaking study or travel;

- \* Restricting the purchase of goods or services for personal use (e.g. Home and contents insurance, private health care insurance, personal loans and other consumer items; and
- \* Limiting sex workers participation in community activities.

The right to freely choose employment is a fundamental human right. The right to work in the sex industry free from discrimination is articulated in a number of International Covenants to which Australia is signatory. The Universal Declaration of Human Rights states that:

*Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment (UDHR).*

State and Territory sex industry laws consistently infringe this right. Although Australia is bound to honour the UDHR it has largely failed to grant freedom from discrimination to sex workers on the basis of employment (Metzenrath, 1997). To varying degrees, existing State and Territory laws regulating the sex industry in Australia fail to provide sex workers with equal treatment and protection under the law. This discrimination is apparent in laws which restrict where and under what conditions sex workers can work in the sex industry, and may prohibit their financial support of partners/families/friends. It acts against implementation of occupational health and safety standards; may perpetuate discrimination on the basis of sex workers' assumed health status through mandatory testing provisions and registration; and limits sex workers confidentially utilising legal remedies to address crimes of violence and to freely travel. (4)

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4. This section was drawn from the document: Banach L. (1999b) *Unjust and Counter Productive; The failure of governments to protect sex workers from discrimination*. Sydney: Scarlet Alliance and AFAO.

# FACT SHEET: EIGHT

## Discrimination and Human Rights

### **Discrimination**

- \* Discrimination limits occupational health and safety standards in the sex industry;
- \* Sex workers are discriminated against in the workplace due to an absence of workplace benefits and conditions such as Work Cover, leave entitlements, superannuation and the imposition by employers of workplace fines for breaching industrially unacceptable workplace rules;
- \* Discrimination means that sex workers may fear public identification which limits their access to legal remedies to address unfair work practices;
- \* Discrimination prevents sex workers from using legal remedies to address crimes of violence in a work setting and in their personal lives
- \* Discrimination means sex workers may be subject to police harassment and corruption; and
- \* Discrimination perpetuates the stigmatisation of the profession by perpetuating myths about sex workers.

**Protect sex workers from discrimination by including occupation as a category of unlawful discrimination under anti-discrimination legislation**

### **Human Rights**

- \* Criminalisation of the sex industry is a human rights issue;
- \* Laws criminalizing the sex industry contravene Australia's international obligation as signatory to conventions that enshrine a person's right to free choice in employment.
- \* The Federal Government should include "occupation/profession/trade or calling" as an area of discrimination within its human rights laws. This would not only apply to sex workers but to anybody who suffers occupational discrimination.

\* State and Territory Governments should amend their Anti-Discrimination laws to cover discrimination on the grounds of occupation.

\* National community education campaigns should be conducted to counter discriminatory practices against sex workers.

**Australia must meet its international obligations**

## *Principle 9: Sex Slaves and Foreign Sex Workers*

The term 'sex slavery' (a term often used interchangeably with 'trafficking in women') has globally become synonymous with images of generally young women from non-English speaking backgrounds who are kidnapped and trapped into working in the sex industry in developed countries. Unfortunately in Australia the term is increasingly being used to refer to all foreign sex workers who come to Australia to work (whether through force or not). Australian legislation introduced into the Federal Parliament in 1999 enshrines the notion that 'sex slavery' is purely a problem connected to the sex industry, as other manifestations of it (e.g. in forced/arranged marriages, mail order bride system, etc.) are not covered.

It is difficult to estimate precisely the prevalence of 'sexual slavery' due to its covert nature and illegal status. However, former Minister for Justice, Amanda Vanstone's Information Paper on the 'sexual slavery' issue reports that the Department of Immigration and Multicultural Affairs (DIMA) deported 54 people in 1996-97 for working illegally in the sex industry and for the seven months to end-January 1998, DIMA deported 67 persons for illegally working in brothels (Justice Department, 1998: 4). Not all of these women were necessarily being employed in slave-like conditions. Additionally, many more foreigners are caught illegally working in non-sex industry related employment in Australia. For example, in 1998, 400 foreigners were found to be working illegally in Australia, of these only 14 were found to be working in brothels. Yet the sex industry is singled out for special legislation that does not acknowledge that sex work is work rather than general legislation concerned with 'labour exploitation' applicable to any industry. It appears that if a person's work includes sex, it is not defined as work but rather as a sexual practice related to non-consensual 'sexual slavery'. Arguably, the danger comes from the label 'illegal migrant worker' rather than the nature of the work to be performed. All illegal migrant workers are potentially subject to exploitation in a variety of contexts that are non-sexual. The important distinction to make in relation to 'sexual slavery' is whether sex workers coming to Australia do so willingly or through trickery or force. Anecdotal evidence from sex worker organisations indicates that most overseas sex workers who come to work in the Australian sex industry are sex workers in their country of origin and know that this is the type of work they will do. There are cases of trickery, deceit and force but they are minimal and both situations require different approaches.

A more sensible approach is to repeal the current definition of sexual slavery and broaden the generalist definition of slavery/servitude in the Criminal Code 1999 (Commonwealth) to include all contexts under which people are recruited, transported and transferred, harboured or received by others, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation at a minimum should include sexual

exploitation (wherever it occurs), forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. This type of definition is broad enough to cover all areas for which people are moved across borders including labour, forced marriages and the large growth area of immigrant smuggling into Australia.

Legislation covering these areas rather than singling out the sex industry would comply with Australia's obligations under the recently negotiated Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime, which Australia is likely to soon ratify.

Outreach projects at the Sex Workers Outreach Project in New South Wales and Self-health for Queensland Workers in the Sex Industry have identified that illegal foreign sex workers are difficult to access for a range of reasons. The specific barriers are:

- \* Fear of deportation due to the worker's status under Australian migration law;
- \* NESB sex workers often support family members in their home country and can experience severe financial difficulties if prevented from working;
- \* Limited language, both oral and written, may hinder effective use of services in Australia;
- \* Discrimination and stigmatisation of Asian sex workers in Australia, and within their communities, affect access to health services;
- \* There is an unwillingness to utilise agencies, both community and government, for assistance due to distrust and fear;
- \* NESB sex workers may be 'protected' by management of sex industry businesses who may not want them to acquire information about their legal rights (SQWISI, 1994).

It is imperative that foreign sex workers are able to confidentially access health and other services. This is unlikely when foreign sex workers fear deportation due to legal or entry status and are regarded as 'trafficked' into the sex industry. A decriminalised sex industry, which allows foreign sex workers to work in the Australian sex industry under an employer sponsored scheme would allow health and other service providers to make contact with sex workers from non-English speaking backgrounds and inform them of health services and their legal rights.



# FACT SHEET: NINE

## *Sex Slaves and Foreign Sex Workers*

- \* The incidence of 'sexual slavery' is likely to be highly exaggerated in Australia;
- \* 'Sexual slavery' legislation is not required as many of the manifestations of it are covered by existing criminal laws, e.g. fraud, blackmail, kidnap, rape and other offences against the person.
- \* A distinction is required between human rights abuses arising from being forced to work in the sex industry (or any other industry) and seeing foreign sex workers as forced per se.
- \* Foreign sex workers chose to work in the sex industry;
- \* Decriminalise the sex industry so that it does not operate underground;
- \* It is their illegal status as migrants that make overseas sex workers vulnerable to exploitation rather than the work that they do.

### **Solutions**

- \* The Federal Government should adopt a quota system in extending the employer-sponsored scheme to overseas sex workers willing to work in Australia. Additionally a code of practice for the industry could be developed to cover this type of activity. This would enable overseas sex workers to work legally and enjoy the same conditions as local sex workers.
- \* The Federal Government should repeal its sexual servitude amendment to the Criminal Code and instead enact legislation that covers all forms of recruitment, transportation and transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation at a minimum should include sexual exploitation (wherever it occurs), forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
- \* Human rights standards of treatment should be incorporated into the Criminal Code 1999 (Commonwealth) to protect any person who has been the victim of any of the practices described above. These should include: protection of the privacy and identity of the victim, information on any relevant court and administrative

proceedings, assistance to enable the views of the victim to be presented and considered at appropriate stages for any criminal proceedings against offenders, in appropriate cases and to the extent possible provide for the physical and psychological recovery of victims, appropriate housing, counselling and information in a language that the victim understands, medical, psychological and economic assistance, employment, education and training opportunities, provide for the physical safety of victims, provide for measures which offer victims the possibility of obtaining compensation for damage suffered, temporary or permanent residency in appropriate cases, facilitate the return of the person to their country of origin if it is safe for them to return.

## Principle 10: Myths - Drugs, pimps, and minors

The often-underground nature of the sex industry combined with a lack of research that accurately reflects the realities of sex work has assisted in sustaining a variety of myths about the sex industry. The most enduring of these myths are the prevalence of drugs, pimps, coercion and minors in the sex industry. The perpetuation of these myths is damaging to sex workers as they are often used as the justification for criminal laws or unnecessary restrictions upon sex industry operations.

### **Drugs**

One of the many myths that exist is that the majority of sex workers are intravenous drug users and that this is the reason for working or that the stress of work is so great that workers are driven into taking drugs in order to cope with the work. In Australia, large-scale studies have estimated that less than 2% of the general population are intravenous drug users (IDUs). Several studies of sex workers, using samples selected by different methods, have estimates of sex workers using intravenous drugs ranging between 10-15% (Sharp, 1994: 226). These figures need to be taken with caution and understood in context.

Research suggests that illicit drug use amongst street workers is higher than among workers in other sectors of the sex industry. However, the small amount of research that has been conducted with the sex industry as a whole indicates that sex workers' use of certain drugs, such as alcohol and amphetamines, may actually be lower than the general community whilst smoking is significantly higher (Australian Bureau of Statistics, 1992; Boyle, 1997). Further, the higher incidence of heroin use noted amongst street workers may be related to sample selection, since brothel workers are less likely to disclose drug use since penalties may result from disclosure, given the anti-drug practices of many brothel managements (Lovejoy et al. 1992).

Research that examines sex workers reasons for choosing to work in the sex industry rarely refers to a need to support a drug habit. Instead, lifestyle factors, freedom, flexibility, good money and a need for money are identified as the primary factors (Boyle, 1997: 43). Most people make decisions about how to generate an income based on a range of factors. These factors may include the ability to maximise income, flexibility of hours and other lifestyle choices. For some IDUs the benefits of working in the sex industry suit individual lifestyle choices and provide a higher than average income.

It must be acknowledged that the majority of sex workers do not use illicit drugs and that in the majority of sex industry businesses drug use is actively discouraged and banned from the workplace. Health issues relating to illicit drug use are only compounded by criminal laws surrounding the sex industry and use of illicit drugs.

## **Pimps**

Pimps - a person who forces a person to work and takes their earnings - are not a feature of the Australian sex industry. Pimps have been dramatised in movies, books and documentaries as their existence serves to reinforce notions of sex workers as controlled, intimidated and victims. Whilst overseas research suggests that pimps are a common feature of the street sector in many countries it must be questioned to what extent this is a reality for the majority of sex workers (Kempadoo and Doezema, 1998).

In the Australian context, the belief that pimps control sex workers has allowed for laws to be introduced and maintained that infringe upon sex workers' personal lives. Laws relating to "living off the earnings" have been argued as necessary to get at "pimps" but in reality are usually directed against partners and friends of sex workers. Sex workers, like any other Australian worker, have a right to spend their money how they choose. It is not acceptable to control sex workers' associations and spending. Existing non-specific criminal penalties are adequate to address crimes relating to stand-over tactics and other forms of coercion. The use of these legal remedies are hindered by criminal laws that prevent sex workers from reporting crimes due to the fear of retribution for working illegally.

The notion of a "pimp" also enshrines the stereotype of a sex worker who needs to be controlled to do sex work otherwise they would not choose to work in the sex industry. This plays into paternalistic notions of women being in moral danger and needing the protection of the law. Some street, escort and private workers employ a male for security reasons, just as any other worker in a similar situation might. Sex workers need to be viewed as adults who can make decisions for themselves and allowed to be entrepreneurial in their work practices.

## **Minors**

The sex industry is often characterised by images of youth. However, the reality is that in some cases sex workers continue to work in the sex industry until their late 50s. Australian research indicates that most female sex workers start working in the sex industry in their late teens or early 20s (Perkins, 1994). Only a very small minority of sex workers start work before the age of 15 (Boyle, 1997:40). Legislation directed at the protection of minors in the sex industry is unnecessary and merely perpetuates the myth that many underage workers work in the sex industry. Existing legislation relating to the employment of children and sexual exploitation is adequate to halt underage workers in the sex industry. Addressing issues such as youth unemployment, housing, family circumstances and education is more likely to assist young people who seek employment in the sex industry out of necessity rather than choice.

Unfortunately the response to the visibility of itinerant underage sex workers

selling sex on the streets has resulted in responses that involve law enforcement mechanisms as a means of stopping the practice. This approach results in a failure to examine the wider contexts that lead young people to become homeless, particularly the impact of family circumstances on these adolescents.

Rather than perpetuating myths about the widespread involvement of young people in the sex industry consideration should be given to the issue of the age at which people are able to work in the sex industry. A nationally consistent age of lawful entry to work in the sex industry is required.

In the international arena there has been an overt focus on the 'commercial exploitation of children'. In spite of international commitment to the eradication of all practices associated with the sexual exploitation of and sale and traffic in children, there is little comprehensive data on the extent, mechanisms or root causes. Research has thus far been largely exploratory, to a great extent generated from secondary sources, most frequently from journalists and non-government organisations. There is an urgent need for more systematic and global knowledge of the nature and incidence of the problem. This includes developing an understanding of the cultural, social and economic contexts in which it arises and flourishes and the development of typologies and categories that can be of use not only in developing appropriate conceptual frameworks and methods of research but also in guiding policy formulation and programme development by national and international bodies (Ennew et al., 1996).

The stereotypes relating to underage sex workers, pimps and drug use have been used to justify further criminalisation or regulation of the industry. Often these issues are focused upon at the expense of occupational health and safety.

# FACT SHEET: TEN

## Myths: Pimps, drugs and minors

- \* Sex workers' reasons for working in the sex industry rarely relate to a need to support a drug habit;
- \* Research shows that sex workers' use of certain drugs is lower than the level of use in the general community;
- \* Pimps are not a feature of the Australian sex industry. It is not acceptable to control sex workers' associations and spending by enacting laws relating to "living off the earnings of prostitution";
- \* Legislation directed at the protection of minors in the sex industry is unnecessary as adequate, non-sex industry specific laws already exist to address the sexual exploitation of minors;
- \* In relation to minors working in the sex industry, wider focus needs to be placed on preventative measures, such as support for "at risk" families, support for young, homeless children, and work options for children;
- \* Government's (federal, state and territory) should implement the recommendations of the National Action Plan on the Commercial Exploitation of Children.

**Pimps, drugs and minors are myths used to justify criminal laws or unnecessary restrictions upon sex industry operations;**

# SECTION THREE

## POLITICAL AND BUREAUCRATIC SKILLS

- \* understanding the political system
- \* lobbying kit

## Political and Bureaucratic Skills Understanding the political system

Involvement and liaison with the relevant arms of political power - including the parliament, its committee structures and the bureaucracy - are essential to influencing policy, decision making and legislative changes so that they reflect sex worker needs. The media can also play a role in influencing and reflecting public opinion on sex worker issues and is therefore essential to engage with.

It is useful to understand how these structures are established, the interactions between them and the role that sex worker organisations and their advocates can have in influencing decisions.

Following is a brief introduction to parliamentary structures and how laws are made.

### **How is Power Divided?**

The Parliamentary structure in Australia is based on the English Westminster system of government called “Responsible Government”. It comprises the “Executive” (the Parliament), the “Legislature” which is vested with powers to carry out laws and enforce them (it is independent from the Parliament - generally government departments or independent statutory bodies) and the “Judiciary” (the courts), which has the power to apply and interpret laws.

### **The Parliaments:**

All the parliaments in Australia are made up of two houses (bicameral), except for Queensland, The Northern Territory and the ACT which only have a Legislative Assembly (unicameral).

The state bicameral houses are made up of the Legislative Council (House of Review, or upper house) and a House of Assembly or Legislative Assembly (lower house), from which the government is formed.

Federally, the House of Representatives, from which government is formed is equivalent to a state House of Assembly and the Senate is equivalent to Legislative Councils.

The period between elections varies from three to four years and apart from the ACT which has set terms of parliament, other parliaments vest the power of deciding for a date for an election on the government. As a result of this, elections are called on the date most likely to favour the incumbent (government in power) as indicated by polling.



Bills (proposed law) can be initiated in either house but must be sanctioned or approved by the other house.

Australia operates under a Cabinet system of government. It is the key decision-making body of the government and comprises senior Government Ministers. Since Cabinet Ministers have more power than an ordinary sitting Member, they are worth targeting as key people to lobby on your particular issue.

### **Division of Powers Between the Commonwealth and the States:**

Upon federation, state parliaments retained all legislative powers not conferred exclusively on the federal parliament. Those powers that are exclusive to the federal parliament include defence, postal and telephone services, marriage, currency, customs, trade and immigration.

States make laws on such things as police, roads, education, health and social welfare. State parliaments can legislate on shared powers, but where there is a conflict, federal law prevails. In relation to laws relating to sex work, they come within state/territory jurisdiction, which is why they vary widely.

### **How Laws are Made:**

Generally a bill is introduced by a Minister or private member (this is called the first reading). Accompanying each bill is an explanatory memorandum. This is a separate document explaining the reasons for the bill, and giving a general outline of its contents and notes explaining the intention of each clause. At this stage it is only read by the Clerk and is not open to debate. During the second reading, the Minister or member who has proposed the bill elaborates on its principles and opens debate on its provisions, at which point the first amendments are made. The house then moves into “committee” stage or detail stage to consider the bill clause by clause and make further amendments. This is the most crucial stage of the bill and a valuable time to put extra energy into last minute lobbying if you haven’t had any success in getting your points adopted. Bills become “Acts” when passed by both houses and assented to by the Governor-General.

The Daily Bills List shows bills currently before the Parliament and the stage reached by each bill. The Daily Bills List and the full text of bills, amendments and explanatory memorandums are accessible on the Internet at <http://www.aph.gov.au/legis.htm> for federal parliament.

The text of all current Acts as well as related legislative material can be found on the Internet at parliamentary web sites. The federal parliament web site has links to every parliament in Australia and from there you can find the relevant state/territory legislation. The SCALEplus database is run by the Federal Attorney-General’s Department. Internet access is at <http://scaleplus.law.gov.au>. There is a database of all Australian legislation as well as cases at <http://www.austlii.edu.au/>.

Australia operates under a Cabinet system of government. It is the key decision-making body of the government and comprises senior Government Ministers, so these Members are particularly important to target as they carry more sway than an ordinary member of the government (e.g. a backbencher).

### **Parliamentary Committees:**

A parliamentary committee consists of a group of Members of the House of Assembly (MHA) or Members of the Legislative Assembly (MLA) or both in the case of joint committees. They are appointed by one or both Houses of Parliament.

The purpose of parliamentary committees is to perform a range of functions such as carrying out inquiries, hearing witnesses, sifting evidence, discussing matters in detail and scrutinising bills. They also check administrative details relevant to government operations such as the expenditure of public money and public service accountability in relation to the carriage of administrative duties.

Committees provide a public forum for the presentation of the various views of individual citizens and interest groups, such as sex worker organisations. Parliamentarians can use the Committee system as a stalling mechanism, particularly when they do not want to take a position on a controversial matter. It is interesting to note that prior to any sex industry legislation being introduced into any parliament in Australia they all conducted parliamentary committee inquiries into the issue. In the case of Tasmania, it was Scarlet Alliance lobbying efforts that led to a referral to a parliamentary standing committee to examine the issue of sex work law reform. This was a stalling tactic on our part. At the time it looked like the Attorney General (AG) would introduce legislation based on the Victorian model. We suggested that adopting the Victorian model was not appropriate for Tasmania and recommended the establishment of a parliamentary committee to examine particular local issues. Our aim was to influence the outcome and recommendations of the committee by ensuring our supporters submitted comments.

There are various types of committees, including *Standing Committees* (appointed for the life of a Parliament that are usually re-established in successive Parliaments as they have a continuing role), *Select Committees* (appointed as the need arises, for a specific purpose, with a limited life), *Joint Committees* (whose membership is drawn from and reports to both houses).

Membership to committees is derived from the Members of parliament, excluding Ministers. Committee membership normally comprises Members from the various parties or independent Members in proportion to the numerical strength of each group in the House.

Committee proceedings are ‘proceedings in Parliament’, and therefore ‘privileged’. Members and others participating, such as expert witnesses, are protected from being sued or prosecuted for anything they may say during such proceedings. Written evidence received by a committee is similarly protected.

After examining the evidence, a report is prepared setting out the committee's conclusions and making recommendations. This report is presented to the House, or to both Houses in the case of a joint committee and government's given a specified period of time to prepare a response. On occasion some members of a committee do not agree to all recommendations in the report and they may add a minority or dissenting report.

**Lodging a Submission:**

Any member of the public has the right to lodge a submission with a committee on the subject of an inquiry. A submission should state the name and address of its author and, if relevant, of the organisation the person represents.

A committee's terms of reference are usually advertised at the start of each inquiry.

Once a committee has formally received a submission, it becomes the property of the committee and may not be published or disclosed elsewhere without the committee's authorisation. Any uncertainties in this area should be clarified with the committee secretary.

Some committees also hold public hearings. The media may be present so if you are concerned about this you should enquire whether the hearing is privileged and therefore cannot be reported on by the media. Further, you can request a private hearing ('in camera') and for documents submitted to be regarded as confidential. Such requests are usually, but not necessarily, granted.

**Question Time:**

The accountability of the Government is demonstrated most clearly and publicly at question time when questions without notice are put to Ministers. The media in particular pay close attention to this part of the Parliamentary process as the Opposition general use this time attempting to embarrass the government.

Question time allows Government members to promote particular policies or programs. These 'planted' questions are known as 'Dorothy Dixers'.

Questions on notice are questions delivered in writing to the Clerk to be placed on the Notice Paper. In this case neither the question nor answer is read to the House but are printed in Hansard. In addition copies are supplied to the press. There is no time limit by which questions must be answered, but many Parliaments have adopted a procedure where if a reply has not been received after 60 days, the Member concerned can rise in the House and ask the Speaker to write to the Minister involved, seeking reasons for the delay.

Question time is an important avenue for sex worker organisation's to use by contacting a member and asking them to put a question. The following example illustrates how successful this procedure can be. When the ACT Sex Industry

Advisory Group was established, the inclusion of a sex worker representative was overlooked. A MLA was contacted to ask a question (i.e. how can you have an advisory group on the industry that excludes the most important player!). Since it was a question on notice (that is, the Minister knew the question was going to be asked), the response was that just that day an invitation letter had been sent to Workers in Sex Employment in the ACT (WISE) for representation on that group.

**Petitions:**

These allow any individual or group of individuals to place grievances directly before the House of Representatives or Houses of Assembly. It is the only direct means of communication between the people and the Parliament. It is basically a request for action. Petitions may ask the House to introduce legislation, to repeal or change existing legislation, to take action for a certain purpose or for the benefit of particular persons. For example, a sex worker organisation may organise a petition that requests that the Parliament repeal laws against street work given the high level of violence that street workers are subjected to.

Certain rules apply to drawing up a petition and the correct format is found on most Parliamentary web sites. It has to be addressed to the Speaker and Members of the House of Representatives (federal) or House of Assembly (state) assembled in Parliament. It must state the facts that the petitioners want to bring to the attention of the Members, conclude with a request for action, and include the signatures and names and addresses of petitioners. No letters, affidavits or other documents may be attached to a petition.

Although a petition only requires one signature to be accepted, it appears more representative of public feeling if signed by as many people as possible. A petition must be presented to the House by a Member of the House. This can be any Member, including a Minister, and does not have to be the petitioners' local Member.

Every petition presented is referred by the Clerk to the Minister responsible for the matter which is the subject of the petition.

### *The Media*

The media play an important role in educating the community on particular issues and in shaping their views. In addition, politicians pay close attention to polls published and views expressed in the "Letters to the Editor". In relation to the sex industry most elements of the media have tended to focus on the negative and visually extreme ends of the industry. Of course, the titillation factor is over-depicted, but this is something we can turn around and use to our advantage. Dealing with the various sectors of the media is a skill that is only acquired through practice.

It is also worthwhile to nurture relationships with journalists who give you a fair

story. Instead of just putting a press release out that targets all media you might contact that particular journalist and provide them exclusive stories.

A word of warning - many journalists/interviewers want to catch you out and others have a particular ideological position and keep on repeating the same question until you answer in the way that satisfies their angle. A way of overcoming this is to ask the journalist the types of questions they are going to ask before the interview. You can then think about your answers. It is good practice to speak in concise short sentences, as these are easier to edit and therefore are more likely to be used. If you want to make a particular point, repeat the point regardless of the question asked. The journalist has no alternative but to use it (politicians are particularly good at this!). If you make a mistake and wish to withdraw your statement but are concerned it will be edited and run then interrupt the statement half way through so that it is difficult to edit. The best way to ensure that you are not misrepresented through editing is to conduct live to air interviews (this applies to radio and sometimes current affairs programs).

Depending on the issue you want covered you may decide to target a particular sector of the media. If you want an in-depth examination of a particular issue you can contact magazine editors, discuss the angle for a feature article in the weekend papers with the features editor, or the producer of a current affairs program.

The best contact resource is, Margaret Gee's Australian Media Guide. This resource is updated every four months and published by Information Australia-Margaret Gee Media. It contains contacts for newspapers, magazines, radio and television in national, metropolitan, regional, country and suburban newspapers, as well as overseas press and media regulatory bodies. It contains the names contact details for chiefs of staff, specialised writers, television news chiefs of staff, etc. It is an expensive resource but some larger community organisations and libraries subscribe.

### **Press Releases:**

A media/press release is a short statement provided to the press to attract attention on a particular issue. The measure of success in relation to a release is the media does not contact you but merely reports the release (this of course is very rare!). Press releases can be proactive or reactive. For example, you may run a campaign which focuses on dispelling myths about street workers. A press release may link the laws to an increase in violence against sex workers and as an organisation or group of sex workers call on the Government/Parliament to reform its laws to diminish violence. Alternatively, reacting to inaccuracies reported about the sex industry may be the subject of a press release. The title/header for the press release is very important (the more titillating the better!) as it attracts press attention and encourages them to read the release. Common headers include: "Sex workers Outraged at Government Action on Laws"; "Sex workers Call Government to Action on Laws"; "Sex workers Demand ...".

Timing is essential to the story being run, so check what other stories/issues are in the media and decide whether to delay putting out the release. Making connections to other current media reports may assist in getting the story run. For example, during the Olympics connect industry issues to this, or when taxation is featured in the media connect your story to that.

Monday is the busiest media day so it is more difficult to get your story picked up due to the competition with other news stories. Friday is often the quietest day and the media are seeking stories to cover over the weekend. It is easier to get your story covered if you release your statement on a Friday morning.

It is general practice to release your press statement in the afternoon or late evening of the day prior to the story being run. Alternatively very early in the morning of the day you want the story to run. You can also embargo the release for a certain period. A release provided on Monday for Tuesday coverage should state: “embargoed until Tues 12th Nov, 2pm EST”.

#### **Where do you put out your press release?**

Most Parliaments have press galleries that contain press boxes that are regularly checked. You can place your press releases in parliamentary press releases. The easiest way to distribute a press release is via fax or email to the chief-of-staff of a newspaper, radio or television. If the story has a specific perspective, such as industrial relations or law, you should also send it to the industrial or legal reporter of the newspaper. The ABC has specialist programs such as the Law Report and The Health Report that are worthwhile to send relevant press releases.

Fax and email addresses are located in the Media Guide or on web sites of particular media source. If you are unsure of where to send the release, ring the newspaper, television or radio station and ask for appropriate referral and contact details. The Australian Federation of AIDS Organisations (AFAO) employs a media officer who can assist in sending press releases to all media sources. It is worthwhile contacting the media officer and asking for assistance in distribution. Likewise, the Scarlet Alliance has a database of media contacts for distribution.

#### **Media/Press Alerts:**

Media or press alerts are usually one-page press releases that put the media on notice in relation to an upcoming event. They are generally short and do not provide much detail so the story cannot be written from the alert. In relation to the sex industry, some of the events which you may want to write a media alert for include launches of reports/resources (e.g. Occupational health and safety guidelines), fund raising events (e.g. raffles, hookers balls), community education events (e.g. World AIDS Day), etc. The detail required is the date, venue and time of the event and the person launching/presenting the event (as this can create further interest in getting the press to attend the event) and the aim of the event (e.g. fundraising for the industry, or to educate sex workers about a particular issue, etc.).

Generally, a media alert is released three to five days before the event. The day prior to or the morning of the event consider providing a comprehensive press release.

Consider ringing the media to enquire whether they received your press releases. This provides an opportunity to sell the event or story, provide more information, personally invite the media to attend and therefore strengthens the likelihood of the media turning up.

#### **Press Conferences:**

Press conferences are an organised way of ensuring broad media coverage and are reserved for big issues or events. For example, if you are organising a law reform forum at which sex workers and politicians are likely to be present it is often difficult and time consuming to respond to numerous calls from radio stations, television and newspaper outlets. It is more effective to set a specific time to respond to media questions. A panel forum allows the media to direct questions to the relevant person and provide comment from a variety of sources at the same time instead of chasing people separately.

#### **Letters to the Editor:**

Many organisations, and particularly political parties, attempt to influence community views through running campaigns involving letters to the editor. You might want to run a letter campaign in response to a particular issue or story in the paper such as an inaccurate letter to the editor or an issue which is prominent in the community and/or the Parliament. For example, when the Act select committee was established to examine sex industry law reform, they received little input from members of the community. The committee secretary wrote a newspaper article to generate comment through the letters to the editor. This tactic was successful and all the letters to the editor were supportive of law reform. The committee assumed there was general community support otherwise a more pronounced negative response through the letters page would have been witnessed as people are often more compelled to write a letter when they are aggrieved rather than supportive.

#### **Talkback Radio:**

Sometimes sex industry issues are covered on talkback radio, where listeners are invited to ring in with their views. If you are involved in the discussion or are aware that a particular topic is being aired, it is useful to get supporters to ring and become involved and support the points being made.

# APPENDIXES

- \* Australian Sex Worker Organisations
- \* references



## Australian Sex Worker Organisations

### \* glossary of terms

#### **SQWISI - BRISBANE**

404 MONTAGUE RD ,  
WEST END QLD 4101  
PO BOX 5689  
PH: (07) 3844 4565 FAX: (07) 3846 4629  
L.HOST@HUM.GU.EDU.AU

#### **SQWISI - GOLD COAST**

Level 2, Trust House, 3070  
Gold Coast Highway,  
Surfers Paradise QLD 4217  
PO Box 578  
Ph: (07) 5531 7833 Fax:(07) 5531 6671  
sqwisigc@fan.net.au

#### **SQWISI - CAIRNS**

Suite 32 Andrejic Arc. 55 Lake Street,  
Cairns QLD 4870  
PO Box 6041  
Ph: (070) 4031 3522 Fax: (070) 4031 0996  
sqwisic@sqwisi.org.au

#### **WISE - ACT**

Suite 1/29 Lonsdale Street,  
Braddon ACT 2601  
PO Box 67  
Ph: (02) 6247 3443 Fax:(02) 6247 3446  
wise@apex.net.au

#### **SIN - SOUTH AUSTRALIA**

64 Fullarton Road, Norwood 5067  
PO Box 7072  
Adelaide SA 5000  
Ph: (08) 8362 5775 Fax: (08) 8363 1046  
sin@chariot.net.au

#### **SWOP - NSW**

69 Abercrombie Street,  
Chippendale NSW 2008  
PO Box 1453 Darlinghurst NSW 1300  
Ph: (02) 9319 4866 Fax: (02) 9310 4262  
swop@rainbow.net.au

#### **TAS-WISE - TASMANIA**

2/297 Wellington Street  
Launceston TAS 7250  
PO Box 205 Prospect TAS 7250  
Ph: (03) 6343 4061

#### **PCV - VICTORIA**

10 Inkerman Street St Kilda VIC 3182  
Ph: (03) 9534 8166 Fax: (03) 9525 4492  
pcv@paradigm4.com.au (NT)

#### **SWOP - NT**

6 Manton Street/ GPO Box 2826  
Darwin NT 0801  
Ph: (08) 8941 7711 Fax: (08) 8941 2590  
saint@topend.com.au

#### **PHOENIX - WA**

162 Aberdeen Street  
North Bridge WA 6003  
PO Box 8054 PBC WA 6849  
Ph: (08) 9328 1387 Fax: (08) 9227 9606  
worker@wantree.com.au

#### **QUEER & ESOTERIC WORKERS**

##### **UNION - NSW**

7 Brompton St  
Marrickville NSW 2204  
Ph: (02) 9590 3783  
amurraynsw@hotmail.com.au

##### **SCARLET ALLIANCE**

(National Peak Body)  
PO Box 76  
Red Hill ACT 2603  
Ph: (02) 6239 6098 Fax: (02) 6239 7871  
scarlet@dynamite.com.au

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## GLOSSARY OF TERMS

### **Abolition:**

Abolitionism seeks to eradicate the sex industry or control specific activities associated with the sale of sex such as organising, operating or managing sex industry businesses or receiving direct financial benefit from sex workers labour - such as “living off the earnings of prostitution”. This approach criminalises the majority of activities associated with the sex industry. The sale of sex by an individual sex worker may not be criminalised but s/he is unable to freely work as the law limits where and how sex may be sold.

### **Decriminalisation:**

Decriminalisation refers to the removal of all criminal laws relating to the operation of the sex industry. The decriminalisation model aims to support occupational health and safety and workplace issues through existing legal and workplace mechanisms.

### **Legalisation:**

Refers to the use of criminal laws to regulate or control the sex industry by determining the legal conditions under which the sex industry can operate. Legalisation can be highly regulatory or merely define the operation of the various sectors of the sex industry. It can vary between rigid controls under legalised state controlled systems to privatising the sex industry within a legally defined framework. It is often accompanied by strict criminal penalties for sex industry businesses that operate outside the legal framework.