

August 2019
South Australian Parliament

Re: Support for Statutes Amendment (Decriminalisation of Sex Work) Bill 2018

To Members of the House of Assembly,

YWCA Australia writes this letter to affirm our support for the Statutes Amendment (Decriminalisation of Sex Work) Bill 2018, which was introduced to Legislative Council by Honourable Tammy Franks on 9 May 2018. We urge all members of the South Australian Parliament to support this Bill without amendments.

YWCA Australia is a leading national women's organisation working towards a future where all women and girls are equal, safe and respected with equal access to power, opportunity and resources. YWCA Australia undertakes advocacy and delivers programs and services that develop the leadership of women, young women and girls; support individuals, their families and communities at critical times; and promotes gender equality to strengthen communities across Australia's diverse social and geographic landscape. YWCA has been providing invaluable community services in South Australia since 1880.

The proposed Bill to fully decriminalise adult consensual sex work in South Australia would work towards:

- safeguarding the human rights of sex workers;
- protecting them from exploitation and abuse;
- promoting their health and safety and;
- creating an environment conducive to public health and decent workplace rights

Please refer to the below addendum for more detailed evidence referring to each of the above areas.

YWCA Australia supports the overwhelming evidence, as well as the many health and human rights experts, advocates, and those with lived experience, in support of the full decriminalisation of adult consensual sex work as the most effective way to safeguard the health, safety, human rights and workplace rights of sex workers, the majority of whom are women.

We note that the 2017 Report of the Select Committee on the Statutes Amendment (Decriminalisation of Sex Work) Bill 2015 reported that "overall the evidence heard and submitted to this inquiry *supported* the proposed amendments to the Bill."

The criminalized nature of sex work in South Australia is a major barrier for sex workers (the majority of whom are women) in reporting abuse, discrimination and other forms of illegal activity. In fact, decriminalisation would encourage staff within the industry to cooperate with authorities and build positive working relationships with police. We note that in 2016 the NSW Government affirmed their continued support for full decriminalisation as the best way of protecting sex workers and maintaining a more transparent sex work industry.

Furthermore, police will still have extensive powers to investigate suspected criminal activity, including search powers to enter premises where there is reasonable suspicion of such criminal activity.

Both the New Zealand and NSW experience demonstrates that rates of sex work have *not* increased, but that decriminalisation did improve sex workers' human rights; removed police corruption; resulted in

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savings in the criminal justice system; and enhanced the surveillance, health promotion, and safety of the sex industry.¹

We also express concern that amendments to criminalise certain aspects of sex work, such as street work, will only result in the most marginalised groups being forced into dangerous and isolated environments, unable to report abuse or exploitation. Furthermore, criminalising any aspects of sex work presents more barriers to women exiting the industry and gaining other employment, due to discrimination, stigma, and lack of workplace recognition and protections.

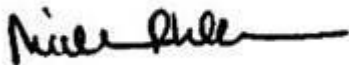
YWCA Australia **does not support the 'Nordic model'** (criminalising the purchasing of sex but not the selling of sex). There is strong evidence suggesting that these laws discourage women to report violence and abuse; result in human rights violations for sex workers; and do little to address the stigma and risk associated with criminalised sex work.² It is imperative that sex work is fully decriminalised to ensure the safety of all sex workers, and to ensure the transparency of the industry.

We note that with the removal of sex work from the criminal code, all other relevant legislative and workplace regulations will be covered by existing laws and guidelines or will consequently be implemented by relevant bodies such as local councils. **We therefore urge you to support the Statutes Amendment (Decriminalisation of Sex Work) Bill 2018 without amendments.**

Thank you for your support in this critical area of law reform. Please do not hesitate to contact Claire Tatyzo, Advocacy Manager (Adelaide based) with any questions on claire.tatyzo@ywca.org.au or 0451 670 579.

Yours sincerely,

Michelle Phillips



Chief Executive Officer
YWCA Australia

¹ The Sex Industry in New South Wales: a Report to the NSW Ministry of Health. Sydney: Kirby Institute, University of New South Wales (2012) <https://kirby.unsw.edu.au/sites/default/files/hiv/attachment/NSWSexIndustryReportV4.pdf>

² Amnesty International 2016, 'The human cost of 'crushing' the market: criminalization of sex work in Norway', https://www.amnestyusa.org/wp-content/uploads/2017/04/norway_report_-_sex_workers_rights_-_embargoed_-_final.pdf

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Addendum:

Evidence for the support of Statutes Amendment (Decriminalisation of Sex Work) Bill 2018

Safeguarding the Human Rights of Sex Workers

The World Health Organisation, UN bodies³ and human rights organisations recommend the decriminalisation of sex work as a matter of public health, public policy and the protection of human rights⁴.

In recognising the high rates of human rights abuses experienced by sex workers, Amnesty International developed a policy supporting the full decriminalisation of consensual adult sex work. This policy is based on extensive research and consultation in various regions, including in Australia, and having engaged with all sides of the debate.⁵ Amnesty's policy reflects a contemporary and considered approach to improving the health, safety and rights of sex workers, while distinguishing adult consensual sex work from sex trafficking.

We would also like to reaffirm the danger in conflating sex work with sex trafficking or sexual slavery. Decriminalisation does not result in legalizing or enabling sex trafficking. In fact, it can create a more transparent industry where exploitation, abuse and other illegal activities are more easily distinguished.

Protecting them from exploitation and abuse

According to the SA Sex Industry Network (SIN), under criminalisation sex workers work in underground and unregulated workplaces, without industrial or Workplace Health and Safety protections. Condoms and safe sex equipment, even health promotion material distributed by SIN, can be seized and used as evidence against suspected sex workers. Consequently sex workers in South Australia fear the police, and have little recourse when crimes are committed against them.⁶

A University of NSW report showed that decriminalisation did *not* increase the incidence of commercial sex in NSW, but did improve sex workers' human rights; removed police corruption; resulted in savings in the criminal justice system; and enhanced the surveillance, health promotion, and safety of the NSW sex industry.⁷

Promoting their health and safety

Criminalisation of sex work creates an environment of stigma, discrimination, and systematic exclusion that prevents sex workers from accessing health and support services and increases their risk of violence and abuse. A recent major review exploring the literature on sex work found that Sex workers are at disproportionate risk of violence and sexual and emotional ill health that has a direct link to the criminalisation of sex work.⁸ Furthermore, criminalisation has also shown to specifically undermine HIV prevention efforts. The Lancet medical journal's series on HIV and Sex Workers reported that, 'decriminalisation of sex work would have the greatest effect on the course of HIV epidemics across all settings.'⁹

³ For example, UNAIDS, UN Population Fund (UNFPA) and UN Development Program (UNDP).

⁴ Scarlet Alliance Submission to the Australian Human Rights Commission: Rights and Responsibilities Consultation, 2014
http://www.scarletalliance.org.au/library/hrsub_2014/

⁵ 'Amnesty International Policy on state obligations to protect and fulfil the human rights of sex workers', 2016
<https://www.amnesty.org/en/documents/pol30/4062/2016/en/>

⁶ 'Sex Industry Network Submission, 2015 'Inquiry into the regulation of brothels'.

⁷ The Sex Industry in New South Wales 2012, Report to the NSW Ministry of Health. Sydney: Kirby Institute, University of New South Wales

⁸ Platt L, Grenfell P, Meiksin R, Elmes J, Sherman SG, Sanders T, et al. (2018) Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies. PLoS Med 15(12): e1002680.

⁹ Shannon, Strathdee, Goldenberg, Duff, Mwangi, Rusakova, M., et al., 'Global epidemiology of HIV among female sex workers: influence of structural determinants', *The Lancet*, 385 (9962), (2015) [http://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(14\)60931-4.pdf](http://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(14)60931-4.pdf)

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Creating an environment conducive to public health and decent workplace rights

In NSW, decriminalisation of sex work has been successfully in place since 1995, and research has demonstrated that this has resulted in high rates of safer sex practice, low rates of sexually transmitted diseases and improved sexual health, improved Workplace Health and Safety, little to no amenity impacts, and no evidence of organised crime.¹⁰

A university survey of brothel operators and community agencies in New Zealand showed various positive attitudes towards their model of decriminalisation (a similar model the proposed South Australian Bill)¹¹. These included that sex workers:

- were no longer being considered criminals;
- had the same rights as those working in other industries, and;
- could negotiate safe-sex practices more easily

A New Zealand parliamentary report also concluded: 'On the whole, [decriminalisation] has been effective in achieving its purpose, and the Committee is confident that the vast majority of people involved in the sex industry are better off under [decriminalisation] than they were previously.'¹²

There is also no evidence to suggest that decriminalising sex work results in an increase in rates of sex work, as demonstrated by studies in both NSW and New Zealand¹³. A 2008 Christchurch School of Medicine report found the number of sex workers in 5 locations in New Zealand had actually reduced, concluding that the popular assumption that decriminalisation would increase the numbers of people involved in prostitution was flawed.¹⁴

Street work

Firstly, we note that the number of street-based sex workers in South Australia is very low, with the Sex Industry network (SIN) estimating less than 20 workers in the north western suburbs, out of a total estimated sex worker population of 2000. The level of impact on the community is often overstated and there is no evidence from other jurisdictions that street work increases under a decriminalised model.

Furthermore, the passing of the Decriminalisation Bill will still leave existing sanctions in place to address local nuisance or criminal behaviour. Soliciting still can be an offence against public order under the *Summary Offences Act 1953* if it is disorderly or offensive conduct (s.7) while loitering may occur if a worker obstructs "free passage in a public place" (s.18). Relevant parts of the State's *Criminal Law Consolidation Act 1935* also will still apply, including exploitation of children, gross indecency, violence, consorting with and organised crime.

Criminalising sex work has not shown to effectively deal with the harms associated with street-based sex workers and in fact leaves them more vulnerable to exploitation and abuse. The New Zealand Ministry of Justice Review found that a criminalised approach would "not have the effect people want", and "may increase the dangers faced by street-based sex workers".¹⁵ The Review also noted that "decriminalisation has not solved all the problems associated with street-based sex work, nor can it be expected to."¹⁶ The Sex Industry Network currently provides support, resources and information to street-based sex workers, and decriminalisation would allow for them and other services to provide further support.

¹⁰ Op cit (5)

¹¹ <http://www.parliament.nz/en-nz/parl-support/research-papers/00PLSocRP12051/prostitution-law-reform-in-new-zealand>

¹² Ibid

¹³ 'The Sex Industry in NSW: a Report to the NSW Ministry of Health,' Kirby Institute, University of New South Wales (2012)

¹⁴ Op cit (8)

¹⁵ Ministry of Justice (NZ) 2008, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*

¹⁶ Ibid

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