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13th January 2011

Ms Wendy Harris
Acting Deputy Director, Research
Crime and Misconduct Commission
GPO Box 3123
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By email: ProstitutionActReview2010@cmc.qld.gov.au

Dear Ms Harris

Please find attached the Respect Inc submission to the Crime and Misconduct review of the Prostitution Act.

We have consulted with our members and service users to inform this submission. We provide an overview of Respect Inc, a general critique of the review scope and the licensing system and responses to the questions asked by the CMC in your "Have your say" flyer.

We have also noted where we feel that changes since the CMC reports have, and have not, created positive impacts on sex workers health, welfare and civil rights and/or have affected the achievement of the principles underlying the Act.

Respect Inc is happy to have our submission posted on the CMC website. We look forward to reading your report in due course.

Yours faithfully

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Introduction

We would like to start by thanking the CMC for this opportunity to provide feedback to the review of the Prostitution Act. As many of our peers work outside of this legislation and are impacted more by the Criminal Code (Chapter 22a) we will frame our response in terms of both sets of legislation. It is impossible to evaluate the current legislative environment without doing this and we appreciate the opportunity to give our views on how the current laws are working.

About Respect Inc, perspective and motivations

Respect Inc is a peer based sex workers' organisation funded by Queensland Health to provide peer education services to sex workers. Respect Inc has been delivering information, education, advocacy and support services to sex workers from offices in Cairns, Townsville and Brisbane for the past year.

We understand that the sex industry is very diverse and because of this there is much debate and, at time, little consensus, even among sex workers, on how it should be regulated. Nonetheless as an organisation that provides education, support and advocacy to sex workers from every sector of the industry Respect Inc is in a unique position to be able to provide a broadly evidenced perspective. Our members come from every sector of the sex industry and some of us have over 30 years experience in every sector of the Queensland sex industry.

The views of Respect Inc are not influenced by commercial competition as is the case for those stakeholders who argue for stronger criminal sanctions. Our argument is not based on financial concerns; our focus is solely on sex workers' health, safety and civil rights. We are a part of the wider community and so share an interest in ensuring quality of life and health and safety for local communities.

Respect Inc Vision, Mission Statement and Objectives

Vision

A society where all sex worker rights are realised, and all Queensland sex workers are aware of and feel confident to access all of the information and support we want and need to enable us to be empowered and control our own lives, health and occupational circumstances, equal to others in the workforce.

Mission

We are Queensland sex workers united to provide a formal medium to communicate sex worker issues and concerns so as to improve the rights of our peers and respond to our workplace health and safety and other needs regardless of gender, age, location, industry sector, cultural background or linguistic abilities.

Objectives:

1. To provide a range of education, information and resources that will support sex workers and increase their awareness of occupational health, safety, emotional wellbeing, legal and taxation rights and responsibilities, in a non judgmental and non-invasive environment.
2. To provide health promotion programs to sex workers

3. To operate within a context of accountability, equity and transparency.
4. To recognise that by providing education, information and support to sex workers, sex workers will be effectively resourced as safer sex educators to pass on those educational benefits to the larger general population.
5. To operate within an affirmative action approach, that is, with all direct services by peers (sex workers past or present) within all levels of the organisation, including management, staff and volunteers, and to foster a culture of inclusiveness and mutual respect within the diverse community of sex workers.
6. To lobby government to provide sex workers with legal avenues to work within any area of the Queensland sex work trade/industry as they choose (e.g., escort, in-house, agency, private/sole operator, co-operatives and/or street) without fear of arrest or prosecution for criminal offences related to sex work business activities.
7. To provide a legitimate voice for Queensland sex workers advocating for legal and other social policies to support sex workers' human, civil and workplace rights and access to remedies without discrimination, including programs and initiatives that aim to reduce discrimination and stigma against sex workers, past and present.
8. To support and liaise with national, state and regional sex worker rights groups in the development of networks, programs and objectives.
9. To build and foster constructive relationships with all stakeholders for the benefit of sex workers.

Critique of review timing and scope

It is unfortunate that the timing of this review fell at a time when the legislation to enact earlier CMC recommendations has just been passed. We have also found it difficult to prepare a comprehensive submission over the Christmas period.

We think that the CMC would be more likely to get a holistic view of the issues if you were to:

- allow more opportunity for our peers to voice their individual views with assistance from Respect Inc so that their privacy is protected,
- conduct the review with a longer window of opportunity to provide input and not over the Christmas period,
- review the Criminal Code (Chapter 22a) and conduct an analysis of PETF and other police prostitution arrest statistics to determine how policing practices do/do not reflect the intent of the legislation,
- review the Criminal Code (Chapter 22a) and the contradictory tension that exists between the Criminal Code and the Anti-Discrimination Act and seek to understand the negative impacts this legislation is having on the vast majority of Queensland sex workers

- conduct a review of the regulatory system that compares sex work with other occupations / businesses, comparing the statutory requirements for employment, the employment style and conditions of similar service industry occupations.

Respect Inc would like to suggest also that it may be time to review the suitability of the language used in the legislation in the contemporary context. Even the Prostitution Licensing Authority now only use the term 'prostitution' when specifically referring to the legislation. Otherwise they use the term 'sex work' instead of 'prostitution' in many of their publications. Perhaps it is time to petition for a change, not just to the legislation, but also the title of the legislation?

Recommendation 1: That the CMC conduct a more comprehensive review in one year, taking into consideration the points made above

Summary of general argument against licensing system

Many stakeholders will maintain, as we do, that the licensing system outlined in the Prostitution Act and Criminal Code (Chapter 22a) has not been successful. After 10 years there are still only 25 licensed brothels available as safe legal workplaces for Queensland sex workers and most of the industry operates outside of the regulatory system (Schloenhardt 2009).

We concede that the 2006 recommendations made by the CMC in the *Regulating Outcalls* report have only recently been put into law, nonetheless, we do not believe that these changes will have any real benefits for sex workers or make the system successful.

The licensing system was flawed, confusing and onerous when it was first passed in 1999. Since then, numerous amendments have made it even more difficult to negotiate. Respect Inc does not foresee further changes along the lines of those already made to the current system being of significant benefit to sex workers or successful in the long term.

In regards to the current situation, we believe that most sex workers who work within the limited scope available to them as independent sex workers ('sole traders'), put themselves at risk of physical and emotional harm in a bid to stay within this narrow scope. We believe that these laws are maintained solely to make policing easier. The health and safety of sex workers is not held as a high enough priority and legitimate opportunities to establish normal business strategies are not supported by legislation. Removal of prostitution offences from the Criminal Code are necessary to allow these sex workers to enjoy the basic civil rights that sole traders in other occupational groups take for granted.

In the following sections we set out our responses to the key questions asked by the CMC and give our assessment of how the current legislative framework has impacted brothels, private sex workers and other forms of prostitution in the last 5 years. We set out recommendations where relevant.

Health and Safety

Has the health and safety of sex workers changed over the last five years? If so, how?

The main impact that has been felt by sex workers over the last five years in regards to their health and safety has been the closure of SQWISI (Self Health for Queensland Workers in the Sex Industry) which then took three years to be replaced by Respect Inc. It has been difficult to provide all of the

services that sex workers need within the scope of our funding and an inordinate amount of our time has been spent debating what support services Respect Inc could offer our peers without breaking the law!

If the Queensland Government wants to commit to making an impact on our health and safety they would take the first step to recognise that sex work is work. We work in a service industry with workplace health and safety procedures that most sex workers/sole traders cannot utilise because these strategies are deemed to be criminal activities.

Respect Inc has a holistic perspective on health so we consider all of the impacts on sex workers' physical and emotional health that derive from the regulatory framework. Overall there have been no significant changes to the health and safety of Queensland sex workers in the last 5 years.

Changes since last CMC recommendations (2004/2006):

Minor positive and negative impacts deriving from changes in the law since 2005 are considered below:

CMC (2004) Recommendation 5: Sexual Health Certificates (6weeks to 3months)

This has been a positive change and is dealt with in the section below on Regulation: Sexual Health Regulation

CMC (2004) Recommendation 6: That section 77A of the Prostitution Act be modified to ensure that proscribed behaviour includes 'an offer' to have sex without a prophylactic as well as the offence of actual sexual intercourse or oral sex without a prophylactic

This law was changed solely to make it easier for police to make a charge on this offence. Previously the police officer would be required to engage in the sexual activity in order to prove that the offence had taken place. Respect Inc is contacted by sex workers who have been charged by PETF police posing as clients who offer extra money to the sex worker to perform sexual services without condoms. We find this sort of entrapment distasteful, unnecessary and potentially corrupting.

The active entrapment of sex workers is very disturbing.... Private sex workers are reporting police strategies where they are being coerced in to providing services they state they are unable to provide – natural oral, doubles etc. Due to the language barriers CALD communities are vulnerable easy targets and basically a numbers game for the Police. Resources should not be made available to Police to entrap, fabricate and create situations. The results of their actions can have negative life changing effects for sex workers who are trying to operate legally. For those from CALD and NESB Communities the ramifications could be dire. Some of these people have escaped torture, trauma and abuse and entrapment could lead to prosecution which could jeopardize residency or permanent citizenship applications for some of the migrant workers. I have seen women in tears because they are in fear of their residency being declined and then being separated from their Australian born children. The mental trauma that results from the actions of the Police is a huge concern to our sex work community

In one case brought to the attention of Respect Inc staff a sex worker was coerced by police posing as a client into agreeing to provide a sexual service without a condom. The sex worker was charged

and subsequently claimed that she had already inserted a [REDACTED] (a brand of feminine condom) which she had planned to use for intercourse. Using [REDACTED] in this way is a safer sex 'trick' used by some sex workers to placate clients who are resistant to condom use. PETF police needed to clarify with Queensland Health whether a female condom ([REDACTED]) could be considered a 'prophylactic' for the purposes of the Prostitution Act. It was, and to our knowledge the case was dropped. We despair at the level of emotional trauma that sex workers subject to this sort of entrapment have to undergo; they must either plead guilty to avoid exposure and embarrassment or argue in detail about their professional sexual practices in a court of law.

Section 77a does not seem to benefit sex workers who complain about clients asking for unsafe sexual services or deliberately removing condoms. Respect Inc has dealt with workers who have wanted to charge clients with rape when this has happened but they have not been supported by police in this charge.

CMC (2004 /2006) Recommendations removing need for PLA to approve individual advertisements

This has been a positive change freeing up sex workers' need to submit advertising for approval to a government body every time they have a minor change (like a date or phone number) to their ads. However Respect Inc suggests that there is no need for the PLA to continue to oversee the advertising form guidelines. Now that most media outlets understand what is acceptable they can decide for themselves what will be appropriate for their respective audiences. Similarly internet advertising can be governed by the ACMA in the same manner as other online activities and advertising.

CMC (2006) Recommendation 23: Receptionists/drivers; message takers for sole traders

The recent changes to the Criminal Code took a fairly hard line on these recommendations. They allow sole traders to employ a person to act as a driver, but not a receptionist as suggested by the CMC. Further, the driver must hold a Crowd Controller's Licence and cannot work for any other sex worker/s [S229H(4)]. We are very critical of the decision to place the requirement for this licence into the Criminal Code and question why a driver would need to be qualified in crowd control. It seems designed to make it impossible for a private sex worker to find a suitable candidate. It seems to be a token to fulfil the recommendation but still make it easy for the police to make arrests.

It has been traditional in the sex industry to use drivers and receptionists as support staff. Drivers provide the reassurance that someone knows when we are due out of a booking (which may be in an unfamiliar location) and would be knocking on the door if we were late. A taxi driver could not, and would not do this. Driving our own vehicle does not allow for this. Having a security firm in place with a panic button does not provide for this if we can't sound the alarm and they take time to arrive. In any case any security firm that provided a service like this would not be able to provide it for more than one sex worker under the current legislation.

Receptionists provide for security in that someone knows where and when we are due out and can call for back up if necessary. They also provide an opportunity for our businesses to function more efficiently. We would be able to go from booking to booking rather than having to turn the phone off and then start over again with self-reception at the end of each booking. This is time wasting and is restricting our opportunity to trade. Selling your own services is a very time consuming and

emotionally draining part of the job. Around 70% of the calls are timewasters and never turn up. Many sex workers don't want to do this and prefer instead to work for escort agencies or brothels.

Many receptionists and drivers are paid by commission rather than an hourly rate or if effective in their role they may receive a mix of the two payment methods in a similar manner to sales agents within real estate agencies. Without the opportunity to provide their services to more than one worker, drivers are not able to receive financial reward sufficient enough for this to be a significant income. This has meant that this option is not viable for many individuals beyond family and friends who are motivated by their desire to provide us with back up, rather than as a business. Unfortunately though many family and friends could not qualify for the Crowd Controller's Licence.

Similarly, the message taker [S229H(5)] cannot be a sex worker themselves and cannot perform the service for more than one sex worker. This is possibly the only positive change, providing a chance for concerned family or friends to assist without risk of prosecution, but again unfortunately Respect foresees only an increased scrutiny by police into the private affairs of sex workers as police seek to 'validate' the credentials of the message taker.

Summary of changes in last 10 years since implementation of Prostitution Act and Criminal Code:

On the whole, the scope of the recent changes are minimal and are not likely to make an impact worth noticing by the larger industry. When prostitution related offences were made criminal in 1992, the violence perpetrated on Queensland's sex workers dramatically increased as reported by SQWISI since that time. The rate of violence perpetrated against us now is still higher than it was prior to 1992 and is not going to reduce until sex workers are not seen as viable victims for violent crimes by perpetrators. We have had murders and gang rapes, violent robberies and intimidation being perpetrated against us every year since 1992.

Sole traders are not only being left in unsafe workplaces but they are also being harassed by the police and charged with criminal offences for even the smallest of breaches. They then have their personal information publicised by the media for us to be again violated within the general community, this time outside of our workplaces.

What changes could be made to improve the health and /or safety of sex workers?

Offences relating to prostitution need to be removed from the Criminal Code. If a regulatory system is considered necessary it must operate like other occupational systems, utilising the existing traditional protections. The criminalisation of sex workers must stop. Unfortunately, for many of Respect Inc's members and other peers, the changes made to the legislation and the movement of most of our relevant legal references to Chapter 22a of the Criminal Code in 1992 (as a subsection of Chapter 22 Offences against morality), had no beneficial impact on our esteem or our workplaces. On the contrary, with the establishment of the Prostitution Enforcement Task Force there has been a constant criminalisation of all sex workers, especially those who do not work in licensed brothels.

There will be no occupational health and safety equity for all sex workers until private sex workers/sole traders have more options such as:

- ❖ working in association with other sex workers as do sole traders in other occupations

- ❖ employing more appropriate support staff such as receptionists and drivers (without the qualifications for these personnel being stipulated in the Criminal Code!) which they can share with other sex workers so that it is a more viable business option for the support workers
- ❖ having control over their own sexual health and safer sex practices

Research suggests that a system where sex workers feel safe from arrest or harassment from other authorities is most conducive to their overall mental health. For example, in Queensland it was found that sex workers who were working legally (i.e. service providers in licensed brothels, legal sole traders) had better mental health than those in illegal settings (Seib et al 2009). Harcourt et al (2005) suggested that decriminalization seemed to provide the best outcomes for sex workers health and welfare. However, despite a high level of regulation licensed brothel workers do not seem much more empowered than brothel workers from years prior to legalisation when it comes to their interactions with brothel managers. Licensed brothel workers need assistance to understand their rights and responsibilities as independent contractors.

We need to break down the barriers for accessing legal remedies for crimes against sex workers, such as sex worker liaison officers within the Queensland Police Service.

Media outlets need to be made aware that it is unacceptable to use sex workers as fodder for scandal and hype reports. It would be helpful also if magistrates could be more amenable to only allowing media to publish our business names rather than our personal names during court proceedings.

Since the Anti Discrimination Commission Queensland has allowed sex workers to use their business names and the use of confidentiality agreements during mediation, it has created a significant reduction in the barriers to accessing a legal remedy for discrimination perpetrated against them.

Recommendation 2: Sex work offences be removed from the Criminal Code and sex work be recognised as a legitimate occupation which can be regulated under existing laws governing service businesses.

Are there any health or safety issues relating to clients that we should know about?

It has been noted previously (CMC 2004:23) that the clients of sex workers in Queensland are "broadly representative of the general community". As such sex workers are subject to all of the same issues that exist when conducting personal services business in the general community. Most clients are respectful and civil. Some are disrespectful and rude. Some can be violent. Some clients can be resistant to using safe sex prophylactics but sex workers are very good at persuading them to do so.

Sex workers do not need laws to compel us to use condoms and it is insulting that such a law was deemed necessary in 2003 given that history and research clearly indicated that it was not (Donovan et al 2010: 74). While some sex workers maintain that they like to be able to use the law as an added incentive to force clients to use condoms, previously sex workers did not have this legal

backup to persuade their clients and managed to achieve compliance through sexual health arguments alone. Sex workers educate their clients in this way.

One point that Respect Inc would like to make here is that many sex workers see clients who are physically or intellectually disabled. Some are severely disabled and require assistance from carers to be able to book a sex worker but under the current legislation this could be interpreted as illegal. The only other legal option is for disabled clients to attend licensed brothels. Some brothels have undergone training and infrastructure to help them do this but it is not an attractive option for many clients who would prefer to see private sex workers. Increasingly, courts are including costs for sexual services in compensation awards for people who have been victims of accidents. Consequently, Respect Inc has been approached both by clients with disabilities and staff of NGOs who provide services to disabled persons in an attempt to develop a register for referrals. This is a very problematic area which denies basic human rights to both sex workers and clients with disabilities.

Recommendation 3: That sex work services be acknowledged as a legitimate service need for clients with disabilities and the criminal offences preventing carers and staff of disability health services from assisting their clients to access private sex workers be removed.

Exiting the industry

Do people need help to exit the industry?

It is the stigma associated with sex work that creates the misperception that it is an inherently damaging occupation. We agree with the former Chairperson of the Prostitution Advisory Council (CMC 2004:54) that the need for formal 'exit' programs is not great. People in most occupations need help at times to transition to another industry. If sex work was treated as a legitimate occupation there would be no need to answer this question. Do nurses get asked this, or social workers, builders, police officers, athletes, pest controllers? We would argue that all of these occupations are difficult and potentially dangerous ones but because they are socially acceptable the government does not feel it is necessary to implement 'exiting programs' in order to create legislation to allow them to exist.

What help is there for people who want to leave the sex industry?

The 'exit program' currently funded by Queensland Health and delivered by BSI Learning is presented as a program for people who are "currently in or at risk of entering the sex industry". Thus it is framed at the outset as a program to help sex workers 'exit' an unacceptable occupation. We believe that any program aimed at assisting sex workers to obtain alternative skills and/or employment needs to come first from the perspective that sex work is a legitimate occupation that, like other high stress and low prestige service industry jobs, can result in varying degrees of burnout. It would be better framed as a program that can help sex workers to broaden their qualifications and opportunities, not just get them out of sex work.

Are there any things that could improve that?

Feedback received by Respect Inc on the program is that it is limited. To date we have not seen any programs that specifically address the two main problems that sex workers identify when seeking

more mainstream employment. These are (1) work history gaps in the resume and (2) inability to obtain recognition of prior learning (RPL) in qualifications for skills obtained through sex work.

Respect Inc offers some peer support and assistance to sex workers experiencing burnout or who want to transition to other work for whatever reason. Sex workers tell us that "explaining what I have done for the last 8 years" is the most pressing concern. Sex workers are more sensitive than people from socially acceptable occupations because they are terrified that their previous work will be held as a negative marker of character to a prospective employer. We have considered the possibility of seeking funding for this purpose but as stated above, any program aimed at sex workers' alternative skills development and employment would need to be framed in a more sex work positive way before we would consider it could be beneficial.

Sex workers, unlike most mainstream employees, feel unable to obtain basic income support when they cannot work because of discrimination and stigma. For example, those affected by the recent floods will have difficulty approaching Centrelink and other agencies for relief because many will not want to admit that their main income is from sex work. Those who have survived violence perpetrated by clients have a need for increased financial assistance while they are recovering from their physical injuries. Many have said that they have tried to secure income protection as any other worker would but have been unable to or the premiums are so inflated that they cannot justify the ongoing expense; discrimination against sex workers is systemic. Not all workers who are the survivors of violence will cease working in that industry. However, just as a newsagency worker who may be the survivor of repeated robberies may not necessarily close the shop, they have some options for increasing their security by having more than one member of staff on site during operating hours. Private sex workers cannot do this without fear of charges from police.

Recommendation 4: That 'exit programs' be re-framed as more general sex worker assistance programs, promoted in a sex work positive manner and structured to provide the more specific assistance (as identified above) that sex workers need and want.

Regulation

How well is the industry regulated?

The sex industry is over regulated in some areas and not regulated in others. Sex workers express a lack of empowerment in both sectors of what is a two-tiered system.

Is it better or worse than it was 5 years ago?

What could be done to better regulate the industry?

Two part regulatory system

In many respects the industry is regulated much the same as it was 5 years ago. We have two very different tiers to the industry in regards to regulation of our workplace health and safety. The smaller sector that is made up of 25 brothels has been over-regulated by the PLA. The larger unregulated industry is predominantly made up of sex workers who may work independently (sole traders) or with other sex workers (co-operatively) or with other operators (in escort agencies or small unlicensed brothels). These people are 'regulated' by the police and so those who want to keep within the law are subject to the same process of entrapment as those who knowingly break the law.

Sexual Health regulation

While the standards of hygiene as set out in the *PLA Guidelines to the operation of licensed brothels* are commendable, there is an overemphasis on STIs as the primary health risk for sex workers that sometimes emerges in brothel culture which we do not believe is beneficial for sex worker health, wellbeing or empowerment. One area in which we have seen an improvement has been in the reduction of the period required for renewal of sexual health certificates from 6 weeks to 3 months. There is less stress for workers to obtain certificates from a pressured health system and it helps to educate sex workers and brothel operators about what the certificate represents (i.e. attendance at a sexual health facility).

Respect Inc is concerned about attitudes that are sometimes expressed by licensed brothel managers, and passed on to the service providers themselves, that private sex workers / sole traders are a sexual health risk because they are not required to undergo mandatory sexual health testing. This reinforces the incorrect idea that holding a valid sexual health certificate means one is not infectious and pits one sector of the industry against another.

Respect Inc does not support mandatory testing as a necessary part of any regulatory system for sex workers. It has been shown by Donovan et al (2008) that mandatory testing is not more conducive to overall levels of sexual health amongst sex workers. As there has been no known reported case of HIV transmission via sex work in Australia, it appears that even though Queensland private sex workers/sole traders do not have OH&S regulations, we do use them and take our sexual health seriously. This has been a traditional part of sex work culture in Australia since the 1980's. We should be congratulated for this and it should be referred to as an example of our maturity and proactive ability to respond to emerging issues in our community and workplace.

As many of our members worked in sex work during the early days of the AIDS 'epidemic', we know how proactive and reactionary our industry can be. Thus we question why we would need to have more regulation than that which governs other industries such as child care services, aged and disability services, the building industry, catering industry, etc? These industries have workplace regulations which are overseen by departments such as Industrial Relations, Work Cover, Office of Fair Trading, Queensland Health, etc. At the very least we would argue that the sex industry should be overseen by a more appropriate industry regulator, and not the police.

Recommendation 5: that mandatory sexual health testing be replaced with self-regulation of sexual health

Licensed brothels

As stated above, our opinion has been that this section of the industry has been overregulated but in ways that don't seem to empower the service providers / sex workers themselves. There has been a lot of emphasis on probity checking for licensees and managers. However despite this there has been no sense by Respect Inc members that brothel operators today are really any different to those that some of us worked for pre-Fitzgerald and since. They set up and seem often to quickly feel a sense of entitlement within the industry and seek to undermine the private sector and unlicensed sectors they compete with.

It is very disturbing that a man or woman who holds a brothel license basically has a license to perform the functions of a pimp legally gaining financially off the backs of sex workers.

I am horrified that as a private worker I do not have the legal ability to provide a double service but someone who holds a brothel license can serve women on menus offering them up as doubles. Not only does this take away the power from the sex worker but also eliminates private sex workers from earning potential income.

Private workers are disadvantaged and our potential to earn is limited by giving the power to the holder of a Brothel License. This appears to be a legalized avenue for those who are in a position to access funds to set up an establishment designed to live off the backs of sex workers. If I want to engage in doubles due to the lucrative monetary benefits, as a private worker managing my own business this would be against the law. Licensees are in possession of Government administered licenses which allows them to legally take the earnings from a sex worker and to gain financially as the business is dependent on the income of sex workers....other than the ability to afford licenses and premises, what else distinguishes a licensee from a legalized pimp? [REDACTED]

In the last 5 years there has been a sense that some brothel operators are more coercive and controlling than they were when the laws were first passed.

For doubles brothels charge double the room hire because there are 2 sex workers in the room, plus girls can charge extra for doing doubles. However this doesn't always happen as managers put pressure on us to do a double for our normal room hire fee and pressure us not to charge more... They also pressure us to comply with the deal they have already done with the client...this should be illegal...Managers should have nothing to do with our bookings. They should not be allowed to do any negotiating or suggesting....They should be just there to keep Law and Order and take the house money that's it...until this happens working conditions in licensed Brothels will be against workers and less profitable than it should be. Also the way Brothels are set up one girl going out at a time, then once all girls go through the Manager then goes to client and tells him who's available, or who they recommend to see etc. The power of their persuasion is monumental. I realised this after working for 1 month when I started. If you don't suck up the manager's backside, well you can forget getting booked [REDACTED]

There has also been a lot of OH&S planning around hygiene and sexual health but less on other issues that cause health impacts (eg. client negotiation, living a 'double life', walking in 'stripper heels' up and down stairs, working long shifts etc.).

Organised crime and corruption

Is there any involvement of organised crime or any corruption in the legal prostitution industry?

Organised crime

When an industry and most of its members exists outside of the legal framework it becomes, by definition, organised crime. Respect Inc speaks to sex workers every week who are being charged under the Criminal Code for offences like S229H *Knowingly participating in the provision of prostitution* or S229L *Persons found in places reasonably suspected of being used for prostitution etc.*

Recent case studies include:

1. A woman and her husband charged with Section 229H because he placed her advertisement in the newspaper for her
2. A woman and her husband charged with Section 229L because he was on the premises when a police officer arrived posing as a client
3. Two women charged with Sections 228H and 229L because they were both on premises when a police officer arrived posing as a client. The two women are friends and one was temporarily staying with the other because she was afraid to return to her own apartment due to a violent client

This is, by definition, organised crime but the offences are often trivial and not what is normally meant by the term 'organised crime'. In these cases the standard police practice is to seize any cash on the premises, as potential proceeds of crime, as well as any phones used. These phones then are used to uphold a charge of 'possession of tainted property' and 'using a telecommunications device in the commission of a crime'. Sex workers are left without cash, without their mobile phone (often containing numbers of friends and family) and without any means to find and pay for legal representation. In some cases bank account monies are frozen as well. This is the situation they are in when they contact Respect Inc for support and information.

In the second case above, bank account monies were frozen as well. The sex worker, who did not speak fluent English, was subjected to continued harassment by the media as she attended court. Media headlines screamed about "money tainted by prostitution" and the woman and her husband had their full names published and their photos were screened on TV over and over. It was later proved that the money was winnings from the Casino, there was no "organised Asian prostitution". This is very damaging emotionally and we would argue constitutes persecution by the state.

When you are a private sex worker the laws are designed to force you into social isolation. If you are lucky enough to have a partner to share your concerns or issues with or to discuss a difficult situation you have an outlet to vent. I was in a relationship where I was supported by my husband for several years whilst I was unemployed raising our children. Throughout this time I lived off my husbands earnings. I find it ridiculous that a husband can be charged for assisting with a part of your business such as paying for an advert using their credit card when you are a family unit. If it is not a crime for my husband to support me and for me to live off my husbands earnings then why is it a crime to want to share my earnings with my family unit [REDACTED]

Larger organised operations, such as escort agencies, do exist however we do not see that this is due to large scale organised crime networks but rather is occurring between small numbers of individuals working in association with each other for health and safety purposes.

Recommendation 6: policing practices be analysed as part of a general analysis of prostitution arrests to investigate (a) how policing reflects the underlying intent of the legislation (b) the extent to which Asian sex workers are targeted by PETF and other police.

Corruption

Having such a high percentage of sex workers working outside of the legal framework creates a risk of corruption and we are aware of a case [REDACTED] where a police officer was reported, and we believe charged, with extorting and attempting to extort private sex workers.

Further, Respect Inc has been informed of a series of recent crimes against Asian sex workers on the Gold Coast and Brisbane who have been targeted by thieves posing as PETF officers. The thieves seized money and valuables from the sex workers. They are able to easily coerce sex workers with limited English and understanding of the law to hand over cash and valuables no doubt because they follow a format that is the standard practice of PETF police when they charge sex workers and others (as detailed above).

This has occurred in at least 2 cases reported to police and 4 others that we know of where the victims did not wish to report due to concerns about visas and immigration status. Respect Inc has spoken to Asian sex workers with PR (permanent residence) status who have not wanted to attend court or have any other contact with authorities for fear that it will affect their resident status.

To date Respect Inc has not become aware of any other significant forms of corruption with statutory authorities or money laundering.

How has the illegal prostitution industry in Queensland changed over the past 5 years?

Much of the visible change in the illegal industry comes from policing practices rather than the legislative changes. There has definitely been a decline in street based sex work in the Brisbane area (Fortitude Valley and New Farm) over the last 5 years but we would argue that much of this had already occurred in the 5 years prior due to high levels of PETF activity in the 4 years after 1999.

Respect Inc is seeing a high level of Asian sex workers (Chinese and Thai speaking) who are being charged by PETF and other police but what this represents is open to question. Respect Inc is a new service and we are actively seeking to assist Asian sex workers and other marginalised groups so we think that this may simply mean we are reaching our targets. Nonetheless we suspect that Asian sex workers are being targeted by police, partly due to the hype around trafficking and calls by licensed operators for police to 'deal with' the competition that Asian sex workers represent. This has led to Asian sex workers also being targeted by thieves who are con-artists posing as police (as discussed above).

Despite the increased numbers of Asian sex workers advertising in the last 5 years, Respect Inc staff have not encountered any cases of sex workers who have been 'trafficked' or held under bonded contracts by operators.

What could be done to encourage workers out of the illegal industry and into legal work?

Decriminalisation

We see that the only real way of getting sex workers who choose to work outside of the scope of the current legal framework, is to change the current illegal framework to legal. A decriminalised system such as exists in New Zealand and New South Wales allows sex workers to choose where and how they work. These systems are not without problems but there is evidence that many of the community harms that were predicted (increase in size of industry, organised crime, etc) did not emerge after decriminalisation. The provision of human rights to sex workers through the

decriminalisation of the sex industry has led to the minimisation of harm to New Zealand sex workers, which could be mirrored here in Queensland.

Need for escort agencies and cooperatives

The model of regulation created by the Prostitution Act and Criminal Code in 1999 was fundamentally flawed because it did not allow for a broad enough range of organized operations as well as allowing sex workers to come together in cooperative arrangements of their choice. It is necessary to have organized outcall agencies (escort agencies) alongside brothels. Outcalls are a big part of the industry and many private sex workers/sole traders will not feel comfortable attending outcall bookings alone. The ad hoc measures brought in under the recommendations of the CMC (2006) *Regulating Outcalls* report that allow sole traders to hire a driver are unworkable for reasons discussed earlier.

We agree with the CMC (2006) argument that it would be to the detriment of sole traders to allow licensed escort agencies or escort services only from existing licensed brothels to be established. We believe that escort agencies are necessary but to restrict them to the current brothel licencees only, while maintaining the current Criminal Code (Chapter 22a) would be detrimental to private sex workers / sole traders.

Recommendation 7: that fundamental changes to the legislation be enacted to allow escort agencies, smaller cooperative 'brothels'

No registration of sex workers

We do not support registration as we believe that this will not work. Previous research and argument supports this (CMC 2004:118) and there is no sound reasoning for the registration of private sex workers except to back up the policing and regulation of the licensed brothel system. We suggest that it is unjust to increase regulation upon the small business owner to help the larger business owner. For many years, including now, many sex workers believe that they are regarded as potential criminals, under attack from the licensed brothel system and investigated constantly by police task forces. In our opinion, to put in place a registration system after this period would not be supported with compliance.

There are many reasons why compulsory registration would be detrimental to sex workers. Many sex workers have not disclosed to their friends, families and colleagues that they are currently working in the sex industry. The idea of being forced to register thus having to provide personal documentation creating a paper trail and personal records is a frightening concept to some sex workers and will force many to operate illegally to avoid registration. The general community need to understand that sex workers consist of every day people. I know many single mums who find sex work empowering and a lifestyle that is able to offer flexibility. I have had single mums reporting directly to me that they are happy they only have to work a couple of hours a day, they can put their kids through private school, they can afford to send their kids on school excursions, buy them the basic necessities such as clothes and shoes. The consequences for this mother and others to be named on a list could be dire and would have a negative affect on her family unit as a whole. Whilst I was employed with a Government Organisation in New Zealand I worked in the sex industry two to three evenings per week. However I worked knowing that it was a requirement for me to advise my current employer of any secondary employment. Registration would force sex workers to disclose this to their current employers which could jeopardize their employment or future promotional opportunities. Employers will and do actively discriminate so

registration could effectively have a negative affect on sex workers. [REDACTED]

Legislators need to ask themselves if the social need that registration of sex workers would serve would justify them feeling comfortable about knowing that their daughter's or son's name was on a permanent record somewhere in a government office identifying them as a sex worker?

Recommendation 8: that government registration of sex workers be acknowledged as inappropriate, counterproductive and unworkable.

Impact on local community

What change has there been to the impact on local communities by legal brothels, private sex workers and other forms of prostitution in the last five years?

General community awareness of sex workers

Respect Inc has not seen much change in the level of community awareness of sex workers than was found in the *Selling Sex in Queensland 2003* (2004) report commissioned by the PLA. This reported that sex work businesses do not have a large impact on local communities and people are often unaware of their presence. Impact assessment analysis in NSW supports this (Sex Services Premises Planning Advisory Panel 2006).

Assuming that we are also recognised as members of our local communities, as many of us have children in school, mortgages to pay and are on the electoral role, etc, we can say that anecdotally we have seen the following impacts and changes in community awareness.

Wider community acceptance of sex work as legitimate business

By publicising brothels as legitimate businesses, there is a sense that some people feel like we are no longer next door to their homes in residential areas. Many do not understand that this is only a small percentage of the industry but are comfortable to not think about it too much. We are acknowledged to some degree by general community as an industry with varied recognition from the various stakeholders. The brothels are extremely limited in being able to participate as members of the community, such as not being able to use marketing opportunities that other industries can, including sponsorships or promotional 'give aways'. Nonetheless we feel that recognition of our legitimacy is slightly better than it was ten years ago and in the preceding years since the laws were changed in 1992. The education to advertisers that it was acceptable to take advertisements for sex work (that came with the Prostitution Act) was a step forward for us and, further, with the coverage of 'lawful sexual activity' in the Anti Discrimination Act, advertisers are now starting to deal with us as legitimate service providers with a right to advertise.

Negative stereotyping of sex workers

There has been little increase in the level of knowledge about sex workers as ordinary people and negative stereotyping of sex workers in the general community is still high. We believe that this is one of the intended goals of the Prostitution Act's principle to "ensure quality of life for local communities"; that is, to keep sex work and sex workers invisible. Unfortunately without public acknowledgement by government leaders that sex work is legal and that sex workers are members of the community with rights, the general community remains ignorant of these rights and the laws that exist to protect them. Respect Inc deals every day with sex workers who face discrimination by

members of the community; often the perpetrators are unaware that they are breaching the Anti-Discrimination Act by refusing services to sex workers. In conservative towns like Mackay and Toowoomba sex workers are evicted from hotels and motels every week. This has been exacerbated by the practice of police over the last 5 years advising motel operators that they could face criminal charges if they allow more than one room to be rented to a sex worker.

Negative media and community protests of brothels in moderately sized towns

The opening of licensed brothels in conservative towns still creates an inordinate amount of media debate and protest. As long as there is an exemption for small towns to deny approval for brothel development, there will be an attitude that this is an unacceptable industry with toxic byproducts.

In Toowoomba in 2009 there was a protest which eventuated in a political outcry about the approval of the first brothel there. An argument was made in parliament that if towns with populations under 25,000 can apply for exemptions to brothel approval that larger towns like Toowoomba should have the right to do so also (Horan 2010:2594-2595). The protestors brought in radical feminist academics to argue against sex work *per se*, citing dubious research about the causes and effects of sex work. This sort of media argument is as damaging to sex workers as anything they deal with whilst working. Since then the brothel has opened and interest has died down. A local news story on opening day spoke to the brothel operator

"I will run it exactly like the one I managed in [redacted] and in seven years there has not been any incident there." [redacted] said the opening of [redacted]'s first brothel attracted heavier protest than [redacted], but within a month of opening interest died down. "It's just become an accepted part of the landscape there and I think in a month's time no-one here will care." [redacted]

We believe that education of the community about the impacts of sex work and the rights of sex workers will over time cause less hysteria and more acceptance of sex work as work and not something that will degrade and endanger the community.

Recommendation 9: that the State Government take a lead role in educating the public about sex work as a legal occupation and sex workers as members of the community with rights under the Anti-discrimination Act; that Respect Inc be funded to conduct myth-busting community education and work with other bodies such as the Anti-Discrimination Commission and Workplace Rights Ombudsman in advocating for sex workers rights.

List of Respect Inc Recommendations:

- Recommendation 1: That the CMC conduct a more comprehensive review in one year, taking into consideration the points made above.
- Recommendation 2: Sex work offences be removed from the Criminal Code and sex work be recognised as a legitimate occupation which can be regulated under existing laws governing service businesses.
- Recommendation 3: That sex work services be acknowledged as a legitimate service need for clients with disabilities and the criminal offences preventing carers and staff of health services from assisting their clients to access private sex workers be removed.
- Recommendation 4: That 'exit programs' be re-framed as more general sex worker assistance programs, promoted in a sex work positive manner and structured to provide the more specific assistance (as identified above) that sex workers need and want.
- Recommendation 5: That mandatory sexual health testing be replaced with self-regulation of sexual health.
- Recommendation 6: Policing practices be analysed as part of a general analysis of prostitution arrests to investigate (a) how policing reflects the underlying intent of the legislation (b) the extent to which Asian sex workers are targeted by PETF and other police
- Recommendation 7: That fundamental changes to the legislation be enacted to allow escort agencies, smaller cooperative 'brothels'.
- Recommendation 8: That government registration of sex workers be acknowledged as inappropriate, counterproductive and unworkable.
- Recommendation 9: That the State Government take a lead role in educating the public about sex work as a legal occupation and sex workers as members of the community with rights under the Anti-discrimination Act; that Respect Inc be funded to conduct myth-busting community education and research work with other bodies such as the Anti-Discrimination Commission and Workplace Rights Ombudsman in advocating for public awareness of sex workers rights.

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