

Scarlet Alliance, Australian Sex Workers Association and Respect Inc Sex work laws and workplace health and safety symposium report

Brisbane Parliament House, 14th November, 2018, hosted by Peter Russo, Member for Toohey

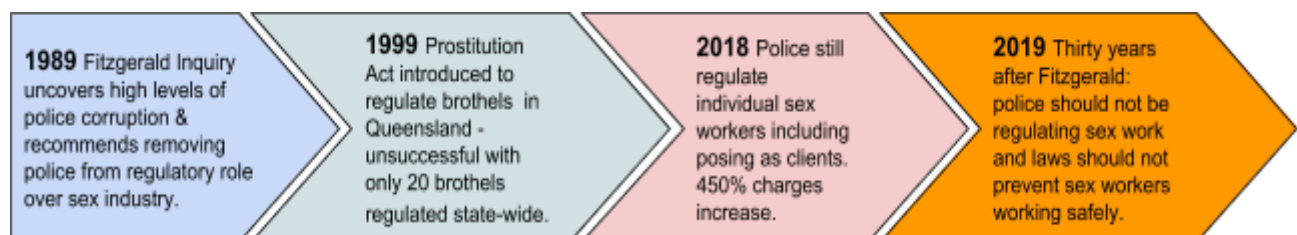
Queensland snapshot:

- **80%** of sex workers are forced to work illegally in order to work safely
- **450%** increase in sex work offences (2016–17 QPS statistics)
- **30 years** after the Fitzgerald Inquiry police are still regulating sex work
- Reporting of crime by sex workers in Qld is **very low**
- **\$10M+** taxpayer funds spent on a regulatory body that regulates 20 brothels
- **95%** of Queensland is without a licensed brothel

The problem (summary):

Sex work regulation remains the unfinished business of the Fitzgerald era in Queensland.

Police remain the regulators of 80% of the sex industry—including individual sex workers.



The laws in Queensland make essential safe working practices illegal (working in pairs, texting each other when clients leave, hiring a receptionist, helping each other with advertisements etc., using a driver another sex worker uses). Police statistics show charges against sex workers are increasing. Entrapment, or posing as clients of sex workers, is used by police. Police resources are wasted charging sex workers for breaches of advertising and other non-violent crimes. Due to fear of the police (and the potential for further targeting) most sex workers are hesitant to report crimes against them. However, when they do, the reports are not prioritised or are ignored by police. Asian sex workers are being singled out for surveillance and arrest based on the incorrect assumption they are connected to organised crime, despite there being no evidence of this.

After 18 years, it is clear the licensing system has not achieved its intended outcomes, with only 20 brothels regulated. The model of regulation—often referred to as the licensing framework—is a major part of the problem, with many sex industry business models (massage parlours, escort agencies, collectives) not permitted to license and operate legally. The licensing authority is expensive, costing tax payers \$10M+ since it was established, and more than \$700 000/year.

The solution is decriminalisation (summary):

Decriminalisation is a regulatory model that is low cost, reduces barriers to compliance and results in improved workplace health and safety and access to justice for sex workers. Health research demonstrates the model is an essential component of an effective HIV response.

Decriminalisation is the only legal framework that fully protects sex workers' labour rights, ability to work safely and access to justice. As such, it is recommended by the World Health Organization, UNAIDS, the UNDP, Human Rights Watch, The World Bank, The Lancet Special Edition on HIV and sex work, The Global Alliance Against Trafficking Women, Amnesty International and other organisations.

Introduction

This report provides a snapshot of slides and presentations from the Scarlet Alliance, Australian Sex Workers Association and Respect Inc, Queensland's sex worker organisation symposium held in the Undumbi Room at Brisbane Parliament House on Wednesday, 14th November, 2018.

The event was hosted by Peter Russo, Member for Toohey and was filled to capacity with approximately 150 attendees. The event started with a Welcome to Country by Nunukul Yuggera and was followed by presentations by two panels of speakers.

Panel one included four speakers providing an overview of what decriminalisation is, the evidence and research that demonstrates the successful outcomes of this regulatory model and why the model is recognised as best practice for the health and safety of sex workers.

The second panel also included four speakers, who described the impact of Queensland's sex industry laws, policing approaches and the negative impact on sex workers' health and safety. Two short films were shown, available at:

<https://respectqld.org.au/decriminalise-sex-work/resources/>



Background:

In January 2018, sex workers in Queensland joined with Respect Inc, the state's sex worker organisation, to form a committee to repeal laws that are making sex work unnecessarily unsafe and resulting in targeted police campaigns and the fining and arrest of sex workers in Queensland for minor infringements including advertising.

In 2018, the DecrimQLD group met with the Minister for Police, Minister for Health, Minister for Disability Services, MPs, unions, legal and community organisations, police and the Prostitution Licensing Authority to provide evidence (research findings, reports and anecdotal evidence from sex workers in Queensland) on the impact of Queensland's laws on sex workers' health, safety and working conditions.

Queensland State Labor Conference 2018 passed the following motion:

Labor supports the removal of sex work from Chapter 22A of the Criminal Code Act 1899 (Qld) from the Police Powers and Responsibilities Act 2000 (Qld) and the repeal of the Prostitution Act 1999 (Qld).

Labor will refer the development of an appropriate regulatory framework for a decriminalised sex work industry to the independent Queensland Law Reform Commission within the current term of Parliament.



The evidence on decriminalisation

**Jules Kim, Chief Executive Officer,
Scarlet Alliance, Australian Sex Workers Association**

“A plethora of research clearly illustrates that decriminalisation is the most effective regulatory model for the prevention of HIV and STIs, as noted in Australia’s *National HIV and STI Strategies*.”

What is Decriminalisation?

- Removes police as regulators of the sex industry
- Repeals criminal laws specific to the sex industry
- Regulates sex industry businesses through standard business, planning and industrial codes
- Does not single out sex workers for specific regulation
- Is a whole-of-government approach to regulation.

“In their 2005 comparative study of brothels, the Law and Sex Worker Health (LASH) research by the Kirby Institute found that of three Australian approaches to sex work legislation (criminalisation, licensing and decriminalisation), decriminalisation led to the best health outcomes and better access to health promotion.”

Decriminalisation supports occupational health and safety

“Without the threat of criminal sanctions, sex industry businesses in a decriminalised framework have greater capacity to develop comprehensive OHS policies, and workers can better assert our occupational health and safety rights. A decriminalised environment gives businesses further opportunities to develop important OHS policies.”

“In 2003, the NSW Government Report of the Brothels Taskforce found:

What Decriminalisation Does

- High level of compliance, low cost to maintain
- Reduces corruption and increases transparency
- Increases ability for sex workers to report crimes and access justice
- Provides better access to outreach, peer education and health promotion
- Improves Workplace Health and Safety
- Does not increase size of sex industry.



Decriminalisation had a positive impact on workers’ access to health services and OHS.

Arguments for a separate licensing authority should be rejected, as this is an area for potential corruption and would increase the number of sex workers working illegally.”

Decriminalisation has delivered outcomes for New South Wales



Cameron Cox, CEO, Sex Workers Outreach Project (SWOP)

Improved and now Excellent Sex Worker Health

NSW now has

STI prevalence

low or lower than non sex workers

HIV prevalence

lower than that of non sex workers

Condom use

approaching 100% in NSW brothels



“The NSW HIV Strategy is now about ‘maintaining the success’ and ‘sustaining the virtual elimination of HIV among

sex workers in NSW’. Sex workers in New South Wales test 50% more often than non-sex workers and that figure is rising. Decriminalisation has also delivered great opportunities for peer education and outreach. SWOP has access to 97% of sex industry premises.”

“Another important outcome is the regulatory oversight. We can access Worksafe, they can access us, we can have inspections done, the regulatory oversight is downwards and there is now nothing to prevent that from happening.”

Other Benefits NSW Received

- Allows and facilitates better & wider outreach,
- increases opportunities peer education/support
- supports sex worker self-determination,
- allows regulatory compliance (upward)
- maximises regulatory compliance (upward)
- allows regulatory oversight (downward)
- Increases transparency and reach
- does not support discrimination
- reduces corruption



Decriminalisation changed the corruption sex workers were experiencing overnight. “It was the most remarkable thing to see, it had nowhere to stand anymore once the (industry) was decriminalised. **Police are not equipped (or trained) to be the regulators of sex work** and when they are, sex workers lose our recourse under the justice system.”

Cost of regulation: Decriminalisation (NSW) vs. licensing (Qld)

Decriminalization Eliminates Costs of Regulation and Compliance

NSW found decriminalisation to be the
Optimal Model for Sex Work Legislation

extremely cost efficient virtually eliminating

- regulatory and compliance costs for the sex industry
- residual costs absorbed by standard regulators of work
- removed a number of extremely large hidden costs
 - Cost police force as compliance/enforcement
 - Costs from possible adverse public health events
 - Social and economic costs of disenfranchising and marginalising sex workers

swop
SEX WORKERS OUTREACH PROJECT

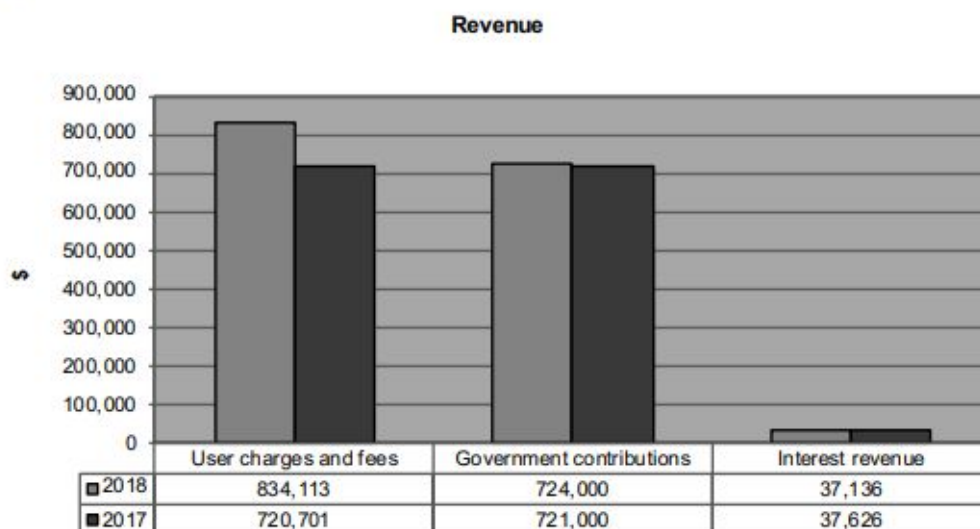
Cost of licensing in Queensland:

Licensing authority:

- More than \$10M since implementation (PLA Annual Reports)
- Plus an annual government top-up of \$700 000+ (see table below)
- Regulates only 20 brothels

Policing: cost unknown (surveillance, undercover operations, PETF etc.)

Figure 2



Prostitution Licensing Authority revenue table (Annual Report 2017–18 p.12)

Decriminalisation in progress

South Australia—Roxana, President, SIN (Sex Industry Network)



“In March this year Greens MP Tammy Franks, longtime supporter of sex worker rights, introduced the Bill to decriminalise sex work. The original Bill was proposed by Labor MP Steph Key, now retired, and in 2015 by Liberal MP Michelle Lensink. **The previous and current Bills haven’t changed and have always attracted multi-party support.** The current South Australian Attorney-General, Vickie Chapman, also supports the Bill and states she will sponsor the Bill when it comes to the state’s Lower House.”

“The Bill to decriminalise sex work proposes a range of amendments to the Criminal Law Consolidation Act (1935), Equal Opportunity Act (1984), Spent Convictions Act (2009), Summary Offences Act (1953) and the Return to Work Act (2014). When this Bill passes, South Australia will be the first place in the

world to fully decriminalise all parts of the sex industry, ensuring that all sex workers are accounted for and have appropriate protections in place.”

“It is important to note that the original bill came about because sex workers at the time had been actively campaigning and when Steph Key showed interest, sex workers proceeded to work extensively with her to make sure she got it right. Sex workers were involved before the Bill was written and from the start we were able to influence the drafting of the Bill. Sex workers were very clear from the start about what we needed and ensured as many sex workers as possible were empowered to continue working with Steph.”

Northern Territory—Leanne Melling, Co-ordinator, SWOP (Sex Workers Outreach Project)

“Law reform in the Northern Territory has evolved through active consultation and engagement with sex workers. The NT Labor Government has supported sex workers to contribute to the processes of reforms.”

“With support from Labor Women, United Voice, the ASU and delegates, the NT-Labor Conference unanimously passed our motion, prepared with Scarlet Alliance, SWOP-NT-SWRG for: *the full decriminalisation of sex work, the development of WHS guidelines, anti-discrimination protections and for the development of a NT human rights charter.*”



“In many ways it has been a best practice model for sex work law reform based on: active consultation and engagement, sex workers recognised as the **primary stakeholders**, collaborative relationships with other stakeholders, respectful consultations that include taking on our feedback and hearing our evidence.”

“NT sex workers, with our organisations and groups, and national association, Scarlet Alliance, are recognised as **primary stakeholders** that have the collective intellectual capacity and the evidence to make recommendations and contribute to best practice reforms.”

“Sex workers are requested to attend briefing meetings with stakeholders to present on our issues and our recommendation for decriminalisation as the solution. These briefings include Ministers and elected members, including the Attorney General, and trade union officials.”

“**We speak, we sit amongst you as workers. We intersect as a cross-section of society, as trade union members, as staff, as voters, as peer educators, as workers’ rights activists and organisers and as the key experts on reform for the safety of sex workers.**”

Contemporary research supports decriminalisation

Research, using data from 33 countries, was released in the same month as the Symposium, December 2018, by the London School of Hygiene and Tropical Medicine. It concluded:

“The public health evidence clearly shows the harms associated with all forms of sex work criminalisation, including regulatory systems, which effectively leave the most marginalised, and typically the majority of, sex workers outside of the law. **These legislative models de-prioritise sex workers’ safety, health, and rights and hinder access to due process of law.** The evidence available suggests that decriminalisation can improve relationships between sex workers and the police, increasing ability to report incidences of violence and facilitate access to services. Considering these findings within a human rights framework, they highlight the urgency of reforming policies and laws shown to increase health harms and act as barriers to the realisation of health, removing laws and enforcement against sex workers and clients, and building in health and safety protections.

<https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>

Queensland laws, policing and the solution

Queensland sex workers have had enough

Kiki Magenta, Secretary, Scarlet Alliance, Australian Sex Workers Association



“Today’s laws that license a small number of brothels but criminalise the rest of the sex industry in Queensland, reflect that there has been a reluctance by consecutive Queensland governments to acknowledge that sex work is work and to listen to sex workers. The sex industry continues to be framed as a problem to be monitored and restricted. **These laws have been informed by a legacy of fear and moral arguments against sex work rather than being based on evidence, best practice and prioritising sex workers’ safety and right to work.**”

“What sex workers want is the recognition that our work is legitimate, and as such, for these legal barriers to be removed. But we also want to be engaged in the process of developing the solution. We have experienced the unintended consequences of laws not made in consultation with sex workers. **Queensland sex workers need to be involved in the development of any new model.** And as you will hear today, the solution, as demonstrated by the evidence, is the full

decriminalisation of sex work in Queensland.”

“As a Queensland sex worker I am here today to tell you that we’ve had enough—we’ve suffered 18 years of this model and its devastating effects on our community. We will no longer accept being treated like second-class citizens.

Decrim is now widely recognised as the best legal framework in terms of human rights, labour rights, sex worker health and wellbeing (and that of the community), combating HIV and more. The World Health Organization, UNAIDS and Amnesty International all advocate for the decriminalisation of sex work as the best way to address the discrimination and harms that sex workers experience.”

Basic sex work safety strategies are illegal in Queensland

Kayla Rose, Secretary, Respect Inc

“Our basic safety strategies are illegal. So sex workers choose between working legally or safely.

Police pose as clients to identify if we are implementing these same safety strategies. Sex workers are charged and our money, phones and laptops, our so called ‘tainted property’ is seized. Consequently, police are viewed as unhelpful when experiencing crime. And so many crimes go unreported or if they are reported sex workers do not feel we are taken seriously.”



Qld Police stats from 2016–17 show most charges are against women over 30 yrs old.

How are the laws being policed in Queensland?

Crimes sex workers are being charged for:	Crimes against sex workers not reported/not acted on by police:
Words used in advertising	Robbery
Sharing workspaces	Fraud
Taking calls for each other	Sexual Assault
Checking in when a client leaves/ arrives	Domestic Violence

← **LOW** **CRIME HARM INDEX** **HIGH** →

“Sex workers are being charged for the safety strategies in the left column. The right column shows the crimes against sex workers that are not reported or not acted on by police.”

“According to police, sex work is rated as very low on the Crime Harm Index yet resources are being put toward targeting sex workers for petty crimes.”

“When sex workers attempt to report crime, including serious crime, they are turned away, told there is no crime or treated so badly they do not proceed.”

“When sex workers have persisted until they find a supportive police officer who will take their report it is often found that they are not the only person targeted by this perpetrator.”

“Being charged also can result in being outed by the media. This threatens the sex worker’s personal safety and privacy and has implications for child custody arrangements.”

“Last month we saw another case of standard policing in Gladstone—a Chinese speaking sex worker came to the attention of police **because of an advertising breach**, the police made a booking and found that she was using a receptionist who referred the clients, she was raided and property was seized—the mobile phone and cash \$150. They went through her notebook and phone and found that money was being put into a Chinese bank account—she was charged with several charges, was fined \$500 and no conviction was recorded.

Independent sex workers are criminalised for:

- working together, in the same building or hotel as another sex worker



- messaging another sex worker with their current location or when a client arrives and leaves



- employing a receptionist or someone to answer phones

- using a driver another sex worker uses

- describing what services are offered & what services are not offered



Independent sex workers have to choose between working

LEGALLY OR SAFELY

Asian sex workers are being targeted by police in Qld—Vicki Boon, DecrimQLD

“We know this is happening because we hear from Asian and migrant sex workers who are targeted by police. We have been hearing this for a long time—we hear about it again and again and again. And it’s not stopping. Police have admitted to Respect that they target Asian sex workers. **It is mainly Asian sex workers who are being charged.**”



“This is not because Asian sex workers are breaking the laws more often or do not want to work legally. The charges are for activities that any sex worker might do without realising it is illegal.”

“The advertising laws are very complicated and confusing for all sex workers. Especially if English is your second language. It is almost impossible to work within the rules.”

“There is a pattern:

- The police use our advertising in order to charge us for other things.
- They pick problems with our advertising so they can get approval to go undercover.
- They come into our home or workplace after making a booking, but they are undercover police pretending to be clients.
- They ask us to do services that are illegal and if we agree they arrest us. They take advantage of our language skills.
- And they check our phones to see if we are texting or connecting with other sex workers—they keep looking until they find more to increase the charge.”

“Often they don’t understand sex work and make out that our communicating with sex worker friends is more than that and that we are some kind of organised gang.”

“The police don’t believe that we have the ability to work independently. They believe we are being controlled and try to get us to admit that someone put in our advertising, or helped us write it, or that someone is answering our phones. They try to get us to tell them who this is. **Even when there is no-one.**”

But why shouldn't I be able to get someone to put my advertising in?

Why shouldn't I be able to work with another person?

Why shouldn't I be able to get someone to answer my phone?

It makes good business sense and it is a good safety strategy.

“We all need support—the laws make us work alone. This makes us unsafe. Why shouldn’t sex workers be able to support each other? Our sex worker friends are our support network.”

“We choose the style of work that is best for us—private, escort, massage parlour and brothels.”

“The police have the power—we don’t have any. It would be very difficult for an Asian sex worker to explain or convince the police they were not doing anything wrong. The attitude of the police is that they don’t trust us, they don’t like us. When police say to sex workers ‘I’m going to send you home’ it shows their racism, their lack of professionalism and their hatred towards us.”

30 years after Fitzgerald it's time for decriminalisation

Candi Forrest, DecrimQLD

"In recent media the PLA claimed massage parlours were the cause of licensed brothel closures. In 2018 we are just in a new cycle, now it is the massage parlours but ten years ago it was the illegal escort agencies. But the licensing framework does not allow most sex industry business models to be part of the legal sector—that's the problem. It is the licensing model itself that has led to 80% of the sex industry operating outside of the legal framework."



"Thirty years after Fitzgerald, police in this state are still moved to act by pressure from a minority of business operators, not to keep sex workers safe, but to keep the licensing framework financially viable."

"The licensing laws in Queensland have failed, failed to remove police from regulating the sex industry, failed to protect sex workers' safety, failed to regulate the sex industry, failed to cover the costs through licensing fees, failed to achieve what they set out to achieve."

"When we say we need decriminalisation because it's best practice, some have said 'You can't just have no regulation', so we need to be clear... **Decriminalisation is not open slather, it is not de-regulation.** Comparisons have shown it does not increase the size of the industry but does increase access to justice."

Justice - Evidence from decriminalisation in New Zealand and NSW shows:

Seventy percent of sex workers are more likely to report crimes. (New Zealand Government. 2008. *Report of the Prostitution Law Review Committee on the operation of the Prostitution Reform Act 2003*, Ministry of Justice)

Police and the justice system respond more effectively and fairly when crimes are reported. (Abel, G. M. 2014. "A decade of decriminalization: Sex work 'down under' but not underground", *Criminology & Criminal Justice* 14 (5):580–92.)

How would sex work be regulated under decriminalisation?

INSTEAD OF THIS:

- Police as regulators (PETF)
- Licensing provisions (PLA)
- QPS Prostitution Enforcement Taskforce
- Prostitution Licensing Authority
- Entrapment, PINS (fines), Criminalisation
- *Prostitution Act 1999*
- *Criminal Code 1899 - s22A*
- *Police Powers & Responsibilities Act 2000*

WE HAVE BETTER ACCESS TO THIS:

- Privacy protections
- Anti-Discrimination law
- Taxation law
- *Industrial Relations Act 2016*
- *Workplace Health & Safety Act, Regulations, Codes of Practice 2011*
- Town Planning regulations
- Amenity & Aesthetics regulations
- *Fair Work Act 2009*
- *Public Health Act 2005*
- *Criminal Code - other sections*

"Rather than being 'no regulation', decriminalisation is a model of regulation using laws that are already in place but not currently accessible by sex workers (or most sex industry businesses) because so many aspects of our work (and workplaces) are criminalised."

Respect Inc and DecrimQLD are working in collaboration with organisations and individuals who have considered the impacts of the current laws and support the decriminalisation of sex work in Queensland, including:

- Queensland Positive People
- Queensland AIDS Council Inc.
- Sexual Health Society of Queensland
- Community Legal Centres Queensland
- Children by Choice, Queensland
- LGBTI Legal Services, Queensland
- Headspace, Southport
- Stonewall Medical Centre, Queensland
- Glyde Health
- Society of Australian Sexologists (QLD)
- The Services Union
- United Voice
- Public Health Association of Australia, Queensland branch
- Public Health Association of Australia
- Australian Federation of AIDS Organisations (AFAO)
- National Association of People Living with HIV Australia (NAPWHA)
- Scarlet Alliance, Australian Sex Workers Association



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The sex work laws and workplace health and safety symposium was a collaboration by:

