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Prostitution Law Reform (Scotland) Bill

We are writing to you in support of the proposed Prostitution Law Reform (Scotland) Bill. As one of the only global localities where sex work is (largely) decriminalised beyond New Zealand, we felt that it was important to provide you with some support and expand your evidence base for decriminalisation, as the only legislative framework that provides the sufficient health and safety outcomes for sex workers and public health. We're ten days shy of 22nd November, 2015, an auspicious time for us to be offering you this submission, for it marks the 20 year anniversary of the decriminalisation of sex work here in New South Wales (NSW), Australia.

Decriminalisation of sex work is the best regulatory system for sex workers because it allows sex work to be treated as what it is: work; and it removes the barriers to engagement with regulation and regulatory bodies that are produced by alternative systems of legalisation, licensing, regulation and criminalisation.

SWOP supports the general aim of the proposed bill because our evidence base here in NSW shows that the decriminalisation of sex work back in 1995 has largely served the interests of sex workers, and the wider NSW population, well. It has resulted in very low rates of HIV and STI prevalence and incidence, high rates of access to health promotion and support services by sex workers, and increased capacity of sex workers, including those from Asian and other non-English speaking backgrounds, to look after their health and welfare.

The implementation of the decriminalised framework in 1995 here was, in part, driven by the desire to remove police as the regulators of the sex industry. This was to reduce the corruption that came to light during the Woods Royal Commission. The process of decriminalisation has succeeded in addressing the issue of police corruption and helped to reduce criminality associated with the industry. Decriminalisation also allowed sex workers to go to the police with complaints or allegations without fear of being punished for being a sex worker.

The decriminalisation of sex work in NSW is an example of world's best practice. This framework for regulation is evidence based and backed by the World Health Organisation, the United Nations AIDS Programme (UNAIDS), the literature cited in the leading medical journal *The Lancet*, and most recently, Amnesty International. New Zealand also has a decriminalisation framework in place for the regulation of their sex work industry.

SWOP supports the full decriminalisation of sex work, and agrees that the *New Zealand Prostitution Reform Act* is a reasonable model to form the basis of Scottish legislation. We do advocate for minor tweaks to some aspects of the New Zealand model, including removing probity checks (which may exclude sex workers with historical sex working charges from owning a brothel), and visa prohibitions limiting the freedom of migrant sex workers to work in the sex industry in their new home country.

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It is also SWOP's view that health and safety of sex workers is best served by a system of regulation which minimises the potential for de facto 'criminalisation' through the imposition of unnecessary restrictions and requirements with which workers and operators will struggle to comply. An 'open' system in which there is a high level of access to sex premises by our outreach programs and by regulators and in which sex workers are empowered to insist on their rights to health and safety, is one most likely to produce high levels of compliance with occupational health and safety requirements.

Further, the easier it is for services and workers to comply with regulations, and the more 'open' the system, the less opportunity arises for corrupt conduct or criminal involvement and activities such as extortion or trafficking. This has been demonstrated through 20 years of decriminalisation here, which has seen the gradual but steady improvement of sex workers health, capacity and working conditions.

A key contributor to this outcome is safe sex practice, and access to appropriate, peer-led health promotion and outreach services and professional clinical services. A recent study comparing the decriminalised framework in NSW with the licensing framework in Victoria and the criminalised framework in Western Australia showed that the NSW decriminalised framework enabled the widest reach of health services targeting sex workers.ⁱ

Health Advantages of Decriminalisation of Sex Work

A 2012 study by the Kirby instituteⁱⁱ declared the NSW sex industry "the healthiest sex industry ever documented" and advised the government to scrap the few remaining laws around the industry, stating: "reforms that decriminalised adult sex work have improved human rights, removed police corruption [and] netted savings for the criminal justice system... International authorities regard the NSW regulatory framework as best practice."

Condoms are utilised in over 99% of anal and vaginal sex undertaken in the NSW sex industry,ⁱⁱⁱ with equivalent rates of use amongst the general population and workers with an Asian background. The rates of STI's amongst female sex workers in NSW are lower than that of other sexually active females in NSW. Demand and pressure to perform unsafe sex has also fallen.^{iv}

Local research shows us that in NSW female workers of Asian background, generally perceived as most vulnerable to a range of health and safety concerns, have since 1992 seen an increase in their English language skills, testing rates and service engagement, and a concomitant decline in STI prevalence rates such that it equals those of non-Asian workers.^v

There has not been one recorded case of HIV transmission due to commercial sex work in NSW. This along with the rates of STIs have only been achievable since decriminalisation and represents a positive public health outcome that is acknowledged internationally as being world leading. These achievements have only been possible through concerted peer outreach programs, especially peer based education undertaken by people with targeted language skills^{vi} and the consistent and enthusiastic uptake of these education programs by sex workers themselves.

For detailed information about the sex worker health outcomes we have achieved under decriminalisation in New South Wales, please see *The Sex Industry in NSW (2012): A report to the NSW Ministry of Health*: <https://kirby.unsw.edu.au/publications/sex-industry-nsw-2012>

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Fiscal Advantages of Decriminalisation of Sex Work

Beyond better health and safety outcomes, the other main advantage of treating sex work as work, through its complete decriminalisation, is that it is regulated by the 'whole of government'. When sex work is treated like other forms of work, a range of existing government agencies become responsible for regulating different components of the workforce and industry. Here in NSW sex work is covered by existing commercial law, advertising standards, taxation and GST laws, immigration laws, industrial relations, workplace health and safety laws and the other forms of regulation that oversee all other sorts of businesses. Using existing systems is a zero cost model, because no new infrastructure is required to ensure compliance.

Additionally, according to evidence presented by *The Lancet* at AIDS 2014, the decriminalisation of sex work would have the greatest impact on the HIV epidemic globally, reducing HIV by up to 46% in the next decade and resulting on cost saving thresholds of tens of millions of dollars.^{vii}

Should you require more information on the benefits of decriminalisation of sex work here in NSW, I can be contacted on +61 2 9206 2166 or by email: ceo@swop.org.au

Regards,



SWOP Chief Executive Officer

About SWOP

The Sex Workers Outreach Project (SWOP) was established 25 years ago and is Australia's largest and longest established community-based sex worker organisation focused on HIV, STI and Hepatitis C prevention, education and health promotion for sex workers in NSW. A key element in the success of SWOP's work is the building of strategic, collaborative and multidisciplinary working relationships with sex workers, and other key health, government and non-government organisations, advocating for a holistic approach to the health services provided to sex workers.

ⁱ C Harcourt, J O'Connor, S Egger, *et. al.*, 'The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers', *Australian and New Zealand Journal of Public Health*, vol 35 (5), (2010).

ⁱⁱ Donovan B, Harcourt C, Egger S, Watchirs Smith L, Schneider K, Kaldor JM, Chen MY, Fairley CK, Tabrizi S (2012). *The Sex Industry in New South Wales: a Report to the NSW Ministry of Health*.

ⁱⁱⁱ Donovan, B *et al* Improving the health of sex workers in NSW: Maintaining Success NSW Public Health Bulletin Vol. 21, 2010.

^{iv} Pell, C *et al* Demographic, migration status, and work related changes in Asian female sex workers surveyed in Sydney 1993 and 2003 *Australian and New Zealand Journal of Public Health*, Vol 30 No 2, 2006.

^v Pell, C *et al* Demographic, migration status, and work related changes in Asian female sex workers surveyed in Sydney 1993 and 2003 *Australian and New Zealand Journal of Public Health*, Vol 30 No 2, 2006.

^{vi} Donovan, B *et al* 2010.

^{vii} *The Lancet. HIV and Sex Work*, <http://www.thelancet.com/series/HIV-and-sex-workers>, July 2014

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