

**Submission  
No 167**

## **INQUIRY INTO THE REGULATION OF BROTHELS**

**Organisation:** Pink Cross Foundation Australia  
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**Position:** Executive Director  
**Date Received:** 25/08/2015

THE COMMITTEE MANAGER,  
SELECT COMMITTEE ON THE REGULATION OF BROTHELS,  
PARLIAMENT HOUSE,  
MACQUARIE ST,  
SYDNEY, NSW 2000

Dear Select Committee on the Regulation of Brothels

Please find in this letter information regarding our response to your inquiry, in particular highlighting some of the serious concerns that the Pink Cross Foundation has in relation to the sex industry in New South Wales.

Because of the huge epidemic of suicides, deaths, post-traumatic stress disorders as well as illegal drug use and violence towards adult industry workers, Geneviève Gilbert-Quach founded Pink Cross in 2010 and incorporated the Australian charity in August 2013.

We provide support to people in the sex industry or consumers of porn and sexual services who request help. Our requirements for providing support are that the individual seeking help must currently be, or have been, in the sex industry, and wants our holistic support to heal from the negative consequences of this lifestyle.

As an organisation which is led by a survivor of the sex industry, Pink Cross has also developed a one-on-one peer-support program based on the sharing of stories to enhance self-esteem. We connect those using our services to communities so they can develop friendships (people in the sex industry are often very isolated) and new networks, which can meet some of their emotional needs and improve their life skills, coping strategies and problem-solving skills. Peers can be positive role models for our clients. We also refer our clients to partner organisations through these peer connections, who often agree to accompany them to appointments with Centrelink, solicitors, medical professionals, and so on.

We appreciate the opportunity to contribute to this inquiry and are willing to participate in any further avenues of inquiry you may have or questions regarding our submission.

Sincerely

**GENEVIÈVE GILBERT**

Executive Director

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**QUESTION: 2c - Possible reform options that address the social, health, and planning challenges associated with legal and illegal brothels.**

**ANSWER:** Pink Cross Foundation Australia recommends the Nordic Model of prostitution legislation. Nordic Model laws were enacted in Sweden in 1999 to address all forms of violence against women.

This legislative approach has also been adopted in Norway, Iceland, Northern Ireland, South Korea and Canada, and is under consideration in many other jurisdictions including France, the Republic of Ireland, Israel, Lithuania and Scotland.

Of those following those nations who have implemented the Nordic Model, Pink Cross is particularly impressed with the holistic perspective of Iceland who have not only sought to end sexual exploitation of people in prostitution. Iceland's laws have also sought to end the sexual commodification of all people in the sex industry including those exploited in strip clubs.<sup>1</sup>

Iceland's laws specifically ensure that no-one can profit off another person's nudity meaning that it impacts on people seeking to manage establishments offering topless waitressing, topless massage, lap-dancing and pornographers.

Australia needs to make DRASTIC changes to the current laws surrounding sex work because we are talking about the health and safety of thousands of men and women. We need specialised programs that support those who are trapped in the lifestyle/cycle of prostitution.

Sweden is one of the most progressive societies in terms of managing violence against women, and being supportive of their career path. The population has been very well educated about the damages of sex work. Citizens who see a woman still prostituting herself - if she does it on the street- feel that it is detrimental to her mental health and may cause her various harms. As a result, prostitution is now seen by these societies not as 'work', but rather a lifestyle which

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<sup>1</sup> <http://www.theguardian.com/lifeandstyle/2010/mar/25/iceland-most-feminist-country>

damages you immensely and should NOT be practiced. Hence, when a woman is still trapped in this lifestyle, there are many systems in place with social workers, support groups and social security to help these women be removed from such a damaging environment.

The best part of the law is that people ARE NOT criminalised for offering sex services, but instead it is the purchasers (mainly men) are held accountable for buying sex. This is also due to the very effective public campaigns they run against the purchase of sex. The police are heavily involved in the process, and there have been many successful prosecutions. There is now an increasingly negative stigma on the idea of purchasing sex in those countries, which is very different to the attitudes that Australian men have towards women.

The implementation of the Nordic Model and the way it is designed, has seen a general increase in respect towards women, better human rights laws, and overall a more well-balanced society. It has also seen a decrease in violence.

Education is also an important part of ensuring a change in attitudes in the wider community and amongst sex buyers towards people in the sex industry. Diversion programs will need to be a crucial part of any changes we make, a successful model can be seen in New York where the NYPD has created the 'Johns School' (initiated in San Francisco by an ex sex-worker), a slang term which refers to prostitution diversion programs for clients of commercial sex workers.

This is an opportunity for men to hear directly from a sex worker on the damage the industry has inflicted on them as well hearing the physical and emotional trauma that prostitution leaves on those who have been involved in it.

Australia needs to make DRASTIC changes to the current laws surrounding sex work. We need government officials to create special programs that support those trapped in this lifestyle and commit funds helping people (both buyers and sellers) exit the sex industry. We are talking about the health and safety of thousands of men and women!

**QUESTION: 3a- The current extent & nature of the brothel industry in New South Wales & 3b- Current regulation of brothels in New South Wales & other states.**

**ANSWER:** A recent report titled '*The Inherent Failure of Current Occupational Health and Safety Legislation in Prostitution*' published in the Curtin Law and Taxation Review, 2014 raises the following concerns regarding OHS and New South Wales sex industry regime;

“Despite prostitution having been decriminalised in New South Wales in 1995, compliance structures and enforcement of OHS principles remains poor. Various suggestions have been put forward to improve compliance by implementing a system of active staff and performance management and developing a rigorous review and audit system for its compliance function overseen by high-level management, however any suggestions are yet to be implemented. Local government are also currently not resourced for the role of enforcing OHS. Disinterest from industry operators and management continues to be an obstacle to the implementation of OHS and improvements to health and safety are limited by the 'one hazard approach' that equates OHS with safe sex practice and the prevention of sexually transmitted infections rather than addressing other wide-ranging health and safety risks involved. A decriminalised sex industry has now been operating in New South Wales for almost two decades without OHS enforcement despite known risks to health and safety in sex work... Advocates of a decriminalised system criticise these legalised jurisdictions and proponents in New South Wales argue that the introduction of a legalised system naturally creates an illegal system where sex worker health and safety is compromised. In New South Wales, however, the decriminalisation of sex work has also seen the introduction of a system of regulation, where brothel must gain development approval from the local government. Due to difficulties in gaining development approval, masquerading as massage parlours with poor occupational health and safety standards. A significant proportion of the NSW sex industry comprises brothels operating without planning approval and private premises involving one to three women working independently. While these are legally defined as brothels they rarely seek council planning approval. Despite decriminalisation, a large unregulated sector still exists in New South Wales where little is known about OHS conditions”<sup>2</sup>

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<sup>2</sup> <http://nickgoiran.com.au/wp-content/uploads/2014/12/The-Inherent-Failure-of-Current-OHS->

Pink Cross recognises that the best response for people involved in the sale of sex, is to give them support to exit the industry. There is no way that legal brothels can be made safe, no matter if it is a fully decriminalised sex industry or a legalised and licensed sex industry, there are a considerable proportion of individuals involved in the sex trade who continue to have negative experiences in the legal brothel setting.

Despite decriminalisation and the expansion of a legal sex trade (as well as illegal sex trade) in New South Wales, many people remain working in street prostitution, this has not done anything to change the lives of those involved in street prostitution, with many of them still facing violence and feeling unsafe to report crimes against committed against them.

"A cross jurisdiction survey from the NSW Kirby Report found that 8% of the survey participants reported being assaulted by a clients, 1% had been threatened by clients and 33% reported being pressured by a client to do something they did not want to do. These results did not vary significantly between a decriminalised jurisdiction, a legalised jurisdiction and a criminalised jurisdiction. This shows that the legal status of sex work does not impact as greatly upon violence in sex work as some would suggest, Violence in sex work is clearly a risk in all legal settings."

In Australia, this "work" is inflicted on women unequally- a 2006 study found more than 50 per cent of women in prostitution here were from Asia. These women are vulnerable, but even local women struggle to stay safe in the sex industry.<sup>3</sup>

An 18-year-old woman interviewed in a legal NSW brothel in 2011 said: *"I reckon I am going to be dead by the time I am 30. I don't really know, I've got a pretty messed up life ahead of me, I suppose."*

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[Legislation-in-Prostitution.pdf](#)

<sup>3</sup> <http://www.smh.com.au/comment/we-must-help-women-escape-prostitution-before-more-lives-are-lost-20131214-2ze76.html>

**QUESTION: 3d- Options for reform include a scheme of registration or licensing system for authorised brothels.**

**ANSWER:** Illegal and unregulated sectors are found in both legalised and decriminalised sectors. As such adoption of a licensing scheme such as the one in place in Victoria will not address the problem of an ever expanding illegal brothel sector, nor will it reduce the significant threat to the health and safety of those in the sex trade.

"In Victoria, unlicensed brothels involving temporary facilities, a high rotation of workers between premises and the compromising of worker autonomy and safety are reported. In particular, the health, employment and advertising restrictions imposed by legalised has been said to force many operators and workers into the illegal sector. Unlicensed brothels in Victoria represent a significant proportion of the sex industry and remain almost invisible and inaccessible for health promotion and support services. Various reports identify a high level of interdependence between licensed and unlicensed sexual service providers and mobility of sex workers between sectors. It is reported that within unlicensed brothels unsafe sex practices are more likely to be available. Larger scale, loosely networked operations are seen as a significant threat to the licensed industry by licensees, since worker safety is often perceived to be compromised, wages are lower and turnover is higher. Licensees of legal brothels in Victoria report that these operations are not structured to promote worker autonomy or the ability to deliver effective worker safety yet may in fact be favoured by clients."<sup>2</sup>

Mary Lucille Sullivan also deals with the problems of Victoria's licensed sex industry in her 2007 book *'Making Sex Work: A Failed Experiment With Legalised Prostitution.'*

"Victoria's Occupational Health and Safety agenda for the prostitution industry neither protects public health nor adequately treats the harms of STIs and HIV/AIDS for women in the industry. Moreover it does not seriously address the full spectrum of harms to women that result from their experience of being prostituted." (Sullivan 2007, p.281)

"We must question firstly who controls the prostitution act. Are women in prostitution in a position to negotiate how the prostitution act will be conducted? And if they are in control,

how does the inequality between the buyer and the 'bought' impact on OHS outcomes? Does not the buyer's perception of women in prostitution as sexed bodies, recreate conditions in which acts of violence such as sexual harassment and rape are not only perceivable, but are an expected part of the prostitution transaction? Sexual violence perpetrated against women in the prostitution industry is not a consequence of aberrant male behaviour; rather is an inherent part of prostitution. The critical point of this chapter is to expose how the 'normal' acts of prostitution cannot be construed as other than sexual exploitation and violence against women." (Sullivan 2007, p.282)

"Other advertising catch-phrases include 'controlling self-violation, that pre-empts negative outcomes'; 'creating a common vision that shares an empathetic rapport with the violator'; de-escalation negotiation'; maintaining "first strike" advantage. This program is suggestive of crisis management for hostage situations. In what other non-military profession can hostage negotiations be deemed necessary to cope with the normal workday?" (Sullivan 2007, p.294)

**QUESTION: 3e - The protection of sex workers, including issues around organised crime and sex trafficking.**

**ANSWER: SEX WORK IS NOT A JOB**- Pink Cross is also particularly concerned about the fact that prostitution is not a job like any other, and the legislation currently around sex industry laws in the state of New South Wales does not adequately address the concerns of women in the legal or street sector.

The Scarlet Alliance put out a brochure titled '*For women working on the streets*', this document highlights the serious concerns for women in the sex industry and includes some of the following statements. "If you think things could turn dirty, let him think you could throw up in his car".

If the situation escalates, "Leave your mark in the car. Leave fingerprints. Leave DNA (hair, a bit of fingernail)".



The Australian Scarlet Alliance also recommends: "If you feel in danger do what you need to get out safely, regardless of any refund you may have to give. An assault leaving bruising can force you into having time off work, in turn losing more money than the client's booking fees". [...] Don't relax after the job's done — that can be the time when he assaults you. Relax after he's gone!" (Scarlett Alliance,

One touchy-feely section of the Australian occupational health and safety guidelines deals with the physical and mental well-being of women in prostitution: "Feeling disillusioned with work and life in general? Adopting a sarcastic and cynical attitude towards work and clients? Finding it increasingly difficult to see the positive aspects of work where even the money doesn't make you feel better? Feeling physically sick at the thought of seeing another client? Your whole day is miserable if you know you are working that night? You stop making an effort to look good? If so, you could be suffering from BURNOUT!"

The brochure offers a few ideas on how to prevent and treat this mental-health affliction. It suggests a warm bath, a manicure, aromatherapy, meditation, yoga, walking, swimming, and "even macramé and laughing." What these tips graphically illustrate is just how risky and **dehumanising** (our emphasis) the sex industry is. What legitimate employment requires a panic button, aside from a maximum security penitentiary or a nuclear power plant? What occupation urges its employees to take a course in hostage negotiation? These tips confirm that, in the world of prostitution, there is no such things as safe sex. It is a world prone to violence, drug addiction, degradation, disease, depression, vulnerability. Survival means being on guard at all times. This is not a glamorous occupation. It is outright dangerous in so many ways.

ON ORGANISED CRIME- A move to a licensed system such as the model currently in place in Victoria will not address the problems of organised crime and sex trafficking. Both factors have been a key feature of Victoria's sex industry and this is regularly highlighted by police and media.

Former Victorian police commissioner Christine Nixon stated; ‘Serious and organised crime is well entrenched in regulated industries such as prostitution and gaming.’<sup>4</sup>

It is sadly true that New South Wales has become a destination point for sexual exploitation of persons in the sex trade, including sex trafficking.

Australia was recently highlighted for being a country in the top tier of sex trafficking nations, The annual global Trafficking in Persons Report, released by US Secretary of State John Kerry in June 2015 highlighted that Australia has not taken significant steps to reduce the demand for forced labour or commercial sex acts and needs to vigorously investigate, prosecute and stringently sentence trafficking offenders. Stating "Australia is primarily a destination country for women and girls subjected to sex trafficking and, increasingly, for women and men subjected to forced labour," The report described Australia's anti-trafficking law enforcement efforts as modest and stated that the Australian Federal Police ‘AFP’ investigated 87 alleged trafficking cases in 2014, an increase from 46 the previous year, but it did not convict any traffickers.<sup>5</sup>

Pink Cross believes that we need to look at the results of legalisation and decriminalisation of the sex trade globally to get a clear picture of the problems associated with crime and the sex industry.

A 2012 study published in World Development, “Does Legalized Prostitution Increase Human Trafficking?” was a collaboration between researchers from the German Institute for Economic Research, the University of Heidelberg and the London School of Economics and Political Science. It analyzed cross-sectional data of 116 countries to determine the effect of legalised prostitution on human trafficking inflows. The finding highlighted that legalisation of prostitution in the Netherlands, Germany and New Zealand led to subsequent growth in demand and increases in human tracking or coercion of people into the industry. The report called this the dark side of Globalisation. The report also noted that trafficking for the purpose

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<sup>4</sup> <http://www.heraldsun.com.au/news/victoria/crime-gangs-clean-up/story-e6frf7kx-1111113353989>

<sup>5</sup> <http://www.state.gov/j/tip/rls/tiprpt/2015/>

of sexual exploitation requires that clients in a potential destination country have sufficient purchasing power, domestic supply acts as a constraint. In particular the report highlighted the success of Sweden in criminalising sex purchasers and how this had resulted in the shrinking of the prostitution market and the decline of human trafficking inflows.<sup>6</sup>

**QUESTION: 3h – Any Legislative changes that may be required.**

To address the harms caused to persons (primarily women) in the sex industry and also to ensure Australia meets its obligations on addressing trafficking for the purposes of sexual exploitation. We urge the Committee to consider the closure of brothels, the criminalisation of third party profiteers of the sex trade and decriminalise persons who are prostituted. We also believe laws need to be in place for sex buyers to be held accountable and educated on the harms perpetuated on many vulnerable persons who sell sex. We are very supportive of the 'John's School' program established by the NYPD and would like to see similar initiatives in Australia. Australia also needs to seriously consider specialised and targeted funding to assist people to exit the sex trade. This needs to include major changes and increases to support offered to single parents, in particular single mothers and ensuring there is heavily subsidised childcare services and other supports. This would bring Australia into line with a growing consensus on nations introducing Nordic Model laws.

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<sup>6</sup> <http://www.lse.ac.uk/geographyAndEnvironment/whosWho/profiles/neumayer/pdf/Article-for-World-Development-prostitution-anonymous-REVISED.pdf>