

17 June 2022

Mrs Cathy Green
Assistant Director
Queensland Law Reform Commission
Level 30
400 George Street
Brisbane QLD 4000

By email to LawReform.Commission@justice.qld.gov.au; cathy.green@justice.qld.gov.au

Dear Mrs Green,

Submission on QLRC Consultation Paper: A framework for a decriminalised sex work industry in Queensland

Thank you once again for granting us an extension of time with which to provide this submission.

Women's Forum Australia (WFA) is an independent think tank established in 2005 that undertakes research, education and public policy advocacy on social, economic, health and cultural issues affecting women, with a particular focus on addressing behaviour that is harmful and abusive to women.

WFA welcomes the opportunity to contribute to the QLRC's consideration of prostitution law reform in Queensland. WFA recognises that prostitution is rooted in inequality, that it commodifies women and that, by its very nature, can never be made "safe". We support law reform directed at minimising harm to women lured into prostitution and at preventing the expansion of an inherently exploitative industry. For this reason, we oppose a decriminalised model of law reform, which would, if enacted, promote the interests of the industry at the expense of its victims. Instead, WFA asks that the QLRC consider recommending "Nordic Model" legislation which works to reduce the "demand" side of this industry. The Nordic model has a proven track record of reducing both prostitution and trafficking.

WFA is available to answer questions if requested.

Yours faithfully,



Rachael Wong
CEO, Women's Forum Australia

Background

In Queensland, prostitution is already legal when provided in a licensed brothel or by an individual working alone. It is regulated by the *Prostitution Act 1999*, *Prostitution Regulation 2014*, Chapter 22A of the Criminal Code and provisions of the *Police Powers and Responsibilities Act 2000*.

But instead of working to abolish this sexual exploitation of (mostly) women and girls, the Queensland Government “has committed to decriminalising the sex work industry” and expanding the circumstances under which it is legally permissible. This flies in the face of all the evidence showing the harms of decriminalisation and the inherently harmful, degrading, exploitative nature of prostitution itself.

On 27 August 2021, the Queensland Attorney General referred to the Queensland Law Reform Commission for review and investigation, “the issue of regulating a decriminalised sex work industry in Queensland”, in order “to recommend a framework for a decriminalised sex work industry”.

The Terms of Reference (ToR) indicate that the review was in response to “a significant number of sex workers and relevant bodies that represent those workers [who] have advocated for reform to Queensland’s laws relating to the sex work industry”. According to the ToR and Consultation Paper, decriminalisation will:

- **Make the industry safer**, as current laws criminalise ‘safety strategies’ used by sex workers and discourage sex workers who have been victims of crime from reporting the crime/s to police.
- **Reduce stigma** by recognising sex work as legitimate work and as a result,
- **Improve access to health and other services** for prostituted persons.

The QLRC’s review is inherently biased towards “decriminalising sex work” without taking into account other possible legal models for prostitution law. This is because its ToR, and resulting Consultation Paper, are predicated on the flawed notion that prostitution is just “like any other job” and that removing legal restrictions on the practice will somehow make it “safe”. Even use of the term “sex work” – a term designed to normalise prostitution – confirms its skewed starting point.

The reality however, is that prostitution is nothing “like any other job”. It is an inherently exploitative, violent, dehumanising industry, that by its very nature can never be made “safe”.

We agree that prostitution laws in Queensland need an overhaul to better protect and support prostituted persons (who are predominantly women), but decriminalisation is not the answer. This submission summarises the reasons why decriminalisation is a step backwards for women and proposes an alternative, more progressive model for prostitution legislation.

Prostitution is inherently unsafe, exploitative and damaging to women's health

Prostitution is the commodification of (mostly) women's bodies by (mostly) men. In addition to the lived experience of prostitutes, this is confirmed by the sex buyers themselves: "Being with a prostitute is like having a cup of coffee – once you're done with it, you throw it out"; "If I am satisfied with what I am buying, then why should I be violent? I will be violent when I am cheated, when I am offered a substandard service"; prostitution is "renting an organ for ten minutes".¹

Many of these prostituted women come from vulnerable backgrounds and enter prostitution as a result of childhood abuse, poverty, grooming or coercion rather than as a free choice.

Once inside the industry, they are subject to all manner of violence and indignities by both the men who purchase them and the men who sell them, often turning to drugs and alcohol in order to endure it.

A study of prostitution and trafficking in nine countries found that "for the vast majority of the world's prostituted women, prostitution and trafficking are experiences of being hunted down, dominated, sexually harassed and assaulted." A Canadian woman told the researchers, "What rape is to others, is normal to us."²

The same study found that prostitution was multi-traumatic: 71 per cent were physically assaulted in prostitution; 63 per cent were raped; 89 per cent of these respondents wanted to escape prostitution, but did not have other options for survival. A total of 75 per cent had been homeless at some point in their lives; 68 per cent met criteria for PTSD.

Women in prostitution have the highest rates of rape and homicide of any group of women ever studied. According to one study, prostituted women are 18 times more likely to be murdered than other women.³

The reality that prostituted persons experience high levels of violence in the course of their "work", is something that is commonly accepted. The Consultation Paper itself states, "[g]lobally, sex workers are marginalised and can experience high levels of discrimination, exploitation and violence."⁴ In the table it includes on 'human rights and the sex work industry', it notes that "sex workers experience high levels of violence and human rights abuses, globally" including "high levels of physical and sexual violence", experience "high exposure risk to STI and HIV" and "can be vulnerable to homicide".⁵

What is particularly disturbing is that sex industry advocates consistently use the entrenched violence in the industry as an argument in favour of decriminalisation. The argument goes

¹ Rachael Wong, Coronavirus and the double danger to sex workers, <https://www.spectator.com.au/2020/04/coronavirus-and-the-double-danger-to-sex-workers/>. Many worse quotes can be found here: Collective Shout, Men who buy sex: in their own words, https://www.collectiveshout.org/in_their_own_words.

² Melissa Farley et al, Prostitution and Trafficking in Nine Countries, https://www.tandfonline.com/doi/pdf/10.1300/J189v02n03_03?casa_token=9ZWxi_FMrV8AAAAA:ohq7W91yDdlL6iOXgywFMwV2bL9InW3tHNUJ-vd8sP0kTxFa_n6yGAof93wztffzFC8eGOM4hRnI_g.

³ Stewart Cunningham et al, Sex Work and Occupational Homicide: Analysis of a U.K. Murder Database, https://researchonline.lshtm.ac.uk/id/eprint/4647626/1/Sex%20Work_GOLD%20VoR.pdf.

⁴ Queensland Law Reform Commission, Consultation Paper: A framework for a decriminalised sex work industry in Queensland, p 42.

⁵ Ibid, pp 40-41.

something like, “because women face violence in prostitution, decriminalising the industry will make it safer for them as they will not fear criminal consequences and so not be as afraid to come forward to report the assaults that take place in the course of their jobs”. Surely a more sensible response would be to recognise the inherently exploitative, dangerous and harmful nature of prostitution; that it is not “like any other job”; and that by its very nature, can never be made “safe”.

The current review fails to adequately address why violence and abuse go hand in hand with prostitution. Moreover, genuine care for the health and safety of those in the industry would not involve advocating for the sexual exploitation and traumatising of vulnerable people – mostly women – to be legitimised as “work”. Instead, any law reform would be geared towards truly protecting and empowering prostituted persons.

Decriminalisation has not improved things for women

It is clear from jurisdictions that have decriminalised prostitution, that doing so does very little to improve the working conditions of women caught up in the industry, including reducing stigma, harm and violence associated with the trade.

As Tegan Larin, public officer for the Coalition Against Trafficking in Women Australia, explains:⁶

“Exploitation and violence persist despite full decriminalisation because prostitution is inherently harmful, violent and exploitative.

Full decriminalisation is not only inadequate in minimising harms, it exacerbates them. Legitimising sex buying through decriminalisation bolsters the idea that men are entitled to sexual access at all times and that a group of women should always be able to provide it.

Proponents of full decriminalisation frame prostitution as an issue of women’s choice, however, this is a red herring – women enter the industry out of lack of options to survive economically – what we should be scrutinising is men’s choice to buy sex from women who they know would not otherwise consent to sex with them.”

New South Wales

An inquiry to find whether decriminalisation of prostitution in New South Wales had had the intended effect of reducing crime found that the opposite was true.⁷ One police officer investigating legal Sydney brothels linked to sex trafficking and organised crime noted that because of decriminalisation “police were cut out of the equation and crime infiltrated the brothel and massage parlour industry” while “pimps and broker operators were empowered and enriched.”⁸

⁶ Tegan Larin, Decriminalising sex work fails, it’s time for an alternative approach, <https://www.theage.com.au/national/victoria/decriminalising-sex-work-fails-it-s-time-for-an-alternative-approach-20210630-p585hc.html>.

⁷ “Inquiry into the Regulation of Brothels Report”, Select Committee on the Regulation of Brothels, Report 1/56, November 2015, Legislative Assembly of New South Wales, <https://www.parliament.nsw.gov.au/ladocs/inquiries/1703/Final%20Report%20-%20Inquiry%20into%20the%20Regulation%20of%20Brot.pdf>.

⁸ Ibid.

A 2019 report on the experiences of migrant women involved in the sex trade in New South Wales found that, despite the fact prostitution is regulated like any other work in the state:⁹

“One in four workers said they are never able to choose their clients, while 42 per cent reported having encountered violent or difficult clients.

“At the same time, 50 per cent of the women said they sometimes felt safe at work; 36 per cent of sex workers surveyed always felt safe.

“About one in four workers were provided condoms by employers, despite it being a WorkCover requirement, while only two thirds used condoms with clients all the time.”

As Larin argues:¹⁰

“Examples of the recent alleged rape of a sex worker by a NSW member of Parliament (who has not been charged), as well as the horrific murder of Sydney-based sex worker Michaela Dunn in 2019, demonstrate that unacceptable levels of violence persist in NSW, where decriminalisation has been in place since 1995.”

“Full decriminalisation legitimises, normalises and expands the sex trade, increasing profits for pimps and traffickers. Unfortunately for workers, more than 25 years of decriminalisation in NSW has failed to rid the industry of labour and sexual exploitation.”

New Zealand

Five years after decriminalisation in New Zealand, a government report found that “the majority of sex workers interviewed felt that [decriminalising prostitution] could do little about violence that occurred” in the sex industry.¹¹ Carly, from New Zealand, who works in a large brothel in New Zealand, describes the reality of her own circumstances, where ‘rules’ regulating the industry are routinely disregarded:¹²

“What’s the pimp going to do? He just charges the men more for unprotected sex because what they want, they get. Why anyone thinks that when you turn a pimp into a legitimate businessman that they will treat the girls better, I will never know. It’s made it much worse.”

Another woman, Lindsey, shares her experience:

“I have been raped more times [than] I can remember. Some of the bastards enjoy hurting us, the last one the punched me in the face after he’d finished and ran away laughing.”

⁹ BaptistCare, Women’s Services Research Report: Working with Migrant Sex Workers in Sydney’s Lower End Brothels, <https://baptistcare.org.au/womens-services-research-report>.

¹⁰ Larin, Decriminalising sex work fails, it’s time for an alternative approach.

¹¹ New Zealand Government. (2008). *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, Ministry of Justice, Wellington, p. 14.

¹² Julie Bindel, The dangers of decriminalising prostitution, <https://unherd.com/2022/02/the-dangers-of-decriminalising-prostitution/>.

Feminist campaigner and researcher Julie Bindel has spent decades fighting for the abolition of the global sex trade. Her examination of many jurisdictions where prostitution has been decriminalised has uncovered what really happens as a result of decriminalisation and the nature of the campaigns mounted by those representing brothel owners and pimps. Regarding decriminalisation in New Zealand, Bindel explains:¹³

“The promises from the government – that decriminalisation would result in less violence, regular inspections of brothels and no increase of the sex trade – have not materialised. The opposite has happened. Trafficking of women into New Zealand into legal and illegal brothels is a serious problem, and for every licensed brothel there are, on average, four times the number that operate illegally. Violent attacks on women in the brothels are as common as ever. “The men feel even more entitled when the law tells them it is OK to buy us,” says Sabrina Valisce, who was prostituted in New Zealand brothels both before and after decriminalisation. Under legalisation, women are still murdered by pimps and punters.”

“Any government that allows the decriminalisation of pimping and sex-buying sends a message to its citizens that women are vessels for male consumption.”

Europe and Nevada

When Amsterdam began shutting down its legal brothels “Mayor Job Cohen acknowledged that the Dutch had been wrong about legal prostitution. It did not make prostitution safer. Instead, he said, legal prostitution increased organised crime. It functioned like a magnet for pimps and punters. Trafficking increased after legal prostitution – 80 per cent of women in Dutch prostitution have been trafficked.”¹⁴

Bindel has similarly observed:

“Since Spain took the disastrous decision to decriminalise its sex trade in 1995, prostitution has boomed, with at least 300,000 prostituted women in the country being bought and sold.”¹⁵

“Across Holland, women have been imported by traffickers from Africa, Eastern Europe and Asia to meet the increased demand. There has been little or no support for women to exit prostitution, and the innate murkiness of the sex trade has not been washed away by legal benediction. As in Germany and Nevada, the close links between organised crime and prostitution has not been disrupted, and women are still being murdered by pimps and punters at an alarming rate.”¹⁶

¹³ Julie Bindel, Prostitution is not a job. The inside of a woman’s body is not a workplace, <https://www.theguardian.com/commentisfree/2018/apr/30/new-zealand-sex-work-prostitution-migrants-julie-bindel>.

¹⁴ Melissa Farley, The real harms of prostitution, https://mercatornet.com/the_real_harms_of_prostitution/10856/

¹⁵ Julie Bindel, Imagine a world without prostitution, <https://thecritic.co.uk/imagine-a-world-without-prostitution/>.

¹⁶ Julie Bindel, This is what really happens when prostitution is decriminalised, <https://www.independent.co.uk/voices/prostitution-decriminalisation-new-zealand-holland-abuse-harm-commercialisation-a7878586.html>.

“During the time I spent in legal brothels in Australia, Holland, Nevada and Germany, the so-called street ‘tolerance zones’, I found that the most pernicious effect of removing criminal sanctions from pimps and profiteers is the way it reframes prostitution as a straightforward commercial transaction, which in turn, serves to hide the truth about the harm and abuse at the heart of the global sex trade.”¹⁷

Trafficking

The section in the Consultation Paper discussing possible risks of coercion, trafficking, crime and corruption draws upon minimal research regarding the prevalence of trafficking and organised crime associated with decriminalised prostitution and concludes, based on this paucity of evidence, that a decriminalised model would not result in increased human trafficking or organised crime:¹⁸

“The amount of human trafficking in Australia is contested. Not all trafficking is for sexual exploitation ... The prevalence of organised crime in the sex work industry is also contested. Because of their hidden nature and practical barriers to reporting, these activities can be difficult to detect.”

...

“It does not appear that ‘forced prostitution’, trafficking for sexual exploitation or the involvement of other serious crime is widespread in decriminalised jurisdictions.”

However, as noted above, in countries where prostitution is legalised, there is evidence to show that there is such a significant expansion of the prostitution market that human trafficking in those countries increases. In other words, legalisation fuels demand which in turn fuels sex trafficking. A 2012 article in the journal *World Development* reported that “countries with legalised prostitution have a statistically significant larger reported incidence of human trafficking inflows.”¹⁹

The Committee on the Elimination of Discrimination against Women has also drawn particular attention to Australia’s failure to reduce the demand for prostitution, which is an obligation under the *Convention for the Elimination of all forms of Discrimination Against Women*, in order to deter sex trafficking:²⁰

“The Committee is concerned about the lack of a comprehensive approach to combat trafficking and exploitation resulting from prostitution. It is particularly concerned about the absence of effective strategies and programmes to prevent women from entering into prostitution, address the demand for prostitution and support women who wish to discontinue their lives in prostitution. It is further concerned about the low rates of prosecutions and convictions of traffickers and the lack of support and protection offered to victims who do not cooperate in the investigation and prosecution of traffickers.”

¹⁷ Bindel, This is what really happens when prostitution is decriminalised.

¹⁸ Queensland Law Reform Commission, Consultation Paper: A framework for a decriminalised sex work industry in Queensland, p 34.

¹⁹ Seo-Young Cho, Axel Dreher and Eric Neumayer, Does legalized prostitution increase human trafficking? https://eprints.lse.ac.uk/45198/1/Neumayer_Legalized_Prostitution_Increase_2012.pdf.

²⁰ Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgcidm0xgERNaIXh22nhTUks7ziVQrBiJB9vTYaZjsjTTymUZQLvjQ3zKp7rhFs5K%2fbpqibnlKoondG9hgR06E14o1DhMbzt2qjInfzZibu>.

Less incentive to help women trapped in the industry

Bindel has also observed that in jurisdictions that have decriminalised prostitution, there is less incentive to help prostituted women escape the industry:²¹

“When prostituted women become ‘employees’, and part of the ‘labour market’, pimps become ‘managers’ and ‘business entrepreneurs’, and the punters are merely clients. Services helping people to exit are irrelevant because who needs support to get out of a regular job? Effectively, governments wash their hands of women under legalisation because, according to the mantra, ‘It is better than working at McDonald’s’. As one sex-trade survivor told me, ‘At least when you work at McDonald’s you’re not the meat.’”

Ultimately the decriminalisation of prostitution has been unable to protect women and girls or reduce the abuses associated with prohibition because of the harmful and exploitative nature of prostitution itself. As one columnist recently argued, “[d]ecriminalisation increases the overall extent of prostitution in a country without decreasing its harms or delivering any of the promised benefits of regulation.”²²

The Nordic Model or Abolitionist Model

Acknowledging that most buyers are men and the majority of prostituted persons are women, the Nordic Model recognises that the existence of prostitution is rooted in inequality, that it violently commodifies women and that by its very nature, can never be made “safe”. It is also called the Abolitionist Model because unlike the decriminalisation approach, it doesn’t accept that the sexual exploitation of women through prostitution is inevitable. Prioritising equality over the commercial interests of the sex industry, liberal countries such as Sweden, Denmark, France and Canada have embraced this model.

Pioneered in Sweden in 1999, the Nordic model presents a practical, holistic, women-centred approach to prostitution. Its two key goals are to reduce the demand for prostitution and promote equality between women and men. The model addresses the demand for prostitution by penalising the buyers and pimps who exploit women, while decriminalising prostituted persons. It works to reduce the size of the industry and to minimise the harms suffered by its victims, to contradict the damaging messages it sends to women and girls, to fund exit services to help people to leave the industry, and to retrain police officers so they understand that prostituted women are victims, not criminals. In the decade and a half after it was first implemented, the level of street prostitution was halved in Sweden²³ and trafficking declined dramatically.²⁴ In addition to reducing the numbers of women in

²¹ Bindel, Prostitution is not a job. The inside of a woman’s body is not a workplace.

²² Sonia Sodha, Selling sex is highly dangerous. Treating it like a regular job only makes it worse, <https://www.theguardian.com/commentisfree/2021/nov/21/selling-sex-is-highly-dangerous-treating-it-like-a-regular-job-only-makes-it-worse>.

²³ “Selected extracts of the Swedish Government Report SOU 2010:49: The Ban Against the Purchase of Sexual Services. An Evaluation 1999-2008”, Swedish Institute, November 2010, p. 20, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_ban_against_the_purchase_of_sexual_services_an_evaluation_1999-2008_1.pdf.

²⁴ Von André Anwar, Prostitution Ban Huge Success in Sweden, <https://www.spiegel.de/international/europe/criminalizing-the-customers-prostitution-ban-huge-success-in-sweden-a-516030.html>.

prostitution, the model also “challenges the culture of acceptability when it comes to men paying for sex”.²⁵ Indeed, Bindel notes that in Sweden, “a whole generation has grown up recognising that prostitution is a human rights violation, and no man has the right to pay for sex”.²⁶

As well as helping women directly involved in the sex industry, the Nordic model has the desirable effect of contradicting the toxic message promoted in both pornography and prostitution that the sexual objectification of women and girls is either normal or acceptable. Recent revelations about sexual harassment endured by women and girls in mainstream culture have put sex-based inequality squarely in the spotlight of the national conversation. Those who have studied these issues fully recognise that these changes in culture are driven in large part by the proliferation of pornography, which enjoys a symbiotic relationship with prostitution; pornography broadcasts the degrading messages of prostitution to a mainstream audience.²⁷

While women directly involved in the sex industry bear the brunt of the harms caused, the indirect effects of an industry that glamorises abusive behaviours and the sexual subordination of women are felt by women and girls everywhere. Promoting prostitution as acceptable for some women sends a terrible message to all women that the government does not consider sexual exploitation of women and girls to be an outrage. It is counterproductive to the message that men should respect women and don't have a right to women's bodies. Women will never be treated equally while also treated as commodities to be bought and sold by men. Continuing to perpetuate the narrative that women's bodies are for sale, that they are fair game for all kinds of unspeakable violence and abuse, and that prostitution is just a job like any other, feeds the degradation and objectification of women as a whole.

Conclusion

We agree that law reform is needed in this area, however it is clear that the decriminalisation approach proposed in Queensland and already implemented in other Australian states is failing women. Australia is lagging behind other progressive countries on this issue. Queensland now has the opportunity to lead Australia in adopting the Nordic model's innovative approach to legislative reform around prostitution which has already delivered positive change overseas.

Rather than assuming that decriminalisation is the best way forward, WFA urges the Commission to consider the Nordic Model and recommend an approach that will genuinely prioritise the safety of prostituted persons in Queensland, the majority of whom are women and girls. We also urge the Commission to seek the views of former prostituted women and sex-trade survivors (rather than sex industry advocates who claim to speak on their behalf), whose experiences and stories of working in the industry should inform any law reform.

Australian women deserve much better than the exploitation and violence inherent in the prostitution industry.

²⁵ Julie Bindel, Don't believe what the lobbyists say – prostitution can – and will – be abolished, <https://www.independent.co.uk/voices/prostitution-abolition-nordic-model-pimps-punters-sex-trade-survivors-a7937786.html>.

²⁶ Julie Bindel, The pimps next door, <https://thecritic.co.uk/the-pimps-next-door/>.

²⁷ Melissa Farley et al, Comparing Sex Buyers with Men Who Don't Buy Sex, <http://www.prostitutionresearch.com/pdfs/Farleyetal2011ComparingSexBuyers.pdf>.