

## 5. Crime and Enforcement - myths and dangers

### SIDAC Information Sheet

This information sheet is part of a series prepared for the Sex Industry Decriminalisation Action Committee (SIDAC) to support the decriminalisation of sex work in South Australia in 2019.



#### Ethics, policing and corruption

Madam Patti Walkuski's autobiography paints a colourful picture of Adelaide's sex industry in the nineteen sixties, including what she saw as the police corruption that is typical of criminalised sex work environments.

Inappropriate official behaviour or corruption can range from daily harassment or exploitation of sex workers to the level of institutionalised corruption that results in major inquiries. The NSW Wood Royal Commission (1997) led to decriminalisation in that State while the Queensland Fitzgerald Inquiry (1989) resulted in 'legalisation'.

Maintaining or extending police powers to act against sex workers creates serious practical and ethical challenges. A 2008 Victorian Office of Police Integrity paper considered relevant ethical risks, noting that:

*"Policing the sex industry creates special opportunities for police officers to engage in unethical conduct, such as taking payments in exchange for non-enforcement, or abusing their position of power. Risks are further enhanced because sex workers and their clients are in weak positions to complain about police misconduct."*

*"Many sex workers, particularly those working illegally, are reticent to report or complain to police or any other agency about sexual assault, abuse or harassment perpetrated by clients, associates and other police."*

*"I could never understand why the police and judiciary of South Australia spent so much time and money prosecuting prostitution when it was only a \$60 fine with criminal conviction for a guilty plea."*

**Roxy Blain, sex worker, 1994**

Decriminalisation will not promote crime. Any criminal relationship between people in the sex industry and criminal or 'declared' organisations is still illegal, while human or sex trafficking will continue to be subject to State and Commonwealth criminal Laws

#### Of course it's criminal when you criminalise it!

Noting a "perception of criminal activity within the sexual services industry", the State Parliament's 2015 inquiry into decriminalisation reported that it "did not hear any evidence that confirmed criminal activity within the sexual services industry in South Australia".

Perhaps the 'criminal' risks referred to arise from the fact that the sector is currently criminalised rather than being inherent to sex work. The opinion that because it largely is a cash industry, that sex work is vulnerable to money laundering or standover tactics surely applies to any other cash based small business.

*Report of the Select Committee on the Statutes Amendment (Decriminalisation of Sex Work) Bill 2015 (Legislative Council, May 2015)*

Research undertaken directly with female street workers in Adelaide by Mary Leaker and Priscilla Dunk-West focussed on the nature of the risks they face and how they perceive and respond to these risks. Their findings reflected the learning of many analysts -

"Internationally, prohibitive policies and active policing have increased the vulnerability of street workers to occupational risks, particularly client violence (Sanders and Campbell 2007). Illegality has been found to compromise women's ability to implement safety strategies (Barnard 1993) and to reinforce gendered dynamics of power which facilitate male violence against sex workers."

*Leaker M and Dunk-West P 2011, Socio-cultural risk? Reporting on a qualitative study with female street-based sex workers, Sociological Research Online 16 (4) 9*

The Sex Industry Network (SIN), South Australia's sex worker organisation supports this broad perspective. You can keep in touch with these views at <http://www.sin.org.au/sindex.html>

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#### A moral industry

It is a myth that young or unemployed people will be forced to take sex work jobs if the industry is decriminalised.

This will not happen because no one can be made to undertake 'Unsuitable Work'.

As expressed by the government: "a job may be considered unsuitable ... if the job seeker considers the work to be unsuitable on moral, cultural or religious grounds .... Work would also be considered unsuitable if it is not consistent with prevailing community standards. For example, a job seeker would not be expected to take up work in the sex industry, even if such work were legal in the state or territory in which it was offered". - <http://guides.dss.gov.au/guide-socialsecurity-law/3/2/8/60>

#### Trafficking

Misuse of the term 'trafficking' damages understanding of the impact of coercive or fraudulent treatment of workers, including sex workers. Sex workers and SIDAC support strong action against the use of force, coercion or indebtedness in their industry.

Arguments that migrants or workers from certain backgrounds are inevitably exploited through sex work raises questions that really are about the nature of changing labour markets in an evolving globalised economy. It is patronising to assert that 'foreign' workers have no agency or ability to exercise choice about the work they do.

Decriminalisation makes it difficult to develop or maintain coercive relationships. As noted above, the Decriminalisation Bill leaves in place the robust anti-trafficking framework that currently exists in South Australian and Australian Law.

*"A decriminalised environment supported by sex worker peer organisations providing culturally and linguistically appropriate sex worker peer education is the best way to support good working conditions and prevent organised crime and trafficking."*

*Jules Kim, Scarlet Alliance*

#### Exploitation of minors?

Passage of the proposed decriminalisation bill will strengthen existing protections for children and young people.

Sadly, abuse is vastly more likely to involve family members or people known to a young person or engaged in as 'survival sex' when a young person is on the streets. Perhaps we should ask ourselves why some young people end up homeless with no access to financial support or safe housing.

It also is important to ensure that we focus on real problems such as the extent and apparent toleration of child abuse within respectable organisations such as churches exposed by the *Royal Commission into Institutional Responses to Child Sexual Abuse*. Who gains from shifting attention from real to fanciful or exaggerated problems?

The NSW Select Committee on the Regulation of Brothels reported in 2015 that in that (decriminalised) state, under-age sex workers were not a problem, with only one case able to be confirmed by the police in the period since 2012.

Importantly, sex workers, many of whom are parents themselves, do not want to see under-aged workers in their industry.

