



AUSTRALIAN
FEDERATION OF AIDS
ORGANISATIONS INC.
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27 June 2007

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Re: Brothels Legislation Amendment Bill 2007

The Australian Federation of AIDS Organisations (AFAO) represents Australian HIV/AIDS community based organisations at a national level. Our membership includes Scarlet Alliance (the Australian Sex Workers Alliance), State and Territory AIDS Councils, the Australian Injecting and Illicit Drug Users League and the National Association of People Living with HIV/AIDS (NAPWA). Amongst AFAO's activities is the provision of HIV policy advice to the Commonwealth government, advocating for our member organisations, developing and formulating policy on HIV/AIDS issues, and promotion of medical and social research into HIV/AIDS and its effects.

AFAO is concerned that elements of the NSW Brothels Legislation Amendment Bill 2007 will have negative consequences on public health.

Australia's *National HIV/AIDS Strategy* is internationally recognised as a model public health response. Key characteristics of the Strategy include a commitment to involving affected communities at every level including planning, delivery and evaluation of HIV programs and policies; the importance of protection of the rights of people affected by HIV; the creation of an enabling legal and policy environment for HIV prevention, treatment and care programs; and promotion of voluntary and confidential testing and treatment services.

Under the Strategy, sex worker organisations are recognised as playing an important health promotion role and the current Strategy states the need to "expand sex worker organisations' capacity to design, manage and participate in the broader partnership response to the epidemic."

Prevalence of HIV has remained very low amongst sex workers in Australia, with levels maintained at less than 0.5% prevalence among female sex workers seen at sexual health clinics (*Annual Surveillance Report*, National Centre in HIV Epidemiology & Clinical Research 2006). This has largely been achieved through the voluntary development of a strong safe sex culture within the sex industry, promoted by sex worker organisations such as the Scarlet Alliance.

Principles to inform law reform

AFAO believes that the following principles should guide the law reform process:

- 1 Sex work should be subject to the same legal frameworks as other industries and occupations. The sex industry should be regulated through standard business, planning and industrial law and policy.
- 2 Sex workers should be closely involved in the development and implementation of all new policies and laws affecting their industry. Both individual sex workers and organisations representing the interests of sex workers should be supported in fulfilling this role.
- 3 Laws regulating sex work should address health and safety objectives as a priority. The health of sex workers is best promoted through:
 - occupational health and safety standards developed in partnership with sex workers
 - peer based approaches to provision of health and safety information
 - requiring employers to provide condoms and lubricants for sex workers.
- 4 Laws and policies should be framed in a human rights context, and in particular should avoid measures which might contribute to the stigma associated with sex work or increase sex workers' vulnerability to exploitation or disadvantage. Laws should be consistent with the *National Strategy on HIV/AIDS* which seeks to develop a non-punitive and supportive legal environment that encourages people whose behaviour might put them at risk to respond to education campaigns and to access testing and treatment services on a voluntary basis.

Specific comments on the Act

A specific unintended consequence of this bill will be to eliminate legal private sex workers in NSW:

- Whilst the proposed Act is quite clearly directed at commercial scale premises. Individual sex workers, and sex workers working in pairs, will be explicitly negatively impacted by the Bill.
- Private sex work¹ in NSW (40% of the industry) will be subject to the "Brothel Closure Orders" of the Bill.
- Currently half of NSW Councils do not regulate Private Sex Work. There are no complaints about this small scale activity, so they are NOT the subject of council closures. Due to Councils not proactively needing to regulate Private Sex Work, most Private Sex Work in NSW is NOT illegal.
- However this alone will not protect Private Sex Workers from "Brothel Closure Orders," as it is NOT explicit in the Bill that they are not subject to the laws.
- The *Report of the Brothels Taskforce (2001)* suggested a solution to allow private sex work without consent across the state, through an amendment to

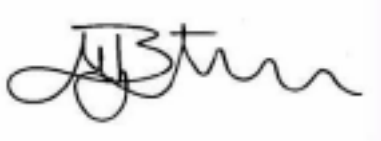
¹ We refer to genuine private sex work of 2 or less individuals who are causing no amenity impact. We are not referring to commercial businesses posing as private sex work.

SEPP 4.² Such a solution removes the political “hot potato” of private sex work from the local government arena, whilst providing an equitable and already tolerable outcome for the whole community.

Eliminating legal private sex workers will have negative consequences on public health

A clear consequence of criminalising private sex work will be an increase in underground sex work. It is this increase that is likely to lead to poorer health for sex workers, which will have a negative affect on public health overall. Driving sex work underground reduces the range and effect of peer based health initiatives and interventions and also negatively affects attempts to engage sex workers (and their clients) in critical public health surveillance activity.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M Bebbington', written in a cursive style.

Mark Bebbington
Manager – Policy and International

² *Report of the Brothels Taskforce*, NSW Government, 2001 p14