



# **LEGISLATIVE COUNCIL**

## **SELECT COMMITTEE ON THE STATUTES AMENDMENT (DECRIMINALISATION OF SEX WORK) BILL**

Watarru Room, Old Parliament House, Adelaide

Monday, 23 November 2015 at 1:10pm

BY AUTHORITY OF THE LEGISLATIVE COUNCIL



**WITNESSES**

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## MEMBERS:

Hon. T.A. Franks MLC (Acting Chairperson)  
Hon. R.L. Brokenshire MLC  
Hon. J.A. Darley MLC  
Hon. J.M. Gazzola MLC  
Hon. A.L. McLachlan MLC  
Hon. T.T. Ngo MLC

## WITNESSES:

JENNINGS, SHARON, Sex Industry Network

REID, ARI, Sex Industry Network

1 The ACTING CHAIRPERSON: Welcome to the meeting. The Legislative Council had given the authority for this committee to hold public meetings. A transcript of your evidence today will be forwarded to you for your examination for any clerical corrections. Should you wish at any time to present confidential evidence to the committee, please indicate and the committee will then consider your request.

Parliamentary privilege is accorded to all evidence presented to a select committee. However, witnesses should be aware that privilege does not extend to statements made outside of this meeting. All persons, including members of the media, are reminded that the same rules apply as in the reporting of parliament.

Welcome and thank you for coming along today. I will introduce the members of the select committee who are here today. This is the Hon. Andrew McLachlan, and I am Tammy Franks, the interim chair while the Hon. Michelle Lensink is on maternity leave. To my right is the Hon. John Gazzola and the Hon. Tung Ngo. You have had contact with Leslie Guy, who is the secretary for the committee, and Carmel Young is our newly appointed researcher. If you would like to launch right into it. I imagine if you could—

Ms REID: Are there people missing, that would be a part of this?

2 The ACTING CHAIRPERSON: We have apologies from two members. The Hon. Robert Brokenshire is an apology today and the Hon. Michelle Lensink is on maternity leave. The way that this work is if you introduce yourselves, and remember that obviously it's on *Hansard*, and if you want to present an opening statement, and then will move into questions.

Ms JENNINGS: Thank you very much, Tammy. My name is Sharon Jennings. I am a sex worker and also currently the manager of Sex Industry Network, the peer organisation supporting sex workers here in South Australia.

Ms REID: I'm Ari Reid. I am also involved with SIN. I've been a sex worker for 20 years in South Australia and been involved with SIN for the last 10 years or so.

Ms JENNINGS: SIN is by sex workers for sex workers. Nobody works at SIN or volunteers at SIN that isn't a past or present sex worker, our mission being to promote the health rights and wellbeing of sex workers in South Australia. For 25 years, SIN has provided a range of health and support services for sex workers and has been continuously funded to deliver specialist HIV, sexually transmitted infection and blood-borne virus prevention programs to sex workers in South Australia.

While the committee may have received submissions from many groups that have strong opinions about sex work and law reform, it is important that the voices of current sex workers in South Australia be prioritised in this process. Current sex workers in South Australia are those who will be directly affected by the proposed bill. Although many of us are not able to come forward due to criminalisation and discrimination that we face, SIN is in a position to represent those voices.

We are the only organisation in the state that works specifically with sex workers and our contact with and connection to our community, along with our sex worker only leadership structure, means that we are able to confidently and authentically represent and advocate on behalf of sex workers in South Australia.

As discussed recently by the Hon. Tung Ngo at a recent event held at SAHMRI exploring the stigma and discrimination of people living with HIV, sex workers are considered a priority population in the fight against HIV. It is a matter of public record that health experts internationally acknowledge sex workers as having better health practices and lower rates of HIV and STIs than the broader population here in Australia, that we are indeed the safer sex experts and that peer education is a key component in controlling the rates of new transmission of HIV, BBVs and STIs. After all, our bodies are quite literally our business. Sex workers act as safer sex educators to our peers, our clients and the broader population. However, operating in a criminalised environment often prevents us from discussing our knowledge and experience in open and honest ways and passing on our expertise in this field.

Criminalisation of sex work does not stop sex work occurring. This is blatantly apparent when you look at the statistics of sex work activity in our state. It does, however, force us to operate in covert manners in order to lower our risk of detection, which heightens risks to our health and safety. Sex workers fear the police, have little recourse and are unlikely to report when crimes are committed against them. Safer sex equipment, such as condoms and lubricants, and even health promotion materials distributed by our organisation, can and have been seized and used as evidence to support criminal charges of illegal sex work.

Amnesty International believes that sex workers are one of the most marginalised groups in the world, due to lack of legal protection and exclusion from services that occur when sex work is criminalised. SA's current approach to the regulation of sex work has been consistently demonstrated to pose a danger to sex workers' human rights and safety and has been heavily criticised by numerous organisations, such as the World Health Organisation, UNAIDS, United Nations Population Fund, the International HIV/AIDS Alliance and United Nations Secretary-General Ban Ki-moon.

People often make the mistake of thinking that decriminalising sex work equates to there being a lack of regulation, when in fact it is an all-of-government approach to regulation and rather than costing a substantial amount of taxpayers' money to set up new and special systems and structures just to regulate sex workers, it allows the existing systems and structures to regulate the industry.

There has been discussion in the house of including certain parameters into the proposed bill. This, in effect, changes the bill's intent from being one proposing decriminalisation to a legislative bill. Licensing inevitably creates a two-tiered system, with some sex workers and businesses able to comply with the strict regulations and the rest unwilling or unable to comply. In Queensland, where licensing policies are in place, there is a compliance rate of about 10 per cent. Victoria also has a licensing system, with rates of compliance at around the 40 per cent mark.

Under a licensing system, sex workers and business operators may be required to record our names on a police or government department register and sex workers may be subjected to mandatory STI and HIV testing. Licensing is sometimes referred to as legislation, however, the limited options for sex workers and sex industry businesses to establish and work within the limited licensing framework means that large segments of the industry are often forced to operate outside this framework, and this has been proven in the statistics as I've just shown you.

Sex workers often avoid licensing because it can be exceptionally costly to apply for a licence and also may require us to work in isolated industrial areas which pose a threat to our safety; to disclose our legal names to clients, which increases the risk of harassment; obtain a permanent police record, which limits our ability to travel and to work in certain environments, such as schools and childcare facilities, which Ari will expand on.

We are also often required to work alone, which reduces our access to support, or face forced mandatory testing, which impinges on sex workers' human rights, confidentiality and privacy. Licensing also affects the ability of sex workers to call upon police if they need assistance. To maintain a semblance of brevity to this briefing and to allow for more in-depth discussion, I won't

enter into a speech about what decriminalisation actually means: we can discuss that afterwards. However, I am more than willing to answer questions and I will pass you over to Ari. Thank you.

Ms REID: I have quite a few things to say. Thanks for meeting with us. I just wanted to make the comment that during the second reading speeches in this parliament, the Hon. Robert Brokenshire said that there are more important things to worry about. We disagree. Sharon has described some of the reasons we need to have law reform and the dangers that are imposed upon sex workers under the current laws which criminalise us, but I need to impress upon you that this is not an issue that affects just a minority group or only a small group within our community or our population.

If this bill were passed, it would immediately benefit everyone currently working in the sex industry. We estimate around 2,000 sex workers are working in any one year, so that is 2,000 people immediately who will benefit from increased industrial protection, improved relationships with the police and decreased barriers to accessing the same rights that every other citizen is able to access.

In addition to the removal of criminalisation and access to industrial rights and protections, the amendments to the antidiscrimination act have the potential to benefit anyone who has previously worked in and everyone who will work in the sex industry now and in the future, however short their stint in the industry may be.

It is estimated that one in 64 women of working age in South Australia have done or will do sex work. I am happy, when we go to questions, to expand on how I have come to that calculation if you want, but it is based on the stats of 2,000 sex workers in any one year and the best research we have, which suggests that the average length of time in the industry is 10 years.

The inclusion of the spent conviction clause means that it will benefit everyone who has a criminal record related to their sex work. I can't tell you how many people that is, but I'm sure that's probably a public record that you guys could find out. How many people have a criminal record? I have a criminal record myself from when I was 19 and worked as a receptionist in a massage parlour. I am a qualified social worker but my criminal record absolutely affects my ability to apply for different types of social work jobs that are available out there.

I am a pretty confident, strong person and I am pretty out about my sex work, so I am not too concerned about applying for jobs I want, but I can tell you, from the work we've done at SIN and the support we've given many workers who have this issue, it affects their self-esteem, their mental health, their ability to participate fully in society and to apply for different work outside of the industry, so that will have a huge benefit. Also, during the second reading speeches, the Hon. Rob Lucas stated that he was opposed to the spent convictions clause, commenting, 'What if someone who was a sex worker can now work with children?' and 'People don't want former sex workers near their kids.'

Considering my calculations earlier where I said that one in 64 women in South Australia will do sex work at one point in their life, it is highly likely that former sex workers are already near your kids. I am certainly serving a bunch of people's kids sausage rolls in the local school canteen, so that is already happening. Some of us, believe it or not, even have our own kids. When I read that, I felt really personally offended; I think it was quite a disgusting comment.

Of course, this bill, if it were passed, would not just affect those of us who have worked or will work in the industry. It also has the potential to benefit the general public both by the state's increased ability to regulate the industry as well as just generally having better social justice outcomes, changed policing priorities and better public health policy. Also the general public want this bill; they want it to pass.

Twelve months ago, *The Advertiser*, which is not necessarily considered alternative or progressive, published the results of a poll that stated that 67 per cent of their readers supported the full decriminalisation of sex work. That includes street workers and private workers working from home—67 per cent, which, incidentally, was higher than gay marriage, although we don't have that either.

Again, in the second reading speeches, the Hon. Mr Ridgway said that we shouldn't rush this. Well, we are not rushing this. We have already spent so much time and money, both in this

government and previous parliaments, discussing and debating this issue for decades and decades without any results. In the last 20 years, there have been 12 separate attempts to reform the sex work laws in South Australia. Of the 12 bills that have been introduced, five were never even voted on.

In 1995, the government had the Social Development Committee conduct a lengthy inquiry into prostitution which resulted in it calling for an end to criminalisation. Soon after that committee's report was released, a Liberal MP, Mark Brindal, introduced a bill to decriminalise sex work. In his speech, he said:

It is...important that we establish this: that the select committee of this Parliament, the [National Crime Authority], the Police Commissioner and every authoritative report in the past 15 years in this country has recommended the need for reform.

That was now 20 years ago. Fourteen years ago, in 2001, the Prostitution (Regulation) Bill 1999 was debated for two years and successfully passed the House of Assembly but was defeated in the Legislative Council.

In 2013 and 2014, Steph Key introduced a bill to decriminalise sex work, which was pretty much this bill, and it was supported by sex workers. As a result, myself and many people were involved in meeting with MPs. There was a number of symposiums, panel presentations, a movie night, rallies, petitions, letter writing and media, and neither bill was ever even voted on because both times the bill was prorogued. So, we are certainly not rushing this. There has been plenty of opportunity for people to learn about the issues that are related.

Just quickly, sex workers here and around the world are really clear about what we need, and that is decriminalisation. All the experts and the evidence available to us supports that. Last year, in 2014, at an AIDS conference in Melbourne, there were 100 sex worker delegates from 50 different countries and we came up with a consensus statement. Part of that states:

No criminalisation of sex work, our clients, work places or other laws pertaining to sex work. We unanimously reject models that criminalise sex workers, our clients, and places of employment. This will allow us to advocate for workplace health and safety, access to anonymous, and non judgemental, free and voluntary testing, and quality services, support for safer sex practices and the prevention, treatment and care of HIV.

Coinciding with that same conference last year, the top medical journal in the world, *The Lancet*, stated that decriminalisation of sex work would have the single biggest effect on HIV transmission worldwide. Just recently this year, Amnesty International announced a policy supporting decriminalisation. Their policy has drawn from an extensive evidence base, from sources including UN agencies such as the World Health Organisation, UNAIDS and the UN Special Rapporteur on the Right to Health.

They also conducted research in four countries and consulted with groups including sex worker groups, groups representing survivors of prostitution, abolitionist organisations, feminist and other women's rights representatives, LGBTI activists, anti-trafficking agencies and HIV/AIDS organisations. The research and consultation carried out in the development of the policy in the past two years concluded that decriminalisation was the best way to defend sex workers' human rights and lessen the risk of abuse and violations that we face.

It seems to me unnecessary for this parliament to continuously waste what I think are massive amounts of time, money and resources going on international fact-finding tours, reviewing, commissioning and researching, when actually all the evidence already exists. It is not acceptable to continuously debate these harmful laws year after year without producing any results. Meanwhile, sex workers continue to be forced to work in unsafe and vulnerable conditions under archaic laws. We are still harassed by the police and we still have no access to industrial rights or protections. It is completely outrageous that, in 2015, we are still scared that the police are going to confiscate our condoms and use them against us as evidence of a crime. That is ridiculous.

Just finally, I want to address the comments that were also made by members of this parliament that talked about 'the social and moral implications of legitimising and endorsing such a vocation for the sons and daughters of South Australia', and the idea that nobody wants their child or grandchild to be a sex worker. We just lost a member of our community to suicide. Some of you may have heard of Grace Bellavue, or Pippa. When speaking at her funeral, along with asking for better mental health services, her mother, her father, her sister and her brother all called for the



decriminalisation of sex work, at her funeral. Sex workers are somebody's children. We are the sons and daughters and mothers and fathers and brothers and sisters. We're not just coming here from planet whore, as somebody would say.

If there are 2,000 current workers in South Australia then there are 4,000 parents whose children currently work in the sex industry. It is time the government acknowledged the moral implications of ignoring the evidence and continuing to impose legislation that creates increased health and safety risks for us. We have always been progressive in social policy and we are letting ourselves down in this area. It is time we did something.

3 The ACTING CHAIRPERSON: Thank you both very much for your presentations. I am sure other members have questions, which I will go to in a second. I will start just with a basic question that I probably ask each witness. Do you support the bill that was referred to this committee, the Hon. Michelle Lensink's Statutes Amendment (Decriminalisation of Sex Work) Bill 2015.

Ms JENNINGS: In its entirety, yes.

4 The ACTING CHAIRPERSON: In its entirety? Do you have any reservations?

Ms JENNINGS: No.

5 The ACTING CHAIRPERSON: Do you have any additions that you would—

Ms JENNINGS: We support it as it stands. It was drafted with extensive community consultation and is absolutely perfect.

6 The ACTING CHAIRPERSON: Do other members have questions? I am happy to continue.

7 The Hon. T.T. NGO: Just on that, I have heard this model is similar to the NSW model. I have heard that the New South Wales government is reviewing its model at the moment and that there are potentially some changes. What are your views on that? If we base our model on the New South Wales model and then we find issues with it and then have to make amendments and then we try to follow the initial model—do you see what I mean?

Ms JENNINGS: I see exactly what you mean. I think it is absolutely essential that any policies get reviewed over a period of time. It doesn't necessarily mean that the policy is broken—

8 The Hon. T.T. NGO: I haven't been following the NSW model but I've heard there are some amendments coming up.

9 The ACTING CHAIRPERSON: It has been reviewed and there are differences of opinion between members of various parties and Independents in the New South Wales parliament on that review.

Ms REID: There was a review period, an inquiry, I should say. We know that, of the public submissions that came from a diverse range of different organisations—health, legal, etc.—76 per cent (or 116 of those submissions) supported decriminalisation and only 12 supported licensing out of all of those. We do know that that committee still came out with some amendments that we wouldn't support, for example, that were leaning more towards licensing. However, a number of those—at least half of that committee—have also come out saying that they do not support the recommendations of that committee.

I think there were six people, plus the chair and three people pushed for the amendments and three people didn't support them and the chair went with the three that supported the amendments. So, the other three people have come out saying quite vocally and quite actively that they do not support the recommendations of that committee, which I guess is a pretty big deal. You guys would know more than I would about doing something like that. But I think it's important to remember that 76 per cent of the submissions supported decriminalisation and that process.

10 The Hon. T.T. NGO: I am just saying that I have heard the Premier make some kind of public statement that he is thinking of making changes to the current law.

Ms REID: Yes, that's true, which will be a travesty if that happens.

11 The Hon. T.T. NGO: If New South Wales is finding issues with it—

Ms REID: Well, they're not.

Ms JENNINGS: They're not finding issues with it.

Ms REID: As I just said, 76 per cent of organisations and individuals, including legal, health, council, police and sex workers, support decriminalisation. Half the committee have come out saying that they do not support the recommendations.

12 The Hon. T.T. NGO: So you are saying that 76 per cent of the submissions are saying they want the current law to remain the same?

Ms REID: Yes, 76 per cent, and that's on the public record. You can check that.

13 The Hon. T.T. NGO: As I said, I haven't been following it. I am a bit worried that the NSW government is making changes—

Ms REID: I think there is some political stuff going on there and there are certainly some people who—

14 The Hon. T.T. NGO: And then we are trying to follow the old model and—

15 The ACTING CHAIRPERSON: This is also the New Zealand model, but what I would say is that, as a committee, we will look into the New South Wales inquiry and perhaps take a look more closely at the submissions, the final report and the current workings of the system there.

You said, Ms Jennings, in your presentation that 10 per cent of those operating in Queensland and 40 per cent of those operating in Victoria under what is a licensed or legalised system actually are the only ones opting into that system. Where do you get those figures from?

Ms JENNINGS: Extensive research that has been done in those states and also by Scarlet Alliance, obviously, being the overarching sex worker organisation. Yes, they are proven figures as to how many are complying because of the various reasons that I stated.

16 The ACTING CHAIRPERSON: So 90 per cent of the industry in Queensland is not operating under the system of legalisation and licensing, operating outside the law because of that system?

Ms JENNINGS: Yes, which puts them in an even more vulnerable position in some ways than we are.

Ms REID: The stuff that Sharon has quoted is in our written submission, and so those references, if you want to double-check, are available in the footnotes of that written submission.

17 The ACTING CHAIRPERSON: Thank you.

18 The Hon. A.L. McLACHLAN: Thanks for your written submission and your opening statement. There have been some expressions of support in the community, I think also in the parliament, about the Swedish model. You have put a couple of paragraphs in there. Could you just take me through how you see that model as being flawed.

Ms JENNINGS: Do you want to pass me the submission that says everything.

19 The Hon. A.L. McLACHLAN: I have read the submission; it's more whether you want to add to that because it—

Ms JENNINGS: It's pretty comprehensive in the submission. Again, just like criminalisation, it doesn't prevent sex work. People don't leave the industry because of the laws surrounding it. It pushes the work further underground, which puts us in an even more vulnerable position. Sex workers are negotiating services in places that are denoted by their clients rather than themselves. Their clients are stalked by police, and so sex workers are having to move around and work in very unsafe environments. Condom usage and things like that, the negotiations around all that, are very limited and usually only happen within the service, which has many adverse side effects as well.

Ms REID: A lot of these ideas that people come up with, like mandatory condom use, might sound like good ideas in theory, but when you see the way that they are actually imposed in practice around the world—and we are in a privileged position here in South Australia that we can

really see how things work in other countries and other states—it doesn't work and it does decrease our safety and increase the barriers that we face in accessing services.

For example, the Swedish model, if you're criminalising clients, for a start, all the clients that we have who have something to lose, who are decent contributing members of society who don't want to be picked up by the police, are no longer willing to see us. Now all we have left to make our money—and this is what we're doing this job for, because we need to make the money, so you're not going to stop sex workers going out there to make money, you're going to stop the good clients coming to see us—all we have left are the clients who don't care about the police, don't have anything to lose left.

We're now forced to meet them in their spaces where they're comfortable because this is our livelihoods and we will do what it takes to make the money. We're now forced to go and meet them in the street rather than have them come to our house, where we're comfortable, or our place that we've set up for work, whatever. That's some practical and basic stuff around it.

Then there's the whole structural stuff. It's pretty disempowering to be told that every time you're selling sex you're being raped. That's disempowering to anyone who has been raped as well as any sex worker. It also sells a message that women don't have the ability to consent to sex, as if it's okay to consent if it's for free but not if you're being paid for it. Actually, the Swedish model is a bit of a lie, when they talk about it being decriminalised for sex workers but not for clients, because there is actually a whole bunch of laws. For example, it's still illegal to rent a house to a sex worker. It's illegal to live off the earnings of prostitution, so sex workers' families are being charged, etc. There is a whole range of reasons, but it's the safety issue.

Actually, in Sweden their own research isn't pretending that it makes sex workers safer; in fact, it recognises that it makes sex workers less safe. But their goal, the purpose for their legislation, was to send a message—and it states that in their research—to the community that they did not support sex work. So when sex workers say, 'We're less safe, we feel less safe,' they say, 'Yes; that's a success.' That's how it has been sold as a success to the rest of the world.

Ms JENNINGS: Excuse the figures as to how many sex workers are actually in operation because, obviously, we are pushed further underground. As Ari pointed out, anybody that is connected with a sex worker and is perceived as living off the earnings is also breaking the law. There have been cases in Sweden, and not isolated cases, of adult children being prosecuted as living off the earnings because they have been at home, they have been doing tertiary study and they have been supported by their mother, who is a sex worker.

Ms REID: Also, this is an extreme case but it was probably two years ago that a sex worker there was murdered. She had had her children taken off her because she was considered to be self-harming, because sex work is considered to be self harm in Sweden. Just by virtue of her being a sex worker, her children were returned to her abusive ex-partner and she was considered to have no self-agency and also to be mentally ill because she was a sex worker. When she was visiting her children on an access visit, her abusive ex-husband stabbed her to death. Her family came out actively, accusing the Swedish model of sex work of enabling that to happen.

20 The ACTING CHAIRPERSON: I was going to ask you about that particular case, because I have heard of it. Do you have the name of that woman?

Ms REID: Eva was her name.

Ms JENNINGS: I can find out the full details for you, if you would like.

21 The ACTING CHAIRPERSON: I understand that, although the husband was abusive and that was known to the police, the child was taken off her because she was the sex worker and, therefore, his abuse was deemed to be far less damaging to the child than her sex work.

Ms REID: Yes.

22 The ACTING CHAIRPERSON: If you can find those details for the committee.

Ms REID: Absolutely. Yes, that is the case and, even though that is an extreme case, that threat or stigma that being a sex worker carries in Sweden is played out again and again

for many workers there. It hasn't stopped sex work but it has increased the stigma and reduced the safety for sex workers there

23 The Hon. J.M. GAZZOLA: As far as the Swedish model goes, living off the proceeds and families being charged, what about third parties—people who take advertisements for sex workers?

Ms REID: Absolutely; they're criminalised.

Ms JENNINGS: They are criminalised, too

24 The Hon. J.M. GAZZOLA: I am making a great assumption. *The Advertiser*, our local paper, advertises adult services.

Ms REID: Yes, they can't advertise. They advertise online, often, or they are doing street work and that kind of thing, or soliciting in public places and that sort of thing. As I said, even landlords. So people find it difficult to even find somewhere to live if they are known as a sex worker. Recently, there was stuff around Backpage and some websites that allow private workers to advertise on there and they threatened them. MasterCard or Visa, or something, wouldn't let them use their cards there any more under the guise of some anti-trafficking measure. It was the most ridiculous thing ever.

Things like advertising in the paper and online are the tools that people use to work for themselves and it's when you take that away from us that we are forced to work for other people and forced to have no choices but to work in conditions that we might not be comfortable with. So, it's really important that we don't close up all that flexibility for sex workers. It might be tempting to have really strict conditions around where brothels can be and how we advertise, etc., but, when you start to be too strict around that stuff, there are only certain people who have the money, basically, and the ability to jump through all of those hoops; and those people become our bosses and the ones that we become beholden to. If you want to stop exploitation, then licensing and strict laws around that sort of stuff is not how to do it because, to stop exploitation, you need to give sex workers flexibility and rights, not necessarily rich people.

25 The Hon. T.T. NGO: If you could explain this to me. I spoke at the HIV and the AIDS discrimination events and people were encouraged to use protection and condoms, and stuff like that. I am told, with the proposed model that we have got on the table, that we are not making the use of condoms compulsory. Can you explain that to me again? I'm not clear on that.

Ms REID: It's not that it's not compulsory. Sex workers are already using condoms. It's just that it's not a criminal offence. It's not criminalised, so it's not written in a criminal law. Correct me if I'm wrong, but I don't think it's in criminal law to have, for example, your dishwasher at a certain temperature at a restaurant.

It doesn't mean to say there are not regulations that are not criminal law that suggest how to protect public health, and that if someone gets food poisoning you can't do something about that or that health inspectors can't go out and investigate that space or whatever, it's just that it's not in the criminal law, and so that's part of it. We don't need things stuck in criminal laws that make it really difficult for us to move with the times and which are written by politicians who frankly—

26 The Hon. T.T. NGO: You want to leave it as an option?

Ms REID: Not as an option. If you look at Canberra, New South Wales and New Zealand, they have occupational health and safety guidelines for sex workers that the sex industry is expected to follow, and if they don't and if there is some issue that happens, then that can be addressed at that point as a complaints-based system, but it's not necessarily a criminal conviction. I don't know what part of the law it fits under, but I'm certainly sure that it's not police going around checking that they're using condoms.

The problem with it is, for a start, that originally one of the bills that Steph Key very early on put in had some stuff around condom use in it. I have much respect for Steph, but she's not a sex worker and she doesn't know what we do in those rooms and how we negotiate condom use and what actually is safer sex to us. I'm not going to talk about the sexual activities, but we have very sophisticated practices around safer sex—

Ms JENNINGS: And over 99 per cent compliance rate in a criminal environment.

Ms REID: For example, not all sex work includes penetration, so when you have a law that says condoms must be used in every service—

27 The Hon. T.T. NGO: You can say intercourse or something like that.

Ms REID: That is what I was trying to get at before. What you say in this room and what the politicians write in there in the criminal law has to be interpreted by the police, and that's the main issue. We don't want the police coming around checking. They are not the appropriate occupational health and safety inspectors. They don't have any area of expertise. They have a history of arresting us. We want to remove the police from the industry.

28 The Hon. T.T. NGO: Yes, but wouldn't you say that in a society where we want to encourage the use of condoms it be good to build it in the legislation so that it's clear and it also—

Ms REID: No, because criminal law has never been an effective public health measure. We know that criminal law does not work in public health. That is not what gets people using condoms. It's peer-based services. It's sex workers talking to other sex workers, it's access to condoms; it's education: it's not criminal law. In Queensland it is in their legislation, and do you know what you have? You have cops whose jobs it is to ring around mainly to non-English speaking sex workers, tricking them and trying to get them to admit to doing oral sex without a condom. People will say things on the phone that they are not even necessarily willing to do. They don't even understand maybe what they are saying—who knows?

29 The Hon. T.T. NGO: That's mainly—

30 The ACTING CHAIRPERSON: Entrapment.

Ms REID: Yes, but that's how the law is being interpreted. That's the reality for us on the street.

31 The Hon. T.T. NGO: That's more of an issue with the police.

Ms REID: Yes. That's our issue with the police that we're dealing with.

32 The ACTING CHAIRPERSON: I would raise my concerns around that. Part of trying to codify safe or safer sex is that it leads to entrapment, and that's shown in other jurisdictions. I was going to ask you about the Queensland example, but you've addressed that. The HIV/AIDS rates in sex workers as a population—how do those compare with the rest of the population?

Ms JENNINGS: Zero. In Australia, there is zero recorded transmissions of HIV among sex workers, and that's because we do have such high compliance rates with safer sex materials. Our bodies are our business. We don't want STIs, HIV, etc. as that prevents us from earning an income.

Ms REID: The one or two-odd person who might have done sex work without a condom at one point are probably likely to be the most marginalised sex workers that we're working with, and what good is it to find that one person who has done it once and charge them with something? That's not teaching them anything. It's not helping us get anywhere with the public health message.

33 The Hon. T.T. NGO: Could you say if the law is there, you two are very strong people—

Ms JENNINGS: Just because we have been there, we've had the police harassing us, so we know.

34 The Hon. T.T. NGO: You are very strong people. I'm just a bit worried about someone new in the industry or someone non-English speaking. They might not be in the same position as you two. If the law is there they could say, 'No, by law you have to wear it,' it's there for them to protect themselves, and if it is not there—well, the clients, it might empower them more, might—

Ms REID: I want to say two things to you. First of all, if we're debating this bill versus what we've got now, currently we've got police who are confiscating condoms off us, using them as evidence against us as a crime, and we still use condoms, so that's one. That currently happens. If you are on a street in Hanson Road after 8pm and you're women and a cop stops you, and you've

got a couple of condoms on you, you will absolutely be charged with soliciting, regardless of anything else, yet they still carry condoms. That's No. 1.

No. 2 is that we want to remove the police from the industry altogether because, like I said, they are not the best public health people; they are not trained to do that. If we are able to still insist on using condoms, even with the police coming in and confiscating those condoms, even though I can't put up a sign in my room that says, 'No condom means no sex', because would be enough to charge me with, I can't do that, yet we are still using them.

We don't need to criminalise it. It would remove the whole point of decriminalisation. It means that the police will still come around and they are going to use that as an excuse to come around and try to entrap us. We are still going to be nervous of the police, we are still not going to trust them. I did have another point, but I've forgotten it.

35 The Hon. T.T. NGO: To follow up, I know that you are talking about the police. I can understand the current situation, but in a new situation, where it is legal to operate, then the scenario you just mentioned wouldn't apply. Also, you are saying that girls walking around Hanson Road—

Ms REID: It would still apply because they would still be trying to entrap us. The cops have a history, they will not let go of this power they have that easily. That's what we have seen in other states—if you only give them the smallest leeway, they will use it to their ability. If you've got two representatives who are currently sex workers, who have worked in the industry for many, many years and who have donated their life and their soul advocating for the best interests of sex workers, why would we sit here and advocate something if this wasn't in the best interests of sex workers? As you said, newer sex workers might be intimidated by clients. If we thought this was something that would help sex workers, we would 100 per cent be here telling you this is what we need.

36 The Hon. T.T. NGO: You mentioned the current situation, where some workers are still carrying condoms, even though potentially—

Ms REID: All workers are, yes.

37 The Hon. T.T. NGO: —the police could use that as a way to charge them. I could see another way where, if they didn't carry those condoms, the clients might not want to use them, so potentially they may miss out on that business, so they have no choice but to carry those condoms just in case. The client may say, 'No, no, I'm right,' unless you—

Ms REID: That's true, that may well happen, but yet all the research suggests we still use condoms 99 per cent of the time: 99 per cent of sex workers use them 99 per cent of the time, and the—

38 The Hon. T.T. NGO: So, even though they know the police potentially may charge them, they have no choice because the clients may not use them. That's all I'm trying to say.

39 The ACTING CHAIRPERSON: When I visited a brothel in New Zealand, they told me that they always knew a client was from certain parts of Australia if they took the condom and tried to leave with it because of course the condom could be used in evidence in our state, so the clients would regularly try to pick up the condom and leave with it and they would say, 'No, no, you can put it in here.'

Ms REID: Absolutely.

40 The Hon. A.L. McLACHLAN: Do you keep data on how many times your membership are in contact with the police?

Ms JENNINGS: Yes, we do—as in them coming to visit SIN?

41 The Hon. A.L. McLACHLAN: No, coming to visit your membership from the point of view of a law enforcement perspective?

Ms JENNINGS: It goes in peaks and troughs. There are periods when there seems to be very minimal police activity and then periods of extremely high police activity. We have discussed this with the police, and they get orders from above, like, 'It's time. Start doing some clearing out and cleaning it up,' that sort of thing. There has been very high police activity over the last year, with the police investigating any associations with bikie gangs because of the new laws there, and they have hit dead ends every single time.

Ms REID: And different sectors of the industry as well, so peaks and troughs. Often street workers are more targeted by police, as well, and deal with it pretty much year round. It seems that some businesses at different times are targeted more than others and there's no good reason why. It just seems that somebody is making some decisions around who to target and who not to target.

I guess that's one of the issues with having laws that are as old as ours that are difficult to police, as well—that the police can't do a whole lot about what's going on but they are stuck in this difficult position, and so somebody is making decisions. I'm not saying by any stretch of the imagination that there's any money changing hands, but any way that you look at it someone making a decision on how they're going to apply the laws to whom is some form of corruption, and that's absolutely what's happening. The police often will visit sex workers. They say they are taking a gatekeeper role, that they are looking out for things like drugs on premises, illegal migrants, standover tactics and all this sort of stuff.

Ms JENNINGS: Under age.

Ms REID: Yes. Actually, that's not the law; the law is that it's illegal to be on premises of a brothel and none of that other stuff is mentioned, but the police are in this position where they have to make some decisions of their own accord about how they police unpoliceable laws.

42 The ACTING CHAIRPERSON: Ms Reid, you said that you were charged early on when you were a receptionist. At that point did you feel that that limited your career options?

Ms REID: Absolutely, yes. I had never been a sex worker at that time in my life. I was 18 and worked as a receptionist in what I know now to be a pretty straightish-type sex industry business. It was just massage with extras, I guess, and I was only the receptionist. I answered the phone and greeted the clients and took the money, and that was it.

One day, there was a very big raid. There must have been 20 police officers and video cameras, the whole bit, and they charged me with receiving money in a brothel because, as part of my job, I took the money from the client, being on premises of a brothel and, because I had a set of keys—even though my boss was always sitting there next to me the whole time—I was there on premises by myself, I had a set of keys and I was charged with keeping a brothel, as well, at 18.

I wasn't out as a sex worker to other people or I wasn't a sex worker. I wasn't out as working in the sex industry business to anyone else and I was just really embarrassed and didn't know where to turn. I just chose a lawyer out of the phone book, who I think now probably gave me pretty average advice, which included pleading guilty to a couple of those charges and having one dropped.

Absolutely, not only did I feel that it would affect my career choices but it impacted on what I decided to study. I would have liked to study law or something like this, but I didn't think that I should bother because I might not pass the bar at the end. But also actually, even though I can't be sure about whether it's impacted on me getting jobs, because you never really know, I absolutely know that it's impacted on the jobs that I have got because it's been brought up.

I have done a lot of disability work and I've been outed in front of whole staff teams about my background. There have been presumptions made and, even when they are positive presumptions, like saying, 'She's done sex work, therefore she can handle this difficult client,' or something like this, it's still pretty stigmatising and a difficult position to be out in.

When I've had to call the police at different times as a victim of crime, I've been outed in front of people who are around me by the police at that time, which has definitely impacted on my willingness to call the police at other times after that. I've been concerned when I've travelled overseas that I need to out myself as having received a conviction and that that might be then outed against my travel partner—in so many areas of my life, and that's just me.

As I said, I feel I'm a pretty strong, confident person who is not that concerned any more about that stuff, but I know there are many people who just—not to be exaggerating—almost don't leave the house because of their convictions. If you worked in the nineties, it wasn't uncommon to have up to 10 or 20 convictions because places were being raided that often that people working in the industry got raided and convicted all the time.

43 The Hon. T.T. NGO: I have to leave, but you did say that if someone asked you about how you came about getting that figure of 164, you could explain. Could you do that and I will read the transcript.

Ms REID: Yes, absolutely I can.

44 The Hon. T.T. NGO: That would be great. I'm sorry, but I have to go to the next committee meeting.

Ms REID: Thank you for your time; I really appreciate it. My maths isn't amazing, so feel free to pull me up. If we are estimating that there are 2,000 workers in any one year, and then 85 per cent of those people are female, that means approximately 1,700 women have done sex work in this year alone. Then I've gone to the Australian Bureau of Statistics to see that there are 1.09 million people of working age between 15 and 64 in South Australia, and roughly half of them are women, so that's 545,000 women of legal working age between 15 and 64 in South Australia. Using those statistics, I worked out that one in 320 working-aged South Australian women have done sex work this year alone.

Then, there is some research by Roberta Perkins that's quite old but it's the best research we've got. It's Australian-based; I think it's Queensland. It's from the 1990s so, again, it's quite old. She suggests that the average length of time in the industry is five years. To be on the conservative side, I've doubled that to 10 years and worked out then over that 50-year period how many women would have worked in the industry. I'm basically saying that every 10 years another 1,700 people are coming into the industry. Based on those figures, which, again, I'm happy to send through to you because probably my reasoning is difficult to follow, that's how I've come up with that average of one in 64 South Australian women doing sex work at one point in their life. Does that make sense?

45 The ACTING CHAIRPERSON: Thank you.

Ms REID: I've been talking about that calculation for quite a few years and asking people to pull me up on the maths, and nobody has yet.

*The Hon. J.M. Gazzola interjecting:*

46 The ACTING CHAIRPERSON: Yes; Ms Reid said she will provide that to the committee.

Ms REID: I will, absolutely.

47 The ACTING CHAIRPERSON: I did have some further questions. You said in your presentations that you often fear police. One of the I believe most horrific things that I've seen was a game that was played via Facebook over I think it was the Easter long weekend some years ago about street workers on Hanson Road. Did those workers feel confident to report that to police? Was that game on Facebook of hurling objects at sex workers on Hanson Road ever taken up by the police?

Ms JENNINGS: Not to my knowledge. Street-based sex workers will very, very rarely report crimes committed against them to the police. It's a very difficult situation, when the law enforcement branch that is supposed to protect us is also arresting us for doing a job; so they are wearing two very different hats. I don't know of any street-based sex workers that have reported crimes committed against them. Do you? And there have been some pretty severe ones.

Ms REID: I do know one or two that were very severe crimes; but the problem with it is, as you said and as I mentioned earlier, the evidence that's needed to press charges of soliciting is basically next to nothing. Once people are known as a sex worker, if they go to the cops and say, 'I'm sex worker, someone threw stuff at me', sure, they're not going to be charged then and there for saying there are sex workers, but their name is in the system as being a sex worker, and next time they're on Hanson Road they're likely to be charged with soliciting; so, there are very real outcomes for those workers, not to mention the reception that they are likely to receive from the police.

It is very common, not just street workers but many workers who go to the police and speak to them, since you get an attitude of, 'Well, what do you expect?' No, I don't know that they did. There's one or two street-based sex workers, I guess, in my time around who claimed to have had a good relationship with police, but that tends to be more about them providing the police



information about things that they know of. Sex workers are utilised quite a bit by the police when it suits them to—

Ms JENNINGS: For intel.

Ms REID: For intelligence. Sex workers want to give information to the police about things they know are going on, but often they can't; but, yes, they are really the only times that we hear of that. Mostly, if a street-based sex worker is charged with soliciting, if they plead not guilty, often the police won't have any evidence or enough evidence for a charge to stick, but they rely on the fact that most workers will plead guilty, because if they plead not guilty the police will just often adjourn, adjourn, adjourn and place really ridiculous bail conditions on workers, like curfews and not stand still notices or whatever, like whole ranges of barriers to prevent sex workers from seeing those cases through, which might mean they might be outed to their family if they continue pushing, and they can't work, and all those sorts of things; so people just often plead guilty anyway.

Ms JENNINGS: Just to put it to bed and be able to move on.

48 The ACTING CHAIRPERSON: Thank you for that. I also wanted to touch on something that the Hon. Tung Ngo raised with you about the use of condoms in sex work. Who uses the condom if it's a female client and a female worker?

Ms JENNINGS: I have to say that's a very, very minute amount of sex work, as well. We always promote that condoms are used on toys and that they're changed in between each partner as well, so, yes, you wouldn't reuse a toy with the same condom on. We would use dams with females as well. Are you all familiar with what dams are? Yes? So, yes, we would be using dental dams. Gloves would also be something that we would promote, but condoms—is not really necessary.

Ms REID: Technologies around safer sex and even information around STI transmission and stuff changes. Where they do have condom use laws, they don't talk about female condoms. Sometimes they talk about dams but they don't talk about, necessarily, condoms on toys, they don't talk about the sophisticated level of safer sex practices that we are engaging with and they are not easily updated when information becomes available to us, or newer information. So, I guess that's what I'm saying when I'm saying about it being in that space, regulations like this being in that kind of space. It's not appropriate for politicians to sit around and make these rules when most of you have never done sex work, I would presume. Also, sometimes sex work includes zero risk, sometimes it's not penetrative and sometimes it doesn't include anything that's necessarily risky, so to talk about condom use in that space, you know, I think there's quite a few nuances in that area, including, as you said, with female to female.

49 The ACTING CHAIRPERSON: My final question is: what level of exposure to trafficking have you seen, both personally and on behalf of the Sex Industry Network's perspective in South Australia?

Ms JENNINGS: Zero, absolutely zero. I've been working in the sex industry for 12 years. I've worked in numerous different parlours of varying degrees of class, if you like, and I have never ever come across anybody who purports to have been trafficked, and I've worked with a lot of Asian sex workers, who are reported to be trafficked, obviously. I find it a very racist rhetoric that Asian sex workers, a lot of them, are trafficked. We're taking away the agency from Asian sex workers that they have the ability to make these decisions for themselves and, you know, they're not forced into the industry. We have no evidence to support that sex trafficking occurs in South Australia.

Ms REID: The definition of trafficking is unclear as well. In some places where they talk about figures of trafficking, when you actually read the definition of what trafficking is you can be trafficked if you're driven to work. Technically, a lot of different people in their jobs, under the legal definition of trafficking, could be considered trafficking, and that's not just in the sex industry. Anyone who has been flown to Sydney—like, I'm sure politicians could be considered trafficked if you've gone interstate to do your work, and if you've been paid to do that that's debt bondage.

That's not to say that exploitation doesn't happen in the industry, of course it happens in all industries and when you consider an industry that's criminalised, underground, where workers have zero rights, of course we deal with exploitation. If you want to put that on people who have limited English skills, again, criminalised settings, who may or may not be here with appropriate working visas, or whatever, all of that stuff, of course, is going to impact on our ability to fight for our

rights and stand up for our rights, but the suggestion that there are people forced to do sex work who don't want to be doing sex work in this state is just not true. I'm not saying everyone loves their job, people might not want to be at work but they've still chosen to be at that work.

The worst things I've seen is probably cases of domestic violence, and that's got nothing to do with trafficking or nationality or migrant status. You occasionally might see someone who's being pressured to do the work by their boyfriend, and that's a domestic violence issue. I've worked in Asian parlours and I've rented rooms from Asian parlours and I've got to tell you, to be honest with you, their working conditions are generally better than Western parlours, and that's the God's honest truth.

Sometimes people say that you don't know about the trafficking because it's too underground, but we don't just read this stuff and talk about it with each other: we actually work in these brothels. Adelaide is not a big place: clients would have told us if there were workers out there being tied to beds and forced to do this. Clients mostly ask me if I do kissing and cuddling; they don't ask me if I will be tied to a bed and cry. It's not a commercially viable thing anyway.

Ms JENNINGS: One of the things that SIN does, as well, is we have peer support workers in all the different areas of sex work. We have a male sex worker who works with male sex workers, a street-based sex worker, etc., and we have a Thai sex worker who works for SIN and goes out regularly to Thai brothels, goes through all the adverts, rings all the workers, and says, 'This is blah blah, I work at SIN, and this is what we do.'

She has coffee with them. She doesn't necessarily deliver any condoms or talk anything about sex work. She just forms these relationships so that, if anything like this was going on, there is an avenue where they can actually get the support and just talk. She has no evidence of it either. She's been working with us now for over two years, and it's something we discuss on a regular basis.

Ms REID: We are also very well connected to international sex worker organisations, like Empower in Thailand and Zi Teng in Hong Kong and places like that. Scarlet Alliance has projects in place that do things like translate the forms that people need to fill out in order to migrate or tour here legally, so they don't have to enter into some contracts they're not comfortable with employers or whatever.

They have support to come here by themselves and work in the industry if they want to by themselves and, trust me, there are many Asian workers who would love to come here and work. We don't need to trick people to come here. We do have links to those organisations in other countries, and I think if there were issues going on the better way of dealing with this would be to work with people in those countries and support them there.

50 The ACTING CHAIRPERSON: As there are no further questions, I thank you for your time. I know you've had to tell us these things time and time again, but we appreciate your time today.

Ms REID: We appreciate you asking us. Thank you.

Ms JENNINGS: We very much appreciate you allowing us the space to do that.

51 The ACTING CHAIRPERSON: As you know, the transcript will be sent to you for any clerical corrections. Thank you.

THE WITNESSES WITHDREW