



LEGISLATIVE COUNCIL

SELECT COMMITTEE ON STATUTES AMENDMENT (REPEAL OF SEX WORK OFFENCES) BILL

Plaza Room, Parliament House, Adelaide

Friday, 2 July 2021 at 10:40am

BY AUTHORITY OF THE LEGISLATIVE COUNCIL

WITNESSES

HUTT, TRACEY, Director, Workforce Education and Development, SHINE SA.....	27
NORMA, CAROLINE, Senior Lecturer, RMIT University	33
TEBUREA, LISA, Acting Chief Executive Officer, Local Government Association	19

MEMBERS:

Hon. T.A. Franks MLC (Chairperson)
Hon. N.J. Centofanti MLC
Hon. I. Pnevmatikos MLC
Hon. D.W. Ridgway MLC
Hon. C.M. Scriven

WITNESS:

TEBUREA, LISA, Acting Chief Executive Officer, Local Government Association

109 The CHAIRPERSON: Welcome to the meeting. The Legislative Council has 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. I advise that your evidence today is being broadcast via the Parliament of South Australia website. Should you wish at any time to present confidential evidence to the committee, please indicate and the committee will 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.

We would like to acknowledge that the land we meet on today is the traditional lands of the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the traditional custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

My name is Tammy Franks and I am the Chair of this select committee of the Legislative Council of the Parliament of South Australia inquiring into, specifically, the Statutes Amendment (Repeal of Sex Work Offences) Bill 2020. To my left we have the Hon. Clare Scriven and the Hon. Irene Pnevmatikos, and to my right is the Hon. Nicola Centofanti. You have been acquainted with our secretary, Anthony Beasley. I invite you to introduce yourself, outline your role and make any opening statements, and then we will move into questions.

Ms TEBUREA: Thank you very much. Good morning, committee members. I am Lisa Teburea, the Acting CEO of the Local Government Association. Firstly, I would like to apologise to committee members for not being available when I was scheduled on 31 May. I really appreciate the opportunity to be here today. I would also like to point out and correct the error that the LGA has made in its submission by acknowledging that we are discussing the Statutes Amendment (Repeal of Sex Work) Bill; our submission refers to an earlier decriminalisation of sex work bill. Despite this error, I think the substance of our submission remains relevant.

As outlined in our written submission, the LGA doesn't have a position on the decriminalisation of sex work, but what we are interested in is the question of, if sex work was decriminalised in the manner that is contemplated in the repeal of sex work bill, what role, if any, would or should local government have in regulation. We do acknowledge that there are numerous regulatory models that operate both in Australia and internationally, so there are models that can be drawn from. These models involve local government to various degrees, with the most common roles relating to land use planning and public health.

It's the LGA's position that these important questions about regulatory models should be considered alongside decriminalisation proposals to ensure that the roles and responsibilities are clear, that resourcing and cost implications are known, and that community expectations can be met. The LGA is not aware of or been involved in any discussions to date about how, for example,

South Australia's planning system would need to be amended to regulate sex work activity and who would be responsible for monitoring and compliance.

The uncertainty about the regulatory model to be adopted in South Australia, if the bill were to pass, gives rise to a number of concerns from a local government perspective. These are that the additional responsibilities and associated costs would be devolved to local government, that local government would be handed responsibilities for which it is not adequately resourced or trained, and that local government would bear the brunt of community tension about how and where sex work activities would occur.

I don't have any specific study to reference but I have heard it said that in some jurisdictions where sex work has been decriminalised there are as many illegal brothels operating as there are approved licensed brothels. If that responsibility were to fall to local government to receive and investigate complaints and undertake compliance and enforcement activities for those unlawful land uses, which may include court action in the same way that it does for enforcing other land use regulations, the costs of these activities could become very significant.

If these regulatory matters are not contemplated by the parliament during their deliberations on this bill, it's not difficult to imagine a scenario where new responsibilities are handed to local government with very little consultation, very little notice and very little, if any, additional resources. It would be councils who have to deal with the complaints, it would be councils who would be left with the legal bills, and councils that would have to find additional resources to expand their regulatory service teams.

I would really like to highlight that these concerns are not put up as arguments against decriminalisation but they are questions that need to be resolved before these issues become a reality for South Australian councils and their ratepayers. Therefore, it's the LGA's view that a regulatory framework needs to be established in consultation with all stakeholders, in tandem with the consideration of the Statutes Amendment (Repeal of Sex Work Offences) Bill.

110 The ACTING CHAIRPERSON (Hon. N.J. Centofanti): Thank you. I will open it up for questions. In New South Wales, which is the only state in Australia that has decriminalisation of prostitution, brothels come under local government planning regulations like any other business. If South Australia were to incorporate a similar model, does the LGA have any opinion or concerns around the positioning of those brothels and, in particular, proximity to schools and childcare centres?

Ms TEBUREA: I think that if it was intended that sex work premises were to be regulated through the planning system in the way that it is in New South Wales, there are a huge number of aspects of that system that would require review. Certainly the spatial application of any particular policies or zoning would be a key consideration, and I think that, like any amendment to planning policy, there would need to be some really broad community consultation around that involving local government as well. We would certainly listen to community feedback and community expectations about any restrictions that should be put on the locations of these things.

But there are a range of other things that need to be considered as well, so we would need to look at the act—that's the Planning, Development and Infrastructure Act—to work out if their definitions need to be updated, that would capture sex work premises, even within the definition of development, to make sure that it does actually trigger an assessment process. Decisions would need to be made about whether or not sex work premises would be treated in the same way as any other personal services businesses—things like hairdressers, nail salons, beauty salons, tanning parlours and things like that—or whether there would need to be that separate planning scheme that's developed specifically related to sex work premises.

We haven't undertaken any broad consultation with our members about that. We have not really had the trigger to do so, but we would anticipate, I think, the feedback being that there should be a separate scheme, and how that scheme was then spatially applied would need to be carefully considered so that you don't get that juxtaposition of land uses.

Another issue is that many existing personal services businesses, like the ones I have just previously outlined, can operate in residential premises without any approval if they meet certain criteria. We would need to be really clear about whether it's envisaged that those same approval exemptions would apply to sex work premises or whether or not we do actually need to develop a whole new regulatory scheme through the planning system.

There would need to be appropriate policy developed through the Planning and Design Code, which would trigger a code amendment process that would be managed by the State Planning Commission with, ultimately, decisions to be made by the minister. As I said, all of that would need to be undertaken with very broad community consultation.

111 The Hon. N.J. CENTOFANTI: Who does the LGA believe should be responsible for monitoring and enforcing any restrictions on where sex work premises would be permitted to operate?

Ms TEBUREA: We don't have a fixed view on that at the moment. I guess what we're saying is that no-one is having that conversation at the moment, and we really think that there are such important aspects to any consideration around decriminalising activities and how it would be enforced. I know there are different models that operate across Australia, where it might be a licensing model through, say, Consumer and Business Services.

One of the considerations of that local government's role is that local government has an enforcement responsibility, but for things like parking, food premises, roof trusses and making sure that development has occurred in accordance with any conditions. It's not a law enforcement agency. It doesn't have the same training as SA Police. I think it does need to be discussed, and those decisions are really important, that we talk about them before a bill is passed so that we are very clear on what those roles and responsibilities are.

112 The Hon. N.J. CENTOFANTI: On that, as a supplementary, from what you are telling me the LGA at this stage doesn't have a suggestion on who should be responsible for enforcing safety standards in these sex work premises or monitoring these sex work premises?

Ms TEBUREA: No, we haven't sat down and thought through that this is the optimal regulatory scheme that should apply if sex work were to be decriminalised. It's not our role to do that. We certainly want to be a part of the conversation and we want to make sure that local government doesn't end up with roles and responsibilities that it can't resource or isn't adequately trained to provide.

I think that the success of a decriminalisation process does hinge on the regulatory model that you apply. If you don't have the right regulatory model, then you haven't actually achieved the objectives that you set out to achieve. We think it's a really important conversation, and it's a big conversation that involves a lot of stakeholders, but at this point we haven't sat down as a sector and said, 'This is what we think the optimal approach should be.'

113 The Hon. I. PNEVMATIKOS: I just want to take a step back and look at the role of the LGA and local government. What is the role in terms of any other business that is set up in a council area?

Ms TEBUREA: There are a couple of different roles that local government has, and primarily as a planning authority, the authority that would assess an application that comes in to establish a business and assess that against now the Planning and Design Code, which has been established through the State Planning Commission, and then undertake an enforcement and monitoring role under that planning legislation—making sure that the businesses that do operate have the right approvals and are operating within the right conditions. That's really the planning scheme.

Also, we have responsibilities in public health. We have environmental health officers who go and undertake a range of inspections for a range of businesses, including personal services establishments like hairdressers and tattoo parlours, to make sure that they have the appropriate safety standards in place.

114 The Hon. N.J. CENTOFANTI: As a supplementary on that, cafes and restaurants as well?

Ms TEBUREA: Cafes and restaurants, yes, any sort of food premises.

115 The Hon. N.J. CENTOFANTI: And safety inspections?

Ms TEBUREA: Yes, that's right.

116 The Hon. I. PNEVMATIKOS: If sex work were decriminalised, it would be just like any other business establishing. What would be different about the LGA's role there?

Ms TEBUREA: Local government's role? As I said, I don't have a particular study to reference, but these are roles that local government is trained to provide. You have environmental health officers who are trained to go and undertake a food inspection and safety inspection. The concern comes I think from the potential amounts of activity that would occur without the proper approvals. That's where you would get the additional resourcing requirement. Adding another type of business to your list of inspections is not necessarily the key issue. It's the costs and resourcing associated with regulating the activities that haven't been approved or are not meeting standards.

Our concern is we just don't know at this point what that would look like, what those roles and responsibilities would be. As I have said, we are not here to say these are reasons that sex work shouldn't or couldn't be decriminalised. It's the fact that these conversations haven't yet taken place.

117 The Hon. I. PNEVMATIKOS: So from your perspective, consultation is an important aspect of the process, rightly so.

Ms TEBUREA: Absolutely, yes.

118 The Hon. I. PNEVMATIKOS: Also flowing from that is ensuring that the officers working for local government have adequate training.

Ms TEBUREA: If it was to get to a point where it was considered that local government should have a role, yes, there would be a need for considerable additional training and resources to flow to councils to make sure that they are actually equipped to provide that role. There is an element of risk associated with regulating any sort of activity, particularly where you are investigating a complaint against an illegal activity or an unlawful type of activity, so we would really need to consider any work health and safety aspects as well of sending council officers into situations where they are monitoring potentially unlawful activities when they are not law enforcement officers.

119 The Hon. I. PNEVMATIKOS: So what happens with unlawful activities that have nothing to do with sex work currently? How does local government handle that?

Ms TEBUREA: You would have enforcement officers or compliance officers that would go in and undertake an inspection, and there are certain things within the planning legislation where you can issue notices.

120 The Hon. I. PNEVMATIKOS: So what would be different?

Ms TEBUREA: I think the key difference around this is community expectation: the number of complaints that are likely to flow. From a practical point of view there is not really a key difference in an officer going and undertaking an inspection of one business versus another business. I think there is a different level of community perception of a hairdresser than of a sex work premises, and that would make it a more contentious responsibility for local government.

121 The CHAIRPERSON: What happens now, though, because all brothels are currently illegal? How does the LGA or local government by each jurisdiction—

Ms TEBUREA: Local government would refer complaints in this instance to SAPOL.

122 The CHAIRPERSON: Sorry?

Ms TEBUREA: I think local government would refer complaints that were received to SAPOL for them to investigate.

123 The CHAIRPERSON: How many currently illegal brothels would have been given planning approval by their local councils?

Ms TEBUREA: There is no mechanism for that to occur so it doesn't happen at the moment.

124 The CHAIRPERSON: Are you confident of that?

Ms TEBUREA: I don't have any stats and haven't undertaken any research on whether or not there have been any approvals given.

125 The CHAIRPERSON: Has the LGA done some research asking their member bodies whether or not they are aware of particularly brothels operating in each of the council jurisdictions across the state?

Ms TEBUREA: We haven't because the regulation is not a local government responsibility at the moment. It's not something that sits within the remit of councils to investigate complaints on so, no, we haven't asked that question.

126 The CHAIRPERSON: How many massage parlours operate across the state?

Ms TEBUREA: I don't have that information.

127 The CHAIRPERSON: Have you had any consultation with your member bodies about massage parlours potentially operating and being given planning approval that are actually operating as brothels?

Ms TEBUREA: No, we haven't.

128 The Hon. I. PNEVMATIKOS: Just on that point, do council officers have any additional training with massage parlours?

Ms TEBUREA: Not to my knowledge, no.

129 The CHAIRPERSON: If this piece of legislation were to pass, what's the period of time that the LGA would think would be appropriate for that? I think it would be workshops. It would be conversations and then obviously draft legislation. Taking on board your point, you don't want to be burdened with additional responsibilities or expenses. How long do you think you would need?

Ms TEBUREA: I think it's probably more a question for the State Planning Commission to look at possible amendments to the planning scheme. That would be their responsibility. A code amendment process with broad community consultation, I think, would take a minimum of 12 months to get through that process, but then there would be other responsibilities as well under the health act. We would need to look at any legislative change that is required to the Planning and Design Code. I think, all up, I would say a minimum of a period of around 18 months to get the right framework in place and then make sure that the people who have roles and responsibilities under that framework are equipped to perform those roles.

130 The CHAIRPERSON: In terms of conversations that you have had with your colleagues in the Northern Territory, New South Wales and, to come now, Victoria, have there been any conversations on this topic across those jurisdictions?

Ms TEBUREA: No, there haven't. I guess one of the primary reasons for that is that we don't see that it's the Local Government Association's role to actually develop the regulatory scheme. I think that goes to the heart of our submission. Those conversations absolutely need to take place, but who is responsible for actually driving them and developing the regulatory scheme? At this point, there's a lot of uncertainty around that, and I don't think that we would want it to be assumed that local government is actually going to drive that process and drive that conversation. But no—

131 The CHAIRPERSON: I think you have misunderstood, because I am not imagining local government would drive that. I am just actually asking if the LGA in South Australia has had conversations about the topic with those jurisdictions that are actually now either decriminalised or about to be decriminalised.

Ms TEBUREA: No, we haven't.

132 The CHAIRPERSON: Are there opportunities for those sorts of conversations to be undertaken through your mechanisms of national meetings or networking and the like?

Ms TEBUREA: Yes is the short answer. We could certainly engage with our colleagues interstate to find out what local government's role is and any particular issues associated with that and any lessons that could be learned.

133 The Hon. N.J. CENTOFANTI: Does the Local Government Association have any view or inkling on how much it would cost local government if the responsibility were to fall on councils

to enforce restrictions on the location of sex work premises but then to monitor and enforce the safety standards in association with the sex work premises?

Ms TEBUREA: I don't think that the actual planning assessment process would be at any additional cost than it would be to assess any other type of application, because the process would actually be the same. I think it's where, if there were to be higher instances of illegal activity—so brothels operating without the right approvals and so forth—that's where your significant costs could come, because you would need to apply to the courts to get court orders and undertake the right level of investigations to investigate complaints and to be able to get to a point where you could issue a notice. I think it's that uncertainty around the level of potential unlawful activity that makes it difficult to answer that question about costs.

134 The Hon. I. PNEVMATIKOS: What occurs now in terms of illegal activity? I think you said earlier that that becomes an issue for SAPOL.

Ms TEBUREA: At the moment, in relation to sex work, yes. Councils wouldn't necessarily have that responsibility to take a complaint from the community and establish whether or not there is a particular activity happening on a premises. Those would be referred to SAPOL for them to consider.

135 The Hon. I. PNEVMATIKOS: Why would it make any difference if you have a decriminalised model? If there were illegal sex work premises, then the same process would occur, would it not?

Ms TEBUREA: Not necessarily, because then it would actually become an unlawful land use under the planning act, and that's where local government has responsibilities to actually enforce the planning act.

136 The Hon. I. PNEVMATIKOS: Do you do that now?

Ms TEBUREA: Yes, we do for development that occurs without approval—if a shop was to change use from one type of service to another and that triggered a land use application under the planning act. If that didn't occur, it would be local government's responsibility to undertake the enforcement on that.

137 The Hon. I. PNEVMATIKOS: What has local government been doing with illegal sex work services that are operating currently?

Ms TEBUREA: Because it's not actually development, because it's an illegal type of activity I guess under the Summary Offences Act and other acts, it doesn't trigger a development application; it actually triggers a referral to SAPOL. I certainly wouldn't want to make this comparison lightly, but it's like any other illegal activity happening on a residential premises. If there was a drug lab in a residential premises in a suburb, local government doesn't regulate that—the police do because it's an illegal activity—so it's the same from a regulatory perspective.

138 The Hon. I. PNEVMATIKOS: So there would be no more obligations placed on a local government in that respect?

Ms TEBUREA: In a decriminalised model, there would be because it would then actually fall under the planning act to enforce. If the option was available to seek planning permission to establish a sex work premises and that didn't occur, then that would actually be a breach of the Planning, Developing and Infrastructure Act. It's not currently because the option to apply is not available through that act. Local government would pick up additional responsibilities to enforce the planning aspects and the public health aspects as well of sex work premises.

139 The Hon. C.M. SCRIVEN: Thank you for coming in today. Currently, local government has responsibilities, for example, for food safety inspections and that kind of thing. Do you think that local government is sufficiently resourced if responsibilities then fall upon it in a decriminalised environment for similar inspections for prostitution activities?

Ms TEBUREA: I think it would expand those responsibilities. If councils had more premises to inspect, you need more people out on the ground actually doing those inspections, so expanding the remit would expand the resources. Currently, it's my understanding as well that the fees that you can charge to undertake food inspections and the like don't come close to actually covering the costs. Those regulatory roles that are performed by local government are heavily

subsidised by the rate base, so if you expand the responsibilities you expand the resourcing and you then expand the cost burden that would flow to ratepayers.

140 The CHAIRPERSON: As a supplementary on that, how many brothels operating in South Australia are currently paying council rates?

Ms TEBUREA: I don't know because I don't know how many are operating.

141 The CHAIRPERSON: Are any of them not paying council rates?

Ms TEBUREA: I don't know.

142 The Hon. C.M. SCRIVEN: There have been various reports, including into New South Wales, which of course is the only decriminalised environment in Australia at this stage—

143 The CHAIRPERSON: The Northern Territory is actually a decriminalised jurisdiction.

144 The Hon. C.M. SCRIVEN: Sorry, yes, you are right, but only relatively recently—two years ago I think, 2019.

145 The CHAIRPERSON: Yes, only two years.

146 The Hon. C.M. SCRIVEN: Yes, that's right.

147 The CHAIRPERSON: So it's actually a very good lesson for us.

148 The Hon. C.M. SCRIVEN: Indeed. I'm sorry, I don't actually have it in front of me, I think it's this report which is the Select Committee on the Regulation of Brothels from 2015 into New South Wales. It was mentioned that there's a high propensity or opportunity for bribery. Do you have any concerns that council officers might be subject to bribery if they have involvement in inspections and so on? I'm sorry, I'm not very well today, so excuse me if I'm not putting my questions as clearly as I might like. Do you have concerns that council officers might be susceptible or open to bribery opportunities?

Ms TEBUREA: I haven't seen the report that you have referenced, but obviously we have in South Australia some very clear obligations that sit on public officers not to engage in those types of issues. It's not a matter that we have turned our minds to.

149 The CHAIRPERSON: Thank you so much. As I said at the start, the transcript will be forwarded to you for any clerical corrections. Thank you for your submission and your time today.

Ms TEBUREA: Thank you, members.

THE WITNESS WITHDREW

WITNESS:

HUTT, TRACEY, Director, Workforce Education and Development, SHINE SA

150 The CHAIRPERSON: Welcome to the meeting. The Legislative Council has 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. I advise that your evidence today is being broadcast via the Parliament of South Australia website. Should you wish at any time to present confidential evidence to the committee, please indicate and the committee will consider your request.

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We would like to acknowledge that the land we meet on today is the traditional lands for the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the traditional custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

Good morning. My name is Tammy Franks. I am the Chairperson of this Select Committee on the Statutes Amendment (Repeal of Sex Work Offences) Bill 2020. To my right, we have the Hon. Nicola Centofanti. To my left, we have the Hon. Clare Scriven and the Hon. Irene Pnevmatikos. I think you are familiar now with our secretary, Anthony Beasley. If you would like to introduce yourself and make any opening statements, if you have them, we will then move to questions and answers from there.

Ms HUTT: My name is Tracey Hutt, and I would like to thank you for the opportunity to speak to this committee. My role is the director of workforce education at SHINE SA. SHINE SA is a not-for-profit charitable organisation that works to improve the sexual health and wellbeing of the South Australian community. We have sexual health clinics and trained general practitioners, nurses, teachers and other workforces.

Our key areas of interest are the prevention of unintended pregnancy; child sexual abuse; men's violence against women; stigma, discrimination and violence against LGBTIQ people; sexually transmissible infections and bloodborne viruses; and improving sexual and reproductive health literacy. We operate clinical services that are used by sex workers and their clients. We partner periodically with a local peer organisation, the Sex Industry Network, on activity related to education and health promotion. When we say the words 'sex work', we understand that as something that's consensual, occurring between adults.

SHINE SA supports the use of the best available evidence. We pay most attention to the highest level of evidence created through systematic reviews. This is the synthesis across multiple studies across a range of populations or settings that are carried out using rigorous peer-reviewed methodologies. While single studies and individual expert opinions have a high value, it's listening to these systematic reviews, this gold standard of evidence, that makes for safer services and safer public programs.

It's this standard of evidence that informed the current Australian government's national STI and HIV strategies and the chief public health officers' evidence, and it's what brings us forward to speak with you today. In our written response, we highlighted the systematic review led by the London School of Hygiene & Tropical Medicine which found that criminalisation and policing of sex workers and their clients increased the risk of condomless sex, increased the risk of infection with HIV and STIs, and disrupted support networks and risk reduction strategies. This systematic review called for urgent sex worker law reform as a public health priority.

After that, in February 2021 there was another systematic review published. This is new evidence, and that's why I'm bringing it to you today. It wasn't actually published in February; it

was completed in February, so it would have been published just in the last four to eight weeks I would say, two months. This was published by Curtin University in Western Australia and, like the previous one, searched for all the available studies, critically appraised them for quality and found over 90 primary research studies from more than 20 countries.

The countries had various regulatory environments, so they classified the 90 studies across 20 countries into the various regulatory models. It classified them into full criminalisation, partial criminalisation, the Nordic-type model, the legal and regulatory models and then decriminalisation at the end. The key findings of these studies were discussed and, if you go online, you can see they have all been tabulated out.

Basically, what these studies show is similar to the 2018 systematic review, that the further you move away from full decriminalisation and towards criminalised models, the poorer the health and safety outcomes for sex workers and the wider community, the more harm is caused by the system. The Nordic-style model, where only the clients are criminalised, has been implemented in various spots around the world.

When I did my searching, I was unable to find solid evidence, gold standard evidence, of health benefits under this model. The little bit that there is, because it is a fairly new approach from the public health point of view, suggests that the same issues of access and barriers to the usage of health services have persisted. While it's not a systematic review, what you can see online is that sex worker organisations in Canada are now talking about greater disadvantage being created through that model, that more clients want to meet now in isolated locations and the client seeks to rush interactions and are less inclined to spend the time negotiating arrangements with them.

In our day-to-day work at SHINE, we talk to a lot of people. We talk to a lot of patients from a lot of different walks of life about sex. We see harm is being caused, harm is caused by rape, assault, reproductive coercion, discrimination, lack of respect, lack of education, bad policies and bad law, but we do not actually see harm caused by the respectful exchange of money for sex between consenting adults.

We see harm being done to sex workers by our system, one that hasn't yet responded to the international evidence, a system that is making the more vulnerable, that's removing rights, facilitating bad behaviour by others and creating barriers to accessing sexual health services, a system that's allowing others to treat them as less than. SHINE SA supports decriminalisation, as it is an appropriate response, given the strength of the international health evidence. Thank you.

151 The CHAIRPERSON: In terms of listening to your evidence, I've actually had a bit of a flashback to visiting a brothel in New Zealand, where one of the workers told me, 'We know a client comes from South Australia if they try to take a condom with them.' How important is it for good health outcomes, sexual health outcomes and safety, to have laws that don't use condoms as evidence of criminality?

Ms HUTT: I think this most recent systematic review just talks about the whole gamut of harms, that's one harm. Yes, you can travel the world or you can go online and you can hear people's individual voices, individual voices of sex workers or academics even, of doctors having expert opinion, but that's not really evidence in terms of the reason to create new public policy. So, yes, that makes sense. Of course that makes sense.

152 The CHAIRPERSON: It really struck me that in fact they knew that they were from South Australia and they had that particular practice. They would try to take the condom with them, wrap it up, and they would be like, 'No, no, you can put it here in the appropriate bin.'

Ms HUTT: That's right. That's of absolutely no surprise, and that's what is interesting when you look at those gold standards and systematic reviews. Often you will see, 'Yes, that makes a whole lot of sense because this is what I am seeing at the local level,' but sometimes you're not seeing all of it at the local level. This one looked not just at STIs and HIV transmission, it looked at all kinds of harms. It looked at substance use, it looked at sexual assault. It basically went looking to see: where is it that the health outcomes of sex workers and the community around them are worse off because of the legislative model?

153 The Hon. C.M. SCRIVEN: I think perhaps I have misunderstood what you said there. It sounded as though you were saying that the voices of those involved in the trade are not evidence.

Ms HUTT: They're evidence, but evidence at the public health level comes in various classifications. If you look up institutions like the Cochrane collaboration, the Campbell collaboration and the Joanna Briggs Institute, which is actually located here at Adelaide University, the definition of 'evidence'—evidence to the point where you would make major public health changes—has a methodology, and that methodology looks at all of the studies. A synthesis or a re-crunch of all the data. Sorry, I am trying to explain.

154 The Hon. C.M. SCRIVEN: No, that's fine, you have clarified what you meant. Thank you for that.

Ms HUTT: workers' voices are important.

155 The Hon. C.M. SCRIVEN: Are you aware of the study by Melissa Farley and various other authors into prostitution across nine countries?

Ms HUTT: Sorry, what was the name?

156 The Hon. C.M. SCRIVEN: Melissa Farley.

Ms HUTT: That was a study from where?

157 The Hon. C.M. SCRIVEN: Across nine different countries, and one of the many findings from—

Ms HUTT: What year was that?

158 The Hon. C.M. SCRIVEN: 2008, I think, from memory. She has done a number of studies. That study, and a number of others in fact, found that the levels of post-traumatic stress disorder among particularly women in prostitution, but others as well, was equivalent to that of those who had seen active service in war. Were you aware of that?

Ms HUTT: I guess, again, I can say I am not surprised in the sense that there's lots of professions that we work in and that women work in where that can be difficult or there can be a concentration of mental health issues. Did the respectful exchange of money for sex cause that PTSD? I am not sure that that's what the study would have said; however, it's a 2008 study that has now been superseded.

159 The Hon. C.M. SCRIVEN: She has done a number of other studies since then as well. I am curious about your wording of 'respectful exchange of money', because there's a large body of evidence that shows that in many cases it's not a respectful exchange of money, it's a normalisation of violence against women, it's normalisation of treating women in prostitution far less and worthless, and in fact is significantly perpetuating misogyny.

Ms HUTT: Correct. Decriminalising sex work will not solve misogyny, but it's a very important step towards it. I am not convinced that the evidence is saying 'criminalise sex work and you will solve misogyny'. In fact, the evidence is now telling us the opposite: that, in an industry where it's mostly women, they thrive better under decriminalised models and they have better health outcomes under decriminalised models.

For some of us, intuitively we might struggle with that initially to think that women do better when we don't control them with laws so much, but then in other areas of our life we can see that that makes sense.

160 The Hon. C.M. SCRIVEN: There is such as the Nordic model which criminalises not only the buyer but also some others, but not the person who is in prostitution itself. That is normalising the commodification of women, which has an impact on women across our society.

Ms HUTT: I guess that's about the respectful exchange, isn't it? Again, it's not the exchange of money for sex that creates the harm, it's the environment that we put around that. It's the legislation.

161 The Hon. C.M. SCRIVEN: You don't consider that commodifying women and saying that sexual access can be bought and sold affects the status of women across society?

Ms HUTT: We're here today to talk about what's the best thing to do from a public health point of view. The evidence is saying that the more you criminalise sex work the poorer the health outcomes for the women involved or other people involved.

162 The Hon. C.M. SCRIVEN: Have you looked at the evidence from Sweden, which has had what's known as the Nordic model for the longest period of time, which has shown a better outcome for women in general in the society and an increased societal non-acceptance of women being treated solely as sex objects?

Ms HUTT: Yes, and I guess that's why systematic reviews go across the world and they look at multiple countries and they discuss all of the evidence and they balance it up. The Nordic model in a way sits in the middle somewhere, if you can call still having a criminalised client in the middle, so it just depends on your tolerance for causing harm and if you're prepared to turn away from the evidence that says you will cause harm unless you decriminalise.

163 The Hon. C.M. SCRIVEN: I would certainly challenge that that is what the evidence shows. There's a great deal of evidence that shows that, for example, more serious violence is increased under a decriminalise model, although lower-level violence increases under a Nordic model. I think there's a great deal of evidence, so I think we will have to agree to disagree on that one.

Ms HUTT: Yes, that's okay.

164 The Hon. N.J. CENTOFANTI: Despite the decriminalisation of prostitution in New South Wales in 1995, there was a select committee on the regulation of brothels in New South Wales in 2015. They made several findings in relation to the protection of the health and safety of sex workers' employment and discrimination protections and public health outcomes. Some of those findings included that, while some sex workers are independent and able to freely choose to participate in the sex industry, others are vulnerable and may not be able to freely exercise a choice due to poverty, mental health issues, drugs, language barriers, etc.

They also found that there was an underground sex service industry operating in New South Wales due to a large number of businesses offering sexual services in premises without planning approval. They also found that sexual servitude occurs in New South Wales, that criminal networks operate in parts of the New South Wales sex services industry and that sex workers were subject to pressures from clients to compromise their occupational health and safety. Does SHINE have any comment in relation to these findings of this select committee?

Ms HUTT: I guess I don't from an evidence point of view, but I can give you a personal or an individual opinion on that, about which I would ask more questions, I guess.

165 The CHAIRPERSON: It's something you can take on notice if you would like.

Ms HUTT: Yes.

166 The CHAIRPERSON: Because it wasn't part of the legislation, so if you would like to take it on notice.

Ms HUTT: Yes.

167 The Hon. N.J. CENTOFANTI: One of the things you say in your submission is that sex workers face barriers in receiving health care. You commented today that SHINE SA provides health care. Do you know approximately what number of individuals your organisation sees in a year?

Ms HUTT: That's a really hard one. Because it is so stigmatised, lots of people don't talk about being a sex worker even to SHINE. We have a small percentage, probably less than 3 per cent, in our data collection, but we question that data just like everybody else does.

168 The Hon. N.J. CENTOFANTI: As another question in regard to health, the Adelaide Sexual Health Centre provides free and confidential sexual health services I think it's for over 17,000 individuals a year?

Ms HUTT: Yes.

169 The Hon. N.J. CENTOFANTI: Their website states that sex workers are a priority client.

Ms HUTT: Yes, they are a priority population.

170 The Hon. N.J. CENTOFANTI: Is it your understanding that sex workers use this service?

Ms HUTT: Adelaide Sexual Health Centre, that's a government service. I'm not from government; I'm from SHINE.

171 The Hon. N.J. CENTOFANTI: You work with people in the industry; some of those people come to your health services?

Ms HUTT: Yes. I don't see the data from Adelaide Sexual Health Centre. I'm heartened that they're welcoming sex workers on their website because sex workers are a priority population under the National STI Strategy. So, yes, they would be welcoming sex workers. I expect that they would be seeing sex workers because sexual health physicians would.

172 The CHAIRPERSON: Thank you for your evidence today.

Ms HUTT: You're welcome.

173 The CHAIRPERSON: The transcript will be forwarded to you for any clerical corrections, as I noted. That question that you took on notice, I think there was only the one. We wish you well with your work.

Ms HUTT: Thank you.

THE WITNESS WITHDREW

WITNESS:

NORMA, CAROLINE, Senior Lecturer, RMIT University

[Via videoconferencing]

174 The CHAIRPERSON: Welcome to the meeting. The Legislative Council has 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. I advise that your evidence today is being broadcast via the Parliament of South Australia website.

Should you wish at any time to present confidential evidence to the committee, please indicate and the committee will 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.

We would like to acknowledge that the land we meet on today is the traditional lands for the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the traditional custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

My name is Tammy Franks. I am the Chair of this select committee, which is an inquiry into the Statutes Amendment (Repeal of Sex Work Offences) Bill 2020. To my left I have the Hon. Clare Scriven and the Hon. Irene Pnevmatikos. To my right I have the Hon. Nicola Centofanti. If you would like to introduce yourself and make any opening statements, we will then move into questions.

Dr NORMA: My name is Caroline Norma. I am a senior lecturer at RMIT University in Melbourne and have worked there for the past ten years. Over these ten years, I have published on prostitution legislation and policy in Australia, South Korea and Japan. I have been a member of the Coalition Against Trafficking in Women Australia for the past 20 years, over which time I have participated in numerous research projects, study tours, and conferences on the topic, including having accompanied a delegation of Australian MPs to South Korea in 2013.

In 2016, I edited with another editor a joint collection of life narratives by women who have survived prostitution in various countries, called *Prostitution Narratives: Stories of Survival in the Sex Trade*.

The statutes amendment bill, in my view, attempts to introduce to South Australia a radical deregulation of the sex industry through lifting off the industry any current restriction on its operations, such as the extent to which sex businesses can profit from the prostitution of others, the extent to which businesses can recruit people for prostitution and the extent to which the sex industry's operations can attract police intervention.

The bill establishes a sex industry operating environment in South Australia even more deregulated than that of New South Wales. This is in spite of the fact that the commissioner of New South Wales police, as you know, in 2015 complained to a parliamentary committee that the industry in that state was regulated even more loosely than the rules established for dog owners. The proposed statutes amendment is being attempted at a time in Australia when the prostitution of girls and young women in out-of-home and residential state care has become a focus of state governments as well as researchers, and that's both in Victoria and South Australia.

This problem of children being sexually exploited through state care facilities of various kinds I know will be addressed through restrictions on the prostitution of children, but the point is that Australian research shows that up to 50 per cent of women in sectors of the industry in Australia come from, formerly as children, state and out-of-home care. What this bill attempts to do is establish a sex industry operating environment in South Australia that is at risk of being a channel

and a funnel for young girls and women exiting the state's out-of-home or residential care system and finding themselves destined for sexual servitude to sex buyers and pimps.

The connections of Australia's sex industry to traffickers and organised crime is irrefutably established in government inquiries, particularly that of New South Wales. Sex industry entrepreneurs stand to make significant profits in a deregulated South Australian operating environment. The latest IBISWorld business sector report, which is called Brothel Keeping and Sex Worker Services in Australia, published in April this year, 2021, predicts a return to 3 per cent year-on-year growth rates for the sector once the COVID recovery begins.

This report names government regulation as the major threat to this prospective industry's success. Notably, in addition to that, the report emphasises profit margins in the industry far in excess of other sectors and low profit-sharing practices. These low profit-sharing practices—in other words, the money doesn't go to the women who are prostituted to make the profits—are named as underpinning this feature of the sector in which the relative profits are high.

The alternative path I commend to committee members today is that of the American state of Hawaii, which just last week signed into law a bill that defines prostitution as sexual exploitation and sex buyers—so customers of the sex industry—as petty criminals, who will be fined at least \$US500.

Hawaii now has a state trafficking commissioner, who is responsible for coordinating a statewide effort by all government agencies and service providers to establish victim assistance programs and to introduce re-education programs for sex buyers. There is a statewide effort to reduce the extent of commercial sexual exploitation going on in that jurisdiction. We might note that actually South Australia's and Hawaii's populations are roughly the same size, even if the two jurisdictions have very different economies.

Nonetheless, both jurisdictions host significant Indigenous populations, and it really was concern for young Indigenous women and girls that drove the legislation that was passed last week in Hawaii. The statutes amendment bill I believe puts South Australia at risk of going in a direction diametrically opposed to world's best practice, as currently being demonstrated in jurisdictions like Hawaii, and exposing the women and girls of South Australia to future efforts of profit making from an industry and also the most vulnerable and exposed girls and women in the state coming out of state residential care. Thanks for this time to make some comments.

175 The CHAIRPERSON: Thank you. One of the parts of our legislation here in South Australia is actually an additional definition of a prostitute, or what is called a 'common prostitute' in our statutes, to also include a male. Do your arguments hold the same for male sex workers?

Dr NORMA: They do. We have research that shows that young men—and most of which, if they are male, they are young in sex industries throughout the world. Again, there are statistics to show they come from poverty. Notably, sexual abuse and incest among male populations in the sex industry is actually registered as higher than that for women in the industry. I don't know the ins and outs of that particular statistic, but it has been pointed out as quite an interesting statistic that has arisen.

Also, transgender women in industry are at particular risk of exploitation and abuse at the threat of having their identities exposed or not having the surgery and the treatments and the medical care that they need provided to them. So, yes, there are populations within the sex industry that are notably recognised as vulnerable.

176 The CHAIRPERSON: You have noted a statistic about state and out-of-home care participation in this industry. Where did that statistic come from and what was it exactly?

Dr NORMA: That's a Victorian statistic. It found that women in one cohort—so it's obviously a sample of the Victorian sex industry, and I think this study from memory goes before 2010, so it is a slightly dated study—50 per cent had experienced forms of state care in childhood, be that residential, be that state ward facilities.

177 The Hon. C.M. SCRIVEN: Is there any reason to suggest that that has changed since 2010?

Dr NORMA: No, I think the problem has only escalated since 2010, and that's why governments now are scrambling to do something about this problem of commercial sexual exploitation of young women in state care. Obviously, it is an issue of predatory paedophiles and gangs getting involved in the facilities and getting connections with the workers and things like that.

Certainly, in Victoria we have had what the media calls 'the rings', but effectively they are syndicates of men acting in groups who move these residential state care girls around the state for the purpose of pimping them. The links to the established sex industry might be loose when they are under age, but once they hit 18, that's when they are funnelled into the actual industry itself. So there is a connection between those two things I think.

178 The Hon. C.M. SCRIVEN: Thank you for appearing today. I might just mention, I am not feeling very well, so if any of my questions don't come across clearly, please just ask for clarification. We hear that organisations such as Amnesty International support a decriminalised model, and that's used as support for the legislation that we are looking at at the moment in South Australia. Do you have a view on that, of why organisations such as Amnesty International would support this model?

Dr NORMA: That third sector, large-scale NGO kind of international sector, has been seriously compromised over the last 10 years. You would have heard of the Oxfam and other scandals that have been going on in terms of sexual exploitation and abuse of women and girls in Third World countries. Amnesty was also affected by those developments in terms of the lack of credibility that the sector started to attract.

What happened is Amnesty then rang around for funding from unorthodox places, and that included the Open Society Foundations. They got a lot of money from funders like that and that influenced their policy-making in terms of advocating for sex industry deregulation because that happened to be the political position of some of its funders.

179 The Hon. C.M. SCRIVEN: Sorry, Dr Norma, I didn't quite hear what organisation you said was providing funds.

Dr NORMA: Open Society Foundations is the name of the organisation. It's an international American funder. It's only one example of a number of similar deregulatory libertarian-type funders who tend to operate around the world attempting to change domestic laws and policies. Amnesty found itself with an actual pimp, as in an operating pimp, in one of its branches who then drafted a policy that ended up influencing their headquarter policy as well. It's just not a credible organisation internationally on this issue. Certainly, the European parliament, in opposition to groups like Amnesty, has declared prostitution to be a form of harm and sexual exploitation. Those third-sector NGOs are not necessarily the people to consult with on this issue.

180 The Hon. C.M. SCRIVEN: In the last parliamentary debate on a similar bill, not the identical bill, one member of our upper house said that pimps don't exist. Do you have a view on that statement?

Dr NORMA: The track record of Victoria Police prosecuting syndicates—groups of men for profiting from the proceeds of crime—would indicate that pimps are operating quite seriously at the everyday level of the sex industry, in that state at least. Because these men were profiting from the pimping of women across hundreds of sites, so-called Asian massage parlours—

181 The CHAIRPERSON: Sorry, you froze again.

182 The Hon. C.M. SCRIVEN: 'Asian massage parlours' came just before that.

Dr NORMA: In other jurisdictions in places like Spain and France, it's rich consensus among people studying the industry that between 80 and 90 per cent of women in their industry are under the control of pimps. I can't see how the Australian jurisdiction is so different from European countries. We have a large proportion of women in our industry as Asian and a large proportion of those women as not speaking English. So all the red flags are there for significant pimping activity within the industry.

183 The Hon. C.M. SCRIVEN: Can you comment specifically on New South Wales, as that's the jurisdiction in Australia that has had decriminalisation for the longest period?

Dr NORMA: Yes. This is recognised in the 2015 report as an industry riven with criminal gangs and riven with women subject to so-called contracts or debt bondage up to 30 per cent. In the New South Wales case, it has problems of trafficking and problems of a lack of regulation and oversight that is allowing for women to be bought for sex acts that are completely unregulated in the industry.

So pimping is crucial to all of this, particularly in New South Wales. The industry doesn't operate without pimping and it's pimps who are there to make money and profit from the pimping of women. So pimping really is at the heart of the industry. To deregulate those profiteers, I think, is very dangerous for women and girls, because they have a financial interest in organising women for prostitution.

184 The Hon. C.M. SCRIVEN: At a briefing that we had for the previous bill, one member of our parliament in response to that kind of a comment just said, 'Well, that's just business.' Do you have any comment to make on that?

Dr NORMA: It is. It's just business. The rights of women and girls are sidelined at minimalised and trivialised when you give pimps a stronger hand in their attempts to generate profits for themselves. You will actually turn your state into a jurisdiction that has carved off some forms of sexual abuse of women and girls because that's just business, that's just pimps making money, they've got a right to do so, it's an economic sector.

You're bringing all those kinds of ideas and you narrow and narrow and narrow what is seen by the state and seen by state agencies and the population as harmful for women. You can decide that certain forms of sexual abuse are okay if men go along to a brothel and pay for it. So, yes, it does become a matter of business. The business that's being made is going to be made off the bodies of girls and women out of state care and trafficking victims. It's a nightmare scenario.

185 The Hon. C.M. SCRIVEN: The arguments put forward in favour of decriminalisation are that abuses will be less likely because the prostituted people will be able to go to the police more easily. What are your comments on that argument?

Dr NORMA: They are subject to pimps, so you don't do what your pimp doesn't allow you to do. There's also an issue of, once you've been sold for prostitution, you are there partly for sexual abuse. That's what the guys are paying for, especially with the proliferation of pornography. There are certain things that men want to do sexually and they can do them once they've bought a woman in prostitution.

This idea of reporting is a bit of a bogus one because it requires women in the industry to think as unacceptable the things that they are being precisely bought and paid for to do. There's that barrier, and then there's the barrier of the pimps and then there's the barrier of the women themselves. They are often the most marginalised, the poorest, the ones who don't speak English. They don't have networks in the local community because they are moved around so much by pimps between states and venues. They don't know where they are a lot of the time. There are drugs and alcohol involved.

The idea that they just off their own bat get up and go to the police station is not realistic, and what we need really is serious intervention into where these women and girls are, ask them and support them to give them opportunities as much as possible to access state services so that they can begin better lives.

186 The Hon. C.M. SCRIVEN: We've just heard from a South Australian organisation called SHINE, a sexual health organisation, which talks about the respectful exchange of money for sex and that that's not harmful to women or to anyone else involved in providing prostitution services. What is your view on that statement about the respectful exchange of money for sex?

Dr NORMA: Consent is the standard of sexual engagement in Australia in law, and you can't bypass consent through the bribe of money. That is bypassing consent. There's no consent there when you have a weapon like money that is wangling consent from someone who is not there of their own—they're not engaging in sexual activity with these customers out of their own sexual desire. That's just a flat, basic principle of what prostitution acts.

To say that some groups of women should be allowed to be able to have their consent bypassed through money, whether that money goes to them or goes to the pimps, which is

more normally the case, is reducing and impinging and degrading the standard of consent that exists for all women. Particularly in this era of focusing on gender-based violence and men's sexual practices in Australian society even, we can't set the standard for consent as being one whereby men can have this kind of escape clause where, 'Actually consent is usually the standard part of your pay.' You can get around it.

What we find increasingly is men in heterosexual relationships bringing that prostitution model to their home and thinking that they can assault someone and chuck money on them afterwards or act as a pseudo-pimp, taking revenge pornography and all these practices that are getting around consent by justifying it through things like money and commerce. I think it's a real problem to set that kind of standard in any society.

187 The Hon. C.M. SCRIVEN: You mentioned that Hawaii recently introduced a model which, if I can speak in broad terms, is a type of Nordic model; is that correct?

Dr NORMA: Yes, that's correct.

188 The Hon. C.M. SCRIVEN: Can you outline how many jurisdictions now have a Nordic-style model?

Dr NORMA: From memory, we've got Canada, France, South Australia, Ireland, Northern Ireland, Iceland—

189 The Hon. C.M. SCRIVEN: Sorry, you said South Australia; I think that's not what you meant.

Dr NORMA: I beg your pardon. South Korea, sorry. I beg your pardon. Then there's Hawaii now. I might have missed out a couple, but something in the realm of 11 or 12 jurisdictions now have directly the Nordic model.

190 The CHAIRPERSON: In those jurisdictions, how many times have sex workers been charged with those criminal provisions?

Dr NORMA: What criminal provisions?

191 The CHAIRPERSON: The criminal provisions of the Nordic model.

Dr NORMA: Could you let me know what they are? I am not sure what they are.

192 The CHAIRPERSON: Are you aware of cases where sex workers have been charged under those jurisdictions?

Dr NORMA: For what charges?

193 The CHAIRPERSON: For the various criminal provisions that apply. For example, the two workers who shared a house and were charged with pimping each other because the two of them lived in the same home. Are you aware of those cases?

Dr NORMA: As far as I am aware, that's an urban myth. I think that's been well and truly established as incorrect information.

194 The CHAIRPERSON: So your evidence to this committee is that no sex workers have been charged with the criminal provisions of the Nordic model for simply operating as sex workers in their own right? Is that what you're presenting as evidence to this committee today?

Dr NORMA: You haven't told me what the criminal provisions of the Nordic model are that they have been charged under.

195 The CHAIRPERSON: There's a whole range. You can be living on the earnings of prostitution and be the child of a sex worker, for example. There's a whole range of Nordic model provisions that outlaw—the renting of a house or the provision of website advertisement or advertisement in the paper and so on. You're saying that sex workers themselves haven't been subject to those criminal provisions in these jurisdictions?

196 The Hon. C.M. SCRIVEN: Sorry, you froze again.

Dr NORMA: Sorry about that. If you're talking about pimps advertising women through websites and being charged for doing so then, yes, I think the Nordic model works well,

because we don't want profiteers of women's prostitution to benefit from any state legislation and policy. So we have got these internet platform owners who attempt to wash their hands of responsibility for the profits they're making from the ads that are run for the pimping of women. I think it's a really good move to clamp down on them. We can't have whole industry sectors preying and kind of being vultures off the prostitution of whole groups of vulnerable women and girls I think.

197 The CHAIRPERSON: In South Australia, some of the criminal provisions that currently exist that we're looking at in this bill, which would repeal those provisions, include the criminalisation of, for example, *The Advertiser*, our major daily newspaper, advertising these services. Should *The Advertiser* be subject to criminal provisions?

Dr NORMA: Yes, I don't see why they shouldn't be. Of course, having a grace period where these feeder businesses can start to clean up their operations, get rid of the ads and work with government to clean up their operations—also, it's important that a widespread statewide education campaign is conducted to tell citizens and businesses about the harms of prostitution and the benefits and contribution they will be making to society if they do stop running these ads and do stop contributing to the sex industry's profits, and how they will be contributing to reductions in gender-based violence against women and girls. It can be a positive type of campaigning, I think.

198 The CHAIRPERSON: Should sex workers have their children removed from them if the children are benefitting from the proceeds of sex work?

Dr NORMA: No.

199 The CHAIRPERSON: How will you enable that under a Nordic model?

Dr NORMA: I would have to see the provisions of a draft bill to make that judgement, and I would actively and constructively make sure that no such scenario eventuated.

200 The Hon. N.J. CENTOFANTI: Are you able to please elaborate a bit further on your concerns about the so-called massage parlours?

Dr NORMA: Yes. The massage parlours are currently under research by a woman at Monash University in Melbourne and have been found in that jurisdiction, in the state of Victoria, to outweigh licensed premises. Brothels holding a licence from the state government—there is about 100 of them roughly now—and the so-called massage parlours are estimated to outweigh those licensed venues by a number of five to one. There are about 500 of them that she has counted anyway in Victoria.

They are a problem because under a deregulated policy environment, or even a licensed one like we have in Victoria, they come to be normalised because citizens don't realise that they are not licensed. There is no-one dobbing them in, in the community, because they just assume that they are part of the licensing system. They are quite opaque. They are often run by visa holders in Australia, and the women incarcerated in them are also visa holders to a large degree, so they are operating with languages and networks that usually go beyond the capacities of local government to deal with.

Obviously, they operate only on the basis of the fact that local government is the only body now charged with regulating, administering and overseeing the sex industry in Victoria really now. Beyond Victoria Police action against massage parlours, there is really nothing done about them, and then we end up with these big crimes like we found a couple of years ago with the proceedings of crime charges that were brought against a whole syndicate of these massage parlour owners in Victoria. They spiral out of control and become connected to organised crime.

201 The Hon. N.J. CENTOFANTI: Just on that, do you think it's possible to ensure that migrant sex workers, who are often subject to threats of deportation and poor work conditions, have appropriate protections when it comes to bargaining power and wages?

Dr NORMA: Yes, they are a population really at risk of entry into Australia's sex industry, and they are in trouble once they get in there. The rates of either fair or poor rates of English language speaking in that population are very high. That's shown empirically in Australian research. They generally have low levels of knowledge of local conditions—geography, the way that public services operate, the nature of the police and authority; they have misguided ideas and confused ideas about the systems of the jurisdictions in which they are placed.

They have no family or friendship networks within the places where they are trafficked to in many cases, and they are often trafficked by men who have connections with their pimps back in their home countries like China or South Korea. They have a bit of a channel of intimidation and control and violence going on because of former associations with pimps back home. As you would know, the Australian Institute of Criminology a few years ago found that 30 per cent of these women are subject to so-called contracts which are just descriptions of debt bondage arrangements. There is no other way of describing them than that.

They are a really vulnerable population and obviously Tina Fang's murder in South Australia a few years ago shows just how at risk those women are. A lot of them are Asian, so there's a racial element to this in addition to many other elements.

202 The Hon. C.M. SCRIVEN: Could I follow up with regard to that murder. The advocates of the current model in South Australia potentially would argue that if we had had a decriminalised environment that might have provided some protection to her. Do you have a view on that?

Dr NORMA: I can't imagine what protection it could have offered. What we needed in that case was the hotel industry to be clamped down on in terms of allowing those tours. What the industry is doing is calling them tours and effectively they are just trafficking women around to different hotels in different states on the basis of prior booking by customers. The woman doesn't get any choice over the guy who comes through the hotel door because he has already prebooked and prepaid for her so-called tour in Adelaide. Tina Fang was part of that.

I would have to hear their logic but I can't see how a decriminalised environment would have helped her. Only a Nordic model environment would have helped her because her entry into the state for the purposes of prostitution and to be pimped out through a hotel would have put the hotel owner at great risk, so you wouldn't necessarily have allowed those activities to have gone on.

203 The Hon. I. PNEVMATIKOS: I just want to go back to some of your initial comments and also your written submission. You place in a very negative light any profit-seeking activities or enterprise. How does that differ from all other businesses operating in our society if we are talking about profit in a sex work industry or business?

Dr NORMA: The suggestion that businesses should be profiting through pimping women goes against the United Nations treaty, which Australia has signed. The provisions of that treaty from the year 2000, which Australia has ratified, as I say, explicitly argue against that kind of understanding of the normalisation and of profiting through the prostitution of women and girls.

Firstly, that statement is in contravention of a ratified treaty with the United Nations and Australia; that's one point. I suppose a basic point: as I said, we have policies against gender-based sexual violence against women and girls in Australia that even the federal government supports and all state governments support. It's attracting quite reasonable budgetary allocations to reduce the rates of violence against women and girls.

So in that environment, I think to then say, 'Well, okay, but let's just see the profits of pimps as the same as the profits of the banking industry,' it doesn't resonate, I think, with the environment we have in Australia now. People are coming to be aware of the need for respect for women and girls, the need to understand consent in a really strict way so that we are not creating these blurred boundaries and grey areas to mislead boys and men themselves into thinking that there is a low standard of consent in Australia. I think that kind of normalisation of the sex industry business is not accepted among the general Australian population who are now thinking—

204 The Hon. I. PNEVMATIKOS: You have frozen again.

Dr NORMA: Sorry.

205 The CHAIRPERSON: The final words were 'who are now thinking'.

Dr NORMA: My concluding comment there was just that the Australian population I think is very highly aware of this need to address sexual violence against women and girls, and I think in that environment it wouldn't be accepted by the population to then declare the profits of the sex industry as just the same as the banking industry, for example.

206 The Hon. I. PNEVMATIKOS: I appreciate we have inequality and discrimination in our society, but on the issue of profit and the profit motive that is the basis of operation of all businesses and industries in our country. That's the reality, and if you are not viable or profitable, then you go under, you close. It's the same principle if you are operating any sort of business. I am not talking about illegal proceeds, I am talking about a system where you have decriminalisation.

Would not sex workers be in the same position as any other worker who is selling their labour for a wage or a salary? I don't see the difference. There is a sense of morality that you might be placing on it but, leaving the morality aside, it's a business operation. There are requirements in terms of how you operate a business and there are requirements in terms of pay and other matters that flow from that in terms of operating a business. What's the difference?

Dr NORMA: No, you don't need morality in this conversation. In cold, hard clinical terms, governments of any jurisdiction decide which industries can operate within their jurisdictions and which cannot. You have seen, for example in Australia, state and federal governments clamp down significantly on the size of the tobacco industry operating in the country. So Australia did decide a number of decades ago that actually profits wouldn't be extracted from a harmful product like cigarettes because those health budgets then ricocheted onto governments. Actually, it was the health budget problem that the governments were most worried about.

In the sex industry too, don't forget, when you say, 'Well, they are just making profits just like any other industry,' the thing that they are selling—in other words, sexual access to women who thereby sustain massive trauma—then ricochets onto health budgets because these women are traumatised and physically injured, in many cases, with head injuries. Head injuries are a noted outcome of women's lives in prostitution, unbelievably. This is then contradicted with explicit state policies against sexual violence against women for the protection of young women and girls in state care.

You can decide as a government which industries are contradicting and actually causing costs at the government level in terms of public welfare and public health and safety. You can decide that their operations will be, over time, wound down in the same way that we have wound down the tobacco industry's operations.

207 The Hon. I. PNEVMATIKOS: The difference is, with respect, I wasn't talking about a product: I was talking about the service that is provided. Therefore, it fits within any other business and there are regulations, policies and legislation in place that protect working people. If you have a decriminalised model and it's not illegal to operate a sex work business, then you have the same principles that apply to all other workers in terms of how business functions.

Dr NORMA: No, because we have provisions against sexual harassment in all other regular businesses. Women have fought hard for those and governments—

208 The Hon. I. PNEVMATIKOS: You would have them in the sex work industry as well. That would apply to the sex work industry as well.

Dr NORMA: How can you pay for anal penetration and then not say that that's a form of sexual harassment of a working woman? These ideas make no sense in relation to the sex industry. I am interested in talking about this issue of service. The service actually on sale as a commodity is the bypassing of consent. We have consent laws in terms of rape in Australia. The sex industry is allowed to get around them through offering women up for a payment that allows men to have sex with women that they wouldn't otherwise be able to.

It's not a normal business. The idea that you can access someone's body to penetrate is of course not the same as what hairdressers do. That kind of parallel is just not there. We know from everyday opinion polls amongst populations around the world that they don't want their daughters being prostituted and, more importantly, they don't actually want their sons going along to brothels either. I think that's a really important point that we forget. Actually, mothers and parents don't want to live in a society where their sons can access women for prostitution through brothels or turn on the internet and have pornography. These are everyday families' concerns as well I think.

209 The Hon. I. PNEVMATIKOS: Just a final question: you raise issues about profits going to pimps and not going to the sex worker. Do you actually appreciate that the cost of labour in

any business is but a small portion of the revenue and profit of the company? That's a reality across all businesses and industries. Why would that business model that operates for every other business and industry be any different for a sex work business?

Dr NORMA: That was the claim. The IBISWorld 2021 report is an independent third-party business indicators company in America. They evaluated our industry. It was their observation that actually Australia's sex industry generates profit margins higher—I think their words were 'far higher'—than other economic sectors. They raised a few reasons for that and the main reason they raised was I think they used the words 'profit sharing' but they were talking about wages going to women being particularly low. Of course all economic sectors have higher or lower rates of profit margin, but the sex industry in Australia has particularly high ones according to IBISWorld.

210 The Hon. C.M. SCRIVEN: Just following up on that, it seems to me that the key point of difference between the Hon. Ms Pnevmatikos and yourself is whether prostitution is simply labour. Can you make a comment on what your view is of that?

Dr NORMA: We risk the lives and the health and the wellbeing of the most vulnerable women and girls in our society the day that we say that prostitution is work. The empirical evidence is overwhelming that the women used in prostitution are those coming from state and residential care, are those from overseas with low levels of English capacity and are those who have suffered sexual abuse in childhood. These are just demonstrated again and again as the characteristics of the populations that we allow to be funnelled into the sex industry and to have our brothers and fathers and uncles buy for sex acts.

The idea that it's work is just a window-dressing for failure to protect the most vulnerable women and girls in our society, and I don't think we can allow that kind of window-dressing to stop governments, including the South Australian government, from taking proper and good action, as they have been in relation to other groups of women in society, to protect them from these profiteers who will sell them off to men for sex acts night after night. It's important that we protect them.

211 The Hon. C.M. SCRIVEN: Why do you think that people who call themselves sex workers advocate for decriminalisation? We hear comments such as 'I love my job' or 'I'm exercising my personal agency'.

Dr NORMA: This population are very small. They are a tiny, tiny fraction of the overall population that we have in Australia in prostitution. You don't hear from 99.9 per cent of women in massage parlours in outer suburbs of Sydney. Sometimes you don't hear from them because they can't speak English.

The advantage that you gain in the Australian jurisdiction particularly to come forward and say prostitution is work and it's all fine—the benefits that you can gain from that are pretty high because most Australian states and jurisdictions favour the industry itself. If you speak in the industry's interest, then of course you can do well for yourself and potentially get out of the industry itself and get into an NGO or somewhere else. I don't blame them, but the thing is they are parroting industry rhetoric.

Sometimes NGOs can retain funding or potential funding if they continue to promote the industry's interest to governments in Australia. This doesn't happen in other jurisdictions, actually. Jurisdictions that reject this idea of prostitution as work don't have this kind of groups constantly going between state parliaments attempting to push the legislation that helps the industry. It's a phenomenon of Australia particularly, I think.

212 The Hon. C.M. SCRIVEN: One of the other arguments is that the situation we have in South Australia at the moment limits the access to medical care by women and others in prostitution. What evidence have you seen around different jurisdictions in regard to accessing medical care under a Nordic-style model, a criminalised model or a regulated model?

Dr NORMA: In the Nordic model at least, medical care is probably top of the list in terms of outreach services that are offered to women in industry or attempting to leave the industry. The sex industry is not a place where you can expect women to come forward to services—in any jurisdiction, no matter what the policy infrastructure is—because those women are extremely vulnerable for all the factors that I have just discussed.

The idea of the Nordic model is intensive outreach to women in industry and to offer them real services that they can access rather than just the promise of services that are not well funded. In jurisdictions that have the Nordic model there's a big pressure on government to provide budgetary allocation for the services for women, because prostitution is viewed as commercial sexual exploitation and a harm to women, and so they are under pressure to implement policies that actually remove women from the harm or at least attempt to ameliorate it.

Medical attention is really crucial and I think active outreach health services to women in prostitution are the key and that they need to be linked to options for exit from the industry. The idea that under deregulation you wouldn't have necessarily any exit services for women, because prostitution is just a job and the sex industry is just a normal business, that's the biggest problem of deregulation because you eliminate the idea that exit services are necessary. I think that's a major issue for health care.

213 The Hon. C.M. SCRIVEN: In those jurisdictions that have utilised a Nordic-style model, is it true to say then that women are more likely to come forward for health services because they are not committing a crime in any shape or form and that therefore they have no fear?

Dr NORMA: That's correct, yes, and it's active outreach to them so that they can access those services. That's exactly correct.

214 The CHAIRPERSON: Thank you. The transcript will be forwarded to you for any clerical corrections. Thank you for your time today.

Dr NORMA: Thank you very much.

THE WITNESS WITHDREW