Written evidence submitted by the New Zealand Prostitutes’ Collective

Introduction

1. The New Zealand Prostitutes’ Collective is a peer-based organisation that provides information and services to sex workers and others working in the sex industry in New Zealand, and to provide advice to government and non-government organisations on issues affecting sex workers. NZPC began in 1987, and has been funded by the Ministry of Health since 1988.

2. We have also been asked to provide evidence on the decriminalisation of sex work to government delegations, and parliamentary visitors from a number of countries, and NZPC members have been invited to speak to conferences on sex work policy in the UK, Canada, South Africa, and other countries.

3. We therefore make the following submission.

   • Whether criminal sanction in relation to prostitution should continue to fall more heavily on those who sell sex, rather than those who buy it.

4. NZPC does not support any person: sex workers, brothel operators, clients or other third parties being criminalised. NZPC supports decriminalisation of all people associated with the sex industry, and research based evidence supports NZPC in this. In general, NZPC does not see the necessity to create specific legislation to target sex workers, brothel operators, clients or other third parties except when used to protect the rights, health, and welfare of sex workers.

5. NZPC understands from evidence based research that criminalising has a negative effect on sex workers, including a higher level of social stigma. In its evaluation of their law, the Swedish Government admitted that their law increased stigma against sex workers, and increased a number of other negative effects. NZPC is also aware of Operation House Free in Norway, where sex workers are deliberately made homeless in an effort to “abolish” sex work.

6. In a decriminalised environment, such as that in New Zealand, sex workers can seek help from social service organisation without fear of further stigmatisation, and may continue to work as sex workers while accessing these services. Rather than making sex workers homeless, the law in New Zealand allows sex workers to work from their own home by themselves or with up to three others in accordance with local authority bylaws.

Addressing the terms of reference

• What the implications are for prostitution-related offences of the Crown Prosecution Service's recognition of prostitution as violence against women.
7. In a decriminalised environment, such as that in New Zealand, sex workers who have been victims of violence can approach the police without fear of further action that may jeopardise their livelihood. Sex workers in Sweden, on the other hand, are reluctant to engage with authorities as this could attract scrutiny, which could then, in turn, lead to their clients being arrested, and a subsequent loss of their livelihood.

8. The Police in New Zealand provide the same protections to sex workers that they offer to non-sex workers. The Police here actively investigate complaints by sex workers and brothel operators, and do not discriminate against sex workers because of their occupation. For example, in New Zealand, a sex worker lodged a complaint with the Human Rights Review Tribunal about the way in which the brothel operator spoke to her. Her complaint of sexual harassment was upheld, and the brothel operator was ordered to pay compensation (DML v Montgomery).

- What impact the Modern Slavery Act 2015 has had to date on trafficking for purposes of prostitution, what further action is planned, and how effectively the impact is being measured.

9. Acts such as this work on the idea of conflating sex work with trafficking, and therefore are ineffective in assisting sex workers to address coercion and exploitation in the context of their sex work. Sex workers need a framework that upholds their occupational safety and health and their labour rights. As criminalisation impacts transparency, the effects of this type of Act are difficult to assess as it does not allow for differences between legitimate work and coercive conditions.

- Whether further measures are necessary, including legal reforms, to:
  - Assist those involved in prostitution to exit from it
  - Increase the extent to which exploiters are held to account
  - Discourage demand which drives commercial sexual exploitation

10. The New Zealand approach has ensured that those who want to leave sex work and are having difficulty doing so have access to, and are given, appropriate services that allow them to transition from sex work to other occupations. The vast majority of sex workers leave when they want, without any difficulty. The government appointed Prostitution Law Review Committee (PLRC) found that “While there is a common perception that sex workers are in the industry through desperation or lack of choice, most are not, and some may be offended by being offered assistance to leave” (PLRC, 2008: 70).

11. The PLRC (2008: 75) also found that “The CSOM research found that money was the factor that was cited by most survey and in-depth interview participants as making it difficult to leave the industry. Access to readily available money was something that 68% of survey
participants reported would make staying away from the industry a challenge. They also cited the flexible working hours as something that made the sex industry difficult to leave. They discussed ways of making it easier to leave, which included the availability of good, well-paid jobs, with a higher minimum wage and equal opportunities. Thirty-four percent of participants reported that this would make leaving the sex industry easier”. It would be difficult to put programmes like this into effect if any sector of the sex industry is criminalised.

12. Those who exploit sex workers are those who coerce them, and force them to do work they do not want to do. Criminalising any sector of the sex industry prevents people from coming forward to report these exploitative conditions. Decriminalising all sectors of the sex industry allows sex workers to come forward when such exploitation happens. Furthermore, in a decriminalised environment, clients are often the ones to report such exploitation to the authorities. Criminalising clients would prevent this. In addition, the law in New Zealand allows sex workers the right to bodily autonomy by making coercion illegal, and spells out that sex workers have the right to say no to a client, at any time, for any reason.

13. Sexual exploitation thrives in a criminalised environment. Sweden has had to pass further laws to address the “problem” their sekköpslagen were supposed to address. Furthermore, the Swedish Police reported: “In 2009, the National Bureau of Investigation estimated that there were about 90 Thai massage parlours in Stockholm and vicinity, most of which were judged to be offering sexual services for sale. At the turn of 2011/2012, the number of Thai massage parlours in the Stockholm area was estimated to be about 250 and throughout the country about 450” (Swedish National Police Board, 2012: 13). If the sekköpslagen, and subsequent laws against trafficking, were working as intended, this increase would not have happened. On the contrary, Abel, Fitzgerald, and Brunton (2009), report that the number of sex workers in New Zealand has remained relatively stable since decriminalisation.

Alternatives

14. The New Zealand model of decriminalising sex work (including brothel operators, and other third parties) provides a reasonable alternative that protects the rights, health, and welfare of sex workers, and protects them from exploitation. The law allows them to report violence without fear of action by the police against them or their clients. It allows sex workers employment rights, access to the law to seek redress from operators or those who do not have their best interests at heart, and provides safeguards for their health.

15. We may be available to appear before the Committee in person, or by Skype.

Catherine Healy
National Co-ordinator
New Zealand Prostitutes’ Collective

Calum Bennachie
Programme and Operations Co-ordinator
New Zealand Prostitutes’ Collective
References:


