

The NSW Sex Industry: A World's Best Practice Model

Recently there has been discussion of some of the issues faced by sex workers in NSW. This has been discussed in the context of the proposal by the NSW Government to establish a Brothel Licensing Authority. This document outlines a number of claims that have been publicly aired, and what research tells us about these claims.

Claim: Licensing sex work will fix the many problems that exist in NSW.

Facts: The result of licensing in Queensland and Victoria has been to produce a marginalised second tier of the industry. This unlicensed or illegal sector is harder to reach for health workers and police, resulting in poorer outcomes for sex workers and their clients.¹

The NSW decriminalised model is seen as best practice and as a world leader in its approach to its regulation of commercial sex work. It is upheld as the model for other jurisdictions to work towards². The introduction of a licensing system is likely to create new problems without any guarantee of addressing perceived problems. Decriminalisation of the sex industry is the best way to ensure that positive human rights outcomes are realised. Any changes to this system will put the remarkable public health gains for NSW sex workers and their clients at risk.

There has not been one recorded case of HIV transmission due to commercial sex work in NSW.

Claim: There's lots of 'natural' unsafe sex happening with sex workers in NSW.

Facts: Condoms are utilised in over 99% of anal and vaginal sex undertaken in the NSW sex industry³, with equivalent rates of use by sex workers of non-Asian and Asian background. The rates of STI amongst female sex workers in NSW are comparable to other sexually active women in NSW. Pressure by clients to perform unsafe sex has also fallen.⁴

There has not been one recorded case of HIV transmission due to commercial sex work in NSW. This positive public health outcome is acknowledged internationally as being world leading and has been achieved in the absence of licensing.⁵

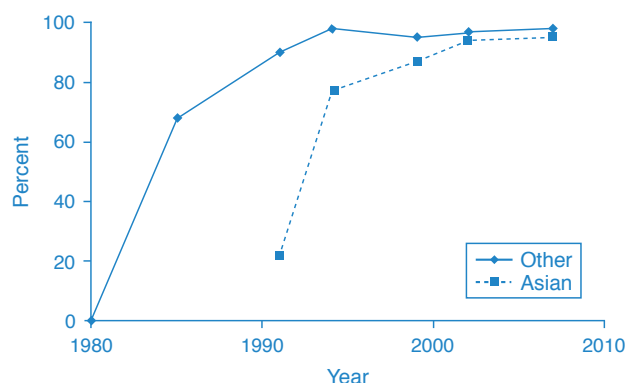


Figure 1. The proportions of Asian and non-Asian brothel-based sex workers in Sydney NSW that reported condom use for vaginal or anal sex with all clients, 1980-2007. Source: Donovan B, Harcourt C, Egger S, Fairley CK (2010). Improving the health of sex workers in NSW: maintaining success. *NSW Public Health Bulletin*; 21: 74-77

These achievements have only been possible through concerted peer outreach programs, especially peer based education undertaken by people with targeted language skills and the consistent and enthusiastic uptake of these education programs by sex workers themselves.^{6,7}

Over the past few years there have been increasing reports of unprotected oral sex in some parts of the NSW industry, though over 90% of such encounters remain protected. While the risk of HIV transmission is negligible, unprotected oral sex can transmit other STI. SWOP is actively working with the industry and health services to address this situation.

There have been suggestions to mandate condom use. With rates of condom use at 99% for anal and vaginal sex it would seem that the only result of this would be an unnecessary use of resources, a burden on police, and raise the potential for corruption.

Claim: Problems have exploded in NSW since the decriminalisation of sex work.

Facts: Decriminalisation has led to a more open industry across the breadth of the sector, with less fear of police and other authorities. The openness of the sex industry in NSW facilitates the policing of crime, including trafficking.

The voluntary establishment of Sex Work Liaison Officers within a number of Local Area Commands of the NSW Police has improved the relationship between the industry and the Police. This not only helps improve the safety of sex workers, but also helps the policing of other crimes. Criminalising an industry has never stopped criminal involvement in that industry, it just drives that activity further underground.

Human trafficking is abhorrent. The UN Special Rapporteur on trafficking in persons, especially women and children, recently concluded a visit to Australia by making a series of recommendations. The Rapporteur specifically acknowledged that one problem with the debate on trafficking in Australia is that it incorrectly conflates sex work with trafficking⁸. This report, along with consultation with migrant sex workers, should be the basis of any changes to anti-trafficking activities in NSW (and Australia). As for sex workers generally, the improvement of the experiences of Asian migrant sex workers has been well documented since the reforms in the mid-nineties.^{9,10}

The openness of the sex industry in NSW facilitates the policing of crime.

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swop
SEX WORKERS OUTREACH PROJECT

Claim: There are enormous numbers of illegal brothels and more street workers in NSW since decriminalisation.

Facts: Decriminalisation, criminalisation or licensing frameworks haven't affected the size of the sex industry in Australia¹¹. Despite the changes made to laws governing sex work, Australians access commercial sex services in small numbers when compared internationally.¹²

Sex work is not illegal in NSW and therefore there is no such thing as an "illegal" brothel in NSW. However, there are many brothels that are operating without local government consent because many councils routinely refuse development applications for brothels.

Street work is more visible than brothel or home based work. That being said there are less street based sex workers these days than ever before. The cost of licensing is only likely to close smaller or less profitable brothels with workers seeking employment in other parts of the industry.

The councils with the more restrictive practices and policies in place end up with the most problems.

Claim: Illegal brothels are a huge problem across NSW and local councils currently have no power to refuse brothel applications, even if opposed strongly in the local community.

Facts: The changes to legislation in 2007, via the Brothels Legislation Amendment Act 2007, gave greater powers to local councils to close businesses that operate outside of planning approvals, including powers not available to close other businesses.

The councils with the more restrictive practices and policies in place end up with the most problems. This has included the involvement of the Independent Commission Against Corruption or costly court cases. Councils with more open and transparent policies have resulted in greater cooperation between the sex industry, police and council across any issues that may arise in the local community.

NSW should not replace a world's best practice model with one that has been proven to be ineffective, costly, and has worse public health outcomes.

References

- ¹ Harcourt C, O'Connor J, Egger S, et. al. (2010). 'The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers', Australian and New Zealand Journal of Public Health, vol 34: 482-486.
- ² Donovan B, Harcourt C, Egger S, Fairley CK (2010). *Improving the health of sex workers in NSW: maintaining success*. NSW Public Health Bulletin; 21: 74-77.
- ³ Donovan B, Harcourt C, Egger S, Fairley CK (2010). *Improving the health of sex workers in NSW: maintaining success*. NSW Public Health Bulletin; 21: 74-77.
- ⁴ Pell C, Dabhadatta J, Harcourt C, Tribe K, O'Connor C (2006). *Demographic, migration status and work related changes in Asian sex workers surveyed in Sydney: 1993 and 2003*. Australian and New Zealand Journal of Public Health; 30: 157-162.
- ⁵ Harcourt C, O'Connor J, Egger S, et. al. (2010). 'The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers', Australian and New Zealand Journal of Public Health, vol 34: 482-486.
- ⁶ Donovan B, Harcourt C, Egger S, Fairley CK (2010). *Improving the health of sex workers in NSW: maintaining success*. NSW Public Health Bulletin; 21: 74-77.
- ⁷ Harcourt C, O'Connor J, Egger S, et. al. (2010). 'The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers', Australian and New Zealand Journal of Public Health, vol 34: 482-486.
- ⁸ Ezeilo, J N (United Nations Special Rapporteur on trafficking in persons, especially in women and children) (2011). *End-of-Mission Statement (Australia)*, Office of the United Nations High Commissioner for Human Rights. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11668&LangID=E>.
- ⁹ Donovan B, Harcourt C, Egger S, Fairley CK (2010). *Improving the health of sex workers in NSW: maintaining success*. NSW Public Health Bulletin; 21: 74-77.
- ¹⁰ Pell C, Dabhadatta J, Harcourt C, Tribe K, O'Connor C (2006). *Demographic, migration status and work related changes in Asian sex workers surveyed in Sydney: 1993 and 2003*. Australian and New Zealand Journal of Public Health; 30: 157-162.
- ¹¹ Harcourt C, O'Connor J, Egger S, et. al. (2010). 'The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers', Australian and New Zealand Journal of Public Health, vol 34: 482-486.
- ¹² Donovan B, Harcourt C, Egger S, Fairley CK (2010). *Improving the health of sex workers in NSW: maintaining success*. NSW Public Health Bulletin; 21: 74-77.

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