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PARLIAMENT OF TASMANIA

COMMUNITY DEVELOPMENT COMMITTEE

REPORT

ON

THE NEED FOR LEGISLATIVE REGULATION AND REFORM OF THE SEX INDUSTRY IN TASMANIA

REPORT NO.8

*Report of the Community Development Committee
House of Assembly*

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I – TERMS OF REFERENCE

In accordance with the Order of the House of Assembly establishing the Community Development Committee the Committee received a reference from the Attorney-General to inquire into the need for legislative regulation and reform of the sex industry in Tasmania.

A report on preliminary investigations conducted by the Attorney-General was also forwarded to the Committee. The report outlines the legislative arrangements operating in Victoria and notes the concerns of sex worker representatives.

The report concludes that:

There are numerous interwoven issues involved in any consideration of prostitution regulation. They range across public health, planning laws, criminal law, law enforcement, sex workers' personal safety, industrial issues, and occupational health and safety.¹

Guided by the Attorney-General's findings and by a concern to protect children from exploitation, the Committee identified the elements that coincide with Tasmanian needs and circumstances and adopted them as Terms of Reference for the inquiry.

TERMS OF REFERENCE

The need for legislative regulation and reform of the sex industry in Tasmania was considered by the Committee with regard to the following:

1. The need to safeguard public health;
2. The need to promote the general welfare and occupational health and safety of sex workers;
3. The need to protect the social and physical environment of the community by controlling the location of brothels; and
4. The need to protect young persons under 18 years of age from exploitation by the sex industry;

And other related issues.

¹ Document No. 7 p. 9.

II – EXECUTIVE SUMMARY

Public health concerns, the need to protect children from exploitation and evidence of criminal activity associated with the sex industry in Tasmania have led the Committee to conclude that reform and regulation of the industry is essential. The Committee does not condone or champion the cause of the sex industry but recognises that effective reforms cannot be enacted on an industry that operates ‘underground’ and is not accessible to health and other regulatory authorities.

The Committee sees the reform of the sex industry as a matter of harm minimisation and social justice. The protection of children from exploitation by the sex industry, the protection of public health, and the welfare of sex workers will be strengthened through the legalisation of commercial sex services under strict planning and licensing controls that exclude unscrupulous operators.

Public Health

The Committee believes that the sex industry has the potential to endanger public health and as such measures must be introduced to minimise these risks.

The Committee recommends:

- The compulsory use of prophylactics in the provision of all commercial sex services to protect the sex worker, the client and the community.
- Severe sanctions should apply to an operator of a brothel who knowingly allows a prostitute who is infected with a sexually transmissible disease (STD) to provide commercial sex services.
- Similar sanctions should apply to a person who is aware they are infected with a STD and knowingly provides or receives commercial sex services.
- Heavy penalties should also apply to clients who do not comply with safe sex practices.
- Regular health checks should be mandatory for sex workers as a harm minimisation measure to protect workers and promote public health.
- The Committee believes that the registration of all sex workers will enable authorities to monitor the industry more effectively to ensure compliance with health regulations.

Welfare and Occupational Health and Safety Issues

The Committee finds the current level of violence and intimidation evident in the sex industry in Tasmania to be an unacceptable threat to the welfare of sex workers and the community. The Committee recommends strong sanctions against operators who use threats, violence and drugs to coerce a person to provide sexual services.

The Committee believes that all workers have a right to safe working conditions without risk of injury or disease. Measures such as the introduction of the compulsory use of prophylactics for the safety of sex workers and clients can only be enforced in a regulated environment. The Committee believes that the legalisation of commercial

sex services will empower sex workers to reject unsafe practices and expose unscrupulous operators to legal sanctions.

Many of the negative aspects of the sex industry will be eliminated through the imposition of mainstream regulatory controls once the industry is legalised. The sex industry will have to adhere to normal business requirements such as occupational health and safety standards, and industrial relations laws.

The Committee believes that this process would be further enhanced with the introduction of an industry code of practice as is provided in the Australian Capital Territory (ACT) model. A code of practice would clearly define the rights and obligations of all parties and promote the safety of both sex workers and their clients.

To promote compliance with regulations the Committee recommends the establishment of an advisory group to liaise with the sex industry and advise the Attorney-General of issues and problems that may arise. Such a body would provide a grievance forum for sex workers and may play a role in educating and counselling sex workers or referring them to specialist services. This is especially important for new recruits and for those wishing to leave the industry.

To ensure the safety and welfare of sex workers inspectors from regulatory authorities and sex worker organisation representatives should be allowed access to sex workers at their workplace.

Drugs and alcohol should be prohibited on premises used for the provision of commercial sex services.

Control and Location of Brothels

Brothels may be defined as premises that are used systematically or on a regular basis for prostitution.

The Committee believes that the impact of such premises on the social and physical amenity of the community is an important issue that needs to be addressed as part of the reform and regulation of the sex industry in Tasmania.

The Committee is opposed to the operation of brothels in residential areas and sees the need to protect socially sensitive locations such as places of worship and places frequented by children. The Committee also believes that the prohibition on street workers and soliciting in public should be maintained.

The Committee has concluded that a State Planning Policy should be developed to ensure a uniform approach in determining the location of brothels throughout the State. The implementation of this policy should be placed with local government as part of the administration of municipal planning schemes.

The Committee believes that the location criteria for brothels should be based on the size of the operation and its proximity to socially sensitive sites.

The Committee recommends that:

- Brothels should be prohibited in residential zones and within a 100m radius (measured from the outer boundary) of places of worship, schools, childcare centres, playgrounds, and other places frequented by children or any other area which has been deemed to be socially sensitive (such definitions should be determined by the licensing authority).
- Small to medium scale brothels employing 2 to 10 sex workers should not be permitted in residential areas but should be a permitted land use in light industrial areas or with local government discretion in commercial zones.
- Brothels employing 11 or more sex workers should only be permitted in industrial zones.
- Normal planning approval processes should apply to these categories of commercial sex services and applications should be assessed on the same criteria as any other businesses.
- Local governments should be allowed to determine the number of brothels permissible in any particular street within a prescribed zone in order to avoid the creation of a 'red light' district.

Sex industry regulation and reform will not be complete or effective if self-employed sex workers are not included within the framework of a legitimate industry. Evidence presented to the Committee confirms that individual sex workers are currently operating from domestic premises throughout the community unencumbered by any regulations or planning provisions.

The Committee recognises that public health measures will be severely diminished without the cooperation and participation of this sector with regular health screenings and other protective measures. The Committee would also like to see planning regulations extended to this sector to ensure the protection of socially sensitive sites and the amenity of the community.

The Committee recommends that single sex workers using domestic premises on a systematic or regular basis for prostitution should be allowed to operate within the following guidelines:

- Only one registered sex worker who is a permanent resident may operate from the premises.
- The premises must not be located in a residential zone but may operate as a discretionary use in a mixed-use zone.
- The operation must comply with local government 'home occupation'/'home activity' requirements.

Compliance with council regulations can be monitored in conjunction with health inspections or in response to complaints.

The Committee understands that most self-employed sex workers operate in a discreet manner to safeguard their anonymity and that of their clients so they have a vested interest in minimising the impact of their activities on their neighbours. However if complaints did arise existing council powers would suffice to remedy such problems in the normal manner. In response to a complaint the council may choose to place additional conditions on the business, such as changing the hours of operation to abate noise or traffic problems. These issues should be dealt with in an objective manner ensuring that the complaints are legitimate and not simply malicious objections. If a particular business poses a significant and continuing problem the council could require the business to cease operating or may refer the matter to the licensing authority.

Licensing

Planning provisions will effectively regulate ‘where’ and ‘how’ commercial sex services operate, however they cannot influence who may own or manage such operations. The need to eliminate criminal influences from the Tasmanian sex industry has led the Committee to conclude that a licensing system similar to that which operates in Victoria is required to address this issue.

The Committee recommends that a licensing board be established within the Department of Justice to regulate the ownership and management of brothels and escort agencies. Only a licensed individual should be allowed to make application for a planning permit to conduct commercial sex services. Licences should only be issued to natural persons. Owners and managers should be required to hold a licence. A licence holder should be on the premises whilst business is conducted. Licences should not be transferable and the licence applicant should be required to prove that he or she is a fit and proper person to hold such a licence. A conviction for any indictable offence in any jurisdiction should automatically disqualify an applicant from obtaining a brothel licence. The Board should also require probity tests of family members and associates of the applicant. A licence holder should not hold interests in more than one commercial sex enterprise at a time. Annual renewal of licences should be considered.

The Committee recommends that the departments of health, local government, police, and representatives of the sex industry be represented on the licensing board.

Function of the Board:

- To approve the licensing of all owners and operators of commercial sex service involving more than one sex worker – requiring probity checks of all such applicants, their families and associates.
- To maintain a register of all sex workers including self-employed individuals and brothel workers.
- To regulate advertising – requiring a licence or registration number to appear with all advertising and prohibiting pictorial advertising and recruitment advertising.
- To make determinations on ‘socially sensitive’ locations from which a brothel must be set back a minimum of 100m.
- To monitor brothels for compliance with regulations, with the power to investigate complaints and impose conditions or revoke licences when necessary.

The Committee recommends the automatic forfeiture of a brothel licence for any operator who provides commercial sex services by an under-age worker, or uses drugs to entice or maintain sex workers in the industry and for promoting unsafe sex practices. Strong sanctions should be imposed on unlicensed operations.

Exploitation of Children

The Committee deplores the exploitation of children by the sex industry and recommends that severe penalties should apply all perpetrators.

The Committee recommends severe penalties for any person who causes or permits a child to provide commercial sex services and for receiving payment directly or indirectly from such services.

The Committee recommends a minimum age of 18 years for any person providing commercial sex services, with the onus being on the operator to take all reasonable steps to find out the age of the person concerned.

The Committee can see no reasonable excuse for a child of any age to be on the premises of a brothel. The Committee recommends the automatic forfeiture of the brothel licence and the imposition of strong penalties in such cases.

Evidence presented to the Committee suggests that under-age participants in the sex industry are predominantly homeless young people trading sex for food, shelter or drugs; it is an opportunistic act for survival rather than an organised enterprise. The Committee believes that harm minimisation measures must be put in place to protect these young people and the community from these high risk activities. A whole of government approach is needed to address the social factors that lead to poverty and homelessness. Services for families and children at risk must be strengthened and applied early enough to maximise opportunities and produce better outcomes for this group. The misery of poverty and homelessness should not be compounded by allowing these young people to be sexually exploited.

III – SUMMARY OF FINDINGS

- 1 The Committee found that the manner in which the sex industry currently operates in Tasmania is incompatible with the need to safeguard public health, prevent the exploitation of minors, and protect sex workers from violence and intimidation.
- 2 The Committee found that there is a need for legislative regulation of the sex industry to provide controls and standards in the operation and location of brothels.
- 3 The Committee found no legal impediments that would prevent the legalisation of certain aspects of the sex industry to facilitate harm minimisation to sex workers and the community.
- 4 The Committee found that the level of criminal activity in the sex industry in Tasmania redefined the objectives for reform and would necessitate more stringent regulation.
- 5 The Committee found that potential public health risks exist in the operation of commercial sex services and that legislation for the control of the sex industry is required to minimise these risks.
- 6 The Committee found that whilst incidence of sexually transmissible diseases amongst sex workers is very low, provisions should be enacted to prohibit sex workers with STD infections from continuing to work whilst infected.
- 7 The Committee found that an industry code of practice will enhance the occupational health and safety of those involved in the industry.
- 8 The Committee found that sex workers are exposed to significant risks of violence and disease and require ready access to specialist services that deal with sexual health, sexual assault, counselling and referral services.
- 9 The Committee found that local governments were generally in favour of sex industry reform and regulation. Their support however was contingent on the application of normal planning approval processes through the Resources Management and Planning System and the *Land Use (Planning and Approvals) Act 1993*.
- 10 The Committee found that whilst normal planning approvals procedures were appropriate for larger commercial sex enterprises, self-employed operators would not participate in a process that jeopardised their anonymity. A more discreet approach is needed to ensure that this sector of the industry complies with the proposed regulations.
- 11 The Committee found that the extent of criminal involvement in the sex industry in Tasmania warranted stringent controls on the ownership and management of brothels. The Committee found that a registration system as is in place in the ACT would not adequately address this need and that a

licensing model in line with the Victorian legislation would be more effective in minimising criminal involvement in the sex industry.

- 12 The Committee found that while direct evidence of under-age involvement in the sex industry is difficult to access, ample anecdotal evidence points to a significant and growing problem.
- 13 The Committee found that under-age sex workers operating in Tasmania were primarily involved in opportunistic and survival prostitution.
- 14 The Committee found that lack of social support and dysfunctional families tend to be the main risk factors leading young people into prostitution.

IV – SUMMARY OF RECOMMENDATIONS

- 1 The Committee recommends legislation to allow for the legal operation of brothels with strict guidelines that promote harm minimisation to sex workers and the community, and provide for scrutiny and control over the participants in the industry and the suppression of criminal elements.
- 2 The Committee recommends that any legislation for the regulation and control of the sex industry should encompass a broad definition of commercial sexual services that captures all aspects of the industry including escort agencies and massage parlours.

The Committee recommends the adoption of the ACT *Prostitution Act 1992* definition of – “Sexual Services” means:

- (a) An act of sexual intercourse as defined in the *Criminal Code Act 1924*;
- (b) the masturbation of one person by another; or
- (c) any activity which involves the use of one person by another for his or her sexual gratification.

The definition adopted in the Victorian *Prostitution Control (Amendment) Act 1999* should be considered if a more precise definition is deemed necessary.

- 3 The Committee recommends that all sex workers should be registered. Registration will provide greater transparency and allow for more effective regulation of the sex industry. Registration will give sexual health services greater access to isolated independent workers who are not supported by a peer group and may be less aware of safe sex practices and public health issues. Registration may also help to monitor the age of individuals entering the sex industry.
- 4 The Committee recommends that such a register should be private to protect the identity and personal details of sex workers, and that only authorised officials with sufficient cause should be allowed access.
- 5 The Committee recommends that sex industry legislation should make it an offence for brothel operators to provide commercial sex services with a person who is infected with a sexually transmissible disease. The Committee recommends the adoption of provisions as contained in the *Prostitution Act 1992* (ACT), sections 15 and 16:

Infected Persons: The operator of a brothel or escort agency shall take reasonable steps to ensure that a prostitute does not provide commercial sexual services at the brothel or from the escort agency if the prostitute is infected with a sexually transmitted disease.

Knowingly Infecting: A person shall not, at a brothel or elsewhere, provide or receive commercial sexual services if the person knows, or could reasonably be expected to know, that he or she is infected with a sexually transmitted disease.

- 6 The Committee recommends the compulsory use of prophylactics in providing or receiving any commercial sexual service and recommends strong penalties against any person who discourages the use of prophylactics or attempts to remove, damage or misuse such prophylactics.
- 7 The Committee recommends mandatory regular health checks for sex workers to protect sex workers and ensure public health safety.
- 8 The Committee recommends the adoption of the ACT sex industry code of practice to regulate environmental hygiene aspects of commercial sex services. Strong penalties should apply to operators, clients and sex workers who fail to observe the requirements of industry codes of practice.
- 9 The Committee recognises the right of workers in the sex industry to conduct their trade without prejudice and stigma. The Committee recommends that legislation for the reform of the sex industry in Tasmania makes provision for a safe and fair working environment which upholds the industrial rights of sex workers.
- 10 The Committee recommends the creation of an industry advisory group as exists in the ACT and Victoria to monitor the industry and advise the Minister of issues or problems that may arise and to facilitate access to appropriate services and programs for sex workers.
- 11 The Committee strongly encourages government support for outreach programs designed to address the needs of marginalised women who may be forced into prostitution through drug addiction, poverty and abuse. The Committee recommends the provision of counselling services, life skills training, education and vocational training programs and child support to help both vulnerable women avoid the industry and to assist current sex workers who wish to exit the industry.
- 12 The Committee recommends strong sanctions against the use of coercion to induce a person to provide commercial sex services. The Committee recommends the adoption of section 8 of the ACT legislation that provides:

Duress (1) A person shall not, for the purpose of inducing a person to provide or to continue to provide commercial sexual services –

- (a) intimidate, assault or threaten to assault any person
- (b) supply or offer to supply a drug of dependence to any person
- (c) make a false representation or otherwise act fraudulently.

(2) A person shall not-

- (a) intimidate, assault or threaten to assault a person; or
 - (b) supply or offer to supply a drug of dependence to any person; or for the purpose of inducing any person to provide him or her with payment derived, directly or indirectly from the provision of commercial sexual services.
- 13 The Committee recommends the prohibition of drugs and alcohol on premises used to provide commercial sex services.
- 14 The Committee recommends that a State Planning Policy be developed to provide uniform location criteria for commercial sex services Statewide. Where brothels are determined to be a permitted land use local government planning approval processes should apply.
- 15 The Committee recommends the following location criteria for commercial sex services:
 - Brothels are not to be permitted in residential zones.
 - Brothels are not to be permitted within a 100-metre radius of places of worship, schools, childcare centres, playgrounds, and other places frequented by children or deemed to be socially sensitive.
 - Small to medium scale brothels employing 2 to 10 sex workers should be a permitted land use in light industrial zones or with local government discretion in commercial zones.
 - Larger brothels employing 11 or more sex worker should be a permitted land use only in industrial zones.
 - Normal planning approval processes should apply to these categories of commercial sex services. Planning approval applications should be assessed on objective planning criteria and applications should not be refused on moral grounds.
 - Local government should determine the number of brothels permissible in any particular street within a designated zone in order to avoid the establishment of a ‘red light’ district.
- 16 The Committee recommends that single sex workers using domestic premises on a systematic or regular basis for prostitution should be allowed to operate within the following guidelines:
 - Only one registered sex worker who is a permanent resident may operate from the premises.
 - The premises must not be located in a residential zone but may operate as a discretionary use in a mixed-use zone.
 - The operation must comply with local government ‘home occupation’/ ‘home activity’ requirements.
- 17 The Committee recommends the creation of a brothel licensing board within the Department of Justice to regulate the ownership and management of brothels. Members would be appointed by the Attorney-General and should

include representatives from health, local government, police and the sex industry.

Function of the Board should include the following:

- To approve the licensing of all owners and operators of commercial sex service involving more than one sex worker – requiring probity checks of all such applicants, their families and associates.
- To maintain a register of all sex workers including self-employed individuals and brothel workers.
- To regulate advertising.
- To make determinations on ‘socially sensitive’ locations from which a brothel must be set back a minimum of 100m.
- To monitor brothels for compliance with regulations, with the power to investigate complaints and impose conditions or revoke licences when necessary.

- 18 The Committee recommends that commercial sex service operations where more than one sex worker is involved must be licensed. Owners and managers must be licensed.
- 19 The Committee recommends that the prohibition on street prostitution and soliciting in public should be maintained, with penalties applying to both sex worker and client.
- 20 To ensure greater accountability the Committee recommends that a brothel licence holder must be on the premises while business is being conducted.
- 21 To allow for effective monitoring of the sex industry the Committee recommends that all advertising should display a licence number in the case of brothels and a registration number in the case of individual sex workers. Pictorial content and advertising for the recruitment of sex workers should be prohibited.
- 22 The Committee recommends that sex industry legislation should contain provisions that make it an offence for a person to franchise a network of prostitutes as if they were operating independently.
- 23 The Committee recommends that if a person causes or permits a child to provide commercial sex services in any capacity this should constitute an offence and carry severe penalties.
- 24 The Committee recommends that if a person receives payment that, is derived, directly or indirectly from commercial sex services provided by an under-age child this should constitute an offence which attracts severe penalties.
- 25 The Committee recommends a minimum age of 18 years for any person providing commercial sex services, with the onus being on the operators of commercial sex services to take all reasonable steps to find out the age of the person concerned.

- 26 The Committee recommends the automatic forfeiture of the brothel licence and the application of strong penalties if a child of any age below 18 years is found on premises used for conducting commercial sex services.
- 27 The Committee recommends that licensing provisions should be tightened up to prohibit any person under the age of 18 years from working in any capacity at a venue where sexually explicit entertainment is provided.
- 28 The evidence presented to the Committee suggests that the majority of child prostitutes are engaged in opportunistic and survival sex outside the organised sex industry. This implies that sex industry regulation will only address part of the problem. The Committee recommends greater government and community resources to support children and families at risk in order to provide these children with opportunities and choices that may divert them from the sex industry.
- 29 The Committee recommends strengthening of outreach programs by specialist services to promote harm minimisation strategies and provide counselling and referral services to under-age sex workers.

SECTION 1 - INTRODUCTION

Conduct of the Inquiry

- 1.0 The Community Development Committee serves the Parliament by evaluating socially significant legislative proposals prior to formal debate and by providing a forum for public consultation on such matters.
- 1.1 The Committee first received notice of the need for this inquiry on 30 September 1997 from the then Attorney-General asking the Committee to examine and make recommendations on the need for legislative reform in respect to prostitution and the operation of brothels in Tasmania.
- 1.2 Due to ongoing inquiries and the prorogation of Parliament at the end of 1997 the matter could not be considered further until 28 May 1998 when the Committee formally resolved to undertake this inquiry.
- 1.3 Advertisements were placed in the major newspapers statewide calling for public submissions.
- 1.4 Consultations were also undertaken in the Australian Capital Territory and Victoria where prostitution control legislation has been in place for several years.
- 1.5 Public hearings in Tasmania commenced in Devonport on 10 July 1998 where the Committee heard from a variety of witnesses including sex industry representatives.
- 1.6 The work of the Committee was unexpectedly curtailed on 29 July 1998 when Parliament was dissolved pending the election on 29 August 1998.
- 1.7 With the dissolution of Parliament the Community Development Committee ceased to exist and the work of the Committee was suspended until its re-establishment on 26 February 1999.
- 1.8 Changes to the composition of the Parliament subsequent to the election were reflected in the re-established Committee with only one of the original members returning. Consequently the inquiry had to be virtually started anew.
- 1.9 The newly established Committee retained the evidence collected previously and re-advertised in the three major Tasmanian newspapers for public submissions. Public hearings were held in Hobart 29 April 1999 and in Launceston on 6 May 1999.
- 1.10 In total the Committee received 38 written submissions, 32 documents were tabled and taken into evidence and 45 witnesses were called to appear before the Committee.

- 1.11 Submissions from Local Government, women's associations, health workers, legal practitioners and sex worker organisations were supportive of legislative regulation of the sex industry. Some 95% of respondents saw legislation controlling the sex industry as a positive step in meeting the objectives enunciated in the Terms of Reference.
- 1.12 Submissions opposing changes to the existing situation constituted 4.2% of the total and were predominantly based on moral objections to prostitution.
- 1.13 The Committee is confident that the evidence provided by organisations, professional groups and individuals to this inquiry constitutes a firm foundation for the Committee's recommendations.

Background

- 1.14 It is generally acknowledged that brothels and prostitution have been a feature of human society throughout history. Despite legal sanctions and moral stigma these practices have persisted and flourished. Logically it follows that the demand for commercial sex services is likely to continue into the future as it has in the past.
- 1.15 However in the era of HIV and increasing incidence of other sexually transmitted diseases it would be negligent on the part of those responsible for public health to allow the sex industry to continue uncontrolled with the potential to jeopardise the health and welfare of the community.
- 1.16 The existence of an organised sex industry in Tasmania was confirmed in evidence presented to the Committee, including accounts of serious criminal activity fostered by the unregulated environment in which it operates.
- 1.17 The Committee does not condone or champion the cause of prostitution or its commercialisation, but does acknowledge that such practices exist in our society and have the capacity to impinge upon the wider community through the criminal activity and health issues associated with the sex industry.
- 1.18 The Committee believes that appropriate regulation is necessary not only to reduce the risks to public health, but also to ameliorate many of the other objectionable aspects of the sex industry, such as the use of drugs, violence and the exploitation of children.
- 1.19 The Committee also recognises that while the operation of brothels remains illegal the rights and safety of the workers in the industry cannot be addressed and this will perpetuate a climate of corruption and criminality.
- 1.20 This sentiment was supported in evidence presented by several witnesses.

The Catholic Women's League noted that:

Ideally you would hope that brothels did not need to exist, that there would not be the exploitation of women that provided the

situation, but since you cannot avoid what is in society it is a good idea to try to minimise the violence to moderate what goes on.²

1.21 The Tasmanian Women's Consultative Council concurred stating that:

The TWCC is not, and should not be understood to be, advocating prostitution or commercial sex services as a desirable occupation or industry, particularly for women ... The TWCC believes the Government and Parliament has an obligation to regulate this industry by legalising it and establishing regulatory mechanisms.³

1.22 The Committee sees a legislative solution to the difficult problems posed by the sex industry as one of harm minimisation and social justice. If regulation determines who participates and where they can operate, then there is a greater chance of making the sex industry more accountable.

Current Situation in Tasmania

1.23 The act of prostitution is not illegal in Tasmania. A person who provides sexual favours for monetary gain is not committing an offence per se. However a range of activities associated with prostitution are prohibited under the *Criminal Code Act 1924* and the *Police Offences Act 1935*. The debate on the legalisation of the sex industry in Tasmania is further confused by the fact that whilst prostitution is not illegal living off the earnings of prostitution is illegal.

1.24 Section 8 (1A)(b) and (c) of the *Police Offences Act* makes it an offence to live off the earnings of a prostitute and provides that:

A person shall not – knowingly live wholly or in part on the earnings of prostitution; or being a male person, in any public place, solicit or importune for immoral purposes.

1.25 Soliciting for the purpose of prostitution is an offence under section 8(1)(c) of the *Police Offences Act 1935* and provides that:

A person shall not – being a common prostitute, in any public place, or within the view or hearing of any person being therein, solicit, importune, or accost any person for immoral purposes, or loiter about any such purpose.

1.26 Further penalties apply under sections 10 and 11 of this Act in relation to the operation of a brothel.

Section 10(1) (b) provides that:

² Transcript, Hobart, 29-4-99, p.10.

³ Submission No. 29, p2.

A person occupying or keeping any house, shop, room, place of public resort, or other premises shall not – harbour prostitutes; or lodge, entertain, or harbour, to the annoyance of the inhabitants, any prostitute, idle rogue or vagabond.

- 1.27 Section 11(1) makes it an offence for a person to let or keep a disorderly house.

A person shall not – Let any house to a tenant, knowing that the same is intended to be kept and used by such tenant as a disorderly house or a house of ill-fame and repute.

- 1.28 Further offences for the keeping of a brothel apply under the provisions of section 143 of the *Criminal Code*.

(1) A person who keeps any disorderly house - that is to say, any common bawdy-house, common gaming-house, or common betting-house - is guilty of a crime.

Charge: - Keeping a disorderly house.

(2) A common bawdy-house is a house, room, set of rooms, or place of any kind whatever kept for purposes of prostitution.

(3) Any one who appears to be or acts or behaves as master or mistress, or as the person having the care, government, or management, of any such disorderly house, shall be deemed to be the keeper thereof, and shall be liable to be prosecuted and punished as such, although, in fact, he or she is not the real owner or keeper thereof.

(4) The owner of any house, or any tenant, lessee, or occupier thereof, or of any part thereof, who knowingly permits such house or any part thereof to be kept as a disorderly house shall be liable to be prosecuted and punished as if he were the keeper of such house.

- 1.29 Section 128 of the *Criminal Code* deals with the offence of procuration.

Any person who -

- (b) procures another person to become a common prostitute, either in this State or elsewhere;
- (c) procures another person to leave this State with intent that such a person may become an inmate of, or frequent, a brothel elsewhere; or
- (d) procures another person to leave that person's usual place of abode in this State, such place not being a brothel, with intent that such a person may for the purposes of prostitution become an inmate of, or frequent, a brothel, either in this State or elsewhere is guilty of a crime.

- 1.30 The Committee received ample evidence from sex workers and others closely associated with the sex industry which suggested that the sex industry in Tasmania operates and prospers despite the legal sanctions noted above.

- 1.31 As prostitution in itself is not illegal a conviction against an operator of a brothel requires evidence of soliciting for prostitution and/or living off the earnings of prostitution. Police evidence to the Committee indicates that this has been a difficult offence to prove as these legal impediments are avoided by those involved in the sex industry in Tasmania by operating as escort agencies, massage parlours or as independent operations from private homes. Street workers are not an established part of the sex industry in Tasmania.
- 1.32 Evidence was also presented suggesting that opportunistic prostitution is an emerging aspect of the sex industry in Tasmania. This phenomenon is largely a response to poverty and homelessness and usually involves young adolescents trading sexual favours for money, drugs or simply food and temporary accommodation.
- 1.33 In an unregulated environment the full extent of the sex industry is difficult to assess. Estimates provided to the Committee suggest that as many as 15 brothels operate across the State, each employing 10 to 15 workers.
- 1.34 The number of sex workers working individually is more difficult to estimate, as such workers operate discreetly and highly value their anonymity. Many only work intermittently to supplement welfare payments or to support other activities such as tertiary education and do not necessarily identify as sex workers.
- 1.35 Other influences such as the high turnover of participants (many involved for less than 6 months) and the influx of interstate sex workers during periods of high demand may distort the true extent of this sector.
- 1.36 The difficulty in identifying the participants in an unregulated sex industry hinders any attempts to control excesses such as the exploitation of children, drug use and violence, nor can we hope to successfully implement public health measures, education programs and industrial justice.
- 1.37 Dr Jenna Mead of the Tasmanian Women's Consultative Committee informed the Committee that:
- The industry's invisibility means that sex workers are ... often unable to access appropriate health and support services, legal protection, [and] appropriate and safe working conditions.
- The industry requires both decriminalisation and legalisation to ensure that those working in the industry are, like other members of the community, protected from violence and intimidation.⁴
- 1.38 In the course of this inquiry the Committee was appalled to learn of the serious criminal conduct of some illegal brothel operators. The Committee heard of violence and intimidation used against sex workers by operators who promote

⁴ Transcript, Hobart, 29-4-99, p. 29

unsafe sex practices, maintaining control of sex workers through supplying drugs and preventing access to health and other services.

- 1.39 Several witnesses gave evidence illustrating the problem of violence in the sex industry in Tasmania.

A spokesperson for the Scarlet Alliance noted that:

The Tasmanian sex industry is renowned nationally as being one of the most criminally infiltrated with a large degree of coercion and intimidation towards sex workers primarily by their employers.⁵

In Tasmania ... crime and violence and thuggery is very inherent in the industry ... sex workers have had their houses torched [and] they have been beaten up as well. It would make sense to me that if you decriminalise an industry and regulate it of course it is open to more scrutiny. When you live in a system that is very open then you are more likely to speak out.⁶

- 1.40 Tasmania Police gave similar accounts of violence and intimidation.

We have had problems with assaults and damage to property occurring on rival operators and escorts. ... There has been fierce competition at times between rivals for what we call 'market share,' this results in threats to prostitutes to leave a particular agency, [or] threats to leave the industry completely.⁷

... It seems clear that it would be in the interest of public health and sex workers' safety to have some form of regulation and control of the industry in Tasmania.⁸

- 1.41 The Committee also heard evidence suggesting that sex workers are vulnerable to assault from clients. A Sexual Assault Service worker informed the Committee of the serious assaults suffered by some sex workers.

There is still a lot of feeling out there that assaults and rape are part of the job. ... Recently we attended a particularly brutal case where the worker was hospitalised. I think what was most disturbing was ... that in her view and that of her colleagues there was very little point in taking it to court because she had no rights because of her job.⁹

- 1.42 The fear of legal repercussion for participating in an illegal industry deters many victims of such violence from seeking legal redress.

⁵ Submission No. 20, p. 3

⁶ Transcript, Canberra, 30-6-98, p. 6

⁷ Transcript, Hobart, 29-4-99, p. 15

⁸ Transcript, Hobart, 29-4-99, p. 22

⁹ Transcript, Launceston, 6-5-99, p. 4

- 1.43 The Committee recognises that legislative reform may not provide a total solution to the problems posed by the sex industry however it is clear that the current situation is untenable and new strategies must be considered.

Arguments against Reform

- 1.44 The Committee received several submissions arguing that negative moral, ethical or legal consequences would arise if the sex industry were given legal status.

- 1.45 The Uniting Church submitted that:

No matter what the motivation is, the legalisation of prostitution sends the wrong message to the community.¹⁰

- 1.46 The Churchwardens of Holy Trinity supported this position and stated that:

Relaxing the law to allow for registered and regulated brothels may reduce the incidence of some negative aspects of prostitution such as the involvement of organised crime, but it would significantly increase the use of brothels and the associated social problems.¹¹

- 1.47 A submission from a private individual also questioned the moral and ethical basis of a legalised and regulated sex industry:

The best option for regulation of the sex industry in this State is to denounce brothels, escort agencies and other establishments promoting the sale of sex as immoral and wrong.

... I fail to see how regular medical examinations, insistence that prostitutes and clients use condoms and for brothels to be registered can be seen as protecting people when all it does is accept something that is wrong. It is the same premise as providing heroin addicts with clean needles in a shooting gallery – what we are really saying is we really care for you so we will assist you to continue to risk your life as safely as we can.¹²

- 1.48 A submission from the Australian Christian Coalition posed a legal argument against sex industry reform. It was suggested that as a signatory to United Nations conventions for the elimination of prostitution and discrimination against women Australia would contravene international law by initiating sex industry reform legislation. Several such conventions were cited.

¹⁰ Submission No. 14, Uniting Church in Australia, p. 1.

¹¹ Submission No. 22, Holy Trinity Anglican Parish, p. 2.

¹² Submission No. 8 Private Submission, p. 1

- 1.49 Article 6 of the Convention on the Elimination of all Forms of Discrimination Against Women was cited to illustrate the responsibility incumbent upon member States to act.

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.¹³

- 1.50 Advice from the Solicitor-General confirmed that Australia is a signatory of this Convention, but argues that legislative regulation of the sex industry would not compromise Australia's obligations in this area.

Signatories are not required to suppress all forms of prostitution, but to suppress the *exploitation* of prostitution of women. It could reasonably be argued that regulating the sex industry by legislation was a legitimate mechanism by which to satisfy Article 6.

... I do not consider that Australia's international treaty obligations will be compromised by the introduction of legislation regulating the sex industry.¹⁴

- 1.51 Further arguments against reform posited by the Australian Christian Coalition suggest that the sex industry is already regulated under existing laws and that introducing more liberal legislation would diminish rather than enhance compliance.

It is against the law to live off the earnings of a prostitute. It is against the law to offer or procure an under-age person for sex, it is against the law to blackmail, threaten or abuse someone.

Pimps and prostitutes, who currently blatantly ignore regulations, claim that regulations will stop others exploiting men, women and youth through coercion. ... The ACC is not at all persuaded that these characters, who hitherto have made their money by beating, threatening, blackmailing and drugging young men and girls, will apparently simply turn over a new leaf with the new legislation.¹⁵

- 1.52 While noting the concerns expressed in these arguments the Committee finds that the current practices of the sex industry are unacceptable and will require legislative regulation to effect reform.

¹³ Submission No. 15A, p.1.

¹⁴ Submission No. 31

¹⁵ Submission No 15B, p. 1.

FINDINGS

- 1.53 The Committee found that the manner in which the sex industry currently operates in Tasmania is incompatible with the need to safeguard public health, prevent the exploitation of minors, and protect sex workers from violence and intimidation.
- 1.54 The Committee found that there is a need for legislative regulation of the sex industry to provide controls and standards in the operation and location of brothels.
- 1.55 The Committee found no legal impediments that would prevent the legalisation of aspects of the sex industry to facilitate harm minimisation to sex workers and the community.

RECOMMENDATIONS

- 1.56 The Committee recommends legislation to allow for the legal operation of brothels with strict guidelines that promote harm minimisation to sex workers and the community, scrutiny and control over the participants in the industry and the suppression of criminal elements.
- 1.57 The Committee recommends that any legislation for the regulation and control of the sex industry should encompass a broad definition of commercial sexual services that captures all aspects of the industry, including escort agencies, massage parlours and lap dancing.
- 1.58 The Committee recommends the adoption of the *ACT Prostitution Act 1992* definition – “Sexual Services” means:
- (a) An act of sexual intercourse as defined in the *Criminal Code Act 1924* (TAS);
 - (b) the masturbation of one person by an other; or
 - (c) any activity which involves the use of one person by another for his or her sexual gratification.

The definition adopted in the *Victorian Prostitution Control (Amendment) Act 1999* should be considered if a more precise definition is deemed necessary.

SECTION 2. – PROSTITUTION LAW REFORM

- 2.0 In the past decade all States and Territories in Australia have introduced or considered legislative reforms in relation to the conduct of commercial sex services. Previous to this all States and Territories engaged a criminal law approach to combat the problems posed by the sex industry.
- 2.1 However the need for a national strategy for the management of HIV and AIDS brought into focus the shortcomings of existing legislation and created the impetus for a review of alternate strategies for the regulation and control of the sex industry.
- 2.2 Several models have been adopted incorporating varying degrees of scrutiny and control. These include licensing, registration and planning models or combinations of these elements.
- 2.3 The principle shared by these models of reform is the recognition of the need to give legal status to the sex industry in order to control it and offer protection to those involved.

Prostitution Laws in Other Jurisdictions

- 2.4 Victoria, the Australian Capital Territory, New South Wales, Queensland and the Northern Territory have made significant changes to their sex industry legislation. The regulatory measures enacted in these jurisdictions range from the highly regulated licensing and planning model in Victoria to the less stringent registration and planning model of the ACT.
- 2.5 Western Australia and South Australia are currently conducting inquiries into their prostitution laws with a view to develop legislation to regulate the sex industry in those States.

Australian Capital Territory - *Prostitution Act 1992*

- 2.6 The ACT has enacted a registration and planning system which requires owners and managers of escort agencies and brothels to register their business within 7 days of commencing trade. Planning restrictions permit brothels to only operate in the industrial suburbs of Fyshwick and Mitchell. Single operators working as escorts or from home must be registered but do not have any zoning restrictions.
- 2.7 Street soliciting is an offence for both sex worker and client. General offences relating to intimidation, coercion and the supply of drugs are included in the act, as well as offences relating to STDs and safe sex practices, including compulsory use of prophylactics.
- 2.8 It is generally accepted that the ACT legislation is operating well, possibly due to the planning controls which locate brothels in existing light industrial areas. It is easy for brothels to operate legally in the ACT because there are few

barriers to entry into the legal system. The aim of the process is to allow anyone to operate within the legal system because the businesses are then more easily monitored, however there is anecdotal evidence that some workers are illegally operating small two-person brothels in residential areas. The registration compliance level of brothels is believed to be high, but the level for single workers is believed to be relatively low because of privacy concerns.

Victoria - Prostitution Control Act 1994

- 2.9 Victoria has instituted a planning and licensing system that allows for the legal operation of brothels that conform to specific requirements. The Prostitution Control Board issues licences to operators of brothels once police have conducted probity checks on the applicant and their associates. Small brothels of one or two people do not require licences but must register with the authority and gain planning approval.
- 2.10 Brothels are a prohibited land use in:
- Residential zones
 - Non-urban zones
 - Local or neighbourhood business zones
 - Mixed zones involving residential or community uses, and
 - Specialised zones designed for community or tourist development.
- 2.11 Setback requirements prohibit brothel operations within 100 metres of a dwelling or 200 metres of a place of worship, hospital, school or any other place regularly frequented by children. Setback from dwellings in central Melbourne is reduced to 50 metres.
- 2.12 Offences include street soliciting and prostitution activities involving children or coercion. Regular health checks are required under the legislation.
- 2.13 It is generally accepted that licensed brothels in Victoria are operating in accordance with legislative requirements. Many small operators however remain outside the legal framework due to a costly licensing process involving a lengthy planning approval and appeals process.
- 2.14 Stringent licensing requirements and planning approval process tends to limit the availability of suitable sites for brothels and restrict access to new operators. This has contributed to the increase in illegal prostitution such as street workers and allied sex services such as ‘peep shows’ and ‘lap dancing’.
- 2.15 A recent inquiry into the operation of the prostitution legislation has resulted in amendments to the legislation. The *Prostitution Control (Amendment) Act 1999* increases powers to prosecute illegal operators by introducing a reverse onus of proof after the facts have been established. The act also widens the definition of sexual services to cover certain venues that provide live sexually explicit entertainment and addresses concerns about advertising these activities. The act prohibits people obtaining an interest in more than one

prostitution business and prevents the use of body corporate arrangements to obtain such an interest.

New South Wales - *Disorderly Houses (Amendment) Act 1995; Summary Offences Act 1988*

- 2.16 Brothels may operate with council planning approval. Escort agencies may operate without planning approval. Single workers operating from home may require council approval. Street soliciting is only an offence if it occurs near or within view of a dwelling, school, church or hospital.
- 2.17 Because of difficulties and costs associated with obtaining planning approvals it is believed that many smaller brothels take a low key approach and operate without council approval. Street prostitution is also a problem with police reporting difficulties in confining activities to designated areas.

Northern Territory – *Prostitution Regulation Act 1992*

- 2.18 In the Northern Territory a limited licensing system has been enacted to regulate prostitution. Licensed escort agencies may operate but brothels remain illegal.
- 2.19 Escort agency employees must be certified by the police as not having been convicted of an offence involving drugs or violence in the last 10 years. Street prostitution is an offence.
- 2.20 Individual escort workers are permitted to operate but may not solicit clients in the hotel where the service is provided. Individual workers may not provide services at their home.
- 2.21 Because solo workers do not need to undergo police checks more workers are operating in this way, leading to a smaller portion of the industry being regulated through licensed operations. A review of the legislation has recommended that brothels be legalised as they offer a safer environment for sex workers and clients.

Queensland – *Prostitution Laws Amendment Act 1992*

- 2.22 This act prohibits most prostitution-related activity in Queensland except prostitution by single operators working alone in or from their premises. In some areas local council laws regulate the conduct of business activities from a person's premises. In Queensland it is an offence to knowingly participate, directly or indirectly, in the provision of prostitution. This includes people who provide finance, provide transport, and take bookings, telephone calls or money. The very broad definition of prostitution in the legislation means that activities such as strip shows and lap dancing may now come within the meaning of 'providing' or 'for the purposes' of prostitution.
- 2.23 The inability of Queensland sex workers to legally employ support staff exposes them to a greater risk of violence. Police report that a number of**

illegal brothels are operating, with some operators managing a number of single sex workers in residences set up to appear as single operators. The lack of legal venues for prostitution work has resulted in an increase in street soliciting.

- 2.24 These problems are being addressed through reform proposals recently announced by the Queensland Government, which provide for the legalisation of small scale brothels in non-residential areas with planning and licensing requirements similar to those in place in Victoria.

Objectives of Reform

- 2.25 Differences in the approach taken by States and Territories in relation to legislative reform, regulation and control of the sex industry are a reflection of the policy objectives they seek to achieve.
- 2.26 The ACT legislation arose from the recommendations of the 1992 Select Committee on HIV, Illegal Drugs and Prostitution.
- 2.27 The Committee recommended specific criminal offences for soliciting; duress and coercion of sex workers; child prostitution; knowingly infecting a person with a sexually transmitted disease, and failure to use a condom.
- 2.28 The registration system enacted by the ACT provides a mechanism through which planning policy can be administered. The function of registration is simply to identify the location of brothels and single operators; there is no requirement to identify individual sex workers employed in brothels.
- 2.29 The Committee queried the effectiveness of a registration system that did not include all sex workers.
- 2.30 Ms Anna Lennon, Executive Director of Policy and Regulation, from the ACT Attorney-General's Department explained that:

It all comes down to the objectives of the act ... [In the ACT] you cannot operate [a brothel] except in a prescribed area ... you can operate in a non-prescribed area if the premises are just used by one prostitute. So it is not about who operates the premises, it is who uses the premises. ... Whether that is a weakness or not it comes down to the objectives.

The Assembly has defined ours quite narrowly. It's about location and about health primarily, and protecting minors. It's not about anything else. That is why I said we can only really talk in terms of what our expressed objectives are.¹⁶

- 2.31 The ACT Registrar of Brothels, Mr Tony Brown, added that:

¹⁶ Transcript, Canberra, 30-6-98, p. 47

The criminal law is the vehicle which is used to ensure, in part, compliance in respect to offence provisions – compliance with obligations. It is an on-balance decision as to whether you are going to use criminal law processes or whether you are going to use those which are traditionally associated with a licensing scheme ... those sort of structures – to achieve the objectives you set yourself.¹⁷

2.32 The ACT approach seeks to regulate for better health outcomes and safer working conditions by conferring legal status on the sex industry. The Act does not need to be overly prescriptive as the legal status of the industry provides access to mainstream solutions and empowers workers to expose any unlawful practices to the criminal law.

2.33 The sex industry is treated as any other business or workplace:

The philosophy is that these matters of public health and occupational health should be dealt with through the mainstream arrangements under the Occupational Health and Safety Act.¹⁸

2.34 Consequently a sex industry Code of Practice was developed by the sex industry consultative group and is administered under *the Occupational Health and Safety Act 1998* to ensure appropriate workplace standards.

2.35 Although the objectives of the ACT legislation have been substantially achieved under the *Prostitution Act 1992* concerns have been raised by the sex industry consultative committee:

The non-regulatory aspect of the act where simply registration is required and very little by way of vetting goes on, we would like to re-examine that.¹⁹

... If a problem does arise we actually do not have a system for preventing those operators from running a place.²⁰

2.36 The Victorian model attempts to manage such problems through a licensing system that disqualifies undesirable persons from operating a brothel.

2.37 The objectives of the Victorian legislation are broader than those of the ACT. Whilst they share the aims of protecting children and public health the Victorian legislation also seeks to exclude entry to criminals and exclude brothels from residential areas.

2.38 Evidence presented to the Committee suggest that the highly prescriptive character of the Victorian legislation has led to a significant compliance problem with over 50% of the industry operating outside the legal framework.

¹⁷ Transcript, Canberra, 30-6-98, p. 47

¹⁸ Transcript, Canberra, 30-6-98, p. 41

¹⁹ Transcript, Canberra, 30-6-98, p. 35

²⁰ Transcript, Canberra, 30-6-98, p. 18

- 2.39 A spokesperson for the Prostitutes Collective of Victoria informed the Committee that:

At the moment we have around 80 licensed brothels, about the same number of escort agencies and over 600 registered private workers. ...What [the private workers] are doing is they are operating as escorts but they are seeing clients at home ... which means they are working illegally even though they are registered.²¹

- 2.40 Planning restrictions and difficulties in obtaining planning permits are said to be the primary influence on compliance levels.

Prostitutes report that [as no brothels are permitted in residential areas] the costs of establishing brothel premises, difficulties of identifying possible premises and securing the relevant permit from the council all act to discourage the establishment of these brothels.²²

- 2.41 The dilemma posed by this problem is that without regulation the sex industry remains 'hidden' and difficult for health and other services to access and influence. With too much regulation the industry is pushed underground and again is out of reach and uncontrollable.

- 2.42 The ACT Minister for Health attributed the high level of compliance in the ACT to a strategy of legislating for what was possible, by formalising the current situation.

We put into a legal structure what was already happening and I think that as a broad principle that is not such a bad way, certainly as a starting point.²³

FINDINGS

- 2.43 The Committee found that the high level of criminal activity in the sex industry in Tasmania redefined the objectives for reform and would influence the extent of regulation.

²¹ Transcript, Melbourne, 2-7-98, p. 21

²² Document No. 5, Planning Issues and Role of Local Government.

²³ Transcript, Canberra, 30-6-98, p. 75

SECTION 3 – PUBLIC HEALTH

Disease Control

3.0 The Committee believes that an unregulated sex industry represents a potential risk to the community from a public health perspective. Placing the industry in a legal framework will allow influence and control over behaviours and practices that may endanger the community.

3.1 Whilst acknowledging the low incidence of sexually transmissible diseases in Tasmania Dr Mark Jacobs, the Director of Public and Environmental Health, supported legislative reform to control the sex industry and ensure the maintenance of high public health standards.

I think the fact that we have not had a major problem so far is basically because the workers in the industry largely have been very responsible about using safer sex practices ... We do not think that should be taken to mean there is not a potential problem, certainly I think there is the potential for STDs to be spread through the sex industry in Tasmania as has happened in many places overseas and interstate.²⁴

3.2 The ACT Health Minister agreed that legislative regulation of the sex industry plays an important role in the public health outcomes of society.

There is no doubt at all in my mind that we are a better place and a healthier society having put through the legislation and we have demonstrated clearly that we are a more tolerant society. But more importantly, we have put in place the appropriate procedures to prevent the spread of disease. We have had HIV/AIDS, we have had Hepatitis C, we have had a whole alphabet of heps and so on. ... What we are trying to get more and more in place are broad parameters about how you prevent the spread of disease and one of the most important parts is ensuring that those who are liable to be in a position where disease will spread are the most empowered to protect their own health and as such they want to protect the health of other people as well.²⁵

3.3 The Scarlet Alliance rejected any notion that sex workers are a source of disease and emphasised the fact that sex workers generally enjoy better sexual health than other sectors in the community. However it was accepted that regulation of the industry was necessary to make compulsory the use of prophylactics for all commercial sex services to protect sex workers from clients who may be infected.

²⁴ Transcript, Hobart, 29-4-99, p. 37

²⁵ Transcript, Canberra, 30-6-98, p. 85

It has been variously estimated that clients outnumber sex workers by 30:1 to 60:1, and 20:1 to 100:1, so that an infected client poses a significant threat to a sex worker if he requests or demands unprotected sex. ... It is important to create a positive health culture from the point of including issues of sexual health in school curricula supported by general community education campaigns from time to time alongside those that are more specific to groups such as sex workers²⁶

- 3.4 The Alliance also suggested that sex worker organisations are best placed to instil a safe sex culture within the sex industry and should be part of any public health strategy.

I think it is really important to actually fund a sex worker organisation. Tasmania is the only State in Australia that does not do peer education even though they are signatories to the national HIV-AIDS strategy which has that as a priority.²⁷

- 3.5 The ACT legislation provides a positive model for the promotion of public health with the encouragement of a 'safe sex' culture by empowering sex workers to say no to unsafe sex.

From a public health point of view what we see ... as important is the promotion of safe behaviours rather than just ... the 'stick' of regulating brothels themselves. ... so that they have safe practices and ensure that their clients have safe practices and that they are aware of all the standards.²⁸

- 3.6 Dr Jacobs was sympathetic to this approach stating that:

I think just from first principles in public health, the better contacts we have with the industry, the more we know where the workers are and the more positive relationship we have with the workers, the better we will be able to get the information to them, work with them and make sure that the risks into the future can be minimised. ... Nothing is going to be the absolute solution. All we can do is provide an appropriate framework that does not scare people away.²⁹

- 3.7 Dr Jacobs also supported regular health checks of sex workers as a public health measure to be included in regulatory legislation.

I think from a public health point of view there would be significant advantages in requiring regular health checks, something of the order of three-monthly; it certainly reflects

²⁶ Submission, No. 20, Scarlet Alliance, p. 2.

²⁷ Transcript, Canberra, 30-6-98, p. 26

²⁸ Transcript, Canberra, 30-6-98, p. 78

²⁹ Transcript, Hobart, 29-4-99, p. 41.

current practice in the sex industry anyway. ... I think it would be good to formalise that.³⁰

- 3.8 Dr Maree O'Sullivan, who has worked closely with the sex industry in Northern Tasmania for 18 years, supported the need for regular health screenings for sex workers. Dr O'Sullivan noted that in their private lives sex workers are equally at risk of STD infection as the general population. However due to the association of condoms with commercial sex they are often not used in sex workers' private relationships, hence increasing the risk of STD infection.
- 3.9 Dr O'Sullivan also alerted the Committee to the problem of sex workers who are infected with STDs and the lack of controls to prevent them from working. Dr O'Sullivan saw the need for legislative regulation of the sex industry to address the following public health issues:

Accreditation of the brothels needs to be linked to suitably maintained buildings but also universal use of condoms, regular mandatory screening of the workers, compulsory exclusion times for proof of cure if sexually transmissible infections (STIs) are diagnosed and treated, induction training of workers in the recognition of STIs.³¹

Environmental Hygiene

- 3.10 Evidence presented to the Committee identified environmental factors associated with the sex industry that may pose a public health risk. Most important of these is the standard of hygiene of the premises and the protocols and procedures in place to ensure minimum risk of spreading infection. Regulating the day-to-day conditions under which commercial sex services are provided will help minimise the spread of disease.
- 3.11 The Committee was impressed with the manner in which these issues are dealt with in the ACT and in New South Wales where guidelines have been developed for maintaining premises used for commercial sex services in a safe and hygienic condition. Safeguarding public health is a prime objective of the *ACT Prostitution Act 1992*. The Act provides for the regulation of the cleanliness of brothels, the laundering of towels and linen, hygiene standards for sex aids, spa baths, showers, toilets and washing facilities. Other areas that should be regulated include the disposal of used prophylactics and the provision of safe sex information to sex workers and clients and the inspection of brothels for compliance with the Act.
- 3.12 The Act however is not used as the vehicle for the implementation of these regulations. An industry code of practice was developed by the sex industry consultative group and is administered under the *Occupational Health and Safety Act 1998* (ACT). This process provides a simple and inexpensive

³⁰ Transcript, Hobart, 29-4-99, p. 38.

³¹ Submission No. 33, p. 1.

instrument for the regulation and monitoring of the sex industry and is in keeping with the ACT philosophy of treating the legalised sex industry as a mainstream activity.

- 3.13 In NSW the monitoring of compliance with industry guidelines is the joint responsibility of NSW Health, which deals with health complaints, and WorkCover NSW, which administers occupational health and safety aspects.
- 3.14 The Committee believes that an industry code of practice is essential to protect public health and to safeguard sex workers in Tasmania. Whilst the sex industry operates outside a legal framework these measures cannot be fully implemented.
- 3.15 Another environmental factor associated with the sex industry that may present a public health risk is the use of intravenous drugs by sex workers. The Committee heard evidence suggesting that workers in legal brothels have similar drug use patterns to those of the general community. Drug addiction amongst street workers was more prevalent. The Committee was told that up to 90% of street workers in Victoria are heroin addicts.
- 3.16 Whilst heroin use and street prostitution are less evident in Tasmania the Committee sees the need for the maintenance of strong sanctions against street prostitution to prevent its emergence.

FINDINGS

- 3.17 The Committee found that potential public health risks exist in the operation of commercial sex services and that legislation for the control of the sex industry is required to minimise these risks.
- 3.18 The Committee found that incidence of sexually transmissible disease amongst sex workers is very low, however in Tasmania sex workers with STD infections are currently not prohibited from continuing to work whilst infected.

RECOMMENDATIONS

- 3.19 The Committee recommends the registration of all sex workers. The age, name and address of the worker, workplace address and other relevant details should be provided. Registration will facilitate monitoring of the industry by authorities and will give sexual health services greater access to isolated independent workers who are not supported by a peer group and may be less aware of safe sex practices and public health issues. Registration may also help to monitor the age of individuals entering the sex industry.
- 3.20 The Committee recommends the inclusion of the sex worker's registration number with all advertising. This will assist in monitoring compliance with public health measures and will help identify illegal operations.

3.21 The Committee recommends that the sex worker register should not be made public in order to protect the identity and personal details of sex workers, and that only authorised officials with sufficient cause should be allowed access.

3.22 The Committee recommends the adoption of sections 15 and 16 of the ACT legislation that provides for:

Infected Persons: The operator of a brothel or escort agency shall take reasonable steps to ensure that a prostitute does not provide commercial sexual services at the brothel or from the escort agency if the prostitute is infected with a sexually transmitted disease.

Knowingly Infecting: A person shall not, at a brothel or elsewhere, provide or receive commercial sexual services if the person knows, or could reasonably be expected to know, that he or she is infected with a sexually transmitted disease.

3.23 The Committee recommends compulsory use of prophylactics in providing or receiving any commercial sexual service and recommends severe penalties against any person who discourages the use of prophylactics or attempts to remove, damage or misuse such prophylactics.

3.24 The Committee recommends mandatory regular health checks for sex workers to safeguard the health of sex workers and the community.

3.25 The Committee recommends the adoption of the ACT sex industry code of practice to regulate the environmental hygiene of commercial sex services. Strong penalties should apply to operators, clients and sex workers who fail to observe the requirements of industry codes of practice for the maintenance of a hygienic work environment.

SECTION 4 – WELFARE AND OCCUPATIONAL HEALTH & SAFETY OF SEX WORKERS

- 4.0 The Committee believes that allowing the sex industry to operate in a regulated environment that can be monitored and controlled is not only essential in meeting public health objectives but also necessary in delivering safe working conditions and industrial justice to sex workers.

Workplace Safety

- 4.1 The Committee strongly supports the right of all workers to a safe and secure working environment.
- 4.2 Individuals employed in the sex industry should not be exposed to violence, coercion and intimidation, and they should not be placed at risk of injury or disease. These rights however cannot be realised in an unregulated and illegal environment. Conferring legal status on the sex industry will impose regulatory controls on many of the negative aspects currently endured by sex workers.
- 4.3 The Tasmanian Women's Consultative Council is supportive of such a strategy to ensure the rights of sex workers.

The industry requires both decriminalisation and legalisation in order to ensure that those working in the industry are, like other members of the community, protected from violence, intimidation and have access to appropriate health services.³²

- 4.4 Legitimate commercial sex service providers would be subject to all the regulations and controls that apply to other commercial enterprises, such as health regulations, industrial relations laws, and occupational health and safety provisions.
- 4.5 The Committee believes that reform legislation should provide for the development of regulations and standards in areas such as workplace hygiene, safe work practices, education and training, and personal safety of sex workers.
- 4.6 Sex industry employers and self-employed sex workers should be responsible for the health and safety of all employees and other persons at the workplace including clients and visitors.
- Employers should ensure that workplaces are maintained in a safe condition. The premises should conform to appropriate building codes and fire safety requirements.

³² Transcript, Hobart, 29-4-99, p. 29.

- Employers should provide employees and clients with appropriate personal protective equipment. This should include prophylactics, lubricants and disinfectants.
 - Employers should provide information, instruction and training. This might include disease prevention training for new recruits or specialist training for sex workers dealing with clients with disabilities.
 - Employers should provide hygiene controls to ensure the health and safety of all in the workplace. This should include the provision of clean linen for each client, the disinfection of sex aids, showers, baths and spa pools, provision of prophylactics and safe disposal after use, and appropriate training of staff including first aid training.
 - Employers must provide safe working conditions. Sex workers should not be coerced or induced to practise unsafe sex. Employers should institute measures for the protection of workers. This may involve the use of alarm systems or an exclusion policy for clients affected by alcohol or drugs or acting inappropriately.
 - Conditions of employment should include appropriate training, appropriate breaks between shifts, sick leave and workers compensation. Working conditions should be set out in an industrial agreement, and employers must not be allowed to impose bonds or arbitrary fines on workers.
 - Health services, sex worker support groups, and the appropriate trade union representation should be allowed to access sex workers at their workplace to provide counselling, education programs and health checks.
- 4.7 The Committee recognises that many of these provisions may be covered by existing legislation, however the Committee feels that aggregating them into an industry code of practice would assist in informing and educating sex workers of their rights and responsibilities and thus improve the level of compliance. Sex industry codes of practice have been implemented in New South Wales and the ACT, and sex worker organisation are presently lobbying for equivalent measures in Victoria.
- 4.8 The Committee heard evidence from the Scarlet Alliance relating to the positive experience of sex workers' occupational health and safety in the ACT.
- We have had so far, a number of workers compensation claims that have gone through, we have had unfair dismissal claims ... It is treated like any other work, and if you are treated unfairly by your employer then you should have the same rights as any other workers.³³
- 4.9 The empowerment of sex workers to pursue their rights in a legitimate industry will help ensure positive health and safety outcomes for sex workers.

³³ Transcript, Canberra, 30-6-98, p.7.

Antidiscrimination legislation in the ACT further enhances these rights, as it is an offence to discriminate against persons on the basis of their profession, occupation, trade or calling. The Committee was given examples of successful challenges on this basis against insurance companies and newspapers that discriminated against sex workers.

- 4.10 The Committee recommends that industry code of practice provisions are included in any legislation for the regulation of the sex industry in Tasmania. The Committee favours the ACT approach of incorporating the industry code of practice into the Occupational Health and Safety Act as it avoids replication of bureaucratic structures. However the *Public Health Act 1997* or local government legislation may offer suitable alternative structures for implementing such a code.

Welfare of Workers

- 4.11 The Committee received several submissions suggesting that the welfare of sex workers may be more effectively addressed by focusing on the social problems that introduce them to prostitution. Sexual abuse, poverty, mental health problems, drug addiction and a lack of social support are common influences in diverting women into prostitution.
- 4.12 The Catholic Women's League suggested that:

The primary consideration of brothel legislation should be the welfare of the prostitutes, and the community. Government policy must address the prostitutes' reasons for entering the business in an effort to aid the vulnerable or disadvantaged who feel compelled to enter prostitution as a last resort. In examining our society we cannot treat issues affecting women and children, and the broader community, as entirely independent from each other. Government policy must provide support for prostitutes trying to exit the sex business. This support could include ... retraining/education opportunities ... and child care/support services.

- 4.13 The Committee was informed that the welfare of sex workers is considerably better when ready access to specialist services was available. These include health services, sexual assault services and peer organisations that provide training and counselling and referral services. Outreach services are especially important for illegal street workers who are exposed to greater levels of violence and drug abuse.
- 4.14 The Tasmanian Women's Consultative Council stressed the need for governments to act on the causes and effect of prostitution.

The council believes the government ... [has] an obligation to address the economic and structural reasons for conditions for women which prevail in this industry. ... Research conducted in Tasmania confirms national and international findings. The

primary motive for women in the sex industry is financial gain. Poverty, unemployment and the need to support families are the factors forcing many women, including young girls, into prostitution.³⁴

- 4.15 There is a need for retraining and other exiting strategies to help women who want to leave the industry. This point was emphasised by the Catholic Women's League which drew the Committee's attention to the high 'burn-out' rate amongst sex workers.

There is a very high degree of burn-out in the industry for women ... most of them are only there for a short time. They get burnt out and then they have to go somewhere else, so to help them into other types of money earning is still an issue.³⁵

- 4.16 The Prostitutes Collective of Victoria has a program to assist sex workers who wish to leave the industry. They note some of the difficulties for sex workers exiting and retraining.

What we have found at PCV is that we are continuously approached by people saying, I've had enough. What do I do to get out? ... [However] this job is very good at pulling people back in. ... The main thing is that we need to have education for sex workers around managing money. A lot of them do not have any problems getting jobs outside of the sex industry. The problem is that they then drop dramatically in their income, and learning how to manage that is something that most of them need.³⁶

- 4.17 The Scarlet Alliance has recommended the funding of sex worker organisations to provide education and training in areas such as safe sex practices. A consultative group to monitor the performance of the industry and to give advice or make recommendations to the Minister overseeing the legislation was also seen as important.

Criminal Activity

- 4.18 The sex industry will not afford a safe working environment while it is controlled by criminal elements. Legalising the industry will help eliminate many criminal practices from the industry, however stronger provisions than a code of practice are required to impact on more serious offenders.

- 4.19 The Committee is concerned at the allegations of criminal behaviour by some operators in the Tasmanian sex industry who use threats, violence and addictive drugs to coerce workers to provide sexual services. There is also concern in relation to allegations of the recruitment of under-age workers.

³⁴ Transcript, Hobart, 29-4-99, p. 29.

³⁵ Transcript, Hobart, 29-4-99, p. 14.

³⁶ Transcript, Melbourne, 2-7-98 p. 37.

- 4.20 The Committee recommends legislative provisions against all forms of coercion forcing sex workers to provide sexual services and preventing them exiting the industry.

FINDINGS

- 4.21 The Committee found that an industry code of practice will enhance the occupational health and safety of those involved in the industry.
- 4.22 The Committee found that sex workers are exposed to significant risks of violence and disease and require the support of specialist services.

RECOMMENDATIONS

- 4.23 The Committee recognises the right of workers in the sex industry to conduct their trade without prejudice and stigma. The Committee recommends that legislation for the reform of the sex industry in Tasmania makes provision for the development of an occupational health and safety code of practice to uphold the industrial rights of sex workers.
- 4.24 The Committee recommends the creation of an industry advisory group as exists in the ACT and Victoria to monitor the industry and advise the Minister of issues or problems that may arise.
- 4.25 The Committee recommends that counselling services be made available to sex workers especially for those entering the industry and those wishing to exit.
- 4.26 The Committee recommends strong sanctions against the use of coercion to induce a person to provide commercial sex services. The Committee recommends the adoption of section 8 of the ACT legislation that provides:

Duress (1) A person shall not, for the purpose of inducing a person to provide or to continue to provide commercial sexual services –

- (a) intimidate, assault or threaten to assault any person
- (b) supply or offer to supply a drug of dependence to any person
- (c) make a false representation or otherwise act fraudulently.

(2) A person shall not-

- (a) intimidate, assault or threaten to assault a person; or
- (c) supply or offer to supply a drug of dependence to any person; or for the purpose of inducing any person to provide him or her with payment derived, directly or indirectly from the provision of commercial sexual services.

- 4.27 The Committee recommends the prohibition of drugs and alcohol on premises used to provide commercial sex services.

SECTION 5 – LICENSING AND LOCATION OF BROTHELS

Planning and Community Amenity

- 5.0 In considering the regulation of the sex industry the Committee is conscious of the need to protect the social and physical amenity of the community by controlling the location of brothels.
- 5.1 Brothels may be defined as premises used on a systematic or regular basis for prostitution.
- 5.2 The Committee recognises the need to minimise the impact of such premises on local communities and opposes the establishment of brothels in residential zones. The Committee believes that other socially sensitive areas such as places of worship, hospitals, schools and places frequented by children should also be protected from the activities of the sex industry. In conjunction with this the Committee recommends the maintenance of a prohibition on street workers and soliciting in public.
- 5.3 The application of planning regulations to control where, how and when businesses may operate is a function of local government. The regulation of land use serves to maximise utility for the community whilst protecting its amenity. This is achieved by separating incompatible functions and activities to minimise their impact on each other.
- 5.4 Evidence presented to the Committee has confirmed that brothels are currently operating in the Tasmanian community thus the introduction of legislation to legalise certain aspects of the sex industry will not introduce a new element to the land use mix. Rather the introduction of legitimate commercial sex services will give greater control to authorities to direct where and how such businesses must operate.
- 5.5 Submissions from the major local government bodies across the State supported the principle of sex industry reform and regulation. However strong objections were expressed to the ‘draft discussion bill’ (based on the ACT model) which was circulated as part of the public consultation process. The Councils were adamant that the sex industry should not operate outside the normal planning approval process that applies to all other land uses.
- 5.6 The Devonport City Council, whilst supporting sex industry reform, insisted on a role for local government in determining the location of brothels on the basis of existing planning provisions.

One questions the legitimacy of any argument that brothels by their nature should be able to operate outside planning controls that other commercial uses must comply with. ... Council believes the form of planning controls over brothels presently in operation in Victoria is the appropriate direction for legislation to

take. Such a course would be in keeping with the intent of the Resources Planning and Management System set up in Tasmania for the consideration of all land use proposals. Council in particular does not wish to see brothels established within residential areas ...

There is a process set down to test the appropriateness of a land use for any given site, with the ability for unemotive, independent arbitration through the Tribunal. Why should the sex industry ... get preferential treatment in avoiding the usual process ...

The planning controls presently in operation (and apparently effectively so) in Victoria [are] considered substantially more appropriate than the controls proposed under the [draft discussion] bill which are based upon the Canberra model which was rejected entirely.³⁷

- 5.7 The Hobart City Council concurred with much of the sentiment expressed in the Devonport Council submission noting that:

Council would be extremely concerned if the legalisation of the sex industry resulted in brothels, and other premises used for the provision of commercial sex services, being able to become established without the need for a planning approval under ... the *Land Use (Planning and Approvals) Act 1993* in locations that could have an adverse impact on the neighbourhood, the local community and amenity.

If any legislation to legalise 'prostitution' and 'brothels' is to be acceptable to the community then it must give consideration to the operational effects at the individual property level in a more effective way than suggested by the draft discussion bill presented.³⁸

- 5.8 The Glenorchy City Council also concurred with this view and noted that:

Council's view is a very pragmatic one, it is not a moral one. Council has had to face the land use planning problems on the ground and therefore the position that it's taking is very much the land use/planning related issues. ... If the matter is dealt with essentially as a planning matter and incorporated into the Land Use (Planning and Approvals) Act it gives councils ... the framework and the powers to adequately deal with this activity as a land use issue.³⁹

³⁷ Submission No. 34, p.4.

³⁸ Submission No. 32 p.2

³⁹ Transcript, Hobart, 29-4-99, p. 47.

- 5.9 Evidence from other stakeholders also supported the use of planning provisions for the location of brothels. The Scarlet Alliance argued that brothels should be treated as any other business, and that the siting of brothels should be based on considerations such as noise, traffic and proximity to residences.

The location of brothels and related planning issues should be considered in the same way as any other planning decision ... The Tasmanian Government may want to consider limiting the size of brothels and link this to location. ... These size-limited brothels are best placed in commercial areas that are well lit and have good public surveillance through high levels of street activity and high levels of occupation in surrounding buildings. ... Industrial zones are generally not appropriate sites for brothels whether single or in clusters because they are poorly serviced at night with little or no public transport, poor lighting and no public surveillance.⁴⁰

- 5.10 The Federation of Centres Against Sexual Assault agreed that there is a need for control over the location of brothels but advised against the use of industrial areas as these would marginalise the industry and create further problems.

The federation would be concerned if this Committee said that brothels could only open in industrial areas. We understand that fully residential areas, [are] not appropriate, any more than it is appropriate to have a welder working [there] ... But to place the industry in industrial areas you risk targeting them, you risk their safety, and we believe that there would be an increase in crime around that area.⁴¹

- 5.11 The Glenorchy City Council however raised objections to the location of brothels in commercial areas. Industrial sites were recommended as the most appropriate noting that:

There is one brothel in an industrial area in Glenorchy at the moment and we just do not get complaints, it has been there for quite a while ... That is one example and you cannot necessarily generalise but it is indicative that the complaints are going to be much lower where there are few people directly affected.⁴²

- 5.12 The Burnie City Council alerted the Committee to problems that may arise for the existing functions in industrial or commercial zones if unrelated activities such as brothels are introduced.

An assumption appears to have been made that there is a graduated scale of increasing impact inherent in a perceived

⁴⁰ Submission, No. 20, p.5.

⁴¹ Transcript, Launceston, 6-5-99, p. 10.

⁴² Transcript, Hobart 29-4-99, p. 50

progression from residential via commercial to an industrial zone; and accordingly, location of sex industry establishments should follow this progression on a criteria of numbers of workers involved ... [This] fails to recognise the complexity of the zone mechanism ...Zones are a mechanism for spatial delineation of land use areas so as to segregate uses which would be incompatible and to aggregate activities for mutual advantage, subject to land capability and determined local need. ... [Introducing brothels into this equation] could allow the creation of a range of negative impacts ... and possibly compromise the prime purpose and function of a zone.⁴³

- 5.13 In considering appropriate planning strategies for the location of brothels the Committee had to consider the amenity issues for local communities in conjunction with the need to provide access for brothels to operate in a legitimate environment where their activities can be monitored and regulated.
- 5.14 The Committee concluded that a State Planning Policy should be developed to ensure uniform location criteria for commercial sex services throughout the State. This policy would be implemented and administered by local government. Whilst the State Planning Policy may approve brothels as a legitimate land use in a particular zone the appropriateness of individual sites would be assessed in accordance with the municipal planning scheme.
- 5.15 The Committee has determined that the location criteria for brothels should be based on the size of the operation and its proximity to socially sensitive sites. The Committee recommends that:
- Brothels should be prohibited in residential zones.
 - Brothels should be prohibited within a 100-metre radius of places of worship, schools, childcare centres, playgrounds, and other places frequented by children or deemed to be socially sensitive. (The determination of socially sensitive sites will be a function of the licensing authority.)
 - Small to medium scale brothels employing 2 to 10 sex workers should be a permitted land use in light industrial zones, or with local government discretion in commercial zones.
 - Larger brothels employing 11 or more sex workers should only be permitted in industrial zones.
 - Normal planning approval requirements should be applied. Applications should be assessed on objective planning criteria as would apply to any other business.
 - Local governments should be allowed to determine the number of brothels permissible in any particular street within a prescribed zone in order to avoid the creation of a 'red light' district.
- 5.16 The categories of brothels, small, medium and large, are intended as a guide to the maximum number of sex workers permissible on the premises at any one

⁴³ Submission No. 24, p. 5.

time within a particular zone. The actual number permissible on a specific site within a prescribed zone will be subject to local government planning approval in accordance with the municipal planning scheme and the characteristics of the site in question.

- 5.17 The Committee notes the concerns expressed by some witnesses in relation to the possible security implications for sex workers employed in brothels located in industrial zones. The Committee is confident that local authorities will use their discretion appropriately and allow smaller operations to locate in commercial areas. Brothels in more isolated locations should be required to provide adequate outside lighting and secure car park facilities for staff.

Single Sex Workers

- 5.18 In considering appropriate planning options for the regulation of the sex industry the Committee is mindful of the need to maintain compliance. A system that is overly prescriptive may encourage the establishment of illegal operations that are beyond the control of regulatory authorities and thus negate the broader objectives of safeguarding public health and protecting children and sex workers from exploitation. Evidence was presented indicating that this has been the experience in Victoria where, despite the strict licensing and planning provisions, more than half the sex industry is said to operate illegally.
- 5.19 The Committee recognises that the sex industry is not a homogenous entity and that a more flexible approach may be required to achieve effective reform and regulation across all sectors.
- 5.20 The regulation of the single self-employed sex workers is important for the maintenance of the integrity of the public health system. Regulating the sex industry without addressing the issue of single operators would produce a 'weak link' that could jeopardise the entire system. Effective regulation of this sector however is difficult, as single sex workers are not readily identifiable. Evidence suggests that self-employed sex workers tend to operate in a discreet manner to safeguard their anonymity.
- 5.21 Tasmania Police informed the Committee that such businesses are currently operating in Tasmania although their precise location was not apparent.

We believe that there are a number of unaffiliated solo workers, people who are not affiliated with any agency and are operating discreetly in suburban areas, and we probably do not know about them because they do not come to our attention.⁴⁴

- 5.22 The Glenorchy City Council also indicated that such operations are present in the community yet their activities do not raise complaints.

⁴⁴ Transcript, Hobart, 29-4-99, p. 21

We are aware that they are out there and operating now but if they are not brought to our attention in any way we can conclude that there are no problems.⁴⁵

5.23 The Committee concluded that single sex workers using domestic premises on a systematic or regular basis for prostitution should be allowed to operate within the following guidelines:

- Only one registered sex worker who is a permanent resident may operate from the premises.
- The premises must not be located in a residential zone but may operate as a discretionary use in a mixed-use zone.
- The operation must comply with local government 'home occupation'/'home activity' requirements.

5.24 The Glenorchy City Council was supportive of regulating single operators under 'home occupation' provisions.

Our view is that we can deal with [single operators] under our planning scheme as either home occupation or home occupation and can adequately condition it and if they are causing an impact on the amenity of the neighbourhood then they are not complying with the definitions of either home occupation or home activity and we have powers under the planning scheme to pursue them.

If the legislation says 'only in industrial areas' it will not work out that way. There will still be unofficial one or two-person operations and local government will still have to deal with it.⁴⁶

5.25 Providing a niche for self-employed sex workers to operate legitimately is not sufficient in itself to encourage compliance. The Committee accepts the view of Tasmania Police that incentives for participating in the legitimate industry must outweigh the disincentives. However the Committee is confident that the requirement for all advertising to carry the sex worker's registration number will be sufficient incentive for sex workers to register with the licensing authority.

5.26 As part of the public health system authorised local government officials will have access to sex worker registration information for the implementation of public health measures. Compliance with council regulations for home occupation, such as ratio of floor space used, noise levels, hours of operation, adequate car parking et cetera will be monitored in conjunction with health inspections or in response to complaints.

5.27 Whilst such operations are generally unobtrusive, complaints may arise from time to time and as indicated by the Glenorchy City Council, existing council powers should be sufficient to deal with such issues. The Committee urges

⁴⁵ Transcript, Hobart, 29-4-99, p.56

⁴⁶ Transcript, Hobart, 29-4-99, p.56-57

local government to approach such complaints in an objective manner ensuring that they are not vexatious or malicious. If a particular business poses a continuing problem the council should have the option of ordering the business to cease operations or the matter could be referred to the licensing board. The board may revoke the sex worker's registration, thereby denying the sex worker the ability to operate legally and, more importantly, the ability to advertise.

- 5.28 An issue of concern in relation to single operators stems from evidence presented to the Committee which suggests that some criminal elements are orchestrating networks of single sex workers who seemingly operate independently in order to avoid legal sanctions. Such operators would also avoid any licensing provisions under the proposed reforms. The Committee therefore recommends that sex industry legislation should contain provisions that make it an offence for a person to franchise a network of prostitutes as if they were operating independently.

Licensing and Administration

- 5.29 During the conduct of this inquiry it became apparent to the Committee that the sex industry in Tasmania is significantly influenced by criminal elements.
- 5.30 To address this problem the Committee sees the need for a licensing system with strong provisions that will exclude the criminal element from the ownership, management and operation of brothels.
- 5.31 Tasmania Police agree that the elimination of the criminal element from the operation of the sex industry requires strong licensing controls that include control over advertising.

We believe the key to breaking the dependency cycle, [of prostitutes] and the power of the stand-over operators, is effective licensing and the control of advertising. If operators or prostitutes are licensed, and only licensed operators can advertise, the licensing authority gains an element of control over the market.⁴⁷

- 5.32 The Committee recommends the establishment of a sex industry licensing board within the Department of Justice to regulate the ownership and management of brothels by maintaining a register of all sex workers and licensing all brothel operators. The board should also have the power to monitor and inspect brothels to ensure compliance with licensing requirements and to investigate complaints.
- 5.33 A licensing system would provide a two stage screening process to eliminate the criminal element from the industry. Firstly, prospective brothel operators (owners and managers) would have to prove to the licensing board that they are a 'suitable person' to hold such a licence.

⁴⁷ Document No. 32, p. 2.

- 5.34 The licensing board should have the power to require probity checks to be conducted on applicants, their families and associates to prevent dishonest people using others as a front.
- 5.35 Secondly, the Committee believes that a licensing system will provide a powerful tool in limiting the scope for illegal operations as all advertising would be required to carry a registration number or licence number. This would deny illegal operators access to advertising which would seriously diminish their market share.
- 5.36 The Committee believes that the licensee of a brothel should be a natural person not a company or corporation as these could also be used as fronts by criminal operations. The Committee also believes that licensed individuals should be limited to holding interests in only one commercial sex enterprise at a time. A licence should not be transferable to any other party. A licensed brothel owner or a licensed manager should be required to be on the premises while business is being conducted as this will ensure greater accountability for the manner in which brothels are operated.
- 5.37 The Committee believes that the licensing board in considering the issuing or renewal of brothel licences should refuse a licence to any person convicted of an indictable offence in any jurisdiction. The Committee recommends the automatic forfeiture of licences for brothel operators providing commercial sex services by persons under the age of 18, promoting unsafe sex practices, or using addictive drugs or coercive practices to entice or maintain sex workers in the industry.
- 5.38 Governing legislation should provide strong penalties against unlicensed commercial sex service providers.
- 5.39 The Committee recognises that strict licensing provisions to minimise the potential harm from the sex industry to sex workers and the community is an expensive exercise and that resources are needed to ensure consistent monitoring of the health status of sex workers and compliance with licensing requirements.

FINDINGS

- 5.40 The Committee found that local governments were generally in favour of sex industry reform and regulation. Their support however was contingent on the application of normal planning approval processes through the Resources Management and Planning System and the *Land Use (Planning and Approvals) Act 1993*.
- 5.41 The Committee found that whilst normal planning approvals procedures were appropriate for larger commercial sex enterprises, self-employed operators would not participate in a process that jeopardised their anonymity. A more discreet approach is needed to ensure that this sector of the industry complies with the proposed regulations.

5.42 The Committee found that the extent of criminal involvement in the sex industry in Tasmania warranted stringent controls on the ownership and management of brothels. The Committee found that a registration system as is in place in the ACT would not adequately address this need and that a licensing model in line with the Victorian legislation would be more effective in minimising criminal involvement in the sex industry.

RECOMMENDATIONS

5.43 The Committee recommends that a State Planning Policy be developed to provide uniform location criteria for commercial sex services statewide. Where brothels are determined to be a permitted land use, local government planning approval processes should apply.

5.44 The Committee recommends the following location criteria for commercial sex services:

- Brothels are not to be permitted in residential zones.
- Brothels are not to be permitted within a 100-metre radius of places of worship, schools, childcare centres, playgrounds, and other places frequented by children or deemed to be socially sensitive.
- Small to medium scale brothels employing 2 to 10 sex workers should be a permitted land use in light industrial zones or with local government discretion in commercial zones.
- Larger brothels employing 11 or more sex workers should be a permitted land use only in industrial zones.
- Normal planning approval processes should apply to these categories of commercial sex services. Planning approval applications should be assessed on objective planning criteria and applications should not be refused on moral grounds.
- Local government should determine the number of brothels permissible in any particular street within a designated zone in order to avoid the establishment of a 'red light' district.

5.45 The Committee recommends that single sex workers using domestic premises on a systematic or regular basis for prostitution should be allowed to operate within the following guidelines:

- Only one registered sex worker who is a permanent resident may operate from the premises.
- The premises must not be located in a residential zone but may operate as a discretionary use in a mixed-use zone.
- The operation must comply with local government 'home occupation'/'home activity' requirements.

5.46 The Committee recommends the creation of a sex worker registration and brothel licensing board within the Department of Justice to regulate the ownership and management of brothels. Members of the board would be appointed by the Attorney-General and should include representatives from health, local government, police and the sex industry.

- 5.47 The Committee recommends that commercial sex service providers where more than one sex worker is involved must be licensed. Owners, managers and operators must be licensed. Individual sex workers should be registered.
- 5.48 The Committee recommends that the prohibition on street prostitution and soliciting in public should be maintained, with penalties applying to both sex worker and clients.
- 5.49 The Committee recommends that a brothel licence holder must be on the premises while business is being conducted.
- 5.50 To allow for effective monitoring of the industry the Committee recommends that all advertising is to display the licence number in the case of brothels and registration number in the case of individual sex workers.
- 5.51 The Committee recommends that sex industry legislation should contain provisions that make it an offence for a person to knowingly participate directly or indirectly in the provision of prostitution by another person.

SECTION 6 – PROTECTION OF CHILDREN

6.0 The protection of children is a primary objective of the Committee’s proposal to reform and regulate the sex industry in Tasmania.

6.1 The Tasmanian Women’s Consultative Committee agrees that:

... the protection of persons under 18 years is vital. Strategies must be developed to ensure under-age persons are not attracted to or encouraged towards the sex industry – either as workers or clients. The TWCC wants to stress the more basic principle that no one should be exploited by the sex industry. We believe that sex workers will be offered protection as part of the regulating of the industry. The number 18 is not a guarantee against exploitation.⁴⁸

Opportunistic Prostitution

6.2 The extent of involvement of young people in the sex industry in Tasmania is difficult to assess. Anecdotal evidence suggests that participation in the organised sex industry by children is limited whilst opportunistic and survival prostitution is on the increase. The Committee heard evidence suggesting that young people under 18 years of age were employed as sex workers by some brothel operators. There was also evidence to suggest that young people were actively recruited for sex work, especially during the visit of large ships to Hobart.

6.3 Scarlet Alliance informed the Committee that:

There certainly has been an increase in young people under 18 who are in fact working on the streets here in Canberra and that is something we are seeing Australia-wide.⁴⁹

Most young people who are involved in the sex industry do not see themselves as sex workers and only engage in the exchange of sex for favours (money, food, accommodation etc) on a spontaneous needs basis.⁵⁰

6.4 Evidence presented by Tasmanian health workers supported this assessment. Dr Maree O’Sullivan noted that:

Young people who identified that they have been involved in sex for money/drugs have not been affiliated with brothels but have solicited or been solicited on the streets or at home. Young women of 12 years upwards have been engaged in this activity

⁴⁸ Submission, No. 29, p. 3.

⁴⁹ Transcript, Canberra, 30-6-98, p. 14

⁵⁰ Submission, No. 20, p. 5.

but it in no way reflects what is happening in the brothels around Launceston and Devonport.⁵¹

- 6.5 Ms Cindy Calvert, former Tasmanian AIDS Council officer, gave a similar account of the involvement of children in the Tasmanian sex industry:

I think people under 18 are basically giving sex away and swapping sex for cigarettes, accommodation, drugs and a lift home and it is very opportunistic. But I think there will be a problem ... Clients are always wanting younger people ... Where I am working now [in a young women's shelter] an older woman managed to get in – older than our client group – and she was trying to procure young people for the industry. ... It is around and it is certainly going on.⁵²

- 6.6 The Hobart Community Legal Service (HCLS) also expressed concern at the problem of child prostitution in Tasmania and submitted that:

There is sufficient indicative and anecdotal evidence that this is a serious and growing problem. The two main factors appear to be:

- demand by a minority client group for under-age sex workers, and
- financial pressures on far too many young people suffering unemployment, inadequate access to social security and poor family support networks.⁵³

- 6.7 The submission went on to cite a recent national report by the Coalition of Child Welfare Agencies, which appeared in the Mercury newspaper alleging that as many as 140 Tasmanians under 18 are child prostitutes. It also suggested that most of Tasmania's child prostitutes were homeless, unemployed and too young to receive any form of income, but still had bills for rent, food and often drugs and alcohol to pay.

- 6.8 This caused HCLS to question the indirect consequences of reform legislation that could further marginalise disadvantaged youth.

[We have] some concern because we are favouring the introduction of legislation which would, I suppose, strengthen the provisions that prohibit under-age sex workers whilst not really ... do[ing] anything about mitigating the economic and social circumstances that force young people into the industry. ... We recognise that there are young people that fall through the safety net and we are in a sense urging law reform which is not going to help that.⁵⁴

⁵¹ Submission, No. 33 p. 1.

⁵² Transcript, Launceston, 6-5-99, p. 28.

⁵³ Submission, No. 25, p. 3.

⁵⁴ Transcript, Hobart, 29-4-99, p. 6.

Minimum Age for Sex Workers

- 6.9 The minimum age of sex workers was an issue of concern for several witnesses. Spokespersons for the Catholic Women's League urged a minimum age for sex workers of 21.

We realise that the age of consent is much lower but we would strongly recommend that the age of 21 be the minimum working age ... these sorts of decisions affect your whole lifetime ... I do not know that seventeen or eighteen is the age when we have enough sense to make these long-term decisions.⁵⁵

- 6.10 Some sex industry representatives presented evidence to the Committee supporting a minimum age of 21 for sex workers, and explained that the psychological and emotional stress of sex work could be better endured by a more mature person.
- 6.11 The HCLS identified a potential conflict in law if the minimum age for sex work were to be set higher than the current age of consent, which in Tasmania is 17 years of age.

It would seem preferable that persons meeting the provisions of the *Criminal Code Act 1924* for the age of consent be able to engage in sex work and to use such services, whilst specifically prohibiting those aged under the age of seventeen from either purchasing or providing such services.⁵⁶

- 6.12 Scarlet Alliance, when commenting on the issue of under-age sex workers noted that:

The issue of young people partaking in sex for favours opportunistically has become a growing concern in every state and territory in Australia and the number of people involved in this activity is ... growing. Since most states and territories in Australia prevent people under the age of 18 [from] working in the regulated sex industry they tend to be pushed into the most marginal areas of the industry. ... The major ... risk factor for young people being involved in sex for favours is homelessness. ... Most people who find themselves homeless are generally escaping from abusive home environments, therefore the initial point of prevention is to support families in distress. Greater support should be available for young people including appropriate and variable accommodation.⁵⁷

- 6.13 The Committee sees the need for specialist outreach services to provide harm minimisation programs for these vulnerable young sex workers. Education on

⁵⁵ Transcript, Hobart, 29-4-99, p. 12.

⁵⁶ Submission, No. 25, p. 5.

⁵⁷ Submission No. 20, p. 6.

drugs and safe sex practices needs to be extended to this group along with counselling and referral services for housing and employment training options.

FINDINGS

- 6.15 The Committee found that while direct evidence of under-age involvement in the sex industry is difficult to access ample anecdotal evidence points to a significant and growing problem.
- 6.16 The Committee found that under-age sex workers were primarily involved in opportunistic and survival prostitution.
- 6.17 Lack of social support and abusive or dysfunctional families tend to be the main risk factors leading young people into prostitution.

RECOMMENDATIONS

- 6.18 The Committee recommends that if a person causes or permits a child to provide commercial sex services in any capacity this should constitute an offence and should carry heavy penalties.
- 6.19 The Committee recommends that if a person receives payment that he or she knows is derived, directly or indirectly from commercial sex services provided by an under-age child this should constitute an offence and should attract strong penalties.
- 6.20 The Committee recommends a minimum age of 18 years for any person providing commercial sex services, with the onus being on the operators of commercial sex services to take all reasonable steps to find out the age of the person concerned.
- 6.21 The Committee recommends the automatic forfeiture of the brothel licence and the application of strong penalties if a child of any age below 18 years is found on premises used for conducting commercial sex services.
- 6.22 The evidence presented to the Committee suggests that the majority of child prostitutes are engaged in opportunistic and survival sex outside the organised sex industry. This implies that sex industry regulation will only address part of the problem. The Committee recognises the need for greater government and community resources to support children and families at risk in order to provide these children with opportunities and choices that may divert them from the sex industry.
- 6.23 The Committee recommends the strengthening of outreach programs by specialist services to promote harm minimisation strategies and provide counselling and referral service to under-age sex workers.

SECTION 7 – OTHER MATTERS

- 7.0 In the course of this inquiry several peripheral issues were raised which the Committee would like to see addressed. These include amendments to the *Police Offences Act* and the *Criminal Code* to repeal anachronistic provisions relating to the sex industry and reform of appropriate legislation to protect children from exposure to sexually explicit entertainment.

Consequential Amendments

- 7.1 Illegal activities associated with prostitution in Tasmania are contained in certain offences in the *Criminal Code 1924* and the *Police Offences Act 1935*. If the sex industry were to be regulated through specific legislation this would necessitate consequential amendments being made to repeal or amend anachronistic provisions in these acts.

- 7.2 The Committee recommends that the following sections of the *Police Offences Act* be repealed:

- *s.8(1A)(b) - Living on the earnings of prostitution*
- *s.11 – Letting a house knowing it is to be used as a brothel*
- *s.6 – Consorting with prostitutes*
- *s.10(1)(b) – Occupying a house and harbouring prostitutes*
- *s.10(1)(d) – Lodging or harbouring a prostitute to the annoyance of inhabitants*

- 7.3 However the Committee recommends that *s.8(1)(c), Soliciting in a public place*, be maintained as an offence.

- 7.4 The Committee also recommends changes to the *Criminal Code*:
s.143, Keeping a disorderly house – to be repealed
s.128, Procuration – to be amended by inserting the words 'under the age of 18 years' where relevant.

- 7.5 Witnesses brought to the attention of the Committee other anachronistic provisions in these acts which could be removed. These are:
s.8(d) of the *Police Offences Act*, which makes it an offence for a man to dress in women's apparel during the hours of darkness; and
s.8(1)(i) of the *Police Offences Act*, which makes it an offence to have no means of subsistence and be found wandering abroad.

Sexually Explicit Entertainment

- 7.6 Whilst prostitution may not be involved the Committee believes that the employment of young people for adult entertainment such as 'table top dancing' is sexually exploitative and corrupting. The Committee heard anecdotal evidence suggesting that prostitution activities are associated with some venues which provide this form of entertainment and that young people

attracted to the entertainment business may find themselves being recruited for prostitution purposes.

- 7.7 The Committee believes that licensing provisions in *the Liquor and Accommodation Act 1990* should be tightened up to prohibit any person under the age of 18 from working in any capacity at a venue where sexually explicit entertainment is provided.

Parliament House, Hobart
2 December 1999

Hon. F. M. Bladel MHA
Chairperson

APPENDIX 1

COMMUNITY DEVELOPMENT COMMITTEE INQUIRY INTO THE NEED FOR LEGISLATIVE REGULATION AND REFORM OF THE SEX INDUSTRY IN TASMANIA

WITNESSES

<u>Date</u>	<u>Name</u>
30/6/98	Ms Sue Metzenrath, Scarlet Alliance, Canberra Ms. Diane Merrifield, Director, Civil Law Section, ACT Attorney-General's Department Ms. Kate Waterhouse, Legal Officer, Civil Law Section, ACT Attorney-General's Department Ms. Anna Lennon Mr. Tony Brown, Registrar of Brothels and Escort Agencies, ACT Attorney-General's Department Ms. Phillipa Weeks, Chairperson of the Sex Industry Consultative Group, ACT Ms. Meg Wallace, Civil Law Section, ACT Department of Justice and Community Safety - Legal Policy Division
1/7/98	Mr. Mike Moore, MLA, Minister for Health, ACT Mr. Simon Rosenberg, Department of Health, ACT Mr. Gordon Lee Koo, Department of Health, ACT
2/7/98	Ms. Alexandra Lewis, Department of Infrastructure-Policy and Legislation Unit, Victoria Ms. Allison Arnot-Bradshaw, Program Manager, Prostitutes Collective of Victoria Mr. Russel Byard, Deputy President of the Victorian Civil and Administrative Appeals Tribunal, Victoria

10/7/99

Ms. Freda Hodge, Business & Professional Women, Emu Bay, Inc.

Ms. Rosie Schluessler, Business & Professional Women, Emu Bay, Inc.

Dr. Mary Kille, Business & Professional Women, Emu Bay, Inc.

Ms. Dorothy Calvert, Business & Professional Women, Emu Bay, Inc.

Ms. Amanda Sullivan, Business & Professional Women, Emu Bay, Inc.

Witness 'I a' *'In Camera'*

Witness 'I b' *'In Camera'*

Witness 'II' *'In Camera'*

29/4/99

Mr. Robert Johnson, Manager, Hobart Community Legal Service

Ms. Nicola Galea, Catholic Women's League

Ms. Maria Fracalossi, Catholic Women's League

Assistant Commissioner Luppo Prins, Tasmania Police - *partly 'In Camera'*

Dr. Jenna Mead, Co-ordinator, Tasmanian Women's Consultative Council

Witness 'A' - *'In Camera'*

29/4/99 &
6/5/99

Witness 'B' - *'In Camera'*

24/9/99

Witness 'C' - *'In Camera'*

Dr. Mark Jacobs, Director Public and Environmental Health, Department of Health and Human Services, Tas

Mr. Robert Giblin, Policy and Planning, Glenorchy City Council

Ms. Elizabeth Benz, Policy and Planning, Glenorchy City Council

Mr. Andrew McDonald, Policy and Planning, Glenorchy City Council

6/5/99 Mr. Paul Mickan, Manager, Planning, Launceston City Council

Ms. Michelle Nichols, Laurel House (Sexual Assault Support Service), Launceston

Mr. Gregory Stephens, Manager, Sexual Health, Department of Health and Human Services, Tas

Witness 'D' - *'In Camera'*

Witness 'E' - *'In Camera'*

Witness 'F' - *'In Camera'*

Ms. Cindy Calvert, Karinya Young Women's Shelter

13/5/99 Witness 'G' - *'In Camera'*

1/6/99 Witness 'H' - *'In Camera'*

3/6/99 Mr. Richard McCreadie, Commissioner of Police, Tasmania Police - *'In Camera'*

23/6/99 Mr. Peter Maloney, Director, Legislation, Strategic Policy and Information Resources, Department of Justice and Industrial Relations - *'In Camera'*

Ms. Debra Rigby, Principal Legal Officer, Legislation and Policy, Department of Justice and Industrial Relations, Tas - *'In Camera'*

APPENDIX 2

COMMUNITY DEVELOPMENT COMMITTEE INQUIRY INTO THE NEED FOR LEGISLATIVE REGULATION AND REFORM OF THE SEX INDUSTRY IN TASMANIA

SUBMISSIONS RECEIVED AND TAKEN INTO EVIDENCE

1. Mr. Lawrence Garry Hamilton, 337 Old Paradise Road,
Sheffield, Tas. 7306.
Submission dated 20 June, 1998.
2. Ms. Freda Hodge, President, Business & Professional Women-
Emu Bay Inc., PO Box 1179, Burnie 7320.
Submission dated 20 May, 1998
3. Ms. Freda Etchell, 10 Melli Court, Penguin, 7316
Submission dated 29 June, 1998.
4. Jackie, sex worker – Submission received 17 March, 1999
5. Angel, sex worker – Submission received 17 March 1999.
6. Mandy, sex worker – Submission received 17 March 1999
7. Kate, sex worker – Submission received 17 March, 1999.
8. Mrs. Suzanne Harris, 42 Freestone Crescent, Wynyard 7325
Submission dated 15 March 1999.
9. Ms. Victoria Stuart, 2 Rosslyn Road, Launceston 7250
Submission received 29 March, 1999
10. Marie, sex worker in Hobart, mariensteve@hotmail.com
Submission dated 23 March, 1999
11. John Green LL.B, Barrister and Solicitor, Suite 1,
Moonah Centre, 113 Main Road, Moonah 7007
Submission dated 31 March, 1999
12. E. J. Holmes, 1 Nansen Court, Margate 7054
Submission dated 2 April, 1999
13. Richard J. Gibbs, The Community and Family Rights

Council, 92 Duntroon Drive, Rokeby 7019
Submission dated 28 September, 1998

14. (a) Ross Stanford, 44 Hutchins Street, Kingston 7050
Submission dated 23rd March, 1999
14. (b) Ross Stanford (Minister), Uniting Church in Australia,
Synod of Tasmania - Tarooma, Kingston and Channel
Congregations, 44 Hutchins Street, Kingston 7050
Submission dated 7 April, 1999
15. (a) and (b) Pastor Peter Earle and Brian Beswick, for the Australian
Christian Coalition, Tasmania, PO Box 388, Huonville 7109
Submissions received 12 April, 1999.
16. Australian Christian Coalition, submission forwarded
by Brian Beswick on behalf of 84 concerned
Tasmanians.
Submission received by email on 14 April, 1999
17. Mrs. Nicola Galea, Chair, Social Questions Committee
Catholic Women's League (Tas.) Inc, 203 Churchill
Avenue, Sandy Bay 7005.
Submission dated 14 April, 1999
18. Mr. Shan Strus, 12 Stourton Street, Rosetta
Submission received 14 April, 1999
19. Mr. Graham Ropata, Email Address porangi@vision.net.au
Submission dated 14 April, 1999.
20. Scarlet Alliance, National Forum for Sex Worker
Organisations, PO Box 76, Red Hill, ACT 2603
Submission including booklet received 19 April, 1999
21. (a) G. R. Thomas, 28 Van Morey Road, Margate
Submission dated 7 April, 1999
(b) Correspondence received by the Hon. F. M. Bladel
Chairperson of the CDC, dated 7 April, 1999
22. Holy Trinity Anglican Parish, 50 Warwick Street,
Hobart 7000
Submission dated 22 April, 1999
23. Ms. Shelley Moor, Co-ordinator, Women's Health
Information Service, 75 Cameron Street, Civic Square,
Launceston 7250
Submission dated 22 April, 1999
24. Mr. Patrick J. Earle, Manager Planning and Development

- Services, Burnie City Council, PO Box 973, Burnie 7320
Submission dated 23 April, 1999
25. Mr. Robert Johnson, Manager, Hobart Community Legal Service, 166 Macquarie Street, Hobart 7000
Submission dated 23 April, 1999
 26. (a) Mrs. Betty Isham, 6 Wanda-Nea Place, Margate 7054
Submission dated 10 April, 1999
Submission received & forwarded by the Hon. F. M. Bladel, Chairperson of the CDC.
(b) Further submission dated 25 April, 1999
 27. Ms. Elizabeth Bensch, Senior Strategic Planner, Glenorchy City Council, 374 Main Road, Glenorchy 7010
Submission dated 29 April, 1999
 28. Tasmania Police (CONFIDENTIAL)
Submission presented to hearings in Hobart on 29 April, 1999
 29. Dr. Jenna Mead, State Convenor, Tasmanian Women's Consultative Council, GPO Box 1854, Hobart 7001
Submission dated 29 April, 1999.
Submission presented to hearings in Hobart on 29 April, 1999
 30. Mrs. D. Laning, PO Box 218, Kingston 7051
Submission dated 1 May, 1999
 31. Mr. Paul Mickan, Manager Planning, Launceston City Council PO Box 396, Launceston 7250
Submission dated 13 May, 1999
 32. V. B. Armstrong, General Manager, Hobart City Council, GPO Box 503E, Hobart 7001
Submission dated 27 May, 1999
 33. Dr Maree F. O'Sullivan, MB. BSc, Dip Fam Med, Dip Ven., Health Advancement, Sexual Health Branch, Department of Health and Human Services, 42 Canning Street, Launceston 7250
Submission dated 31 May, 1999
 34. Mr. D. E. Sales, General Manager, Devonport City Council, 44-48 Best Street, Devonport.
Submission dated 4 June, 1999
 35. Ms. Linley Grant, Hon. Secretary, The National Council of Women of Tasmania Inc., 79 Mount Stuart Road, Mount Stuart 7000
Submission dated 4 June, 1999

36. Ms. Mhairi Davis, Launceston Youth Advisory Group,
The Corner, Cnr. Wellington & Brisbane Streets,
Launceston 7250
Submission dated 15 June, 1999
37. Sharon, Touch of Class, Launceston
Submission received 23 June, 1999
38. Ms. Betty Roberts OAM, Acting Director, Holyoake
Tasmania Incorporated, PO Box 334, Moonah 7009
Submission dated 15 June, 1999

APPENDIX 3.

COMMUNITY DEVELOPMENT COMMITTEE INQUIRY INTO THE NEED FOR LEGISLATIVE REGULATION AND REFORM OF THE SEX INDUSTRY IN TASMANIA

DOCUMENTS RECEIVED AND TAKEN INTO EVIDENCE

1. Leaflets/Booklets

Family Planning Tasmania Inc. - "Safer Sex - The Facts".

Family Planning Tasmania Inc. - "Sexually Transmitted Diseases".

Family Planning Tasmania Inc. - "Sex"

Community and Health Services, Tasmania - "Are You at Risk for STDs? - A simple guide to understanding and preventing sexually transmissible diseases (VD)"

NSW Health Department (Drug and Alcohol Directorate) - "Hepatitis C - 10 Questions and Answers"

2. Copies of Correspondence received by the President of the Business and Professional Women - Emu Bay Inc.

Letter from Soroptimist International of Hobart dated 8 July, 1997.

Letter from Soroptimist International of Burnie dated 26 June, 1998.

Letter from The Country Women's Association in Tasmania dated 15 June, 1998.

Letter from Mrs. Carole Cains MHA dated 10 June, 1998.

Letter from Australian Federation of Business and Professional Women Inc. Hobart dated 24 June, 1998.

Letter from Australian & International Federation of Business and Professional Women Inc., Tasmania - Burnie dated 29 June, 1998.

Letter from Soroptimist International of Launceston dated 22 June, 1998.

Letter from Zonta International dated 30 June, 1997.

Letter from Ms Jenny Barker, Burnie Community Health Centre dated 25 June, 1996.

Letter from Soroptimist International of Devonport dated 3 July, 1998.

Letter from The State Secretary, The Country Women's Association in Tasmania (Inc.) dated 26 June 1998.

3. ACT Sexual Health and Blood Borne Diseases Strategic Plan 1998 – 2000 ACT Health and Community Care Mission Statement, June 1998.
4. Report of the Legislative Assembly of The Australian Capital Territory Select Committee on HIV, Illegal Drugs and Prostitution, April 1991.
5. Prostitution Regulation - Victoria. Visit by Tasmanian Delegation - 2 July, 1998. Planning Issues and Role of Local Government. Department of Infrastructure, Victoria
6. A magazine for Tasmanian sex workers. Tasmanian Workers Guide - Issue 1: 1997 and Issue 2: 1998.
7. Letter from the Attorney-General, The Hon. Ray Groom, MHA, dated 30 September, 1997, concerning Prostitution Law Reform
8. Scarlet Alliance - Report to AFAO Committee, May 1998 - "Law Reform Directions in the Australian Sex Industry - ACT, Tasmania, South Australia and Victoria: Sera Pinwill, WISE in the ACT/Scarlet Alliance
9. Occupational Health and Safety Act 1989 - Code of Practice for the ACT Sex Industry
10. Department of Community and Health Services: Tasmania "A Study into the Sex Industry In Tasmania" 1998 - Glenn Curran, Julie Nahmani and Robin Gamlin.
11. Department of Community and Health Services: Tasmania Response to the "Study into the Sex Industry in Tasmania"
12. Prostitution Control Act 1994 Act No. 102/1994, Victoria
 - (a) 3 Definitions
 - (b) Division 8 - Offences
 - (c) Part 2 - Offences Connected with Prostitution
13. "Brothels, the Prostitution Control Act and Planning", Russell Byard, *Law Institute Journal*. Vol. 70, No. 1, January 1996

- pp37-43.

14. "Disorderly houses, Bawdy Houses and Brothels: New regulations to control operations", Tricia White, *Law Society Journal*. Vol 34, No. 1, February 1996 - pp.51-52.
15. Prostitution Act 1992 and Regulations, Australian Capital Territory - Obtained from Internet.
16. Sex Industry Bill 1998, Tasmania - Discussion Draft Only
17. Hansard Extract - Prostitution Bill 1992 - [Cognate Bill: Prostitution (Consequential Amendments) Bill 1992]- ACT 18 November, 1992
18. Prostitution Control Act 1994 - Parliament of Victoria- Version incorporating amendments as at 28 October 1997
19. Hansard Extract - Victoria - Prostitution Control Bill 21 October 1994.
20. Prostitutes Collective of Victoria, 10 Inkerman Street, St. Kilda 3182 -Information Paper - Obtained from Internet.
21. Correspondence between the Attorney-General, Peter Patmore to Mr. Robert Johnson, Manager, Hobart Community Legal Service Inc. Dated 24 March 1999.
Forwarded to the Committee by Robert Johnson.
22. Queensland Government - Review of Prostitution Laws in Queensland - Discussion Paper - November 1998 - *Summary of prostitution laws around Australia.*
23. Queensland Government - Review of Prostitution Laws in Queensland - Discussion Paper - November 1998 - *Summary of main issues*
- 24(a) Prostitution Control (Amendment) Bill 1999, Victoria
Second Reading Speech
- (b) Prostitution Control (Amendment) Bill 1999, Victoria
Explanatory Memorandum
25. "A life in the day of a daily grind" - INSIGHT - THE SEX BUSINESS - Byline: Mark Forbes - The Sunday Age Newspaper - 28/2/99

Guess whose selling sex all over Melbourne - Mark Forbes - The Sunday Age - 28/2/99

Mixed reaction to legalised working conditions - Mark Forbes - The Sunday Age Newspaper - 28/2/99

Sex City - Mark Forbes - The Age - 1/3/99

Exposed: City's 'sex-slave' trade - Mark Forbes -
The Sunday Age - 9/5/99

Peep shows, lap dancing to go under new sex laws -
Mark Forbes and Manika Naidoo - The Age 7/5/99

Curbing crime in the sex trade - Editorial Opinion -
The Age - 7/5/99

Sham and shame trade - Mark Forbes - The Age - 6/5/99

26. Dr. Jenna Mead, State Convener, Tasmanian Women's Consultative Council, GPO Box 154, Hobart 7001 - Answers to two queries during hearings. - 1. The safety of sex workers operating in 1-2 person locations & 2. Exit strategies for workers who want to leave the sex industry.
27. Prostitution Legislation Reform Proposal Queensland Government, June 1999
28. Correspondence from the Tasmanian Commissioner of Police, R. McCreadie, dated 28 June 1999, enclosing copy of Northern Territory Consolidated Acts – Prostitution Regulation Act.
29. Report for the Purposes of Section 53(2) of the Prostitution Regulation Act – Northern Territory
30. NSW Health Department Code of Practice for The Sex Industry - 1997
31. Letter from Mr. Tim Bullard, Legal Officer, for the Solicitor-General to the Hon. Peter Patmore, Attorney-General, dated 29 July, 1999
32. Correspondence from the Commissioner of Police, Mr Richard McCreadie, addressed to the Chair of the Community Development Committee, Hon Fran Bladel, dated 26 October, 1999.