

Submission of NZPC on Draft General Recommendation No. 19 (1992): accelerating elimination of gender-based violence against women

Thank you for the opportunity to comment on this draft update to the General Recommendation No.19 (1992) (the **Draft Recommendation**). These comments are being submitted on behalf of the New Zealand Prostitutes' Collective (**NZPC**).

NZPC are a sex-worker led organisation founded in 1987 to promote the rights, health, safety, and well-being of sex workers, and to seek to have sex work recognised as work. Since 1988, NZPC have contracted to the Ministry of Health to provide community-based services to sex workers with a strong focus on sexual and reproductive health. We work with all sex workers in New Zealand, including women, men, transgender, youth, and migrants. We are the only national organisation that works with all sex workers, and has as its mission to achieve the rights of sex workers.

NZPC is frequently consulted by both government and non-government agencies to assist in the development of policy on a wide range of issues, including the occupational safety and health of sex workers, youth, and anti-trafficking initiatives.

NZPC advocated for the decriminalisation of sex work from its inception, and worked with women's organisations to achieve this outcome. These organisations included YWCA, Business and Professional Women's Federation, National Council on Women and various public health and human rights organisations. The decriminalisation aim was achieved in June 2003 when the Prostitution Reform Bill (New Zealand) became law, repealing prohibitions on soliciting, brothel keeping, procuring, and living on the earnings of prostitution. In the same year, NZPC was appointed to the Prostitution Law Review Committee, which reported to the government on the impact of decriminalisation in 2008. The aims of the Prostitution Reform Act 2003 are:

“to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and to create a framework that—

- (a) safeguards the human rights of sex workers and protects them from exploitation:
- (b) promotes the welfare and occupational health and safety of sex workers:
- (c) is conducive to public health:
- (d) prohibits the use in prostitution of persons under 18 years of age:
- (e) implements certain other related reforms.”ⁱ

We strongly believe that the decriminalisation of sex work, which includes sex workers, and third parties, such as clients and operators of brothels, is the only way to ensure that sex workers are able to work in greater safety with increased rights. Our belief is informed by vigorous research conducted on 773 sex workers carried out by Otago University, as well as research by Victoria University and Kaitiaki Research since 2003.

Decriminalisation has enabled sex workers to have more choice in how they manage their work. Sex workers can now work for themselves or with their colleagues who are sex workers like themselves from home based settings, they can meet their clients on the streets, or work in a managed brothel – whichever environment they feel safest working in.

New Zealand's decriminalisation legislative model is regarded by sex worker-led organisations, the UNDP, UNAIDS, and WHO as one of the best, and was recently endorsed by Amnesty International over alternative legal approachesⁱⁱ.

We note that the Draft Recommendation does not specifically refer to sex workers, despite the fact that the vast majority of sex workers are women (including transgender women)ⁱⁱⁱ and despite the fact that these women are frequently identified globally as being at a higher risk of violence than women amongst the non-sex worker population^{iv}.

Decriminalisation has seen sex workers feel more able to say no to prospective clients than prior to decriminalisation^v. The Human Rights Review Tribunal ruled that sex workers have the same rights as other workers not to be subjected to sexual harassment in the context of being a sex worker in a managed brothel^{vi}.

Decriminalisation also allows for collaboration with organisations such as the police and NZPC to work towards the prevention of violence, including coercion and trafficking. The relationship that sex workers have with police in New Zealand has improved significantly since decriminalisation. Sex workers are now able to, and do, report violence to police without fear of repercussions – a majority (70%) of sex workers interviewed commented that sex workers were now more likely to report violence^{vii,viii}.

NZPC strongly urges the committee to consider including a reference to sex workers in the Draft Recommendation as a group of women who are vulnerable to violence, and an endorsement of state adoption of decriminalisation of sex work as a means of mitigating the risk of violence against women who are sex workers.

Yours sincerely,

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ⁱ Section 3 Prostitution Reform Act 2003 (NZ).

ⁱⁱ Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers, 26 May 2016, available at: <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>.

ⁱⁱⁱ In a study of 1,981 New Zealand sex workers, 81.67 percent identified as female and 7.67 percent identified as transgender (Abel, Fitzgerald and Brunton, Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers, University of Otago Christchurch School of Medicine, November 2007).

^{iv} Armstrong, L., Managing Risks of violence in decriminalised street-based sex work: a feminist (sex worker rights) perspective, Victoria University of Wellington, 2011 at p17 and at p35; Church, S., Henderson, M., Barnard, M., & Hart, G. (2001) Violence by Clients Towards Prostitutes in Different Work Settings: questionnaire survey, British Medical Journal, 322 at pp524-525.

^v Sex workers now feel safe to report assaults and client concerns.

^{vi} See for example *DML v Montgomery and M & T Enterprises Ltd* [2014] NZHRRT6, a 2014 Human Rights Tribunal decision which awarded a sex worker NZD\$25,000 after she was subjected to sexual harassment in a New Zealand brothel.

^{vii} Abel, G., *Discrimination: A Harm Minimisation and Human Rights Approach to Regulating Sex Work*, University of Otago, Dunedin 2010 at p239.

^{viii} Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003, Ministry of Justice 2008 at p57.