



Scarlet Alliance, Australian Sex Workers Association

and

Te Waka Kaimahi Kairau o Aotearoa New Zealand Sex Workers' Collective
submission to the [call for input to the report of the Special Rapporteur on violence against women and girls to the UN Human Rights Council 56th Session, June 2024](#)
with introduction by the Australian Council of Trade Unions.

The Australian Council of Trade Unions is Australia's sole peak body of trade unions, consisting of affiliated unions and State and regional trades and labour councils. There are currently 43 ACTU affiliates who together have over 1.7 million members engaged across a broad spectrum of industries and occupations in the public and private sector.

The ACTU supports the submission of Scarlet Alliance, the national body representing Australian sex workers, in response to the pending report of the Special Rapporteur on violence against women and girls, to be presented to the United Nations Human Rights Council 56th session in June 2024.

Sex workers deserve the same and equal rights as other workers including conditions of employment and work health and safety laws. The adoption of respectful language that is inclusive to sex workers is critical to preserving and promoting sex workers' human rights and dignity. The use of correct terminology is necessary to remove the stigma that has pervaded the industry.

The criminalisation of sex work enables the continued acceptance of gender-based violence towards sex workers. Decriminalisation and equal treatment of workers in the industry is crucial to preserve the human rights of sex workers.

**This submission is endorsed
by allied international
organisations:**

- Butterfly, Asian and Migrant Sex Worker Support Network (Canada)
- Equal Asia Foundation (Thailand)
- Sex Workers and Allies South Asia (Bangladesh, Nepal, India & Sri Lanka)
- Stella, l'amie de Maimie (Montreal, Canada)

**This submission is endorsed
by allied Australian
organisations:**

- Anti-Slavery Australia
- The Australian Council of Trade Unions
- Australian Services Union SA + NT Branch (South Australia & Northern Territory)
- Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine (ASHM)
- The Australian Injecting and Illicit Drug Users League (AIVL)

- Health Equity Matters (Australia)
- Hepatitis Australia
- Human Rights Law Centre (Australia)
- Cranston McEachern Lawyers (Queensland)
- Magenta (Western Australia)
- Migrant Justice Institute (Australia)
- National Association of People with HIV Australia (NAPWHA)
- The Queensland Council of Unions
- Respect Inc (Queensland)
- Sex Industry Network (South Australia)
- Sex Worker Outreach Program NT (Northern Territory)
- Sex Work, Education, Advocacy and Rights (Western Australia)
- Vixen (Victoria)

Terminology

Addressing Q 1, 2, 5, 6, 8, 9, 10, 11, 13 & 15.

The accepted terminology is “sex worker”. (See [NSWP 2024](#), [African Sex Workers Alliance 2022](#), [Respect Inc 2020](#), [STELLA 2013](#), [American Jewish World Service 2013](#), and [GAATW 2011 p 7](#)).

‘Women’ and ‘girls’ are separate and mutually exclusive populations. The Special Rapporteur’s ‘call for input’ consistently uses the term ‘women and girls’ without differentiation. If responses also meld policy information about ‘women’ and ‘girls’ as one entity, the resulting report will be unreliable, subject to bias towards one population or another and essentially meaningless.

Consent

Addressing Q 8.

Sex workers are experts in consent, education and practical implementation of consent. Societal views on sexual consent have undergone significant changes over the past ten years. The rise of the #MeToo movement, the high profile assault case in Australian Parliament House (2021), and activists such as Grace Tame have all generated significant interest in consent education, and created a new enthusiasm for feminist social change.

Sex workers are adept at negotiating not only verbal consent, but also identifying and negotiating implied consent, non-verbal forms of consent negotiation and setting sexual boundaries to achieve informed consent. Consent negotiation starts before every booking and extends to planning double bookings with colleagues, establishing boundaries with clients and other workers. Consent may be contingent on other factors, such as money or use of a condom, and is also revocable - consent to one sexual activity does not mean consent to another.

For example, sex workers offer varying services at different price points, including add-ons, and further options, depending on the workplace and individual worker. Service and price negotiation establishes consent before any sexual activity takes place. Bookings are often planned and costed based on what the client is seeking, what the sex worker agreed to, and the time frame. Some sex workers negotiate services outside the realm of ‘traditional’ mainstream understandings of sex, such as role play, fetish or BDSM. Sex workers may also negotiate services that don’t involve physical touch, or sessions that don’t include traditional sexual gratification. Sex workers are skilled communicators adept at creating a shared experience, which is why sex workers are experts in consent and should be consulted.

Breaches of consent experienced by sex workers can happen in or outside of work. Due to entrenched societal stigma that creates barriers to justice and assumptions about sexual availability, sex workers are particularly vulnerable to breaches of consent. This is what makes sex workers key stakeholders in discussions about consent and family or gendered violence.

The criminalisation of sex work creates institutional barriers for sex workers accessing the criminal justice system, either for work-related or other sexual violence. Decriminalisation is necessary for sex workers to access any of the perceived or actual benefits of consent law reform.

Sex work is work

Addressing Q 1 & 7.

While sex work, sex workers, our workplaces, cultural practices and organising tactics are visible within the sex worker community, they can appear 'hidden' or non-existent to those outside the industry. Sex worker organisations are grateful for the deference, patience and attention that allies put into understanding the importance of our work. Our shared goals are to ensure that sex workers are better supported and recognised in individual and systemic advocacy. Organisers within the sex worker community promote peer education, sex worker-only spaces, sex worker-led skill shares, and community consultation. These spaces offer safety, confidentiality and privacy for sex workers of all kinds seeking community and camaraderie, regardless of what form that sex work takes. Sex workers working in pornography, for instance, are not inherently exploited any more or less than in other, physical forms of work. Pornography, like all sex work, is a form of labour.

Measures to assist sex workers are best determined locally

Addressing Q 11.

Responses to specific conflicts regarding working conditions are for each sex worker community to deal with locally, alongside larger institutional allies including unions and specialised lawyers who are trusted and understand sex work within a labour framework. This work also includes campaigning for systematic changes to reduce and eliminate the discrimination against sex workers, with the overall goal of ensuring that sex worker status is not a barrier to living one's life.

Sex worker organisations' front-line work and advocacy is evidence-based

Addressing Q 2, 10 & 14.

Sex worker organisations' day-to-day frontline activity is usually localised, and in response to the needs of sex workers who have accessed them.

The reliability, regularity and ongoing activity of sex worker peer-led organisations in Australia and New Zealand is credited for low rates of HIV and STIs among sex workers. Since the 1980s, peer education has propelled us into the international spotlight as a singularly successful approach to health promotion for sex workers ([Respect Inc and DecrimQLD, 2022](#)). The work itself also provides data and evidence which informs relevant health promotion campaigns for sex workers and advocacy messaging for all levels of government.

Sex worker organisations in Australia and New Zealand do not share this data without an agreement in place, and do so in consultation with members, with consent from those affected, an ethics approval process and a clear understanding of how the data will be used.

To end violence against sex workers, decriminalise sex work

Addressing Q 6, 9, 13 & 15.

The decriminalisation of sex work is associated with better health ([Platt et al 2018](#), [Harcourt et al 2010](#)), a reduction in socio-economic harm ([Armstrong 2021](#)) and access to justice otherwise denied in criminalised settings ([Abel et al 2007](#)). In New South Wales, migrant sex workers benefit greatly from decriminalisation, as this longitudinal study in NSW from both before and after demonstrates:

“Positive changes have occurred in the conditions of Asian female sex workers surveyed over 10 years in Sydney. Maintaining current levels of health service delivery will ensure continued improvements in health and workplace conditions and address inequalities between language groups.” ([Pell et al, 2006](#)).

To end violence against sex workers, recognise sex work as labour

Addressing Q 9, 11, 13 & 15.

In 2023, sex work was recognised as labour under industrial relations and labour protections in NSW ([SafeWork NSW](#)), Victoria ([WorkSafe Victoria](#)), ACT ([ACT Government](#)), Northern Territory ([NT Government](#)), federally in Australia ([Safe Work Australia](#)) and nationally in New Zealand ([Te Whatu Ora](#)). The federal protections relating to any ‘person conducting a business or undertaking’ (PCBU) state that a ‘PCBU is a broad concept that extends beyond the traditional employer/employee relationship to include all types of modern working arrangements and applies legal responsibilities to all PCBUs, including applicable sex work settings.

To end violence against sex workers, decriminalise clients

Addressing Q 3.

Clients of sex workers are of all genders, ages, class backgrounds and ethnic backgrounds. Decriminalisation is the removal of criminal laws for all aspects of sex work so that universal protections can apply, which should extend to and include clients ([Front Line Defenders, 2021, p 63](#)).

Anti-trafficking policing violates the human rights of sex workers

Addressing Q 6.

Anti-trafficking legislation does not improve the human rights of sex workers.

“The Palermo Protocol, as it is known, is not a human rights instrument. It is an instrument designed to facilitate cooperation between states to combat organised crime, rather than to protect or give restitution to the victims of crime. States are to strengthen border controls to prevent trafficking and smuggling. Border controls and police cooperation, not human rights protection, lies at the heart of both the smuggling and trafficking protocols.” ([Anderson et al. ND](#)).

Criminalisation of sex work is violence against sex workers

Addressing Q 4 & 5.

Criminalisation of sex work and the resulting exceptional police powers create unique opportunities for violence against sex workers. Working in a criminalised setting means that sex workers attempting to report violence to authorities are also vulnerable to arrest, detention, assault by police and police corruption. Sex workers are deterred from seeking justice and perpetrators are less likely to be brought to account.

The decriminalisation and legitimisation of sex work in formal societal structures and civil society is the very basis of reducing violence against sex workers. The state, government and public servants (including police) use public resources to uphold the criminalisation of sex work. Criminalisation is synonymous with systemic exclusion from the justice system. The Swedish legislation *is* criminalisation, and a form of state violence against sex workers ([Levy, 2014](#)). This is why the repeal of all criminalisation is essential to reducing violence against sex workers.