

P R I C E L E S S

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Submission to Economic Policy Scrutiny Committee. Sex Industry Bill 2019 NT. October 2019

Introduction

1. We thank the members of the Economic Policy Scrutiny Committee (EPSC) for this opportunity to present a submission on behalf of the many supports of the Priceless Movement (Priceless) regarding the NT Sex Industry Bill 2019 (Bill).
2. Priceless is a Darwin based movement established to educate and inform Territorians regarding the impact of proposed full decriminalisation of prostitution in the NT. Our purpose is also to present legislators with facts regarding sex work, and the actual consequences of all legislative options regarding prostitution, to assist with the framing of just legislation that serves the greatest public interest.
3. The Sex Industry Bill 2019 represents a significant shift in the legislation and regulation of the sex industry in the Northern Territory and as such it has the potential to impact many aspects of our community. Priceless is of the opinion that the NT Sex industry Bill 2019 fails to address many key considerations and recommends further development of the Bill with regard to the issues that are outlined in this submission.

Priceless therefore strongly recommend that the EPSC advise the assembly to amend the NT Sex Industry Bill 2019, and not pass it in its current form.

The real risks of sex work

4. Prostitution law is a challenging responsibility for all Governments. The EPSC has received a bill for review from the Attorney-General's Department (ADG) that has presumably been well researched and balanced in its conclusions. The ADG would presumably be aware of the two rights-based positions regarding prostitution legislation that were clearly revealed in the Have Your Say public submissions, and which are also argued in national and international debates on prostitution law reform for which there is abundant research available. The one position asserts that the right to work is the principle to be upheld (sex work as work) and the other asserts that the right to not be prostituted is the principle to be upheld (prostitution is gender-based sexual exploitation of economically vulnerable women).
5. Priceless asserts that the ADG, by its evident preference for the 'sex work as work' option, has presented a Bill that does not adequately balance the risk (impact and probability of harm) posed to women and men engaged in prostitution. Research and the testimony of former sex workers has consistently documented the inherent and unremitting risk of sexual and physical assault (50%) and lasting psychological harm (40%) that prostitutes are exposed to. By nesting the legislation within the Public and Environmental Health Act 2011, the Bill

takes a reductionist approach to the actual risks associated with prostitution work and obscures any ability the Bill could have to fulfil its intention – that of enhancing sex worker safety.

6. The Bill places sex worker safety on a par with the safety of the client and the public which contorts what is well understood in the literature and lived experience accounts regarding who actually bears the brunt of harm from prostitution and who perpetrates the harm (clients and pimps). Sex work has been categorised as one of the most dangerous occupations a woman can ever be engaged in, with one study concluding that the murder rate for sex workers is 50 times higher than the next nearest category (204 per 100,000). But instead, the Bill elevates the stigmatising perception that clients and the public need protection (from disease carrying prostitutes). This superficial (and inaccurate) portrayal of sex work causes harm. The literature indicates that sex workers continue to experience sexual and physical assault after decriminalisation occurs and continue to be thwarted in their attempts to be believed by the law or employers. The full significance of an event such as rape is reduced to an occupational hazard within the 'sex work as work' OH&S framework, and simply referred to as an 'adverse experience' within an NZ model report (Otago report 2007).
7. In its denial of the rape culture that is so prevalent in sex work, the Bill is also completely out of step with the whole of Government approach to reducing Family, Domestic and Sexual Violence. The Northern Territory has an unacceptably high rate of sexual violence and Priceless asserts that a liberalisation of sex work is at odds with current Government initiatives to educate the community regarding the status of women and gendered inequality as it pertains to sexual exploitation and violence (NT DSFV reduction framework 2018-2028).

Priceless therefore strongly recommend that the EPSC request amendments to the Bill so that it correctly apportions the risk associated with sex work and propose appropriate protections regarding the harm perpetrated by the act of being prostituted.

All voices need to be heard

8. During the briefing provided to the EPSC by the ADG, the NZ model of prostitution legislation (PRA 2003) was referenced to validate of the NT Bill and discredit the Nordic or Swedish approach which is promoted by sex work survivors and has been adopted in Sweden, Canada, Ireland and Israel. The Nordic model is not without its problems, but Priceless asserts that the ADGs uncritical adoption of the narrative supporting the NZ model illustrates a degree of policy capture by sex industry advocates that brings into question the process that has been followed and the level of impartiality the public expects from the department. As one writer suggests regarding this phenomenon:

A double standard appears to be emerging, where the voices of grass-roots abolitionist and survivor organisations are often completely excluded from discussion, or sectioned off as irredeemably 'biased' while, on the other hand, publications co-authored with industry bodies are held up as instances of useful external engagement or radical praxis.

Tyler, M. RMIT 2016

9. Sex industry bodies such as Scarlet Alliance in Australia and the New Zealand Prostitutes Collective (NZPC) represent sex workers in much the same way a union might. But they also represent the industry i.e. pimps and brothel owners and therefore have an undeniably political and 'biased' agenda of their own. Full decriminalisation of prostitution (with no regulation) as advocated by industry groups primarily benefits the sex industry not the sex worker. The benefits to sex workers are overstated during the reform process and consistently fail to materialise once legality is obtained, as can be attested by sex work survivors in NZ.

Priceless therefore strongly recommend that the EPSC request amendments to the Bill to correct policy capture by sex industry groups, provide equal input to sex work survivor groups and demonstrate a transparent consideration of the Nordic model principles

Human rights law condemns prostitution

10. Priceless challenges the assertion by the ADG that the Bill is compatible with human rights. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Articles 1 and 2 explicitly state that the elimination of the 'exploitation of the prostitution of others' includes the prohibition of all forms of pimping, procuring and the running of a brothel. This provision targets all forms of prostitution as a violation of human dignity and cannot be construed to only refer to 'trafficked' sex workers.

Article 1

The Parties to the present Convention agree to punish any person who, to gratify the passions of another:

- (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;*
- (2) Exploits the prostitution of another person, even with the consent of that person.*

Article 2

The Parties to the present Convention further agree to punish any person who:

- (1) Keeps or manages, or knowingly finances or takes part in the financing of a brothel;*
- (2) Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.*

UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949).

11. The Statement of compatibility with human rights by the ADG acknowledges that 'sex workers are vulnerable', but it then goes on to say that they can 'safely and confidently deny services to anyone they wish'. Failure to physically deny a service results in sex without consent (rape) which is a common enough occurrence that is not prevented by a sex workers perceived right to say no. As mentioned previously, sex workers face innumerable barriers when seeking justice after assaults of any kind, which highlights the futility of supposed sex work protections bestowed under a human rights framework. Priceless therefore rejects the assertion that the Bill conforms with human rights. The right to not be prostituted is the human rights principle that should be upheld because it acknowledges the indignity, gendered exploitation and vulnerability inherent to prostitution.

Priceless therefore strongly recommend that the EPSC request amendments to the Bill in its current form because it does not adhere to human rights principles.

Push and pull factors of prostitution and exit strategies

12. The push and pull factors that drive prostitution are complex, but Priceless disagrees with the assertion that sex work is therefore somehow 'inevitable' and 'near impossible to prevent'. The pull factors of poverty, debt, domestic and family violence and lack of education or employment opportunities are social determinants that limit the choices of the economically vulnerable, attracting them to an industry that has demonstrated a callous willingness to exploit that vulnerability. The most disturbing correlation in this equation however, between childhood events and the pull towards prostitution, is that of having a history of rape or sexual abuse (Lutnick A, Harris J, Lorvick J, et al 2015). Prostitution is clearly a career choice of individuals with limited choice, and to the degree that Government can prevent further trauma in the lives of current and future sex workers it should act to limit access to the sex work option and not facilitate it.
13. The limited options available to most sex workers and the socially isolating experience of sex work make it a challenging industry to exit for many. Accordingly, sex work survivor networks have recognised the value of supporting exit for those that wish to do so. Priceless suggests that the level of entrapment, both psychological and economic within the sex industry has been underestimated by the ADG and downplayed by sex work advocates, and that measures to assist exit from the industry should be integral to any regulatory framework.

Priceless therefore strongly recommend that the EPSC request amendments to the Bill to include provisions for sex worker exit, and stronger provisions limiting sex worker recruitment to the industry.

Public hearing

Priceless requests that the ESPC permit a public hearing before the committee by a former sex worker from NZ to present a firsthand account of the NZ model of sex industry regulation

Summary of recommendations to the Economic Policy Scrutiny Committee by Priceless

- 1. Priceless therefore strongly recommend that the Economic Policy Scrutiny Committee advise the assembly to amend the NT Sex Industry Bill 2019, and not pass it in its current form.**
- 2. Priceless therefore strongly recommend that the EPSC request amendments to the Bill so that it correctly apportions risk associated with sex work and propose appropriate protections regarding the harm perpetrated by the act of being prostituted.**
- 3. Priceless therefore strongly recommend that the EPSC request amendments to the Bill to correct policy capture by sex industry groups, provide equal input to sex work survivor groups and demonstrate a transparent consideration of the Nordic model principles**
- 4. Priceless therefore strongly recommend that the EPSC request amendments to the Bill in its current form because it does not adhere to the spirit of women's human rights and dignity.**
- 5. Priceless therefore strongly recommend that the EPSC request amendments to the Bill to include provisions for sex worker exit, and stronger provisions limiting sex worker recruitment.**