

Public Health Association of New Zealand Policy on Decriminalisation of Prostitution (2001)

The Public Health Association notes that:

- The current legislation on prostitution is archaic and needs reform to address its limitations, which run counter to public health and human rights concerns.
- The existing laws reflect and perpetuate historical inequalities and double standards in relation to women and men, workers and clients, owners and staff. New Zealand research shows that most sex workers are women (Plumridge and Abel 2000). Current laws are designed to criminalise the sex worker while offering legal protection to the client. Sex workers are denied the protections other workers have a right to expect, (eg, the right to negotiate the terms and conditions of their employment, the right to a healthy and safe working environment and freedom from sexual harassment). This inequality before the law makes sex workers vulnerable to intimidation and exploitation by clients and employers, including the owners of sex industry premises.
- Existing laws on prostitution inhibit healthy behaviours by imposing significant barriers to promoting safer sex information and products, as they are used as evidence of an offence against charges of prostitution and brothel-keeping. Failure to promote safer sex measures has adverse implications for the health of sex workers, clients and their other sexual partners (ie, for public health generally).
- Young adults in New Zealand are at greatest risk of spread of sexually transmitted infections (STIs), including gonorrhoea, chlamydia and genital warts. Statistics collected in 1999 show an increase in gonorrhoea, which is considered a sensitive marker of unsafe sexual practices and may precede increases in other STIs, including HIV (Turley, McNicholas et al. 2000).
- Since 1988 the New Zealand Prostitutes Collective (NZPC) has played a major role in supporting the occupational health and safety of sex workers by providing advice and support to sex workers and to government and non-government agencies. Although peer educators such as the NZPC and sexual health services provide effective education, support and treatment for sex workers who they can reach, youth and poverty are both factors associated with unorganised, opportunistic sex work, beyond the reach of NZPC and sexual health services.
- Stigma and criminal status continue to be major barriers to the provision of sexual health information and access to appropriate treatment services, especially for young and/or poor people who may be ignorant of or misinformed about sexual health.
- A recent New Zealand study indicates that many sex workers do not disclose their occupation to their general practitioner. Both sex workers and their clients may be deterred from seeking medical advice for a variety of reasons, including fear of acknowledging illegal behaviour, shame associated with participation in sex work, and fear of disclosing names of sexual contacts for partner notification purposes (Plumridge and Abel 2000).
- Existing laws have scant regard for the occupational health and safety of sex workers. Besides inhibiting the promotion of safer sex information and products (a significant workplace hazard), commonplace practices include arbitrary and unfair work rules and practices such as unfair dismissals, bonding, fining and withholding payment to sex

workers. As it is illegal to live on the earnings of a prostitute or to own or manage a brothel, most operators of sex workplaces do not 'employ' sex workers but use them as "independent contractors". Regardless, many sex workers in massage parlours and escort agencies are not allowed to decline clients or determine their own work hours (personal communication, NZPC). Current laws provide little protection to sex workers against these practices.

- Conviction for a prostitution-related offence can erode self-esteem and affect sex workers for the rest of their lives, impairing their ability to gain alternative employment, to travel, and to obtain finance or insurance services. Sex workers convicted of drug and/or prostitution offences are unable to work in a massage parlour for ten years.
- Given the stigma associated with a criminal offence, the current laws can force sex workers into more dangerous street work. A recent study of sex workers in Christchurch found that nearly two-thirds of street prostitutes were under the age of 18, and some as young as 13, when they began sex work. Over one-quarter of street workers had been raped and two-thirds threatened with physical violence (Plumridge and Abel 2001).
- The World Health Organisation advised in 1989 that "Successful interventions to prevent HIV infection associated with prostitution...have been most effective where prostitutes are empowered to determine their working conditions" (Global Programme on AIDS and Programme on STD 1989).
- Legislation pertaining to prostitution is currently under review by Parliament through the Prostitution Reform Bill 2000, which is now before the Justice and Law Reform Select Committee. The aims of this Private Member's Bill are to decriminalise prostitution, to safeguard the human rights of sex workers and protect them from exploitation, to promote the welfare and occupational health and safety of sex workers, to create an environment which is conducive to public health, and to protect children from exploitation in relation to prostitution. The PHA has made a written submission and has asked to appear before the Select Committee to speak to the submission.
- Parliament has recently amended the Crimes Act to bring New Zealand into full compliance with the International Labour Organisation Convention 182 Concerning the Worst Forms of Child Labour. Under the amended Crimes Act, sex with a prostitute under 18 years old is illegal, procuring for prostitution is prohibited for either males or females, and a more general ban on debt-bondage and serfdom is applied.

The Public Health Association affirms the following principles:

- The improvement of health outcomes for the total population and population groups is best achieved through a combination of disease prevention, health protection and health promotion programmes and philosophies.
- Socio-economic factors have a major influence on health. Effective policies are those which enable people to make individual and collective choices to reduce harm and improve health.
- Everyone should have the right to accessible, acceptable health care services. Social and criminal marginalisation of individuals or population groups creates a major barrier to access to appropriate health information and services.

- Everyone should have the right to a healthy and safe working environment. This includes the right to refuse unwanted sexual advances.
- Legislation pertaining to prostitution/sex work should reflect the principles in the Human Rights Act and the Health and Safety in Employment Act. Sex workers should not be discriminated against on the basis of gender, sexual orientation or employment status.
- Peer education is a critical step towards developing and maintaining a supportive social environment. Both the Treaty of Waitangi and the Ottawa Charter provide frameworks for developing policy and community based projects to develop healthy public policy and supportive environments.

The Public Health Association believes that the following steps should be taken:

- Repeal the current prostitution laws in favour of a decriminalised sex industry along the lines of the Prostitution Reform Bill 2000 and the PHA's submission on the Bill. This includes consideration of a new provision to 'wipe the slate clean' for prostitution-related offences committed over a specified period.
- Closer working relationships should be encouraged between sex workers, sex industry owner/operators, health agencies and local authorities, with the aim of developing a healthy and safe environment which affirms the rights of sex workers and balances the rights of the public.
- Government should support initiatives to enable health and social service agencies to develop more effective and visible means of providing health services and educational strategies to prevent the spread of sexually transmissible infections, especially amongst young and poor people.
- Sex workers must be supported to continue to build and utilise strong community links that encourage peer education (including STI prevention), and to reach marginalised/underground sex workers.
- Sex workers should be encouraged to develop best practice guidelines for occupational health and safety for adoption in the workplace, in addition to any guidelines developed by the Ministry of Health and/or the Occupational Safety and Health Service.

Review: July 2003 and thereafter every 3 years.

References:

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