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Annie Mundy

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To:
Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

7 November 2012

Dear Sir/Madam

Please consider this submission in your report on the Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012. Clause 50, Insertion of section 106C into the Anti-discrimination Act 1991

I am opposed to this amendment to current legislation as it removes my current rights to work in certain environments, puts me at risk of physical harm and economic loss and is also likely to adversely affect others in my occupation, their clients and families. I also believe that the reasons for the proposed change do not adequately show how it will result in a safer community.

Please consider these points regarding the proposed amendment:

It opposes the intention of existing prostitution legislation.

The Prostitution Bill 1999 Explanatory Notes state that “The underlying principles of this Bill are to: ensure quality of life for local communities; safeguard against corruption and organised crime; address social factors which contribute to involvement in the sex industry; ensure a healthy society; and promote safety.”

- *Ensure Quality of Life for Local Communities:* Eviction of sex workers onto the streets at night would give many little other choice than to publicly solicit for business. The increased scarcity of accommodation that can be worked from is also likely to see an increased number of sex workers working in public spaces. Few community members enjoy being solicited for business, and that includes the business of sex.
- *Safeguard against corruption and organised crime:* Being denied working accommodation leaves sex workers in a vulnerable high need position that is easily exploited by those who can control accommodation and are willing to use the sex worker in organised crime.
- *Address social factors which contribute to involvement in the sex industry:* Although this change may not significantly impact on the overall numbers involved in the sex industry, It is likely to result in sex workers of high safety and community values leaving the industry due to not being willing to do street based work, to be replaced by those with lower safety and community values who may be more willing to work illegally from public spaces.
- *Ensure a healthy society:* Sanctioned discrimination decreases self esteem, resulting in decreased safe sex practices, putting sex workers and clients at risk with their health.
- *Promote safety:* Eviction of sex workers and clients of sex workers onto the streets at night

makes them vulnerable to violence from others when there are no short notice accommodation alternatives.

It Appears to be Motivated by a Misguided Sense of Morality.

Due to the scarcity of evidence of harm done by commercial sex in accommodation, my concern is that the motivation for the amendment may be to appeal to a misguided sense of morality. I see morality as a worthy cause if it is to assess behaviour that affects current outcomes in values of overall human well-being on a personal, community and species level. However the morality often associated with discrimination against the rights of sex workers can often be tracked back to moral codes written in a period where promiscuity was a health risk due to low prophylactic technology, a patriarchal society where it was undesirable for women to have high economic power, and certainty of lineage was important for passing down wealth. A current feeling of injustice that casual sex is scarce for men yet financially profitable to women may also contribute to the sense that sex work is immoral. However, where prophylactic use is easy and encouraged, sex work is a legitimate business and possession of prophylactics are not used as evidence against sex workers, sex workers enjoy sexual health mostly equal to or better than others in the community; Women's economic power is generally not seen as an issue today.

It appears that the consequences will have an overall net negative impact on the community.

- There is little evidence that money changing hands on the premises of an accommodation provider does any more harm to proprietor, staff or other tenants or guests than sexual acts where money does not change hands. Therefore harm reduction is unlikely to be achieved with this amendment.
- There is little evidence that a discreet sexual service does any more harm to proprietor, staff or other tenants or guests than any other low impact service using the accommodation. Therefore harm reduction is unlikely to be achieved with this amendment.
- Harm to proprietor, staff or other tenants or guests sense of morality, is more likely to be caused by indoctrinated moral codes that are historical and not valid in contemporary society, rather than by the act of paying for a sexual service. Therefore this amendment appears be more symptom than cause focused, so unlikely to contribute to a long term gain.
- Sex workers and their clients evicted from accommodation and onto the street are likely to experience increased risk of violence toward them if done so at short notice, especially at night where alternatives cannot be arranged. Sex workers, clients, their families and children are at greater risk of homelessness if evicted from long term accommodation. Therefore likely increased harm by risk of loss and violence, which is also likely to increase demand on police and other support services.

It opposes human rights progress.

In our society and many other western societies human rights have been progressively increasing. People who's relationship choices, ethnicity, skin colour, sex, gender, sexuality, legal employment choices or disability which do not significantly harm others are protected from unjustified discrimination. We often see this as our society becoming more civilised. This proposed amendment, decreasing the rights of sex workers without sound justification, seems to be a backward step.

Although it could be argued that accommodation providers should also have a right to choose who stays in their provided accommodation, there is established anti-discrimination legislation to ensure

vulnerable groups are not unjustly discriminated against and all Queensland service providers are expected to know of this before going into business. This amendment would be equivalent to a tradesperson refusing to work for someone because they are a couple living out of wedlock or have a skin colour they don't like.

The bill and explanatory notes do not offer sound reasons for the proposed legislative change

The reasons given in the bill are "Accommodation used in connection with lawful sexual activity. Recently, the Queensland Civil and Administrative Tribunal (QCAT) Internal Appeal Body, in *GK v Dovedeen Pty Ltd and Anor* held that a motel that refused accommodation to a sex worker who had used the accommodation to provide prostitution services had contravened the Anti-Discrimination Act 1991 (ADA). QCAT found that the conduct constituted direct discrimination on the basis of "lawful sexual activity". Under the ADA, "lawful sexual activity" is defined to mean "a person's status as a lawfully employed sex worker, whether or not self-employed". The decision has been appealed to the Court of Appeal."

It appears that the reason is that either QCAT upheld the current law or that the decision has been appealed to the court of appeal, or both. Neither reason appears to show how the bill will solve a problem any more than creating a larger problem.

The explanatory notes also say "The Bill amends the ADA to give accommodation providers certainty and control in the use that is made of their premises by inserting an exemption in the ADA which allows a person to discriminate against another person in relation to accommodation if the accommodation provider reasonably believes that the other person is using or intends to use the accommodation in connection with that person's or another person's work as a sex worker."

Again, this does not show how the amendment will solve a problem. In the event that the bill is passed, accommodation providers will still not have "certainty and control in the use that is made of their premises" as they will still not be able to control if the accommodation is used for example, meetings, extramarital sex, interracial sex, gay sex, or employment interviews unless they use the act maliciously with abused of power to evict, based on a stated belief that they are likely to engage in sex work.

There is potential for abuse.

Under the wording of the proposed section 106C, an accommodation provider could accept a booking and payment, wait until the guest arrives at the accommodation and then legally refuse them accommodation or evict them from accommodation without refund based on a "belief", rather than evidence. When the guest is then left vulnerable without accommodation and no alternatives the accommodation provider can use this power imbalance to offer the room back at five times the usual rate using other ways of "treating the other person unfavourably in any way in connection with accommodation" such as car impounding, denying access to luggage etc. to gain extra leverage. The service provider could also use the proposed law to negotiate sexual favours in return for not evicting them, even if the person is not a sex worker, based not on evidence, but a stated belief. The majority of accommodation providers are unlikely to do this, however, the huge power advantage this amendment gives the accommodation provider over the guest is likely to eventually be abused by some.

As a transgender woman I have noted that in the area of accommodation it is an offence to discriminate against a person based on their gender identity. I also note the stereotype in our culture

that transgender women are likely to be sex workers. Under this amendment it will now be very easy for an accommodation provider to refuse accommodation to a transgender woman by indicating the “belief” the transgender woman is likely to participate in sex work.

The period of time given for submissions seems unreasonably short.

If this bill is passed it could have large negative consequences as outlined in this submission, to sex workers, and clients, families and children of sex workers. I challenge that seven days is enough time for affected community members to learn about the proposed changes, understand them, follow public discussion on them, develop their own realisations on how the bill may affect them and make a submission.

Thank you for your consideration. If in the course of your research on this matter you would like to discuss these or other relevant points further with me, I am happy to meet with someone or discuss by phone.

Yours sincerely

A handwritten signature in black ink, appearing to read 'AMundy', written in a cursive style.

Annie Mundy
Sex Worker