

Criminal Code (Serious Vilification and Hate Crimes) Amendment Bill 2023

Submission No: 26
Submitted by: Respect Inc and Scarlet Alliance, Australian Sex Workers Association
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See attached:



Level 1, 76 Wickham St,
Fortitude Valley QLD 4006
info@respectqld.org.au
www.respectqld.org.au
P: 07 3835 1111



P. O. Box 854,
Newtown NSW 2042
info@scarletalliance.org.au
www.scarletalliance.org.au
P: 02 95 17 2577

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Legal Affairs and Safety Committee
Email: lasc@parliament.qld.gov.au

To the Legal Affairs and Safety Committee,

RE: Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023

Please accept this submission offering sex worker community input into the **Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023**, drawing the Committee's attention to the need for vilification protections for sex workers in Queensland.

In the period since the Legal Affairs and Safety Committee Report No. 22 ("Report No. 22"), the **Queensland Human Rights Commission (QHRC) Building belonging report** has been released. It includes a recommendation to amend the attributes to provide better protections for sex workers. The Queensland Government response to Report No. 22 indicates an intention to extend the vilification attributes to align with new attributes proposed for the Anti-Discrimination Act.

In 2022, a survey of sex workers found excessively high levels of discrimination across a broad range of areas and extremely high levels of unreported discrimination. While participants did not always refer to their experiences as vilification, many described it.

Respect Inc and Scarlet Alliance strongly recommend that 'sex work' and 'sex worker' should be included as recognised 'grounds' for vilification. We would appreciate the opportunity to explain this issue to the Committee. Please contact Janelle Fawkes on [REDACTED] if this is required.

Signed,



Lulu Holiday,
State Coordinator
Respect Inc



Mish Pony,
Chief Executive Officer
Scarlet Alliance, Australian Sex Workers Association

Background

Sex workers in Queensland experience excessive levels of serious vilification, are not currently covered by s124A and s131A and currently have no recourse to justice. The joint submission from Scarlet Alliance and Respect Inc in August 2021¹ outlined some examples of the wide variety of types of vilification sex workers experience:

Sex workers experience vilification from members of the general public, the media, organisations, law enforcement and government actors and agencies. Entrenched stigma and discrimination, historic criminalisation and a lack of consistent and comprehensive anti-discrimination and anti-vilification protections for sex workers has meant that sex workers are treated as an 'easy target' for vilification as individuals and as a collective in Queensland. Due to the absence of sex worker-specific vilification protections in Queensland, as well as the barriers to reporting vilification based on race, religion, gender or sexuality experienced by sex workers created by the current sex work laws which criminalise sex work, vilification and hate crimes enacted against sex workers go undocumented and unreported.²

Research in 2020 and 2015 found a high prevalence of stigma and discrimination perpetrated against sex workers in Australia, further highlighting the importance of specific anti-vilification protection for sex workers to be enacted as part of this bill:

In 2020, [Scarlet Alliance conducted research in partnership with CSRH](#) that surveyed 647 sex workers in relation to stigma and discrimination; 96% of participants reported experiencing any stigma or discrimination related to their sex work within the last 12 months, including 34% who indicated that this 'often' or 'always' occurred. 91% of participants reported any negative treatment by health workers, including 24% who indicated this 'often' or 'always' happened. [In 2015, research by CSRH](#) found that 31% of health workers self-reported they would behave negatively toward sex workers because of their sex work. Among the general public, 64% self-reported they would behave negatively toward sex workers because of their sex work... In some jurisdictions, council staff have been known to take steps such as informing landlords about someone's sex work with the goal of having sex workers evicted. Stigma and discrimination creates housing instability.³

A 2022 survey of sex workers in Queensland found 72.5% of sex workers had experienced discrimination, a further 14.2% were not sure if their experience would count as discrimination. The experiences described by sex workers also included examples of vilification. Of the sex workers who experienced discrimination, 91% did not report the discrimination experienced.⁴

¹ Respect Inc and Scarlet Alliance, Australian Sex Workers Association submission to the Legal Affairs and Safety Committee *Inquiry into serious vilification and hate crimes*.

https://respectqld.org.au/wp-content/uploads/Documents/sub_250821.pdf

² Ibid.

³ Scarlet Alliance, Anti-Discrimination and Vilification Protections for Sex Workers in Australia, *Briefing Paper*, August 2022.

https://scarletalliance.org.au/wp-content/uploads/2022/07/Anti_Discrim2022.pdf

⁴ Respect Inc and DecrimQLD, Unprotected and Under-reported, *Synopsis 1*, 2022.

<https://respectqld.org.au/wp-content/uploads/Synopsis-1-ADA.pdf>

Additionally, since the Legal Affairs and Safety Committee tabled Report No. 22, *Inquiry into serious vilification and hate crimes* on 31 January 2022, the Northern Territory has passed amendments to its Anti-Discrimination Act 1992 and clause 10 of the amendments has the effect of providing sex workers with vilification protections. Queensland now has an opportunity to ensure that sex workers are protected here too.

Alignment with anti-discrimination protection attributes

We note that the 31 January 2022 Queensland Government Response to the Legal Affairs and Safety Committee Vilification Report No. 22 indicates ‘in principle’ support for additional attributes and that this was to be considered based on the recommendations in the QHRC Report on the Anti-Discrimination Act review:

Recommendation 4 - Supported in-principle. The Government is committed to exploring additional attributes protected under these provisions. It is noted that the QHRC, as part of its review of the AD Act, is considering whether there is a need for any reform regarding the current attributes of discrimination in section 7 of the AD Act. The recommended expansion of sections 124A and 131A to capture additional attributes will be considered in the context of any broader reforms relevant to attributes recommended by the QHRC.⁵

The Queensland Human Rights Commission Anti-Discrimination Act review **recommended an attribute to specifically protect sex workers**, stating at R24.1: “The Act should include ‘sex worker’ as an attribute and the attribute should be defined to mean ‘being a sex worker or engaging in sex work’”.⁶ It is critical that the expansion of the vilification attributes is considered at this stage in line with the government’s commitment.

Respect Inc and Scarlet Alliance recommend that ‘sex work’ and ‘sex worker’ be included as a recognised ‘ground’ for unlawful and criminal vilification.

Sex worker safety and vilification

Sex workers also report experiencing vilification when a home or work address becomes known publicly. Sex workers report receiving threats and abuse and feeling unsafe. Circulating sex workers’ legal names and addresses publicly is used to vilify. In recent examples: other residents have leafleted the neighbourhood circulating the local address of a sex worker; a QLD social media group post listed an address and accused the resident of being a sex worker; a sex worker was accused of living with HIV and their photo and address were publicised; a suburban massage parlour was talked about in a suburban social media group and flyers were distributed naming the location as a “threat to children”. In each of these examples the point was to incite hate and action by others against the individual or group.

⁵ Queensland Government response to the Legal Affairs and Safety Committee Report No. 22, 57th Parliament - *Inquiry into serious vilification and hate crimes* tabled on 31 January 2022.

<https://documents.parliament.qld.gov.au/tp/2022/5722T717-4755.pdf>

⁶ Queensland Human Rights Commission review of the Anti-Discrimination Act Report: Building belonging: *Review of Queensland’s Anti-Discrimination Act 1991*, July 2022.

https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0012/40224/QHRC-Building-Belonging.WCAG.pdf

When a sex worker's address is made known and distributed maliciously with a vilifying message, their safety is at risk. Unfortunately, this vilification is an extremely common and regular experience for sex workers when our address becomes known. As such, malicious address distribution is vilification. It is intended to make sex workers feel vulnerable, unsafe, in danger and personally targeted.

Forcing sex workers to work alone increases vulnerability to vilification

The vilification is amplified when sex workers are forced to work alone. Working in pairs or small collectives are safety strategies. Without this there are fewer/no witnesses and a higher likelihood of vilification escalating into, or leading to, violence. Perpetrators of vilification are keenly aware of the barriers sex workers face and will take advantage of laws and regulations that force sex workers into isolation. Perpetrators believe they will get away with vilification against sex workers, knowing that sex workers are unlikely to report crimes under the current laws.

Regulations can make sex workers vulnerable to vilification

Regulations that fail to recognise the extent of discrimination and vilification sex workers experience can create unnecessary safety risks. An example is the regulations that prevent sex workers from working together (as discussed above) or that require sex workers to apply for a local government Development Application. The application process includes the advertisement of the person's address, legal name and use of the premises, leaving sex workers highly likely to experience vilification. In parts of NSW where this is required, sex workers have extremely low rates of compliance because sex workers fear vilification and the harm it causes and will naturally choose safety over compliance.

Sex workers experience vilification both as individuals and as a group targeted by other individuals, institutions and the media. There is a long history in Queensland and in other locations of police and local governments discriminating against sex industry businesses and sex workers, and of them vilifying sex workers as part of implementing regulatory approaches.

In Queensland Bill Carter, then-Chair of the Prostitution Licensing Authority, accused local authorities of being 'needlessly obstructionist' toward brothel applications:

The major concern in relation to the operation of the legislation has really been the attitude of local authorities. The approach of [councils] has been extremely negative. It has been said that local authorities have sought to hijack the legislation and they've made it extremely difficult for applicants to get approval in respect of development applications made for premises.⁷

Avoid leaving sex workers behind

It would be a major oversight for sex workers to be left without protection from vilification and hate crime in this pending legislation in Queensland. These vilification protections are an essential

⁷ Easton, R. & Fear, J. (2001). Queensland Parliamentary Library Research brief: 2001/29 *The Prostitution Amendment Bill 2001* (Qld), p. 23.
<https://documents.parliament.qld.gov.au/explore/ResearchPublications/ResearchBriefs/2001/2001029.pdf>

component of decriminalisation of sex work in Queensland. One without the other will significantly undermine the intention of decriminalisation. Leaving sex workers unprotected is not consistent with the Queensland Government's stated intent to decriminalise sex work in Queensland.

The current review can protect sex workers

The types of vilification that sex workers face are mirrored in stories from other marginalised communities that have been shared during this law reform process in Queensland. During the tabling of the bill in March 2023, Attorney General Shannon Fentiman described the types of situations these amendments are designed to address:

Whether it is experiences of trans women being misgendered in hospital, Muslim women being threatened with their hijabs being burned or people being called 'terrorists' and told to 'go home', it is clear that our laws need reform. It is vital that our hate crimes and vilification frameworks reflect modern community standards and reflect the wonderful diversity of which we are all so proud.⁸

Sex workers are part of the Queensland community and seek to be considered for inclusion in these protections.

About our organisations:

Respect Inc is the state-wide sex worker organisation in Queensland, run by and for sex workers. Our organisation provides a comprehensive health promotion, peer education and community engagement program with offices and sex worker drop-in spaces in Gold Coast, Brisbane and Cairns, and regional outreach to other locations.

Scarlet Alliance, Australian Sex Workers Association is the national peak sex worker organisation. Our membership includes state and territory-based and national sex worker organisations, and individual sex workers throughout unceded Australia. Through our objectives, policies and programs, Scarlet Alliance aims to achieve equality, social, legal, political, cultural and economic justice for past and present workers in the sex industry, in order for sex workers to be self-determining agents, build their own alliances and choose where and how they work. Scarlet Alliance represents sex workers on a number of government and non-government committees and advisory mechanisms.

Respect Inc and Scarlet Alliance are leaders when it comes to advocating for the health, safety and welfare of workers in the sex industry in Queensland and across Australia. Our organisations and projects have the highest level of contact with sex workers in their respective jurisdictions of any government or non-government agency.

⁸ Attorney General Shannon Fentiman, tabling the *Criminal Code (Serious Vilification And Hate Crimes) And Other Legislation Amendment Bill*, 29 March 2023, Hansard: https://documents.parliament.qld.gov.au/events/han/2023/2023_03_29_WEEKLY.pdf#page=27