



25 August, 2021

The Legal Affairs and Safety Committee
Parliament House
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RE: INQUIRY INTO SERIOUS VILIFICATION AND HATE CRIMES

To the Legal Affairs and Safety Committee

Please accept this submission as the impact of vilification and hate crimes on sex workers in Queensland may not have been raised by other submitters to the current Inquiry.

Sex workers as individuals and as a group experience vilification, in that individuals, and in some cases groups, incite hatred, serious contempt or severe ridicule of us at an excessive frequency in Queensland. Vilification against sex workers is currently not recognised as a crime. Even for sex workers who because of race, religion, gender or sexuality could make a complaint through the available process, the criminalisation of sex work and licensing system means the cases go unreported and those systems fail to provide protection for valued members of our community. Serious vilification and hate crimes against sex workers also go unreported and instead contribute to a general awareness within the sex work community that sex workers do not have the same protections as others in the Queensland community.

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, Townsville and Cairns, and regional outreach to other locations.

Scarlet Alliance, Australian Sex Workers Association is the national peak body representing a membership of individual sex workers, and sex worker networks, groups, projects, collectives and organisations from around Australia since 1989. 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.

To address the significant barriers that sex workers face in reporting crime, discrimination and vilification in Queensland, the government should: decriminalise sex work in Queensland, ensure protections under the *Human Rights Act* apply equitably to sex workers and include sex workers in anti-discrimination and anti-vilification law. These four components are essential to ensuring that we have access to the same rights, protections and redress as other Queensland citizens.

Signed,



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Executive Summary

The *Anti Discrimination Act 1991* currently does not provide any anti-vilification protection for sex workers in Queensland. Sex workers experience vilification from members of the general public, the media, organisations, law enforcement and government actors and agencies. The lack of anti-vilification protection is compounded by the sex work laws and licensing framework in Queensland, which results in many sex workers facing criminalisation. Criminalisation frames sex work as 'criminal' and in need of harsh state regulation. This framing is in and of itself vilifying and directly contributes to the broader community being able to enact vilification against sex workers and those associated with sex workers with impunity and justification. This combination forms a major barrier for sex workers accessing justice for acts of serious vilification and hate crime, which results in many experiences going undocumented, unreported and unrecognised. To address the significant barriers that sex workers face in reporting crime, discrimination and vilification in Queensland, the government should: decriminalise sex work in Queensland, include sex workers in anti-discrimination and anti-vilification law (specifically as a 'ground' under s 124A and s131A) and ensure that protections under the *Human Rights Act 2019* apply equitably to sex workers and sex work legislation. These four components are essential to ensuring that we have access to the same rights, protections and redress as other Queensland workers and citizens.

Recommendations

Respect Inc and Scarlet Alliance recommend:

1. 'Sex work' and 'sex worker' should be included as a recognised 'ground' for unlawful and criminal vilification under s 124A and 131A.
2. Existing anti-vilification protections for race, gender and sexuality should be strengthened, with a particular focus on addressing the increase of racial abuse including in its impact on sex workers.
3. That the Queensland Human Rights Commission maintain a civil redress avenue for sex workers pursuing a vilification claim, in order to avoid forcing sex workers to interact with the criminal justice system. However the current limitations of the conciliation process should be addressed to support particularly criminalised and marginalised community members to make complaints. Name suppression, anonymous complaints as well as phone/video appearance should all be incorporated to improve the accessibility and effectiveness of the process.
4. The [full decriminalisation of sex work](#) in Queensland is an essential aspect of removing barriers to sex workers reporting vilification and lifting the current forms of criminalisation that legitimise serious vilification and hate crimes against sex workers.

The type and amount of hate crime and vilification in Queensland, and if it is increasing;

Prevalence of hate crime and vilification against sex workers in QLD

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.

The *Anti Discrimination Act 1991* defines unlawful vilification as a public act that is capable of inciting 'hatred, serious contempt or severe ridicule towards a person or a group of persons because of their race, religion, sexuality or gender identity'.¹ A public act can include remarks in newspapers, journals, radio, television and materials on the internet any conduct observable in public such as signs, gestures, wearing clothing, emblems and insignia.² Unlawful vilification becomes a criminal offence if it involves the threatening or inciting of 'physical harm towards, or towards any property of' a 'person or group of persons'.³

Sex work stigma is deeply rooted in historical misconceptions and prejudices about sex work and sex workers that directly inspire 'hatred', 'serious contempt' or 'severe ridicule' towards sex workers. Examples of such stigma are: that we are deviant, immoral, criminal and vectors of disease, that we directly cause infidelity in relationships, are a danger to children, do not have a rightful place in the community or that we are in need of rescue as victims of patriarchal oppression, violence and trafficking. Sex worker stigma compounds differently for sex workers from intersecting marginalised communities who are targets of vilification because of their visa or migration status, race, religion, gender identity, HIV status, able-bodiedness, drug use and sexuality and for sex workers who are parents, carers, are young or work as street based sex workers.⁴

The *Options Paper* notes that there has been a significant increase in the vilification of people from Asian communities since the beginning of Covid -19. Staff and volunteers of Respect Inc regularly hear reports from sex workers from Asian communities about their experiences of vilification and hate crimes in Queensland and that they feel powerless to respond. Some cases include public ridicule, consistent hounding and physical violence.

Actions by some police in Queensland demonstrate a level of racism toward sex workers from Asian communities, with one officer noting in a meeting with Respect Inc that the we should be happy that he was targeting 'Asians who were taking local sex workers jobs'. Racism and attitudes toward sex

¹ *Anti Discrimination Act 1991* (QLD) s 124A.

² *Ibid* 4A.

³ *Ibid* s 131A

⁴ Zahra Stardust et al., 'I wouldn't call the cops if I was being bashed to death': Sex work, stigma and the criminal legal system' (2021) 10(2) *International Journal for Crime, Justice and Social Democracy* (advance) 2.

workers from Asian communities by police creates systemic barriers to sex workers accessing protection under s131A of the Act.

Other sex workers have spoken out publicly after having been told by police they would 'send them back to where they came from' in the process of a police raid. As the statement was made in front of a number of other officers who rather than intervene had laughed at the person, the person believed strongly that if reported the incident would not be taken seriously.

This same attitude toward sex workers from Asian communities from within QPS underpins other vilification reports. Respect Inc has received reports from sex workers and from two motel owners that describe police approaching reception and outlining in front of other guests that the occupant of a room is an 'Asian prostitute', when the motel owner stated that 'it was not illegal' the police officers became angry and pressured the owner to evict the person suggesting the section of the Anti-discrimination Act that gave them the ability to do so. When they refused to take action the police indicated (incorrectly) that they could be charged for allowing the sex worker to stay.

Vilification can also greatly affect sex workers who also work in other professions, including in the education sector. For example, in 2005 a high school teacher in Meanjin / Brisbane was publicly identified and punished for having worked as a sex worker in a licensed Gold Coast brothel.⁵ The teacher had been seen by a colleague of hers, a male teacher, who was attending the brothel as a client. As peer educator Candi writes, 'in an astounding act of moral hypocrisy the prospective client informed the school principal what he had discovered about the woman's second job. Still more astounding, while both of the teachers were 'counselled' about the appropriateness of their behaviour, only the female sex worker was penalised'.⁶ This case is an example of the 'moral panic' that is often generated and normalised by politicians and media outlets when it comes to public discourse on sex work. This discourse directly vilifies sex workers as 'immoral', de-legitimises sex work as an occupation and implies that sex workers are not suited to also undertaking teaching responsibilities. When representatives of government and the media publicly question the 'morality' of sex work, implying immorality and risk, this vilifies sex workers in ways that may seem justifiable to the general public. In turn, this emboldens people and organisations to incite 'hatred, contempt and ridicule' towards sex workers, with the knowledge that this can be done with impunity.

In other workplaces, sex workers in Queensland have been outed as sex workers to their colleagues when employers become aware of their current or previous work as a sex worker. Other employees have been told that the person is a sex worker in order to incite contempt and to ridicule the person until they have little option but to leave the workplace undermining their industrial rights.

This points to the way that sex work is currently weaponised as a tool used to vilify and there is currently no way to escape the vilification but to leave the situation. In this way the current attributes and 'grounds' for vilification in the Act do not protect sex workers.

⁵ Odgers, R. (2005). Teachers may face second job ban. *Courier Mail*. Retrieved from http://www.scarletalliance.org.au/nm/australia/qld/Odgers_2005/.

⁶ Forrest, C. (2007). (Anti) Discrimination in the Sunshine State *Provision: The [REDACTED] Stigma*. (1). pg 13.

Sex workers in Queensland also experience threats that if they do not comply they will be 'outed' or their personal details including location will be shared publicly implying they will be publicly vilified once that information is public.

"He used my advertising to attempt to blackmail me into sending him nude images. When I refused he splashed my ad's out. He knew because I was a sex worker I would be fearful of people knowing my identity and that I would be targetted."

A brothel based sex worker in Queensland reported being targetted and publicly ridiculed as a "dirty hooker that probably has HIV" by a man who went to an extreme effort to pose as a friend of hers on facebook and arrange to meet her in public in order to 'expose' her as a sex worker and humiliate her.

In addition, to individual vilification, sex workers as a group are also vilified in media and by groups that oppose our work. In 2016, a group of women targeted strip clubs in the Fortitude Valley area graffitiing the businesses with slogans and statements indicating that the women working there were complicit in supporting violence against other women. The targetting was public and intended to incite hatred toward the sex workers working in the strip clubs.

Media reporting has been a sight of vilification of sex workers as a group as well as individual sex workers, particularly in relation to HIV status, gender and sexuality. Even at the time of our death, as sex workers we are targetted by media for ridicule.⁷

In a number of cases sex workers have outlined treatment that is aimed at public vilification that is combined with the threat of violence such as a sex worker touring a regional location who on entering the local bar was yelled at 'get out of here [redacted] or I'll tell everyone what you do and they'll all come after you' she left feeling unsafe. In other cases, sex workers describe being targetted in their homes having [redacted] or other words spray painted on doors or the front of the home. And in one case a sex worker was told by a neighbour that a couple who lived nearby had said that if they all worked together they could 'get her out', meaning to force her to leave her home. In another case a woman living in a unit in Kangaroo Point was given a small flier that had been put in letterboxes around her home. The flier referred to her work, referred to her as 'a [redacted]' and gave her address.

Sex workers report experiences of vilification to other sex worker peers, knowing that they have no other protection under current anti-vilification law in Queensland. For many, the cost of vilification can include loss of housing, lost income, alienation from family and community, and negative impacts on mental health - impacts that anti-vilification protections are designed to prevent.

These cases signal the crucial need for anti-vilification protections, including the addition of sex worker as a protected 'ground' under s 124A and s 131A. Without this change the limited availability of legal avenues to redress vilification will remain a significant barrier for sex workers and allows derogatory and harmful public acts against sex workers to continue unchecked. Further, to decrease the normalisation of vilification against sex workers, the government must directly address and

⁷<https://www.theguardian.com/media/2014/oct/08/mayang-prasetyo-killing-disrespectful-courier-mail-coverage-sparks-inquiry>

reform the language used to discuss sex work in law, policy and public forums. This language must not be centred on morality politics or rescue based interventionism. Instead, discussions must be centred in the understanding that sex work is work and that sex workers are entitled to the same industrial and human rights as other citizens.

Online vilification

The online vilification of sex workers is prevalent, under-protected, unreported and can take many forms. Individuals can target workers by 'outing' them online, identifying their address and advertisements and publicising this information to the workers family and friends and the broader community. This is done to mobilise 'contempt' against the sex worker and can be exacerbated if the worker is also a parent, carer or a worker in another industry (such as education or child care) or because of their gender or sexuality. Online vilification of sex workers also takes the form of groups of people, including so-called 'radical feminists' targeting sex workers ridiculing them for their choice of work, referring to their children and that they know where the person lives. There are also countless facebook groups that crop up with the intent of vilifying sex workers. Respect Inc. have heard directly from sex workers about their experiences of online vilification such as:

- A sex worker who was also a teacher-aid was threatened by an ex-partner that if she did not leave the town where they both lived that he would 'make sure she got what she deserved' by putting a post online telling parents at the school about her sex work career. This case was not long after another sex worker who was also a teacher was heavily ridiculed in the media.

The new girlfriend of a sex workers ex-husband circulated on a online blog the advertisement of a sex worker with her personal phone number and home address where she lived with her two small children. She felt unsafe and had to move into temporary accommodation, losing her home and going into debt.

It is integral that the government consult directly with sex workers, in collaboration with Respect Inc and Scarlet Alliance, when considering how to decrease the levels of vilification that sex workers experience online. The government or corporate led interventions that occur in online spaces often function to the detriment of sex workers, as they often pursue a censorship route which leads to the sex workers being pushed out of online spaces. Excluding sex workers from online spaces is counter-productive to addressing our need for anti-discrimination and anti-vilification protections. In this submission, Respect Inc and Scarlet Alliance have not addressed Online vilification. There are specific interactions between state and federal online vilification law which are relevant. Our organisations are available to speak further to these issues should the committee be investigating Online vilification.

How effective the laws are in responding to hate crimes against sex workers? *Barriers for sex workers accessing vilification protection*

The criminalisation of sex workers in Queensland through the licensing framework

Term of Reference : *the effectiveness of activities and programs of the Queensland Government (including the Queensland Police Service and Office of the Director of Public Prosecutions) and the Commonwealth Government responding to hate crime, including record keeping practices*

Sex work and the sex industry in Queensland are regulated by laws in: the *Prostitution Act 1999* (Qld); the *Criminal Code 1899* (Qld), Chapter 22A and sections of the *Police Powers and Responsibilities Act 2000* (Qld).

The *Prostitution Act 1999* (Qld) came into effect in July 2000 and introduced a brothel licensing system, established the Prostitution Licensing Authority (PLA) and allowed for the development of Regulations. Other sex industry business models including escort agencies, erotic massage services and sex workers working in pairs or co-ops were criminalised. The laws also criminalise many aspects of advertising including a sex worker describing their service even using acronyms.

The *Criminal Code 1899* (Qld) criminalises basic safety strategies and administration. Independent sex workers sharing information about their location and checking-in at the end of a booking, driving each other to outcalls, assisting each other with advertising or hiring a receptionist to screen bookings are all criminalised. Sections of the *Police Powers and Responsibilities Act 2000* (Qld) provide immunity for police posing as clients to request and undertake illegal activities and entrapment. The *Criminal Proceeds Confiscation Act 2002* (Qld) is applied to sex workers working in pairs etc and earnings are regularly confiscated. Queensland sex workers face the difficult decision of complying with laws that put their safety and right to privacy at risk, or working safely outside of the licensing framework, which in turn puts them at risk of criminalisation.⁸ A overall impact of the current laws is low reporting of crime by sex workers.

Police corruption and inaction is a common thread within sex industries that have any elements of criminalisation.⁹ Sex workers feel unable to report vilification and hate crimes made against them as they risk consequential legal liability, a permanent record of their sex work on police databases, and potentially making themselves later targets of sex work policing, such as entrapment practices and corruption, by making themselves known to police. The framing and targeting of sex workers as 'criminals' inevitably makes it difficult for sex workers to be believed as victims of crime. To grant sex workers the same access to justice as others, police should not be regulators of the sex industry, as it is impossible to occupy the dual role of '(alleged) protector and prosecutor'.¹⁰

The criminalisation of sex work in Queensland forms the largest barrier for sex workers accessing civil and criminal redress. The active framing of sex workers as 'criminals' who the public need to be 'protected from', or two sex workers working together or a sex worker hiring a receptionist as

⁸ Elena Jeffreys, Erin O'Brien and Janelle Fawkes, 'The Case for Decriminalisation: Sex Work and the Law in Queensland' (2019) 9 *Crime and Justice Briefing Paper* 1.

⁹ Zahra Stardust et al., 'I wouldn't call the cops if I was being bashed to death': Sex work, stigma and the criminal legal system' (2021) 10(2) *International Journal for Crime, Justice and Social Democracy* (advance) 6.

¹⁰ Ibid.

‘organised crime’ is in and of itself vilifying. The further marginalised our community becomes through state mandated criminalisation, stigmatisation and policy exclusion, the less likely we are to rely on state-based mechanisms of justice, such as the anti-discrimination framework. Therefore, to earnestly address the prevalence of vilification against sex workers in Queensland, the government must first consider how its own legal and policy structures, law enforcement, public services and institutions are directly endorsing and perpetuating this vilification. The [full decriminalisation of sex work is](#) a vital step in this process, alongside robust and accessible anti-discrimination and anti-vilification law.

Sex work not being included as a ‘ground’ for vilification under s 124A and s 131A.

Sex workers are currently not protected from vilification under the *Anti-Discrimination Act 1991*. As for general anti-discrimination protections, some sex workers can be covered by ‘lawful sexual activity’. However, due to the criminalisation of most sex work in Queensland, many workers cannot access this protection. To reduce this gap in coverage for sex workers and to enhance the impact of anti-discrimination and vilification protections, “sex work” and “sex worker” must be included as main attributes alongside ‘lawful sexual activity’. In addition, a sex workers family members and associates should be protected to ensure that vicarious stigma, discrimination and vilification cannot be enacted against people associated with sex workers, for example our children and partners. Explicitly naming "sex work" and "sex worker" as attributes ensures that sex workers will be fully covered by anti-discrimination and vilification legislation. This will ensure that workers are covered regardless of the form of sex work they engage in, whether the person making the complaint identifies as a sex worker, or if they are operating in the regulated or unregulated sex industry. It will also allow for protections for sex workers against discrimination and stigma regardless of regulatory, political and judicial environments and viewpoints around sex work.

Explicitly including sex workers in vilification and anti-discrimination protections is an important first step in confronting the normalisation of vilifying sex workers in Queensland. This vilification happens regularly from individuals, organisations, government, police, regulators and the media and remains unchecked and under-reported. Including appropriate protections for sex workers will enable us to access redress when we are targeted by vilification.

Access to vilification protection via existing protected attributes remains severely limited for sex workers due to criminalisation.

As noted by the *Options Paper* acts of vilification are increasing within Queensland, especially against members of Asian and African communities. We support the strengthening of existing vilification protections based on the protected attributes of race, sexuality, gender and religion to counter this increase. However, it is important to note that as long as the majority of sex workers are criminalised in Queensland, accessing vilification protection is severely limited, even when a sex worker may be included under a protected attribute. For example, if the vilification occurred at work in an unlicensed setting where the worker was targeted because of their gender identity, that worker cannot access justice as any identification may lead to their criminalisation.

Without decriminalisation, accessing s 131A is limited for sex workers

The criminal offence of serious vilification s 131A of the *Anti-Discrimination Act 1991* is not available to sex workers who are effectively criminalised by sex work laws in Queensland. Until sex work is decriminalised in Queensland, protective mechanisms such as s 131A will remain inaccessible because interacting with the criminal justice system as a sex worker currently leads to criminalisation, surveillance and targetting by police and immigration authorities.

The current conciliation framework is not accessible for sex workers

The conciliation framework provides limited possibility of redress for sex workers experiencing vilification in Queensland. The opportunity to elect not to participate in conciliation, particularly serious vilification, is important and particularly when there is a clear and inherent power imbalance between the individual taking the case and the entity (Eg. QPS, a media agency etc.). Providing the option of name suppression, video/phone appearances, and the ability for the complainant's identity to be protected are important considerations.