



SEX WORKER OUTREACH PROGRAM
SEX WORKER REFERENCE GROUP



Sex Worker Outreach Program (SWOP NT) Sex Worker Reference Group
(SWRG) Northern Territory submission in response to the Queensland
Anti-Discrimination Act (ADA) Review

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*SWOP NT is supported tirelessly by sex worker volunteer peer educators,
members of the **Sex Worker Reference Group (SWRG)***

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QUEENSLAND ANTI-DISCRIMINATION ACT 2019 – REFORMING 2022
Sex Worker Outreach Program (SWOP NT) Sex Worker Reference Group (SWRG)
Response to the Discussion Paper - Queensland
Anti-Discrimination Act (ADA) Review
Submitted via email directly to: Primary contact: Secretariat, ADA review Committee
submission (and consent form) to: adareview@qhrc.qld.gov.au

Dear Secretariat, ADA Review Committee members

Please accept this submission from the Sex Worker Outreach Program (SWOP NT)¹ and the Sex Worker Reference Group (SWRG)² in response to Discussion Paper - Queensland Anti-Discrimination Act Review (ADA)

Thank you to the Queensland Labor Government, for heading the review with support from the Human Rights Commission ADA Review Committee members for facilitating a formal platform for key stakeholders to be able to contribute to the processes in support of the government's intention to advance the human rights of Queenslanders through community consultation to modernise the *Anti-Discrimination Act 1991- Queensland Legislation*.

Queensland has enabled an opportunity through the discussion papers' questions for sex workers and our organisations and association to provide recommendations. This is very welcome and an integral part of the ongoing process for Queensland sex workers to gain protections against systemic stigma and discrimination. Sex workers in Queensland and across Australia continue to contribute to reforming laws that do not protect sex workers rights to work safely.

SWOP NT and the SWRG note the work of many Labor governments for their leadership in recognising sex work as a legitimate form of work that needs to be regulated through standard business, Work Health Safety, and other Industrial protections to safeguard workers safety, rights and to protect sex workers from discrimination and reduce stigma.

To achieve this outcome the Queensland government must continue to work with sex workers and our organisations peer representation in Queensland, Respect Inc and Decrim QLD and from our national association the Scarlet Alliance Australian Sex Workers Association to maintain strong partnerships to advance crucial areas for reform. Discrimination against sex workers and our work, worldwide, is systemic. Australia is already leading the way forward to start the first steps to address injustices against sex workers, the stigma of sex work comes with a high cost.³

Together we must all change this discourse.

¹Sex Worker Outreach Program - SWOP NT <https://www.ntahc.org.au/swopnt>

²Sex Worker Rights/Working in the NT- Sex Worker Reference Group (SWRG)
<https://www.ntahc.org.au/swopnt#WorkingintheNorthernTerritory>

³ The stigma of sex work comes with a high cost <https://theconversation.com/the-stigma-of-sex-work-comes-with-a-high-cost-79657>

Yours Sincerely NTAHC, SWOP NT and Northern Territory sex workers from the SWRG



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The Northern Territory Sex Worker Outreach Program (SWOP NT)

SWOP NT is a member of the Scarlet Alliance Australian Sex Workers Association; our peer based and led program is located within the Northern Territory AIDS & Hepatitis Council (NTAHC).

SWOP NT's health promotion service engages sex workers and other sex work industry stakeholders to gain knowledge about the Northern Territory's legal and sex work laws, and work, health, and safety requirements. SWOP NT's advocacy, health promotion, training/workshops, outreach, and broader programming aims to improve sex workers lives by holistically addressing issues including our human rights.

SWOP NT advocates to reduce stigma and discrimination against us as workers via advocacy, information resources and education sessions to health and legal sectors to facilitate equitable access to services and to inform policy development for a safer framework for sex workers.

The Sex Worker Reference Group (SWRG)

The SWRG is comprised of past and current sex workers who work in NT, inclusive of NT sex workers who fly in and out for work to other jurisdictions, including Queensland.

The SWRG co-represents alongside SWOP NT at roundtables, departmental and political meetings delivers training to stakeholders and presents at conferences and forums.

The SWRG documents best practice and case studies to support our submissions recommendations and evidence for reforms for sex workers rights based on the lived experience of workers.

Northern Territory Sex workers engagement with Respect Inc and DecrimQLD

Sex workers who are engaged in SWOP NT and the SWRG, who work and or have worked in Queensland have contributed to Respect Inc and DecrimQLD research of incidences of discrimination via surveys, one to one interviews, engaging in Respect Inc peer support services, activities, skill shares and workshops and in the engagement of DecrimQLD meetings.

Through these consultations some parallels have been raised by sex workers who work in Queensland in some of the same areas as the Northern Territory highlighted as negative aspects of the previous licencing system in the Northern Territory.

- 95% (194) sex workers surveyed, who work in QLD said repealing accommodation discrimination was very important
- 57.8% of (194) sex workers in Queensland did not feel comfortable to disclose to health care providers that they are sex workers
- And 72.5% of (94) sex workers surveyed have experienced discrimination, and a further 14.2% were not sure if their experience would count as discrimination

The above areas where discrimination has occurred for Queensland sex workers, has definite similarities areas of evidence that were presented by sex workers in the Northern Territory to the government, to successfully, with the support of the Scarlet Alliance and other stakeholders, repeal all laws that criminalise sex workers and the work, and to work towards all objects of the Sex Industry Act 2019, that includes protections from discrimination

As sex workers in the Northern Territory continue to work with government through legislative process for discrimination reform, we note that both New South Wales and Queensland sex workers have additionally an opportunity to recommend areas for protections against discrimination and vilification for sex workers and work with governments to enable rights.

SWOP NT and the SWRG looks forward to the Queensland Governments work with Respect Inc and Decrim QLD towards repealing all laws that criminalise sex workers and sex work. We wish to recommend that Queensland Government head the example of the Northern Territory Government, to maintain transparency and work directly with sex workers at every stage of the reform.

Respect Inc, Decrim QLD and the Scarlet Alliance Australian Sex Workers Association are integral as “Key Stakeholders” in this process, to assist in the implementation of recommendations to modernise the Queensland Anti-Discrimination Act and to thereafter the full decriminalisation of sex work.

The Scarlet Alliance has expertise in the development of Work Health and Safety Guidelines for sex work industry workers in NSW, the NT and currently assisting in Victoria. The Alliance has documented in all submission process for sex workers law reform, the critical inclusion in laws for protections against vilification and discrimination for sex workers, associates of sex workers and for the work under Anti-Discrimination & Equal Opportunity laws throughout Australia.

Northern Territory sex workers support in full the submissions of;

- The Scarlet Alliance, Australian Sex Workers Association
- The Alliances voting member organisations and groups and programs, and;
- The Queensland sex worker voting member of the Alliance, The Respect Inc ⁴⁵
- The Queensland sex worker reference Group Decrim QLD

Recommendations:

1. The Act must list 'accommodation status' as a protected attribute
2. The Act must ensure the repeal of the currently, lawful discrimination against Queensland sex workers by accommodation providers and employers in relation to the working with children exemption.
3. The Act must ensure the repeal of the attribute Lawful Sexual Activity and replace with;
 - "Sex work" must be listed as a protected attribute under the Act
 - "Sex worker" must be listed as a protected attribute under the Act.
4. The Act must offer protection for sex workers against vilification and the Act must extend protections to those who currently have or have previously held the protected attribute, associate with another person with the protected attribute, or are incorrectly assumed to possess the protected attribute"
5. The Act must enable sex workers to report anonymously
6. The Act must allow for a representative complaints model that would allow for organisations to lodge a complaint on behalf of sex workers

⁴ It is important to note, that SWOP NT and The SWRG only refer NT sex workers who work in Queensland to the Respect Inc Services, Decrim QLD for peer-to-peer support, engagement, information, safety, education and to join in peer only led advocacy and skill shares to advance the rights of sex workers to be safer at work.

⁵ Respect Inc is Queensland's peer only sex worker organisation <https://www.vixencollective.org/about-us>

Executive Summary

The amendment of the Queensland Anti-Discrimination Act to include protections for sex workers and our work is crucial. The parallels to the very recent advancement of sex workers rights in the Northern Territory, Victoria and now Queensland demonstrates Labors' commitment to safer working conditions and workplaces for all workers, without discrimination, recognising that sex work is work.

The Northern Territory Labor Government has fully decriminalised sex work, is supporting the work of sex workers with other work health and safety stakeholders in the development of the Industries Work Health & Safety Guidelines and is, as Queensland is, seeking recommendations of how best to protect us as workers in the modernisation of Anti-Discrimination Laws.

The Queensland Government must ratify anti-discrimination protections for sex workers and continue to work in partnership with sex workers to abolish all aspects of criminalisation of sex workers, sex work and operators of sex service premises.

The full decriminalisation of sex work is achievable. The Northern Territory Government with expertise and support of sex workers repealed the territories old sex work laws, passing the Sex Industry Bill⁶ as a new Act in 2019, that saw an overwhelming majority of the Territory Parliament voting 16-5.⁷

The repeal of draconian and dangerous laws that criminalised most sex workers and sex service operators in the territory was abolished in favour of facilitating the intersection of industrial & Work Health and Safety protections. Queensland has an opportunity to follow the lead of their jurisdictional counterparts.

The NT Labor government was re-elected in August 2020. Notably the Implementation of the Northern Territory Sex Industry Act 2019⁸, via amendments to the NT Planning Act and Scheme, ratified 12th June 2020, just prior to Labors' reinstatement to their second term of governance demonstrates that regulating Sex Work through full decriminalisation does not impact the government in power negatively. Territorians have been overwhelmingly supportive and welcoming of sex workers right to work safely and be protected by the Territories and federal Industrial laws.

The implementation of the full decriminalisation of sex work in the Northern Territory has provided a platform for sex workers to be able to continue to work with the government to complete all areas for holistic industrial protections. SWOP NT and the Sex Worker Reference Group from the outset requested for the Northern Territory government to address key areas for reform.

SWOP NT and the SWRG congratulate the Queensland Labor government for also advancing significant steps to protect sex workers, in seeking consultation with sex workers as the key leading stakeholder.

⁶ Legislative Assembly of the Northern Territory, Sex Industry Bill November 2019
<https://parliament.nt.gov.au/committees/previous/EPSC/105-2019>

⁷ NT decriminalises sex work as Attorney-General Natasha Fyles pushes through change, 2019, accessed may 2021
<https://www.abc.net.au/news/2019-11-26/northern-territory-sex-industry-bill-passed/11739820>

⁸ Northern Territory Legislation, SEX INDUSTRY ACT 2019 <https://legislation.nt.gov.au/en/Legislation/SEX-INDUSTRY-ACT-2019>

The Northern Territory demonstrates best practice partnerships between sex workers and government and provides an example lead for similar campaigns for the decriminalisation of sex work in other Australian states and territories.

Scarlet Alliance and the SWOP NT Media release from sex workers, at the passing of the Northern Territory Sex Industry Bill provided evidence of practice and showed how the partnerships between sex workers and government successfully led the campaign for the decriminalisation of sex work.

The following stakeholders named in the 2019 press release, have additionally supported all of our submissions that included recommendations for “sex workers” and “sex work” to be protected in the Modernisation of the NT Anti-Discrimination Act

“The Sex Industry Bill 2019 fully decriminalises sex work, aligning sex work to existing laws and regulations as well as enabling access to industrial rights, protections, and responsibilities. The process of the Bill from development to its passing has been a demonstration of best practice collaboration and consultation by the NT Labor Government with sex workers, our organisations, and National Association.

“We would like to thank the NT Labor Government, and in particular the Honourable Natasha Fyles for listening to us and hearing our issues and concerns throughout the process of decriminalising sex work in the NT,” says SWOP NT Coordinator, Leanne Melling. “We would also like to acknowledge the contribution and support of the Sex Worker Reference Group, Scarlet Alliance and their members, Labor Women, Sandra Nelson MLA, Unions NT, United Workers Union, Australian Services Union SA&NT, NT Working Women’s Centre, NT Women’s Legal Services, the Law Society, Family Planning NT, NT Anti-Discrimination Commission, the NT Department of the Attorney General and Justice, NT Department of Health, Department of the Territory Families, NTCOSS, Darwin Community Legal Services, NT SHBBVU and the Sexual Health Advisory Group, NT YWCA, AFAO, NTAHC and all the other supporters of the decriminalisation of sex work in the NT. We have all worked hard together to ensure sex workers have safety at work.”

NT sex worker, SWRG member and the Chair of the Scarlet Alliance Aboriginal and Torres Strait Islander Working Group, Desirae August states, “Aboriginal sex workers need to be able to access the same protections as other workers, regardless of how we work and how we identify. We need the full decriminalisation of sex work for all of us. This bill provides important changes to the NT sex work laws that will be beneficial to all sex workers, including Aboriginal sex workers, whether we identify as a sex worker or not.”

CEO of Scarlet Alliance, Jules Kim says, “This is a momentous day for all sex workers and sets a positive example that sex workers are valued members of the community, deserving of rights and protections. We applaud the NT Government for listening to sex workers and the evidence in fully decriminalising sex work in the NT. Sex work is work and it is fantastic that it is finally being recognised as such. We hope that these critical reforms will demonstrate the importance of best practice partnerships between sex workers and government and lead to similar campaigns for the decriminalisation of sex work in other states and territories throughout Australia.”⁹

⁹ Sex Workers Celebrate the Passing of the Bill to Decriminalise Sex Work in the NT
https://scarletalliance.org.au/media/News_Item.2019-11-26.4427

Anti-discrimination protections and the full decriminalisation of sex work.

Decriminalisation of sex work does not automatically remove discrimination against sex workers, Anti-Discrimination legislated protections are the key.

What we do know!!

The full decriminalisation of sex work in the Northern Territory has assisted with a more transparent and safer working environment for sex workers, however, without anti-discrimination protections, the daily occurrences of discrimination and vilification still occur.

The Queensland Government must strengthen anti-discrimination protections for sex workers under the Ant-Discrimination Act. The government must ensure “sex workers’ and “sex work’ are ratified as “protected attributes” under the Act, and that the Act include “protections against vilification” to ensure all industry workers and the highly stigmatised work is fully protected by Anti-Discrimination laws;

Despite the Northern Territory removal of criminalisation in favour of the right to sex workers to work safely as defined in the Sex Industry Act 2019, sex worker’s daily and ongoing experiences of discrimination, harassment and stigma signal the crucial need for legislative reform. Sex workers experience discrimination in; our access to goods and services, education, housing and accommodation, employment opportunities and access to justice, which affects our personal and professional lives, families, and health, wellbeing, and workplace conditions.

Discussion question 28 (p 98): Should there be a new definition of lawful sexual activity, and if so, what definition should be included in the Act? Should the name of the attribute be changed, and if so, what should it be?

Recommendation 1. The attribute of ‘lawful sexual activity’ should be changed to ‘sex work’ and ‘sex worker’

In 2017-2018 The Northern Territory Government received 172 open submissions with recommendations for reforms to modernise the territories Anti-Discrimination Act

It is important to note that question 7 in the review also asked if “Lawful Sexual Activity” should be endorsed as a main attribute to protect sex workers and our work”

Overwhelmingly the submissions that responded to question 7, **rejected** the outdated term of lawful sexual activity, as it has proven to be too narrow and restrictive in providing inclusive anti-discrimination coverage to sex workers.

Recommending that the Northern Territory Government protect past and current sex workers through the insertion of “sex work ” and “sex worker” as main attributes.

The Northern Territory Government tabled Principle Paper 16-2-22, Achieving Equality in the Northern Territory 2022“

Proposing the insertion of additional *Protected Attributes* to cover “**those who engage and have engaged in sex work**” and to *Modernise Concepts of Work and Workplaces*, by modernising the definition of ‘work’ to include “**sex work**” and all conduct that happens ‘at’ workplaces / work environments, irrespective of who employs the person. In addition, a new definition of ‘workplace’ to describe “any place where a person attends for the purpose of carrying out any functions in relation their “**employment, occupation, business, trade or profession**”.

Labor Governments across Australia are supporting sex workers rights

The Northern Territory Labor government through their advancement of tabling the Principle Paper with their intention to protect sex workers and our work are “*working towards addressing rights based approach to policy development that integrates the norms, standards and principles of a human rights system into the policy, plans and processes of government*”

Sex workers in Queensland are advocating for the same change in order to address the high levels of discrimination and the barriers to lodging a complaint.

Discussion Question 16 (p 63): Should a representative body or a trade union be able to make a complaint on behalf of an affected person about discrimination? Why or why not? Should representative complaints be confined to the conciliation process, or should they be able to proceed to the tribunal?

Recommendation: A representative body must be able to make a complaint on behalf of an affected person both in conciliation and the tribunal process.

Sex workers access sex worker organisations for support when experiencing discrimination. The ability for Queensland’s sex worker organisation, Respect Inc, to make a Organisation complaint on behalf of a sex worker or number of sex workers would enable more cases to be addressed.

This option could assist by protecting the anonymity of sex workers wishing to lodge a complaint. Privacy, and the need to protect our identities remain a important safety strategy for sex workers. Being outed as a sex worker is a significant barrier to a sex worker lodging a complaint relating to any crime including discrimination, sexual harassment or vilification.

The impacts to sex worker safety and mental health of being outed is significant and has resulted in loss of custody of children, physical and psychological harm, disconnection from family and other social engagements, and vilification. This representation is needed in both conciliation and tribunal proceedings in order to support sex workers to report and take action against discrimination.

DISCUSSION QUESTION 18 (P 65): ARE THERE ANY ASPECTS OF THE COMPLAINT (DISPUTE RESOLUTION) PROCESS THAT SHOULD BE CONSIDERED BY THE REVIEW? IF SO, WHAT ARE THE ISSUES AND YOUR SUGGESTIONS FOR REFORM?

Recommendation: The Act must enable sex workers to report anonymously;

In the recent survey of Queensland sex workers shows 91% of sex workers who experienced discrimination did not report it. This is because there are significant barriers to sex workers making a complaint. Changes to the conciliation process should reduce barriers by:

- The anonymity of a sex worker should be ensured in each stage of the case being considered. This is not the case and instead a person has to apply for non-publication of their legal name if the cases

progress to the Appeals Tribunal or the courts. Protecting sex workers' anonymity throughout the entire process is critical to being able to make a complaint as a sex worker by reducing this risk.

- Removing financial barriers. Legal representation is expensive and is a barrier to cases especially when an individual has been discriminated against by a large company. The costs increase if the respondent refuses to resolve the matter at conciliation.

If the case goes to the Queensland Civil and Administrative Tribunal (QCAT), or the Supreme Court there can be major financial costs.

- Conciliation settles in sex work cases at least usually require the complainant to sign a release, discharge, and indemnity agreement. The agreement:
 - waives the right to pursue the case further in other ways. result in people accepting way less than they deserve.
 - includes a non-disclosure or 'gag' clause (especially where financial compensation is agreed) that prevents the parties discussing the discrimination or the agreement with anyone else.

The impact is sex workers do not know they could be successful as others have in progressing a complaint and services that discriminate are not held to account publicly. In this way systemic change is prevented.

In cases of systemic discrimination, we support the Queensland Human Rights Commission being able to take action, particularly where discrimination is occurring repeatedly, against an individual or a group, or where they are unable to progress a complaint themselves.

DISCUSSION QUESTION 30 (P 101): IS THERE A NEED TO COVER DISCRIMINATION ON THE GROUNDS OF IRRELEVANT CRIMINAL RECORD, SPENT CRIMINAL RECORD, OR EXPUNGED HOMOSEXUAL CONVICTION? HOW SHOULD ANY FURTHER ATTRIBUTES BE FRAMED?

Recommendation 5. sex workers must be protected from discrimination based on their sex work criminal records.

Sex workers are calling for the expungement of criminal records for sex workers who have been entrapped and charged by police. People who have criminal records relating to sex work should not be discriminated against.

Some sex workers live with sex work charges issued by corrupt police during the pre-Fitzgerald era and many others with charges issued by police during entrapment since then. Sex workers have been denied appropriate treatment by authorities when presenting as victims of crime.

An attribute may be framed as an irrelevant criminal record. This would provide protection from discrimination based on a criminal record, where the sex work criminal record is not of relevance. In interactions with police, sex workers are interrogated on their sex work criminal history in circumstances where it is irrelevant.

DISCUSSION QUESTION 50 (P 124): SHOULD THE INSURANCE AND SUPERANNUATION EXEMPTIONS BE RETAINED OR CHANGED?

Recommendation. That there should be no exemptions in relation to sex workers accessing insurance and superannuation and sex workers should be protected from financial discrimination.

Financial Discrimination is a major concern for sex workers and protection from discrimination is needed. Sex workers also experience barriers in accessing superannuation, and income protection and other insurance policies. It is a regular occurrence for insurance and superannuation companies to deny coverage to sex workers or offer policies at inflated cost.

Currently sex workers in Queensland experience a high level of financial discrimination, including having banking accounts closed, being refused access to merchant facilities and being refused access to business accounts. Protection against financial discrimination towards sex workers in goods and services, in both personal and business-related products, is necessary.

This is an area of discrimination that is regularly experienced by sex workers, partners of sex workers and sex industry businesses. Without amendment to the Act, there is a significant probability of this increasing in occurrence and severity.

DISCUSSION QUESTION 47 (P 121): SHOULD THE SEX WORKER ACCOMMODATION EXEMPTION BE RETAINED, CHANGED OR REPEALED?

Recommendation: The sex worker accommodation exemption must be repealed.

Embarrassing for Queensland, an amendment to the anti-discrimination laws makes it lawful for accommodation providers to discriminate against sex workers. The Anti-Discrimination Act should protect the Queensland community not include laws that enable systemic discrimination in this way.

Hotels, motels and apartments currently are known to refuse to supply accommodation, evict sex workers, charge more than other customers who seek accommodation who are not sex workers.

It is legal to treat someone less favourably if the accommodation provider reasonably believes 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. Respect Inc, Decrim QLD and SWOP NT hear regular reports of sex workers working in Queensland experiencing this type of discrimination

Housing instability should not be the outcome of an Anti-Discrimination Act. Neither should inflated costs, and or the creation of safety risks due to this discriminating amendment.

It is essential that this amendment to the Act is repealed for all types of accommodation including apartments, houses, hotels, motels and business premises.

Sexual Harassment

The current Act does not exclude sex workers from making a claim when experiencing sexual harassment however we agree with Respect Inc and DecrimQLD that it is important for this to be clarified in the Act and communicated in HRC resources.

This matter does impact on sex workers. Sections 119 through 120 of the Act must include 'sex work' and 'sex workers' and also recognise that sex workers can, and do, experience sexual harassment in many forums.

Emotional costs of stigma

- *External and internalised stigma impacts the mental health and emotional resilience of past and current sex workers ability to engage in advocacy.*
- *It is not uncommon for sex workers past and current to only disclose to each other.¹⁰*

"The sheer weight of stigma is an intergenerational burden passed on and held by sex workers. The greatest travesty is that stigma directs sex workers' energies to the reactive work of responding to sensationalist headlines or political expediency and diverts it from peer education, community building and world-making – the very generative work that allows us to survive and thrive."¹¹

The stigma of sex work comes with a high-cost - Systemic stigma;

- *Inhibited access to basic needs, goods and services, housing and accommodation, employment opportunities and justice.*
- *Targeted laws that criminalise sex workers inevitably channel stigma and discrimination of workers through a justice system that by default is then legally complicit in inhibiting access to these workers.*
- *Criminal and licensing laws create opportunities for violence where sex workers must choose between safety and legality.*
- *Reducing stigma requires not only legal and policy change, but cultural change.*
- *Perpetrators of sexual violence against sex workers know that stigma, discrimination, and criminality minimise reporting.*
- *Knowledge of someone's past or current sex work can be used against them by abusive partners, as blackmail or suggesting they are unfit parents in custody cases.*

¹⁰ Sex Worker Outreach Program (SWOP NT) Sex Worker Reference Group (SWRG) Collective Submission in response to the Northern Territory Government, Discussion Paper – release 29th March 2019, Stigma and Discrimination, pg 36, published as evidence, Department of Territory Families, 2020 https://tfhc.nt.gov.au/data/assets/pdf_file/0011/1006976/sex-worker-outreach-project-nt-submission-nt-svprf.pdf

¹¹ The stigma of sex work comes with a high cost, August 10, 2017, •Updated August 10, 2017, <https://theconversation.com/the-stigma-of-sex-work-comes-with-a-high-cost-79657>

Anti-discrimination protection for sex workers is recommended by various United Nations bodies, including the UN Secretary General, Ban Ki Moon.

It is in line with the World Association for Sexual Health's Millennium Declaration of Sexual Rights, Australia's National STI and HIV Strategies, and the whole-of-government approach to Social Inclusion¹²

United Nations Secretary General Ban Ki-Moon states that;

"In most countries, discrimination remains legal against women, men who have sex with men, sex workers, drug users, and ethnic minorities. This must change."

Former Australian High Court judge the Hon. Michael Kirby AC CMG states that;

"We will insist on human rights for all, including for sex workers. Nothing else is acceptable as a matter of true public morality."

UNAIDS and the United Nations Population Fund state that;

"It is essential for governments to create an enabling legal and policy environment which insists upon universal rights for sex workers and ensures our access to justice."¹³

Globally endorsed best practice – Protections for Work Health & Safety, Industrial protections, anti-discrimination protections and the full decriminalisation of sex work

The positive outcomes of decriminalisation for sex workers include, increased health, well-being, and empowerment, better working conditions, reduced risks of sexually transmitted infections and blood-borne viruses, along with an ability to seek law enforcement help without fear of reprisal.

UNAIDS has applauded the NT government for making the change. It said it enhances safety for workers and their clients, as well as explicitly prohibiting the exploitation of sex workers, supporting their access to justice, and outlawing any involvement of children.

"I commend this decision by Australia's Northern Territory, which upholds the human rights of sex workers and means that they can operate within existing laws and regulations, including laws relating to employment, occupational health and safety, workers' rights and discrimination," said the UNAIDS Executive Director, Winnie Byanyima. "The decriminalization of sex work reduces the risk of HIV transmission for both sex workers and their clients."

"This is a huge achievement built on the advocacy of sex workers and their supporters over many years and the result of best practice collaboration between the government and sex workers," said the Chief Executive Officer of Scarlet Alliance, the Australian Sex Workers' Association, Jules

¹² Consolidation - Discussion Paper - 096 - Scarlet Alliance, page 3, <https://www.ag.qov.au/Consultations/Documents/ConsolidationofCommonwealthanti-discriminationlaws/Consolidation%20-%20Discussion%20Paper%20-%20096%20-%20Scarlet%20Alliance%20-%2031%20Jan%202012> PDF accessed 28-8-2021

¹³ ¹⁶ Sex Worker Outreach Program (SWOP NT) Sex Worker Reference Group (SWRG) Collective Submission in response to the Northern Territory Government Discussion Paper – release September 2017, Modernisation of the Anti-Discrimination Act <http://www.ntahc.org.au/programs/sex-worker-outreach-program-swop-nt/parliamentary-submissions>

Kim. “Decriminalization means that sex workers in the Northern Territory are able to access justice in the event of a crime without fear of being arrested. We will also be able to implement occupational health and safety strategies and prioritize the health and safety of all those involved in sex work.”¹⁴

UNAIDS article in 2020 report with SWOP NT and the Northern Territory Attorney General states that;

“The Government and other stakeholders took a strong partnerships approach, which allowed us to move together to ensure legislative reforms would work to protect all sex workers, as well as the wider community,” says Melling. “We prepared formal submissions, briefing papers and guides for sex worker safety at work via community education stalls and info kits that informed submissions to Parliamentary Committees from individual sex workers, sex worker organizations and multiple other sectors.”

“Everyone deserves to be safe at work,” explains the Honourable Natasha Fyles, Attorney General and Minister for Health for the Northern Territory Government, “but until our 2019 reforms, sex workers weren’t afforded that right. Being a sex worker is a recognized profession in the Northern Territory, [but] workers had no protection and minimal rights. This is why we worked hard to deliver a safer and more sustainable framework for sex workers, their industry and the wider community.”¹⁵

Sex Worker Rights are Human Rights – Sex Workers Safety at Work

Sex Workers in the Northern Territory still hold the scars of a two-tiered licencing system for over 20 years, a system that was initially modelled on South Australian laws. A system that effectively criminalised most sex workers and sex service premises. NT sex workers still feel the rawness of the previous mismanagement of registration with the Commission of Police. Also, still fear the police and breaches of privacy that gave no alternative to NT sex workers other than to operate outside of the law to keep safe. Most sex workers from the Northern Territory have lived experience working under the old, criminalised framework.

¹⁴ PRESS STATEMENT, UNAIDS welcomes the decision by the Northern Territory of Australia to decriminalize sex work, accessed 2021

https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2019/december/decision-northern-territory-australia-decriminalize-sexwork?fbclid=IwAR3UlyvpR2bEDfRskhlz7DGGhCgDjZwemCnHCgoseEMIIM_Vxy6vkY05oK0

¹⁵ RECOGNIZING SEX WORK AS WORK IN AUSTRALIA’S NORTHERN TERRITORY, page 158-159, Chapter4 – Securing Rights, Laws and Policies, UNAIDS Global Report 2020 https://www.unaids.org/sites/default/files/media_asset/2020_global-aids-report_en.pdf

Conclusion

Queensland can lead best practice reforms for sex worker safety at work, heading the call of sex workers in Queensland to be able to be protected by law against discrimination and vilification with avenues for recourse to justice is a important and vital step towards sex workers rights.

Full decriminalisation of sex work is achievable.

The Northern Territory Labor Government in its implementation of the Sex Industry Act 2019 has already fully decriminalised sex work, aligning sex work to existing laws and regulations as well as enabling access to industrial rights, protections, and responsibilities. This enables the sex industry to operate in accordance with the laws of the Territory and the Commonwealth as they apply to all individuals and businesses generally, including laws governing employment, occupational health and safety, workers compensation and rehabilitation, planning, taxation and discrimination.¹⁶

In 2022 The Northern Territory Government have documented in the Principle Paper for Equal Opportunity in the Northern Territory 2021., tabled in Parliament 16th Feb, 2022 that the amendments to the Anti-Discrimination Act in 2022 will protect past and current sex workers and sex work

Best practice process of government working with sex workers in collaboration and consultation.

The process of the Sex Industry Bill 2019 from development to its passing 26th Nov 2019 has been a demonstration of best practice collaboration and consultation by the NT Labor Government with sex workers, their organisations, their National Association the Scarlet Alliance Australian Sex Workers Association. Additionally, with the support of Unions and Health and Justice stakeholders that achieved sex work reforms for workers safety and rights.

Australia's politicians and governments active engagement with sex workers affirms that workers knowledge is integral to assist in developing a fully decriminalised and regulated framework. This kind of engagement is recommended as best practice for sex industry workers and their business to obtain safety protections and industrial rights.

Governments in partnership with sex workers as key stakeholders have successfully fully decriminalised sex work and are continuing to work with stakeholders to amend existing laws to prevent discrimination.

The Northern Territory has demonstrated the importance of best practice partnerships between sex workers and government and provides evidence for the critical reforms to decriminalise sex work, in other states and territories throughout Australia.

Queensland has an opportunity to get all aspects of the law reform process right with sex workers.

Importantly, providing sex workers with comprehensive protections against discrimination, and working thereafter to fully decriminalising sex work in Queensland will add another jurisdiction towards Australia being able to remove the inconsistency between federal and state legislation in relation to sex work.

¹⁶NORTHERN TERRITORY OF AUSTRALIA, SEX INDUSTRY ACT 2019, Act No. 40 of 2019
<https://legislation.nt.gov.au/Bills/Sex-Industry-Bill-2019?format=assented>

Despite sex work being recognised as a lawful profession in federal legislation, sex work remains variously criminalised and licensed across the states and territories of Australia. Currently only 3 jurisdictions have legislation in place that has attempted to fully decriminalise sex work, resulting in improved WHS for sex workers and better outcomes for sex workers, government, and the broader community. These positive outcomes are recognised globally, and decriminalisation of sex work is recognised as the best practice model of regulation of the sex industry.

Queensland must commit to supporting a fully decriminalised model that acknowledges the safety, humanity and sovereignty of sex workers, a model that ensures sex workers in Queensland have the same access to safety at work as workers in other professions. Sex workers must have rights, to work health and safety and have access to fair and equal treatment under the law.

Australians believe that sex workers deserve human rights. These include the rights to be free from violence, discrimination, and arbitrary interference; the rights to health, privacy, self-determination, work, and free choice of employment without criminalisation; the rights to move, migrate, organise, associate and to be protected by the law.

Ensuring the Queensland ADA covers anti-discrimination and anti-vilification protections that fully protect sex workers from systemic stigma and discrimination is integral to facilitating sex workers access to social, health, financial, legal services, and recourse for justice;

Queensland government must work towards;

1. Repealing all laws that criminalise sex workers and or sex service premises.
2. Commit to support the rights, to work health and safety of sex workers and ensure their fair and equal treatment under the law.
3. Work towards ensuring that sex workers deserve human rights. These include the rights to be free from violence, discrimination, and arbitrary interference; the rights to health, privacy, self-determination, work, and free choice of employment; and the rights to move, migrate, organise, associate and be protected by the law.
4. Commit to work with sex workers, their representative organisation Respect Inc and the national association the Scarlet Alliance Australian Sex Workers Association to:
 - a. Fully decriminalise sex work¹⁷ by removing all criminal, licensing, and registration laws to enable sex workers to have the same access to safety at work as workers in other professions. Sex workers must have rights to work health and safety, industrial protections, and access to fair and equal treatment under the law.
 - b. Destroy all sex worker, intelligence information gathered by police on workplace raids and expunge all spent sex work convictions;
 - c. Introduce anti-discrimination and anti-vilification protections that protect sex workers from systemic stigma and discrimination and facilitate their access to social, health, financial, legal services;
 - d. Ensure access to workplace health and safety regulations and guidelines to support sex workers in accessing safety at work and safer workplaces; and
 - e. Invest in sex worker peer education as the cornerstone of Australia's successful approach to sexual health and STI/BBV prevention as recognised within the suite of Australia's National BBV and STI Strategies.¹⁸¹⁹

¹⁷ Scarlet Alliance Australian Sex Workers Association, Full Decriminalisation of Sex Work in Australia, Briefing Paper 2020 https://scarletalliance.org.au/library/briefing_paper_full_decrim

¹⁸ National Blood Borne Viruses and Sexually Transmissible Infections Strategies 2018-2022 <https://www1.health.gov.au/internet/main/publishing.nsf/Content/ohp-bbvs-1>

¹⁹ *The National BBV and STI Strategies for 2018-2022 set the direction for Australia's continuing response. Together they outline a framework for a high-quality and coordinated national response. The national strategies are endorsed by all Australian Health Ministers*