

**Shadow Report for the CEDAW committee on Australia from:  
Coalition Against Trafficking in Women Australia.**

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This report is on the Australian government's compliance with **Articles 5 and 6** of CEDAW on harmful cultural practices, trafficking and prostitution.

**Preamble:**

**Article 6** requires that: 'States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women'. The language of CEDAW is taken from the 1949 Convention Against Trafficking in Persons and Exploitation of the Prostitution of Others. In this Convention this phrase means profiting, by third parties, from the use of women in prostitution. The legalisation of brothel prostitution in four states and territories in Australia which has been accepted by the Federal government, is thus in violation of **Article 6**.

The CEDAW Committee as recently as 2004 has taken a very strong and appropriate stance against the exploitation of prostitution, calling on state parties to take all appropriate measures against prostitution; to attack the poverty that allows prostitution to thrive; to pay attention to the fact that more young girls are being exploited, encouraging states to take a holistic approach and discourage demand; urging prosecution of procurers and clients, and encouraging provision of health needs.<sup>[1]</sup>

**Article 5(a)** of CEDAW states that 'all appropriate measures' will be taken to 'modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women'. This report will argue that prostitution fits perfectly the criteria required to identify what are now commonly called harmful cultural/traditional practices and thus that countries such as Australia that legalise prostitution are in direct contravention of **Article 5(a)** that calls for the elimination of these practices.<sup>[2]</sup>

**How the legalisation of prostitution has occurred in Australia**

Australia has a federal system of government, and prostitution legislation is a matter for individual states and territories. Brothel prostitution was legalised in the states of Victoria in 1984 (with the current model of legalisation introduced in 1994), the

Australian Capital Territory in 1992, and Queensland in 1999. Legalisation involves a licensing system with compliance regulations. New South Wales decriminalised brothel prostitution and street prostitution in some areas in 1995 (i.e. brothels were to be treated as any other business with no need for licenses). Since then the Victorian and New South Wales examples in particular have been held up as good practice in national and international fora by proponents of legalisation.

In all states and territories brothel prostitution is subject to planning laws that can forbid brothels in certain areas. In Marrickville in New South Wales, for instance, new planning controls were introduced this year that dictate that brothels should be 75 metres apart.<sup>[3]</sup> State regulatory systems may require health examinations for prostituted women, in a similar fashion to the Contagious Diseases Acts of the 1860s in the UK, which were later abolished as a result of a huge feminist campaign led by Josephine Butler.

Escort prostitution is legalised in Victoria but not in Queensland where it is illegal. But escort prostitution is estimated to constitute 40 per cent of prostitution in Australia.<sup>[4]</sup> In Queensland the legal brothel sector currently seeks to change the legislation to enable legal brothels to run legalised escort services in order to capture some of this market. Wherever brothel prostitution is legalised the industry seeks constantly to change the legislation to remove controls and make the industry more profitable by, for instance, eliminating prohibitions on advertising for workers, or allowing brothels to have a larger number of rooms.

Street prostitution remains illegal in all jurisdictions except in designated tolerance zones in New South Wales. State governments that legalised brothel and/or escort prostitution justified their decision on the grounds that street prostitution would be reduced through moving women into 'safer' brothels. This tactic has not worked, with the state of Victoria experiencing a 100 per cent real increase in its number of street prostituted women since 1994. The Victorian government in 2001 also attempted to introduce tolerance zones for street prostitution, including government-run 'safe' houses for hourly rent by women and their buyers. These developments indicate that legalised brothel and escort prostitution regimes cannot be justified on the basis of protection of, and concern for, women in street prostitution.

Legalisation also means that prostitution is treated just like any other business, with the Business Licensing Authority (BLA) overseeing brothels in the state of Victoria. This body also oversees travel agents and car yards. The BLA merely collects licensing fees from brothel and escort agency operators, and has no expertise in supervising the prostitution industry. In the Victorian 1994 legislation it was stated that part of the licensing fees should be used for exit programs and safety monitoring. Neither of these safeguards have been introduced.

### **Legalisation causes legal and illegal prostitution to grow**

Australian states that have legalised brothel prostitution say that they aim to control the size and shape of the industry and contain organised crime. This aim has not been fulfilled. Where legalisation is introduced the number of legal brothels rises and there always seems to be an illegal sector that is considerably larger than the legal sector. In Victoria estimates from the police and the legal brothel industry put the number of

illegal brothels at 400, four times more than the legal ones.<sup>[5]</sup> Even the legal brothels may be connected with organised crime. Victoria, ACT and Queensland require police checks on prospective brothel owners to make sure that they do not have criminal offences on their records. But such checks are not necessarily effective. In Melbourne, for instance, one of the largest brothels was set up by the nephew of 'the notorious late Robert Trimbole'.<sup>[6]</sup> In some cases, it seems, brothel owners may just be members of organised crime families who do not have offences to their names. In other cases men with convictions can effectively run legal brothels whilst not being the official owners through front people or organisations.

Another link between legalised prostitution and organised crime was demonstrated in July 2004 when the Victorian Business Licensing Authority rejected an application to continue business from Top of the Town brothel owner Chilai Richardson. Ms Richardson is married to convicted child prostitution offender (convicted in 1992), Peter Richardson, and was identified by the BLA as merely a front for Peter Richardson's successful brothel business. The Richardsons are also connected to organised crime figure Tony Mokbel through the former owner of the building where the brothel is housed, property developer Jack Smit. The Top of the Town brothel is one of the most successful brothels in Melbourne with 11 rooms (120 prostituted women), and is worth approximately AUD8 million.<sup>[7]</sup>

There have been 18 linked organised crime killings in Melbourne since 1998. In addition, in the second half of 2003, there were at least four unsolved murders linked to Melbourne's sex industry. On October 30, 2003, two brothel operators were executed in their suburban home. On August 19, the naked body of a prostituted woman in St Kilda was found next to a highway north of Melbourne. On June 4, 2003 a male prostitute was murdered as he left his home to defend rape charges at a County Court.<sup>[8]</sup>

An increase in prostitution means an increase in the numbers of women subjected to the abuse entailed in their 'exploitation' i.e. more women and girls will suffer violence, humiliation, sexually transmitted infections, post-traumatic stress, suicidality, drug dependence, to survive. The growth of the industry internationally is evidenced by a 2005 study in the UK found that, over a 10-year period, the number of men in Britain who have paid for sex has almost doubled. In 1990, 5.6% of 11,000 men asked said they had paid for sex, but by 2000 the figure was over 9%.<sup>[9]</sup> A new study shows the number of men visiting prostitutes has doubled. But should we be surprised when attitudes to sex have shifted so dramatically? The study's authors attribute this increase in prostitution abuse by men to the fact that the sex industry has been normalised in recent years through greater acceptance of pornography, men's use of prostituted women abroad on business trips and through sex tourism, and through tabletop dancing venues and the Internet. The effects of legalisation on the numbers of women involved in prostitution is clear from a comparison of Germany, which has legalised brothels and 3.8 prostituted people per 1000 population, and Sweden, which penalises the male buyers and has 0.3 prostituted people per 1000 population.<sup>[10]</sup>

### **Legalisation of prostitution and the problem of police corruption**

Governments that legalise prostitution often argue that it will eliminate police corruption. In two states royal commissions have been held to investigate the problem of police corruption with particular reference to prostitution. These are the Fitzgerald Inquiry in Queensland (1989) and the Wood Commission in New South Wales (1997). There is evidence for the corruption of police, the magistracy, the judiciary, lawyers and politicians in relation to prostitution in some published sources and in the Royal Commission reports.[\[11\]](#) In Victoria and in New South Wales there is evidence to suggest that the practice of giving hotshots (heroin overdoses) has been used by police involved in the prostitution industry to eliminate troublesome women.[\[12\]](#) Victorian police effectively stopped policing brothels when its vice squad was closed in mid-1999. Since then complaints about brothels have been referred to local governments.[\[13\]](#)

In March 2005, an officer of the Victorian branch of the Australian tax office was accused of leaking information on black market tobacco in exchange for sex with a prostituted woman at a Melbourne brothel. It was speculated that the brothel was the beneficiary of the information, which further suggests links between the legal prostitution industry and the illegal drugs market.[\[14\]](#)

### **Legalising prostitution legalises violence against women**

International research leaves no doubt of the intimate connection between prostitution, violence and crime. In a study covering five countries, researchers found an extensive array of violence against prostituted women and its consequences, which did not differ among countries.[\[15\]](#) More violence occurred in street prostitution than in brothels but the incidence of Post Traumatic Stress Disorder (PTSD) did not change. The level of PTSD was higher in prostituted women than in people seeking refugee status on the grounds of state-organised violence. The psychological damage stems from the act itself and no amount of “improvement” to the conditions of prostitution will eliminate the harm.

When asked if legalising would make it safer, large majorities of prostituted women said no because prostitution itself embodies physical and sexual assault. Virtually all of the women surveyed (92 per cent) wanted to leave prostitution. Their lives consisted of being hunted, dominated, assaulted, and battered while facing sexual harassment, economic slavery, discrimination, racism, classism and bodily invasions – the equivalent of torture. Three women who worked in a brothel in the US said their lives were unbearable. According to one survivor, prostitution is paid rape.[\[16\]](#)

In addition to the physical violence, the study describes the psychological damage. The women suffer from depression, lethal suicidality, mood disorders, anxiety disorders, dissociative disorders and chemical dependence. This is not news as Norwegian researchers found the same thing in 1986. Violence against prostituted women in the study ranged from a low of 40 per cent to a high of 94 per cent in more than a dozen countries around the world. Two-thirds of the women in the study had symptoms of PTSD that rivalled refugees from state-organised torture. Traumatic brain injury similar to that found in other torture victims results in significant health problems. Many of the chronic symptoms are similar to the long-term consequences of torture.[\[17\]](#)

This reality is the same worldwide. Women in Korea report they were beaten, raped, humiliated and threatened to “season” them and break down their resistance.[\[18\]](#) Once in prostitution, they endured routine beatings, humiliation, threats, sexual harassment and rape to keep them in line. In the long term, the victim of prostitution suffers psychological trauma similar to torture victims – flashbacks, depression, suicidal tendencies, insomnia, stress, and anxiety.

Prostituted women in the United States reported their injuries as bruises, mouth and teeth injuries, vaginal bleeding, other bleeding, internal pain, head injuries and broken bones. Most women reported higher rates of injury for other woman than for themselves. Even those brothels that had so called “safety policies” did not protect women from harm from both customers and pimps and their friends.[\[19\]](#)

The CEDAW Committee has recognised that prostitution is often part of other criminal activities.[\[20\]](#) The Committee has seen the connection with illegal migration and that prostitution is a lucrative source of money for criminal gangs.[\[21\]](#) Prostitution and trafficking cannot be separated. The harm to women in prostitution has been documented repeatedly for years throughout the globe. As the studies prove, the harm of prostitution like slavery cannot be mediated by licensing it. The harm is inherent in the act. To legalise the act is to legalise the harm to women.

### **Prostitution violence in Australia**

Concern for the safety of the women in prostitution is often given as one of the reasons for legalising or decriminalising by governments. Women in legalised brothel prostitution in Australia experience two forms of violence, that which is not paid for, and that which is. Unpaid for violence includes rapes, assaults and murder. The paid for or ‘commercial’ violence includes all the day-to-day prostitution activities that, research tells us, prostituted women routinely have to dissociate emotionally from in order to survive. Women do not escape the unpaid for violence in legal brothels. One example of unpaid for violence comes from the classiest brothel in Melbourne, The Daily Planet, which was launched on the Australian stock exchange in February 2003. The Daily Planet has alarm buttons in the rooms that women can press to call the bouncer. Unfortunately women only press these once they have been hit. A bouncer at the brothel interviewed in the local paper explains that he runs up and breaks the door open when the bell rings (the locks are flimsy).[\[22\]](#) But the damage has already been done. There is no way to prevent women being hit in the best-run brothels and it is, according to the bouncer’s account, not uncommon.

Mary Sullivan’s research on the Occupational Health and Safety Codes for brothels developed in Australia by state governments and prostitutes’ rights organisations is very useful for demonstrating the violence of the industry.[\[23\]](#) The idea behind OHS for brothels is that prostitution can be treated like hairdressing or office work and the codes do cover such things as slipping on wet floors. However, where the codes address the violence of prostitution they show the reality of the power relations involved in grim detail. There is a state supported programme on self-defence and conflict resolution for the sex industry, for instance, which shows that prostituted women can find themselves in situations similar to hostages. Women are trained in how to react to threatening situations.

The Ugly Mugs programme, which operates in all states that have legalised prostitution, shows how fundamentally dangerous the 'work' of prostitution is. In the programme reports on violent buyers are distributed to police, social workers and prostituted women. This is not necessary in other forms of women's work. The OHS codes suggest that women exercise their 'intuition' to help work out whether the buyers are likely to be violent. Prostituted women can, however, find themselves fined by their employers if they refuse a client they consider to be dangerous.

The OHS codes recommend that sadomasochist practice is safer than conventional sex because it is less likely to communicate sexually transmitted infections. But they recommend training in the use of sadomasochist equipment such as branding irons, whips and canes, hot wax and piercing instruments because of the damage they cause. Body fluids such as blood, vomit, urine, faeces, saliva and semen, they point out, may contain infectious organisms. There is advice on how to do fistfucking of the anus and the vagina, which can tear the colon and be life threatening.

Legalisation makes women vulnerable to having to perform particularly brutal practices, because greater competition gives them less bargaining power, and they have to do what brothel owners demand. One result is that there is a greatly increased demand for anal sex. Prostituted women charge more for anal sex because it is always painful but charge extra if the penis is large because that causes particular pain.[\[24\]](#)

An autobiography of a prostituted woman from Melbourne, Victoria gives a useful description of the practices in an ordinary legal brothel. The author describes how she tries to maintain control of the discomfort and pain she has to endure.[\[25\]](#)

Control, not to squeal when a man grabbed my breast hard enough to make it twinge. Control to keep my legs stretched in the air even when they were trembling. Control to brace against pounding from behind, as my face mashed in to the pillow and my arms shuddered and my spine jarred with every thrust. Control, not to gag at a slimy tongue in my mouth, burrowing wetly into my ear, licking at my throat. Control not to twitch when a fingernail suddenly dug into my anus, when a cock scraped into my vagina against burning skin and I felt my face go pale with pain.

If OHS guidelines are nonsensical in relation to legal brothel prostitution such as described above, they are outright ridiculous when considering escort prostitution, which is legal in Victoria. The escort industry involves women visiting the private homes, cars, or hotel rooms of buyers, where no checks have been carried out for safety, hygiene, or any of the other usual workplace health and safety targets. The safety guidelines published by the state government prostitution outreach organisation called RhED (Resourcing Health and Education in the Sex Industry), which is attached to a government community health service, shows just how ridiculous the idea of occupational health and safety in relation to escort prostitution is.[\[26\]](#) The organisation describes itself as a 'service for the sex industry in Victoria' to provide health, education, support, and advocacy services to prostituted women. Their safety tips for escort workers, posted on the Web, suggest such tactics as asking for a tour of the house on arrival to check out the exits and picking up a heavy ashtray to smash the man's stereo equipment or throw through a window if he gets difficult. They also include:

- Pens, screech whistles and breath sprays can make good weapons, and may allow you the opportunity to get away
- Assert yourself in the first 10 minutes of meeting the client. From the moment you are alone with the client it's important to take control and stay in control of the situation. Be polite and friendly – it's often the best way to gain control – even when the client is behaving like a jerk.
- Let the client know that there is someone waiting outside for you, even if you are not using a driver.
- If you drive yourself, park your car so only the back can be seen from the house (for example behind a tree or some bushes) and leave the car radio on if possible (this will suggest to the client that someone is waiting for you).
- Have your belongings near the door in a pile so you can grab them if you need to get away quickly.

*We recommend that the CEDAW Committee*

1. Condemn the legalisation of brothels and escort prostitution in Australia as violating **Articles 5 and 6** of CEDAW.
2. Urge the Australian government to criminalise the exploitation of prostitution and carry out the education of boys and men against the abusive practice.
3. Urge the Australian government to develop comprehensive exit programs, welfare services, retraining facilities, and housing to assist women to leave prostitution.

### **Trafficking in women for the purposes of prostitution**

**Article 6** of CEDAW requires that 'States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women'. Legalisation of prostitution in Australia has led to a recently acknowledged trafficking problem. Without prostitution, which is the profit motive for trafficking in women, there would be no trafficking in Australia.

The CEDAW committee has recognised that prostitution is intimately connected to trafficking in women. In the concluding observation for Nepal the Committee said:[\[27\]](#)

149. The Committee is concerned about the *high incidence of prostitution and the increase in trafficking in women and girls*, in particular for the purpose of prostitution (emphasis added). It expresses concern that girl children are taken across the border for the purpose of child marriage.

150. The Committee urges the Government to take effective steps to review existing legislative provisions on prostitution and trafficking in women and their compatibility with the Convention, and to ensure their full implementation and compliance. It also calls upon the Government to initiate regional and bilateral cooperation, taking into account subregional, regional and international agreements and standards on this issue. It urges the

Government to review its criminal code, to punish persons who procure women for prostitution or for trafficking, to establish repatriation and rehabilitation programmes, and to support services for victims of trafficking.

Prostitution is increasing as trafficking is increasing. The International Organization of Migration attributes the rise in trafficking to the rise of prostitution in Europe. In the Netherlands, the sex industry increased by 25 per cent after legalisation.<sup>[28]</sup> The US Department of State recognised that legalised prostitution makes anti-trafficking work more difficult.<sup>[29]</sup>

In the Cuba report, the CEDAW Committee acknowledges not only the increase in prostitution but the need to attack the root causes including women's economic independence:<sup>[30]</sup>

265. The Committee notes with concern that, while prostitution is not a crime, there is little information about the impact of programmes and other measures to prevent women from becoming prostitutes, and to rehabilitate and reintegrate them into society. Further efforts are needed to identify the root causes of the increase in prostitution in recent years, and of the effectiveness of measures to counteract this trend.

266. The Committee urges the Government to increase its understanding of the causes of prostitution, and to assess the impact of its preventive and rehabilitative measures with a view to improving their effectiveness, and to bringing them fully into line with article 6 of the Convention. The Committee invites the Government to expand its programmes for women's economic independence in such a manner as to attack the causes of prostitution and to eradicate the need for women to enter into prostitution. It also calls on the Government to include in its next periodic report detailed information on any developments related to preventive and rehabilitative measures taken with regard to prostitutes.

The legalisation of prostitution does not attack the root causes nor deal with women's economic independence but in fact feeds on that root cause of economic desperation and continues the cycle rather than ending it to the detriment of individual women in particular and all women in general.

Likewise in the Concluding Observations for the Netherlands <sup>[31]</sup> the Committee recognised that so-called 'voluntary' prostitution is not separate from but in fact intimately tied into trafficking for prostitution. Even more strongly, the Committee understands that prostitution is not 'voluntary', but is intimately connected with force and illegality.<sup>[32]</sup>

### **Trafficking into prostitution in Australia**

Since legalisation of brothel prostitution in Australia the trafficking of women into prostitution has become a growing problem and it is estimated that 1000 trafficked women are currently in Australia.. Legalisation creates the demand for trafficking, as brothels seek to find sufficient women to sell, and seek women who are willing to do particularly painful activities and work without condoms. Sex entrepreneurs find it

hard to source women locally to supply an expanding industry and trafficked women are more vulnerable and more profitable. In Australia trafficking mostly takes place into legal brothels. Traffickers arrange for women to arrive on tourist visas, apply for refugee status for them, and set them to work legally in brothels whilst they await the outcome of their applications in conditions of debt bondage. The refugee applications are routinely rejected, but by then the traffickers have made their money and may themselves tip off the immigration authorities to women who are overstayers.

The traffickers sell the women to legal and illegal brothels in Victoria for AUD15,000 each. The women are debt bonded so the profits of their enslavement do not go to them. Police estimate they are forced to have sex with 800 men to pay off debts to the traffickers before they receive any money. They appear, a police spokesperson said, to be flown here to order'.[\[33\]](#) It is estimated that AUD1 million is earned from trafficked women weekly. One indication of the significance of trafficking in the supply of women to the brothels of Melbourne in the state of Victoria is that 25 per cent of the women in the legal brothels of the city were born in Thailand. Thailand has been the main source country for trafficking into prostitution in Australia. It is likely that all of these women will have been in debt bondage even if conditions for some of them have now changed.[\[34\]](#)

The legalisation of the industry has made life easier for the traffickers because women are told that the industry in Australia is safe because it is legal. They are also told that the legality of the industry means that the police will not be sympathetic to complaints.[35](#) Legalisation has led to problems of disbelieving trafficked women in court cases. In a case in Victoria 2004, the 'jury did not find in favour of the trafficked women because they could not fathom the idea that debt bondage equalled slavery when a woman had 'consented' to come to Australia for prostitution in the legal industry'.[36](#)

In 1999, federal legislation was introduced in the form of the Criminal Code Amendment (Slavery and Sexual Servitude) Act. Before this there was very little in Australian legislation or policy the issue of trafficking in women. No prosecutions took place under the legislation for 5 years because victims, in the absence of protection visas, were simply deported. Since 2003, Australian federal police have laid 58 charges relating to sexual servitude and slavery crimes and 14 people are facing courts in two states on charges of sexual servitude and keeping slaves. Five sex-slave rings have allegedly been smashed. With the help of federal police, the Thai police have charged seven people in Bangkok with trafficking women to Australia.[37](#) In October 2003, in response to increasing concern in the media, the Australian Government announced a package of AUD20 million over four years to combat people trafficking. The Australian Government launched its Action Plan to Eradicate Trafficking in Persons in June 2004. It introduced new visas for victims of trafficking but these require that the women cooperate with the police and act as witnesses. There is no protection for women who are not helping with a police investigation for any reason, such as fear of retaliation. If women can prove that they face persecution in their countries of origin they may be able to avoid deportation. In 2005 New legislation was introduced in response the increasing concern over trafficking, the Criminal Code Amendment (Trafficking in Persons Offences) Act 2005. It is yet to be seen how effective this will be in enabling prosecution.

*We recommend that the CEDAW Committee*

- Urge the Australian government to change its trafficking legislation to properly reflect the UN Protocol on Trafficking in Persons (i.e., eliminate the forced/free distinction that currently exists in the legislation with regard to trafficking for prostitution).
- Urge the Australian government to provide legal, financial, and social welfare help for trafficked women in Australia to remedy their situation, and to facilitate their residency in the country if they wish. These facilities should be run by feminist organisations with specialisation in the area of prostitution and trafficking.
- Urge the Australian government to recognise that the legalisation of prostitution encourages the trafficking of women for prostitution.
- Urge the Australian government to automatically grant temporary residency visas to trafficked women in Australia, with an option to convert this to a permanent visa if they wish. These visas should not be conditional upon the trafficked women's cooperation with police and state authorities in prosecuting traffickers.

### **Prostitution as a harmful cultural/traditional practice**

**Article 2(f)** of CEDAW states that parties to the Convention will 'take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, *customs and practices* which constitute discrimination against women' (emphasis added). **Article 5(a)** similarly states that 'all appropriate measures' will be taken to 'modify *the social and cultural patterns of conduct* of men and women, with a view to achieving the elimination of prejudices and *customary* and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women' (emphasis added).

The definition of harmful traditional practices was developed in 1995 in a UN Fact Sheet No 23 entitled 'Harmful Traditional Practices Affecting the Health of Women and Children'. The definition offered in the introduction covers several aspects that fit prostitution very well. As well as damaging the health of women and girls, traditional/cultural practices are said to 'reflect values and beliefs held by members of a community for periods often spanning generations' and are said to persist because they are not questioned and take on an aura of morality in the eyes of those practicing them. The practices are 'performed for male benefit'. They are 'consequences of the value placed on women and the girl child by society', and they 'persist in an environment where women and the girl child have unequal access to education, wealth, health and employment'.

#### **1/ Damage to the health of women and girls**

Prostitution clearly fulfils the basic criterion on which UN documents base their definitions of harmful cultural practices (i.e., damage to the health of women and girls). The notion that prostitution is damaging to the health of children is not controversial. The ILO report, *The Sex Sector*, for instance, which was founded upon

a strict distinction between child and adult prostitution, states categorically that prostitution is damaging to the health of children but sees this as one way in which child prostitution can be distinguished from the prostitution of those over eighteen.<sup>38</sup> The report states:

Commercial sexual exploitation is one of the most brutal forms of violence against children. Child victims suffer extreme physical, psychosocial and emotional abuse which have lifelong and life-threatening consequences. They risk early pregnancy, maternal mortality and sexually transmitted diseases. Case-studies and testimonies of child victims speak of a trauma so deep that many are unable to enter or return to a normal way of life. Many others die before they reach adulthood.

But because this report is built around a distinction between child prostitution and the prostitution of adult women, which is defined as a matter of choice and entirely different, the effects of prostitution on the health of adult women are not considered.

In fact both women and children who suffer prostitution abuse experience similar damage though to different degrees. One way in which prostitution damages women's health is through sexually transmitted diseases. Though venereal disease is more readily contracted by children as a result of the undeveloped nature of the mucous membranes in the orifices the buyers use, they are also undoubtedly a severe scourge of adult women in prostitution too. A 1994 study of prostituted women in the United States found that only 15 per cent had never contracted a sexually transmitted disease.<sup>39</sup> The gynecological problems that prostituted women and girls suffer, often as a result of sexually transmitted diseases, include chronic pelvic pain, pelvic inflammatory disease, unwanted pregnancy, miscarriages, high infertility rates, and increased risk of reproductive system cancers.

When legalisation is embarked upon in the present the preservation of public health from sexually transmitted diseases is usually still given as the most important aim. In fact the object is to protect the health of the male buyers. In legalised prostitution the women are inspected, not the men. The practices of prostitution in legal brothels place women in the kind of danger to their health that would be inconceivable in other kinds of work. Health directives concentrate on condom use. Women are at risk of unwanted pregnancy and sexually transmitted diseases because many men will not wear condoms. A study in Melbourne, Victoria, found that 40 per cent of clients had used prostituted women without wearing condoms.<sup>40</sup> Also men sometimes deliberately tear condoms or take them off when women are not watching. Occupational health and safety advice for prostituted women working in legal brothels in Australia advises women to get into sexual positions where they can check to see that the condom is in place without the man noticing.<sup>41</sup>

The Committee has recognised that prostitution has a negative impact on women's health, and it would be useful if this understanding was extended to recognising prostitution as a harmful cultural practice. The Committee has recognised the risk posed by HIV/AIDS and STD's.

76. The Committee is concerned that women and girls are exploited in prostitution and inter-state and cross-border trafficking. It is also concerned

that those women are exposed to HIV/AIDS and health risks and that existing legislation encourages mandatory testing and isolation.[42](#)

The Committee made a very comprehensive statement in CEDAW recommendation No. 24:[43](#)

18. The issues of HIV/AIDS and other sexually transmitted diseases are central to the rights of women and adolescent girls to sexual health. Adolescent girls and women in many countries lack adequate access to information and services necessary to ensure sexual health. As a consequence of unequal power relations based on gender, women and adolescent girls are often unable to refuse sex or insist on safe and responsible sex practices. Harmful traditional practices, such as female genital mutilation, polygamy, as well as marital rape, may also expose girls and women to the risk of contracting HIV/AIDS and other sexually transmitted diseases. *Women in prostitution are also particularly vulnerable to these diseases.* (emphasis added) States parties should ensure, without prejudice or discrimination, the right to sexual health information, education and services for all women and girls, including those who have been trafficked, even if they are not legally resident in the country. In particular, States parties should ensure the rights of female and male adolescents to sexual and reproductive health education by properly trained personnel in specially designed programmes that respect their right to privacy and confidentiality.

In addition, in response to the Guyana report, the Committee showed its concern:[44](#)

181. The Committee urges the Government to take effective steps to review and amend existing legislation on prostitution in conformity with the Convention, and to ensure its full implementation and compliance. Moreover, in the light of the high incidence of HIV/AIDS in Guyana, full attention must be paid to the health services available to prostitutes.

## **2/ Reflects values and beliefs held by members of a community for periods often spanning generations**

Prostitution is a practice that fulfils this part of the definition very well. Defenders of prostitution tend to say that it is ‘the oldest profession’ and often use examples from prehistory to justify the view that prostitution should be honoured and celebrated.[45](#) One problem with this celebration of ‘sacred’ or ‘temple’ prostitution is that the proponents assume a golden age in which women were equal and in which the form of prostitution that existed was empowering to women rather than abusive. But there is no good evidence to suggest that prostitution had its origins in an egalitarian society. Gerda Lerner, for instance, attributes prostitution’s origins to the practice of slavery itself in Mesopotamia where extra slave women were placed in brothels.[46](#) Similarly, Julianna Howell notes that when legislation legalising prostitution in Victoria, Australia was introduced, ‘a common view expressed by members of parliament (MPs) [was] that prostitution is the “oldest profession”, and one that will never disappear’. For example, ‘one [Victorian] MP who stated he accepted the inevitability of prostitution related a tale of “one of the great [Australian] dynasties” which was founded when the “right man” married a “humble prostitute”’.[47](#) The

historical evidence of the longevity of prostitution in different forms might more easily be used to support the idea that prostitution should be categorised as a harmful traditional practice.

### **3/ For the benefit of men**

All the sound and fury that emanates from the debates presently raging in the international community of non-government organisations and feminist academics about prostitution concentrate upon women as if men were not involved in prostitution at all. Separating ‘forced’ from ‘free’ prostitution, as some sex work and even anti-trafficking organisations now do, encourages the exclusion of the male buyers, and those who make profits from that abuse, from consideration. It is a socially constructed masculine sexual desire that provides the stimulus to the industry of prostitution. Women can exercise no ‘choice’ to be in prostitution without the sex of male dominance and men’s demand to exercise that sexuality in the bodies of women bought for that purpose. The prostitution industry exploits the economic, physical and social powerlessness of women and children, in order to service what is an almost exclusively male desire. In western cultures women are seen as freely choosing prostitution whilst the male abusers are invisible. The men need to remain invisible if the social harm of their prostitution behaviour is to be hidden from their women partners, relatives, and workmates. A comparison can be made here with female genital mutilation which is often represented as something that women choose for their female children. This practice is usually carried out by women alone and men are absolved of responsibility. However, feminists campaigning against FGM have consistently stressed that FGM occurs so that women may conform to male ideas of female sexuality, and it is indeed men’s requirements that underlie the practice.[\[35\]](#)

### **4/ Takes on an aura of morality**

Prostitution is also starting to take on an aura of morality. Although it has traditionally led to punishment and social isolation for women (although not for the men for whose use and benefit it exists), it is now being legalised in many places such as the Netherlands and Australia. When the 1998 ILO report on prostitution, *The Sex Sector*, can call for the recognition of the usefulness of prostitution to the economies of South East Asia, then the status of prostitution as an industry starts to take on the appearance of a positive good, rather than a social evil. The status of prostituted women does not necessarily change, however, even though the business of making a profit from the industry can become respectable. Even if prostitution is not always seen as wholly good, it is certainly seen as inevitable in most countries of the world, an inevitability which shows the deep rooted nature of its acceptance, its embeddedness as a practice in male dominant cultures.

The sex industry is a powerful educator and creates its own morality through pornography. Pornography consists of photographs and moving images of women being paid to perform sexual acts, i.e. prostitution. It teaches important messages which legitimise men’s prostitution abuse. It teaches that women like and crave to be sexually used, despite the fact that the women are in fact simulating desire or even enslaved and clearly bruised. It teaches the practices of prostitution as what sex is. Pornography is, as Kathleen Barry argues, the ‘propaganda of womanhatred’, but it is also the force which propels the prostitution industry to expand and teaches new

generations of men a morality in which the abuse of women in prostitution is a conceivable option.<sup>[36]</sup>

Prostitution is increasingly promoted a therapeutic institution for lonely, busy, elderly, or disabled men. Organisations such as Touching Base in Sydney (established in 2000) promote prostitution amongst disabled and aged care organisations, and enlist community figures such as the Governor of New South Wales to advocate on behalf of their organisation. The rhetoric of organisations such as Touching Base attempt to justify men's use of women in prostitution under the guise of 'sexual rights', with no regard for the right of women to not have to forgo sexual autonomy for money. The organizations exactly invert the language of human rights activists and feminists, and distort sympathies for the situation of people with a disability to promote prostitution. For example, the web site of Touching Base says that the organisation was 'developed to assist people with disabilities and sex workers to connect with each other, focusing on access, discrimination, human rights, legal issues, and attitudinal barriers that both communities face'.<sup>48</sup> The sex industry in Australia now lobbies for disabled and aged care subsidies from government for men to buy prostituted women.

Prostitution is given an aura of morality by academic justifications which represent it as good for women, as representing women's 'choice' and 'agency' and even 'feminism in action'.<sup>49</sup> Thus prostitution takes on the aura of contributing to women's 'empowerment' and those who continue to want to point out the brutality involved in men's prostitution behaviour can be said to be acting against women's interests.<sup>50</sup><sup>[37]</sup> Mentioning the men whose interests create and maintain prostitution becomes a social solecism.

*We recommend that the CEDAW Committee*

- Urge the Australian government to recognise that prostitution is a harmful cultural practice that damages the health of women and children.
- Urge the Australian government to carry out education campaigns against men's use of women in prostitution to eliminate the harmful attitudes which support this practice.

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[1] Thirtieth session (12-30 January 2004); Thirty-first session (6-23 July 2004); General Assembly Official Records, Fifty-ninth Session; Supplement No. 38 (A/59/38), paragraphs 60, 156, 157, 204, 208, 298, 337.

[2] Women's Rights Action Network Australia has submitted a country report on Australia to the CEDAW committee. The Committee may notice that this report has a more positive opinion of the legalisation of prostitution. This is likely to be because they have taken their information from a state-funded sex work organisation, Scarlet Alliance. Organisations such as Scarlet Alliance call for prostitution to be treated like any other business through the decriminalisation of prostituted women, buyers and sex entrepreneurs, and the removal of forms of regulation that suggest that prostitution is not just like, for instance, hairdressing. Decriminalisation of the women who are bought in the industry is entirely reasonable and supported by all feminist organisations concerned with this issue. However the decriminalisation of pimps and the continued legal status of buyers is another matter. Scarlet Alliance represents the views of the governments that have legalised prostitution, their funders, and the

industry itself. Scarlet Alliance and other bodies funded by the Australian government continue to dominate public discourse surrounding prostitution, and have convinced even feminist organisations of their agenda. The effect is that discussion of prostitution in Australia up until now has been characterised by the liberal view of prostitution as a 'women's right to choose' to sell her body.

[3] New planning controls in Marrickville dictate that sex industry premises must be 75 metres apart. Quoted in 17 March 2005, "Variety of premises," *The Glebe*.

[4] 12 February 2005, "Callgirls are turning a trick with bestsellers - Oldest tricks in the book," *The Weekend Australian*, p. B01.

[5] 3 June 2002, Padraic Murphy, "Licensed brothels call for blitz on illegal sex shops," *The Age*.

[6] Raymond Hoser, *Victoria Police corruption* (Doncaster, Vic.: Kotabi Publishing), 1999.

[7] 3 December 2004, "Madam's links to alleged drug boss; Brothel owner fights for licence," *Herald Sun*, p. 9.

[8] 26 July 2003, "All's crook down south," *The Daily Telegraph*, p. 29.

[9] 1 December 2005 <<http://news.bbc.co.uk/1/hi/magazine/4488254.stm>> "Why are more men using prostitutes?," *The Magazine*.

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[11] Hoser, 1999; Bottom, Bob, *The Godfather in Australia*, 1988.

[12] Evidence to Wood Commission, 1997.

[13] 26 November 2003, "Police seek \$10m to hit sex slavery," *The Australian*, p. 7.

[14] 23 March 2005, Mark Butler, "Sex for secrets in tax office scandal - 'Corrupt' agent arrested," *The Daily Telegraph* p. 7.

[15] "Prostitution in Five Countries: Violence and Post-Traumatic Stress Disorder," Farley, Melissa, Baral Isin, Kiremire, Merab and Sezgin,Ufuk, *Feminism and Psychology*, 1998, Volume 8(4): 406-426.

[16] "Prostitution is Sexual Violence," Farley, Melissa, *Psychiatric Times*, October 2004, Vol. XXI, Issue 12.

[17] "Prostitution in Five Countries: Violence and Post-Traumatic Stress Disorder," Farley, Melissa, Baral Isin, Kiremire, Merab and Sezgin,Ufuk, *Feminism and Psychology*, 1998, Volume 8(4): 406-426.

[18] "Prostitution: Reality versus Myth," Seo, Hilary Sunghee, CATW website <<http://catwinternational.org>>

[19] *Policing the National Body, Sex, Race and Criminalization*, Silliman Jael and Bhattacharjee (eds), South End Press, Cambridge, Mass. 2002, chapter 8, "Put in Harms Way: The Neglected Health Consequences of Sex Trafficking in the United States," Hynes, H. Patricia and Raymond, Janice G.

[20] Finland, 31/05/95.

[21] Concluding Observations of the Committee on the Elimination of Discrimination against Women: Czech Republic. 14/05/98. A/53/38, paragraphs 167-207. (Concluding Observations/Comments). See paragraph 175.

[22] 31 May 1998, "Everything but the girls," *The Sunday Age*.

[23] Sullivan, Mary, "Making Sex Work in Victoria," PhD 2004. Department of Political Science, The University of Melbourne.

[24] Barclay, Ingrid. "Interactive Processes in Brothel Prostitution," Honours Thesis. Department of Political Science, The University of Melbourne, 2001.

[25] Holden, Kate, *In My Skin* (Melbourne: The Text Publishing Company), 2005. p. 172.

[26] <<http://www.sexworker.org.au>>

[27] Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Nepal. 01/07/99. A/54/38, rev.1, paragraphs 117-160. (Concluding Observations/Comments).

[28] "10 reasons for not legalizing"

[29] "10 reasons for not legalizing," Number 2.

[30] Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Cuba. 19/06/2000. A/55/38. paragraphs 244-277. (Concluding Observations/Comments)

[31] Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Netherlands. 12/04/94. A/49/38, paragraphs. 245-317. (Concluding Observations/Comments)

[32] Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Finland. 31/05/95. A/50/38, paragraphs 346-397. (Concluding Observations/Comments), see paragraph 272.

[33] 3 June 2002, Padraic Murphy, "Licensed brothels call for blitz on illegal sex shops," *The Age*.

[34] 11 September 2005, "Sex and the city," *The Sun-Herald*.

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[36] *Ibid.*

- [37](#) 12 January 2005, "Use and abuse", *The Australian*, p. 11.
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