

## **Brief Update on decriminalization of sex work in New Zealand**

Recently, there are more and more discussions about decriminalization of sex work in Hong Kong. In New Zealand, a review was conducted on the Prostitution Reform Act 2003 (PRA) after its commencement, in June 2003. While not endorsing or morally sanctioning prostitution or its use, the PRA created a framework to safeguard the human rights of sex workers; protect them from exploitation; promote the welfare and occupational health and safety of sex workers; contribute to public health; and prohibit the use in prostitution of persons below 18 years of age.

So, what's the impact of decriminalization of sex work? The report published on 25 June 2008 became a focus of the country. A conference was held in New Zealand to celebrate the 5th year anniversary of decriminalization of sex work. Those who attended included councilors, brothel owners, Catholic sisters and experts on sexual health etc. Helen Clark, the Prime Minister of New Zealand, indicated that the success brought by decriminalization of sex work helped sex workers fight for their human rights.

The report also revealed the following:

- There was no significant increase or decrease in the number of workers in the sex industry, including street walkers; one-woman apartments and brothels etc.
- Sex workers, especially those working on the streets, were more willing to report crime cases to the police. However, the research showed that the number of prosecuted cases had not increased. More than 90% of sex workers expressed that they entitled the same rights as other citizens.
- The police's attitudes towards sex workers had changed. In some districts, police officers became more friendly. However, illegal brothels were still targeted and police conducted raids.
- The courts were inclined to declare judicially that sex workers were entitled to same right as any other citizens.
- Sex workers became less worried about being arrested, and thus more willing to report to the police after being attacked.
- The condom using rate was high. But the sex industry claimed that it had nothing to do with decriminalization of sex work, and that since the 80s, sex workers had shown more concern to their health.
- 93% of the sex workers indicated that the reason for entering the industry was for money.

Source:

<http://www.justice.govt.nz/prostitution-law-review-committee/publications/plrc-report/index.html>

## **The Operation of “Prostitution Reform Act 2003 (PRA)” --- A Report from the Prostitution Law Review Committee**

Summary:

### **Origin**

The “Prostitution Law Reform Act 2003 (PRA)” was operationalised since 28 June 2003 in New Zealand. According to the law, a track report is required after 3 to 5 years of the operationalisation in order to study the change in population of sex workers in the state and the operation of the sex industry. The first report was written by the Prostitution Law Review Committee and presented to the Congress in April 2005. The first report was adopted as the standard for comparison of the second report.

The original intention of the PRA were to decriminalize sex work, promote occupational safety and health of sex workers which is favourable to the public health within the framework of human rights and personal safety, and prohibit underage sex work. A brothel-registration system was also set up by the PRA in order to manage the operation of the industry in a more systematic manner.

### **Estimation of the population of sex workers in New Zealand**

In the Committee’s first report, “The Nature and Extent of the Sex Industry in New Zealand: An Estimation 2005”, it was estimated that there were 5,932 sex workers in New Zealand at the time of decriminalisation. The current report estimates the number of sex workers to be 2,332. The committee disagrees that the number of sex workers has increased by 3600 just within 5 years. The committee interprets that this discrepancy is caused by the different standard of statistical methods and analysis in calculating the population.

In this report, sex workers are divided into three categories, namely “one-woman-apartment worker”, “street sex worker”, and “sex workers employed by brothels”. The investigation was carried out in 5 core areas of New Zealand, and the total number of sex workers discovered was 2332. Among these areas, the numbers of sex workers in Christchurch in 1999 and 2006 were very similar. The calculation of

the number of sex workers is hardly accurate because of the high geographical mobility of the industry. However, the committee believes that decriminalising sex work does not bring a great influence to the number of sex workers in the state.

### **Human rights of sex workers**

The second intention of PRA was to prohibit underage sex work (below 18 years of age) and to avoid adult sex workers being forced to provide services and their rights being exploited.

In the report, when investigating whether PRA was effective in promoting security of the right to work, more than 90% of respondent (sex workers) said that PRA had consolidated their legal rights. More than 60% responded that they could refuse their customers. It is apparent that PRA was able to protect sex workers and had empowered them to refuse their customers when they encountered illegal trade, violence and exploitation.

### **Sexual health**

The report reveals that the condom use rate is very high. However, some sex workers deny the relationship between the legislative work of PRA and the use of condom because they have been concerning the transmission of HIV and STI since the 80s.

### **Entering and exiting the sex industry**

According to the report, about 93% of sex workers enter the industry for money. And the most common reason for exiting the industry, certainly, is having other ways to earn money. Besides, there is a high difficulty for the sex workers to leave this industry and failure after numerous attempts is not uncommon. However, the report has also pointed out that not all sex workers want to leave the industry and some of the sex workers expressed that they were working very happily. Like all other industries, there are many reasons for entering and exiting the industry and there can hardly be a general summary. Among the 3 categories of sex workers, only 3.9% of sex workers were forced to enter the industry in the beginning.

There are a few main reasons for staying in the industry, including the fear of losing the income, the preference for the flexibility of work, and the reluctance to lose the friendship and sense of belonging among the sex workers.

### **The Brothel Operator Certification System**

In New Zealand, registration is not required for Small Owner-Operated Brothels

(SOOB), which refers to brothels with 4 sex workers or less. This is because the sex workers in SOOB work independently and there are no managerial issues. Street sex workers are also not required to register.

The operator of a brothel is required to be a permanent resident of New Zealand or Australia and has to be over 18 years old. An application form and HKD\$1216 (\$205 Australian Dollars) are required for an application. Applicants with record of criminal offense would be denied. The license will remain valid for 1 year, and a renewal is required every year.

This registration system will continue and the Department of Labour will be responsible for patrolling in the brothels in order to avoid exploitation of the employees.

### **Underage sex work**

PRA stated that arranging and managing people under 18 years old to perform sex work will be prosecuted. The highest sentence is 7-year imprisonment. However, underage people providing commercial sex service is not illegal. This report reveals that under age sex workers made up 1.3% of the total number of sex workers surveyed. It is concerned that 17 year olds 'fall between the cracks' in terms of government support, being too old to be eligible for assistance from Child Youth and Family Services, and too young to be eligible for income support. The committee suggests that the government should subsidize the development of the services in order to prevent underage sex work.

### **Street sex workers**

The number of street sex worker has no obvious change after the establishment of PRA. According to the statistics in 2006, the number of street sex workers shares 11% of the total number of workers in the sex industry, which is the smallest in proportion. But this form of sex work is relatively attractive for young people to enter the industry. However, the dangers faced by street sex workers are bigger, and therefore the committee encourages them to shift into indoor area to work.

### **The management of local government**

The committee discovered that the local government of some areas requested small brothels (such as Small Owner-Operated Brothels) to move, merge with other small brothels and form some bigger brothels. This is because small brothels are more likely to be robbed and has no effective security measures. But the committee thinks that

small brothels should be treated in the same way as other small enterprises in the state and should receive no “special treatment”.

### **Decriminalization helps to solve the problem of manipulation**

The New Zealand government adopts practical management measures to manage the sex work industry. It respects and admits sex worker as an occupation. The gist of decriminalizing sex work is to provide sex workers a working environment which is safe, healthy and with respect for human rights. The report points out that sex work has no direct correlation with human trafficking. And the aim of the ordinances is to prohibit underage and involuntary sex work.

In Hong Kong, the discussion of sex work has been about moral issues, manipulation of triad organizations and underage female sex workers etc. Referring to the case of New Zealand, drilling on the moral level gives no contribution to solving problems like exploitation and discrimination against sex workers. Concerning the manipulation of sex work of triad organizations, as well as the problem of human trafficking , decriminalization of sex work, rather than police’s raid, is in fact more effective in solving the problem.

Hong Kong government should immediately launch a study on decriminalizing sex work, so as to protect sex worker’s personal safety and prevent them from further exploitation from a more practical approach.