

No bad women, just bad laws.

Recognize the Elders of the Koolan Nations and their ancestral spirits.

“No bad women, just bad laws.” This English Collective of Prostitutes slogan is as relevant today as when coined in 1975 - the same year of the French prostitute strikes and an era said to mark the beginning of an awareness of sex workers industrial rights.

Industrial rights are an integral component of human rights. I am arguing that stronger legislation, and enforcement, combined with industrially educated workers strengthens human rights as experienced by sex workers. Stronger labour rights quite simply lead to enhanced human rights. By placing labour rights alongside other strategies for fighting trafficking, the opportunities to trap people into sexual servitude will be greatly reduced.

Left me quickly outline the key elements of the Economic, Political and Social Covenant.

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain [their] living by work which [they] freely chooses or accepts, and will take appropriate steps to safeguard this right.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Yet as the language of sex work advocacy and lobbying increasingly emphasizes industrial rights, inappropriate legislation, poor enforcement of useful legislation and, on the odd occasion, a lack of legislation continue to seriously impede the chances of good working conditions for all who chose to be sex workers.

Accordingly, their human rights are seriously compromised.

And the more uneducated and uneducated a worker, the greater the abuse of their industrial rights, and therefore human rights. Their abuses are further compounded by culture, dubious mode of entry in to the industry, lack of local language skills and no knowledge of local legal systems. I am, of course, describing many trafficked women, but this is not unique to them. It is pretty common for illegal immigrant labour to be used in sweatshop conditions in industries all over the world. Homebased TCF workers in Melbourne are a good local example.

By working conditions being given the priority in legislation and enforcement suggested by their role as a core component of human rights, states would be more active, sex workers would be able to develop a greater degree of industrial fluency and the opportunities for powerful people to enslave vulnerable people would be greatly reduced.

So what is it that prevents the noble, all encompassing sentiments of the human rights Covenant's from 'trickling down' to the legislative and industrial response that support individual's in their work environment?

I believe it has a lot to do with the attachment of the ruling elite (elected or otherwise) to the notion of sex workers as bad women needing saving, retraining and a gentle push in the 'right' direction. For in their eyes sex work is not work, but a moral challenge. And if sex work is placed in the moral realm, then the concept of a sex workers "workplace" is irrelevant.

And their response to this moral dilemma, legislative and otherwise, cast the cloak of invisibility over sex workers industrial conditions and rights; encouraging society to treat sex workers industrial concerns as illegitimate.

To quote Alison Murray from her fine book "Pink Fits": "Much of the harm and exploitation within the sex industry stems from moral attitudes, which workers may themselves internalize to the point where they experience the work as indeed degrading. Prostitution control is the consequence of this morality, combining laws and their enforcement on one side with corruption, illegal practices and exploitation on the other, which keeps sex industries running" (Murray 2001:143)

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Before I go much further, I'd like to make it clear that when I talk about laws, I refer to more than the piece of legislation but also to the education, enforcement and resourcing of that legislation.

You may like to know that I am a postgraduate educated sex worker, who believes sex work to be as valid occupational choice as any other. I chose sex work because I wanted a work environment where I had control of my conditions. I also see sex workers as sub-contractors – not employees. And that perspective informs my approach to working and the conditions I work in. I am also a committed feminist and trade unionist.

I have a number of ideas to offer for debate, as to how we can use legislation to keep women good, rather than vilify them.

I'm pleased to say that I've been guzumped to some extent by the announcement by Minister Ellison for the government has adopted some of the strategies I was going to raise. For example, the increased resources and focus on enforcement, and presumably, prosecution. That's all good.

No longer detaining workers automatically, or in detention a centre, that's a good thing. As is the reversal of the automatic and instant deportation policy.

All these changes work to take the 'bad' tag off women. And to an extent they recognize sex work as legitimate work, and the associated workplaces as legitimate workplaces. I'm not sure if this recognition of the industrial/workplace nature of sex work was an intended consequence of the recent package, but I reckon it's a good thing and over time will influence the debate and strategies taken to combat sexual servitude.

I'm hoping over time that this will serve to normalize sex work.

For example, investigating cases will surely include looking at the working conditions of the women. This will give plenty of scope for prosecuting using more than sexual servitude legislation.

Other approaches I believe worth debate to address the working conditions of trafficked workers in an effort to increase the opportunities to escape a trafficking situation, or to avoid it all together, include:

1. If the federal government were to issue working visas for sex work, then women who could afford it, could work in a very clear zone of legality.

It would help reduce the amount of visa manipulation currently estimated to be done by traffickers.

And it would give women back their agency; their right to make their own decisions and to control their destiny (well, inasmuch as one can control their

own destiny)

2. When issuing visa's the Embassy could give a fact sheet, or similar, re working conditions and systems and structures to enforce them. For example, a blurb on the Australian Industrial Relations Commission, the role of unions and the various State agencies responsible for enforcing workplace legislation.
3. The abolition of legislation dealing specifically with prostitution in all states. This is an area where the States and Territories have a key role to play in the prevention of trafficking for sexual servitude.

This will have the immediate effect of destigmatizing sex work. To me it is akin to removing abortion from the criminal statues, and State judgement, and recognizing it as a standard medical procedure.

By having specific areas of criminal justice concerns, such as corruption, drugs, violence, rape, minors etc in other, already existing in State legislation, many of the traditional arguments in favour of prostitution specific legislation are resolved in a more dignified way. For example, sex without a condom could be a simple matter of an amendment to the health act to the affect that sex without a condom in a commercial sex transaction is regarded as a criminal act and attracts a penalty as spelt out in the relevant legislation. Or something like that.

Under state legislation, agencies responsible for industrial conditions and standards, such as Workcover in the ACT, have the power to enter work premises to enforce legislative conditions. It can be done by a phone call to the relevant agency. A couple of years ago the ACT Workcover did a series of brothel workplace inspections and found them all to breach working conditions in some way.

It's not so much the outcome that is important in this example but the fact that there are avenues to regulate the industry to trafficked women's advantage. It just requires the political will to enforce them.

I'm basically suggesting the Al Capone theory – get them for every little breach of every bit of legislation you possibly can. The state and territories have plenty of scope to play an active role in combating trafficking and sexual servitude and they need to be encouraged to get active. Crimes of assault and rape, kidnap and deprivation liberty seem pretty obvious. And what about workplace health and safety? It seems to me there is a large range of legislation that can be brought to intimidate would be traffickers from considering Australia is a target market.

4. As a middle ground to the previous model, an alternative would be uniform national prostitution laws, based on the ACT legislation. This would encourage

working conditions that provide dignity and decency for all workers.

Particularly if that little clause in ACT anti-discrimination legislation referring to respecting all occupations was added to other states anti-discrimination legislation.

This model in no way limits the role of states and territories in applying all other relevant legislation to prevent the creation of trafficking-friendly environments.

5. And where are the trade unions? The ACTU could undertake to lobby on behalf of trafficked workers. They have the understanding of industrial matters and the nature of work that could prove valuable, particularly in terms of education.

Also individual unions have the power to enter premises for inspections and communication, if they have members there. There was an attempt to unionize in Vic a few years ago, with some workers joining the Miscellaneous Workers Union. But they left complaining of high union fees.

In spite of this, I believe there is much to be gained by workers becoming more industrially active.

Education is vital to the success of legislation. It encourages compliance and can help garner community support for controversial issues. And educating women equips them to better achieve their goals.

Given that we know many women return to the conditions offered by traffickers after their deportation, the value of educating overseas workers about workplace legislative requirements in attempts to negate the power of traffickers is obvious. These are intelligent resourceful women, who if properly informed, would most likely find safer ways to offer commercial sexual services in Australia, or any other part of the world they may choose to work.

While recognizing the good work already done by NGO's in educating and empowering women, greater gains could be achieved if they could also talk about the industrial situation in Australia. For example, do trafficked women know they can claim their unpaid wages – even from offshore?

Through their close and intimate contacts developed with trafficked workers, NGO's have a particularly powerful role in educating the survivors of trafficking.

These are just some ideas showing how current working conditions experienced by trafficked people can be affected, for the better, through changes in attitudes regarding legislation. Ideas that could go some way to combating trafficking for sexual servitude and restoring the trafficked human rights.

I hope I've given you something to think about.