

Key Policies:

***To enact state and federal anti-discrimination laws making it unlawful to unfairly discriminate against people on the basis of profession, trade, occupation or calling**

***To recognise that people working in the adult industry experience systematic discrimination in areas of advertising, health, work regulations, restrictions on movement, relations with police, seeking other employment, housing and accommodation, and goods and services**

***To bring Australia in line with international human rights standards on the right to work, free choice of employment and non-discrimination**

***To eliminate the stigma, harm, vilification and discrimination towards people working in the adult industry and provide a legislative framework that protects civil, industrial and human rights for all**

The Australian Sex Party advocates the implementation of state and federal anti discrimination laws making it unlawful to unfairly discriminate against people on the basis of profession, trade, occupation or calling. The Australian Sex Party recognises that myriad people face discrimination, harassment, vilification and stigma because of their choice of occupation. Currently, the Australian Capital Territory is the only state which protects people from discrimination on this basis through s7(1)(m) of its Discrimination Act 1991. The Sex Party recommends that all states and territories amend existing anti-discrimination legislation to include 'profession, trade, occupation or calling' as a ground of unlawful discrimination in order to rectify ad hoc protections across state jurisdictions, in addition to calling for more comprehensive and inclusive federal legislation.

The Sex Party is concerned that people working in the adult industry specifically continue to experience systematic discrimination in areas of advertising, restrictions on movement, relations with police, health restrictions, working regulations, seeking other employment, education, entry into clubs and hotels, goods and services, housing and accommodation (1). This discrimination may prevent sex workers access to health services, mean an absence of workplace conditions and benefits (superannuation, work cover or leave entitlements), prevent sex workers from accessing small business opportunities, mean limited legal remedies to address unfair work practices due to public retribution, include police violence and corruption, deny sex workers custody of their children and ensue difficulty in gaining council approval of premises. It can also provide difficulties in obtaining rent agreements, income protection, credit card facilities and loans, mean higher insurance premiums, limit opportunities to engage in community activities, see sex workers discredited as witnesses in legal proceedings, deny freedom of association and silence sex workers from disclosing their employment when seeking to travel or study (2). Sex workers' daily and ongoing experiences of discrimination and prejudice signal the crucial and increasingly pertinent need for legislative reform.

There has been a certain unwillingness of the part of the Australian legal system to accept the existence of social, structural or systemic discrimination (3). As Margaret Thornton notes, equality 'has always co-existed with a norm of inequality and exclusion(4).' The Australian Sex

Party is concerned that anti discrimination laws in Australia remain largely insufficient to protect all human rights or prohibit all types of discrimination. The piecemeal and inconsistent nature of existing legislation as it has emerged over the last few decades has left significant and outstanding gaps, which the Australian Sex Party seeks to remedy and redress. As the Honourable Justice Jane Matthews claims, 'Australia has not been the vanguard in relation to equal opportunity legislation', our first attempts falling well behind England, Canada, the United States and New Zealand (5).

In 2009, the United Nations Human Rights Committee stated that it was 'concerned that the rights to equality and non-discrimination are not comprehensively protected in Australia in federal law'(6). That same year the Australian Human Rights Commission made submissions to the National Human Rights Consultation which recommended that 'Australia's anti-discrimination laws need to be overhauled'. The submissions stated that the failure of federal anti-discrimination laws to protect against discrimination on the basis of occupation 'sends a poor message to the Australian community'(7).

Providing protection from discrimination on the ground of profession, trade, occupation or calling is consistent with a number of international treaties and conventions to which Australia is a signatory. Article 23 of the Universal Declaration of Human Rights provides that everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Australia is obliged under Article 11 of the Convention to Eliminate All Forms of Discrimination against Women to take all appropriate measures to eliminate discrimination against women in the field of employment, and provide free choice of profession and employment. The International Labour Organisation's Employment Policy Convention 122 provides in Article 1 that there is freedom of choice of employment and the fullest opportunity for workers to use their skills in jobs for which they are well suited. Enabling people to lodge a complaint and seek a civil remedy in response to discrimination would empower marginalised or ostracised groups through not only a symbolic but a practical and necessary step towards ensuring substantive equality.

Intent on eliminating stigma, harm, vilification and discrimination towards sex workers, the Sex Party emphasises that people working in the adult industry are often small business people and family members with a range of backgrounds, skills, academic qualifications and interests. They are mothers, fathers, lovers, students, lawyers, doctors and social workers, engaged in a healing, caring, therapeutic profession among safe spaces in which people can connect on a number of inter-personal levels to experiment and enjoy legal, pleasurable activities.

Notably, discrimination on the basis of profession, trade, occupation or calling is not limited to sex workers. It affects a people in a wealth of areas, such as politicians, journalists, police or trade unionists unable to move into other areas because of their previous occupation, or health professionals working with people with HIV who have been denied employment due to prejudice about their HIV status (8). While some people may be partially covered by protections on political opinion and HIV status, sex workers outside the ACT have no such protection under current legislation.

Remembering that all society bears the cost of discrimination, the Sex Party is proud to promote

Written by ASP Staff

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equality, health, wellbeing and respect within a legislative framework that protects civil, industrial and human rights for all.

1. Scarlet Alliance, Unjust and Counter-Productive: The Failure of Governments to Protect Sex Workers From Discrimination, 1999, <http://www.scarletalliance.org.au/library/unjust-counterproductive>
2. Scarlet Alliance, Unjust and Counter-Productive: The Failure of Governments to Protect Sex Workers From Discrimination, 1999, <http://www.scarletalliance.org.au/library/unjust-counterproductive> ; Scarlet Alliance, Submission to the National Human Rights Consultation, 2009 http://www.scarletalliance.org.au/library/humanrightsconsultation_09/ ; Maria McMahon, Sex Work Policy in NSW: A bad case of stigma with a dose of discrimination, ACON, 2009, http://www.nothing-about-us-without-us.com/Background_Information
3. Margaret Thornton, The Liberal Promise: Anti-Discrimination Legislation in Australia, Oxford University Press, 1990, 7
4. Margaret Thornton, 'EEO in a Neo-Liberal Climate' (2001) 6 Journal of Indisciplinary Gender Studies, 1
5. The Honourable Justice Jane Matthews, "Protection of Minorities and Equal Opportunities", University of New South Wales Law Journal 11 1988, 2
6. Human Rights Committee, 95th session, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding observations of the Human Rights Committee on Australia, 2009, <http://www.universalhumanrightsindex.org/documents/825/1520/document/en/pdf/text.pdf>
7. Australian Human Rights Commission, National Human Rights Consultation, 2009, http://www.hreoc.gov.au/legal/submissions/2009/200906_NHRC.html
8. Debates of the Legislative Assembly for the Australian Capital Territory, Hansard, 15 December, 1993, 4597-4601, <http://tr.im/Ab5v>