



How Sex Worker Activism Influenced the Decriminalisation of Sex Work in NSW, Australia

Eurydice Aroney, Penny Crofts

University of Technology Sydney, Australia

Abstract

In 2015, Amnesty International joined over 200 sex worker organisations in the call for nations to decriminalise sex work. Despite this, only two jurisdictions in the world, New Zealand and New South Wales (NSW; Australia), have adopted this approach. This article examines the role that sex worker activists played in sex work law reform in NSW through their representative organisation, the Australian Prostitutes Collective (APC). The APC produced and submitted groundbreaking research to the Select Committee of the NSW Legislative Assembly on Prostitution (1983–1986) whose recommendations laid the foundation for the decriminalisation of sex work in NSW. This article contributes to a developing history of the contribution of sex worker activism to law reform. It explores why it is so important that sex worker voices are included in the process of reform, and how meaningful consultation with sex workers helped shape and invoke a radical policy and legal transformation.

Keywords

Sex work; law reform; prostitution; decriminalisation.

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Introduction

Through a presentation of a snapshot of time, this article explores the significance of sex worker activism and engagement with law reform processes to accomplish and sustain meaningful reforms.¹ New South Wales (NSW), Australia is one of two jurisdictions in the world to have implemented and sustained the decriminalisation of sex work (Abel, Fitzgerald and Healy 2010).² Notwithstanding its limited adoption, the decriminalisation of sex work is endorsed by human rights bodies such as Amnesty International, *The Lancet* (2014) medical journal and over 200 sex worker organisations globally. Our research is noteworthy because it shows how the association between sex workers and the NSW Select Committee in the mid-1980s contributed to the current NSW legal and regulatory framework of decriminalisation.

It is important to note that the decriminalisation of sex work in NSW has been a process rather than a sudden transformation. It began in 1979 with the removal of penalties for street-based sex work; it was not until 1995 that the decriminalisation of brothels was accomplished. The Committee was appointed to examine possible regulatory approaches to sex work. Simultaneously, sex workers, invigorated by the 1979 legislative reforms and their effects, began to unite and organise. In this article, we examine the tense but often mutually advantageous connection between sex workers and the Committee. We do this through an analysis of sex worker movement archives, Hansard reports and the Select Committee Final Report.³ Our analysis of the archives is consistent with arguments by Tiefer (2018, 1246) that academics have a responsibility to increase scholarship ‘about activism and advocacy how-to, why and what-for to remedy society’s problems with sexuality’. By drawing attention to a sex worker movement archive that chronicles an almost-unique narrative—the contribution of sex worker activists in developing workable and enduring policy—we aim to show how this collaborative approach between government and sex worker activists helped to achieve social justice and enduring law reform.

Although our research centres on events that occurred over 30 years ago, the meaningful presence of sex worker voices in the law reform process remains exceptional.⁴ Instead, sex worker law reform is most frequently endorsed without the input of those most affected and in a moralistic register asserting an aim to protect (or punish) women (Munro and Scoular 2012; van der Meulen and Durisin 2008; Wagenaar and Altink 2012).⁵ For example, in *Designing Prostitution Policy*, Wagenaar, Amesberger and Altink (2017, 33-42) argue that prostitution policy in Europe has been ‘morality driven’ with fierce debates driven by a coalition of radical feminists and Christian and social democrats who have argued, among other things, that sex work is an inherent abuse of women, sex workers are victims of socially and morally tainted clients, women are primarily forced by organised crime, and that sex worker organisations themselves are pimp lobbies.⁶ Similarly, in her analysis of major Canadian prostitution law reform initiatives during the 1980s and 1990s, Jeffrey (2004) found that morality played a role in policy formation across this whole period, especially where it applied to street-based sex work. She argues that when the conservative government adopted the controversial *Bill C-49* in 1985, which criminalised communication between clients and sex workers, they:

[d]rew on a paternalistic gender discourse that posed the nuisance of street solicitation as a threat to ‘good’ women who lived in those neighbourhoods and may be subject to harassment. In this discourse then, only ‘good’ women who lived up to the code of decent female behaviour deserved protection by the state from sexual threats. (Jeffrey 2004, 101)

These legal and regulatory conditions reflect and reproduce ‘moral stigma and the cluster of associated stigmatic assumptions that positions sex workers not only as “other” and not like us, but a toxin (or perhaps as a more accurate metaphor, as a cancer) to be eliminated from the social body’ (Bruckert, Chabot and POWER 2010, 111). This moralistic approach involves law reformers

speaking for and about sex workers, rather than being informed by the lived experiences of sex workers and the kind of reforms that sex workers want and need (Neave 1988, 202–213).

The NSW Select Committee was not immune to the widely held moralistic view that in a perfect society prostitution should not exist (Rogan 1986, xxv). This is demonstrated in the first sentence of the introduction to its Final Report, which asserts that '[p]rostitution is not endorsed by the Committee and no recommendation in this report is directed to the furtherance of this dangerous and undesirable trade' (Rogan 1986, xxv). Despite this, the Committee asserted that morality had little association with good policy design. For instance, it took pains to express awareness of the 'element of intellectual disturbance and disquiet surrounding the subject which most contributes to the fugitive character of the trade and simultaneously hampers attempts to deal with it effectively' (Rogan 1986, xxv),⁷ and asserted a desire to 'change social attitudes' (Rogan 1986, ix). The Committee aspired to go beyond making recommendations and viewed its role as providing 'a forum for public discussions of a controversial subject where issues had all too frequently been clouded by social embarrassment' (Rogan 1986, x). To this end, it embarked on a series of hearings (public and private), drew upon existing research and commissioned new research. Chair of the Select Committee Pat Rogan (1986, x) commented:

[W]hile none of us on the Committee expected that the fugitive trade would suddenly blossom into full and frank disclosure, such open public discussion did appear to stimulate an increased flow of valuable information to the Committee from within the ranks of those directly involved in prostitution.

These 'ranks' were organised and led by the Australian Prostitutes Collective (NSW), which emerged in response to the same tensions that warranted the government inquiry.⁸

In this article, we demonstrate how the activities of the APC, which became part of the law reform process, disrupted the construction of sex workers as 'victims' lacking choice or agency (Munro and Scoular 2012; van der Meulen, Durisin and Love 2013; Wagenaar, Amesberger and Atlink 2017). In this, we confirm Wagenaar's (2017) insight that the involvement of sex worker organisations in 'authentic dialogue' with governments fosters an escape from the 'ideology driven' approaches.⁹ Wagenaar's (2017) idea of 'authentic dialogue' is significant, as it emphasises more than simply telling sex workers what is good for them or allowing them to express their views. It *listens* to sex workers' critiques and recommended legal and regulatory approaches and includes them in policy formation.

Our focus on the period 1983–1986 contributes to a history of involvement of sex workers in the law reform process. This was a time when sex workers developed political skills and made meaningful contributions to the Select Committee through the production of original primary quantitative and qualitative research of their working conditions. Sex workers also united to form the APC to articulate a clear conception of the kinds of reforms they wanted.

The Final Report was clearly strongly influenced by the involvement of sex workers and sex worker activists. Almost every page of the Final Report includes quotations from individual workers and the APC, and primary research produced by the APC. The APC and its allies were essential to instigating and sustaining law reforms.

We begin by describing our research materials and approach, then move to the context and regulatory framework prior to the appointment of the Select Committee. We explore the emergence of sex worker voices as individuals and as a collective, and highlight the ways the Select Committee invited and relied upon sex worker activist-led research along with sex worker lived experience and activist contacts. Our conclusion includes a summary of the Select Committee's recommendations. More broadly this article explores *why* it is so important that sex worker voices are included and *how* their voices have been included in sex work law reform.

Methodology

The methodology of this article was the examination, collation and close reading of private archives, and a substantial body of primary source materials. Our main source was the sex worker activist archives from individual members of the APC.¹⁰ One source is available in a library collection (Homburg 1970–1986); others are private and yet to be made available for public access. The APC archives include questionnaires, summarised reports and submissions, correspondence, meeting notes, pamphlets and APC members' media representations. These documents revealed the organising principles, aims, motivations, strategies, activities, challenges, methods and research of the APC. The authors accessed the bulk of these archives thanks to personal links with members of the APC. We undertook a content analysis of the archives to gain a sense of APC interventions during the time of the Committee.

A primary source of these archives was author and researcher Roberta Perkins (1983), an APC principal organiser. Perkins became involved with the sex worker community in 1981, when she spent two months interviewing transsexual showgirls, strippers and sex workers in the bars and clubs of Kings Cross for her honours thesis (eventually published as *The Drag Queen Scene*). Over the next two decades, Perkins and her co-researchers and collaborators (including current and former sex workers, social workers, students, LGBTI activists and academics), published a vast compendium of original research collected from surveys and interviews with sex workers and non-sex workers involved in all aspects of the sex industry (Perkins 1983, 1991; Perkins and Bennett 1985; Perkins and Lovejoy 2007; Perkins et al. 1994). When Perkins passed away in June 2018, her archive was bequeathed to the Sex Workers Outreach Project (SWOP). Her archive includes documents produced by many individuals who were involved in the collective and consists of nine large archival boxes of text-based materials. At the time of writing, most of these are in a disorganised state. While the authors became familiar with the archive contents, it was beyond the scope of this research to organise and categorise these to a degree at which we can confidently point to the location of individual references. Perkins drew upon and referred to many of these archival documents in her published books and research papers. At the time of writing, the NSW State Library is in communication with SWOP with the intention of adding Perkins and other APC archives to the library's collection.

Although the replication of our methodology is limited by the uncertain state and future location of the bulk of the APC archive, there is value in our 'early intervention' into its contents. Prominent researchers have argued for greater engagement between activists and academics for social justice and reform to take place in the area of sexualities (Altman 2018; Tiefer 2018; Weeks 2018). Many documents in the archive remain for further analysis—especially those that extend beyond the timeframe of this study.

We examined the archive and reduced the sheer number of materials by restricting our analysis to a specific point in time—just prior to and encompassing the Select Committee (1983–1986). This period is highly significant, as it encompassed the impact on sex workers of the 1979 reform, the origins and formation of the APC, and the mobilisation of the sex industry and its allies in responding and contributing to the Select Committee. The archive also included media reports and magazine articles and submissions to the Committee. Transcripts of Committee testimonials were examined in detail.¹¹ We also drew upon Hansard reports.¹² We correlated archive materials with the Final Report to provide some indication of the extent of influence of the APC on the Committee's findings.

Legal and social context of the Select Committee

The Select Committee was appointed after a patchy history of regulation and media controversy. Prior to 1979, street-based sex workers were fined and often imprisoned for soliciting and loitering under the *Summary Offences Act 1970* (NSW). In 1979, reforms were enacted to repeal

the two core offences of soliciting for the purposes of prostitution and being an owner who knowingly permits premises to be used for prostitution (keeping a brothel). The reforms recognised ‘that the present law discriminates unfairly against the prostitute as compared to the customer, and second, that wherever possible the law should be directed at preventing and punishing exploitation’ (Parliament of New South Wales 1979, 4923). The impetus for these reforms came from civil liberty groups, feminist organisations and the newly elected Australian Labor Party (ALP) government, concerned about the overreach of the criminal law, the discriminatory impact of these offences and associated police corruption.¹³ The repeal of prostitution offences in 1979 decreased police corruption and increased independent sex work (Rogan 1986). However, the 1979 reforms were incomplete. For instance, although it was no longer an offence to own a premise used for prostitution, it was still an offence for owners, managers, receptionists or others (e.g., family members) to ‘live off the earnings’ of prostitution. In addition, police argued that the repeal of offences had resulted in an increase of public disorder. Police used other offences and powers to replace those that had been repealed, directly undermining the intent of the reforms. For example, according to the NSW Bureau of Crime Statistics, in 1976–1978, arrests of females for ‘offensive behaviour’ numbered 1,663. From 1979–1981, following decriminalisation, the number of females arrested for ‘serious alarm and affront’ increased to 10,480 under the *Offences in Public Places Act* (Perkins 1991, 142).

The 1979 reforms also had unintended consequences for those working indoors. Women who worked in their homes independently could no longer be arrested for ‘habitually using premises for prostitution’. However, they could still be evicted from rental properties under the *Landlord and Tenant Act 1948*, simply because prostitution was taking place on the premises. In addition, from the early 1980s, Sydney City Council targeted small female-run brothels by acting on by-laws that prohibited commercial activities in residentially zoned areas. Notices were served on several residences that had operated without complaint for many years in the traditional red-light district of East Sydney. These and other effects of the repeal of the *Summary Offences Act 1979* on sex workers have been researched in detail and were cited in the Final Report (Perkins 1991, 139–145; Travis 1986). The research confirms that police, encouraged by a small group of determined residents and supported by City of Sydney Council, were not only successful in circumnavigating the intention of the 1979 repeal, they were ultimately effective in pressuring the NSW government to respond to their concerns with the introduction of a new offence in 1983, applicable to street sex work in residential zones under the *Prostitution Act 1979*.

As a consequence of ongoing tensions and media controversy about the regulation of prostitution, the government appointed bipartisan NSW Legislative Assembly Select Committee ‘[t]o investigate and report upon the public health, criminal, social and community welfare aspects of prostitution in New South Wales’ (Rogan 1986). The membership of the Select Committee changed over time, but throughout, all members were male (Rogan 1986, xii). Both sides of politics were well represented; for example, Rogan, Don Browman and Fred Miller were ALP, while Peter Collins and John Dowd were members of the opposition Liberal Party of Australia. Dowd strongly supported the reinstatement of police powers and eventually became NSW Attorney General in 1988. Collins was leader of the opposition between 1995 and 1998, when decriminalisation of brothels was introduced as a consequence of the *Wood Royal Commission*. The Select Committee was appointed in response to circumstances particular to NSW, but it was not the only state to consider law reform in this period. In the 1980s and 1990s, seven of eight Australian states and territories considered prostitution law reform. Four instigated changes, though none took the path of full decriminalisation.¹⁴

Collective and individual voices of sex workers

The APC (initially the Collective of Australian Prostitutes) was founded at a public meeting on 13 July 1983 at the Wayside Chapel in Sydney just four months after the Committee was appointed. In its first public statement, the APC confirmed that it was conceived ‘in response to the mounting

pressure in Sydney by residents, council and police to displace us (sex workers) and to restrain our trade to commercial areas only' (Perkins and Bennett 1985, 283). Prior to its formation, APC members already recognised the Committee as a target for strategic intervention and had begun distributing questionnaires to sex workers to collect data for their submissions (Perkins 1991).

The APC viewed itself as part of a growing international movement of sex workers calling for the decriminalisation of prostitution (Delacoste and Alexander 1988).¹⁵ A printed flyer titled *Power to the Prostitutes* entreated Sydney's sex workers to attend the inaugural meeting with the claim that 'Prostitutes in France, England, America and Canada have stood up against police bullies and resident action groups and WON. If they can do it so can we' (APC 1983). The APC (1983) listed the organisation's main demands: the removal of all laws used against prostitutes and the establishment of a legal advice, health and 24-hour child-minding service for (sex) workers. The APC's 15,000-word *History and Manifesto of The Australian Prostitutes Collective* declared their ambitions for the immediate future: 'The APC as a group is in a key position to offer the world some of the most important analyses in prostitution ever produced in this hitherto shadowy subculture' (Perkins 1985). As we argue below, this rhetoric was not totally hyperbolic, as the APC was indeed a pioneering force. However, it was not the first time sex workers had attempted to organise. According to Frances and Gray (2007, 308), 'from the 1970s onwards prostitutes began to publish newsletters, form collectives and push for unionisation and the support they received from the women's movement and civil libertarians would have inspired many to continue to battle for workplace rights'. It was a time of radical and social reform, and this had political consequences as well. The election of the ALP in May 1976 ended over a decade of conservative rule, with a commitment to ending discrimination against women. One of its first moves was to establish a Women's Co-ordination Unit and Women's Advisory Council that immediately began researching prostitution in NSW (Frances and Gray 2007).¹⁶

Despite this commitment to reform, our research indicates that sex workers continued to have great difficulty gaining an audience with government and policy advisors. For example, former sex worker, brothel owner and spokesperson for the Prostitution Law Repeal Association, Margaret Dee, told ABC Radio in November 1976 of her difficulties contacting the government:

Can't get through to them at all. I have telephone numbers and I have spoken to them on the phone and 'yes we'll see you we'll call you back we'll have an appointment, talk to you' nothing—nothing comes of it we're just ignored. (*AM Program* 1976)

As Margaret Dee pointed out, criminalisation of the industry meant considerable costs were attached to speaking out as a sex worker. As a consequence, she called on the NSW government to provide an amnesty on arrests and penalties for prostitution-related offences to allow sex workers to speak freely about law reform. She had closed her small brothel because as someone who was 'living off the earnings' of prostitution, she was at risk of being charged. As she explained to ABC radio, in foregoing her livelihood she was now 'free to be able to speak on behalf of the girls who can't speak'. Margaret Dee was clear about the kind of reform that sex workers wanted: 'Certainly it's got to be decriminalised and that means total repeal of the law, right off the statute books forever' (*AM Program* 1976). It is not known whether Dee or any other sex workers finally connected with the Women's Advisory Committee. Nevertheless, with the removal of the threat of criminal sanctions for street-based sex workers in 1979, 'the girls who couldn't speak' found their voices and began to use them.

Donovan and Harcourt's (1996, 64–65) research demonstrates that the effects of decriminalisation on NSW sex workers (following the 1979 reforms) were liberalising and empowering:

A climate of decriminalisation gave the participants within the sex industry the ability to organise and helped to reduce the traditional power difference between sex worker and client.

This was particularly important when HIV/AIDS emerged, because the government tasked sex workers with educating clients and the broader industry about the importance of safe sex. Donovan and Harcourt (1996, 65) describe how the 'skeletal' government funding of Australian sex worker community groups in the 1980s to 1990s 'greatly enhanced their ability to organise' and gave them 'a degree of legitimacy'. This was conferred in 1986 when the NSW state and federal governments pre-empted the NSW Select Committee recommendations and funded the APC, making it the first community-based sex worker organisation in Australia, and possibly the world, to receive government funding (Donovan and Harcourt 1996, 64). This decision was more to do with the emergence of HIV/AIDS than it was to do with law reform, but it was a government acknowledgement that the support and expertise of the APC was crucial in preventing the further emergence of HIV/AIDS in the community (Sendziuk, 2003).

The APC and the Select Committee also operated in the context of second-wave feminism.¹⁷ A key method of second-wave feminism was standpoint feminism,¹⁸ drawing upon Marxist insights about the influence of inequalities upon knowledge production. The idea of standpoint feminism is that knowledge is socially situated and marginalised standpoints offer epistemic advantages (Collins 1990). This method emphasises women's perspectives and experiences as a starting point for inquiry (Harding 2004, 21). On this basis, women are knowing subjects rather than merely objects that are known by others. Standpoint theory asserts that those who are marginalised and relatively invisible from the vantage point of the epistemologically privileged become conscious of their social situation with regard to power and oppression and begin to find a voice. In articulating personal experiences, sex workers became increasingly aware that their individual predicaments were all too common. This is a collective process of recognition and acknowledgement (Harding 2004; Frances and Gray 2007).¹⁹

In accordance with the insights of standpoint feminism, the government's Women's Advisory Committee ostensibly adopted a policy of wide-ranging consultation. Despite this, sex workers were not initially included or invited to participate in the law reform process. Only when the process of decriminalisation began in 1979 did sex workers gain the confidence to properly organise and take an active role in the public domain.

Funding also assured other developments closely aligned to the collective's wider goals. APC members were now able to appoint staff and rent premises where those involved in the industry could attend for legal advice and support. This gave the organisation a secure location where it could hold staff and community meetings and run information and training sessions in skills from self-defence to writing a funding application, and it enabled the organisation to develop resources for public education campaigns. From this location, the APC developed and operated its safe sex 'outreach' services to sex workers across NSW (Hunter 1990).

Funding also enabled a transient population of sex workers to be represented by *authorised* peers. Prior to funding, APC members were viewed as spokespeople for an activist organisation. As a consequence of funding, APC spokespeople represented the sex worker community *and* (when it suited them) the NSW and federal departments of health. This enhanced the APC's legitimacy and awarded it a degree of authority when interacting with the media, recalcitrant brothel owners and clients, and the police. Third, and of particular relevance for our research, funding signalled the beginning of a formal collaboration between sex workers and policymakers. Although the process of decriminalisation was still in its initial phase, the funding of a sex worker organisation at this time demonstrated the willingness of sex workers and policymakers to engage in 'authentic dialogue', which according to Wagenaar, Amesberger and Atlink (2017, 247) can 'only be achieved in situations of face-to face dialogue'. As was the case for other Australian

sex worker organisations, funding meant that the APC was better equipped to develop its strategies, which included political activism towards law reform. Decriminalisation enabled it to emerge from the shadows, organise and rally around a specific and significant target—the Select Committee.

The impact of sex workers in the Final Report of the Select Committee

Sex workers participated in the Select Committee process as individuals and collectively through the APC. Sex workers were interviewed, provided tours of brothels and other sex work locations, and addressed the Committee and made oral and written submissions. To strengthen the weight of its submissions the APC, together with Terry Goulden and Garry Bennet from Sydney's Gay Centre, formed what became known as the *Task Group on Prostitution*, which in turn invited other groups, individuals and organisations to contribute their own research and observations on sex workers. This culminated in 21 separate submissions from the *Task Group*, totalling over 130,000 words. These submissions were later edited and published (Perkins and Bennett 1985). Perkins's research benefited from her academic connections, along with a team of University of Sydney social work students and then-research student Kerry Carrington,²⁰ who collected and compiled primary data through surveys and in-depth interviews with over 130 sex workers (Rogan 1986, xvi–xviii).

The Committee split its findings into 10 chapters. The chapter headings provide an idea of the breadth of the 355-page report: a profile of the prostitution trade in NSW; a description of those living off the earnings of prostitution; the estimated size of the trade; demand for prostitution; prostitution practice and law overseas; social and community welfare aspects of prostitution; health aspects of prostitution; drug use by prostitutes; criminal aspects of prostitution; and prostitution and the law.²¹ Throughout the report, the Committee drew on original research by the APC. For example, in the first chapter providing a profile of the trade in NSW, the Committee cites three studies concerning street prostitution—two from the NSW Bureau of Crime Statistics and Research and the third from Perkins's original primary research:

In May and June 1983 Roberta Perkins, member of the Task Group on Prostitution, surveyed 121 inner-city street and brothel prostitutes. Her information relates to soliciting circumstances under the Prostitution (Amendment) Act 1983, whereby soliciting near a dwelling, school, church or hospital becomes an offence. It will be referred to as the 'Perkins survey'. (Rogan 1986, 6)

The reference to her work as the 'Perkins survey' shows the extent of the Committee's reliance on Perkins's work in the Final Report.

One consequence of sex worker involvement with the Committee was that the Final Report differentiated between types of sex work. Chapter 1 describes the particular models of sex work and how these were affected by laws. By distinguishing between street-based, brothel-based, parlour and escort work, the Select Committee was able to consider the benefits and disadvantages of each mode. For instance, the report reveals that the primary advantage of street-based sex work is that it 'entails minimal overhead costs' and that sex workers 'keep virtually all earnings' (Rogan 1986, 8). The report also acknowledges the significant amount of mobility between the different styles of work: 'in a recent study of 50 female streetwalkers, for example, 37 individuals had prior prostitution-related job experience in other aspects of prostitution' (Rogan 1986, 6). Thus, the report recognises that sex workers have agency—they make calculated choices and these could change according to circumstances.²² The differentiation of types of sex work remains a key recommendation of the Brothels Taskforce and researchers, although it has not been widely implemented by local councils in NSW (Department of Planning 2001).

Not only are sex worker voices included in the report, they are heavily relied upon. For example, Debbie Homburg, a founding member of the APC, interviewed female sex workers in eight Sydney and one Canberra brothel during this period. Her research revealed that each worker paid shift money to police with the remainder split fifty-fifty with the parlour (brothel) management (Homburg 1983, 1). The women were expected to work eight hours a day, six days a week and had no right to refuse clients unless the men were diseased or violent. Homburg (1983, 1) recounted, 'The client is always right in most places, and unlike (on) the streets is not even required to wear a condom'. These accounts demonstrated to the Committee that some brothel-based workers were at greater risk of contracting HIV/AIDS and other sexually transmitted infections than were street workers who could refuse clients if they did not use condoms.

The APC proved savvy in representing its research findings to media. It selectively chose to present new data that challenged myths and preconceptions about sex workers. For instance Perkins told newspapers that her data demonstrated that up to 44 per cent of sex workers had children. Most were single mothers who regarded prostitution as a career, and they were able to offer their children more security than non-sex working mothers because of their larger earnings. Additionally, they had more time available to spend with their families because of flexible working hours: 'it may shock people but when you weigh up everything you can't help but reach a conclusion that prostitute mothers in the main make better mothers' (*Daily Telegraph* 1983).

Chapter 9 of the report is reflective of all chapters—it relies upon individual interviews and submissions by the APC and the Task Group on Prostitution to provide research and context of the needs and working conditions of sex workers. Entitled 'Criminal Aspects of Prostitution', it is divided into three parts—prostitution-related crime in general; allegations of police corruption and prostitution; and organised crime and patterns of ownership. The first section of the report details Perkins's research that showed that sex workers were often victims of crime against their person and property. Further, 'three out of nine women interviewed at length had experienced rape and bashings while at work' (Rogan 1986, 220). Police witnesses provided information about the crimes committed by drug-affected sex workers (including solicitation but extending to drug offences, theft and shoplifting). However, this is supplemented with a sex worker's explanation that she had tried to overcome addiction but had not succeeded and had committed crimes to pay for her addiction. The Committee also received submissions from East Sydney residents about their fear of crimes such as muggings, robberies and fires due to prostitution.

In relation to police corruption, the Committee noted that most brothel owners were reluctant to discuss police corruption due to fear of repercussions. As a consequence, the Committee depended upon evidence from sex workers who asserted that the focus of police corruption had changed from individual street sex workers to the managers of brothels (Rogan 1986, 226). Individual sex workers described the ways police asserted power. For example, one member of the APC (previously employed in a parlour) stated:

I remember one detective who used to come in and try and boss us. He would come in and say who he was and where he was from and he would look around the premises and we would have to make sure all the beds were made, that the towels were neatly folded, that the talc was in the corner, that the showers and the curtains were all straight and that no French letters or durex were left lying around because that would indicate that it was a brothel and not a massage parlour, not a health studio (Roz Nelson, for the Task Group on Prostitution). (Rogan 1986, 10)

The Select Committee concluded that decriminalisation would decrease corrupt police practices (Rogan 1986, 228).²³

The APC's advice was also sought by other interested groups—such as the Northern Region of the Health Department, the Australian Legal Workers Group, the Interdepartmental Task Force on

Drug Dependent Prostitutes and the Young National Party (Perkins and Bennett 1985, 286)—that in turn made submissions to the Committee.²⁴ This resulted in other governmental and non-governmental groups finding common ground with the APC. For example, the Final Report noted that the Women’s Advisory Council had drawn attention to the segregation and segmentation of the Labor party by gender—and that women were in low-paid and often part-time positions:

Perkins’ findings on prostitutes’ qualifications and skills should be read against the information that women in this State generally have fewer post-school qualifications than men. In 1981, 69 per cent of women over fifteen years had no post-school qualification as compared with 57 per cent of men. (Rogan 1986, 133)

The APC briefed the Women’s Advisory Committee to inform them of common issues and concerns about the plight of women.

The Task Group on Prostitution had insisted on the repeal of all laws that affected sex workers (Perkins et al. n.d., 5). This required no further restrictions on street-based workers and no special zoning or regulation of brothels. Brothels and parlours were to be permissible under the same conditions as other businesses (under planning and council zoning); individual sex workers who accepted clients in their own homes should be left alone. Nevertheless, the Committee was keen to know the type of regulatory control or zoning recommendations the APC *would* accept—especially as it applied to street-based sex work. After repeated and sustained questioning by the Committee about a compromise, Perkins responded:

Our role here is to support the prostitutes’ view and their position. I know that you have got to do as mediators of a very difficult situation. You are getting feedback from residents and others who feel their lives are affected ... We are making recommendations for people whose very lives depend on the type of business they are doing, whether they work on the streets in a brothel or in a parlour. If compromise is to be sought, it surely must be up to you. (Select Committee Upon Prostitution NSW 1983, 138)²⁵

This demonstrates the APC’s refusal to compromise with the Select Committee. Although Wagenaar et al. (2017) emphasised authentic dialogue, past a certain point, sex workers were unwilling to compromise.

The final recommendations of the Select Committee

The voices of sex workers were heard through submissions to the Select Committee and strategic media interventions. The Select Committee submitted its Final Report in 1986 with a long list of recommendations (Rogan 1986, xv–xxiv), summarised in the introduction as:

1. Brothels be subject not to criminal legislation but to planning requirements, the most important of which are that they not be permitted in residential levels, at street level in commercial shopping centres nor in areas which will result in public offence;²⁶
2. Controls be placed on the ownership of brothels;²⁷
3. Street soliciting be prohibited in residential areas and near a school, church or hospital;²⁸
4. Provision of criminal sanctions for those who use violence, coercion or other forms of exploitation in order to live on the earnings of prostitution;
5. Advertising of prostitution to be prohibited in the electronic media and limited elsewhere;
6. Changes to social welfare arrangements to make it less difficult for prostitutes to leave the trade and to make prostitution less of an alternative to those who may be forced to consider it as employment;
7. Health measures to reduce the incidence of sexually transmissible disease and drug abuse (Rogan 1986, xxix–xxx).²⁹

The APC greeted the report and its findings with mixed emotions but it was 'basically pleased with the first 272 pages of the 286 page report' (Perkins 1986, 181). It was particularly pleased with the recommendations that related to the expansion of welfare services for women and youth, the repeal of sections within the *Prostitution Act* that referred to individuals 'living off the earnings', and the decriminalisation of brothels. However, the APC was unhappy with the Committee's recommendations for a series of 'controls' framed by state environmental planning policy that would restrict brothels to above ground only in commercial shopping areas and industrial zones. The APC also particularly objected to local councils deciding on development applications for brothels on the grounds that 'hypocrisy surrounding official dealings with the industry has nowhere been more evident than in the case of local government' (Perkins 1986, 182). The APC claimed that if there were no overriding regulation to require councils to implement the original intentions of decriminalisation, councils would 'reject development applications for brothels in moral terms' (Perkins 1986, 182). The APC asserted that there should be an overriding mechanism that would ensure that rezoning by councils was not employed 'as a mechanism for impeding prostitution in a municipality' (Perkins 1986, 182).³⁰

The Committee described its approach as 'decriminalisation with controls' and stated that 'reform will not occur overnight. Councils, police and the trade itself, but most importantly the community at large, need time to adjust themselves to proposals carried into law' (Rogan 1986, xxx). The Committee was correct. The most significant of these reforms—the decriminalisation of brothels—was not implemented until 1995.³¹ The *Disorderly Houses Amendment Act 1995* was justified primarily in terms of public health and police corruption (in response to the Wood Royal Commission) and drew upon the findings of the Select Committee to justify the decriminalisation of brothels.

Conclusion

The recommendations of the Committee were a mix of the radical (including a complete overhaul of the welfare system to address the relative impoverishment of women compared to men) and conservative (such as the control of ownership and prohibition against advertising). It is impossible to prove that the involvement of individual sex workers and the APC influenced specific reforms. However, the prevalence of sex worker voices throughout the Final Report provides some indication of their influence. The first page of the report states:

Recently, prostitutes have become more political and outspoken as a group. In July 1983 a number of Sydney prostitutes, ex-prostitutes and supporters formed the Australian Prostitutes' Collective (APC). The Collective describes itself as 'part of an international link of prostitute organisations around the world, formed to provide support, information and expression networks for those working in the sex industry providing services for men'. It calls for decriminalisation. As author Eileen McLeod writes, such campaigns in Britain, on the Continent and in the USA have also pressed for decriminalisation of prostitution. Since the establishment of the APC in Sydney, branches have been formed in other states. (Rogan 1986, 1-2)

Sex workers and the APC were included as experts in the field rather than objects. The reliance upon evidence informed by the lived experience of sex workers enabled (and required) the Select Committee to shift away from moralistic (idealistic) discourse to deliver practical and realistic recommendations.

Our focus on the period around the NSW Senate Inquiry (1983-1986) contributes to a history of involvement of sex workers in law reform. During this period, sex workers developed political skills and made meaningful contributions to the Select Committee through the production of original research that linked their social disadvantage and appalling working conditions to ineffective and discriminatory laws and police corruption. The Select Committee reflected the

reforming impulse of the time and provided an authoritative forum that actively welcomed sex worker involvement, which in turn bestowed greater legitimacy to the proposed reforms of the Select Committee. The resulting decriminalisation of sex work in NSW is at the international forefront in terms of working conditions, health and safety and amenity effects. If decriminalisation of the sex industry is to be enacted elsewhere, there is much to gain in learning from the achievements and disappointments in NSW.³²

Correspondence: Eurydice Aroney, Senior Lecturer in Journalism, Faculty of Arts and Social Sciences, University of Technology Sydney, PO Box 123, Broadway NSW 2007, Australia. Email: Eurydice.aroney@uts.edu.au.

¹ Throughout this article, we emphasise a labour-based understanding; hence, we use the term 'sex work'. This is in accordance with contemporary literature emphasising sex work and employment, improving workplace conditions, unionisation and sexual labour (see Bernstein 2007; Crofts 2006; Sanders 2005). This is also reflective of the legal construction of brothels in NSW as legitimate businesses (see Crofts 2006). A Decade of Licit Sex in the City. *Local Government Law Journal* 12: 5-15.

² New Zealand is the other notable exception. For the stated purposes of the New Zealand reforms, see the *Prostitution Reform Act (NZ) (2003)*. As noted below, in NSW, street sex work remains partially criminalised with restrictions on where it can take place.

³ Henceforth, the Select Committee Final Report will be referred to as the 'Final Report' in text.

⁴ For example, recent texts continue to emphasise the need for, and significance of, the inclusion of personal perspectives and experiences of sex work 'as the basis for new and more nuanced conceptualizations for sex work' (van der Meulen, Durisin and Love 2013, 11).

⁵ Radical feminists have contributed to the moralistic discourse by asserting that sex work reflects women's sexual subordination to men and that all sex workers are victims (see Barry 1995; Farley 2004, 2006).

⁶ See also Brants (1998, 622), who argues that 'policy on prostitution in any country depends on the underlying ideology about the moral (un)acceptability of paid sex'.

⁷ Even the radical reforming legislation decriminalising brothels in 1995 in NSW explicitly states in a moral register: 'The enactment of the *Disorderly Houses Amendment Act 1995* should not be taken to indicate that Parliament endorses or encourages the practice of prostitution which often involves the exploitation and sexual abuse of vulnerable women in our society' (*Disorderly Houses Amendment Act [NSW] [1995]* s. 20). This is also reflected in the *Purpose of the Prostitution Reform Act (NZ) (2003)*.

⁸ APC chapters were also formed in Victoria and South Australia. For the purposes of this article, APC refers to the NSW chapter.

⁹ Wagenaar (2017) focused on New Zealand as a case study. In 2003, the New Zealand Parliament fully decriminalised prostitution. This was the result of intense and sustained lobbying by the New Zealand Prostitutes Collective and their allies.

¹⁰ Roberta Perkins, Julie Bates, Victoria Principal and Erica Red are all privately held archives. The other major archive is 'Deborah Joan Homburg Papers Relating to Involvement in Social Movements, 1970-1986, Particularly Prison Reform and the Women's Movement', which contains a selection of papers regarding the establishment and operation of the ACP. It includes submissions to the NSW Parliamentary Select Committee on Prostitution (1983), typescript speeches and correspondence, and is held by Mitchell Library, Sydney NSW (call number MLMSS 4948, Box 10/Item [1]).

¹¹ These submissions were authored by a range of individuals and institutions, including women's groups, civil libertarians, welfare groups and police.

¹² This approach was also adopted in Nagy and Powell (2016).

¹³ These groups were influenced in part by the Wolfenden Report (1957), which contemplated sexual offences. The Report recommended that state law focus on outdoor, public sex work rather than invisible and indoor forms of prostitution.

¹⁴ Barbara Sullivan (2010) argues there are complex and numerous reasons *why* so many Australian state governments transformed sex work laws during this period. She asserts that by attending to sex work law reform, Australian states exhibited an established preference for using neoliberal strategies to address a multitude of social problems associated with sex work (e.g. organised crime, police corruption and public health concerns). Yet in her analysis, Sullivan (2010, 86) also credits the 'strength of sex worker advocacy groups' as one of the main factors in the push for reform. Donovan and Harcourt concur (1996, 64), describing the 1979-1995 period as 'one of profound change for the Australian sex industry'.

¹⁵ It is beyond the scope of this article to explain why similar movements at roughly the same time in different jurisdictions did not result in decriminalisation. For example, the Special Committee on Prostitution and Pornography in Canada recommended that brothel and procuring laws should be loosened and that sex workers should be able to work from their homes (Department of Supply and Services 1985). Van der Meulen and Durisin (2008) argue that

these reforms did not transpire due to the shift from a liberal to a conservative federal government just prior to the release of the committee's final report.

- ¹⁶ The Women's Advisory Council also made submissions to the Select Committee.
- ¹⁷ Influential texts preceding the 1980s include Freidan (1963), Greer G (1970), Hanisch (1970) and Millett (1970).
- ¹⁸ The method of standpoint feminism continues to be used, but has also been 'ranked as one of the most contentious theories' in terms of its status as a theory and its relevance to current thinking about knowledge (Harding 2004, 339-40).
- ¹⁹ The Women's Advisory Council also made submissions to the Select Committee.
- ²⁰ Professor Carrington (2010) has written about her research experience with Perkins.
- ²¹ It should be noted that trafficking was not raised as an issue by the Select Committee. Crofts and Prior argue that the decriminalisation of sex work in NSW radically reduces the profits associated with the sex industry and thus, is highly effective in reducing sex trafficking (Crofts and Prior 2016).
- ²² The recognition of different types of sex work is not sustained in the work of some theorists, including radical feminists, who focus only on the worst-case scenarios and preclude the idea of sex workers as active agents in a complex sex industry. For examples of radical feminist arguments see Farley (2004, 2006). For critiques of methodological flaws, see Shaver, Lewis and Maticka-Tyndale (2011) and Weitzer (2005). The focus by researchers on street sex work is particularly problematic, given that it comprises only two per cent of the industry in NSW (Donovan et al. 2012).
- ²³ This assertion by the Select Committee has proven largely correct. The decriminalisation of sex services premises in NSW has reduced the huge profits associated with an illegal industry and reduced opportunities for police corruption. However, restrictive council policies have offered a limited opportunity for council corruption (Crofts 2012).
- ²⁴ There is also a letter of thanks from the Northern Region of the Health Department for the APC's advice for their submission in the Roberta Perkins private archive.
- ²⁵ In 1986, Perkins organised another submission to the Task Group in association with town planning, health and legal consultants and a small group of sex workers. This recommended a town planning framework—a compromise of sorts—and was presented directly to NSW Premier Neville Wran after submissions to the Committee had already closed.
- ²⁶ The Brothel Taskforce recommended that local councils differentiate between sex services premises types in constructing planning principles (Department of Planning 2001). Most local councils exclude 'brothels' from residential zones; however, home occupations (sex services) are in different categories in other councils, and are permitted in residential zones, thereby fulfilling this recommendation. The treatment of home occupations (sex services) is very important, as they comprise at least 40 per cent of the sex industry in NSW and reflect that sex workers have options in terms of where they work and their working conditions (Crofts and Prior 2012). Academic comment on the desire to render sex work invisible is relevant in NSW (Campbell 2015). Valverde's (2012) insight that local or municipal law can be as blunt and homogenising as criminal law in its execution is apposite. Extending this theme, Crofts, Prior and Hubbard (2013) analysed the extensive police powers of NSW local councils.
- ²⁷ Control on ownership of brothels has not transpired. Planning laws focus on land use rather than ownership (Crofts 2012).
- ²⁸ Street solicitation remains partially criminalised in NSW.
- ²⁹ Most of the Inquiry's recommendations concerning the health of sex workers and drug users were adopted and funded immediately by the NSW government, which provided five million dollars plus an additional million for AIDS-related research (Rogan 1988). Interestingly, health was not a primary focus of the Committee. The issue of sexual health was not considered until Chapter 7 of the Final Report. In contrast, contemporary accounts about the regulation of sex work tend to prioritise health. A predominant contemporary account in assessing sex work policy is to focus on the health of sex workers and their clients; this has been the target of much research in the NSW post-decriminalisation period. Despite the devastating impact of HIV/AIDS in the 1980s and 1990s, an independent report commissioned by the NSW Ministry of Health in 2012 showed that 'over 99% of all commercial vaginal sex encounters in Sydney involve the use of a condom' (Donovan et al. 2012, 24). This has been credited to the early resourcing of sex work peer organisations that effectively persuaded the sex industry to adopt safe sex practices (Bates and Berg 2014). While sexual health is important, Sanders (2004, 560) has asserted 'the concentration on disease and drug use not only blurs the whole picture of prostitution but distorts the emphasis on certain occupational risks while neglecting others' (see van der Meulen and Durisin 2008).
- ³⁰ These arguments by the APC have proven prescient, with contemporary analysis demonstrating that some local councils continue to grapple with local politics and NIMBYism (not-in-my-backyard attitude) in the absence of clear guidance from the NSW government (Crofts 2010; Crofts, Prior and Hubbard 2013).
- ³¹ There is substantial literature on the advantages of decriminalisation. Bestowal of legal status imports an existing framework of legal responsibilities—including occupational health and safety, administration, payment of taxes and the capacity to claim protection from the legal system, which is more difficult when sex work is illegal (Crofts 2010; see NSW Workcover 2001). The New Zealand government followed suit in 2004 with a 100-page brochure 'for everyone involved in the New Zealand sex industry' (Department of Labour 2004). In addition, treating sex work as legitimate helps integrate the businesses and workers into the community (Sanders 2008). Prior and Crofts (2012) have undertaken extensive research on the amenity impacts of sex work premises on nearby neighbours.
- ³² National Co-ordinator and founding member of the New Zealand Prostitutes Collective Catherine Healy has acknowledged that the advice and experiences of Australian sex worker organisations provided guidance for the campaign by the NZPC for decriminalisation in New Zealand (see Abel, Fitzgerald and Healy 2010, 60).

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