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Queensland Law Reform Commission  
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Submission responding to the Equality and integrity: Reforming criminal defences in  
Queensland Consultation Paper

Dear Commission,

Thank you for the opportunity to submit to this process. Please accept our comments below in response to the Consultation Paper. This submission is informed by the lived experiences of sex workers in Queensland who have informed our work in this area, including the Women's Safety and Justice Taskforce processes, the Independent Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence, Consent and Coercive Control Legislation Review, the Rape and Sexual Assault Sentencing Review and Police Business Unit Reviews.

Respect Inc is the state-wide sex worker organisation in Queensland that provides a comprehensive health promotion and peer education program for sex workers. Our organisation has a wide range of projects including a DFSV program. Respect Inc has offices and sex worker drop-in spaces in Cairns, Brisbane and the Gold Coast and provides regional outreach in other locations.

The National Plan to End Violence Against Women and Children recognises sex workers as a priority population and explains that sex workers, like any other workers, deserve respect and a safe work environment. While not all sex workers are women and not all clients are men, sex work is a women dominated industry in Queensland and we face gender-based violence separate to our work. Due to the stigma associated with sex work, victim-survivors in this industry face significant barriers in reporting, accessing services and getting justice. Trans sex workers may also experience violence that is driven by gender inequality, insecure work contexts and transphobia.

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Respect Inc supports Proposal 1 to repeal the existing self-defence provisions and replace them with a clearer framework involving two core tests: one subjective (whether the person believed the conduct was necessary) and one objective (whether the conduct was a reasonable and proportionate response in the circumstances as perceived). Respect Inc acknowledges this reform as a positive step in simplifying a complex and outdated legal test, and in ensuring fairer application of self-defence.

We support the use of the proposed self-defence provision where the conduct was necessary in self defence or defence of another or to prevent or terminate the unlawful deprivation of liberty of themselves or another.

The shift toward asking jurors to consider the situation as the person perceived it could be significant. However, we note that this also introduces risk for sex workers. Given the pervasive stigma, discrimination and misinformation surrounding sex work, jurors may struggle to “stand in the shoes” of a sex worker and could bring biased assumptions about the legitimacy of fear or the reasonableness of a response.

Respect Inc supports the repeal of Criminal Code section 304. The continued availability of provocation as a partial defence has had regressive implications, particularly where it is used to reduce culpability in murders driven by jealousy, control, or anger. Sex workers have and can be harmed by people who use violence (PUV) who may claim provocation - whether due to jealousy, perceived deception, or refusal of services. The removal of this defence is necessary to reinforce that jealousy and the ‘heat of passion’ are not excuses for lethal violence against any person.

Regarding the introduction of a trauma based partial defence, Respect Inc supports this move. It will be imperative that this is accompanied by access to expert DFV evidence and trauma based assessments. Respect Inc does however express caution about restricting this defence only to DFV relevant relationships. Some sex workers may experience coercive, exploitative, or abusive dynamics with clients and will be excluded from this defence despite the trauma and pattern of harm producing a similar impact. Respect Inc propose that along with this defence there be clear guidance that cumulative trauma, coercion, and histories of violence—regardless of relationship status—can be considered. This would help to address the systemic gaps where non-traditional relationships fall outside legal protections.

Respect Inc supports the Commission’s proposal to recognise patterns of DFV, even in the absence of immediate threats, as sufficient grounds for self-defence. This appropriately aligns the legislation with the lived experience of many victim-survivors whose fear is grounded in cumulative harm.

Respect Inc supports the application of the social entrapment framework in understanding self defence claims. This model has the ability to apply a holistic lens and consider how coercive control, systemic marginalisation, lack of access to support, and community isolation create entrapment and heighten vulnerability.

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While the Commission discusses its application in DFV cases, Respect Inc strongly advocates for this framework to be extended beyond DFV to other contexts, that would encompass sex worker–client relationships. Below is an example of the need for this framework to be applied to cases involving sex workers:

Example 1:

A sex worker has a client who she has been seeing regularly for 2 years. Over time he has begun to push her boundaries. He does things like staying overtime, coercing her into lowering her rates for him and trying to convince her to stop sex work and see him exclusively. She has been struggling with this but has little support as her family does not know that she is a sex worker and she has been too afraid to tell her doctor due to fear of discrimination. She has not had access to community or resources because she has been isolated due to stigma. On one occasion the client requested that she do an outcall to his house and she agreed. After the agreed booking duration finished he told her that she was not allowed to leave, locking and barricading the room they were in. The client sexually assaulted the sex worker and she responded with excessive self defence which resulted in his death.

If the excessive self defence element is only available in DFV contexts where the relationship satisfies the definition of a relevant relationship, this sex worker would not be protected. Sex worker and client relationships do not come under the definition of a relevant relationship and so the ongoing coercive and controlling behaviours present in this example would not likely be considered by the courts without the use of the social entrapment framework.

If you require further information in relation to this submission please contact me as below.

Yours faithfully,

Carly Nichol  
Chief Executive Officer  
Respect Inc  


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