

Submission
No 2

INQUIRY INTO HUMAN TRAFFICKING

Organisation: FamilyVoice Australia

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Submission

on

Human Trafficking

to the

NSW Legislative Council Select Committee

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1. Introduction

On 9 November 2016, the NSW Legislative Council established a select committee to inquire into and report on human trafficking in New South Wales. The Committee is due to report by September 2017.

FamilyVoice Australia is a national Christian voice – promoting true family values for the benefit of all Australians. Our vision is to see strong families at the heart of a healthy society: where marriage is honoured, human life is respected, families can flourish, Australia’s Christian heritage is valued, and fundamental freedoms are enjoyed.

We work with people from all mainstream Christian denominations. We engage with parliamentarians of all political persuasions and are independent of all political parties. We have full-time FamilyVoice representatives in all states.

Submissions close 19 February 2017.

2. Terms of reference

The terms of reference for the Committee are as follows:

- 1. That this House establish a select committee to inquire into and report on human trafficking in New South Wales, and in particular:
 - (a) the role and effectiveness of New South Wales law enforcement agencies in responding to human trafficking including:
 - (i) how New South Wales law enforcement agencies respond to human trafficking, including slavery, slavery like practices such as servitude, forced labour, and people trafficking,*
 - (ii) the influence of organised crime in human trafficking in New South Wales,**
 - (b) the prevalence of human trafficking in New South Wales,*
 - (c) the effectiveness of relevant legislation and policies,*
 - (d) the practical measures and policies including security measures to protect New South Wales identity documents that would address human trafficking in New South Wales, and*
 - (e) other related issues.**
- 2. That the committee report by September 2017.¹*

3. Overview

Human trafficking is a significant international problem from which wealthy Western countries are not immune. The Global Slavery Index 2016 estimates that there were 4,300 persons living in modern slavery in Australia.²

This submission focuses on one of the main drivers of human trafficking: prostitution.

4. Trafficking for sexual servitude

According to the US State Department “Australia is primarily a destination country for women subjected to forced prostitution and to a lesser extent, women and men subjected to forced labor.”³

The US State Department further notes that:

Some women from Thailand, Malaysia, South Korea, China, and, to a lesser extent, India, Vietnam, Eastern Europe, and Africa migrate to Australia voluntarily intending to work legally or illegally in a number of sectors, including the sex trade. Subsequent to their arrival, however, some of these women are coerced into prostitution in both legal and illegal brothels. There were news reports that some Asian organized crime groups recruit Asian women to migrate to Australia, sometimes on student visas, and then subsequently coerce them into the sex trade. The women and girls are sometimes held in captivity, subjected to physical and sexual violence and intimidation, manipulated through illegal drugs, and obliged to pay off unexpected or inflated debts to their traffickers.⁴

It is noteworthy that several of the prosecutions for sexual servitude offences in Australia have involved legal brothels.⁵

On 2 February 2012, following a tip-off that three young women, allegedly lured to Australia from Thailand on the promise of student visas, were being held against their will to work as sex slaves in a western Sydney brothel, the Australian Federal Police:

arrested the 42-year-old Chinese-Cambodian owner of the Diamonds 4 Ever brothel in Guildford and charged him with human trafficking offences.

The three women, believed to be under 18, claim they were told they were travelling to Australia on student visas but, once here, their passports were allegedly confiscated and they say they were taken to the brothel and forced to work as prostitutes.

The brothel's website boasts of "dream ladies" and an excellent reputation for luxurious, prestigious services.⁶

The Age has reported extensively on how:

Chinese organised crime syndicates are running multimillion-dollar prostitution rackets across Melbourne by bribing officials and exploiting abysmal regulation. The syndicates are linked to human trafficking and arrange for dozens of Asian women to travel from interstate and overseas - often on student visas - to work in brothels. In several instances, figures linked to the illegal prostitution syndicates - including Mulgrave woman Xue Di Yan - are also licensed by the Victorian government to run legal brothels.⁷

On 17 July 2012 Victorian police "charged a suspected member of a sex trafficking syndicate with murder over the brutal 2009 death of Melbourne man Abraham Papo, who was allegedly killed while attempting to help a Korean prostitute". The man charged De Jun (Kevin) Zheng allegedly worked for an international sex trafficking syndicate whose members own and operate licensed brothels in Victoria, including the Candy Club in Richmond. Papo claimed that the girl he was trying to help had, at one time, been taken by the syndicate to Sydney and forced to work against her will.⁸ De Jun (Kevin) Zheng claimed he was acting in self-defence and was found not guilty by a Supreme Court jury.⁹

The fact that prostitution is legal in parts of Australia is used by traffickers to help recruit women for sexual servitude. For example, a Korean pimp recently arrested has been reported to have used this approach:

The broker lured the women, saying that they could work without risk, since prostitution is legal in Australia, and make big money. He introduced 25 women to brothels in Melbourne and Sydney since 2007.¹⁰

The US State Department has drawn attention to the link between legalised prostitution and trafficking for sexual servitude since at least 1999:

Trafficking in East Asian women for the sex trade is a growing problem. Immigration and federal police have developed profiles and identified trends in the industry, but lax laws – including legalized prostitution in parts of the country – make enforcement difficult at the working level.¹¹

A State Department report notes that during 2011:

The [Australian] government did not take significant steps to reduce the demand for commercial sex acts.¹²

5. Reducing trafficking by penalising purchasing a sexual service

One effective measure to reduce demand for commercial sex acts – and therefore to cut into the anticipated profitability of sex trafficking – is to introduce penalties for clients who buy or attempt to buy a sexual service.

Penalties for clients are increasingly being introduced into prostitution law by jurisdictions impressed with the successful implementation of this approach in Sweden since 1999.

5.1. Sweden

In 1999 Sweden adopted a new approach to the prostitution trade, which was later adopted in Norway and Iceland and has become known as the Nordic model.¹³ In addition to laws against procuring, pimping and operating a brothel, this model makes it illegal to buy sexual services but not to sell them.

Furthermore, the Swedish government developed programs for:

- *Prevention*, to reduce the risk of girls being enticed into the trade;
- *Exit*, to help prostitutes leave the trade – on the basis that the healthiest place for prostitutes is in other work; and
- *Client education*, to help clients (or “johns”) understand the physical and psychological damage their actions cause the prostitutes.¹⁴

While no model can completely eliminate prostitution, the Nordic model has been shown to reduce the illegal trade and help women exit sex work. This model has recently been endorsed by the European Parliament because of its effectiveness in European countries.¹⁵

In April 2004, Swedish MP Tuve Skånberg reported that his country’s new prostitution law had begun to deter brothel clients. At that stage there had been few prosecutions because police merely warned first-time offenders.¹⁶

In later years, following special police training, the law became even more effective. Patrik Cederlof, Swedish coordinator for the prevention of prostitution and human trafficking, spoke with WA MP Peter Abetz who visited Stockholm on a fact-finding tour in February 2011.¹⁷ Mr Cederlof reported that Swedish police were aware of some 500 brothels operating in their country in 1999. He now challenges opponents to show him a brothel, but they have not been able to do so.

An official review of the first ten years of the operation of the Law found that:

- Street prostitution had halved in Sweden since the Law came into effect while remaining the same in neighbouring Nordic countries;¹⁸
- While the overall incidence of prostitution, including prostitution where contact is made through the Internet, had increased in neighbouring Nordic countries, it had decreased, or at least not increased, in Sweden;¹⁹
- Trafficking in human beings for sexual servitude is less of a problem in Sweden than in neighbouring Nordic countries and the National Criminal Police consider that the ban on purchasing sexual services is a barrier to human traffickers and procurers establishing business in Sweden;²⁰ and
- The proportion of men in Sweden that purchase sexual services has decreased with a number of men reporting that the ban had deterred them from continuing to purchase sex.²¹

Overall the official report concluded that “the ban on the purchase of sexual services has had the intended effect and is an important instrument in preventing and combating prostitution.”²²

5.2. Norway

On 1 January 2009 a new law came into effect in Norway making it an offence to purchase a sexual act. Observers already noted a visible decrease in the number of street prostitutes as the law came into effect.²³ In January 2010 the State Secretary of the Department for Justice, Astri Aas-Hansen that there were fewer sex clients in Norway and that attitudes towards purchasing sex had changed since the enactment of the new law.²⁴

5.3. United Kingdom

The United Kingdom has introduced a new approach to prostitution law that specifically tackles demand by penalising the paying for sex with a person who is being controlled against their wishes for someone else’s gain.

This policy development followed a thorough investigation of the demand side of prostitution.

Tackling the demand for prostitution is an integral element of the Government’s Co-ordinated Prostitution Strategy and the UK Action Plan on Tackling Human Trafficking, and in January 2008, the Home Office launched a six month review to explore what further action could be taken by Government and statutory agencies to reduce demand.

The Review involved key stakeholders and practitioners, including the Police and the Crown Prosecution Service as well as organisations supporting individuals involved in prostitution. Work undertaken within the Review included an assessment of academic research on sex buyers, an audit of enforcement and prosecution practice in England and Wales to identify

best practice, an independent evaluation of approaches to tackling demand in nine other countries, and Ministerial visits to Sweden and the Netherlands to learn more from the differing approaches taken in these countries.

The Review concluded that there was evidence to support the development of a new offence to criminalise those who are found to be paying for sex with a person who is being controlled against their wishes for someone else's gain. The new offence should be a strict liability offence meaning that it will be irrelevant whether the sex buyer knew that the prostitute was controlled or not. This will help to achieve the goal of reducing the size of the 'sex market' by sending a clear message that those who pay for sex should consider the potential implications of their actions. Penalties for the new offence should be in line with other offences which target demand for prostitution. This would mean a non-custodial penalty, with a fine of up to £1000 (fine level 3).²⁵

The new offence was added as Section 53A of the *Sexual Offences Act 2003* by amending legislation passed in 2009.

5.4. France

In April 2011 a parliamentary commission report recommended the adoption of the Nordic Model of criminalising the purchase of sex.

In December 2011 the National Assembly voted unanimously by a show of hands a cross-party, non-binding resolution.

The resolution said the country should seek “*a society without prostitution*” and that sex work “*should in no case be designated as a professional activity*”.

It urged abolition at a time when “*prostitution seems to be becoming routine in Europe*”.²⁶

In 2016, the Nordic Model was adopted in France.²⁷

5.5. New offence

New South Wales urgently requires a specific offence of purchasing a sexual act with a person who is being forced or coerced into performing sexual acts with a client. This offence should be a strict liability offence so that it is irrelevant whether or not the purchaser knew or should have known that the person was being forced or coerced. This could be a first step towards a simple prohibition on all acts of purchasing or attempting to purchase a sexual act.

Recommendation 1

As a matter of urgency a new offence of purchasing or attempting to purchase a sexual act with a person who is being forced or coerced to perform sexual acts with clients should be introduced into the Crimes Act 1900. The offence should be a strict liability offence. This should be seen as a first step towards penalising all purchase or attempted purchase of a sexual service.

6. Legalised prostitution

Prostitution has no valid social purpose.

Prostitution involves the purchase and sale of sex. This is a profoundly anti-social activity.

Most men who purchase sex are either married or potential future husbands. Purchasing sex damages their capacity to be good husbands by encouraging them to see women as sexual objects who can be paid to perform as required with little or no regard for their emotions or their dignity as women, as human beings of equal value and worth.

Every prostitute is someone's daughter. No little girl grows up thinking "I hope to be a prostitute" one day. No one – including prostitutes and madams – wants their daughter to grow up to be a prostitute.

Girls and women become prostitutes mostly because they are already damaged through sexual or other abuse, through drug addiction or being exploited by a dominant male who pimps them.

Others may simply see prostitution as an apparently easy way to make large amounts of cash quickly. In either case prostitution exploits women and profoundly damages them.

The Oxford Dictionary defines the verb 'exploit' as meaning to utilize a person to one's own ends.

In prostitution the prostitute – a human person, most frequently a woman – is exploited both by the man who uses her as a sexual object and by the brothel owner who pimps her.

Prostitution is more like slavery than like work. In valid, non-exploitative work, the worker exchanges her labour and her talents for reasonable remuneration.

In slavery the very person of the slave is at the disposal of the master. Slavery – even voluntary slavery – is banned. It is not lawful for persons to freely sell themselves into slavery. This is considered to be against human dignity. It threatens the liberty of all and leaves the poor and weak vulnerable to exploitation.

Similarly in prostitution the 'client' 'buys' the woman's body for a fixed period of time. The brothel owner or pimp profits from this sale. This necessarily involves a demeaning and degradation of the woman who must suppress her natural human feelings to allow a man she has no affection for or interest in to use her body as he pleases.

Legalising prostitution necessarily legalises the exploitation of women by pimps and buyers of sex. New South Wales law currently facilitates the exploitation of women – both trafficked and local women – by pimps and buyers of sex.

Recommendation 2

New South Wales law should be amended to prohibit all aspects of organised prostitution including owning or operating premises used for prostitution and recruiting a woman to become a prostitute.

7. Organised crime

Decriminalising prostitution has led to more involvement of organised crime, naturally increasing the exploitation of women involved in prostitution.

In 2000 the then NSW Police Commissioner, Peter Ryan, said there had been 40 shootings in Sydney's south west suburbs in a three month period – all part of a “*struggle between rival groups for control of the drugs and prostitution trades in parts of Sydney.*”²⁸

Decriminalising prostitution in New South Wales led to the use of illegal immigrants in sexual slavery.

*The proliferation of Asian brothels has resulted in a huge supply of imported illegal labor which has resulted in undercutting of prices and unsafe sex practices.*²⁹

Former federal police officer Chris Payne said that based on evidence he had seen, there were hundreds of illegally imported Asian women being exploited in NSW brothels every day. However there have been no prosecutions under the supposedly “tough” laws because of lack of evidence that would stand up in court. Payne said, “*On the scale we were seeing in Sydney, we used to hear some estimates of anything up to 500 (Asian) women illegally in Sydney at any given time on false papers, working in these brothels.*”³⁰

More recent reports of the involvement of organised crime involved in both legal and illegal brothels has emerged from Queensland, New South Wales and Victoria, each of which have legalised brothels in one way or another.

*At least 40 per cent of sex workers surveyed by the [Queensland] CMC [Crime and Misconduct Commission], including both legal and illegal workers, indicated that they had been affiliated with members of organised crime groups at some stage during their career in the sex industry, two-thirds stating that this had occurred since the implementation of the Prostitution Act in 2000. A range of activities, such as importing and selling drugs, illegal immigration, child prostitution, dealing in stolen property and, of course, running illegal brothels and escort agencies, were reported.*³¹

The Crime and Misconduct Commission reported in June 2011 that a licensed brothel owner had been charged along with five other persons with 65 offences including “*knowingly participate in the provision of prostitution [without a license], procuring prostitution, assault occasioning bodily harm, attempts to procure commission of criminal acts, using a telecommunications network to facilitate the commission of a serious offence, possess tainted property, possess dangerous drugs, and possess utensils or pipes*”³² These charges highlight the connection between licensed brothels, the illegal prostitution sector, organised crimes, violence and drugs.

Then opposition local government spokesperson Chris Hartcher in December 2010 drew attention to the immigration rackets, money laundering, organised crime and sex slavery “*even in legal brothels, with illegal methods being used to ‘keep women under control’.*” He noted that: “*Where there's money and sex, there's always potential for crime and violence.*”³³

The Age has reported extensively on how “*Chinese organised crime syndicates are running multimillion-dollar prostitution rackets across Melbourne by bribing officials and exploiting abysmal regulation. The syndicates are linked to human trafficking and arrange for dozens of Asian women to travel from interstate and overseas – often on student visas – to work in brothels. In several instances, figures linked to the illegal prostitution syndicates - including Mulgrave woman Xue Di Yan – are also licensed by the Victorian government to run legal brothels.*”³⁴

Prostitution is very lucrative business. It is also an anti-social business. This makes it a very attractive proposition for organised crime.

The Australian Crime Commission has highlighted the fact that prostitution is the natural business of outlaw motor cycle gangs and other organised crime groups.³⁵

Recommendation 3

Decriminalising the owning and operating of brothels has led to the increased involvement of organised crime in prostitution. This needs to be reversed by reintroducing effective penalties for owning or operating a brothel.

8. Banning all advertising of prostitution

Queensland had such a ban for a number of years with the result that no prostitution advertisements appeared in the daily newspaper.

Prostitution businesses spend money on advertising because they get a good return for this expenditure. Advertising serves to recruit new clients, as well as to keep pushing their 'product' to existing clients.

If all prostitution advertising were prohibited then the amount of prostitution must fall. Many men would never go actively looking for a brothel. However, if the advertisements in the daily paper catch their eye they may become curious enough to check it out. The community does not need prostitution advertising.

There is no reason not to ban all advertising of prostitution.

Recommendation 4

A comprehensive ban on advertising for prostitution should be introduced. It should be made an offence to publish any advertisement that could reasonably be understood to be an advertisement for prostitution.

9. Police enforcement powers

Once brothels are made illegal again, the goal of the police should be to close of all known brothels.

Government and police commitment to this goal should be expressed by the adequate resourcing of a dedicated vice squad, with regular rotation of personnel to prevent the suspicion of corruption.

Recommendation 5

Government should ensure that the police are committed to closing all known brothels and that they are adequately resourced for this function.

10. Helping women and girls escape prostitution

Recognising the double trap of prostitution and drug addiction in which many prostitutes are caught, as well as the specific needs of trafficked women, any suppression policy must be accompanied by a determined effort to assist women, including trafficked women, to get out of prostitution. Church and community groups will be most likely to have the motivation and appeal to help such women find a new life. However, the government has a role in funding retraining programmes and other schemes to assist such groups in the work of rehabilitation.

Recommendation 6

The government should commit to funding appropriate church and community groups to run exit programs for women and girls trapped in prostitution.

11. Conclusion

The exploitation of women by trafficking for the sex industry is clearly linked to legalised prostitution.

Legalisation in any form is not an appropriate model for prostitution law. It is the counsel of despair – for society and for those trapped in prostitution as “workers” or as “clients”. A suppression policy, while realistic in its expectation that there will always be those who seek to exploit human weakness through selling sex, supports significant community values by seeking to reduce this exploitation to a minimum.

Effective measures such as a comprehensive advertising ban, committed enforcement by police and penalties on all purchases or attempted purchases of sex can be introduced to ensure that prostitution and the resulting harms to society are kept to a minimum.

Endnotes

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