

**Submission
No 4**

INQUIRY INTO HUMAN TRAFFICKING

Organisation: ACON
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Legislative Council Select Committee on Human Trafficking
NSW Legislative Council

Sent by email: humantraffickingcommittee@parliament.nsw.gov.au

To whom it may concern,

Re: Inquiry into Human Trafficking

Thank you for the opportunity to comment on the Inquiry into Human Trafficking in NSW.

ACON is New South Wales' leading health promotion organisation specialising in HIV prevention, HIV support and lesbian, gay, bisexual, transgender and intersex (LGBTI) health. Established in 1985 as the AIDS Council of NSW, our mission is to enhance the health and wellbeing of our communities by ending HIV transmission among gay and homosexually active men, and promoting the lifelong health of LGBTI people and people with HIV.

Although the focus of this inquiry is upon human trafficking, we recognise that trafficking and sex work are often conflated in public discourse. The United Nations Special Rapporteur on Trafficking Joy Ngozi Ezeilo, upon her visit to Australia, recommended that 'There is a need to move away from over-sexualizing the discourse on trafficking' (UN Office of the High Commissioner for Human Rights, 2011).

Despite large scale criminal justice approach to combat trafficking, only a small number of trafficking incidents have been found relating to sex work. All sex work-related cases involved migrant sex workers seeking legal avenues to work in the Australian sex industry (Australian Government, 2016).

ACON's concern in this submission is for the health, safety and wellbeing of sex workers, specifically in public health matters including HIV prevention. We write to endorse the submissions of the Sex Workers Outreach Project and Scarlet Alliance as the peak sex worker organisations with greatest access to community and best ability to represent the experience and needs of migrant sex workers in NSW.

Listening to the experiences of affected communities

The success of Australia's response to HIV is largely attributable to peer education and community building among key populations, including sex workers. Australia's response is acknowledged in our National HIV Strategy 2014-17 as being 'world-recognised' and 'built on partnership and community mobilisation' (Department of Health and Ageing, 2014, 4.5, 1). This strong partnership between affected communities, researchers, clinicians and government has worked hard to achieve world leading public health outcomes.

In NSW, the peer-led Sex Workers Outreach Project (SWOP) is funded to promote the health and safety of sex workers, supported by their national peak body Scarlet Alliance. There is strong evidence to suggest that community organisations achieve better results than non-community organisations, because of their deep epidemiological understanding, longitudinal knowledge of the epidemic, health and social programming expertise and extensive networks (O'Donnell, 2016).

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SWOP's multilingual and multicultural team collects extensive data through community outreach and Scarlet Alliance runs a peer-led multilingual migration project and migrant sex worker steering committee who advise on research, policy and programming.

These organisations have been leading the community response over the last 27 years and conducting effective community engagement that has resulted in consistently low rates of HIV and STIs among sex workers today as evidenced in annual surveillance data (Kirby Institute, 2016, 12).

The United Nations report on Sex Work and the Law states the importance of sex worker involvement in any potential law reform (UNAIDS, UNFPA and UNDP, 2012, 31):

It is critically important that sex workers are centrally involved in efforts to improve legal environments. Sex workers and, where they exist, sex workers' organizations should be supported to participate in setting national priorities for an agenda for action to improve the legal environment for sex workers.

Anti- trafficking policies must not create barriers to health promotion and HIV prevention

The best protection for sex workers against trafficking labour exploitation is an enabling legal environment wherein sex workers can access human rights, industrial rights, and occupational health and safety mechanisms without fear of arrest or deportation.

The Global Alliance Against Trafficking in Women has reported that sometimes anti-trafficking policy can impact negatively upon sex workers: raid and rescue operations and harassment and detention of Asian sex workers can threaten the health, safety and human rights of migrant sex workers instead of providing options for support (Pearson, 2007).

Legal and policy environments can act to drive migrant sex workers underground and create barriers to accessing outreach workers, peer education, industrial rights and occupational health and safety information (Dabhadatta et al. 2008, 43; Jeffreys and Perkins, 2011; Pell et al. 2006).

Anti-trafficking policy needs to be consistent with health promotion goals, because although STI and HIV rates among sex workers are low, they depend on sex worker access to peer education, health promotion information and appropriate service provision to remain low.

Sex workers are unlikely to equate police, immigration or council officers conducting visa and sex industry compliance as the people to turn to for support, particularly when sex workers come from countries where sex work is actively criminalised. Indeed, the catalyst for decriminalisation in NSW was the findings of the Wood Royal Commission of systemic police corruption when police were regulators of brothels (Royal Commission into the NSW Police Service, 1995-1997).

Great progress has been made towards achieving the goal of the NSW HIV Strategy to eliminate HIV transmission by 2020 (NSW Health, 2016, 4). To meet this ambitious goal, we must maintain an enabling environment for health promotion delivery and the prevention of HIV and STIs through the decriminalisation of sex work.

NSW is leading the world with evidence-based model of decriminalisation

Australia is currently leading the world with evidence-based sex work legislation, with NSW as the first state to decriminalise in 1995 and South Australia with a decriminalisation bill currently before parliament. NSW is world renowned for its best-practice model, decriminalisation, recognised by the United Nations Secretary General, United Nations Population Fund, UNAIDS and Amnesty International as best practice (Amnesty International, 2016).

NSW has one of the healthiest sex industries ever recorded, including among migrant sex workers (Donovan et al., 2010, 75). The *NSW Work Cover Health and Safety Guidelines for Brothels* provide comprehensive guidelines and minimum standards for maintaining a safe and healthy environment (NSW Health and WorkCover NSW, 2001).

Evidence demonstrates that decriminalisation has brought improved work safety, high rates of safer sex practice and low rates of sexually transmissible infections (Kirby Institute, 2012), in addition to little to no amenity impacts and no evidence of organised crime (Prior and Crofts, 2012; Crofts 2010; David 2012).

These health outcomes are attributable to decriminalisation, community-driven health promotion and peer education, and a partnership approach between government and affected communities.

A prevention approach requires an enabling legal environment and peer education

The largest study on migrant sex work in Australia was conducted by the Australian Institute of Criminology in partnership with Scarlet Alliance and published in 2015. The research surveyed a large sample of migrant and non-migrant sex workers in Australia across a range of states and territories using multilingual peer data collectors.

The researchers found that there were a range of ‘social and structural barriers’ that marginalise migrant sex workers from accessing services and resources. These included ‘stigma associated with sex work, limited access to safe migration pathways, fear of deportation and language barriers.’ (AIC and Scarlet Alliance, 2015, xi – xii)

A prevention approach to human trafficking and labour exploitation would address these barriers through migration reform, translated visa materials and initiatives to reduce stigma and discrimination. It would also include resourcing of and investment in multilingual peer-support programs, because migrant sex workers facing exploitative working conditions are more likely to turn to sex worker organisations and peer educators who speak their first language.

The study recommends a number of steps to increase migrant sex workers’ access to services and information that would significantly reduce susceptibility to trafficking or labour exploitation. These strategies include ‘increasing access to translated material, employing outreach workers who match the language backgrounds of migrant sex workers, and using the internet to increase awareness about relevant mainstream and sex work-specific services, and their rights and responsibilities as a migrant sex worker.’ (AIC and Scarlet Alliance, 2015, xi – xii)

Maintaining peer education and outreach efforts for sex workers remains a NSW government commitment (NSW Health, 2016, 10) that should be a key part of a prevention approach to human trafficking. As the NSW HIV Strategy notes, ‘Maintaining a supportive enabling environment will continue to be key to the success of HIV prevention in NSW’ (NSW Health, 2016, 9).

Thank you for the opportunity to have input into this inquiry process. If you would like to discuss our submission further please do not hesitate to contact James Gray, our Director of Policy, Strategy and Research, on .

Kind regards

Nicolas Parkhill

Chief Executive Officer

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