

Submission
No 8

INQUIRY INTO HUMAN TRAFFICKING

Organisation: Coalition Against Trafficking in Women Australia

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**CATWA Submission to the Legislative Council Select Committee
on human trafficking in New South Wales**

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Coalition Against Trafficking in Women Australia

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Who are we?

The Coalition Against Trafficking in Women Australia (CATWA) is the Australian branch of CATW International, a Non Governmental Organisation with Category II consultative status with the United Nations Economic and Social Council. It works locally and internationally to end all forms of sexual exploitation of women, especially in relation to issues of prostitution and trafficking in women.

Summary and Key Recommendations

- The NSW system of decriminalised brothel regulation is ineffective at curbing the trafficking of women and girls into Australia for sexual services.
- This is because models of complete decriminalisation and legalisation of the sex industry increase trafficking inflows by fostering demand for the sexual exploitation of women and girls.
- The current approach has also failed to remove organised crime involvement from the industry, which is instead flourishing.
- The NSW system of decriminalisation renders law enforcement agencies toothless in their efforts to combat organised crime in the sex industry due to a lack of regulation.
- International research demonstrates that Nordic Model is the most effective legislative approach for reducing inflows of trafficked persons.
- As such, the Nordic Model has been adopted in a number of countries including Sweden, Norway, Iceland, Finland, Canada, France and Northern Ireland, and has been endorsed by the European Parliament.
- **CATWA therefore recommends that the NSW government implement the Nordic Model of prostitution legislation, which criminalises pimping, brothel keeping and the buying of sex while removing all legal sanctions against prostituted persons.**

1(a) the role and effectiveness of New South Wales law enforcement agencies in responding to human trafficking including:
(ii) the influence of organised crime in human trafficking in New South Wales,

Legalisation or decriminalisation of the sex industry is often touted as a way to weed out organised crime in the industry and reduce the associated illegal trafficking inflows.¹ However, evidence shows that legalisation/decriminalisation only increases flows of women trafficked into the industry and provides a legitimate front for organised crime, while at the same time reducing police oversight of the industry.²

The Parliament of New South Wales' own Select Committee on the Regulation of Brothels found significant ties between the sex industry and organised crime groups, including 40 brothels with links to outlaw motorcycle gangs and multiple reports of connections to Asian organised crime groups.³ These links are facilitated by the absence of regulation under the decriminalised model operating in NSW, thereby robbing law enforcement of an "effective intelligence base" and allowing organised crime to "infiltrate the industry without the knowledge of law enforcement or local government".⁴ Such findings are not confined to NSW, but are common across multiple jurisdictions where prostitution is legalised or decriminalised.⁵ Within such jurisdictions, criminal involvement can be identified across both legal and illegal sectors of the industry.⁶

The significant involvement of organised crime groups within the NSW sex industry is strongly linked to problems of trafficking and exploitation of prostituted persons. The Select Committee report identifies sex slavery in and of itself as an organised criminal activity, with NSW accounting for one quarter of all federal investigations into sexual servitude in the 2014-2015 financial year. Reports from law enforcement agencies, outreach workers on the ground and investigative journalism all point to trafficking as a common element in the majority of cases of sex slavery in Australia.⁷ NSW has been a significant destination for this

¹ A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015), <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5198/Final%20Report%20-%20Inquiry%20into%20the%20Regulation%20of%20Brot.pdf>

² Seo-Young Cho, Axel Dreher and Eric Neumayer, "Does Legalized Prostitution Increase Human Trafficking?," *World Development* 41 (2012): 67; Frank Chung, "If you looked hard enough, you might find a massage parlour that doesn't offer sex," last modified March 19, 2015, <http://www.news.com.au/finance/work/at-work/if-you-looked-hard-enough-you-might-find-a-massage-parlour-that-doesnt-offer-sex/news-story/ef8e3d61d0179d1c3c86083de6e44e64>; A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015); The Sydney Morning Herald, "Brothels: NSW Government Must Address Corruption," last modified May 27, 2014, <http://www.smh.com.au/comment/smh-editorial/brothels-nsw-government-must-address-corruption-20140525-zro14>

³ A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015).

⁴ A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015).

⁵ A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015).

⁶ A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015).

⁷ Brynn Davies, "Anti-slavery Workers Say Government is Failing Sex Trafficking Victims," last modified March 1 2016, <http://www.abc.net.au/triplej/programs/hack/anti-slavery-workers-say-gov-failing-sex-trafficking-victim/7210778>; Eamonn Duff, "Trafficking: Women Lured With Student Visas Forced into Sex Slavery," last modified March 30 2014, <http://www.smh.com.au/nsw/trafficking-women-lured-with-student>

trafficking into sex slavery, with vulnerable women, often from Asian countries, brought into the country by organised crime groups and forced to work off a “debt” through prostitution.⁸ Their passports are taken, their wages withheld to pay off exorbitant debts – often of multiple tens of thousands of dollars, and they are forced to work in slave-like conditions for at times upwards of 17 hours a day under threat of deportation.⁹ The case of Chee Mei Wong represents a prime example of such sexual slavery, whereby a group of Malaysian women were lured to Australia with the promise of student visas and a new life, before being forced to work long hours in servile conditions to pay off an alleged debt.¹⁰

This intersection between the sex industry, organised crime and trafficking has not been addressed by the decriminalised approach to the sex industry in place in NSW since 1995. Instead, the trafficking of women into the state by organised crime groups and for the purposes of sexual exploitation has flourished.

(b) the prevalence of human trafficking in New South Wales,

Given the clandestine nature of human trafficking it is impossible to provide exact statistics on the extent of trafficking to a particular locality. It is established, however, that Australia continues to be a destination country for women trafficked into the sex industry¹¹ and that cases which come to the attention of authorities are likely to represent only a fraction of what is actually occurring.

Despite the difficulties in establishing precise data, it is now accepted by international human rights organisations that trafficking is widespread and that trafficking into the sex industry is a serious problem.¹² The International Labour Organization estimates that the revenue from prostitution worldwide is US\$99 billion,¹³ and Fondation Scelles estimates that prostitution involves 40-42 million people worldwide, 75 per cent of whom are aged between 13 and 25 years.¹⁴ The Dutch National Rapporteur Against Trafficking in Human Beings suggests that

[visas-forced-into-sex-slavery-20140329-35q88.html](http://www.smh.com.au/nsw/afp-reveals-sex-trafficking-based-in-sydney-brothels-20150912-gjkzwt.html); Eamonn Duff, “AFP Reveals Sex Trafficking Based in Sydney Brothels,” last modified September 13 2015, <http://www.smh.com.au/nsw/afp-reveals-sex-trafficking-based-in-sydney-brothels-20150912-gjkzwt.html>; A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015), Sally Neighbour and Peter Cronau, “Sex Slavery,” last modified October 17 2011, <http://www.abc.net.au/4corners/stories/2011/10/06/3333668.htm>

⁸ A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015); US Department of State, *Trafficking in Persons Report* (Washington: Department of State, 2015), <https://www.state.gov/documents/organization/245365.pdf>

⁹ Eamonn Duff, “Trafficking: Women Lured With Student Visas Forced into Sex Slavery,” last modified March 30 2014; A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015).

¹⁰ Stephanie Gardiner, “Jail for Brothel Keeper Who Enslaved Women,” last modified July 6 2013, <http://www.smh.com.au/nsw/jail-for-brothel-keeper-who-enslaved-women-20130705-2phgf.html>

¹¹ US Department of State, *Trafficking in persons report: Australia* (Washington D.C.: Department of State, 2015).

¹² UNODC, *Factsheet on human trafficking* (Vienna: United Nations Office on Drugs and Crime, 2011), https://www.unodc.org/documents/human-trafficking/UNVTF_fs_HT_EN.pdf; UNODC, *Global report on trafficking in persons 2014* (Vienna: United Nations Office on Drugs and Crime, 2014), https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf

¹³ International Labour Organisation (ILO), *Profits and Poverty - the economics of forced labour* (Geneva: ILO, 2014), http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang-en/index.htm

¹⁴ Fondation Scelles, *Prostitution: Exploitation, persecution, repression – 4th global report*, (Paris: Fondation Scelles, 2016), http://prostitutionresearch.com/pub_author/fondation-scelles-2016-annual-report/

only 5 per cent of all trafficking victims ever come to the attention of the authorities.¹⁵ For victims of trafficking for sexual exploitation, this is compounded by other factors, including: that women in prostitution are economically and socially marginalised and often forced into illegal situations such as unlicensed brothels and street prostitution; societal attitudes stigmatising women in prostitution that further render them invisible and make it difficult for survivors of trafficking to come forward; extreme trauma experienced by survivors.¹⁶ As such, the very limited number of criminal cases brought for sex trafficking related offences in Australia should be seen as merely the tip of the iceberg.

It is also important to note the scale of the illegal sex industry in many parts of Australia. In Victoria, for example, a 2002 article in *The Age* cited estimates from the police and the legal brothel industry that put the number of illegal brothels at 400, four times more than the number of legal brothels.¹⁷ It is also clear that the domestic sex industry targets Asian women for procurement into prostitution and there are likely crossovers with trafficking. A recent study of the online advertising of Melbourne-based prostitution businesses found 41 per cent promoting predominantly Asian women.¹⁸ A 2012 report to the New South Wales Ministry of Health also determined that more than 50 per cent of survey respondents in approved brothels in metropolitan Sydney were of “Asian” or “other non-English speaking background”, and nearly 45 per cent of these respondents were categorised as speaking only “poor” or “fair” English.¹⁹ These circumstances highlight the existence of vulnerable and marginalised populations of women in the sex industry in Australia, which should raise concerns around consent, debt bondage, and knowledge of rights under Australian law.

(c) the effectiveness of relevant legislation and policies

The NSW system of decriminalised brothel regulation is ineffective at curbing the trafficking of women and girls into Australia for sexual services. This is because the legalisation or complete decriminalisation of prostitution increases trafficking inflows by fostering demand for the sexual exploitation of women and girls. Exploitation, and the involvement of organised crime, is found in both decriminalised systems (such as NSW) and legalised systems (such as Victoria). An ongoing problem is the exploitation and abuse of women through visa irregularities. There are numerous reports of young Asian women coming to Australia on tourist or student visas and being lured into work in both legal and illegal brothels.

In NSW, specifically, the recent inquiry into the regulation of brothels in 2015 highlighted the failures of decriminalisation to curb human trafficking.²⁰ The Australian Federal Police (AFP) and the NSW police both sent representatives to testify as to the abuses occurring in

¹⁵ J. Putt, *Human trafficking to Australia: A research challenge* (Canberra: Australian Institute of Criminology, 2007), http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi338.pdf

¹⁶ Melissa Farley et al., “Prostitution and trafficking in nine countries”, *Journal of Trauma Practice* 2(3-4), (2004): 33-74.

¹⁷ Murphy Padraic, “Licensed brothels call for blitz on illegal sex shops,” *The Age* 3 June 2002

¹⁸ Tatum Street and Caroline Norma, “Sex tourists in their own country: Digital media advertising of Asian women by the Australian sex industry,” *Gender, Technology and Development* 20(3) (2016): 279-305.

¹⁹ B. Donovan et al., *The sex industry in New South Wales: A report to the NSW Ministry of Health* (Sydney: Kirby Institute, University of New South Wales, 2012), <http://www.nswp.org/sites/nswp.org/files/NSWSexIndustryReportV4.pdf>

²⁰ A. Henskens et al., *Inquiry into the Regulation of Brothels* (Sydney: Select Committee on the Regulation of Brothels, 2015).

the sex industry. New South Wales Deputy Police Commissioner Nick Kaldas stated that the existence of “next to no regulation” was allowing criminal activity in the industry, including sexual servitude and forced drug-taking.²¹ At the same time, AFP Commander Glen McEwan noted that trafficking, in particular of Asian women into Sydney brothels, was an ongoing problem, with the police currently only able to identify and fully investigate a “fraction” of cases.²² Commander McEwan supplied the select committee with a “snapshot” involving “opportunistic” criminal syndicates and vulnerable women from Asia, “seeking to improve their own life, and those of their family, by moving to Australia for legitimate work.” Commander McEwan also spoke of foreign women being “duped”, held in captivity, forced to undertake sexual services and obliged to pay off unexpected or inflated debts to traffickers.

CATWA recommends that demand for sexual services be recognised as fuelling sex trafficking and, as such, be discouraged in line with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol).²³ The Australian government ratified the Protocol in 2005, but continues to allow or facilitate the purchase of sex through a commercialised sex industry. Australia is in breach of Article 9(5) of the Protocol, which requires State Parties to “...adopt or strengthen legislative or other measures...to discourage the demand that fosters all forms of exploitation of persons, especially women and children.”

Demand for sexual services must therefore be explicitly addressed in all policy attempts to combat trafficking and state laws regarding prostitution must be consistent with these attempts. The legislative approach that best fits these needs is the Nordic Model, as described in section (e), which decriminalises all prostituted persons but discourages demand for sexual exploitation by prohibiting pimping and sex buying.

(e) other related issues.

As the trafficking of women and girls for the purposes of sexual exploitation is considered to be the most common form of trafficking worldwide, and the most common form of trafficking to Australia,²⁴ it is imperative to consider policy approaches that deter trafficking into the sex industry. This is not to conflate all prostitution with trafficking, but simply to recognise that there is a connection: women are trafficked into the sex industry because a market for purchasing sexual access to women exists.

To date the most effective policy approach to prevent international trafficking in persons for sexual exploitation is the Nordic approach to prostitution policy, also known as the “Nordic Model” or Swedish Model. The central legislative change involved in the Nordic Model is that sex buying, pimping and brothel keeping are made illegal, while all legal sanction

²¹ Raper, A, “Sexual slavery, forced drug-taking in NSW brothels on the rise: police” *ABC News* (1st September 2015), <http://www.abc.net.au/news/2015-09-01/sexual-slavery-on-the-rise-in-nsw-brothels/6741012>

²² Eamonn Duff, “AFP reveals sex trafficking based in Sydney brothels,” last modified September 13, 2015.

²³ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* (2000), <http://www.osce.org/odihr/19223?download=true>

²⁴ US State Department, *Trafficking in Persons Report 2016* (Washington: US State Department, 2016).

against prostituted persons is removed. In other words, it is a system of asymmetric decriminalisation.²⁵

The Nordic Model is a holistic approach to the sex industry and gender equality that recognises it is the (predominantly male) demand for women and girls in prostitution that creates the sex trade and trafficking for sexual exploitation. That is, if it is possible to reduce male demand – and the international evidence shows it is²⁶ – destination countries can become “bad markets” for traffickers and therefore the flow of trafficking to that locality is reduced. In contrast, international research shows that countries with legalised systems of prostitution tend to have increased trafficking inflows.²⁷

The Nordic Model is in line with international instruments, including the Palermo Protocol, which require states to address the demand for sexual exploitation that leads to trafficking. The Nordic Model has also been endorsed by the European Parliament.²⁸

The success of the Nordic Model, evidenced particularly well in Sweden (where it originated),²⁹ has led to more countries adopting this approach to prevent trafficking for sexual exploitation. Variations on the original Swedish reforms have been taken up in Norway, Iceland, Finland, Canada, France, Northern Ireland, Ireland and South Korea. The Nordic Model is also under serious consideration, with draft legislation formed, in Italy, Israel and Luxembourg. It is time for more Australian jurisdictions to seriously consider this approach as well.

²⁵ M. Tyler et al. *Demand Change: Understanding the Nordic Approach to Prostitution Policy*. (Melbourne: CATWA, 2013). <http://www.catwa.org.au/wp-content/uploads/2016/12/Nordic-Model-Pamphlet.pdf>

²⁶ M. Coy et al. *The Swedish Sex Purchase Law: Evidence of its Impact*. (London: Nordic Model Information Network, 2016). <https://sites.google.com/view/nmin/resources>

²⁷ Seo-Young Cho, Axel Dreher and Eric Neumayer, “Does Legalized Prostitution Increase Human Trafficking?” *World Development*, 41 (2013): 1, 67-82.

²⁸ European Parliament, “Resolution on Sexual Exploitation and Prostitution and Its Impact on Gender Equality,” (last modified February 26, 2014). <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0162+0+DOC+XML+V0//EN>

²⁹ Max Waltman, “Prohibiting Sex Purchasing and Ending Trafficking: The Swedish Prostitution Law,” *Michigan Journal of International Law* 33 (2011): 135, 155–57.

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