

**Submission  
No 20**

## **INQUIRY INTO HUMAN TRAFFICKING**

**Organisation:** Life, Marriage and Family Centre

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# Life, Marriage & Family Centre

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## Submission

### The NSW Legislative Council Select Committee on Human Trafficking

23 February 2017

#### Background and Introduction

- 1.1 The Life, Marriage and Family Centre is an agency of the Catholic Archdiocese of Sydney and has been established to extend the research, policy, educational and pastoral activities the Church undertakes with respect to life, marriage and family issues. The Catholic Church has a long and ongoing tradition of caring for people, especially those who are vulnerable, and of promoting authentic relationships that are beneficial for individuals and for society. We strive to put into practical expression our belief in the equal and intrinsic worth of every human being, made in God's image and deserving of respect, dignity and love.
- 1.2 The global scourge of human trafficking victimizes men, women and children. In Australia, women are predominately affected by trafficking, because of its essential link with the sex industry.<sup>1</sup> Catholics hold strong beliefs about the dignity of the human person, and we affirm the unique dignity of women. St John Paul II expressed the Church's recognition of the dignity of women in his encyclical *Mulieris Dignitatem*:

*"...the Church gives thanks for each and every woman: for mothers, for sisters, for wives; for women consecrated to God in virginity; for women dedicated to the many human beings who await the gratuitous love of another person; for women who watch over the human persons in the family, which is the fundamental sign of the human community; for women who work professionally, and who at times are burdened by a great social responsibility; for "perfect" women and for "weak" women - for all women as they have come forth from the heart of God in all the beauty and richness of their femininity..."*<sup>2</sup>

Sadly, our present laws in New South Wales permit and facilitate the flourishing of a legalised sex industry, which continues to fuel the demand for trafficked women. These laws must be urgently reformed if we as a society truly believe in the dignity of women and the moral unacceptability of prostitution and human trafficking. Our state's legalised brothels – both the many “approved” by Councils and the many operating on an unapproved basis – continue to encourage the demand for prostituted women and foster

<sup>1</sup> B. Davies, 'Anti-slavery workers say government is failing sex trafficking victims', Triple J, March 16, 2016, <http://www.abc.net.au/triplej/programs/hack/anti-slavery-workers-say-gov-failing-sex-trafficking-victim/7210778>.

<sup>2</sup> St John Paul II, *Mulieris Dignitatem*, 31.

an environment in which criminal elements take hold and engage in lucrative human trafficking in order to meet this demand.<sup>3</sup>

- 1.3 The Life, Marriage and Family Centre regards the *Inquiry into Human Trafficking* as an important opportunity for our elected representatives to enhance the protection of women, especially vulnerable women, in New South Wales. The purpose of this submission is not to present detailed legal analysis and opinion, but to argue that legalised prostitution and human trafficking are intrinsically linked, and to encourage the adoption of a alternative, pro-woman approach, which aims at reducing and deterring the demand for trafficked women.

## **The Link between Prostitution and Human Trafficking**

- 2.1 **Legalised and normalised prostitution increases the demand for sexual services, which fuels the expansion of the human trafficking industry.** When prostitution is sanctioned by the state, it removes the stigma surrounding prostitution, making it morally permissible for men to purchase women's bodies for sex. In Victoria, where prostitution has been legalised since 1984, illegal prostitution has expanded significantly due to greater demands for 'cheaper' and 'unrestricted' access to prostitutes. From 1984 to 2004 the number of licensed 'sexual service providers' increased from 40 to 184.<sup>4</sup> More importantly, these figures do not include the growth of illegal prostitution, estimated to be four to five times the size of the regulated sector.<sup>5</sup> Consequently, Australia has become a popular destination for human trafficking, as its legal sector serves as an invitation for traffickers to operate under a legal facade.<sup>6</sup> According to the US Department of State, sex trade from East Asia has now become a major concern in Australia.<sup>7</sup>

- 2.2 **Legalised and normalised prostitution impedes law enforcement efforts to combat human trafficking.** According to the US State Department, legalisation creates:

*...a safe haven for criminals who traffic people into prostitution... Legalisation simply makes it easier for them to blend in with a purportedly regulated sex sector and makes it more difficult for prosecutors to identify and punish those who are trafficking people.<sup>8</sup>*

It is particularly difficult to identify victims of trafficking within a legal framework as they can technically be considered 'legitimate workers'.<sup>9</sup> Thus, police have little power to prosecute traffickers and question possible victims. It has also been found that legal brothels serve as a 'front' for housing trafficked women. In Victoria, human trafficking charges have all implicated licensed brothels<sup>10</sup> and evidence indicates this is similarly the case in New South Wales. The findings of the 2015 report of the New South Wales Legislative Assembly Select Committee into the regulation of brothels are deeply concerning and underscore the need for a fundamentally different legal framework, which is capable of preventing sexual slavery. The report stated that:

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<sup>3</sup> Legislative Assembly of New South Wales, *Report of the Select Committee on the Regulation of Brothels*, November 2015, chapter 4: "Protection of Sex Workers".

<sup>4</sup> Mary Sullivan, *What Happens When Prostitution Becomes Work? An Update on Legalisation of Prostitution in Australia* (N. Amherst, MA: Coalition Against Trafficking in Women, 2005), 5.

<sup>5</sup> *Ibid.*, 5

<sup>6</sup> Mary L. Sullivan, *Making Sex Work: A Failed Experiment with Legalised Prostitution* (North Melbourne: Spinifex).

<sup>7</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *1999 Country Report on Human Rights Practices, "Australia,"* 2000, Section 6F.

<sup>8</sup> United States State Department, "The Link Between Prostitution and Sex Trafficking," The Office to Monitor and Combat Trafficking in Persons, US State Department, 2004b, <http://www.state.gov/r/pa/ei/rls/38790.htm>

<sup>9</sup> Sullivan, *What Happens When Prostitution Becomes Work*, 15.

<sup>10</sup> *Ibid.*, 15

*Evidence before the Committee by the NSW Police Force was that reports of sexual servitude in brothels were increasing...Sexual servitude is by its nature concealed criminal activity of a most heinous kind. The Federal and State Police evidence was unanimous that sexual servitude is under reported. There is no reason to assume that all instances of sexual servitude come to the attention of Police under the current deregulated environment where the Police have limited visibility and a very limited basis to enter and investigate premises operating as a brothel.*<sup>11</sup>

**2.3 Legalised and normalised prostitution desensitizes the community to violence against women.** The Coalition Against Trafficking in Women Australia rightly calls prostitution “*a form of violence against women*”.<sup>12</sup> We believe that acts of prostitution are an affront to the inherent dignity of women. Women who enter the sex industry – both trafficked and non-trafficked – frequently do so under some form of duress or disadvantage and so cannot be said to have made the decision with true freedom. An alarmingly high number of women in the sex industry have a history of abuse, poverty and drug addiction.<sup>13</sup> Studies show that between 50% - 90% of prostituted persons were victims of sexual abuse as children, 70%-95% were physically assaulted in prostitution, 60%-75% were raped in prostitution, and 75% have been homeless at some point in their lives.<sup>14</sup>

**2.4 Legalised and normalised prostitution causes long-term trauma to women.** As a consequence of the inherently abusive nature of the sex industry, there are exceedingly high rates (68%) of post-traumatic stress disorder (PTSD) among prostituted persons. A 2006 study of prostituted women in Sydney found particularly high rates of trauma, with 75 percent reporting some form of child sexual abuse, and 50 per cent reporting at least one attempt at suicide.<sup>15</sup> Research shows that these disturbingly high rates of PTSD remain steady regardless of the different prostitution laws in various countries, which suggests that prostitution is intrinsically traumatic.<sup>16</sup>

## **Practical Measures and Policies to Address Human Trafficking in NSW**

**3.1 The trafficking of vulnerable women in New South Wales is fuelled by the demand for sexual “labour” by the sex industry, which is permitted and encouraged to exploit this demand by our weak and profoundly morally compromised legal framework.** Law enforcement must be given the tools necessary to prevent the sexual exploitation of women by focusing on deterring and discouraging the demand for such exploitation. Without the adoption of a framework like the Nordic model, law enforcement cannot effectively protect trafficked women and prosecute those responsible for exploiting them.

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<sup>11</sup> Legislative Assembly of New South Wales, *Report of the Select Committee on the Regulation of Brothels*, November 2015.

<sup>12</sup> Quoted in Legislative Assembly of New South Wales, *Report of the Select Committee on the Regulation of Brothels*, November 2015, p. 93.

<sup>13</sup> Max Waltman, “Sweden’s prohibition of purchase of sex” (2010), 4-5

<sup>14</sup> Melissa Farley et al., “Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder,” in *Prostitution, Trafficking and Traumatic Stress*, ed. Melissa Farley (Binghamton, NY: Haworth Maltreatment & Trauma Press, 2003), 43, 56, available at [www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf](http://www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf)

<sup>15</sup> A Roxburgh, L Degenhardt, J Copeland, “Posttraumatic stress disorder among female street-based sex workers in the greater Sydney area, Australia.” (2006), *BMC Psychiatry*, 6:24.

<sup>16</sup> Waltman, *op. cit.*, 6 & Farley et al., *op. cit.*, 61: “In a previous study, although we found more physical violence in the street compared to brothel prostitution in South Africa- we found no difference in the incidence of PTSD in these two types of prostitution, suggesting the intrinsically traumatizing nature of prostitution...In the present study we compared stripclub/massage, brothel and street prostitution in Mexico and found no differences in the incidence of physical assault and rape in prostitution, childhood sexual abuse, or symptoms of PTSD.”

**3.2 There are positive, effective, woman-affirming alternatives to combat human trafficking.** In 1999 the Swedish government adopted the Law Prohibiting the Purchase of Sexual Services, which states:

*A person who obtains casual sexual relations in exchange for payment shall be sentenced—unless the act is punishable under the Swedish Penal Code—for the purchase of sexual services to a fine or imprisonment for at most six months. Attempt to purchase sexual services is punishable under Chapter 23 of the Swedish Penal Code.*<sup>17</sup>

This legislation recognises that it is unreasonable to punish those who sell sexual services because they are frequently the victims of exploitation.<sup>18</sup> Instead, the law prohibits the purchasing of sexual services. The Nordic model takes a ‘zero tolerance’ approach towards sexual exploitation in prostitution and recognises that it is the ‘consumer’ who drives the supply for such services.<sup>19</sup> While this legislation targets those *purchasing* sexual services, there are no criminal or legal repercussions for persons *selling* sexual services. The Swedish government has also contributed considerable funding towards enforcement of this law, and towards assisting persons in prostitution who want to escape.<sup>20</sup> In an evaluation of this model, human trafficking was found to be “*substantially less prevalent [in Sweden] than in other comparable countries.*”<sup>21</sup>

**3.3 Following Sweden’s lead, together with Norway, Finland and Iceland, a number of other countries – most recently Northern Ireland and France<sup>22</sup> – have since adopted aspects of the Nordic model in their own prostitution laws.<sup>23</sup>** These countries have recognised the importance of protecting women in prostitution, and of prosecuting those who purchase sex and thereby participate in and perpetuate sexual exploitation. The promising results in these jurisdictions which have adopted similar laws have prompted more counties to reconsider their own laws on prostitution, including Estonia, Lithuania, Venezuela and South Africa.<sup>24</sup>

**3.4 If any other ‘profession’ had as alarmingly high rates of violence and mental and physical health issues as the sex industry does, it would be considered unacceptable.** We need to look for genuine alternatives that protect women in prostitution, provide those who want to escape with realistic and holistic options, and ultimately reduce the demand for prostitution and human trafficking in New South Wales.

## **Conclusions and Recommendations**

**4.1 Legalised and normalised prostitution increases the demand for human trafficking.** By legitimising prostitution as valid work, we send the message to men and boys that women can be purchased as sexual commodities. Because most women do not enter prostitution freely, women and children are trafficked to meet buyers’ demands. When

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<sup>17</sup> Gunilla Ekberg, “The Swedish Law that Prohibits the Purchase of Sexual Services: best practices for prevention of prostitution and trafficking in human beings”, *Violence Against Women*, Vol. 10, No. 10, (October 2004) 1192

<sup>18</sup> *Ibid.*, 1188

<sup>19</sup> *Ibid.*, 1189

<sup>20</sup> *Ibid.*, 1192

<sup>21</sup> Government Offices of Sweden, “Evaluation of the Prohibition of the Purchase of Sexual Services,” last updated 25 August 2015, <http://www.government.se/articles/2011/03/evaluation-of-the-prohibition-of-the-purchase-of-sexual-services/>

<sup>22</sup> M.A. Peters, ‘Nordic model key to beating exploitation of sex workers’, CNN, April 18, 2016.

<http://edition.cnn.com/2016/04/18/opinions/prostitution-nordic-model-peters/>

<sup>23</sup> Waltman, *op. cit.*, 26; France Ne

<sup>24</sup> Ekberg, *op. cit.*, 1207

prostitution is protected by the law, attempts to end human trafficking become more difficult. The United Nations Commission on the Status of Women has stated that it is "*convinced that eliminating demand for all forms of exploitation, including for sexual exploitation, is a key element to combating trafficking in women and girls*".<sup>25</sup>

**4.2 The laws and regulations of New South Wales should be reformed to adopt the Nordic model, which prohibits the purchase of sexual services but does not criminalise the selling of such services.** This model recognises the truth that prostitution is inherently harmful, that it sexually exploits women, and that it normalises violence against women and facilitates human trafficking.<sup>26</sup> In seeking to combat the trafficking of vulnerable women in our state, we too can and should reject the normalisation of prostitution and all its harms. As a community, we must continue to affirm the equal and inherent dignity of every woman and reject a legal framework which regards the purchasing of women's bodies as in any way "normal" or "necessary".

Thank you for the opportunity to make a submission on this important matter. Please contact me on \_\_\_\_\_ or \_\_\_\_\_ if I can be of further assistance.

Yours sincerely,

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<sup>25</sup> Commission on the Status of Women [CSW] "Eliminating Demand for Trafficked Women and Girls for All Forms of Exploitation, Unpublished Statement from the Review and Appraisal of the Beijing Declaration and Platform for Action," (New York: CSW), 23 February-11 March 2005, PP10.

<sup>26</sup> Ekberg, *op. cit.*, 1190.