

## INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

**Organisation:** Coalition Against Trafficking in Women Australia (CATWA)

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## **CATWA Submission to the Inquiry into the Modern Slavery Act 2018 and associated matters**

October 2019

**Coalition Against Trafficking in Women Australia**  
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## **Who we are**

The Coalition Against Trafficking in Women Australia (CATWA) is the Australian branch of CATW International, a Non-Governmental Organisation that has 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.

## **About this submission**

This submission from the Coalition Against Trafficking in Women Australia focuses on the area of our organisation's expertise: the trafficking of women for the purposes of sexual exploitation. While there are other forms of trafficking, women are disproportionately targeted by traffickers, making up around two thirds of all reported victims of all forms of trafficking (UNODC, 2011), and sexual exploitation is the most commonly identified form of trafficking in persons (UNODC, 2014). This is especially important in the Australian context, as Australia is 'primarily a destination country for women and girls subjected to sex trafficking', according to the US Department of State (US Dept. of State, 2015).

## **Key recommendations**

- That trafficking (primarily of women) for sexual exploitation be recognised as a key area of concern regarding modern slavery in Australia.
- That the demand for the purchase of sexual services must be addressed in order to prevent trafficking for sexual exploitation.
- That international best practice for preventing trafficking for sexual exploitation is the Nordic Model approach to the sex industry; a system of asymmetric decriminalisation where sex buying is illegal, but all criminal sanctions against prostituted persons are removed.
- That because of the high potential for human trafficking and modern slavery in the sex industry, all sex industry businesses should be required to report on modern slavery risks in their operations and supply chains, regardless of annual turnover.

## **Background**

The Coalition Against Trafficking in Women Australia (CATWA) wishes to highlight that the sex industry is a key area for trafficking into Australia and CATWA recommends specific measures to address the demand for sexual exploitation in this country.

Australia continues to be a destination country for women trafficked into the sex industry (US Dept. of State, 2015), but there is no definitive data on the number of persons trafficked

into Australia (Flynn et al, 2014). Human trafficking is a difficult area of research and, given its illegal nature, the precise extent of such practices can be difficult to ascertain, although they are understood to be widespread (UNODC, 2011, 2014). The International Labor Organisation (ILO) estimates that almost 21 million people worldwide (or about three in every 1000 people) are victims of forced labour, bonded labour, and commercial sexual servitude (ILO, 2012).

Trafficking for the purposes of sexual exploitation often carries acute harms for victims, with the violation of forced labour compounded by repeated rape and associated high levels of psychological distress and physical harm (Farley, 2003). Although the exact scale of sex trafficking to Australia is difficult to determine with precision, researchers have estimated that approximately 2000 women are trafficked to Australia each year for sexual exploitation (SBS, 2012). Furthermore, it is clear that the domestic Australian sex industry targets Asian women for sex trafficking and procurement into systems of prostitution. A 2014 study of the online advertising of Melbourne-based prostitution businesses found 41 per cent promoting predominantly Asian women (Street & Norma, 2016). 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 (Donovan et al., 2012). These circumstances suggest that vulnerable populations of women are targeted by the sex industry, raising concerns around debt-bondage, consent, and a lack of support for victims to exit prostitution.

#### **(h) the preferred course of action to address the matters identified**

Trafficking for sexual exploitation is a key area of trafficking to Australia, and therefore, the sex industry, and the practices of businesses therein, should come under particular scrutiny in any future legislative and policy approaches. There have been numerous media reports of trafficking, debt bondage and sexual slavery into Australia, including in legal brothels in states where the sex industry is legal and regulated (e.g. Bucci et al. 2015; Duff, 2015; McKenzie & Beck, 2011; SBS, 2012; Uibu, K. 2015). The ongoing issues of organised crime and trafficking into the sex industry in Sydney were also raised by both the New South Wales Police and the Australian Federal Police during the 2015 inquiry into brothel regulation in New South Wales (Henskens et al., 2015).

International best practice for preventing the trafficking in women and children for sexual exploitation is the Nordic Model. The Nordic Model constitutes a system of asymmetric decriminalisation of the sex industry: it directly addresses demand for trafficking and sexual exploitation by criminalising sex buyers and third parties who profit from prostitution, while simultaneously decriminalising and providing material support to the victims/survivors of trafficking and prostitution (Tyler et al., 2017; Waltman, 2011).

The Nordic Model originated in Sweden, where it was introduced in 1999, and has been adopted (with some level of variation) in Norway, Iceland, Northern Ireland, Ireland, Canada, France, and Israel, and is being considered in a number of other jurisdictions

including Scotland, Lithuania, Colombia and the Philippines. The Nordic Model has been endorsed as best practice for tackling trafficking and gender inequality by the European Parliament (2014). Furthermore, the Council of Europe (2014) has declared the Swedish legislation to have had ‘proven positive results in terms of reducing demand for trafficking’ and has called on all member states to discourage, including through criminalisation, the purchase of sexual services as a way of addressing modern slavery in Europe.

In order to prevent modern slavery in the sex industry in Australia, more needs to be done to address the demand for commercial sexual services. International research has shown that, in countries where the purchase of sexual services is legalised – and, therefore, increasingly socially tolerated – demand outstrips supply and women are trafficked into the growing and lucrative markets for prostitution to meet demand (Cho et al., 2013). When the buyers of prostitution risk punishment, demand is decreased and the profitability of local prostitution markets is undermined. Without these markets, the trafficking of persons for prostitution can no longer be facilitated in the local context.

The Nordic Model is also an important way in which Australian can better meet its obligations under the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, also known as the Palermo Protocol. The Palermo Protocol makes clear that fundamental to addressing the issue of trafficking for the purposes of prostitution is ending the demand that fuels the traffic in women. This occurs in Article 9, Clause 5, which requires states to:

[A]dopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multicultural cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

The approach taken in the Protocol – to focus on primary prevention and demand – has been found to be one of the most effective means of preventing and countering trafficking in women for sexual exploitation. The Coalition Against Trafficking in Women Australia has also submitted to previous trafficking inquiries that the Australian government should establish an ongoing compensation scheme for victims of trafficking.

**(i) any other related matter**

CATWA supports the introduction of penalties for non-compliant businesses, welcomes the appointment of the anti-slavery commissioner, and appreciates the focus on victim support within the act. While we also support the requirement for commercial organisations to report on modern slavery risks in their operations and supply chains, an annual turnover of \$50 million or more fails to capture the commercial sex industry and businesses registered for massage that provide sexual services where human trafficking for sexual exploitation has been found.

The sex industry is recognised as a high risk industry for modern slavery to occur. A NSW inquiry into the regulation of brothels in 2015 highlighted the problem of human trafficking in the industry (Henskens et al. 2015). The Australian Federal Police (AFP) and the NSW police both sent representatives to testify as to the abuses occurring in 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 (Raper 2015). 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 (Duff 2015). 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.

The sex industry is disproportionately affected by human trafficking (ICTS, 2016). The known risk of modern slavery and human trafficking for sexual exploitation in this industry as well as the scale and profitability of the sex industry in Australia means that sex industry businesses should face particular scrutiny. At a minimum all sex industry businesses should be required to report on modern slavery risks in their operations and supply chains, regardless of annual turnover. This requirement may help to foster greater levels of awareness of trafficking within the sex industry among brothel owners and managers.

It is clear there is a lack of understanding of the prevalence and nature of human trafficking and modern slavery in Australia’s sex industry. In 2013, a woman from China was found hidden in a wall cavity in a Melbourne brothel (Bucci et al. 2015). No criminal charges were laid on the brothel owner because he was deemed not responsible for hiring the woman or checking her visa status, despite the fact he had built the wall cavity. Although the brothel owner was fined for breach of the brothel license, he was able to keep his license and continue operating the brothel. After serving as many as 185 clients in her two months at the brothel, the unnamed woman was voluntarily deported without any support (Bucci et al. 2015). This case demonstrates not only a lack of understanding of human trafficking and modern slavery but also a lack of responsibility on brothel owners and managers to combat modern slavery risks in their operations and supply chains. A requirement for sex industry businesses to report would be a first step in the fight against modern slavery.

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