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Director
Legislative Council Select Committee on human trafficking
Parliament House, Macquarie Street
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About the Australian Christian Lobby

ACL's vision is to see Christian principles and ethics influencing the way we are governed, do business, and relate to each other as a community. ACL seeks to see a compassionate, just and moral society through having the public contributions of the Christian faith reflected in the political life of the nation.

With more than 80,000 supporters, ACL facilitates professional engagement and dialogue between the Christian constituency and government, allowing the voice of Christians to be heard in the public square. ACL is neither party-partisan nor denominationally aligned. ACL representatives bring a Christian perspective to policy makers in Federal, State and Territory Parliaments.

ACL submission regarding inquiry into human trafficking

The Australian Christian Lobby (ACL) welcomes this important inquiry into human trafficking in NSW. Human trafficking is a serious issue that needs a strong policy and resourcing response from the NSW government.

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

(ii) the influence of organised crime in human trafficking in New South Wales,

ACL's submission will focus on two key areas listed in the terms of reference, the prevalence of human trafficking in New South Wales and the influence of organised crime in human trafficking in New South Wales, along with recommendations for how the government can do more to address this serious crime. These two areas will be addressed together.

There are strong ties between human trafficking and prostitution. In 2015 the Legislative Assembly of NSW's Select Committee on the Regulation of Brothels conducted an inquiry into the regulation of brothels in NSW. Significant to this inquiry is finding 11 of the committee's report which states:

Successful sex slave prosecutions and evidence from both the Australian Federal Police and the NSW Police Force make it probable that:

- *Sexual servitude occurs in NSW; and*

- *Criminal networks do operate in some parts of the NSW sex services industry.*¹

The committee received considerable evidence from the Deputy Commissioner, NSW Police, Nick Kaldas and Commander Glen McEwen and Detective Superintendent Steven Mewburn from the Australian Federal Police, which, far from making the assertions in finding 11 “probable”, show that sexual servitude is certainly occurring in NSW and organised crime is certainly involved in this terrible activity. The committee received “evidence of serious instances of criminal involvement in the sex services industry and sex slavery.”²

Ari Reid from the Scarlet Alliance, a sex industry lobby organisation, which describes itself as “the national peak sex worker organisation in Australia”, erroneously claimed during a campaign for decriminalisation of prostitution in South Australia that:

*nineteen years of decriminalisation in New South Wales and twelve years in New Zealand has brought improved work safety, high rates of safer sex practice, low rates of sexually transmissible infections, improved Occupational health and Safety, little to no amenity impacts **and no evidence of organised crime***³ [emphasis added]

The Scarlet Alliance, which receives government grants to prevent trafficking, also denies that trafficking in the sex industry is a serious problem: “trafficking is not characteristic of the Australian sex industry”⁴ they claimed in their submission to 457 Visa Integrity Review Committee conducted by the Department of Immigration and Border Protection in 2014.

A quick look at the record of the NSW sex industry reveals the claims by Scarlett Alliance to be false. Numerous examples link the operation of brothels and prostitution to criminal syndicates or organised crime, particularly in relation to international trafficking. The fact that Scarlet Alliance denies the link between organised crime and prostitution is breathtaking, and the fact that they receive funding for anti-trafficking efforts when they deny the seriousness of the issue is inexplicable.

Local government recognises the link between organised crime and prostitution, but is powerless to stop it. In its submission to the NSW Inquiry into Brothels 2015, Ballina Shire Council stated:

*Ballina Shire Council has received a number of complaints and allegations alleging the involvement of organised crime and criminal motor cycle gangs in the owning and operation of brothels in the northern rivers area of New South Wales.*⁵

During submissions to the same inquiry, the NSW deputy police commissioner Nick Kaldas told the inquiry:

*There are clearly issues in the industry, in terms of servitude, the use of illegal workers and extortion by or involvement of organised crime and outlaw motorcycle gang groups*⁶

¹ Inquiry into the regulation of brothels / Select Committee on the Regulation of Brothels. [Sydney, N.S.W.] : The Committee, 2015. – [183] pages; 30 cm. (Report; 1) p.61.

² Ibid. p.47.

³ “Sex workers Demand Decriminalisation Now!” South Australia 2 June 2015

http://www.scarletalliance.org.au/media/News_Item.2015-06-09.3130

⁴ <https://www.border.gov.au/ReportsandPublications/Documents/submissions/scarlet-alliance.pdf>

⁵ Submission by Ballina Shire Council, (Submission no 8), Regulation of Brothels Inquiry 6 August 2015, , Mr Rod Willis P 6

⁶ Inquiry into the regulation of brothels / Select Committee on the Regulation of Brothels. [Sydney, N.S.W.] : The Committee, 2015. – [183] pages; 30 cm. (Report; 1) p.11.

Deputy Commissioner Kaldas informed the committee that around 40 NSW brothels have some recorded connection or ties to outlaw motorcycle gangs and that Asian organised crime has been linked in numerous cases to NSW brothels.⁷

The trafficking of women from Southeast Asia is of particular concern. The deputy police commissioner was explicit in his evidence to the committee in linking Asian organised crime to the operation of brothels in NSW. He said that several karaoke venues in South-Western Sydney:

*were found or are suspected of providing sexual services and employing illegal Asian workers... The [karaoke] venues identified also appear to have links to Asian organised crime networks.*⁸

In 2011, several legal brothels located in Sydney and Melbourne were linked to an international human trafficking and sex slavery ring.⁹ In 2012 the Seoul Metropolitan Police Agency arrested 18 Korean pimps who were involved in trafficking women into Australia to work as prostitutes, including to brothels in Sydney.¹⁰ In February 2012, a Chinese-Cambodian man was charged with human trafficking offences in relation to three young Thai women who claimed they had been lured to Australia from Thailand on the promise of student visas. The women, believed to be under the age of eighteen, were then held as sex slaves in a Sydney brothel.¹¹

Operation Raspberry, which related to allegations of women being trafficked into the sex industry in Melbourne, was an AFP operation that resulted in the charging of a female suspect, Mao Ru Zhang, a Chinese national, with two counts of sexual servitude and two counts of debt bondage in relation to two female victims.¹² The operation gathered testimony from two witnesses who allege a syndicate forced two Chinese women to work as sex slaves at Five Star in Woolloomooloo and at a second Sydney brothel, and at two Melbourne brothels. The women alleged they were forced to engage in unsafe sex practices in these legal brothels and work 15 hours a day up to seven days a week, and every dollar they earned was allegedly returned to the syndicate.¹³ The charges against Mao Ru Zhang were later dropped because there was no longer reasonable prospect of conviction.¹⁴

According to a 2012 Sydney Morning Herald story:

⁷ Ibid.

⁸ Leesha McKenny, "Deputy police commissioner Nick Kaldas calls for better watch on Sydney brothels" SMH 1 September 2015

<http://www.smh.com.au/nsw/deputy-police-commissioner-nick-kaldas-calls-for-better-regulation-of-sydney-brothels-20150901-gjcfun.html#ixzz3oUoy4U3s>

⁹ McKenzie et al, (October 10, 2011), 'Legal brothels linked to international sex trafficking rings', *The Sydney Morning Herald*.

¹⁰ Kim Young-won (June 29, 2012), 'Korean pimps caught trafficking in Australia', *The Korea Herald*, <http://view.koreaherald.com/kh/view.php?ud=20120629000874>.

¹¹ Rachel Olding (February 3, 2012), 'Tip-off leads to trio of young Thai women who were 'held as sex slaves'', *The Age*, <http://www.theage.com.au/national/tipoff-leads-to-trio-of-young-thai-women-who-were-held-as-sex-slaves-20120202-1qvnu.html>.

¹² AFP Annual Report 2010-2011, <http://www.afp.gov.au/~media/afp/pdf/a/afp-annual-report-2010-2011.pdf> p 50.

¹³ Nick McKenzie, Maris Beck, Tom Reilly, Anne Davies, "Legal brothels linked to international sex trafficking rings", SMH, 10 October 2011

<http://www.smh.com.au/national/legal-brothels-linked-to-international-sex-trafficking-rings-20111009-1lfxs.html#ixzz3oQKt68X8>

¹⁴ Maris Beck, "Brothel 'slavery' case dropped" *The Age*, 13 April 2012 <http://www.theage.com.au/victoria/brothel-slavery-case-dropped-20120412-1wwnf.html>

*Senior state police sources in NSW and Victoria acknowledge that the policing of organised crime in the legal brothel sector is patchy and the regulation of brothels in both states often woeful.*¹⁵

In 2011, *The Sydney Morning Herald* and *The Age* reported that several legal brothels located in Sydney and Melbourne were linked to an international human trafficking and sex slavery ring. At least two brothels in Sydney were associated with the ring, including one which specialises in Korean prostitutes which was “closely linked to the Comanchero outlaw motorcycle club and senior Asian organised crime figures”.¹⁶

The experience of the deputy police commissioner provided to the committee are echoed by private investigators and industry experts. Chris Seage, a former high-level consultant to the legal brothel industry has previously said of the NSW industry:

*There’s no probity checks done in NSW. Any Tom, Dick or Harry can own a brothel, irrespective of their criminal background. You can be a murderer or a crime boss and legally own a brothel authorised by council.*¹⁷

This point was clearly illustrated in 2014 when brothel owners banned from Victoria for employing under age prostitutes, were allowed to set up shop in Sydney.¹⁸ An instance which highlights the lack of regulation under NSW legislation.

The situation is so bad that Australia is considered a destination for sex trafficking by the US Department of State,¹⁹ and the UK Home Office.²⁰ A study by the University of Goettingen also ranked Australia as a high volume destination country for trafficking.²¹

The US Department of State noted in 2010 that women from Southeast Asia, China, and South Korea may come to Australia voluntarily to work in both legal and illegal brothels, but “under conditions that amounted to debt bondage or sexual servitude.”²² The Department of State’s 2012 Trafficking in Persons Report stated:

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

¹⁵ Ibid.

¹⁶ McKenzie et al, (October 10, 2011), ‘Legal brothels linked to international sex trafficking rings’, *The Sydney Morning Herald*.

¹⁷ Nick Tabakoff, “Sydney is sinking into sin” *The Daily Telegraph*, 12 November 2010

<http://www.dailytelegraph.com.au/news/nsw/sydney-is-sinking-into-sin/story-e6freuzi-1225952354770>

¹⁸ Matthew Benns (March 08, 2014), ‘Brothel owners banned in Victoria for employing underage prostitutes now running big brothels in Sydney’, *The Daily Telegraph*, <http://www.dailytelegraph.com.au/news/nsw/brothel-owners-banned-in-victoria-for-employing-underage-prostitutes-now-running-big-brothels-in-sydney/story-fni0cx12-1226848537447>.

¹⁹ US Department of State (2009), *2009 Human Rights Reports: Australia*,

<http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135985.htm>; US Department of State (June 2012), *Trafficking in Persons Report*, <http://www.state.gov/documents/organization/192594.pdf>, p 73.

²⁰ Home Office (2004), *Paying the Price: a consultation paper on prostitution*, Home Office Communication Directorate, http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/16_07_04_paying.pdf, p 85. Emphasis added.

²¹ Cho (2012), *Does Legalized Prostitution Increase Human Trafficking?*, Appendix B, p 30, citing the United Nations Office On Drugs and Crime.

²² US Department of State (2009), *2009 Human Rights Reports: Australia*,

<http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135985.htm>.

*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.*²³

Surveys on the nationality of prostitutes in brothels around the country show that foreign nationals are present in the industry at substantially higher rates than the general population. In New South Wales, two different sources suggest that over half of women in brothels were born in Asia. Donovan (2010) found 53% of prostituted women in brothels were Asian-born, while a CSIRO publication found that over 54% of Western Sydney prostitutes were born overseas.²⁴ Statistics gathered by the 2012 Kirby Institute's Law and Sexworker Health (LASH) report,²⁵ found that 66.7% of sex workers in NSW were from Asian or other non-English speaking countries and 46%, rated their English skills as fair or poor.²⁶

ACL submits that there is a clear link between prostitution and human trafficking. In the Seventh Report of the Interdepartmental Committee on Human Trafficking and Slavery titled *Trafficking in Persons*, the committee states in its report:

To date, most trafficked people identified in Australia have been women working in the sex industry, from both legal and illegal brothels.

Growing awareness of other types of trafficking is also acknowledged in the report:

*However, in recent years, Australian authorities have identified an increasing number of men and women trafficked into, or exploited within, other industries, or exploited within intimate relationships.*²⁷

The link between prostitution and human trafficking is supported by the findings of an evaluation report on the *Prostitution Act 1999*, by the Queensland Crime and Misconduct Commission (CMC), which states:

*In general, sex trafficking appears to be one of the unfortunate consequences of an industry driven by **excessive demand for services** with insufficient safeguards to protect vulnerable people.*²⁸

The CMC has also acknowledged "clear evidence of a link between the legal brothel industry and organised illegal prostitution."²⁹ It found that the effect of legalised prostitution is the reverse of its

²³ US Department of State (June 2012), *Trafficking in Persons Report*, <http://www.state.gov/documents/organization/192594.pdf>, p 73.

²⁴ Kakar et al, (2010) *A retrospective case note review of sex worker attendees at sexual health clinics in the western suburbs of Sydney*, CSIRO Publishing, p 4.

²⁵ The sex industry in New South Wales: A report to the NSW Ministry of Health, *The Kirby Institute, Faculty of Medicine University of New South Wales* <https://kirby.unsw.edu.au/sites/default/files/hiv/attachment/NSWSexIndustryReportV4.pdf>

²⁶ The sex industry in New South Wales: A report to the NSW Ministry of Health, *The Kirby Institute, Faculty of Medicine University of New South Wales* <https://kirby.unsw.edu.au/sites/default/files/hiv/attachment/NSWSexIndustryReportV4.pdf>

²⁷ *Trafficking in Persons, The Australian Government Response*. 1 July 2014 – 30 June 2015. The Seventh Report of the Interdepartmental Committee on Human Trafficking and Slavery. p.32.

²⁸ CMC (2004), *Regulating Prostitution*, p. 27

²⁹ Crime and Misconduct Commission (2011), *Regulating Prostitution: A follow-up review of the Prostitution Act 1999*, p 22.

intention to minimise harm.³⁰ A University of Queensland study found that 90 per cent of prostitution remains unregulated after ten years of legalisation.³¹

Prostitution is a factor which makes women and children vulnerable to trafficking. The United Nations urges States Parties to take measures to discourage the demand that fosters exploitation which may in turn lead to trafficking.³² The United Nations' *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, to which Australia is a signatory, requires States Parties to

*take or strengthen measures . . . to alleviate the factors that make persons, especially women and children, vulnerable to trafficking.*³³

This refers to factors such as “poverty, underdevelopment and lack of equal opportunity”.³⁴ Poverty is often a contributing factor to a woman’s “choice” to work as a prostitute and increases her vulnerability to debt bondage and trafficking. Collateral factors which contribute to making women and children vulnerable to trafficking include the inherent inequality of prostitution, an industry dominated by female supply and male demand, as well as other factors such as greater susceptibility among women and children to abuse, intimidation, coercion, and so on.

In NSW, the trafficking of women for sex continues to be a problem after many years of decriminalisation. There is good reason to believe that decriminalising prostitution not only fails to combat sex trafficking, but actually increases it.

One paper in the journal, *World Development*, looked at the impact of legalized prostitution on human trafficking inflows. The study analysed data from 150 countries finding that the scale effect of legalized prostitution, which leads to an expansion of the prostitution market, dominates the substitution effect, which reduces demand for trafficked women as legal prostitutes.

*On average, countries with legalized prostitution experience a larger degree of reported human trafficking inflows. We have corroborated this quantitative evidence with three brief case studies of Sweden, Denmark, and Germany. Consistent with the results from our quantitative analysis, the legalization of prostitution has led to substantial scale effects in these cases. Both the cross-country comparisons among Sweden, Denmark, and Germany, with their different prostitution regimes, as well as the temporal comparison within Germany before and after the further legalization of prostitution, suggest that any compositional changes in the share of trafficked individuals among all prostitutes have been small and the substitution effect has therefore been dominated by the scale effect.*³⁵

The AFP received 588 referrals related to human trafficking and related offences between 2003 and June 2015.³⁶ Many of these referrals were for sexual exploitation.

³⁰ Crime and Misconduct Commission (2004), *Regulating Prostitution: An Evaluation of the Prostitution Act 1999 (QLD)*, p 30.

³¹ Andreas Schloenhardt et al (2009), *Happy Birthday Brothels*, University of Queensland, p 31.

³² Ibid. Article 9.5

³³ United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, Article 9.4.

³⁴ Ibid. Article 9.4.

³⁵ Cho, Seo-Young; Dreher, Axel; Neumayer, Eric; “Does Legalized Prostitution Increase Human Trafficking?” *World Development*, 2013, 41:67-82. p.75-6.

³⁶ Trafficking in Persons, The Australian Government Response. 1 July 2014 – 30 June 2015. The Seventh Report of the Interdepartmental Committee on Human Trafficking and Slavery.

Type of AFP investigation by financial year

Financial year	Sexual exploitation (%)	Labour exploitation (%)	Forced marriage (%)
2012-13	50	37	10
2013-14	43	35	17
2014-15	26	31	28

Source: *Trafficking in Persons, The Australian Government Response. 1 July 2014 – 30 June 2015. The Seventh Report of the Interdepartmental Committee on Human Trafficking and Slavery. p.24.*

It should not be assumed that the fall in percentage of cases focused on sexual exploitation in the above table reflects in any way a change in the proportion or the incidence of sexual exploitation. It may in fact reflect a growing awareness and priority resourcing of police efforts towards other types of exploitation and especially the AFPs recent focus on forced marriage. AFP resources are limited and resourcing priorities rather than a fall in crime itself need to be examined.

Councils unable to properly regulate brothels under current system

NSW local councils have experienced significant problems in trying to regulate the placement of brothels in a legalised environment. With decriminalisation of prostitution in NSW, the burden of regulating the placement and compliance of brothels with local planning law has fallen to local councils. Ongoing reporting in the media shows that Sydney councils need more support to tackle this issue.

In 2009 the Daily Telegraph reported 400 illegal brothels in metropolitan Sydney alone, outnumbering legal brothels by four to one.³⁷ The largest brothel in Australia, planned for Camperdown, was initially refused by Sydney City Council in 2012, but the Council's decision was overturned by the Land and Environment Court.³⁸ Sydney City Council, unlike some other councils, is not consistently opposed to the development of any brothels within the area, but objected to what one Liberal Councillor referred to as the "Westfield of brothels".³⁹ Last year it was revealed that Sydney Council spent an average of \$10,000 per year on private investigators collecting evidence in order to shut down brothels.⁴⁰

Central Park, the recently built high rise complex in Chippendale, has had issues this year as some tenants have been operating their apartments as brothels, according to media reports. Some of the

³⁷Adam Walters (May 18, 2009), 'Illegal brothels booming across Sydney', *The Daily Telegraph*, <http://www.dailytelegraph.com.au/news/sydney-news/illegal-brothels-booming-across-sydney/story-e6freuzi-1225713067757>.

³⁸ Leesha McKenny (June 20, 2012), 'Brothel to expand, but with new limits', *Sydney Morning Herald*, <http://www.smh.com.au/nsw/brothel-to-expand-but-with-new-limits-20120619-20m5q.html>.

³⁹ AAP (September 20, 2011), 'Scheme to create the 'Westfield of brothels' is rejected', *Sydney Morning Herald*, <http://www.smh.com.au/nsw/scheme-to-create-the-westfield-of-brothels-is-rejected-20110919-1ki1k.html>.

⁴⁰ Eamonn Duff, (September 21, 2014) 'Councils hire sex spies to catch parlours in the act', *The Sydney Morning Herald*, <http://www.smh.com.au/nsw/councils-hire-sex-spies-to-catch-parlours-in-the-act-20140920-10jigg.html>

offending tenants were evicted but council has reportedly told residents that they would have to pay for private investigators themselves if they wanted anything done.⁴¹

Brothel owners in Sydney are not always responsible members of the community. In 2009, two women Suellen Domingues Zaupa and Victoria McIntyre were killed in Elizabeth Bay after Suresh Nair, a customer, overdosed the women on cocaine. It has been reported that the brothel from which the women worked, knew that Suresh was dangerous and ignored the warnings.⁴² In 2010, Parramatta City Council attempted to ban brothels from the Parramatta Local Government Area, passing a resolution to this effect. The resolution was a joint effort with support from Liberal, Labor, and independent councillors, but was ineffective because the Court was able to continue to approve brothel applications. In the previous year, the Council had fought eight brothel applications in the Land and Environment Court and lost seven.⁴³

The Hills Shire Council, an area which has a high number of families and large faith communities, has also attempted unsuccessfully to ban brothels.⁴⁴

In 2011, the Independent Commission against Corruption found Willoughby Council building inspector Edward Karkowski had been accepting sexual services in return for turning a blind eye to the operation of a Chatswood brothel. Despite court orders shutting down the site, the council continued to have troubles after another brothel opened on the same location.⁴⁵

North Sydney Council made multiple attempts to shut down the White Cat massage parlour premise in Crow's Nest with multiple closure orders being served.⁴⁶ It was also revealed in October last year that this premises was paying Australian and Asian prostitutes at different rates.⁴⁷ North Sydney council has also had issues with private residential complexes being used as brothels.⁴⁸

Hornsby Council fought and lost a landmark legal battle in March 2015 to shut down a massage parlour that it alleged was operating an illegal brothel 50 meters from Hornsby Girl's High School. The council spent more than \$100,000 fighting the case. This case has been a significant blow to council's efforts to shut down brothels. In dismissing the case, the judge ruled that the evidence of sex being sold on the premises fell short of satisfying the definition of brothel under law. According to one report, the

⁴¹ Frank Chung, (February 27, 2015) 'High-rise happy endings: Illegal prostitution thriving at swanky Central Park complex', *News.com.au*, <http://www.news.com.au/finance/real-estate/high-rise-happy-endings-illegal-prostitution-thriving-at-swanky-central-park-complex/story-fncq3era-1227239483540>

⁴² Eamonn Duff, (May 25, 2014) 'Brothels ignored warning on neurosurgeon Suresh Nair' *The Sydney Morning Herald*, <http://www.smh.com.au/nsw/brothels-ignored-warning-on-neurosurgeon-suresh-nair-20140524-38vk9.html>

⁴³ Di Bartok and Steven Deare (November 23, 2010), '10 per cent of Sydney brothels in Parramatta and Holroyd', *Parramatta Advertiser*, <http://parramatta-advertiser.whereilive.com.au/news/story/ten-percent-of-sydney-brothels-in-parramatta-and-holroyd/>.

⁴⁴ Josephine Tovey (June 3, 2010), 'Hills folk reject oldest profession', *Sydney Morning Herald*, <http://www.smh.com.au/nsw/hills-folk-reject-oldest-profession-20100602-wzul.html>. Also, Josephine Tovey (October 27, 2010), 'Family values' shire loses brothel ban bid', *Sydney Morning Herald*, <http://www.smh.com.au/nsw/family-values-shire-loses-brothel-ban-bid-20101026-172ef.html>.

⁴⁵ Eamonn Duff, (September 28, 2014) 'Brothel operates on site shut by court', *The Sydney Morning Herald*, <http://www.smh.com.au/nsw/brothel-operates-on-site-shut-by-court-20140926-10ml9p.html>

⁴⁶ Eamonn Duff, (May 24) 2015) 'North Sydney Council launches legal action against brothel that charges one fee for Asian workers and other for the rest', *The Sydney Morning Herald*, <http://www.smh.com.au/nsw/north-sydney-council-launches-legal-action-against-brothel-that-charges-one-fee-for-asian-workers-and-another-for-the-rest-20150521-gh6s2k.html>

⁴⁷ Eamonn Duff, (October 26, 2014) 'Fears of exploitation after low fees for Asian sex workers revealed', *The Sydney Morning Herald*, <http://www.smh.com.au/nsw/fears-of-exploitation-after-low-fees-for-asian-sex-workers-revealed-20141025-11b0td.html>

⁴⁸ Eamonn Duff (April 20, 2014) 'Brothels muscle in on North Sydney residential tower' *The Sydney Morning Herald*, <http://www.smh.com.au/nsw/brothels-muscle-in-on-north-sydney-residential-tower-20140419-36xgo.html>

outcome means that councils would have to pay investigators to visit brothels multiple times to collect evidence,⁴⁹ presumably adding significant costs to council's efforts to shut down brothels.

Brothel Busters owner Chris Seage's decision to close his private investigation company in April this year was attributed by Seage to the outcome of the case, describing it as "the straw that broke the camel's back". Mr Seage has indicated that he believes it would be wrong to continue accepting work from councils when there is no legal framework to use the evidence. Seage has argued that the decision of the court means that brothels now feel safe they will not be prosecuted for operating in breach of council regulations.⁵⁰

A report by the Kirby Institute provides data on brothels approved since 1996 in 27 Sydney councils. Of 113 brothels approved, 76 have been in either Sydney City or Marrickville. A number of councils, including Ashfield, Burwood, and Kogarah, did not approve any brothels but had court-approved brothels in their LGAs.⁵¹ The 2012 Issues Paper from the Better Regulation Office, *Regulation of Brothels in NSW* states that about 50 per cent of brothels in these Sydney councils excluding Sydney City and Marrickville had not been approved by the local council but by the Land and Environment Court.⁵²

NSW government response to brothels inquiry

The NSW Government's response to the recommendations of the NSW inquiry into the regulation of brothels was disappointing. The situation of Hornsby Council which fought and lost a landmark legal battle against a brothel in 2015 costing them \$100,000, is not fixed by the NSW government's response. Councils will still have to expend large amounts of ratepayers' money taking illegal brothels to court, with no guarantee the evidence will be sufficient to close the brothels down.

Strangely, the government rejected a recommendation to take steps to record reporting of complaints, offences and prosecutions relating to the sex services industry in NSW. If you don't have the data it is difficult to begin to address the problem and target the worst areas.

The government also rejected a recommendation for the NSW police to take a co-ordinating role in issues relating to sexual servitude and organised crime in the sex industry in the state. Given the limited resources of the AFP, and the fact that NSW police would have greater knowledge of the local environment, this seems like a missed opportunity.

These and the other recommendations of the inquiry should be re-examined by this current committee.

⁴⁹ Eamonn Duff, (March 8, 2015) 'Show me more sex, judge tells council in landmark legal case', *The Sydney Morning Herald*. <http://www.smh.com.au/nsw/show-me-more-sex-judge-tells-council-in-landmark-legal-case-20150305-13vx7q.html>

⁵⁰ Eamonn Duff, (April 9, 2015), 'I give up: Lawless sex industry prompts brothel buster to call it quits', *The Sydney Morning Herald*. <http://www.smh.com.au/nsw/i-give-up-lawless-sex-industry-prompts-brothel-buster-to-call-it-quits-20150401-1mcswx.html>

⁵¹ The Kirby Institute (2012), 'The Sex Industry in New South Wales: A report to the NSW Ministry of Health', <http://www.kirby.unsw.edu.au/sites/hiv.cms.med.unsw.edu.au/files/hiv/attachment/NSWSexIndustryReportV4.pdf>, p 42.

⁵² NSW Government (September 2012), *Regulation of Brothels in NSW*, http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0006/145077/Issues_Paper_Regulation_of_Brothels.pdf, p 32.

Resourcing

ACL calls on the committee to examine the resourcing of police towards trafficking issues and to call on the government to implement the resourcing recommendations of NSW inquiry into the regulation of brothels.

Where to from here?

Nordic approach

Given the acknowledgement that industry is driven by excessive demand and the requirement from the United Nations' *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (UN Protocol) requires States Parties to:

*Adopt or strengthen legislative or other measures, such as educational, social or cultural measures... to discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking.*²²

NSW should adopt a policy approach consistent with Sweden's approach towards prostitution. Sweden has recognised prostitution as a "serious form of male violence against women and children".

In keeping with the country's commitment to gender equality, Sweden sought ways to protect women from prostitution by focusing on the core cause, that is, the demand for paid sex.⁵³

Under Swedish law, prostituted women are not criminally liable; it is the purchaser of sex who is guilty of an offence. This policy position covers all forms of sexual services purchased in any circumstances.⁵⁴ The *Prohibiting the Purchase of Sexual Services (sex Purchase Act)* was passed in 1999.

The Nordic model has three focus points:

1. decriminalise the prostituted while criminalising the actions of those who pay for sex and profit from sexual payment.
2. offer exit services in the form of training and education, housing, drug and alcohol services, childcare, counselling and ongoing support.
3. re-educate the public on the harms of prostitution and work towards prevention.

The purpose of criminalising the purchase of sexual services was closely linked with a wider movement to target violence against women.⁵⁵

Effectiveness of the Nordic approach

The policy approach of Sweden has been effective in reducing street prostitution and human trafficking.

Sweden's National Board of Health and Welfare has reported significant decreases in the number of women in street prostitution and the number of men buying sex.⁵⁶ There has been an estimated 50% real reduction in street prostitution, without corresponding increases in other types of sex work, such

⁵³ Gunilla Ekberg (2007), *Update on Swedish Model of Sex Industry Reform*, pp 2-3.

⁵⁴ Gunilla Ekberg (2007), *Update on Swedish Model of Sex Industry Reform* p 4.

⁵⁵ Selected extracts of the Swedish government report SOU 2010:49: —The Ban against the Purchase of Sexual Services. An evaluation 1999-2008|| https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_ban_against_the_purchase_of_sexual_services._an_evaluation_1999-2008_1.pdf

⁵⁶ Ibid. p 5

as indoor sex work.⁵⁷ Government documents report that this reduction may be considered to be a direct result of the criminalisation of sex purchases.⁵⁸

The Swedish laws have led to a concrete decrease in the number of victims of human trafficking.⁵⁹ According to the European Parliament “traffickers have had problems finding enough sex buyers in Sweden, the demand has been much lower than expected.”⁶⁰ Police wiretaps have confirmed that criminal groups view Sweden as a poor market, and the illegal brothels that do exist are small in scope.⁶¹ The National Rapporteur on Trafficking in Human Beings has estimated that around 400-600 women were trafficked into Sweden, a considerably smaller number than in surrounding countries, and the law has had “direct and positive effects on the trafficking of human beings for sexual purposes to Sweden and that Sweden is no longer an attractive market for traffickers”.⁶²

Kajsa Wahlberg of the human trafficking unit in Sweden has publicly stated that police know from eavesdropping on human trafficking rings that Sweden is considered bad business because of its tough stance. “They are calculating profits, costs and marketing and the risk of getting caught,” Ms Wahlberg said. “We’re trying to create a bad market for these activities.”⁶³

Sweden’s approach has had an influence on other nations with Iceland,⁶⁴ Norway, Finland, Canada, Northern Ireland, France and recently the Republic of Ireland implementing the same model. Norway’s prohibition on the purchase of sex goes further to include prohibiting Norwegian citizens from purchasing sex abroad as well as at home.⁶⁵

Recommendation

Recommendation: NSW should adopt a policy approach that recognises the inherent inequality and the violent and destructive abuse that exists for women in prostitution. The policy approach should be one that focuses on addressing the cause of prostitution by criminalising the demand for the purchase of sex. The policy approach should be consistent with Sweden’s approach towards prostitution which has also been adopted in Sweden, Finland, Norway, Iceland, Canada, Northern Ireland, France and just recently Republic of Ireland.

⁵⁷ Swedish Institute, Selected extracts of the Swedish government report SOU 2010:49 “The ban against the Purchase of Sexual Services. An evaluation 1999–2008”, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_ban_against_the_purchase_of_sexual_services_an_evaluation_1999-2008_1.pdf

⁵⁸ Ibid. p 7; https://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/10488/2004-131-28_200413128.pdf p 7

⁵⁹ European Parliament (2005), *Study on National Legislation on Prostitution and the Trafficking in Women and Children*, http://ec.europa.eu/anti-trafficking/download.action;jsessionid=h932NJILT8bGTNJKlpWq3vpfs2vJD1ZsvZmtkJdhKNPD5Sw4txpV!-285985297?nodeId=94d50494-83a2-4787-8f70-7e55ae564ba2&fileName=Study+on+National+Legislation+and+Prostitution_en.pdf&fileType=pdf, p 133.

⁶⁰ Ibid. p 133.

⁶¹ Ministry of Justice (2010), *Selected extracts of the Swedish government report SOU 2010:49: The Ban against the Purchase of Sexual Services. An evaluation 1999-2008*, p. 29.

⁶² Ekberg (2007), *Update on Swedish Model of Sex Industry Reform*, p. 5

⁶³ Karl Ritter, ‘World Takes Notice of Swedish Prostitute Laws’ Karl Ritter *The Independent UK* 17 March 2008

⁶⁴ Erla Sigurðardóttir (June 3, 2009), ‘Buying sex now punishable in Iceland’, *Nordic Gender Institute*, <http://www.nikk.no/English/Subjects/Prostitution/News/?module=Articles;action=Article.publicShow;ID=920>.

⁶⁵ Ibid.