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6<sup>th</sup> May 2021

Dear Select Committee,

***Inquiry into the Statutes Amendment (Repeal of Sex Work Offences) Bill 2020***

Women's Forum Australia (WFA) is an independent think tank established in 2005 that undertakes research, education and public policy advocacy on social, economic, health and cultural issues affecting women, with a particular focus on addressing behaviour that is harmful and abusive to women.

WFA welcomes the opportunity to contribute to the Select Committee's consideration of the *Statutes Amendment (Repeal of Sex Work Offences) Bill 2020*. WFA recognises that prostitution is rooted in gender inequality, that it commodifies women and that, by its very nature, can never be made "safe". We support law reform directed at minimising harm to women lured into prostitution and at preventing the expansion of an inherently exploitative industry. For this reason, we oppose the proposed Bill which would, if enacted, promote the interests of the industry at the expense of its victims. Instead, WFA asks that the South Australian Parliament consider enacting "Nordic Model" legislation which works to reduce the "demand" side of this industry. The Nordic model has a proven track record of reducing both prostitution and trafficking.

WFA is available to answer questions if requested.

Yours faithfully,



Rachael Wong  
CEO, Women's Forum Australia

*The sex industry is inherently exploitative. The government should not support such an industry*

In her second reading speech, introducing the *Statutes Amendment (Repeal of Sex Work Offences) Bill 2020*, Tammy Franks MP explained her belief that the proposed legislation is necessary to help the sex industry in South Australia recover from the pandemic. She argued that “our current laws are in no way a replacement for the supports, protections, procedures and policies that an industry needs.”<sup>1</sup> Franks presents her Bill in the hope that it will offer this “support and protection”, furthering the commercial interests of a reprehensible industry that profits through the sexual exploitation of the vulnerable. It is precisely because WFA agrees that this would be the effect of Franks’ proposals that we urge the Committee to dismiss them.

To treat the sex industry like any other commercial enterprise that deserves governmental “support and protection” is to ignore the inherently exploitative nature of this particular exchange. WFA regards prostitution as the commodification of (mostly) women’s bodies by (mostly) men. Many of these women come from vulnerable backgrounds and enter prostitution as a result of childhood abuse, poverty, grooming or coercion, rather than as a free choice. Once inside the industry, they are subject to all manner of violence and indignities. A 2008 study conducted across nine countries found that prostitution was multi-traumatic: 71 per cent were physically assaulted in prostitution; 63 per cent were raped; 89 per cent of these respondents wanted to escape prostitution, but did not have other options for survival. A total of 75 per cent had been homeless at some point in their lives; 68 per cent met criteria for PTSD.<sup>2</sup>

*Franks’ speech reproduces the misrepresentations favoured by sex industry lobbyists*

An industry built on the sexual exploitation and traumatising of vulnerable women and girls is a relic of a less egalitarian society. It is therefore concerning to note that Franks is openly advocating its expansion and using the stock-in-trade misrepresentations of sex industry lobbyists to do so. Rather than accurately acknowledging the damage sexual exploitation wreaks in individuals lives, Franks’ second reading speech conjures a fantasy world in which:

- buyers of sex, who leverage economic power to legitimise rape, are reimagined as a marginalised group of sad men who are merely searching for the “necessities of basic human life”;
- their paid rape of women is described as a legitimate search for “human contact and intimacy”;
- pimps and brothel owners become legitimate business operators, unfairly “punished” by the current legal restrictions.

In a similar vein, Fiona Patten – who worked as CEO of Eros Foundation, a leading sex industry lobby group, for twenty years before her election to Victoria’s Parliament – explained her personal indebtedness “to the people of this industry. They showed me how groups of decent and average people can become marginalised and then demonised just because they dare to be different and stand outside the square”.<sup>3</sup>

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<sup>1</sup> Tammy Franks MP, Second reading of the Statutes Amendment (Repeal of Sex Work Offences) Bill, *Legislative Council Hansard*, Parliament of South Australia, Thursday, 18 June 2020, p. 1138.

<sup>2</sup> Melissa Farley et al, “Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder”, *Journal of Trauma Practice*, 2008, pp. 33–74. Retrieved 5/5/21 from [https://www.tandfonline.com/doi/abs/10.1300/J189v02n03\\_03](https://www.tandfonline.com/doi/abs/10.1300/J189v02n03_03)

<sup>3</sup> Fiona Patten MP, Governor’s speech, *Legislative Council Hansard*, Parliament of Victoria, *Debates*, Wednesday, 11 February 2015, p. 161.

The misrepresentation of pimps and brothel owners as “Aussie battler” types is clearly propagandistic. It obscures the price paid for their prosperity by the victims of their trade and does a disservice to mainstream Australians who earn their living by honest work. Why should men who leverage economic power to exercise an illegitimate sense of entitlement to purchase women’s bodies warrant our sympathy? Underscoring her alignment with Patten’s views, WFA notes that Franks’ Bill proposes laws “based on a Victorian model” for the South Australian Parliament’s consideration. Whether Franks has simply imbibed sex industry propaganda uncritically or whether her political advocacy, like Patten’s, has been secured for industrial interests by other means, at least the direction of her advocacy is abundantly clear; she openly acknowledges that the proposed Bill is intended to benefit an industry that normalises the buying, trafficking and abuse of women and girls and excuses the men who pay for this.

Further, Franks’ speech fundamentally misrepresents prostitution as the free choice of autonomous women, posing the disingenuous question:

*“Does this state intend to continue to ... punish people who choose to engage in adult consensual commercial sex to pay their bills, to put their kids through school, to have the life that they choose and to deny their autonomy, their own agency and their own choice”?*<sup>4</sup>

WFA agrees that the law should not punish women in prostitution but neither should it facilitate their sexual exploitation. A far better question for South Australia’s Parliament would be whether the state can offer no better support for mothers struggling to “put their kids through school” than that they should prostitute themselves, elevating the risk of harm to their children in the process? Franks’ mischaracterisation of prostitution ignores the fact that women who are economically vulnerable need support to reduce that vulnerability, not financial compensation for their own sexual victimisation.

#### *WFA advocates the Nordic model of asymmetric decriminalisation*

Franks is correct to point out that prostitution has been a staple feature of human history and that laws to criminalise the “supply side” (i.e. laws that punish prostituted women along with pimps and brothel owners) alone have demonstrably failed to extinguish the practice. However, granting that total criminalisation has enjoyed only limited success in suppressing the sex industry without extinguishing it, total decriminalisation has proven to be even worse because it allows for the unfettered proliferation of prostitution. Five years after decriminalisation in New Zealand, a government report found that “the majority of sex workers interviewed felt that [decriminalising prostitution] could do little about violence that occurred” in the sex industry.<sup>5</sup> Similarly, when Amsterdam began shutting down its legal brothels “Mayor Job Cohen acknowledged that the Dutch had been wrong about legal prostitution. It did not make prostitution safer. Instead, he said, legal prostitution increased organised crime. It functioned like a magnet for pimps and punters. Trafficking increased after legal prostitution – 80 per cent of women in Dutch prostitution have been trafficked.”<sup>6</sup> An inquiry to find whether decriminalisation of prostitution in New South Wales had had the intended

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<sup>4</sup> Tammy Franks, op. cit.

<sup>5</sup> New Zealand Government. (2008). *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, Ministry of Justice, Wellington, p. 14.

<sup>6</sup> Melissa Farley, “The real harms of prostitution”, 18 October 2010. Retrieved 5/5/21 from: [https://mercatornet.com/the\\_real\\_harms\\_of\\_prostitution/10856/](https://mercatornet.com/the_real_harms_of_prostitution/10856/)

effect of reducing crime similarly found that the opposite was true.<sup>7</sup> One police officer investigating legal Sydney brothels linked to sex trafficking and organised crime noted that because of decriminalisation “police were cut out of the equation and crime infiltrated the brothel and massage parlour industry” while “pimps and brother operators were empowered and enriched.”<sup>8</sup>

Agreeing law reform in this area is needed, WFA advocates policies that work to reduce the size of the industry and to minimise the harms suffered by its victims, to contradict the damaging messages it sends to women and girls, and to fund exit strategies for those who have been drawn into prostitution. The Nordic model of asymmetric decriminalisation facilitates all of these objectives; it presents a practical, women-centred third alternative which decriminalises prostituted persons and penalises the customers who create the market. Pioneered in Sweden in 1999 and since adopted by Norway, Iceland, Canada, Northern Ireland, Ireland, and France and Israel, the model addresses the demand for prostitution by criminalising the buyer only and provides exiting services for women wishing to leave the industry. In the decade and a half after it was first implemented, the level of street prostitution was halved in Sweden<sup>9</sup> and trafficking declined dramatically.<sup>10</sup>

As well as helping women directly involved in the sex industry, the Nordic model has the desirable effect of contradicting the toxic message promoted in both pornography and prostitution that the sexual objectification of women and girls is either normal or acceptable. Recent revelations about sexual harassment endured by women and girls in mainstream culture have put gender inequality squarely in the spotlight of the national conversation. Those who have studied these issues fully recognise that these changes in culture are driven in large part by the proliferation of pornography, which enjoys a symbiotic relationship with prostitution; pornography broadcasts the degrading messages of prostitution to a mainstream audience.<sup>11</sup> While women directly involved in the sex industry bear the brunt of the harms caused, the indirect effects of an industry that glamorises abusive behaviours and the sexual subordination of women are felt by women and girls everywhere. Promoting prostitution as acceptable for some women sends a terrible message to all women that the government does not consider sexual exploitation of women and girls to be an outrage.

South Australia has the opportunity to lead Australia in adopting the Nordic model’s innovative approach to legislative reform around prostitution which has already delivered positive change overseas. WFA urges the South Australian Parliament to reject the current Bill in favour of one that will deliver real results for women in South Australia.

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<sup>7</sup> “Inquiry into the Regulation of Brothels Report”, Select Committee on the Regulation of Brothels, Report 1/56, November 2015, Legislative Assembly of New South Wales. Retrieved 5/5/21 from: <https://www.parliament.nsw.gov.au/ladocs/inquiries/1703/Final%20Report%20-%20Inquiry%20into%20the%20Regulation%20of%20Brot.pdf>

<sup>8</sup> Ibid.

<sup>9</sup> “Selected extracts of the Swedish Government Report SOU 2010:49: The Ban Against the Purchase of Sexual Services. An Evaluation 1999-2008”, Swedish Institute, November 2010, p. 20. Retrieved 5/5/21 from: [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the\\_ban\\_against\\_the\\_purchase\\_of\\_sexual\\_services\\_an\\_evaluation\\_1999-2008\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_ban_against_the_purchase_of_sexual_services_an_evaluation_1999-2008_1.pdf)

<sup>10</sup> Von André Anwar, “Prostitution Ban Huge Success in Sweden”, 8 November 2007. Retrieved 5/5/21 from: <https://www.spiegel.de/international/europe/criminalizing-the-customers-prostitution-ban-huge-success-in-sweden-a-516030.html>

<sup>11</sup> Melissa Farley, Emily Schuckman, Jacqueline M. Golding, Kristen Houser, Laura Jarrett, Peter Qualliotine, Michele Decker, “Comparing Sex Buyers with Men Who Don’t Buy Sex,” Psychologists for Social Responsibility Annual Conference, Boston, Massachusetts, 15 July 2011, p. 4. Retrieved 5/5/21 from: <http://www.prostitutionresearch.com/pdfs/Farleyetal2011ComparingSexBuyers.pdf>