



## **Vixen Collective (Victoria's peer only sex worker organisation)**

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Attention: Committee Secretary  
Parliamentary Joint Committee on Law Enforcement  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Email - [le.committee@aph.gov.au](mailto:le.committee@aph.gov.au)

19<sup>th</sup> February 2016

Committee Secretary,

Vixen Collective is a non-funded organisation run by sex workers volunteering their time and energy in the absence of a funded peer only sex worker organisation in Victoria.

We appreciate this opportunity to contribute to the Parliamentary Joint Committee on Law Enforcement examining "*Commonwealth law enforcement responses to human trafficking, including slavery, slavery-like practices (such as servitude, forced marriage and forced labour) and people trafficking, to and from Australia*" and attach our submission accordingly.

We look forward to engaging throughout this process and encourage you to contact us if you require any further detail or if you wish to discuss any part of this submission.

Sincerely,

Jane Green  
On behalf of Vixen Collective

**Vixen Submission**

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### ***Vixen Collective - Victoria's peer only sex worker organisation***

Vixen Collective is Victoria's peer only sex worker organisation. Through our objectives and work we promote the cultural, legal, human, occupational and civil rights of all sex workers.

Victoria has a proud history of sex worker rights. With the advent of HIV in the 1980s, Australia led the world by deploying a community based response - money was given to key communities (sex workers, gay men, injecting drug users, etc) to form their own organisations to contribute to the fight against the virus. Melbourne was the first place in the world to commit funding to a sex worker organisation - the Prostitutes Collective of Victoria (PCV). The PCV were pioneers in sex worker organising. However, in 2001 the PCV was taken over by a community health service and it ceased being an organisation of sex workers.

It was in this environment of Victoria lacking a sex worker run organisation, that Vixen Collective was formed in 2005. Vixen Collective was started by a group of Victorian sex workers and launched at the 2005 Scarlet Alliance (Australian Sex Workers Association) national forum. Later gaining membership of Scarlet Alliance in 2007, Vixen Collective has continued to engage in sex worker rights organising, building participation by local sex workers, as well as developing links to state and national sex worker organisations.

Vixen Collective continues to work fiercely on sex worker rights in Victoria, through:

- a) being a proud peer only (sex worker only) organisation
- b) encouraging local sex worker participation
- c) consultation with Victorian sex workers on key community issues
- d) peer education and peer support to local sex worker community
- e) education initiatives with broader non sex worker community
- f) advocacy and lobbying to government
- g) working to break down stigma and promote positive media on sex work
- h) work with other community organisations
- i) HIV advisory work (as a key population)
- j) work with the Victorian Police
- k) public education eg. Festival of Sex Work

This submission has been produced by Vixen Collective, through ongoing consultation with Victorian sex workers.

Vixen Collective remains an unfunded organisation and is run solely through the volunteer energy of Victorian sex workers.

### ***Vixen Collective Objectives***

- I. Vixen promotes the cultural, legal, human, occupational and civil rights of all sex workers.
- II. Vixen believes that sex workers have the right to work under legislation that promotes our rights and occupational health and safety. Vixen seeks to challenge any legislation, implementation thereof or its enforcement, where it infringes on the rights and/or occupational health and safety of sex workers.
- III. Vixen seeks to engage with current government, regulators, officials, policy makers and those who implement government policy to lobby for the rights and safety of sex workers, without accepting the status quo if it does not support sex workers rights or safety, specifically challenging those that infringe on the rights of sex workers.
- IV. Vixen affirms that the model of sex work regulation it supports is the *full decriminalisation of sex work* and that we will not accept other discriminatory models or legislation that infringe on the rights of sex workers.
- V. As sex workers we should be able to work how, when and where we choose - including (but not limited to) street based sex work, brothel based sex work, private sex work, escort sex work and opportunistic sex work.
- VI. Vixen recognises and values our members' diversity, we are committed to promoting the wellbeing and rights of sex workers from diverse backgrounds.
- VII. Vixen works to create and facilitate means by which current and former sex workers' voices are heard, both within and outside sex worker community, and specifically to government.
- VIII. Vixen works to combat stigma and whorephobia via a range of mechanisms:
  - a. Vixen provides training and presentations on sex work to community groups, educational institutions, sex work forums and government bodies.
  - b. Public events, to demystify sex work and allow the public to gain understanding for our work.

- c. Producing positive media on sex work and addressing negative media when necessary.
- IX. Vixen plays a role, as a key population, in informing Australia's response to HIV/AIDS.
- X. Vixen seeks to empower Victorian sex workers through the provision of community and peer support.
- XI. Vixen disseminates information on sex work to sex workers through the Vixen Website, Vixen Facebook, Vixen Twitter, as well as regular meetings and consultations.
- XII. Vixen connects with other sex worker organisations nationally and internationally.



## **Executive Summary**

In discussions on human trafficking in Australia the subject is often framed as consisting either solely or primarily of sex trafficking. This is not the reality of the situation, a fact borne out by the Australian government's own data<sup>1</sup>.

There is also significant sensationalism and speculation with regard to the extent of human trafficking in the sex industry. Government figures in Australia indicate human trafficking overall is relatively low, and yet baseless claims are consistently made with regard to the extent of the issue in the sex industry and these claims often remain unchallenged<sup>2</sup>.

The dialogue on human trafficking in media, policy discussion, enforcement and the activities of anti-trafficking organisations often perpetuates this false framing of human trafficking as, a) consisting either solely or primarily of sex trafficking and b) utilizing spurious figures on the extent of human trafficking in the sex industry.

Human trafficking is a serious issue deserving of attention in whatever industry it occurs. However, concentration on the sex industry to the exclusion of other industries, is a disservice to workers subject to human trafficking in other industries. The promotion of false information on the extent of human trafficking in any industry serves no purpose except to cloud the issue, and in the case of the sex industry drives stigma towards sex workers, specifically migrant sex workers.

Migrant sex work itself is often conflated with human trafficking, as if there is no distinction between the two. This is compounded by accounts in the media that routinely portray all migrant sex workers as victims, often using highly emotive and objectifying language:

*“Like any business, the trade in flesh thrives on consumer demand. Sex trafficking and sexual slavery exists because customers want Asian women who are reputed to be more compliant to their needs. Many of the Asian sex workers in Australia are here willingly. However some are trapped, humiliated, placed in debt bondage ...”<sup>3</sup>*

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<sup>1</sup> *“The Support for Trafficked People Program (Support Program), administered by the Department of Social Services and delivered by the Australian Red Cross (Red Cross), provided assistance to 76 clients, including 21 new clients. Twenty of the new clients were female and one was male. Of the 21 new clients, 8 (38 percent) were exploited in the sex industry, and **the remaining 13 (62 percent) were subjected to other forms of exploitation.**” – emphasis added, [‘Trafficking in Persons – The Australian Government Response’](#), Commonwealth of Australia, 2014, pg2.*

Also refer - *“In 2011–12, cases in the sex industry continued to be investigated, alongside an increasing proportion of non-sex industry cases; 59 percent (n=24) of the 41 new investigations and assessments in 2011–12 pertained to the sex industry..” – or, conversely 41% percent of investigations in the 2011-12 period pertained to cases outside the sex industry, [‘Human trafficking and slavery offenders in Australia – trends and issues in crime and criminal justice no.464’](#), Australian Institute of Criminology, June 2012.*

<sup>2</sup> *“Regardless of the numbers, many women who migrate to work in the sex industry have found themselves to be victims of sexual servitude.” [‘Trafficking and the Sex Industry: From Impunity to Protection – Current Issues Brief No. 28 2002-03’](#), Dr Kerry Carrington, Jane Hearn, 13 May 2003.*

<sup>3</sup> *‘Sex Slavery’*, Four Corners, Broadcast Monday 10<sup>th</sup> October 2011.

These portrayals are inherently racist and deny the agency of both migrant sex workers and migrant workers. Policy that concentrates on human trafficking in the sex industry often leads to negative outcomes for sex workers, contrary to what is best for sex workers' health and safety. Punitive rather than preventative enforcement strategies lead to pushing part of the sex industry underground as workers attempt to avoid harsh policing methods – this disadvantages both migrant sex workers and potentially leads to situations where victims of human trafficking would be less able to reach out for assistance. Anti-trafficking organisations promulgate human trafficking statistics that are not grounded in evidence<sup>4</sup> and in doing so feed into policy that harms both victims of human trafficking and migrant sex workers.

There is a need for a legislative and policy environment that supports anti-trafficking efforts whilst also supporting the human rights, labour rights, health and safety of sex workers – specifically migrant sex workers. The initial step in providing for this environment is the full decriminalisation of sex work throughout all states and territories of Australia.

Sex worker organisations worldwide call for the full decriminalisation of sex work as does Vixen Collective here in Victoria.

- Decriminalisation is the removal of all criminal laws relating to the sex industry, allowing sex work to be regulated like other work - this does not mean no regulation, but that sex work should be regulated like any other work.
- Decriminalisation is recognised as the worlds' best practice model for sex industry regulation - by the United Nations<sup>5</sup>, the World Health Organisation<sup>6</sup>, Amnesty International<sup>7</sup>, Australia's HIV Strategy<sup>8</sup>, multiple medical studies<sup>9</sup>, and sex workers' representative organisations<sup>10</sup>.

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<sup>4</sup> "Project Respect, a non-government organisation that helps trafficked women in Australia, also estimates there are about 1,000 sex slaves here. But the Justice Minister Chris Ellison says intelligence doesn't support that. ." ['Extent of sex slavery in Australia under dispute'](#), ABC Radio, 17<sup>th</sup> August 2005.

<sup>5</sup> The United Nations Population Fund, United Nations Development Fund and UNAIDS support the decriminalisation of sex work and note that legal empowerment of sex worker communities underpins effective HIV Responses.

<sup>6</sup> "Countries should work toward decriminalization of sex work and elimination of the unjust application of non-criminal laws and regulations against sex workers." , [Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations](#), World Health Organisation, July 2014, pg.91.

<sup>7</sup> [Global movement votes to adopt policy to protect human rights of sex workers](#), Amnesty International, 11 August 2015

<sup>8</sup> Australian Government Department of Health and Ageing, Sixth National HIV Strategy 2010-2013, Commonwealth of Australia, Canberra, 2010 at 6.4.

<sup>9</sup> For example: C Harcourt, J O'Connor, S Egger, C Fairly, H Wand, M Chen, L Marshall, J Kaldor, B Donovan, 'The Decriminalisation of Prostitution is Associated with Better Coverage of Health Promotion Programs for Sex Workers', Australian and New Zealand Journal of Public Health, 2010, 34:5 pg 482.

<sup>10</sup> Vixen Collective Media Release, Tuesday 15<sup>th</sup> September 2015, "We recognise full decriminalisation of sex work is the only acceptable model of regulation for sex workers' human rights, labour rights, health and safety." , Signed by: Vixen Collective (Victoria's peer only sex worker organisation), Scarlet Alliance (Australian Sex Workers Association), Sex Workers Outreach Project NSW (SWOP-NSW), Sex Workers Outreach Project Northern Territory (SWOP-NT), People for Sex Worker Rights WA (PSR-WA), Resourcing health & Education Victoria (RhED), Nothing About Us Without Us (NAUWU), Debby Doesn't Do It For Free (Sex Worker Arts & Performance Collective), Touching Base Inc, Fiona Patten – MLC for Northern Metropolitan (Victoria Parliament), Victorian AIDS Council, Living Positive Victoria, Harm Reduction Victoria, Burnet Institute, Australian Research Centre in Sex Health and Society (ARCSHS), Australian Federation of AIDS Organisations (AFAO).

- Decriminalisation recognises sex work as work, helping to break down stigma against sex workers and reduce discrimination.
- It has been shown that STI rates and safe sex outcomes are maximised under decriminalisation<sup>11</sup>.
- Under decriminalisation there is less waste of police resources on enforcement and sex workers are better able to access assistance when in need because of improved relations with police<sup>12</sup>.
- It has been shown that sex work as regulated under decriminalisation has little to no amenity impacts.<sup>13</sup>
- Access to justice is improved for sex workers under decriminalisation, including an improved ability to pursue criminal cases against those who perpetrate violent or sexual offences against sex workers, but also civil protections (such as restraining orders).
- Decriminalisation would give sex workers better access to workplace safety, including state apparatus such as WorkSafe Victoria and the Fair Work Ombudsman.
- Decriminalisation would give sex workers greater ease to access health services, without the requirement to 'out' themselves - as is required due to mandatory testing under current licensing regulations - which has been shown to lead to discriminatory treatment and exclusion from medical services<sup>14</sup>.
- Decriminalisation would remove the impediment to testing and treatment that licensing, remaining criminalisation of street based sex work, and HIV criminalisation present for sex workers<sup>15</sup>.
- There is no evidence of organised crime within the sex industry under decriminalisation.<sup>16</sup>
- Greater industry transparency under decriminalisation aids anti-trafficking efforts<sup>17</sup>.
- Decriminalisation has been shown not to result in an increase in the numbers of workers participating in the sex industry<sup>18</sup>.

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<sup>11</sup> National Centre in HIV Epidemiology and Clinical Research, *HIV/AIDS, Viral Hepatitis and Sexually Transmissible Infections in Australia Annual Surveillance Report 2010*, National Centre in HIV Epidemiology and Clinical Research, The University of New South Wales, Sydney, NSW; Australian Institute of Health and Welfare, Canberra, ACT. 2007.

<sup>12</sup> "The nature of sex workers' contact and interaction with police determines whether they feel confident making complaint to police regarding crimes of violence", Scarlet Alliance and the Australian Federation of AIDS Organisations, [Unjust and Counter Productive: The Failure of Governments to Protect Sex Workers From Discrimination](#) Sydney, 1999, pg 14.

<sup>13</sup> Prior and Crofts, 'Effects of sex premises on neighbourhoods: Residents, local planning and the geographies of a controversial land use', *New Zealand Geographer*, v68, 2012, pg.130.

<sup>14</sup> The Sex Industry in NSW: A Report to the NSW Ministry of Health, 2012, pg.23.

<sup>15</sup> The [UNAIDS Guidance Note on HIV and Sex Work 2012](#) recognises that criminalisation poses substantial obstacles in accessing HIV prevention, treatment and support.

<sup>16</sup> As recognised by the Land and Environment Court in *Martyn v Hornsby Council*, cited in Nothing About Us Without Us, 'North Sydney Council Prohibits Home Occupation (Sex Services) in All Zones under the New Draft LEP', accessed at <http://nothing-about-us-without-us.com/tag/urban-realists/> on 30 October 2014.

<sup>17</sup> It has been shown that decriminalising sex work does not cause an increase in trafficking, New Zealand decriminalised sex work in 2003 and continues to be ranked in Tier 1 by the United States State Department Trafficking in Persons Report. United States Department of State. [Trafficking in Persons Report, \(2010\)](#).

<sup>18</sup> "...the number of sex workers in New Zealand has not increased as a result of the passage of the PRA..." [Report of the PLRC on the Operation of the PLA 2003](#), page.29.



Decriminalisation is a first step to recognising sex worker rights - many more issues remain to be addressed beyond how the sex industry is regulated – key among these issues is the enduring need for sex workers to be recognised as key stakeholders and experts in our own lives and work.

With regard to the impact of policy on human trafficking, it is migrant sex workers who must be heard, as their lives and work are most affected by government policy, media, enforcement, the activities of anti-trafficking organisations, and the overall dialogue on human trafficking in Australia.



## Prevalence of Human Trafficking in Australia

Trafficking has been shown not to be a feature of the Australian sex industry, this is according to the Australian government's own figures, yet policy and enforcement of policy regarding human trafficking and sexual slavery unfairly stigmatises sex workers - specifically migrant sex workers.

*"Chris Ellison, then Minister of Justice, said, 'no significant' sex slavery problem existed in Australia.. Between January 2004 and October 2011, the Australian Federal Police Human Trafficking Team undertook over 305 investigations into allegations of trafficking-related offences. These assessments led to 39 matters being referred to the Commonwealth Director of Public Prosecutions for matters related to sexual servitude and other labour exploitation. Of those, 14 have resulted in convictions.."*<sup>19</sup>

It is also clear that the sex industry is not the only industry in which trafficking occurs, although until recently both government and the media have tended to focus wholly on human trafficking only within the sex industry to the exclusion of all other industries.

*"Recently, a shift has been seen in both research and policy towards a greater focus on trafficking for the purpose of exploitation in industries other than the sex industry.. .. although the scale of the problem is yet to be determined, recent AIC research and a small increase in detected labour trafficking cases has confirmed that labour trafficking is an issue across several Australian industries and warrants further attention.."<sup>20</sup> - emphasis added*

Despite this information existing in government records, many reports contain significant speculation and this speculation in turn has, and continues to influence both policy and enforcement.

## The Role and Effectiveness of Commonwealth Law Enforcement Agencies

Experience shows that the more police are involved in sex workers lives, as they increasingly are due to policy on human trafficking in Australia, the following is true:

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<sup>19</sup> ['Scarlet Alliance, Australian Sex Workers Association, Recommendations to the UN General Assembly High Level Dialogue on Migration and Development'](#), 15th July 2013, pg.3-4.

<sup>20</sup> [People Trafficking in Australia](#), Trends & issues in crime and criminal justice no.441, Australian Institute of Criminology, June 2012

- Sex workers are less able to reach out to police when victims of crime
- Sex workers' freedom of movement is restricted
- Access to health and community service outreach is impeded
- Sex workers current/future employment opportunities are reduced (due to criminal, police and government records)
- Compliance and transparency of the sex industry is reduced
- Sex work is driven underground hindering anti-trafficking efforts
- Clients are discouraged from reporting human trafficking situations for fear of prosecution

Under regulatory systems other than full decriminalisation of sex work, access to police overall for sex workers is significantly reduced due to the oppositional roles sex workers and police are placed in<sup>21</sup>. This is particularly acute for sex workers who may work outside a licensing system, or whose work may remain criminalised (for example street based sex workers in Victoria).

The ability to access justice, with the consequential flow on effects on sex worker safety, is reduced at three levels:

- i. Reduced access to police caused by oppositional role of police with sex workers
  - Where sex work remains criminalised (for example, street based sex work in Victoria) there are higher barriers to workers approaching police - both state and federal - for assistance due to fears caused by: a) prior interactions, b) outstanding fines and/or warrants and c) possibility of being charged for sex work
  - Sex workers who are non-compliant with a licensing system are often less likely to report crimes against them, because they have significant concerns around: a) detection by police and b) being charged for sex work
  - The relationship between police and sex worker community although improved from the time of full criminalisation, continues to be informed by in part by the history of sex work criminalisation and will require: a) training with State and Federal Police (with both incoming recruits and existing members) and b) ongoing communication, consultation and liaison
- ii. Reduced ability to access justice through the courts
  - Cases not taken up due to a perception that it is more difficult to gain a conviction against someone that assaults a sex worker

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<sup>21</sup> "The nature of sex workers' contact and interaction with police determines whether they feel confident making complaint to police regarding crimes of violence. Better relationships with the police were apparent...where the police had no role in regulating the sex industry.", Scarlet Alliance and the Australian Federation of AIDS Organisations, [Unjust and Counter Productive: The Failure of Governments to Protect Sex Workers From Discrimination](#) Sydney, 1999, pg 14.

- Name suppression is often denied to sex workers who are victims of crime, including crimes of violence and rape
- Fear of 'outing' discourages sex workers from pursuing charges through the courts
- Stigma of testifying as a sex worker adds an additional burden for sex workers pursuing justice
- Media coverage of trials is often stigmatising and distressing for the victim and sex worker community

iii. Reduced justice received

- History of low sentences for crimes against sex workers<sup>22</sup>
- In some jurisdictions there is existing case law providing for reduced sentences for cases involving sex workers as victims  
eg. Victorian case law on cases involving rape of sex workers (Harris/Harkopian)<sup>23</sup>

The threat of penalties for those working outside a licensing system and those working under remaining criminalisation (for example street based sex workers in Victoria) creates additional barriers to accessing assistance from police over and above what sex workers already face. For example, although Victorian police have stated that it is "unlikely"<sup>24</sup> that a sex worker would be charged for a breach of the licensing system when reporting a crime of violence or rape - this remains a significant disincentive for sex workers as it is discretionary (often up to the individual officer) as to whether or not to place charges.

It is in this context of an overwhelmingly negative history, setting and expectations, that sex workers attempt to navigate their interactions with law enforcement. Without the full decriminalisation of sex work in all states of Australia as a foundation of an improved relationship with police, there will be little ability to begin improving this situation. As outlined below in 'Practical Measures and Policies That Would Address Human Trafficking' it is the full decriminalisation of sex work that provides for the first step in a solution to this issue.

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<sup>22</sup> "Bayley was first jailed in 1991 for sexual assault and served just 22 months of a five-year sentence. In September 2000 he was jailed for a minimum of eight years for the rape of five prostitutes over a six-month period..", '[Jill Meagher's husband Tom Meagher says justice system failed her and Adrian Bayley's sentence is a disgrace](#)', ABC News, 20th June 2013.

<sup>23</sup> "Two controversial cases provide a non-binding precedent that allow judges to consider the victim's sexual experience when passing sentence on an offender – but only in circumstances when the "victim is a prostitute"... This sentencing advice is troubling on three fronts. First, it allows judges to interpret that sex workers experience trauma and victimisation differently to "chaste" women, and reinforces the whore stigma. Second, it can be interpreted as placing an onus on sex worker victims to prove their trauma. Third, it shifts focus away from the offender and their actions and towards the victim..."', '[Victorian rape law needs reform to protect sex workers](#)', The Conversation, 30th March 2015.

<sup>24</sup> '[St Kilda sex worker calls out on Red Umbrella Day for more effort to find Tracey Connelly's killer](#)', Bayside Leader, December 18th 2013

## **Practical Measures and Policies That Would Address Human Trafficking**

Full decriminalisation of sex work would have the following effects, both in terms of addressing human trafficking, if occurring, in the sex industry but also in terms of improving sex workers' human rights and labour rights:

- Industry transparency and access is increased
- Aids anti-trafficking efforts by increasing sex industry transparency
- Begins to remove barriers for sex workers in seeking police assistance when victims of crime
- Removing police as regulators removes the oppositional role between police and sex workers
- Improved access for outreach and health services, including sex workers representative organisations
- Criminal, police and government records are not compiled on sex workers further stigmatising our community and creating future opportunities for discrimination
- Sex workers begin to have access to police and justice like other members of the community

At present Australian anti-trafficking policy is focused on a punitive approach. Sex workers representative organisations have long been lobbying for a prevention approach to human trafficking<sup>25</sup>, this would entail:

- Legitimate migration pathways for sex workers to Australia
- Immigration information being available in the language of country of origin
- Better funding to sex worker organisations to enable CALD (culturally and linguistically diverse) staff to inform sex workers of their rights

The failure to consult sex workers when applying laws to our lives and workplaces is enduringly problematic and the consequences far reaching. Laws that may make sense or have negligible effects when applied to other sections of the community can create issues when applied to a marginalised community without consultation.

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<sup>25</sup> Scarlet Alliance, of which Vixen Collective is a member, is a leader in this approach with the [Scarlet Alliance Migration Project](#).

Most importantly, the agency and rights of migrant sex workers to speak on their own behalf about their own lives must be recognised - it is imperative that migrant sex workers are not excluded from the formulation of policy that will impact on their lives and work.

## **The Involvement of Organised Crime in Human Trafficking**

Vixen Collective, like other peer sex worker organisations in Australia, through our work maintain ongoing contact with sex worker community, including conducting regular consultations on a variety of subjects.

It has not been reported either in consultation with Victorian sex worker community, or anecdotally, that organised crime is either a feature, or even occurring sporadically within the sex industry in Victoria. It is reported by other peer sex worker organisations across Australia that this is also the case in other states/territories.

It is our belief that the sex industry has been viewed in this way due to a number of factors:

- The historical context of criminalisation of the sex industry
- The enduring perception of the sex industry/sex workers as criminals due to this history
- The entrenched discriminatory attitude of police, a significant number of whom are still in place from the era of sex work criminalisation
- Stigmatizing media attitudes towards the sex industry/sex workers
- The activities of anti sex work groups/religious groups that lobby for abolition of sex work
- Funding for non-peer NGO's and service organisations that relate to sex work are often predicated on portraying sex workers as victims and/or in need of exiting a 'dangerous' industry, these policies contribute to the stigmatization of sex work and sex workers
- Sex workers and sex worker peer organisations are often excluded from policy discussions or not considered to be key stakeholders

The level of focus on organised crime and human trafficking in the sex industry (this focus being almost exclusive, as if these do not occur in other industries when this is not the case<sup>26</sup>), the policies

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<sup>26</sup> "...recent research has indicated that labour trafficking exists in a broader context of exploitation of migrant workers, particularly those in low-skilled professions. In 2010, those perceived to be at greatest risk of exploitation were vulnerable migrant workers. These were most commonly encountered on 457 visas relating to semi-skilled occupations, 109 and among migrants working in the agricultural sector or as domestic workers, international students and those working in the maritime/seafaring sector.", 'Organised Crime in Australia 2013', Australian Crime Commission, July 2013, pg.62.

this produces and the enforcement of these policies all contribute to furthering stigma and discrimination against sex workers.

It is our opinion that any policy with regard to human trafficking should be based on:

- a) Input from the key stakeholders – including migrant sex workers, through sex workers representative organisations,
- and
- b) Empirical evidence

### **The Extent to Which Trafficking is Facilitated by...**

*We have no comment in this section but instead refer the Committee to the submission made by Scarlet Alliance (Australian Sex Workers Association)*

### **The Effectiveness of Relevant Commonwealth Legislation and Policies**

Legislation and policy in regard to human trafficking and sexual slavery, and importantly the enforcement of same contribute to:

- Stigmatising migrant sex workers as 'trafficked victims'
- Disrupting the lives and work of migrant sex workers through police activity and immigration raids
- Increase in raid avoidance strategies by migrant sex workers making access by outreach services more difficult
- Distrust in and therefore lessened ability to reach out to police when victims of violence or crime for migrant sex workers

Funding to work on prevention approaches to trafficking rather than a harsh punitive approach is recommended by sex worker organisations, as well as funding for migrant sex workers to work within their own community.

*For further information in regard to this section we refer the Committee to the submission made by Scarlet Alliance (Australian Sex Workers Association)*

## Other Related Issues

### *Specific Issues in Victoria - Signage on Sexual Slavery in Sex Industry Premises*

Requirements on signage regarding sexual slavery in Victoria<sup>27</sup>, the policies that produce it and the enforcement of these policies all contribute to:

- Stigmatising migrant sex workers as 'trafficked victims'
- Disrupting the lives and work of migrant sex workers through police activity, immigration raids and the activity of 'rescue' groups
- Increase in work outside the licensing system due to migrant sex workers engaging in raid avoidance strategies making access by outreach services more difficult
- Distrust in and therefore lessened ability to reach out to police when victims of violence or crime for migrant sex workers

The signage specified in Victoria lists both 000 and 1800 813 784 (Federal Police) - these are not numbers that sex workers are likely to call (especially if working in the unregulated section of the industry) due to the barriers that the Victorian licensing system presents for sex workers in terms of reaching out to police for assistance.

### **Penalties Relating to Signage on Sexual Slavery**

Offence against 60A-1 of the Sex Work Act<sup>28</sup> (1 penalty units) *"A licensee must keep the prescribed signage relating to sexual slavery displayed on the premises of the sex work service providing business in such place or places that it may be read by any person on the premises"*

As previously indicated, signage relating to sexual slavery is stigmatising to sex workers, specifically to migrant workers.

The focus on human trafficking and slavery in the sex industry does not reflect the reality of the situation in Australia as attested to by the Australian governments' own statistics<sup>29</sup>.

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<sup>27</sup> Sex Work Regulations (2006), Part 5, 10 A, Signage relating to sexual slavery, pg.11.

<sup>28</sup> Sex Work Act (1994), Division 8 – Offenses, 60 A, Display of prescribed signage relating to sexual slavery, pg.103.

<sup>29</sup> ['Scarlet Alliance, Australian Sex Workers Association, Recommendations to the UN General Assembly High Level Dialogue on Migration and Development'](#), 15th July 2013, pg.3-4.



### **Anti-Trafficking Organisations**

Many organisations inhabiting the anti-trafficking sphere rely on both government funding<sup>30</sup> and private donations for their work. In an environment where the government's own data, after many years of extensive focus on the area, has failed to show evidence of an extensive issue – many of these organisations continue to refer to the size of an issue they admittedly have little or no evidence about:

*“One of our big aims will be to raise awareness because it's a very hidden issue, but it's massive..”*

*“..there is no easy way of knowing how great the problem is here, given it is a covert crime and many victims are afraid to appeal for help..”<sup>31</sup>*

*Sister Claudette Cusack, South Australian Rep on National ACRATH<sup>32</sup> Executive*

Indeed, organisations continue to utilise data in fundraising and media that the government itself has repeatedly informed them no evidence supports, as indicated in the following interview conducted by reporter Samantha Hawley with former Minister of Justice Chris Ellison, on ABC radio in August 2005:

*“Senator Ellison says there's no intelligence to support the number and those suggesting it are looking for headlines...”*

*Project Respect, a non-government organisation that helps trafficked women in Australia, also estimates there are about 1,000 sex slaves here.*

*But the Justice Minister Chris Ellison says intelligence doesn't support that.*

*CHRIS ELLISON: Quite frankly, I think it's disingenuous to simply say that there are 1,000 women who've been trafficked. You need some forensic evidence to back that up. But whether it's one or 1,000, one is one woman too many.*

*SAMANTHA HAWLEY: One thousand is quite a horrifying number though, isn't it and that is the number that's been out there...*

*CHRIS ELLISON: You're saying you're not horrified at one then. I'm very horrified at one woman being trafficked and trying to grab a sensational headline by saying that there are 1,000 or 2,000, we don't believe that there are as much as 1,000.*

*But when people say there are a certain number of trafficked women, they must have some evidence to back it up and if they've got evidence that must be able to be investigated.*

*Why aren't they giving that to us?”<sup>33</sup>*

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<sup>30</sup> [‘Anti-slavery organisations receive 1.44m funding boost’](#), The Sydney Morning Herald, James Massola, 25<sup>th</sup> March 2014.

<sup>31</sup> [‘SA joins fight against human trafficking’](#), The Southern Cross, Marie McInerney.

<sup>32</sup> [Australian Catholic Religious Against Trafficking in Humans](#), ACRATH receives government funding for work on human trafficking, specifically in regard to ‘education initiatives’.

<sup>33</sup> [‘Extent of sex slavery in Australia under dispute’](#), ABC Radio, 17<sup>th</sup> August 2005.

Yet despite having been informed that these figures are erroneous (in 2005), they have been repeated consistently in media:

*".. Project Respect estimates more than 1,000 women are being held as sex slaves in Australia at any one time."*<sup>34</sup>

5<sup>th</sup> April 2008

*".. there are up to 1,000 women in Australia under contract at any one time."*<sup>35</sup>

4<sup>th</sup> February 2009

*"Women in the sex industry experience enormous stress to their health and wellbeing. ... About 1,000 have been trafficked to Australia for the purposes of sexual slavery."*<sup>36</sup>

4<sup>th</sup> July 2010

This continued use of figures that are not evidence based, is useful (as noted by the former Minister for Justice Chris Ellison) when wanting to *"grab a sensational headline"*, but is significantly detrimental to sex workers, migrant sex workers and migrant workers alike. Such language and behaviour by anti-trafficking organisations clouds the true extent of human trafficking in Australia and unfairly demonises sex workers, specifically migrant sex workers.

Charities in Australia have a troubled past with sex workers – some having excluded sex workers from receiving services on the basis of being sex workers, many having held and enacted stigmatising views towards sex workers. As recently as 2009 the Salvation Army was forced to apologise for a charity campaign in which it suggested sex workers required 'rescue' from their work<sup>37</sup>. It is this enduring attitude (as mentioned earlier in this submission) that blurs the line between migrant sex work and human trafficking – between which many of these groups do not distinguish – that obscures the agency and voices of migrant sex workers.

Continued behaviour of this nature – of repeatedly using figures that have no evidential basis and of using emotive language, much of which is inherently racist against migrant sex workers and other migrant workers – must be recognised.

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<sup>34</sup> ['Crime thriller puts Asian sex slavery on the agenda'](#), The Age, 5<sup>th</sup> April 2008.

<sup>35</sup> ['Project Respect Seeks to Help Trafficked Women and Girls'](#), 4<sup>th</sup> February 2009.

<sup>36</sup> ['Project Respect cares for vulnerable women'](#), Australian Medical Association, Dr Georgina Philips (Member of Committee of Management for Project Respect), 4<sup>th</sup> July 2010.

<sup>37</sup> *"To get Rick out of prostitution, we had to resort to smuggling."*, ['Sex workers storm Salvos' shield appeal'](#), The Sydney Morning Herald, 22<sup>nd</sup> May 2009.

## ***Vixen Recommendations***

It is critical that the voices of sex workers be heard, in order that the rights of sex workers be recognised and the safety of sex workers given protection by law.

It is imperative that sex workers be recognised as the key stakeholders regarding our own lives and work, that government consult with our representative organisations, peer sex worker organisations accordingly.

1. Sex worker community is disproportionately affected by human trafficking policy – specifically by the enforcement of human trafficking policy. There must be a recognition of the need for input from sex workers – specifically migrant sex workers - through sex workers representative organisations, as key stakeholders in government discussions on human trafficking.

***We call on the Federal Government to recognise sex workers, specifically migrant sex workers, as key stakeholders in government discussions on human trafficking – and that sex workers must be consulted in these discussions through our representative sex worker organisations.***

2. Enforcement activities of both Federal and State Police contribute to barriers to accessing police and justice for sex worker communities, these barriers do not aid anti-trafficking efforts. Full decriminalisation of sex work is a first step in addressing these barriers, but must be accompanied by police training and ongoing consultation with sex workers representative organisations.

***We call on the Federal Government to recognise that the full decriminalisation of sex work is a necessary component of effective anti-trafficking efforts, including addressing barriers to accessing police and justice for sex workers.***

3. Anti-trafficking organisations have a history of promoting information with little or no evidential basis, often contrary to government data. The use of sensational claims about the extent of human trafficking, specifically claims regarding human trafficking in sex work, impacts the lives and work of sex workers - specifically migrant sex workers. This drives stigma and denies the agency of workers, silencing our voices. It is critical to not allow the persistent unfounded claims of anti-trafficking organisations to remain unchallenged. It is of specific concern when these claims are directly contrary to the lived experience of community stakeholders.

Media coverage of human trafficking – specifically with regard to sex work - is often sensational and directly racist, harmful to individual victims of human trafficking and stigmatising to sex workers. This must no longer be allowed to inform the discussion.

***We call on the Federal Government to recognise that in making legislative, policy and enforcement decisions, these decisions must be evidence based.***

4. Government legislation, policy and practice in the area of human trafficking should be based on empirical evidence, not on speculation. Sex workers, specifically migrant sex workers through representative sex worker organisations, are key stakeholders and experts in providing this evidence to government.

Sex workers are the experts in our lives and work. It is often the case that when providing information to government, organisations that talk about us are listened to more keenly and given more weight than our own representative organisations. It is critically important that this not continue.

***We call on the Federal Government to recognise that on sex workers lives and work, sex workers are the experts.***

***Allowing other organisations and/or people to speak for or over sex workers, silences our voices, disadvantages our community and misinforms government policy.***

***Our sex worker organisations represent us, it is our lived experience, and the evidence that our organisations provide to government that must be recognised.***

## ***Glossary of Terms***

**Non Peer** - A non sex worker. When used to describe an organisation this means that although there is the possibility that there may be some sex worker staff it is not a sex worker only organisation.

**Peer Only** - Sex worker only. When used to describe an organisation this means that everyone involved in the organisation - all staff, management, board members and volunteers - are current or former sex workers.

**Sex Workers Representative Organisations** - In each state and territory of Australia sex workers participate in their representative organisations, for peer support, health promotion and to lobby for law reform. These are peer only organisations.

**Whorephobia** - The act of holding and/or disseminating stigmatising attitudes towards an individual sex worker or sex worker community.

