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Parliamentary Joint Committee on Law Enforcement  
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### **Submission: Inquiry into Human Trafficking**

#### **About SWOP**

*The Sex Workers Outreach Project (SWOP) was established 25 years ago and is Australia's largest and longest established community-based sex worker organisation focused on HIV, STI and Hepatitis C prevention, education and health promotion for sex workers in NSW. A key element in the success of SWOP's work is the building of strategic, collaborative and multidisciplinary working relationships with sex workers, and other key health, government and non-government organisations, advocating for a holistic approach to the health services provided to sex workers.*

#### **SWOP sees more sex industry workers in NSW than any other organisation**

In 2014-15, SWOP saw 5,212 sex industry workers, of whom 2,331 (44.7%) came from a culturally and linguistically diverse background. SWOP's diverse team includes Thai, Korean and Chinese speaking outreach officers, nationalities which reflect the current makeup of the New South Wales (NSW) sex industry. We outreach to sex industry premises across the state using a two-person approach, which allows for one SWOP staff member to engage parlour management, while the other outreach staff member speaks privately with sex workers in their own language.

#### **Trafficking, so far as it occurs in NSW's sex industry, is usually better described as a labour dispute**

It is overwhelmingly SWOP's experience that human trafficking, at least as the tabloid media lead the general public to understand it - where a vulnerable (usually Asian) woman who does not work in the sex industry is forced to immigrate against her will and finds herself held captive in a basement dungeon as an unwilling sex worker - is incredibly rare in NSW. In fact SWOP has not seen one 'trafficking' case of this nature, across 25 years of organisational operation, outreaching across sex services premises in both development authorised and development unauthorised properties.

Across the years, SWOP has assisted a small number of people who were sex workers in their home country, whom immigrated willingly to NSW to continue to be sex workers, and then found their labour conditions here were less than desirable. Generally these people simply wish to find new employment within the NSW sex industry with a better boss. We have also assisted migrant sex workers to access justice for unfair labour contracts, and other forms of debt bondage, resulting from their willing migration, through our partnerships with services like **Inner City Legal Service**.

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### **Government inquiries find no real evidence of trafficking in the NSW sex industry**

SWOP's evidence-based experience with NSW sex industry workers on trafficking is backed up by the December 2013 Community Relations Commission report to the NSW Government entitled *Inquiry into the exploitation of people through trafficking, in all its forms in NSW*, which found that whilst the "focus of the media is typically on exploitation of women in the sex industry, in particular Asian migrants working in brothels" by contrast "the Inquiry heard from community groups and service providers that exploitation more frequently occurs in family homes and businesses."<sup>i</sup>

The lack of human trafficking evidence in the NSW sex industry is also reflected in the testimony of the Australian Federal Police (AFP) at the recent NSW Parliament *Inquiry into the Regulation of Brothels*, where Alex Greenwich MP asked: "Of the 6 identified sex-trafficking investigations in NSW how many involved a conviction; and how many convictions were related to brothels or massage parlours?" The AFP answer: "None of the six matters resulted in a conviction. In five of the matters, no human trafficking offence was identified or disclosed. The sixth matter was a foreign law enforcement request for assistance in relation to an international matter."<sup>ii</sup>

### **Tabloid media representations of sex-trafficking should be viewed with suspicion**

Sadly in pieces like **Women lured with student visas forced into sex slavery** (30 March, 2014, *Sydney Morning Herald*) our tabloid media outlets do not accurately reflect the reality of migrant sex workers, preferring to lure in readers with embellishments like: "while some are aware they are arriving to work in the sex industry, many are oblivious to the fact."

The implications of saying things like "dozens of Asian women were being enslaved in Sydney brothels" (**No way to block student sex visa scam, Scott Morrison declares** 6 April, 2014, *Sydney Morning Herald*) as well as "Uncovered sex is provided if the price is right" (**Working girls trapped in a cycle of dependence, drugs and exploitation** 30 March, 2014, *Sydney Morning Herald*) unfairly stereotypes migrant sex workers in a way that is not supported by the NSW evidence base outlined in the sections below.

Many tabloid pieces about migrant (mostly Asian) sex workers seem designed to directly buy into the current social fears about migration. In effect this increases stigma against a particular subset of sex workers, who are already heavily stigmatised, despite sex work being a legal occupation in NSW.

### **Increased focus upon sex-trafficking can be self-perpetuating and counter-productive**

With so many resources now directed at human trafficking, it can become expedient for migrant sex workers to call their labour dispute trafficking, in order to access greater resources including free legal support. Migrant sex workers have also informed SWOP that they thought as victims of trafficking, the visas they were granted while they were assisting police with their inquiries, were likely to be permanent. Unfortunately the lived experience of migrant sex workers who have reported trafficking to the Police appears in reality to be quite different, with deportation the usual outcome after the case has run, usually without conviction.

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This confusion is reinforced by media pieces like **New visas remove stigma for slavery and human trafficking victims** (20 July, 2015, *Sydney Morning Herald*)<sup>iii</sup> which do not state clearly that the new visas are terminated after the trafficking case has run to its conclusion.

While we certainly advocate for improved and free access to justice for all migrant workers irrespective of industry, we feel trafficking figures in the NSW sex industry are being overinflated by the present emphasis. There should be no incentive to see a labour dispute as trafficking. Migrant workers should be covered by a whole-of-government approach which sees labour issues in all industries dealt with by the same, existing bodies – this is also a fiscally prudent solution. Sham contracting is sham contracting irrespective of industry; debt bondage is debt bondage irrespective of industry. We already have appropriate Government bodies in place to address both of these business practices.

### **Decriminalisation and an ‘open’ sex industry is the best way to combat human trafficking**

NSW is currently in its twenty-first year of sex work decriminalisation. Decriminalisation of sex work is the best regulatory system for sex workers because it allows sex work to be treated as what it is: work; and it removes the barriers to engagement with regulation and regulatory bodies that are produced by alternative systems of legalisation, licensing, regulation and criminalisation.

Our evidence base here in NSW shows that the decriminalisation of sex work back in 1995 has largely served the interests of sex workers, and the wider NSW population, well. It has resulted in very low rates of HIV and STI prevalence and incidence, high rates of access to health promotion and support services by sex workers, and increased capacity of sex workers, including those from Asian and other non-English speaking backgrounds, to look after their health and welfare.

The implementation of the decriminalised framework in 1995 here was, in part, driven by the desire to remove police as the regulators of the sex industry. This was to reduce the corruption that came to light during the *Woods Royal Commission*. The process of decriminalisation has succeeded in addressing the issue of police corruption and helped to reduce criminality associated with the industry. Decriminalisation has allowed sex workers to go to the police with complaints or allegations about their work without fear of being punished for being a sex worker.

The decriminalisation of sex work in NSW is held up as an example of world’s best practice. This framework for regulation is evidence based and backed by the World Health Organisation, the United Nations AIDS Programme (UNAIDS), the literature cited in the leading medical journal *The Lancet*, and most recently adopted by Amnesty International. New Zealand also has a decriminalisation framework in place for the regulation of their sex work industry. Decriminalisation is also a fiscally sensible practice. According to evidence presented by *The Lancet* at AIDS 2014, the decriminalisation of sex work would have the greatest impact on the HIV epidemic globally, reducing HIV by up to 46% in the next decade and resulting on cost saving thresholds of tens of millions of dollars.<sup>iv</sup>

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It is also SWOP's view that health and safety of sex workers is best served by a system of regulation which minimises the potential for de facto 'criminalisation' through the imposition of unnecessary restrictions and requirements with which workers and operators will struggle to comply. An 'open' system in which there is a high level of access to sex premises by our outreach programs and by regulators and in which sex workers are empowered to insist on their rights to health and safety, is one most likely to produce high levels of compliance with occupational health and safety requirements. Further, the easier it is for services and workers to comply with regulations, and the more 'open' the system, the less opportunity arises for corrupt conduct or criminal involvement, including activities such as extortion or trafficking. This has been demonstrated through 20 years of decriminalisation here, which has seen the gradual but steady improvement of sex workers health, capacity and working conditions.

### **The reality of being a migrant sex worker in NSW has improved since decriminalisation**

This reality of being a migrant sex worker in NSW is best captured in The Kirby Institute's report to government called *The Sex Industry in New South Wales: A Report to the NSW Ministry of Health*, which states: "migrant sex workers in Sydney have achieved similar excellent results of sexual health as their local counterparts."<sup>v</sup> This Report goes on to say that "recent studies show Asian migrant sex workers now have far more autonomy, including student visas and residency status, and much better health outcomes"<sup>vi</sup>.

The 2012 study declared the NSW sex industry "the healthiest sex industry ever documented" and advised the government to scrap the few remaining laws around the industry, stating: "reforms that decriminalised adult sex work have improved human rights, removed police corruption [and] netted savings for the criminal justice system... International authorities regard the NSW regulatory framework as best practice."<sup>vii</sup>

Condoms are utilised in over 99% of anal and vaginal sex undertaken in the NSW sex industry,<sup>viii</sup> with equivalent rates of use amongst the general population of sex workers and sex workers with an Asian background. The rates of STIs amongst female sex workers in NSW are lower than that of other sexually active females in NSW. Demand and pressure to perform unsafe sex has also fallen.<sup>ix</sup>

Local research shows us that in NSW female workers of Asian background, generally perceived as most vulnerable to a range of health and safety concerns, have since 1992, seen an increase in their English language skills, testing rates and service engagement, and a concomitant decline in STI prevalence rates such that it equals those of non-Asian workers.<sup>x</sup>

There has not been one recorded case of HIV transmission due to commercial sex work in NSW. This along with the rates of STIs have only been achievable since decriminalisation and represents a positive public health outcome that is acknowledged internationally as being world leading. These achievements have only been possible through concerted peer outreach programs, especially peer based education undertaken by people with targeted language skills<sup>xi</sup> and the consistent and enthusiastic uptake of these education programs by sex workers themselves.

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#### SWOP Recommendations:

- Decriminalise sex work across all Australian states and territories
- Ensure all relevant literature on visa access and conditions, industrial rights, health information, human rights, local laws and justice access is translated into multiple languages to assist all migrating people
- Remove barriers to justice by ensuring all migrating people have access to information about the legal status of sex work in Australia written in their own language
- Remove onerous visa conditions prohibiting students from engaging in legal forms of work, including sex work, whilst here in Australia
- Remove barriers to reporting crimes, including trafficking, to the police by granting migrant workers immunity from visa prosecution when reporting crimes against them
- Bolster condom use in migrating people by distributing free literature that explains while Australia is a lower prevalence country for HIV than many countries they may be immigrating from, it is not a no-HIV prevalence country, in their own language
- Continue to fund peer-base community language outreach workers in industries where high numbers of migrant workers are present
- Ensure Government actions on human trafficking are evidence-based and determined by actual prevalence
- Avoid duplicating work of existing Government mechanisms for labour disputes
- Increase Press Council powers to impose penalties for sensationalised tabloid media exposes with counterproductive information on trafficking

SWOP's recommendations are based upon our 25 years of organisational experience working with sex industry workers in NSW. We also draw your attention to the submission made by **Scarlet Alliance**, the Australian peak body for sex workers and sex work organisations. We lend our organisational support to the recommendations they have made reflecting the Australia-wide experiences of migrant sex workers.

SWOP Chief Executive Officer

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- <sup>i</sup> Community Relations Commission for a Multicultural NSW, 'Inquiry into the exploitation of people through trafficking, in all its forms in NSW', NSW Government, December 2013, 4.  
[http://www.crc.nsw.gov.au/\\_data/assets/pdf\\_file/0015/22434/Inquiry\\_into\\_the\\_exploitation\\_of\\_people\\_through\\_trafficking\\_in\\_all\\_its\\_forms\\_in\\_NSW.pdf](http://www.crc.nsw.gov.au/_data/assets/pdf_file/0015/22434/Inquiry_into_the_exploitation_of_people_through_trafficking_in_all_its_forms_in_NSW.pdf)
- <sup>ii</sup> Australian Federal Police, *Answers to Questions on Notice*, NSW Inquiry into the Regulation of Brothels, 13/10/2015.  
<http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/7829738455F913ECCA257EDD0082B618>
- <sup>iii</sup> Sydney Morning Herald, *New visas remove stigma for slavery and human trafficking victims*, 20 July 2015.  
<http://www.smh.com.au/federal-politics/political-news/new-visas-remove-stigma-for-slavery-and-human-trafficking-victims-20150720-gigmtj.html>
- <sup>iv</sup> The Lancet, *HIV and Sex Work*, July 2014. <http://www.thelancet.com/series/HIV-and-sex-workers>
- <sup>v</sup> Donovan, B., Harcourt, C. et al (2012) *The Sex Industry in New South Wales: a Report to the NSW Ministry of Health*. Sydney: Kirby Institute, University of New South Wales, vi.  
<http://www.kirby.unsw.edu.au/sites/default/files/hiv/attachment/NSWSexIndustryReportV4.pdf>
- <sup>vi</sup> Donovan, B., Harcourt, C. et al (2012) *The Sex Industry in New South Wales: a Report to the NSW Ministry of Health*. Sydney: Kirby Institute, University of New South Wales, 21.  
<http://www.kirby.unsw.edu.au/sites/default/files/hiv/attachment/NSWSexIndustryReportV4.pdf>
- <sup>vii</sup> Donovan B, Harcourt C, Egger S, Watchirs Smith L, Schneider K, Kaldor JM, Chen MY, Fairley CK, Tabrizi S (2012). *The Sex Industry in New South Wales: a Report to the NSW Ministry of Health*.
- <sup>viii</sup> Donovan, B et al, *Improving the health of sex workers in NSW: Maintaining Success* NSW Public Health Bulletin Vol. 21, 2010.
- <sup>ix</sup> Pell, C et al, Demographic, migration status, and work related changes in Asian female sex workers surveyed in Sydney 1993 and 2003 Australian and New Zealand Journal of Public Health, Vol 30 No 2, 2006.
- <sup>x</sup> Pell, C et al Demographic, migration status, and work related changes in Asian female sex workers surveyed in Sydney 1993 and 2003 Australian and New Zealand Journal of Public Health, Vol 30 No 2, 2006.
- <sup>xi</sup> Donovan, B et al 2010.