



**Submission to the Parliamentary Joint Committee on *Law Enforcement Act 2010* Inquiry into Human Trafficking**

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## **Inner South Community Health (ISCH)**

ISCH is a major provider of health and community services across the inner southern region of Melbourne and beyond. With annual budget of \$24 million, ISCH delivers over 150,000 services each year across a broad range of areas spanning pregnancy, childhood, adulthood and seniors, and covering general health, oral health, mental health, homelessness alcohol and drug services and health services and resourcing to the sex industry.

ISCH's vision is of a healthy and inclusive community. ISCH develops and delivers innovative, responsive and targeted health services and takes a leadership role in health promotion, early intervention and prevention, advocacy, evaluation and policy direction. It ensures access and linkage to services for those in the community who may not readily access mainstream services; and aims to make an impact on the health of marginalised people.

This means that whilst it is a mainstream agency delivering a wide range of universal services, many of its programs and services intentionally target individuals and groups whose experience of social exclusion means that they may not readily access mainstream services.

More information about our service is available at [www.ischs.org.au](http://www.ischs.org.au).

## **ISCH's Resourcing Health and Education Program**

ISCH's Resourcing Health and Education (RhED) Program, funded by the Victorian Government, is aimed at resourcing and promoting health among sex workers in the Victorian sex industry. The service provides both centre-based and outreach services. RhED adopts a social model of health, incorporating harm minimisation, health promotion, social inclusion and community participation to promote physical, emotional and social health and wellbeing for its clients. The objectives of the RhED program are:

- to provide relevant health promotion and support services to improve the health and wellbeing and minimise risk to sex workers;
- to use a community participation model to ensure the responsiveness of RhED to the needs of sex workers;
- to advocate for systemic changes to improve the health and wellbeing of sex workers; and
- to develop and strengthen key partnerships that support RhED to achieve positive health and wellbeing outcomes for sex workers.

RhED provides a wide range of support services, including: free, confidential telephone, drop-in, 'net reach' and outreach services; referrals to other services; sexual health screening; information and education on sexual health, occupational health and safety and about government regulations and laws; produces and distributes an Ugly Mugs Report (on potential clients who may be violent); and produces the RED sex industry magazine.

## Response to Parliamentary Joint Committee on Law Enforcement Inquiry into Human Trafficking

### **1. The prevalence of human trafficking into the sex industry in Australia, including from culturally and linguistically diverse communities**

Data relating to the prevalence of human trafficking in the sex industry in Australia is scarce. Consequently, ISCH has mostly refrained from commenting on the level of human trafficking in the sex industry.

The RhED program makes contact with roughly 300 sex workers per month, of which about 35 per cent are immigrants to Australia, including: undertaking over 170 visits a year into legal brothels to talk with; providing nightly outreach to street sex workers; and providing a helpline and drop in service for sex workers). In these interactions we have not been contacted or made aware of trafficking in the industry.

This does not mean sex work trafficking does not happen, but it does suggest it may not be as widespread as is sometimes suggested. Further, research by Wise and Schloenhardt (2014) raised questions about the motivating factors of some publications on sex work trafficking and the reliability of their data on the extent of trafficking in the sex industry.

In 2012 ISCH undertook a Migrant and Multicultural Sex Worker Study which included intensive interviews with 94 multicultural sex workers across 34 brothels. Workers interviewed were employed in both legal and illegal brothels and included Thai, Korean and Chinese workers. The most significant issues multicultural workers reported was their sense of shame, experience of stigma and fear of being reported due to their work. Again, trafficking was not raised as an issue in this research.

While we acknowledge that a reliance on official data is likely to underestimate the extent of trafficking, and that there is no knowledge of the number of cases that are not reported, it is our experience that trafficking in the sex industry may not be as prevalent as is sometimes claimed. If there is an over-estimation of cases reported by some NGOs, as claimed by Wise and Schloenhardt (2014), it is important to note the negative impacts of such reporting on the sector and sex workers. Conflating the problem of trafficking in the sex industry contributes to the stigma and risks that sex workers face.

Given the lack of reliable data on the extent of the problem, ISCH recommends that the Government adequately fund research into the extent and nature of sex trafficking in Australia.

### **2. The role and effectiveness of Commonwealth law enforcement agencies in responding to human trafficking**

ISCH recommends that sexual slavery is most effectively regulated under the current Australian laws criminalising human trafficking which are contained within the Commonwealth *Criminal Code Act 1995*, rather than through the introduction of any laws or regulations relating directly to sex work or the sex work industry. A non-universal response directly related to trafficking for sex

work would further encourage ‘the stereotype that exploitation and the sex industry are inherently linked and therefore migration for sex work equals trafficking’ (Kim and Jefferies, 2013), which is widespread and often recycled in the media.

ISCH is a strong advocate for the full decriminalisation of all sex work in Victoria through repeal of the *Sex Work Act 1994* and the sex work regulations 2006 as part of the state’s urgent efforts to eliminate violence against women, and to help eliminate stigma and discrimination of sex workers. The licensing system has created an environment where sex workers, particularly workers outside the licensing system and those whose work remains criminalised often do not report violence. Therefore, we would not want to see additional regulations directly related to sex work at a Commonwealth level that may place sex workers at further risk of violence, stigma or discrimination.

ISCH strongly advocates for legal and regulatory responses are evidence based and informed by the wellbeing and rights of those affected. The preservation of rights, including to safety, informed consent and ethical and culturally appropriate services, are integral to the effectiveness of any approaches to people trafficked (Working Group of the National Roundtable on People Trafficking, 2008). ISCH recommends that the Government work with the sex industry and sex workers to ensure a more effective, equitable and empowering response for all involved.

Commonwealth advocacy for decriminalisation of sex work by the States would also be an effective strategy to minimise trafficking of sex workers. Amnesty International (2015) reports that ‘there is no evidence to suggest that decriminalisation results in more trafficking. To the contrary, it finds that when sex work is decriminalised, sex workers are better able to work together and demand rights, leading to better working conditions and standards and greater oversight of the commercial sex industry and potential trafficking within it. When they are not threatened with criminalisation, sex workers are also able to collaborate with law enforcement to identify traffickers and victims of trafficking’ (Policy to Protect the Human Rights of Sex Workers. 2015).

Another important issue relates to the migration of sex workers to Australia and the legal response to human trafficking. Sex workers wishing to migrate to Australia face barriers (including visa legislation and discrimination) that encourage workers to enter into unfavourable ‘contract’ arrangements. The lack of working visa arrangements available for overseas sex workers who wish to work in Australia brings about situations where few options exist other than to go through migration contractors, who may have varying degrees of respect for the workers’ rights, resulting in higher risk of exploitation.

### **3. Practical measures and policies that would address human trafficking**

Interventions, policy and legislative reform relating to trafficking of sex work must be evidenced base, and informed by the human rights of those affected. For this to occur, research and evaluation activities should be conducted to support any interventions. Undertaking rigorous research and evaluation

would also enable more effective cooperation between the sex industry and regulatory bodies, and ultimately more effective outcomes for victims.

There are several examples where efforts have been misguided and not evidence based. For example, Victorian regulations that mandate the display of slavery or trafficking signs in legal brothels has not been shown to have any beneficial outcomes reported to date, but have contributed to further stigmatise and marginalise the sex industry and sex workers. No other work force has signage that relates to slavery and/or trafficking. The sexual slavery signage conflates sex work with human trafficking when they are separate issues.

#### **4. The effectiveness of relevant Commonwealth legislation and policies**

ISCH support the view of the Scarlet Alliance that labour exploitation is better addressed within an industrial rights framework. Currently, migrant sex workers who experience poor working conditions often do not access industrial rights mechanisms for fear of prosecution or deportation. The Fair Work Ombudsman provides remedies regardless of a person's citizenship status but are obliged to report any illegalities, including irregular migration status. Migrant sex workers need equitable access to Australian justice mechanisms, arbitration processes, and industrial rights protections, akin to Australian citizens, without fear of arrest or deportation.

#### **Conclusion**

A continued lack of validated data related to trafficking into either the regulated or unregulated sex industry in Australia results in difficulty in accurately estimating the extent or nature of trafficking in the sex industry. In order to ensure that responses are effective in reducing the impact and prevalence of trafficking, it is vital to conduct rigorous and verified research (Inquiry into the trafficking of women for sexual servitude, 2004). Evidence on numbers and means of trafficking, as well as the effectiveness of prevention and intervention approaches would enable rigorous evaluation and the development of best practice approaches. Understanding the impacts of anti-trafficking responses within the sex industry would enable reflective and responsive work to be undertaken by regulatory bodies.

Legislative and policy reform relating to trafficking for sex work must also be informed by the wellbeing and rights of those affected. The preservation of rights including safety, informed consent and ethical and culturally appropriate services are integral to the effectiveness of any approaches to people trafficked for sex work (Guidelines for NGOs Working with Trafficked People, 2008). Working with sex workers and the broader sex industry in order to address the issue of trafficking for the purposes of sex work will enable a more holistic, equitable and empowering response for all involved.

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