



Legislative Assembly Inquiry into the Regulation of Brothels

Regulation of Brothels Committee

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Although the time for submissions has passed, Anti-Slavery Australia requests an opportunity to provide this late submission to the Legislative Assembly Inquiry into the Regulation of Brothels. Concerns about prostitution and trafficking have provoked polarizing views from different groups, fuelled by media coverage. Anti-Slavery Australia has specialist knowledge in the area of trafficking and sexual exploitation. We provide the following information to assist the Committee in taking in a considered, rational and evidenced-based approach to brothel regulation.

Anti-Slavery Australia at the University of Technology, Sydney is a specialist law, research and policy centre dedicated to advancing the rights of people who have experienced slavery or human trafficking, including sex trafficking. Anti-Slavery Australia includes a law practice which provides legal advice and representation to women, men and children who are at risk of or who are victims of sexual exploitation or trafficking. The law practice has operated for 12 years and clients have access to qualified lawyers and migration agents.

This submission draws upon our research, publications and experience advising or representing people who have been at risk of, or subject to sex trafficking or exploitation.

A human-rights approach to sex trafficking

The debate around prostitution and regulation of brothels is often conflated with issues of sex trafficking and sexual exploitation. Stereotypes and moral judgments may underpin policy debate in this area, leading to reforms that do not adequately take into account the rights and interests of sex workers.

The OHCHR has stressed the need to take a “human rights” approach to trafficking generally, being wary of any measures to combat trafficking that compromise the rights of those affected.¹ This policy approach must be applied to sex trafficking. A 2010 briefing paper by the UN Special Rapporteur, Anand Grover, recognised that “the trafficking and enforced sexual slavery of any person is abhorrent, and undoubtedly merits criminal prohibition”. However, the paper warned that conflating consensual sex work with sex trafficking leads to a failure to realise the rights of sex workers, as well as more serious effects of violence and oppression.²

Australian trafficking trends

The latest figures from the AFP demonstrate that although more cases of trafficking are being identified, there has been a drop in the proportion of cases that relate to sexual exploitation in particular. In 2013-12, 43% of new AFP investigations were related to sexual exploitation. This dropped to 29% in 2014-15. In terms of specific clients, 8 out of 24 clients in 2013-14 were exploited in the sex industry, but this fell to 10 out of 38 clients in 2014-15. The incidence of trafficking generally may be growing, but sex trafficking appears to be shrinking.

¹ *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, Office of the High Commissioner for Human Rights, 2010.

² Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, 2010, pg 12.

Proponents of the decriminalisation model may seek to attribute the decline in sex trafficking to the success of this model. However, other reasons for a shrinking incidence of sex trafficking could include increased awareness and therefore vigilance by potential victims, or proactive efforts by anti-trafficking organisations and the AFP. What can be inferred from the statistics is that the current model has not led to an increase in sex trafficking cases. Sex trafficking remains a live issue, but it is not a sharply increasing trend that requires an overhaul of brothel regulations. It should not be used as the basis on which to move away from the decriminalisation model.

The abolitionist model

Abortion was criminalized in Sweden in 1999, by making it an offence for a person to buy sexual services. This 'abolitionist model' was designed to stop the demand for prostitution, and was put forward as a way of solving the issues associated with prostitution without making it illegal for the sex workers themselves to provide services. The law has received strong support in some areas, and the demand for sexual services appears to have been reduced.³ There is also evidence to suggest that Sweden has a lower rate of sex trafficking, since criminal groups view Sweden as a poor market for this kind of activity.⁴ However, this outcome is questionable in light of inadequate anti-trafficking response by the judiciary, leading to a lower rate of convictions for trafficking than may be the reality.⁵

Critics of the Swedish model point out that the apparent reduction in demand may only reflect that fact the market has adapted to the changed law by adopting a more covert style of operation. Invisible markets make it more difficult for law enforcement to address issues of violence and trafficking where they may arise. In a 2012 ACT inquiry into the *Prostitution Act 1992*, the Committee heard from the Attorney-General that the ACT government did not support the Swedish Model because it had driven the industry underground and was contrary to the Government's aims of improving health and safety of sex workers through regulation and maintaining a visible market.⁶

Closing comments

Sex trafficking is an important and complex issue. However, it is not synonymous with consensual sex work. These two issues should not be conflated in policy-making. Sex workers may in some cases be vulnerable to exploitation, but this should be a reason to further safeguard their rights as opposed to undermining them. Statistics from the AFP indicate that while there is still work to be done in addressing sex trafficking and exploitation, the current model has not led to an increase in the incidence of these offences. Anti-Slavery Australia recommends that the protection of human rights remain at the forefront of any measures to combat sex trafficking.

³ 'Sexual Exploitation and prostitution and its impact on Gender Equality' 2014, Policy Department of the European Parliament, pg 55.

⁴ Swedish Government Report (2010), *The Ban against the Purchase of Sexual Services*, pg 29.

⁵ US Department of State (2013), *Trafficking in Persons Report 2013*.

⁶ 'Inquiry into the Prostitution Act 1992', Standing Committee on Justice and Community Safety, February 2012, pg 16.

Anti-Slavery Australia Submission - Senate Legal and Constitutional Affairs Committee Inquiry into
Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015

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