

Submission to the Drugs and Crime Prevention Committee

Inquiry into People Trafficking for Prostitution

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From the Coalition Against Trafficking in Women Australia

P.O. Box 1273
North Fitzroy
Victoria 3068
Australia

www.catwa.org.au

This submission was compiled by Kathy Chambers, Meagan Tyler, Natasha Rave, Kaye Quek, Andrea Main, Erin Richardson, Anna Jennings-Edquist, Sheila Jeffreys, Yunmi Lee .

Introduction

CATWA's primary recommendation is that the social acceptability of men's prostitution behaviour needs to be challenged if the trafficking of women into prostitution is to be effectively dealt with.

A. The extent and nature of trafficking people into Victoria.

There is currently no reliable data on the number of women trafficked to Victoria, or Australia, for the purposes of prostitution. Human trafficking is a difficult area of research and given its illegal nature, very little is known about the extent of such practices and estimates vary widely. Trafficking for the purposes of prostitution can present even greater research challenges as women are often very reluctant to come forward, for many reasons including the extremely traumatic experience of prostitution is likely to play a role in this (Farley et al., 2003). As such, the very limited number of criminal cases for trafficking in Australia must be seen as merely the tip of the iceberg. The Dutch National Rapporteur Against Trafficking in Human Beings, for example, has estimated that only five per cent of all trafficking victims ever come to the attention of the authorities (Putt, 2007).

However, the problem of data on trafficking in Victoria is compounded by the fact that there have been no significant attempts to fund research into this area. Thus, the Coalition Against Trafficking in Women Australia strongly encourages the Victorian Government to fund independent research into trafficking to Victoria for the purposes of all forms of prostitution, including stripping, table-top dancing, escorting and brothel prostitution.

B. The interrelationship – if any – between the unlicensed and licensed prostitution sectors in Victoria, and trafficking for the purposes of prostitution.

Current legislation on prostitution in Victoria leads to a false distinction between the legal and illegal sectors of the industry. Trafficked women – and women in prostitution generally – often move between the legal and illegal sectors and it is common for traffickers to 'sell' women on to other brothel owners.

1. The relationship between the legal (licensed) and illegal (unlicensed) sectors.

Legalisation of prostitution leads to significant growth in the prostitution industry (both legal and illegal) as a whole. The increasing growth of an illegal or unlicensed sector after legalisation is particularly obvious in the Victorian example. In 1999, *The Age* reported that there were at least 100 illegal brothels operating in Victoria (AUTHOR? *The Age*, 1 March, 1999). By 2007 the illegal industry is estimated to comprise 400 brothels (Sullivan, 2007).

The problem with legalisation in this context is that it normalises prostitution and therefore tends to increase demand for prostitution overall, thus ultimately leading to increased trafficking. The 2007 US State Department report *Trafficking in Humans* supported this conclusion. The report contends that the

legalisation of prostitution related activities (such as the maintenance and patronising of brothels) “encourages the growth of modern day slavery by providing a façade behind which traffickers for sexual exploitation operate” (US State Department, 2007). An example of this is the fact that in Australia women who are recruited by traffickers are told on arrival that, because the industry is legal, they have no grounds to complain to police about their conditions of ‘employment’ (Fergus, 2005).

Furthermore, the report concluded that where prostitution is tolerated, there is a greater demand for victims of human trafficking.

2. Organised Crime

One of the most significant reasons given for the legalisation of prostitution in Victoria was the desire to contain organised crime. The legislation has been especially unsuccessful in this regard and links between organised crime and licensed brothels remain prominent. While the legislation prohibits those with criminal records from owning or operating brothels, organised crime syndicates have found ways around this. The convicted criminal Tony Mokbel secretly owned the licensed Top of the Town brothel in Melbourne and used it to launder approximately \$2 million. Also, at least two of Mokbel’s known criminal associates have held brothel licenses in the past (Moor, 2007).

Furthermore, in 2007, the then Victorian Police Commissioner, Christine Nixon, told a parliamentary inquiry that organised crime gangs are entrenched in Victoria’s legal prostitution industry (REF).

3. Trafficking into Victoria’s brothels

The fact that organised crime gangs are involved in both the illegal and legal sectors of Victoria’s prostitution industry provides ample opportunities for the trafficking of women for prostitution. In the late 1990s it was revealed that Victorian sex “businessmen” were involved in the lucrative international sex trade run by crime syndicates and more recently Australian government sources have estimated that the traffickers of women and children into the Australian brothel market earn \$1 million a week from this illegal trade (Sullivan, 2007, p. 214). One example of this trade came to light in 1999 when a Melbourne sex trafficker was found to have brought 40 Thai women into Victoria as “contract workers”, depriving them of their passports and earnings until their “contracts” were worked off. After being imprisoned by the trafficker they were eventually placed in the legal brothel he ran in South Melbourne (Sullivan, 2007, p. 212).

The trafficking of women for prostitution is an ongoing problem in Victoria and especially in Melbourne. As Jennifer Cullen, the national co-ordinator of the AFP’s anti-trafficking team recently stated, Melbourne is a “major destination” for trafficked women in Australia (AUTHOR, *The Age*, 12 March, 2009). This situation was highlighted with the conviction of Wei Tang, who became the first person in Australia to be found guilty of sexual slavery. She was convicted after having held five Thai women captive in a Brunswick St brothel (Club 417), and forcing them to service almost 1000 men as ‘payment’ for the trafficking process (AUTHOR, *The Australian*, 6 December, 2008).

C. Current and proposed intergovernmental and international strategies and initiatives in relation to dealing with trafficking for the purposes of prostitution.

The principal international initiative aimed at dealing with trafficking for the purposes of prostitution is the 2000 Protocol on Trafficking in Persons, also known as the Palermo Protocol, of the United Nations Convention against Transnational Organised Crime. The Protocol makes clear that fundamental to addressing the issue of trafficking for prostitution is ending the demand that fuels the traffic in women. This occurs in Article 9, Clause 5 which requires state parties to

‘adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multicultural cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking’.

CATWA considers the approach found in the Protocol to be the most effective means of preventing and countering trafficking in women for prostitution. In an attempt to implement the Protocol’s recommendations several states have recently undertaken measures to address the demand for trafficked women in prostitution, with varying success. A number of these are discussed below:

Germany and the Netherlands

An example of a strategy that has been unsuccessful in dealing with trafficking for prostitution is the approach taken by both Germany and the Netherlands. Efforts to counter trafficking in both countries are severely hampered by the fact that prostitution remains legal in these states. Thus in Germany it is approximated by many sources that 90 per cent of women in the sex industry are from foreign countries (Raymond 2006), with both Germany and the Netherlands in the top ten of destination countries for sex trafficking (Jeffreys 2009, p. 158). It is estimated even by supporters of legalisation that in cities such as Amsterdam a majority of prostituted women are there as a result of trafficking (Agustin 2002). One strategy adopted by the government of the Netherlands to counter this has been to enlist male buyers of prostitution sex in the fight against trafficking by placing a public notice on a website requesting men to report evidence of trafficked women when soliciting sexual services. The website advised that trafficked women could be identified by bruising, fearfulness, and a lack of responsiveness to the client (Expatica 2006). The effectiveness of such an approach is questionable given that reluctance and bruising are easily found amongst ‘free’ prostituted women (Farley 2003), making it difficult to discern those that have been trafficked from those that have not. It is also doubtful as to whether men who buy prostitution sex care if the women they use have been trafficked. The high numbers of trafficked women in prostitution in these countries would thus seem to indicate the difficulties that exist in combating trafficking without effectively addressing the demand side of trafficking for prostitution.

South Korea

The strategies implemented against trafficking in the South Korea represent a more useful approach for dealing with trafficking in women. The Korean approach is clearly focused on addressing the demand for women in prostitution. As a result of its 2004 anti-trafficking legislation, Act on the Punishment of Intermediating in the Sex Trade and Associated Acts, men who buy prostitution sex are penalised with fines while those caught pimping or trafficking women can be imprisoned for up to ten years. In addition, the Korean government has sought to address demand by educating male buyers of prostitution on the harms that this involves for women. Its Ministry of Justice currently runs 39 'John schools', which convicted male buyers can attend in place of criminal punishment. According to the United States 2009 Trafficking in Persons (TIP) Report, in 2008 there were 17,956 first-time offenders who attended these seminars, which are 'designed to reduce demand for commercial sex acts and give attendees a greater appreciation for the potential for sex trafficking in Korea's sex trade' (US State Department, 2009). The Korean approach is problematic, however, in that it penalises women in prostitution who refuse assistance and services aimed at their leaving the industry. A more suitable model would be one that recognises prostitution as an industry harmful to women, and thus does not penalise women involved in prostitution.

Nordic model

By far the most effective strategy for combating trafficking for the purpose of sexual exploitation is the Swedish legislation, now known as the Nordic Model due to the adoption of a similar approach in Norway and in Iceland. The Nordic Model acknowledges that trafficking is driven by male demand for prostitutes and that prostitution itself is a form of violence against women (Raymond 2004). Furthermore, it acknowledges that in situations where sexual services are purchased, it is usually the woman soliciting sex that is in the less powerful position (Ekberg 2004). As such the laws do not punish the persons selling sex – rather it is only the purchase of sexual services that is illegal (Raymond 2004). These laws apply to all forms of prostitution including brothels, escort agencies and kerb crawling (Ekberg 2004).

These laws have been very successful. Following the implementation of these laws, the rate of prostituted women per thousand of the population is estimated at 0.3. In Germany, on the hand, the rate is 3.8 per thousand (Ward and Day, 2004). Similarly, the number of women in prostitution has nearly halved and there is no evidence of new recruits, and trafficking has virtually halted (Ekberg 2004).

Of all the intergovernmental and international strategies and initiatives available, the Nordic Model is by far and away the most effective strategy for countering human trafficking. It is victim friendly, education based and most importantly, statistics show it works.

D. The need for policy and legislative reform to combat trafficking for the purposes of sex work in Victoria.

Current Victorian policy on trafficking for the purposes of prostitution is primarily centred on the prosecution of traffickers. CATWA believes that prostitution is a form of violence against women, and therefore must be addressed within a policy and legislative framework which recognises it as such. This is not sufficient. It is the position of CATWA that primary prevention must be the cornerstone of policy and legislative reform - that is, strategies must focus on the demand from Australian 'customers' for the use of women and girls in prostitution. Strategies of primary prevention include wide-ranging public education campaigns on the unacceptability of purchasing women and girls for sexual services. This should be accompanied by adequate support services for trafficked women.

Recommendations

1. Implementation of the Nordic Legislative Model

CATWA strongly believes that the single most important legislative reform to combat trafficking of women to Australia for prostitution is the implementation of the Nordic model. The Nordic model directly addresses demand for prostitution by penalising those who use women in prostitution and those who profit from it, while simultaneously supporting the victims/survivors of prostitution. This model also challenges the normalisation of prostitution by sending a strong message that violence against women in the form of prostitution is unacceptable in the eyes of the Victorian Government.

CATWA believes that legislative reform must be driven and complemented by holistic policy reform, including:

2. Primary prevention

Strategies of primary prevention must be adopted, including broad social education campaigns that address demand for prostitution, as recognised in Article 9 of the Palermo Protocol (see Appendix A). Explicit in this public education must be the recognition that prostitution is a form of violence against women and the promotion of equal and respectful relationships between women and men. Strategies may draw on recent policy and best-practice developments in addressing violence against women generally. See, for example, the best-practice primary prevention framework developed by VicHealth in 2007, *Preventing violence before it occurs: A framework and background paper to guide the primary prevention of violence against women in Victoria*¹.

3. Victim/survivor centred models

¹ VicHealth provides a useful definition of primary prevention as strategies that:

- seek to prevent violence before it occurs,
- can be delivered to the whole population (universal) or to particular groups that are at higher risk of using or experiencing violence in the future (targeted or selective), and focus on changing behaviour and/or building the knowledge and skills of individuals as well as the structural, cultural and societal contexts in which violence occurs.

VicHealth, *Preventing violence before it occurs: A framework and background paper to guide the primary prevention of violence against women in Victoria* (VicHealth 2007).

There must also be a greater emphasis on victim/survivor centred models of addressing trafficking to complement the existing focus on prosecution. Victim/survivor centred models must address women's needs in the short, medium and longer term and must support their personal security, mental health and wellbeing, physical health and wellbeing, financial wellbeing and legal security, as is explicit in Article 6 of the Palermo Protocol. CATWA strongly recommends that the provision of holistic support for victims/survivors of trafficking (See Appendix B) be made a central pillar of Victorian Government policy aimed at combating trafficking for prostitution. Comprehensive, short, medium and long-term support is particularly critical considering the risk of re-trafficking faced by trafficked women and girls.

4. Victoria Police Crimes Unit

CATWA recommends the establishment of an independent unit, situated within the Victoria Police Crimes Unit, to deal with issues of prostitution and trafficking in Victoria. CATWA believes that the current location of Prostitution within Consumer Affairs is inappropriate given the clear links to organised crime and trafficking in persons (see Section 2). The Victoria Police Crimes Unit must be adequately trained and sensitised to the issues inherent in working with women who are survivors of trafficking.

5. Greater collaboration

Greater collaboration and partnership with the Australian Commonwealth Government, the Australian Federal Police, Victorian Government and Victoria Police. This would help to ensure an integrated, coordinated response.

Is reform possible in a context of legalised prostitution?

CATWA considers that positive policy changes can be introduced within a legislative environment in which prostitution is legalised. An existing example of this approach are the anti-tobacco public health campaigns which recognise that smoking is always harmful although currently legal. CATWA believes that this approach if applied to prostitution would produce incremental changes in the socio-political environment that would pave the way for the eventual implementation of the Nordic Model. As long as prostitution is regarded as an acceptable and harm free industry, trafficking and all the other associated harms cannot be effectively dealt with.

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APPENDIX A – APPLICABLE SECTIONS OF THE PALERMO PROTOCOL

II. Protection of victims of trafficking in persons

Article 6

Assistance to and protection of victims of trafficking in persons

(3):

Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
- (d) Employment, educational and training opportunities.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and

other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to

prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

APPENDIX B – HOLISTIC SUPPORT SERVICES FOR VICTIM/SURVIVORS OF TRAFFICKING FOR PROSTITUTION:

Holistic support for victims/survivors of trafficking:

Need/problem	Service/facility [^]	Early stage	Middle stage	Late stage
Personal security	*Shelter, housing *Communications assistance	*Staffed, secure shelters in secret locations *Communication with women's groups in countries/regions of origin to prevent traffickers approaching family members for debt recovery or reprisal	*Secure housing monitored for the presence of pimps and traffickers *Assistance in contacting friends and family *Contact with other trafficked women receiving assistance	*Shelters for longer term residence or assistance to secure appropriate housing *Childcare for dependents
Mental health	*Counselling *Psychiatric treatment	*Sexual violence trauma counselling *Suicide prevention treatment	*Ongoing counselling to address long-term effects of trauma from sexual violence and injury	*Peer counselling *Treatment for mental illness *Measures to encourage network building outside of the sex industry (e.g., community based social groups, hobbies)

				<p>requiring contact with outsiders)</p> <p>*Peer organising: peer counselling among survivors of trafficking can lead to the establishment of autonomous survivor groups that support women to stay out of the sex industry, and organise politically</p>
Physical health	<p>*Medical treatment and provision of medication information</p>	<p>*Medical treatment of acute injury and illness, particularly arising from the violence of prostitution</p>	<p>*Medical treatment of chronic injury and illness</p> <p>*Drug and alcohol treatment</p>	<p>*Management of chronic illnesses</p> <p>*Hepatitis treatment and management</p>
Financial wellbeing	<p>*Legal/mediation assistance</p> <p>*Financial counselling</p> <p>*Employment mediation</p>	<p>*Structured negotiation to resolve debt or other financial problems with pimps and brothel owners</p>	<p>*Financial counselling for non-sex industry debt</p> <p>*Financial assistance and loans</p> <p>*Assistance preparing personal documents and</p>	<p>*Employment mediation, or advice on starting a small business</p> <p>*Job skills training, and development of micro-projects that may lead to income generation (e.g., garden or art projects)</p>

			facilities such as bank accounts	
Legal security	*Legal/mediation assistance	*Migration/visa advice *Legal advice regarding court process and rights	*Legal advice in relation to debt and financial claims	*Legal recourse for injury/disadvantage suffered in prostitution *Legal advice in relation to crimes suffered before entering prostitution, such as childhood sexual abuse *Migration advice for family members abroad