

**Submission
No 57**

INQUIRY INTO THE REGULATION OF BROTHELS

Organisation: Coalition Against Trafficking in Women Australia (CATWA)
Name: Dr Meagan Tyler
Position: Public Officer
Date Received: 18/08/2015



**CATWA Submission to the Inquiry into the Regulation of
Brothels in New South Wales**

August 2015

Coalition Against Trafficking in Women Australia

www.catwa.org.au

Contents

Who are we?	3
Key recommendations	3
Response to 2(c): Possible reform options that address the social, health, and planning challenges associated with legal and illegal brothels.	4
Response to 3(d): Options for reform include a scheme of registration or licensing system for authorised brothels.	5
Response to 3(e): The protection of sex workers including issues around organised crime and sex trafficking.	6
Response to 3(h): Any legislative changes that may be required.	7

Who are we?

The Coalition Against Trafficking in Women Australia (CATWA) is the Australian branch of CATW International, a Non Governmental Organisation that has Category II consultative status with the United Nations Economic and Social Council. It works locally and internationally to end all forms of sexual exploitation of women, especially in relation to issues of prostitution and trafficking in women.

Key Recommendations

CATWA recommends a number of legislative and policy changes to assist with limiting and monitoring the sex industry, furthering the protection of prostituted persons, and reducing trafficking inflows.

Extensive research by our organisation, over more than two decades, has shown that neither the NSW system of decriminalisation nor the legalised system of Victoria offer sufficient protection for prostituted persons or the wider community. Based on this, CATWA makes the following recommendations:

- Alter legislation to remove any criminalisation for solicitation by prostituted persons;
- That the government establish comprehensive exit programs for women wanting to leave the industry;
- As a matter of urgency, a special police task force be established to work with immigration officials to investigate visa abuses in the sex industry;
- That women found to be working in brothels while still on tourist visas be afforded protection whilst any further visa issues are being resolved;
- That the government establish programs that address the links between sex trafficking and prostitution, as recommended in the *TIP Report* and educative programs to address sex-buyers and the issue of demand;
- That the government fund further research into the conditions for prostituted persons in the sex industry in NSW.

2(c) Possible reform options that address the social, health, and planning challenges associated with legal and illegal brothels.

The Coalition Against Trafficking in Women Australia (CATWA) advocates for what is known as the ‘Nordic Model’ of legislation – or asymmetric decriminalisation – as the best reform option to address the social, health, and planning challenges associated with legal and illegal brothels.

The Nordic Model, which has been adopted in Sweden, Norway, Iceland, Northern Ireland and Canada, and is being considered in a number of other countries (including France, Israel, Ireland, Scotland and Lithuania), is a legislative approach which recognises that prostitution is a form of violence against women and, more broadly, that it undermines women’s equality.

The Nordic Model functions by decriminalising prostituted persons but prohibiting pimping, brothel owning and the purchase of sex. Evidence, particularly from Sweden – where the Nordic Model originated – shows that it successfully reduces the market for prostitution and decreases trafficking inflows.¹ Numerous women’s groups and prostitution survivors’ organisations around the world also endorse the Model.²

In terms of **social challenges**, the Nordic Model addresses the problem of sexual and physical violence toward women in prostitution, which numerous studies show to be pervasive.³ It also addresses the problem of trafficking. There is evidence that the Nordic Model has significantly reduced this problem⁴ while the legalisation of prostitution has failed to do this. In fact, legalisation is linked to increases in sex industry trafficking.⁵

¹ Tyler, M. et al. (2013) *Demand Change: Understanding the Nordic Model*. Melbourne: The Coalition Against Trafficking in Women Australia. Available from: http://catwa.org.au/files/images/Nordic_Model_Pamphlet.pdf

Waltman, M. (2011) Sweden’s Prohibition of Purchase of Sex: The Law’s Reasons, Impact, and Potential. *Women’s Studies international Forum* v34(5): 449-474.

Cho, S. et al. (2013) Does Legalized Prostitution Increase Human Trafficking? *World Development*, v 41(1): 67-82.

² Including: The European Women’s Lobby, Equality Now, SPACE International, Survivors for Solutions, the Institute for Feminism and Human Rights and Eaves Charity for Women, to name a few. Further organisations can be found here: <https://theconversation.com/does-decriminalising-pimping-further-womens-rights-46083>

³ Nixon, K. et al. (2002) The Everyday Occurrence of Violence in the Lives of Girls Exploited through Prostitution. *Violence Against Women* v8(9): 1016-1043.

⁴ Waltman, M. (2011) Sweden’s Prohibition of Purchase of Sex: The Law’s Reasons, Impact, and Potential. *Women’s Studies international Forum* v34(5): 449-474.

⁵ Sullivan, M. (2007) *Making Sex Work: A Failed Experiment of Legalised Prostitution in Australia*. Melbourne: Spinifex.

Cho, S. et al. (2013) Does Legalized Prostitution Increase Human Trafficking? *World Development*, v 41(1): 67-82.

In terms of **health challenges**, prostitution has a devastating impact on the health of those in it. The health problems suffered by people in prostitution include: sexually transmitted diseases, respiratory problems, symptoms of premature aging, depression, and posttraumatic stress disorder (PTSD).⁶ A study of 854 people currently or recently in prostitution, across nine countries, found that 68% met the criteria for PTSD, a similar rate to that among combat veterans.⁷ Research also shows that women often find it very difficult to exit prostitution, even if they strongly wish to do so.⁸

One of the most important elements of any public health approach to prostitution, therefore, is to develop and fund comprehensive exit programs that assist prostituted persons in overcoming trauma and that facilitate a transition to other work and educational opportunities.

3(d) Options for reform include a scheme of registration or licensing system for authorised brothels.

The system of brothel licensing in Victoria (and similar systems in Germany and the Netherlands) have failed in terms of limiting the sex industry, reducing the involvement of organised crime and increasing the safety of prostituted persons.⁹ Indeed, research shows that legalised systems increase the demand for prostituted persons and subsequently an illegal industry flourishes and often outstrips the size of the legal industry in jurisdictions where brothel licensing operates.¹⁰ There is also evidence to suggest that legalised models, as a result of increasing demand, also increase trafficking inflows.¹¹

⁶ Farley, M. 'Bad for the Body, Bad for the Heart': Prostitution Harms Women Even if Legalized or Decriminalised. *Violence Against Women*, v10(10): 1087-1125.

⁷ Farley, M. et al. (2004) Prostitution and Trafficking in Nine Countries. *Journal of Trauma Practice*, v2(3-4): 33-74.

⁸ See for example: Baker, L. et al. (2010) Exiting Prostitution: An integrated model. *Violence Against Women*, v16(5): 579-600.

Mansson, S. and Hedin, U.C. (1999) Breaking the Matthew Effect – on Women Leaving Prostitution. *International Journal of Social Welfare*, v8(1): 67-77.

⁹ Sullivan, M. (2007) *Making Sex Work: A Failed Experiment of Legalised Prostitution in Australia*. Melbourne: Spinifex.

See also: Federal Ministry for Family Affairs (2007) *Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes*. Berlin: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

Daalder, A.L. (2007) *Prostitution in the Netherlands since the Lifting of the Brothel Ban*. Weenschappelijk Onderzoek en Documentatiecentrum (WODC). Den Haag, Netherlands: Boom Juridische uitgevers, WODC.

¹⁰ Sullivan, M. (2007) *Making Sex Work: A Failed Experiment of Legalised Prostitution in Australia*. Melbourne: Spinifex.

Tyler, M. et al. (2013) *Demand Change: Understanding the Nordic Model*. Melbourne: The Coalition Against Trafficking in Women Australia

¹¹ Cho, S. et al. (2013) Does Legalized Prostitution Increase Human Trafficking? *World Development*, v41(1): 67-82.

It is important to note that similar trafficking abuses, detailed below in **3(e)** are also found in the more tightly regulated system of legalised brothels in Victoria. For example, in 2014, a Chinese woman without an appropriate visa was discovered hiding in a wall cavity in a legal brothel in suburban Seaford after concerns were raised by a former manager about women on tourist or student visas working there.¹² The brothel owner was fined \$65,000 but was not banned from owning a brothel.¹³

A legalised system of brothel licencing should not, therefore, be seen as the solution or ‘cure all’ to problems of sex trafficking, organised crime and the safety of persons in prostitution.

3(e) The protection of sex workers including issues around organised crime and sex trafficking.

Australia continues to be a destination country for women trafficked into the sex industry.¹⁴ This exploitation, and the involvement of organised crime, is still found in decriminalised systems (such as NSW) and legalised systems (such as Victoria). An on-going problem is the exploitation and abuse of women through visa irregularities.

There are numerous reports of young Asian women coming to Australia on tourist or student visas and being lured or coerced to work in both legal and illegal brothels. This was again recognised by the US Department of State in the 2015 *Trafficking in Persons Report*, which states that Australia is a destination country for girls and women subjected to sex trafficking:

Some women from Asia and—to a lesser extent—Eastern Europe and Africa migrate to Australia to work legally or illegally in a number of sectors, including the sex trade. Subsequent to their arrival, some of these women are coerced into prostitution. Some foreign women—and sometimes girls—are held in captivity, subjected to physical and sexual violence and intimidation, manipulated through illegal drugs, and obliged to pay off unexpected or inflated debts to traffickers.¹⁵

The report goes on to recommend that there be a targeted campaign of clients of the legal sex industry to raise awareness of the links between prostitution and trafficking.

¹² Bucci, N. et al. (2015) Wall cavity brothel owners to face penalties. *The Age* (Melbourne), 6th February.

¹³ Bucci, N. et al. (2015) Brothel owner who built secret room escapes ban. *The Age* (Melbourne), 17th July.

¹⁴ US Department of State (2015) *Trafficking in Persons Report*. Washington D.C.: US Department of State. Available from: <http://www.state.gov/j/tip/rls/tiprpt/>

¹⁵ *Ibid.*, 77.

The emphasis should therefore be on curbing sex buyers and reducing the demand for prostituted persons.

Evidence exists, both in NSW and other states, that trafficked women are often part of complex visa scams involving organised crime. The women may be subjected to shifts of up to 17 or more hours at a time and are expected to perform unprotected sex.¹⁶ Some women have been held as virtual captives by the brothel owners.¹⁷ In one illegal brothel, Asian women were offered at rates of \$90 less than their Caucasian counterparts.¹⁸ This adds another worrying dimension to the already exploitative nature of the industry.

3(h) Any legislative changes that may be required.

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 constitutes asymmetric decriminalisation: it directly addresses demand for prostitution by criminalising sex buyers and third parties who profit from prostitution, while simultaneously supporting the victims/survivors of prostitution and trafficking. CATWA advocates that all penalties should apply to pimps, brothel owners and buyers of prostituted persons, and that no penalties should be associated with prostituted persons themselves. When sex buyers risk punishment, demand is decreased and the profitability of local prostitution markets is undermined. Without these markets, the trafficking of persons for prostitution can no longer be facilitated in the local context.

Of all the intergovernmental and international strategies and initiatives available, the Nordic Model is the most effective strategy for countering the demand for prostitution. It is victim-friendly, education-based and, most importantly, research shows that it works.¹⁹ The adoption of the Nordic Model would send a strong message that violence against women in the form of prostitution is unacceptable in the eyes of the New South Wales government.

¹⁶ Gardiner, S. (2013) 'Jail for brothel keeper who enslaved women.' *Sydney Morning Herald*, 6th July.

¹⁷ Duff, E. (2014) 'Trafficking: Women lured with student visas forced into sex slavery.' *Sydney Morning Herald*, 30th March.

¹⁸ Duff, E. (2014) 'Fears of exploitation after low fees for Asian sex workers revealed.' *Sydney Morning Herald*, 26th October.

¹⁹ Waltman, M. (2011) Prohibiting sex purchasing and ending trafficking: The Swedish Prostitution Law. *Michigan Journal of International Law*, 33: 133-157.

In line with the principles of asymmetric decriminalisation (the Nordic Model), CATWA specifically recommends, at a minimum, that the NSW government alter the existing legislation in the following ways:

- **Raises** the maximum penalty for causing or inducing prostitution, which is currently set at ‘50 penalty units or imprisonment for 12 months, or both’²⁰ and;
- **Removes** the penalties for ‘soliciting clients by prostitutes.’²¹

NB: This report was compiled by and agreed to by the executive committee of the Coalition Against Trafficking in Women Australia (CATWA)

²⁰ Summary Offences Act 1998 (NSW) s.3.15A (Austl.).

²¹ Summary Offences Act 1998 (NSW) s.3.19 (Austl.).