



CATWA Submission to the Inquiry into  
establishing a Modern Slavery Act in Australia

April 2017

**Coalition Against Trafficking in Women Australia**

[www.catwa.org.au](http://www.catwa.org.au)

## **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.

## **About this submission**

This submission from the Coalition Against Trafficking in Women Australia focuses on the area of our organisation's expertise: the trafficking of women for the purposes of sexual exploitation. While there are other forms of trafficking, women are disproportionately targeted by traffickers, making up around two thirds of all reported victims of all forms of trafficking (UNODC, 2011), and sexual exploitation is the most commonly identified form of trafficking in persons (UNODC, 2014). This is especially important in the Australian context, as Australia is 'primarily a destination country for women and girls subjected to sex trafficking', according to the US Department of State (US Dept. of State, 2015).

## **Key recommendations**

That trafficking (primarily of women) for sexual exploitation be recognised as a key area of concern regarding modern slavery in Australia.

That the demand for the purchase of sexual services must be addressed in order to prevent trafficking for sexual exploitation.

That international best practice for preventing trafficking for sexual exploitation is the Nordic Model approach to the sex industry; a system of asymmetric decriminalisation where sex buying is illegal, but all criminal sanctions against prostituted persons are removed.

That the Nordic Model is the best policy and legislative approach for meeting Australia's obligations under the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol).

That any framework for a future Modern Slavery Act must address the shortcomings identified in the relevant UK Act, and should be victim-centred rather than focused on border protection.

**The nature and extent of modern slavery (including slavery, forced labour and wage exploitation, involuntary servitude, debt bondage, human trafficking, forced marriage and other slavery-like exploitation) both in Australia and globally;**

Australia continues to be a destination country for women trafficked into the sex industry (US Dept. of State, 2015), but there is no definitive data on the number of persons trafficked into Australia (Flynn et al, 2014). Human trafficking is a difficult area of research and, given its illegal nature, the precise extent of such practices can be difficult to ascertain, although they are understood to be widespread (UNODC, 2011, 2014). The International Labor Organisation (ILO) estimates that almost 21 million people worldwide (or about three in every 1000 people) are victims of forced labour, bonded labour, and commercial sexual servitude (ILO, 2012).

Trafficking for the purposes of sexual exploitation often carries acute harms for victims, with the violation of forced labour compounded by repeated rape and associated high levels of psychological distress and physical harm (Farley, 2003). Although the exact scale of sex trafficking to Australia is difficult to determine with precision, researchers have estimated that approximately 2000 women are trafficked to Australia each year for sexual exploitation (SBS, 2012). Furthermore, it is clear that the domestic Australian sex industry targets Asian women for sex trafficking and procurement into systems of prostitution. A 2014 study of the online advertising of Melbourne-based prostitution businesses found 41 per cent promoting predominantly Asian women (Street & Norma, 2016). A 2012 report to the New South Wales Ministry of Health also determined that more than 50 per cent of survey respondents in approved brothels in metropolitan Sydney were of 'Asian' or 'other non-English speaking background', and nearly 45 per cent of these respondents were categorised as speaking only 'poor' or 'fair' English (Donovan et al., 2012). These circumstances suggest that vulnerable populations of women are targeted by the sex industry, raising concerns around debt-bondage, consent, and a lack of support for victims to exit prostitution.

**The prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia;**

The Coalition Against Trafficking in women wishes to highlight that the sex industry is a key area for trafficking into Australia and CATWA recommends specific measures to address the demand for sexual exploitation in this country.

There have been numerous media reports of trafficking, debt bondage and sexual slavery into Australia, including in legal brothels in states where the sex industry is legal and regulated (e.g. Bucci et al. 2015; Duff, 2015; McKenzie & Beck, 2011; SBS, 2012; Uibu, K. 2015). The ongoing issues of organised crime and trafficking into the sex industry in Sydney were also raised by both the New

South Wales Police and the Australian Federal Police during the 2015 inquiry into brothel regulation in New South Wales (Henskens et al., 2015).

Trafficking for sexual exploitation is a key area of trafficking to Australia, and therefore, the sex industry, and the practices of businesses therein, should come under particular scrutiny in any future legislative and policy approaches.

**Identifying international best practice employed by governments, companies, businesses and organisations to prevent modern slavery in domestic and global supply chains, with a view to strengthening Australian legislation;**

International best practice for preventing the trafficking in women and children for sexual exploitation is the Nordic Model. The Nordic Model constitutes a system of asymmetric decriminalisation of the sex industry: it directly addresses demand for trafficking and sexual exploitation by criminalising sex buyers and third parties who profit from prostitution, while simultaneously decriminalising and providing material support to the victims/survivors of trafficking and prostitution (Waltman, 2011).

The Nordic Model originated in Sweden, where it was introduced in 1999, and has been adopted (with some level of variation) in Norway, Iceland, Northern Ireland, Ireland Canada and France, and is being considered in a number of other jurisdictions including Israel and Italy (Tyler et al., 2017). The Nordic Model has been endorsed as best practice for tackling trafficking and gender inequality by the European Parliament (2014). Furthermore, the Council of Europe (2014) has declared the Swedish legislation to have had 'proven positive results in terms of reducing demand for trafficking' and has called on all member states to discourage, including through criminalisation, the purchase of sexual services as a way of addressing modern slavery in Europe.

In order to prevent modern slavery in the sex industry in Australia, more needs to be done to address the demand for commercial sexual services. International research has shown that, in countries where the purchase of sexual services is legalised – and, therefore, increasingly socially tolerated – demand outstrips supply and women are trafficked into the growing and lucrative markets for prostitution to meet demand (Cho et al., 2013). When the buyers of prostitution 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.

**The implications for Australia's visa regime, and conformity with the *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* regarding federal compensation for victims of modern slavery;**

The Nordic Model is also an important way in which Australian can better meet its obligations under the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, also known as the Palermo Protocol. The Palermo Protocol makes clear that fundamental to addressing the issue of trafficking for the purposes of prostitution is ending the demand that fuels the traffic in women. This occurs in Article 9, Clause 5, which requires states to:

[A]dopt 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.

The approach taken in the Protocol – to focus on primary prevention and demand – has been found to be one of the most effective means of preventing and countering trafficking in women for sexual exploitation.

The Coalition Against Trafficking in Women Australia has also submitted to previous trafficking inquiries that the Australian government should establish an ongoing compensation scheme for victims of trafficking.

**Provisions in the United Kingdom’s legislation which have proven effective in addressing modern slavery, and whether similar or improved measures should be introduced in Australia;**

While CATWA welcomes renewed government interest in addressing the human rights abuse of trafficking, it remains unclear whether the Modern Slavery Act in the UK, and the approach taken within it, are effective and the best way forward. In particular, the UK legislation has been criticised for a lack of enforceability, especially around transparency and reporting of supply chains requirements (Farrell, 2016). There have also been criticisms from human rights groups, that the legislation – largely a consolidation of existing laws – is framed primarily through a focus on border protection and illegal immigration, rather than on victim support mechanisms (Anti-Slavery International, 2015). The introduction of an anti-slavery commissioner has been welcomed, but with questions about impartiality and independence (Farrell, 2016).

These issues would have to be addressed, and a case for the superiority of consolidated legislation regarding trafficking would need to be made, in order for it to be clear as to why Australia should adopt a Modern Slavery Act and why this is preferable over other approaches, such as the Trafficking Victims Protection Act and the Survivors of Human Trafficking Empowerment Act in the United States.

## **Whether a Modern Slavery Act should be introduced in Australia**

If a proposed Modern Slavery Act in Australia is to be modelled on legislation from the UK, then existing criticisms – including a lack of enforceability around supply line reporting, and a lack of a victim-centred framework – would need to be addressed in order to ensure the Act would be potentially useful and effective.

If such an Act were to be introduced in Australia, CATWA would welcome the appointment of an anti-slavery commissioner, compensation for victims of trafficking, and specific details addressing demand for sexual exploitation in Australia.

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## The Coalition Against Trafficking in Women Australia