



# **CATWA Submission to the Request for Information for the 2022 Trafficking in Persons Report**

**February 2022**

**Coalition Against Trafficking in Women Australia**

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

## **Who we are**

The Coalition Against Trafficking in Women Australia (CATWA) was formed in Melbourne, Australia in 1994 and is the Australian branch of CATW International. CATWA is a Non-Governmental Organisation that has Category II consultative status with the United Nations Economic and Social Council. CATWA works locally and internationally to end all forms of sexual exploitation of women, especially in relation to issues of prostitution and trafficking in women.

## **Executive summary**

- Australia continues to be a destination country for women and girls trafficked into the domestic sex industry, primarily from the Asia-Pacific region
- Despite sex trafficking being the primary form of trafficking to occur in Australia, the Australian federal government has implemented a definition of “modern slavery” that contains no reference to sexual exploitation
- Australian male nationals travel to Asian countries to undertake prostitution tourism, as well as access web-based prostitution businesses online that facilitate the live-streamed prostitution of women and children
- Asian women are overrepresented in Australia’s legalised and decriminalised sex industries, the proportion of Asian women is believed to be even higher in the illicit massage industry
- The dominant framing of prostitution as “sex work” has resulted in grave human rights abuses such as sexual and labour exploitation, as well as indicators of human trafficking, being understood as merely negatives of the job
- Australia has not made serious or sustained efforts to reduce the demand for commercial sex acts. Instead, state and territory legislative approaches to prostitution encourage a thriving sex industry
- Embracing prostitution as “sex work,” a legitimate occupation, precludes efforts to prevent women and girls from entering prostitution and to support those who wish to exit the sex trade

## **Recommendations**

- Australia’s Tier 1 ranking should be reconsidered to reflect the disregard shown by the federal government towards its anti-trafficking obligations to encourage increased and coordinated anti-trafficking efforts
- The Australian government should seek out and prioritise voices of survivors of trafficking and prostitution in discussions of prostitution and trafficking
- The Australian government should consider implementing the Nordic/Equality Model, which has been recognised as international best practice for combatting prostitution and trafficking for sexual exploitation

- The Australian government should recognise demand for sexual services as fuelling sex trafficking and, as such, be discouraged in line with international obligations (eg. Palermo Protocol).

## Table of Contents

<b>Who we are</b> .....	<b>2</b>
<b>Executive summary</b> .....	<b>2</b>
<b>Recommendations</b> .....	<b>2</b>
<b>About this submission</b> .....	<b>3</b>
<b>Australia’s trafficking context</b> .....	<b>4</b>
<b>Australia’s sex industry continues to rely on the trafficking of women from Asian nations</b> .....	<b>5</b>
<b>Australian state and territory sex industry legislation undermines federal obligations to combat the demand that fosters trafficking for sexual purposes</b> .....	<b>9</b>
<b>Recommendations</b> .....	<b>12</b>

### About this submission

This submission from the Coalition Against Trafficking in Women (CATWA) 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, and sexual exploitation is the most commonly identified form of trafficking in persons.<sup>1</sup> This is especially important in the Australian context because, even though Australia has been consistently identified as “primarily a destination country for women and girls subjected to sex trafficking,”<sup>2</sup> the federal government continues to issue statements contradicting the spirit of such observations, particularly since 2013. For example, the definition of “modern slavery” in Australia’s *National Action Plan to Combat Modern Slavery 2020–25* contains no reference to sexual exploitation. “Modern slavery” instead “include[s] trafficking in persons, slavery, servitude, forced labour, deceptive recruiting for labour or services, debt bondage, and forced marriage.”<sup>3</sup>

---

<sup>1</sup> UNODC (2018) ‘Global Report on Trafficking in Persons 2014’. Vienna: United Nations Office on Drugs and Crime. Available from: <https://www.unodc.org/unodc/data-and-analysis/glotip.html>

<sup>2</sup> US Department of State (2018) ‘Trafficking in Persons Report: Australia’. Washington D.C.: US Department of State. Available from: <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243387.htm>

<sup>3</sup> <https://www.homeaffairs.gov.au/criminal-justice/files/nap-combat-modern-slavery-2020-25.pdf>, p. 7

## **Australia's trafficking context**

Australia continues to be a destination country for women trafficked into the sex industry, however, there is currently no reliable data on the number of persons trafficked into Australia. Human trafficking is a difficult area of research and, given its illegal nature, little is known about the precise extent of such practices although they are thought to be widespread.<sup>4</sup> 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.<sup>5</sup> Trafficking for the purposes of sexual exploitation can present an even greater research challenge, as women are often very reluctant to come forward for a variety of reasons, including extreme trauma.<sup>6</sup> As such, the very limited number of criminal cases brought for sex trafficking related offences in Australia, and globally, should be seen as merely the tip of the iceberg. Indeed, the Australian Commonwealth government's overseas aid organisation on its website recognises in explicit terms the threat of the "commercial sex industry" for female "sex trafficking" victims in the Asia-Pacific region,<sup>7</sup> but inexplicably does not extend this comprehension to Australia itself, which is presumably in the "Asia-Pacific region." But government and NGOs in Asia do recognise Australia as a threat to their female nationals in terms of sex trafficking.<sup>8</sup> The South Korean government has previously undertaken sex trafficking awareness training among working-holiday visa holders destined for Australia.

This Australian demand for the sexual exploitation of women and children is exercised by its male nationals in Asian countries, especially Thailand.<sup>9</sup> These men travel to Asian countries in large numbers to undertake prostitution tourism, as well as access web-based prostitution businesses online that facilitate the live-streamed prostitution of women and children, often based on verbal instructions given by buyers.<sup>10</sup> The failure of Australian banks to impede credit card payments to such businesses of sexual exploitation resulted in major government and private sector investigations in 2019.<sup>11</sup> But Australians continue to be linked to the sexual

---

<sup>4</sup> US Department of State (2018) 'Trafficking in Persons Report: Australia'. Washington D.C.: US Department of State. Available from: <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243387.htm>

<sup>5</sup> Putt, J. (2007) 'Human Trafficking to Australia: A research challenge'. Canberra: Australian Institute of Criminology.

<sup>6</sup> Farley, M. et al. (2003) 'Prostitution and Trafficking in Nine Countries'. *Journal of Trauma Practice*, v2(3-4): 33-74.

<sup>7</sup> See section 'Women and girls,' at <https://www.aseanact.org/inclusivity/>

<sup>8</sup> For example, see <https://borgenproject.org/child-sex-trafficking-in-indonesia/>

<sup>9</sup> See <https://www.smh.com.au/national/thai-police-arrest-australian-accused-of-selling-sex-cruises-20180619-p4zmkh.html>

<sup>10</sup> See <https://antislavery.org.au/wp-content/uploads/2020/02/behind-the-screen-report.pdf>

<sup>11</sup> See <https://www.theguardian.com/australia-news/2019/nov/21/pressure-grows-westpac-chief-brian-hartzer-austrac-child-exploitation-allegations>

exploitation of children of Asia for profit, either through in-country pimping or online pornography production.<sup>12</sup>

Australia's *National Action Plan to Combat Modern Slavery 2020–25* unexpectedly notes that “[v]ictims of sexual exploitation are declining as a proportion of total victims” that are assisted by Australia’s “Support for Trafficked People Program”, but offers no explanation for this withdrawal of assistance.<sup>13</sup> Aside from changes wrought by the pandemic, there is little indication of any contraction in the size or intensity of the activities of Australia’s sex industry.<sup>14</sup> In fact, the deregulation of the sex industry in the Australian state of Victoria in 2022,<sup>15</sup> and the reduced commercial overheads it will likely bring, will probably motivate even greater efforts to channel women into prostitution businesses in Australia in the next few years.

### **Australia’s sex industry continues to rely on the trafficking of women from Asian nations**

Although the exact scale of sex trafficking to Australia is difficult to ascertain, it is clear that the domestic sex industry targets Asian women for sex trafficking and procurement into prostitution. Beginning in the late 1980s, Australian brothels experienced an "influx" of women from Asian countries, the majority from China, Thailand and South Korea.<sup>16</sup> Since then, the proportion of Asian women in Australia's brothels has continued to rise.<sup>17</sup> As early as 2010, a Sydney study noted that "Asian women now constitute the majority of the women working in Sydney's brothels."<sup>18</sup> Likewise, another report found that "two-thirds" of women in the decriminalised sex industry of New South Wales were from "Asian or other non-English

---

<sup>12</sup> See <https://www.theaustralian.com.au/world/modelling-agent-charged-over-child-porn-in-thailand/news-story/de2b81f5c7b24e910af30263f121555b>

<sup>13</sup> <https://www.homeaffairs.gov.au/criminal-justice/files/nap-combat-modern-slavery-2020-25.pdf>, p. 15

<sup>14</sup> See IBISWorld and Alen Allday, ‘Brothel Keeping and Sex Worker Services in Australia,’ April 2021

<sup>15</sup> See <https://www.vic.gov.au/sex-work-decriminalisation>

<sup>16</sup> RhED. 2012. *Migrant and Multicultural Sex Worker Report 2012*. Melbourne: Inner South Community Health. <https://sexworker.org.au/wp-content/uploads/2020/08/RhED-Migrant-Worker-Study-2012.pdf>, p. 29

<sup>17</sup> Donovan, B, et al., 2012. *The Sex Industry in New South Wales: a Report to the NSW Ministry of Health*. Sydney: Kirby Institute, University of New South Wales; Renshaw, L, et al., 2015. *Migrant sex workers in Australia*. Canberra: Australian Institute of Criminology.

<https://www.aic.gov.au/publications/rpp/rpp131>; Selvey, L, et al., 2018. “Challenges Facing Asian Sex Workers in Western Australia: Implications for Health Promotion and Support Services.” *Frontiers in Public Health* 6 (171): 1-8. <https://doi.org/10.3389/fpubh.2018.00171>

<sup>18</sup> Donovan, B, at al., 2010. “Improving the health of sex workers in NSW: maintaining success.” *NSW Public Health Bulletin* 21 (3-4): 74-77. <https://doi.org/10.1071/NB10013>, p. 75

speaking countries."<sup>19</sup> Similar trends have been noted in the sex industries in other Australian states and territories.<sup>20</sup>

For example, a 2016 study of the online advertising of Melbourne-based prostitution Businesses found 41 per cent promoted predominantly Asian women.<sup>21</sup> A 2012 report to the New South Wales Ministry of Health determined that nearly 45 per cent of women working in the decriminalised sex industry were categorised as speaking only “poor” or “fair” English.<sup>22</sup> These circumstances suggest that vulnerable populations of women are targeted by the sex industry. Indeed, reports indicate that Asian and migrant women face significant disadvantages in Australia’s sex industry.<sup>23</sup> These relate to cultural and linguistic barriers; financially supporting dependents and family overseas; temporary and uncertain visa status; stigma and discrimination; debt and debt contracts; social isolation; and a lack of knowledge of local legal contexts and available support services.<sup>24</sup> For example, migrant women in Victoria’s legal sex industry “commonly report they are unlikely to be informed about their rights, laws and regulations in the sex industry.”<sup>25</sup> Moreover, it has been reported that some sex industry businesses “actively isolate migrant workers from Australian born women so they are not able to learn about or seek out information on their rights or work standards.”<sup>26</sup>

---

<sup>19</sup> Donovan et al. 2012, p. 17

<sup>20</sup> Project Respect. 2020d. Victorian Review to make recommendations for the decriminalisation of sex work: Project Respect Submission. Melbourne: Project Respect. [https://d3n8a8pro7vghmx.cloudfront.net/projectrespect/pages/861/attachments/original/1611036484/Project\\_Respect\\_submission\\_to\\_the\\_Review\\_to\\_Make\\_Recommendations\\_for\\_Decriminalisation\\_of\\_Sex\\_Work\\_FINAL2.pdf?1611036484](https://d3n8a8pro7vghmx.cloudfront.net/projectrespect/pages/861/attachments/original/1611036484/Project_Respect_submission_to_the_Review_to_Make_Recommendations_for_Decriminalisation_of_Sex_Work_FINAL2.pdf?1611036484); Selvey et al. 2018

<sup>21</sup> Street, T, & Norma, C. 2016. “Sex Tourists in Their Own Country Digital Media Advertising of Asian Women by the Australian Sex Industry.” *Gender, Technology and Development* 20 (3): 279-305.

<sup>22</sup> Donovan et al., 2012, p. 17

<sup>23</sup> Project Respect. 2020d; RhED. 2012; Selvey et al. 2018

<sup>24</sup> Davidson, J, et al., 2019. WORKING WITH MIGRANT SEX WORKERS IN SYDNEY’S LOWER-END BROTHELS. Sydney: BaptistCare HopeStreet. <https://hopestreet.org.au/assets/Uploads/BaptistCare-HopeStreet-Working-with-Migrant-Sex-Workers-FINAL-ONLINE.pdf>; Donovan et al. 2012; Renshaw et al. 2015; Selvey et al. 2018

<sup>25</sup> Project Respect 2020d, 27

<sup>26</sup> Ibid; This was well demonstrated in a 2019 court case in which Korean-born Choonhwa “Pam” Lee was found guilty by a Brisbane (Queensland) magistrate in June of running an illegal prostitution business from her Cloud 9 waxing and massage parlor. Among evidence tendered to the court were covert police recordings of a man telling her to “train a frightened young woman like “New Horse or New Dog.”” These recordings arose as part of a corruption investigation into a local politician, not as part of any efforts to suppress prostitution in Queensland (see <https://en.australia51.com/article/68B0D446-A66E-1679-9837-477A7E327354/?Id=68B0D446-A66E-1679-9837-477A7E327354>). The victims of such businesses are swiftly deported from Australia, with little investigation into how they came to be in Australia’s sex industry. See the recent example of a Singaporean national (<https://www.straitstimes.com/singapore/singapore-woman-deported-from-australia-for-overstaying-student-visa-illegal-sex-work>). See also a 2019 sex trafficking ring organised using victims from China discovered operating in Australia <https://www.smh.com.au/national/fbi-busts-global-sex-trafficking-ring-with-australian-outposts-20190118-p50sa4.html>.

While Asian women are overrepresented in Australia's legalised and decriminalised sex industries, the proportion of Asian women is believed to be even higher in the unregulated illicit massage industry.<sup>27</sup> For example, a 2019 study of Sydney's illicit "massage parlours" found that "over 90 percent" of women are from Asian backgrounds.<sup>28</sup> This fits with findings from another Sydney study that found Asian and migrant women "were more likely to work at massage parlours" than in regulated brothels or as an escort.<sup>29</sup> Asian women's involvement in the sex industry in New South Wales is believed to be similar in other Australian jurisdictions such as Western Australia where Asian women are more likely to "work exclusively in a shop-front massage parlor" than their non-Asian counterparts.<sup>30</sup> Similarly, in Victoria, the numbers of Asian women are believed to be "even higher" in the "illegal and unregulated sex industry."<sup>31</sup> Working in the illicit massage industry and outside legal frameworks means that women are not protected by laws that should apply to the legal sex industry. Further, women in the illegal sector are placed at increased risk of unsafe sex practices such as frequent client requests for no condoms, as well as having low rates of sexual health testing, which increases women's risk of contracting STIs and HIV.<sup>32</sup>

A study of Sydney's illicit massage parlours offers a rare focus on this sector and reveals many concerning findings relating to the kinds of workplace conditions Asian women are subjected to in the illicit massage industry and insight into their well-being.<sup>33</sup> In relation to working hours, the study found that "the majority" of Asian women in illicit massage businesses were expected to work extended hours and may be "on call" for periods of over eight hours or overnight.<sup>34</sup> Further, 40% of women were only "sometimes" able to choose clients and 25% of women were never able to choose clients.<sup>35</sup> This number increased to 36% for those who had worked for less than 12 months, indicating women new to Australia were more vulnerable to exploitation.<sup>36</sup>

The study also found that 55% of respondents had been in Australia less than 12 months, and that 59% had been involved in the sex industry for the same time period,<sup>37</sup> which suggests that for many women their first experience in the sex industry occurred after they arrived in

---

<sup>27</sup> Davidson et al. 2019; Donovan et al. 2012; Renshaw et al. 2015; Selvey et al. 2018

<sup>28</sup> Davidson et al. 2019, p. 15

<sup>29</sup> Renshaw et al. 2015, p. 66

<sup>30</sup> Selvey et al. 2018, p. 6

<sup>31</sup> RhED 2012, p. 3

<sup>32</sup> Ibid.; Selvey et al. 2018

<sup>33</sup> Davidson et al. 2019

<sup>34</sup> Ibid., p. 7

<sup>35</sup> Ibid., p. 22

<sup>36</sup> Ibid.

<sup>37</sup> Ibid., p. 16

Australia. This is consistent with a Western Australian study of Asian women in the sex industry that found only 16% of respondents "had previously engaged in sex work overseas" and that many Asian women did not come to Australia intending to work in prostitution but "ended up doing sex work" because they could not find other work with adequate pay and their options for employment were limited by poor English skills.<sup>38</sup> This is reflected in a report on migrant workers in Victoria's legal sex industry that suggests some entered the sex industry "because they had been unable to find employment in the areas they were qualified for."<sup>39</sup>

The Sydney study additionally notes that one in four women were "never able to refuse a client."<sup>40</sup> Over 40% of women surveyed said they have "dealt with difficult or violent clients,"<sup>41</sup> and only 36% "always felt safe at work."<sup>42</sup> This compares to a study of the sex industry in Western Australia that reported Asian women experienced threats (36%), assault (24%) and almost half (48%) were "pressured to do something they didn't want to do by a client in the past 12 months."<sup>43</sup> In the Sydney study "the majority" of women surveyed said they "sometimes feel unable to cope with their stress levels" and lack knowledge of how to get support.<sup>44</sup> Unsurprisingly, 30% "did not like anything about their job" with "just over half" of respondents saying they would "not be involved in sex work" if they had another option.<sup>45</sup> This is consistent with a comprehensive study of 854 people in prostitution in nine countries that found most would leave prostitution if they had other options available to them.<sup>46</sup>

Australia's legislative approaches to prostitution, where most states and territories have either legalised or decriminalised sex industries, contributes to the framing of prostitution as "sex work." This framing has resulted in grave human rights abuses such as sexual and labour exploitation as well as indicators of human trafficking being presented as merely negatives of the job, or "stress" and "bad clients."<sup>47</sup> The combination of the sex work perspective promoted in academia and through state and territory legislative approaches, means that prostitution is perceived as "sex work" even in illegal settings and when exploitative conditions are noted. The "sex work" perspective contributes to misconceptions and misunderstandings of human

---

<sup>38</sup> Selvey et al. 2018, p. 3

<sup>39</sup> RhED 2012, p. 26

<sup>40</sup> Davidson et al. 2019, p. 7

<sup>41</sup> Ibid.

<sup>42</sup> Ibid., p. 23

<sup>43</sup> Selvey et al. 2018, p. 6

<sup>44</sup> Davidson et al. 2019, p. 7

<sup>45</sup> Ibid., p. 6

<sup>46</sup> Farley et al. 2003

<sup>47</sup> Selvey et al. 2018, p. 6



trafficking and hinders the ability of authorities and juries alike to identify human trafficking when it occurs.<sup>48</sup>

### **Australian state and territory sex industry legislation undermines federal obligations to combat the demand that fosters trafficking for sexual purposes**

Prostitution in Australia is regulated at a state and territory level. This means that Australia's six states and two territories each have different legislative approaches to prostitution. While prostitution per se is not criminalised anywhere in Australia, some prostitution related activities remain prohibited. States with largely criminalised prostitution industries are Western Australia, South Australia, and Tasmania. The majority of states and territories, however, have either legalised or decriminalised prostitution. Prostitution is legalised in Victoria (1984), Queensland (1999), and the Australian Capital Territory (1992); and decriminalised in both New South Wales (1995) and the Northern Territory (2019). It should be noted, however, that prostitution occurs in each state and territory regardless of the legislative approach.

Australia implemented decriminalisation and legalisation approaches to prostitution earlier than many other jurisdictions in the world.<sup>49</sup> Decriminalisation is the predominant model currently being advocated all over Australia, with the Northern Territory adopting full decriminalisation in 2019. Most recently, the state of Victoria has moved to implement a model of full decriminalisation, which is set to replace the current legalised model this year (2022). The model of decriminalisation soon to be adopted in Victoria seeks to "regulate the sex work industry just like any other industry", this means repealing "the sex work licensing system, the *Sex Work Act 1994* and associated regulations."<sup>50</sup> This includes dismantling planning controls, one of the primary mechanisms used so far to control prostitution in Victoria, which are seen as "unnecessarily restrictive."<sup>51</sup> Amendments to the Victorian Planning Provisions are designed "to implement non-discriminatory planning controls which support decriminalisation", including removing buffer controls between "sex work businesses" and "sensitive land uses", including

---

<sup>48</sup> See for example, Schloenhardt, A & Bowcock, H., 2015. "Sex slaves and shrewd business women: the role of victim consent in trafficking in persons in Australia." *Melbourne University Law Review* 39 (2): 592-628.

<sup>49</sup> Tyler, M. et al. (2017) 'Demand Change: Understanding the Nordic Model'. Melbourne: The Coalition Against Trafficking in Women Australia. Available from: <https://www.catwa.org.au/wp-content/uploads/2017/03/NORDIC-MODEL-2017-booklet-FINAL-single-page.pdf>

<sup>50</sup> Victorian Government. 2021. Discussion Paper: Decriminalising Sex Work.

[https://engage.vic.gov.au/download\\_file/51949/5987](https://engage.vic.gov.au/download_file/51949/5987), p. 3

<sup>51</sup> *Ibid.*, p. 5

dwellings.<sup>52</sup> This means that "commercial sex work businesses will be able to operate in commercial and residential zones", and "sex workers will also be able to operate a home-based business,"<sup>53</sup> and "would not need a planning permit."<sup>54</sup>

Whereas Victoria's previous legalised model of the *Sex Work Act 1994* aimed to implement a pragmatic harm minimisation approach, the proposed changes under full decriminalisation embrace the legitimacy of the sex industry from a business profit making perspective. Many of the proposed changes will likely benefit sex industry business owners, however, the benefit to workers is not clear. For example, changes to brothel restrictions such as allowing "brothels to apply for a liquor licence," will likely benefit business owners by increasing revenue.<sup>55</sup> However, the benefit to women in the industry now expected to deal with intoxicated sex buyers is less clear. Indeed, alcohol use has been linked to client violence in an Australian study of women in prostitution.<sup>56</sup> The study found that drug and alcohol use "compounded all other kinds of risk associated with sex work, including violence and health problems."<sup>57</sup> Although current Victorian laws do not prevent sex buyers from arriving at brothels intoxicated, the changes allowing brothels to sell alcohol will likely encourage and normalise this behaviour.

Similarly, the use of condoms will no longer be mandatory and there will be no "criminal repercussions for failing to practice safer sex."<sup>58</sup> This change is alarming because "stealthing", the non-consensual removal of a condom, is a form of sexual assault already "increasing exponentially" in Victoria's legal sex industry.<sup>59</sup> The illegal sector, such as massage parlours, already flout safe sex practices and promote the perception that Asian women will provide "unsafe sexual services such as without a condom."<sup>60</sup> However, repealing requirements relating to safe sex practices in the sex industry will likely contribute to a norm of unsafe sex practices across the board. Repealing mandatory safe sex practices will likely increase revenue for sex industry business owners who will be able to capitalise on the existing demand for unsafe sex practices in Victoria's sex industry. Women, however, will likely be less able to refuse unsafe sex practices and have even less protection from serious threats to health and wellbeing such as through contracting STIs and HIV.

---

<sup>52</sup> *Ibid.*, p. 5

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*, p. 7

<sup>55</sup> *Ibid.*, p. 4

<sup>56</sup> Harris, M, Nilan, P & Kirby, E. 2011. "Risk and Risk Management for Australian Sex Workers." *Qualitative health research* 21 (3): 386–398., p. 395

<sup>57</sup> Harris, Nilan, and Kirby 2011, p. 395

<sup>58</sup> Victorian Government. 2021., p. 4

<sup>59</sup> Project Respect 2020d, p. 21

<sup>60</sup> *Ibid.*, p. 27

The proposed model of full decriminalisation also seeks to remove "antiquated controls on advertising" which are seen as "unfair in their application to the sex work industry."<sup>61</sup> Current advertising controls under the *Sex Work Act 1994* and *Sex Work Regulations 2016* restrict "the size, form and content of advertisements for sex work services."<sup>62</sup> For example, advertising for "sex work services" cannot describe the services offered or be broadcast or televised, and it is against the law to advertise to recruit for jobs in the sex industry.<sup>63</sup> In addition, the *Sex Work Regulations 2016* prevent "photographic or other pictorial representation of: the bare sexual organs, buttocks or anus of a person, or frontal nudity of the genital region; or bare breasts; or a sexual act or simulated sexual act; or a person under the age of 18 years."<sup>64</sup> Again, it is likely that repealing advertising restrictions will benefit sex industry business owners by targeting women for recruitment into the industry, increasing the potential for more explicit marketing as well as the reach of marketing to increase revenue. However, it is not clear how removing restrictions on advertising will benefit women working in the sex industry. Indeed, women in the sex industry have expressed concerns that loosening restrictions on advertising creates "an expectation in clients minds about potentially what is on offer, even though the individual woman working may not want to engage in such activities."<sup>65</sup> Consequently, if sex buyer "expectations and demands" are not met "the client can get angry and the confrontation creates an unsafe interaction for the individual woman."<sup>66</sup>

Decriminalisation, soon to be adopted in Victoria and already in force in New South Wales and the Northern Territory, directly undermines Australia's international obligations under the Palermo Protocol and the Committee on the Elimination of Discrimination Against Women (CEDAW). Specifically, the obligation to take appropriate measures to target the demand for prostitution. State and territory legislative approaches such as decriminalisation clearly encourage the demand for prostitution by expanding the sex industry and normalising sex buying. Further, embracing prostitution as "sex work", a legitimate occupation, precludes efforts

---

<sup>61</sup> Victorian Government. 2021., p. 4

<sup>62</sup> *Sex Work Act 1994* (Vic) s 18(a). [http://classic.austlii.edu.au/au/legis/vic/consol\\_act/swa1994129/](http://classic.austlii.edu.au/au/legis/vic/consol_act/swa1994129/)

<sup>63</sup> *Sex Work Act 1994* (Vic) s 17(1-3))

<sup>64</sup> *Sex Work Regulations 2016* (Vic) s 5(a-d).

[https://content.legislation.vic.gov.au/sites/default/files/d5d42cad-a7c4-3542-a543-3c1566dcbecad\\_16-47sra002%20authorised.pdf](https://content.legislation.vic.gov.au/sites/default/files/d5d42cad-a7c4-3542-a543-3c1566dcbecad_16-47sra002%20authorised.pdf)

<sup>65</sup> Project Respect. 2016. *Submission - Proposed amendments Sex Work Regulations 2016*. Melbourne: Project Respect.

[https://d3n8a8pro7vnmx.cloudfront.net/projectrespect/pages/15/attachments/original/1469256662/Project\\_Respect\\_Submission\\_Proposed\\_Sex\\_Work\\_Regulations\\_2016.pdf?1469256662](https://d3n8a8pro7vnmx.cloudfront.net/projectrespect/pages/15/attachments/original/1469256662/Project_Respect_Submission_Proposed_Sex_Work_Regulations_2016.pdf?1469256662)., p. 2

<sup>66</sup> *Ibid.*, p. 3

to prevent women and girls from entering prostitution and to support those who wish to exit the sex trade.

## **Recommendations**

Australia's state and territory legislative approaches to prostitution encourage a thriving sex industry, which is in direct contravention of Australia's international obligations to address the demand for prostitution. Australia has not met the minimum standards because it has not made serious or sustained efforts to reduce the demand for commercial sex acts. Despite this, Australia is consistently ranked as Tier 1. Therefore, **we recommend that Australia's ranking be reconsidered to reflect these failures and to encourage increased and coordinated anti-trafficking efforts.**

A strong signal sent via the *Trafficking in Persons Report* would positively influence a cultural environment in Australia that is increasingly permissive towards the sexual exploitation of women. In the year since the last *Trafficking in Persons Report*, Australia's judiciary has deregulated the operation of the National Disability Insurance Scheme to allow applicants to spend up to AUD10,000 per year on prostitution.<sup>67</sup> There have been allegations of sitting members of parliament inflicting violence on women in the sex industry,<sup>68</sup> and of staff bringing women bought for prostitution into the national parliament.<sup>69</sup> These recent developments in Australia are reflective of a legislative environment that has grown up in the country over the past two decades that comprehends the buying of women for prostitution as a consumer activity, and pimping as a practice of business entrepreneurship. We speculate that these ideas remain current in Australian society—which is otherwise very intolerant of sex crimes—only because a large proportion of sexual exploitation victims are Asian women.

Like legalisation, decriminalisation has been criticised for failing to address key concerns regarding prostitution. Survivors of prostitution are increasingly speaking out against prostitution. CATWA believes survivors voices should be prioritised in this issue because survivors have a unique lived experience of systems of prostitution. Below is the testimony of Sabrina Valisce, a survivor of prostitution who worked under a fully decriminalised model of prostitution:

---

<sup>67</sup> See <https://www.ideas.org.au/blogs/ndis-overruled-on-sex-services.html>

<sup>68</sup> See <https://www.abc.net.au/news/2021-03-30/nationals-mp-invited-sex-worker-into-nsw-parliament/100036294>

<sup>69</sup> <https://guardian.ng/news/how-staff-bring-in-sex-workers-for-lawmakers-in-australian-parliament-house/>

When New Zealand passed full decriminalisation, things changed in unexpected ways and I came to understand that the myths of legal protection, autonomy, increased choice and greater community acceptance were unfounded. We didn't have the legal protections we expected because we sat in a grey area between employee and independent contractor. On paper, we were independent contractors but this was only true in terms of not receiving an hourly wage, sick pay, holiday pay, superannuation or any other employee benefits. We were not considered employees despite brothel owners, escort agency owners and other third party profiteers deciding our starting hours, finishing hours, amount of shifts per/week, pay rates and attire including shoes, hair styles, nail polish and makeup. On top of this the brothels began to charge us to work there and fine us if we didn't live up to 'employee' expectations. Unlike every other independent contractor, we were denied the right to work at multiple businesses. Pay rates decreased. Fees and fines increased. Shift hours were up to seventeen per/night. Shifts had three times as many women as were feasible to make a decent income. Competition grew fierce and safe sex practices became a thing of the past. The myth of health being better was proved false in less than 6 months of the law reform. Women were kissing and risking herpes, doing oral sex without condoms with the risk of throat warts, doing rougher and riskier practices just to get the jobs. I did doubles with many women and saw these things happening first hand. I dealt with punters changing expectations. I experienced the long hours, nightclub level music, painful heels and increased competition. I had no choice but to fight against this model ever spreading to another country. – Sabrina Valisce, SPACE international.<sup>70</sup>

This survivor testimony is only one example of some of the harms and exploitation experienced by the majority of women in prostitution. **We recommend that the Australian government seek out and prioritise voices of survivors of trafficking and prostitution in discussions of prostitution and trafficking.**

The single most important legislative reform to combat prostitution and the trafficking of women for sexual exploitation is what has become known as the 'Nordic Model'. The Nordic Model constitutes asymmetric decriminalisation: it directly addresses demand for prostitution and trafficking by criminalising sex buyers and third parties who profit from prostitution, while simultaneously supporting the victims/survivors of

---

<sup>70</sup> <https://www.spaceintl.org/>

prostitution and trafficking.<sup>71</sup> The Nordic Model, which has been adopted in Sweden, Norway, Iceland, Northern Ireland, Ireland, Canada, France and Israel, and is being considered in a number of other countries (including Scotland, Lithuania, Colombia and the Philippines) is a legislative approach which recognises that prostitution is a form of violence against women and, more broadly, 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 and was first implemented in 1999 – shows that it successfully reduces the market for prostitution and decreases trafficking inflows.<sup>72</sup> Numerous women's groups and prostitution survivors' organisations around the world also endorse the Model.<sup>73</sup> CATWA therefore advocates that all penalties should apply to pimps, brothel owners and buyers of prostituted women, and that no penalties should be associated with prostituted persons. 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.<sup>74</sup> **We recommend that the Australian government consider implementing the Nordic/Equality Model in order to combat prostitution and trafficking for sexual exploitation.**

The Nordic Model is also the only legislative approach to prostitution that fits with the principal international initiative aimed at dealing with trafficking for the purposes of prostitution: the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, also known as the Palermo Protocol. This Protocol is related to the UN Convention against Transnational Organised Crime. 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 state parties to:

[A]dopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multicultural cooperation,

---

<sup>71</sup> Tyler et al., 2017

<sup>72</sup> Ibid.

<sup>73</sup> 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. Further organisations can be found here: <https://theconversation.com/does-decriminalising-pimping-further-womens-rights-46083>

<sup>74</sup> Cho, S. et al. (2013) Does Legalized Prostitution Increase Human Trafficking? World Development, v41(1): 67-82

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 legalisation of prostitution, in comparison, has been shown to increase trafficking inflows.<sup>75</sup> 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, incorporates education-based change and, most importantly, research shows that it works.<sup>76</sup> In addition, the adoption of the Nordic Model sends a strong message that the sexual exploitation of women is unacceptable. **We recommend that the Australian government recognise demand for sexual services as fuelling sex trafficking and, as such, be discouraged in line with international obligations such as the Palermo Protocol.**

---

<sup>75</sup> Ibid.

<sup>76</sup> Waltman, M. (2011) 'Prohibiting Sex Purchasing and Ending Trafficking: The Swedish Prostitution Law'. Michigan Journal of International Law, v33: 133-157.