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Submission: Inquiry into Human Trafficking

The Sex Workers Outreach Project (SWOP) was established in 1990, and is Australia's largest and longest established community-based sex worker organisation focused on HIV, STI and Hepatitis C prevention, education and health promotion for sex workers in New South Wales (NSW). A key element in the success of SWOP's work is the building of strategic, collaborative and multidisciplinary working relationships with sex workers, and other key health, government and non-government organisations, advocating for a holistic approach to the health services provided to sex workers.

As the key organisation outreaching to sex workers in NSW, SWOP has the highest level of direct contact with sex workers of any agency, government or non-government in Australia. Throughout 27 years of operation, SWOP has consistently maintained high levels of access into sex industry workplaces across NSW. We operate three specific culturally and linguistically diverse (CALD) projects employing bilingual project workers, which has resulted in extremely high levels of engagement with CALD and migrant sex workers throughout NSW.

As a sex worker health organisation, SWOP's key concern in responding to this Inquiry a second time, is to protect the health of NSW sex workers, specifically in relation to key public health matters including HIV prevention. SWOP is the only organisation in the state with unfettered access to this community, and the ability to represent the key needs and experiences of migrant sex workers doing sex work in NSW.

SWOP continues to see more sex industry workers than any other Australian organisation

In the year since our original submission to this revived Inquiry, SWOP has had significant interactions with more than 5,300 sex industry workers in NSW, making 579 visits to sex services premises (SSPs). This includes 56 outreach visits to 27 different rural and regional areas, located in all parts of NSW. Of the SSPs we visited in 2015-16, 395 (68%) were partially or predominantly staffed by CALD sex workers, with the three key cultural identities being Chinese, Thai and Korean.

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Migrant sex workers in NSW feel comfortable speaking to SWOP about trafficking

In our second submission to this Inquiry, we have attempted to give the Committee some direct input from the migrant sex workers we encounter in the course of our daily work doing bilingual peer outreach. These are the sex workers whose lives have been directly impacted by NSW's anti-trafficking interventions and the considerable media rhetoric produced about this issue.

1) Survey Methodology

SWOP asked sex workers that we encountered in sex industry workplaces on our metropolitan outreaches if they would fill in a survey about trafficking. To avoid employer influence on their answers, we asked sex services premises (SSP) workers to write their responses down instead of giving verbal feedback and answers. Surveys were presented in language (Thai and Chinese), and the sex workers filled them out in their first / preferred language. SWOP outreach staff collected the surveys immediately upon completion. Sex workers were given the option to remain completely anonymous, or to give us their name and broad area on the survey. Their answers were later translated into English.

SWOP asked sex workers questions about how they came to be working in the NSW sex industry, and whether they had experienced trafficking or were willing to be a sex worker. We asked them about what sort of boss they had, what they think about media reports on sex industry trafficking, and whether the working conditions here were better or worse than those in their home countries. The sex workers were very candid with their answers, a testament to the rapport and trust SWOP's bilingual peer outreach officers have built with them. SWOP got replies from a number of Chinese, Thai and Japanese sex workers, some of whom were able to fill in the survey in English.

2) Trafficking

"I was not trafficked. I did not specifically come to Australia to do sex work – though it's one of the reasons that allow me to stay," said Nadine, a Japanese sex worker in Sydney. Skylar, a Thai sex worker in a south-eastern Sydney SSP explained, "the majority of us choose to do sex work because financial issue." Another Thai sex worker commented: "Not trafficked, study and decide to sex work because doesn't want to bother my family about the expenses of staying here". Financial motivation, including coping with the high price of living in Sydney, was referred to by most of the migrant sex workers SWOP surveyed. "No one deceive me to do sex work. I'm voluntarily doing sex work because of a high cost of living in Australia," explained Angelique, a Thai sex worker from an inner city SSP.

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3) *Reason for Immigrating*

Reasons for immigrating are as diverse as the sex workers we spoke to. Winona, a Chinese sex worker from an inner city parlour came “to Australia for work and stop gambling,” while Skylar from south-eastern Sydney explained: “Not deceived to become a sex worker. First came to Australia to study. There are many jobs, but I decide/choose to do this job.” Some sex workers, like Lucia a Chinese sex worker from southern Sydney, pointed out that they arrived in Australia for other reasons, like being “married to Australian.” Magnolia, a Chinese parlour worker in an inner city SSP also arrived here through marriage, but added she was a “new divorcee, want to make some money.” She wasn’t a sex worker in her home country, but felt that being one here represented a good post-marriage opportunity

4) *Workplace Relations*

Magnolia, from an inner city SSP likes her current employer, and feels enabled to make choices about her work: “Very good, you can have decision.” “My boss got kind heart, friendly, taking care of us. I don’t need to use drugs to do sex work,” said Skylar, a Thai sex worker in south-eastern Sydney. “This shop is good, no pressure,” Lucia a Chinese sex worker said about her southern Sydney SSP, while her co-worker Cinders said: “Boss not bad. Do what we like.” Nicolette, who is Thai and works in Sydney had a similar perspective: “My boss is good, allows us to do our personal stuff.” “At this parlour, everything is good. The owner is friendly, give us freedom and give us good advice. We live like family, helping each other,” said Richelle, a Thai sex worker from northern Sydney about her workplace.

Many migrant sex workers reconstruct family type structures in their workplaces, making them into a temporary home away from home. This may stem from the fact that some migrant sex workers travel a considerable distance from where they live to work, in order to avoid stigma from other migrant community members about being sex workers (this is more prevalent in some communities than others, and often relates to the legal status of sex work in their home country).

Thus it follows that at their sex industry workplaces you might find migrant sex workers washing their clothes, hanging them out to dry, sleeping on a day bed, arriving together with suitcases of work gear to save on transport fees, and cooking communally. Similar to the ‘would you like a cup of tea’ style of hospitality SWOP outreach officers are greeted with when we visit regional SSPs, SWOP’s bilingual peer-based outreach officers report that they are often invited to share a home-cooked lunch when they outreach to migrant sex industry workplaces.

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5) *Media constructions of trafficking*

With the media hysteria generated about sex trafficking, doing home-making activities at work can externally look like migrant sex workers are not free to leave their workplaces (merely because most Australians don't choose to do these activities in their workplaces). SWOP has fielded alarmed calls from members of the general public reporting groups of Thai workers arriving at a brothel with suitcases as trafficking. We don't get the same calls about Anglo sex workers who share cabs, or take suitcases of clothes with them to work.

A concerned call from the general public about a potential trafficking situation does result in a parlour being placed on SWOP's Priority Visit List, and visited at the first available opportunity to check in with the workers that everything is okay. Every priority parlour is visited within 30 days. None of these visits prompted by trafficking concerns have ever resulted in SWOP identifying any trafficked persons. SWOP outreach officers attend parlours in pairs, and have a range of operational tactics to ensure we get to speak to sex workers away from management. The SWOP CEO can expand upon these tactics in camera rather than in this public-facing submission, should the Committee require.

Rather than seeing migrant sex workers arriving together to work as being value-conscious or thrifty, the saturated media construction of sex industry trafficking makes people leap to erroneous conclusions. These pieces talk: "about Asian workers as if we have no autonomy and places Westerners as the rescuers - therefore, perpetuating the cycle of inequality. We are sick of being used as click baits for racists," explains Nadine, a Japanese sex worker from Sydney. Another migrant sex worker from the inner west of Sydney agrees: "I'm a 39 year old mixed-race sex worker who works privately from my own premises in the Inner West. The recent portrayals of NSW sex industry in the mainstream media make me feel invisible, as if there is this other separate, imaginary industry that is corrupt and underground. We aren't underground, we aren't corrupt, and most of all, we aren't illegal!!"

6) *Sex work in NSW*

All of the migrant sex workers SWOP surveyed took the opportunity to point out their willingness to be sex workers here in NSW, with some expanding upon why this might be preferable to working as sex workers in their country of origin. "Much better because the law in this country protecting sex worker," said Nicolette, a Thai sex worker from Sydney. Angelique, who is also Thai and works in an inner city SSP said NSW is merely "better in a term of income." A third Thai sex worker from a northern Sydney SSP explained: "Better because Australia is the country that has low rate of STIs and have many organisations to give advice and help us." Skylar, a Thai sex worker in southern Sydney said: "Sex work is the same, but I get more money here and better law to protect us than Thailand." Nearly every sex worker we spoke to pointed out doing sex work in NSW was better than in their home country.

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7) *Willingness to be sex workers*

Every single interview subject felt it was important to explain their willingness to be a sex worker, sometimes repeating this across their answers to multiple questions. “I decided to do sex work myself, my choice,” said Candice, a Thai sex worker from south-eastern Sydney. Ricky from northern Sydney said: “we voluntary to do sex work,” adding that she disagreed with media constructions of sex industry trafficking in NSW “because most of us choose to do sex work. Nobody forces us.” Nicolette, who is Thai, and works in a Sydney parlour also said: “I’m willingly to sex work, no one forces.” Skylar, another Thai worker from south-eastern Sydney said: “We know that it legal to do sex work here and we decide to do it our self.”

NGOs like SWOP already provide the best path for trafficked persons to access justice

In the period since our previous submission to this revived inquiry, the *NSW Inquiry into the Regulation of Brothels* handed down their findings. Testimony relevant to trafficking was contained in the testimony of Commander Glen McEwen OAM from the Australian Federal Police (AFP), who stated:

“There are a number of ways, as you would appreciate, in relation to a policing organisation, and there are many ways that information is provided. In relation to human trafficking, the community has provided information. Of course, the NGOs are extremely critical in supporting our endeavours. It is vast. The majority would be referred by non-government organisations. Having been personally involved in investigating this 10 years ago, I recall that customers made complaints on behalf of potential victims and we made inquiries in response.”ⁱ

As you can see by the section above, SWOP remains the best placed NGO to have conversations with migrant sex workers across the state about their working conditions. We already have close relationships within the sector with organisations like Anti-Slavery Australia, and legal organisations including, but not limited to, the Inner City Legal Service and the HIV/AIDS Legal Centre. We also work in partnership with NSW Police, and the AFP, as McEwen also pointed out in his testimony:

“Scarlet Alliance, Project Respect, Anti-Slavery Australia, et cetera — yes. My understanding is they are long and enduring relationships. Again, going back a decade those organisations were people I was dealing with. My understanding is we continue to have that. Obviously at times there are differing points of view, but enthusiastic discussions are quite useful and helpful so everyone puts their perspective and points of view across. My advice is it is extremely respectful and worthwhile.”ⁱⁱ

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SWOP employs these partnerships, including our partnership with NSW Police, to assist sex workers with issues broadly relating to trafficking. While sex trafficking is what makes the headlines, it is broadly the experience of our organisation that generally what we are talking about in NSW is labour exploitation occurring within the sex industry. What is occurring is not the sexual abuse of victims, rather the exploitation of their labour, which in our industry just happens to be sexual labour. Regardless, SWOP is fundamentally against the labour exploitation of sex workers, so much of our work in this area consists of us assisting sex workers to access mainstream services that already are set up to deal with labour exploitation, irrespective of industry.

A clear definition of trafficking would assist everyone

When the recent *NSW Inquiry into the Regulation of Brothels* examined six identified sex-trafficking investigations in NSW, it is worth noting that none of them turned out to be sex-trafficking in so far as the law, the media or the general public are led to understand it.

In his answers to questions taken on notice, McEwen explains:

“None of the six matters resulted in a conviction. In five of the matters, no human trafficking offence was identified or disclosed. The sixth matter was a foreign law enforcement request for assistance in relation to an international matter.”ⁱⁱⁱ

SWOP hopes that the outcome of this Inquiry includes a clear definition of what is trafficking, and what is labour exploitation, and what is an occupational health and safety (OH&S) matter. With popular pizza franchise Domino’s hitting the media this week for selling visas where the “price varies from \$30,000 to \$150,000 depending on the visa, the job on offer and the worker’s nationality^{iv}”, it is clear this Inquiry needs to recognise different levels of labour exploitation regardless of industry. SWOP welcomes a realistic nuanced Inquiry that looks at where trafficking of persons fits into this system, and how it can be addressed. Morality driven Inquiries and salacious news stories tend to silence and obscure the real victims of trafficking, so our hope for this revived Inquiry is that it takes a realistic, practical look at trafficking, and makes a genuine attempt to see if a problem in NSW exists, irrespective of industry.

Furthermore, we hope that once the Committee makes these definitions, they see fit to distribute clear and concise information about the definition of trafficking to media outlets, including advice on preferred terminology to be used when reporting in these issues. As you can see by this submission, the actions of the media in relation to reporting trafficking currently cause distress, distrust and create inflammatory perceptions about migrant sex workers which continue to impact their lives. By nominating that information sheets are to be developed to assist in improving the media’s knowledge and understanding in this area, the Committee could make an easy improvement to the lives of migrant workers in the sex industry.

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SWOP supports the idea of a national compensation system for trafficked persons

While from the findings of the recent *NSW Inquiry into the Regulation of Brothels* make it clear that sex trafficking is not a prevalent issue for NSW sex industry workers, SWOP is in support of a national compensation scheme for all trafficked persons.

Initially suggested by the Human Rights Council's Special Rapporteur, Joy Ngozi Ezeilo, this idea has been championed by Fiona McLeod in a new report by the Law Council of Australia, and Anti-Slavery Australia, which *"has laid out the compelling case for the immediate construction of a national compensation scheme for survivors of human trafficking, slavery and slavery-like practices."*

The Report explains that some sex industry workers who might have experienced labour trafficking may not be eligible for state-based compensation schemes: *"in New South Wales, the victim must have been subject to an act of violence including having suffered an injury as a result; and victims will not be eligible if the act of violence occurred while the victim was engaged in behaviour constituting an offence"*^{vi}.

To this end SWOP supports the call by Anti-Slavery Australia and the Law Council of Australia, toward ensuring no victim of human trafficking falls through the cracks, by the establishment a national compensation scheme.

Anti-trafficking policies must not hamper health promotion and disease prevention

In our first submission to this Inquiry, we discussed the way in which an enabling legal environment, namely decriminalisation, has largely removed the barriers to engagement for NSW sex workers, and has resulted in positive public health outcomes. Maintaining low rates of STIs and working towards the goal of ending HIV seroconversions as set out in the [NSW HIV Strategy 2016-2020](#), requires health promotion organisations like our own to have unfettered access to priority populations.

Intrusive workplace visits by police, immigration agents and council officers in the name of visa compliance, council regulation, and proper person checks, can have negative effects upon sex worker willingness to see these agencies as potential avenues for support when things go wrong. This is magnified for migrant sex workers who come from countries where sex work is criminalised.

Health promotion is hampered by legal and policy environments that drive migrant sex workers underground. If a migrant worker is scared of having a visit from immigration, they are unlikely to open the door to anyone, including SWOP's health promotion officers. To meet NSW Health's ambitious timeline for ending HIV, it is vital that anti-trafficking policy does not hamper health promotion, and the key work SWOP does with NSW sex workers preventing STIs and HIV.

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Key Points:

- Migrant sex workers in NSW are happy to talk to SWOP's bilingual peer outreach officers about trafficking.
- Migrant sex workers are unlikely to have conversations about trafficking with authorities like the Australian Federal Police (AFP) because they are a Government authority, and in their home countries Government authorities are often responsible for violence and oppression of sex workers.
- The communication breakdown with the AFP is exacerbated by the AFP not having adequate knowledge about sex work and not communicating with migrant sex workers in their first/preferred languages.
- Migrant NSW sex workers report that all other migrant sex workers they have met and worked with are willing participants within the sex industry. Migrant sex workers in NSW generally report that they do not meet other migrant sex workers who are not performing sex work willingly.
- Like other Australian workers, migrant sex workers cite fiscal motivation as the main reason they have chosen to work.
- Migrant sex workers often choose to do sex work in NSW because sex work is legal here, and they feel supported by strong peer-based outreach organisations.
- Despite not encountering sex industry trafficking, SWOP treats all allegations of trafficking seriously, and prioritises workplaces on a Priority Parlours List to be visited within 30 days.
- The recent *NSW Inquiry into the Regulation of Brothels* found no sex-trafficking convictions in NSW.
- The sector is already well-connected with NGOs working with NSW Police and Australian Federal Police to assist potential victims of trafficking.
- A clear definition of trafficking would be helpful to the sector
- Media outlets should receive clear and concise information relating to a definition of trafficking, and preferred terminology to be used when reporting issues.
- A national compensation scheme should be established to assist all trafficked persons.
- Anti-trafficking measures must not hamper health promotion delivery to priority populations

We trust the Committee will find these additional pieces of information useful in supplement to our initial submission to this revived Inquiry. Should you require more information on regarding human trafficking as it relates to the NSW sex industry, I can be contacted on +61 2 9206 2166 or by email

Regards,

SWOP Chief Executive Officer

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