



Submission No 5

**Inquiry into Slavery, Slavery-like conditions and People
Trafficking**

Organisation: Collective Shout

Slavery, Slavery like conditions and People Trafficking Inquiry
Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade
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Dear Mr Zinkel

Collective Shout: for a world free of exploitation (www.collectiveshout.org) is grateful for this opportunity to comment on the three areas of focus of the Slavery, Slavery like conditions and People Trafficking inquiry. We particularly welcome the Sub-Committee's decision to look at international best practice approaches to combating slavery. It was confirmed in April 2012 by the United Nations Office on Drugs and Crime that 80 per cent of reported trafficking victims are sexually exploited.¹ While trafficking for the purpose of labour-related exploitation is an abhorrent crime, it is important to remember that many women who are trafficked into domestic labour or factory work are also likely to be sexually exploited. Collective Shout rejects the recent assertion of Joy Ngozi Ezeilo, the Special Rapporteur on Trafficking in Persons especially women and children,² that too much emphasis is placed on victims trafficked into prostitution. Collective Shout urges the Sub-Committee to understand sex trafficking crime as qualitatively different from labour trafficking in its causes, organisation, and outcomes, and therefore worthy of careful and focused attention.

In our responses to the three areas of focus below, Collective Shout emphasises the uniquely egregious nature of sex trafficking, and the dangers of framing the problem as one of 'migration for sex work'. This framing of the problem, which is pursued by a number of 'sex work' organisations in Australia, renders the public blind to the scale and seriousness of sex trafficking in a country where some cities host more than 50 per cent of prostituted women from overseas.³ We urge the Committee to understand sex trafficking in Australia as occurring within a legal and policy environment that is welcoming of the sex industry and its activities, despite the risk these activities place women—both local and foreign—in relation to trafficking. The decriminalised and legalised sex industries of NSW and Victoria in particular allow for greater and greater demand to build among men for the prostitution of women, which inevitably leads the sex industry to procure women through trafficking. Collective Shout encourages the Sub-Committee to seek solutions to sex trafficking in the reduction of the size of the sex industries in NSW and Victoria in particular, and the exit of women from prostitution into forms of employment that reflect their worth as full citizens.

Yours sincerely

Caroline Norma

Collective Shout

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¹ Lauren Gambino, '2.4 million victims of human trafficking worldwide, says UN,' 4 Apr 2012 at <http://www.telegraph.co.uk/news/worldnews/9185811/2.4-million-victims-of-human-trafficking-worldwide-says-UN.html> (viewed 6 July 2012)
²http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A.HRC.20.18.Add.1_En.PDF
³ [http://www.med.unsw.edu.au/nchechrweb.nsf/resources/SHPReport/\\$file/NSWSexIndustryReportV4.pdf](http://www.med.unsw.edu.au/nchechrweb.nsf/resources/SHPReport/$file/NSWSexIndustryReportV4.pdf)

Australia's efforts to address people trafficking, including through prosecuting offenders and protecting and supporting victims

Trafficked women in the Australian sex industry remain largely unrecognised as victims. This fact is evident in the 2012 *The sex industry in New South Wales: A report to the Ministry of Health* document⁴ in which the authors identified more than 50 per cent of survey respondents in approved brothels in metropolitan Sydney as from Asian or other non-English speaking backgrounds, and nearly 45 per cent of respondents as speaking only 'poor' or 'fair' English (pp. 17-18). Despite this finding, the authors nonetheless maintain that they found 'no evidence of recent trafficking of female sex workers in the...brothel survey' (p. 11). Collective Shout expresses concern at such a finding, given the unlikelihood that women who cannot speak English, and who are from impoverished countries like Thailand, have had the resources and networks to 'migrate' to Australia independently (organising visas, flight tickets, accommodation in Australia, etc), and organise a 'labour contract' with a brothel owner. While lack of English and foreign nationality do not, in themselves, constitute evidence of trafficking, they do point to the existence of a significant channel of women coming from, particularly, Asia into the Australian sex industry. Given the poverty of women living in the Asia-Pacific region, Collective Shout thinks it prudent to assume that some form of trafficking crime as taking place in Australia.

Australian Commonwealth law currently distinguishes between forced and free prostitution, with only the former category attracting anti-trafficking protections. In Australia, people can be convicted of trafficking only if they use deception, force, or debt in bringing someone into the country for the sake of providing sexual services. Bringing a woman in through the "abuse of power or condition of vulnerability," which Article 3(a) of the Palermo Protocol recognizes as a strategy of traffickers, is not necessarily penalized. This situation renders most trafficking crime invisible to law enforcement authorities in Australia. It is well known that traffickers in the global sex industry use sophisticated strategies of procurement, most of which do not involve techniques of outright force and coercion. It is most often the case that Asian women are trafficked to Australia simply after having been sold off by local pimps to internationally-networked traffickers.⁵ The pedestrian nature of the trafficking of women to Australia—most of which occurs within the same networks that organise women for prostitution in legal and illegal sex businesses—needs to be better recognised by the Australian government. Sex trafficking is not a separate and distinguishable practice from the normal activities of prostitution entrepreneurs.

In spite of many outward signs that trafficking is a feature of the Australian sex industry, government officials and researchers continue to repeat the claim that trafficking is rare in the country. For example, the 2011 report of the Australian Commonwealth Anti-People Trafficking Interdepartmental Committee claims that '[o]pportunities to traffic people into Australia are limited because of our strong migration controls and geographic isolation'.⁶ This statement reflects some naivety about the extent to which the sex industry is moving women around in Australia (i.e., trafficking them) to meet demand for prostitution. It was reported in July 2012, for example, that Asian women are being trafficked into mining towns like Mt Isa, and are 'working on a fly-in, fly-out basis, two weeks here, two weeks in the next town and so on; they are being advertised as available in the local newspapers, and they are coerced or threatened into doing it'.⁷ The US Department of State in its 2011 *Trafficking in Persons Report* describes the trafficking of women into prostitution in Australia

⁴ [http://www.med.unsw.edu.au/ncheocrweb.nsf/resources/SHPReport/\\$file/NSWSexIndustryReportV4.pdf](http://www.med.unsw.edu.au/ncheocrweb.nsf/resources/SHPReport/$file/NSWSexIndustryReportV4.pdf)

⁵ <http://www.stop.or.kr/english/webzine/0102.html>

⁶ p. 3 <http://www.ag.gov.au/Peopletrafficking/Documents/Trafficking+in+Persons.pdf>

⁷ <http://www.theage.com.au/queensland/sex-workers-trafficked-through-queensland-mining-towns-20120710-21sgh.html>

in similarly clear terms:

[S]ome brothels are run by Asian organized crime groups that arrange for Asian women to travel, sometimes on student visas, to work in brothels. The women and girls are sometimes 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 their traffickers.⁸

The culture of denial that surrounds sex trafficking in Australia contributes to an environment in which prosecutors bring very few trafficking-related cases to court (less than 40 in the country's history), and achieve very few convictions (less than ten). When a conviction is achieved, moreover, prison sentences are often allocated to the women controlling the victims (who are often former victims themselves), rather than the (mostly male) pimps who organised their traffic. In one case tried successfully this year, a former prostituted woman (from Thailand) was convicted of a slavery offence, while the man she was connected to, who raped the victim soon after arriving in Australia, was not tried on any trafficking-related charge.⁹ While the woman was certainly involved in the victim's trafficking, and should indeed be penalised, the fact she herself had been in prostitution before the victim was trafficked into Australia suggests she might not have been the original instigator of the crime. The Australian courts are ignorant of the sophisticated strategies of traffickers, which include using former trafficking victims as recruiters.

The Australian anti-trafficking legislation contains only weak provisions against the brokers and middlemen who are crucial to trafficking networks worldwide. The government continues to see sex trafficking as organised by a few rogue individuals, rather than well-connected organised crime networks. The Australian Federal Police were criticised in the media last year for failing to coordinate with Taiwanese public prosecutors over a trafficking network operating in Taipei that sent a number of women to Australia.¹⁰ There appears to be a lack of comprehension among high levels of government, the judiciary, and law enforcement in Australia about the attractiveness of the country for pimps and traffickers in the Asia-Pacific region.

Australia is seen as an 'attractive' investment destination for pimps and traffickers because most of the country's sex industry operates free of government monitoring and intervention. Even when state governments introduce licensing systems for brothels, this doesn't necessarily mean they perform checks on the sex industry. Police in Canberra recently admitted to a parliamentary inquiry that no checks on licensed or unlicensed brothels had been performed for a period of five years in the territory.¹¹ This kind of welcoming environment for sex industry businesses makes Australia an attractive target for sex industry investors, and therefore makes Asian women vulnerable to cross-border trafficking into Australia, given the country's location in the region. Farley and Seo note that traffickers "exploit opportunities created by erratic enforcement of laws against prostitution and trafficking".¹² In other words, traffickers are attracted to jurisdictions that weakly regulate prostitution and trafficking.

As a first step toward more effective criminalisation of offenders and protection of trafficking victims, therefore, the Sub-Committee should recommend that the Commonwealth Government reframe its understanding of trafficking as a crime largely commissioned by the sex industry, and intrinsically intertwined with the business of prostitution. The Government should make clear public statements against prostitution as a driver of trafficking crime, and encourage the overriding of state legislation that endorses the sex industry.

⁸ <http://www.state.gov/j/tip/rls/tiprpt/2011/164231.htm>

⁹ <http://www.canberratimes.com.au/act-news/how-this-sex-ledger-helped-convict-act-brothel-madam-of-slavery-20120411-1wshh.html>

¹⁰ <http://www.abc.net.au/4corners/stories/2011/10/06/3333668.htm>

¹¹ <http://www.legassembly.act.gov.au/downloads/reports/JACS09%20Prostitution%20Act.pdf> p. 156

¹² Farley, M., & Seo, S. 2005. Prostitution and trafficking in Asia. *Harvard Asia Pacific Review*, 8(2), p. 10.

The Government then should introduce a nationwide network of exit facilities and funded services for women currently in the sex industry in order to facilitate their recovery and re-entry to mainstream society and employment. This network of facilities should be modelled on the system developed in South Korea since 2004.¹³ The Korean government has committed substantial funding and resources to pursuing its new legislative regime. In 2005, it established the Center for Women's Human Rights, which was succeeded by the Women's Human Rights Commission of Korea, which now oversees 26 support centres for women exiting the sex industry, 28 counselling centres, 14 victim support centres for teenagers, seven "self-reliance" or rehabilitation facilities, three support centres for foreign women,¹⁴ and two residential high schools for underage girls exiting prostitution in Seoul.

Ways to encourage effective international action to address all forms of slavery, slavery-like conditions and people trafficking

The Australian government does not publicly acknowledged any link between the country's large and legal sex industry and the trafficking of women. It prefers to think that the causes of trafficking reside in other countries, and not within Australia's borders. This view is clearly expressed in a June 2011 statement by Australia's permanent mission to the United Nations. According to the mission, there are two causes of trafficking, both of which originate overseas. The first is the 'poverty, unemployment, corruption, gender inequality, lack of access to education and discriminatory cultural norms' of countries other than Australia. The second is the inadequate 'capacity of States to address trafficking in persons'—states overseas, that is, and not Australia.¹⁵ The Australian government also likes to imagine, as much as possible, that trafficking is a crime that occurs outside of the sex industry. The most recent Australian federal Anti-People Trafficking Interdepartmental Committee report shows how keen the government is to draw attention away from trafficking as a crime driven by demand for prostitution, and toward other industries and forms of labour smuggling:

During the past year, the Australian Government has maintained its focus on combating trafficking for *labour exploitation*...During the next year there will be a continued focus on issues related to trafficking of people for exploitation *outside* the commercial sex industry (italics added).¹⁶

When the government is forced to recognise the existence of foreign women in Australia's sex industry, it prefers to imagine these women have autonomously 'migrated' to Australia to pursue 'sex work', rather than having been trafficked. In other words, the government subscribes to an idea of 'migration for sex work'. It promotes this revisionist idea of trafficking through measures like funding a project by an organisation called the Scarlet Alliance in 2009 to 'raise awareness' among 'migrant sex workers' about the 'legal and migration rights and responsibilities to people considering travelling to Australia for sex work'. This initiative, called the Migration Project, aims to improve 'access to justice and services for migrant sex workers and industrial conditions for sex workers in Australia'.¹⁷

A more effective way to encouraging international cooperation on the crime of sex trafficking is to examine efforts currently being made by the South Korea government toward an 'Asia-Pacific Network Against Sex

¹³ See <http://www.stop.go.kr/english>

¹⁴ DasiHammke Center, 2010

¹⁵ Human Rights Council – 17th Session Clustered Interactive Dialogue with the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health and the Special Rapporteur on Trafficking in Persons, Especially Women and Children Statement by Australia 1 June 2011 <http://www.geneva.mission.gov.au/gene/Statement211.html>

¹⁶ <http://www.ag.gov.au/Peoplettrafficking/Documents/Trafficking+in+Persons.pdf>

¹⁷ http://www.scarletalliance.org.au/projects/migration/News_Item.2010-12-09.4018

Trafficking'.¹⁸ Globalisation has also not yet prompted integration among countries in the Asia-Pacific region in their governance regimes for prostitution and trafficking. This contrasts with the situation in Europe where the Organization for Security and Co-operation in Europe was enacted in 1991 and later took responsibility for implementing an Action Plan to Combat Trafficking in Human Beings across 56 member countries. The Organisation's mission is to foster:

stability, prosperity and democracy... through political dialogue about shared values and through practical work that makes a lasting difference.

The Australian government should consider a similar regional initiative against sex trafficking, like that of the Organization for Security and Co-operation in Europe. Political dialogue is a crucial first step to implementing regional integration on trafficking in the region, and the Sub-Committee might consider engaging with Korean anti-prostitution organisations who are experts in the Asia-Pacific region on this topic.

International best practice to address all forms of slavery, slavery-like conditions and people trafficking

Collective Shout recommends to the Sub-Committee the Nordic model of prostitution legislation as currently the world's best practice approach to the crime of people trafficking. In 1999 Sweden introduced an innovative law that prohibits the purchase of sexual services.¹⁹ In essence this means that only the buyers of sexual services and not the women involved in prostitution, are criminalized. The principle behind the law is that, in Sweden, prostitution is regarded as violence against women and children, it is intrinsically harmful not only to the individual prostituted woman or child, but to society at large, and represents a significant barrier to the Swedish goal of full gender equality. From this premise it was necessary to implement a strategy of zero tolerance to end this intrinsically harmful behaviour in society.

A fundamental part of the Swedish model is to implement initiatives and empowerment strategies that aim to support women in prostitution and provide them with genuine opportunities and alternatives to exit the industry. Furthermore, to reinforce all elements of the law the Government provided additional funding to educate society to provide greater awareness and understanding about this harmful practice. As a result in Sweden today over 80 per cent of the population 'support the law and the principles behind its development'.²⁰ The Swedish model of legislation has since been introduced in South Korea, Norway, and Iceland. The model has been found to be an effective tool in reducing human trafficking.²¹

The Korean government in 2004 passed two laws against the sex industry, prostitution, and trafficking. The *Act on the Punishment of Procuring Prostitution and Associated Acts* establishes legal penalties for pimps and traffickers who attempt to sell people for prostitution, as well as for those who seek to buy a person for the purpose of prostitution. The *Act on the Prevention of Prostitution and Protection of Victims Thereof* outlines social education and awareness-raising measures for the prevention of prostitution, as well as

¹⁸ This Network is still in the planning stage, but is likely to be facilitated by the Women's Human Rights Commission of Korea and involve exchange between Korean anti-prostitution activists and those abroad, as well as a yearly conference in Seoul.

¹⁹ (Law that Prohibits, 1998:408) Under the Act Prohibiting the Purchase of Sexual Services (1998:408), a person who obtains casual sexual relations in exchange for payment shall be sentenced comprises all forms of sexual services, in brothels, so called massage parlours 'prostitution and trafficking in women'. See Swedish factsheet at <http://www.sweden.gov.se/content/1/c6/01/87/74/6bc6c972.pdf>

²⁰ See Ekberg, Gunilla (2005) 'The Swedish law that prohibits the purchase of a sexual service: Best practice for prevention of prostitution and trafficking in human beings' (update of article in journal of Violence Against Women 2004) at 15

²¹ See Seo-Young Cho, Axel Dreher, Eric Neumayer, 'Does Legalized Prostitution Increase Human Trafficking?', Discussion Paper No. 96, January 2012, Georg-August-Universität Göttingen; Peter Sarkany, 'The Strict Swedish vs. the Loose Dutch System for Regulations on Prostitution and Drug Use,' Journal of Mathematics and System Science, Volume 2, Number 1, January 2012 (Serial Number 2).

requirements for the protection and social reintegration of people leaving the sex industry.²² Lee Hwayoung, the former director of the Women’s Human Rights Commission of Korea, made the following call for greater international engagement on the issue: “It is well known that prostitution has become a global issue. Contrary to the general consensus that international solidarity is essential to root it out, communication channels on the prevention of prostitution are very few”.²³

Indeed, the Australian Commonwealth Government has so far entered into very little engagement with the South Korean government over trafficking crime. Official Korean government and diplomatic inquiries into Australia’s trafficking problems has generally prompted defensiveness among police and public servants.²⁴ Media outlets reported misinformation about the reason that Korean government representatives were in Australia, and about Korea’s anti-prostitution laws.²⁵ Even since this media coverage, the Australian government has failed to take any action to reform its student and working holiday visa regimes—people who hold these visas are still able to enter the legal parts of the sex industry in places like Melbourne and Sydney. (This contrasts with the policy of the Japanese government that bars student visa holders from the sex industry.) **Collective Shout encourages the Sub-Committee to recommend that student and working holiday visa holders be barred from working in sex industry-related venues in Australia.**

While globalisation has allowed the sex industry to flexibly shift the location of its business activity according to changes in laws and sexual demand, there hasn’t been an equivalent globalisation of information about abolitionist legislative approaches to prostitution. This fact became clear last year when media attention in Australia focused on Korean trafficked women. The media failed to mention that the Korean government was attempting to suppress the sex industry, while the Australian government continued to allow sex industry businesspeople, including those from Korea, to operate freely. The trafficking problem was blamed on the victims, and on the Korean anti-prostitution laws. Learning from this example, **Collective Shout recommends greater diplomatic engagement by the Australian government with the Korean government and NGOs who are working against trafficking in Korea.**

The sex industry is the most common commissioner of trafficking crime in the world, and should be recognised as such. Prostitution is a major driver of trafficking crime, and should be recognised as such. **The most effective and efficient way to reduce trafficking crime is to suppress the activities of the sex industry, and Collective Shout encourages the Sub-Committee to consider the Nordic Model as a first step to achieving this aim.**

²² http://www.stop.or.kr/stoppps/act_on_protection.pdf and http://www.stop.or.kr/stoppps/act_on_punishment.pdf

²³ Women’s Human Rights Commission of Korea, *Annual Report 2009*.

²⁴ <http://www.acl.org.au/2012/02/nsw-government-launches-sex-trafficking-inquiry/>

²⁵ http://www.crikey.com.au/2011/12/06/korea-threatens-nationals-working-here-in-brothel-industry/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+CrikeyDaily+%28Crikey+Dai