

National Action Plan to Combat Modern Slavery 2020-24 – Submission by

SEXHUM Project

SEXHUM: Migration, Sex Work and Trafficking, is a European Research Council funded international research project led by Prof Nicola Mai and based at Kingston University, UK. SEXHUM compares and analyses migrants' experiences of exploitation and trafficking in the global sex industry. The project started in October 2016 and will conclude in September 2020. So far, six post-doctoral researchers carried out qualitative ethnographic research in four key settings for migration and sex work policies: Australia (Sydney and Melbourne), USA (New York and Los Angeles), France (Paris and Marseille), and New Zealand (Auckland and Wellington). SEXHUM seeks to deepen and develop an understanding of agency, trafficking and exploitation starting from the lived experiences of migrant sex workers and people with trafficking experiences. In each setting, researchers completed 50 qualitative in-depth interviews with migrant sex workers / people with trafficking experiences and between 10 and 20 key informant interviews with major stake holders, NGO's and government bodies. Migrant sex workers were asked about their own understanding and experiences of work, migration, trafficking and exploitation, while key informants were asked about their work experience in the field of anti-trafficking and the major challenges encountered.

The research aims at producing policy recommendations, at both local and global level, in order to improve migrant sex workers' access to the correct support and identify best policies to prevent and combat trafficking and exploitation.

The methodological approach of the research was validated by the Ethical Review Committee of Kingston University London. It was also considered as satisfying the ethical requirements outlined in the National Statement on Ethical Conduct in Human Research in Australia by the Monash University Human Research Ethics Committee (MUHREC). Dr P.G. Maciotti conducted all fieldwork in Sydney and Melbourne and was hosted as visiting research fellow at the Law Department of the University of Technology Sydney and at the Institute for Culture and Society of Western Sydney University. Between August 2017 and December 2019, Dr Maciotti conducted 50 anonymous interviews with 45 migrant sex workers (MSW), one Aboriginal and one white Australian with trafficking experience (three interviews with MSW were repeated at a one-year distance to document the changes in their situations). In terms of gender, amongst the interviewees were 34 cisgender women, four cisgender men, two non-binary persons and seven transgender women. Research participants were from 17 different countries with a majority from Thailand (19) China (9) and other East Asian countries (10). Key informant interviews were conducted with sex worker organisations Scarlet Alliance, SWOP NSW and Vixen Victoria, as well as with humanitarian organisations such as Salvation Army, Red Cross and Project Respect, with service providers such as RhED, with the Law Firm Baker McKenzie, with Sydney City Council and, crucially, with the Human Trafficking National Coordination of the Australian Federal Police. Dr Maciotti took part in the latest Trafficking Response Network Meeting on 23rd January 2020 and has been regularly in contact with Anti-Slavery Australia and the AFP for research respondents who asked to be referred.

Dr Maciotti documented and attended the 2019 slavery trial against Rungnapha Kanbut who was found guilty of two counts each of possessing a slave, exercising powers of ownership over a slave and dealing with the proceeds of crime and convicted in November 2019. Dr

Maciotti also interviewed the main victim involved. Over 600 hours of ethnographic research took place in 40 different brothels and massage parlours in Sydney and Melbourne (both with and without Developmental Approval / license). Six participants were recruited initially through sex worker organisations SWOP NSW and Scarlet Alliance, one victim of trafficking was referred to us by the Australian Federal Police and the remaining participants were recruited through direct outreach in workplaces, snowballing and personal contacts. Participants were selected according to whether they would self-identify as having had experience of exploitation or trafficking. Experienced translators from the sex working community were employed when needed. This submission is based on the findings of SEXHUM Australia.

SEXHUM Australia's findings in brief and its relevance for the NAP consultation

We welcome the NAP's 3rd goal to promote an evidence-based response on Modern Slavery and we stress the importance of listening and learning from migrant sex workers and survivors' experiences. We believe the Australian government would benefit from drawing on the finding of this major international research project. We present here the most relevant findings of SEXHUM Australia for your consideration and include a short series of recommendations at the end.

In Australia, out of the 45 migrant sex workers we interviewed, two felt they had been initially trafficked to Australia for sex work but both went on to choose sex work independently and were referred to and accessed the Support for Trafficked People Programme by the Red Cross. The one white Australian worker interviewed recalled escaping after being trafficked interstate and held captive (from NSW to Victoria) several years ago. She then resumed sex work independently in Victoria's licensed venues.

All respondents distinguished clearly between trafficking and sex work. When asked to define human trafficking, migrant sex workers largely described it as being forced or pushed to work against their will. Exploitation in sex work was understood as receiving unfair (insufficient) fee percentages by commercial sex venues owners, being pushed to work longer hours, being blackmailed, and experiencing a lack of support from receptionists and managers with abusive or rude clients. The vast majority (all but two) reported experiencing more exploitative labour conditions in low-wage industries (mostly hospitality) than in sex work.

Compared to other SEXHUM research sites where migrant sex work is criminalised at various degrees (all sex workers and third parties are criminalised in the US; migrant sex workers on temporary work permits are criminalised in New Zealand; all clients and third parties are criminalised in France), **MSW respondents in Australia** (and particularly in NSW) were significantly less exposed to abuse of police powers and blackmailing and to abuse and exploitation by third parties (meaning mostly bosses or clients). They enjoyed a better access to justice and **were far less likely to have had any experience of trafficking and slavery-like abuses.**

In Australia, the incidence of trafficking and slavery-like legal cases linked to the sex industry has decreased in the past 10 years. Our research data, which include the testimony of key informants such as the AFP Human Trafficking Coordination Team, indicate that this has happened for a number of reasons:

- 1) Migrant workers in the Australian sex industry have had increased access to information about their opportunities and rights, and therefore could make more informed decisions on how to negotiate better work conditions and access safer workplaces. This happened mostly thanks to the knowledge-sharing within migrant communities and personal networks and partly (in NSW) thanks to the efforts of peer sex worker organisations to increase the visibility of information on sex worker rights in different languages by employing culturally and linguistically diverse staff, made possible by the broader benefits and funding available under sex work decriminalisation.
- 2) Migrant workers in the Australian sex industry have increasingly deployed authorised and regular travel options including the use of temporary work visas. Rather than getting into debt contracts, they now largely make use of agents who organise student or other temporary visas with at least some access to work for fees which vary between \$500 and \$3,000 (excluding plane tickets and visa and student fees). Largely, migrants sex workers use their own savings or borrow money from relatives or banks to pay for those fees. They usually find work through personal networks (including phone apps) and/or through in-language ads. In NSW MSW benefit from sex work decriminalisation through having more varied workplace options and flexibility including the option to work independently. Whereas in Victoria licensed venues are very few and independent workers cannot legally work from home, so there are less legal work options available. In Victoria MSW are more vulnerable to criminalisation and fear deportation if working outside the licensing system. They are more likely to be exploited in licensed venues as they have less options for changing workplace (non-migrant sex workers run the same risk of being exploited, but do not face deportation if caught). In NSW MSW are less tied to one employer and therefore more able to change workplace and less vulnerable to exploitation.
- 3) Our research has found that in Australia the successful prosecution of a number of trafficking and slavery cases into sex work and the consequent knowledge of what indicators would lead to prosecute these crimes (e.g. debt contracts, confiscation of passports, organisation of travel and restriction of freedom) has led to the abandonment of those practises by exploiters of migrant labour. This has led to a decrease in these heaviest forms of exploitation of MSW. However, labour exploitation continues to take place for example through blackmailing, pressuring sex workers to work long hours or to take on unwanted clients, and lack of protection by management. Many MSW are still reluctant to access justice and contact the police in cases of abuse for fear of lack of support and/or losing the right to stay or work. This is especially true in states with restrictive forms of sex work legislation, such as licensing (e.g. Queensland and Victoria) and criminalisation (e.g. South and Western Australia). Migrant sex workers who end up working in criminalised environments are much less likely to report any abuse as their risk and fear of being prosecuted themselves and deported is real. Raids in sex work venues increase fear of police amongst migrant sex workers, rather than being instrumental to identifying “victims of trafficking”.

Drawing on the above, we suggest that Australia should learn from its current progress in tackling trafficking in the sex industry and apply its lessons to other industries. Our recommendations are as follows:

- ➔ Trafficking and Modern Slavery are to be placed on a continuum with labour exploitation. The focus of any Plan to combat Modern Slavery should be on improving access to labour rights and fair working conditions.
- ➔ The legal definitions of “modern slavery” and “human trafficking” are very strict and fail to comprehend the variety of exploitative work relations that migrant workers can and are subjected to. Most workers who are exploited would fail to meet the threshold for being recognised as a trafficked/slavery victim and would also not self-identify as such. Within a legal system which prohibits slavery but restricts access to work rights to migrants, migrant workers differ from former transatlantic slaves in that they seek to migrate and work for the pursuit of a better life. However, they are still subject to restrictions of migration and work rights such as being denied entry, being detained or deported, and/or are led to enter into exploitative relations through laws that link their work rights to the sponsorship of one employer or partner, who can and often do abuse their power. Restrictive migration laws are at the root of modern slavery and of all exploitation of migrant labour.
- ➔ The current approach focussed on modern slavery needs to change paradigm in order to encompass and improve access to larger labour rights. When people are made liable to criminalisation and deportation, they are way more liable to exploitation and less likely to report crimes and abuses. Also, at a stage where people who engage in the exploitation of migrant labour have learnt to avoid specific practises, the abuses that take place risk going undetected.
- ➔ In order to enjoy the right to be free from abuse and exploitation, migrants need to have access to more encompassing work rights and options and should not be made dependent on or tied to one employer or workplace.
- ➔ Increased knowledge of and access to legal forms of migrating and accessing work visas and work options are bound to dramatically decrease the incidence of trafficking and slavery of migrant workers.
- ➔ The full decriminalisation of sex work in all Australian states (that is of all migrant and non-migrant sex workers and of third parties) is the necessary step to improve migrant sex workers access to justice and protection and to radically reduce abuse, violence, trafficking and all forms of labour exploitation in the sex industry, including modern slavery.