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To: Committee Secretary  
Department of the Senate  
PO Box 6100  
Canberra ACT 2600

RE: Inquiry Temporary Migration

Thank you for the opportunity to submit to the Select Committee on Temporary Migration's inquiry into Temporary Migration

Scarlet Alliance, the Australian Sex Workers Association, is the peak national sex worker organisation in Australia. Formed in 1989, the organisation represents a membership of individual sex workers and sex worker organisations. Scarlet Alliance and our member organisations and projects have the highest level of contact with sex workers in Australia of any agency, government, or non-government. Through our project work and the work of our membership we have consistently maintained high levels of access to sex industry workplaces in the major cities and many regional areas of Australia. Scarlet Alliance and many of our member sex worker organisations and projects within Australia have CALD (culturally and linguistically diverse) projects employing bi-lingual project workers resulting in extremely high levels of engagement with CALD and migrant sex workers throughout Australia, across a range of work place types.

The Scarlet Alliance Migration Project that was first funded in 2009 is staffed and managed entirely by migrant sex workers. The Migration Project aims to fill the evidence gap in trafficking issues and represent the actual experiences of migrant sex workers in Australia. The project works to support evidence-based policy development, capacity development of sex worker peer educators in delivering services to migrant sex workers, and the production of translated information for distribution to sex workers of Thai, Chinese and Korean language backgrounds, especially around issues of legal and migration rights and responsibilities.

Our submission is informed by these experiences and those of the Scarlet Alliance Migration Project Steering Committee, enabling the direct input of migrant sex workers, who have been most impacted by anti-trafficking interventions.

We look forward to providing further information as part of the hearing process. In the meantime, if you require further information please contact our Chief Executive Officer, Jules Kim on [REDACTED]

Regards,

## Executive Summary

Sex workers, like other workers, migrate internationally for a variety of reasons, including seeking improved working conditions and income. Evidence and feedback from our membership indicate that wage theft, breaches of workplace rights and conditions, modern slavery, and human trafficking is not the experience of the vast majority of migrant sex workers in Australia. However, while labour exploitation and human trafficking is not characteristic of the sex industry, migrant sex workers experience major barriers to accessing the same workplace health and safety mechanisms and industrial rights protections as workers in other industries, including:

- Migrant sex workers' complaints about breaches to our workplace rights and conditions are not taken seriously due to stigmatising attitudes about sex work and/or the complaint not fitting into the category of trafficking.
- Privacy concerns regarding connecting our legal name to sex work when accessing existing services and mechanisms to address workplace issues.
- Criminalisation creating major impediments for sex workers to access support and existing mechanisms to address exploitative workplace conditions as reporting may result in being charged, known to the authorities as a sex worker, and/or deported. Criminalisation also creates obstacles to ensuring that Australia's labour rights framework is equally applied to sex industry workplaces.
- Anti-trafficking responses that conflate sex work and all labour exploitation in the sex industry with human trafficking have jeopardised migrant sex workers' support and safety structures, workplaces, and undermined efforts to address labour exploitation. It has heightened sex workers' distrust of the authorities and further deters sex workers from seeking assistance in fear that it will result in further scrutiny, prosecution, or deportation.
- Anti-trafficking responses that focus on restrictive immigration scrutiny and criminal justice approaches have made it more difficult for sex workers to travel, operate within the regulated sex industry, and access support.

Migrant sex workers need a human right-based response to preventing wage theft, breaches of workplace rights and conditions, modern slavery, and human trafficking. The most effective approaches aim to address the circumstances that expose sex workers to exploitation and prioritise the needs, agency and self-determination of victims over criminal prosecutions and increased surveillance. There is a need to implement labour exploitation and human trafficking prevention measures that:

- Ensure equal access to labour rights for migrant sex workers. Migrant sex workers need equal access to industrial mechanisms to claim compensation, redress exploitative working conditions, and access legal aid and support without needing to contribute to a criminal proceeding or without the need for labour exploitation to fit within a trafficking framework.
- allow migrant sex workers to access mechanisms to redress workplace issues using their chosen names to create incentives to access these existing services.
- provide migrant sex workers with access to a representative complaints model. The introduction of a representative complaints model would enable peer sex worker organisations to bring complaints about breaches of workplace rights on behalf of sex workers who are unable to bring an individual complaint.
- provide safe and accessible migration pathways for sex workers. Trafficking and exploitation of migrant workers can be prevented at its source by providing migrants with access to translated information and legal, safe and accessible migration avenues that do not require

migrant workers to use the assistance of an agent, reducing traffickers' access to migrant workers; and

- are sex worker driven and evidence-based. The most effective approaches aim to address the circumstances that expose sex workers to exploitation and prioritise the needs, agency and self-determination of victims over criminal prosecutions and increased surveillance.
- recognises decriminalisation of the sex industry as an essential mechanism in creating the most enabling environment to advance the labour and human rights of sex workers.

## **The impact of wage theft, breaches of workplace rights and conditions, modern slavery, and human trafficking on temporary migrants.**

### **Migrant sex workers in Australia**

Sex workers, like other workers, migrate internationally for a variety of reasons, including to seek improved working conditions and income. Research demonstrates that migrant sex workers find Australia to be a profitable location with comprehensive support networks and outreach services and a largely tolerant environment, where sex workers enjoy some of the lowest rates of sexually transmissible infections (STIs) and HIV in the world. There are a number of migrant sex worker led projects that have generated valuable demographic data on the lives, backgrounds, experiences, and needs of migrant sex workers.

Research and evidence from state and territory sex worker organisations that provide in-language peer education and outreach services to migrant sex workers suggest that migrant sex workers make a substantial proportion of the sex industry workforce and are mainly from Thailand, China, and South Korea. Numerous studies show that migrant sex workers tend to be older than their Australian-born counterpart, with a medium age range of 30-34. It is also worth noting that the demographic profile of the local sex industry tends to vary depending on the state or territory and sector of the sex industry. For example, private sex workers generally tend to be older than street-based sex workers and brothel-based sex workers.

The available research on the education level of sex workers in Australia, including migrant sex workers, are well educated. *The Sex Industry in Western Australia: A Report to the Western Australian Government*, a study investigating the impact of sex industry regulation on sex workers health and welfare in Western Australia, show that one quarter of their sex worker respondents had 13 years or more of education.<sup>2</sup> Another study from NSW indicated that 38% of sex workers had an education level beyond high school.<sup>3</sup>

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<sup>1</sup> Renshaw, L., et al. (2015). *Migrant sex workers in Australia*. Retrieved on 26/07/20 from Canberra: <https://aic.gov.au/publications/rpp/rpp131>. Pg 22.

<sup>2</sup> Donovan, B., et al. (2010). *The sex industry in Western Australia: a report to the Western Australian Government*. National Centre in HIV Epidemiology and Clinical Research, University of New South Wales, Sydney, 7. Pg 12.

<sup>3</sup> Donovan, B., et al. (2012). *The sex industry in New South Wales: a report to the NSW Ministry of Health*. Retrieved from Kirby Institute, Sydney. Retrieved on 26/07/20 from [https://kirby.unsw.edu.au/sites/default/files/kirby/report/SHP\\_NSW-Sex-Industry-Report-2012.pdf](https://kirby.unsw.edu.au/sites/default/files/kirby/report/SHP_NSW-Sex-Industry-Report-2012.pdf). pg 18.

Migrant sex workers use a variety of visas to enter and work in Australia, including Working Holiday visas and student visas<sup>4</sup>, and are largely not working in breach of their visa conditions. Statistics from the Department of Immigration show that between 1997 and 2011, 858 current and former student visa holders worked in the sex industry and held student visas at the time of sex working. Only 37 (4%) of their sample were working in breach of their visa conditions.<sup>5</sup>

*Prevalence of modern slavery and human trafficking in the sex industry.*

The prevalence of exploitation and trafficking in the Australian sex industry is sometimes inferred from inflated global statistics that are not relevant in the Australian context. The evidence base in Australia is vastly different to other nations. This is in part due to sex worker organisations, strong peer education, and the recognition of sex work as work within aspects of certain laws, policies, and programs. The Australian Institute of Criminology (AIC) have warned that ‘extreme caution should be exercised in extrapolating from under-reporting of domestic crimes to transnational crimes, as Australia enjoys the natural protection provided by being both an island and geographically remote and has extensive border protection mechanisms.’<sup>6</sup> The discrepancy between estimates and actual data is due to the fact that estimates are cited without a clear source or with unreliable methodologies. These estimates are then circulated by the media and organisations that rely on the presence of trafficking to secure funding, thereby perpetuating the use of vague estimates to represent the nature and extent of trafficking<sup>7</sup>, including trafficking related to the Australian sex industry.

Previous trafficking interventions and inquiries have almost solely focused on the sex industry. However, despite enormous surveillance, heavy police investigations, and the introduction of legislation that widened the types of offences that are now covered under anti-trafficking, only 14 trafficking convictions related to the sex industry have been made since their introduction.<sup>8</sup> While the sex industry is one of the many industries where labour exploitation and trafficking can occur, evidence from sex worker organisations who actively interface with sex workers in their daily operations and reliable evidence-based research also confirm that human trafficking and exploitation are not the experience of the vast majority of migrant sex workers in Australia. *The Migrant Sex Workers in Australia* report, a comprehensive migrant sex worker led study that assessed the working and migration experiences of migrant and non-migrant sex workers in Australia, indicated that the vast majority of migrant sex workers have knowledge of their workplace rights<sup>9</sup>, three quarters of the

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<sup>4</sup> Renshaw, L., et al. (2015). *Migrant sex workers in Australia*. Retrieved on 26/07/20 from <https://aic.gov.au/publications/rpp/rpp131>. Pg 11.

<sup>5</sup> Department of Immigration and Border Protection (DIBP). (2012). *Senate Estimates Back Pocket Brief Supplementary Budget Estimates Hearings October 2012 Issue: Sex Trafficking and the Student Visa program*. Retrieved on 26/07/20 from <https://www.homeaffairs.gov.au/foi/files/2015/17072015-FA150400808-Decision-Record.pdf>. Pg 1.

<sup>6</sup> Putt, J. (2007). Human Trafficking to Australia: a Research Challenge. *Trends & Issues in Crime and Criminal Justice Series*, (338), 1-6. Retrieved on 26/07/20 from [http://www.aic.gov.au/media\\_library/publications/tandi\\_pdf/tandi338.pdf](http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi338.pdf).

<sup>7</sup> Jahic, G., & Finckenauer, J. O. (2005). Representations and misrepresentations of human trafficking. *Trends in Organized Crime*, 8(3), 24-40.

<sup>8</sup> The Interdepartmental Committee on Human Trafficking and Slavery (ICHTS). (2016). *Trafficking In Person: The Australian Government Response 1 July 2015 – 30 June 2016*. Canberra: Commonwealth of Australia.

<sup>9</sup> Renshaw, L., et al. (2015). *Migrant sex workers in Australia*. Retrieved on 26/07/20 from <https://aic.gov.au/publications/rpp/rpp131>. Pg 50-52.

respondents were satisfied with the income <sup>0</sup>, and over half of the respondents had experienced an immigration visit at their workplace.

Migrant sex workers need to be involved in the directing, monitoring, and evaluating of studies that aim to generate data about their working conditions, experiences, and needs of migrant sex workers, including those experiencing exploitation. These studies must include multi-lingual sex worker peer educators involved in the designs, interviews and/or survey collection. This approach has been extremely effective in producing sound research with positive benefits for the community. <sup>2</sup> Supporting sex-worker led, community-driven research leads to reliable evidence-based data and policies which are effective in reducing disadvantage by supporting the human and labour rights of migrant sex workers.

### **Social and structural barriers create impediments for migrant sex workers to access their full human and labour rights.**

*Migrant sex workers' reports about breaches to our workplace rights are not taken seriously by the authorities if it does not fit the category of trafficking.*

While exploitative working conditions are not characteristic of the sex industry, there are major barriers for sex workers to access the same workplace health and safety mechanisms and industrial rights protections that are often taken for granted in other workplaces. As highlighted above, the Scarlet Alliance Migration Project is staffed and managed entirely by migrant sex workers, including those who have experienced exploitation. The project aims to fill the evidence gap in trafficking issues and represent the actual experiences of migrant sex workers in Australia. Feedback from the Scarlet Alliance Migration Project, Scarlet Alliance member organisations, and individual members have indicated that police have failed to take reports from sex workers about breaches to their workplace rights seriously if the complaint does not fit into the category of human trafficking. Sex workers have highlighted that reporting workplace issues to the police has resulted in police failing to recognise that sex work is work, providing incorrect information about the legality of the sex industry, and not providing appropriate referrals for support. For example, a migrant sex worker indicated that when she called the police regarding a dispute with a client, the police did not take any action, explain what options she had to address her complaint, provide any referrals, or update the worker on the result of her complaint. Ensuring migrant sex workers have equal access to industrial mechanisms to claim compensation, redress exploitative working conditions, and access legal aid and support without the need for exploitation to fit into a trafficking framework is an essential component of addressing wage theft, labour rights violations, modern slavery and human trafficking in the sex industry.

*Concerns regarding privacy are a major barrier for migrant sex workers to access the existing services and mechanisms to address workplace issues.*

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<sup>10</sup> Ibid. Pg 48.

<sup>11</sup> Ibid. Pg59.

<sup>12</sup> Ibid.

Accessing essential services and mechanisms to address workplace issues often require migrant sex workers to expose our sex work and legal name to services. For instance, lodging a civil complaint against an employer about a workplace issue requires the applicant to connect their legal name to sex work. Being forced to connect our legal name to sex work to file a complaint is a major barrier and disincentive to accessing mechanisms to address exploitative workplace conditions because it exposes sex workers to ongoing and systemic stigma and discrimination. For example, studies and feedback from our membership indicate that a major concern among sex workers with primary care of children is that their sex work will be used against them in custody disputes and/or result in the harassment of their children if their occupation is known.<sup>3</sup> For migrant sex workers, concerns about connecting their legal name to sex work is exacerbated due to fear that having their occupation known to the authorities will negatively impact their visa status or ability to access other visa streams. For these reasons, Scarlet Alliance submits that migrant sex workers need to be provided with the option of accessing complaints mechanisms without the need to provide their legal details at any stage of the process. Migrant sex workers need to be able to be able to access mechanisms to redress workplace issues using their chosen names to create incentives to access these existing services.

A further barrier cited by sex workers has been the difficulty for an individual to navigate the complex and often confronting complaints process. This can be particularly challenging for migrant sex workers who are managing multiple forms of marginalisation due to their position as sex workers, people on temporary visas and/or from a culturally and linguistically diverse background. To minimise barriers for migrant sex workers to access to existing mechanisms to redress workplace issues and increase their access to their labour rights, Scarlet Alliance strongly advises the introduction of a representative complaints model. The introduction of a representative complaints model would enable peer sex worker organisations to bring complaints about breaches of workplace rights on behalf of sex workers who are unable to bring an individual complaint.

*Criminalisation is a major barrier for migrant sex workers to access their workplace rights.*

Each state and territory in Australia have a different suite of laws and policies to regulate the sex industry. New South Wales (NSW) and the Northern Territory (NT) are the only two states that have adopted a decriminalised approach to sex industry regulation. In NSW, the sex industry has been decriminalised since 1995. In 2015, NSW conducted an inquiry into the regulation of brothels. *The NSW Government Response to the Legislative Assembly Inquiry into the Regulation of Brothels* acknowledged that decriminalisation of the sex industry is ‘the best way of protecting sex workers and maintaining a more transparent sex work industry’.<sup>4</sup> The NSW Government also acknowledged the ‘adverse outcomes’ of criminalisation to include ‘reduced sexual health screening and protections for sex workers’.<sup>5</sup> In the NT, the *Sex Work Act 2019* was passed by the NT Government as it was also acknowledged that taking a decriminalisation approach to sex industry regulation enhanced sex workers’ workplace rights and safety and increased transparency of the sex industry.

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<sup>13</sup> Scarlet Alliance, & AFAO. (1999). *Unjust and Counter-Productive: The failure of government to protect sex workers from discrimination*. Retrieved on 26/07/20 from <http://www.scarletalliance.org.au/library/unjust-counterproductive>. Pg16.

<sup>14</sup> Minister for Innovation and Better Regulation. (2016). *NSW Government Response to the Legislative Assembly Inquiry into the Regulation of Brothels*. Sydney: Parliament of NSW. Retrieved from <https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=185#tab-governmentresponses>. Pg 2.

<sup>15</sup> Ibid. Pg 5.

The remaining states and territories have adopted laws and policies that allow some ways of working 'legally' while criminalising large sections of the industry. Criminalisation creates major impediments for sex workers to access support and existing mechanisms to address exploitative workplace conditions as reporting workplace issues to the authorities may result in being charged, known to the authorities as a sex worker, and/or deported. When sex workers are forced to operate covertly due to criminalisation, sex workers are less visible to each other and opportunities to collectively bargain and engage in advocacy is hindered. It also creates obstacles to ensuring that Australia's labour rights framework is equally applied to sex industry workplaces. As a result, criminalisation enables sex industry business operators to decide on rates of pay, workloads, shifts and other employment conditions instead of being governed by Australia's employment and workplace relations laws and policies.

While theoretically 'all workers in Australia have the same rights and protections at work'<sup>6</sup>, criminalisation has meant that sex workers have limited options to redress working conditions that are in breach of Australia's industrial laws and structures. It has also created uncertainty and ambiguity as to whether sex workers can access our workplace rights. The landmark *Phillipa v Carmel* case in Western Australia highlighted the uncertainty faced by sex workers when accessing our industrial rights. In the *Phillipa v Carmel* case 'the applicant, a sex industry worker, claimed that her employment had been unlawfully terminated by the madam of the brothel where she was engaged in her work'.<sup>7</sup> The Judicial Registrar, Mark Ritter, took into consideration whether the 'illegality' and 'immorality' of the sex industry 'had the effect of denying Phillipa the right to compensation under the law'.<sup>8</sup> This case highlighted that sex workers' access to industrial rights is granted on a case by case basis and is largely dependent on the political and legal climate and viewpoints on sex work. The uncertainty and ambiguity as to whether migrant sex workers can access their industrial rights is further exacerbated as a result of their migration status.

In NSW's decriminalised sex industry, the regulation of the sex industry by a number of different sectors of government, including the federal and state industrial rights departments, health department, and local councils, have been very effective in maintaining transparency of the sex industry and workplace standards. The NSW decriminalised sex industry and its higher rates of workplace and health standards compared with other states and territories<sup>9</sup> proves that when the sex industry is treated as a legitimate business, it brings transparency and accountability.

When the sex industry is not criminalised or regulated through overly restrictive laws, there are far fewer barriers for sex workers to report instances of exploitation to relevant organisations or authorities as sex workers do not fear that reporting will result in being prosecuted or deported.

Decriminalisation of the sex industry is an essential mechanism in creating the most enabling environment to advance the labour and human rights of sex workers. The Global Alliance Against Trafficking in Women (GAATW) explicitly advocates for 'the decriminalisation of sex work, for labour rights for sex workers, and the conceptual de-linking of sex work and trafficking in persons'.<sup>20</sup> This is

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<sup>16</sup> Australian Department of Home Affairs. (NA). Workers rights and restrictions. Retrieved on 26/07/20 from <https://immi.homeaffairs.gov.au/visas/working-in-australia/work-rights-and-exploitation>.

<sup>17</sup> *Phillipa v Carmel* [1996] IRCA 451.

<sup>18</sup> Ibid.

<sup>19</sup> Donovan, B., et al. (2012). *The sex industry in New South Wales: a report to the NSW Ministry of Health*. Retrieved on 26/07/20 from [https://kirby.unsw.edu.au/sites/default/files/kirby/report/SHP\\_NSW-Sex-Industry-Report-2012.pdf](https://kirby.unsw.edu.au/sites/default/files/kirby/report/SHP_NSW-Sex-Industry-Report-2012.pdf).

<sup>20</sup> Global Alliance Against Traffic in Women (GAATW). (October 2013). GAATW-IS Statement on attack on UN research calling for the decriminalisation of sex work. Retrieved on 26/07/20 from

due to compounding research that indicate that criminalisation creates a complex matrix of impediments to implementing evidence based anti-trafficking and labour exploitation prevention strategies and for sex workers to access support. Decriminalisation is also supported by United Nations, UNAIDS, UNFPA, UNDP, Amnesty International, International Labor Office (ILO), World Health Organisation, Lancet Medical Journal, Global Network of Sex Work Projects, Asia Pacific Network of Sex Workers, and within Australia's National BBV and STI Strategies.

*Anti-trafficking responses that conflate all sex work and labour exploitation with human trafficking jeopardises migrant sex workers' support and safety structures, workplaces, and undermines efforts to address labour exploitation.*

There is an increasing body of evidence that indicate that anti-trafficking responses that conflate sex work and all labour exploitation in the sex industry with human trafficking have jeopardised migrant sex workers' support and safety structures, workplaces, and undermined efforts to address labour exploitation. The undue focus on trafficking in the sex industry has led to responses that target sex workers for surveillance, criminal prosecutions, stigma and discrimination, human rights violations, immigration scrutiny, and raids, rescue and rehabilitation missions under the guise of combatting trafficking. The over-policing, raids, and compliance checking in the guise of investigating trafficking has heightened sex workers' distrust of the authorities and further deters sex workers from seeking assistance in fear that it will result in further scrutiny, prosecution, or deportation. The Scarlet Alliance Migration Project has reported that contact with the Department of Home Affairs officers has often resulted in increased policing of migrant sex workers' workplaces, heightening tensions between workers and the authorities, and further deters workers from seeking assistance. A migrant sex worker indicated that their workplace is visited twice a year by 6-8 police officers who come in and take records of all the workers. While there were no issues when the police visited, the visit caused the workers to worry about their legal details being recorded by the police and whether it will cause problems to their migration status.

In her November 2011 visit to Australia, the UN Special Rapporteur on Trafficking in Persons, Ms. Joy Ngozi Ezeilo, noted that:

'There is need to move away from over-sexualizing the discourse on trafficking, which invariably contributes to the common stereotype of victims of trafficking as being women and girls forced into prostitution or other forms of sexual exploitation. Furthermore, awareness is required to ensure that anti-trafficking policies do not have the unintended consequence of causing gender discrimination against women.'<sup>2</sup>

*Anti-trafficking responses that focus on restrictive immigration scrutiny and criminal justice approaches have made it more difficult for sex workers to travel, operate within the regulated sex industry, and access support.*

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<https://www.gaatw.org/component/content/article?id=754:gaatw-is-statement-on-attack-on-un-research-calling-for-the-decriminalisation-of-sex-work>.

<sup>21</sup> Ezeilo, J. N. (2011). Australia has demonstrated strong leadership in combating trafficking in persons regionally and domestically, however it needs to devote greater attention to the rights and needs of victims *The UN Special Rapporteur in Trafficking in Persons, especially Women and Children concludes her country visit to Australia*. United Nations Human Rights Office of the High Commissioner. Retrieved on 26/07/20 from <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11664&LangID=E>.

Instead of creating the circumstances necessary for sex workers to operate legally and safely, anti-trafficking responses that focus on restrictive immigration scrutiny and criminal justice approaches have often made it more difficult for sex workers to travel, operate within the regulated sex industry, and access support. These counterproductive anti-trafficking responses fail to centre the agency and rights of migrant sex workers and have increased stigma and discrimination against sex workers and vulnerabilities to trafficking. For example, overly broad offences that criminalise those who provide migrant sex workers with assistance with their travel and work in the sex industry also criminalise sex workers' support and safety structures, such as receptionists, security guards, and drivers. As a result, sex workers and our support and safety structures are forced to operate covertly and sex workers are often forced to work alone<sup>22</sup>, decreasing our access to support structures, increasing isolation, and undermining sex worker's right to freedom of association. Making it more difficult for sex workers to operate within the regulated sex industry increases vulnerabilities to exploitation and trafficking and creates barriers to accessing support.

Additionally, instead of creating safer migration channels for migrant sex workers, the Australian anti-trafficking response has made it more difficult by increasing border security and implementing stricter visa conditions. Making migration more difficult for migrant sex workers increases vulnerabilities to trafficking. Immigration restrictions impede regular migration for many seeking a better life or working conditions. *The Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime* (the Protocol) highlights the need to discourage the demand that fosters exploitation that leads to trafficking.<sup>23</sup> Increasing immigration scrutiny and reducing legitimate migration pathways in effect, feeds this demand.

Migrant workers often need to use the services of agents to apply for expensive and complicated visas. However, research indicates that the use of brokers and agents to travel significantly increases migrant sex workers' vulnerability to trafficking.<sup>24</sup> When provided with accessible and safe migration pathways, migrant sex workers are able to access visas without the need to use a broker or a third party, thereby, reducing migrant workers' vulnerability to trafficking.<sup>25,26</sup>

*Migrant sex workers need a human rights-based response to preventing labour exploitation and human trafficking in the sex industry.*

Migrant sex workers' access to justice are best protected by policies focusing on prevention of exploitative conditions rather than increased criminal justice approaches and surveillance. In her

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<sup>22</sup> Network for Sex Worker Projects (NSWP). (2017). *The Decriminalisation of Third Parties*. Retrieved on 26/07/20 from <http://www.nswp.org/resource/policy-brief-the-decriminalisation-third-parties>. Pg6.

<sup>23</sup> United Nations Human Rights Office of the High Commission (OHCHR). (2000). *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*. Retrieved on 26/07/20 from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>. Pg172

<sup>24</sup> Renshaw, L. (2016). Migrating for work and study: The role of the migration broker in facilitating workplace exploitation, human trafficking and slavery. *Trends & Issues in Crime & Criminal Justice*(527).

<sup>25</sup> Global Alliance Against Traffic in Women (GAATW). (2010). *Beyond Borders: Exploring the link between trafficking and migration*. Retrieved on 26/07/20 from [http://www.gaatw.org/publications/WP\\_on\\_Migration.pdf](http://www.gaatw.org/publications/WP_on_Migration.pdf).

<sup>26</sup> Tarran., P. A., & Chammartin, G. M. F. (2002). *Getting at the Roots: Stopping Exploitation of Migrant Workers by Organized Crime*. Geneva: International Labour Office. Pg11.

analysis of the Australian Government's response to trafficking, Sarah Steele notes that targets of anti-trafficking policy are constructed as victims needing protection from harm rather than as individuals deserving of positive rights.<sup>27</sup> Lin Chew, a founding member of the GAATW, argued that instead of a 'repressive' model, governments should adopt an 'empowering model', aimed at enhancing and restoring the rights of migrant sex workers, provide support and assistance in an enabling environment, and increase autonomy and self-determination. As Chew argues, such an approach would include understanding sex work as a legitimate occupation, recognising the agency of women and girls, strengthening the political and civil rights of sex workers, increasing access to resources, training and jobs, and mobilising for self-representation and participation at all levels.<sup>28</sup>

The Scarlet Alliance Migration Project provide sex workers, including those who are at risk and have experiences of exploitation, with a safe avenue to access support and have our voices heard in the Australian human trafficking response. This project is managed and staffed by migrant sex workers. It aims to produce and deliver translated information on legal and migration rights and responsibilities to migrant sex workers in Australia and their country of origin. The project is highly successful, cost-effect, and practical way to increase community awareness in Australia and abroad and support labour exploitation and trafficking prevention efforts. Peer projects like the Scarlet Alliance Migration Project are key in facilitating the effective link between affected migrant sex worker communities and governments.

Scarlet Alliance submits that sex worker driven, evidence-based approaches to sex work, migration, exploitation should be pursued over criminal justice based approaches to prevent labour exploitation and human trafficking in the sex industry. The most effective approaches aim to address the circumstances that expose sex workers to exploitation and prioritise the needs, agency and self-determination of victims over criminal prosecutions and increased surveillance.

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<sup>27</sup> Steele, S. (2007). Trafficking in People: The Australian Government's Response. *Alternative Law Journal*, 32(1), 18-21. doi:10.1177/1037969x0703200107.

<sup>28</sup> Chew, L. (1998). Prostitution and Migration: Issues and Approaches presented to Asia Pacific Network of Sex Workers. Calcutta. Retrieved on 26/07/20 from <http://www.scarletalliance.org.au/library/chew98>.