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Don't divide our community: recommendation to barr migrant sex work in Australia sparks fresh fears for rights of migrant workers

According to media articles, an unreleased report on Australia's migration system recommends barring temporary migrants from working in the sex industry.

"This proposal would divide the sex worker community, giving residents' full rights and throwing migrant sex workers under the bus. This would undermine decriminalisation and law reform efforts all over the country, and increase discrimination against migrant sex workers. The outright barring of migrant sex work in other jurisdictions has been found to be extremely harmful and would be a mistake for Australia to implement."

Mon, member of the Asian and Migrant Sex Worker Advisory Group of Scarlet Alliance

"There have been big strides forward in industrial and human rights gained for sex workers in state and territory jurisdictions. We won't allow any part of the sex worker community to be left behind and miss out on those gains."

Mish Pony, CEO of Scarlet Alliance.

In Canada, a campaign to repeal similar laws is underway, led by the HIV Legal Network of Canada and Canadian Alliance for Sex Work Law Reform. They say that immigration regulations prohibiting migrant people from working in the sex industry has led to the detention and deportation of migrant sex workers.¹

In Aotearoa New Zealand, research by Dr Lynzi Armstrong, senior lecturer in Criminology has found that legislation barring temporary visa holders from doing sex work in New Zealand "renders migrant sex workers more vulnerable to experiencing exploitation and violence,"² and that "the discriminatory policy that is currently in place puts migrant sex workers at risk."³

"The ban of temporary migrant sex workers is in place in Canada and New Zealand and results in the detention and deportation of temporary migrants found to be sex workers. Such targeting and criminalisation does nothing to increase safety or the labour rights of migrant sex workers and is based on misinformed and racist assumptions."

Mon, member of the Asian and Migrant Sex Worker Advisory Group of Scarlet Alliance

¹ HIV Legal Network and Canadian Alliance for Sex Work Law Reform (2022). *HIV, Human Rights, and Sex Work in Canada*. Submission to the Office of the UN High Commissioner for Human Rights pursuant to Human Rights Council resolution 47/17, entitled 'Human rights in the context of HIV and AIDS' (adopted July 13, 2021).

² Armstrong, L. (2018). *New Zealand*. In: Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions. Global Alliance Against Trafficking in Women.

³ Armstrong, L. (2018). *Almost legal: migrant sex work in New Zealand*. openDemocracy.net.



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A recent submission⁴ by Scarlet Alliance and state based peer sex worker organisations and projects detailed the elements of a rights-based framework that addresses the global drivers of trafficking, slavery and slavery-like offences as an effective approach supported by both international and Australian human rights bodies⁵.

“Prevention of exploitation includes better access to visas, improved methods of migration, removing barriers to independent travel and migration, and providing information about the laws and rights in Australia. Laws and policies that criminalise aspects of sex work are ineffective in improving work conditions for migrant sex workers in Australia.” Mish Pony, CEO of Scarlet Alliance.

Instead of banning migrant sex work, sex worker leaders are calling for:

- the provision of safe, non-discriminatory and accessible migration channels for all workers
- access to industrial and workplace rights and protections through mechanisms such as Fair Work and jurisdictional tribunals
- increased funding for multilingual migrant sex worker peer education and advocacy programs nationally and locally.

Unfortunately the proposal to ban migrants on temporary visas from engaging in sex work comes as no surprise to sex worker organisations in Australia. Former Victorian Police Commissioner Christine Nixon conducted the inquiry without the input of migrant sex workers or sex worker organisations. In opposition to their stated aims of reducing exploitation and without the expertise of those with lived experience, this style of migration, border protection and anti-trafficking policy is intrinsically flawed and creates devastating outcomes for migrant sex workers.

Scarlet Alliance continues to seek a briefing meeting with relevant Ministers, and will speak to this issue at the Attorney General’s Roundtable in Human Trafficking and Slavery later in 2023.

⁴ Scarlet Alliance. (2023). *Submission to the Targeted review of Divisions 270 and 271 of the Criminal Code*. Australian Government Attorney-General's Department.

⁵ Australian Human Rights Commission. (2011). *A human rights approach to trafficking in persons: Australian Human Rights Commission Submission to the UN Special Rapporteur on Trafficking in Persons*, Australian Mission, 17-29 November 2011.