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To The Economic Policy Scrutiny Committee,

We are writing in response to the Northern Territory Government Sex Industry Bill 2019.

To respond in brief to the proposed questions being reviewed by the Committee, Particularly point **(a) whether the Assembly should pass the Bill** and point **(b) whether the Assembly should amend the Bill**.

We do not support the proposed bill being passed and secondly the premise of the bill is such that we do not believe sufficient changes could be made to the proposed legislation in Order for it to protect the rights of people who have been exploited in the sex trade.

The proposed legislation seeks to implement full decriminalisation which is aligned to similar decriminalisation legislation in states such as New South Wales and countries such as New Zealand.

We find it to be a misnomer that Australia is currently seeking to address men's violence to women while the Northern Territory government is pursuing legislation such as the proposed Sex Industry Bill 2019 which will further entrench men's attitudes of sexual entitlement through normalising the purchase of sexual access to women's bodies.

Having a caste of women set aside for sexual access by males has a wider impact on men's attitudes to all women at all levels of society. This was reflected recently when Australian barrister, human rights and refugee advocate, Julian Burnside AO QC said- "*Prostitution affects all women because it affects the way men regard women.*"¹

The proposed bill seems to go against the trajectory of the international research and responses to the issue of prostitution. Currently the impacts of the decriminalisation of sex-buyers and pimps is being monitored and discussed within the European Union as we progressively gain more data on the outcomes of asymmetric decriminalisation (the Nordic Model) which decriminalises only the prostituted (the person selling sex).

¹ <https://twitter.com/julianburnside/status/506420274967748610?lang=en>

The proposed legislation seems to have been developed without the involvement of survivors or their representative organisations and we have not been consulted in its development, nor are we aware of any other survivor groups being consulted in the development of this policy.

We note that the Sex Worker Outreach Project (SWOP) NT and Scarlet Alliance appear to have been consulted extensively and we note they have heralded the Northern Territory Labor Party for their engagement with them in the introduction of the proposed bill.²

We hold serious concerns regarding SWOP and Scarlet Alliance as organisations and do not believe they represent the interests of 'workers' in the sex trade. Both organisations are members of the Global Network of Sex Worker Projects (GNSWP), the Mexican vice president of whom is currently serving a fifteen year prison term for sex trafficking. We also note that a number of SWOP's high profile members such as Maggie McNeil in the United States and Jackie McMillan in Australia have been industry owners and not "sex workers".³

Below we highlight serious concerns about the proposed bill and specifically the proposed model of decriminalisation. We believe that the adoption of this bill will have serious detrimental impacts on the safety, wellbeing and mental health of those involved in the sex trade as well as entrenching the negative impact of the sex trade on Aboriginal Women.

We implore you to reject the proposed Sex Industry Decriminalisation Bill 2019 and recommence the consultative process which includes survivors of the sex trade. We also need a genuine willingness from the Northern Territory government to consider the adoption of a human rights approach such as Asymmetric Decriminalisation (the Nordic Model) which we advocate as an evidence based best practice approach for addressing the harms caused to people (specifically women) by the sex trade.

In responding specifically to the proposed bill, we are very concerned about the whole of the proposed legislation however the larger concern is the omissions present in the legislation. There is no specific information in relation to the adoption of safe sex practices outside of the statement that "*Operators and sex workers must take all reasonable steps to adopt and promote safe sex practices*". With no clear guidelines on how this will be monitored by the department of health and what additional resources or special powers will be given to the office and its staff to ensure compliance of the sex industry. Nor does it state the impacts of these on the privacy of individual 'sex workers'.

Another concern is the reference to and process of 'suitability certificates' for the purpose of operating a 'sex work business'. The process of applying to the Commissioner for a suitability certificate seems particularly lacking in transparency. Seen as though the reference is made to

² http://www.scarletalliance.org.au/media/News_Item.2019-09-17.4125

³ <http://logosjournal.com/2016/farley-2/>

the Consumer Affairs and Fair Trading Act 1990, the implication is that those seeking a 'suitability certificate' would be applying to the Commissioner of Consumer Affairs. It appears a poor practice that such certificates have no fixed expiry and also the fact that these are not issued through the Justice Department and as such they do not appear subject to the kinds of rigorous criminal checks which prospective employees would be subject to through applying for a national police check or those who are subject to other criminal history checks for working with children clearance.

We also have serious concerns regarding section 9 of the proposed bill, this section does outline 'refusal to perform sex work', although it lacks detail with no outlined safeguards for the personal 'selling sex'. This is due to the fact we have seen examples in Australia where women in the sex-trade have been raped with little recourse to justice with their assaults having been regarded as theft of service rather than serious criminal assaults. An example of this was recently seen in Victoria where real estate agent Mr Henry Jiang was initially charged with five counts of rape, false imprisonment and indecent assault with charges ultimately being dropped and Mr Jiang only being ordered to repay \$500 stolen from the sex workers purse as well as paying a further \$200 for the mobile phone he also stole.⁴

Further in this same section, we also have concerns about section (3) which states "nothing in this section affects any right to rescind or cancel, or to recover damages for, a contract for sex work that is not performed". Sex buyers are already empowered with the onus on sex sellers and not sex buyers to maintain regular sexual health checks or be disease free. We do not support sex-buyers being empowered by this provision and potentially being able to recover damages i.e. be refunded for non-performance or unsatisfactory performance for some form of breach of contract.

In discussing sex buyers we would like to direct you to information regarding studies of sex buyers. A study published in 2015 in the Journal of Interpersonal Violence co-authored by University of California, Los Angeles (UCLA) Professor Neil Malamuth who profiled men who buy sex. The research found that men who buy sex are more likely to report having committed rape and other aggressive acts.

Professor Malamuth, a professor of communications studies and psychology, said; "Our findings indicate that men who buy sex share certain key characteristics with men who are at risk for committing sexual aggression. Both groups tend to have a preference for impersonal sex, a fear of rejection by women, a history of having committed sexually aggressive acts and a hostile masculine self-identification. Those who buy sex, on average, have less empathy for women in prostitution and view them as intrinsically different from other women."⁵

It is our concern that this proposed section in the bill opens a loophole for sex buyers to

⁴ <http://www.theage.com.au/victoria/acquitted-of-rape-real-estate-agent-henry-jiang-must-pay-for-sex-workers-broken-phone-20160426-gof3gv.html>

⁵ <http://newsroom.ucla.edu/releases/men-who-buy-sex-have-much-in-common-with-sexually-coercive-men>

potentially coerce, intimidate and inflict acts of sexual aggression or harm on sex sellers with the threat they could pursue “breach of contract” if the sex seller does not comply with their sexual demands or does not meet their expectations.

Some other concerning factors regarding the proposed legislation include the fact that there is no recognition that the sex industry is not an industry like any other or work like any other. No special reference is made to the specific health challenges and particularly mental health challenges and trauma faced by women in the sex industry.

Australian and international research highlights a considerable number of negative social determinants which create pathways into prostitution. This is not discussed in the current dominant narrative which argues that being in the sex trade is 'work like any other'.

This narrative denies the reality of lived disability for people involved in prostitution and promotes a flawed belief that 'choice' is the presiding factor in a person remaining in the sex industry. This flawed perspective is one dimensional and absent of any critical thinking about the systemic issues around male privilege in our society, the sexualisation of women and children in the media or applying any socio-economic analysis to the human experience.

Research in 2003 looked at the prevalence of Post-Traumatic Stress Disorder (PTSD) amongst women in prostitution across nine countries, it was found that 68% of those in the sex trade experienced PTSD. This rate is comparable to the trauma faced by rape survivors and survivors of state-sponsored torture.⁶

Further research carried out in Australia highlights some alarming statistics. In 2005 the National Drug and Alcohol Research centre published an article titled 'Mental health, drug use and risk among female street-based sex workers in greater Sydney'. The project interviewed 72 women who had been involved in prostitution for 3 months or more, the statistics highlighted the following;

- One quarter of the identified as being Aboriginal and/or Torres Strait Islander.
- More than half left home before the age of 16.
- The median range for school completion was year 9.
- 14% had no fixed address or were currently homeless
- Nearly half the sample reported being homeless within the past 12 months.
- Three-quarters of the sample experienced child sexual abuse before the age of 16.
- Almost two-thirds reported that after the age of 16 someone had sexual intercourse with them despite them making it clear they did not consent.
- One third of participants reported moving into prostitution before the age of 18.
- Two thirds of respondents found sex work stressful with half stating that the clients were the cause of this stress.

⁶ <http://www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf>

- 85% of women reported experiencing violence in prostitution, particularly physical assault (65%), rape with gun/knife (40%), rape without weapon (33%) and attempted rape (21%).
- Depression was also prevalent in this study with a little over half (39 respondents) reporting severe depressive symptoms, a little over half of this group (54%) reported having attempted suicide and one-quarter of these had been before the age of 18. Half the sample also screened positively for a diagnosis of Borderline Personality Disorder (BPD) with approximately half the total sample also meeting the criteria for PTSD with 31% of respondents reporting current PTSD symptoms.⁷

A 2009 study conducted by the University of Queensland and Queensland University of Technology surveyed women from three sections of the sex industry. This included 103 private 'sex workers', 102 legal brothel workers and 42 illegal 'sex workers', 33 of whom were street workers. The results showed that 83% of illegal 'sex workers' had been exposed to sexual abuse during childhood, 45% of licensed brothel workers and 48% of private 'sex workers' also reported childhood abuse. It also showed that 52% of illegal 'sex workers' had been raped or bashed by a client; 15% of private 'sex workers' and 3% of brothel-based 'sex workers' also experienced these traumas.

The study highlighted that street workers were four times more likely to have mental health problems than brothel workers, but overall prostituted women from all sectors had poorer mental health than Australian women of comparable age who were not in the sex industry.⁸

It is also worth mentioning that as recently as September 2014 over 90 trauma specialists and psychologists in Germany have signed on to a campaign called 'Stopp Sexkauf' meaning 'stop the purchase of sex'.⁹

Germany has long had a decriminalised sex industry similar to the model seen in states such as New South Wales and our nearest neighbour New Zealand. Many reports from across Europe consistently highlight that Germany's laissez-faire prostitution regime has led to a massive expansion of the industry and made it a destination country for sex trafficking.

These mental health specialists have spoken out to call the government to rethink Germany's liberalised prostitution laws and advocate for the nation to move towards the Nordic Model.

Michaela Hiber, a Psychologist and head of the German Society for Trauma and Dissociation said: *"Prostitution is in no way a job like any other. It is degrading, torturous, exploitive. On the side of the prostituted, there is a lot of horror and disgust at play, which they have to repress in order to get through it at all."*¹⁰

⁷ <https://ndarc.med.unsw.edu.au/sites/default/files/ndarc/resources/TR.237.pdf>

⁸ <http://eprints.qut.edu.au/17394/8/c17394.pdf>

⁹ <http://karlsruherappell.com/>

¹⁰ <http://www.sabinabecker.com/2014/09/german-psychologists-and-the-scientific-case-against->

Given the increasing research highlighting increased rates of PTSD amongst those in the sex-trade, we urge you to see this matter as an urgent health crisis in all Australian states and territories, particularly in regard to Indigenous women and children.

In response to point (c) *whether the Bill has sufficient regard to the rights and liberties of individuals*. Proposers of the bill seem to have a misguided view that treating the sex industry like any other industry will somehow remove the stigma faced by ‘sex workers’ as well as expressing their belief that ‘sex workers’ will be more willing to seek assistance from police should their rights be infringed on. The ‘Statement of compatibility with human rights’ document also seems to express a rather naïve view that *“treating the sex industry like any other business or industry, criminal elements will find it increasingly challenging to hold sway over the industry and exploit or traffic women”*.

This claim is dubious when we reflect on findings of a recent report, *Does Legalized Prostitution Increase Human Trafficking?*, (a collaboration between the London School of Economics and Political Science (LSE), the German Institute for Economic Research, and Heidelberg University) which described international human trafficking as ‘one of the dark sides of globalisation’. The report explained that most victims of international human trafficking are women and girls, the vast majority of who end up being sexually exploited through prostitution. Domestic policy on prostitution in countries of destination, it says, has a marked effect. The researchers used a global sample of 116 countries and found that countries where prostitution is legal tend to experience a higher reported inflow of human trafficking than countries in which prostitution is prohibited.¹¹

Equally we do not need to look far from home to see the desired outcomes from the proposed Sex Industry Bill 2019 are unlikely to be achieved when we view evidence of similar legislation adopted in other jurisdictions such as New South Wales. Some of these negative outcomes are outlined below.

Exploitation in New South Wales:

New South Wales has proven to be an unregulated minefield of exploitation, abuse and an ever expanding illegal sector associated with other criminal activities. Media reports over the past two years indicate that New South Wales has allowed criminals to run brothels in the state despite having criminal convictions recorded against them in other Australian states (specifically Victoria) for, amongst other things, sexually exploiting minors.¹²

[prostitution.html](#)

¹¹ http://www.lse.ac.uk/geographyAndEnvironment/whosWho/profiles/neumayer/pdf/Article-for-World-Development_-_prostitution_-_anonymous-REVISED.pdf

¹² <http://www.dailytelegraph.com.au/news/nsw/brothel-owners-banned-in-victoria-for-employing-underage-prostitutes-now-running-big-brothels-in-sydney/story-fni0cx12-1226848537447?nk=269f499e0d84b5af747fa64738b2bb94>

Another case saw a brothel madam exposed for enslaving a group of Malaysian women and forcing them to work 17 hour shifts and coercing them to perform unprotected sex acts.¹³

Bikie Gangs linked to New South Wales Sex Industry:

It was reported in October 2011 that an inner-city Sydney brothel specialises in Korean prostitutes and is closely linked to the Comancheros outlaw motorcycle club and senior Asian organised crime figures. (McKenzie & Beck, 2011).

In November 2015 NSW Police publicly admitted outlaw motorcycle gangs had links to at least 40 brothels in the state; a sex worker was set alight a few years ago; groups of women have been found debt-bonded to brothels; and individual women have been found dead in hotels.¹⁴

Further the Ballina Shire Council wrote a submission to NSW Inquiry into Brothels 2015 stating; *“Ballina Shire Council has received a number of complaints and allegations alleging the involvement of organised crime and criminal motor cycle gangs in the owning and operation of brothels in the Northern Rivers area of New South Wales”*.¹⁵

Australian Councils have also been criticised for failing to act on an increasing illegal brothel sector.¹⁶

Health, Safety and Wellbeing of those working in the sex industry:

Brothels have been criticised for being involved in illegal practices and allowing their employees be placed in dangerous situations. One report in particular referred to a brothel that ignored warnings about a predatory drug addicted neurosurgeon who was targeting prostitutes. Not only did the brothel sell cocaine to the doctor but two young women died as a result of being given lethal doses of cocaine.¹⁷

The Law and Sex worker Health (LASH) report of 2012, commissioned by the NSW health ministry and conducted by the University of NSW and the Kirby Institute, found that of 201 respondents involved the sex trade, 46% stated that they would 'not feel comfortable' or feel 'very uncomfortable' with reporting a sexual assault to a police officer.¹⁸

2012 also saw the release of a study which found that 507 people working in the sex industry were offering unprotected oral sex.¹⁹

¹³ <http://www.smh.com.au/nsw/jail-for-brothel-keeper-who-enslaved-women-20130705-2phgf.html>

¹⁴ <https://www.smh.com.au/opinion/its-time-to-clean-up-prostitution-20151110-gkv5co.html>

¹⁵ https://www.parliament.nsw.gov.au/ladocs/submissions/39146/Submission%208%20-%20Inquiry%20into%20the%20Regulation%20of%20Brothels%20in%20NSW_Redacted.pdf

¹⁶ <http://www.theage.com.au/nsw/brothel-barons-expand-as-councils-fail-to-act-on-illegal-activities-20131130-2yi9m.htm>

¹⁷ <http://www.smh.com.au/nsw/brothels-ignored-warning-on-neurosurgeon-suresh-nair-20140524-38vk9.html>

¹⁸ <http://www.acon.org.au/wp-content/uploads/2015/04/NSW-Sex-Industry-Report-CSRH-2012.pdf>

¹⁹ <http://www.dailytelegraph.com.au/news/nsw/more-than-500-sydney-prostitutes-are-offering-unprotected-sex-to-clients-in-brothels/story-e6freuzi-1226240239728>

In New South Wales, Australia, a police officer who investigates sex trafficking commented on the effects of decriminalisation; *"Although the intention was to provide a safe working environment for sex workers the reverse has occurred in that pimps and brothel operators were empowered and enriched"*.²⁰

It is also clear that 457 visas are being used to traffic women into prostitution.²¹ However groups such as the Scarlet Alliance continue to dispute this, Jules Kim, then migration program manager for the Scarlet Alliance stated – *"The [Australian Immigration Department] considers that sex work is not a skilled occupation and so they've been excluded [from 457 visas]. Sex workers [are] just as skilled as other workers... There are very limited visa pathways for migrant sex workers. In order to gain a visa, some migrant sex workers enter into 'contracts' with people who will sponsor and assist their entry into Australia, or use a third party or broker to facilitate completion of documentation. The more legal, safe migration pathways you have open to people, the less likely they're going to be vulnerable to exploitation"*.²²

Ms Kim displays a clear lack of understanding of the economic challenges and cultural attitudes that lead people, mostly women, to the sex trade. This position also ignores the plight of refugees fleeing catastrophic violence who are trafficked to states and countries where prostitution is decriminalised.²³ It also fails to recognise that 'choice' to enter the sex industry is mostly related to limited options arising from factors such as sex inequality, poverty and entrenched cultural attitudes towards women.

There are also many reported negative outcomes from the decriminalisation of the sex industry in New Zealand and some of these are highlighted below.

Health and Safety has failed in New Zealand under decriminalisation:

Despite the PRA bringing the sex industry under the Health and Safety in Employment Act of 1992, compliance with occupation health and safety regulations cannot be measured or enforced as there is no regular system for inspections of brothels by medical officers or by Labour Dept. officials.²⁴

Another interesting point is that the NZ report dismissed prostitution reforms 'decriminalisation' as having played any role in changing HIV infection rates.²⁴

²⁰ <http://www.smh.com.au/nsw/licensing-law-to-tighten-screws-on-brothel-chiefs-20111010-1lhm7.html>

²¹ <http://www.news.com.au/finance/economy/australian-economy/massage-therapists-used-as-prostitutes-in-457-visa-rort/news-story/46779feb1f1e0259843a49563e148a82>

²² <http://hldcivilsociety.org/wp-content/uploads/2013/07/Scarlet-Alliance-Recommendations-UN-GeneralAssembly-High-level-Dialogue-on-Int-Migration-Development.pdf>

²³ <http://www.independent.co.uk/news/world/europe/refugee-crisis-trapped-greece-children-girl-raped-boys-selling-sex-prostitution-eu-athens-a7695971.html>

²⁴ <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/documents/report.pdf>

Stigmatisation still a huge problem in New Zealand:

It is a commonly-held assumption that the legalisation or decriminalisation of prostitution reduces stigma towards the women involved. However, the NZ report of 2008 states *"This appears to have changed little post-decriminalisation. Stigmatisation plays a key role in non-reporting of incidents"*.²⁴

In 2014, despite New Zealand having a decriminalised regime for over a decade, media reports highlighted that violence and abuse were common experiences for Christchurch's prostituted. Detective Senior Sergeant Darryl Sweeney was quoted stating that victimisation of the prostituted was commonplace but they were reluctant to report experiences of violence to police.²⁵

Council's power to oppose brothels in non-commercial areas denied in New Zealand:

Despite the PRA enabling territorial authorities to make bylaws regulating the location, signage and advertising associated with commercial sexual services but cannot prohibit either, this has been raised as an issue with brothels opening in non-commercial areas despite community and council opposition.²⁶

Survivors of New Zealand's sex trade have called for the Nordic Model:

In 2012, New Zealand prime minister John Key stated that he did not think prostitution law reform 'decriminalisation' had worked in New Zealand and specifically sighted that there had been no reduction of street prostitution while South Auckland had seen numerous problems of under-age prostitution.²⁷ Particularly this has been noted amongst Indigenous communities and ethnic minorities.²⁸

In 2013 former prostituted persons called for the implementation of the Nordic Model saying that decriminalisation of the industry has failed them. One prostitution survivor told the committee her 16 years on the streets as a 'sex worker' began when she was just 12, after a toxic family life exposed her to drugs, and emotional, verbal and at times physical abuse. *"Me and my cousins would roam the streets and scab money for food. It was then when I was approached by a gentleman who said that if he gave me money to feed myself and younger cousins, in exchange I was to give him oral sex... It wasn't until I was 14 that prostitution became full time from then on"* she said. Incarcerated for long periods during this time, she turned back to prostitution upon release *"because that's all I knew and all I was good at doing in order to survive, I didn't know any other way... It was a dark life I was living – violent, extremely dangerous, the constant abuse, and fear of not knowing whether or not you were going to make it through the night when you have gangs or thugs going around the streets doing the girls over,*

²⁵ <http://www.stuff.co.nz/national/crime/10200534/Sex-workers-deserve-protection>

²⁶ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10781694

²⁷ <http://www.odt.co.nz/news/politics/234736/prostitution-law-reform-hasnt-worked-pm>

²⁸ <http://auckland.scoop.co.nz/2013/04/under-age-prostitution-in-south-auckland-concerns-about-safety-intimidation/>

beating them for their earnings which the gangs call rent... being raped and sometimes gang raped came with the job."

Other sex trade survivors who spoke to the select committee described their substance abuse as a way of switching off while working, often to the point of blackout. One used alcohol as a coping mechanism for the sexual abuse suffered during her early life, and said one day *"something just snapped inside of me"*, and she turned to prostitution, aged 32. *"I didn't care what happened to me any more and thought I may as well get paid for having sex... I was raped once and scared many times. Each time I did it I never knew if I was going to be raped or even murdered."* She has been diagnosed with post-traumatic stress disorder, and is undergoing therapy. The woman urged the adoption of the Nordic Model because *"the law at the moment isn't working"*.²⁹

Sabrina Valisce, a sex-trade survivor who was a volunteer activist with the New Zealand Prostitutes Collective for 23 years fought for the decriminalisation of the sex trade in order to protect those adversely impacted by it and has since spoken out with dismay at the outcomes which have instead seen prostituted women suffering more and in contrast to that for which she fought. She now advocates for asymmetric decriminalisation, or the Nordic Model.³⁰ Sabrina's evidence along with that of two other prostituted women can also be found in a recent and thoroughly researched article in the Tasmanian Times.³¹

In relation to violence since the implementation of the Prostitution Reform Act 2003 in New Zealand, Yves Charpenel, President of Fondation Scelles and former Deputy Magistrate to the Supreme Court of France stated; *"When the greatest benefit from prostitution is that 87.9% of prostituted persons have "survived", when an Aboriginal minority population is overrepresented in a violent system... promoting New Zealand as an example to be followed...is prompting racism and sexism"*.³²

Aboriginal Women exploited by the sex trade:

According to the 2016 Census, Aboriginal and/or Torres Strait Islander people account for to 25.5% of the Northern Territory population. As such we need to consider the negative impact of the sex trade on Aboriginal women.

Aboriginal women are disproportionately represented among street-based 'sex workers': 21%–23% (Harcourt et al 2001; Roxburgh et al 2006) versus 1.5% in the LASH study of brothel-based sex workers. The marginalisation of these women is compounded by the socio-economic disadvantage and cultural norms of their communities.³³

²⁹ <http://www.stuff.co.nz/national/politics/9428778/Ex-prostitutes-call-for-law-change>

³⁰ http://www.truthdig.com/report/item/the_evidence_from_new_zealand_the_new_york_times_ignored_2016_0601

³¹ http://tasmaniantimes.com/index.php?/weblog/article/new-zealands-survivors-speaking-out/show_comments

³² https://www.fondationscelles.org/pdf/RM5/5th_Global_Report_Fondation_SCELLES_2019_download.pdf

³³ <http://www.acon.org.au/wp-content/uploads/2015/04/NSW-Sex-Industry-Report-CSRH-2012.pdf>

Research from 2012 by Dr Catherine Holmes and Dr Eva McRae-Williams, working through the Batchelor Institute gave insight into the dangers and desperation of the lives of Aboriginal women. These women are targeted by men cruising Darwin's streets and parks looking to sexually exploit homeless Aboriginal women, known locally as long-grassers. These women's lives are mired in poverty, social exclusion, stigma, hunger, trauma, violence, deteriorating health and addiction.³⁴

In 2008 NT Chief Minister Paul Henderson conceded that police had known about the trading of young Aboriginal girls for sex over the last 15 years in the Northern Territory mining town of Nhulunbuy, 650km east of Darwin. Despite this and an intervention to combat child sexual abuse in July 2007, it was alleged that there had been no arrests of non-Aboriginal people who were working in the area and believed to have exchanged cash, drugs, taxi rides and alcohol for sex with teenage girls, some as young as 13.³⁵

Indigenous leader Galarrwuy Yunupingu said the sex trade had been operating for the past 15 years and at least 12 girls were currently engaged in the trade. *"Everybody here knows what has been going on and the time has come for us to put an end to this once and for all,"* he said.³⁸

In 2011 it was reported that child prostitution was occurring in the streets of Alice Springs. MP Robyn Lambley raised concerns in Parliament about child prostitution on the streets and challenged the government who stated that no reports of child prostitution had been received by child protection services. A youth worker named Blair McFarlane also confirmed sexual exploitation of children in Alice Springs.³⁶

In concluding our response to the proposed legislation, we also would like to respond to the accompanying document with the bill which is its '**statement of compatibility with human rights**'. This document concluded that the proposed bill is *"compatible with human rights as it does not raise any human rights issues"*.

Firstly point of conjecture is the fact that this document misquotes Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) by using the term *"sex work"* and not *"prostitution"*. The document misquotes article 6 as stating *"Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of women in sex work"*.³⁷

The actual resolution reads; *"Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."*³⁸

³⁴ <http://www.news.com.au/national/paul-toohey-darwin/news-story/9d05c8824501106d8e4423128d243afd>

³⁵ <http://www.smh.com.au/national/police-knew-about-teen-sex-trade-in-nt-20080404-23nc.html>

³⁶ <http://www.abc.net.au/news/2011-02-26/concerns-raised-over-child-prostitution-in-alice/1958592>

³⁷ https://parliament.nt.gov.au/__data/assets/pdf_file/0019/731008/Statement-of-Compatibility-with-Human-Rights.pdf

³⁸ <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

We reject the claim that the proposed bill is compatible with human rights and direct you to comments on exploitation of people within the sex trade by Sigma Huda, UN Special Rapporteur on Trafficking – *“It is rare that one finds a case in which the path to prostitution and/or a person’s experiences within prostitution do not involve, at the very least, an abuse of power or an abuse of vulnerability.....put simply, the road to prostitution and life within ‘the life’ is rarely one marked by empowerment or adequate options”*.³⁹

We encourage you to consider an approach based on the Nordic Model or Asymmetric Decriminalisation as opposed to the current proposed Sex Industry Bill 2019 of full decriminalisation of the sex trade which will likely only empower pimps and brothel owners, relegating them to the role of sex industry entrepreneurs.

Given the impact on persons in the sex trade we do not support their exploiters being further empowered and the sexual exploitation of vulnerable persons being normalised. These are people who are third party profiteers from the sexual exploitation, stigmatisation and harm caused to people in the sex trade.

Asymmetric Decriminalisation presents the best practice and rights based approach for addressing sexual exploitation. This legislation was pioneered in Sweden and culminated from decades of research, the legislation called the Kvinnofrid (Women’s Peace/Security/Freedom) Law and was enacted in 1999 to address all forms of violence against women. With legislative approaches based on Sweden’s model having subsequently been adopted in Norway (2009), Iceland (2009), Northern Ireland (2014), Canada (2014), France (2016), the Republic of Ireland (2017) and Israel (2018). This approach is also under consideration in many other jurisdictions including Lithuania and Scotland.

The effect of this legislation is five-fold;

- Decriminalising prostituted persons through abolition of solicitation offences.
- Ensures protection and support to all victims of trafficking for the purposes of sexual exploitation.
- Creates access to exit pathways out of prostitution.
- Discourages men (the primary client base for people in prostitution) from purchasing sex thereby making the sex trade less viable for third party exploiters which includes traffickers, pimps, brothel owners/managers.
- Erases historical criminal convictions for those convicted of solicitation offences, this breaks down potential barriers for those seeking careers after exiting the sex trade.

The Swedish government report reviewing the effects of the legislation found that the law had acted as a barrier to trafficking for the purposes of sexual exploitation. The report also noted that prostitution in Sweden, unlike comparable countries, had not increased and street prostitution had halved in the decade since its introduction. Data shows the number of

³⁹ [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577950/EPRS_BRI\(2016\)577950_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577950/EPRS_BRI(2016)577950_EN.pdf)

prostituted people in Sweden was roughly ten times lower per capita than in Denmark.⁴⁰

Some countries such as the United Kingdom have partially adopted the Nordic Model by enacting legislation making it illegal to buy sex from a person who has been trafficked or pimped. This was legislated with the Policing and Crime Act 2009, which makes it an offence “*knowingly or unknowingly to pay for sexual services of a prostitute subjected to force*”.

Other countries that have adopted the Nordic Model have also noted its success. In 2014, Norway conducted an independent 5-year evaluation of their laws, the findings stated – “*The prostitution market in Norway is, like the rest of Europe, characterized by an increasing share of immigrants... Most of these immigrants are women with few other real options than to entry into prostitution. Human trafficking is a part of this rotating market. The entry into prostitution is based on economic motives... Norway has a number of good social policies and charities targeting trafficking victims and prostitute.*” And “*The enforcement of the law, in combination with the laws against trafficking and pimping, makes Norway a less attractive country for prostitution based trafficking than what would have been the case if the law had not been adopted.*” The results also showed a 20-25% reduction in prostitution, and street prostitution had nearly halved.⁴¹

The European Women’s Lobby ‘EWL’ has also praised the Nordic Model of asymmetric decriminalisation and continues to fight for those least represented on the spectrum of male violence against women. The EWL campaign called ‘Together for a Europe free from prostitution’ brings together more than 250 organisations from all over Europe.⁴²

In April 2014 the Parliamentary Assembly of the Council of Europe called on member states to “*consider criminalising the purchase of sexual services, based on the Swedish model, as the most effective tool for preventing and combating trafficking in human beings.*”⁴³

In light of the ongoing international movement towards the introduction of asymmetric decriminalisation (‘The Nordic Model’) and international evidence which continues to highlight that many exploited persons end up in the sex trade, we urge you to decriminalise only prostituted persons while offering holistic exit strategies for those who wish to leave, and to implement the criminalisation of sex-buyers, brothel owners and profiteers.

We appreciate this opportunity to contribute to your inquiry and ask the Northern Territory government to consider the information we have presented and help lead the way by introducing legislation aimed at protecting those who are exploited rather than empowering their exploiters.

⁴⁰ <http://www.government.se/content/1/c6/14/92/31/96b1e019.pdf>

⁴¹ <http://www.eu-norway.org/Global/SiteFolders/webeu/Evaluation.pdf>

⁴² <http://www.womenlobby.org/-at-the-eu-level->

⁴³ <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20559&lang=en>



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Do not hesitate to contact us if you wish to discuss our concerns further.

Yours sincerely

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