

AUGUST 1998

**SEX WORKERS OUTREACH PROJECT (SWOP) RESPONSE TO THE
CRIMINAL CODE AMENDMENT (SLAVERY AND SEXUAL SERVITUDE)
BILL 1998**

CONTRACT SEX WORKERS - INDIVIDUAL WORKING WOMEN

The Sex Workers Outreach Project (SWOP) is a non government agency set up in 1990 under the auspice of the AIDS Council of NSW. It aims to minimise the transmission of HIV and STDs amongst sex workers and their clients. Our mission statement is to "assist sex workers in their efforts to live and work with safety and dignity". SWOP recognises the valuable contributions of a diverse sex working community - women, men & transgender - who are either Australian born or have come here to work from overseas.

The outreach workers at SWOP have had personal contact with women who have come to Australia to work in the sex industry under a contract system. A close relationship with many of these women has enabled staff to gain an insight into their complex lives and their working environment. Their accounts and how they see themselves are often different to the image projected by the mass media and popular beliefs. These insights inform the way SWOP works with and for Non-English Speaking Background (NESB) sex workers.

A part of SWOP's role is to advocate for the rights of sex workers. SWOP disputes that this legislation truly considers the circumstances of the women it will affect. The legislation does not address the rights of these workers. Such rights as improved working conditions, compensation for money lost through deportation, protection from criminal syndicates, legal aid, safe housing, working rights, the freedom of movement, the right to access health and support services and many other basic human rights are not addressed. These laws are not about changing servile conditions, or protecting women from abusive situations, nor are they for the benefit of the women involved, rather they are projected as the answer to problems of the state and immigration.

CONTRACTS

Contracts are a system which enable the women to come to Australia and work in the sex industry. A verbal contract is pre arranged in the homeland, with the agent (or organiser) and worker. The agents who recruit the workers can be women who have been on a contract themselves or are also workers. Contracts generally provide the workers with a visa, airline ticket and passport arrangements in return for a set amount of money. It also details where the woman are to work (this work is guaranteed) and accommodation arrangements.

For someone arriving from Thailand the contract price is usually around \$A30,000 to \$A45,000. This current estimate has risen substantially (approximately \$A10,000) in the last 3 years. The contract prices seem to vary between countries. Countries such as

Indonesia, Malaysia and Singapore offer lower contracts (approximately \$A12000 to \$A15000) and shorter time periods in Australia.

The working conditions vary from parlour to parlour. Most of the women would not know anyone in Australia and are dependent on the agent while working and living in Australia. Accommodation is provided either at the parlour or in a house with other workers. The working hours are often long and many women do not have much time off work. This is due to the fact that women want to earn the money for their contracts, as quickly as possible so as they can start making some money for themselves. Contracts also vary, in price and in the expected time required to pay them off. For example, workers in some parlours have been able to negotiate with management to keep money earned on certain shifts each week, before the contract is paid off.

WORKING CONDITIONS

Working conditions impact on the experiences of women in the sex industry. Outreach to establishments employing migrant sex workers indicate that working conditions vary greatly. As in other industries, some workplaces are better than others, some provide better conditions and create a fair and supportive atmosphere for their employees, others do not meet these standards.

Some establishments or agents do not provide adequate induction to the sex industry and do not follow Workcover Guidelines for the sex industry. On top of the social stigma of sex working, contract workers often face many of the same issues as other new immigrants; learning how the Australian system works, finding out about services and trying to overcome language barriers. This can lead to isolation from their ethnic community and peer networks and create barriers to accessing information and support services such as sexual health clinics, sex worker organisations and other community centres. In this environment it is easy for unscrupulous employers to set up a workplace which does not adhere to industry standards and which exploits sex workers.

The illegality of their working situation often compounds this. Workers may feel powerless to change the situation they are in, due to fear of being deported. Although the working conditions are substandard, we encounter many workers that are still prepared to endure them rather than return, or be deported back to their homeland. We have also encountered contract workers that have voluntarily returned back to Australia after being deported to work again in a contract situation.

Workers will continue to engage in contracts to travel overseas and work regardless of the proposed legislation: the arrangements will just take a different form to the current system. SWOP proposes that if, as the new legislation says, the government wants to abolish slavery and servile conditions, the working conditions and occupational health and safety should be the focus of legislative change.

THE RIGHT TO WORK, THE RIGHT TO TRAVEL

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The main reason given by the women for coming to Australia to sex work is financial. Most of the women have extended families and are relied upon to contribute to the well being of these family members. The women calculate that the opportunities for making money are often far greater in countries like Australia. The ability to make good money is a major motivation in deciding to travel to Australia.

Many of the women we meet are able to make their own money when they finish their contracts. This money is used in a variety of ways. Most will send money back to their home country. We encountered some women whose primary goal is to save money for a family member who is sick and in need of medical care. Situations such as this place both emotional and physical stress on the women.

We spoke at length to one worker, Candy, who had been in Sydney for two months and was in a contract. She was working to save money for her father, who was critically ill, and could not afford hospitalisation and medication. She was under enormous pressure to work long hours due to the critical condition of her father as well as the possibility of being located by Immigration and being deported. This situation is not unusual. SWOP sees its role in a situation such as this one of providing information and support during a particularly stressful period. Susie would not see herself as a 'sex slave', although that is how women in her situation are often labelled. Candy is a woman who has made a brave and difficult choice, to leave her family, go to another country, and work in the sex industry.

I'm a mother, daughter, wife, auntie, farmer, friend, sister, working woman, but to you all I am is a SEX SLAVE !!!!!

The link between these women is not that they are 'sex slaves' but that they share a goal of working towards a better life. This includes being financially secure enough to set up a small business such as a laundromat, food outlets, restaurants and other business ventures. This could be done in Australia or in their homeland. Some women have a dream of building their own house and providing this security for the family. Many women want better opportunities for their children and/or siblings, the money saved will go towards an education for them.

"Contracts are hard work but it's the only way I can make good money and come to see Australia....I know I can travel now, I meet different people and make my own money, because I do this work, my life, and my family's life will be easier."

For many of us the right to travel is taken for granted but for many women from other countries, to be in a contract to work in Australia is the only way they can experience travel. Often workers will acknowledge that their situation is far from ideal, but with little other choice offered in terms of viable incomes and with no other system they can go through to come to Australia contracts provided them and their families with a financial reward. Women have said that working in Australia has given them an opportunity to be involved in a different culture. This experience often has an impact on how they see their future goals and aspirations. For most of these women, it is the first time they learn another language (English) which they are able to apply in other areas of their life while in Australia

and in their homeland. This language skill gives many women confidence to participate in daily activities outside of their workplace and creates an avenue of possibilities for their future plans.

WOMEN'S EXPERIENCES & MEDIA MISREPRESENTATION

The general public are misled by superficial, pitying and racist misrepresentations of women under contracts. The mass media has had a huge influence on the public perception of women working in a contract situation. Many commentators have made broad statements about these women and contracts. Much of the reporting has been sensationalist, focusing on the experiences of some women who, because of unacceptable work conditions, slow business, and contracts that are too expensive and difficult to work off, have had a terrible time in Australia. SWOP acknowledges that these types of work experiences exist and it is these working conditions that we believe should be the focus of new laws and legislation. We believe that there are only a few agents and parlours which operate in Sydney, Melbourne and Queensland in a way that is being described by the legislation as 'sex slavery', and both immigration and the police are fully aware of these establishments and the operators behind them. The consistent raiding of these establishments, the names and locations of establishments exposed on both print and television news all indicates that the organisers are known to the Australian authorities. There are also numerous other laws, already existing, which immigration and police could use to target these people. Sweeping statements that all migrant sex workers are 'sex slaves' and a new legislation that aims to eradicate slavery but only in the sex industry is missing an opportunity to address the real issues.

Some of these women say that the contracts give them independence and autonomy. This may seem contradictory, however, the women say they made a free choice to work in the sex industry in another country, and the money made after a contract will provide them with the autonomy to start a new life when they return home.

Working overseas also has the benefit of providing the women with anonymity, as often the people back home do not know that they are working in the sex industry and this is an important factor in making a choice to travel and work overseas.

Lily came to Australia a few years ago and had a contract of \$30,000. She was from Bangkok, she had been to school but wasn't sure what she wanted for her future. She paid off her contract in Australia and then started to make money of her own. She decided that she wanted to make enough to start a business one day. She worked in different parlours after her contract and tried different working situations; massage, private and travelled interstate to work. She met workers and clients from many different backgrounds. Sex work offered Lily opportunities to travel to other countries. When she came back to Australia she engaged in voluntary work with a sex worker organisation and shared the valuable skills and confidence that she had learnt as a sex worker with her peers. This peer support worker enabled the organisation to further access and provide information and support to sex workers under contracts. Unfortunately, after a raid at her parlour, she was deported by Immigration because she didn't have the correct visa.

THE EFFECT OF THE PROPOSED LEGISLATION

NESB Outreach workers fear that this proposed legislation will have a detrimental effect on sex workers on contracts. It is already extremely difficult for many women to travel to Australia to sex work. The proposed legislation will cause contract prices to increase and it will not stop women from coming to Australia to sex work. It can be foreseen that the organisers of contracts will go underground and it is this situation which is of no benefit to either the Federal Government, health care providers, or the women themselves.

This underground system will create greater dangers to the women, further isolating an already marginalised sector of the sex industry. It forces them to become increasingly dependent on their agents and the parlour for their health and well being. For health care workers, such as outreach workers, it is a frustrating situation as the proposed legislation, increased immigration activity and media hype creates an environment of fear for parlour managers and their workers. Some parlours then close the doors to service providers, effectively isolating contract sex workers who may be in need of information, advice and support.

The sex industry consists of a range of players, the obvious ones being the sex workers and management. However, another significant player in the industry is the client. This legislation does not even mention the role of the client and their impact on the supply and demand for contract sex workers. In certain circumstances it can be difficult for a sex worker, both English speaker and non-English speaker, to negotiate with a client about terms and conditions of a service. However, if the sex worker feels confident that she has the right to negotiate with her client and that she would be supported by management to assert her rights, her ability to negotiate increases. The proposed legislation takes negotiating rights away from contract sex workers, in fact, it further asserts she has no rights in this country.

This leads the way for management to feel they are the ones who can set the terms and conditions of work, which can be influenced greatly by client demands rather than the wellbeing of the workers first. The worker's rights to see only the clients she wants to see, and to provide only a service she is comfortable doing is greatly diminished. This could lead to unfair conditions and unsafe work practices which the sex worker is forced to work under. It is absurd that in an industry which is already legal, the government is enacting legislation which would have the affect of limiting the ability to monitor Workcovers Occupational Health and Safety Guidelines in the sex industry, and potentially increase the illegal sector and the activities that go with it. These are critical issues that need to be addressed by our government both on a legal and humanitarian level.

ALTERNATIVE SOLUTIONS

The proposed legislation is focusing on the wrong group of people. It will unnecessarily punish the women who have travelled to Australia to make money. The situation of these women and the affect of the proposed legislation seems not to have been considered in the surrounding debate. Rather than focusing in on the illegality of these women's situation and

thus the right to punish and deport, SWOP strongly suggests that the focus be on the attributes of these women and their potential contributions to Australia.

It is possible to remove the criminal elements involved in these contract systems by offering an alternative legal method of travel for these women. A legal working visa would not only dramatically disrupt this existing contract system but it would also empower these women by offering them a legal means of travel and work. Several countries have successfully legislated for this system. Australia could legislate a similar system and refine it to reflect the needs of the sex workers as well as fulfilling the specific requirements of Immigration laws.

Sex workers from the European Union are free to work in the Netherlands under certain conditions, but they remain independent workers just like in other industries. In some municipalities "illegal" sex workers can work for three months on a tourist visa before returning home, provided they report to the police. This time frame enables a woman to work and have sufficient funds to return home with some money for the family, and space to process some of her experiences. A sharp contrast to our current system of deportation, which leaves many women with no money of their own if their contracts are not finished and consequently continued debt. It could leave a woman in a position of having to disclose her occupation in her home country and certainly no counselling, support, or compensation is offered for her experience let alone guarantee of safety on returning home (Wijer Marjan, Foundation Against Trafficking in Women, November 1997).

The Netherlands illustrates an example of more progressive policies in dealing with sex workers found to be working in "servile conditions". Under the Alien Law 1988 victims of trafficking are protected from immediate deportation. A worker is able to stay in the country for three months to consider if she wants to press charges against her traffickers. If she decides to do so, she can stay until the case is over. In 1993 this provision was extended to witnesses, which could include peers and other support networks. This temporary residence permit gives her access to social security, housing, social benefits, insurances, legal assistance and other benefits that a permanent resident receives as compensation for the experience of working in servile conditions in their country (Wijer, M. *ibid*).

SWOP proposes that sex workers be given a 12 month working visa with recommendations that they contact SWOP and sexual health clinics. This would enable workers to be given an adequate induction into the sex industry and the relevant information and support services available to them.

SWOP have spoken to several parlour owners who have shown keen interest in employer sponsored schemes. Sex workers from overseas have cultural and language skills specific to client demand and clients deliberately seek out these qualities. Parlour owners said they would prefer to employ workers through a legal system as it would be less complicated and less stressful. They are prepared to pay for costs involved in the processing of visas and other additional costs such as travel costs, accomodation and other related expenses. This would be negotiated between the worker and the employer and would be a legally binding document.

As with other employer sponsored schemes there would be a quota system to ensure that the supply would meet the demands. SWOP recognises that the system must be fair to both international and local sex workers. A quota system sets the number of international sex workers who are permitted to work in Australia for a set length of time. Immigration would have information on who the employer is, where the workers are located and when their working visas expire. This removes the need of investigating sex establishments for illegal workers and will certainly disrupt the current organised illegal system.

A sponsorship system would lead to safer working conditions, greater powers of negotiation for workers in terms of hours worked and clients they see and the services they offer. The women would not be under the current pressures and fears to work off a contract. Outreach workers would have greater access to the workplace and could offer support to both sex workers and management. Above all, working visas allow women to travel and work legitimately empowering them and greatly reducing the possibility of exploitation.

The way to end "slavery" is to "free" the "slaves" by giving them rights and legal status, through legislation which will increase their power to reject slave-like contracts and conditions, and which removes the incentive for "traders" by creating an open, legal system of entry to Australia.