

## Submission

on

## Strategies to prevent and reduce criminal activity in Queensland

to the

### Legal Affairs and Community Safety Committee

Parliament House  
George Street  
Brisbane QLD 4000

**Email:** [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

**Website:** <https://www.parliament.qld.gov.au/work-of-committees/committees/LACSC/inquiries/current-inquiries/CrimeInquiry2014>

by

### FamilyVoice Australia

GPO Box 9894  
Brisbane QLD 4001  
Phone: 1300 365 965

**Fax:** 08 8223 5850

**Email:** [office@fava.org.au](mailto:office@fava.org.au)

**Website:** [www.fava.org.au](http://www.fava.org.au)

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## 1. Introduction

On 22 May 2014, the Queensland Legislative Assembly established an inquiry into Strategies to Prevent and Reduce Criminal Activity in Queensland, to be conducted by the Legal Affairs and Community Safety Committee. Submissions to the committee are due on 18 July 2014.<sup>1</sup>

The terms of reference are:

That the Legal Affairs and Community Safety Committee conduct an inquiry on strategies to prevent and reduce criminal activity, by examining:

- the trends and type of criminal activity in Queensland, having regard to available crime statistics and issues in relation to unreported crime;
- the social and economic contributors to crime;
- the impacts of this criminal activity on the community and individuals, including the social and economic impacts;
- the effectiveness (including the cost effectiveness) of crime prevention strategies, including imprisonment, justice reinvestment, early intervention, alternative dispute resolution, and other models used in national and international jurisdictions; and
- the experiences of Queenslanders with regard to the criminal justice system, including the experiences of victims of sexual violence and/or domestic violence including their interactions with the Queensland Police Service, the courts, prosecuting authorities, legal and support services and compensation processes.
- possible strategies to increase collaboration and co-operation between various participants in the criminal justice system.

Further, the Committee is to recommend measures to curb criminal activity, reduce rates of recidivism, and build a safer community.

FamilyVoice Australia is a national Christian voice – promoting true family values for the benefit of all Australians. Our vision is to see strong families at the heart of a healthy society: where marriage is honoured, human life is respected, where families can flourish, Australia’s Christian heritage is valued, and fundamental freedoms are enjoyed.

We work with people from all major Christian denominations. We engage with parliamentarians of all political persuasions and are independent of all political parties.

In this submission we are addressing the impact of the prostitution trade on crime.

## 2. Organised crime and the prostitution trade

Organised crime in Queensland is closely connected with the prostitution trade, in both its legal and illegal forms. This is evident from the 2004 report of the Queensland Crime and Misconduct Commission (CMC), which states:

*At least 40 per cent of sex workers surveyed by the CMC, including both legal and illegal workers, indicated that they had been affiliated with members of organised crime groups at some stage during their career in the sex industry, two-thirds stating that this had occurred since the implementation of the Prostitution Act in 2000. A range of activities, such as*

*importing and selling drugs, illegal immigration, child prostitution, dealing in stolen property and, of course, running illegal brothels and escort agencies, were reported. Legal brothel licensees also voiced a few concerns.*<sup>2</sup>

Queensland's partial legalisation model, introduced by the *Prostitution Act 1999*, aimed to:

1. Ensure quality of life for local communities
2. Safeguard against corruption and organised crime
3. Address social factors which contribute to involvement in the sex industry
4. Ensure a healthy society
5. Promote safety.<sup>3</sup>

However, this reform has failed to safeguard against organised crime. As the University of Queensland School of Law Human Trafficking Working Group found:

*The spirit of the Prostitution Act 1999 (Qld), which is to draw as many of the illegal operators and workers as possible into the legal industry, has clearly failed.*

*90% of prostitution remains unregulated in this state and most sex workers continue to work outside the regulated industry.*<sup>4</sup>

Since the overwhelming majority of the prostitution trade occurs outside the bounds of the law, this model does not curtail the serious criminal activities associated with brothels, such as: child trafficking, exploitation of women and men, sexual violence, and sexual servitude.

Queensland's model of partial legalisation is inherently flawed and should be replaced with a model that discourages criminal activity, reduces the prevalence of the prostitution trade, and provides help for those who need it.

### 3. Problems with the prostitution trade

Queensland's prostitution laws are inherently flawed because prostitution, even if entered into willingly, is unsafe, unhealthy and exploitative. Legalisation also tends to increase sexual servitude and human trafficking while disempowering police.

#### 3.1. Prostitution is unsafe

##### Prevalence of violence against women

The Crime and Misconduct Commission reports that:

*Much national and international research has shown that female sex workers suffer high levels of violence, endorsing the view that violence is an inherent risk of the job (Woodward 2003). Research reveals that reported rates of physical or sexual violence among sex workers range from 65 to 94 per cent (Farley & Barken 1998; Hotaling & Farley 1995; Miller & Schwartz 1995; Millman 1980; Ward & Day 1999).*<sup>5</sup>

##### Residential disturbances

Residents close to brothels often experience unpleasant disturbances at all hours of the day and night. For example, a Victorian town planner who moved to Queensland found the problems associated with a massage parlour next to his home so great that he was forced to move:

*In my own situation, the clients of my neighbour would arrive at all hours and many during the early hours of the morning. They would start their meeting off inside and then hang around in the back yard, and whatever else they were doing would often be associated with being quite rowdy. For months, two to three nights mid week, I was kept awake or awoken in the wee hours of the morning, to the voices of strange men, loud bands and clangs, bursts of music and spontaneous outdoor entertainment activities. The unpredictability, together with over hearing certain threatening conversations and bangs in the night, left me feeling quite vulnerable and generally disempowered and unsafe in my own home.<sup>6</sup>*

### **3.2. Prostitution is unhealthy**

#### **Sexually transmitted infections (STIs)**

Even in a highly regulated system, a person can contract a sexually transmissible infection from a single sexual act and then pass that disease on to the very next person they have sex with. In the case of prostitutes, it is not feasible to have a medical check-up between each client. In any case many STIs cannot be diagnosed until sometime after infection, even though the person is already infectious.

In South Australia, where the prostitution trade remains illegal, MPs have noted during previous prostitution debates:

*Under our present laws (banning the sex trade), the incidence of sexually transmitted diseases among South Australian prostitutes is remarkably low. Part of the reason for the low incidence of disease is simply because prostitution is minimised in this State and is, therefore, a seller's market. The prostitute can impose his or her terms on condom use and what acts she or he will or will not do. It is in the highly competitive situation associated with legal prostitution that buyers can shop around for particularly dangerous and offensive practices.<sup>7</sup>*

*The more brothels you have, the cheaper it becomes and the greater the risk the girls are prepared to take because, when the competition is tough, they will throw away the condom.<sup>8</sup>*

#### **Panic buttons**

The presence of “panic buttons” and “panic rooms” in legal Queensland brothels indicates that their business is not normal, and there is a significant risk that some customers will be abusive.<sup>9</sup>

#### **Regulation of health**

There is no evidence that a semi-legalised prostitution trade has improved the health of those providing sexual services. As noted by the Queensland School of Law:

*Given the unregulated and often clandestine provision of prostitution services outside licensed brothels, it is difficult to make conclusive observations about the health of sole operators. While their services are legal, their sexual health is not monitored and, specifically, there is no requirement for them to be tested regularly and to hold and/or display sexual health certificates. This issue has been the subject of fierce debate, but there seems to be general consensus that the introduction of mandatory health checks for sole operators remains difficult – if not impossible – to introduce, monitor, and enforce.<sup>10</sup>*

### **3.3. Prostitution is exploitative**

Advocacy groups such as the Scarlet Alliance claim that decriminalisation of the sex trade would lead to greater safety and status for sex workers – but they ignore the reality that prostitution would

become a normal business where “the customer is always right” and “he who pays the piper calls the tune”.

Studies reveal that men who pay for sex believe that the payment entitles them to sex on their terms. In a series of interviews with clients conducted by women employed by massage brothels it was noted that, on the one hand they believed that commercial sex was a mutually pleasurable exchange, but on the other hand asserted that payment of money removed all social and ethical obligations. One client said: “It’s like going to have your car done, you tell them what you want done...”<sup>11</sup>

Clients interviewed in research confirmed that the relationship in prostitution is one of dominance and subordination. One man stated that “prostitution says that women have less value than men... I paid for this. You have no rights.” Another client said: “Guys get off on controlling women... If you look at it, it’s paid rape... She has to do what you want.”<sup>12</sup>

Twenty-seven percent of the interviewees in a 2009 London study explained that once he pays, the customer is entitled to engage in any act he chooses with the woman he buys. Forty-seven percent expressed the view to a greater or lesser degree that women did not always have certain rights during prostitution.<sup>13</sup>

### **3.4. Legalisation increases sexual servitude**

Where brothels are legal, traffickers are more easily able to recruit women for sexual servitude. For example, a Korean pimp was reported to have used this approach:

*The broker lured the women, saying that they could work without risk, since prostitution is legal in Australia, and make big money. He introduced 25 women to brothels in Melbourne and Sydney since 2007.*<sup>14</sup>

Once the women arrive, pimps evade authorities by moving their captives from brothel to brothel and even interstate.

### **3.5. Legalisation increases human trafficking**

The CMC 2004 review of the operation of Queensland’s Prostitution Act 1999 found that the current model, among other things, led to:

- implied “normalisation” of prostitution and expansion of the industry,
- increased sex-trafficking of women and
- increased child prostitution.

Citing a UN Save the Children report, the UK Home Office said in 2004 that:

*Victoria and New South Wales were the two worst states for the abuse of children through prostitution. The trafficking of East Asian women for the purpose of prostitution was also found to be a growing problem.*<sup>15</sup>

A 2012 international study of the effect of legalising prostitution on human trafficking found that the net effect was increasing human trafficking inflows.<sup>16</sup>

### 3.6. Legalisation disempowers police

The problems associated with a legal prostitution trade have a long history, as Professor Eileen Byrne's submission to the Queensland Criminal Justice Commission Inquiry into Prostitution Laws in 1991 shows:

*In London, we found both in the 1960s and the late 1970s that only when there was a hard crackdown on brothels and other organised forms of prostitution, could we cut back the traffic in young boys and girls and help social welfare agencies to get young people aged 12-20 out of the system. Public tolerance or a legal blind eye created increased traffic in the innocent and the vulnerable...*

*The rescue of the young is often less possible under a legalised prostitution system. Evidence not only from international committees of inquiry, but from social welfare agencies who work across European country boundaries, shows a consistent pattern in Europe of a poor history of police-welfare attitudes towards young prostitutes of under 18 who attempt to leave the system...*

*We could not have acted to close the London brothels, break the syndicate and discover and rescue the girls, without the sanction of the illegality of prostitution. We must have the law on our side.<sup>17</sup>*

In March 2011 police in Canberra admitted they had limited ability to investigate children working in legalised brothels.

*Canberra's prostitution laws leave police almost powerless to rescue children from sexual exploitation in brothels, according to the territory's police chief.*

*More than two years after a 17-year-old girl died of a heroin overdose in a Fyshwick brothel, police say their ability to investigate children working in legal sex venues remains limited, weak and constrained.*

*Authorities are also worried that they remain almost completely in the dark about what goes on in the city's illegal sex-for-sale operations<sup>18</sup>*

Police must be properly empowered if crime is to be reduced, and this can only occur when the prostitution trade is unlawful.

## 4. A better approach to prostitution and the law

To effectively combat crime in Queensland, the overarching model must be changed.

The United Nations *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, which came into force in 1951, targets people who are involved in the organised crime that controls this vicious trade: those who procure, traffic and exploit women and girls for the purpose of prostitution.<sup>19</sup>

More recently, in 1999 Sweden adopted a new approach to suppression of the prostitution trade, which was also adopted in Norway and Iceland a decade later and has become known as the Nordic model.<sup>20</sup> In addition to laws against pimping, procuring and operating a brothel, this model makes it illegal to buy sexual services but not to sell them.

Furthermore, the Swedish government developed programs for:

- *Prevention*, to reduce the risk of girls being enticed into the trade;

- *Exit*, to help prostitutes leave the trade – on the basis that the healthiest place for prostitutes is in other work; and
- *Client education*, to help clients (or “johns”) understand the physical and psychological damage their actions cause the prostitutes.<sup>21</sup>

While no model can completely eliminate prostitution, the Nordic model has been shown to reduce the illegal trade and help women exit sex-work. This model has recently been endorsed by the European Parliament because of its effectiveness in European countries.<sup>22</sup>

An official review of the first ten years of the operation of the Law in Sweden found that:

- Street prostitution had halved in Sweden since the law came into effect while remaining the same in neighbouring Nordic countries;
- While the overall incidence of prostitution, including prostitution where contact is made through the internet, had increased in neighbouring Nordic countries, it had decreased, or at least not increased, in Sweden;
- Trafficking in human beings for sexual servitude is less of a problem in Sweden than in neighbouring Nordic countries and the National Criminal Police consider that the ban on purchasing sexual services is a barrier to human traffickers and procurers establishing business in Sweden; and
- The proportion of men in Sweden that purchase sexual services has decreased with a number of men reporting that the ban had deterred them from continuing to purchase sex.<sup>23</sup>

Overall, the official report concluded that "the ban on the purchase of sexual services has had the intended effect and is an important instrument in preventing and combating prostitution."

## 5. Conclusion

Queensland's partial legalisation model should be replaced by the Nordic model.

The model that best protects women is one that helps them move out of the trade altogether.

### ***Recommendation:***

***In order to empower police, make families and neighbourhoods safer and discourage criminal activity, Queensland should suppress the prostitution trade by adopting the Nordic model, which prohibits the purchase of sexual services as well as pimping, procuring and operating a brothel.***



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