

**INQUIRY INTO MODERN SLAVERY RISKS FACED BY
TEMPORARY MIGRANT WORKERS IN RURAL AND
REGIONAL NEW SOUTH WALES**

Organisation: Sex Workers Outreach Project NSW and Scarlet Alliance
Australian Sex Worker Association

Date Received: 27 February 2025



Sex Workers Outreach Project Inc. (SWOP NSW)

www.swop.org.au



Scarlet Alliance, Australian Sex Worker Association

www.scarletalliance.org.au

**New South Wales Legislative Council Modern Slavery Committee
Parliament House, Macquarie Street, Sydney, NSW 2000
9230 3067
modern.slavery@parliament.nsw.gov.au**

27 February 2025

SWOP NSW and Scarlet Alliance would like to thank the New South Wales Legislative Council Modern Slavery Committee for the opportunity to make a submission to the inquiry into Modern slavery risks faced by temporary migrant workers in rural and regional New South Wales.

Please contact SWOP NSW or Scarlet Alliance at any time for further information or input.

Darcy Deviant
SWOP NSW Policy Officer

Mish Pony
Scarlet Alliance Chief Executive Officer

About SWOP NSW	4
About Scarlet Alliance	4
About the Asian Migrant Sex Worker Advisory Group (AMSWAG)	5
Observation by AMSWAG: Conflation of sex work with trafficking, slavery, and slavery-like practices.....	5
Recommendation: The inquiry has a responsibility to centre lived and living experiences of temporary migrant workers in rural and regional New South Wales, including the Asian migrant sex workers.....	6
Recommendation: Modern slavery legislation and policy in NSW to be developed only through consultation with peer-based programs and impacted communities, drawing on relevant lived experiences of those concerned.	7
Recommendation: More adequate migration pathways, clear information, and improved protections for migrant workers to combat forced labour, deceptive recruiting, gender-based violence, sexual servitude and labour trafficking.	7
Recommendation: the Department of Home Affairs resource and fund front-line community-led organisations to promote and share accurate information about workplace rights for migrant workers.	8
Observations of the PALM SCHEME	8
Observations of the impact of anti-trafficking raids on workers rights	8
Observations by Asian migrant sex worker and staff member at SWOP NSW: Experience of a workplace raid conducted by immigration.	9
Observation by SWOP NSW and Scarlet Alliance: Misdirected anti-trafficking efforts in NSW have become barriers to reporting workplace exploitation	10
c) d) e) Regulatory failures, stigma, and inadequate protections in addressing exploitation	11
Recommendation: Improved reporting mechanisms and accountability for authorities and regulatory bodies including but not limited to; the police, local council, SafeWork.....	13
Recommendation: The Australian Government should put measures in place to ensure that information shared between police and other relevant government services with the Department of Home Affairs in relation to any violence by a person on a temporary visa cannot be used to the detriment of the person or any of their dependents, including cancellation of a visa, deportation or any other negative immigration- related consequences. Information sharing protocols must emphasise the safety of victim-survivors and their children.	13

Recommendation: Expanded funding for community legal centers, peer-led sex work organisations (including provision of funding for translators)	13
Recommendation: Full decriminalisation of sex work including anti-discrimination protections.....	13
f) Confiscation of passports and other personal identification	14
Recommendation: overpolicing and raids that create fear and distrust within the community and deter them from communicating with and reaching out to helpful services when they may experience exploitation.....	14
Recommendation: remove racial profiling at the border and improve safe migration pathways from countries currently treated unfavourably by Australia.	14
g) adequacy of monitoring, compliance and enforcement of workplace laws, including health and safety laws	14
h) support and resources needed by local communities, NSW Government frontline agencies and non-government service providers to support at-risk and vulnerable temporary migrant workers, including education, training and cultural capability needs	15
i) the impact of visa settings and conditions of employment on temporary migrant workers in rural and regional New South Wales	15
Recommendation: increased funding for peer-led organisations to conduct outreach to regional and rural areas, as well as to provide sensitivity training to sexual health clinics, and authorities.	16
j) adequacy of interjurisdictional/cross-government cooperation and data sharing in the provision of accommodation, medical care and other essential services to temporary migrant workers.	16
Recommendation: Implement the promised firewall between cross-government cooperation and data sharing in the provision of reporting, justice, and other essential services to temporary migrant workers	18
k) Potential protections for temporary migrant workers through State based interventions	18
This submission recommends:	19
Full decriminalisation of sex work in NSW	19
Comprehensive anti-discrimination protection for NSW sex workers.....	19
Improve relationships between police and sex industry staff by addressing inappropriate police attendance at sex industry workplaces.....	19
Departmental safeguards of visa applicants' privacy & safety when reporting violence against them	19

Create a temporary substantive visa for victims of modern slavery, workplace, exploitation, and domestic and sexual violence.....	19
Exclude sex work as a consideration in the assessment of spousal and de-facto relationships for partner visas	19
l) Any other related matters	19
Recommendations supported by SWOP NSW and Scarlet Alliance, emanating from Professor Tomoya Obokata’s visit 2024	20
SWOP NSW and Scarlet Alliance recommendations:	21

About SWOP NSW

As an independent, peer-led and peer-only organisation, the Sex Workers Outreach Project (SWOP NSW) has been working for over 35 years to provide NSW sex workers with the same access to health, safety, human rights, and workplace protections as all other Australian workers. We provide direct support and peer education to sex workers across the state by outreaching regularly to a broad range of sex industry workplaces (including street-based, home-based, brothels, massage parlours, and strip clubs), as well as providing services at our office and via phone, email and a variety of online platforms. We collaborate extensively with community members, researchers and clinicians, and government and non-government organisations from a range of disciplines to ensure that NSW sex workers receive the services and support vital to sustaining low rates of STIs and virtual elimination of HIV.

About Scarlet Alliance

Scarlet Alliance, Australian Sex Workers Association, is the national peak sex worker organisation. Formed in 1989, our membership includes state and territory-based and national sex worker organisations and individual sex workers across unceded Australia.

Scarlet Alliance uses a multifaceted approach to strive for equality, justice and the highest level of health for past and present workers in the sex industry. We achieve our goals and objectives by using best practices including peer education, community development, community engagement and advocacy.

Scarlet Alliance is a leader when it comes to advocating for the health, safety and welfare of sex workers in Australia. Through our work and that of our member organisations and projects, we have the highest level of contact with sex workers and access to sex industry workplaces throughout Australia. Scarlet Alliance represents sex workers on a number of government and non-government committees and advisory mechanisms.

About the Asian Migrant Sex Worker Advisory Group (AMSWAG)

AMSWAG is recognised and respected within Australia's anti-trafficking response as the only group in so-called Australia that can genuinely represent Asian migrant sex workers with authority. This submission cites resources and policy papers created in collaboration with AMSWAG.

AMSWAG centres the voices of Asian migrant sex workers in the development of Scarlet Alliance and SWOP NSW policy and advocacy on issues impacting migrant sex workers.

Observation by AMSWAG: Conflation of sex work with trafficking, slavery, and slavery-like practices.

AMSWAG has continuously notedⁱ that while stigma and discrimination affect all sex workers, Asian migrant sex workers experience intersecting marginalisation from racism and stigma due to assumptions that conflate sex work, and particularly Asian migrant sex workers, with trafficking, slavery and slavery-like practices.

AMSWAG argues racist stereotypes are perpetuated in the legislative/policy sphere through:

- Harmful raids conducted under Operation Ingleenookⁱⁱ
- Parliamentary reviews and inquiries such as the Review of the *Modern Slavery Act 2018*,ⁱⁱⁱ the Targeted Review of the Commonwealth Criminal Code^{iv}, the Migration Amendment (Strengthening Employer Compliance) Bill 2023 Inquiry^v and the Nixon Rapid Review into the Exploitation of Australia's Visa System^{vi}
- Recent racial profiling and detainment of trans women in Villawood^{vii}

As well as excluding the voices of Asian migrant sex workers from issues that directly affect them^{viii}, the prevalence of these myths in the public discourse generates harm for Asian migrant sex workers during interactions with health services, accommodation providers, financial services, police and other members of the community.

AMSWAG observes that Australia's anti-trafficking response has led to migrant sex workers experiencing workplace raids, fear and distrust towards police and immigration officials, migration detention/deportation and a lack of access to compensation/redress options.^{ix}

Recommendation: The inquiry has a responsibility to centre lived and living experiences of temporary migrant workers in rural and regional New South Wales, including the Asian migrant sex workers.

SWOP NSW regularly conducts outreach in regional areas. Our culturally and linguistically diverse (CALD) outreach team attended 45 peer outreach visits to regional and remote areas between 2022 and 2024. SWOP NSW has recorded 505 CALD-staffed venues who received outreach between 2023 and 2024 (some venues were visited multiple times, and this includes metro areas). Additionally, we translate our consultations, surveys and resources into Chinese, Thai, and other languages if necessary for the target communities.

Sex worker academics note that because many methodologies used to collect data on migrant sex workers are still framed by discrimination, bias, and victimisation – the outcomes of these studies cannot be fully substantiated^x. In contrast, SWOP NSW conducts peer-led and judgement free outreach. SWOP NSW is trusted by Asian migrant sex workers. This allows the SWOP NSW outreach team to receive a higher level of honest disclosure from sex workers who experience compounded marginalisation, including Asian migrants.

In 2015 Scarlet Alliance, in collaboration with its member organisations, conducted a research project with the Australian Institute of Criminology^{xi} work and migration experiences of migrant sex workers in Australia. As well as drawing on that research data, SWOP has relied on anecdotal evidence from migrant sex workers living and working in rural and regional NSW for this submission.

SWOP NSW regularly communicates findings gathered by peer educators with relevant allied sexual health clinic staff across NSW including regional and remote areas. This is information sharing takes place during networking events, shared activities, regular email, and phone interaction and quarterly meetings where each sexual health service from across the state are invited to share sex work related trends and concerns. As such, the findings described in this submission are not unknown to authorities.

Any inquires or legislative changes that concern migrant sex workers should be implemented using an evidence-based approach with migrant sex workers' lived experiences at the forefront.

Recommendation: Modern slavery legislation and policy in NSW to be developed only through consultation with peer-based programs and impacted communities, drawing on relevant lived experiences of those concerned.

Recommendation: More adequate migration pathways, clear information, and improved protections for migrant workers to combat forced labour, deceptive recruiting, gender-based violence, sexual servitude and labour trafficking.

In contexts where sex work is decriminalised, instances of trafficking and modern slavery practices are rare^{xii}. Evidence repeatedly suggests that migrant labour exploitation is overwhelmingly more likely to occur in industries such as agriculture or hospitality than sex work^{xiii}.

Australia's prioritisation of border security and criminal justice response to labour exploitation are themselves significant enablers of trafficking, slavery and slavery-like practices^{xiv}.

Examples of these enablers include:

- Australia's failure to become a party to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*
- Lack of translated migration and visa information. For example; the Department of Home affairs website only offers a "translation service on an initial limited number of pages" - but does not link to this website or offer any translated resources on their landing page
- Excessive costs, complex application processes and confusing visa rules, and
- Lack of accessible migration pathways for sex workers.

This process prioritises people from wealthy, white, and English-speaking countries. These systems are overly complicated for a newcomer to Australia who does not speak English as their first language, or at all. Without the support from a third party it can be impossible for some migrants to enter and work in Australia. These third-party agencies can sometimes lead to exploitation.^{xv}

When one does obtain a working visa, the significant power imbalance between employers and migrant workers can have problematic consequences. There is a serious lack of information available to migrants working in Australia regarding their workplace rights. SWOP NSW, AMSWAG and Scarlet Alliance have previously worked in partnership

with government in the past to fill the information gaps about workers' rights. Unfortunately those programs were discontinued roughly ten years ago.

Recommendation: the Department of Home Affairs resource and fund front-line community-led organisations to promote and share accurate information about workplace rights for migrant workers.

Observations of the PALM SCHEME

This submission concurs with observations by the Immigration Advice and Rights Centre and Australia Institute that the visa rules attached to the PALM scheme could be understood as permitting modern slavery arrangements to exist for migrants from Pacific Island nations and Timor Leste.^{xvi}

PALM workers are tied to the employers who sponsor them and are unable to seek alternative work for four years. Sex work is legal in NSW, however if undertaken by a person who is in Australia on the PALM scheme it could cost them their visa. SWOP NSW has made attempts to contact PALM workers and provide support, resources, and safe sex supplies but have been hindered by the conditions of their restrictive visa. As far as SWOP NSW and Scarlet Alliance are aware, there is no allocated funding for peer education outreach, sexual health support or workplace information for access the translators or community engagement for people working in Australia for the PALM scheme.

It is not fair or tenable for government policy to continue to force migrant workers to only work in certain types of work and to be attached to a specific employer or workplace. A recent visit from the UN Special Rapporteur on Modern Slavery and Trafficking noted PALM workers face poverty due to their pay rates being so low, and underpayment by employers^{xvii}.

Observations of the impact of anti-trafficking raids on workers rights

Campaigns that profile Asian migrant sex workers and conflate sex work with sex trafficking, such as Operation Inglebrook^{xviii}, create fear among the community and damage relationships between authorities and other services. SWOP NSW has received reports that migrant workers are relocating to rural and regional locations out of fear as Operation Inglebrook targets metropolitan areas. This fear is widespread among Asian migrant sex worker populations and facilitates environments where migrant sex workers

can become targets for workplace exploitation as they are isolated, and reluctant to seek support available to them. These barriers to reporting were identified in a 2023 unpublished report, developed in partnership with the Department of Communities and Justice. During the work on this report SWOP NSW coordinated consultations, surveys, and a roundtable to identify barriers to reporting violence experienced by sex workers, highlighting the impact of authorities, discrimination, service providers and personal obstacles, with the findings to be published in an upcoming report. The results found several migration related barriers to reporting sexual and domestic violence against migrant sex workers. If access to this report is useful for the Inquiry, SWOP NSW can release it confidentially to the Committee.

Observations by Asian migrant sex worker and staff member at SWOP NSW: Experience of a workplace raid conducted by immigration.

“I remembered my friend's workplace was raided by Immigration one month earlier. She was with her client, who also had an expired visa. She was on level 1, 7 meters high approximately. Immigration raided and banged on the door hard. She jumped out of the window. As a result, She broke both of her legs and was deported.

A month later, Immigration raided my workplace. It was in Milson Point and an apartment first level above the ground floor.

Immigration banged the door very hard; I was running around like a cockroach in the back and was so scared. I knew me and my colleague would be fucked.

I was on a tourist visa, and one of the other colleagues was on a spousal visa. Her husband didn't know she was coming into the city to do sex work; they lived in a regional area. He knew she was a sex worker. However, The condition of the spouse visa is that the sponsoring partner or the couple always has to know each other where and what occupation they do.

She and her husband had not communicated the details. When I mentioned being a cockroach, I felt like I wanted to jump off the balcony, but I remembered what happened to my friend one month ago.

When immigration raided our workplace, the immigration officer separated the girls into different rooms and wouldn't let any of us touch the phone. I was shaking. They were aggressively yelling not to touch the phone. Sometimes, I'm still shaking thinking about this. My colleague and I were both sent to Villawood, and I got deported, but I did not know how she was. Years later, I returned to Australia. I saw my friends and

colleagues on the street at different times, and they were surprised to see me because they didn't think I would be permitted to return. I also did not realise I would have a chance to see any of them due to the visa, health condition, deportation and raid.

Today, I'm okay; other days, I am still so affected to the extent of PTSD. After I come back to sex work, I always pick the room at the back - so I know if Immigration comes, I can hide, but the room is close to the back driveway. If I hear the noise of a van driving past, and the van opens the door, I get scared and sometimes hide or feel like just jumping off from the balcony even though I have a valid visa and work permit.”

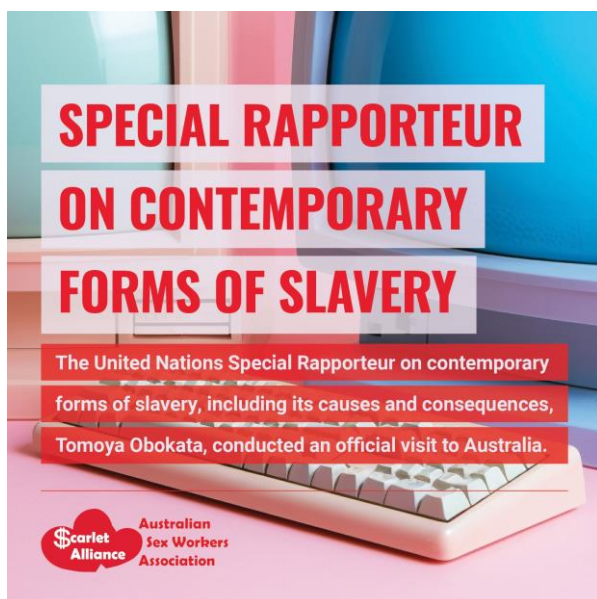
Observation by SWOP NSW and Scarlet Alliance: Misdirected anti-trafficking efforts in NSW have become barriers to reporting workplace exploitation

These types of raids, along with instances when when police and immigration officers enter sex services premises, often unlawfully “piggybacking” on local council powers of entry intended for checking compliance with the conditions of development applications, create barriers to reporting workplace exploitation, as well as domestic and sexual violence towards sex workers.

Last year, the United Nations Special Rapporteur on contemporary forms of slavery, Professor Tomoya Obokata said:

“Concerns have been expressed that law enforcement authorities reportedly use anti-trafficking as a reason to raid premises run or occupied by migrant sex workers predominantly from Southeast Asia, even with the full knowledge that they have not been trafficked in practice, in order to facilitate their deportation. Operation Inglenook conducted by the ABF has been cited as one example of this... These raids often drive individuals further underground, discouraging them from seeking help or engaging with authorities. This, in turn, can perpetuate exploitation and abuse.”

While SWOP NSW and Scarlet Alliance recommends improved funding and support for frontline outreach services such as our own, and better resources for underfunded community legal centers who are the sole source of access to justice and assistance with migration – this investment would merely be a band-aid solution for the overarching issue of poor migration pathways and discrimination perpetuated against migrant sex workers.



Professor Obokata meets with Scarlet Alliance, SWOP NSW and AMSWAG.

Tomoya Obokata, the United Nations Special Rapporteur on contemporary forms of slavery, visited Australia from 14 - 27 November 2024, at the invitation of the Federal Government. His visit aimed to better understand modern forms of slavery in Australia and evaluate the country's efforts to address them at local, regional, and national levels.

During his time in Sydney, Professor Obokata met with representatives from Scarlet Alliance, SWOP NSW, and AMSWAG. They discussed the harms caused by Operation Inglebrook and emphasised the importance of the full decriminalisation of sex work across all states and territories.

Scarlet Alliance, SWOP NSW, and AMSWAG emphasised to the Special Rapporteur that decriminalisation is important for enabling sex workers to report abuse and exploitation without fear of law enforcement action. The Special Rapporteur was also informed by other stakeholders that there is no evidence of increased sex trafficking or exploitation in areas where sex work has been fully decriminalised.

In his report, Professor Obokata also echoed concerns raised by the Committee on the Elimination of Discrimination against Women (2018) that inconsistent laws across states and territories hinder sex workers' access to healthcare, employment, victim support, and legal services in cases of sexual violence. The Special Rapporteur recommends that Australia address this in collaboration with state and territory authorities.

c) d) e) Regulatory failures, stigma, and inadequate protections in addressing exploitation

In a decriminalised context, most sex workers in NSW either operate as sole-traders, subcontractors, or are self-employed. Because of this, sex workers are generally not entitled to things like superannuation, workers compensation, and leave entitlements. In the rare case that sex workers may experience conditions such as underpayment, excessive deductions, and debt bondage, discrimination and poor relationships with authorities often means these crimes are underreported or inadequately responded to. This is applicable for sex workers who are Australian citizens, and even more pertinent of an issue for migrant sex workers due to intersectional stigma and discrimination.

Government agencies that are meant to protect workers from exploitation do not provide adequate information that may empower sex workers to report workplace crimes. Furthermore, it has been reported to SWOP NSW that when reports have been made to SafeWork, they are unresponsive, stigmatising, or inadequately trained to handle these cases. Local councils have similarly confusing information available and include excessively stringent provisions in their development applications. These government agencies rarely provide information in translated languages. These appropriate reporting mechanisms exist but are currently not accessible to sex workers.

In addition to this, stigma and discrimination, subjection to raids, and the over-policing of migrant sex workers damages relationships between migrants and authorities. This results in underreporting and ongoing workplace health and safety violations.

Staff from the legal sector noted in SWOP NSW's 2023 unpublished report, developed in partnership with the Department of Communities and Justice, that some migrant sex worker victims-survivors are unwilling to report sexual and domestic violence due to the fear of detainment, deportation or negative impacts on pending partner or other visa applications, and future applications.

Without protection from deportation or other visa consequences, migrant sex workers are not able to report criminal offending. A survey conducted by SWOP NSW in 2023 found that sex workers without permanent residency or citizenship will continue to opt to not report violence against them.

When sex workers do seek help, frontline workers in law enforcement can perpetuate stigma and discrimination as regulatory bodies and mainstream support services are often not trained in culturally-appropriate service provision. Even when interpreters are present, they may not know the correct terminology to use for sex work, and use stigmatising language that deters sex workers from continuing to seek assistance. This highlights the importance of resourcing peer-based services to provide support in these cases.

An example of this scenario includes a case where a Mandarin-speaking SWOP NSW staff member accompanied a sex worker to a legal appointment. A Mandarin speaking telephone interpreter was used by the lawyer to convey their advice. Unbeknownst to

the lawyer, the interpreter used highly stigmatising and offensive words in Mandarin when they interpreted the legal advice and added in their own inappropriate questions and remarks. The sex worker could not tell if this was coming from the lawyer or the interpreter. Fortunately, in this case the SWOP NSW staff member was able to intervene, and a new interpreter was employed.

The services available to migrant sex workers who may be experiencing workplace exploitation or modern-slavery like conditions, such as; community legal services, translators, and peer-organisations like SWOP NSW are severely underfunded. While it is once again the recommendation of SWOP NSW to better fund these services, it is only a temporary solution while safe migration remains inaccessible.

Recommendation: Improved reporting mechanisms and accountability for authorities and regulatory bodies including but not limited to; the police, local council, SafeWork

Recommendation: The Australian Government should put measures in place to ensure that information shared between police and other relevant government services with the Department of Home Affairs in relation to any violence by a person on a temporary visa cannot be used to the detriment of the person or any of their dependents, including cancellation of a visa, deportation or any other negative immigration-related consequences. Information sharing protocols must emphasise the safety of victim-survivors and their children.

Recommendation: Expanded funding for community legal centers, peer-led sex work organisations (including provision of funding for translators)

Recommendation: Full decriminalisation of sex work including anti-discrimination protections

f) Confiscation of passports and other personal identification

Some migrant sex workers may choose to hand over their passport and personal belongings to an employer for safekeeping, and is not on its own an indicator of trafficking or labour exploitation.

However, rare cases involving passport confiscation highlight the vulnerabilities of workers who are forced to rely on third-parties to assist them with confusing migration processes. It is important that services like SWOP NSW maintain positive relationships with the community and the establishments they work in to be able to conduct regular outreach. This allows trusted peers to access sex service premises across the state, to provide education about workplace rights, informally check on the wellbeing of workers, and ensure they know where to find support if they need it.

Recommendation: overpolicing and raids that create fear and distrust within the community and deter them from communicating with and reaching out to helpful services when they may experience exploitation.

Recommendation: remove racial profiling at the border and improve safe migration pathways from countries currently treated unfavourably by Australia.

g) adequacy of monitoring, compliance and enforcement of workplace laws, including health and safety laws

As outlined under *Regulatory Failures, Stigma, and Inadequate Protections in Addressing Exploitation* the agencies who are supposed to be responsible for enforcing workplace law such as SafeWork and the judicial system are often non-responsive. Other authorities like immigration and the police force have an excessive and threatening presence in sex service premises resulting in dysfunctional relationships between migrant sex workers and the appropriate regulatory bodies.

SWOP NSW recommends consultation with peer-led organisations who have a high level of contact with migrant sex workers to design and develop more culturally sensitive approaches by authorities. Furthermore, we recommend that the Department of Home Affairs does not conflate sex work with sex trafficking and conduct raids where slavery is not occurring.

h) support and resources needed by local communities, NSW Government frontline agencies and non-government service providers to support at-risk and vulnerable temporary migrant workers, including education, training and cultural capability needs

SWOP NSW suggests that the NSW Government provide all migration information in every language. Funding should be increased for peer-based organisations – particularly to employ CALD staff with relevant lived experience.

Funding should also be increased for community legal centres, such as Inner City Legal Centre, who have extensive experience and specialist knowledge about both migration and the NSW sex industry.

The NSW Government should initiate greater consultation and collaboration with existing peer-based organisations such as SWOP NSW and Scarlet Alliance to deliver culturally sensitive and relevant education and training for government and non-government organisations.

i) the impact of visa settings and conditions of employment on temporary migrant workers in rural and regional New South Wales

Although the examples provided throughout this submission are not all specific to regional and rural areas, sex workers experiencing the conditions described are hyper-vulnerable in such areas. As explained, due to their exploitative conditions and restrictive visa settings it is more difficult for organisations such as SWOP NSW to access workers in PALM programs to provide support, resources, and safe sex supplies.

Sexual health clinics are likely to be the primary support for sex workers in regional and rural areas, so if staff are poorly trained in the specific issues facing CALD sex worker clients – migrant sex workers are more likely to avoid using these services and other services available to them. The services in these areas must be affordable, anonymous, and staff must be trained in cultural appropriateness/sensitivity to ensure that migrant sex workers are confident in accessing them. A lack of these inclusions has been proven to create barriers to reporting violence and sexual violence.

A SWOP NSW report that surveyed NSW sex workers found:

“Staff from the sexual health sector noted that fear of stigma is heightened for those in rural and remote communities. Anonymity is difficult in rural and remote communities for any sexual or domestic violence matter, and exacerbated in cases where the victim-survivor is a sex worker. Discriminatory attitudes towards sex workers may be amplified in smaller communities, making it exceedingly difficult for sex workers to come forward in these circumstances.”

As previously mentioned, Australia’s anti-trafficking response has led to migrant sex workers experiencing workplace raids, fear and distrust towards police and immigration officials, migration detention/deportation and a lack of access to compensation/redress options. This is likely to be particularly pertinent in rural areas where authorities may not be adequately trained.

Recommendation: increased funding for peer-led organisations to conduct outreach to regional and rural areas, as well as to provide sensitivity training to sexual health clinics, and authorities.

j) adequacy of interjurisdictional/cross-government cooperation and data sharing in the provision of accommodation, medical care and other essential services to temporary migrant workers.

Police routinely share information about visa status with the Department of Home Affairs and other agencies. If a person is found to not have a valid visa, they may be detained, even in situations where they have approached police for assistance. For this reason, the recommendation of this submission is to implement a firewall between police and SafeWork, the Department of Home Affairs, and the Fair Work Ombudsmen.

Surveys conducted by SWOP NSW found that victim-survivors are frequently aware that information they provide to the police will be shared. It is common for police to inquire about visa status during any interactions with culturally and linguistically diverse people, whether or not this information is relevant to the situation.

Under section 189 of the *Migration Act 1958* (Cth) if an officer, including a police officer or officer of the Department of Home Affairs, knows or reasonably suspects that a person is an “unlawful non-citizen” they must detain the person. Many migrant sex worker victim-survivors do not report due to concern about being detained or deported if they have remained in Australia after the expiry of their visa. This is a barrier to reporting violence experienced at work and in domestic settings.

This insensitive data collection, the conflation of sex work with sex trafficking, over-responsiveness of migration and under-responsiveness of appropriate regulatory bodies, culturally insensitive approaches, the ongoing poor relationships between migrants and authorities, as well as the confusion the Australian immigration system creates, causes migrants who may be in abusive situation to opt to tolerate those conditions rather than report.

NSW publicly funded sexual health clinics routinely manage to collect information in an appropriate and culturally sensitive way, without alienating their clients. Australian authorities could learn from these kinds of cross-government cooperation and data sharing that prioritises the health and wellbeing of the worker. Additionally, SWOP NSW recommends consultation with peer organisations such as our own or Scarlet Alliance regarding effective methodologies of collecting data for minority groups.

With additional funding and adequate resourcing, SWOP NSW could potentially provide intensive support to affected workers and liaise with other agencies on their behalf – when this is welcome and appropriate. SWOP NSW has community expertise, sex workers trust, access to workplaces and capacity to prevent and reduce incidents of modern slavery in rural and regional NSW, and across the whole state. SWOP NSW is not resourced to do this unfortunately. To fully address the modern slavery concerns expressed by this inquiry, SWOP NSW and other community organisations could be better included in funding programs.

Scarlet Alliance is involved with the temporary pilot designed to improve access to welfare for people who have experienced trafficking while in Australia^{xix}. This pilot has not been as accessible or successful as the sex worker community had hoped, but is arguably better than running no pilot. The goal is to deliver safe, confidential, person-centred, culturally sensitive, trauma-informed entry points to the Support for Trafficked Peoples Program. This includes de-identified ethical data collection to create new knowledge on human trafficking and modern slavery in Australia.

Decoupling information sharing between commonwealth and NSW agencies, for the purpose of reducing deportation risk for exploited workers, is an essential step to encourage workers to be able to bring complaints forward.

Recommendation: Implement the promised firewall between cross-government cooperation and data sharing in the provision of reporting, justice, and other essential services to temporary migrant workers

k) Potential protections for temporary migrant workers through State based interventions

In line with Immigration Advice and Rights Centre (IARC) and the community legal center we work most closely with; Inner City Legal Centre, who advocate for the protection of temporary migrant workers - this submission endorses the recommendations of these allied partner services.

Some migrant sex workers who do not experience exploitation or slavery-like conditions at work, may be living in domestically or sexually violent settings outside of their professions. The lack of anti-discrimination protections available to migrant sex workers, as well as the compounding of minority identities, makes migrant sex workers more vulnerable to abuse in domestic partnerships. Surveys conducted by SWOP NSW

found that migrant sex workers facing violence and exploitation are vulnerable to threats that their immigration status will be harmed if they report abuse, often due to limited trust in authorities and fear of visa violations. Current discretionary provisions, like the Criminal Justice Stay visa, offer inadequate security and no path to permanent residency, discouraging reporting of violence. A case shared between SWOP NSW and an allied sexual health clinic showed a sex worker who avoided legal and medical services out of fear of detention due to an expired visa. To address this, a new temporary visa for victim-survivors of violence and exploitation should be created, as outlined in IARC submissions^{xx}; providing work, study, Medicare rights, and support for a substantial period.

This submission recommends:

Full decriminalisation of sex work in NSW

Comprehensive anti-discrimination protection for NSW sex workers

Improve relationships between police and sex industry staff by addressing inappropriate police attendance at sex industry workplaces

Departmental safeguards of visa applicants' privacy & safety when reporting violence against them

Create a temporary substantive visa for victims of modern slavery, workplace, exploitation, and domestic and sexual violence

Exclude sex work as a consideration in the assessment of spousal and de-facto relationships for partner visas

l) Any other related matters

SWOP NSW is currently engaged in advocacy for the complete removal of Part 3 of the Summary Offences Act 1988 – which is currently under review and the organisation has made submission to. Removing these harmful remaining laws, as well as introducing comprehensive anti-discrimination protections for NSW sex workers will help harmonise relationships between sex workers and authorities, as well as the general

public. In turn, this will improve relationships between regulatory government bodies and sex workers who have compounded forms of stigma, such as migrants. Full decriminalisation and anti-discrimination protections for sex workers improve health outcomes, and are backed by the World Health Organisation, Amnesty International, the United Nations Special Rapporteur on contemporary forms of slavery, as well as the United Nations generally.

Recently, it became a crime in NSW to ‘out’ or threaten to ‘out’ someone who is or was a sex worker. This means disclosing their sex work status without their permission with the intention of causing damage or harm. This highlights the stigma that sex workers still face, as the act of disclosing their profession could put them in considerable harm or enable abusers to use threats of disclosure to coerce victims. This is a demonstration of why the legislation of full decriminalisation, anti-discrimination protections, as well as the other recommendations provided throughout, can best protect migrant sex workers.

Recommendations supported by SWOP NSW and Scarlet Alliance, emanating from Professor Tomoya Obokata’s visit 2024

Informed by the final end of mission statement by Professor Tomoya Obokata, United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, after his country visit to Australia 14– 27 November 2024^{xxi}, SWOP NSW and Scarlet Alliance endorse the following recommendations to the Inquiry:

- Redressing the power imbalance between employers and employees built into migration schemes such as PALM, Working Holiday Visa Holder, Student Visa, Temporary Skill Shortage Visa and Domestic Worker (Diplomatic or Consular) Visa.
- Providing sufficient information to potential migrants and current migrant workers that is accessible and in languages that they understand
- Streamline and create greater opportunity for migration pathways
- The full decriminalisation of sex work including anti-discrimination protections
- Co-ordinate Support for Trafficked People Program (STPP) more effectively with full and meaningful consultation with public and private service providers at local, state, territorial levels, as well as those with lived experience. Involve them in programme design and delivery and ensure access to STPP without any form of discrimination.

- Strengthen the Additional Referral Pathway by providing sufficient training, financial and other support to non-governmental entities
- Improved access to Workplace Justice Visa
- Abolish Australian Disability Enterprise and promote integration of persons with disabilities into the open labour market.
- Recognise Aboriginal and Torres Strait Islander People as the original occupant of Australia in its Constitution.
- Create an Indigenous-led and survivor-led national truth and reconciliation body, to provide an opportunity for the affected Indigenous survivors to tell their stories and contribute to reconciliation efforts for past injustices.

SWOP NSW and Scarlet Alliance recommendations:

The inquiry has a responsibility to centre lived and living experiences of temporary migrant workers in rural and regional New South Wales, including the Asian migrant sex workers.

Modern slavery legislation and policy in NSW to be developed only through consultation with peer-based programs and impacted communities, drawing on relevant lived experiences of those concerned.

More Adequate Migration Pathways, Clear Information, and Improved Protections for Migrant Workers to Combat Forced Labour, Deceptive Recruiting, Gender-based Violence, Sexual Servitude and Labour Trafficking.

The Department of Home Affairs resource and fund front-line community-led organisations to promote and share accurate information about workplace rights for migrant workers.

Improved reporting mechanisms and accountability for authorities and regulatory bodies including but not limited to; the police, local council, SafeWork

The Australian Government should put measures in place to ensure that information shared between police and other relevant government services with the Department of Home Affairs in relation to any violence by a person on a temporary visa cannot be used to the detriment of the person or any of their dependents, including cancellation of a visa, deportation or any other negative immigration- related consequences. Information sharing protocols must emphasise the safety of victim-survivors and their children.

Expanded funding for community legal centers, peer-led sex work organisations (including provision of funding for translators)

Full decriminalisation of sex work including anti-discrimination protections

Overpolicing and raids that create fear and distrust within the community and deter them from communicating with and reaching out to helpful services when they may experience exploitation.

Remove racial profiling at the border and improve safe migration pathways from countries currently treated unfavourably by Australia.

Increased funding for peer-led organisations to conduct outreach to regional and rural areas, as well as to provide sensitivity training to sexual health clinics, and authorities.

Implement the promised firewall between cross-government cooperation and data sharing in the provision of reporting, justice, and other essential services to temporary migrant workers

Full decriminalisation of sex work in NSW

Comprehensive anti-discrimination protection for NSW sex workers

Improve relationships between police and sex industry staff by addressing inappropriate police attendance at sex industry workplaces

Departmental safeguards of visa applicants' privacy & safety when reporting violence against them

Create a temporary substantive visa for victims of modern slavery, workplace, exploitation, and domestic and sexual violence

Exclude sex work as a consideration in the assessment of spousal and de-facto relationships for partner visas

ⁱ <https://scarletalliance.org.au/2023-key-issues-paper-asian-migrant-sex-workers/>

ⁱⁱ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://scarletalliance.org.au/wp-content/uploads/Scarlet-Alliance-Briefing_-Operation-Inglenook-Sept-2023.pdf

iii <https://scarletalliance.org.au/wp-content/uploads/Scarlet-Alliance-Submission-on-the-Modern-Slavery-Act-Review.pdf>

iv <https://scarletalliance.org.au/library/scarlet-alliance-submission-on-the-targeted-review-of-divisions-270-and-271-of-the-criminal-code>

v <https://scarletalliance.org.au/library/migration-amendment-strengthening-employer-compliance-bill-2023/>

vi <https://www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/rapid-review-exploitation-visa-system>

<https://www.sydneycriminallawyers.com.au/blog/release-asian-trans-woman-detained-in-villawood-interview-amswags-damien-nguyen/>

viii <https://scarletalliance.org.au/stans-revealed-trafficked-exposes-nick-mckenzie-white-knight-fantasy-based-on-racist-stereotyping/>

ix <https://scarletalliance.org.au/2023-key-issues-paper-asian-migrant-sex-workers/>

x Agustin, Laura (200X) Sex At The Margins,

Kim, Jules. Jeffreys, Elena. (200x) Methodology paper

xi <https://www.aic.gov.au/sites/default/files/2020-05/rpp131.pdf>

xii <https://www.aic.gov.au/sites/default/files/2020-05/rpp131.pdf>

xiii

Lim, Lin Lean, and International Labour Organization. 1998. *The Sex Sector : The Economic and Social Bases of Prostitution in Southeast Asia*. Geneva: International Labour Office.

<https://www.walkfree.org/global-slavery-index/country-studies/australia/>

xiv <https://www.walkfree.org/global-slavery-index/country-studies/australia/>

https://www.iom.int/sites/g/files/tmzbdl2616/files/2018-07/collateral_damage_gaatw_2007.pdf

Maciotti, P. G., Eurydice Aroney, Calum Bennachie, Anne E. Fehrenbacher, Calogero Giametta, Heidi Hoefinger, Nicola Mai, and Jennifer Musto. 2020. "Framing the Mother Tac: The Racialised, Sexualised and Gendered Politics of Modern Slavery in Australia" *Social Sciences* 9, no. 11: 192. <https://doi.org/10.3390/socsci9110192>

xv Agustin, Laura (200X) Sex At The Margins,

xvi <https://iarc.org.au/wp-content/uploads/2024/11/IARC-Report-for-the-UN-Special-Rapporteur-on-contemporary-forms-of-slavery-November-2024.pdf>

xvii <https://iarc.org.au/wp-content/uploads/2024/11/IARC-Report-for-the-UN-Special-Rapporteur-on-contemporary-forms-of-slavery-November-2024.pdf>

xviii https://scarletalliance.org.au/wp-content/uploads/Scarlet-Alliance-Briefing_-_Operation-Inglenook-Sept-2023.pdf

xix <https://scarletalliance.org.au/resources/migrant-sex-workers/>

xx <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://iarc.org.au/wp-content/uploads/2023/01/2022.12.15-IARC-and-Unions-NSW-Submission-A-migration-system-for-Australias-future.pdf>

xxi <https://www.un.org/en/file/200147>