

Select Committee on Human Trafficking in New South Wales

Human trafficking in New South Wales

Ordered to be printed 19 October 2017

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Legislative Council. Select Committee on Human Trafficking in New South Wales.

Human trafficking in New South Wales / Select Committee on Human Trafficking in New South Wales [Sydney, N.S.W.] : The Committee, 2017. – [xiv, 116] pages ; 30 cm. (Report)

Chair: Honourable Paul Green MLC.

“October 2017”

ISBN 9781922258380

1. Human trafficking—New South Wales.
 2. Human trafficking—Prevention—New South Wales.
 3. Slavery—New South Wales.
 4. Crimes against humanity—New South Wales.
- I. Title
 - II. Green, Paul.
 - III. Series: New South Wales. Parliament. Select Committee on Human Trafficking in New South Wales. Report ; 1.

364.150944(DDC22)

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Terms of reference

1. That this House establish a select committee to inquire into and report on human trafficking in New South Wales, and in particular:
 - (a) the role and effectiveness of New South Wales law enforcement agencies in responding to human trafficking including:
 - (i) how New South Wales law enforcement agencies respond to human trafficking, including slavery, slavery like practices such as servitude, forced labour, and people trafficking,
 - (ii) the influence of organised crime in human trafficking in New South Wales,
 - (b) the prevalence of human trafficking in New South Wales,
 - (c) the effectiveness of relevant legislation and policies,
 - (d) the practical measures and policies including security measures to protect New South Wales identity documents that would address human trafficking in New South Wales, and
 - (e) other related issues.
2. That the committee report by 19 October 2017.¹

The terms of reference were referred to the committee by the Legislative Council on 9 November 2016.²

¹ The original reporting date was 'by September 2017' (Minutes, *Legislative Council*, 9 November 2016, p 1240-1241). The reporting date was extended to 19 October 2017 (Minutes, *Legislative Council*, 14 September 2017, p 1892).

² *Minutes*, NSW Legislative Council, 9 November 2016, p 1240.

Committee details

Committee members

The Hon Paul Green MLC	Christian Democratic Party	<i>Chair</i>
The Hon Natasha Maclaren-Jones MLC	Liberal Party	<i>Deputy Chair</i>
The Hon Greg Donnelly MLC	Australian Labor Party	
Dr Mehreen Faruqi MLC	The Greens	
The Hon Trevor Khan MLC	The Nationals	
The Hon Matthew Mason-Cox MLC	Liberal Party	
The Hon Ernest Wong MLC	Australian Labor Party	

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Chair's foreword

... let us reaffirm the inherent dignity of all men, women and children. And let us redouble our efforts to build societies in which slavery truly is a term for the history books.

—Ban Ki-moon, Former UN Secretary-General
2 December 2007

Human trafficking is a modern form of slavery. It is a transnational crime that preys on society's most vulnerable. Many efforts across centuries have been directed to abolish human trafficking and slavery, notable individuals such as William Wilberforce, Abraham Lincoln, St Patrick and Pope Francis come to mind. I am proud to acknowledge in recent years there has been an increased global effort to put an end to this horrific crime and support its victims.

It is estimated there are 45.8 million people worldwide and over 4,000 people in Australia who are victims of some form of slavery according to the Global Slavery Index, 2016.

My aspiration in conducting this inquiry is to draw a line in the sand for New South Wales. Paving the way for New South Wales to build on the frameworks that have already been implemented in Australia's fight against human trafficking and slavery. The recommendations included in this report strengthen New South Wales's response to human trafficking and call on the Australian Government to take further strategic action.

Human Trafficking includes slavery and slavery-like practices such as servitude, forced labour, debt bondage, organ trafficking, deceptive recruiting as well as forced marriage and childhood brides.

Young girls forced into illegal marriage, exposing them to long term abuse and rape at the consent of their families. Regardless of religious and cultural background it is unacceptable and reprehensible to expose children to a forced marriage, whether that is here in Australia or taking the child overseas. The committee was so appalled by this crime that we have recommended taking the further step to criminalise forced child marriage in New South Wales. This will assist in drawing awareness to the crime and ensure that front-line officials understand its seriousness and how they should appropriately respond to victims.

First and foremost this report recommends for the establishment of a Modern Slavery Act for Australia, similar to 2015 legislation in the United Kingdom. The United Kingdom legislation established the office of an independent Anti-Slavery Commissioner to encourage good practice on the prevention, detection, investigation and prosecution of modern slavery offences.

The committee has recommended that both Australia and New South Wales adopt this forward-thinking model and appoint independent commissioners. This will assist in providing a coordinated approach between levels of government to combat human trafficking, slavery and slavery like practices.

I am passionate about eradicating slavery in the supply chains of our local and global businesses. The committee heard about the excellent work being undertaken by compassionate businesses and individuals including Mr Andrew Forrest AO, Chairman of Fortescue Metals Group. However, this work is not enough by itself; government needs to provide a legislative framework for businesses, faith groups and NGO's to report on the ethical nature of their supply chains and then commend companies that eliminate slavery.

Governments themselves also need to investigate their own supply chains and slave proof them. The NSW Government should introduce tougher requirements in its Code of Practice for Procurement to ensure its departments and other government bodies are ethically sourcing their supplies.

A common theme throughout the evidence for this inquiry is that greater education and awareness of modern slavery is needed among front-line workers such as police officers and health professionals. In addition, communities and families must also be better informed to assist in ending practices such as forced child marriage.

Further, the committee heard horrific evidence regarding the growth of child cybersex trafficking. More punitive measures at both state and federal level should be introduced to punish persons guilty of this heinous crime. Law enforcement should be granted the powers needed to locate perpetrators who are using the anonymity of the Internet to commit these crimes.

I also believe that a more compassionate and coordinated approach to supporting victims is required. To achieve this, the committee recommended the establishment of an independent national human trafficking hotline, similar to those in the United States; the establishment of a national compensation scheme for victims; and for the Support for Trafficked People Program to support victims even if they are not involved in the criminal justice process. Simply put, we must develop a victim centred approach to this crime.

On behalf of the committee, I express our gratitude to all who participated in the inquiry, including those organisations and individuals who appeared at public hearings and wrote submissions. Your passion and dedication to this important issue is admirable and it is making a difference to the lives of so many.

I also thank my committee colleagues for their work and commitment to this inquiry, as well as the secretariat staff, Ms Rebecca Main, Mr Samuel Griffith, Ms Shaza Barbar and Ms Jenny Whight, for their work in supporting the committee.

A handwritten signature in blue ink, appearing to read 'Paul Green', with a long horizontal flourish extending to the right.

The Hon Paul Green MLC
Committee Chair

Recommendations

- Recommendation 1** **16**
 That the NSW Government urge the Australian Government, through the Council of Australian Governments, to establish a modern slavery act for Australia.
- Recommendation 2** **16**
 That the NSW Government, as part of the government’s response to this inquiry, respond without further delay to the findings and recommendations of the Multicultural NSW report entitled ‘Inquiry into the exploitation of people through trafficking, in all its forms in NSW’, dated December 2013.
- Recommendation 3** **19**
 That the NSW Government commission research to be conducted by NSW Bureau of Crime Statistics and Research into the prevalence of human trafficking in New South Wales, including the prevalence of organised crime, and encourage the Australian Government, through the Council of Australian Governments, to conduct similar research at a national level.
- Recommendation 4** **26**
 That the NSW Government develop and implement a state strategy to address human trafficking in accordance with the National Action Plan to Combat Human Trafficking 2015-19.
- Recommendation 5** **26**
 That the NSW Government appoint a New South Wales independent anti-slavery commissioner.
- Recommendation 6** **26**
 That the NSW Government, through the Council of Australian Governments, urge the Australian Government to appoint a federal independent anti-slavery commissioner.
- Recommendation 7** **26**
 That the NSW Government allocate greater resources to the NSW Police Force, to enhance interagency cooperation and covert operations to address human trafficking.
- Recommendation 8** **31**
 That the NSW Government advocate through the Council of Australian Governments, for the Australian Government to establish:
- legislation that requires large companies based in Australia to publicly report annually on steps taken to ensure there is no modern slavery within the organisation and supply chain
 - a publicly available, independently managed register to measure the success of companies and the effectiveness of this legislation.
- Recommendation 9** **31**
 That the NSW Government introduce guidelines and conduct awareness programs to assist small and medium-sized enterprises to identify modern slavery within their supply chain and to assist them in remediating and monitoring identified risks.

- Recommendation 10** 33
That the NSW Government update the New South Wales Code of Practice for Procurement to include a commitment that government departments, agencies, state owned corporations and other government related entities will not procure goods and services that are the product of human trafficking, slavery or slave-like practices.
- Recommendation 11** 34
That the NSW Government require all its departments, agencies, state owned corporations and other government related entities to include a section in their annual reports that specifies the steps taken to ensure they are not procuring goods and services that are the product of human trafficking, slavery or slave-like practices.
- Recommendation 12** 34
That the NSW Government conduct an annual evaluation of the progress made by its departments, agencies, state owned corporations and other government related entities in preventing human trafficking and slavery in the supply chains of goods and services procured.
- Recommendation 13** 38
That the NSW Government, in consultation with the Australian Government, establish a framework to deliver ongoing training and awareness campaigns regarding human trafficking to front-line government and non-government workers and the general public.
- Recommendation 14** 38
That the NSW Government commit to providing mandatory training on human trafficking, slavery and forced marriage to all front-line government employees in New South Wales.
- Recommendation 15** 39
That the NSW Government conduct formal evaluations of all human trafficking and slavery awareness campaigns and training and encourage the Australian Government, through the Council of Australian Governments, to formally evaluate federally administered training programs and awareness campaigns.
- Recommendation 16** 39
That the NSW Government, through the Council of Australian Governments, urge the Australian Government, in consultation with other states, to fund a new education campaign to increase awareness of human trafficking in the community.
- Recommendation 17** 47
That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to conduct a review into the lack of convictions under the forced labour offence at section 270.6 of the *Criminal Code Act 1995* (Cth) and to consider training for Australian Federal Police, Department of Immigration and Border Protection and Fair Work Ombudsman officers to better identify this crime.
- Recommendation 18** 47
That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to provide more information on worker rights in Australia to work visa holders both before they enter Australia and at the airport once they have arrived.

Recommendation 19

47

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to regulate the labour hire industry in Australia, and if this is not supported federally, to then regulate the labour hire industry in New South Wales.

Recommendation 20

56

That the NSW Government invest in pathways to assist sex workers who want to exit the industry and find other methods of employment.

Recommendation 21

56

That the NSW Government encourage sex services industry bodies such as the Scarlett Alliance and the Sex Workers Outreach Project to:

- regularly attend training on human trafficking and slavery to assist in identifying and helping victims
- report suspected instances of human trafficking and slavery.

Recommendation 22

60

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to amend the *Criminal Code Act 1995* (Cth) to:

- introduce a new, specific offence for child cybersex trafficking
- increase maximum sentences for child cybersex crimes, particularly for crimes against children under 10 years of age
- clarify the obligations of internet service providers at section 474 of the Act.

Recommendation 23

60

That the NSW Government amend division 15A of the *Crimes Act 1900* (NSW) to include:

- an evidentiary provision equivalent to s 474.28 of the *Criminal Code Act 1995* (Cth) to make it easier to prosecute cases where a child cybersex trafficking offender has recorded their pay-per-view session
- aggravating factors that heighten the severity of the offence, including the offence taking place in the presence of another person and offences involving a child under 10 years of age
- an offence for administering or encouraging the use of an online child exploitation material website
- an offence for providing information to a person that is likely to assist them in avoiding capture or prosecution for committing such an offence.

Recommendation 24

60

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to consider forcing companies such as Facebook and Google to decrypt messages by suspected child cybersex traffickers.

Recommendation 25

61

That the NSW Government:

- amend its information and communications technology use policy to specifically prohibit the viewing of child exploitation material and incorporate clear guidelines of what to do if this material is discovered

- provide the amended policy to businesses as a best practice template.

- Recommendation 26** 75
That the NSW Government criminalise underage forced marriage.
- Recommendation 27** 75
That the NSW Government either establish forced marriage protection orders or incorporate specific forced marriage provisions into the existing apprehended violence order framework.
- Recommendation 28** 75
That the Department of Family and Community Services develop a specific support system to assist victims of underage forced marriage, including the provision of appropriate accommodation, and ensuring access to this support system is not reliant on a victim being involved in the criminal justice process.
- Recommendation 29** 75
That the NSW Department of Education include forced marriage in respectful relationship education within the Personal Development, Health and Physical Education syllabus in high schools, and consider including A21's *Bodies Are Not Commodities* program as part of this syllabus.
- Recommendation 30** 84
That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to establish a victim-centred, independently managed national hotline for human trafficking and slavery, similar to the United States National Human Trafficking Hotline 'Polaris', with operators receiving effective support and training.
- Recommendation 31** 84
That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to establish a more victim-centred approach to screening potential victims of human trafficking, similar to the United Kingdom's Reception Centre Model.
- Recommendation 32** 84
That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to amend the Support for Trafficked People Program and visa framework to ensure that trafficked persons can receive support in Australia even if they are not involved in the criminal justice process.
- Recommendation 33** 85
That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to provide more financial support to holders of a Bridging Visa F for housing, study and transport.
- Recommendation 34** 87
That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to establish a national compensation scheme for victims of human trafficking; and if this is not successful, advocate for the harmonisation of schemes across all states and territories in Australia.

Conduct of inquiry

The select committee was established by the Legislative Council with its terms of reference for the inquiry on 9 November 2016.

The committee received 28 submissions and three supplementary submissions and held five public hearings at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 Current response to human trafficking

... I do wish to see the spread of slavery arrested and to see it placed where the public mind shall rest in the belief that it is in course of ultimate extinction.

—Abraham Lincoln, 1858.³

Human trafficking is a modern form of slavery that, instead of being relegated to the dustbin of history, is a transnational crime that preys on society's most vulnerable. In recent years there has been an increased global effort to put an end to this horrific crime. This chapter assesses the current response to human trafficking, in a global, Australian and New South Wales contexts. While human trafficking is primarily a federal responsibility, as the largest state in Australia and the state where trafficking is most prevalent, it is necessary that New South Wales does all it can to stop this evil crime and support the victims who experience it.

What is human trafficking?

- 1.1 Human trafficking is the recruitment and physical transfer of a person within or across national borders, using coercion, threat or deception, to exploit that person when they reach their destination.⁴ The crime of human trafficking is one of the gravest violations of human rights because trafficked people are deprived of their personal freedom and suffer exploitation.⁵
- 1.2 Almost every country in the world is affected by human trafficking, either as a country of origin, a transit country or as a destination country for victims.⁶ Australia is primarily a destination country for human trafficking,⁷ while many of Australia's near neighbours are countries of origin for trafficked people.⁸
- 1.3 The world's first globally agreed, legally binding definition of human trafficking and exploitation is contained within the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (the trafficking protocol), which supplements the *United Nations Convention Against Transnational Organised Crime*.⁹ The trafficking protocol defines human trafficking as:

³ Abraham Lincoln, 'Speech at Springfield, Illinois (17 July 1858)' in Roy P. Basler (ed) *The Collected Works of Abraham Lincoln*, Vol 2, (Rutgers University Press, 1953), p 514.

⁴ Tabled document, Australian Government, *National Action Plan to Combat Human Trafficking and Slavery 2015–19*, 1 December 2014, p 4.

⁵ Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015–19*, p 1.

⁶ Australian Government, *Amplifying Our Impact: Australia's International Strategy to Combat Human Trafficking and Slavery*, p 3.

⁷ Submission 23, Australian Government, p 2.

⁸ Australian Government, *Amplifying Our Impact: Australia's International Strategy to Combat Human Trafficking and Slavery*, p 3.

⁹ Submission 23, Australian Government, p 3.

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹⁰

Exploitative practices associated with human trafficking

1.4 Human trafficking occurs to exploit the person being trafficked. Practices that accompany human trafficking include slavery and slavery-like practices of servitude, forced labour, forced marriage, debt bondage, organ trafficking and deceptive recruiting. These practices are criminal offences in Australia under the *Criminal Code Act 1995* (the Criminal Code), and are defined as follows:

- **Slavery** occurs when a person exercises the right of ownership over another person. This may include using a person or their labour in a substantially unrestricted manner, controlling or restricting a person's movements, or using a person's services without appropriate compensation. Slavery-like practices occur when exploitation of a person is so serious it may be considered similar to slavery. Slavery-like practices include servitude, forced labour and forced marriage.¹¹
- **Servitude** occurs where, because of coercion, threat or deception, a person is not free to stop providing their labour or services, or to leave the place where they provide their labour or services, and is significantly deprived of personal freedoms other than in respect of their labour or services.¹²
- **Forced labour** occurs where, because of coercion, threat or deception, a person is not free to cease providing labour or services or to leave the place where they provide their labour or services. Forced labour may occur in many industries including the sex services industry, agriculture, hospitality, construction, and domestic work.¹³
- **Forced marriage** is a marriage that is entered into by one or both parties without their full and free consent, as a result of threats, deception or coercion.¹⁴

¹⁰ United Nations Office on Drugs and Crime, *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, 2004, p 42, see: <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

¹¹ *Criminal Code Act 1995* (Cth), s 270.1; Tabled document, Australian Government, *The National Action Plan to Combat Human Trafficking and Slavery 2015–19*, 1 December 2014, p 4.

¹² *Criminal Code Act 1995* (Cth), s 270.4.

¹³ *Criminal Code Act 1995* (Cth), s 270.6; Anti-Slavery Australia, *What is Human Trafficking?* (30 November 2015), <http://www.antislavery.org.au/images/stories/Factsheets/05%20-%20Human%20Trafficking.pdf>.

¹⁴ Submission 28, NSW Government, p 8, quoting Anti-Slavery Australia, *Forced Marriage* (30 March 2017), <http://www.antislavery.org.au/images/stories/Factsheets/03%20-%20Forced%20Marriage.pdf>.

- **Debt bondage** occurs when a person is bound to their traffickers by a debt and the person is required to provide their labour or services to pay off the debt. Debts are frequently excessive and the person can become enslaved by having to work towards paying off the debt.¹⁵
- **Deceptive recruiting** for labour or services occurs when a recruiter deceives a person about the conditions they will face when providing their labour or services. The victim may be deceived about: the freedom they may have to leave the workplace or their home; the freedom they have to cease working; the size of, or existence of, the debt they may be required to repay; that their work will involve exploitation or the confiscation of travel and identity documents; and, in provision of sexual services, the nature of the sexual services to be provided.¹⁶
- **Organ trafficking** involves the removal of an organ where neither the victim, nor the victim's guardian, consents to the removal, the removal does not provide any medical benefit for the victim and it is against the laws of the state or territory where the removal is carried out.¹⁷

1.5 Further, human trafficking is *not* migrant smuggling. Both human trafficking and migrant smuggling involve the illegal movement of people and both are an offence in Australia under the Criminal Code. However, smuggled people consent to being smuggled and are generally left to their own devices when they arrive in their destination country, whereas trafficked people suffer ongoing exploitation once they reach their destination country.¹⁸

A global perspective

- 1.6 Human trafficking and slavery is the second largest criminal industry in the world, and the fastest growing.¹⁹ World-wide, up to 800,000 people are trafficked across international borders each year and over 20 million people are victims of forced labour.²⁰
- 1.7 Internationally, women and girls are disproportionately affected by trafficking and comprise 75 per cent of all trafficked people. Children make up more than a quarter of people trafficked each year. Approximately 60 per cent of trafficked people are trafficked for the purpose of sexual exploitation and 40 per cent are trafficked for labour exploitation.²¹

¹⁵ Anti-Slavery Australia, *Australia's Slavery and Trafficking Laws* (30 November 2015), <http://www.antislavery.org.au/images/stories/Factsheets/02%20-%20Australias%20slavery%20and%20trafficking%20laws.pdf>.

¹⁶ *Criminal Code Act 1995* (Cth), s 270.7.

¹⁷ *Criminal Code Act 1995* (Cth), s 271.7A.

¹⁸ Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, p 10.

¹⁹ United Nations High Commissioner for Refugees, *Conference puts focus on human trafficking, fastest growing criminal industry* (11 October 2010), <http://www.unhcr.org/en-au/news/latest/2010/10/4cb315c96/conference-puts-focus-human-trafficking-fastest-growing-criminal-industry.html>.

²⁰ Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, p 5.

²¹ Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, pp 5-6.

- 1.8 The problem of human trafficking and slavery has been described by the British Prime Minister, Theresa May, as ‘the greatest human rights issue of our time’²² and by the Pope as ‘an open wound on modern society and a crime against humanity’.²³ In considering the global response, the following section describes how the United Nations, the British government and the Vatican are combating human trafficking and slavery.

United Nations

- 1.9 The United Nations has adopted a number of resolutions expressing concern at human trafficking and urging governments to address the issue in their country and provide support to trafficked persons. Most recently, in 2016, the United Nations Human Rights Council adopted a resolution affirming that human trafficking continued to pose a serious challenge to humanity and required a concerted international response and genuine cooperation among countries of origin, transit and destination for its eradication.²⁴
- 1.10 While resolutions are formal expressions of the opinion of the United Nations, they are not legally binding. However, the United Nations does have a number of conventions, protocols and covenants relating to human trafficking and slavery that are legally binding on states who are party to them.²⁵ Of most relevance is the trafficking protocol. As at September 2017, 171 countries were parties to the protocol, with Australia ratifying it in 2005.²⁶ The United Nations Office on Drugs and Crime is responsible for implementing the trafficking protocol by conducting research and raising awareness, providing countries with assistance to draft national laws, and creating national anti-trafficking strategies.²⁷

²² Teresa May, *My Government will lead the way in defeating modern slavery* (30 July 2016), The Telegraph, http://www.telegraph.co.uk/news/2016/07/30/we-will-lead-the-way-in-defeating-modern-slavery/?mc_cid=240d07b7fe&mc_eid.

²³ Carol Glatz, *Pope Francis: Human trafficking is an open wound on society* (10 April 2014), Catholic Herald, <http://www.catholicherald.co.uk/news/2014/04/10/pope-francis-human-trafficking-is-an-open-wound-on-society/>.

²⁴ United Nations Human Rights, Office of the High Commissioner for Human Rights, *Resolution adopted by the Human Rights Council on 30 June 2016 - 32/3: Trafficking in persons, especially women and children: protecting victims of trafficking and persons at risk of trafficking, especially women and children in conflict and post-conflict situations* (20 July 2016), http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/32/3.

²⁵ The complete list of international instruments that Australia is party to may be found at Appendix B of the *National Action Plan to Combat Human Trafficking and Slavery 2015-19*.

²⁶ United Nations Treaty Collection, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (14 September 2017), https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en.

²⁷ United Nations Office on Drugs and Crime, *Human Trafficking*, <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html?ref=menuaside>.

Sustainable development goals

- 1.11** In 2015, world leaders, including Australia, adopted 17 Sustainable Development Goals which aim to end poverty, protect the planet and ensure prosperity for all by 2030.²⁸
- 1.12** Pope Francis and the United Kingdom's Independent Anti-Slavery Commissioner, Mr Kevin Hyland, were among a number of leaders who sought to ensure that human trafficking was addressed by the Sustainable Development Goals.²⁹ Following their advocacy, Sustainable Development Goal 8 (decent work and economic growth), was amended to include the goal of eradicating of human trafficking and slavery:
- Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.³⁰
- 1.13** Sustainable Development Goals are not legally binding, however, the United Nations expects countries to take ownership and establish national frameworks for the achievement of each of the goals.³¹

United Kingdom's *Modern Slavery Act 2015*

- 1.14** In 2015 Britain enacted the *Modern Slavery Act 2015* which aims to bring human trafficking and slavery to an end and provide support to slavery victims in the United Kingdom. The Act provides for:
- consolidation of offences for slavery and trafficking
 - the establishment of an independent Anti-Slavery Commissioner to encourage good practice on the prevention, detection, investigation and prosecution of modern slavery offences and the identification of victims of modern slavery offences and the identification of victims. In 2015 Mr Kevin Hyland OBE became the first independent Anti-Slavery Commissioner of the United Kingdom
 - slavery and trafficking reparation orders to recover assets from traffickers and provide compensation for victims
 - a national referral system to protect and support victims of human trafficking and slavery

²⁸ United Nations Sustainable Development Goals, *Sustainable Development Goals*, <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

²⁹ Evidence, Mr John McCarthy QC, Former Ambassador to the Holy See, 6 March 2017, pp 4-5.

³⁰ United Nations Sustainable Development Goals, *Goal 8: promote inclusive and sustainable economic growth, employment and decent work for all*, <http://www.un.org/sustainabledevelopment/economic-growth/>.

³¹ United Nations Sustainable Development Goals, *The Sustainable Development Agenda*, <http://www.un.org/sustainabledevelopment/development-agenda/>.

- provisions to ensure transparency in supply chains, including that businesses with an annual turnover of more than £36 million provide an annual human trafficking and slavery statement. The statement must describe the steps they have taken to ensure that slavery and human trafficking is not taking place in any of their supply chains or their own business, or they must disclose that they have taken no such steps.

1.15 In the two years since the introduction of the *Modern Slavery Act*, increasing numbers of trafficked people have been supported through the national referral system and there have been greater numbers of prosecutions for human trafficking and slavery related offences.³²

The Vatican

1.16 In 2013 Pope Francis made the eradication of human trafficking and slavery a priority when he became worldwide leader of the Catholic Church. His efforts to eliminate human trafficking have included instigating discussions on the issue with other global religious leaders, academics and activists. In 2014 these discussions culminated in global religious leaders assembling at the Vatican to issue a joint call for the eradication of modern slavery and human trafficking.³³

1.17 In 2016, as part of its commitment, the Vatican announced that it would ensure its supply chains did not use slavery.³⁴ Australia's former Ambassador to the Holy See, Mr John McCarthy QC, explained that the Vatican would do this by 'seeking various guarantees from their contractors that whatever goods were being obtained had not to their knowledge had any slavery component to it'.³⁵

1.18 The Archbishop of Sydney, Mr Anthony Fisher AO, informed the committee that the Catholic Church in Australia would implement the following measures to eradicate human trafficking and slavery:

- maintain a register of suppliers who have certified their goods and services did not use human trafficking and slavery
- all churches and affiliated organisations would, as far as possible, purchase only slavery-proofed products and only contract with firms who certify that their goods and services are not affected by human trafficking
- establish an Anti-Slavery Taskforce to promote ethical procurement, prepare education programs, and campaign for the eradication of human trafficking and slavery
- support the work of the Australian Catholic Religious Against Trafficking to assist victims of human trafficking

³² Independent Anti-Slavery Commissioner, *Letter to MPs on two year anniversary of Modern Slavery Act* (6 April 2017), <http://www.antislaverycommissioner.co.uk/news-insights/letter-to-mps-on-two-year-anniversary-of-modern-slavery-act/>.

³³ Evidence, Mr McCarthy QC, 6 March 2017, pp 3-4.

³⁴ Vatican Radio, *Cardinal Pell: Vatican will "slave-proof" supply chain* (19 January 2016), http://en.radiovaticana.va/news/2016/01/19/cardinal_pell_vatican_will_slave-proof_supply_chain/1202111.

³⁵ Evidence, Mr McCarthy QC, 6 March 2017, p 6.

- work with leaders of other faiths and organisations to end human trafficking.³⁶

Australian perspective

- 1.19** Since 2004, there have been more than 750 human trafficking and trafficking-related referrals to Australian authorities. However, the actual numbers of trafficked people in Australia are likely to be much higher than this. It is very difficult to obtain reliable and accurate estimates of the number of trafficked people living in Australia due to the covert and illegal nature of trafficking crimes.³⁷
- 1.20** Trafficked people may not be aware of their legal rights or be reluctant to seek help due to their fear of authority or fear of reprisals from traffickers, and there may be a lack of awareness on the part of front-line agencies that certain exploitative practices are a criminal offence.³⁸
- 1.21** In Australia, the majority of identified trafficked people are women. However, in contrast to global figures, only a very small number of the victims of human trafficking and slavery in Australia are children.³⁹ Trafficked people living in Australia will typically have similar backgrounds to the people who recruit them, sharing the same culture, language and socio-economic circumstances.⁴⁰ Most trafficked people will arrive in the country on a legitimate visa, although in some circumstances the visa may have been obtained fraudulently or be a fraudulent document.⁴¹
- 1.22** In the past, the majority of trafficked people identified in Australia were women from Asia, trafficked for exploitation within the sex work industry. However, in recent years Australian authorities have identified women and men, trafficked for exploitation in domestic work, the hospitality or construction industries, or within intimate or family relationships.⁴² There are not less cases of trafficking for exploitation within the sex work industry than previously, but authorities are increasingly identifying other types of trafficking.⁴³

³⁶ Evidence, Mr Anthony Fisher AO, Archbishop of Sydney, Catholic Church, 28 March 2017, p 14.

³⁷ Australian Government, *Amplifying Our Impact: Australia's International Strategy to Combat Human Trafficking and Slavery*, p 5; Submission 13, The Border Crossing Observatory and Monash University, p 4; Submission 16, The Salvation Army, p 21.

³⁸ Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, p 5; Anti-Slavery Australia, *What is Human Trafficking* (30 November 2015), <http://www.antislavery.org.au/images/stories/Factsheets/05%20-%20Human%20Trafficking.pdf>; Submission 26, Australian Institute of Criminology, p 4.

³⁹ Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, pp 6-7.

⁴⁰ Submission 23, Australian Government, p 8; Submission 26, Australian Institute of Criminology, pp 2-3.

⁴¹ Submission 23, Australian Government, p 8.

⁴² Submission 23, Australian Government, p 2.

⁴³ Anti-Slavery Australia, *What is Human Trafficking?* (30 November 2015), <http://www.antislavery.org.au/images/stories/Factsheets/05%20-%20Human%20Trafficking.pdf>.

1.23 As noted earlier, Australia is party to a number of international instruments relating to human trafficking and slavery. The following section describes the way the Australian Government meets its obligations through its legislative framework and whole-of-government strategy.

Legislative framework

1.24 The following Commonwealth legislation is relevant to human trafficking and slavery:

- ***Criminal Code Act 1995*** criminalises human trafficking, slavery and slavery-like practices of forced labour, forced marriage, organ trafficking, debt bondage and deceptive recruiting
- ***Migration Act 1958*** sets out offences relating to visa fraud, including: to use forged or false documents and statements for visa purposes; allowing a person to work in contravention of their visa conditions; or offering or providing a benefit in return for visa sponsorship
- ***Fair Work Act 2009*** provides for basic rights and protections for workers, including migrant workers and visa holders
- ***Crimes Act 1914*** protects victims of human trafficking when giving evidence in Commonwealth criminal proceedings
- ***Marriage Act 1961*** makes it an offence for a person to perform a marriage ceremony or for a person to get married where they believe a person is not of marriageable age (that is, 18 years of age)
- ***Proceeds of Crime Act 2002*** provides that the proceeds of any human trafficking and slavery crimes may be confiscated and returned to the community to fund anti-crime initiatives.⁴⁴

1.25 Penalties for human trafficking and slavery offences range from four years imprisonment for debt bondage and harbouring to 25 years imprisonment for slavery and child trafficking.⁴⁵

1.26 In addition to Commonwealth legislation, states and territories in Australia have legislation that may be used in conjunction with, or in place of, Commonwealth legislation to prosecute a range of human trafficking and slavery-type offences.⁴⁶

Anti-trafficking strategy

1.27 Australia has a comprehensive, whole-of-government anti-trafficking strategy in place which addresses all facets of human trafficking and aims to prevent and deter human trafficking and slavery; to detect, investigate and prosecute offenders and to provide support to trafficked people. The anti-trafficking strategy is informed by the National Action Plan to Combat

⁴⁴ Submission 23, Australian Government, pp 3-5; Anti-Slavery Australia, *Australian Legal Framework*, <http://www.antislavery.org.au/resources/australian-legal-framework.html>.

⁴⁵ Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015–19*, p 9.

⁴⁶ Submission 23, Australian Government, p 5.

Human Trafficking 2015-19 (National Action Plan),⁴⁷ and oversighted by the Interdepartmental Committee on Human Trafficking and Slavery⁴⁸ which:

- monitors the National Action Plan's implementation
- reports to the Australian Government on its effectiveness
- ensures emerging issues are addressed on a whole-of-government basis.⁴⁹

1.28 Key features of the anti-trafficking strategy are outlined in the following paragraphs.

Prevention and deterrence

1.29 The Australian Government funds a number of programs with the goal of preventing and deterring human trafficking and slavery in Australia, including:

- provision of funding to non-government organisations from a range of backgrounds to provide outreach to trafficked people and conduct education and awareness-raising activities on human trafficking and slavery issues⁵⁰
- provision of funding to non-government organisations to provide outreach, education and awareness-raising activities on forced marriage⁵¹
- providing funding through Australia's international aid program to strengthen regional approaches to human trafficking⁵²
- training for Immigration and Border Protection staff posted in Australia and overseas on detection and prevention of human trafficking and slavery⁵³
- research into prevention of human trafficking, conducted by the Australian Institute of Criminology.

Detection and investigation

1.30 Internationally, Australia works closely with other countries in the region to target human trafficking networks, share intelligence and provide legal and law enforcement assistance.⁵⁴

⁴⁷ Submission 23, Australian Government, p 2; Tabled document, *National Action Plan to Combat Human Trafficking and Slavery 2015–19*, p iii.

⁴⁸ The IDC comprises the following agencies: the Attorney-General's Department, Australian Criminal Intelligence Commission; Australian Federal Police; Australian Institute of Criminology; Commonwealth Director of Public Prosecutions; Department of Employment; Department of Foreign Affairs and Trade; Department of Immigration and Border Protection; Department of Prime Minister and Cabinet; Department of Social Services and the Fair Work Ombudsman.

⁴⁹ Submission 23, Australian Government, p 2.

⁵⁰ Submission 23, Australian Government, p 12.

⁵¹ Submission 23, Australian Government, p 12.

⁵² Submission 23, Australian Government, p 13.

⁵³ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 28.

⁵⁴ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, pp 77-80.

1.31 The Australian Federal Police’s Human Trafficking Team is responsible for investigating human trafficking and slavery both in Australia and overseas. Human Trafficking Teams are located in Sydney and Melbourne and Australian Federal Police and Immigration and Border Protection officers trained in human trafficking and slavery matters are also located in a number of overseas locations.⁵⁵

1.32 The Australian Government identified the significant challenges faced by investigators into human trafficking:

The investigation of matters involving human trafficking and slavery can be protracted, complex and resource intensive, particularly given their often transnational nature. There are significant practical challenges in investigating crime across international borders, including the challenges of communication, and differences in the role of national institutions, legal and political systems. Victims, offenders and evidence can be located in more than one country, and the same set of circumstances can generate investigations and prosecutions in more than one jurisdiction. The Australian Federal Police maintains an extensive network of officers posted to Australia’s overseas missions, who provide a conduit for Australian and overseas law enforcement agencies to exchange information and progress these investigations.⁵⁶

1.33 Investigations undertaken by the Australian Federal Police into human trafficking and slavery have increased in recent years, as outlined in Table 1:⁵⁷

Table 1 Australian Federal Police investigation by financial year

Investigation type	2013/14	2014/15	2015/16
Forced marriage	11	33	69
Sexual exploitation	31	34	39
Labour exploitation	22	33	36
Child trafficking	2	11	10
Trafficking	2	4	13
Other	2	4	2
Total	70	119	169

Prosecutions

1.34 Securing prosecutions for human trafficking and slavery offences is a key objective of the Australian Government’s anti-trafficking strategy, with matters referred to the Commonwealth Director of Public Prosecutions for prosecution.⁵⁸

⁵⁵ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 12.

⁵⁶ Submission 23, Australian Government, p 5.

⁵⁷ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 20.

⁵⁸ Submission 23, Australian Government, pp 5-6.

- 1.35 The Interdepartmental Committee on Human Trafficking and Slavery annual report on human trafficking and slavery outlined the difficulty that the Commonwealth Director of Public Prosecutions has in obtaining prosecutions:

The major impediment to prosecuting these offences is the reluctance of people to give evidence, particularly as they (or their families) may have been the subject of violence or threats of violence. Because the prosecution of matters involving human trafficking and slavery relies heavily on the evidence of individual victims, corroboration of that evidence is frequently necessary to meet the high standard of proof in criminal proceedings. It is often challenging to corroborate this evidence.⁵⁹

- 1.36 Since 2004, 20 offenders have been prosecuted and convicted for Commonwealth human trafficking and slavery offences. Of these prosecutions, seven were for offences that took place in New South Wales.⁶⁰ As at February 2017, there were seven human trafficking and slavery matters before the courts.⁶¹

- 1.37 The following table outlines the areas where convictions were made between 2004 and 2016:⁶²

Table 2 Conviction by type of offence 2004 – 2016*

	Slavery	Sexual servitude	Trafficking in persons	Trafficking in children
No. of convictions	10	4	2	2

*During this period there were no convictions for forced labour offences outside of the sex services industry, and no convictions for forced marriage or debt bondage offences. This is partially due to the fact that forced labour and forced marriage offences were only introduced in 2013, while debt bondage became an offence in 2005. On 21 September 2017 a man living in Melbourne was sentenced to 12 months in prison for illegally marrying a 14-year-old bride, becoming the first person convicted of a forced marriage offence. The imam who married the couple was also convicted and jailed for two months.⁶³

Victim support and protection

- 1.38 Trafficked people may be identified by a range of organisations, including immigration officials, law enforcement agencies, non-government organisations, hospitals, medical practitioners, consulates, and government agencies. Once identified, trafficked people are referred to the Australian Federal Police for assessment and entry to the Support for Trafficked People Program. The trafficked person must be an Australian citizen or hold a

⁵⁹ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 25.

⁶⁰ Evidence, Ms Catherine Hawkins, First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department, 29 May 2017, pp 2-3.

⁶¹ Submission 23, Australian Government, p 6.

⁶² Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 27.

⁶³ Cameron Best, 'Groom sentenced in Australian-first child bride case', *ABC News*, 21 September 2017.

valid visa to be eligible to access the support program. However, where a trafficked person doesn't hold a valid visa, a bridging visa may be granted.⁶⁴

- 1.39** The support program is funded by the Commonwealth Department of Social Services and delivered by the Australian Red Cross. It assists trafficked people in meeting their safety, security, health and well-being needs, and to develop options for life after they leave the support program.⁶⁵ This will be discussed in more detail in chapter 5.

National Roundtable

- 1.40** The National Roundtable on human trafficking and slavery is the primary consultative mechanism between the Australian Government and representatives of civil society organisations, business and industry, and unions. Membership of the roundtable includes agencies of the Interdepartmental Committee on Human Trafficking and Slavery and organisations invited by the Minister responsible for human trafficking and slavery.⁶⁶

- 1.41** The National Roundtable meets annually and is briefed by the government on outcomes of the National Action Plan and potential amendments to the plan. Issue-specific working groups within the roundtable include a communications and awareness group and a supply chains working group. The supply chains working group has submitted nine recommendations to government on best practice measures to address supply chain exploitation in Australia. The Australian Government is currently considering its response to the recommendations.⁶⁷

New South Wales perspective

- 1.42** The majority of people trafficked into Australia live in New South Wales or Victoria,⁶⁸ and since 2009, 98 victims of human trafficking living in New South Wales have been identified and provided with support.⁶⁹ However, as noted earlier, the actual numbers of trafficked people living in New South Wales may be much higher than this.

- 1.43** Since 2009, 43 per cent of trafficked people identified by authorities in New South Wales have been exploited in the sex work industry, 42 per cent subject to forms of exploitation other than sex work and 15 per cent were subject to forced marriage.⁷⁰

⁶⁴ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 39.

⁶⁵ Submission 25, Australian Red Cross, pp 4-5; Australian Government, Department of Social Services, *Support for Trafficked People Program* (11 November 2016), <https://www.dss.gov.au/women/programs-services/reducing-violence/anti-people-trafficking-strategy/support-for-trafficked-people-program>.

⁶⁶ Submission 23, Australian Government, p 12; Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 49.

⁶⁷ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 8.

⁶⁸ Submission 9, Anti-Slavery Australia, p 9.

⁶⁹ Evidence, Ms Hawkins, 29 May 2017, p 2.

⁷⁰ Evidence, Ms Hawkins, 29 May 2017, p 2.

- 1.44 As explained earlier in this chapter, human trafficking and slavery offences are federal criminal offences provided for in the Commonwealth Criminal Code and the Australian Federal Police have primary investigative carriage of these offences.⁷¹ However, New South Wales government agencies including the NSW Police Force and the Department of Family and Community Services play important roles in identifying and responding to suspected cases of human trafficking.⁷²

NSW Police Force

- 1.45 State and territory governments are responsible for regulating the sex services industry in Australia⁷³ and the NSW Police Force has sole responsibility for sexual servitude investigations in New South Wales where the victim has not been trafficked. The Sex Crimes Squad within the NSW Police Force has responsibility for this and regularly liaises with the Australian Federal Police. It meets quarterly with the Australian Federal Police's human trafficking team to discuss issues, exchange intelligence and plan operations. In addition to regular liaison, the Sex Crimes Squad participates in joint operations with the Australian Federal Police and provides operational support, for example by executing Commonwealth warrants.⁷⁴

Department of Family and Community Services

- 1.46 The Department of Family and Community Services has a statutory responsibility to protect children and young people at risk of significant harm. It provides support to victims of human trafficking and has a specific role to support people at risk of underage forced marriage.⁷⁵
- 1.47 The Department of Family and Community Services receives between two and four reports a month about children at risk of underage forced marriage in New South Wales. In addition to responding to reports of underage forced marriage, the department has conducted a community awareness campaign on the issue and collaborates with other government and non-government agencies.⁷⁶

Other inquiries

Federal parliamentary committee inquiries

- 1.48 During 2017 there have been two federal parliamentary committee inquiries examining issues relating to human trafficking and slavery.

⁷¹ Submission 28, NSW Government, p 3.

⁷² Submission 28, NSW Government, p 1.

⁷³ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016*, p 19.

⁷⁴ Submission 28, NSW Government, pp 3-4.

⁷⁵ Submission 28, NSW Government, p 5.

⁷⁶ Submission 28, NSW Government, pp 6-7.

- 1.49** In July 2017 the federal Joint Committee on Law Enforcement tabled its report entitled *An inquiry into human trafficking, slavery and slavery-like practices*.⁷⁷ This inquiry examined many of the same issues considered in this report, but focused on federal responses. The federal committee made 20 recommendations to the Australian Government which are produced in full at Appendix 3.
- 1.50** There are many areas of commonality between the recommendations made by the Joint Committee on Law Enforcement and the recommendations in this report, including in relation to:
- strengthening coordination and engagement between agencies and levels of government
 - appointing an Anti-Slavery and Trafficking Commissioner
 - increasing specialised human trafficking training for front-line workers
 - separating access to the Support for Trafficked People Program from compliance with criminal investigations
 - establishing a national compensation scheme for victims
 - strengthening the visa system
 - establishing a licensing regime for labour hire companies
 - investigating the adequacy of current legislative provisions and criminal offences to address cybersex trafficking
 - extending the application of protection orders relating to forced marriage to people over 18 years of age
 - including education on forced marriage in school curricula.
- 1.51** In addition to this inquiry, the Joint Standing Committee on Foreign Affairs, Defence and Trade is inquiring into whether Australia should adopt national legislation to combat modern slavery, comparable to the United Kingdom's *Modern Slavery Act*.⁷⁸
- 1.52** The inquiry took evidence from the United Kingdom's Independent Anti-Slavery Commissioner who commented that the introduction of the *Modern Slavery Act* in Britain had led to significant change. In the United Kingdom human trafficking and slavery had previously been considered a 'social issue' rather than a 'serious and organised crime'. However, following the introduction of the Act, there has been increased identification of victims and prosecutions.⁷⁹

⁷⁷ Joint Committee on Law Enforcement, Parliament of Australia, *An inquiry into human trafficking, slavery and slavery-like practices* (2017).

⁷⁸ Parliament of Australia, *Inquiry into establishing a Modern Slavery Act in Australia, Terms of Reference*, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Terms_of_Reference.

⁷⁹ Joint Standing Committee on Foreign Affairs, Defence and Trade, Evidence, Mr Kevin Hyland, United Kingdom Independent Anti-Slavery Commissioner, 30 May 2017, pp 1 and 3.

- 1.53 The committee released an interim report in August 2017 which included a recommendation that the Australian Government consider supporting in-principle the development of a modern slavery act in Australia:

The Committee recommends that the Australian Government consider supporting in-principle the development of a Modern Slavery Act in Australia, including supply chain reporting requirements for companies, businesses, organisations and governments in Australia, as well as an Independent Anti-Slavery Commissioner, subject to reviewing the recommendations of the Committee's final report. The Committee will provide further recommendations for the content of a Modern Slavery Act in its final report, as well as other necessary changes to Australian legislation, policies and practices to combat modern slavery.⁸⁰

Inquiry into the exploitation of people through trafficking, in all its forms in NSW

- 1.54 In 2012-13, Multicultural NSW (then known as the Community Relations Commission for a Multicultural NSW) conducted an inquiry into the trafficking and exploitation of people in the sex services industry and other forms of employment. The 2013 report noted that there was a need to strengthen the response to human trafficking and slavery, and included 15 recommendations to improve New South Wales' response in the following key areas:

- **Strengthen the NSW Government response.** The inquiry recommended that the NSW Government establish a human trafficking ministerial advisory council to co-ordinate a whole-of government response to human trafficking and slavery in New South Wales and to liaise with the Commonwealth.
- **Undertake legal and policy reform.** The Commonwealth legal and policy framework was focussed largely on criminal justice and that the *Victims Rights and Support Act 2013* be reviewed to ensure that victims of human trafficking and slavery crimes were able to access support such as recognition payments.
- **Improve outcomes for trafficked people.** NSW Government agencies should increase awareness on how to identify human rights abuses. Recommendations made by the inquiry in this area included that the NSW Government appoint a guardian to oversee the care of children and young people and that the Department of Family and Community Services coordinate and improve services for trafficked and people.
- **Enhance knowledge and awareness.** The inquiry recommended training for agencies including the NSW Police Force, the judiciary and frontline workers to identify and protect victims of human trafficking and slavery. The inquiry also recommended the development of community education campaigns for mainstream and ethnic media, a specific hotline with information on housing and legal advice and a smartphone app.
- **The need for more research.** The inquiry recommended that an audit be conducted of existing information on human trafficking and slavery to develop priorities for future research.⁸¹

⁸⁰ Joint Standing Committee on Foreign Affairs, Defence and Trade, Parliament of Australia, *Modern slavery and global supply Chains: Interim report of the Joint Standing Committee on Foreign Affairs, Defence and Trade's inquiry into establishing a Modern Slavery Act in Australia* (2017), p 56.

⁸¹ Community Relations Commission for a Multicultural NSW, *Inquiry into the exploitation of people through trafficking in all its forms in NSW* (2013), pp 5-9.

- 1.55 To date the NSW Government has not responded to the recommendations of the inquiry. Some inquiry participants expressed their disappointment that these recommendations have not been responded to and suggested that the NSW Government revisit the recommendations of that inquiry.⁸²

Committee comment

- 1.56 The committee strongly endorses the recommendations made by the federal Joint Committee on Law Enforcement in its July report. We encourage the Australian Government to act on these recommendations as we have received convincing evidence during our inquiry that support these conclusions. The committee's views on these specific matters will be discussed throughout the report.
- 1.57 The committee also strongly supports the introduction of a modern slavery act for Australia, as considered in the interim report by the Joint Standing Committee on Foreign Affairs, Defence and Trade and calls on the NSW Government to advocate for its establishment.
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Recommendation 1

That the NSW Government urge the Australian Government, through the Council of Australian Governments, to establish a modern slavery act for Australia.

- 1.58 As will be discussed throughout this report, many of the issues identified by Multicultural NSW in 2013 remain issues of concern in New South Wales. The committee recognises that since the publication of that report, the Australian Government has introduced its National Action Plan, which provides for a national approach to combatting human trafficking and slavery. However, the committee considers that New South Wales has a responsibility to ensure that its own policies and strategies provide for the prevention of, and effective investigation into, human trafficking and slavery and protect the welfare of trafficked people.
- 1.59 The committee therefore recommends that the NSW Government respond without further delay to the findings and recommendations made by Multicultural NSW as part of the government's response to this inquiry.
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Recommendation 2

That the NSW Government, as part of the government's response to this inquiry, respond without further delay to the findings and recommendations of the Multicultural NSW report entitled 'Inquiry into the exploitation of people through trafficking, in all its forms in NSW', dated December 2013.

⁸² See for example, Submission 3, Josephite Counter-Trafficking Project, pp 3-4; Submission 9, Anti-Slavery Australia; Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), pp 9-12; Submission 16, The Salvation Army, p 16.

Lack of data on the prevalence of trafficking and the influence of organised crime

1.60 Inquiry participants stated that there are no reliable figures regarding the prevalence of human trafficking in New South Wales. This is primarily due to the clandestine nature of the offence and the reluctance of vulnerable people who have been trafficked to report the matter to authorities.⁸³

1.61 Dr Samantha Bricknell, Research Manager Violence and Exploitation, Australian Institute of Criminology, stated that Australia needs to improve its data collection in order gain a better understanding of the prevalence of human trafficking:

One in particular is about being able to improve data collection for human trafficking and slavery. Without that, we cannot do a proper evaluation or really get a sense of it. It would be tricky to estimate the prevalence of human trafficking and slavery in Australia. That is a huge ask, but if we were able to get better data and be able to coalesce that data in an easier way where we could explore some of those issues, that certainly would help.⁸⁴

1.62 Ms Heather Moore, National Policy and Advocacy Coordinator, Salvation Army, noted there is ‘a serious lack of data on this issue in Australia’ and that we are ‘far behind ... similar countries on ... its reporting’.⁸⁵ She recommended that a state coordinator work with an advisory council to compile data and suggested that the committee consider the United States taskforce model which looks at a range of matters including data from local jails and other correctional institutions, census data, migration patterns and labour issues, work, health and safety data, geographic indicators, historical cases and media reports.⁸⁶

1.63 The Australian Government stated that the offences of human trafficking and slavery largely involve small crime groups, rather than large organised crime syndicates. These small crime groups use family or business contacts overseas to facilitate recruitment, movement and visa fraud. Human trafficking also involves or has links to other crime types, including migration fraud, identity fraud, document fraud and money laundering.⁸⁷

1.64 Border Crossing Observatory and Monash University noted that in recent years research shows that human trafficking is ‘less often’ orchestrated by transnational organised criminal groups:

While early research on trafficking (in the 1990s and early 2000s; see Shelley 1995; Stoecker 2000; Fickenauer 2001) suggested that organised crime might play significant role in human trafficking, more recent national and international studies consistently demonstrate that trafficking is less often a crime brought about via transnational

⁸³ Submission 3, Josephite Counter-Trafficking Project, p 7; Submission 8, Coalition Against Trafficking in Women Australia, p 5.

⁸⁴ Evidence, Dr Samantha Bricknell, Research Manager Violence and Exploitation, Australian Institute of Criminology, 29 May 2017, p 21.

⁸⁵ Evidence, Ms Heather Moore, National Policy and Advocacy Coordinator, The Salvation Army, 15 June 2015, p 25.

⁸⁶ Evidence, Ms Moore, 15 June 2015, p 25.

⁸⁷ Submission 23, Australian Government, p 8.

organised crime (see Goodey 2008; Zhang 2009; Lee 2010, Segrave 2013; Weitzer 2014). The focus on transnational organised crime is misplaced and unsubstantiated.⁸⁸

1.65 The Salvation Army informed the committee that in 2012, the Australian Institute of Criminology conducted a review of international and Australian literature on the extent of organised criminal involvement in human trafficking, concluding that:

- the involvement of organised crime is under-researched, creating a significant gap in the knowledge base
- there is a considerable variation in the types of criminals involved, ranging from solo offenders to sophisticated networks
- there is a potential overlap between some forms of migrant smuggling and trafficking.⁸⁹

1.66 The Salvation Army acknowledged there is limited data in this area, but from firsthand experience, stated that it generally supports victims who were trafficked by small ‘mom and pop’ operations. In many of these cases victims knew, or knew of their traffickers in their home countries, many of whom were considered reputable members of the community.⁹⁰

1.67 The Law Society of New South Wales recommended that funding should be allocated to research the extent to which organised crime is involved in human trafficking in Australia to ensure any proposed reforms are evidence-based.⁹¹ Collective Shout specifically called for the NSW Government to commission research into the extent of organised crime and trafficking in New South Wales’s sex services industry.⁹²

1.68 In fact, much of the evidence received discussing potential links between organised crime and human trafficking related specifically to the sex services industry.

1.69 The NSW Police Force indicated that there are ‘issues within the industry in terms of sexual servitude, illegal workers, extortion and outlaw motorcycle gang involvement’. While there are links between outlaw motorcycle gangs and brothels, the NSW Police Force noted that this centred primarily around marketing drugs and extorting brothel owners by offering ‘security services’:

Outlaw motorcycle gangs have links to brothels throughout NSW and interstate. ...outlaw motorcycle gangs hold financial and ownership interests in numerous brothels trading both legally and illegally. Outlaw motorcycle gangs frequently market illicit drugs within brothels. The majority of reporting suggests outlaw motorcycle gangs members are involved in extortion and intimidation of brothels where they offer ‘security services’ in exchange for significant fees.⁹³

⁸⁸ Submission 13, Border Crossing Observatory and Monash University, p 3.

⁸⁹ Submission 16, Salvation Army, p 17 in Australian Institute of Criminology, *Organised crime and trafficking in persons*, Trends and Issues in Crime and Criminal Justice, No. 436, March 2012.

⁹⁰ Submission 16, The Salvation Army, p 18.

⁹¹ Submission 18, The Law Society of New South Wales, p 2.

⁹² Submission 27, Collective Shout, p 13.

⁹³ Tabled document, Detective Superintendent Linda Howlett, State Crime Command Sex Crimes Squad, NSW Police Force, p 4.

1.70 This matter will be addressed in more detail in chapter 3.

Committee comment

1.71 Evidence provided to the committee demonstrates that there is a distinct lack of data relating to the prevalence of human trafficking in Australia as a whole, and in New South Wales, including the level of involvement by organised crime. The committee considers it imperative that research be conducted at both state and federal levels to gain a greater understanding of the extent of human trafficking and the involvement of organised crime as it will assist law enforcement in developing strategies to combat human trafficking. New South Wales research could be conducted by NSW Bureau of Crime Statistics and Research (BOCSAR).

Recommendation 3

That the NSW Government commission research to be conducted by NSW Bureau of Crime Statistics and Research into the prevalence of human trafficking in New South Wales, including the prevalence of organised crime, and encourage the Australian Government, through the Council of Australian Governments, to conduct similar research at a national level.

Chapter 2 Measures to combat human trafficking

This chapter will consider a range of measures to combat human trafficking including greater coordination between state and national levels, laws and policies to promote ethical supply chains for the NSW Government and businesses and programs to enhance the awareness and knowledge of law enforcement and the community on human trafficking.

Greater coordination

- 2.1** Identifying and responding to human trafficking is highly complex, often involving a number of state and national stakeholders including government departments, law enforcement agencies, non-government organisations, civil society and businesses. As such, it is important that the national and state responses to human trafficking are well coordinated. A lack of coordination can impact the progression of human trafficking cases, the collection of data to identify and understand trends, and the ability to respond quickly to emerging cases.⁹⁴
- 2.2** The Australian Government recognises the importance of increased connectedness and cooperation between federal, and state and territory responses to human trafficking and has incorporated this into The National Action Plan (discussed in detail in chapter 1).
- 2.3** Ms Catherine Hawkins, First Assistant Secretary in the Australian Government Attorney-General's Department, pointed to the New South Wales working group on forced marriage as a positive example of multi-agency cooperation between Commonwealth services, the Australian Federal Police, NSW Police Force, the Australian Department of Social Services and the New South Wales Department of Family and Community Services. Ms Hawkins highlighted the importance of the working group to develop a protocol that ensures all services work together 'so that people are not falling through the gaps or there is not duplication of service'.⁹⁵
- 2.4** The Australian Federal Police currently has a dedicated human trafficking team that works closely with the NSW Police Force through formal quarterly meetings as well as ad hoc exchanges of information.⁹⁶
- 2.5** Nevertheless, Ms Hawkins suggested that there is always room for the government to improve on coordination:

We are always looking at how we can refresh and make sure that we are as joined up as possible. Our aim is to make sure all of these government programs that we have are operating absolutely to their maximum efficiency and effectiveness. That is our aim and we will continue to look at ways to continue to improve that.⁹⁷

⁹⁴ Submission 13, The Border Crossing Observatory and Monash University, p 2.

⁹⁵ Evidence, Ms Catherine Hawkins, First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department, 29 May 2017, p 4.

⁹⁶ Evidence, Superintendent Lesa Gale, Manager, Victim Based Crime, Australian Federal Police, 29 May 2017, p 4; Evidence, Detective Superintendent Linda Howlett, State Crime Command Sex Crimes Squad, NSW Police Force, 6 March 2017, p 10.

⁹⁷ Evidence, Ms Hawkins, 29 May 2017, p 4.

- 2.6** The Salvation Army noted that while state law enforcement agencies are recognised in the National Action Plan as key partners, they have no accountabilities or benchmarks against which to measure performance.⁹⁸
- 2.7** The involvement of state law enforcement agencies in the response to human trafficking was acknowledged in 2012 by the United Nations Special Rapporteur on trafficking in persons, especially women and children who recommended that Australia ‘work to bridge the capacity gap between the Australian Federal Police and state/territory police, including by establishing specialist units in all states and territories’.⁹⁹
- 2.8** The Salvation Army recommended that the NSW Government ‘work with the Commonwealth to develop clearer roles and responsibilities within the National Action Plan for states and local governments’.¹⁰⁰
- 2.9** In addition, inquiry participants noted the absence of a dedicated New South Wales state strategy to address human trafficking, and argued that there is a need for greater coordination between service providers in New South Wales, and between the New South Wales and Australian Governments.¹⁰¹
- 2.10** Red Cross Australia also recommended that the NSW Government implement a state strategy in accordance with the National Action Plan:

An effective strategy will provide a framework for inter-agency coordination and should provide:

- well-articulated goals that protect the needs of those most vulnerable to exploitation, including those that address the particular needs of children and young people;
- clear agency responsibilities, including the responsibility to build the capacity of staff to identify and respond to vulnerabilities for exploitation; and
- measurable performance indicators.¹⁰²

- 2.11** Similarly, Anti-Slavery Australia supported the recommendation of the 2013 Multicultural NSW report that the NSW Government establish protocols for cooperation between all levels of government:

This protocol could establish clear pathways of responsibility as well as procedures to identify and respond to survivors of human trafficking and slavery. This protocol must emphasise the human rights of survivors, particularly on the short and long term safety and needs of survivors of human trafficking and slavery.¹⁰³

⁹⁸ Submission 16, The Salvation Army, p 8.

⁹⁹ Submission 16, The Salvation Army, p 13.

¹⁰⁰ Submission 16, The Salvation Army, p 16.

¹⁰¹ See for example: Submission 13, The Border Crossing Observatory and Monash University, p 2; Submission 16, The Salvation Army, p 4; Evidence, Ms Fiona David, Executive Director of Research, Walk Free Foundation, 6 March 2017, p 25.

¹⁰² Submission 25, Red Cross Australia, p 5.

¹⁰³ Submission 9, Anti-Slavery Australia, p 16.

- 2.12** Anti-Slavery Australia also supported the recommendation of the 2013 Multicultural NSW report that the Department of Family and Community Services coordinate the service response by New South Wales authorities to trafficked people. Anti-Slavery Australia indicated it was pleased that the department now has the lead role in coordinating the New South Wales agency response to forced marriage.¹⁰⁴
- 2.13** Inquiry participants also suggested that the appointment of an independent anti-slavery commissioner at the federal and/or state level would help improve inter-agency coordination.

Independent anti-slavery commissioner

- 2.14** Throughout the inquiry, the committee heard strong support for the appointment of an independent anti-slavery commissioner in Australia. Inquiry participants particularly noted the success of anti-slavery commissioners in other jurisdictions, such as the United Kingdom and the European Union, in facilitating coordinated responses to human trafficking.¹⁰⁵
- 2.15** As discussed in Chapter 1, the United Kingdom Government appointed an independent anti-slavery commissioner as part of the *Modern Slavery Act 2015*. In recent evidence to the federal Joint Standing Committee on Foreign Affairs, Defence and Trade, the Commissioner, Mr Kevin Hyland highlighted the benefit of his role in coordinating a response to human trafficking and slavery:

... my role as the commissioner is about working with government and other agencies. We are working with non-government organisations, businesses and key stakeholders as a critical friend to ensure that consistent focus on the identification and support of victims is there for this abhorrent crime whilst, at the same time, we need to make sure that we are pursuing those who inflict the suffering so that they are brought to justice. I think, at the moment, it has been very piecemeal, very broken down, so we need international collaboration, but we also need domestic legislation that is effective. In the UK, we are starting to see that and we are starting to see the benefits now of the Modern Slavery Act.¹⁰⁶

- 2.16** Ms Hawkins was more circumspect in her views regarding the need for an anti-slavery commissioner in Australia as the Ambassador for People Smuggling and Human Trafficking role is similar to the role and federally there is already coordination through the combined work of the Attorney-General's Department under the National Action Plan:

Our Department of Foreign Affairs and Trade has an ambassador for people smuggling and human trafficking, Andrew Golezdzinowski, and so together the work ... in terms of the outward international piece on human trafficking and the work that we lead in terms of garnering whole of government partners at the government level and collaborating, very importantly, with our counterparts in civil society ... does a lot of the role that the United Kingdom anti-slavery commissioner does.

¹⁰⁴ Submission 9, Anti-Slavery Australia, pp 13-14.

¹⁰⁵ Submission 10, Walk Free Foundation, pp 5-6.

¹⁰⁶ Joint Standing Committee on Foreign Affairs, Defence and Trade, Evidence, Mr Kevin Hyland, United Kingdom Independent Anti-Slavery Commissioner, 30 May 2017, p 3.

We are coordinating and monitoring government activities, we are publishing reports, doing international advocacy and as I say, doing that very important partnership with our civil society organisation colleagues.¹⁰⁷

- 2.17** However, for many stakeholders, a key feature of an anti-slavery commissioner is the capacity to provide oversight over all agencies involved in the response to human trafficking, while remaining independent from government and accountable to Parliament.¹⁰⁸ The Walk Free Foundation further suggested that an anti-slavery commissioner would complement the role of the Ambassador for People Smuggling and Human Trafficking.¹⁰⁹
- 2.18** The role of an independent anti-slavery commissioner would be set out in legislation and could include the following functions:
- coordinating and monitoring the response to human trafficking from government departments, law enforcement agencies, non-government organisations, civil society and the private sector on a state and federal level
 - assessing the impact and effectiveness of relevant policies and legislation
 - reviewing the National Action Plan as well as recommendations from previous inquiries to ensure best practices are adopted in addressing human trafficking
 - developing accredited training packages, and promoting practices to identify and protect victims
 - collecting data, monitoring trends, conducting inquiries and preparing reports with findings and recommendations.¹¹⁰
- 2.19** Greater coordination through a single agency would also help ensure that resources are allocated efficiently to avoid unnecessary duplication, and to identify inconsistencies and gaps in the approach to human trafficking.¹¹¹
- 2.20** The Australian Government informed the committee that they had not taken a position on the establishment of an Anti-Slavery Commissioner at the Commonwealth level, and will consider the recommendations arising out of the Federal inquiry into establishing a Modern Slavery Act in Australia.¹¹²
- 2.21** As the largest state and procurer of goods and services in Australia, many inquiry participants, including former ambassador to the Holy See Mr John McCarthy, Archbishop of Sydney Anthony Fisher, Walk Free Foundation and Anti-Slavery Australia, suggested that the NSW Government could lead the way in appointing its own independent anti-slavery

¹⁰⁷ Evidence, Ms Hawkins, 29 May 2017, p 3.

¹⁰⁸ Submission 10, Walk Free Foundation, p 5; Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 9.

¹⁰⁹ Submission 10, Walk Free Foundation, p 5.

¹¹⁰ See for example: Submission 10, Walk Free Foundation, p 6; Submission 16, The Salvation Army, p 7; Answers to questions on notice, Anti-Slavery Australia, 30 March 2017, p 16; Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 9.

¹¹¹ Submission 10, Walk Free Foundation, p 5; Answers to questions on notice, Anti-Slavery Australia, 30 March 2017, p 17.

¹¹² Answers to questions on notice, Australian Government, 2 August 2017, p 13.

commissioner. The role would have a particular focus on coordinating and overseeing agencies within the state and liaising with the Commonwealth.¹¹³

- 2.22** Director of Corporate and Legal at International Justice Mission Australia, Ms Kimberly Randle also supported an independent anti-slavery commissioner for New South Wales and emphasised the role could undertake the important function of collecting data to be used by different stakeholders:

It would be really important that, if an independent commission was set up, a data fusion resource was established as part of the resource ... We have baseline studies, mid-line studies and end-line studies and that is where the information of the effectiveness of changes and models is kept. If there was a method for data from different organisations to be fused and reused by each other, it would be largely accepted that that would be a good way forward to partner with local law enforcement agents to see perpetrators no longer acting with impunity. That would be a very necessary function of an independent commission.¹¹⁴

- 2.23** The Australian Government suggested that New South Wales could consider ‘designating a lead to coordinate the response at the State Government level, whether that is through the creation of a new office, or explicit tasking of an existing office or agency’.¹¹⁵
- 2.24** Alternatively, some stakeholders revisited the recommendation in the 2013 Multicultural NSW report that the NSW Government establish a human trafficking ministerial advisory council to coordinate a whole-of-government response to human trafficking in New South Wales.¹¹⁶

Committee comment

- 2.25** The committee is encouraged by the Australian Government’s efforts to coordinate a whole-of-government response to human trafficking through the National Action Plan. However, due to the absence of a formalised New South Wales strategy, the state response to human trafficking is lacking. We recommend that the NSW Government appoint an anti-slavery commissioner as part of a broader state strategy based on the National Action Plan. The committee believes that an anti-slavery commissioner should be independent from government and be held accountable to Parliament.
- 2.26** Noting the success in other jurisdictions, particularly the UK, the committee agrees with inquiry participants that there is a strong case for the establishment of an independent anti-slavery commissioner to facilitate and oversee a coordinated response to human trafficking in Australia more broadly. For this reason we recommend that the NSW Government, through

¹¹³ Evidence, Mr John McCarthy, former ambassador to the Holy See, 6 March 2017, p 7; Evidence, Mr Anthony Fisher, Archbishop of Sydney, Catholic Church, 28 March 2017, p 13; Evidence, Ms David, 6 March 2017, p 29; Evidence, Professor Jennifer Burn, Director, Anti-Slavery Australia, 6 March 2017, p 34.

¹¹⁴ Evidence, Ms Kimberly Randle, Director of Corporate and Legal, International Justice Mission Australia, 11 August 2017, p 13.

¹¹⁵ Answers to questions on notice, Australian Government, 2 August 2017, p 13.

¹¹⁶ Evidence, Professor Burn, 6 March 2017, p 34; Submission 16, The Salvation Army, p 6; Submission 3, Josephite Counter-Trafficking Project, p 3.

the Council of Australian Governments, urge the Australian Government to appoint an independent anti-slavery commissioner.

- 2.27** The committee recognises that inter-agency coordination when responding to cases of human trafficking is a key concern for inquiry participants. As such, the committee is of the view that the appointment of anti-slavery commissioners at both the federal and state levels would strengthen the level of coordination between federal and state stakeholders.
- 2.28** We also consider that it would be beneficial for the NSW Police Force to be allocated greater resources to enhance interagency cooperation and covert operations in order to address human trafficking.
- 2.29** In addition, the committee is pleased that the Department of Family and Community Services has the lead role in coordinating the NSW Government agency response to forced marriage.
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Recommendation 4

That the NSW Government develop and implement a state strategy to address human trafficking in accordance with the National Action Plan to Combat Human Trafficking 2015-19.

Recommendation 5

That the NSW Government appoint a New South Wales independent anti-slavery commissioner.

Recommendation 6

That the NSW Government, through the Council of Australian Governments, urge the Australian Government to appoint a federal independent anti-slavery commissioner.

Recommendation 7

That the NSW Government allocate greater resources to the NSW Police Force, to enhance interagency cooperation and covert operations to address human trafficking.

Business supply chains

- 2.30** A number of inquiry participants, including businesses, advocated for the enactment of an Australian Modern Slavery Act, similar to the United Kingdom model, that includes a provision for businesses to report on ethical sourcing in their supply chains.
- 2.31** Addressing human trafficking and slavery in the supply chain is an important issue as Australian businesses are highly integrated with supply chains across Asia, including high risk countries such as Thailand, India, Bangladesh and Malaysia. Regulation has not kept up with the rate of globalisation in developing countries and businesses operating in these markets can do so with less legal accountability.¹¹⁷

¹¹⁷ Submission 10, Walk Free Foundation, p 7.

2.32 Walk Free Foundation and Anti-Slavery Australia noted that currently the main response across the globe is to rely on ‘soft law’, such as voluntary initiatives from businesses and codes of conduct.¹¹⁸ For example, a forced labour pledge was signed by Retail and Supplier Roundtable companies in December 2015, including Woolworths, Coles, Inghams, Officeworks and Big W. The pledge stated these companies will do everything possible to eradicate forced labour in the supply chain, and to work with their suppliers to this end.¹¹⁹

2.33 The Law Society of New South Wales noted that the introduction of legislation regarding transparency in supply chains is consistent with the Australian Government’s announcement at the National Roundtable on Human Trafficking and Slavery that it will strengthen its response to human trafficking and slavery following recommendations made by the Supply Chains Working Group. The Australian Government indicated that it will work collaboratively to:

- create a suite of awareness-raising materials for business
- further consider the feasibility of a model for large businesses in Australia to publicly report on their actions to address supply chain exploitation
- examine options for an awards program for businesses that take action to address supply chain exploitation
- explore the feasibility of a non-regulatory, voluntary code of conduct for high risk industries.¹²⁰

2.34 Mr Andrew Forrest AO, Founder, Walk Free Foundation and Chairman of Fortescue Metals Group expressed the support he has received from Australian businesses regarding his work to address slavery in business supply chains:

Every chief executive I have spoken to has either been interested, very interested or extremely interested. The Business Council of Australia and other representative bodies have said to me, “Andrew, your advocacy of this is very timely. Australia should be seen to be leading from the front”.¹²¹

2.35 Mr Forrest indicated that businesses know ‘they could be sitting on a time bomb’ regarding slavery in their supply chain and want guidance from the government:

What they want is guidance from our Government that slavery is not tolerated and, if you like, that within that guidance all our companies are protected. I do not think we have to do anything that which is rigorous or which would be costly. However, I think companies expect their governments to show the level of morality, if you will, when issues emerge. ... People know that slavery has always existed. What they are now aware of is that the world's attention is turning on it. In many respects, Australian businesses need their Government to draw a line in the sand and say, “This is what we expect from our companies”. And our companies will welcome that because without that guidance we are all out there with a bit of a white stick.¹²²

¹¹⁸ Submission 10, Walk Free Foundation, p 7.

¹¹⁹ Evidence, Professor Burn, 6 March 2017, pp 34-35.

¹²⁰ Submission 18, The Law Society of New South Wales, p 7.

¹²¹ Evidence, Mr Andrew Forrest AO, Founder, Walk Free Foundation, 11 August 2017, p 21.

¹²² Evidence, Mr Forrest, 11 August 2017, pp 21-22.

- 2.36** To support this, Walk Free Foundation indicated that there is a growing movement for compulsory reporting through government involvement. This will create a level playing field so businesses that are doing the right thing and are ‘taking the time and making the effort to identify the risk in their supply chain are not penalised by the unscrupulous businesses who are effectively turning a blind eye’. Ms Fiona David, Executive Director of Research, Walk Free Foundation explained that currently ‘there are no consequences for doing nothing’.¹²³
- 2.37** Walk Free Foundation indicated that the compulsory reporting of the United Kingdom Act has proven to be a powerful way of bringing modern slavery to the attention of senior executives.¹²⁴ In the United Kingdom there is a requirement that large corporations with a turnover of more than 36 million pounds report on the steps they are taking to identify slavery in their supply chains. This covers approximately 17,000 businesses.¹²⁵
- 2.38** As a minimum, Walk Free Foundation recommended that the Australian Government should require all large companies conducting business in Australia to report annually on steps taken to ensure there is no modern slavery within the organisation and supply chain. The threshold test for determining ‘large’ companies could be taken from the existing corporate threshold tests for large businesses in Australia under the *Corporations Act 2001* (Cth), or for taxation purposes.¹²⁶
- 2.39** Ms David proposed that any Australian law should in fact be stronger than the equivalent United Kingdom law. In the United Kingdom, businesses are only required to place information on their company website.¹²⁷ However, Walk Free Foundation is additionally in favour of introducing a centrally managed repository to complement reporting requirements. This would ensure that both the progress of companies and the effectiveness of legislation are measurable. Ms David stated that the repository should be neutrally governed, free of charge and searchable and users should also be able to identify companies that have/have not published statements or identified benchmarks for progress.¹²⁸
- 2.40** Because of the ‘dollar responsibility’ Mr Forrest explained that it is easier for businesses to directly address the issue of slavery with each other than for governments to be involved as part of a punitive process. Mr Forrest articulated an example of how quickly this can happen:

I had the experience with a very large somewhat arrogant company in the United Kingdom where we got it fixed in 30 minutes—30 minutes was all it took for one chief executive to literally tell the truth to another chief executive for them to issue the threat, "If you don't take this seriously the media will". That got resolved in 30 minutes. Externally for a government inquiry or government prosecution, et cetera, that would take years but put the onus on business to ensure that their supply chains are slave free; that happens super-fast.¹²⁹

¹²³ Evidence, Ms David, 6 March 2017, p 25.

¹²⁴ Submission 10, Walk Free Foundation, p 8.

¹²⁵ Evidence, Ms David, 6 March 2017, pp 26 and 28.

¹²⁶ Submission 10, Walk Free Foundation, p 8.

¹²⁷ Evidence, Ms David, 6 March 2017, p 30.

¹²⁸ Submission 10, Walk Free Foundation, p 10.

¹²⁹ Evidence, Mr Forrest, 11 August 2017, p 22.

2.41 Mr Forrest stressed that punitive laws do not work regarding slavery as it simply sends the industry underground. Instead he called for encouraging laws to be introduced, supervised by an independent anti-slavery commissioner. This is so government encourages the business community to be open and transparent and then rewards companies with accolades when they address slavery in their supply chain.¹³⁰

2.42 Ms David outlined a practical example from Mr Forrest's Fortescue Metals Group of how a company manages its supply chain to identify and deal with slavery:

The risk assessment process for a company—and let us say a company has 3,000 suppliers. ... From 3,000 suppliers having applied that risk assessment process, you might end up with between 10 and 12 in the high-risk category. Then that allows you to actually focus. You cannot do much with 3,000; you can do a lot with 10 or 12. The first thing to do is have a conversation with those organisations. In the case of Mr Forrest's organisations, he wrote to all his suppliers and asked them to fill in a statutory declaration that they were taking steps to identify slavery in their own supply chains. With those high-risk companies, some of them were unwilling to sign those declarations—so that starts a conversation. ... From having identified the 10 or 12 high-risk companies, you continue to work through with the supplier and identify where there is a real risk, and that is when you get to an audit stage. The audits that I have been involved with are probably around the \$20,000 to \$30,000 mark for a site audit conducted by people who speak the local languages ...¹³¹

2.43 Similarly Ms Laura McManus, Ethical Supply Chain Management Consultant, Konica Minolta Business Solutions Australia, explained Konica Minolta's process, and noted that the company endeavours to evaluate at least two tiers of its supply chain:

We have a team ... of ethical sourcing procurement professionals who are working at that level. Their work has been at the first-tier level, starting with the main component factories where the product is finally assembled, and there is a plan to obviously go second and third tier where possible. We also have a conflict minerals statement and work closely with a Japanese industry group. ... From the conflict minerals level and that raw material extraction, we work as a kind of industry group in those areas where there is raw mineral extraction.¹³²

2.44 Ms McManus saw government regulation as the future and argued that it should not be considered a burden for businesses:

... I think if you ask any business leader if you are making goods and services with slavery and or any egregious form of human rights violation, if that is something that your company stands for, or is willing to accept, then you may see the extra regulation as a burden. ... I think we need to recognise as well that supply chains that have this type of practice in it, it is unsustainable to an extent, not only from a financial and competitive perspective but also the longevity of that supply line. So I think it is smart regulation.¹³³

¹³⁰ Evidence, Mr Forrest, 11 August 2017, p 23.

¹³¹ Evidence, Ms David, 6 March 2017, pp 27-28.

¹³² Evidence, Ms Laura McManus, Ethical Supply Chain Management Consultant, Konica Minolta Business Solutions Australia, 15 June 2017, pp 7- 8.

¹³³ Evidence, Ms McManus, 15 June 2017, p 3.

- 2.45** Ms Cindy Reid, Head of People & Culture, Konica Minolta Business Solutions Australia, noted that it is still early days in ethical sourcing and organisations on this path need to be encouraged to continue it. As such, Konica Minolta did not claim to be 100 per cent slavery free, but stated that it is working towards this.¹³⁴
- 2.46** Ms Oy-Cheng Phang, Principal Consultant, Zoic Environmental Pty Limited, was of the view that the NSW Government should help small and medium-sized enterprises (SMEs) to identify impacts on slavery and human trafficking within their supply chain and to assist them in remediating and monitoring identified risks.¹³⁵
- 2.47** Ms Phang explained that SMEs play a vital role in the business framework of Australia. She considered that a federal Modern Slavery Act will likely cover the ASX 100 companies; but questioned how this will impact ASX 200 and SMEs. She stated that a framework needs to be introduced to support SMEs as many supply the larger companies.¹³⁶ She indicated that this is particularly an issue as ‘a lot of the peak bodies for SMEs are basically saying they do not think [slavery] is a major issue’.¹³⁷

Committee comment

- 2.48** The committee agrees that ‘soft laws’ such as codes of conduct cannot solely be relied upon to ensure that businesses take steps to consider and report on ethical practices in their supply chains.
- 2.49** While the committee commends companies such as Fortescue Metals Group and Konica Minolta for taking the lead by publicly reporting on their progress as well as dealing directly with companies in their supply chain, it is clear that further intervention is required to ensure that reporting is compulsory and uniform.
- 2.50** The committee notes that this is primarily a federal matter and that a federal parliamentary committee has been examining the suitability of establishing a modern slavery act, similar to the United Kingdom model. However, given the importance of this issue and the fact that many of the largest companies in Australia are based in New South Wales, the committee considers that federal legislation should be introduced that requires large companies based in Australia to publicly report annually on steps taken to ensure there is no modern slavery within the organisation and supply chains. Further, we recommend that a publicly available, independently managed register be established to measure the success of companies and the effectiveness of legislation.
- 2.51** We are also of the view that the NSW Government has an important role to play in ensuring that SMEs are well equipped to identify and address slavery in their supply chains and recommend the introduction of guidelines to assist small and medium-sized enterprises to

¹³⁴ Evidence, Ms Cindy Reid, Head of People & Culture, Konica Minolta Business Solutions Australia, 15 June 2017, p 8.

¹³⁵ Evidence, Ms Oy-Cheng Phang, Principal Consultant, Zoic Environmental Pty Limited, 11 August 2017, p 16.

¹³⁶ Evidence, Ms Phang, 11 August 2017, p 18.

¹³⁷ Evidence, Ms Phang, 11 August 2017, p 16.

identify modern slavery within their supply chain and to assist them in remediating and monitoring identified risks.

Recommendation 8

That the NSW Government advocate through the Council of Australian Governments, for the Australian Government to establish:

- legislation that requires large companies based in Australia to publicly report annually on steps taken to ensure there is no modern slavery within the organisation and supply chain
- a publicly available, independently managed register to measure the success of companies and the effectiveness of this legislation.

Recommendation 9

That the NSW Government introduce guidelines and conduct awareness programs to assist small and medium-sized enterprises to identify modern slavery within their supply chain and to assist them in remediating and monitoring identified risks.

NSW Government supply chains

- 2.52** Rule 5.1 of the New South Wales Code of Practice for Procurement requires that government demonstrates a commitment to continuous improvement and best practice for procurement. This is to be demonstrated through a range of areas including ethical business practices and supply chain management.¹³⁸
- 2.53** Anti-Slavery Australia commended the NSW Government on its procurement guidelines, but stated that there is still considerable potential for exploitation in the supply chains of goods and services used by government departments. As such, it encouraged the NSW Government to lead by example and strengthen the Code of Practice to specifically prevent human trafficking and slavery in the supply chains of its departments and agencies.¹³⁹
- 2.54** New South Wales agencies buy goods and services worth approximately \$13 billion annually.¹⁴⁰ Governments procure a range of goods and services, including electronics, food and logistics services. In OECD member countries, government procurement accounts for an average of 17 per cent of the gross domestic product.¹⁴¹
- 2.55** Ms Fiona David, Executive Director of Research, Walk Free Foundation noted that government procurement in New South Wales should be oversighted ‘to make sure that taxpayers’ money is not being spent inadvertently on any goods or services that are tainted by slavery’. Ms David further argued that the public does not want its government to be buying

¹³⁸ NSW Government, *Code of Practice for Procurement*, January 2005, p 4.

¹³⁹ Submission 9, Anti-Slavery Australia, p 35.

¹⁴⁰ Evidence, Ms David, 6 March 2017, p 26.

¹⁴¹ Submission 10, Walk Free Foundation, p 11.

from companies that are involved in trafficking or slavery in the same way that it does not want its government to be ‘buying from a producer that is desecrating the environment’.¹⁴²

2.56 Mr John McCarthy QC, Former Ambassador to the Holy See, was strongly in favour of the NSW Government ‘slavery-proofing’ its supply lines:

I just say this: you are representatives of the principal state of the Commonwealth of Australia. You are also in probably the greatest city in the Southern Hemisphere and certainly a city that is known all over the world. What happens here is important both for the Federation and for world affairs. I would hope this committee would give very serious consideration to this: that ... the state Government proceeds to slavery-proof their supply lines. ... You do not even need legislation for that.¹⁴³

2.57 Ms Monica Ramesh, Independent Ethical Supply Chain Consultant, called on the government to be ‘a role model by doing its own procurement and supply chain assessments’ as this would be a great ‘inspiration’ for businesses.¹⁴⁴ Similarly Ms Phang stated that the NSW Government has a very big impact in the procurement of materials and should therefore take a lead role in addressing slavery in supply chains.¹⁴⁵

2.58 Ms McManus of Konica Minolta Business Solutions Australia also called on the NSW Government to be a national and international leader in responsible procurement.¹⁴⁶ Ms McManus argued that as New South Wales is the largest state economy and that 41 per cent of Australia’s top 500 companies are headquartered here, the NSW Government has an important role in creating a smart regulatory environment.¹⁴⁷

2.59 Ms McManus was concerned that NSW Government ethical procurement is currently loosely defined and stated that it should be addressed by:

- updating the procurement policy framework to include a commitment to addressing human rights on modern slavery and supply chains
- communicating the updated policy framework and expectations to existing suppliers
- reviewing processes for supplier prequalification and request for tender with the view to embed minimum human rights standards
- training procurement professionals in key high-risk product categories on the new standards and due diligence work flows.¹⁴⁸

2.60 Ms McManus noted that the introduction of this policy in New South Wales would not ‘shock’ businesses as she considered it highly likely that legislation will be introduced at the federal level that will consider business supply chains.¹⁴⁹ She stated it would not be difficult for

¹⁴² Evidence, Ms David, 6 March 2017, p 26.

¹⁴³ Evidence, Mr McCarthy QC, 6 March 2017, p 7.

¹⁴⁴ Evidence, Ms Monica Ramesh, Independent Ethical Supply Chain Consultant, 11 August 2017, p 5.

¹⁴⁵ Evidence, Ms Phang, 11 August 2017, p 17.

¹⁴⁶ Evidence, Ms McManus, 15 June 2017, p 2.

¹⁴⁷ Evidence, Ms McManus, 15 June 2017, p 2.

¹⁴⁸ Evidence, Ms McManus, 15 June 2017, p 3.

¹⁴⁹ Evidence, Ms McManus, 15 June 2017, p 7.

the NSW Government to update its procurement policy framework and tender process to incorporate an anti-human trafficking statement. However, she considered that any New South Wales policy should harmonise with federal legislation and policy.¹⁵⁰

- 2.61** While the task is ‘incredibly daunting’ for an organisation the size of the NSW Government, Ms McManus explained that the government should approach the problem the same way as businesses; with incremental and achievable phases and a process of continuous improvement.¹⁵¹
- 2.62** Ms Hawkins, from the Australian Attorney-General’s Department, stated that similar provisions to New South Wales exist at the Commonwealth level where there are procurement rules that require government officials to be making reasonable inquiries that procurement is carried out on an ethical basis.¹⁵²

Committee comment

- 2.63** The committee is strongly in favour of the NSW Government carrying the torch and taking steps to secure its procurement supply chains to ensure the government is not purchasing products tainted by modern slavery. This would send a powerful message to corporate Australia that this is a serious problem that must be tackled. This measure, coupled with the introduction of federal laws regarding the supply chains of large businesses, has the potential to make a real difference to the lives of so many.
- 2.64** For this reason we recommend that the NSW Government update the New South Wales Code of Practice for Procurement to include a commitment that the government will not procure goods and services that are the product of human trafficking or slavery. In addition, we recommend that government departments, agencies, state owned corporations and other government related entities include a section in their annual reports that specifies the steps taken to ensure they are not procuring goods and services that are the product of human trafficking or slavery. Further, the committee recommends that the NSW Government conduct an annual evaluation of the progress made by its departments, agencies, state owned corporations and other government related entities in preventing human trafficking and slavery in the supply chains of goods and services procured. Potentially, this could be conducted by a New South Wales Independent Anti-slavery Commissioner.

Recommendation 10

That the NSW Government update the New South Wales Code of Practice for Procurement to include a commitment that government departments, agencies, state owned corporations and other government related entities will not procure goods and services that are the product of human trafficking, slavery or slave-like practices.

¹⁵⁰ Evidence, Ms McManus, 15 June 2017, p 3.

¹⁵¹ Evidence, Ms McManus, 15 June 2017, p 3.

¹⁵² Evidence, Ms Hawkins, 29 May 2017, p 9.

Recommendation 11

That the NSW Government require all its departments, agencies, state owned corporations and other government related entities to include a section in their annual reports that specifies the steps taken to ensure they are not procuring goods and services that are the product of human trafficking, slavery or slave-like practices.

Recommendation 12

That the NSW Government conduct an annual evaluation of the progress made by its departments, agencies, state owned corporations and other government related entities in preventing human trafficking and slavery in the supply chains of goods and services procured.

Enhancing knowledge and awareness

- 2.65** Other important mechanisms to combat human trafficking include enhancing knowledge and awareness among government and non-government officials through training programs and educating and building trust with the community so the public can identify human trafficking and slavery and are more willing to come forward and assist the police.

Current training and awareness programs

- 2.66** The Australian Government provides training to law enforcement as well as Australian diplomatic and consular officials overseas ‘to ensure they are equipped to recognise the indicators of human trafficking and slavery and to respond appropriately’. The Australian Federal Police runs an annual Human Trafficking Investigations Course that trains officials in conducting successful investigations, including investigative methodologies and providing victim liaison and support. The course is funded by the Australian Federal Police and includes sessions run by a range of government and non-government agencies. The Australian Government advised that since 2004 more than 100 investigators have completed the course from federal, state and territory agencies.¹⁵³ In New South Wales this course is primarily provided to officers working in the Sex Crimes Squad of the NSW Police Force.¹⁵⁴
- 2.67** The Department of Immigration and Border Protection also provides training on human trafficking indicators to staff across the department, with a particular focus on field officers and Human Trafficking Contact Officers of the Australian Border Force. Training is also provided to officers who are due to be posted overseas, with additional briefings given to those posted to countries where Australia is often targeted as a destination country for people being trafficked. Prior to being posted, diplomatic and consular officials also receive training on the management and referral of cases involving forced marriage.¹⁵⁵

¹⁵³ Submission 23, Australian Government, p 13.

¹⁵⁴ Submission 28, NSW Government, p 3.

¹⁵⁵ Submission 23, Australian Government, p 13.

- 2.68** In 2014, Anti-Slavery Australia, through Australian Government funding, launched Australia's first free, specialist, online training course on slavery, forced labour, forced marriage and human trafficking. This interactive course is aimed at front-line workers, lawyers, students and educators. Over 48,000 lessons have been completed, with over 90 per cent of surveyed users saying they would recommend the course.¹⁵⁶
- 2.69** In the New South Wales context, Charles Sturt University provides specialist training on human trafficking to NSW Police Force investigators as part of the subject 'Emerging Issues and Professional Practices in Trans-national Crime Investigations'.¹⁵⁷
- 2.70** In terms of community awareness, Ms Hawkins advised that the Australian Attorney-General's Department liaises with state and territory governments and service providers and provides materials to schools.¹⁵⁸ Superintendent Lesa Gale, Manager, Victim Based Crime, Australian Federal Police stated that it is important for the police to engender trust within the culturally and linguistically diverse community so they are more willing to come forward and have a conversation with police.¹⁵⁹
- 2.71** Former Police Commissioner Andrew Scipione AO APM stated that preventing human trafficking involves a combination of effective law enforcement and community awareness education campaigns:

As I said, we would be far better placed, as a nation, if we were able to stop it before it became an issue rather than having to investigate it post the issue. That is about educating communities. ... It would need to be hand in hand with law enforcement, ensuring that we have border protection and strong, robust investigative capabilities to catch offenders when they are committing those crimes... That could be done hand in hand with education, better communication and better understanding by communities of this threat, and encouragement for people who are caught up in this terrible bind to come forward and talk to us.¹⁶⁰

- 2.72** Mr Scipione and Detective Superintendent Linda Howlett, State Crime Command Sex Crimes Squad, NSW Police Force, encouraged the public to come forward and report information to the police.¹⁶¹ For example Mr Scipione stated:

The most important thing from my perspective ... is that we need to encourage people to talk to us. They need to have the confidence to come forward and tell us what is happening so that we can then act. It may well be that the NSW Police Force is not the primary agency that would deal with it. In that case we would pass it on to our partners—but act we must. We can only do that once we are informed. We do not know what we do not know.¹⁶²

¹⁵⁶ Submission 9, Anti-Slavery Australia, p 1.

¹⁵⁷ Submission 28, NSW Government, p 3.

¹⁵⁸ Evidence, Ms Hawkins, 29 May 2017, p 8.

¹⁵⁹ Evidence, Superintendent Gale, 29 May 2017, p 9.

¹⁶⁰ Evidence, Commissioner Andrew Scipione AO APM, Commissioner of Police, NSW Police Force, 28 March 2017, p 11.

¹⁶¹ Evidence, Detective Superintendent Howlett, 6 March 2017, pp 12-13; Evidence, Commissioner Scipione AO APM, 28 March 2017, p 10.

¹⁶² Evidence, Commissioner Scipione AO APM, 28 March 2017, p 10.

2.73 Specific programs relating to forced marriage will be discussed in more detail in Chapter 4.

What more can be done?

2.74 Inquiry participants raised a number of issues regarding the current approach to training and awareness programs and made a range of suggestions to the committee regarding how they should be improved.

2.75 The Salvation Army presented several problems with the current training framework:

- training of frontline professionals is concentrated on federal agencies, with only two representatives from state policing agencies attending the training in 2015
- there are no specific targets for numbers and type of officers to be trained
- there is no information on the evaluation of the training demonstrating an improvement in knowledge and capability
- there are no indicators to associate the training to specific outcomes, such as an increase in identification and referral of potential cases.¹⁶³

2.76 Ms Heather Moore, National Policy and Advocacy Coordinator, The Salvation Army, considered that training in Australia tends to be conducted in isolation, with a top down approach. For example, she noted that the Australian Attorney General's Department has been conducting forced marriage training across the country in state capital cities. While the The Salvation Army supported training, Ms Moore indicated that it was preferable to establish a localised framework that can run long-term programs and raise awareness:

A one-off training in capital cities is not sufficient. You need to embed this into training. ... We need a localised framework that includes a range of state governments, and frankly appropriate local governments and civil society, to be working together to drive long-term strategies around awareness raising and developing response protocols.¹⁶⁴

2.77 The Salvation Army recommended that:

- relevant NSW Government agencies and community organisations undertake training to identify victims and protect the human rights and safety of exploited individuals¹⁶⁵ and that mandatory training be conducted for all members of the NSW Police Force.¹⁶⁶
- the NSW Government, in consultation with the Commonwealth, develop and fund an education campaign to be delivered by the appropriate agencies and community organisations as well as conducting locally based anti-trafficking initiatives.¹⁶⁷

¹⁶³ Submission 16, The Salvation Army, p 40.

¹⁶⁴ Evidence, Ms Heather Moore, National Policy and Advocacy Coordinator, The Salvation Army, 15 June 2015, p 24.

¹⁶⁵ Submission 16, The Salvation Army, p 16.

¹⁶⁶ Evidence, Ms Laura Vidal, National Projects Coordinator, The Salvation Army, 15 June 2017, p 24.

¹⁶⁷ Submission 16, The Salvation Army, p 16.

- 2.78** Anti-Slavery Australia noted that the 2013 report by Multicultural NSW identified the need for further awareness training to front-line professionals so they have the necessary skills to identify potential victims or survivors of human trafficking and slavery.¹⁶⁸ Anti-Slavery Australia considered that more needs to be done in this space and that officers within law enforcement and government agencies must be aware of the unique needs of survivors, and the referral pathways in place. Anti-Slavery Australia deemed that an app it was developing on slavery and forced labour would be a great way to provide this information to a wide range of people and further recommended that appropriate practice guidelines be provided to front-line officers who come into contact with survivors of human trafficking and slavery.¹⁶⁹ In addition, Anti-Slavery Australia argued that awareness programs require significant ongoing resources in order to be effective and recommended that the NSW Government engage with stakeholders to fund and develop this ongoing education and awareness.¹⁷⁰
- 2.79** Other inquiry participants agreed with the sentiments of The Salvation Army and Anti-Slavery Australia. For instance, the Josephite Counter-Trafficking Project noted that there are still cases where human trafficking offences have not been ‘detected because of ignorance of law enforcement, school authorities, social workers etc’ and highlighted the importance of ongoing, updated training for all frontline officials.¹⁷¹ Further, the Catholic Women’s League Australia NSW called for increased efforts to train police and other frontline officers to recognise indicators and respond to incidents of trafficking and increase training for prosecutors and judges on trafficking laws.¹⁷²
- 2.80** A21 identified that there appears to be underreporting and limited prosecutions in Australia and stated that this stemmed from ‘a lack of adequate understanding of what constitutes human trafficking, limited training of frontline officials, and a lack of public awareness’.¹⁷³ In addition, the Australian Red Cross advocated for community awareness campaigns to be funded by government and rolled out across the state to educate community members in identifying exploitation and knowing how to get help.¹⁷⁴
- 2.81** Australian Institute of Criminology representatives acknowledged that there has not been any formal evaluation of awareness campaigns in Australia. Dr Samantha Bricknell, Research Manager Violence and Exploitation, Australian Institute of Criminology, stated that evaluations of these campaigns should be completed in the future:

It would probably be worthwhile if awareness campaigns are run in the future and that some take-home messages are drawn from evaluation of these to indicate whether the sorts of people, the broader public, are actually understanding and receiving the messages ... in these campaigns and what needs to be done to make sure that that message is more broadly received.¹⁷⁵

¹⁶⁸ Submission 9, Anti-Slavery Australia, p 10.

¹⁶⁹ Evidence, Professor Burn, 6 March 2017, p 34; Submission 9, Anti-Slavery Australia, pp 16-17.

¹⁷⁰ Submission 9, Anti-Slavery Australia, pp 21-22.

¹⁷¹ Submission 3, Josephite Counter-Trafficking Project, p 6.

¹⁷² Submission 24, Catholic Women’s League Australia NSW, p 5.

¹⁷³ Submission 7, A21, p 13.

¹⁷⁴ Submission 25, Australian Red Cross, p 6.

¹⁷⁵ Evidence, Dr Samantha Bricknell, Research Manager Violence and Exploitation, Australian Institute of Criminology, 29 May 2017, p 15.

- 2.82** Ms Samantha Lyneham, Research Analyst Violence and Exploitation, Australian Institute of Criminology, explained that, in order to be successful, awareness campaigns should not only enhance knowledge, but ensure that knowledge is translated into action:

One of the challenges around awareness-raising campaigns, however, is that it is not just about raising awareness; it is actually translating that into action. There was an evaluation of the MTV EXIT campaign, which found that while it did increase awareness of issues around human trafficking and slavery and it changed attitudes to those crimes, there were challenges in that translating into any kind of actions. Whether that increases reporting or whether that increases assistance to people who need it is still a challenge that needs to be overcome and incorporated into strategies to raise awareness about these crimes.¹⁷⁶

Committee comment

- 2.83** Bringing an end to the serious crime of human trafficking in Australia requires the assistance of everybody in our community, whether that be law enforcement, teachers and doctors, or concerned aunts, uncles and friends. To achieve this, the general public, as well as all front-line workers and non-government organisations should be educated about human trafficking, be aware of the danger signs and know who to call or how to offer support when a survivor is identified.
- 2.84** The committee commends the work already being conducted by the Australian Government as well as non-government groups such as Anti-Slavery Australia, and encourages the Australian Government to maintain its funding of this organisation so that it can continue offering online training and develop further initiatives.
- 2.85** However, we consider that much more needs to be done. For these reasons the committee calls on the NSW Government to establish a framework to deliver ongoing education and awareness campaigns to front-line government and non-government workers and the general public, and commit to providing mandatory training to all front-line government employees in New South Wales. Further, the committee recommends that the NSW and Australian Governments conduct formal evaluations of all human trafficking and slavery awareness campaigns and training programs and that the Australian Government fund a new education campaign to increase awareness of human trafficking in the community.

Recommendation 13

That the NSW Government, in consultation with the Australian Government, establish a framework to deliver ongoing training and awareness campaigns regarding human trafficking to front-line government and non-government workers and the general public.

Recommendation 14

That the NSW Government commit to providing mandatory training on human trafficking, slavery and forced marriage to all front-line government employees in New South Wales.

¹⁷⁶ Evidence, Ms Samantha Lyneham, Research Analyst Violence and Exploitation, Australian Institute of Criminology, 29 May 2017, p 20.

Recommendation 15

That the NSW Government conduct formal evaluations of all human trafficking and slavery awareness campaigns and training and encourage the Australian Government, through the Council of Australian Governments, to formally evaluate federally administered training programs and awareness campaigns.

Recommendation 16

That the NSW Government, through the Council of Australian Governments, urge the Australian Government, in consultation with other states, to fund a new education campaign to increase awareness of human trafficking in the community.

Chapter 3 **Forced labour, the sex services industry and child cybersex trafficking**

This chapter considers methods of combating forced labour in New South Wales. Firstly it considers forced labour in all industries and then focuses on the sex services industry. Further, the chapter discusses the growing transnational crime of child cyber-sex trafficking.

Forced labour

- 3.1** Forced labour occurs when a person, because of coercion, threat or deception, is not free to cease providing labour or services, or to leave the place where they provide their labour or services.¹⁷⁷
- 3.2** Forced labour can occur in many different industries. In 2013 the Australian Government moved away from focusing on sexual servitude and instead created a standalone forced labour offence that was introduced into the *Criminal Code Act 1995* (Cth). Following this, there has been a notable increase in offences in industries such as agriculture, construction, hospitality and domestic service.¹⁷⁸
- 3.3** Forced labour is a type of exploitation that people may be trafficked into, from, or within Australia and may include deceptive recruitment or debt bondage. Migrant workers are particularly vulnerable to exploitation, either by those who facilitate their journey to Australia or by employers once they arrive. This may be due to cultural and language barriers, a lack of knowledge of local workplace laws, and in some cases, a reliance on their employer for their immigration status. The Australian Government indicated that there is an important distinction between forced labour and experiencing substandard working conditions.¹⁷⁹
- 3.4** Detective Superintendent Linda Howlett, Commander, State Crime Command Sex Crimes Squad, NSW Police Force provided some examples of how deceptive recruiting and debt bondage are used as methods by traffickers in cases relating to forced labour:

... they come in, they think they are going to be a chef, they think they are going to be earning a certain amount of money, they are going to be housed, they are going to be clothed, they are going to have time off, and they come here and they are virtually slaves. They are working in a restaurant 16 or 17 hours a day and getting very little money.¹⁸⁰

I had a lot of experience, when I was within the Asian crime area, where the victims would know that they were coming into Australia to work as a prostitute and they were only supposed to be paying off a certain amount of money. However, when they arrived, the conditions had changed; their passports were taken from them. They

¹⁷⁷ *Criminal Code Act 1995* (Cth), s 270.6.

¹⁷⁸ Evidence, Ms Catherine Hawkins, First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department, 29 May 2017, p 13.

¹⁷⁹ Submission 23, Australian Government, p 6.

¹⁸⁰ Evidence, Detective Superintendent Linda Howlett, Commander, State Crime Command, Sex Crimes Squad, NSW Police Force, 6 March 2017, pp 20-21.

might think they only had to pay back \$20,000; in fact, they might be told they have to pay back \$60,000.¹⁸¹

- 3.5** The Australian Government has the primary responsibility for investigating cases relating to forced labour. The government announced a policy in May 2016 to propose changes to the *Fair Work Act 2009* (Cth) to strengthen protections for vulnerable workers, to provide additional funding for the Fair Work Ombudsman for compliance measures and to establish a Migrant Workers' Taskforce.¹⁸² This taskforce was established later in 2016 and Professor Jennifer Burn, Director, Anti-Slavery Australia noted that its convenor has stated that exploitation is systemic and commonplace throughout Australia and made recommendations to increase the protections available for workers.¹⁸³
- 3.6** In addition, the Fair Work Ombudsman works with the Department of Immigration and Border Protection on Taskforce Cadena, which was established in June 2015 to support whole-of-government efforts targeting organised fraud, illegal work and the exploitation of migrant workers in Australia. Information uncovered by the taskforce is referred to the Australian Federal Police for investigation.¹⁸⁴
- 3.7** Human trafficking and slavery-related offences technically fall outside the Fair Work Ombudsman's jurisdiction. Mr Tom O'Shea, Executive Director, Fair Work Ombudsman explained that his office operates in a civil, not a criminal jurisdiction, so its remit only extends to compliance with, and education about workplace relations laws.¹⁸⁵ However, it has a role in anti-slavery and human trafficking because its officers are in the field. Mr O'Shea noted that 'the theory being that when you are out in workplaces you might see something that is not quite right'.¹⁸⁶ If this occurs the Fair Work Ombudsman's role is to refer the matter to the relevant authority. Mr O'Shea confirmed that the Fair Work Ombudsman has referred four matters to the Australian Federal Police in the last three years relating to human trafficking or slavery.¹⁸⁷
- 3.8** He noted that vulnerable migrant worker complaints (although not necessarily trafficking and forced labour) tend to come from the following industries: 'accommodation and food services; administrative and support services; manufacturing, which includes agriculture, forestry and fishing; and the retail trade'.¹⁸⁸

¹⁸¹ Evidence, Detective Superintendent Howlett, 6 March 2017, p 13.

¹⁸² Submission 23, Australian Government, p 6.

¹⁸³ Evidence, Professor Jennifer Burn, Director, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney, 6 March 2017, p 36.

¹⁸⁴ Submission 23, Australian Government, p 7.

¹⁸⁵ Evidence, Mr Tom O'Shea, Executive Director, Fair Work Ombudsman, 15 June 2017, p 11.

¹⁸⁶ Evidence, Mr O'Shea, 15 June 2017, p 13.

¹⁸⁷ Evidence, Mr O'Shea, 15 June 2017, p 13.

¹⁸⁸ Evidence, Mr O'Shea, 15 June 2017, p 12.

- 3.9** The Salvation Army stated that although forced labour occurs in Australia, ‘to date, there have been no convictions under the forced labour offence’¹⁸⁹ or the deceptive recruiting offence.¹⁹⁰ Some specific examples where forced labour may have taken place will be discussed in chapter 5 which inform a discussion of whether there are ineffective screening processes in place to detect trafficking.
- 3.10** The Salvation Army contended that the offence of forced labour is well crafted as it includes the ‘reasonable person test’, where the court must consider whether a reasonable person of the same background as the victim, in the same circumstances would feel free to cease providing services and/or leave the workplace. Despite this, it remains unclear how investigators apply this test when assessing cases for elements of forced labour.¹⁹¹ The Salvation Army concluded that although prosecuting slavery and trafficking crimes is difficult, it considered the lack of convictions in Australia to be ‘unacceptable’. The Salvation Army questioned what guidance is provided to the Australian Federal Police and other relevant law enforcement bodies to appropriately assess for elements of forced labour and deceptive recruiting and how police apply the ‘reasonable person test’ when assessing a case.¹⁹²
- 3.11** The Australian Catholic Religious Against Trafficking in Humans argued that most forced labour cases in Australia are treated as violations of employment law and thus those responsible are only subject to civil penalties such as a fine or repaying wages. It argued that this means human traffickers are able to continue their abusive behaviour.¹⁹³
- 3.12** Australian Catholic Religious Against Trafficking in Humans considered that part of the problem is that trafficking and forced labour offences are reserved for only the most serious cases:
- Part of the reason for this is that the application of the human trafficking offences by the Australian Federal Police would appear to be reserved for the most severe cases, which in turn may be driven by an expectation on behalf of the police that the courts will only accept severe cases of human trafficking as being offences under the human trafficking and forced labour offences under the Criminal Code.¹⁹⁴
- 3.13** Further, it argued that the Fair Work Ombudsman is grossly under-resourced compared to the number of cases of illegal exploitation of people.¹⁹⁵
- 3.14** Dr Tahmina Rashid, Associate Professor in International Studies, University of Canberra, noted that work visa holders are at potential risk of being in forced labour. Even though the visa process is heavily regulated, criminals and rogue business operators find legal ways to bring people into the country to exploit their labour or enslave them.¹⁹⁶ For these reasons Dr Rashid recommended that the following be considered:

¹⁸⁹ Submission 16, The Salvation Army, p 19.

¹⁹⁰ Supplementary submission 16a, The Salvation Army, p 6.

¹⁹¹ Supplementary submission 16a, The Salvation Army, p 3.

¹⁹² Supplementary submission 16a, The Salvation Army, p 9.

¹⁹³ Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 5.

¹⁹⁴ Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 5.

¹⁹⁵ Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 5.

¹⁹⁶ Submission 5, Dr Tahmina Rashid, Associate Professor in International Studies, University of Canberra, p 5.

- stringent vetting process and monitoring of work visa holders
- information regarding Australian laws and worker's entitlements in various languages available to all work visa holders
- information available to all small business employers regarding employer obligations under the Australian laws
- information available at the Sydney International airport to people coming on work, tourist and short term sponsored visas.¹⁹⁷

3.15 The Australian Government indicated that it is unlawful for persons to ask for, receive, offer or provide a benefit in exchange for a sponsored work visa arrangement.¹⁹⁸ It recently introduced changes to the visa framework to protect vulnerable workers from exploitation, including:

- reforming the Work and Holiday Visa (462 visas) including that applicants applying for a second visa provide evidence that they have been remunerated in accordance with Australian awards and legislation. This reform removes incentives for working holiday makers to enter into unlawful and potentially exploitative arrangements with employers
- reforming the Temporary Work (Skilled) visa (457 visas), including decreasing the amount of time that a 457 visa holder can remain in Australia after their employment ceases.¹⁹⁹

3.16 Further, in April 2017, the Australian Government announced that 457 visas will be abolished in March 2018 and replaced with Temporary Skill Shortage visas. This new visa aims to strengthen the integrity and quality of Australia's temporary and permanent employer sponsored skilled migration programmes.²⁰⁰

3.17 Mr O'Shea of the Fair Work Ombudsman stated that most vulnerable visa holder complaints come from the accommodation and food services industries, with very few complaints from the sex services industry.²⁰¹ The Australian Institute of Criminology's research into the construction industry showed that exploitation more readily occurs for people who enter Australia on a student visa or a working holiday visa.²⁰²

¹⁹⁷ Submission 5, Dr Tahmina Rashid, Associate Professor in International Studies, University of Canberra, p 5.

¹⁹⁸ Submission 23, Australian Government, p 7.

¹⁹⁹ Submission 23, Australian Government, p 8.

²⁰⁰ Department of Immigration and Border Protection, *Abolition and replacement of the 457 visa – Government reforms to employer sponsored skilled migration visas*, <https://www.border.gov.au/Trav/Work/457-abolition-replacement>.

²⁰¹ Evidence, Mr O'Shea, 15 June 2017, p 12.

²⁰² Evidence, Dr Samantha Bricknell, Research Manager Violence and Exploitation, Australian Institute of Criminology, 29 May 2017, p 17.

Labour hire companies

- 3.18** Inquiry participants raised concerns regarding the lack of national licensing requirements for labour hire companies and either called for a national scheme or state-based schemes to be established.
- 3.19** Typically a labour hire agency will supply the labour of a labour hire worker to a third party in exchange for a fee. The employment arrangement involves no direct contractual relationship between the labour hire worker and the host employer. Labour hire work is highly insecure for several reasons, including:
- poor regulatory protections
 - successive casual or fixed term contracts
 - low or variable pay rates
 - no paid employment entitlements or benefits
 - lack of control over labour process and low bargaining power
 - poor and/or dangerous work conditions.²⁰³
- 3.20** Australian Catholic Religious Against Trafficking in Humans argued that labour hire businesses in sectors such as agriculture and food processing remain a significant risk of contributing to human trafficking and forced labour. The lack of licencing requirements makes it easy to set up a business to traffic people into Australia and disappear if law enforcement starts to investigate.²⁰⁴
- 3.21** The Salvation Army stated that given the extent of the industry's involvement in migrant worker exploitation, it is inexplicable that it remains unregulated:
- Curiously, while it is now generally accepted by both business and government that the labour hire industry is a key culprit of exploitation and possible trafficking, there remains significant resistance to increased regulation of the industry in Australia.²⁰⁵
- 3.22** The Salvation Army recommended firstly that a national licensing scheme for labour hire businesses be established in sectors where there is evidence of significant levels of human trafficking, or if this is not successful, that a licensing scheme for New South Wales be established.²⁰⁶
- 3.23** Likewise, Anti-Slavery Australia explained that insecure labour hire employment can lead to severe labour exploitation and slavery-like practices.²⁰⁷ Ms Elizabeth Sheridan, Research Officer, Anti-Slavery Australia stated that New South Wales should commence a consultative process to introduce a sector-specific licensing program for labour hire business. She noted that a similar consultation process has taken place in Victoria, Queensland and South

²⁰³ Submission 9, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney, p 36.

²⁰⁴ Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 6.

²⁰⁵ Submission 16, The Salvation Army, p 19.

²⁰⁶ Submission 16, The Salvation Army, p 20.

²⁰⁷ Submission 9, Anti-Slavery Australia, p 36.

Australia. Ms Sheridan considered there was scope for a state-based licensing program which would involve a fit and proper person test for prospective labour hire businesses.²⁰⁸

3.24 Australian Catholic Religious Against Trafficking in Humans noted that while the Victorian Government had promised to introduce a licensing scheme for labour hire businesses in that state, it recommended that ideally this should be a federal government initiative.²⁰⁹

3.25 Josephite Counter-Trafficking Project considered that the NSW Government should licence labour hire companies and that there be a list of such companies available to employers and migrant workers to prevent exploitation.²¹⁰

Committee comment

3.26 Although the offence of forced labour was only introduced in 2013, the committee is surprised that there have been no prosecutions for this crime in Australia. Clearly, this offence does occur and the committee is concerned that federal law enforcement agencies and the Fair Work Ombudsman appear to be not suitably equipped to identify and address this crime. We therefore recommend that the Australian Government conduct a review into why there have been no convictions under the forced labour offence and to consider training for Australian Federal Police, Department of Immigration and Border Protection and Fair Work Ombudsman officers to better identify this crime.

3.27 We also consider that more can be done in supporting work visa holders to understand their rights before they enter Australia. For example, an information brochure in their language could be provided to all successful applicants on receipt of their visa with further information provided once they land in Australia explaining worker rights in Australia.

3.28 In addition, the committee considers that the labour hire industry must be regulated in Australia. Inquiry participants informed the committee that some businesses in this industry are key culprits of exploitation and possibly human trafficking. The committee commends other states such as Victoria for investigating the establishment of their own state scheme. The committee notes that the Queensland Parliament recently passed legislation that will regulate the labour hire industry in that state.²¹¹ While the committee believes that a federal regulatory scheme for the labour hire industry would be preferable, if the Australian Government does not proceed to regulate in this area then the NSW Government should take steps to regulate the labour hire industry in New South Wales.

²⁰⁸ Evidence, Ms Elizabeth Sheridan, Research Officer, Anti-Slavery Australia, 6 March 2017, p 40.

²⁰⁹ Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 6.

²¹⁰ Submission 3, Josephite Counter-Trafficking Project, p 6.

²¹¹ Queensland Treasury, *Regulation of the labour hire industry in Queensland*, <https://www.treasury.qld.gov.au/fair-and-safe-work/industrial-relations/regulation-labour-hire-industry/>.

Recommendation 17

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to conduct a review into the lack of convictions under the forced labour offence at section 270.6 of the *Criminal Code Act 1995* (Cth) and to consider training for Australian Federal Police, Department of Immigration and Border Protection and Fair Work Ombudsman officers to better identify this crime.

Recommendation 18

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to provide more information on worker rights in Australia to work visa holders both before they enter Australia and at the airport once they have arrived.

Recommendation 19

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to regulate the labour hire industry in Australia, and if this is not supported federally, to then regulate the labour hire industry in New South Wales.

The sex services industry

- 3.29** The term ‘sex services industry’ refers to those who engage in sexual acts in exchange for money, whether that be in brothels or in private homes. The Australian Institute of Criminology’s research into migrant sex workers in Australia found respondents worked in a variety of settings: brothels; a BDSM house, a massage parlour; an escort agency; a street-based worker; and private work.²¹²
- 3.30** The Australian Government confirmed that since 2009, 43 per cent of the 98 identified suspected trafficked people identified by authorities in New South Wales were allegedly exploited in the sex work industry.²¹³ However, more recent Australia-wide statistics show that in 2015-16, 77 per cent of referrals received by the Australian Federal Police related to forms of exploitation not involving the sex services industry.²¹⁴
- 3.31** There are strongly opposing views regarding the prevalence of human trafficking in the sex services industry and the most effective methods to combat this type of trafficking. Some inquiry participants believe that sex trafficking is prevalent in New South Wales primarily due to it being decriminalised²¹⁵ and are in favour of the adoption of the ‘Nordic model’. Conversely, others are of the view that the prevalence of sex trafficking is not supported by evidence and that the current model of decriminalisation is best practice. Others believe that there is evidence of exploitation occurring in the sex services industry and that it is incumbent on government to take appropriate steps to address it.

²¹² Answers to questions on notice, Australian Institute of Criminology, 23 June 2017, p 2.

²¹³ Evidence, Ms Hawkins, 29 May 2017, p 2.

²¹⁴ Evidence, Ms Hawkins, 29 May 2017, p 12.

²¹⁵ Submission 7, A21, p 7.

- 3.32** Fighting for Justice Foundation argued that ‘there is an undeniable and clear link between the legalisation of prostitution and the rate of trafficking of persons - which has been discussed and proven by evidence in various international academic, legal and social research papers, conferences and forums’.²¹⁶
- 3.33** A21 similarly stated that various forms of research have concluded that when prostitution is legalised, trafficking increases exponentially and this has been documented both internationally and in Victoria.²¹⁷ The legalisation of prostitution is considered a ‘pull factor’ for traffickers and ‘many brothel owners operate both legal and illegal brothels, and law enforcement appear to assume the legality of most brothels’.²¹⁸
- 3.34** Coalition Against Trafficking in Women Australia also argued that the current system in New South Wales is ineffective at curbing trafficking for sexual services and noted that reports from law enforcement, outreach workers and investigative journalism all point to trafficking as a common element in the majority of cases of sex slavery in Australia.²¹⁹
- 3.35** Nordic Model Australia Coalition (NorMAC) considered that the current model has helped hide the extent of criminality including human trafficking within the sex trade and many women trafficked into Australia are lured under false pretences and are forced to work against their will and often without pay.²²⁰
- 3.36** The 2015 United States Department of State Trafficking in Persons Report found that Australia is a destination country for women trafficked into the sex services industry. The report stated that many women from Asia migrate to Australia both legally and illegally and are often coerced into prostitution:
- Some women from Thailand, Malaysia, South Korea, China, and, to a lesser extent, India, Vietnam, Eastern Europe, and Africa migrate to Australia voluntarily intending to work legally or illegally in a number of sectors, including the sex trade. Subsequent to their arrival, however, some of these women are coerced into prostitution in both legal and illegal brothels. There were news reports that some Asian organized crime groups recruit Asian women to migrate to Australia, sometimes on student visas, and then subsequently coerce them into the sex trade. The women and girls are sometimes held in captivity, subjected to physical and sexual violence and intimidation, manipulated through illegal drugs, and obliged to pay off unexpected or inflated debts to their traffickers.²²¹
- 3.37** Alternatively, ACON advised that the United Nations Special Rapporteur on Trafficking, Joy Ngozi Ezeilo, following her visit to Australia in 2011 recommended that ‘[t]here is a need to

²¹⁶ Submission 22, Fighting for Justice Foundation, p 4.

²¹⁷ Submission 7, A21, p 8.

²¹⁸ Submission 7, A21, p 8.

²¹⁹ Submission 8, Coalition Against Trafficking in Women Australia, pp 3-4.

²²⁰ Submission 21, Nordic Model Australia Coalition (NorMAC), pp 2 and 5.

²²¹ Submission 2, FamilyVoice Australia, p 4, in United States of America Department of State, *Trafficking in persons report*, June 2012, p 73, <http://www.state.gov/documents/organization/192594.pdf>.

move away from over-sexualizing the discourse on trafficking'.²²² This is reflected in the Australian Government's recent approach since 2013 noted in paragraph 3.2.

- 3.38** The Scarlet Alliance stated that the almost sole focus on the sex services industry is 'unwarranted' and 'misguided' and welcomed the recent shift at a policy level to focus on other forms of trafficking. However, Scarlet Alliance attested that there is still a misperception of widespread trafficking in the sex industry. It contended that this is inferred from inflated global statistics that are not relevant in the Australian context. The Scarlet Alliance argued that Australia is vastly different to other nations, in part due to sex worker organisations, strong peer education and the recognition of sex work within aspects of certain policies.²²³
- 3.39** Ms Heather Moore, National Policy and Advocacy Coordinator, The Salvation Army, argued that initially trafficking was considered more prevalent in the sex services industry as this was where 'people were looking' and argued that it was often easier for victims in this industry to be identified as they 'are exposed to a range of potential sources of help, ironically, including their customers and the people ... such as taxi drivers who, in my experience, have actually helped victims escape sex trafficking'.²²⁴
- 3.40** ACON and the Scarlet Alliance stated that decriminalisation is world renowned as the best practice model for sex worker occupational health and safety, industrial rights and human rights. They stated this is recognised by the United Nations Secretary General, United Nations Population Fund, UNAIDS, Amnesty International and sex worker communities globally.²²⁵
- 3.41** They argued that since decriminalisation, New South Wales has achieved 'one of the healthiest sex industries', including among migrant sex workers. Evidence, including from the Kirby Institute, demonstrated that decriminalisation has brought 'improved work safety, high rates of safer sex practice, low rates of sexually transmissible infections, low incidence of trafficking and little to no evidence of organised crime'.²²⁶
- 3.42** The 2015 report by the New South Wales Legislative Assembly's Select Committee on the Regulation of Brothels concluded that it would be retrograde to re-criminalise sex work, undesirable to criminalise the clients of sex workers as suggested in the Nordic model and undesirable to stigmatise sex workers by requiring them to be licensed. However, it noted that the current system is not perfect and recommended that the New Zealand model be followed where a limited system of registration apply to the owners and managers of brothels, but not to sex workers.²²⁷

²²² Submission 4, ACON, p 1.

²²³ Submission 17, Scarlet Alliance, Australian Sex Workers Association, p 5.

²²⁴ Evidence, Ms Heather Moore, National Policy and Advocacy Coordinator, The Salvation Army, 15 June 2017, p 25.

²²⁵ Submission 4, ACON, p 2; Submission 17, Scarlet Alliance, Australian Sex Workers Association, p 8.

²²⁶ Submission 4, ACON, p 3; Submission 17, Scarlet Alliance, Australian Sex Workers Association, p 8.

²²⁷ Select Committee on the Regulation of Brothels, NSW Legislative Assembly, *Inquiry into the Regulation of Brothels* (2015), p iv.

3.43 The NSW Government did not support the recommended licencing system arguing that:

This model would be high cost and risks creating incentives for non-compliance. It also risks creating similar adverse outcomes as recriminalisation, such as reduced sexual health screening and protection for sex workers.²²⁸

3.44 The Australian Christian Lobby characterised the NSW Government's response as 'disappointing' and highlighted the difficulties faced by local councils in combating illegal brothels as well as the rejection of a recommendation on the reporting of complaints, offences and prosecutions:

The situation of Hornsby Council which fought and lost a landmark legal battle against a brothel in 2015 costing them \$100,000, is not fixed by the NSW government's response. Councils will still have to expend large amounts of ratepayers' money taking illegal brothels to court, with no guarantee the evidence will be sufficient to close the brothels down. Strangely, the government rejected a recommendation to take steps to record reporting of complaints, offences and prosecutions relating to the sex services industry in NSW. If you don't have the data it is difficult to begin to address the problem and target the worst areas.²²⁹

3.45 In giving evidence to the current inquiry, Detective Superintendent Howlett of the Sex Crimes Squad, NSW Police Force, suggested that the industry be regulated and for sex workers to be licensed, although she noted that this is an area of contention:

I only put it forward as a proposal if you want to try and stop human trafficking. If people come into the country and they are at least licenced in some way then you know they have access to their passports, you know what visa they are working on, you know perhaps that they are getting paid, you know that they are receiving their appropriate health checks, they are paying tax, et cetera. I know that it is not a position that a lot of people agree with me on.²³⁰

3.46 Detective Superintendent Howlett also suggested that the industry to be regulated as it would give the police greater powers:

The industry is not regulated in any way, shape or form. As I said before, we do not have the powers to go in and check. We can go to a premises and asked to be invited in. Nine times out of 10, if it is being run by an organised crime group, unless you have the justification for having a search warrant, you will ask to come in. If they say that you cannot come in then you do not go in.²³¹

3.47 Former Commissioner Andrew Scipione AO APM, Commissioner of Police, NSW Police Force, stated that while better regulation is always welcome, the police would not have the resources to perform this function.²³²

²²⁸ NSW Government, *NSW Government Response to Select Committee on the Regulation of Brothels*, May 2016, p 5.

²²⁹ Submission 19, Australian Christian Lobby, p 9.

²³⁰ Evidence, Detective Superintendent Howlett, 28 March 2017, p 8.

²³¹ Evidence, Detective Superintendent Howlett, 6 March 2017, p 22.

²³² Evidence, Commissioner Andrew Scipione AO APM, Commissioner of Police, NSW Police Force, 28 March 2017, pp 7-8.

- 3.48** Collective Shout called on the government to consider New Zealand’s approach, which also has a mostly deregulated sex services industry, but does not allow visa holders to engage in prostitution or be involved in the local sex industry. This ensures New Zealand’s obligations under the United Nations Convention Against Transnational Organised Crime.²³³
- 3.49** Dr Rashid of the University of Canberra considered a range of methods should be introduced to ensure sex workers are not exploited:
- special category visas for sex workers or escorts
 - brothels mandated to employ sex workers with all entitlements such as superannuation, work cover, sick leave and should not be allowed to contract individuals
 - a uniformity of laws regulating the sex services industry across all states.²³⁴
- 3.50** ACON referred to research conducted by the Australian Institute of Criminology together with the Scarlett Alliance that there are a range of ‘social and structural barriers’ that marginalise migrant sex workers from accessing services and resources, including ‘stigma associated with sex work, limited access to safe migration pathways, fear of deportation and language barriers’. To address this, the report recommended that a prevention approach be adopted, including through migration reform, translated visa materials and initiatives to reduce stigma and discrimination.²³⁵

Nordic model

- 3.51** In 1999, Sweden adopted a new law regarding prostitution, which has since become known as the Nordic model. Primarily, this model makes buying sex, pimping and brothel keeping illegal,²³⁶ but decriminalises sex workers from soliciting, and also:
- 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 from purchasing sex thereby making the sex trade less viable for third party exploiters which includes traffickers, pimps, brothel owners/managers.²³⁷
- 3.52** While no model can completely eliminate prostitution, some inquiry participants argued that the Nordic model has been shown to reduce the illegal sex trade and help women exit sex work.²³⁸ Variations of the model have since been adopted in a number of other countries

²³³ Submission 27, Collective Shout, p 20.

²³⁴ Submission 5, Dr Tahmina Rashid, Associate Professor in International Studies, University of Canberra, p 5.

²³⁵ Submission 4, ACON, p 3.

²³⁶ Submission 8, Coalition Against Trafficking in Women Australia, pp 7-8.

²³⁷ Submission 21, Nordic Model Australia Coalition (NorMAC), p 9.

²³⁸ Submission 2, FamilyVoice Australia, p 5; Submission 8, Coalition Against Trafficking in Women Australia, pp 7-8.

including Norway, Iceland, Finland, Canada, France and Northern Ireland, and the model has been endorsed by the European Parliament.²³⁹

- 3.53** Many inquiry participants called for this model to be implemented in New South Wales.²⁴⁰ The Coalition Against Trafficking in Women Australia stated that international research has proved that the model is the most effective legislative approach for reducing inflows of trafficked persons.²⁴¹
- 3.54** Fighting for Justice Foundation explained the positive effects of the Nordic Model in combating human trafficking in Sweden:
- Within the first five years of the implementation of the Nordic Model, human trafficking in Sweden was halved, with traffickers declaring it was not viable for them to do business in Sweden any longer. After ten years of the Nordic Model operating in its initial jurisdiction in Sweden, legal scholar Max Walkman found the policy approach successful, and research on its impact commissioned by the government found that street prostitution had halved as a result of the changed laws. ... [P]olice report having intercepted communications from traffickers declaring that Sweden is a 'bad market'.²⁴²
- 3.55** In addition, NorMAC stated that a Swedish government report found that the law had acted as a barrier to trafficking and noted that prostitution in Sweden, unlike comparable countries, had not increased and street prostitution had halved in the decade since its introduction.²⁴³ This is in contrast to countries with legalised systems of prostitution which research shows tend to have increased trafficking inflows. The Nordic Model is in line with international instruments, including the United Nations' *Palermo Protocols*, which require states to address the demand for sexual exploitation that leads to trafficking.²⁴⁴
- 3.56** Fighting for Justice Foundation contended that Australia's obligations under the Trafficking Protocol to prevent human trafficking can only be fulfilled if New South Wales implements a Nordic-like model; which it considered to be international best practice for curbing human trafficking in the sex trade.²⁴⁵ Further, international instruments such as the Declaration on the Elimination of Violence against Women and the Convention on the Elimination of Discrimination against Women, condemn trafficking in women and forced prostitution.²⁴⁶
- 3.57** It also argued that another key element of the Nordic Model is an understanding that prostitution is an impediment to gender equality, stating it is incompatible for a society to stand against gender based violence in domestic violence, and sexual violence against women,

²³⁹ Submission 8, Coalition Against Trafficking in Women Australia, p 3.

²⁴⁰ Submission 2, FamilyVoice Australia, p 5; Submission 8, Coalition Against Trafficking in Women Australia, p 3; Submission 19, Australian Christian Lobby, p 10; Submission 20, Life Marriage and Family Centre, p 5; Submission 21, Nordic Model Australia Coalition (NorMAC), p 10; Submission 22, Fighting for Justice Foundation, p 6.

²⁴¹ Submission 8, Coalition Against Trafficking in Women Australia, p 3.

²⁴² Submission 22, Fighting for Justice Foundation, p 20.

²⁴³ Submission 21, Nordic Model Australia Coalition (NorMAC), p 10.

²⁴⁴ Submission 8, Coalition Against Trafficking in Women Australia, pp 7-8.

²⁴⁵ Submission 22, Fighting for Justice Foundation, p 6.

²⁴⁶ Submission 22, Fighting for Justice Foundation, pp 18-19.

but at the same time legalise an industry where this violence is promoted, encouraged and enabled.²⁴⁷

3.58 Life Marriage and Family Centre stated that this model recognises the truth that prostitution is inherently harmful, that it sexually exploits women, and that it normalises violence against women and facilitates human trafficking.²⁴⁸ Consequently, the Australian Christian Lobby recommended that New South Wales adopt a policy that recognises the inherent inequality and the violent and destructive abuse that exists for women in prostitution.²⁴⁹

3.59 Alternatively, Mr Cameron Cox, Chief Executive Officer, Sex Workers Outreach Project NSW, along with other sex services industry groups²⁵⁰, was opposed to the Nordic model. Mr Cox described it as ‘a wolf in sheep’s clothing’ for sex workers as it made their work and lives more difficult:

The first thing the Nordic model does is try to starve us out of existence by criminalising our clients. The next thing it does is it puts the police on our doorsteps because the police are trying to catch clients and what better place to catch clients than on a sex worker’s doorstep. It stops our negotiating power with clients because there is no time to negotiate, the client is too nervous to negotiate.... It also extends much, much further because in Sweden the Nordic model goes as far as to prevent us from advertising, prevent us from renting—landlords can be prosecuted for renting for a sex worker. Even your bank ... if we were under the Nordic model, could be prosecuted for giving me a mortgage. So it basically makes our lives almost unliveable.²⁵¹

Prevalence of organised crime in the sex services industry

3.60 A number of inquiry participants²⁵² highlighted the evidence by Former Deputy Police Commissioner, Nick Kaldas to the Legislative Assembly’s Select Committee on the Regulation of Brothels, that there is a link between outlaw motor cycle gangs and sexual servitude in the sex services industry:

The results from our analysis and thinking indicated that there are clearly issues in the industry in terms of servitude, the use of illegal workers and extortion by or involvement of organised crime and outlaw motorcycle gang groups. Around 40 brothels have some recorded connection or ties to outlaw motor cycle gang groups in our intelligence holdings...²⁵³

²⁴⁷ Submission 22, Fighting for Justice Foundation, pp 20 and 22.

²⁴⁸ Submission 20, Life Marriage and Family Centre, p 5.

²⁴⁹ Submission 19, Australian Christian Lobby, p 11.

²⁵⁰ Evidence, Ms Jules Kim, Chief Executive Officer, Scarlet Alliance, Australian Sex Workers Association, 29 May 2017, p 32.

²⁵¹ Evidence, Mr Cameron Cox, Chief Executive Officer, Sex Workers Outreach Project NSW, 29 May 2017, p 42.

²⁵² See for example: Submission 8, Coalition Against Trafficking in Women Australia, p 4; Submission 19, Australian Christian Lobby, p 2; Submission 22, Fighting for Justice Foundation, p 16.

²⁵³ Select Committee on the Regulation of Brothels, NSW Legislative Assembly, *Inquiry into the Regulation of Brothels* (2015), p 11.

- 3.61** Regarding Mr Kaldas’s comments, Detective Superintendent Howlett stated to this committee that she was unclear of the current picture:

I could not tell you the specific numbers. We have had changes. There is a lot of focusing by NSW Police on gangs. Some gangs are not as strong as they used to be, so I could not give you exact numbers at this stage.²⁵⁴

- 3.62** In answers to questions on notice the NSW Police Force confirmed that there ‘is no information to suggest New South Wales based outlawed motorcycle gangs are involved in organising or facilitating travel to Australia for persons from overseas, and forcing them to work in brothels or massage parlours’.²⁵⁵

- 3.63** Coalition Against Trafficking in Women Australia referred to the evidence by Mr Kaldas and stated that these links to organised crime are facilitated by the absence of regulation, ‘thereby robbing law enforcement of an “effective intelligence base” and allowing organised crime to “infiltrate the industry”’.²⁵⁶

Role of sex services industry advocacy groups

- 3.64** The Australian Christian Lobby condemned the Scarlett Alliance for denying that trafficking in the sex services industry is a serious problem describing this view as ‘breathtaking’ and ‘inexplicable’ and noted that ‘[n]umerous examples link the operation of brothels and prostitution to criminal syndicates or organised crime, particularly in relation to international trafficking’.²⁵⁷

- 3.65** Similarly NorMAC questioned past claims by the Scarlett Alliance that there is no correlation between trafficking and the sex services industry, providing examples of prosecuted cases where women were deceptively recruited overseas and trafficked to Australia to work in brothels. NorMAC argued that groups such as Scarlett Alliance re-frame trafficking victims as autonomous ‘migrant sex workers’.²⁵⁸

- 3.66** Dr Helen Pringle, Member, NorMAC explained that the Scarlet Alliance and others only see trafficking in a very narrow sense like when ‘a woman, is kidnapped, taken to another country and is kept chained to beds’;²⁵⁹ but this view of trafficking does not tell the full story:

If you talk look at the trafficking protocol it talks about the exploitation of vulnerability, or the playing on vulnerability or abuse. It covers a wider interpretation. It is a picture that is fostered by the media in movies like *Taken*, for example, which foster the view of forced kidnapping. It does happen, but fundamentally the bulk of trafficking is about people who do know something about what will happen to them but you can hardly call it choice in the full neoliberal sense. A good example of that was a woman who died in Villawood about 10 years ago. ...Yes, she knew she was coming to work in a parlour and she knew certain parts of her employment

²⁵⁴ Evidence, Detective Superintendent Howlett, 6 March 2017, p 15.

²⁵⁵ Answers to supplementary questions on notice, NSW Police Force, 29 March 2017, p 1.

²⁵⁶ Submission 8, Coalition Against Trafficking in Women Australia, p 4.

²⁵⁷ Submission 19, Australian Christian Lobby, p 2.

²⁵⁸ Submission 21, Nordic Model Australia Coalition (NorMAC), pp 10-11.

²⁵⁹ Evidence, Dr Helen Pringle, Member, NorMAC, 29 May 2017, pp 23-24.

conditions, but you could hardly consider it a question of choice or of entrepreneurship. It would be an insult to her memory to think of it along those terms. It is insulting to women who are coerced and in positions of vulnerability to characterise them as that. It is disgraceful.²⁶⁰

- 3.67** In her organisation's defence, Ms Jules Kim, Chief Executive Officer, Scarlet Alliance, stated that '[o]f course there is exploitation in the sex industry, of course there is trafficking; we have never suggested otherwise'.²⁶¹ However, she argued that this is not the experience of the majority of sex workers in Australia.²⁶² Ms Kim also argued that in many instances the issue is not trafficking; it is instead an industrial issue of migrant sex workers not receiving their full wages:

Really, what is at issue is that it is a migrant sex worker who wants to claim her last pay check. If it was any other industry, it would be recognised as such, but, yet, because we are talking about sex work and because it is a migrant sex worker, immediately it is forced into a trafficking framework rather than addressing the issue at hand, which is a case of labour exploitation, or unpaid wages.²⁶³

- 3.68** Scarlet Alliance stated that it has a range of systems to identify trafficking, including the 'ugly mugs' reports. It communicates to sex workers, provides assistance for them to make reports to the police and has safety structures in place. Ms Kim informed the committee that the Scarlett Alliance has made referrals to the police about human trafficking.²⁶⁴
- 3.69** The Sex Workers Outreach Project explained that it operates a process where if it receives a call about a potential trafficking situation it is placed on a priority visit list, and visited at the first available opportunity within 30 days. To date none of these visits prompted by trafficking concerns have resulted in identifying any trafficked persons. Sex Workers Outreach Project officers attend parlours in pairs, and utilise a range of tactics to ensure they speak to sex workers away from management.²⁶⁵

Committee comment

- 3.70** This is a complex policy area where advocates are either in strong support or opposition for the status quo. Trafficking does occur in the sex services industry; however, it is one of many industries where the problem exists. Nevertheless, what cannot be disputed is that people should not be placed in a position where they feel forced to work in the sex services industry. The NSW Government should invest in pathways to assist sex workers who want to exit the industry and find other methods of employment.

²⁶⁰ Evidence, Dr Pringle, 29 May 2017, p 24.

²⁶¹ Evidence, Ms Kim, 29 May 2017, p 34.

²⁶² Evidence, Ms Kim, 29 May 2017, p 34.

²⁶³ Evidence, Ms Kim, 29 May 2017, p 33.

²⁶⁴ Evidence, Ms Kim, 29 May 2017, p 35.

²⁶⁵ Submission 14, Sex Workers Outreach Project, p 4.

Recommendation 20

That the NSW Government invest in pathways to assist sex workers who want to exit the industry and find other methods of employment.

- 3.71** The committee considers that, in some cases, there may be some correlation in New South Wales between organised crime, brothels and human trafficking and is of the view that organisations such as the Scarlett Alliance and the Sex Workers Outreach Project have important roles to play in assisting the police in identifying and helping victims. For this reason, the committee recommends that the NSW Government encourage sex services industry groups to regularly attend training on human trafficking and slavery to assist in identifying and helping victims, including the reporting of alleged offences.
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Recommendation 21

That the NSW Government encourage sex services industry bodies such as the Scarlett Alliance and the Sex Workers Outreach Project to:

- regularly attend training on human trafficking and slavery to assist in identifying and helping victims
 - report suspected instances of human trafficking and slavery.
-

Child cybersex trafficking

- 3.72** The committee heard disturbing evidence regarding the growth of the transnational crime of child cybersex trafficking, which involves two crimes: ‘on the demand side, the commission of the abuse of children by perpetrators in Australia; and on the supply side, the facilitation of that abuse typically in developing countries such as the Philippines’.²⁶⁶
- 3.73** International Justice Mission Australia explained what this crime entails and also that a child’s family is often involved in the trafficking:

A typical example of this crime is where an offender in Australia pays a trafficker ... [overseas] to view, via webcam footage transmitted over the internet, a child engaging in sex acts with other children, adults, animals, themselves or posing in sexually explicit photos or videos. Generally paedophiles will pay US\$20–\$150 for a ‘sex show’ broadcast online. The cost of such a show will increase with the level of abusiveness requested. These live shows are being broadcast through Skype or other video chat applications on a pay-per-view basis. More than half the victims of cybersex trafficking that International Justice Mission has rescued have been aged 12 years old or younger ... In over half of International Justice Mission’s casework, the traffickers have been a family member or close family friend of the victim, however, other cases involve larger scale criminal networks.²⁶⁷

²⁶⁶ Submission 11, International Justice Mission Australia, p 5.

²⁶⁷ Submission 11, International Justice Mission Australia, p 7.

3.74 Detective Superintendent Howlett of the Sex Crimes Squad, NSW Police Force, stated that this crime ‘is a big money-earner for the Philippines at the moment’ and consequently the police are expecting to see an increase in this crime in Third World countries. She stated that the NSW Police Force works closely with its federal counterparts as these crimes include both state and federal offences.²⁶⁸

3.75 Superintendent Lesa Gale, Manager, Victim Based Crime, Australian Federal Police, advised that the Australian Federal Police has dedicated teams responsible for the investigation of online child exploitation that operate domestically and internationally. The Australian Federal Police also work with international law enforcement partners and non-government organisations at the source to disrupt this crime as it is occurring.²⁶⁹ Further, the Australian Federal Police has a number of programs with certain countries to advocate for tougher legislation and increased awareness.²⁷⁰

3.76 Former Commissioner Scipione, NSW Police Force, argued that cybersex trafficking ‘paints a very worrying scenario for the future’ as this type of crime is difficult to police:

... I can tell you that in the area of cybercrime—whether it is human trafficking, organised crime or terrorism—it is a brave new world. It is an area that is very difficult to nail, simply because the reality is that many of these crimes are committed off shore. ... It complicates it when we have to get other law enforcement agencies involved, if we need to go searching for documents, if we need to obtain search warrants and access to materials. It is often difficult to get that. That is a complex area.²⁷¹

3.77 Mr Scipione also informed that much of the crime occurs through the ‘dark net’ which is a part of the deep web where there is almost no controls and requires specific software, configurations or authorisation to access.²⁷²

3.78 In addition, Mr Scipione raised concerns regarding how social media sites such as Facebook operate:

We often say that if we were having this discussion 15 years ago, or even a little more than 10 years ago, we would not be mentioning Facebook because it did not exist. However, today, if Facebook were a nation, it would be the third biggest nation in the world. Any nation has boundaries, it has highways, there are police who patrol highways, and police who patrol precincts. They are there if there is trouble; they intervene and they keep people safe. It would be the third biggest nation on the planet and it does not have any police force. If you then take that down to the dark net level, you realise that this is going to be a significant problem, and a growing one for us all.²⁷³

²⁶⁸ Evidence, Detective Superintendent Howlett, 6 March 2017, p 14; *Crimes Act 1900*, s 66EB.

²⁶⁹ Evidence, Superintendent Lesa Gale, Manager, Victim Based Crime, Australian Federal Police, 29 May 2017, p 12.

²⁷⁰ Evidence, Detective Superintendent Howlett, 6 March 2017, p 14; *Crimes Act 1900*, s 66EB.

²⁷¹ Evidence, Commissioner Scipione AO APM, 28 March 2017, pp 2 and 4.

²⁷² Evidence, Commissioner Scipione AO APM, 28 March 2017, pp 4-5.

²⁷³ Evidence, Commissioner Scipione AO APM, 28 March 2017, p5.

- 3.79** Another complexity with this crime is data retention laws. Mr Scipione stated that while greater data retention would aid police in their investigations, this must be balanced with civil liberties and the protection of privacy.²⁷⁴
- 3.80** Ms Kimberly Randle, Director of Corporate and Legal, International Justice Mission Australia, advocated for strict processes to ensure Internet service providers collaborate with law enforcement to assist in investigations. She considered current provisions regarding the responsibilities of Internet service providers in the *Criminal Code Act* (Cth) to be unclear. International Justice Mission Australia called for Internet service providers to provide law enforcement with information to track down offenders, including their location and IP address.²⁷⁵
- 3.81** International Justice Mission Australia also emphasised that cybersex trafficking involves the actual abuse of children, and should be treated extremely seriously, even though the viewer may not be a ‘hands-on’ offender.²⁷⁶
- 3.82** Amendments to the *Criminal Code Act* (Cth) in 2010 were introduced to ensure that Internet-related child sexual exploitation is a prosecutable offence in light of rapidly changing technologies. In particular, s 474.25A ensures that an offender can be prosecuted if their conduct causes a child to engage in sexual activity with another person using a carriage service. The purpose of this is to ensure that engaging in sexual activity with a child online is criminalised in a comparable way to equivalent activity engaged in ‘real life’.²⁷⁷
- 3.83** International Justice Mission Australia, however, deemed that since those amendments were made to the Act, child cybersex trafficking has evolved, ‘and the relationship between the procurer, the victim and the supplier, is not fully captured by the existing Commonwealth and state legislation’.²⁷⁸
- 3.84** Further, under New South Wales law, sexual intercourse with a child who is under the age of 10 years bears the maximum penalty of life imprisonment.²⁷⁹ This is in contrast with offences under s 474 of the *Criminal Code Act* (Cth) which contain maximum penalties of between 10 to 15 years²⁸⁰ and there is no specific aggravated offence for crimes against children under the age of 10.
- 3.85** Ms Randle was of the view that New South Wales legislation could also be tightened by introducing an evidentiary provision into the *Crimes Act 1900* (NSW), equivalent to section 474.28 of the *Criminal Code Act* (Cth), as it would make it easier to prosecute cases where an offender has recorded their pay-per-view session:

²⁷⁴ Evidence, Commissioner Scipione AO APM, 28 March 2017, p 4.

²⁷⁵ Evidence, Ms Kimberly Randle, Director of Corporate and Legal, International Justice Mission Australia, 11 August 2017, p 12.

²⁷⁶ Submission 11, International Justice Mission Australia, p 17.

²⁷⁷ Crimes Legislation Amendment (Sexual Offences Against Children) Bill 2010 (Cth), Explanatory memorandum.

²⁷⁸ Submission 11, International Justice Mission Australia, p 17.

²⁷⁹ *Crimes Act 1900*, s 66A.

²⁸⁰ See for example: *Criminal Code Act 1995* (Cth), s 474.25A.

It accounts for the fact that victims in the case are often unable to be located and will assist where the offender has specifically asked for a child of a certain age. The evidentiary provision would state that where a child is represented to the accused as being a certain age, it is presumed to be that age, unless proven otherwise. The provision could also outline whether other evidence is admissible to prove the age of the child and this could attach to the offence of using a child for child abuse material under section 91G of the *Crimes Act*.²⁸¹

- 3.86** Ms Randle also called for aggravating factors to be introduced into section 91G of the *Crimes Act* ‘to account for specific circumstances encountered in cybersex trafficking cases that heighten the severity of the offence, ... [such as] the offence taking place in the presence of another person and offences involving a child under 10 years of age’.²⁸²
- 3.87** Ms Randle additionally recommended that the NSW Government amend its information and communications technology policy to specifically prohibit the viewing of child exploitation material. She indicated that statistics show that approximately one in every thousand child exploitation materials reviewed by police is being extracted from a workplace computer.²⁸³
- 3.88** Anti-Slavery Australia called for offences to be introduced into the New South Wales *Crimes Act*, similar to Victorian and Queensland legislation which make it an offence to administer or encourage the use of a child pornography website, and provide information to a person that is likely to assist them in avoiding capture or prosecution for committing one of these offences.²⁸⁴

Committee comment

- 3.89** The committee is very concerned regarding the growth of this horrendous crime and supports all efforts by our law enforcement in bringing the offenders to justice. The committee appreciates that this is a complex area for law enforcement as much of the crime occurs overseas. While we understand that a balance must be maintained between upholding civil liberties and monitoring the digital footprint of Australians; at the end of the day this is a heinous crime that must be stopped. We must protect children, both domestically and abroad, and systems must be in place to ensure that Australians who take part in this crime will be caught and face the full force of the law.
- 3.90** The committee considers that both federal and New South Wales legislation should be tightened. At the federal level we recommend the introduction of a new specific offence for child cybersex trafficking, the introduction of tougher sentences, particularly for crimes against children under 10 years of age and clarification regarding the obligations of Internet service providers to provide information to law enforcement agencies.
- 3.91** At the state level the committee recommends that the NSW Government amend the *Crimes Act* to include an evidentiary provision to make it easier to prosecute cases where a child cybersex trafficking offender has recorded their pay-per-view session and to include

²⁸¹ Evidence, Ms Randle, 11 August 2017, p 10.

²⁸² Evidence, Ms Randle, 11 August 2017, p 10.

²⁸³ Evidence, Ms Randle, 11 August 2017, p 10.

²⁸⁴ Supplementary Submission 9a, Anti-Slavery Australia, p 7.

aggravating factors that heighten the severity of the offence, including offences involving a child under 10 years of age. We also recommend that New South Wales adopts similar offences to Victoria and Queensland in relation to the administration of a child exploitation website and assisting a perpetrator from avoiding capture or prosecution.

3.92 Further, we believe that the Australian Government should consider extending its proposed reforms that would force companies such as Google and Facebook to decrypt messages between terrorism suspects to include the area of child cybersex trafficking.²⁸⁵

3.93 In addition, the committee recommends that the NSW Government amend its information and communications technology use policy to specifically prohibit the viewing of child exploitation material and incorporate clear guidelines of what to do if this material is discovered. We also recommend that this policy be provided to New South Wales businesses as a best practice policy template.

Recommendation 22

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to amend the *Criminal Code Act 1995* (Cth) to:

- introduce a new, specific offence for child cybersex trafficking
- increase maximum sentences for child cybersex crimes, particularly for crimes against children under 10 years of age
- clarify the obligations of internet service providers at section 474 of the Act.

Recommendation 23

That the NSW Government amend division 15A of the *Crimes Act 1900* (NSW) to include:

- an evidentiary provision equivalent to s 474.28 of the *Criminal Code Act 1995* (Cth) to make it easier to prosecute cases where a child cybersex trafficking offender has recorded their pay-per-view session
- aggravating factors that heighten the severity of the offence, including the offence taking place in the presence of another person and offences involving a child under 10 years of age
- an offence for administering or encouraging the use of an online child exploitation material website
- an offence for providing information to a person that is likely to assist them in avoiding capture or prosecution for committing such an offence.

Recommendation 24

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to consider forcing companies such as Facebook and Google to decrypt messages by suspected child cybersex traffickers.

²⁸⁵ Tom Minear, 'Facebook, Google to hand over encrypted data about terror suspects under new laws', *Herald Sun*, 13 July 2017; Rachel Baxendale, 'Laws could force companies to unlock encrypted messages of terrorist', *The Australian*, 14 July 2017.

Recommendation 25

That the NSW Government:

- amend its information and communications technology use policy to specifically prohibit the viewing of child exploitation material and incorporate clear guidelines of what to do if this material is discovered
 - provide the amended policy to businesses as a best practice template.
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Chapter 4 Combating forced marriage

Early enforced marriage is a distinct opportunity in which New South Wales can play a key role in intervening in the trafficking and slavery framework. ... It involves a marriage that is entered into without free and full consent. It is also an area that presents a new demographic of trafficking in Australia. Australia previously has been understood as a destination country but what we see in the dynamic of early enforced marriage is residents and citizens of Australia being taken overseas for the purpose of entering into a marriage.²⁸⁶

This chapter will consider combating forced marriage, and in particular underage forced marriage, as New South Wales has a direct responsibility for responding to this through the child protection framework operated by the Department of Family and Community Services.

Forced marriage and underage forced marriage

- 4.1** Forced marriage is predominantly a Commonwealth responsibility²⁸⁷ and was recently criminalised in 2013 as an offence under the *Criminal Code Act 1995* (Cth). Since then Australian Federal Police investigations have steadily risen from 11, to 33 and then to 69 in the financial years 2013/14 to 2015/16 (See Table 1). This meant that in 2015/16 forced marriage accounted for 40 per cent of all trafficking cases investigated by the Australian Federal Police. The Australian Attorney-General's Department did not necessarily think this was due to an increase in the crime, but rather that there is a growing awareness of this new offence.²⁸⁸
- 4.2** Forced marriage concerns a marriage entered into without the full and free consent of one or both parties, as a result of threats, deception or coercion.²⁸⁹ This differs from arranged marriages which are entered into with the full consent of both parties. Many instances of forced marriage involve children and young people under the age of 18. In Australia a person must be 18 years old in order to marry, although a 16 or 17 year old may marry if a Judge or magistrate deems there are exceptional and unusual circumstances to justify this.²⁹⁰
- 4.3** Underage forced marriage can refer to either a planned or actual forced marriage. The main method involves taking a child or young person overseas for the marriage ceremony.²⁹¹

²⁸⁶ Evidence, Ms Laura Vidal, National Projects Coordinator, The Salvation Army, 15 June 2017, pp 21.

²⁸⁷ Submission 28, NSW Government, p 2.

²⁸⁸ Evidence, Ms Catherine Hawkins, First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department, 29 May 2017, p 8.

²⁸⁹ Submission 28, NSW Government, p 8.

²⁹⁰ *Marriage Act 1961* (Cth), ss 11-12.

²⁹¹ Submission 28, NSW Government, p 4.

Case study: Survivor of underage forced marriage*

For me, it started when I was 14 years old. That is when the talk of the forced marriage began. It is not something that happens overnight. All my life I saw a lot of people around me go through marriages without seeing if they have a choice in the matter or not and I saw a lot of these women experience a lot of violence in their relationships.

When the talks began I did not take it seriously, but over the years up to the age of 17 it became more and more serious. In the beginning I gave it a go. I talked to him on the phone but I knew that I could not spend the rest of my life with this person. He had been brought up in a completely different environment. It was not the kind of life that I wanted to live. But there was a lot of pressure on me and I did a few things like trying to find a husband to stop the forced marriage from happening. But I eventually gave in to their pressure because they promised me that all I had to do was go and see this person overseas. But when I got there, I was married within a week.

Not having too much knowledge about my religion they sold it to me as an engagement because it was socially not acceptable for us to date. However, it was a marriage. I realised that moments before I signed the paper, and by then I just felt like it was too late. A few days after the marriage his father told me they had lied about his age. He was 10 years older. I could not imagine living a life with him. I felt fearful of standing up, of getting a divorce, but I refused to go through a bigger ceremony where we would take pictures for the visa application. Because of this I was kept overseas for four months.

Eventually we came to the conclusion that I would come back home, think about it, and then make a decision from here. But as soon as I got here I was very adamant to get a divorce and did so shortly after. All my life I have received a lot of violence from my family but during that period the violence became more frequent. I decided to leave and called for help. The police came and escorted me to my friend's home and that is where I have been living ever since.

* *In camera evidence, witness A, 15 June 2017, p 1, published by resolution of the committee on 25 September 2017.*

- 4.4** In New South Wales, the Department of Family and Community Services is the lead agency in the prevention and detection of underage forced marriage, as it is identified as a child protection issue.²⁹² The department has a statutory child protection role and responds to underage forced marriage concerns in the same way that it responds to other concerns about a child or young person. This involves assessing safety and risk and then determining what support or intervention is required.²⁹³
- 4.5** Underage forced marriage is defined in the NSW Mandatory Reporter Guide under the psychological harm and sexual abuse sections. This requires that a reporter, such as the NSW Police Force, immediately report the matter to the Child Protection Helpline for further assessment.²⁹⁴
- 4.6** The NSW Government stated that this crime is likely to be underreported and can be hidden behind other issues such as physical abuse or self-harm.²⁹⁵ Similar to other cases of trafficking discussed in the report, it is difficult to obtain an accurate picture of the severity of the problem.

²⁹² Submission 28, NSW Government, p 2.

²⁹³ Evidence, Ms Kati Anthony-Benson, Manager Client Services, Child and Family District Unit, Sydney, South East Sydney and Northern Sydney, Department of Family and Community Services, 29 May 2017, p 44.

²⁹⁴ Submission 28, NSW Government, pp 5-6.

²⁹⁵ Submission 28, NSW Government, p 6.

- 4.7** Between August 2014 and September 2016, the Department of Family and Community Services received 77 reports regarding underage forced marriage relating to 69 children through the Child Protection Helpline. The most frequent source of reports were from schools, and 99 per cent of the reports were about females with an average age of 14.8 years.²⁹⁶ Reporting to the department has remained relatively steady at around two to four reports per month over the past two years.²⁹⁷
- 4.8** Underage forced marriage occurs within many different communities and cultures in Australia.²⁹⁸ Ms Laura Vidal, National Projects Coordinator, The Salvation Army, noted that although many cases of forced marriage have been identified in the Islamic community, this is only because this particular community has received the most attention.²⁹⁹
- 4.9** Ms Kati Anthony-Benson, Manager Client Services, Child and Family District Unit, Sydney, South East Sydney and Northern Sydney, Department of Family and Community Services, explained that underage forced marriage is a sensitive and complex issue involving many factors:
- Underage forced marriage is a sensitive issue, one where there is a complex dynamic of cultural, social and economic factors. The impact on victims can include isolation from family and community, disruption to education, homelessness for those trying to escape, and economic and psychological hardship. In my experience, every case is different and requires a response that is unique to the needs of that child or young person. Responses to forced marriage should aim to minimise stigmatisation and avoid isolating children and young people who are affected by this issue.³⁰⁰
- 4.10** Ms Anthony-Benson stated that it is sometimes difficult to ascertain whether a forced marriage is taking place as some parents genuinely believe that they are doing the right thing for their children and some young people feel that marriage is an opportunity for a new life.³⁰¹
- 4.11** She provided an example of how the department responds to concerns it receives about underage forced marriage.

²⁹⁶ Submission 28, NSW Government, p 6.

²⁹⁷ Evidence, Ms Anthony-Benson, 29 May 2017, p 50.

²⁹⁸ Evidence, Ms Anthony-Benson, 29 May 2017, p 45.

²⁹⁹ Evidence, Ms Vidal, 15 June 2015, p 26.

³⁰⁰ Evidence, Ms Anthony-Benson, 29 May 2017, p 44.

³⁰¹ Evidence, Ms Anthony-Benson, 29 May 2017, p 44.

Case study: Department of Family and Community Services responding to a report of a prospective underage forced marriage*

About two years ago the department received a report about two teenage girls. There was a rumour in the school community that one of the girls who was 14 or 15 was worried that an upcoming overseas trip might involve her being forced to marry. The first thing we did was make a phone call to the Australian Federal Police. As the case was not on their radar we discussed the matter internally and assessed that the best thing to do was to attend the school and speak to the girl.

In speaking to her we drew on resources from Anti-Slavery Australia's My Blue Sky website and the learnings from the Australian Red Cross and conducted safety planning by ensuring she: cleared her Internet browser history at home; had relevant contact numbers if she has concerns while she is in Australia; and knew what to do if she is at the airport and felt that something was not right, or if she was overseas and found out that plans were being made for her to marry.

The caseworkers then talked to her parents (after getting the ok from the girl) and discussed the legalities of marriage in Australia, provided education and conducted safety planning. The parents informed the caseworkers they had no intention of forcing their daughter to marry. Consequently the family went on the overseas holiday and the girl came back with no concerns.

**Evidence, Ms Anthony-Benson, 29 May 2017, pp 47-48.*

A coordinated response and support for victims

- 4.12** The NSW Government stated that one of the main difficulties in combating underage forced marriage and supporting its victims is coordinating the range of organisations involved across state and federal jurisdictions,³⁰² including the Australian Federal Police, the Family Law Court National Enquiry Centre, Legal Aid NSW, NSW Police Force, the Department of Family and Community Services, the Department of Education and non-government organisations such as the Australian Red Cross and The Salvation Army.³⁰³
- 4.13** To assist with this issue, a joint New South Wales and Commonwealth Working Group was established to:
- foster communication and information sharing
 - work on the development on a consistent definition
 - develop protocols to prevent forced marriage
 - identify service gaps and initiate projects to support people impacted by underage forced marriage.³⁰⁴
- 4.14** The Salvation Army considered the current framework ineffective due to the lack of mandated state and federal government coordination. It argued that the various front-line responders such as state police, schools and health care providers are still largely unaware of the framework in place and do not have accessible resources and mechanisms to provide

³⁰² Submission 28, NSW Government, p 6.

³⁰³ Submission 28, NSW Government, p 5.

³⁰⁴ Submission 28, NSW Government, p 7.

support.³⁰⁵ The Salvation Army also thought that the current approach places an excess burden on the individual to initiate the process to seek help. It advocated for a more streamlined and accessible response protocol that involves state and federal government agencies as well as the community.³⁰⁶

4.15 Red Cross Australia also called for a more integrated response to forced marriage which includes:

- a deeper and shared understanding of the risks faced by children and young people at risk of forced marriage, including the risks of staying and returning home
- ongoing and responsive collaboration between agencies and organisations, supported by protocols, information sharing arrangements, regular meetings and a review process
- involvement of non-government organisations with experience supporting children affected by trafficking and forced marriage in the development of protocols.³⁰⁷

4.16 Further, The Salvation Army stated that there remain substantial barriers for many victims to access basic support. Outside of the Federal Government’s Support for Trafficked People program (discussed in detail in chapter 5) there are no funded services for comprehensive, face-to-face support for individuals. It stated that this failure may lead to ‘a range of severe and long lasting impacts, including forced and early pregnancy, physical and psychological violence, decreased access to education and employment opportunities, financial dependence and in some cases forced labour’.³⁰⁸

4.17 In addition, The Salvation Army stated that the provisions for accommodation and support under the Support for Trafficked People program are generally not appropriate for victims of underage forced marriage, as they do not provide the necessary safety and support.³⁰⁹ These individuals need time to rebuild their life following, in many cases, total separation from their families and communities.³¹⁰

4.18 The Salvation Army called on the NSW Government to commit resources for accommodation for young people at risk of, or experiencing forced marriage, regardless of their capacity or willingness to engage with the criminal justice process.³¹¹ Red Cross Australia also called for a review of the capacity of youth housing services to meet the needs of these victims.³¹² Similarly, Josephite Counter-Trafficking Project stated that minors who have been in forced marriages require culturally appropriate accommodation in the youth housing sector as these young clients have had limited personal freedom and often do not have independent living skills.³¹³

³⁰⁵ Submission 16, The Salvation Army, p 30.

³⁰⁶ Submission 16, The Salvation Army, p 30.

³⁰⁷ Submission 25, Red Cross Australia, pp 6-7.

³⁰⁸ Submission 16, The Salvation Army, p 30.

³⁰⁹ Evidence, Ms Vidal, 15 June 2017, p 21.

³¹⁰ Submission 16, The Salvation Army, p 30.

³¹¹ Submission 16, The Salvation Army, p 31.

³¹² Submission 25, Red Cross Australia, p 6.

³¹³ Submission 3, Josephite Counter-Trafficking Project, pp 3 and 8-9.

4.19 A survivor of underage forced marriage supported The Salvation Army's recommendation and called for more places like 'slavery safe houses' to be provided:

To place an individual who has never been alone who was brought up in a very family and community orientated environment, and who has just made the biggest decision of their life, in a hotel room on the first night alone just does not work. A lot of individuals feel an overwhelming sense of loneliness, confusion and fear so they go back into the same abusive environment and face horrible retaliation by their family. We are in urgent need of accommodation services that cater holistically to the needs of these individuals' accommodation which is trauma informed, culturally sensitive and socially inclusive as it is vital in assisting victims of forced marriage. ...

One of the biggest reasons why people do not seek help is because they know that they really will not have anywhere to go to. ... We do have a focus on accommodation services but there is just not enough. There needs to be more places like the slavery safe house where there are women who are going through the same issues and who have had similar experiences so there is an understanding and an environment where people can essentially thrive. ... I would not feel safe living in a home with someone else who is addicted to drugs because that may reinforce further trauma. I think there has been some improvement and more focus on it but I definitely think there needs to be more.³¹⁴

4.20 Ms Laura Vidal, National Projects Coordinator, The Salvation Army, was of the view that underage forced marriage should be incorporated into the family violence criminal framework in New South Wales.³¹⁵ She explained that underage forced marriage intersects with various other complex social issues, including family violence, child protection and homelessness; which are all issues that New South Wales have clear, strong and coordinated responses to.³¹⁶

4.21 In addition, she considered that inadequate responses to victims by the NSW Police Force is symptomatic of the problem that underage forced marriage is not directly addressed by state criminal legislation:

We have raised that concern with our Federal Police colleagues who are seeking to engage with that particular local area command around their capacity building. But I think it speaks to that larger picture of it is not in their mandate, it is not written into local or state legislation, so identifying it for what it is and ensuring the appropriate response flows on is problematic in that regard. What we would like to see recommended, is for the crime to be incorporated into the family violence framework.³¹⁷

³¹⁴ *In camera* evidence, Witness A, 15 June 2017, pp 3-4, published by resolution of the committee on 25 September 2017.

³¹⁵ Evidence, Ms Vidal, 15 June 2017, pp 23-24.

³¹⁶ Evidence, Ms Vidal, 15 June 2017, p 21.

³¹⁷ Evidence, Ms Vidal, 15 June 2017, pp 23-24.

4.22 Ms Vidal provided two examples which illustrate that first responders in New South Wales are currently not equipped to effectively respond to individuals at risk of underage forced marriage:

... one young person learning of her parents' intentions to force her into a marriage. She left home with nowhere to go. She got on the bus after school and just kept going until the end of that bus line. It was her hope to be able to find a local police station to seek safety and support, but she was not able to do that. She had lived in a very closed environment and was not able to find that, so she bravely knocked on the door of a stranger and asked them to help her find NSW Police. When she did that, she was taken to NSW Police, who were not able to help her that evening. They returned her to that stranger's place to spend the night before the Australian Federal Police were able to respond the following day.

... a young person disclosed to her school that her family was arranging a marriage for her before she turned 18. She was clear that she did not want this marriage and had made that known to her family. The prospective husband had arranged to pay a significant dowry and her family exercised control through physical and psychological violence. Upon our first meeting with this young person, she was unprepared to make a decision about engaging with law enforcement, so a mandatory report was made to the Department of Family and Community Services. The department did not ever engage with this young person. Further, when her circumstances changed and we assessed her risk to be increased, we made a follow-up mandatory report and received a letter that stated that the report did not meet a risk of significant harm threshold.³¹⁸

4.23 Further, under the current framework, individuals are required to engage with federal law enforcement in order to access support. The Salvation Army considered that intervention should be led from a child rights framework, rather than being led by a law enforcement agenda.³¹⁹

4.24 Anti-Slavery Australia considered whether the introduction of a specific New South Wales offence for underage forced marriage would be beneficial in raising the profile and deterring this practice and providing an advocacy tool to strengthen community responses against forced marriage. It concluded that a new offence would not address the underreporting and under-prosecution of this crime. Anti-Slavery Australia noted that New South Wales authorities already have the power to investigate and prosecute Commonwealth criminal offences³²⁰ and the Australian Federal Police has reported 'that the major barrier to prosecution of underage forced marriage is the reluctance of young victims of forced marriage to provide evidence against family members'.³²¹

4.25 A survivor of underage forced marriage informed the committee that her focus was not on prosecuting her family, but the need for better support:

Having more of a focus on support services and training the individuals who are at the front-line would have helped a lot. I knew that I did not want it and I knew I had to seek help and the individuals or the organisations, the parties that I went to, they were

³¹⁸ Evidence, Ms Vidal, 15 June 2017, p 21.

³¹⁹ Evidence, Ms Vidal, 15 June 2017, p 21.

³²⁰ *Judiciary Act 1903* (Cth)

³²¹ Further answers to questions on notice, Anti-Slavery Australia, 19 September 2017, p 1.

not able to assist me. ... I felt like I was very alone in the whole process. Even when I moved out of home ... I had to do everything all by myself.³²²

4.26 While Anti-Slavery Australia supported the criminal justice response to forced marriage, it stated there are significant gaps in the protection framework for those facing forced marriage in Australia and overseas.³²³ Criminalisation, while important, does not address the causes of forced marriage, or assist people facing forced marriage. Anti-Slavery Australia, therefore, advocated for the introduction of a civil protective framework in New South Wales to address gaps in victim support and protection for the following reasons:

- criminal charges are reactive and must be proven beyond reasonable doubt. Whereas civil remedies such as protection orders could be made in situations which satisfy the civil standard of proof (the balance of probability)
- people facing forced marriage may be reluctant to give evidence to the police. This may be due to trauma they have experienced or they may not wish to provide evidence against family members.³²⁴

4.27 Anti-Slavery Australia noted there are two relevant personal violence orders available in New South Wales: Apprehended Personal Violence Orders; and Apprehended Domestic Violence Orders. While there is potential for an AVO to provide some protection to adults facing forced marriage, they are ill-suited because conduct which often causes forced marriages is complex and not necessarily addressed by the requirements in place for an AVO. For example, AVOs do not address overseas conduct, only the police or potential victim may apply for such orders and a 'personal violence offence' does not include the offence of forced marriage.³²⁵

4.28 Anti-Slavery Australia recommended that the NSW Government adapt the AVO framework to expand the definition of personal violence offences to capture the crime of forced marriage and expand the powers of the court to make an order regarding the forfeiture of a passport to ensure that a potential victim is not taken overseas and forced to marry.³²⁶ Alternatively, Anti-Slavery Australia considered that forced marriage protection orders, similar to the United Kingdom model, could be introduced.³²⁷

4.29 In Australia when a child or young person is at risk of being taken overseas to be forcibly married, the Australian Federal Circuit Court can:

- make orders to ensure that a child cannot be taken overseas for this purpose and is able to prevent a passport being issued

³²² *In camera* evidence, Witness A, 15 June 2017, pp 6-7, published by resolution of the committee on 25 September 2017.

³²³ Submission 9, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney, p 18.

³²⁴ Submission 9, Anti-Slavery Australia, p 18.

³²⁵ Answers to questions on notice, Anti-Slavery Australia, 30 March 2017, pp 6-7.

³²⁶ Answers to questions on notice, Anti-Slavery Australia, 30 March 2017, p 9.

³²⁷ Submission 9, Anti-Slavery Australia, pp 18-19; Evidence, Professor Jennifer Burn, Director, Anti-Slavery Australia, 6 March 2017, p 39.

- request the surrender of the child or accompanying adult's passport and prevent the removal of a child from Australia and place the child's name on the Airport Watch List.³²⁸

4.30 Under the United Kingdom model, forced marriage protection orders, airport watch list orders and court ordered intervention can apply to for people over 18 years of age.³²⁹ They are similar to a domestic violence protection order and can allow a Federal Court order to stop a person from travelling, regardless of age.³³⁰

4.31 Ms Vidal was in favour of these orders and stated that they recognise that 'when you turn 18 something magic does not just happen, you are still very much vulnerable and often very influenced and pressured by the other family or community structures'.³³¹ Forced marriage protection orders enable those at risk to make an application for a wide-ranging protective order including the surrender of passports. Applications can be made by the person at risk, a relevant third party or any other person with the leave of the court.³³²

4.32 Ms Vidal noted that currently if a person is on an Australian Federal Police airport alert system and they are over the age of 18, there is nothing legally stopping them from leaving the country:

They can be alerted at the airport. They can ask you do you want to travel. And at that point—while your family is all there waiting to board a plane—what do you say? Those orders actually seek to put a full travel restriction in place, which is what we see as a primary benefit of that order at this point in time. The other provisions mirror other family violence order provisions which all have great benefit as well.³³³

4.33 The Salvation Army also noted that the United Kingdom has a dedicated forced marriage unit. It considered that a specific child protection response in relation to underage forced marriage should be implemented in Australia as many victims of forced marriage are close to becoming an adult and might not be prioritised over cases involving much younger children:

Overall the child protection system in Australia has a very specific framework which was designed for a very different demographic of young people. The young people that we see are generally almost ageing out of the child protection framework, so they might be over the age of 16 and there is a great deal of hesitation to remove a person over the age of 16 from their family. The other challenge is departmental resources. The priority given to a 17-year-old over somebody under five when there is such a volume of reporting to the department becomes problematic. What we would see to be an effective method of intervention is that there is a specialised child protection response in relation to early and forced marriage.³³⁴

³²⁸ Submission 28, NSW Government, p 5.

³²⁹ Submission 16, The Salvation Army, p 31.

³³⁰ Evidence, Ms Vidal, 15 June 2017, p 24.

³³¹ Evidence, Ms Vidal, 15 June 2017, p 24.

³³² Submission 9, Anti-Slavery Australia, pp 18-19.

³³³ Evidence, Ms Vidal, 15 June 2017, p 24.

³³⁴ Evidence, Ms Vidal, 15 June 2017, pp 24-25.

- 4.34** Anti-Slavery Australia confirmed that in the United Kingdom in 2016, the forced marriage unit gave advice or support regarding a possible forced marriage in 1,428 cases. Just over a third of these cases involved victims aged from 18 to 25 years old.³³⁵
- 4.35** Red Cross Australia similarly called for a review of existing civil protection measures, including the current criteria for obtaining Apprehensive Domestic Violence Orders to ensure adequate provisions for people subjected to or at risk of forced marriage.³³⁶ It also contended that research and a pilot be conducted to investigate alternative early family intervention and family reintegration models that address the particular risks and needs of young people relating to forced marriage.³³⁷
- 4.36** Further, Anti-Slavery Australia noted that the *Children and Young Persons (Care and Protection) Act 1998* (NSW) could also be amended ‘to ensure law enforcement and the Department of Family and Community Services have the power to adequately protect children and young people at risk of forced marriage’.³³⁸

Education and awareness programs

- 4.37** Inquiry participants noted the range of education and community awareness programs currently being provided regarding forced marriage, but considered that much more needed to be done to assist front-line workers, such as teachers, and to establish nuanced programs for communities.
- 4.38** Anti-Slavery Australia indicated that the Commonwealth Government has provided funding to non-government organisations to deliver targeted education regarding forced marriage:
- funding to Anti-Slavery Australia to develop My Blue Sky website, Australia’s first comprehensive online resource dedicated to preventing and addressing forced marriage
 - funding to Australian Catholic Religious Against Trafficking in Humans to develop materials such as the ‘My Rights- My Future’ Forced Marriage teaching kit, which aims to deliver targeted education to high school students about forced marriage
 - funding to Australian Muslim Women’s Centre for Human Rights to deliver community education and training programmes to increase the capacity of frontline organisations in vulnerable communities.³³⁹
- 4.39** My Blue Sky is Australia’s first website dedicated to forced marriage prevention, information and legal advice. Since its launch, the website has attracted over 24,000 page views and more than 7,000 users have accessed the website from 106 countries around the world.³⁴⁰

³³⁵ Answers to questions on notice, Anti-Slavery Australia, 30 March 2017, p 5.

³³⁶ Submission 25, Red Cross Australia, p 6.

³³⁷ Submission 25, Red Cross Australia, p 6.

³³⁸ Further answers to questions on notice, Anti-Slavery Australia, 19 September 2017, p 1.

³³⁹ Submission 9, Anti-Slavery Australia, p 20.

³⁴⁰ Submission 9, Anti-Slavery Australia, p 1.

- 4.40** The National Roundtable on Human Trafficking and Slavery has also published a guide titled ‘Information about forced marriage for agencies, community organisations and service providers’ which includes a section on prevention and assistance. Ms Hawkins stated that this provides a list of indicators for people in the community to look out for, including that:
- their older brothers or sisters stop going to school or were married early
 - their family has a lot of control over their life that does not seem normal or necessary
 - they start to display signs of depression, self-harm, social isolation, substance abuse
 - they are scared or nervous about an upcoming family holiday overseas.³⁴¹
- 4.41** In 2014, the Department of Family and Community Services undertook a review of child protection reports of underage forced marriage. One of the recommendations was to develop training and resources to support the department and non-government organisation staff. In 2016, the department held four early and forced marriage masterclasses and in 2015, the Office of Women funded a community awareness campaign titled ‘Child not bride’ to increase awareness of the illegality and the harmful effects of underage forced marriage.³⁴²
- 4.42** Ms Anthony-Benson noted that as the education department was the primary reporter of potential underage forced marriage, ‘it is vital that they have the educational resources to help them understand some of the early warning signs and to know how to best respond’.³⁴³ Professor Jennifer Burn, Director, Anti-Slavery Australia, noted that increasing awareness to frontline service providers and members of the community is absolutely critical.³⁴⁴ Anti-Slavery Australia therefore recommended that the NSW Government develop a targeted education and awareness program, in consultation with communities and key stakeholders, to be provided in primary and high schools.³⁴⁵
- 4.43** A survivor of underage forced marriage explained why there is a need to raise more awareness in high schools:

My second recommendation is a significant need for raising awareness in high schools. Young individuals who are in their last years of high school are at most risk of forced marriage. One reason that this occurs is that from the perspective of some parents they have a sense of fear and apprehension of their children coming of age and forming relationships with individuals of whom they may not approve. So choosing a partner for their child will eliminate any chance of dishonour and shame on the family. ... A lot of young people do not even know what a forced marriage is, how it can occur and, most importantly, what to do if it happens to them or their friends. Going into schools and having informative discussions is vital.³⁴⁶

³⁴¹ Evidence, Ms Hawkins, 29 May 2017, p 9.

³⁴² Submission 28, NSW Government, pp 6-7.

³⁴³ Evidence, Ms Anthony-Benson, 29 May 2017, p 45.

³⁴⁴ Evidence, Professor Burn, 6 March 2017, p 38.

³⁴⁵ Submission 9, Anti-Slavery Australia, p 21.

³⁴⁶ *In camera* evidence, Witness A, 15 June 2017, pp 3-4, published by resolution of the committee on 25 September 2017.

- 4.44** Anti-Slavery Australia also viewed the intersectionality between domestic violence, violence against women and slavery-like practices and suggested that research should be conducted to consider an integration of education programmes. It noted that New South Wales has successfully integrated respectful relationship education within the Personal Development, Health and Physical Education syllabus.³⁴⁷
- 4.45** Further, it considered that a comprehensive awareness program should be conducted that targets working with communities that may be vulnerable to this kind of exploitation. There is a need for a nuanced approach in the framing of these programs, as reaching communities can be difficult and it needs to be done in a thoughtful and effective way.³⁴⁸
- 4.46** Ms Anthony-Benson agreed that there needs to be greater emphasis on culturally appropriate services for potential victims, education on the issue and enhancement of the community's role to prevent it from occurring. Education should be at a grassroots level and conducted with communities so they understand the legal framework and why children should not be married.³⁴⁹

Committee comment

- 4.47** Forcibly marrying children and young people is a reprehensible act that does not belong in the 21st century. The committee commends the Australian Government for criminalising forced marriage and also commends the Department of Family and Community Services for its work in supporting victims. A lot has been achieved in the short amount of time that forced marriage has been criminalised. However, the evidence received by the committee shows that much more work is required.
- 4.48** First, more coordination is required between levels of government, between NSW Government agencies and between the government and non-government sector. This should be incorporated into the state human trafficking strategy outlined in recommendation 4. In addition, a New South Wales independent anti-slavery commissioner (see recommendation 5) could play a role in coordinating this response, or instead a Forced Marriage Unit could be established in the Department of Family and Community Services, similar to the United Kingdom model.
- 4.49** The committee supports the views of inquiry participants that underage forced marriage should be incorporated within the family violence criminal framework in New South Wales. We also consider that as underage forced marriage is such a serious crime, it should be criminalised in New South Wales. This will assist front-line officials such as the NSW Police Force in understanding the seriousness of this issue and how they should be responding to victims.
- 4.50** The committee notes the evidence regarding forced marriage protection orders issued in the United Kingdom to assist victims over the age of 18 from exiting the country. We also note the evidence regarding amending the current AVO system to incorporate forced marriage. As the committee can see merit in both approaches we recommend that the NSW Government

³⁴⁷ Submission 9, Anti-Slavery Australia, p 21.

³⁴⁸ Evidence, Professor Burn, 6 March 2017, p 35.

³⁴⁹ Evidence, Ms Anthony-Benson, 29 May 2017, pp 44-45.

establish either forced marriage protection orders or incorporate specific forced marriage provisions into the existing framework. Changes could also be made to the *Children and Young Persons (Care and Protection) Act 1998* (NSW) to include forced marriage within the definitions of ‘serious harm’ and ‘significant harm’ and as grounds for a Care Order.

- 4.51** The committee also notes that while the criminal framework is important, the wellbeing of survivors of forced marriage is vital. For this reason, the committee recommends that the Department of Family and Community Services develop a specific strategy to assist victims of underage forced marriage to get back on their feet once they have sought help, including the provision of appropriate accommodation. Access to this support system should not be reliant on a victim being involved in the criminal justice process.
- 4.52** As addressed in chapter 2, education and awareness campaigns are vital in informing front-line government and non-government officials as well as the community. The committee commends recommendations 13 and 14 to the NSW Government, noting that general training and awareness campaigns should specifically include education relating to forced marriage. In particular, we recommend that forced marriage be included in respectful relationship education within the Personal Development, Health and Physical Education syllabus in high schools and consider including A21’s *Bodies Are Not Commodities* program as part of this syllabus.³⁵⁰

Recommendation 26

That the NSW Government criminalise underage forced marriage.

Recommendation 27

That the NSW Government either establish forced marriage protection orders or incorporate specific forced marriage provisions into the existing apprehended violence order framework.

Recommendation 28

That the Department of Family and Community Services develop a specific support system to assist victims of underage forced marriage, including the provision of appropriate accommodation, and ensuring access to this support system is not reliant on a victim being involved in the criminal justice process.

Recommendation 29

That the NSW Department of Education include forced marriage in respectful relationship education within the Personal Development, Health and Physical Education syllabus in high schools, and consider including A21’s *Bodies Are Not Commodities* program as part of this syllabus.

³⁵⁰ A21, *Bodies Are Not Commodities*, <http://www.a21.org/content/banc/go2vpc>.

Chapter 5 Support for victims of human trafficking

This chapter focuses on supporting victims of human trafficking. It considers the introduction of a national, independently operated hotline to encourage victims to come forward and also discusses the most effective measures to provide support to victims once they are identified, including the provision of compensation.

Identifying and supporting victims

- 5.1** The Australian Federal Police work closely with state counterparts in initiating a first response when victims of human trafficking come forward.³⁵¹ However, government and non-government stakeholders noted that victims often do not seek help as they may have a distrust of law enforcement and are not comfortable talking to the police.³⁵²
- 5.2** For example, the 2013 inquiry by Multicultural NSW found that the NSW Police Force encountered problems encouraging victims and witnesses to come forward with information, largely due to a cultural mistrust of government and law enforcements, agencies, fear of being deported as ‘illegal migrants’, as well as threats by the people who trafficked them.³⁵³
- 5.3** In addition, a 2014 Australian Institute of Criminology report found that key factors preventing trafficked women from seeking help included lack of trust in police and other authorities and lack of an effective response when the victim initially sought help.³⁵⁴

Calls for an independently operated hotline

- 5.4** There is currently no specific human trafficking national hotline to report cases of trafficking, slavery or forced marriage. Victims and witnesses are primarily encouraged to call the Australian Federal Police or instead may either call Crime Stoppers or access the My Blue Sky website if the offence is related to forced marriage.³⁵⁵
- 5.5** A number of inquiry participants advocated for the establishment of a national, non-law enforcement administered hotline, such as the US National Human Trafficking Hotline ‘Polaris’.³⁵⁶ A21 noted that in the US, hotlines are one of the most effective ways to use technology to combat human trafficking and stated that a non-law enforcement administered hotline would:
- reduce pressure on law enforcement

³⁵¹ Evidence, Superintendent Lesa Gale, Manager, Victim Based Crime, Australian Federal Police, 29 May 2017, p 5.

³⁵² Submission 16, The Salvation Army, p 33; Evidence, Ms Catherine Hawkins, First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department, 29 May 2017, p 6.

³⁵³ Submission 18, The Law Society of New South Wales, p 4.

³⁵⁴ Submission 16, The Salvation Army, p 11.

³⁵⁵ Evidence, Ms Hawkins, 29 May 2017, p 9.

³⁵⁶ Submission 3, Josephite Counter-Trafficking Project, p 9; Submission 7, A21, p 4; Submission 16, The Salvation Army, p 38.

- implement a streamlined reporting process
- reduce trafficked victims' fear and distrust.³⁵⁷

5.6 Ms Laura Vidal, National Projects Coordinator, The Salvation Army, agreed that a national hotline for victims of trafficking and slavery is required. The hotline should be contracted out to a non-government organisation to ensure victims are able to seek safe and confidential advice and support. A non-government hotline could maintain independence and then engage with authorities as necessary.³⁵⁸

5.7 The Salvation Army noted that while hotlines such as 1800RESPECT are now widely advertised in forced marriage materials, there remains no independent hotline for victims of other forms of trafficking or slavery. It stated that evidence from the United States, United Kingdom and Southeast Asia demonstrated the positive impact of hotlines in reporting potential trafficking cases, improving understanding of trafficking and in capturing important data about trafficking trends. For example, since December 2007, the United States national hotline has received 72,000 calls, connected 8,300 survivors to services and support, and reported 3,000 cases to law enforcement. It operates 24 hours a day, and partners with service providers and community-based organisations.³⁵⁹

5.8 Further, The Salvation Army indicated that a hotline service in Australia could be connected to the new Global Human Trafficking Hotline Network which aims to build an alliance of anti-trafficking hotlines that will expand the safety net for survivors and develop a coordinated global response. The Salvation Army reported that this alliance also aims to adopt a data-driven approach that identifies human trafficking trends and informs eradication, prevention, and victim protection strategies. It noted that because a lack of data is such a key problem for Australia, a national hotline would greatly inform a national picture of this crime.³⁶⁰

5.9 A survivor of underage forced marriage explained why she supported the introduction of a hotline:

I think having a dedicated hotline would be helpful. The first thing with an individual who wants to seek help is that they want to do it anonymously. They are very fearful of their families getting in trouble. They feel if someone identifies me they would have to make a mandatory report, which they feel like it would put them and their family at risk.³⁶¹

5.10 While remaining open to the idea, Professor Jennifer Burn, Director, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney, was not convinced that a specific hotline on trafficking would be an effective use of resources. She explained that there would be issues around training people to take calls, teaching about civil and criminal responses and ensuring

³⁵⁷ Submission 7, A21, pp 4-5.

³⁵⁸ Submission 16, The Salvation Army, p 38; Evidence, Ms Laura Vidal, National Projects Coordinator, The Salvation Army, 15 June 2017, p 28.

³⁵⁹ Submission 16, The Salvation Army, pp 34-35.

³⁶⁰ Submission 16, The Salvation Army, p 35.

³⁶¹ *In camera* evidence, Witness A, 15 June 2017, p 8, published by resolution of the committee on 25 September 2017.

that there is an effective and appropriate response to the caller. Professor Burn stated that a more concentrated focus on front-line service providers would likely be more effective.³⁶²

5.11 Detective Superintendent Linda Howlett, Commander, State Crime Command Sex Crimes Squad, NSW Police Force, noted that in New South Wales the hotline ‘Crime Stoppers’ is available, which operates in many languages other than English. Once a call is received, Crime Stoppers will either forward it to the local area command or, if appropriate, to the State Crime Command Sex Crimes Squad.³⁶³

5.12 Detective Superintendent Howlett was in favour of the single Crime Stoppers hotline and stated that setting up many individual hotlines would become confusing for people:

I think one central number is best so that people can report and then that information is passed on to the appropriate authorities. I think if you establish too many hotlines, people are going to think, ‘Do I ring this hotline for domestic violence? What about if it’s a combination of drugs, prostitution and trafficking—who do I ring?’. There is some confusion.³⁶⁴

Support for Trafficked People Program and visa framework

5.13 Once victims are identified they are referred to the Australian Federal Police for assessment and entry to the Support for Trafficked People Program. To be eligible for the program, a trafficked person must be an Australian citizen or hold a valid visa. If a valid visa is not held then a bridging visa may be granted as follows:³⁶⁵

- **Bridging visa F:** a human trafficking victim may be eligible for a bridging visa F for up to 45 days for an initial period of rest and recovery. There is also an option to grant a second visa for a further 45 days for additional rest and recovery and this visa can be granted to immediate family members in Australia. If a trafficked person is required to remain in Australia to assist with an investigation or prosecution, a longer-term bridging visa can be granted for the duration of the criminal justice process. These visa holders are permitted to work, and may depart Australia and re-enter, provided they are still required to assist with the criminal justice process. Prior to 2015, trafficked people participating in the criminal justice process were generally granted Criminal Justice Stay visas.
- **Referred Stay (Permanent) visa:** a trafficked person may be eligible if they have made a contribution to, and cooperated closely with, an investigation into a human trafficking offence and would be in danger if returned to their home country. This visa allows the holder and immediate family members to remain in Australia permanently. Prior to July 2015, this visa was titled the Witness Protection (Trafficking) (Permanent) visa.³⁶⁶

³⁶² Evidence, Professor Jennifer Burn, Director, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney, 6 March 2017, p 36.

³⁶³ Evidence, Detective Superintendent Linda Howlett, State Crime Command, Sex Crimes Squad, NSW Police Force, 6 March 2017, pp 11-12.

³⁶⁴ Evidence, Detective Superintendent Howlett, 6 March 2017, p 11.

³⁶⁵ Interdepartmental Committee on Human Trafficking and Slavery, Trafficking in persons, The Australian Government Response, 1 July 2015 – 30 June 2016, p 39.

³⁶⁶ Submission 23, Australian Government pp 11-12.

- 5.14** Under the Support for Trafficked People Program, there are four streams of support:
- assessment and intensive support is provided to trafficked people for 45 days
 - extended intensive support is provided for a further 45 days if the trafficked person is willing, but not yet able to assist with criminal justice processes due to factors such as trauma or ill health³⁶⁷
 - justice support is provided to trafficked people who assist with criminal justice processes for the duration of the investigation and/or prosecution
 - temporary trial support is provided to trafficked people who give evidence concerning a human trafficking or slavery-related prosecution.³⁶⁸
- 5.15** The support program is funded by the Commonwealth Department of Social Services and has been delivered by the Australian Red Cross since 2009. It assists trafficked people in meeting their safety, security, health and well-being needs, and to develop options for life after they leave the support program.³⁶⁹ Ms Catherine Hawkins, First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department, explained that the idea of the program is to provide 'wraparound services' which are designed to reduce the huge barriers that victims face.³⁷⁰
- 5.16** The Australian Red Cross stated that in the time it had been offering the support program, people from a range of circumstances, including the sex and hospitality industries, domestic servitude in private households, and, increasingly, people in, or at risk of, forced marriage, had been provided with support. Almost half of the 245 clients supported by the Australian Red Cross were living in New South Wales.³⁷¹

Concerns with the current approach

- 5.17** Inquiry participants raised concerns that the current is not effective enough and does not take into account the unique problems faced by victims of trafficking.
- 5.18** Anti-Slavery Australia described the services and understanding that victims of trafficking require:

Survivors of human trafficking and slavery may have experienced physical, psychological abuse and/or sexual assault. Survivors' short and long term needs may include, interpreters, housing, food, clothing, medical care, legal and immigration advice, safety planning, assistance in finding employment and information about legal

³⁶⁷ Evidence, Ms Flora Carapellucci, Principal Advisor, Families Group, Commonwealth Department of Social Services, 29 May 2017, p 6.

³⁶⁸ Tabled document, Interdepartmental Committee on Human Trafficking and Slavery, *Trafficking in Persons: The Australian Government Response, 1 July 2015 – 30 June 2016*, pp 32-33.

³⁶⁹ Submission 25, Australian Red Cross, pp 4-5; Australian Government, Department of Social Services, *Support for Trafficked People Program* (11 November 2016), <https://www.dss.gov.au/women/programs-services/reducing-violence/anti-people-trafficking-strategy/support-for-trafficked-people-program>.

³⁷⁰ Evidence, Ms Hawkins, 29 May 2017, p 7.

³⁷¹ Submission 25, Australian Red Cross, p 5.

rights such as compensation and financial assistance. It is important that officers within law enforcement and government agencies are aware of the unique needs of survivors, and the referral pathways that are in place to connect survivors to the services they require.³⁷²

5.19 The Scarlet Alliance expressed concern that accessing the support program requires a trafficked person to be willing to participate in a criminal investigation. It explained that there are many reasons why sex workers may not want to participate in criminal justice proceedings. For instance, trafficking investigations are lengthy, invasive and often do not address the needs of the trafficked person. Further, migrant workers who participate in criminal proceedings are often ‘victimised’ by increased immigration scrutiny if they want to return to Australia. As such, Scarlet Alliance argued that the current system creates significant barriers to sex workers wishing to gain support.³⁷³

5.20 Detective Superintendent Howlett of the State Crime Command Sex Crimes Squad, NSW Police Force, indicated that more services should be available to victims and described some of the difficulties law enforcement faces in getting victims to cooperate:

We have tried to get a victim to come forward to provide a statement about their activities, and then we have applied for a stay visa so they can stay in the country. The difficulty with that, for a lot of the victims, is they are isolated in a different country. ... I have dealt with victims who have been brought into the country, been forced to prostitute, they have been kicked out of the country and they have come back on another false passport because they need to continue that type of work because they need the money for their families overseas. They do not want us to house them, get them to give evidence ... because they then do not have an opportunity, often, to come back and continue the work that they are doing.³⁷⁴

5.21 The Salvation Army provided the committee with a troubling case study regarding the 2014 Carabooda market garden in Western Australia. It explained that approximately 200 foreign workers were discovered after a multi-agency operation, and although there were strong indicators trafficking had occurred, over 100 workers were found to be unlawful and were deported within 24 hours.

5.22 The Salvation Army was informed that the workers were asked if they were being held against their will. When the workers said no, the trafficking screening concluded. The Salvation Army made inquiries to the Department of Immigration and Border Protection about the case and was told that the workers said they wanted to go home. The Salvation Army argued that this was insufficient as there was a real possibility that the workers or their families were threatened with physical harm if they cooperated with authorities.³⁷⁵

5.23 The Salvation Army also stated that the Support for Trafficked People Program was not offered to the workers, they were unable to determine if child protection services were contacted for the minors, or whether the matter was referred to the Fair Work Ombudsman. In light of this case, The Salvation Army questioned whether there are adequate processes in

³⁷² Submission 9, Anti-Slavery Australia, p 16.

³⁷³ Submission 17, Scarlet Alliance, Australian Sex Workers Association, pp 3 and 6.

³⁷⁴ Evidence, Detective Superintendent Howlett, 6 March 2017, p 18.

³⁷⁵ Submission 16, The Salvation Army, p 22.

place to ensure that potential victims of trafficking are being effectively identified and supported.³⁷⁶

- 5.24** In contrast to this approach, The Salvation Army supported the United Kingdom's Reception Centre Model, which provides a safe and victim-centred alternative to screening in detention centres or police stations:

The 'Reception Centre' is a controlled environment where individuals are taken after raids for the purpose of victim identification, initial protection, needs assessment and evidence preservation. Reception Centre staff coordinate with agencies such as the Red Cross and The Salvation Army to assist victims at the earliest points of intervention to help build trust and encourage cooperation with authorities in investigation of trafficking matters.³⁷⁷

- 5.25** It recommended the adoption of the reception centre model in Australia as it may assist to build rapport with victims and incentivise cooperation with the criminal justice system.³⁷⁸ The Catholic Women's League Australia NSW similarly recommended that social service providers be present when initial interviews are conducted with potential victims and to ensure these interviews are conducted in a safe and neutral location.³⁷⁹

Victims in detention centres

- 5.26** The committee also received concerning evidence that trafficked persons had been detained in detention centres. For example, the Josephite Counter-Trafficking Project stated that it makes weekly visits to Villawood Detention Centre and met women who had been trafficked into brothels as well as people who had been trafficked into the labour force.³⁸⁰
- 5.27** The Josephite Counter-Trafficking Project stated that in August 2016, 34 Malaysians, including minors, were found working on a blueberry farm in New South Wales and were arrested and placed in Villawood Detention Centre. They were interviewed by law enforcement and elected to return to their home country. The Josephite Counter-Trafficking Project indicated that, as far as they knew, the workers had no access to independent advice, or given the option of speaking to non-government organisations who offer free legal advice. The Josephite Counter-Trafficking Project stated that they were informed that the workers were given a phone book by Australian Federal Police if they wanted to find a lawyer. It argued that this process was not acceptable.³⁸¹
- 5.28** The Salvation Army contended that sending unidentified trafficked people to immigration detention centres is a clear breach of international obligations and that deporting victims places them at risk of further denial of their rights and re-trafficking.³⁸²

³⁷⁶ Submission 16, The Salvation Army, p 23.

³⁷⁷ Submission 16, The Salvation Army, p 33.

³⁷⁸ Submission 16, The Salvation Army, p 33.

³⁷⁹ Submission 24, Catholic Women's League Australia NSW, p 5.

³⁸⁰ Submission 3, Josephite Counter-Trafficking Project, p 2.

³⁸¹ Submission 3, Josephite Counter-Trafficking Project, pp 4-5.

³⁸² Submission 16, The Salvation Army, p 20.

- 5.29** Superintendent Lesa Gale, Manager, Victim Based Crime, Australian Federal Police, stated that if a victim of human trafficking was identified by the Australian Federal Police they would not be put in detention. However, she conceded that there may be victims of human trafficking in Villawood who have not come forward.³⁸³
- 5.30** Mr Peter Richards, Acting First Assistant Secretary, Community Protection Division, Commonwealth Department of Immigration and Border Protection, indicated that the department has a very low threshold for referral of trafficking or trafficking-like matters to the Australian Federal Police. He stated that: ‘All of our front-line officers—that is from field compliance officers within the Australian Border Force through to staff that are working in our detention facilities—have training around human trafficking and sort of possible indicators’.³⁸⁴
- 5.31** Mr Richards confirmed that if someone was identified in a detention centre who had been trafficked, they would receive a bridging visa F, be taken out of the centre, and receive ‘wraparound’ support services.³⁸⁵

Lack of benefits for visa holders

- 5.32** Red Cross Australia and the Josephite Counter-Trafficking Project raised concerns regarding a lack of benefits available to victims on bridging visas.
- 5.33** The Josephite Counter-Trafficking Project stated that victims who are on a Bridging Visa F, while waiting for the Referred Stay (permanent) Visa, are excluded from applying for public and community housing. To remedy this, the Josephite Counter-Trafficking Project advocated for appropriate and sustainable housing.³⁸⁶
- 5.34** Red Cross Australia and the Josephite Counter-Trafficking Project noted that victims on a Bridging Visa F are not eligible to study in TAFE unless they pay overseas students’ fees. They highlighted the Victorian model where the Victorian Training Guarantee allows access to vocational education and training courses at the local student rate in order to make study more affordable and attainable. In addition, they suggested that victims be allowed to enrol in the Smart and Skilled program, which Asylum Seekers on bridging visas can access, as it would enable participants to study at TAFE.³⁸⁷
- 5.35** Further, the Red Cross and the Josephite Counter-Trafficking Project considered that victims should be granted access to Transport Concession Entitlement Cards which are available for Asylum Seekers.³⁸⁸

³⁸³ Evidence, Superintendent Gale, 29 May 2017, p 6.

³⁸⁴ Evidence, Mr Peter Richards, Acting First Assistant Secretary, Community Protection Division, Commonwealth Department of Immigration and Border Protection, 29 May 2017, p 6.

³⁸⁵ Evidence, Mr Richards, 29 May 2017, p 7.

³⁸⁶ Submission 3, Josephite Counter-Trafficking Project, pp 3 and 8-9.

³⁸⁷ Submission 3, Josephite Counter-Trafficking Project, p 9; Submission 25, Red Cross Australia, p 8.

³⁸⁸ Submission 3, Josephite Counter-Trafficking Project, p 9; Submission 25, Red Cross Australia, p 8.

Committee comment

- 5.36** The committee is of the view that more needs to be done to assist victims, both in coming forward and providing them with the necessary support. Both government and non-government witnesses agreed there is a problem getting victims and witnesses to come forward to speak to police. It is understandable that victims are apprehensive to contact law enforcement and for this reason the committee recommends that a victim-centred, independently managed national hotline for human trafficking and slavery be established, similar to the United States National Human Trafficking Hotline ‘Polaris’, with the operators receiving effective support and training.
- 5.37** Further, evidence shows that the current screening of potential victims by the Australian Federal Police and Department of Immigration and Border Protection is ineffective in identifying victims and ensuring they receive the required support. The committee recommends that a more victim-centred approach to screening potential victims be established, similar to the United Kingdom’s Reception Centre Model.
- 5.38** In addition, the committee does not agree that effective support for victims should be tied to a victim’s involvement in the criminal justice process. While prosecuting perpetrators of this horrendous crime is important, it is vital that victims receive the necessary support and services required. It is apparent that the current prosecutorial approach is not working, given that there have only been 20 trafficking convictions in 13 years. We therefore recommend that the Support for Trafficked People Program and visa framework be amended to ensure that trafficked persons can receive support in Australia even if they are not involved in the criminal justice process. We also agree with inquiry participants that more effective benefits should be provided to victims on a Bridging Visa F.

Recommendation 30

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to establish a victim-centred, independently managed national hotline for human trafficking and slavery, similar to the United States National Human Trafficking Hotline ‘Polaris’, with operators receiving effective support and training.

Recommendation 31

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to establish a more victim-centred approach to screening potential victims of human trafficking, similar to the United Kingdom’s Reception Centre Model.

Recommendation 32

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to amend the Support for Trafficked People Program and visa framework to ensure that trafficked persons can receive support in Australia even if they are not involved in the criminal justice process.

Recommendation 33

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to provide more financial support to holders of a Bridging Visa F for housing, study and transport.

Victim compensation

- 5.39** A number of inquiry participants advocated for the introduction of consistent state and territory compensation schemes, or the introduction of a national compensation scheme for victims.³⁸⁹
- 5.40** Even though human trafficking is a federal crime there is no federal compensation scheme. To seek compensation, people who have been trafficked into Australia need to apply through state and territory schemes. Inquiry participants, such as the Australian Catholic Religious Against Trafficking in Humans considered these schemes inadequate for the following reasons:
- they vary with respect to the categories of harm, the time limits for applying and the levels of compensation
 - compensation must be applied for in the jurisdiction where the crime occurred. If a person was moved across state and territory borders, they need to make multiple applications
 - not all federal offences have a relevant criminal offence in the state or territory schemes. While a person who has experienced sexual exploitation can seek compensation for sexual abuse, victims experiencing the federal offences of slavery, servitude, forced labour, forced marriage and debt bondage are unable to access compensation.³⁹⁰
- 5.41** The Josephite Counter-Trafficking Project noted the 2012 report by the United Nations Special Rapporteur on Trafficking in Persons that ‘Australia has international law obligations to provide survivors of human trafficking with access to effective remedies, and that the establishment of a comprehensive national framework for victim’s compensation would be in accordance in such obligations’.³⁹¹
- 5.42** Ms Indika Chandrasekera, Research Officer, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney, argued the importance of compensation given the effects of trafficking on victims:

... the recognition that crimes of trafficking and slavery are horrific crimes, and survivors face psychological and physical trauma, socio-economic impacts and have

³⁸⁹ See for example: Submission 24, Catholic Women’s League Australia NSW, p 5; Submission 18, The Law Society of New South Wales, p 7; Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 8.

³⁹⁰ Submission 12, Australian Catholic Religious Against Trafficking in Humans (ACRATH), p 8.

³⁹¹ Submission 3, Josephite Counter-Trafficking Project, pp 7-8, quoting Law Council of Australia and Anti-Slavery Australia, *Report on Establishing a National Compensation Scheme for Victims of Commonwealth Crime*, p 6.

some consequential issues such as mental illness, depression, anxiety, PTSD, physical injuries, trauma and lost earning capacities.³⁹²

- 5.43** Anti-Slavery Australia stated that in the absence of a national scheme, state and territory governments should harmonise existing compensation schemes to ensure that all survivors of human trafficking and slavery in Australian jurisdictions have equal access to remedies. Currently in Australia, each of the eight states and territories administers its own victims' compensation or assistance scheme (See Table 3 for details).³⁹³

Table 3 State and territory maximum compensation available to victims³⁹⁴

State/ Territory	Maximum payment	Notes
NSW	\$50,000	Recognition payments up to \$15,000 , economic loss up to \$30,000 and immediate assistance up to \$5,000
ACT	\$50,000	Only up to \$10,000 where an act of violence occurred in the course of a domestic violence offence
NT	\$40,000	
QLD	\$75,000	May receive additional \$500 for legal costs incurred
SA	\$100,000	
Tas	\$30,000	Up to \$50,000 where there is more than one offence
Vic	\$70,000	Assistance up to \$60,000 and up to \$10,000 for a special financial assistance payment
WA	\$75,000	

- 5.44** In New South Wales, victims of crimes have access to support, facilitated through the *Victims Rights and Support Act 2013*. Under the Act, a primary victim is eligible for support including counselling services, financial assistance treatment, economic loss suffered and a recognition payment.³⁹⁵ However, Anti-Slavery Australia argued that under the current New South Wales scheme, individuals who have suffered from human trafficking and slavery can only receive compensation for 'an act of violence' against them and will therefore likely receive only a recognition payment of up to \$15,000.³⁹⁶

Committee comment

- 5.45** The committee considers that victims of human trafficking should receive appropriate compensation for the horrific ordeal they have gone through. The current system is not providing this. There is no national compensation scheme, yet the crimes relating to human

³⁹² Evidence, Ms Indika Chandrasekera, Research Officer, Anti-Slavery Australia, 6 March 2017, pp 40-41.

³⁹³ Submission 9, Anti-Slavery Australia, p 26.

³⁹⁴ Submission 9, Anti-Slavery Australia, p 30.

³⁹⁵ Submission 9, Anti-Slavery Australia, p 27.

³⁹⁶ Submission 9, Anti-Slavery Australia, p 31.

trafficking are mostly federal offences. While state and territory compensation schemes exist, these differ greatly in the amount of compensation a victim can receive, and in New South Wales it is likely that a victim of human trafficking would only be eligible for a recognition payment up to \$15,000 for an act of violence committed against them. We therefore recommend that the NSW Government advocate for the establishment of a national compensation scheme for victims of human trafficking. If this does not occur, then the NSW Government should advocate for consistent schemes across all states and territories.

Recommendation 34

That the NSW Government encourage the Australian Government, through the Council of Australian Governments, to establish a national compensation scheme for victims of human trafficking; and if this is not successful, advocate for the harmonisation of schemes across all states and territories in Australia.

Appendix 1 Submissions

No	Author
1	Office of the Privacy Commissioner
2	FamilyVoice Australia
3	Josephite Counter-Trafficking Project
4	ACON
5	Dr Tahmina Rashid
6	Hagar
7	A21
8	Coalition Against Trafficking in Women Australia
9	Anti-Slavery Australia
9a	Anti-Slavery Australia
10	Walk Free Foundation
11	International Justice Mission Australia
12	Australian Catholic Religious Against Trafficking in Humans (ACRATH)
13	The Border Crossing Observatory and Monash University
14	Sex Workers Outreach Project
15	Asian Women at Work Inc
16	The Salvation Army
16a	The Salvation Army
17	Scarlet Alliance, Australian Sex Workers Association
18	The Law Society of New South Wales
19	Australian Christian Lobby
20	Life, Marriage and Family Centre
21	NorMAC
22	Fighting for Justice Foundation
23	Australian Government
24	Catholic Women's League Australia NSW
25	Australian Red Cross
25a	Confidential
26	Australian Institute of Criminology
27	Collective Shout
28	NSW Government

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday 6 March 2017 Jubilee Room Parliament House	Mr John McCarthy QC	Former Ambassador to the Holy See
	Detective Superintendent Linda Howlett	Commander, State Crime Command Sex Crimes Squad, NSW Police Force
	Ms Fiona David	Executive Director of Global Research, Walk Free Foundation
	Professor Jennifer Burn	Director, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney
	Ms Elizabeth Sheridan	Research Officer, Anti-Slavery Australia
	Ms Indika Chandrasekera	Research Officer, Anti-Slavery Australia
Tuesday 28 March 2017 Macquarie Room Parliament House	Commissioner Andrew Scipione AO APM	Commissioner of Police, NSW Police Force
	The Most Reverend Anthony Fisher OP	Archbishop of Sydney, Catholic Church
Monday 29 May 2017 Macquarie Room Parliament House	Ms Catherine Hawkins	First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department
	Commander Lesa Gale	Manager, Victim Based Crime, Australian Federal Police
	Mr Ryan Perry	Director, People Smuggling and Human Trafficking Section, Australian Government Attorney-General's Department
	Mr Peter Richards	Acting First Assistant Secretary, Community Protection Division, Commonwealth Department of Immigration and Border Protection
	Superintendent Joanne Cameron	National Co-ordinator, Offshore Criminal Operations involving Australians, Australian Federal Police
	Ms Flora Carapellucci	Principal Advisor, Families Group, Commonwealth Department of Social Services

Date	Name	Position and Organisation
	Dr Samantha Bricknell	Research Manager Violence and Exploitation, Australian Institute of Criminology
	Ms Samantha Lyneham	Research Analyst Violence and Exploitation, Australian Institute of Criminology
	Dr Helen Pringle	Member, NorMAC
	Mr Andrea Tokaji	Founding Director, Fighting for Justice Foundation
	Ms Anne O'Connell	Director of Policy and Research, Fighting for Justice Foundation
	Ms Jules Kim	Chief Executive Officer, Scarlet Alliance, Australian Sex Workers Association
	Mr Cameron Cox	Chief Executive Officer, Sex Workers Outreach Project NSW
	Ms Kati Anthony-Benson	Manager Client Services, Child and Family District Unit, Sydney, South East Sydney and Northern Sydney, Department of Family and Community Services
Thursday 15 June 2017 Macquarie Room Parliament House	Ms Laura McManus	Ethical Supply Chain Management Consultant, Konica Minolta Business Solutions Australia
	Ms Cindy Reid	Director of People and Culture, Konica Minolta Business Solutions Australia
	Mr Tom O'Shea	Executive Director, Fair Work Ombudsman
	Witness A	
	Witness B	
	Ms Heather Moore	National Policy and Advocacy Coordinator, The Salvation Army
	Ms Laura Vidal	National Projects Coordinator, The Salvation Army
Friday 11 August 2017 Macquarie Room Parliament House	Ms Monica Ramesh	Ethical Supply Chain Consultant
	Ms Kimberly Randle	Director of Corporate and Legal, International Justice Mission Australia
	Ms Oy-Cheng Phang	Principal Consultant, Zoic Environmental Pty Limited

Date	Name	Position and Organisation
	Ms Kylie Lloyd	Managing Director, Zoic Environmental Pty Limited
	Mr Andrew Forrest <i>(via Skype)</i>	Chairman, Walk Free Foundation
	Ms Fiona David <i>(via Skype)</i>	Executive Director Research, Walk Free Foundation

Appendix 3 Federal Parliamentary Joint Committee on Law Enforcement recommendations

Recommendations from the federal Parliamentary Joint Committee on Law Enforcement report entitled *An inquiry into human trafficking, slavery and slavery-like practices*, tabled July 2017.

Recommendation 1

2.24 The committee recommends that member agencies of the Interdepartmental Committee on Human Trafficking and Slavery strengthen their coordination and engagement with each other, and that frontline Commonwealth agencies strengthen existing relationships with state and territory frontline agencies.

Recommendation 2

2.37 The committee recommends that the Commonwealth government funds the *National Action Plan to Combat Human Trafficking and Slavery 2015–19* so that it may be fully implemented, with a human rights-based approach to its implementation.

Recommendation 3

2.84 The committee recommends that the Commonwealth government increases the number of Australian Federal Police officers with specialised human trafficking and anti-slavery training in all states and territories.

Recommendation 4

2.85 The committee recommends that the Commonwealth government:

- **expands training for frontline staff employed by the Australian Federal Police, the Department of Immigration and Border Protection and the Fair Work Ombudsman with respect to the Commonwealth offences at Divisions 270 and 271 of the *Criminal Code Act 1995*;**
- **works with its state and territory counterparts to ensure that state and territory police also receive adequate training with respect to the Commonwealth offences at Divisions 270 and 271 of the *Criminal Code Act 1995*; and**
- **ensures that this training includes reference to non-government organisations working on human trafficking, slavery and slavery-like practices so that they can refer victims for support and assistance offered through non-government organisations.**

Recommendation 5

2.99 The committee recommends that the Commonwealth government commits to continuous funding of overseas anti-trafficking programs, including AATIP and the work undertaken by the International Labour Organization with respect to migrant workers in the ASEAN member states.

Recommendation 6

2.117 The committee recommends the Commonwealth government de-links access to the Support for Trafficked People Program from compliance with criminal investigations.

2.118 The committee recommends that the Commonwealth government facilitates and expedites family reunification for victims of trafficking, slavery and slavery-like offences.

Recommendation 7

2.130 The committee recommends the establishment of a national compensation scheme for victims of trafficking, slavery and slavery-like offences to be funded by proceeds of crime.

Recommendation 8

2.136 The committee recommends that the Commonwealth government considers ways in which to make the existing reparation orders available under section 21B of the *Crimes Act 1914* more accessible to victims of trafficking, slavery and slavery-like offences.

Recommendation 9

2.151 The committee recommends that the Commonwealth government considers appointing an Anti-Slavery and Trafficking Commissioner, to:

- monitor the implementation of the *National Action Plan to Combat Human Trafficking and Slavery 2015–19*;
- provide recommendations, advice and guidance to government agencies on the exercise of their functions;
- oversee the effectiveness of Commonwealth legislation and policies intended to reduce the prevalence of human trafficking, slavery and slavery-like practices and respond to corresponding offences; and
- collect and request data and information on these practices.

Recommendation 10

3.21 The committee recommends that the Commonwealth government:

- expands the pre-departure briefings and information currently available through the Seasonal Worker Program to a wider range of pre-departure countries and other categories of visa holders eligible to work in Australia, and

- introduces post-arrival briefings to ensure migrant workers are provided with relevant information from the Fair Work Ombudsman.

Recommendation 11

3.34 The committee recommends that the Commonwealth government strengthens visa protections where a visa holder has been subject to trafficking, slavery and slavery-like offences.

Recommendation 12

3.45 The committee recommends that the Commonwealth government establishes a licensing regime for labour hire companies.

Recommendation 13

4.1 The committee recommends that the Commonwealth government commission balanced and constructive research into the prevalence of sex trafficking into and within Australia.

Recommendation 14

4.20 The committee recommends that the Commonwealth government strengthens visa systems to prevent involuntary human trafficking into the sex industry in Australia.

Recommendation 15

4.26 The committee recommends that Australian governments support and fund initiatives to inform migrant sex workers about their legal rights and obligations both pre-departure and post-arrival in Australia.

Recommendation 16

4.52 The committee recommends that the Commonwealth government investigates the adequacy of current legislative provisions and criminal offences to address cybersex trafficking and makes legislative amendments as necessary where current arrangements, including the provisions of the *Criminal Code Act 1995*, are ineffectual.

Recommendation 17

5.26 The committee recommends that the Commonwealth government considers extending the application of protection orders relating to forced marriage to people over 18 years of age.

Recommendation 18

5.38 The committee recommends that the Commonwealth government continues to fund organisations and programs that engage in outreach, education and awareness-raising activities on forced marriage issues.

Recommendation 19

5.40 The committee recommends that Australian governments consider the inclusion of education on forced marriage in school curricula.

Recommendation 20

5.52 The committee recommends that information on forced marriage is consistently and routinely provided to newly arrived migrants in Australia through their engagement with government officials and agencies, as well as appropriate community groups and programs.

Appendix 4 Minutes

Minutes no. 1

17 November 2016

Room 1136, Parliament House at 2.15 pm

1. Members present

Mr Green, *Chair*

Mrs Maclaren-Jones, *Deputy Chair*

Mr Donnelly

Dr Faruqi

Mr Khan (*from 2.16 pm*)

Mr Mason-Cox

Mr Wong (*from 2.18 pm*)

2. Tabling of resolution establishing the committee

Chair tabled the resolution of the House establishing the committee, which reads as follows:

1. That this House establish a select committee to inquire into and report on human trafficking in New South Wales, and in particular:
 - (a) the role and effectiveness of New South Wales law enforcement agencies in responding to human trafficking including:
 - (i) how New South Wales law enforcement agencies respond to human trafficking, including slavery, slavery like practices such as servitude, forced labour, and people trafficking,
 - (ii) the influence of organised crime in human trafficking in New South Wales,
 - (b) the prevalence of human trafficking in New South Wales,
 - (c) the effectiveness and of relevant legislation and policies,
 - (d) the practical measures and policies including security measures to protect New South Wales identity documents that would address human trafficking in New South Wales, and
 - (e) other related issues.
2. That, notwithstanding anything to the contrary in the standing orders, the committee consist of seven members comprising:
 - (a) three government members,
 - (b) two opposition members, and
 - (c) two crossbench members, being Dr Faruqi and Mr Green.
3. That the Chair of the committee be Mr Green.
4. That, notwithstanding anything to the contrary in the standing orders, at any meeting of the committee, any four members of the committee will constitute a quorum.

5. That members may be appointed to the committee as substitute members for any matter before the committee by providing notice in writing to the Committee Clerk, with nominations made as follows:
 - (a) nominations for substitute government or opposition members are to be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whip or Deputy Whip, as applicable, and
 - (b) nominations for substitute crossbench members are to be made by the substantive member or another crossbench member.
6. That a committee member who is unable to attend a deliberative meeting in person may participate by electronic communication and may move any motion and be counted for the purpose of any quorum or division, provided that:
 - (a) the Chair is present in the meeting room,
 - (b) all members are able to speak and hear each other at all times, and
 - (c) members may not participate by electronic communication in a meeting to consider a draft report.
7. That, unless the committee decides otherwise:
 - (a) submissions to inquiries are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration,
 - (b) the Chair's proposed witness list is to be circulated to provide members with an opportunity to amend the list, with the witness list agreed to by email, unless a member requests the Chair to convene a meeting to resolve any disagreement,
 - (c) the sequence of questions to be asked at hearings alternate between opposition, crossbench and government members, in that order, with equal time allocated to each,
 - (d) transcripts of evidence taken at public hearings are to be published,
 - (e) supplementary questions are to be lodged with the Committee Clerk within two days, excluding Saturday and Sunday, following the receipt of the hearing transcript, with witnesses requested to return answers to questions on notice and supplementary questions within 21 calendar days of the date on which questions are forwarded to the witness, and
 - (f) answers to questions on notice and supplementary questions are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration.
8. That the committee report by September 2017.

3. Election of Deputy Chair

The Chair called for nominations for Deputy Chair.

Mr Mason-Cox moved: That Mrs Maclaren-Jones be elected Deputy Chair of the committee.

There being no further nominations Mrs Maclaren-Jones was therefore declared elected Deputy Chair of the committee.

4. Conduct of committee proceedings – Media

Resolved, on the motion of Mr Mason-Cox: That unless the committee decides otherwise, the following procedures are to apply for the life of the committee:

- the committee authorise the filming, broadcasting, webcasting and still photography of its public proceedings, in accordance with the resolution of the Legislative Council of 18 October 2007
- the committee webcast its public proceedings via the Parliament’s website, where technically possible
- the committee adopt the interim guidelines on the use of social media and electronic devices for committee proceedings, as developed by the Chair’s Committee in May 2013
- media statements on behalf of the committee be made only by the Chair.

5. Conduct of the inquiry into human trafficking**5.1 Closing date for submissions**

Resolved, on the motion of Mrs Maclaren-Jones: That the closing date for submissions be Sunday 19 February 2017.

5.2 Stakeholder list

Resolved, on the motion of Dr Faruqi: That the secretariat email members with a list of stakeholders to be invited to make written submissions, and that members have two days from the email being circulated to nominate additional stakeholders.

5.3 Advertising

Inquiry to be advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

5.4 Future inquiry activities

A Sydney hearing date will be determined following consultation with members via email regarding their availability.

6. Adjournment

The committee adjourned at 2.22 pm. *Sine die*.

Samuel Griffith

Clerk to the Committee

Minutes no. 2

Monday, 6 March 2017

Jubilee Room, Parliament House at 9.45 am

1. Members present

Mr Green, *Chair*

Mrs Maclaren-Jones, *Deputy Chair* (until 12.30 pm)

Mr Donnelly

Dr Faruqi

Mr Khan (from 9.47 am)

Mr Mason-Cox

Mr Wong (until 3.20 pm)

2. Draft minutes

Resolved, on the motion of Mr Wong: That draft minutes no. 1 be confirmed.

3. Correspondence

The committee noted the following item of correspondence:

Received

- 22 December 2016 – letter from Kim Woodbury, A/Chief Executive Officer, City of Sydney to the Chair informing that the council will not be making a submission to the inquiry.

4. Submission extensions

The committee noted that submission extensions were granted to the following organisations:

- Scarlet Alliance
- Australian Christian Lobby
- The Law Society of NSW
- Life, Marriage and Family Care
- NorMAC
- NSW Government
- Office of the Advocate for Children and Young People
- Homelessness NSW
- Women’s Forum Australia
- Australian Government
- Catholic Women’s League of Australia
- Australian Red Cross
- Collective Shout
- Scandinavian Human Rights Lawyers

5. Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 1 to 20 and 23 and 24.

Resolved, on the motion of Mr Wong: That:

- submission no. 21 be published,
- submission no. 22 be published, with sensitive information redacted from the online version and the following note inserted: ‘The submission in full can be obtained from the committee secretariat’.

6. Commissioner Scipione

The committee noted that Commissioner Scipione, Commissioner of Police, NSW Police Force will be attending a public hearing from 12.30 pm – 2.00 pm on 28 March 2017.

7. Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witness was sworn and examined:

- Mr John McCarthy QC, Former Ambassador to the Holy See.

Mr McCarthy tendered the following documents:

- United Nations General Assembly report, ‘The road to dignity by 2030: ending poverty, transforming all lives and protecting the planet, dated 4 December 2014
- United Nations General Assembly, Resolution adopted by the General Assembly on 25 September 2015, Transforming our world: the 2030 Agenda for Sustainable Development, dated 21 October 2015
- Sustainable Development Solutions Network webpage, Indicators and a monitoring framework: Launching a data revolution for the Sustainable Development Goals

- Mr John McCarthy QC, Curriculum Vitae.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Detective Superintendent Linda Howlett, Commander, State Crime Command Sex Crimes Squad, NSW Police Force.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Fiona David, Executive Director of Research, Walk Free Foundation.

Ms David tendered the following documents:

- The Global Slavery Index 2016, Walk Free Foundation
- Harnessing the power of business to end modern slavery, Walk Free Foundation.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Professor Jennifer Burn, Director, Anti-Slavery Australia, Faculty of Law, University of Technology Sydney
- Ms Elizabeth Sheridan, Research Officer, Anti-Slavery Australia
- Ms Indika Chandrasekera, Research Officer, Anti-Slavery Australia.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 3.23 pm.

The public and media withdrew.

8. **Tendered documents**

Resolved on the motion of Mr Khan: That the committee accept and publish the following documents tendered during the public hearing:

Mr John McCarthy QC

- United Nations General Assembly report, The road to dignity by 2030: ending poverty, transforming all lives and protecting the planet, dated 4 December 2014
- United Nations General Assembly, Resolution adopted by the General Assembly on 25 September 2015, Transforming our world: the 2030 Agenda for Sustainable Development, dated 21 October 2015
- Sustainable Development Solutions Network webpage, Indicators and a monitoring framework: Launching a data revolution for the Sustainable Development Goals
- Mr John McCarthy QC, Curriculum Vitae

Ms Fiona David

- The Global Slavery Index 2016, Walk Free Foundation
- Harnessing the power of business to end modern slavery, Walk Free Foundation.

9. **Adjournment**

The committee adjourned at 3.25 pm, until 12.30 pm Tuesday 28 March 2017 (public hearing).

Samuel Griffith
Clerk to the Committee

Minutes no. 3

Tuesday 28 March 2017

Macquarie Room, Parliament House at 12.00 pm

1. Members present

Mr Green, *Chair*

Mrs Maclaren-Jones, *Deputy Chair*

Mr Donnelly

Dr Faruqi

Mr Khan

Mr Mason-Cox

Mr Wong

2. Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witness was sworn and examined:

- Commissioner Andrew Scipione AO APM, Commissioner, NSW Police Force.

Detective Superintendent Linda Howlett, Commander, State Crime Command Sex Crimes Squad, NSW Police Force was also examined. The Chair noted that Detective Superintendent Howlett did not need to be sworn as she had already sworn an affirmation at an earlier hearing for this inquiry.

Detective Superintendent Howlett tendered the following document:

- Terms of reference, NSW and Commonwealth Government Agencies Working Group to Prevent Forced Marriage.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- The Most Reverend Anthony Fisher OP, Archbishop of Sydney, Catholic Church.

The evidence concluded and the witness withdrew.

The public hearing concluded at 1.50 pm.

The public and media withdrew.

3. Adjournment

The committee adjourned at 1.50 pm, *sine die*.

Samuel Griffith

Clerk to the Committee

Minutes no. 4

Monday 29 May 2017

Macquarie Room, Parliament House at 9.48 am

1. Members present

Mr Green, Chair

Mrs Maclaren-Jones, Deputy Chair (from 1.00 pm)

Mr Donnelly

Dr Faruqi

Mr Khan

Mr Wong (from 11.07 am until 12.00 pm)

2. Apologies

Mr Mason-Cox

3. Minutes

Resolved, on the motion of Mr Khan: That draft minutes nos 2 and 3 be confirmed.

4. Public submissions

The committee to note that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 25-28.

5. Confidential supplementary submissions

Resolved, on the motion of Mr Donnelly: That the committee keep supplementary submission no. 25a confidential, as per the request of the author.

6. Answers to questions on notice

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Anti-Slavery Australia
- NSW Police Force
- Walk Free Foundation.

7. In camera witness on 15 June 2017Resolved, on the motion of Mr Khan: That the committee take *in camera* evidence from victims of human trafficking on 15 June 2017 and that they appear with nominated support people, including from the Salvation Army.**8. NSW Police Force document**

Resolved, on the motion of Mr Khan: That the committee accept and publish the document provided by Detective Superintendent Linda Howlett, NSW Police Force on 6 March 2017 with the following information to be kept confidential as per the recommendation of the secretariat: sensitive information that may identify individuals.

9. UK Anti-slavery Commissioner event at the Lowy Institute

The committee noted that the Chair will be attending a Lowy Institute event on 31 May 2017 featuring the UK Anti-slavery Commissioner and that there is a spare seat available if another member would like to attend.

10. Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witnesses were sworn and examined:

- Superintendent Jo Cameron, National Coordinator, Offshore Criminal Operations involving Australians, Australian Federal Police
- Mr Ryan Perry, Director, People Smuggling and Human Trafficking Section, Australian Government Attorney-General's Department
- Ms Catherine Hawkins, First Assistant Secretary, Criminal Justice Policy and Programmes Division, Australia Government Attorney-General's Department
- Commander Lesa Gale, Manager, Victim Based Crime, Australian Federal Police
- Mr Peter Richards, A/g First Assistant Secretary, Community Protection Division, Commonwealth Department of Immigration and Border Protection
- Ms Flora Carapellucci, Principal Advisor, Families Group, Department of Social Services.

Ms Hawkins tendered the following documents:

- Eighth Report of the Interdepartmental Committee on Human Trafficking and Slavery, Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016
- National Action Plan to Combat Human Trafficking and Slavery 2015-19.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Samantha Bricknell, Research Manager, Violence and Exploitation, Australian Institute of Criminology
- Ms Samantha Lyneham, Research Analyst, Violence and Exploitation, Australian Institute of Criminology.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Helen Pringle, Member, NorMac.

Dr Pringle tendered the following document:

- Civil Liabilities Predator Accountability Act, Illinois General Assembly.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Andrea Tokaji, Founding Director, Fighting for Justice Foundation
- Ms Anne O'Connell, Member, Fighting for Justice Foundation.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Jules Kim, Chief Executive Officer, Scarlet Alliance, Australian Sex Workers Association.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Cameron Cox, Chief Executive Officer, Sex Workers Outreach Project.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Kati Anthony-Benson, Manager Client Services, Child and Family District Unit, Sydney, South East Sydney and Northern Sydney, Department of Family and Community Services.

The evidence concluded and the witness withdrew.

The public hearing concluded at 4.00 pm.

The public and media withdrew.

11. **Tendered documents**

Resolved on the motion of Mr Donnelly: That the committee accept and publish the following documents tendered during the public hearing:

Ms Hawkins:

- Eighth Report of the Interdepartmental Committee on Human Trafficking and Slavery, Trafficking in Persons, The Australian Government Response, 1 July 2015 – 30 June 2016
- National Action Plan to Combat Human Trafficking and Slavery 2015-19.

Dr Pringle:

- Civil Liabilities Predator Accountability Act, Illinois General Assembly.

12. **Adjournment**

The committee adjourned at 4.01 pm, until Thursday 15 June 2017, Macquarie Room, NSW Parliament (public hearing).

Samuel Griffith

Clerk to the Committee

Minutes no. 5

Thursday 15 June 2017

Macquarie Room, Parliament House, 9.00 am

1. **Members present**

Mr Green, *Chair*

Mr Donnelly

Dr Faruqi (from 11.15 am)

Mr Moselmane (substituting for Mr Wong)

Dr Phelps (substituting for Mrs Maclaren-Jones)

Mr Shoebridge (substituting for Dr Faruqi from 9.20 am – 10.15am)

2. **Apologies**

Mr Khan

Mr Mason-Cox

3. **Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witnesses were sworn and examined:

- Ms Laura McManus, Ethical Supply Chain Management Consultant, Konica Minolta Business Solutions Australia
- Ms Cindy Reid, Director of People and Culture, Konica Minolta Business Solutions Australia.

Ms Laura McManus tendered the following documents:

- Know the Chain, Forced Labor Action Compared: Findings From Three Sectors
- Konica Minolta, Supplier Code of Conduct, dated August 2016
- Konica Minolta, Ethical Sourcing Roadmap, dated March 2016.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Tom O'Shea, Executive Director, Fair Work Ombudsman.

The evidence concluded and the witness withdrew.

The public hearing concluded at 10.25 am.

The public and media withdrew.

4. Previous minutes

Resolved, on the motion of Mr Donnelly: That draft minutes no. 4 be confirmed.

5. Correspondence

The committee noted the following items of correspondence:

Received

- 23 May 2017 – Email from Ms Laura McManus, Ethical Supply Chain Management Consultant, Konica Minolta to secretariat, providing submission to Federal Parliament's inquiry into Modern Slavery
- 2 June 2017 – Email from Dr Mehreen Faruqi, providing advice that Mr David Shoebridge will be substituting for Dr Faruqi on 15 June 2017 until 10.30 am
- 6 June 2017 – Email from Mr Ade Feben, A21 Campaign to secretariat, clarifying comments made in A21 Campaign's submission to the inquiry
- 13 June 2017 – Email from Hon Natasha Maclaren-Jones, providing advice that Hon Dr Peter Phelps will be substituting for Mrs Maclaren-Jones on 15 June 2017
- 14 June 2017 – Email from Hon Shaoquett Moselmane, providing advice that he will be substituting for Hon Ernest Wong on 15 June 2017.

Sent

- 12 April 2017 – Letter from Chair to Australian Attorney General's Department, inviting Federal departments to give evidence on 29 May 2017
- 12 April 2017 – Letter from Chair to Australian Institute of Criminology, inviting the institute to give evidence on 29 May 2017
- 12 April 2017 – Letter from Chair to the Commonwealth Fair Work Ombudsman, inviting the office to give evidence on 29 May 2017
- 3 May 2017 – Letter from Chair to the Commonwealth Fair Work Ombudsman, inviting the office to give evidence on 15 June 2017.

Resolved, on the motion of Mr Shoebridge: That the committee publish correspondence from Mr Ade Feben, A21 Campaign to secretariat, clarifying comments made in A21 Campaign's submission to the inquiry, dated 6 June 2017.

6. Further hearing and new deliberative date

Resolved, on the motion of Mr Donnelly: That the committee hold a further hearing on Friday 11 August and that the secretariat canvass member availability for a new deliberative date.

The committee noted that holding a further hearing would require the reporting date to be extended. The committee to consider this at its next meeting.

7. In camera hearing

According to a previous resolution of the committee, the committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Rebecca Main, Mr Sam Griffith, Ms Jenny Whight, Ms Shaza Barbar, Ms Heather Moore, National Policy and Advocacy Coordinator, Salvation Army and Hansard reporters.

The following witnesses were sworn and examined *in camera*:

- Witness A
- Witness B.

The evidence concluded and the witnesses withdrew.

8. Resumption of public hearing

Witnesses, the public and the media were readmitted.

The following witnesses were sworn and examined:

- Ms Laura Vidal, National Projects Coordinator, Salvation Army
- Ms Heather Moore, National Policy and Advocacy Coordinator, Salvation Army.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.58 pm.

9. Tendered documents

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the following documents tendered during the hearing by Ms McManus:

- Know the Chain, Forced Labor Action Compared: Findings From Three Sectors
- Konica Minolta, Supplier Code of Conduct, dated August 2016
- Konica Minolta, Ethical Sourcing Roadmap, dated March 2016.

10. Adjournment

The committee adjourned at 12.58 pm, until 11 August 2017, location TBC (public hearing).

Samuel Griffith

Clerk to the Committee

Minutes no. 6

Friday 11 August 2017

Macquarie Room, Parliament House, 10.00 am

1. Members present

Mr Green, *Chair*

Mrs Maclaren-Jones, *Deputy Chair* (until 12.25 pm)

Mr Donnelly

Dr Faruqi (until 11.50 am)

Mr Wong

2. Apologies

Mr Khan

Mr Mason-Cox

3. Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witness was sworn and examined:

- Ms Monica Ramesh, Independent Ethical Supply Chain Consultant.

Ms Ramesh tendered the following document:

- PowerPoint presentation, Global response to human trafficking and modern slavery.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Kimberly Randle, Director of Corporate and Legal, International Justice Mission Australia.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Oy-Cheng Phang, Principal Consultant, Zoic Environmental Pty Ltd
- Ms Kylie Lloyd, Managing Director, Zoic Environmental Pty Ltd.

The evidence concluded and the witness withdrew.

The public hearing adjourned for a short break at 11.50 am.

The public and media withdrew.

4. Previous minutes

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes no. 5 be confirmed.

5. Correspondence

The committee noted the following items of correspondence:

Received:

- 4 July 2017 – Email from Mr John McCarthy, former Ambassador to the Holy See to secretariat, referring to news story about slavery in Libya
- 10 July 2017 – Letter from Mr Tom O’Shea, Executive Director – Strategic Engagement and Stakeholder Relations, requesting a change to the transcript of evidence dated 15 June 2017.

6. Public submissions

The committee noted that the following supplementary submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 16a.

Resolved, on the motion of Mr Wong: That the committee publish supplementary submission no. 9a.

7. Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Fighting for Justice Foundation, received 15 June 2017
- The Salvation Army, received 20 June 2017
- Australian Institute of Criminology, received 23 June 2017
- Department of Family and Community Services, received 26 June 2017
- Fair Work Ombudsman, received 10 July 2017

- NORMAC, received 10 July 2017.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee publish answers to questions on notice and supplementary questions from Australian Government, received 2 August 2017.

8. Extension of reporting date

Resolved, on the motion of Mr Donnelly: That the Chair seek the approval of the House to extend the reporting date until Thursday 19 October 2017.

9. Tendered document

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the following document tendered during the hearing by Ms Ramesh:

- PowerPoint presentation, Global response to human trafficking and modern slavery.

10. Public hearing continued

The following witness was sworn and examined:

- Mr Andrew Forrest AO, Founder, Walk Free Foundation.

Ms Fiona David, Executive Director of Research, Walk Free Foundation was also examined. The Chair noted that Ms David did not need to be sworn as she had already sworn an affirmation at an earlier hearing for this inquiry.

The evidence concluded and the witness withdrew.

The public hearing concluded at 12.55 pm.

The public and media withdrew.

11. Adjournment

The committee adjourned at 12.55 pm, until 9.00 am, 9 October 2017, Room 1254 (report deliberative).

Samuel Griffith

Clerk to the Committee

Minutes no. 7

Monday 25 September 2017

Room 1136, Parliament House at 9.33 am

1. Members present

Mr Green, *Chair*

Mrs Maclaren-Jones, *Deputy Chair*

Mr Donnelly

Dr Faruqi

Mr Khan

Mr Mason-Cox

Mr Wong

2. Minutes

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes no. 6 be confirmed.

3. Correspondence

The committee noted the following item of correspondence:

Received:

- 5 September 2017 – Ms Heather Moore, Salvation Army to secretariat informing that in-camera witness A agrees that suggested paragraphs of her evidence be included in the report.

Resolved, on the motion of Mr Mason-Cox: That correspondence from Ms Heather Moore, Salvation Army to secretariat be kept confidential, informing that in-camera witness A agrees that suggested sections of her evidence be included in the report.

4. Answer to further supplementary question

The committee noted that the answer from Anti-Slavery Australia to a supplementary question was published by the committee clerk under the authorisation of the resolution appointing the committee.

5. In-camera transcript

Resolved, on the motion of Mr Khan: That the transcript of evidence by *in-camera* witness A be kept confidential, except for selected sections which may be published in the report.

6. Consideration of Chair's draft report

The Chair submitted his draft report entitled *Human trafficking in New South Wales*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Dr Faruqi: That paragraph 1.21 be amended by inserting 'identified' after 'In Australia, the majority of'.

Resolved, on the motion of Mr Khan: That the note to Table 2 be amended by inserting at the end: 'On 21 September 2017 a man living in Melbourne was sentenced to 12 months in prison for illegally marrying a 14-year-old bride, becoming the first person convicted of a forced marriage offence. The imam who married the couple was also convicted and jailed for two months. [FOOTNOTE: Cameron Best, 'Groom sentenced in Australian-first child bride case', *ABC News*, 21 September 2017.]'.

Resolved, on the motion of Mr Donnelly: That paragraph 1.59 be amended by inserting 'without further delay' after 'NSW Government respond'.

Resolved, on the motion of Mr Donnelly: That recommendation 2 be amended by inserting 'without further delay' after 'government's response to this inquiry, respond'.

Resolved, on the motion of Mr Donnelly: That paragraph 1.71 be amended by omitting 'BOSCAR' and inserting instead 'BOCSAR'.

Resolved, on the motion of Mr Donnelly: That recommendation 3 be amended by inserting 'by NSW Bureau of Crime Statistics and Research' after 'conducted'.

Resolved, on the motion of Mrs Maclaren-Jones: That paragraph 2.49 be amended by omitting 'government intervention' and inserting instead 'further intervention'.

Resolved, on the motion of Mr Donnelly: That paragraph 2.50 and recommendation 8 be amended by omitting 'repository' and inserting instead 'register'.

Resolved, on the motion of Mr Donnelly: That paragraph 2.64 and recommendations 10, 11 and 12 be amended by omitting 'departments and agencies' and inserting instead 'departments, agencies, state owned corporations and other government related entities'.

Resolved, on the motion of Dr Faruqi: That recommendation 15 be amended by omitting 'future' after 'formal evaluations of all'.

Resolved, on the motion of Mr Mason-Cox: That the following new recommendation be inserted after recommendation 15:

‘Recommendation x

That the NSW Government, through the Council of Australian Governments, urge the Australian Government, in consultation with other states, to fund a new education campaign to increase awareness of human trafficking in the community.’

Resolved, on the motion of Mr Donnelly: That paragraph 3.28 be amended by inserting the following sentence after ‘own state scheme.’: ‘The committee notes that the Queensland Parliament recently passed legislation that will regulate the labour hire industry in that state. [FOOTNOTE: Queensland Treasury, *Regulation of the labour hire industry in Queensland*, <https://www.treasury.qld.gov.au/fair-and-safe-work/industrial-relations/regulation-labour-hire-industry/>].’

Resolved, on the motion of Mr Donnelly: That paragraph 3.28 be amended by omitting: ‘However, we are of the view that a federal regulatory scheme would be preferable and recommend this accordingly. Although, if this does not occur, then the NSW Government should take steps to regulate the labour hire industry in New South Wales.’, and inserting instead: ‘While the committee believes that a federal regulatory scheme for the labour hire industry would be preferable, if the Australian Government does not proceed to regulate in this area then the NSW Government should take steps to regulate the labour hire industry in New South Wales’.

Resolved, on the motion of Mr Donnelly: That recommendation 18 be amended by omitting ‘, in consultation with other states to ensure there is uniformity between prospective schemes’ from the end.

Resolved, on the motion of Dr Faruqi: That paragraph 3.29 be amended by omitting ‘considered the following to be part of the industry’ and inserting instead ‘found respondents worked in a variety of settings’.

Resolved, on the motion of Dr Faruqi: That paragraph 3.30 be amended by omitting ‘43 per cent of trafficked people identified by authorities in New South Wales have been exploited in the sex work industry’ and inserting instead ‘43 per cent of the 98 identified suspected trafficked people identified by authorities in New South Wales were allegedly exploited in the sex work industry’.

Resolved, on the motion of Dr Faruqi: That paragraph 3.31 be amended by omitting ‘overblown’ and inserting instead ‘not supported by evidence’.

Resolved, on the motion of Mr Donnelly: That paragraph 3.31 be amended by inserting the following sentence at the end: ‘Others believe that there is evidence of exploitation occurring in the sex services industry and that it is incumbent on Government to take appropriate steps to address it.’

Mr Donnelly moved: That the following paragraphs 3.64 and 3.65 be omitted:

‘Ms Jules Kim, Chief Executive Officer, Scarlet Alliance, Australian Sex Workers Association questioned the statement by Mr Kaldas regarding a link between outlaw motor cycle gangs and sexual servitude in the sex services industry:

I would certainly question the statements of Deputy Commissioner Kaldas as they were not even in line with the police union's own submissions. I do not believe his statements. To the issue of organised crime, in its report the Australian Institute of Criminology has found that there is significant evidence to support that offenders were not highly organised criminals. [FOOTNOTE: Evidence, Ms Jules Kim, Chief Executive Officer, Scarlet Alliance, Australian Sex Workers Association, 29 May 2017, p 37.]

Mr Cox of the Sex Workers Outreach Project NSW also refuted the claims by Mr Kaldas:

... I think the commissioner was jumping the gun a little bit on that one. Especially around Newcastle and further up, we were starting to see some infiltration of motorcycle gangs into the ownership of brothels. That since seems to have dissipated. [FOOTNOTE: Evidence, Mr Cameron Cox, Chief Executive Officer, Sex Workers Outreach Project NSW, 29 May 2017, p 43.]’

Question put.

The committee divided.

Ayes: Mr Donnelly, Mr Green, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox, Mr Wong

Noes: Dr Faruqi.

Question resolved in the affirmative.

Mr Donnelly moved:

- a) That paragraph 3.72 be amended by omitting: ‘The NSW Government should invest in pathways to assist sex workers who want to exit the industry and find other methods of employment.’, and inserting instead: ‘The NSW Government should provide funding allocations annually through the budget, to establish and expand pathways to assist sex workers who want to exit the industry to find other employment.’.
- b) That recommendation 19 be amended by omitting: ‘That the NSW Government invest in pathways to assist sex workers who want to exit the industry and find other methods of employment’, and inserting instead: ‘That the NSW Government should provide funding allocations annually through the budget, to establish and expand pathways to assist sex workers who want to exit the industry to find other employment’.

Question put.

The committee divided.

Ayes: Mr Donnelly, Mr Green, Mr Wong

Noes: Dr Faruqi, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox.

Question resolved in the negative.

Resolved, on the motion of Mr Donnelly: That the following paragraph 3.73 and recommendation 20 be omitted:

‘To assist in curbing trafficking in the sex services industry, the visibility of migrant workers could be enhanced through the introduction of a special category visa for sex workers or escorts. Alternatively, elements of the New Zealand model could be considered; which does not allow visa holders to engage in prostitution, or be involved in the local sex industry. The committee recommends that a study be conducted to consider if the visa framework in Australia should be amended to ensure the safety of sex workers.

Recommendation 20

That the NSW Government, in partnership with the Australian Government, conduct a study of Australia’s visa framework to ensure the safety of migrant sex workers.’

Mr Donnelly moved: That paragraph 3.74 be amended by omitting ‘important roles’ and inserting instead ‘an obligation’.

Question put.

The committee divided.

Ayes: Mr Donnelly, Mr Green, Mr Wong

Noes: Dr Faruqi, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox.

Question resolved in the negative.

Mr Donnelly moved: That paragraph 3.74 be amended by omitting: ‘For this reason, the committee recommends that the NSW Government encourage sex services industry groups to regularly attend training on human trafficking and slavery to assist in identifying and helping victims and also to introduce mandatory reporting.’, and inserting instead: ‘For this reason, the committee recommends that the NSW Government require all sex services industry groups, bodies and organisations such as Scarlett Alliance

and the Sex Workers Outreach Project to, as a condition of all current and future funding or financial support, be required to attend training on human trafficking and slavery to assist in identifying and helping victims and also cooperate in the introduction of mandatory reporting.’.

Question put.

The committee divided.

Ayes: Mr Donnelly, Mr Wong

Noes: Dr Faruqi, Mr Green, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox.

Question resolved in the negative.

Mr Donnelly moved: That recommendation 21 be amended by omitting: ‘That the NSW Government encourage sex services industry bodies such as the Scarlett Alliance and the Sex Workers Outreach Project to’, and inserting instead: ‘That the NSW Government require all sex services industry groups, bodies and organisations such as Scarlett Alliance and the Sex Workers Outreach Project to, as a condition of all current and future funding or financial support, be obliged to’.

Question put.

The committee divided.

Ayes: Mr Donnelly, Mr Wong

Noes: Dr Faruqi, Mr Green, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox.

Question resolved in the negative.

Dr Faruqi moved: That paragraph 3.74 be amended by omitting: ‘The committee considers that there is some correlation in New South Wales between organised crime, brothels and human trafficking and is of the view that organisations such as the Scarlett Alliance and the Sex Workers Outreach Project have important roles to play in assisting the police in identifying and helping victims. For this reason, the committee recommends that the NSW Government encourage sex services industry groups to regularly attend training on human trafficking and slavery to assist in identifying and helping victims and also to introduce mandatory reporting.’, and inserting instead: ‘The committee considers that, in some cases, there may be some correlation in New South Wales between organised crime, brothels and human trafficking and is of the view that organisations such as the Scarlett Alliance and the Sex Workers Outreach Project have important roles to play in assisting the police in identifying and helping victims.’.

Mr Mason-Cox moved: That the motion of Dr Faruqi be amended by inserting the following sentence at the end: ‘For this reason, the committee recommends that the NSW Government encourage sex services industry groups to regularly attend training on human trafficking and slavery to assist in identifying and helping victims, including the reporting of alleged offences’.

Amendment of Mr Mason-Cox put.

The committee divided.

Ayes: Dr Faruqi, Mr Green, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox

Noes: Mr Donnelly, Mr Wong.

Question resolved in the affirmative.

Original question of Dr Faruqi, as amended, put: ‘The committee considers that, in some cases, there may be some correlation in New South Wales between organised crime, brothels and human trafficking and is of the view that organisations such as the Scarlett Alliance and the Sex Workers Outreach Project have important roles to play in assisting the police in identifying and helping victims. For this reason, the committee recommends that the NSW Government encourage sex services industry groups to regularly attend training on human trafficking and slavery to assist in identifying and helping victims, including the reporting of alleged offences.’.

The committee divided.

Ayes: Dr Faruqi, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox

Noes: Mr Donnelly, Mr Green, Mr Wong.

Question resolved in the affirmative.

Mr Mason-Cox moved: That recommendation 21 be amended by omitting 'introduce mandatory reporting for suspected instances' and inserting instead 'report suspected instances'.

Question put.

The committee divided.

Ayes: Dr Faruqi, Mr Green, Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox

Noes: Mr Donnelly, Mr Wong.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That paragraph 3.92 be amended by inserting 'heinous' before 'crime that must be stopped'.

Dr Faruqi moved: That recommendation 29 be amended by omitting ' and consider including A21's *Bodies Are Not Commodities* program as part of this curriculum'.

Amendment negatived.

7. Further meeting to adopt Chair's draft report

Resolved, on the motion of Mr Wong: That the committee meet on Tuesday 10 October 2017 to consider the adoption of the Chair's draft report entitled *Human trafficking in New South Wales*.

8. Adjournment

The committee adjourned at 11.05 am, until Wednesday 11 October 2017.

Samuel Griffith

Clerk to the Committee

Draft minutes no. 8

Wednesday 11 October 2017

Members' Lounge, Parliament House, 12.54 pm

1. Members present

Mr Green, *Chair*

Mrs Maclaren-Jones, *Deputy Chair*

Mr Donnelly (from 1.00 pm)

Dr Faruqi (from 1.00 pm)

Mr Khan

Mr Wong

2. Apologies

Mr Mason-Cox

3. Previous minutes

Resolved, on the motion of Mr Khan: That draft minutes no. 7 be confirmed.

4. Consideration of adopting the Chair's draft report

Resolved, on the motion of Mrs Maclaren-Jones: That:

- (a) The draft report as amended at the meeting on 25 September 2017 be the report of the committee and that the committee present the report to the House;
- (b) The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- (c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- (d) Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- (e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- (f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- (g) Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- (h) That the report be tabled on 19 October 2017;
- (i) That the Chair hold a press conference on 19 October 2017.

5. Adjournment

The committee adjourned at 12.55 pm.

6. Meeting reconvened

The meeting was reconvened at the request of Mr Donnelly and Dr Faruqi at 1.04 pm as it took place before the scheduled start time of 1.00 pm.

7. Discussion of motions agreed to

The committee noted that there was still a consensus on the motions agreed to regarding the draft minutes and adopting the report.

8. Adjournment

The committee adjourned at 1.05 pm, *sine die*.

Samuel Griffith
Clerk to the Committee

Appendix 5 Dissenting statement

THE HON. GREG DONNELLY MLC AND THE HON. ERNEST WONG MLC DISSENTING STATEMENT

The Select Committee on Human Trafficking in New South Wales inquiry received evidence, both written and oral, that confirmed that tragically human trafficking is very much alive and well in New South Wales. All human trafficking in whatever form it takes is repugnant and everybody, particularly those in elected office, should do everything that they can to bring their influence to bare to not just seek to minimise it, but eradicate it completely.

One area of human trafficking in this state that is particularly disturbing is in the so-called sex services industry. It should be said that the use of terms like ‘sex services industry’ and ‘sex work’ are themselves highly problematic when used to describe what is in many instances gross ill treatment and exploitation of mainly young woman (and sometimes girls) often from South East Asia, drawn to New South Wales to be engaged in prostitution and related activities. It is in this area of human trafficking that we believe that this report and some of its Recommendations should have been stronger and gone further in what they proposed.

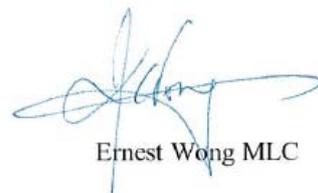
Firstly, with respect to Recommendation 20 we proposed that instead of making a general statement about investing in “pathways to assist sex workers who want to exit the industry and find other methods of employment”, the NSW Government should go further and specifically “provide funding allocations annually through the budget”, to help make exiting these activities a reality for the individuals caught up in them. This proposal was not supported by the majority of the Committee.

Secondly, with respect to Recommendation 21 we proposed that “sex services industry groups, bodies and organisations such as Scarlett Alliance and the Sex Workers Outreach Project to, as a condition of all current and future funding or financial support, be required to attend training on human trafficking and slavery to assist in identifying and helping victims and also cooperate in the introduction of mandatory reporting.”. We believed that this was a perfectly reasonable proposal given that these and similar organisations are receiving most of their funding directly from the state. However, this proposal was also not supported by the majority of the Committee.

There is no question that all aspects of human trafficking provide enormous challenges for both State and Federal Governments and agencies. However, it is our view that because of the particularly egregious nature and human cost to those individuals caught in prostitution and related work, Governments and their agencies need to develop new strategies and approaches for dealing with what is going on in this particular area of human trafficking.



Greg Donnelly MLC



Ernest Wong MLC