

Parliamentary Select Committee on Human Trafficking (NSW) – Inquiry into Human Trafficking

Australian Government Response to Questions on Notice

Question 1

The Hon Trevor Khan asked the following question at the hearing on 29 May 2017:

Were any lessons learnt from Mr Manjit Singh's life and death?

The answer to the honourable member's question is as follows:

The Australian Government is committed to continually strengthening our response to human trafficking and slavery. Since Mr Singh's death in 2011, the Australian Government has strengthened existing measures and introduced new initiatives to combat human trafficking and slavery in Australia. This includes:

- Significantly strengthening Australia's criminal offences in 2013, including by introducing new offences of forced marriage, harbouring a victim, and standalone offences of forced labour and organ trafficking.
- Establishing comprehensive protections for vulnerable witnesses in human trafficking and slavery-related matters in 2013, including the ability to give evidence by video link and limiting the contact between witnesses and members of the public.
- Amending Australia's Human Trafficking Visa Framework in 2015 to enhance access to welfare and social security and to provide improved access to work rights.
- Implementing Australia's comprehensive *National Action Plan to Combat Human Trafficking and Slavery 2015-19* to further refine the Australian Government's response to these crimes.

Question 2

The Chair asked the following question at the hearing on 29 May 2017:

What data or research is collected by the Commonwealth on out-of-home care, including through the Australian Institute of Health and Welfare?

The answer to the honourable member's question is as follows:

The Australian Institute of Family Studies (AIFS), the Australian Housing and Urban Research Institute and the Australian Institute of Health and Welfare research and report on a variety of outcomes for young people exiting out-of-home care.

For more information, see *Outcomes for young people leaving care*, CFCA Paper No.41 – October 2016; Australian Institute of Family Studies:

aifs.gov.au/cfca/publications/supporting-young-people-leaving-out-home-care/outcomes-young-people-leaving-care

AIFS and the Victorian Department of Human Services are currently conducting a longitudinal study (June 2015-mid 2018) of leaving care, focusing on the experiences of young people leaving the care system in Victoria. Details about the study, *Beyond 18 – the Longitudinal Study on Leaving Care* are at: beyond18.com.au

The Royal Commission into Institutional Responses to Child Sexual Abuse is seeking views on whether there should be a nationally consistent approach to data collection, including agreement on key terms and definitions across jurisdictions, in relation to child sexual abuse in out-of-home-care.

Question 3

The Chair asked the following question at the hearing on 29 May 2017:

Can you table a copy of the Australian Government's information booklet for service providers about forced marriage?

The answer to the honourable member's question is as follows:

The Australian Government's information booklet for service providers about forced marriage is available at the link below:

<https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Documents/InformationAboutForcedMarriageForAgenciesCommunityOrgsAndServiceProvs.pdf>

Question 4

Dr Mehreen Faruqi asked the following question at the hearing on 29 May 2017:

When will the 'National Policing Protocol' be completed?

The answer to the honourable member's question is as follows:

The National Policing Protocol has been drafted and provided to all states and territories for comment. These comments have been collated and reviewed by AFP and it is expected a final version will be produced in coming months.

Question 5

The Hon Trevor Khan asked the following question at the hearing on 29 May 2017

How many convictions are recorded each year for online child sex exploitation (the number of people convicted not the number of counts per person)?

The answer to the honourable member's question is as follows:

Between 1 May 2016 and 30 April 2017 there were 20 offenders charged in NSW with offences relating to online child exploitation. During this period, there were 63 offenders charged in total in Australia.

Australian Government Response to Supplementary Questions

Question 6

Regarding a recent case of 22 men who came to Australia from Vanuatu under a Federal Government seasonal worker program. One man was paid just \$150 for six months of work. When they complained to the employer, the employer threatened to have them taken to the police and deported. Do the Federal Police have any concerns about programs such as the seasonal work program, particularly as it relates to worker exploitation and human trafficking?

The Australian Government is committed to strengthening its response to labour exploitation in Australia and ensuring criminal activity is identified, investigated and prosecuted. The Australian Government has comprehensively criminalised human trafficking, slavery, and slavery-related offences irrespective of the industry where exploitation occurs. The Australian Federal Police (AFP) also has specialist teams to investigate these offences. To ensure our response to these crimes remains as effective as possible, the Australian Government has established a specialist multi-stakeholder working group under the *National Roundtable on Human Trafficking and Slavery* to develop recommendations on how to strengthen responses to criminal forms of labour exploitation in Australia.

The Seasonal Worker Programme contributes to the economic development of participating countries through the remittance workers are able to send back to their home countries and assists Australian employers who are unable to source enough local workers to meet their seasonal labour needs. All workers under the Seasonal Worker Programme are protected by Australian workplace laws in the same manner as Australian workers.

The Fair Work Ombudsman (FWO) took legal action against Queensland labour-hire company Maroochy Sunshine Pty Limited and its director, Mr Emmanuel Bani, in July 2014 for the underpayment of its workers, as well as a failure to provide these employees with annual leave entitlements, payslips and a failure to comply with notices issued by the FWO. On 24 March 2017, the Federal Circuit Court ordered penalties of \$186,000 against Maroochy Sunshine and \$41,300 against Mr Bani. The Court also ordered that Maroochy Sunshine back-pay the workers their outstanding entitlements of \$77,649. As part of the penalty hearing, the FWO secured orders by the Court that if Maroochy Sunshine Pty Ltd is unable (for instance, through lack of funds) to pay the amounts due to the employees, the penalties payable by Mr Bani be used to partially meet the amounts due to the workers.

As a result of this case, the Department of Employment tightened the rules on eligibility for contractors operating under the Seasonal Worker Programme. To be eligible to become an approved employer, entities that operate under a contractor business model must now have five years of continuous operation and a history of compliance with workplace relations and immigration laws.

There are other strong protections and monitoring arrangements under the Seasonal Worker Programme. The Department of Employment uses a range of tools to monitor approved employers including a Seasonal Worker hotline, regular written reports from employers, site visits and close liaison with labour sending units in participating countries. All approved employers enter into a legally enforceable Deed with the Commonwealth of Australia, represented by the Department of Employment, in relation to their participation in the Seasonal Worker Programme. Under the Deed of Agreement with an approved employer, the

Department of Employment is able to apply a range of sanctions including additional reporting, specifying particular action to rectify a programme breach, a freeze on future recruitment or termination of the deed.

Question 7

We have heard about the development of the ‘National Policing Protocol’ to combat human trafficking, slavery and slavery-like practices from the NSW Police. Can you update what the progress of that protocol is and whether or not there have been any road blocks?

See answer to question four above.

Question 8

What anti-trafficking programs does the Attorney General's Department fund?

In the last decade, the Australian Government has committed more than \$5.3 million to support specialist civil society organisations to undertake a range of programs and activities to combat human trafficking and slavery. These projects have included providing outreach and support to victims, developing educational tools and undertaking awareness-raising.

In June 2017, the Minister for Justice committed a further \$500,000 in 2017-18 to support community-based projects to prevent and address human trafficking and slavery in Australia. A public announcement will be made once funding agreements have been entered into with successful applicants.

Question 9

What visa types (e.g. student, spousal) have been used in alleged human trafficking cases? Please provide a statistical breakdown for each visa type.

Suspected victims of human trafficking identified by the AFP and referred to the Support for Trafficked People Program (STPP) may hold a range of visas, including Bridging visas, Partner visas, Working Holiday visas, Tourist visas and Student visas. Some were also Australian citizens. The table below sets out the immigration status and visas held by the 225 suspected victims referred by AFP to the STPP between 1 March 2009 and 7 June 2017.

Visa at referral	Number of clients
Australian Citizen	30
Unknown	25
060 - Bridging F Visa	19
309 - (Offshore) Spouse (Provisional) Visa	15
Unlawful	15
417 - Working Holiday Visa	14
676 - Tourist Visa	14
050 - Bridging (General) E Visa	11
573 - Higher Education Sector Visa	10
Permanent Resident (subclass not specified)	9
100 - Offshore Spouse Permanent Visa	8
010 - Bridging A Visa	7
426 - Domestic Worker (Diplomatic or Consular) Visa	6
Other visas (with 5 or fewer clients)	42
Total	225

Question 10

How has the Commonwealth Government responded to concerns regarding the lack of regulation and monitoring of criminal conduct, such as cyber trafficking, on social media (e.g. Facebook)? See pp 4-5 from Former NSW Police Commissioner Scipione's evidence to the committee on 28 March 2017 for background.

In responding to the question, we have taken 'cyber trafficking' to mean a person using the internet to view, to pay to view, or to provide instructions and view, in real time, child sexual exploitation. In international law enforcement circles, this is known as Live Distance Child Abuse.

The Commonwealth Government is committed to ensuring that the criminal framework appropriately captures the evolving nature of online offending.

The Commonwealth *Criminal Code* has been used to successfully prosecute instances of 'live-streaming' of child sexual exploitation. The Commonwealth also continues to work closely with law enforcement agencies (particularly those in destination countries), prosecutorial bodies, and other stakeholders, to ensure relevant offences cover the full range of online child sexual exploitation.

Question 11

What are the advantages and disadvantages of Australia enacting a Modern Slavery Act similar to the United Kingdom?

The Federal Joint Standing Committee on Foreign Affairs, Defence and Trade is currently inquiring into whether Australia should establish a modern slavery act. The Australian Government will closely consider the Committee's recommendations.

A number of the measures included in the UK *Modern Slavery Act 2015* (UK Modern Slavery Act) are already present in Australian law and practice. The Australian Government substantially amended Australia's human trafficking and slavery offences in 2013 to be consistent with international best-practice. Australia's current offences are broadly consistent with the amendments made by the UK Modern Slavery Act. As in the UK, Australian legislation also provides for courts to make reparations orders in human trafficking and slavery cases as well a range of orders to protect victims from criminal conduct. The maritime enforcement powers set out in the UK Modern Slavery Act are also covered under the Commonwealth *Maritime Powers Act 2013*, which provides for a broad set of enforcement powers for use in, and in relation to, maritime areas, including ships, where there is a reasonable suspicion of a contravention of Australian law.

Some aspects of the Australian Government's response may also be more comprehensive than existing measures in the UK. These include extended support for trafficking victims who assist with the criminal justice process, and opportunities for trafficking victims to remain in Australia on temporary and permanent visas.

Question 12

From a Commonwealth perspective is there a benefit for NSW to have its own Independent Anti-Slavery Commissioner that could facilitate coordination between Federal and State levels and coordinate a NSW response to human trafficking?

The Australian Government is primarily responsible for Australia's response to human trafficking, slavery and slavery-like practices. The Australian Government is working to strengthen connectedness with the states and territories under Australia's *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, including by improving coordination with relevant state and territory agencies.

The Australian Government has not taken a position on whether to establish an Anti-Slavery Commissioner at the Commonwealth level. The Federal Joint Standing Committee on Foreign Affairs, Defence and Trade is currently inquiring into whether Australia should establish a modern slavery act. The Australian Government will closely consider the Committee's recommendations.

Due to the complexities arising in human trafficking and slavery matters (including forced marriage), the government response involves multiple government portfolios. At the Commonwealth level, the Attorney-General's Department has been designated as the lead agency to ensure that Australia's domestic response is well coordinated across the whole of government. NSW could consider similarly 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.