
From: Elizabeth Sheridan <Elizabeth.Sheridan@uts.edu.au>
Sent: Tuesday, 19 September 2017 5:21 PM
To: Committee Human Trafficking
Cc: Jennifer Burn
Subject: NSW Human trafficking inquiry - Further question to Anti-Slavery Australia

Dear Samuel,

Anti-Slavery Australia provides this short comment in response to the Committee's question: 'Do you support New South Wales criminalising underage forced marriage?'

Anti-Slavery Australia does not recommend the introduction of NSW offences of forced marriage.

Arguments in support of the introduction of a NSW based offence

There may be the perception that the introduction of a New South Wales (NSW) offence of underage forced marriage may raise the profile of this slavery-like practice, deter the practice and may empower victims to recognise the specific harms of forced marriage.^[1] Criminalisation in NSW may also provide an advocacy tool to strengthen community responses against forced marriage.

Anti-Slavery Australian recommendations against a NSW offence

NSW authorities already have the power to investigate and prosecute Commonwealth criminal offences, pursuant to the *Judiciary Act 1903* (Cth).^[2] Furthermore, the Australian Federal Police (AFP) 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.^[3] As such, it is the opinion of Anti-Slavery Australia that the creation of a discrete criminal offence of forced marriage in NSW will not address the underreporting, and under-prosecution of this crime in NSW.

In order to increase the identification of forced marriage victims, we recommend that the NSW Government work with the NSW Police to provide ongoing training to officers regarding the indicia of forced marriage, referral pathways and the state-based application of the Commonwealth Criminal Code. This training may be introduced in conjunction with the Australian Federal Police's *National Policing Protocol to Combat Human Trafficking, Slavery and Slavery-like Practices*, to strengthen NSW Police policy and referral pathways between Australian law enforcement agencies regarding slavery and human trafficking.

In addition to the recommendations made previously relating to education, training and support, Anti-Slavery Australia recommends that the NSW Government strengthen the civil protective framework for those in NSW facing forced marriage. This may include the amendment of the Apprehended Violence Order framework to expand the definition of personal violence offences provided in the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) to include people facing forced marriage. The *Children and Young Persons (Care and Protection) Act 1998* (NSW) may 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.

Thank you for consulting with us on this question. I look forward to reading the final Report of the Committee.

Please don't hesitate to contact us if you have any further questions, or require any other information.

Kind regards,
Elizabeth Sheridan.

JM Burn Solicitor, Anti-Slavery Australia | University of Technology, Sydney |

T 02 9514 8117 | E asalegal@uts.edu.au | W www.antislavery.org.au & facebook.com/AntiSlaveryOz |



^[1] Frances Simmons and Jennifer Burn, 'Without Consent: Forced Marriage in Australia' (2013) 36 *Melbourne University Law Review* 970, 994.
^[2] *Judiciary Act 1903* (Cth) s68.
^[3] Trafficking In Persons: The Australian Government Response 1 July 2015 – 30 June 2016' (Eighth Report Of The Interdepartmental Committee On Human Trafficking And Slavery, Commonwealth of Australia, 2016) 23-24.

UTS CRICOS Provider Code: 00099F DISCLAIMER: This email message and any accompanying attachments may contain confidential information. If you are not the intended recipient, do not read, use, disseminate, distribute or copy this message or attachments. If you have received this message in error, please notify the sender immediately and delete this message. Any views expressed in this message are those of the individual sender, except where the sender expressly, and with authority, states them to be the views of the University of Technology Sydney. Before opening any attachments, please check them for viruses and defects. Think. Green. Do. Please consider the environment before printing this email.

^[1] Frances Simmons and Jennifer Burn, 'Without Consent: Forced Marriage in Australia' (2013) 36 *Melbourne University Law Review* 970,
^[2] *Judiciary Act 1903* (Cth) s68.
^[3] Trafficking In Persons: The Australian Government Response 1 July 2015 – 30 June 2016' (Eighth Report Of The Interdepartmental Committee On Human Trafficking And Slavery, Commonwealth of Australia, 2016) 23-24.