

Submission
No 3

INQUIRY INTO HUMAN TRAFFICKING

Organisation: Josephite Counter-Trafficking Project

Date received: 8 February 2017



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SUBMISSION:
Inquiry into Human Trafficking

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Josephite Counter-Trafficking Project appreciates the invitation to participate in the Inquiry into Human Trafficking. We commend the NSW Select Committee on Human Trafficking for taking the initiative to conduct this Inquiry.

ABOUT JOSEPHITE COUNTER-TRAFFICKING PROJECT (JCTP)

Josephite Counter-Trafficking Project (JCTP) is a Congregational project of the Sisters of St Joseph of the Sacred Heart which was established in 2005 to promote, by way of holistic direct services, the spiritual, physical and emotional development of people who have undergone the trauma of being trafficked to Australia.

Since 2005 JCTP has developed networks among others working on the issue of trafficking and in collaboration with the Australian Border Force, Australian Federal Police (AFP), Red Cross, Salvation Army and other NGOs. JCTP provides support and direct services to trafficked children, women and men, including reintegration and repatriation programs. We have also conducted a survey in 2007 on the social needs of Trafficked women.

JCTP has run awareness-raising programs for schools, parishes and the wider community. We continue to support and advocate for trafficked persons and those who have been victims of forced marriage, with Government and Non-Government Organisations.

Weekly visits have been made to Villawood Detention Centre where we met women who had been trafficked into brothels. We also met men and women who had been trafficked into the labour force. They had been arrested and detained for working illegally in a vineyard.

We believe that because of the complex nature of Trafficking of Persons it is of vital importance that Government agencies, NGOs and individuals work together to address the issue of Human Trafficking. This view has been confirmed by the papers presented by Caritas Internationalis and other NGOs in 2016.

JCTP believes that this is an opportune time for NSW to address the issues regarding Human Trafficking, considering that the majority of people who have been identified as being trafficked have entered through Sydney and Melbourne, and in the light of the increasing instances of exploitation of migrant workers in farms and in the construction industry.



We concur with the UN Special Rapporteur's recommendation in her 2012 report that there be a redeveloped consultative, national plan of action for combating trafficking which applies a **human rights approach**.

Revisiting Recommendations from NSW Inquiry into the Exploitation of people through Trafficking in all its forms in NSW (3/12/2013)

JCTP contributed to the NSW Inquiry in 2012 and we were pleased to note that the Community Relations Commission Report recommended the following five Key Findings and Recommendations

1. **Strengthen NSW Government response** through the establishment of a Human Trafficking Ministerial Advocacy Council “to better coordinate intergovernmental responses to human trafficking and slavery.” (Executive Summary p.5)
JCTP is not aware that the measures suggested in this recommendation have been addressed as there are still gaps in the provision of services to trafficked persons. These issues will be discussed later in this Submission.
2. **Undertake legal and policy reform.** In NSW there is still no recognition payment scheme that recognises crimes related to human trafficking and slavery. We suggest that policies regarding access to safe, suitable and sustainable accommodation and education be revisited and adapted to the needs of victims of human trafficking and slavery.
3. **Improve outcomes for trafficked people.** There is still need for appropriate and sustainable housing especially for those who are on the Bridging Visa F and especially the very young (minors) who have been in Forced Marriage situations, as well as victims of labour exploitation.
4. **Enhance knowledge and awareness.** Funding was given to Cultural Partners as part of the Awareness Raising regarding Forced Marriage but that only lasted for one year. More needs to be done in the area of the construction and agricultural industries as well as with the plight of migrant workers and students who are exploited and/or end up in forced labour. Funding for the training of NSW Police and frontline agencies would assist with the identification of victims of human trafficking and forced Marriage.



5. **The Need for more research.** This is important in the light of recent exposés regarding exploitation of students working at 7-Eleven outlets and farm workers in Coffs Harbour and around NSW.

TERMS OF REFERENCE

1. (a) (i) **Role of NSW Law Enforcement - Generally in response to Human Trafficking**

Protection of Migrant workers from Exploitation and or Forced Labour

- Farmers in NSW are constantly looking for people willing to pick the fruits during the fruit-picking seasons.

Since last year there has been a spate of media exposés regarding the ruthless exploitation of migrant workers by hire contractors. Some are foreign students who are allowed to work for 20 hours and others are on tourist visas and are found to be working illegally. Task Force Cadena was created to protect and deal with the increase of illegal migrant workers. It is a matter of concern that when illegal migrant workers are discovered they are arrested and immediately put into Detention.

The greater crime of being exploited or having been forced into labour has precedence over the lesser crime of working illegally. This point was also highlighted at our meeting with the UN Special Rapporteur for Migrants on the 15th of September 2016.

In August 2016, 34 Malaysians including 2 minors were found working on a blueberry farm in NSW. They were arrested and put in Villawood Immigration Detention Centre (VIDC). This time around the 34 illegal Malaysian workers in NSW were interviewed by AFP and Border Protection. However, knowing that they had been caught working illegally and being wary of Immigration and AFP they elected to return home. As far as we know they had no access to outside, independent advice nor were they given the option of speaking to visitors like me (who can speak their language and are from the same country of origin) or NGOs who offer free legal advice. This is of concern especially when they have been exploited and could be fearful of repercussions on them and/or their families.

During my visits to Villawood Immigration Detention Centre which began in 2005 I have come across people who have been exploited in the sex industry, farming and construction industry and in domestic servitude. Lately, there has been an influx of fishermen in



Detention. Workers who have been exploited do not say anything about their plight to the authorities because they are afraid of repercussions on them and their families. They do not wish to be deported for being illegal. They need to continue working to support their families. Research done in New Zealand on the plight of fishermen working on foreign ships proved that they were subjected to physical and psychological abuse. The Archdiocese of Wellington, New Zealand, “Stand up for what is Right: Supporting migrant workers” in September 2016 report, speaks of the importance of collaboration by Government and Non-Government Agencies, and religious groups to ensure that migrant workers are not exploited.

JCTP is a member of ACRATH (Australian Catholic Religious Against Trafficking in Humans) who had the opportunity to ask about legal advice being given to the illegal workers. The answer given was that these workers were given a phone book by ABF if they wanted to find a lawyer. Being handed a phone book is not the answer especially for the farm worker who is from overseas and whose English is often limited.

Detention is not the answer. When workers have been given good legal advice of their options they need time to evaluate their options – this does not seem to be happening.

Being a regular visitor to VIDC I came into contact with a Malaysian who spoke to me about going on the Facebook and finding advertisements regarding working on farms in Australia. Some are Phoenix (bogus) companies and ask for 5,000 ringgit to 6,000 ringgit (Malaysian dollars) to assist the enquirer in finding a place to stay and list of farms where the person can work. The working hours are harsh and if they are lucky to get any wages, they are paid a pittance – not according to Australian rates.

Since last year NGOs have been advocating that the Federal Government licence labour hire companies as a way to protect migrant workers. The state of Victoria has now taken the lead in doing so.

The East Timorese Embassy has two registered companies through which their nationals can find work. This is well monitored as there are unannounced visits to the work place and to the workers. This is a model for the protection of migrant workers that can be adapted to our current situation.



There has been at least 120 media items regarding the exploitation of workers by the 7-Eleven Stores. Those affected are mainly students who have to work long hours, beyond their legal 20 hours, if they want to keep their jobs.

On 15/11/16 there was also a front page story in the Sydney Morning Herald, followed by a 4Corners program which exposed the ruthless exploitation of illegal farm workers by labour hire contractors and middlemen in NSW and Victoria. It is a matter of concern that there have been no prosecutions in NSW of employers who have been exploited in the agricultural industry.

JCTP recommends that NSW Government licences labour hire companies which are well monitored and that there is a list of such companies available to employers and migrant workers to prevent the exploitation of workers, who have to work long hours, under harsh conditions and are underpaid or even unpaid. Victoria has already taken steps to do so.

- To ensure that the response by law enforcement agencies is effective it is important that there is **greater collaboration and consultations between Government and Non-Government Organisations, as mentioned in the 2013 Findings. Consultations need to include migrant workers who have been exploited and/or been victims of forced labour.** Collaborations and consultations should also include Embassies, Consulates, Employers, Law Enforcement, Religious Organisations, Migrant Resource Centres and Community groups.

We are aware of programs run by Embassies (e.g. Philippines) who prepare workers before their departure and on arrival overseas on the rights and responsibilities of workers.

Police Officers and frontline service providers also need training regarding Forced Labour and exploitation of migrant workers.

- There have been cases where persons who have been in a Forced Marriage or domestic servitude situation have not been detected because of ignorance of law enforcement, school authorities, social workers etc. Hence the importance of ongoing, updated training for Police Officers, marriage celebrants, teachers and frontline service providers e.g. doctors and social workers.



(a) The influence of Organised Crime in NSW

Due to the complexity and hidden nature of Human Trafficking there is very little evidence of Organised Crime in NSW as incidences of Human Trafficking crimes are under-reported due to fear of the traffickers, of those in authority and being illegal and/or deported.

However, we are aware of incidences of organised crime through Face Book in Malaysia and anecdotal accounts by migrant workers in the agricultural and construction industry as mentioned earlier in this submission. Workers are enticed with the offers of jobs and accommodation, for a fee. On arrival, some are forced to work long hours, living in cramped quarters or find themselves stranded without a job or accommodation. The vulnerability of these workers is compounded by cultural and language barriers, lack of knowledge of local workplace laws and standards and in some cases their reliance on their employer for their immigration status.” (*Trafficking in Persons: The Australian Government’s Response 1 July 2015 – 30 June 2016 p.43*)

Recently, JCTP became aware of offers of jobs on a Philippines website in the maritime industry. Papers provided looked very real but there was no such company.

(b) The Prevalence of Human Trafficking in NSW

There are no reliable figures regarding the prevalence of Human Trafficking in NSW. This is due to the reluctance of vulnerable people who have been trafficked to report the matter to the authorities and in the case of Forced Marriages the victims do not want their parents to be indicted.

However, according to the report on *Trafficking in Persons: The Australian Government’s Response 1 July 2015 – 30 June 2016 p.34*, there were 12 new clients referred to the Australian Government’s Support Program between 1/7/15 to 30/6/16.

(c) The Effectiveness of Relevant Legislation and Policies

- There is no legislation in NSW that requires Labour Hire Companies to be licensed, registered, regulated and monitored. This leaves workers especially in domestic services, the agricultural and construction industries, open to exploitation as has been seen in the media exposé during the past 18 months.
- In her report on Australia in May 2012, Ms Joy Ngozi Ezeilo the UN Special Rapporteur on Trafficking in Persons noted 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." (*Report on Establishing a National Compensation Scheme p.4*)

Since there is no consistent Federal compensation scheme victims of Human Trafficking have to apply for compensation from states or territories where the crime is committed. Compensation also varies from each state or territory.

The Compensation Scheme in NSW is inadequate as it "fails to recognise the offences of forced labour, forced marriage or debt bondage." (*Report on Establishing a National Compensation Scheme p.4*) This scheme does not take into consideration victims of forced labour, forced marriage or debt bondage who have been traumatised in their place of employment. Victims who have not suffered an act of injury or been subjected to violence or sexual abuse are not eligible for compensation. The scheme also does not provide for non-economic loss e.g. loss of personal integrity, trust in self and others, physical and psychological health and income for self, children and extended family.

It is also a matter of concern that those who are on the Bridging Visa F (BVF) and are on the Special Benefits lose their Centrelink living allowance and have to live on the compensation payout which is meant to assist with their health and welfare as they begin to come to terms with what they have suffered and start life afresh.

- At present victims who are still on BVF while waiting for the Referred Stay (permanent) Visa (RSV), are excluded from applying for Public and Community Housing. It is especially difficult for those minors who are estranged from their families and for men whose only access is to homeless refuges which are only for three months. The men have to resort to private rental housing which is unaffordable.
- (d)** Practical measures and policies including security measures to protect NSW identity documents that would address human trafficking in NSW:
- Licensing, registering and monitoring of labour hire companies and working in collaboration with Government and Non-Government Organisations, including Embassies, Consulates and migrant workers.
 - A comprehensive Compensation Scheme which makes restitution for the harm that has been suffered by victims of trafficking.



- The setting up of a Hot line which would enable victims and/or community members to access information and support in their own language.
- We suggest that culturally appropriate accommodation in the youth housing sector be available to help young clients especially those who have had very limited personal freedom and who do not have independent living skills.
- Enabling those on BVF to access public housing while they are waiting for their RSV.
- Those on BVF are also not eligible for study in TAFE unless they pay overseas students' fees. The Victorian Training Guarantee allows access to vocational education and training courses at the local student rate. This makes study more affordable and attainable.

We suggest that provisions be made to waive fees for those on BVF and they be allowed to enrol in the **Smart and Skilled program** which Asylum Seekers on bridging visas can access. This program is run by Centrelink and would enable participants to study at TAFE (*Australian Trafficking in Persons: The Australian Government's Response 1 July 2015 – 30 June 2016 p.42*).

JCTP is also aware of the pressure on those with a permanent visa to look for jobs while studying at TAFE because they are not deemed by Centrelink to be studying full time due to these courses being 6 monthly. This policy needs to be revisited as it is defeating the purpose of encouraging people to study English and/or courses to enable them to learn the language and obtain skills for gainful employment. They are not bludgers and want to start working and make a contribution to society.

- The cost of travelling on public transport is prohibitive for trafficked persons who have to attend medical and legal appointments and meet with the Trafficking Team from AFP and ABF. It would be helpful if they are given access to the Transport Concession Entitlement Cards which are available for Asylum Seekers who are applying for or holding a Bridging Visa.
- Human Slavery occurs in many different forms and can be found in all aspects of our daily life, from the cotton in our clothes to the minerals in our electronics. For example, in Uzbekistan, during the harvesting season schools are closed down by the government. Teachers and children are forced to pick cotton until they have completed their quota. Children in the Congo, as young as age 7, are forced to extract cobalt which is used in rechargeable cell-phone batteries. They are inhaling toxic dust that can lead to fatal lung disease.



JCTP suggests that the NSW government establish a committee that examines the procurement policies where there is a presence of forced labour or child labour e.g. the source of uniforms and free trade beverage etc.

In conclusion, JCTP would like to thank the NSW for taking the initiative to address the issue of Human Trafficking and response to the needs of victims of trafficking. It has been a privilege to be able to contribute to this inquiry. We hope that the suggestions above with regard to

- labour hire companies;
- a Comprehensive Compensation Scheme;
- access to Education;
- Safe, Suitable and Sustainable Housing;
- forced labour or child labour free Procurement policies and
- access to Transport Concession Entitlement Cards

is helpful, and will be seriously considered by the NSW Select Committee on Human Trafficking.

We look forward to the outcomes of the Inquiry and to working together in future collaboration with NSW authorities and NGOs.

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