

**REPORT ON PROCEEDINGS BEFORE**

**MODERN SLAVERY COMMITTEE**

**REVIEW OF THE MODERN SLAVERY ACT 2018**

**CORRECTED**

**At Macquarie Room, Parliament House, Sydney on Monday 20 November 2023**

**The Committee met at 10:00 am**

**PRESENT**

Dr Joe McGirr (Chair)

**Legislative Council**

The Hon. Robert Borsak  
The Hon. Aileen MacDonald

**Legislative Assembly**

Ms Jenny Leong (Deputy Chair)  
Ms Kylie Wilkinson

**PRESENT VIA VIDEOCONFERENCE**

**Legislative Council**

The Hon. Dr Sarah Kaine

**Legislative Assembly**

Mrs Tina Ayyad



**The CHAIR:** Welcome to the second hearing of the Committee's review of the Modern Slavery Act. I begin by acknowledging the Gadigal people of the Eora Nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders, past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today.

I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage committee members and witnesses to be mindful of these procedures.

**Professor JENNIFER BURN**, Director, Anti-Slavery Australia, sworn and examined

**Ms SANDEEP DHILLON**, Human Rights Practice Manager, Anti-Slavery Australia, affirmed and examined

**Ms ISOBEL McGARITY**, Senior Lawyer, Anti-Slavery Australia, affirmed and examined

**The CHAIR:** Welcome to each of you and thank you for making time to give evidence. There is an opportunity for you to begin with an opening statement, after which time the Committee will take turns to ask questions of you. Perhaps you could begin with your opening statement.

**JENNIFER BURN:** On behalf of Anti-Slavery Australia at the University of Technology Sydney, I thank the members of the Committee for this opportunity to provide evidence as part of your statutory review of the Modern Slavery Act. I am Director of Anti-Slavery Australia, and I am here with my colleagues, Sandeep Dhillon and Isobel McGarity. I note that I was appointed by the New South Wales Government as the interim Anti-slavery Commissioner in 2018 with responsibility to implement the Modern Slavery Act by 2019. The New South Wales parliamentary election in that year had the effect of changing the Act's trajectory. The Act was subject to a parliamentary review in 2019, and various amendments to the Act were made before it ultimately came into effect on 1 January 2022.

Anti-Slavery Australia was established 20 years ago at UTS. We have a legal, research, policy and training role, and we are committed to the abolition of all forms of modern slavery. We offer a legal practice which is pro bono and confidential. We are assisting over 400 clients, survivors of modern slavery in Australia. The legal service is national and Sandeep will speak more about this. We've written over 60 submissions to government and parliamentary bodies, drawing on the experience of our clients. We have an active policy role and are advocating for the establishment of a national compensation scheme for survivors of modern slavery. Nevertheless, we are making recommendations for amendments to the New South Wales Victims Rights and Support Act.

We've had a focus this year on research underpinning survivor leadership and survivor engagement, and we've published a research report called *Beyond storytelling*. We've had a focus this year on forced marriage. We have a significant grant, funded by the Australian Government Department of Social Services, to develop a forced marriage prevention project. We've trained over 1,300 frontline workers about forced marriage throughout Australia. We've conducted close to 50 sessions for frontline workers. We released, a week ago, perhaps two weeks ago, a podcast series on forced marriage, hosted by two women with practical and lived experience. We have two websites, each of which provides a pathway to legal advice and representation. The My Blue Sky website, which is the national forced marriage portal, can be translated wholly into approximately 18 different community languages.<sup>1</sup>

From the very inception of the Modern Slavery Act in 2018, Anti-Slavery Australia strongly supported the passage of the Act. We continue to support this important legislation. We're very proud that New South Wales was the first jurisdiction in Australia to introduce a modern slavery Act. Many of the provisions in the Act are potentially transformative for the way that they prioritise the safety and security of survivors of modern slavery and address modern slavery in the supply chains of government agencies. The Act is groundbreaking. It is leading legislation. We congratulate the Anti-slavery Commissioner for the way that he is addressing modern slavery in New South Wales.

As you would have seen in our submission, Anti-Slavery Australia is particularly concerned about one section in the New South Wales Modern Slavery Act, and this concern has been longstanding. In 2018 we expressed reservation about the expansive drafting of section 14 of the Act and the extent that it appears to infringe upon the principles of legal professional privilege. While some parts of the original provision have been amended, we do maintain a fundamental concern about the scope of the section 14 power. Up until August this year our objections were theoretical, but in August I received a letter from the Office of the New South Wales Anti-slavery Commissioner requesting confidential client information in reliance of section 14 of the Act. Following the receipt of that letter and further correspondence with the commissioner and evidence given to this inquiry, the commissioner has now endorsed the view that section 14 does not authorise requests for information that could infringe on the principles of legal professional privilege.

Nevertheless, we remained concerned and unsettled about the broad power and the exercise of the power for the following reasons. There's a lack of clarity about the scope of the provision, including guidance about how the power is to be exercised. This general uncertainty about the scope of the provision in section 14 is limited by

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<sup>1</sup> In [correspondence](#) to the committee received 30 November 2023, Professor Jennifer Burn AM, Director of Anti-Slavery Australia, provided a clarification to her evidence.

the functions of the commissioner as set out in section 9 of the Act. But there is little explanation that reconciles the two different provisions. In our submission we recommended repeal of the section. It may be that that is the ultimate course, but we suggest to the Committee that there may be benefit in further considering the nature of the section 14 power and whether, in fact, it is necessary in an environment that is underpinned by cooperation and partnership.

Sandeep will address this further with reference to our legal practice. We do respond to reports of modern slavery in a holistic, survivor-centred way, which is research informed and conducted within trauma-informed practice principles. Sandeep will address these issues along with barriers to justice for survivors of modern slavery, the application of legal professional privilege and the way that we respond to clients in a trauma-informed way.

In our submission we identified support gaps in the New South Wales response to modern slavery. In particular, we strongly recommend that government supports that are available to other vulnerable and marginalised cohorts in the New South Wales community be extended to survivors of modern slavery. Isobel will address our recommendations about extending access to existing government support frameworks to survivors of modern slavery and improving the New South Wales victims support Act to provide a more inclusive response to all survivors of modern slavery in New South Wales. Thank you for the opportunity to make some brief opening comments. We welcome any questions.

**The CHAIR:** You indicated there that your colleagues may wish to make some statements as well.

**JENNIFER BURN:** I was indicating that, if there are questions around the operation of the legal practice and the broader supports to survivors, they will address those questions in particular, but there may be others as well.

**Ms JENNY LEONG:** Thank you for your submission and for your statement, and for being here with us today. I wonder if you could speak to your recommendations and comments specifically around the services and the additional supports needed, particularly for people that you're working with. We've heard and we're aware of the many drivers of modern slavery linked to issues of economic disadvantage, migration and visa issues, housing, homelessness and other challenges that don't relate specifically to the legal issues that you're dealing with. I wonder if you could speak in a bit more detail as to any policy or legislative changes you think would assist that the New South Wales Government could take in those areas.

**ISOBEL McGARITY:** Certainly, Deputy Chair. As Jen outlined in her opening statement, as a legal service, having a focus on welfare and wraparound services and ensuring that our clients have access to social supports is part of ensuring that both survivors of forms of modern slavery and trafficking can rebuild their lives with dignity. But it's also a way that people who are at risk of these practices can access the support that they need potentially to leave a situation. In our legal practice, we work very closely with other civil society organisations, with some government services, to ensure that our clients are referred to the supports that they need. In our submission we've tried to think really practically about some ways that the New South Wales Government could extend programs to support survivors of modern slavery, including trafficking and forced marriage.

There are a couple of specific examples which I could go to. One that's outlined in our submission relates to, for example, transport concessions for people who are survivors of modern slavery and trafficking. We know that that scheme has been extended to people seeking asylum and refugees in New South Wales. This is a really practical way that survivors could catch public transport and access supports that they need. Another example is around emergency payments. The New South Wales Government could consider the extension of certain schemes that are currently in place, for example, for survivors of domestic and family violence to include people who've survived types of modern slavery that aren't currently captured by that definition. One particular scheme in relation to that I think is called the Immediate Needs Support Package. Another example is emergency accommodation, so better funding for emergency accommodation providers with a focus also on specialised services for survivors of these crime types and including certain provisions for people who are young, for example.

Another example I'd like to touch on particularly is health care, so both emergency support at hospitals for people who've experienced forms of modern slavery—and we know that that's currently in place for survivors of certain domestic violence offences—but also for psychological services. This is something that we see in our practice all the time. It can be very, very difficult to link survivors with appropriate psychological supports, both from a counselling perspective but also clinical psychology services.

One of the things that we call on in our submission is for the New South Wales Government to consider establishing a service for survivors of modern slavery and trafficking where those health providers are specially trained. We also ask that such a service would also be able to provide things like medico-legal reports, which we know are crucial for survivors to engage in certain legal processes, whether that's compensation or visa matters. STARTTS, which is a scheme for people seeking asylum and people who have experienced torture and trauma in

New South Wales—whether it could be an extension of a scheme like that or a new service, I think this would be a huge benefit to survivors in the New South Wales context.

**Ms JENNY LEONG:** Thank you very much. I think we're short on time, Chair. Is that my time done? I will come back if there's more.

**The CHAIR:** Sure, thank you. We will go to Ms Wilkinson.

**Ms KYLIE WILKINSON:** I just wanted a little bit more clarification about section 14. If that was repealed, how would that support the work that you do?

**SANDEEP DHILLON:** I might just lay a little groundwork with the context of our work, if that assists? We've talked about our pro bono legal practice. We assist people with a whole range of legal issues, often extremely sensitive legal issues such as complex immigration work. Really importantly, a lot of the time when people first come to our service they have recently left situations of extreme exploitation. As I'm sure the Committee is aware, a lot of the time people have an intense fear of any kind of authority or government body and they're really reluctant to disclose their stories. As lawyers, one of the first things that we do when we speak to people is assure them of their confidentiality. That means they're able to tell us their story in a way that's trauma informed and they're able to have confidence that their story is not going to leave our service as well.

That's really key to building rapport and trust with individuals that we're assisting. It enables us to provide them with frank and honest advice as well. That kind of underpins our concerns about section 14. That assurance is really vital to our service and to our work with clients. From a broader perspective, we aren't able to tell clients what will happen to information if we need to disclose it to another agency, so we're not able to provide people with that assurance, which does hinder the way that we provide our services as well.

**The Hon. AILEEN MacDONALD:** I just have one question. You've said there is a need for better access to comprehensive social and psychosocial supports. How would you see this embedded in the Act, or is it something separate?

**ISOBEL McGARITY:** I think in some ways it is embedded in the Act. When we look at section 3 (b), which is one of the objects of the Act, and that's to provide support to survivors, I think the Act would be strengthened by extending support to people who are at risk of modern slavery. But then I think it also needs to come coupled with other programs. That's obviously through budgets and funding processes through other parts of government as well.

**The Hon. AILEEN MacDONALD:** When you're working with people, for the legal advice, have they been referred to you or do you then refer them through to other services? How does that work?

**SANDEEP DHILLON:** That's a great question. It's a little bit of both. We receive referrals from other agencies, such as the Australian Red Cross or the Australian Federal Police. That's for people that are engaging in the criminal justice framework. But really importantly, our support is not contingent upon any kind of engagement with that framework. We also run a hotline where we receive referrals from other third parties. For example, that might be other service providers—such as medical professionals, social workers, counsellors—who have identified indicators. But we're also contacted by people directly who are in situations of exploitation and are seeking impartial and independent legal advice.

Really importantly, we make referrals as well. As Isobel has touched upon, recognising that people are often really recently leaving situations of exploitation and might not be in a position to be able to receive or action legal advice, we're often making referrals for other psychosocial services, accommodation providers. We do a whole range. Also, really importantly, we run My Blue Sky, which is a national website dedicated to the prevention of forced marriage. We receive a lot of contact from individuals, almost on a daily basis, seeking advice around forced marriage. Really importantly, we run a live chat so we can chat to people through that website. They're able to remain anonymous, as well, when they speak to us. So we're able to provide people with confidential and privileged advice, and they have the option to remain anonymous when they're speaking with us.

**The CHAIR:** Did you want to add to that, Professor?

**JENNIFER BURN:** I'd just like to add to these comments. Anti-Slavery Australia is recommending expanding the services available to survivors of modern slavery in New South Wales. We know that many survivors do not want to engage with the criminal justice process, and this was evident in some evidence to the Committee in hearings that the Committee conducted. In framing an expanded survivor support framework it is important to consider the ways that survivors are identified and their eligibility to access an expanded support scheme. In other words, that eligibility should not be dependent on engagement with the criminal justice system.

**The CHAIR:** I have a couple of areas I'd like to explore a little bit further. You mentioned work in survivor leadership and engagement. Could you expand on the nature of that work, where it's up to, what you've learnt from it and so on?

**JENNIFER BURN:** Yes, thank you, Chair. My colleague Frances Simmons and I published a report this year called *Beyond storytelling*. The focus of that report is to look at the potential that survivors have to lead in the area of modern slavery responses. To date, survivors have not had an opportunity to contribute to the way that laws are made or the way that policies have been developed. We interviewed survivors in Australia, survivor advocates in overseas countries and key stakeholders to develop more of an understanding about the ways that survivors can be engaged.

We've seen very significant changes within the Australian context in the last year or so, both within the New South Wales Anti-slavery Commissioner's office and in the Federal area, where there is a pilot program that has led to a more long-term survivor engagement strategy. But it is clear that survivors have been an untapped resource and learning from survivors is absolutely critical to developing finely tuned and nuanced policies and laws in this space. In addition to the *Beyond storytelling* report, we're in the final stages of preparing a longer manuscript for publication in an academic journal. One of the things that we've suggested at the Federal level that could be included for consideration in New South Wales is the establishment of a statutory survivor advisory council.

We've proposed that within the Commonwealth there is a scheme that's established by law to create a survivor advisory council. Survivors should be paid. They must be well resourced, with access to research and so on, but that is one mechanism that can be used to formally engage survivors. Additionally, we encourage the inclusion of survivors in the work of organisations that are implementing anti-slavery policies. I mentioned the Anti-Slavery Australia work on forced marriage. We do have survivors who are part of the Anti-Slavery Australia Speak Now forced marriage team. That is good practice to do that, but also, ultimately, to ask survivors to join or to lead research and policy development programs. There are opportunities within New South Wales to really tap into the experience and expertise and knowledge of survivors.

**The CHAIR:** I think there's a link to your report in your submission, the *Beyond Storytelling* report?

**JENNIFER BURN:** Yes.

**The CHAIR:** You just mentioned a Federal project in this regard?

**JENNIFER BURN:** Yes. So the Commonwealth Government funded a project that was implemented by The Salvation Army. It was called the Lived Experience Engagement program. Initially a pilot program, the scheme has now been funded for a further period of time. This is a group of survivors who come together, with the support of The Salvation Army, to consult on Federal Government initiatives, laws and policies. So it's not created by statute; it is a policy initiative.

**The CHAIR:** Thank you. The Lived Experience?

**JENNIFER BURN:** Yes. I can provide more information about that.

**The CHAIR:** That would be appreciated.

**JENNIFER BURN:** We have summarised that in the *Beyond Storytelling* report.

**The CHAIR:** You have? Okay.

**JENNIFER BURN:** But at that stage it was a pilot. Now there has been further funding for that program.

**The CHAIR:** That would be great if you could provide some more information on that. Thank you very much.

**JENNIFER BURN:** Just one final sentence. The advantage of securing a survivor advisory council in law is that it provides stability and continuity to the work of the group.

**The CHAIR:** Thank you. I did have one more question. You mentioned also, I think, that you have been funded or have a research grant in relation to forced marriage. Is that correct?

**JENNIFER BURN:** We do. This is a Federal Government research grant provided by the Department of Social Services. We've been working in forced marriage prevention for a number of years now. We did a lot of consultations with survivors and stakeholders and experts, and we learnt from frontline workers and found that the gap in the anti-slavery response in relation to forced marriage was around the capacity of frontline workers to feel confident to be able to identify forced marriage and then be confident to respond to forced marriage. So we

decided to focus on building capacity with frontline workers throughout Australia, and we developed a number of leading resources to support that project.

One of those resources is called the Frontline Worker Guide. It is a best-practice guide, informed by those with lived experience and research. It's available on the My Blue Sky website. We use that along with other resources as part of our national training. There has been a very strong response to the training that we deliver to build frontline workers' capacity. We did do surveys before the training and after the training and, really, the results were remarkable in that there had been an extraordinary increase in understanding and capacity by frontline workers. We have long advocated for frontline worker training to be conducted routinely—within government agencies and within key agencies—in the civil society sector. That is something that is clearly important because we know that modern slavery is still very much an abuse that takes place under the radar and that many people experiencing modern slavery are not identified.

**The CHAIR:** Just to clarify, that project is ongoing?

**JENNIFER BURN:** It is ongoing until the end of June next year.

**The CHAIR:** And you've got some information that has come out of that project that's available on your website?

**JENNIFER BURN:** We do. We're preparing a very detailed evaluation report about the initiatives that we conducted through the study, and that will be available too. There's already significant data that's available by way of preliminary information. It has been remarkable.

**The CHAIR:** Is that preliminary information available through your website, on that project?

**JENNIFER BURN:** No, it's not, Chair. But we could make that information available to you and to the Committee.

**The CHAIR:** I would appreciate that. Thank you.

**Ms JENNY LEONG:** I have one quick question. Maybe take this on notice, given that time is short. Professor Burn, you mentioned at the beginning the way the Act was introduced and then amended significantly before it came into effect. Does Anti-Slavery Australia have a position in relation to the penalties that were originally in the Act? Do you have thoughts around business organisations of a lower threshold than the threshold set by the Federal Act? Maybe, given the time, it's worth taking that on notice, but I just wanted to see if there is anything you want to mention in a minute here.

**The CHAIR:** Perhaps just a couple of minutes, and then perhaps the rest on notice.

**Ms JENNY LEONG:** Yes. I'm just aware that sometimes people might prefer to say something verbally than put it in writing.

**JENNIFER BURN:** Thank you, Deputy Chair. Thank you, Chair. From an Anti-Slavery Australia perspective, we supported the introduction of penalties. At that time, when the Act was first introduced, it did contain a scheme that would require commercial organisations in New South Wales to produce a modern slavery statement each year. That section—section 24—was repealed in the amendments, but Anti-Slavery Australia certainly supported penalties. Perhaps I will leave that for the moment. But in terms of the Commonwealth, we would support the lowering of the threshold to \$50 million.

**The CHAIR:** Thank you very much to all of you for your evidence. We will excuse you now and bring that to a close. Thank you.

**(The witnesses withdrew.)**

**The Committee adjourned at 10:35.**