



Submission to Joint Standing Committee on Foreign
Affairs, Defence and Trade:

Inquiry into establishing a *Modern Slavery Act*

Good Shepherd Australia New Zealand

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Submission to Joint Standing Committee on Foreign Affairs, Defence & Trade:
Modern Slavery Act Inquiry 2017

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About Good Shepherd Australia New Zealand

This submission has been prepared by Good Shepherd Australia New Zealand (GSANZ), a community services organisation that has been delivering on its mission to disrupt the intergenerational cycle of disadvantage, with a focus on women and girls, since 1863 in Australia and 1886 in New Zealand. We achieve this by challenging disadvantage and gender inequality through services, research, advocacy and social policy development.

Our specific expertise is in:

Safety and resilience – supporting women to be resilient provides a buffer between an individual and adversity, allowing them to achieve improved outcomes in spite of difficulties.

Financial security – supporting women to ensure they have access to sufficient economic resources to meet their material needs so that they can live with dignity.

Educational pathways – assisting women and girls to overcome the obstacles in their life that hinder them from achieving their educational/vocational capacity.

Outcomes and evaluations – developing evidence-based program designs across all Good Shepherd Australia New Zealand programs and services.

Research, social policy and advocacy – needs research into emerging issues, identifying effective change interventions for program design, policy analysis and advocacy.

GSANZ is part of a global network of services and advocates established by the Congregation of the Good Shepherd, with representation at the United Nations as a Non-Government Organisation with special consultative status on women and girls.

GSANZ is part of the Good Shepherd Asia-Pacific Anti-Trafficking Network which includes units representing 19 countries from across the region dedicated to ending trafficking exploitation.

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1. Introduction

Human Trafficking comprises the fastest growing criminal industry in the world, based on the recruitment, harbouring, and transportation of people solely for the purpose of exploitation. It is a debasement of the human person. Good Shepherd understands trafficking as a grotesque injustice rooted in the dynamics of our global world and current global economy.¹

GSANZ welcomes the opportunity to submit to the Joint Standing Committee on Foreign Affairs, Defence and Trade on the 2017 Inquiry into establishing a *Modern Slavery Act* in Australia.

As part of an international network of services run by the Congregation of the Good Shepherd, a non-government organisation (NGO) with special consultative status on women and girls at the United Nations, we see Australia's services and social policies within a global context. Our work is informed by the Sustainable Development Goals (SDGs). We are pleased to note that Goals 5, 8 and 16 include specific reference to the elimination of forced marriage, trafficking, forced labour, modern slavery, child labour and other types of exploitation amongst targets.

This submission is informed by our work with women and girls - our practice experience and sector networks built in the course of delivering family violence refuge and outreach support, youth crisis accommodation, and community supports in areas of high migrant and refugee populations. Our Women's Research, Advocacy and Policy (WRAP) Centre has engaged in empirical needs research², policy analysis³ and cross-sector collaborations on the issue of forced marriage. We have been recognised by peer organisations and media and we have presented, published and provided commentary in a range of forums.

We possess knowledge and expertise in relation to women and girls vulnerable or victim to forced marriage, trafficking for labour and sexual exploitation drawn from our involvement with the Good Shepherd Asia-Pacific Anti-Trafficking Network and our connection to global network of services provided by the Congregation of the Good Shepherd. GSANZ is also a member of Australian Catholic Religious Against Trafficking of Humans (ACRATH), which is represented on the Australian Government Roundtable on Human Trafficking and Slavery.

Our submission touches predominantly upon terms of reference (TOR) 1, 2, 4, 5, 6, 7.

GSANZ has engaged in research and advocacy on the issue of forced marriage and trafficking for sexual exploitation over a number of years and is deeply concerned about all forms of trafficking

¹ Good Shepherd International Justice and Peace Office, 2011, *Good Shepherd Position Papers*, viewed 18 April 2017 http://www.goodshepherd-asiapacific.org.au/Assets/Files/GS_Position_Papers.pdf

² J Burn, F Simmons, J Hollonds, K Power, P Stewart and N Watson, 2012, *Hidden Exploitation: An Evidence Review*, Good Shepherd Australia New Zealand; M McGuire, 2014, *The Right to Refuse: Understanding Forced marriage in Australia*, Good Shepherd Youth & Family Service,

³ See for example Good Shepherd Australia New Zealand 2016, *Forced Marriage Policy Position Paper*, viewed 19 April 2017 http://www.goodshep.org.au/media/1271/gsanz_forced-marriage-in-australia_positionpaper.pdf

involving exploitation, including labour trafficking associated with unlawful industrial conduct against migrants. By virtue of our local expertise, our submission includes a large focus upon forced marriage within the context of modern slavery and slavery like practice.

We note that forced marriage is not directly dealt with by the United Kingdom's MSA. We contend however, that this human rights abuse – so often precipitated by or intimately linked with human trafficking and slavery-like practices - should rightly be contextualised with and included within any legislative framework that deals with modern slavery more broadly. This ought not preclude options for dealing with forced marriage within family law and family violence regimes.

2. Response to TOR One & Two:

- The nature and extent of modern slavery (including slavery, forced labour and wage exploitation, involuntary servitude, debt bondage, human trafficking, forced marriage and other slavery-like exploitation) both in Australia and globally
- The prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia

It is estimated that, worldwide, in excess of 45 million people are subjected to some form of modern slavery⁴ including human trafficking, and slavery or slavery like practices such as servitude, forced labour, forced or servile marriage, the sale and exploitation of children, and debt bondage.

Australia has a relatively low prevalence of and exposure to slavery when compared to its regional neighbours in the Asia Pacific region,⁵ and our nation is currently internationally classed as one amongst a small number who have implemented a strong response to modern slavery.⁶ Nonetheless, in Australia, instances of modern slavery have been found in a variety of industries including agriculture, information technologies, construction, manufacturing, food production,⁷ hospitality⁸ and domestic service. These connections relate both to practices within and outside of Australian borders.

⁴ The Global Slavery Index, 2016, *Global Findings*, viewed 19 April 2017, <http://www.globallslaveryindex.org/findings/>

⁵ The Global Slavery Index, 2016 *Region Analysis: Asia-Pacific*, Global Slavery Index, viewed 19 April 2017, <http://www.globallslaveryindex.org/region/asia-pacific/>

⁶ The Global Slavery Index, 2016, *Global Findings*, viewed 19 April 2017 <http://www.globallslaveryindex.org/findings/>

⁷ M Sneddon and P Mulherin, *Exposing complicity in the global slave trade: Is it time for a Modern Slavery Act in Australia?*, ABC Religion and Ethics, 20 March 2017; K Hodal, C Kelly and F Lawrence, *Revealed: Asian slave labour producing prawns of supermarkets in US, UK*, The Guardian, 10 June 2014

⁸ A Ferguson, *Blackmail, extortion and slavery is rife*, The Age, 25 March 2017

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Several countries with the highest numbers of people in modern slavery are known to provide low-cost labour that produces consumer goods for markets in Australia.⁹ But whether in Australia or in another nation, those at the highest risk of being exploited by these practices include persons who are financially disadvantaged, physically or linguistically isolated, culturally diverse or isolated, subjected to crushing debts or have little to no knowledge of their rights.¹⁰ Abuses occurring in the supply chains of Australian corporations are not typically overt, and the vast majority of corporations are governed by boards and directors who would abhor any notion that their brand could be associated with such abuses. It is, however, the nature of trafficking and slavery-like abuses that these practices are deeply hidden and difficult to detect. Slavery, child labour and forced labour tend to occur in areas that are difficult to monitor, for example small workshops or homes. These practices therefore often go undetected by geographically distant firms at the top of the chain, and many business operators are simply ignorant of their organisational exposure.

Within our country, abuses in respect of trafficking have proven difficult to quantify, but Australia is a known destination country for human trafficking including women and girls subject to sex trafficking, and for women and men subject to forced labour.¹¹ The number of labour trafficking cases reported annually is small, but research suggests a lack of awareness amongst some frontline service providers may be a factor in these low rates.¹² Underreporting too is an issue with the capacity of victims to complain limited by those factors that render them vulnerable to exploitation in the first place.¹³ Notably, many cases are encountered that do not necessarily breach anti-trafficking legislation, but which do constitute unlawful industrial breaches and criminal conduct against migrant workers. Cases involving, for example, coercion, confiscation of passports by purported employers, sexual and physical violence and other abuses of vulnerability¹⁴ may be indicative of further more deeply hidden exploitation or may be a potential breeding ground for more extreme abuses that do constitute trafficking.¹⁵ This points to a need for maintaining a broad focus not only upon those cases at the most extreme end of the spectrum of abuse and exploitation, but also upon those cases that are of lesser severity but which may ante cede more serious abuses.¹⁶ It points also to a need for interventions that educate those at the front line and those at risk -

⁹ The Global Slavery Index, 2016, *Global Findings*, viewed 20 April 2017, <http://www.globalslaveryindex.org/findings/>

¹⁰ Walk Free Foundation, 2017, *The Case for an Australian Modern Slavery Act*, viewed 26 April 2017, [http://walkfreefoundation.org-assets.s3-ap-southeast-](http://walkfreefoundation.org-assets.s3-ap-southeast-2.amazonaws.com/content/uploads/2017/03/20160209/The-Case-for-an-Australian-Modern-Slavery.pdf)

[2.amazonaws.com/content/uploads/2017/03/20160209/The-Case-for-an-Australian-Modern-Slavery.pdf](http://walkfreefoundation.org-assets.s3-ap-southeast-2.amazonaws.com/content/uploads/2017/03/20160209/The-Case-for-an-Australian-Modern-Slavery.pdf)

¹¹ US Department of State, 2016, *Trafficking in Persons Report*, viewed 19 April 2017, <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258716.htm>

¹² F David, 2010, *Labour Trafficking: AIC Research and Public Policy Series 108*, Australian Institute of Criminology, p xii.

¹³ *Ibid*, p xiii.

¹⁴ *Ibid*, p x.

¹⁵ F David, 2010, *Labour Trafficking: AIC Research and Public Policy Series 108*, Australian Institute of Criminology, p xiii.

¹⁶ *Ibid*, p xiii.

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educating agency and community service staff, together with vulnerable cohorts, of what constitutes a breach of federal and state laws.¹⁷ Consideration also needs to be given to the impact on victims where approaches focus exclusively upon the ‘hard edge’ of policing and prosecuting trafficking. Increasing our understanding across the many grey areas where other abuses, including forced marriage, are nurtured can assist us to develop more nuanced and targeted ways of preventing and intercepting these practices in a manner that interferes less negatively and produces better outcomes for victims and potential victims.

The complexities associated with identifying and responding to forced marriage have many parallels to labour trafficking. Indeed trafficking is often, although not always, a key part of the process used to effect forced marriage. Forced marriage is a practice that frequently overlaps with other exploitative practices including servitude and forced labour, and often several forms of exploitation overlap within the one case. Research has identified, for example, instances of foreign women marrying Australian men and then being forced into work to earn money and to provide sexual services.¹⁸ Regardless however, of whether such overlap is present, forced marriage should be understood as a severe form of exploitation in and of itself, a form of gender based violence and a human rights issue.¹⁹ It is rightly included under current Australian law as a ‘slavery-like practice’²⁰ and it would be entirely appropriate that any consolidation of legislation relating to modern slavery include within its scope this form of exploitation. GSANZ (as above) is deeply concerned to see improved responses to this issue.

There is no precise data on the true prevalence of forced marriage in Australia, although it is known to occur within Australia and to Australian girls and women overseas. It is understood, however, that its frequency belies the limited number of reports made to federal policing authorities each year.

Although trafficking for the purpose of forced marriage comprises a small proportion of trafficking globally, it represents a considerable proportion of detected trafficking cases in Australia. The 2016 Trafficking in Persons Report documented the Australian Federal Police as investigating 61

¹⁷ J Burn, F Simmons, J Hollonds, K Power, P Stewart and N Watson, February 2012, *Hidden Exploitation: An Evidence Review*, Good Shepherd Australia New Zealand

¹⁸ F David, 2010, *Labour Trafficking: AIC Research and Public Policy Series 108*, Australian Institute of Criminology, p xiii.

¹⁹ K Landvogt, 2017, *Submission to US Department of State: 2017 Trafficking in Persons Report – Australia*, Good Shepherd Australia New Zealand.

²⁰ Commonwealth Attorney General’s Department, *Forced Marriage*, viewed 24 April 2017, <https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Pages/ForcedMarriage.aspx>; *Criminal Code Act 1995* (Cth)

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cases of alleged trafficking and related offenses, nearly half of which related to suspected forced marriage offenses.²¹

However, it is speculated that many, perhaps the majority, of forced marriages occur off-shore and that many of these would constitute trafficking, as they involve threats, deception, financial indebtedness and/or coercion.

Anecdotal reports of cases of trafficking for forced marriage continue to surface through welfare and community service organisations such as family violence services, refugee and migrant support services, and education settings. These cases typically involve young women, often under 18 years old, who are taken back to the family's country of origin to be married.

Little is known of the demographics of victims or perpetrators, or the methods and tactics employed to force a marriage. Information about prevalence, triggers, causes, and effective responses is badly needed. Data is lacking partly because this is an issue about which there is only emerging awareness. Evidence suggests instances of forced marriage are often not recognised by those around the victim, and those affected may not think to name it as such.²² Many instances are not reported because it is dangerous for those affected to speak openly, and because authorities with strong coercive powers are the chief points of contact. The federally funded specialist support program incorporating casework, accommodation and financial support that is currently available is linked to mobilisation of criminal law (via initiating a report with the Australian Federal Police). Support is time limited to a maximum of 90 days. This system is known to deter some victims and potential victims from contacting authorities as they do not wish to criminalise their family member, or fear reprisals for reporting.

In response to these issues, we recognise important Federal Government milestones achieved through support to non-government services:

- community awareness through *My Blue Sky* website (Anti-Slavery Australia),
- ACRATH's curriculum kit for secondary schools, and
- community awareness-raising by the Australian Muslim Women's Centre for Human Rights.

These efforts need to be continued and reinforced as there are still emerging reports of schools, services and the general community being unprepared to respond appropriately to the threat of

²¹ US Department of State, 2016, Trafficking in Persons Report, viewed 19 April 2017, <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258716.htm>

²² K Landvogt, 2017, *Submission to US Department of State: 2017 Trafficking in Persons Report – Australia*, Good Shepherd Australia New Zealand.

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forced marriage, and of girls electing to go through with the marriage due to the inherent unknowns and potential repercussions of making a report.²³

2.1 Vulnerabilities to modern slavery

It is important to recognise that the forms of abuse that would be encompassed by an Australian *Modern Slavery Act (MSA)* (slavery, forced labour and wage exploitation, involuntary servitude, debt bondage, human trafficking, forced marriage and other slavery-like exploitation) are often associated with other abuses of human rights and inadequate labour standards, hidden behind systemic corruption and bribery.²⁴

The trade in persons for exploitative purposes is an organised, globalised corporate and criminal enterprise that prioritises profit. It is a practice that erodes dignity, respect, and personhood. While there are multiple ways of framing abuses such as slavery and trafficking, a central concern is the removal of human rights and undermining of personal freedoms through the manipulation and control of a person to such an extent that they become merely a tool for another's use. This concern aligns with Australia's *National Plan to Combat Human Trafficking and Slavery 2015-19*.²⁵ It is important to recognise that poverty and a range of other structural disadvantages increase vulnerability to trafficking, slavery and forced labour. Those that are most vulnerable to the types of abuses that would fall within scope of a *Modern Slavery Act* are those who are socially and economically excluded and marginalised. Forced labour and slavery-like practices are far more prevalent in nations with limited capacity and resources to tackle these issues. Across all nations however, societal structures that foster poverty amongst vulnerable populations, support patriarchal hierarchies and prioritise financial profit over human value, expose many women and children to trafficking for sexual and labour exploitation.²⁶ For this reason, it is important that these practices are viewed not merely as cultural anomalies. As practices that affect women, girls and men from many different backgrounds, all over the world, a human rights framing is most

²³ K Landvogt, 2017, *Submission to US Department of State: 2017 Trafficking in Persons Report – Australia*, Good Shepherd Australia New Zealand.

²⁴ Walk Free Foundation, 2017, *The Case for an Australian Modern Slavery Act*, viewed 26 April 2017, <http://walkfreefoundation.org-assets.s3-ap-southeast-2.amazonaws.com/content/uploads/2017/03/20160209/The-Case-for-an-Australian-Modern-Slavery.pdf>

²⁵ Commonwealth of Australia, 2014, *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, viewed 19 April 2017, <https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Documents/Trafficking-NationalActionPlanToCombatHumanTraffickingAndSlavery2015-19.pdf>

²⁶ Good Shepherd Asia Pacific, 2016, *Promoting an end to slavery in our times*, viewed 27 April 2017, <http://goodshepherd-asiapacific.org.au/page/99>

appropriate and relevant.²⁷ This framing also enables recognition of the practices as violence against persons.²⁸

3. Response to TOR Four:

- The implications for Australia's visa regime, and conformity with the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children regarding federal compensation for victims of modern slavery

Current visa frameworks for trafficked women are problematic as they are contingent on victims assisting in the prosecution of cases against their traffickers. Unless victims contribute to the investigation and prosecution of their trafficker, they are entitled to only a brief reflection and recovery period, with temporary accommodation and limited support provided by Red Cross, before being required to leave Australia. GSANZ believes that victims should have greater opportunity to access longer-term or permanent visas. Making access to Permanent (Referred Stay) visas contingent upon supporting criminal justice processes and evidencing risk of danger if returned to country of origin, can be both detrimental to the health and welfare of the victim and counter-productive to efforts to bolster convictions of offenders.

GSANZ believes that, even at 90 days, the duration of the reflection period and access to government funded support is inadequate, as well as insufficiently human rights and trauma informed. Greater time is necessary for recovery of individual wellbeing. A victim's trust in Australian authorities, policing and legal processes, particularly given exposure to gross abuses and significant trauma, cannot be sufficiently fostered and built within the timeframes currently offered. The response, in this regard, could go further than is currently the case to meet Article 31 the Australia's *National Plan to Combat Human Trafficking and Slavery 2015-19* which specifies the victim's best interests should be considered a primary concern in any investigation.²⁹ If afforded greater time to recover, a victim's capacity and confidence to cooperate with prosecution efforts would be significantly enhanced. Analysis of investigation, prosecution and conviction rates of comparable countries including the USA, UK and Canada recorded in the US Department of State's 'Trafficking in Persons Report 2016' appear to support this argument – those countries

²⁷ M McGuire, 2014, *The Right to Refuse: Understanding Forced marriage in Australia*, Good Shepherd Youth & Family Service

²⁸ *Submission to UN Women Consultation seeking views on UN Women approach to sex work, the sex trade and prostitution*, October 2016, Congregation of Our Lady of Charity of the Good Shepherd

²⁹ Commonwealth Attorney General's Department, 2014, *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, Commonwealth of Australia, viewed 19 April 2017, <https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Documents/Trafficking-NationalActionPlanToCombatHumanTraffickingAndSlavery2015-19.pdf>

offering more generous visa stays have achieved far greater success in prosecuting cases of human trafficking.³⁰ A more just approach would give greater recognition to the psychological and other traumas associated with the experience of being trafficked and otherwise exploited.

4. Response to TOR Five:

- Provisions in the United Kingdom’s legislation which have proven effective in addressing modern slavery, and whether similar or improved measures should be introduced in Australia

Section 54 of the UK *MSA* imposes an obligation upon large corporations to report on steps they are taking to identify and respond to modern slavery in their supply chain. The operation of this section appeals to public opinion, harnessing social pressure and consumer preferences to ‘sanction’ corporations that do little to address forced labour and slavery in their supply chains.³¹ This is a useful and practical mechanism for increasing visibility and improving business standards globally. Similar measures ought to be adopted in Australia. Care needs to be taken, however, to ensure the usefulness of the reporting process. It is essential that the public has free and ready access to the reports published by the organisations reporting on progress against eliminated slavery in their supply chains. Statements should include specific details of progress in tackling modern slavery in the supply chain over the preceding 12 months to ensure that progress can be monitored and measured. These statements should be available both via the organisation’s own online presence, and via a central agency or authority. Ideally this agency would have capacity to monitor, scrutinise and rate the statements giving some guidance to the public on degree of responsibility organisations are taking. Without this, social pressure as a sanction is likely to have limited impact.

GSANZ supports the notion that independent oversight of a legislative regime be implemented, in the form of an Anti-Trafficking and Slavery Commissioner. The UK Anti-Slavery Commissioner provides a useful model in terms of the function of this role.

A particular concern with the current UK provision is the lack of oversight and regulation of the content of self-reports by these corporations. The creation of similar legal imperatives by other global actors, including Australia, can contribute to greater awareness, greater pressure to conform to international human rights standards and to a strengthening of regulation. The introduction of *MSA* in Australia would go (incrementally) towards a consolidation of efforts by other countries in tackling the issue and addressing difficult to regulate areas in global markets.

³⁰ US Department of State, 2016, Trafficking in Persons Report, viewed 19 April 2017, <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258716.htm>

³¹ M Sneddon and P Mulherin, ‘Exposing complicity in the global slave trade: is it time for a Modern Slavery Act in Australia?’ ABC Religion and Ethics, 20 March 2017

GSANZ is concerned at reports from those analysing the impacts of legislation in the United Kingdom, that there remains a limited focus on the needs of victims. As above, victims suffer a broad range of negative health consequences as a result of being trafficked, separated from family and community, their exploitation, their exposure to physical and/or sexual violence and their exposure to emotional abuse and extreme manipulation. These consequences require holistic response that extend beyond border management and criminal justice interventions.

Victims of trafficking, slavery and slavery-like practices experience multiple and compound difficulties that give rise to significant need. Forced marriage, for example, can have a range of negative consequences for victims, such as disengagement from education, social isolation, economic insecurity and abuse, violence (including physical, sexual, emotional and economic abuse), loss of childhood, early or forced pregnancy and childbirth, domestic and other forms of servitude, imprisonment, and mental health problems including depression, self-harm, and suicidal ideation. Whilst the need to punish those who force people into trafficking, marriage and slavery, and to deter others from like action is of extreme importance, responses need to be victim focused in the first instance. This needs to be a consideration in any policy response. Prosecution and conviction ought not to be the primary or prioritised strategy in responding to the complex issue of slavery and related exploitation. Linking supports - including access to services, refuge accommodation and visas for victims - to aiding law enforcement and border protection efforts can compound the trauma experienced by victims, and undermine recovery and future safety. Adequate housing, legal and immigration assistance, medical care, health education, financial support and access to information and support services should be far more comprehensive than is currently the case, reflecting the human rights and needs of victims. In introducing an Australian MSA an important consideration will be improving upon the UK model in relation to its focus upon victims.

5. Response to TOR Six:

- Whether a *Modern Slavery Act* should be introduced in Australia

“Trafficking takes place because enormous economic interests lie behind exploitation of the global poor. However, this can be stopped, if people of good will – both powerful people and simple citizens – feel that trafficking is morally and socially unacceptable, and take action against exploitation, injustice, and human rights violations.”

Maria Grazia Giammarinaro
Special Rapporteur on trafficking in persons, especially women and children
Geneva

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June 30, 2015

GSANZ believes that the introduction of an *MSA* represents a practical and logical progression from the current legislative regime applying to the issue of modern slavery. GSANZ is supportive of the introduction of legislative measures that, through imposing obligations upon large global and foreign businesses, have global reach and impact in minimising the practice of trafficking, slavery and labour abuses. The introduction of a *Modern Slavery Act* in Australia would represent a positive development towards improving transparency in global supply chains, fostering improved insight into the issues of trafficking and slavery, lifting standards in supply chain networks and ultimately severing the flow of business to those who seek to profit from the practice. By introducing an Australian *MSA*, the Federal Government would be demonstrating - both domestically and as a global actor - leadership to protect victims and eradicate modern slavery. The legislation would make explicit this nation's opposition to modern slavery.

An Australian *MSA* would serve to expand the notion that slavery and trafficking in humans is morally and socially unacceptable. If appropriately implemented, an *MSA* would foster improved public awareness and provide greater opportunity for concerned citizens to act against the practice of modern slavery. It would lend weight to efforts by other nations in this regard, assisting to address unregulated gaps in global markets. It would also assist to ensure that corporations who do guarantee strong human rights protections in their supply chain networks are not financially disadvantaged or undercut by unscrupulous companies that do not ensure such guarantees.³²

GSANZ supports the introduction of a *Modern Slavery Act* for Australia as a firm statement of Australia's commitment to its international human rights obligations. The introduction of an *MSA* akin to that adopted in the UK would align with State duties set out in the UN Guiding Principles on Business and Human Rights³³ which provide a global standard for preventing and addressing the risk of adverse human impacts linked to business activity. These principles include the expectation that all business enterprises in the jurisdiction:

- respect human rights throughout their operations
- are encouraged and, where appropriate, required to communicate externally how they address their human rights impacts
- carry out human rights due diligence (assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how

³² Walk Free Foundation, 2017, *The Case for an Australian Modern Slavery Act*, viewed 26 April 2017,

[http://walkfreefoundation.org-assets.s3-ap-southeast-](http://walkfreefoundation.org-assets.s3-ap-southeast-2.amazonaws.com/content/uploads/2017/03/20160209/The-Case-for-an-Australian-Modern-Slavery.pdf)

[2.amazonaws.com/content/uploads/2017/03/20160209/The-Case-for-an-Australian-Modern-Slavery.pdf](http://walkfreefoundation.org-assets.s3-ap-southeast-2.amazonaws.com/content/uploads/2017/03/20160209/The-Case-for-an-Australian-Modern-Slavery.pdf)

³³ UN Office of the High Commissioner, 2011, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, NY, viewed 26 April 2017,

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

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impacts are addressed, recognising that the human rights risks may change over time in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts).³⁴

Business operations represent a useful intervention point to uncover and disrupt slavery, forced labour, trafficking and slavery-like practices across multiple sectors and industries. As purchasers of materials, products, labour and services through international networks, Australian businesses have a role to play in ensuring human rights are upheld and that fair and just conditions and practices occur within their supply chains. Whilst the task of intricately analysing operations at every level of a supply chain may be onerous, businesses do have the capacity to assess, understand, monitor and respond to the risk of modern slavery in these networks. It is logical to require these same organisations to play a part in increasing visibility of this global issue.

The requirement imposed by the UK *Modern Slavery Act* that large companies make a public slavery and human trafficking statement on an annual basis that documents steps taken to eradicate these practices in their supply chain, will increase community awareness and raise social pressure to improve labour standards within the chain, ensuring supply chains are free of exploitation. We note that a number of Australian businesses are already engaged in such reporting as a result of their participation in the UK market.

We believe however that these interventions should go hand in hand with a complementary suite of interventions and service responses that adopt a human rights and victim-centred, trauma-informed approach.

5.1 Trafficking in the Asia Pacific Region

Good Shepherd operates in multiple countries and locations across the Asia-Pacific region providing services to women and girls who have been exploited and or trafficked for labour, marriage or sexual exploitation.

*The priorities for ministry and mission of the 29th Congregational Chapter of the Sisters of the Good Shepherd - to work zealously with women and children, especially those who are trafficked, forced to migrate and oppressed by abject poverty... to support projects for economic justice, and confront unjust systems.*³⁵

At an October 2016 capacity building and training workshop convened by Good Shepherd Asia-Pacific at Tagatay in the Philippines, a number of issues were identified by practitioners working with trafficked women and girls across Nepal, India, Philippines, Myanmar, South Korea, Australia, New Zealand, Taiwan, Thailand, Sri Lanka, Pakistan, Hong Kong, Vietnam. Practitioners

³⁴ UN Office of the High Commissioner, 2011, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, NY, viewed 26 April 2017, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

³⁵ Good Shepherd International Justice and Peace Office 2011, *Good Shepherd Position Papers*, viewed 18 April 2017, http://www.goodshepherd-asiapacific.org.au/Assets/Files/GS_Position_Papers.pdf

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at the forum reported that poverty, lack of education and limited skills amongst trafficked women hinder rehabilitative efforts and cause them to remain vulnerable to abuses into the future³⁶ This highlights the need for a continuum of care that extends far beyond liberating and repatriating the victim.

Practitioners are cognisant that taking action against human trafficking is not a straightforward process. The anti-trafficking movement in some countries is innovative, but so are traffickers. Efforts to tackle the trafficking of women at a strategic level is in many countries hampered by persistent issues of weak law enforcement and corruption. Access to justice for victims across the region can be stymied by the involvement of the government officials and high profile public and political leaders in trafficking of human beings. Identification of traffickers can prove difficult as the traffickers often turn out to be family members or other persons known to the victim.

Amongst organisations working at grass roots level, networking can be challenging which diminishes opportunity for collaboration and collective advocacy. Advocacy efforts are also hindered by a lack of reliable data which obscures the extent and prevalence of the problem. A further barrier to advocacy is the difficulty of sensitising important stakeholders on the issue of human trafficking. A theme from attendees at the Tagatay workshop was a desire for improved international and inter-agency awareness of responses to human trafficking in other countries. We believe that Australia adopting an MSA goes some way to enabling this but is by no means the only action necessary.

Whilst an MSA is a globally recognised opportunity³⁷ to tap into business as a vehicle for the extra-territorial promotion and realisation of human rights - tackling these issues in a comprehensive fashion also requires complementary aid programs that prioritise education to encourage families to value every family member, address community circumstances of poverty that leave individuals vulnerable to the lure of promises of a 'way out' and aim to drive down corruption in nations that are common source countries of forced labour and trafficking.

5.2 Forced marriage

We note that the UK MSA does not currently include within its provisions the legislative regime applying to forced marriage. GSA NZ contends that this important human rights issue ought to be viewed within the context of other forms of exploitation involving slavery. This would not preclude the issue from remaining within the reach of laws pertaining to family violence.

³⁶ Notes from Capacity building and training workshop convened by Good Shepherd Asia-Pacific at Tagatay in the Philippines, October 2016

³⁷ Australian Human Rights Commission, *Business and Human Rights*, viewed 19 April 2017, <https://www.humanrights.gov.au/employers/business-and-human-rights>

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Within Australia, limited services are available for women and girls at risk of, or experiencing, forced marriage. Accessing the only government-funded support services, the Support to Trafficked Persons Program, requires these vulnerable women and girls to first go to the Australian Federal Police (AFP). This is a similar model to that applying to victims of trafficking in seeking visa protections. Again, this is an unreasonable and counter-productive process. Many feel they cannot approach the police about a family matter. Although they may desperately wish the marriage not to happen, fear of repercussions from family members, fear of bringing shame on their family, and the risk of alienation from both family and community can weaken any resolve they may have to address and take action against the situation. Understandably, the linking of support services to criminal justice responses intends strategically to increase trafficking prosecutions. In practice, however, it can contribute to perverse outcomes causing some girls and women to become less safe because they avoid seeking help altogether.³⁸

Legal responses to the issue of forced marriage and trafficking are not wholly adequate and should be only part of the picture. Currently, the government-funded Support for Trafficked Persons accommodation and case management services are only available for a maximum of three months. This is inadequate and pushes young women back out into the community too soon, especially considering how their family, geographic and cultural links have been fractured. Appropriate longer-term accommodation options are required, especially for those under 18. Access to education and other tailored supports should also be provided as they re-build their lives. To suit the needs of this group a different service model is required, as the current emergency youth housing into which many of these young women are placed is designed for a very different cohort and is often in itself a traumatic experience for young women escaping forced marriage. The inappropriateness of the accommodation may even lead some to return to their families despite the prospect of forced marriage.

Any legislative change with respect to forced marriage should seek also to address the gap in accommodation and associated wrap-around supports that occurs in some jurisdictions because the crisis response from State Child Protection in its current form cannot adequately serve 16 to 18-year-old children.³⁹

Further complementing legal responses, more could be done in terms of primary prevention, with a particular focus upon long term cultural change through deep community engagement.⁴⁰ Girls and young women need to be empowered to choose their own futures. Community rights champions are asking us for more options for the girls who approach them for help to protect

³⁸ K Landvogt, 2017, *Submission to US Department of State: 2017 Trafficking in Persons Report – Australia*, Good Shepherd Australia New Zealand.

³⁹ Ibid.

⁴⁰ H Sowe, 2017, 'From an emic perspective: Exploring consent in forced marriage law', *Australian & New Zealand Journal of Criminology*, 1-17

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themselves. Forced marriage, and avoiding it or leaving it, is a process, not a singular point in time occurrence. Community and group programs for young people, women and families are a critical resource. The most effective strategy is early intervention through foundational community work, supporting respected community members to adopt the role of rights advocates and enable communities help themselves⁴¹ and to “empower the front line to be able to understand the symptoms and be vigilant”.⁴²

⁴¹ K Landvogt, 2017, *Submission to US Department of State: 2017 Trafficking in Persons Report – Australia*, Good Shepherd Australia New Zealand.

⁴² E Sharobeem quoted by W Tuohy, *Most girls at risk of being married against their will are ‘falling through the gaps’*, Herald-Sun Weekend newspaper, 21 Jan 2017

6. Recommendations

Recommendation 1

That a *Modern Slavery Act* be introduced in Australia to consolidate existing trafficking and slavery laws and to extend our country's contribution to global efforts to eradicate modern slavery.

Recommendation 2

That independent oversight of the legislative regime be implemented, in the form of an Anti-Trafficking and Slavery Commissioner. The UK Anti-Slavery Commissioner provides a useful model in terms of the function of this role.

Recommendation 3

That an Australian *MSA* include a compulsory reporting regime as in operation under s54 of the UK *MSA* requiring all large organisations doing business in Australia to annually publish a statement reporting on steps taken to eradicate modern slavery within their organisation and supply chains. This recognises that large businesses are well positioned and capable of:

- influencing change within supply chain networks,
- influencing improvements in standards,
- stemming the flow of work to those who seek to profit through modern slavery.

To maximise accountability, and the opportunity for scrutiny of these statements by the public, statements should be published both prominently on the organisation's own website and via a central authority or government managed site. Access to the statements should be free. A requirement should be imposed that statements include specific details of progress over the preceding 12 months to ensure that progress can be monitored and measured.

Recommendation 4

That an Australian *MSA* include provisions that give authorities greater discretion to extend the stay, in Australia, of persons trafficked into the country, with due reference and consideration of the victim's personal circumstances and the circumstances of their case.

Recommendation 5

That provisions in respect of forced marriage be encompassed by an Australian *MSA*.

Recommendation 6

That any legislative instruments seeking to tackle modern slavery, trafficking and forced marriage be complemented by aid programs that:

- prioritise education to encourage families to value every family member
- address community circumstances of poverty that leave individuals vulnerable to the lure of promises of a 'way out'
- aim to drive down corruption in nations that are common source countries of forced labour and trafficking.

Recommendation 7

That legislative instruments seeking to tackle modern slavery, trafficking and forced marriage be complemented with Australian based support services that recognise recovery takes time and that victims of human trafficking and forced marriage have both complex vulnerabilities and needs.

Recommendation 8

That a centrally located unit with national jurisdiction be established to foster greater proactivity in relation to the issue of forced marriage. The unit should be charged with responsibility for provision of services, policy leadership, sector development, data collection and analysis, and evidence-based responses to emerging trends.

Recommendation 9

That the Forced Marriage Unit in the United Kingdom be considered an appropriate model from which to learn.

Recommendation 10

That support for victims of forced marriage and trafficking be de-linked from criminal justice responses.

Recommendation 11

That legislative changes applying to forced marriage be complemented by efforts at the primary prevention end to generate long term cultural change to prevent those who seek to force others to marry, to not do so.

Recommendation 12

That time periods during which government funded support and accommodation services can be accessed by those in or at risk of forced marriage be extended. This will give opportunity for these women and girls to become more confident in seeking assistance thereby securing better outcomes for victims and potential victims. We need to continue to develop more nuanced and

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targeted ways of preventing and intercepting forced marriage so young victims and those otherwise detrimentally affected can be enabled to get on with living their lives with as little disruption as possible. Victims of forced marriage may suffer a range of harmful and long-lasting consequences, including withdrawal from education, psychological trauma, self-harm, family and sexual violence, and even death. The experience of those trafficked for sexual exploitation can be very similar.

Recommendation 13

That time periods during which government funded support can be accessed by those who have been trafficked be lengthened and less rigid. These time periods should be able to be discretionarily extended having regard to the circumstances of the matter and of the victim. A more victim centred and human rights focussed approach will not only contribute to better individual outcomes for victims, but will give investigators and prosecutors greater prospect for gaining the support of the victim.

7. Conclusion

The issues of human trafficking and modern slavery are rightly seen in a global context. The trade in persons for exploitative purposes is a practice that prioritises profit over people and preys upon the vulnerabilities of those who are most socially and economically excluded, and marginalised. The introduction of an Australian *MSA* has the capacity to do much to bring attention to these issues and to undermine criminal enterprises that benefit from the exploitation of others. An Australian *MSA* would be a welcome complement to the efforts other nations, including the UK, are taking to drive down trafficking, slavery and slavery-like practices. It would represent a practical and progressive step towards tackling the often hidden exploitation - for labour and other purposes - of vulnerable cohorts in both Australia and in geographically distant regions. It would affirm that slavery and trafficking in humans is unacceptable both morally and socially. It would help to promote the human rights and dignity of those affected. An Australian *MSA* will be most effective in achieving these objectives, however, if supplemented by aid and service interventions that target economic exclusion, educate vulnerable communities, challenge corruption and comprehensively support victims.

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