

Response to the Australian Border Force Public Consultation Paper

National Action Plan to Combat Modern Slavery 2020-24

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Anti-Slavery Australia, at the University of Technology Sydney, is the only specialist legal centre providing direct pro bono legal and migration advice to survivors of modern slavery in Australia. In 2019, Anti-Slavery Australia assisted to over 220 people who experienced modern slavery across Australia.

Acknowledgments

Sandeep Dhillon, Yvette Selim and Grace Wong.

With thanks to the NSW Trafficking Response Network, NSW Forced Marriage Network and Be Slavery Free.

Endorsements

This submission is endorsed by the Australian Catholic Religious Against Trafficking in Humans (ACRATH); Be Slavery Free; Blake Loaney, A21 Australia; Hope for Justice; the Mercy Foundation; and War on Slavery.

General feedback

The National Action Plan to Combat Modern Slavery 2020-24 (National Action Plan) must be person-centred. The human rights of people at-risk or who have experienced modern slavery (survivors) should be at the centre of the National Action Plan and inform its priorities, goals, activities and outcomes. This would be consistent with the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*¹, the Recommended Principles and Guidelines on Human Rights and Human Trafficking by the Office of the United Nations High Commissioner for Human Rights; sustained commentary from the United Nations Special Rapporteur on trafficking in persons, especially women and children²; and the United Nations Sustainable Development Goals. Although the Recommended Principles and Guidelines on Human Rights and Human Trafficking and commentary by the UN Special Rapporteur on trafficking in persons, especially women and children relate specifically to human trafficking, it can apply equally to all other forms of modern slavery. While the proposed goals implicitly address the human rights of survivors of modern slavery, it is important that a well-articulated concern for the human rights of survivors of modern slavery is positively expressed in a way that is consistent with Australian human rights standards and our international obligations.

We suggest that key areas of focus for the National Action Plan include:

1. Prevention
2. Survivor support and services
3. Partnerships and collaboration.

Prevention

The focus on prevention needs greater clarity in the National Action Plan. Evidence-based initiatives related to prevention are vital in preventing, deterring and identifying modern slavery.

We recommend consideration be given to a way of progressing recommendations outlined in the following:

¹ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, supplementing the United Nations Convention against Transnational Organized Crime, opened for signature 15 November 2000, 2237 UNTS (entered into force 25 December 2003).*

² Maria Grazia Giammarinaro, Special Rapporteur on trafficking in persons, especially women and children, Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc A/HRC/41/46 (23 April 2019).

- Final report by the Parliamentary Joint Committee on Law Enforcement's *Inquiry into human trafficking, slavery and slavery-like practices* Parliamentary (2017)
- *Hidden in Plain Sight: An Inquiry into Establishing a Modern Slavery Act in Australia* by the Joint Standing Committee on Foreign Affairs, Defence and Trade (2017)
- *Strengthening Australia's Approach to Serious Forms of Labour Exploitation* by the National Roundtable on Human Trafficking and Slavery's Labour Exploitation Working Group (2018)
- Report of the Migrant Workers' Taskforce (2019).

Specifically, the following recommendations from the reports above should be addressed in the National Action Plan:

- Expanding modern slavery training across frontline government officials and law enforcement as well as service providers including the Australian Federal Police, Australian Border Force, Fair Work Ombudsman, State and Territory police, emergency workers, health professionals, youth workers, domestic and family violence service providers, and migration and settlement services
- Introducing a national labour hire licensing scheme
- Funding a public awareness program about modern slavery in Australia as well as the creation of targeted education and outreach programs to vulnerable cohorts and community workers
- Reviewing and strengthening information available and delivered to migrant workers by enhancing pre-departure briefings and introducing post-arrival briefings. Such information should be available in a range of languages with image-based resources for those with limited literacy and be tailored and targeted to migrant workers and those working in high-risk sectors and industries
- Educating employers about the rights and entitlements of migrant workers in Australian workplaces.

Survivor support and services

The National Action Plan must outline how support for survivors will be strengthened in the 2020-24 National Action Plan.

Support for survivors must be holistic, evidence and human rights-based and address immediate, short-term needs as well as ensuring survivors' 'personal safety, agency, empowerment and independence in the long run'.³

We specifically draw your attention to the following recommendations related to support for survivors, drawn from the reports outlined above:

- de-linking access to support and the visa pathways from participation in the criminal justice process
- strengthening the visa framework for survivors
- establishing a national compensation scheme for survivors
- commissioning an independent evaluation of the Support for Trafficked People Program.

The National Action Plan must provide for ongoing support of survivors regardless of migration status and participation in the criminal justice process. Support should include long-term measures that aim to restore the physical and psychological well-being of each individual survivor while concurrently promoting their participation in the economic, social, cultural and political life of society, in line with their individual aspirations.⁴

Particularly, we recommend that the National Action Plan outline how the Government will:

- support, equip and collaborate with existing services and organisations who provide ongoing and long-term support to survivors that are not within the Support for Trafficked People Program
- implement non-criminal justice responses to forced marriage that are national, holistic and focused on the long-term well-being and empowerment of survivors.

The National Action Plan must outline how support will be gender and culturally sensitive while also addressing the unique needs of cohorts that are particularly vulnerable to modern slavery such as:

- children and young people including those at-risk or in forced marriages
- women on temporary visas subjected to modern slavery in a domestic setting, often by family members or intimate partners

³ Maria Grazia Giammarinaro, Special Rapporteur on trafficking in persons, especially women and children, Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc A/HRC/41/46 (23 April 2019).

⁴ Maria Grazia Giammarinaro, Special Rapporteur on trafficking in persons, especially women and children, Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc A/HRC/41/46 (23 April 2019).

- people with limited capacity.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking by the Office of the United Nations High Commissioner for Human Rights outlines that special measures be implemented for children and young people.

While a number of these initiatives are outlined in the National Action Plan to Combat Human Trafficking and Slavery 2015–19 (current National Action Plan), it is of concern that limited progress has been made.

It is the somewhat discouraging experience of Anti-Slavery Australia that former clients of both Anti-Slavery Australia and various support programs are often inadequately supported while they are engaging in the criminal justice process and are thus unable to achieve their full potential. Even in circumstances where they are eventually granted a permanent visa and offered safety and security in Australia, many survivors are still affected by their experiences, suffering from the effects of serious and sustained traumas, lack support networks of any kind, struggle with ongoing homelessness, are ill-equipped to find employment, have limited English language skills and, despite permanent residency status, remain vulnerable to further exploitation or re-trafficking within Australia.

Partnerships and collaboration

The National Action Plan must emphasise the collaboration, coordination and cooperation between while also articulating roles and responsibilities for:

- Commonwealth, State and Territory governments
- government departments and agencies
- law enforcement
- civil society
- business and industry
- community.

The National Action Plan should clearly articulate the role of civil society and business and industry and specify how we will work in conjunction with government stakeholders on key priorities and activities.

To ensure a holistic, whole-of-government response, the National Action Plan must have a stronger emphasis on the coordination and collaboration between the Commonwealth and States and Territories, particularly given that many of the services survivors' access are at the State and Territory level such as health and child protection services. The National Action Plan must also outline how government departments, agencies and officials, such as

Australian embassies, high commissions and consulates overseas, the Australian Federal Police, the Department of Foreign Affairs and Trade, and Australian Border Force will coordinate and provide assistance to people who have been trafficked out of Australia.

The National Action Plan must clearly demonstrate how our domestic initiatives link up with our regional and international efforts such as the Bali Process and the United Nations Sustainable Development Goals.

Funding

To realise the goals of the National Action Plan, there needs to be a significant increase in funding to both government initiatives and civil society programs.

There must be consistent and ongoing funding available for prevention initiatives such as awareness raising, community engagement, research, education and capacity building of government officials and service providers as well as workers, employers and the public.

However, vitally, there must also be consistent and ongoing funding for services that support survivors. The *Trafficking Protocol* (2000)⁵ specifies that this should include accommodation, counselling, legal assistance, medical assistance and employment, educational and training opportunities. As outlined by the UN Special Rapporteur on trafficking in persons, especially women and children, this duty also includes implementing 'long-term solutions to ensure the social inclusion of survivors into society'.⁶

We note that in *Hidden in Plain Sight*, the Joint Standing Committee on Foreign Affairs, Defence and Trade recommended that funding 'be reviewed to ensure victims of modern slavery receive appropriate support' (Recommendation 24).

The current level and model of funding (based around short-term initiatives) is wholly inadequate.

Suggested model

We suggest consideration be given to a National Action Plan that is similar to the [Fourth Action Plan of the National Plan to Reduce Violence against Women and their Children 2010-2022](#) (National Plan). This National Plan is holistic; person-centred; inclusive of a

⁵ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, supplementing the United Nations Convention against Transnational Organized Crime, opened for signature 15 November 2000*, 2237 UNTS (entered into force 25 December 2003).

⁶ Maria Grazia Giammarinaro, Special Rapporteur on trafficking in persons, especially women and children, Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc A/HRC/41/46 (23 April 2019).

broad range of stakeholders; clearly articulates principles, priorities and outcomes; and addresses people's needs from primary prevention through to identification, support and rehabilitation.

Consultation questions

1. Do the 12 goals capture key areas of focus for Australia over the next five years?

We agree with the 12 statements outlined in the National Action Plan. However, we submit that they aren't necessarily goals and that the National Action Plan must have the survivor and human rights at its core.

2. Should there be additional goals to address other areas of focus, emerging issues or trends? If so, what should they be?

As outlined above, we suggest that the key areas of focus for the National Action Plan include prevention; survivor support and services; and partnerships and collaboration. We suggest that the recommendations in the comprehensive reports outlined above inform and be implemented in, the National Action Plan.

3. The Government is committed to ensuring victims of modern slavery are supported, protected and empowered. Are there ways in which the Government can better reflect the voices of victims and their lived experiences in the 2020-24 Plan and Australia's response to modern slavery?

The human rights of people at-risk or survivors needs to be centre of the National Action Plan and inform its priorities, goals, activities and outcomes.

Many of the recommendations in the reports outlined above, are the result of sustained advocacy by organisations working directly with survivors; implementing these recommendations would reflect the experiences of survivors.

Funding for additional research and evaluating current initiatives such as the Support for Trafficked People Program is necessary to ensure evidence-based, survivor-informed, fit for purpose responses to modern slavery in Australia. The Support for Trafficked People Program's Forced Marriage Support Stream Trial is a good start however, access to support and services should not be conditional upon referral by the Australian Federal Police and cooperation with the criminal justice process.

4. The Government is committed to ensuring that we can measure the impacts of the 2020-24 Plan. Are there evaluation methods, data sources or metrics the Government should consider in developing an evaluation framework?

The National Action Plan must include intended outcomes at various stages throughout 2020-24.

We would defer to the Australian Institute of Criminology and their recommendations following the review of the current National Action Plan.