



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE
AND TRADE

Adopting a modern slavery act in Australia

(Public)

TUESDAY, 30 MAY 2017

CANBERRA

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JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

Tuesday, 30 May 2017

Members in attendance: Senators Fawcett, Ludlam, Reynolds, Singh and Ms Claydon, Mr Crewther, Mr Craig Kelly, Ms Madeleine King, Mrs Sudmalis.

Terms of Reference for the Inquiry:

To inquire into and report on:

The United Kingdom's *Modern Slavery Act 2015* and relevant findings from the Joint Standing Committee on Foreign Affairs, Defence and Trade's report, *Trading Lives: Modern Day Human Trafficking*. The Committee shall examine whether Australia should adopt a comparable Modern Slavery Act. The Committee shall have particular regard to:

- 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;
- Identifying international best practice employed by governments, companies, businesses and organisations to prevent modern slavery in domestic and global supply chains, with a view to strengthening Australian legislation;
- 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;
- 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;
- Whether a Modern Slavery Act should be introduced in Australia; and
- Any other related matters.

WITNESSES

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**HYLAND, Mr Kevin, Independent Anti-Slavery Commissioner,
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BRISTOW, Mr Alexander, Second Secretary, British High Commission

HYLAND, Mr Kevin, Independent Anti-Slavery Commissioner, United Kingdom Independent Anti-Slavery Commissioner

RAWLINGS, Her Excellency Menna Frances, British High Commissioner to Australia

WEEDON, Mr Tim, Chief of Staff, United Kingdom Independent Anti-Slavery Commissioner

Subcommittee met at 12:08

CHAIR (Mr Crewther): I declare open this foreign affairs and aid subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. This is the first public hearing for the subcommittee's inquiry into establishing a modern slavery act in Australia. These are public proceedings. Although this subcommittee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera, I remind witnesses that in giving evidence to this subcommittee they are protected by parliamentary privilege in Australia. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by either house of parliament as a contempt. It is also a contempt to give false or misleading evidence to a committee.

If a witness objects to answering a question, the witness should state the ground upon which the objection is taken, and the subcommittee will determine whether it will insist on an answer having regard to the ground which is claimed. If the subcommittee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may of course also be made at any other time.

I remind members of the media present or listening on the web of the need to fairly and accurately report the proceedings of the subcommittee. Representatives from the ABC have today also requested to film parts of today's hearing for an upcoming episode of *Australian Story*. Can the subcommittee members and witnesses please confirm initially your agreement to allow this filming to proceed.

Mr Hyland: Yes.

CHAIR: Thank you, Mr Hyland. Firstly, I would like to greatly welcome Mr Hyland, the Independent Anti-Slavery Commissioner from over in the UK. It was great to have the opportunity to recently spend some time with you as part of parliamentary delegation in the UK. I also welcome the High Commissioner, as well as Mr Tim Weedon and all the guests here today. Thank you very much for being here today. I will now initially allow each of you to make a brief opening statement before we proceed to discussion and questions.

Mr Hyland: Firstly, can I thank you for the invite to speak here today about modern slavery and follow up from the meeting we had, obviously, in the United Kingdom. I think the Modern Slavery Act that we have in the UK will be looked upon as a piece of landmark legislation. It received royal assent in 2015. 'Modern slavery' is an umbrella term which I am pleased has been adopted by the UK because it covers two offences: slavery servitude and forced labour, and the offence human trafficking. The use of 'modern slavery' has, I believe, been effective in raising awareness of the true nature of these crimes and of the loss of freedom that is caused. The act has consolidated and simplified offences. It has increased the maximum penalty to one of life imprisonment. It has created risk and prevention orders to give law enforcement powers to take pre-emptive action against those who pose a risk. It has actually made perpetrators subject to the most robust asset confiscation regime available, and their moneys can be awarded to the victims when confiscated from them. As we know, sometimes the criminals are more worried about their money being stripped than serving time. It has created reparation orders which enable the courts to give that money, as I said, to the victims. It has extended special measures to all victims of modern slavery crimes so they are protected and supported through the criminal justice system.

The act has a number of stated core related aims: to give the criminal justice actors the tools they need to tackle modern slavery; to ensure that perpetrators can receive suitably severe sentences; and to provide enhanced support for protection of victims. Though most of the provisions of the act have only been in force for less than two years, I am pleased to say the legislation has actually changed the approach in the UK. The aim of the act and what has happened has had a two-fold impact. These provisions have been effective, but the positive consequences of the act are much wider because modern slavery is often seen as a hidden crime and previously in the UK that was probably true. But, since the introduction of the act, we have seen real activity. There has been a 63 per cent increase in the identification of victims to almost 4,000 last year. There has been an increase in prosecutions by 71 per cent. There were 81 prosecutions specifically for this offence last year. There are other offences that are prosecuted not specifically under this act that are associated, but there have been 81 prosecutions of organised crime groups for this particular act.

There has been improved measure to tackle labour exploitation. What has happened over the years is the offence has been seen particularly just as sexual exploitation, but now we have seen that labour exploitation has actually taken over in numbers and is seen as the main crime. Crucially, what has happened is the act has enabled powers to be given to companies and businesses to mandate and protect vulnerable workers. So our legislation also covers areas like the Gangmasters and Labour Abuse Authority and an area we call the Director of Labour Market Enforcement, who looks at other issues that can prevent modern slavery from happening.

One of the real issues of our act was around transparency in the supply chain. What has happened is that companies trading over \$36 million now have to do annual statements to show what they are doing in their supply chain or their business to make sure that where they trade anywhere in the world it is free from slavery and exploitation. They have to publish these statements and they have to have a link on the front page on their website. This has reached 12,000 companies in the United Kingdom.

The UK was the first country to actually adopt such legislation because the private sector has a crucial role to play. The Walk Free Foundation and the UN Labour Organisation, ILO, have estimated there is between 21 million and 45 million people in modern slavery across the globe. So by working with the private sector, we have got an opportunity to really address that figure.

Also, it was the companies that pushed for this to be in the act. Initially when the drafts of the act were prepared, there was nothing about this in the legislation. There were two companies in particular, Unilever and IKEA, that pushed for this to be included in the legislation. Companies are taking a moral responsibility and the act is not punitive in that area because we want companies to identify modern slavery, address it and do something about it. If it followed other legislation like corruption and bribery, companies would have to keep away from it. Seeing the change in the private sector has been a significant issue. Business CEOs in the UK often ask to meet with me. They see this as a race to the top, not just a function that they have to fulfil.

My role as the Anti-Slavery Commissioner also came out of the act. What does that mean? Parliamentarians in the UK from across the parties pushed for the term 'independent' to be a part of that description. My role is really independent. I have a statutory footing over law enforcement, over health services, over immigration services and over local government across the United Kingdom in order to make them adopt best practice to protect victims, to identify victims and to also call them to account when they are not doing that. So the legislation gives me real teeth to do that. I report annually to parliament and I set out a strategic plan, which was set out almost two years ago.

My first act as commissioner was to set out that plan. I put five priorities to that plan. The initial was improved care and support. The identification and support of victims is key because this is a crime with victims. We have a national referral mechanism in the UK that is funded by the government but I have recently put the case to the government to say that our system needs reform. That has been accepted, and we are now seeing the steps being taken to actually address that.

Driving law enforcement and criminal justice process was also really important. Here, training is crucial. I have worked with the college of judiciary and we have now trained 12,000 judges in the UK on this issue so we are now seeing sentences that are more severe, we are seeing compensation more structured and we are seeing that the judiciary now know this issue. But we have also worked with law enforcement and trained a number of key officers. We have also developed a training package that is going to be delivered across all police forces in the UK. Driving law enforcement is essential.

One of the things I identified was that there were systems that were not working properly, for example, crime recording. Of the 3,146 victims from the 2015 data, only 884 of those ended up in crime reports. I have pushed and driven for a change in that, and now we have seen already that double to over 1,600 but I want it to be the full number of 3,000. So actually working in and looking at law enforcement and the criminal justice response is essential.

Another part of my priorities was about partnership. We know that partnership to address this is key. Working with the non-government organisations and working with agencies really can make a difference, can provide the access to victims and the information to actually address the issues at source. For example, I am working on a project with the University of Nottingham to actually map out what is happening in the UK on partnerships so we can identify good practice of then promote that good practice across the UK.

My fourth priority is private sector engagement. As I said, here I have been working with CEOs from across the spectrum to ensure that they are aware of their obligations and also to develop targeted initiatives within the sector where slavery is likely to be prevalent.

International cooperation is my fifth priority, and it is obviously essential that we work on this issue globally. With 45 million people exploited across the world in modern slavery, with the estimates today, it was important that we have an international response to this. When I first got the role, I noted that there was no Sustainable Development Goal at the UN targeting this and I pushed for there to be a target. Now we have got goal 8.7, which member states have agreed to. Australia has a particular interest in that with your Ambassador for People Smuggling and Human Trafficking for Australia taking a leading role in driving 8.7 initiative.

The UN has been really vital in pushing this forward. Of course, having this as a sustainable development goal means that the UK can now use international development in how we address things at source. The government has created a \$33.5 million international modern slavery fund, which is dedicated to funding projects in priority countries.

I have encouraged a real strategic approach and put forward recommendations to the government, to law enforcement, to the health service, to local government and to immigration services. We are seeing these being implemented, particularly, in countries like Vietnam and Nigeria where I am working specifically on projects and on how we can address the issues—they being real priority countries to the UK.

In summary, my role as the commissioner is about working with government and other agencies. We are working with non-government organisations, businesses and key stakeholders as a critical friend to ensure that consistent focus on the identification and support of victims is there for this abhorrent crime whilst, at the same time, we need to make sure that we are pursuing those who inflict the suffering so that they are brought to justice. I think, at the moment, it has been very piecemeal, very broken down, so we need international collaboration, but we also need domestic legislation that is effective. In the UK, we are starting to see that and we are starting to see the benefits now of the Modern Slavery Act. I hope that gives you an overview of what the act is and what my role is and, obviously, I am looking forward to any questions you may want to pose.

CHAIR: Thank you very much, Mr Hyland. I have a couple of initial questions and then I will pass to other members of the subcommittee who may have further questions. What have been the key challenges in implementing the Modern Slavery Act in the UK? How, from your experience, would you advise us in terms of how we can improve upon what the UK has done?

Mr Hyland: A lot of the implementation of the act and getting the actors responding to it—I suppose we were a little bit slow out of the starting gates, because it was new. If we were there again, I think we would look at what was currently happening—and we are doing that now—and where is the experience already in dealing with vulnerability, whether that is law enforcement, health, local governments or immigration. Maybe immigration did not have the expertise, but that is something that we needed to do. Where do we set this act? Who are the responders to it? For example, now our National Crime Agency have put this under the umbrella of vulnerability and organised criminality. So, we need to get it in the right place where it can be responded to, and understanding what it is, as well as what we are saying it is. Historically, it has been looked at as a social issue perhaps, like homelessness. Of course, it does have that vulnerability, and that is why we look at the assistance and the value that the non-government organisations bring, which is essential. However, this is serious and organised crime. Yes, it does have a nexus with immigration crime, but these are vulnerable people who are trafficked and exploited, and we need to look at it very clearly at what it is. I think we are doing that now, but we did not start that at the beginning and that was part of our journey. Where it sits, what its focus is at the outset, you have got an opportunity perhaps—that is some learning that came our way.

CHAIR: Thank you. I would also like to today acknowledge that *Australian Story* from the ABC is here today doing a story around Rosie Ayliffe from the Tom and Mia Legacy who joins us at this hearing into the Modern Slavery Act. I pass on my deepest sympathy for the loss of your daughter, Mia.

Commissioner Hyland, I understand you have met with Ms Ayliffe about her campaign to protect backpackers during their farm work in Australia. I have some personal experience, having worked in Mildura in the past with a large horticultural sector where, in particular, there are issues around bonded labour and the seizure of passports. Can you outline the connection that you have seen, or perhaps drawn from, with the issue of forced labour and slavery-like offences such as the seizure of passports and debt bondage?

Mr Hyland: In the UK, for example, where we have an agricultural sector, we do see that there are criminals who have infiltrated those areas and they will attract people, particularly from Eastern Europe or elsewhere in the world, and put them to work in exploitation in the agricultural sector but also food packing and other areas. What they will do is they will control people by not paying them, putting them into multiple occupancy, taking away their passports and so on.

One of the things that we have also seen in parts of the UK where that is happening is an effect on other issues. It affects the communities. You then get people who are homeless, people who are committing crimes to survive and people who move to substance and alcohol abuse. It has a much wider impact, even domestically in the UK, on the vulnerability of people who end up in labour exploitation. We see a real nexus between labour exploitation and modern slavery. That is why our Director of Labour Market Enforcement and our Gangmasters and Labour Abuse Authority have a statutory role to meet. There are opportunities to intervene and prevent by identifying when things are going wrong. There are a lot of criminals who have infiltrated those networks. I want to see them pursued and prosecuted. We need to make the people that are in those positions realise that they are being exploited and are victims of modern slavery, and how they come out of that. In the UK many of those are foreign nationals, so there will be a number of issues around language, trusting the authorities and their immigration status that may be barriers for them to come forward.

CHAIR: Would you recommend a specific offence around the seizure of passports in Australia?

Mr Hyland: From my perspective around modern slavery, I think that forms part of the offences and part of the points to prove around modern slavery. As a preventative measure, there are other offences that could be committed because someone takes a passport. Thinking of my role as a police officer, if you wanted somebody to be part of your crime group or whatever, there would be other reasons to take passports. I think that protecting people's travel documents and making sure they are not taken from them by criminals would be a good way of preventing the escalation.

Senator SINGH: I know you have talked a bit about the cultural change that happened in the UK with the act coming on board. In Australia we have a number of investigations into modern slavery, but the number of prosecutions is incredibly low. I wondered whether that was the case in the UK before the act and the subsequent cultural change that occurred with that, whether things have improved or stayed the same, or whether you did not have that problem to start with?

Mr Hyland: No, we most certainly had the same problem. I think it was because it was not being looked at in the right vein—going back to what I said to the Chair: 'Where did this sit at the beginning? What should have been looked at?' If you want to get prosecutions, you need to make the criminal justice systems, from police to the courts, understand that this is serious and organised crime. A recent example was a case where one of our factories and warehouses had people in modern slavery in one of our big businesses. When the press were reporting on it, and when I was interviewed by them, they said, 'Do you really expect companies to respond to this?' The reports on it were that this is a social issue. When I said, 'Well, if there was drug stealing or abuse of people being assaulted in the premises, you would expect a response from law enforcement.' They went, 'Oh, yeah.' It has not been seen as a crime.

Now it is seen as a crime, and that means that law enforcement and our National Crime Agency are using the tactics available to them around other serious organised crime, because you do not always wait for a victim to come forward. There are techniques that can be used around how you intervene with that and how we use the intelligence picture. That is one thing that our Prime Minister has made happen. At the task force, the security services are part of that because it is being looked upon as a national security threat. Once you up the response and you start to look at it as organised crime, you will see criminal justice respond in the way that it does to other serious and organised crime.

Senator REYNOLDS: I had the great pleasure of meeting you recently in the UK at the workshop. I have got to say, it was a huge revelation for me to actually understand what modern slavery involves. I came back to Australia and now I seem to see it everywhere. I wrote an article yesterday, 'Modern slavery in Australia is hiding in plain sight'. It is here in Australia. When I came back, there were two cases in the media in my home town of Perth involving two groups of 70 workers. It had all the hallmarks: passports taken, kept in houses, transported to and from, and all on different sorts of visas. But they were the ones who were being prosecuted and being shunted back to whence they came. This is not a criticism of law enforcement, because, as you said, I do not think they knew the consequences. What do you think we can do? As we go through this, there are undoubtedly more of these gangs out there in the agricultural sectors. What can we do through the media and through this process in the interim to highlight some more of those factors for law enforcement or for the community? What do you look out for? What is hidden in plain sight?

Mr Hyland: I think some of those, exactly as you say, are what we would look at and ignore. One of the issues that I have raised continuously in the UK is around hand car washes. There are 18,000 hand car washes across the UK at the moment that operate on high streets. Many of those, we have now established, are run by organised criminals from other parts of the world who bring people in and are not paying them. If you actually

look at it, people are wearing trainers, they are wearing jeans and there is no safety. We have had cases where people have died in them as a result of poor electrical systems.

It is there in plain sight. I think that once we start to talk about it like other crime—if we look historically in the UK, and perhaps Australia has had the same experience, how did we used to respond to domestic violence? We used to say it was a hidden crime. Now we have got a really good response to it in the UK—like you have, as I have heard from the Australian Federal Police—because the police are proactive about it. People see that there is a response. It is raised into the communities as something that the police will respond to.

At the moment, if it is not responded to or it is not seen as a crime, you will not get that response. I think it is about engaging with communities. That is where the NGOs have a lot of influence and where the big organisations, faith groups and the community leaders have real influence to say, 'This is what you do.' But sometimes—and this was another learning perhaps—we were trying to develop things that were kind of new and that were in the margins. How does the local authority deal with this? One of the heads of safeguarding for one of the London boroughs said to me, 'Well, I've been told so many things that I should be doing with children who are referred in.' I said, 'Well, what would you do with child sexual exploitation?' He said: 'Well, I'd do safeguarding, I'd do all these things.' I said: 'Well, this is a crime. Do exactly the same.'

Sometimes it is about looking at what we do in other areas and then making sure the public are aware of that through media campaigns. It is about identifying what the targets are that should be looked at and then actually saying to law enforcement and statutory agencies that we need a response. It is not always going to be the high-level organised criminal response. Sometimes it may be low-level interventions. The police have got the skills to do that. Once they are called to account, that is very much what my role is as the commissioner is—to say to them: 'This is the number of offences, this is the amount of crimes. Where are the outcomes?' Sometimes you have to create metrics and look at those numbers. I know that is sometimes simplistic, but if something is measured then you will get a response.

Senator REYNOLDS: You mentioned the issue of media and getting it out there. One of the messages that I took away was that if the government had the time to do it again they would have actually done more media and community awareness along with this. We have certainly found that when you talk about modern slavery here, 99.9 per cent of Australians would think: 'Well, what are you talking about? How is it possibly relevant to us? That went out 100 years ago.' Given that we are not talking about physical shackles anymore—we are talking about psychological shackles—how do you get that message out in the community? We have got members of the media here today and also family members. How do we get that message out to Australians? What were the lessons learnt?

Mr Hyland: Once you get the agencies doing something—obviously the high-profile cases immediately attract that. We have had some very high-profile cases—one only two weeks ago, where somebody got 20 years imprisonment and made 20 million pounds out of trafficking and exploitation. Then there are the strategic partners. For example, we have the Anglican Church and the Archbishop of Canterbury assisting us with the Clewer Initiative that has been set up, which is the Anglican Church's response, and are discussing how they can work with their faith groups across England and Wales. We are also working with the Catholic Church on the Santa Marta Group on how they can influence their communities. With these big, strategic organisations, we can use their congregations and actually start to disseminate the information.

But this is what I think is also going to be key: I did three small videos for the statutory agency that I work with for law enforcement, local authorities and health. These are only three or four-minute videos, but I have required them to go across these agencies that have got millions of people working for them—for example, by working with the director of nursing for England. She has 700,000 nurses who report to her, and I have been able to get these videos across. They may be three minutes, but they are telling them what it will look like in their workplace and who to call—that might be just, 'Call the police: it's a crime' or, 'Call your safeguarding lead in your organisation'—and are actually starting to give them the empowerment that they need. And they are doing this in other areas of vulnerability.

Senator REYNOLDS: Thank you.

Mrs SUDMALIS: Thank you so much for coming. I gather that the main shift of the modern slavery investigation seems to be going to the working part of it where, initially, it used to be an emphasis on sex workers and sex trafficking. There is one small part of that that is not written here and I would like to know why that has not been considered, or if it is under a different umbrella, and that is the matter of child brides, which I would consider to still be part of an anti-slavery piece of legislation because, effectively, that is what it becomes.

Mr Hyland: I think you are absolutely right. Our legislation says 'exploitation of any kind'. There have been cases of prosecutions where not only child brides but also adults have been brought in from EU countries and forced to marry a non-EU national so that they could get citizenship or the right to stay. There have been prosecutions and convictions of that. They have been very complicated cases as well because sometimes they have involved international groups and lawyers, and involved Europol and Interpol and Eurojust assisting on that. The legislation does allow for that.

One other thing that the legislation has created is a statutory defence for victims. For example, there would have been arguments at some time, if somebody engages in a sham marriage, over whether they have committed a crime. Now the legislation says they have got a statutory defence. Also, perhaps, when Vietnamese people were very much trafficked to the UK, or ended up in the UK and were exploited in cannabis cultivation, they might have been prosecuted for what they were doing. Now they have got a statutory defence. But, also, because it is a statutory defence, if the police believe that they are a victim, then no prosecution can follow because there is no offence, as it is a statutory defence. That has encouraged more people to come forward. But our legislation does allow for prosecutions of brides whether they are children or adults.

Mrs SUDMALIS: So that has been in the legislation that you have put in place in the UK, which seems to be a pretty good model for us to use as a starting point. If you had your time again to rework and reword your legislation, is there anything that you would do differently that we could take advice from?

Mr Hyland: I think one of the things that is worth thinking about is around the extra prevention elements that could be there. Whilst we have got very robust elements around financial, I think that there could be a lot more there about, 'How do you prevent this?' If anybody is engaged in this directly or indirectly, there could be a lower level offence, so you can actually go in and address those issues. Other legislation does allow for closure orders and issues like that, but on this legislation, for example, if somebody was turning a blind eye in some way, shape or form—perhaps allowing their premises to be used for trafficking or for sexual exploitation, or as an ale bar or as a car wash—our legislation does say 'knowingly or ought to know' for slavery and servitude, but I think there could be a lesser offence that does not hold a life sentence penalty. There is another offence in there, 'preparing to commit an offence', which holds 10 years imprisonment, but that is quite complex. So I think something about the associated offences to the main offence would create real opportunities for police and for law enforcement to prevent and intervene at a much earlier stage.

Mrs SUDMALIS: Thank you.

Senator LUDLAM: Thanks so much for presenting to us this afternoon. I have got two quick questions. I think you indicated that the reporting obligations for companies kicked in at about 23 million pounds?

Mr Hyland: Thirty-six million.

Senator LUDLAM: Okay. I wonder, firstly, why you think that threshold was chosen and what proportion of companies that engages, and my second question is maybe a little bit more political: what barriers did you or the government face in getting this on its feet in the UK? What should we maybe look out for?

Mr Hyland: The 36 million came from the Companies Act, which says a large business is defined as someone trading over 36 million in the UK. That is where that came from, which was a sensible approach, I suppose. That affects 12,000 companies in the UK. And of course it does go down below that, because it is about their supply chain. So they need to make sure people in their supply chain are slavery free. On the political issues, this is one subject that actually had cross-party support. With the way that the evidence gathering was managed, there was never any push-back. I think what it was—perhaps now we see it—was that the government were pretty reluctant to go down the business route, and they did not, and it was the private sector that actually said to them, 'Come on; we want this to be engaged,' because they felt that they might be reluctant to engage on this. I think that, had they known what the private sector had been like, they would have had it in draft, but it was the private sector that then forced them to do it, or suggested they do it.

Mr CRAIG KELLY: My question is following up on the issue of forced marriage and underage marriage. One thing we have seen in a couple of cases here in Australia is that people may have committed what is an offence against Australian law—what we probably would define as modern slavery—but from their cultural practice they do not think they are doing anything wrong, because it is something that, with their parents, their grandparents and their great-great-grandparents, has been a common practice in their country of origin. Is there anything you have specifically done to tackle that issue where you have those cultural differences?

Mr Hyland: That goes wider than forced marriages and so forth. It goes into issues such as having somebody who is a domestic servant—which is a big issue in the UK—who is working for nothing and being beaten every day because they are not working hard enough. We have had many cases like that, where there has been severe

suffering. But I think we can either dance around it or we can just say, 'This is a violation of our legislation.' That is what we need to do, and that is what I want to see in the UK. Yes, we need to go back with these countries and work with them, and part of the international work needs to be about encouraging change. When I work in Nigeria and have been to Nigeria, some of the work we are doing there is about: how do we change the society and the cultural change in Edo State, where victims are being sourced; how do we actually give them opportunities? A lot of it is about rule of law, which is what I am pushing for there, and about community engagement—telling them that coming across the Mediterranean is very dangerous, and exploitation is likely at the end of that—but then also about giving them opportunities about development and livelihood there. It is about working in countries to educate them.

Mr CRAIG KELLY: So, when someone migrates to the UK who may come from a country with cultural practices where you get married at 14, for example, is there anything specifically you do to give education programs about the law in the UK to those migrants? How do they find out that what may be a common practice in their country is actually illegal in the UK?

Mr Hyland: There will be so many laws that they have to be aware of, and, when they come to the UK, the responsibility does sit with the individual if they are going to become resident in the UK. If they are the offender, then the duty will lie with them. But I think reaching out to the vulnerable victims and those who could potentially be victims is key. With our domestic workers, I have recommended—and it has been agreed by the government—that the visa regime, the process that people go through, is that, when they arrive in the UK, they will see an NGO that is funded, so that they are advised on what their rights are and, if they are being exploited, what to do. That model that we are doing around domestic workers could be rolled out so that victims are identified. As for the perpetrators, I think that perpetrators have to be treated by perpetrators, and that will be through the criminal justice system.

Mr CRAIG KELLY: What about someone like in the case we have had here, where they actually did not think they were doing anything wrong by marrying someone who was 14 because that was a common cultural practice in their country? They are considered as a perpetrator?

Mr Hyland: Yes. I suppose, I am afraid, that we have to go with the law of the land. If you actually look at it, there are a number of countries where abusing a child at the age of 14 may be acceptable. Well, that will never be acceptable and tolerated in the UK.

Mr CRAIG KELLY: So the education program—

Mr Hyland: The education is important. What we have done on female genital mutilation is about that, because it is so hard to address, because it is so cultural and victims will not come forward. There has been engagement about how you make communities aware that this is bad practice, because it is interfamilial as well. Addressing that as a social issue is important, but I also think that, if you have the rule of law element and you do prosecute, you need to make sure that the communities are aware that it is an offence and will not be tolerated in the UK—because abusing children is abusing children and cannot be hidden against some sort of cultural issue.

Ms MADELEINE KING: Thank you to everyone who has come in today to this hearing. I want to ask about the UK's approach to compensation for victims and families of victims. What are the challenges or, rather, the barriers that victims may face in obtaining compensation for what has happened to them?

Mr Hyland: One of the issues in the UK was, as I mentioned earlier, the poor crime recording. We have the Criminal Injuries Compensation Authority, and you can only apply for that if your crime has been recorded and you can show that there was some form of investigation. The fact that crimes were not being recorded properly meant that victims were exempt from that process. That is something I have addressed quite robustly so that that is an opening for victims, and we have seen victims be compensated through that authority and receive sizeable sums, and that is with or without a conviction. The other element is around the reparation orders that are part of the act. That is one area of the act that has not been used that effectively, but it is also because the act is still new, cases are still going through and the proceeds of crime elements are still going through. In the case I spoke to you about, with the 20 million pounds, the proceeds of crime element and the assets element are still going through. Thinking now on that, one of the recommendations was that the reparation orders should be far swifter. The finances that are there should be moved to the victim much quicker at the end of the trial, as opposed to waiting for a proceeds of crime element. So we do have victims who do receive compensation; we also have law firms that take civil action on behalf of victims and get the moneys elsewhere. We have had successful cases like that.

Ms MADELEINE KING: With the act itself, is non-citizenship of Great Britain or the EU—although that might change soon—a barrier to victims?

Mr Hyland: It is not a barrier in the act. One of the things I say is that we need to look at this as a crime against an individual. For example, I think if a victim had been raped or sexually abused we would never default to immigration status before we dealt with their vulnerability and the investigation. I think it has been a barrier because many people are undocumented in the UK and there has been a conflict there, but we are starting to see that be addressed. As I said earlier, a large number of the referrals are coming from the immigration services, but I think we still have a lot more to do. But it is not a bar to any of the processes. One of the things I recently did was write to the Chair of the Work and Pensions Committee about this issue, and that committee recently produced a report on those issues about how we need to make exemptions for people who are not entitled to benefits in the UK. The committee made a number of recommendations that, at the moment, will not be going forward until post the election.

Ms MADELEINE KING: That lack of documentation is going to be a common theme for these vulnerable groups.

Mr Hyland: Yes. With the lack of documentation, if you have been in slavery or exploitation, can you prove residency? How can you prove that you have been earning money so that you are entitled to benefits? Obviously you cannot. So it was a conflict issue and something I have addressed. The act itself does not prevent people from being supported through our government funded national referral mechanism, but after that process they do have limitations, which I am addressing at the moment.

Ms CLAYDON: Thank you very much for your evidence this morning. I have a question related to the private sector, but I might pick up from Ms King's questioning. I note that one of your priority areas is looking at best practice for support of victims now. What advice, if any, do you have around good preparatory work that should be done to ensure that there are adequate support services available? These are people who are obviously completely traumatised, with family members who are traumatised, with lots of challenges dealing with that. What kind of preparation would you recommend for governments to ensure that they are ready to deal with that level of trauma adequately and sufficiently?

In relation to the private sector, I am wondering if there has been any appetite at all for businesses with turnovers of less than 36 million pounds to participate in terms of ensuring somehow—whether they publish annual statements or whatever—that their business practice is not engaging, even unwittingly through the supply chains, in any kind of modern slavery practices. For those business, big or large, that do get the tick-off that they have published an audit and said, 'Our supply chains are all clear,' how do they inform their consumers about that?

Mr Hyland: Firstly, on support, there is a government-funded national referral mechanism which is actually managed by the Salvation Army, who do incredible work. Because it is governed by what was a Council of Europe convention it supports 45 days for the victim, which we know is inadequate. Recently I wrote to the government about this and there is a radical change that is being considered which will address that. I think when that person comes forward in that crisis situation there needs to be immediate support available. That needs to then be able to dovetail into all the different agencies—health, psychology, education. One of the things that is coming out about private sector working as well, for example, is that our Co-op now offer jobs to victims of modern slavery. So we are seeing the opportunities for people there.

I think the issue about the level of support is that it kind of needs to be bespoke to each individual. The decision making about whether somebody is a victim at the moment is conducted by our National Crime Agency and UK Visas and Immigration. I have asked for that to change to be a more inclusive panel of experts which will include law enforcement but will also include health, housing, social services and local government so that the safeguarding and the future of that victim can be properly managed beyond 45 days to much longer than 45 days, and so they can get whatever is necessary to support them and also get support through the criminal justice system. So that is something I have asked to change. I wrote a letter which is public to the minister on that and the government said that they are looking at radical change to address that. So that is some learning that has come out of our legislation as well.

As for the private sector below 36 million pounds, there are a number of companies that have actually done that voluntarily. They have filed statements and put in place measures. So yes, it has had an impact on other companies making sure that they are slavery-proofed. Also, some educational premises that may not fall under the act have done things like that as well. So there has been good practice. It has actually made more people interested in it. Our premier league football teams have actually done slavery statements they were required to do, but they have made it quite competitive, as you might imagine. So then I can do a leak for them. So actually seeing that and how that actually engages with large sectors of the community has been very important.

As for the monitoring of that, the statements have to be put on a prominent place on their website with a link to the front page. So consumers can go there, but that is quite difficult. We do not have a central repository. It is not

part of our legislation. You asked that question: in hindsight, should we have a central repository? I think it would be useful. Should it sit under a government agency or should it be funded? I think perhaps funded and encouraged to have nongovernment organisations or educational entities or universities looking at it, managing it and being very innovative could actually drive the change and increase the interest of the public and people in academia and so on. So I think there does need to somewhere people can go to. Sometimes it is asked whether it should sit with me as the Anti-Slavery Commissioner. I think what that could do is challenge my independence. If I were seen as the adjudicator on whether it is a good statement or a bad statement, suddenly I would get drawn into arguments and issues I should not be addressing. But I can say when I see a bad statement. I can actually draw something out or, as I have done recently with the Co-op, show when I have seen a really good statement. I attended their annual general meeting to say, 'This has really set the bar.'

Senator FAWCETT: I have two questions for you. One is to build on that point about aggregating information. This comes in part to the role of the consumer in influencing company behaviours. I do not know if you are aware that the Baptist World Aid organisation here has the Ethical Fashion Guide which helps shoppers look at a brand, look up the guide and get a rating very quickly. Is there anything like that the data for your reporting requirements throws up that is being done in the UK, and could that be a model that would help consumers shape the behaviour of companies?

Mr Hyland: There is not anything like that, and I think that is exactly what could shape consumers' purchasing power. We do have groups like the Ethical Trading Initiative and the Business and Human Rights Resource Centre that are looking at developing information, and there is another central repository being developed by TISCreport org, so we have things that are being developed. I think the 12 housing companies focusing on particular sectors of business is where we would like to see this develop. It is by having experts with IT and knowing how to crunch all the important data is exactly what we could see this translating to. I do not think it could happen overnight—I think it is a bit of a journey—but being able to inform the consumer in that way would then drive businesses to change what they are doing.

Senator FAWCETT: It should be viable, in your view, to not only have the reporting requirement but to specify a number of elements that must be reported so that the aggregation for a third party, whether it be a not-for-profit, a university or whoever, then becomes quite a simple exercise from your website as opposed to having to try and interpolate and interpret information that is presented in different formats.

Mr Hyland: The Home Office does not have guidance on what statement it should contain. It is not a requirement, but it gives guidance. I think the civil society could draw from that, do exactly what you are saying, and then inform the purchasing power of the consumer.

Senator FAWCETT: Sure. My second question is from a whole-of-government perspective. You mentioned before about setting some targets in the Overseas Development Aid area. From a different perspective, do they have specific programs or funding lines to support the work that you are generating in the UK into the UK's international partners?

Mr Hyland: DfID sit on the Prime Minister's task force. Secretary of State for International Development, Priti Patel, will attend that for officials. There has been 33.5 million pounds put forward from ODA funding for specific projects in source countries. Some of those projects have been agreed already and there are larger projects that I am directing around Nigeria and working very closely with DfID on. I have had meetings very recently with DfID and the Home Office about how they can be delivered. That is the start of engaging with DfID and how more can be done, particularly around sustainable livelihoods and how we can change the culture in areas to make this a non-viable crime.

Senator REYNOLDS: While we were there, the committee met with the Gangmaster's Licensing Authority. It has an unusual sounding name to us but it seemed like a very important organisation. Would you be able to give us a bit more of an idea of what you think their role is?

Mr Hyland: The Gangmasters Licensing Authority is no more. It is now called the Gangmasters and Labour Abuse Authority.

Senator REYNOLDS: That is right.

Mr Hyland: Its powers have been extended significantly, which was one of the recommendations coming out of the Modern Slavery Act that needed to be reviewed—so it was another benefit of the act. Its role now is to look at all labour employment. It now has powers, just like the police, to investigate and to intervene where there is modern slavery. But its licensing regime, which is limited to the agriculture and fishing industries, means that to operate in that area you have to have a license to employ people working in those sectors. That comes out of the tragedy that happened in the west of England in Morecambe Bay where a number of Chinese cockle pickers

perished. So, yes, it is a very important role and it gives a focus to the labour industry and labour markets. Also, I know that the CEO has teams that will go out and advise. They will do intelligence inspections. They will do unannounced inspections. They have a whole raft of measures where they can start to focus in on high-risk people who are not complying with the rules and then work with the CEOs. Their new powers have been crucial in order to give them across the market place power because we do know that some criminals moved from agriculture and the fisheries into other areas such as construction and food processing, because they realised that they were being focused upon. So I think the extended powers are going to make a real change.

Senator REYNOLDS: In terms of moving out, other areas we looked at were things like nail bars—Chinese, particularly—and massage places that are across all of our shopping centres. Are there any other areas that are of particularly high focus at the moment in the UK?

Mr Hyland: In the UK one of the things the NCA has started to look at and focus on with policing as well—county police forces—is car washes. These are very irregular set-ups. They appear suddenly. They may be put in a place where there is a busy car park, like a supermarket or a petrol station. If you look at the people who are employed and the presence of those people and what they look like and the conditions they are working in, and also then the people controlling it, the investment they have to make to set it up is very low. We would not allow any other business in the UK to set up like that, but there has been an element of impunity. So, now that the National Crime Agency, with other agencies, like health and safety, our Gangmasters and Labour Abuse Authority and our local authorities such as fire services, have started looking at it, we can start to shut down those markets but also then identify victims and, where necessary, prosecute people but also trace the money, because they are making millions of pounds.

Senator REYNOLDS: Finally, I know the Salvation Army have been contracted nationally to provide victim support, housing and care and I believe also are working with law enforcement. How is that system working in the UK in terms of actually contracting an organisation to do that?

Mr Hyland: The Salvation Army have been outstanding. I think to a degree they have been limited by the fact that it is a 45-day program, but of course because of their charitable reach they can do more with other funds that they have. But the way they run the Safe Houses, which they subcontract—I think the actual model of the Salvation Army managing that, working very closely now with law enforcement—they needed to work much closer with the National Crime Agency about the intelligence they gather, which is now happening or starting to happen. But I think that model is actually a good model, because it has the confidence of civil society. The victims would feel much more comfortable about entering into their support mechanism—

Senator REYNOLDS: And talking to them, I would imagine.

Mr Hyland: Yes, and talking to them. And they have both a national reach and an international reach.

CHAIR: One of the issues that has been raised is that potentially Australia might consider introducing an optional opt-in for companies below the threshold. What are your views on that approach—for example, an optional opt-in for people below the 36 million pound threshold in the UK?

Mr Hyland: I think it is a very good. I think it is a positive step. If we want to change the DNA and the culture of business, we need to engage with as many businesses as possible. And in some of the work that has been done we do see that the smaller businesses—small shops, factories or construction sites—have exploitation as well. So, I think the more businesses and business leaders we can get to engage in this, whatever the threshold, that is a positive move.

CHAIR: Hopefully then it would potentially create a race to the top, even for people below the threshold.

Mr Hyland: And this is a journey, and hopefully we will get to the point where people will say, 'I'm going to trade with you only if you have good practices.' If we turn the clock back 40 years, at construction sites in the UK there were a lot of fatalities. They were very dangerous places, with very limited governance. Now if you look at building sites and construction sites in the UK they are pretty safe places. Everybody wears health and safety equipment, and they are well managed. So, you can change the culture over a period of time.

Senator SINGH: The role of civil society in combatting modern slavery is undeniably crucial, and in Australia there is a handful of NGOs doing that work. Some of them are here today. The Salvation Army is one of those, of course. As you would know, they are at the coalface of dealing with victims. But they obviously can do only what they can afford to do, and that comes back to government funding. How, in the UK, has government looked at its support for civil society? Did it strengthen after the Modern Slavery Act? And are there lessons that Australia can learn as we go forward to ensure that this is looked at not just as a law enforcement issue or even a government issue but as a whole-of-society issue?

Mr Hyland: I agree with you. That is essential, and civil society does offer so much. Of the 33½ million pounds that has been put forward, the first amounts awarded have been for civil society, for NGOs to work on projects that can affect upstream work. They are NGOs based in the UK but also NGOs overseas that work with UK NGOs. The Salvation Army is funded by the government to the tune at the moment of nine million pounds a year to support the victims through that process. That is a well funded, well structured support mechanism. But there are other opportunities, other budgets that NGOs can bid into, whether through our Big Lottery Fund or Red Nose funding, and all these other opportunities that are giving substantial funds to victim care centres or to NGOs, but also groups like the Catholic church and the Anglican church, which I have just mentioned, and the Jewish community. They are all funding projects as well.

But, importantly, the minister for vulnerability chairs a meeting that the NGOs attend, and they can discuss directly with the minister the issues and the challenges they are facing, which means that the minister hears it firsthand. And I chair two separate groups, one about labour exploitation and then one about other areas of modern slavery where they can explain to me the issues they are facing and the information and the challenges we need to address. I think that including them in that sort of dialogue has been key to gaining their trust, to listening to what they are saying and then actually making the difference on the ground in what they are doing and informing government to make sure that they are doing the right thing in the right way. That is very much what my role is, as well. But they are also listening to civil society.

CHAIR: Thank you very much, Commissioner Hyland, for coming to Australia and for your evidence here today. And I thank all witnesses for joining us today at the hearings. You will be sent a copy of the transcript of your evidence and will have the opportunity to request corrections to any transcription errors if needed.

Resolved that these proceedings be published.

Subcommittee adjourned at 13:07