



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

PARLIAMENTARY JOINT COMMITTEE ON FOREIGN AFFAIRS,  
DEFENCE AND TRADE

**Slavery, slavery-like conditions and people trafficking**

(Public)

TUESDAY, 20 NOVEMBER 2012

CANBERRA

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**PARLIAMENTARY JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE**

**Tuesday, 20 November 2012**

**Members in attendance:** Senators Furner, Moore and Ms Parke, Mr Ruddock.

**Terms of Reference for the Inquiry:**

To inquire into and report on:

Slavery, slavery like conditions and people trafficking with a particular focus on:

- Australia's efforts to address people trafficking, including through prosecuting offenders and protecting and supporting victims;
- ways to encourage effective international action to address all forms of slavery, slavery-like conditions and people trafficking; and
- international best practice to address all forms of slavery, slavery-like conditions and people trafficking.

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**BOS, Mrs Karen, Board Vice President, Christian Faith and Freedom Inc.**

**TOKAJI, Ms Andrea, Board Member, Christian Faith and Freedom Inc.**

**Subcommittee met at 09:03**

**CHAIR (Ms Parke):** I declare open this first public hearing for the slavery, slavery-like conditions and people trafficking, which is being conducted by the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. The trade of men, women and children through force or coercion is one of the fastest-growing criminal activities in the world. The International Labour Organization estimates that over 20 million men, women and children around the world are victims of modern-day slavery. Ninety per cent of these people are exploited in the private economy by individuals or enterprises and 26 per cent are below 18 years of age. Australia has not escaped this serious form of exploitation. The Australian Institute of Criminology reported that, between 2004 and 2011, the AFP undertook 305 investigations and assessments of people-trafficking related offences, which resulted in 13 convictions. One hundred and eighty-four victims of trafficking were provided assistance over this period. As part of this inquiry, the subcommittee will examine Australia's efforts to address all forms of slavery, slavery-like conditions and people trafficking, look at ways to encourage effective international action and investigate international best practice. The subcommittee will also focus on how to prosecute offenders and how to protect and support the victims.

Today we will hear from Christian Faith and Freedom, the Australian Crime Commission, the Law Council of Australia, the Fair Work Ombudsman, the Australian Christian Lobby, the Department of Industry, Innovation, Science, Research and Tertiary Education and World Vision Australia. Before introducing the witnesses I remind members of the media, who are reporting on this hearing, of the order of the Senate relating to the broadcasting of proceedings.

I now welcome representatives from Christian Faith and Freedom to today's hearing. I remind witnesses that, although the subcommittee does not require you to give evidence under oath, this hearing is a legal proceeding of parliament and therefore has the same standing as proceedings of the chambers themselves. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Do you wish to make an opening statement to the committee?

**Ms Tokaji:** Yes, thank you. Since the human race has understood that exploitation, trafficking and slavery have existed, Australia, as a privileged nation, has a moral and international obligation to ensure that a high standard of freedoms and rights are adhered to, domestically and abroad. There is a strong evidential report that links the use of pornography, prostitution and trafficking.

**Mr RUDDOCK:** There is what?

**Ms Tokaji:** A strong evidential report.

**Mr RUDDOCK:** A strong evidential report. I do not know what that means, but I assume you will address it.

**Ms Tokaji:** These are just excerpts from my actual submission. I am just highlighting a few key points. Please refer to the full document. Trafficking in persons is a complex issue requiring a complex set of interwoven solutions—economics, migration, asylum policy, human rights and cultural prejudices—which are just a few of the standards that must be unravelled and reworked to formulate effective solutions in addressing trafficking. Holistic goals should be created to support and enforce the national strategies to prevent human trafficking from happening.

Prostitution needs to be seen, first of all and most importantly, as a form of gender inequality. A study published in the *American Journal of Epidemiology* found the mortality rate of women in prostitution to be 200 times higher than the general population. In the same survey murder accounted for 50 per cent of the deaths of women in prostitution, and 89 per cent of the 854 prostituted women interviewed informed researchers that they urgently wanted to escape prostitution.

The link between human trafficking and prostitution needs to be recognised. Prostitution is a manifestation of gender inequality and a form of violence against women. We need to move towards practical action to reduce the demand for prostituted women by criminalising the purchase of sex in Australia. There is overwhelming evidence that prostitution is inherently harmful and dehumanising and that it fuels sex trafficking.

Human trafficking is the third largest international crime. The UNICEF 2007 report declares that there are 1.2 million—you obviously have updated statistics on this—child victims trafficked worldwide for sexual exploitation or cheap labour on an annual basis. The 2009 UNICEF report declares that 79 per cent of all global trafficking is for sexual exploitation and is a \$7 billion to \$10 billion industry.

According to the Ministry of Social Development and Human Security, numbers of foreign children being trafficked to Thailand for sexual exploitation is on the increase. Children are trafficked from Cambodia, China, Laos and Vietnam as well as from South Korea and Pakistan. The trafficking of children for prostitution and other forms of sexual exploitation is one of the most significant human rights abuses in contemporary society. Children as young as three are trafficked into sex slavery, and are being lured, coaxed, kidnapped, sold, transported, drugged, beaten, threatened, starved, imprisoned and forced into having sex with up to 26 men a day. Across the globe there are 1.8 million children who have been trafficked for the purpose of sexual exploitation.

In Thailand there is a demand for virgin children who attract up to \$500. After their innocence has been stolen, the girl is considered used goods and her value drops dramatically to as little as \$2 per sexual transaction. The enslaved girl must stay until their debt to their purchaser is paid off or face beatings. Their owners consider the girl are indebted to them for food, clothing, medical costs and abortions, which makes their debt impossible to pay off. As a result, a brothel owner will hold a girl prisoner until she becomes too old or too ill to attract customers.

The illicit nature of the Thai sex industry makes it extremely challenging to determine its scope, but it is recognised as both large and profitable. Children under the age of 18 comprise a significant sector of Thailand's sex industry. Not all of these children have been trafficked, but the ones that have are the most difficult to find or help. My submission takes an academic look at the current situation in trafficking in and around Thailand, Australia's interaction with trafficking in Thailand and seeks to address the current push and pull factors which drive the criminal practice.

Thailand is known as a source, transit and destination country for human trafficking. Thailand is particularly notorious for sex trafficking and for the trafficking of minors. It is considered a hub for sexual exploitation in the greater Mae Hong Son region. Thailand has approximately 10 million visitors each year with many Western, Persian, Russian, Indian and Asian tourists. The sex trade is one of the major sources of foreign revenue in Thailand and goes to the heart of Thailand's tourist economy. Thai sex workers are expected to oblige any perverted request or degrading act that clients ask of them. There are no health checks and there are no restrictions or safety precautions made for the girls in Thailand—anything goes.

I seek to address a few root cause issues such as the sexual exploitation of women and children from minority groups who do not hold citizenship rights in that nation. The migration policy, from an economic perspective, in Thailand has a direct impact on the incidence of human trafficking. Various reports have clearly stated that statelessness leads to vulnerability. Vital Voices global partnerships in 2007 reported that a lack of citizenship means a lack of opportunity for education, employment and healthcare services reserved for citizens, thereby causing such members to be much more vulnerable to human trafficking. It was concluded that statelessness was one of the major causes of human trafficking.

Research has shown that 80 per cent of trafficked individuals in Thailand come from the minority groups of the Karen people from the hill tribes of Chiang Mai and Chiang Rai, the Burma-Thai border, and the Isaan people from the Ubon area where Thailand borders with Cambodia and Laos. Around half of Thailand's hill tribes and ethnic minorities—around 500,000 people—do not hold Thai nationality. Up to 12 per cent of migrants in major border areas on the Thai side are considered to be probable trafficking victims. As regular means of migration are not available to women and girls, moving voluntarily for economic and human rights reason, the movement often takes the form of smuggling and other forms of irregular migration. Therefore, it is Thailand's migration and refugee policy that contributes to the incidences of trafficking.

Australia has been reported as being a destination country for human trafficking, with victims being trafficked from predominantly China, Korea and Thailand, and with many people being coerced into exploitative conditions. The Australian Crime Commission reports that deceptive practices, in contract terms and conditions, appear to be increasing among women in prostitution. Project Respect, an Australian NGO, estimates that up to 1,000 victims are currently under debt bondage in Australia. Australians have been identified as child sex tourists in 25 tourist destinations worldwide, predominantly in Asia and Pacific countries. They have been identified as the largest group of sex tourists prosecuted in Thailand.

Australians are consumers of child pornography, the majority of which was produced overseas between 1995 and 2006. Australians make up the largest percentage of perpetrators arrested and prosecuted for child sex tourism in Thailand. The low detection rates of Australians travelling for child sex exploitation allows offenders to continue to offend in both Australia and overseas. Australians involved in child sex tourism overseas pose an increased risk to Australian children being abused upon the offender's return. A victim centred approach is one recognising that prostitution is not about the commodification of sex and of people, but is actually a manifestation

of sex inequality and ultimately gender inequality, which was the core focus in creating Sweden's sex purchase laws.

An article in the *Michigan Journal of Gender and Law* states:

It is not possible to protect the health of someone whose 'job' means that they will get raped on average once a week.

Women who work in prostitution exhibit the same incidence of traumatic brain injury as a result of being beaten, hit, kicked in the head, strangled or having one's head slammed into objects, which have been documented in torture survivors and battered women.

Looking at the legalisation and criminalisation models comparatively—the Swedish and German legal models are noted comparatively in my submission with the Swedish report boasting great success, 11 years after its inception, which criminalised prostitution by targeting the users of sexual services with a gender inequality focus in the legislation. In 1999, with the approval of over 70 per cent of its surveyed population, Sweden passed groundbreaking legislation that criminalised the buyer of sexual services; part of a large violence against women bill. The legislation was based on the foundation that the system of prostitution is a violation of gender equality. Sweden's legislation officially recognises that it is unacceptable for men to purchase women for sexual exploitation whether masked as sexual pleasure or sex work. Its law also acknowledged that a country cannot resolve its human trafficking problem without addressing the demand for prostitution. The law moves away from targeting the person in prostitution to the users. In July 2010, the government of Sweden published an evaluation of the law's first 10 years of operation and how this legislation had worked in practice. The findings were strikingly positive with evidence that street prostitution had been cut by 50 per cent with no evidence that the reduction in street prostitution had led to an increase in prostitution elsewhere.

Sweden appears to be the only country in Europe where prostitution and sex trafficking has not increased. In contrast, Germany decriminalised procuring for purposes of prostitution in 2002: widening the legal basis for establishing brothels and other prostitution businesses; lifting the prohibition against promoting prostitution; and allowing women to enter contracts and benefits in prostitution establishments. Five years later, a federal government evaluation found that the German prostitution act had failed to improve conditions for women in the prostitution industry and has not helped women to leave the industry. It has also failed to reduce crime in the world of prostitution. The federal government is now drafting a criminal provision to punish the clients of those forced into prostitution who are victims of trafficking, which is a reflection of the Swedish model.

Legalisation of prostitution is a foul policy practice as is evidenced across Europe. The prostitution policy tide is turning from legalisation of prostitution to targeting the demand for prostitution without penalising the victims. Countries who want to be effective in the fight against trafficking and not havens of sexual exploitation are beginning to understand that they cannot sanction pimps as legitimate sexual entrepreneurs and must take legal action against the buyers.

Australia is to have legislation that ensures it takes a victim centred approach which considers trafficked women as victims, defined in accordance with the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Article B18. There needs to be a focus on protection, prosecution and prevention of human trafficking victims, both domestically as well as internationally. Prevention, protection, provision of services, prosecution and participation are referred to as the 5Ps comprehensive approach to combating trafficking—it is a reflection of the Canadian model.

As a note on future trafficking predictions, when I was in Thailand in August I came across information that led me to understand that there is an ASEAN trade agreement that is to come into effect in 2015. Obviously, as the borders open up, the demand and ease of trafficking of peoples will also be a result. The problem will affect political and national security in violation of human rights.

Reducing the instances of exploitation of women and children includes legislative changes to criminalised prostitution on the basis that it is a human rights violation and a violation of gender equality working off the successful Swedish and Canadian models. Further international cooperation and agreements should ensure cross border trafficking is minimised, keeping mercy and trade agreements in mind. Education targeting potential victims should ensure they are aware of their legal rights and protections that may be afforded to them. Full support should be provided to victims with no cooperation, obligations or restrictive visa burdens placed upon them. Often victims cannot gain assistance because of these restrictions. The ongoing physical, emotional and mental suffering of victims needs to be recognised and perhaps compensated within a rehabilitation context seeking to remove the threats to life and liberty that women and children face on a daily basis as a result of being trafficked. A prediction of the future growth of trafficking cross-border to and in Thailand, given the ASEAN trade agreement that is to take effect in 2015 with Thailand and its bordering neighbours, needs to be

acknowledged. Measures should be put into place to ensure that women and children are not further exploited and taken advantage of cross-border.

Newborns in minority communities are to be provided with birth certificates which lead to their gaining citizenship rights and their right to education. In order to improve the number of births registered the UN Committee on the Rights of the Child recommends that the Thai government create mobile registration units, conduct a public awareness campaign educating midwives on the registration process and communicate with district officials on the matter regularly, which is something that recently took place in Cambodia. They found an 89 per cent success rate which is fantastic. The principle of the best interest of the child needs to be enforced within the Thai legal system and practices, with the need to place international pressure on nations such as Thailand. Pressure should also be placed on country users of such services, such as Malaysia, who marry children for a night in the south of Thailand. It is very common.

Australia has a responsibility to protect children everywhere. There is an urgent need for the Australian government to fund an ongoing education campaign and support services. This helps Australians to identify and report suspicions or concerns about child sex offenders who travel overseas. Within communities, education campaigns should clearly discuss the anti-trafficking laws and the child protection laws that currently exist and are enforceable, but often are not enforced in Thailand. Stronger enforcement of law needs to exist. The government of Thailand needs to ensure the full implementation of their anti-trafficking legislation throughout the country. Working effectively against trafficking in Thailand requires commitment at all levels of society—government and non-government organisations and local and international communities. The three levels of action can be identified as national, regional and community. The Australian government is called upon to initiate greater government action and funding to be directed towards strategies to deter, detect and prosecute Australian child sex tourists and travelling sex offenders. Thank you.

**CHAIR:** Mrs Bos, would you like to make a statement?

**Mrs Bos:** Yes, thank you. Do you want to ask questions first?

**Mr RUDDOCK:** I have a large number of questions and you have 20 minutes left.

**Mrs Bos:** Please go ahead; this is important.

**CHAIR:** How long is your statement?

**Mrs Bos:** Not very long. I had not prepared a statement; I will try and condense it.

**CHAIR:** Yes, if you could.

**Mrs Bos:** We have been increasingly concerned by the plight of Coptic women in Egypt. Egypt, as everybody knows, is a focus of international attention. The Coptic women's plight has been deteriorating for the last 40 years. The rise in Salafism and extremism in Egypt has brought about a serious decline in the circumstances of Coptic women.

My report focuses on Egypt where the practice of the kidnap of non-Muslim women is particularly prevalent, particularly as the Salafist extremists and their release from prison in recent times have called to make Egypt an exclusively Islamic nation. It is a prime example of the resurgent aim of bringing the Middle East and North Africa under the domination of Sharia law to eliminate religious freedom and to replace the human rights enshrined in the universal charter and other international conventions with a Sharia complied rights of the Cairo declaration of 1990. The election of President Mohamed Morsi Isa El-Ayyat does not appear to have yielded a good outcome for those who fought Muslims and Christians, who hoped for democratic reform, which they fought for very courageously in Tahrir Square in January 2011.

The persecution of Coptic Christians has repercussions for Australia. We are receiving more and more requests for help for Christians who are trying to escape persecution in Egypt and wanting to come to Australia. The extreme anxiety of worsening human rights abuses suffered by families in Egypt has been expressed by expatriate Australian Copts in peaceful rallies in Sydney and in Melbourne. There was one very large rally in Melbourne in November 2011 following the Maspéro massacre.

The news of disappearances, forced marriages and forced conversions of Christian Egyptian women gained international attention when Coptic leader Pope Shenouda protested against the gross violations stating:

There is pressure being practiced to convert Coptic girls to Islam and marry them under terror to Muslim husbands.

On 16 March 2004 he again focused on this abuse claiming that he had received countless complaints and reports of missing women, which he urged the police to investigate. In 1999 Freedom House reported on religious liberty in Egypt which confirmed his concern. Based on its fact-finding mission it stated:

There are credible reports from many areas of Egypt that militant Muslims kidnap or manipulate Christian girls into converting. This can even involve girls below the legal age in Egyptian law at which a person can change his or her religion.

In November 2009 Christian Solidarity International in the United States and the Coptic Foundation for Human Rights published a pioneering report entitled, *The disappearance, forced conversions and forced marriages of Coptic Christian women in Egypt*, which was co-authored by anti-trafficking expert Adjunct Professor Michele Clark of the Elliot School of International Affairs, and Coptic human rights activist, Nadia Ghaly.

The report conclusively stated that Coptic girls and women are deceptively lured into forced marriages and conversions to Islam, that the criminality of such activities is generally dismissed by the Egyptian authorities, that young women are presumed to be willing participants in such marriages and conversions, that the disappearances follow consistent patterns, that the Egyptian government does not restore the identity of Coptic women who have returned to their communities of origin, that Coptic women are particularly vulnerable to deception and fraudulent practices and that, while the Coptic church provides safe houses and shelters for some women, it is very difficult to many to return to normal lives. Often they are regarded as outcasts in their own communities and, if they have been married to Muslim men, their children are regarded as Muslim under Egyptian law. This report stimulated an acknowledgement from the US Department of State whose 2010 report into trafficking persons stated:

During the reporting period, an international NGO released a report about alleged forced marriages of Coptic Christian females in Egypt, including an allegation of forced prostitution—

**CHAIR:** I think we accept the point that that has been established and that there have been disappearances and forced conversions. Is there something you would like to say about what Australia should be doing in this field?

**Mrs Bos:** Yes, obviously raising the level of awareness in international fora, encouraging the Egyptian government to adopt the recommendations of these reports and that local police take seriously the reports of missing women, because at the moment they do not. They do not acknowledge that it is something they should address. The hope is that all claims will be investigated and family members will be kept apprised of the progress of these cases. We hope that the Egyptian national government will request an annual accounting of all cases of disappearance. The Egyptian government would create a registry to document the disappearance of minors. The children of parents who convert will retain the religion of their birth until they are 18, which should be the legal age of consent. Laws which penalise discrimination based on religion in the areas of education, employment and the media will be enacted.

**CHAIR:** So it is really an awareness-raising function you are asking the government for.

**Mrs Bos:** It is awareness raising and a pressure placed on the Egyptian government to acknowledge international standards of human rights. Unfortunately, with the reintroduction of more stringent forms of Sharia law the rights of non-Muslims have been seriously compromised. The countries of the Organisation of Islamic Cooperation have adopted the Cairo declaration of 1990 as their standard of human rights, and these human rights are Sharia compliant, and they discriminate very heavily against women and non-Muslims and place non-Muslim women at the lowest level. Their human rights are very seriously compromised.

**CHAIR:** Thank you very much for that. Ms Tokaji, on page 12 of your submission there is a statement:

Trends reveal that the demographic that is most at-risk of being trafficked are those who come from medium economic income family background.

I wondered how does that fit in with the rest of the paper which talks about the most marginalised, stateless, minorities, poorly educated, et cetera, as the ones most at risk of being trafficked. It just seemed to be a little bit at odds with the rest of the submission about it being the most poor and the most marginalised people who are most at risk.

**Ms Tokaji:** Not immediately knowing where I got that from. I would—

**Mr RUDDOCK:** Well, it is yours; they are your words.

**Ms Tokaji:** Yes, but it was either from a conversation I had with someone on the ground in Thailand—I'm not sure, I'm sorry.

**CHAIR:** But do you agree with that paragraph now?

**Ms Tokaji:** I suppose the families who are most at risk obviously are the minority groups. Poverty is very much a push factor in trafficking in Thailand. Once a girl is sold into trafficking, the family is of wealth in terms of money that comes into the family, so they can be seen as a medium-economic-income family. I draw your attention to the case study at the back of the report—Lon's story—on page 36, the last page before the resources page. It tells a story that she was sold at 13—her virginity was sold and then she got into sexual servitude. Her brother had a bike accident. She sent \$500 to the family for his medical bills as well as a new bike. She raised this

money by working extra. The mother withdrew the money and spent it on herself. He was never given a new bike or any of that money. Part of the picture is that when they come into wealth there is a misuse perhaps or a lack of understanding of how to budget or save or whatever the case may be. The girls earn up to 2½ thousand dollars a month, which compares to someone who works in a rice field for \$120 a month in Thailand. Economically speaking they are very well off, but knowing what to do with that money, how to save it and things like that, is an ongoing issue. It is an overall problem. Sure, they have the money but it does not pull them out of poverty as such. They stay in that village; they stay in their little hut.

**CHAIR:** What do you believe Australia should be doing to better protect foreign and Thai victims of trafficking? There are a number of initiatives that Australia is already undertaking, including the ILO to implement the tripartite action to protect migrants in the Greater Mekong subregion from labour exploitation. There is support for a human trafficking project there as well, as I understand it. Project Childhood was established in 2010 to prevent and respond to child sex tourism in the Mekong subregion. Is it that we ought to be working with the Thai government to try to help them enforce what appear to be their quite strong laws but which are not being enforced—

**Ms Tokaji:** That is right.

**CHAIR:** and to support better birth registration in regions?

**Ms Tokaji:** That is right. It has to be a multitiered approach. Part of the approach needs to be law enforcement. As I am sure you can understand, in Thailand culture is more significant than law. The example I drew to your attention in the paper regarding the practice of Buddhists divided the community. Law enforcement needs to be part of it. Citizenship rights need to be given to minority groups. There are men from Australia who go to Thailand purely for sex trafficking—for the use of underage children; they are sex tourists. It is advertised. You go to any hotel as a man of a certain age and demographic and they will easily come up to you and tell you where they can take you. You can be led from one brothel to the other—whatever your needs are. That is being advertised in Australia now as well. It is concerning.

**CHAIR:** Advertised where?

**Ms Tokaji:** I know this as second-hand information, so I do not have proof of that for you, I am sorry—because I am not that demographic.

**CHAIR:** Given our time constraints, I am going to allow my fellow committee members to ask some questions.

**Mr RUDDOCK:** I do not intend to give any weight to submissions, when there has been inadequate time for discussion. I say that in advance. We went for half an hour repeating matters that were covered in the submission and there are a lot of questions. My first question is about your organisation—I know nothing about it. Who are you? Where do you get your money and your resources from? What are the resources? What capacity do you have?

**Mrs Bos:** Our genesis is in Christian Solidarity International in Zurich. It is a Christian human rights organisation. That is our genesis. It came to Australia and called itself Christian Solidarity International Australasia. There was a split; they became Tears of the Oppressed. We have changed our name legally to Christian Solidarity International and we are a voluntary organisation. We rely totally on public donations and our work is advocacy, aid and prayer for persecuted Christians.

**Mr RUDDOCK:** Are you the organisation?

**Mrs Bos:** No, we do have a board.

**Mr RUDDOCK:** Is it a big organisation? I know nothing.

**Mrs Bos:** It is a very small organisation. We hope to grow bigger. Unfortunately the work is growing bigger.

**Ms Tokaji:** We are under the umbrella of Barnabas Fund and the rest of the organisations that advocate for persecuted Christians around the world. Our role is specific advocacy. The Barnabas Fund do other things such as work on the ground.

**Mr RUDDOCK:** I have read the papers. They evoke in me a lot of my own prejudicial views. I say, 'All right, very good' and so my questioning is going to be fairly hostile. They are very comprehensive submissions, but I would ask you first: what firsthand evidence can you give me of sex-related trading and activity? Or are you only giving me what you have been able to research of other people's advice? My problem is that when I read this material, you could be quoting a fairy tale for me. I do not know the resources. I do not know how reliable they are.

**Ms Tokaji:** I spent a month in Thailand, spending time with trafficked women, organisations who rescue and lawyers who advocate for them.

**Mr RUDDOCK:** I go to the first page and I start off with a document that is called 'A Web Resource for Combating Human Trafficking, Academy for Educational Development, 2006' and I am meant to rely upon that. I do not know who they are. I do not know how reliable they are. I do not know whether or not they have taken firsthand evidence of the assertions they are making.

**Ms Tokaji:** But, as you surely can note, that is not the only resource that is used.

**Mr RUDDOCK:** I noted there were many. I could go through each one of them and ask who are they? How reliable are they? How do I know? It is a very well-written, very well-researched paper, but I go through it and I look for evidence. If I am to produce an evidence based report, which makes certain suggestions, I ask myself about the nature of the material on which I am drawing those conclusions. It appears to be all second-hand material.

**Ms Tokaji:** As I said, I spent a month in Thailand researching on the ground on this subject.

**Mr RUDDOCK:** Yes.

**Ms Tokaji:** So, it is personal firsthand experience.

**Mr RUDDOCK:** You might mark up the paragraphs that are related to your personal experience.

**Ms Tokaji:** Certainly. It is footnoted.

**Mr RUDDOCK:** Do it later. Can I then go to suggestions. There are two areas in which I am interested. It seems to me you are arguing that we should assert that there is a Commonwealth power to legislate to make unlawful the use of prostitutes in Australia and abroad, based upon the Swedish model. Where do you believe we have that power? Is it derived from some international treaties? Which treaties? If we are to recommend what you seem to be suggesting, that the use of prostitutes be made unlawful here and abroad—

**Ms Tokaji:** There is an international debate about whether prostitution should be criminalised or legalised, and I presented examples of both. The German model, being the legalisation which has not worked, and after five years of review the government has decided to criminalise and take on the Swedish model. The Swedish model was also pointed out in the paper as a best practice model because they have been successful at reducing prostitution by 50 per cent, which also has an effect on trafficking in the nation.

**Mr RUDDOCK:** Are you suggesting to this committee that we should recommend to the Australian government that it has power to legislate, to make unlawful the use of prostitutes in Australian and abroad?

**Ms Tokaji:** I am not suggesting that. I am putting forward two models as evidence: one which has not worked and one which has worked.

**Mr RUDDOCK:** If people think we are going to be suggesting that, it needs to be made known, and we need to have a broader range of submissions than we have because I do not think it has been canvassed in the minds of most people.

**Ms Tokaji:** The Swedish model was very well known by a lot of people as being a successful model. It has been around for years.

**Mr RUDDOCK:** What do you know of Exodus Cry?

**Ms Tokaji:** They are an NGO. They are based overseas in America. They advocate for, rescue and rehabilitate women who have been trafficked.

**Mr RUDDOCK:** They have made certain findings about Australian immigration law, in which they have recommended that it should be changed.

**Ms Tokaji:** That is right. They have made submissions to the New South Wales parliament on trafficking and slavery-like conditions.

**Mr RUDDOCK:** Their recommendation is that the New South Wales parliament change immigration law.

**Ms Tokaji:** I refer you to their submission. I cannot talk on their behalf.

**Mr RUDDOCK:** So we are being asked to re-examine the provisions for working holiday visas on the basis of a submission in which you cannot tell us its source of information. Quite frankly, I do not know. Certainly when I was minister, working holiday visas were essentially for developed Western countries with few exceptions. It certainly broadened to Hong Kong and some Asian destinations. I do not know whether it covers Thailand, but I suspect it probably does not. If you are giving us evidence that working holiday visas to Australia are being abused, I would like to know the source and how reliable it is.

**Ms Tokaji:** Exodus Cry has obviously found a form of exploitation, a vessel, that has been used as a form of exploitation of women and children. It should be noted, and that is all I am doing; I am raising it as a point of interest.

**Mr RUDDOCK:** So you do not know whether or not there are working holiday visas from Thailand?

**Ms Tokaji:** I am sure there are, but I have not researched it thoroughly. It is a broader issue than Thailand. Trafficking happens—not just from Thailand and not just into Thailand.

**Mr RUDDOCK:** Is there any evidence that we have before us that these visa classes are being abused for sex trafficking to Australia?

**Ms Tokaji:** I think that is an immigration questions. I am not an expert in visas; I cannot answer that for you.

**Mr RUDDOCK:** So we cannot put any reliance on those submissions that you have made.

**Senator MOORE:** Some of the questions about your organisation have already been asked by Mr Ruddock. For information and future reference, it is very useful to have a covering page to your submission that tells us who you are. Lots of people put in a covering page explaining who they are and where they fit in.

I have been interested in the fact that a number of submissions are following similar arguments to yours. I am interested in whether there is a network that operates in your space, particularly around the Christian areas. We have two other submissions from Christian organisations which are raising exactly the same issues. Is there a network within the Christian area that is working in this process?

**Ms Tokaji:** Very informal, I think.

**Mrs Bos:** Yes, nothing formal. We are members of a very, very informal group called the Australian coalition for persecuted Christians, with Voice of the Martyrs, Open Doors and the Bible League. But we do not support one another's campaigns—although we would like to in future, perhaps. We have similar interests and concerns but there is nothing organised that I am aware of.

**Senator MOORE:** Around the trafficking issue there is no network in which you are involved specifically that looks at that?

**Mrs Bos:** No.

**Ms Tokaji:** Again, informal.

**Mrs Bos:** An exchange of information.

**Senator MOORE:** If you have a look at our submissions, you will see that there are a couple that raise exactly the same points, almost in the same language. You said in your contribution that links between trafficking and prostitution need to be recognised. Don't you think they are?

**Ms Tokaji:** Not in a practical sense, not enough. In a practical sense, if we were serious about it I think we would have stronger laws voicing that opinion. Obviously the laws of the nation set the tone, set the culture of a nation. I think we can do better.

**Senator MOORE:** So is your premise that people have not identified the link between the trafficking process and prostitution in Australia?

**Ms Tokaji:** Yes, not in a practical sense, as I said.

**Senator MOORE:** Have you raised the issues that Mr Ruddock talked about in terms of immigration and concerns about prostitution law? Have you as an organisation raised those concerns with government?

**Ms Tokaji:** No.

**Senator MOORE:** It is one of your recommendations that we look at holiday visas. Have you contacted the immigration minister and put that case?

**Ms Tokaji:** No.

**Senator MOORE:** I note that New South Wales has had an inquiry and, as you well know, prostitution law is a state issue. Has your organisation raised the concerns you have identified in this paper with state governments to say this is how you feel and this is the link?

**Ms Tokaji:** No, not as yet.

**Senator MOORE:** But that is the kind of process you are looking at following. Within the field, I am aware that there is a great deal of community interest, particularly for the university—I think the University of New South Wales—which has a small unit that looks specifically at trafficking issues. Are you working with that unit in their wider community involvement, education and support for people who have been trafficked?

**Ms Tokaji:** No, not directly.

**Senator FURNER:** At page 26 of your submission you refer to the Thailand government's success in convictions. The submission indicates that Thailand has been placed under tier 2 of the US Department of State's *Trafficking in persons* report for two years in a row. It goes on to say that they are making significant efforts to bring themselves into compliance with those standards. Further, it states that, according to the 2011 TIP report, there have been 18 convictions in trafficking related cases in 2010, but that as of 2011 only five of the 18 convictions have been reported by the government as trafficking offences. Would you suggest that they are making inroads or having success based on that summary? Also, what has happened with the other 13 convictions? What are they if they are not people trafficking?

**Ms Tokaji:** The *Trafficking in Persons* report is put out by the US annually and it is looked at as being a primary source. In relation to the 13 others—

**Senator FURNER:** So there are 18 convictions, and only five of those convictions were reported by the government—

**Ms Tokaji:** Yes—

**Senator FURNER:** There is probably need to go to the reference.

**Ms Tokaji:** I would need to go to the reference.

**Senator FURNER:** But do you consider the government to be making some significant efforts in improving this particular area of—

**Ms Tokaji:** Yes, there has been more awareness in recent years in regard to trafficking, and I think that is a step forward.

**Senator MOORE:** I am sorry that we have not asked any questions about the Coptic situation, but your submission is quite detailed and we have had representations from the Coptic Christians to our committee before. So it is not that we have not taken that into account. I am interested to know why the focus you have is quite clearly on Thailand. Is there a particular background as to why your evidence and the concerns and the stuff about statehood and immigration laws and all those things are focused specifically on Thailand? What is the link that you have decided to have on Thailand as opposed to other areas of trafficking?

**Ms Tokaji:** As is articulated in the paper, it is seen as a hub and is reported as such by various sources, so it is a country of concern. It is in close proximity, geographically speaking, to Australia. It is accessible to Australians. It is it perhaps over-utilised in that sense by Australians. Also, I have a personal connection with the country and I have had personal experience in this area on—

**Senator MOORE:** That was what I was trying to identify. Your submission talks about Thailand so clearly, and I wanted to get on record the personal interest and the personal connection you have with it.

**Mr RUDDOCK:** I was going to ask a lot of questions about the Copts. I have had a personal interest in the situation of people in Egypt over a long period of time, and I have also put in place at different times arrangements to assist those who claim that they have suffered because of their faith. But I have great difficulty in quantifying the nature of the problem. I see statements here that Egyptian lawyers, social workers and activists make reports. You have four lawyers reporting a total of 550 cases seeking restoration of Christian identity following a whole range of activities and somebody else suggesting 1,600. I do not know what those vague statements mean. I do not know how I quantify them. I do not know how I deal with the extent and nature of the problem. I want an evidence-based report by this committee on the subject matter that we are dealing with. I see that there are not even any footnotes as to where I source that information. I said 'fairytales' before. How do I know?

**Mrs Bos:** You should address that to me; it is not Andrea's work. I was repeating what I was sent from reliable sources, but if you would like—

**Mr RUDDOCK:** How do I know that they are reliable sources? I just do not know.

**Mrs Bos:** That is fair enough. I have learned to trust them over the years, but, if you want specific information about that, then I should supply it.

**Mr RUDDOCK:** I am going to be party to a report which makes recommendations to the government, and it has to be evidence based. I have very well-researched papers before me which we have not been able to adequately test. I do not even know a great deal about what the source of their information is. I do not know what the sources are of this 'combating human trafficking Academy for Educational Development'.

**Ms Tokaji:** Isn't that the point of giving you the source?

**Mr RUDDOCK:** So that we will go and do the research? Maybe we have to summons the organisation 'combating human trafficking Academy of Educational Development' to come and give evidence to us—because I do not know.

**Ms Tokaji:** What would you like?

**CHAIR:** Would you like to put questions on notice?

**Ms Tokaji:** Would you like a follow-up?

**Mr RUDDOCK:** No. I am simply saying that I think they are extraordinarily well researched papers—and I look for firsthand knowledge—and I see a great deal of research. I then go to the sources and I ask myself: how reliable is the evidence that I am getting from the sources? I see a lot of material that makes assertions that we have a very large problem, and I want to see the evidence about the nature and the extent, and the extent to which that evidence has been tested and corroborated.

**Ms Tokaji:** How can we help you to get to that space?

**Mrs Bos:** Yes, how can we help you?

**Ms Tokaji:** What else do you need?

**Mrs Bos:** I cannot bring persecuted Coptic women here. I hear their stories but I cannot bring them here to be cross-examined. I have to try to be a link.

**Mr RUDDOCK:** I have been involved in that, and I would say a lot of it is family-reunion based. A lot of the claims get put at times because people find they need to have a basis upon which they can get through the door—

**Mrs Bos:** We understand that.

**Mr RUDDOCK:** —and I do not know how you test those things adequately.

**Mrs Bos:** It is not always easy.

**Mr RUDDOCK:** No, it is not. I know in terms of the numbers that have been around when I have been dealing with the issues that we are talking in terms of tens, and maybe over a decade—hundreds. I do not see 1,600 a year, but there may be; I do not know; I want to test the evidence.

**Mrs Bos:** Yes. I think there is a general understanding that it is very underreported for various reasons.

**Mr RUDDOCK:** That is in our statement too, but how do I test that?

**Mrs Bos:** How can you if it is underreported?

**Mr RUDDOCK:** Presumably, if people are asserting it they must be able to establish it.

**Mrs Bos:** That is what they are saying; the people who have dedicated themselves to researching on the ground.

**CHAIR:** I think we need to move on, and if other committee members have further questions to put to you we will send them to you in writing.

**Mrs Bos:** Thank you for your time. It is very generous and appreciated.

**CHAIR:** I thank you both for your attendance here today.

**Mr RUDDOCK:** I think they were very well prepared papers.

**Mrs Bos:** We know that you are probing for the truth and we admire that.

**CHAIR:** You will be sent a copy of the transcript of your evidence to which you can make corrections of grammar and fact. Thank you very much. I ask that somebody move that the oral submissions in writing from Mrs Bos and Andrea Tokaji. Thank you. I declare it carried.

**HARFIELD, Ms Karen, Executive Director, Australian Crime Commission**

[10:04]

**CHAIR:** I now welcome a representative from the Australian Crime Commission.

**Ms Harfield:** I am the Executive Director for Fusion, Target Development and Performance.

**CHAIR:** I remind the witness that although the subcommittee does not require you to give evidence under oath this hearing is a legal proceeding of parliament and therefore has the same standing as the proceedings of the chambers themselves. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Would you like to make an opening statement?

**Ms Harfield:** I would. Thank you for this opportunity to provide evidence to the committee's inquiry into slavery, slavery-like conditions and people trafficking. I first tender the apologies of the CEO, who is not available to attend today.

To avoid any confusion, I would like to start by clarifying two statements made in our submission. The first relates to paragraphs 10 to 12. I note that the statements made in these paragraphs and that there was more-up-to-date information. I will defer to the Attorney-General's Department in this regard, noting that this is a matter of legislation. Second, the statements made at paragraphs 17 and 18 are also inaccurate.

**CHAIR:** I am sorry, but we do not have a copy of it. Could you tell us the bits that are inaccurate?

**Ms Harfield:** I can start again. The first relates to paragraphs 10 to 12, and those are the statements where we refer to the Attorney-General's Department in this regard because that was a matter of legislation. Those are inaccurate.

**Mr RUDDOCK:** So it is inaccurate to say that a person trafficked has to be physically moved across a domestic or international border. Is that what you are saying?

**Ms Harfield:** As I understand it, we were talking about how you can move within borders and still be trafficked.

**CHAIR:** And paragraph 11 is also incorrect?

**Ms Harfield:** That grouping, because of that assumption, follows.

**Mr RUDDOCK:** So you are saying the law is adequately covering it.

**Ms Harfield:** Yes.

**Mr RUDDOCK:** Anything else?

**Ms Harfield:** The other one was at paragraphs 17 and 18. Those statements are about the convergence of people trafficking and people smuggling. They should have clarified that those were in an international context and noted that there was a possibility of convergence occurring here in Australia in the future but it is not something we have specifically seen. I can talk in a bit more detail about the international experience. While we have not seen evidence of that to date, we need to remain vigilant that such events may occur given the international experience.

The United Nations Office on Drugs and Crime notes that the fact that a person has consented to being smuggled does not mean that he or she has necessarily consented to the treatment he or she received throughout the process. The United Nations Education, Scientific and Cultural Organization similarly recognises that, while trafficking in persons and smuggling in migrants are distinct crimes, they represent overlapping crime problems. Globally smuggled migrants are vulnerable to exploitation. Many beginning their journey as smuggled migrants become victims of trafficking. That research paper is in the public domain, and we could provide a copy should you wish to have one.

People who are smuggled are inherently vulnerable and may be coerced either physically or financially. This creates a risk of exploitation of that individual which could potentially include being forced into criminal activity. The United Nations Office on Drugs and Crime describes people trafficking as one of the world's most shameful crimes, affecting the lives of millions of people around the world and robbing them of their dignity. In Australia the majority of victims of trafficking identified by authorities have been women working in the sex industry; however, authorities are becoming increasingly aware of people who have been trafficked for exploitation in other industry sectors. The hospitality, agriculture, construction, domestic services, recreation and sex industries are targets of exploitation by people traffickers.

To combat this Australia's anti-people-trafficking strategy is led and overseen by an interdepartmental committee which is chaired by the Attorney-General's Department. The Australian Crime Commission is a

member of the IDC along with a number of other agencies. The Australian Federal Police is the lead Commonwealth law enforcement agency in the investigation of people trafficking and related offences. The Australian Crime Commission is able to provide intelligence support to these investigations where appropriate, and this may be through the use of ACC coercive powers or through the sharing of intelligence more broadly. For example, the ACC board, which is made up of the state and territory police commissioners as well as law enforcement Commonwealth agencies, approved the national security impacts from serious and organised crime determination in June 2011. Under this determination the ACC has been supporting the AFP to target and disrupt domestic based people smuggling organiser and facilitators and to identify and examine the nature of any actual or potential convergence between people-smuggling syndicates and serious organised crime groups.

The ACC also manages the Australian Criminal Intelligence Database, which facilitates sharing of intelligence between law enforcement and partner agencies. In June 2012, a national human trafficking desk was created within the database, and a number of documents have since been uploaded by the ACC and partner agencies using this facility to assist in the timely sharing of information.

That is the end of my statement.

**CHAIR:** Thank you. I apologise for the fact that committee members have not received a copy of the submission and so are operating a little bit in the dark here. But thank you for that opening statement, which is helpful. I would like to hear what fusion means in your title.

**Mr RUDDOCK:** It is a Christian based organisation based in the electorate of Berowra at Hornsby.

**CHAIR:** We are looking not at religious fusion but at intelligence fusion, so maybe that would be a useful clarification!

**Ms Harfield:** So, to try to describe it, it is about increasing the overall knowledge of serious and organised crime for Australia, creating an opportunity to gather together what is known about serious and organised crimes and therefore not duplicating effort collecting new information, intelligence and data. There is a significant element of what we call discovery. In the process of looking at data and combining that with intelligence, you can start to see new and emerging threats and risks. We use that to support partners in identifying opportunities for targeting new and emerging risks as well as current, ongoing targets. We have an alerting and monitoring capability as well as an understanding of the known who are already out there and the vulnerabilities that they are exploiting. Fusion is about taking what are currently disparate and potentially siloed pieces of information, data and intelligence, combining those together to focus your new collection priorities and supporting investigation.

**CHAIR:** So that would mean that you are ideally placed to look at the common factors between people trafficking, smuggling and broader types of slavery and slavery-like conditions.

**Ms Harfield:** And organised crime in general.

**CHAIR:** And organised crime's involvement in those matters.

**Ms Harfield:** Absolutely. An example is that in the reporting that you see across the globe are the types of activities involved in smuggling, trafficking and slavery-type activities—the profit motive, the laundering of money, the identity crime that is required, potentially counterfeiting. All of these are tiered depending on the nature of the enterprise that is being embarked upon. What we currently see in terms of organised crime is a reduction of traditional hierarchical types of organised crime groups, although those still exist. It is a much more networked and entrepreneurial approach to organised crime and the profit that can be made from organised crime. Therefore, you might see groups coming together for the purposes of a particular enterprise that has a significant profit motive or the recruitment of specialists for a particular facilitation of an element of a crime business process. So it is much more a traditional business approach. We are seeing a business view of transportation, communication and the individuals involved. It is therefore much more networked within the interconnected world that we now have.

**CHAIR:** Does the ACC have a particular focus on trafficking for the purposes of prostitution or are you looking at labour exploitation and those sorts of other issues that are going on?

**Ms Harfield:** Our specific focus in this environment is around smuggling. In terms of other crime things, we would then look at money laundering and identity crime. It is the combination of those elements. In gathering that knowledge we have seen in the international environment that there has been identification of convergence, but we have not identified that in Australia at this point in time.

**CHAIR:** What about migration agents working to bring people in from other countries to work as cheap labour?

**Ms Harfield:** Within the fusion capability, which is a multiagency piece of work for the capability of the nation, we do work with immigration and also with the AFP, which give us the potential window on that. I do not think that at the moment we have a specific project which would relate to that area that you have talked about, but certainly there is the identification of movement and how that might relate to organised crime.

**CHAIR:** And does the ACC operate in overseas locations or is that the AFP's responsibility?

**Ms Harfield:** That is the AFP. The AFP provides us with support and law enforcement Australia-wide in terms of their international network. But of course there are networks within DFAT and customs which, depending on the nature of the issue we are looking at, we can call upon.

**CHAIR:** Thank you.

**Senator MOORE:** Is it smuggling generally and people smuggling as a component of that?

**Ms Harfield:** We do look at illicit commodity smuggling as well.

**Senator MOORE:** So it is across the whole board, one element of smuggling being people smuggling. Is that right?

**Ms Harfield:** Yes.

**Senator MOORE:** That is what I thought.

**Mr RUDDOCK:** Let's start. Thank you for your submission that you have given to us. You say that since 2004 you have identified 192 suspected victims. That is less than 30 a year. Is that right? Is the nature and extent of the problem that has been formally identified by government—sex trading in Australia—less than 30 a year?

**Ms Harfield:** I think those figures for us are the July figure. The AGD does have some up-to-date figures, but I think it is still in the order of that.

**Mr RUDDOCK:** Really what I am asking is if there is other data that suggests there is a larger problem—reports that have not been categorised as sexual exploitation, for instance?

**Ms Harfield:** No, we are not suggesting that. We are here to provide that insight into the connection to organised crime.

**Mr RUDDOCK:** So the extent of the problem is 30 domestic cases a year.

**Ms Harfield:** I think the more-up-to-date figures are in the AGD submission.

**Mr RUDDOCK:** And, of those, 45 have been investigated. What was it about the other 150 that suggested that they should not be investigated?

**Ms Harfield:** I think that would be a question you would have to ask the AFP. We support their work, but the investigation would be theirs.

**Mr RUDDOCK:** But that would appear to suggest that there was not any evidence that, prima facie, warranted an investigation, wouldn't it?

**Ms Harfield:** You would really have to refer that to the Attorney.

**Mr RUDDOCK:** Over eight years it would then be four or five a year that warrant investigation. I do not know. In relation to the extent of crime in Australia, how many areas of criminal activity do we devote resources to and investigate that involve only 192 complaints and 45 investigations that, prima facie, need to be undertaken? Does that happen in relation to murders or kidnappings? Does it happen in relation to fraud? I do not know.

**Ms Harfield:** I can tell you that in terms of organised crime the cost to the Australian community is about \$15 billion a year.

**Mr RUDDOCK:** But you are saying that this is not organised crime.

**Ms Harfield:** It does cross the organised crime arena. What we see is that there is not the convergence between smuggling and—

**Mr RUDDOCK:** I will read it, 'Cases for trafficking of exploitation have largely involved small crime groups rather than organised crime.'

**Ms Harfield:** Yes.

**Mr RUDDOCK:** So, it is not organised crime. Then I get to the statement, 'Twenty-nine new clients, 16 were women and one unaccompanied minor.' We do not know whether the unaccompanied minor was male or female. There almost as many men or cross-gender, presumably. What are we saying?

**Ms Harfield:** It would be men.

**Mr RUDDOCK:** What resources are we putting into these 45 investigations? What is the quantity, the amount of time, effort, interdepartmental committees?

**Ms Harfield:** I am sure the Attorney-General's Department would be able to answer those questions for you.

**Mr RUDDOCK:** I am sure they will look forward to hearing from me. I thank your Mr Lawler for a very comprehensive brief.

**Senator MOORE:** Can I clarify, Ms Harfield, that your submission came in and then it was identified that some things were inaccurate. Was it just the editorial?

**Ms Harfield:** Yes. We spoke to the Attorney-General's Department. We did not have the most up-to-date data.

**Senator MOORE:** I just wanted to work out how that occurred, because it does not happen often with the commission.

**Ms Harfield:** I know and I do apologise.

**Senator MOORE:** I do not share Mr Ruddock's concern about the numbers that have been identified. I think the important thing is that they are. The thing that is troubling me is that there seems to be a great focus on sexual exploitation in many of the submissions, yet many of the formal submissions indicate that it is exploitation in labour and in forced employment that is becoming quite concerning to some of the organisations. I am not sure whether that has been picked up effectively in the wider discussion. Your submission does say that the data gathering is now making differentiation in that way. Has that always existed?

**Ms Harfield:** I am not aware of how long that differentiation has been collected. I am sure the Attorney-General's Department would be able to see that. In terms of us becoming aware that the spread is greater than that initial focus, you can understand that that was the initial focus but it is clearly broader than that.

**Senator MOORE:** Now, the commission's role, which you explained is making sure that the data collection is effective and maintaining that, is that there are clearly streams now that identify all forms of forced labour that have been trafficked.

**Ms Harfield:** In terms of the underfunding of the definition it can collect across those.

**Senator MOORE:** And can be clearly drawn out. Also in relation to your issue about small crime groups, you say that that is trafficking for sexual exploitation in small crime groups. I am interested to know whether in labour trafficking there are similar assessments as to what is behind that. Is that determined that it follows the same group, small crime and family groups, as opposed to organised larger crime syndicates?

**Ms Harfield:** I think that you can see across all tiers. These can be individual exploits or they can be organised. What there is not, unlike some of the other types of crime themes that we see, is a consistency. So it is unusual in terms of its make-up and the taxonomy of it as a crime theme in a way that means different people and different numbers will be involved depending on the type of enterprise that it is being gathered into. I do not think that you can say that in the agricultural situation, for example, or labour market there was more organised crime or less, but what we are seeing is that there is potential for both.

**Senator MOORE:** Is the data set that you control public?

**Ms Harfield:** No.

**Senator MOORE:** My interest is just the range of the impact in Australia. Different groups that have been speaking to us over the years have come forward with issues in construction and in agriculture, and there have been a great number of complaints in hospitality and also in family arrangements with household duties and nannying and those sorts of things. Does the dataset that you maintain go into that degree of differentiation?

**Ms Harfield:** We have not done a specific piece of work that will draw that out to be able to make those direct comparisons and it would be difficult for me to say whether we could or could not until we did it.

**Senator MOORE:** Yes, it is very hard in terms of the numbers and Mr Ruddock's point about 70 cases to say how defined can you get. It is just in terms of potential and the future and how that operates.

**Senator FURNER:** Following on from Senator Moore's questions about workers, your submission relates to 457 visas and particularly the agricultural industry and also domestic workers, international students and the maritime and seafarer sector. Do you work in cooperation with the Fair Work Ombudsman in respect of sharing that information and assisting them in examining or investigating any complaints in that area?

**Ms Harfield:** We have not done that at this point. We do work with the partner agencies in terms of the departments that would be involved in those particular sectors. I am not aware that they have separately done that either. What we tend to do in terms of our remit is to provide that intelligence analysis—so do the work with the

partner understanding of what their need is—so that they can use it for their purpose. It may be that they have done that but we have not directly.

**Senator FURNER:** So how extensive is your database? Is it extensive in terms of selective crime units internationally and domestically? Is that the case?

**Ms Harfield:** It is not gathered into one place and that is the point of the fusion capability. We work with a group of partners to understand the intelligence gap that they are trying to uncover and then we look for the datasets that, when fused and asked those intelligence questions, can uncover that element. For example, when we are working with the Department of Immigration and Citizenship, we might also work with AUSTRAC for money-moving data. We might also work with Customs and we might work with ASIC under some company structures. They hold their data. We can only use that data within the constraints that their legislation allows. But what you can do then is search that data in a fused way, which means that you can uncover potentially the answers to those gaps. We do not bring it together and have a set of specific questions; it is very much on an issue-by-issue basis.

**Senator FURNER:** The previous witness in their submission has indicated that there is somewhere in the vicinity of 20,000 new child pornography images posted on the internet each week. Is it a matter for the ACC or AFP to get involved in the identification of that?

**Ms Harfield:** That is a matter for the AFP.

**Senator FURNER:** I thought so. It is an extraordinary number of postings.

**Ms Harfield:** If you mean the connection, the difference that the internet has made to the connectivity and availability of materials, it has made a significant difference, yes.

**Mr RUDDOCK:** On visa issues: you have not identified any difficulties with working holidaymaker visas?

**Ms Harfield:** No.

**Mr RUDDOCK:** Those perceived to be most at risk are those on 457s. Why is that, and how could that be addressed?

**Ms Harfield:** I do not know that I am able to answer that, I am afraid. Can I take that on notice?

**Mr RUDDOCK:** Yes. I just read the relevant paragraph. Workers perceived as most at risk of exploitation are: those on 457s; migrants working in the agricultural sector—I do not know whether they are 457s or not; domestic workers, though I do not know whether we have a domestic worker visa and so do not know whether that is 457s or not; international students; and maritime.

**Ms Harfield:** What I am not sure of is whether it is the nature of the person that would apply for that specific visa or not, and that is why it I would want to check and make sure that that is the case.

**Mr RUDDOCK:** The source is Mr David F on labour trafficking, Australian Institute of—

**CHAIR:** It is Ms F David.

**Mr RUDDOCK:** Is she here?

**Unidentified speaker:** She is not here, but I am familiar with her work.

**Senator MOORE:** Is that the kind of thing you would know, though? I am just clarifying my own knowledge in this area, which is not great. Is the information that you gave at the beginning of your evidence about what the role of the commission would be the kind of information that you would know in the commission, or is it that you are maintaining the dataset which given to you by others to be put back into the group of agencies who are working on it? I am not sure.

**Ms Harfield:** It would depend. Certainly we would work in terms of the work that we are doing on a specific issue with the immigration department. If somebody comes to us and asks us that specific question, we might not uncover that as a generalisation, but, if somebody comes to us with a specific query about the data, that would trigger the access.

**Senator MOORE:** Okay.

**CHAIR:** Has the ACC identified criminal activity around forced adoption or organ trafficking in Australia?

**Ms Harfield:** No.

**CHAIR:** Is that a potential risk area?

**Ms Harfield:** Certainly it has been raised internationally, and the quantum and the nature and extent of the issue continues to be a matter of debate. It is not something in terms of the organised crime assessment that the ACC produces that has raised itself as a risk, particularly, in Australia.

**CHAIR:** The government's focus is squarely on issues of trafficking in this area. Do you believe that the term 'trafficking' is wide enough to encompass other forms of slavery? Do we need to re-look at the way we use that language to have a broader focus?

**Ms Harfield:** It is difficult from a personal perspective, because of the fact that I have a very broad sense of criminality and the fact that, from a law enforcement perspective, there is an understanding that those elements exist. Because we do not have a direct interface with communities, I would be loath to say that communities would have the same perspective. It is very difficult, when you are immersed in a particular area, to have a sense that everybody's understanding is quite the same. But within the agency I work in and the partner agencies that I work with it is very clear that trafficking is a broad catcher.

**CHAIR:** Would it encompass those who are held in slavery-like conditions in situ—that is, those who have not been moved anywhere?

**Ms Harfield:** Yes, my understanding is that it does.

**Senator MOORE:** When you say 'moved'—

**CHAIR:** Particularly in other countries where you have child labour and where a child has been sold to a factory owner who then makes products that are sold to Australia—

**Ms Harfield:** I think that A-G's is probably the agency to confirm that, but I understand that that is covered by it.

**CHAIR:** Right.

**Mr RUDDOCK:** I notice that you referred to two other papers, but you do not refer to them in your acknowledgements; you simply say that they were reports on which you were consulted. They are *Australia's pacific seasonal worker pilot scheme: managing vulnerabilities to exploitation* and *Vulnerabilities to trafficking in persons in the Pacific Islands*. You do not seem to have made any intelligence findings arising from those reports that you contributed to, so I assume there is no relevance for us.

**Ms Harfield:** We can get you the documents.

**Mr RUDDOCK:** I am not interested in them. I am only interested in whether or not in our new visa class for seasonal workers there is any evidence of exploitation.

**Ms Harfield:** I would argue that they do not add anything else to the picture.

**Mr RUDDOCK:** In the broader Pacific?

**Ms Harfield:** No, it is not substantive.

**CHAIR:** I thank you, the ACC's representative, for your attendance here today. You will be sent a copy of the transcript, to which you can make corrections of grammar and fact.

**Proceedings suspended from 10:36 to 10:48**

**BUDAVARI, Ms Rosemary, Co-Director, Criminal Law and Human Rights, Law Council of Australia****McLEOD, Ms Fiona, Director, Law Council of Australia**

**CHAIR:** I now welcome representatives from the Law Council of Australia to today's hearings. I thank the council for the very clear and detailed submission to the committee. Would you like to make an opening statement?

**Ms McLeod:** Thank you, Chair. The Law Council thanks the committee for the opportunity to appear and to give evidence on these important topics. We support all efforts to prevent these practices and the related activities. The Law Council considers that Australia's response to these issues should reflect international best practice and be consistent with Australia's international legal obligations. That means that our response to trafficking and slavery must place the human rights of the victim at the centre of our efforts, and our responses must be consistent with international human rights principles. We note that the Commonwealth government has outlined its commitment to increasing efforts to prosecute perpetrators of crimes on a number of occasions in the past and has played an active role in a number of forums, including the Bali Process and a number of relevant programs administered through the Attorney-General's office, Department of Immigration and Citizenship and AusAid.

We also recognise that the Commonwealth government has taken a number of steps to address slavery, slavery-like conditions and people trafficking at the domestic level, including the implementation of a number of programs to assist victims and increase resources to the AFP to increase and strengthen their capacity to detect, investigate and refer slavery and trafficking offences for prosecution. In addition, the Commonwealth government is working with NGOs in an effort to combat these practices.

The recent steps to strengthen our legislative response to slavery, slavery-like conditions and people trafficking are also welcomed with the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill, which is designed to strengthen laws criminalising slavery, people trafficking and related activities. The introduction of a new range of offences into the Criminal Code, including forced labour, organ trafficking, forced marriage and harbouring, is also welcome.

There are a number of things that we would like to touch on, so perhaps if I mention in summary what we think are probably the key issues where the government could do more to address the needs of victims, then perhaps if you have questions about those we can come back to them. The first thing concerns the bill itself. Our view is that the bill does not adequately protect or provide a mechanism for compensation for victims of slavery and slavery-like conditions. To be specific, the bill itself provides in section 21B(1)(d) for the removal of the requirement that loss suffered by a victim be suffered as a direct result of an offence. This seeks to address a couple of cases where there has been doubt about the issue. The concern is whether that amendment goes far enough. There is now a provision for non-economic loss for victims. The advice that we are aware of from the Attorney-General's Department appears to defeat the very purpose of the amendment, which is that victims should be able to access non-economic loss. Certainly we know, given the low number of convictions for these type of offences in Australia, that it is incredibly difficult for victims to access reparations through those sorts of orders.

The second thing I want to touch on is a federal compensation scheme. You would be aware that there are numerous state and territory victims compensation schemes. One of the difficulties is that they all have different thresholds. There are differences in terms of the parity of outcomes and there are differences in terms of the mechanisms and thresholds for victims applying, with a ridiculous outcome that you could be trafficked into South Australia and end up with a different result than if you are trafficked into Tasmania or New South Wales, which we think is something that requires urgent attention. One of the mechanisms that we have suggested would be the ideal way to deal with this is for there to be a federal scheme. We are aware of the recent introduction of payments to victims of terrorism offences, other Commonwealth offences that directly affect individual victims as opposed to tax type offences where the community generally is affected. These types of offences should be protected by these sorts of schemes. With terrorism, what we are aware of now is that there is an administrative arrangement for payments to be made on account of this sort of suffering—non-economic loss, suffering, or pain and suffering payments which are paid directly through Centrelink. That might be a mechanism that could be effective for victims of trafficking also.

**Mr RUDDOCK:** Sorry, you are saying for terrorism offences?

**Ms Budavari:** Yes, there is a new scheme that has been legislated.

**Mr RUDDOCK:** Is this for the people who were affected by Bali?

**Ms Budavari:** It is not retrospective.

**CHAIR:** But it is overseas terrorism?

**Ms Budavari:** Yes, victims of overseas terrorism, subsequent to Bali.

**Mr RUDDOCK:** So we have an administrative scheme in place under which no compensation has been paid?

**Ms Budavari:** Not that we are aware of so far.

**Ms McLeod:** That sort of administrative mechanism has an appeal. Say you are applying for a protection visa on trafficking grounds; You are already assessed at an administrative level as a victim of trafficking, so that burden of proof has already been met. If the federal compensation scheme were then triggered by that application, you would not require individual victims to have to go through a quasijudicial compensation tribunal process where they depend on pro bono lawyers, the marshalling of evidence, Federal Police having to give evidence directly to a tribunal—

**Mr RUDDOCK:** Not like most other Australians, to access schemes?

**Ms McLeod:** 'Not like,' yes. That is one idea. We could introduce a pilot Commonwealth scheme for the payment which is linked to the protection and trafficking visa framework at this stage. Our goal, however, is to press for a federal compensation scheme which addresses those federal crimes that have direct impact upon victims, particularly victims of violence.

The next thing that I wanted to touch on was the framework visa. We say those should be strengthened, so we would urge an extension of the period of support under a bridging visa from 45 days, as is currently available, to 90 days, to give victims that period of certainty and 'settle down' time. The other aspect of it is that to secure a justice protection visa at the moment, you have to have made, in the view of the police, a contribution to the criminal justice process. That introduces some discretionary elements. It has some arbitrary factors, for example your trafficker has to be present in Australia which seemed to us to be unwarranted, and it is too onerous for victims to measure, particularly if they are here in fear and mistrusting of authorities that they will be compelled to make a contribution as a victim. As I understand it, it has been reported that the reason for requiring that a victim make a contribution to the criminal justice process, is based on a fear that otherwise the system will be abused.

**Mr RUDDOCK:** That would never happen!

**Ms McLeod:** Can I address the deputy chair's comment directly, because I am not aware of any evidence of there ever being evidence of abuse of the system. I understand that law enforcement agencies have a suspicion about these things, or that some do, but I am not aware of any direct evidence of abuse of the system.

**Mr RUDDOCK:** I am certainly aware of many efforts to abuse other laws that are related, such as immigration laws, which are clearly an abuse.

**Ms McLeod:** My point is simply that there is no evidence—

**Mr RUDDOCK:** Many people often conspire on the basis that people have a lawful entitlement to make spurious claims.

**Ms McLeod:** If there was evidence of that in the trafficking field we would say fair enough, but there simply is none. We do not see that as a justification for requiring a higher threshold. In reality, it appears that the AFP and prosecuting authorities are fairly generous about their assessment of whether someone is making a contribution and that they will put victims onto the visa program, but it does permit that discretionary element and it would be preferable to move to a model similar to the Italian model where a willingness to assist is what the threshold is.

**Mr RUDDOCK:** Their willingness to assist even if it is of no assistance?

**Ms McLeod:** Ultimately, a contribution to the criminal justice system is measured how? By somebody making a witness statement? By somebody being available to go to court?

**Mr RUDDOCK:** I do have a strong view—particularly where there are a whole lot of immigration issues involved—that people will sometimes want to push claims which they think might help them to get an advantage, and I say the advantage I want out of it is to ensure that those people are cooperating to bring to book those who have committed offences. I put a great deal of weight on whether people are prepared to give evidence, but you say in your submission that there will be all sorts of other reasons why they will not want to do it and we have to have regard to that. In the end we do not bring those people to book. If we are going to pay money and give them support, and that is giving them an advantage, then pay them enough to make sure they are prepared to give the evidence.

**Ms McLeod:** There are a number of things that can be said in response to that. The first is that if you start from the position that we are looking at a response that is based on the human rights of the victim, then you start from the victim's perspective rather than the criminal law enforcement perspective.

**Mr RUDDOCK:** You will have a hell of a lot more victims if you take that line.

**Ms McLeod:** That may be the case, but that is a matter of principle that has to be determined by the body politic. If you assume that a contribution can include the giving of information short of a witness statement, for example, that might lead police on a course of investigation, that might be considered sufficient, but there is no clarity about that in the current regime. So people can make a contribution, for example, by saying, 'This is the evidence; I am in fear'—

**Mr RUDDOCK:** 'not by traffickers but by somebody, but I will not tell you who they are.'

**Ms McLeod:** Not necessarily. What if the situation—

**Mr RUDDOCK:** That is the sort of statement you get: 'I cannot say who it is, because once I say who it is, they may go and do something dreadful to my family'—

**Ms McLeod:** Exactly.

**Mr RUDDOCK:** '—so I am not prepared to put a name to it.' Well, what use is that?

**Ms McLeod:** It may not be a use to crime enforcement—which is why that should not be the test—but it is nevertheless a genuine expression of concern if somebody who has been trafficked here knows there is a threat to a family member back home or to their own personal safety. Why would you put yourself at risk?

**Mr RUDDOCK:** Often to get an immigration outcome.

**Ms Budavari:** One of the witnesses you have just heard from—the Australian Crime Commission—deals in criminal intelligence, which is distinct from evidence. The value of criminal intelligence or the value of information is not necessarily measured against whether—as Ms McLeod said—someone ends up making a statement which is used as evidence. We would see that there is a value in intelligence that should be given some weight in these sorts of matters.

**Ms McLeod:** It should not be a matter for the individual discretion of the officer as to what that contribution amounts to and whether it is a valid contribution or not. At the moment, the whole range of contributions might be, as we say, intelligence; it might be I can tell you next year when I make sure my children are safe.

**CHAIR:** How would the willingness be assessed and who would assess it?

**Ms McLeod:** Those officials would have to make that assessment on the ground, but they could certainly be given guidance as to how to make that assessment.

**Mr RUDDOCK:** They could be told to list the name of the person who they think is going to victimise their relatives; we will not want them to do a witness statement that we would actually use in court and would become public, but we would certainly like it for the purpose of our enquiries. Why wouldn't you do that?

**Ms McLeod:** Let's base this on the evidence that we are aware of: reports to NGOs of people's fears of reporting to police in the first place. Many people who are assessed as genuinely trafficked persons report that not only have they personally been through a horrendous and often violent situation but threats have been personally made to them about them and their family members. If we start assuming that there are genuine cases where that occurs, to put an onus on them that they expose their family or themselves to further risk would appear to us to be unreasonable.

In terms of the Italian solution, as I have called it, that is the willingness to assist. We can provide further material about that if that would be of assistance.

**CHAIR:** I am perfectly persuaded.

**Mr RUDDOCK:** To know and to condone people who are still out there preying upon others and bringing other people into the same situation—

**Ms McLeod:** The next point is in relation to the general claim that we have made on a number of occasions in relation to increased funding for legal assistance for victims of slavery who have a range of needs: legal assistance, further assistance in relation to migration advice and assistance, and other practical forms of assistance. We hear repeatedly from welfare agencies that there is a terrible shortage of emergency housing. Those things are all critically important. Along those lines, victim impact statements should be introduced as has been discussed for a number of years.

The next point I wanted to make was in terms of general awareness of these issues. We support the concept of multilingual information being available, particularly at the point of entry, so people coming through airports, for example, once they are identified at risk by certain characteristics—it might be visa type, it might be country of origin, it might be age or who they are travelling with—are provided with information about the illegal nature of trafficking, forced labour, forced marriage and things of that nature.

**CHAIR:** And emergency contact numbers.

**Ms McLeod:** Indeed: 000 and how to contact police so that they are aware—

**Mr RUDDOCK:** So you would give every single women a pamphlet?

**Ms McLeod:** No, I was saying that by characteristics they are identified as at risk. I understand that at the moment information is provided to people routinely about health risks. It is a similar sort of process—at point of entry. And not just at point of entry but through brothels and the like. In terms of forced marriages, specifically, this is a new offence, of course, and we see there is a need for consultation with community groups for development of awareness-raising materials and education targeting certain cultural groups at risk. We would support the ongoing support of outreach services and the consideration of several protection orders including injunctions, which might involve Family Court jurisdiction and may involve reviewing of the family violence provisions in both state and Commonwealth legislation. The last point I wanted to touch on is that there has been a lot of media recently about ethical supply chains, and it would be extremely advantageous for the Commonwealth to examine its supply chains and procurement policies and to coordinate a response with states and territories about those issues.

**CHAIR:** Thank you very much. These are all very helpful suggestions. In relation to the proposal for a federal compensation scheme, do you have a view on how the scheme would work and how it would be funded—for instance, out of proceeds of crime funds?

**Ms McLeod:** Ideally, a cooperative arrangement with states would be the way to go, because at the moment the states are funding these individual claims, whether the claim be a Commonwealth crime—trafficking—or a crime of violence, which traditionally is a state crime. The states are currently funding them through their individual victims-of-crime compensation schemes. If you had a federal cooperative scheme that was run, say, through the Federal Magistrates Court and federal magistrates had the jurisdiction to make these orders on behalf of both the state crime and the Commonwealth crime, then the crime of violence, which fell under a Commonwealth head, could be dealt with on behalf of both. That would be your gold standard, I would imagine. A lesser standard might be to introduce a Centrelink payment, which is tied to the visa support program that accompanies, for example, payments that go with the visa support payments.

**CHAIR:** Has the Law Council made any submissions to the immigration department or the Minister for Immigration and Citizenship in relation to the victims' immigration status?

**Ms Budavari:** Not specifically on this issue to the immigration minister.

**Ms McLeod:** Other than consistently raising the issues about visas and federal compensation through the National Roundtable, which is happening next week, of course.

**Ms Budavari:** When the Senate Legal and Constitutional Affairs Committee looked at the bill, we raised the issue there as well.

**CHAIR:** We have had several submissions that point to a link between trafficking and prostitution. Does the Law Council have a view on this—particularly legalised prostitution?

**Ms McLeod:** In terms of trafficking should or shouldn't be an offence or the migration of sex workers?

**CHAIR:** No, that legalised prostitution contributes to trafficking. It creates demand for sexual services, which increases the trafficking.

**Ms McLeod:** I am not aware of any evidence about that. I am aware of northern European responses that have assumed evidence about the demand, if you like, created by legalisation.

**Mr RUDDOCK:** Are you saying the Swedish law on which we have been given certain advice is unreliable?

**Ms McLeod:** No, I did not say that at all. I just said that is a response and I am not aware of the evidence here in Australia.

**Mr RUDDOCK:** But you are aware of the evidence there which suggested it worked.

**Ms McLeod:** I am not. I am aware of the response, the legislative response.

**Mr RUDDOCK:** I will just take over where the chair left off. We have had submissions that we should adopt the Swedish approach because there is evidence that it has worked. It will not necessarily eliminate but reduce the numbers of women who are likely to be trafficked if you make prostitution an offence—not only for those who offer it, but also those who use it.

**Ms McLeod:** Can I qualify my comment?

**Mr RUDDOCK:** Would the Law Council have objections to us making the use of prostitutes unlawful?

**Ms McLeod:** I think we would from a human rights perspective. Can I qualify my personal response by saying, firstly, that we have not considered it and, secondly, I am not aware of the evidence of the successful outcome. It may be controversial. That is just anecdotal evidence I have heard about.

**Mr RUDDOCK:** I would not think it would be controversial.

**Ms McLeod:** But I do want to say this: what we do hear consistently from NGOs is that, if you make sex work illegal, you drive it underground. That does not support those sex workers.

**Mr RUDDOCK:** Would the Commonwealth have the constitutional power to use some of these treaties to legislate to make use of prostitutes in Australia and abroad unlawful?

**Ms McLeod:** As a decent lawyer, I will have to take that on notice.

**Mr RUDDOCK:** I would be interested to know whether we have the power to do it. This is a suggestion that has been made to us.

**Ms McLeod:** If there was a power, it would have to be the foreign affairs power. I cannot think of any other head of power.

**Mr RUDDOCK:** Yes. Perhaps some international treaties deal with these issues.

**Ms McLeod:** The relevant international treaties start from the premise that the victim of trafficking requires protection and that there is—

**Mr RUDDOCK:** Yes, you can protect them by making it unlawful for them to be used.

**Ms McLeod:** I do not know that the treaties would support that response but, as I said, it would be something that I would have to take on notice.

**Ms Budavari:** We would also have to look at the fact that the treaties are not just about trafficking for sexual exploitation. I understand that you have heard or will be hearing evidence that there is a growing trend towards trafficking for labour exploitation. When we are looking at that sort of issue, we have to be aware of the range of purposes for which trafficking occurs—not just sexual exploitation.

**CHAIR:** Can I ask you to elaborate on your suggestion that migration agents declare registrable interest to the Department of Immigration and Citizenship when they become registered migration agents.

**Ms Budavari:** Yes. That is a very specific suggestion which has come from the immigration lawyers group within the Law Council. That matter is of some concern to them. It is simply put as a very practical suggestion for trying to—

**Mr RUDDOCK:** What interests do you register?

**Ms Budavari:** The suggestion is that they would register if they had an interest in a—

**Mr RUDDOCK:** Brothel.

**Ms Budavari:** Yes, exactly.

**CHAIR:** Or any other kind of work situation where they may be exploiting workers?

**Ms Budavari:** Yes.

**Mr RUDDOCK:** Are members of your committee or council aware of and able to give us evidence of migration agents who have interests in brothels?

**Ms Budavari:** Again, I would have to take that on notice.

**Mr RUDDOCK:** It is a serious allegation.

**Ms Budavari:** Yes.

**Mr RUDDOCK:** I am press ganged by people who say, 'We ought to modify our national security laws (1) because we do not use them sufficiently and (2) on the basis that a lot of the claims are exaggerated, unsubstantiated and all of that sort of thing.' Yet here we have got claims that we ought to be legislating in relation to activity about which we have got allegations but no substantive evidence.

**Ms Budavari:** If we look at the submission, the submission refers to reports in the media of the involvement of migration agents in sex-trafficking networks. That has led to the suggestion being made (1) that the code of conduct—

**Mr RUDDOCK:** Named migration agents?

**Ms Budavari:** As I said before, I would have to take this particular issue back to the immigration lawyers that have raised it within the context of the broader range of issues that the Law Council looks at in the context of

slavery and trafficking. I am certainly very happy to do that and come back to the committee with any further information.

**CHAIR:** Just on that question of terminology, which I have raised in two other submissions, do you think that the term 'trafficking' is broad enough to encompass slavery and all slavery-like conditions, given that trafficking connotes the movement of people either within or across borders?

**Ms McLeod:** I think it is important to keep the distinction in mind, because trafficking can involve slavery or other forms of exploitation, but not always. Likewise, slavery and exploitation in various forms do not necessarily involve trafficking. That would be our view.

**CHAIR:** So when you mention the ethical sourcing of goods, you are obviously talking there about not trafficking but exploitation and forced labour.

**Ms Budavari:** Yes, and that can even extend to child labour. I understand one of the matters you have raised with some of the witnesses is the Sherrin football situation. Certainly the slavery convention is much broader than the concept of trafficking and the Law Council has always taken the view that, if Australia commits to international obligations under these conventions, those obligations should be implemented in domestic law.

**CHAIR:** So do you think that the terminology that the government uses should be broadened to beyond trafficking?

**Ms Budavari:** We are certainly aware that the submission from the Attorney-General's Department suggests that trafficking be used in that broader sense, and I understand that the Australian Crime Commission witness this morning also referred to the fact that among agencies that is what is understood—that trafficking encompasses slavery and slavery-like conditions. Certainly if you trace it from the conventions, they are distinct concepts. In terms of public awareness, it may be better if those distinctions are maintained.

**CHAIR:** What do you think the government can do? You made a statement in your submission about government procurement. Is there anything else that government can do to address this issue?

**Ms McLeod:** Foreign Affairs obviously has, through consular postings, information about exploitation in other countries. I imagine, but I am not familiar with how these things work, AusAID and Austrade are also familiar with supply chain issues. It would probably require an interagency information sharing arrangement so that the government could say genuinely that our supply chains are untainted by forced labour, child exploitation and things of that nature. That would be a very worthy goal.

**CHAIR:** Do you think that the current trafficking framework roundtable that has been established by government could deal with that situation?

**Ms McLeod:** It is certainly a situation for discussion, because you have agencies represented, as well as NGOs having a voice. For the record, as a participant, that roundtable has been incredibly effective for progressing a number of these ideas through to programs and policies that have been very helpful. Certainly we could raise that next week.

**Mr RUDDOCK:** We have had evidence from the Australian Crime Commission that since 2004 Australian authorities have identified 192 victims of trafficking; 173 were women, 155 being victims of sexual exploitation. The AFP undertook 45 investigations into human trafficking, and I think there was some suggestion that very few of those investigations were brought to prosecution.

**Ms McLeod:** There are 13 convictions on our records—it might have increased since then—and 35 charges for trafficking related offences.

**Mr RUDDOCK:** So 13 convictions over a period of almost eight years, less than two a year?

**Ms McLeod:** Yes.

**Mr RUDDOCK:** And yet the Law Council supports arguments that we should get rid of antiterrorism laws that have not achieved many prosecutions—but I think they have achieved prosecutions of something like 40 people—on the basis that they are not really required.

**Ms McLeod:** Are you looking for numerical evidence of the success of—

**Mr RUDDOCK:** I am just trying to identify the size and the scope and the nature of the problem in Australia. I think we are putting an enormous amount of resources into it and an enormous amount of bureaucratic time, organisational time, and I now ask this question firstly going to your submission. You say 'reliable statistics and data on people trafficking are difficult to obtain'. So you are saying this information is not reliable?

**Ms McLeod:** Certainly, in terms of charges, convictions and so on, of course they are reliable because they would come directly from the prosecuting authorities. In terms of the number of people that we are aware that have been trafficked into Australia we have no reliable data.

**Mr RUDDOCK:** Isn't prosecution some test? So you look at the number of people who report that something has happened?

**Ms McLeod:** As you would know, there are thresholds before police proceed with prosecutions.

**Mr RUDDOCK:** I do. I ask myself, in relation to fraud for instance, where I suspect there are tens of thousands, if they get one in four as actually the subject of a comprehensive investigation by the AFP. I suspect they do not.

**Ms McLeod:** Can I turn your question on its head by suggesting this. The UN and the US data suggest this. There are 800,000 people trafficked per year into the US. From the UN agencies it is two million to 2½ million people per year across borders. If some of those are coming to Australia then surely there is an imperative to act.

**Mr RUDDOCK:** If I put my cynical hat on, this is an issue that has been driven by United States hang-ups about slavery based on their history where they want to make a human rights issue around the world based on slavery to take away attention from other issues upon which their record may be less admirable. So you get a lot of exaggerated data about the nature of a problem that cannot, in fact, be substantiated or proven.

**Ms McLeod:** I cannot possibly comment on US policy and what is driving their response but from our point of view—

**Mr RUDDOCK:** There is certainly a basis upon which this issue has been pushed over a number of years.

**CHAIR:** I think that it is one of the most important issues facing humanity now. It is the issue of people trafficking and exploitation.

**Ms McLeod:** The abuse of people throughout the globe, including slavery, exploitation and trafficking, is, on the evidence, a growing problem and one that involves serious organised criminal elements.

**Mr RUDDOCK:** Well, that is the evidence I want to get and what I am troubled about are statements that are assertions about the nature and the extent of a problem which, when I compare it all to the actual number of complaints made, bear no relationship.

**Ms McLeod:** If you are looking at the Australian figures in terms of prosecutions—

**Mr RUDDOCK:** I look at what you say, that the statistics are unreliable and 'difficult to obtain'.

**Ms McLeod:** Yes, that is the case in Australia so one answer to that might be to look for better statistics.

**Ms Budavari:** We understand that the committee is hearing from the Australian Institute of Criminology about their research projects in this particular area. Certainly what legal practitioners are saying to us is that they are seeing this problem. We cannot assess the total extent of the problem but we can certainly say to the committee that legal practitioners around Australia have told us that they are seeing this problem.

**Mr RUDDOCK:** It ought to be pretty persuasive. We were told that they had undertaken three studies and only one of them was relevant to our inquiry.

**CHAIR:** The Australian Federal Police is taking this issue extremely seriously. Are you suggesting that they are seeing shadows?

**Mr RUDDOCK:** No, I am simply saying that there is an organised, concerted campaign to make this a broadly-based political issue—as evidenced by the large number of people who are all talking to each other and who come before us putting the same material.

**Ms McLeod:** Are you putting something to me?

**Mr RUDDOCK:** No, I am simply saying that I suspect that there is a very clear and broadly-based international agenda to progress these matters; and I am simply saying that on the basis that it is a significant problem in Australia, when I have turned my mind to these issues over a period of time, I get the sort of data that I put to you today and am then told that that data is unreliable. Presumably, people do not complain that it is a bigger problem.

**Senator FURNER:** Forgive me if these questions have already been asked; we had to go down for the commencement of the Senate. I wanted to question you around the assertion of the involvement of migration agents in trafficking. Have those questions been asked, Chair?

**Ms McLeod:** We touched on that in paragraph 55 of the submission.

**Ms McLeod:** If you want to recap—

**Ms Budavari:** Basically, we have undertaken to go back to the lawyers who have raised that with us and to try to get some further information to the committee.

**Senator FURNER:** So there are no examples that you have available on hand to identify what those matters are?

**Ms Budavari:** Not on hand, no.

**Senator FURNER:** You also suggest that there be registrable interests to DIAC to have those migration agents declare what those interests are. How will that have any involvement in ceasing this type of trade?

**Ms Budavari:** Again, I would probably have to take that back to the lawyers who have raised it with us; but, from what we understand that this stage, just increasing transparency around that would hopefully lead to such behaviour not occurring within that particular context.

**CHAIR:** I understand it as meaning that, if an agent had an interest in a brothel or in a farm where they might bring in workers to work for no wages or exploit them, at least that would be transparent.

**Senator FURNER:** Once again, that would be reliant on the agent being forthcoming in that evidence or on that information being upfront and on them providing that information, no doubt.

**Ms Budavari:** Yes.

**Senator FURNER:** I cannot think of the figures, but I am on the legal and constitutional affairs committee, and, when we reach this point in estimates, there is always a number of agents that have either had their licences removed from them or suspended and a variety of different opportunities where, whatever the case might be, their involvement in clients comes into question. So maybe that is an area that we need to consider in further questions before the department in the future.

**Ms Budavari:** Yes.

**Senator FURNER:** But you believe that that sort of registrable interest will have an ability to have some involvement, providing that they are upfront, in providing that information?

**Ms McLeod:** The thinking is that it provides both a disincentive to the agent to pursue the unlawful activity within their own business and the transparency with DIAC so that they are providing the information regularly about their own interests.

**Senator FURNER:** Okay.

**CHAIR:** Further on from that: do your immigration lawyer panels suggest that there is an issue in terms of students coming in and being exploited?

**Ms McLeod:** There has certainly been media about students being exploited.

**Ms Budavari:** I do not have any information on hand to give to the committee about that, but I can make those inquiries.

**CHAIR:** But there are agents dealing with bringing students in as well.

**Ms Budavari:** Yes, and certainly our understanding is that the department was going to examine student visas: take a snapshot of them and look for any evidence of people with student visas having possible involvement in the sex industry as a result of being trafficked. I am not sure where that examination is up to but that was certainly something that was mentioned at the last roundtable around this time last year. So perhaps the department of immigration can assist the committee with where that particular examination of that issue is up to.

**Mr RUDDOCK:** There have been 13 convictions since the introduction of divisions 270 and 271. Nine of these defendants were convicted of slavery offences, three of sexual servitude and one of people trafficking. Some of these provisions that we have enacted have not yet been used to achieve a conviction.

**Ms McLeod:** The provisions in the new bill have not yet been available for the basis of charges. But that is correct. They are the existing divisions.

**Mr RUDDOCK:** All I am seeking is a consistent approach from the Law Council in its various submissions it is making about what laws should be repealed because of non-use and what ones should be pursued simply because you have a fixation about the issue.

**Ms McLeod:** Yes. I think if the deputy chair looked at the Law Council's submission on the terrorism laws, he would find a number of other reasons that the Law Council considers that some of those laws should be repealed other than the non-use.

**Mr RUDDOCK:** Yes, the human rights and the terrorists. They all take regards of the human rights of the smugglers.

**Ms McLeod:** I am not sure that I can comment on that.

**Mr RUDDOCK:** It is a question of if you weigh up the human rights of the victims of terrorism or the human rights of those who are smuggled.

**Ms McLeod:** Yes.

**Mr RUDDOCK:** The arguments seem to me to have a degree of consistency.

**Ms McLeod:** I think if the committee were to look at the Law Council's detailed submissions on terrorism laws—

**Mr RUDDOCK:** I will be looking very closely at those.

**Ms McLeod:** they would find that the Law Council is concerned with the rights of victims of terrorism and has never resiled from the position that there should be special laws to deal with terrorism. The extent of those laws is the issue.

**Mr RUDDOCK:** Yes, but this is judged on the basis of use. I am simply saying that if some of these laws are not being used, shouldn't they be repealed?

**Ms McLeod:** I think that is probably not a fair representation. The primary objections are to the erosions of the rule of law in respect of the rights of those alleged terrorists under the terrorism bill, not primarily around use. Use might be a limb of the argument.

**CHAIR:** You were talking about victims of terrorism, who, in your submission you have noted, can claim under reparations non-economic loss but victims of trafficking at this point would not be able to.

**Ms Budavari:** What the submission addresses is that victims of terrorism have statutory rights now under a Commonwealth scheme whereas victims of trafficking do not have those same statutory rights. It is not related to the ability to order reparations. The ability to order reparations, under the Crimes Act, is in respect of any Commonwealth crime.

**Ms McLeod:** Historically an argument we have been met with when we promoted the federal compensation scheme was 'it will open the floodgates', because victims of terrorism would also be able to access this. Traditionally, Commonwealth crimes have been non-individual focused like tax crimes, social security crimes and so on. But there is no reason now that there has been a recognition for the needs of terrorist victims to be compensated through the victims of terrorism bill for that not to be expanded to victims of trafficking as well. I think that historic argument why we should not have a victims of trafficking compensation scheme is being undermined by the Commonwealth's own response to victims of terrorism

**Mr RUDDOCK:** Your submission states that there were 305 inquiries, which seems more than the other information we have been given.

**Ms McLeod:** At paragraph 56?

**Mr RUDDOCK:** Yes. It says:

... between January 2004 and June 2011—

so it is much the same period—

there were 305 investigations by the AFP into trafficking in persons.

That is more than the number of suspected victims we had been given before by the Australian Crime Commission, so presumably there are investigations that have been undertaken where we have not identified victims. Is that it?

**Ms McLeod:** I cannot explain the discrepancy, because we have obviously taken those numbers from the website, so the law enforcement agencies may have provided you with better information.

**Mr RUDDOCK:** I look at the size of the problem reported and then I hear about a much larger problem, and I really want to try to quantify it and see how reliable the information is.

**Ms Budavari:** We understand that the committee is hearing from a number of service provision agencies that may be able to assist in that regard because they are actually seeing the victims.

**Mr RUDDOCK:** I have not been persuaded yet.

**Ms Budavari:** We understand you have at least another day of hearings.

**CHAIR:** We will have many more days of hearings, all around Australia. Any more questions, Mr Ruddock?

**Mr RUDDOCK:** No, I just apologise for my grumpiness.

**CHAIR:** Thank you very much for taking the time to give evidence today. You are going to come back to us with answers to some questions on notice.

**Ms Budavari:** Yes. Thank you for your time.

**LOIZIDES, Mr Bill, Group Manager, Policy, Education and Partnership Group, Fair Work Ombudsman**

**WHITE, Ms Sheridan, Director, Government and Parliamentary Policy, Fair Work Ombudsman**

[11:37]

**CHAIR:** Welcome. I remind witnesses that, although the subcommittee does not require you to give evidence under oath, this hearing is a legal proceeding of the parliament and, therefore, has the same standing as proceedings of the chambers themselves. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Do you wish to make an opening statement?

**Mr Loizides:** If I may, just a short one. The Fair Work Ombudsman works with other government agencies in order to provide assistance in investigating people trafficking and slavery matters which fall within the FWO's jurisdiction. In investigating matters that may involve slavery, slavery-like conditions or people trafficking, the FWO will examine the adherence to workplace laws and enforce entitlements where contraventions are found. This may include investigating matters in relation to wages, entitlements or general protection matters—for example, adverse action, discrimination and sham contracting. The FWO ensures that its inspectors and info line advisers are aware of how to identify issues related to people trafficking and slavery. Matters of people trafficking and slavery that are brought to the attention of the FWO by other government agencies are treated with priority and are referred to the appropriate compliance area. We have a special area that deals with overseas workers.

**CHAIR:** Workers who have come from overseas?

**Mr Loizides:** That is correct.

**CHAIR:** What steps does the Fair Work Ombudsman take to monitor labour conditions and identify incidents of forced labour?

**Mr Loizides:** It falls under our general compliance activities. We conduct audits, for example, of our target industries and if we come across any particular areas that involve trafficking or forced labour conditions, we would investigate those. We also get referrals from other like agencies—the AFP and DIAC, for example—and we would investigate that in our normal investigatory processes.

**CHAIR:** What is the scale of forced labour in the ombudsman's view? Is it a serious problem in Australia?

**Mr Loizides:** It is not a problem that comes to our attention to any great degree. We receive approximately 26,000 complaints in a particular year—

**CHAIR:** 26,000—that is total complaints?

**Mr Loizides:** total—I am trying to contextualise it for you—and we receive approximately 800,000 phone calls. From July 2011 to 31 October our infoline, our phone service, received 48 calls that used words like 'child labour', 'slave labour', 'forced labour'.

**Mr RUDDOCK:** How many?

**Mr Loizides:** Forty-eight calls.

**Mr RUDDOCK:** Forty-eight out of?

**Mr Loizides:** Approximately 800,000 calls.

**Mr RUDDOCK:** 800,000 calls and you have got 48.

**Mr Loizides:** Yes, and that is where it has been triggered. We record it. Someone might say, for example, 'I'm being treated like a slave; I'm not getting paid enough', and that is just the trigger.

**Mr RUDDOCK:** And that would be one of the 48?

**Mr Loizides:** Yes, it could be. It is only an indicative number. We do not record those specific trafficking or forced labour triggers, but our infoline are aware of the conditions of slavery and trafficking.

**Mr RUDDOCK:** I had 80,000—800,000?

**CHAIR:** So if you do not record it, how—

**Mr Loizides:** The 48 calls that come to us are from—we do record calls and those matters where we make reference and if someone says to us, 'Listen, I think I am being treated inappropriately or as a slaver,' we would then say, 'You should be referred to the AFP or to DIAC, to the relevant agencies'. That is how we pick them up.

**Mr RUDDOCK:** So you have a keyword, and when it is used then you start recording?

**Mr Loizides:** No, the whole conversation is recorded.

**Mr RUDDOCK:** The whole 800,000?

**Mr Loizides:** Correct.

**Ms White:** It is probably worth mentioning as well that if a person does not say one of those words—their call might have related to these issues but they have not used those particular words—we would not have found those calls within the searches. So if they called and said, 'I got paid \$2 an hour and I worked seven days a week for six months,' but they never said slavery or trafficking, we would not have found those calls in our sections.

**CHAIR:** In fact, that is more likely to be what somebody would say, isn't it?

**Mr Loizides:** Correct.

**CHAIR:** Rather than, 'I'm treated like a slave', they would say, 'I'm only being paid \$2 an hour'. Would it not be possible to have some system to record those sorts of complaints?

**Mr RUDDOCK:** I have never heard of sex workers getting—

**CHAIR:** Where they work below a certain—

**Mr RUDDOCK:** They only get \$2 an hour after they have been paid \$500 for the first—anyway, I heard that.

**Mr Loizides:** It is difficult for us to instigate a system like that. As I said, we look at the enforcement of workplace relations entitlements, and if someone is being underpaid we would investigate the circumstances of the underpayment.

**Mr RUDDOCK:** So for everybody who said they had been paid \$2 an hour, you would initiate an investigation?

**Mr Loizides:** No, we would tease out the circumstances of the employment relationship, encourage the person to self-resolve with their employer. If that does not reach resolution then they can make a complaint to us, which would lead to an investigatory process.

**Mr RUDDOCK:** So you say to them: 'You're getting \$2 an hour for your employment. You're probably entitled to \$20 or \$30. Go and resolve that with your employer. If we don't hear from you again, it's fixed.'

**Mr Loizides:** The premise is that we recommend discussions with the employer, determine what your rate of pay is. We have self-service tools on our website, for example PayCheck. We work through with the employee to determine what award would apply to them, set what we think would be the appropriate rate of pay. Obviously, if they are feeling vulnerable, if the employment relationship has fallen apart, then they can lodge a complaint that would then start the processes of investigation.

**CHAIR:** Has the Fair Work Ombudsman been involved in any way in that Allseas case, where an offshore company is taking advantage of the excision of the migration zone in the Migration Act to pay lower wages to foreign workers who are working offshore from Western Australia?

**Mr Loizides:** Is that the barge that was floating in the sea?

**CHAIR:** This is a pipelaying contractor.

**Mr Loizides:** I understand we are investigating that employment circumstance at the moment.

**CHAIR:** Are you making submissions? How will you be dealing with that?

**Mr Loizides:** That is an investigative process at the moment and we are making a determination on what the employment relationship is—whether that falls within the provisions of the legislation we administer.

**CHAIR:** And what is your view of it, at this stage?

**Mr Loizides:** We are investigating that particular matter. This is from memory and I cannot give you more details than that at this stage.

**CHAIR:** Are you carrying out the review on behalf the government? I think the minister announced a review some weeks ago, or is that a separate review?

**Mr Loizides:** That is a separate review, if you are talking about marine vessels in the migration zone and their operation. That is a separate review being conducted by DIAC, as I understand. I think we have been invited to participate in that.

**CHAIR:** What is the Ombudsman's role in the anti-people trafficking round table?

**Ms White:** We are participating in the round table and we attend each of the annual meetings. We have contributed to a guide that was developed for NGOs in assisting people who have been trafficked. We have provided our contact details, a case study of an investigation we have done and anecdotal evidence that we come across. Mostly, the main involvement we have had has not been during the meetings; it has been in the connections that we have established and the referral of matters between the agencies as a result, and also the referrals of matters to us from the NGOs who participated in the round table.

**CHAIR:** Are you aware of an organisation called Slavery Links Australia?

**Ms White:** Yes, I am aware of them.

**Mr Loizides:** I am aware that they have made a submission to this committee.

**CHAIR:** They have written quite a substantial textbook on slavery which identifies a number of instances of workplace exploitation. Is that something that you have looked at? Are you aware of those case studies they have referred to?

**Ms White:** We have read their submission and we are aware of their cases that they have brought up. We have not had, to my knowledge, any specific referral of matters from Slavery Links to the Fair Work Ombudsman. Other than that, it would just be the same information that you have from the submission.

**CHAIR:** Are those the sorts of matters that inform your work? Are they the sorts of things that you have been looking out for?

**Mr Loizides:** They may. I mentioned earlier that we do auditing activities. When we gather intelligence in determining a particular auditing program, we do try to source a wide variety of intelligence, whether it be from the Crime Commission, DIAC or other agencies such as that. That forms our views on whether we should be involved in that particular industry. We also review our compliance data to determine if there are any areas in which these sorts of activities are occurring. Again, that would form our views. With 457 visa holders, students, vulnerable workers et cetera, intelligence from within our own organisation also informs that view of what sorts of activities we investigate.

**Ms White:** They said in their submission that they have highlighted the people who could be subject to slavery and slavery-like conditions, and trafficking can be from culturally and linguistically diverse backgrounds. That is one of the points in their submission. In respect of that, we actually do a lot of work publishing material in various languages and participating in community programs in different community groups to educate those groups about their rights working within Australia. We do do work in that area.

**Mr Loizides:** For example, we produce videos on the website YouTube in 14 languages about working in Australia for people that are coming to Australia. We produce other publications in 26 community languages. We do presentations to international students. We do in-language posters at migrant resource centres. We are about getting the message to the CALD participants as possible to say: 'You do have rights and these are the basic conditions. If you have an issue or an inquiry, here is our phone number to make some inquiries.'

**CHAIR:** When you carry out these investigations, what happens as a result of your investigations—say, you find something?

**Mr Loizides:** Where it is a wages and intolerance matter, we want to try to cover the entitlements of the worker. There have been two cases where visa holders have been underpaid and we took them to court. They are on the public record—Kentwood Industries and Yoga Tandoori House—where workers were brought to Australia on various migration visas and were underpaid. The Yoga Tandoori House was particularly significant for us because not only was their financial consequences; the AFP also took them for slavery conditions, but they were substituted for trafficking in persons. They were acquitted of the trafficking in persons but were convicted of a lesser charge relating to misleading Commonwealth officials and immigration processes. We also got that worker has some entitlements as well. That is an example of collaboration.

**CHAIR:** What was happening to the worker in that instance?

**Mr Loizides:** He was brought over and worked in the restaurant—

**CHAIR:** From where?

**Mr Loizides:** From India. He worked in the restaurant six to seven days a week as a cook and he was not allowed to leave. He was given minimal entitlements that did not meet his visa—

**CHAIR:** Do they keep his passport?

**Ms White:** We are not aware of that. We have seen that before with Kentwood Industries, which was a different investigation. They kept the passports of the workers.

**CHAIR:** Did they get convicted?

**Mr Loizides:** Yes, they got convicted. If I could go back to the Yoga Tandoori House. They were fined over \$18,000 under the Fair Work Act. In Kentwood's circumstance, they were fined \$123,000 and their managing director was fined \$24,000 for those entitlement issues.

**CHAIR:** What was the reason the AFP could not get the conviction in the Yoga case? Was there a lack of evidence about certain things?

**Mr Loizides:** I am sorry, I cannot answer that. I do note that the person concerned was acquitted of the trafficking in persons charged but was convicted on the other charge, and I cannot give you the details of that.

**CHAIR:** Is that something you could provide to us?

**Ms White:** You would have to ask the AFP.

**Mr Loizides:** Yes, you would have to ask the AFP for the circumstance for the change.

**CHAIR:** Thank you.

**Mr RUDDOCK:** Forgive me, but you have only been in operation about 2½ years, so I do not know much about you. You get 800,000 calls a year?

**Mr Loizides:** That is correct.

**Mr RUDDOCK:** That means 16,000 a week.

**Mr Loizides:** Yes. We have approximately 150 info line staff, who answer those phone calls.

**Mr RUDDOCK:** That is what I was getting to. I have not read your annual reports. You have 150 info line staff.

**Mr Loizides:** Approximately. They provide telephony advice but they also provide email services. They are more technologically savvy than me. They email, they have live chats over the net and they acquire about—

**Mr RUDDOCK:** This must have been a great work creation organisation—150 info line staff. How many employees do you have?

**Mr Loizides:** We have about 750.

**Mr RUDDOCK:** 750!

**Mr Loizides:** Yes, we are a very effective, lean organisation.

**Mr RUDDOCK:** A very effective, lean organisation!

**Mr Loizides:** Yes. Those info line staff not only provide that information and advice; we also have—

**Mr RUDDOCK:** How do you train 150 people in such a short period of time to offer advice on workplace laws, awards and agreements?

**Mr Loizides:** They are very talented.

**Mr RUDDOCK:** They have PhDs, do they?

**Mr Loizides:** No. We amalgamated with the Employee Advocate back in 2009 who had a telephony service when we were created as the Fair Work Ombudsman. As part of that legacy they had some experience and when they joined us further experience and training was provided to them. It is an ongoing event within our organisation to keep those people up-to-date with current laws and awards.

**Ms White:** Industrial inspectorates existed in various forms—a set of inspectors to investigate workplace complaints—and info lines to provide advice have existed in various forms for some time. That info line has come across from three different agencies.

**Mr RUDDOCK:** How many people worked for this organisation you absorbed?

**Ms White:** The last amalgamation was actually the Workplace Ombudsman and the Workplace Authority under the Fair Work Act.

**Mr Loizides:** I stand corrected on that, sorry.

**Ms White:** We had about 900 employees originally when it first happened.

**Mr RUDDOCK:** You have come off?

**Ms White:** Yes. We have recently gone through a redundancy scheme to our current staffing levels. Prior to that, I believe the info line was operated by the Department of Education, Employment and Workplace Relations.

**Mr RUDDOCK:** You offer a single point of contact. You educate people. I hear all of that. You investigate complaints. So, of the 800,000, you investigate how many?

**Mr Loizides:** We receive approximately 25,000 complaints in a given year. I think last year it was actually more than that. It was about—

**Mr RUDDOCK:** 25,000. So you get 800,000 calls but you only get 25,000 complaints.

**Mr Loizides:** Roughly.

**Ms White:** I cannot remember the breakdown, but some of these calls are from employers who are calling to get advice about what to pay their employees.

**Mr Loizides:** Their obligations.

**Ms White:** Exactly.

**Mr RUDDOCK:** Do you keep a record?

**Mr Loizides:** Of the phone calls?

**Mr RUDDOCK:** The information you receive over the telephone.

**Ms White:** It is advice; it is not legally binding advice.

**Mr RUDDOCK:** It is not legally binding.

**Mr Loizides:** I can say on behalf of the Fair Work Ombudsman's office that, if someone is provided advice from the info line service, obviously the advice is couched in terms of the questions that are asked. If the questions are asked then we provide advice based on that question set. We would adhere to that advice. Again, one of the reasons why we record the information is so that we can go back and check the question set of the person who is making those inquiries.

**Mr RUDDOCK:** There were 25,000.

**Mr Loizides:** Correct.

**Mr RUDDOCK:** Did they lead to prosecutions?

**Mr Loizides:** We conduct about 50 prosecutions in any given year.

**Mr RUDDOCK:** 50?

**Mr Loizides:** That is correct.

**Mr RUDDOCK:** Out of 25,000 investigations a year, you conduct 50 prosecutions.

**Mr Loizides:** Twenty-five thousand complaints and 50—

**Ms White:** We have a very high voluntary compliance rate.

**Mr RUDDOCK:** They are the prosecutions. Is that distinct from litigation?

**Mr Loizides:** They are one and the same.

**Mr RUDDOCK:** What is the award for working in a brothel?

**Ms White:** I do not think there is one.

**Mr Loizides:** I do not think so either.

**Ms White:** They are governed by the National Employment Standards.

**Mr RUDDOCK:** What does that mean? I am paying my brothel worker \$2 a week. I am in breach of an award, am I?

**Mr Loizides:** There is a minimum wage and minimum entitlements prescribed under the National Employment Standards. A full-time employee is entitled to leave, sick leave, a minimum rate of pay et cetera. There are 10 minimum requirements and a minimum wage that is set.

**Mr RUDDOCK:** What is the minimum wage?

**Mr Loizides:** \$15.92?

**Ms White:** We will have to take that on notice.

**Mr Loizides:** I think it is \$15.92—but I will stand corrected on that.

**Mr RUDDOCK:** We had better send you on a retraining program!

**Ms White:** Thankfully, people with more knowledge are conducting the investigations.

**Mr Loizides:** Our info line staff can provide that. It is roughly \$16 an hour.

**Mr RUDDOCK:** An hour?

**Mr Loizides:** Yes.

**Mr RUDDOCK:** Not a week?

**Mr Loizides:** No, an hour.

**Mr RUDDOCK:** Plus leave.

**Mr Loizides:** Under the National Employment Standards, if they are a full-time employee, the set of 10 national employment standards do apply to every worker in Australia.

**Mr RUDDOCK:** They would be expected to work a number of hours?

**Ms White:** Yes. They are the ordinary hours of 38 per week, which can be averaged.

**Mr Loizides:** Annualised. That is in the National Employment Standards as well.

**Mr RUDDOCK:** Do you get many brothel owners ringing you to find out what they should pay?

**Ms White:** Not that I am aware of. They might.

**Mr Loizides:** I cannot say. With your question on brothel owners, we actually did do a campaign recently of clerical workers in the brothel industry in Victoria—wasn't it?—to determine their pay rates. We had a bit of a vision of the industry in terms of the clerical workers, who are under a modern award. We went in there and did an audit of the managers and clerical officers.

**Mr RUDDOCK:** How do we get to a situation where we have an award for clerical workers in brothels but not for brothel workers?

**Mr Loizides:** It is an award that applies to the clerical work that is performed and that applies to a number of industries.

**CHAIR:** Are you finished?

**Mr RUDDOCK:** I just want to go back to the information that was relevant about the nature and extent of the problem—and you probably heard some of the questioning earlier about the nature and extent of the problem. We are being led to believe that it is a very large problem, but when you look at the number of suspected victims and the number of people prosecuted, one might not regard it as being so large, although, using your data might be useful. But when you get 50 prosecutions and that is a result of 25,000 complaints, I am not sure how I read that. Did the 25,000 complaints yield only 50 prosecutions? Does that mean there is no significant problem?

**Mr Loizides:** If there is an obligation or an entitlement, we bring the parties together and we try to resolve the dispute in an amicable manner in accordance with the law. We find that in most circumstances that is the case. In those 50 matters we took to court, we make a determination that it is in the public interest to take them to court because of the people involved and the interaction with the employer. For the legislation that we are administering, for example, discrimination or adverse action, we make those public interest decisions in taking those matters forward, but in the greatest majority we get resolution through either mediation or resolution by the two parties.

**Mr RUDDOCK:** I think, though, in relation to sex slavery there would not be too much capacity to get resolution. Getting back to the key words issue and the identification of the problem, on face value the 800,048 references, it seems to me that if it was \$2 an hour you would be keeping that sort of information as well. How many \$2 an hour complaints do you get—

**Mr Loizides:** Not many. We would not get many at that level. However we do find sometimes that there is some exploitation that does occur in the workplace and some of those matters are in the 50 that we do take to court.

**Mr RUDDOCK:** I think of somebody that I know quite well, who is not particularly well educated and is doing casual work in a restaurant and who is certainly not paid the award conditions. The person might complain about it and the employer says, 'Well, find another job,' and they get somebody else. It is not slavery but it is certainly exploitation, and it does go on.

**Mr Loizides:** That is an adverse action. If somebody does make a complaint to us and then they are summarily dismissed, that is an adverse action and we would look at that and say that that was discrimination against that worker and we would take that forward.

**Mr RUDDOCK:** It would probably just drive them out of business. They would go somewhere else and start another one.

**Ms White:** I guess for the point that you are making about the \$2 dollars an hour instance it would probably be worth explaining that the majority of our investigations relate to time and wages matters—underpayments. As we were explaining before, most of the phone calls we get would be about what a person is supposed to be paid and it would be very difficult to say that there is a point where it becomes slavery, and a point where it is not complying with the Fair Work Act but not quite slavery. There is a whole spectrum of underpayments but that is our bread-and-butter work really—time and wages matters.

**Mr Loizides:** The other thing that may be of interest to the committee is when workers find an employer on a visa scheme and they are co-located in a particular house or with the owner et cetera and then deductions are made from their wages for living in the house, which is not in accordance with the law. Those circumstances occur as well. That can lead not necessarily to problems at the workplace but to difficulties in their home life, and

we have come across those sorts of situations as well. The Fair Work Act does not cover this, but it has come to our attention and we make references to appropriate people where required.

**Mr RUDDOCK:** Thank you very much.

**Senator FURNER:** Out of the 26,000 complaints you receive, are you able to identify how many of those may have been circumstances of underpayment or breach of entitlements that apply to 457 or other migration visas?

**Mr Loizides:** Yes, we can document that information for you. If I could take it on notice I will supply you with that exact number.

**Senator FURNER:** Sure. Would you have any idea off the top of your head at this point in time whether it is substantial?

**Ms White:** It is a large number but not as a percentage of the total number of complaints. But I suppose the total number of people working on visas is smaller than the regular working community. We do have the numbers that we can get for you.

**Mr Loizides:** Yes, we do. I am trying to recall, Senator, but I cannot. We will provide you with that information on notice.

**Senator FURNER:** In doing that, could you identify the type of industry, if that is at all possible?

**Ms White:** I believe we can. We will look into that for you as well.

**Senator FURNER:** And the regions as well?

**Mr Loizides:** We will take all those questions on notice and try to provide that information for you.

**Senator FURNER:** Because I imagine that, if there has only been 50 successful prosecutions, and also only two that relate to visa holders—

**Ms White:** Those two were provided as examples; they are not the only two litigations that have related to visa holders. We could get that number for you.

**Senator FURNER:** How easy is it for someone that is a migrant to have the willingness to come forward and I guess make a complaint initially and then, secondly, follow it up, being aware that this is heading down a path of proceeding to court?

**Mr Loizides:** We do investigate complaints confidentially. If there are multiple workers at a workplace—for example, visa holders—they can make a confidential complaint and we can audit the activity. If it is only one or two in the premises, then it becomes more difficult. We make that very clear to the employee. In the circumstances that I mentioned earlier, the workers came forward and made a complaint through their family or representatives to say, 'This is what we are getting and the conditions we are in.'

**Senator FURNER:** Okay. One of your functions is to build strong and effective relationships with industry, unions and stakeholders.

**Mr Loizides:** Correct.

**Senator FURNER:** How do you go about that?

**Mr Loizides:** For example, I mentioned a whole lot of products we produce. We actually go back to the relevant organisations to say, 'What you think of this? Can we collaborate in the manufacture of the product and then the distribution?' Going down to migrant resource centres for example, we would say, 'Is this the correct terminology? Is it in the right language—the appropriate English language reading level?' Sometimes we also point to the YouTube videos and whether the spoken language is easier to understand than the written pamphlets we produce. So we work with them cooperatively in developing those products and in dissemination.

**Senator FURNER:** What sort of relationship and contact do you have with the unions?

**Mr Loizides:** It is equal. They assist us in the development and identification of areas—intelligence, for example—where, say, the cleaning industry might have a particular problem in a regional area. We work with unions in the building industry. It doesn't matter. It depends on the scheme that we are looking at adopting in terms of the audit. We would go and consult with them. Again, in the product development, we would go and say, 'What do you think? Is it hitting the target audience?'

**Ms White:** Obviously unions can refer concerns that they have in individual circumstances as well, if they would like for us to investigate, and we do often receive complaints in that way.

**Senator FURNER:** In respect of where you have identified a breach in a workplace, regardless of whether that leads to prosecution or resolution, do you then have an opportunity to send inspectors in to examine the records of the other employees?

**Mr Loizides:** Yes, that is currently the process. If we find that there is an underpayment an inspector will generally say, 'How many other workers do you have here?' And they will do an audit to see if the same circumstances that applied to the breach or the complainant applies to others. We will do that in compliance mode. In the auditing role we will go to an employer and look at all of the records and take a sampling period to determine whether they are being paid the appropriate entitlements?

**Senator FURNER:** Do you ever come across any circumstances—I could use the term 'cook the books'—where an employer has one set of books of a record to show you and there is another set of books for something else? Have you come across that before?

**Mr Loizides:** I cannot say I personally have, but those tales do arise. The most common element is where an employee keeps records and the records of the employer are different. That is the most common difference we find.

**Senator FURNER:** Thank you. Thank you, Chair.

**CHAIR:** Thank you. If there are no further questions, I would like to thank you for your attendance today. You have been asked to supply some questions on notice. Could you please forward that to the secretariat. You will be sent a copy of the transcript of your evidence to which you can make corrections of grammar and fact.

**Proceedings suspended from 12:11 to 13:16**

**SHELTON, Mr Lyle Gavin, Chief of Staff, Australian Christian Lobby**

**SIMON, Mr Daniel James, Research Officer, Australian Christian Lobby**

**CHAIR:** I now welcome representatives from the Australian Christian Lobby to today's hearing. I remind witnesses that, although the subcommittee does not require you to give evidence under oath, this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the chambers themselves. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Would you like to make an opening statement to the committee?

**Mr Shelton:** Yes, thank you very much. We really appreciate the subcommittee's willingness to hear us today. We have just a brief opening statement to our submission. Sorry, did I say something wrong?

**Mr RUDDOCK:** I am being very facetious.

**CHAIR:** The deputy chair welcomes opening statements being very brief.

**Mr Shelton:** I will try and see to the deputy chair's wish.

**Mr RUDDOCK:** On the basis that we might have read the submission.

**Mr Shelton:** Sure. Whilst your inquiry is quite broad, encompassing slavery and people trafficking in all its forms, ACL is one of several submitters who have focused solely on the issue of sex trafficking. We support the good work that is being done to eradicate non-sexual slavery, particularly of children; however, we are very concerned that our society is blind to the drivers of the demand for out-of-control global trafficking of women and that countries like Australia unwittingly support it through our ignorance. The International Labour Organization estimates that 4.5 million people are victims of forced labour for sexual exploitation. This is 43 per cent of the forced labour population, and I think we can safely assume that the overwhelming majority of those are women.

The industry is estimated to be worth between US\$7 billion and US\$19 billion. It is a sad indictment that 200 years after William Wilberforce—as well as the men and women of the Clapham friends, who won their long-running human rights campaign against the English parliament to abolish slavery in the British empire—that today there are more people in slavery than ever. We know this is a Commonwealth inquiry, but trafficking of women for sex cannot be considered without acknowledging the role that state governments play—again, perhaps unwittingly—in fostering demand. Since the 1980s, several state governments moved to legalise prostitution and the establishment of brothels. The rationale was that regulating prostitution would cause it to become safe for women and that illegal prostitution would be minimised. Of course, the evidence has been to the contrary, with the illegal industry blossoming everywhere that a culture of state sanctioned prostitution has been established.

This has, in turn, put pressure on the legal industry to compete. The legal industry has, in turn, gone to government asking for the strict controls, which were put in place to protect women, to be loosened. In short—

**Mr RUDDOCK:** I did not see that in your submission, so can you tell me why those states that have legalised it have occasioned unlawful activity to blossom. What is the evidence for that?

**Mr Shelton:** Certainly in Queensland the report that the University of Queensland did—

**Mr RUDDOCK:** Could you point me to that again?

**Mr Shelton:** I do not know whether we referenced it in this submission.

**CHAIR:** You do. There is a reference to it on page 128 of our papers. It is on page 4 of your submission.

**Mr Simon:** There was quite a comprehensive study done. Page 10, of our page numbers, talks about the failure of legalised prostitution. Research done by the Crime and Misconduct Commission has concluded that rather than minimising the harm, it has actually allowed the illegal sector to grow as well as the legal sector.

**Mr Shelton:** We may not have mentioned the University of Queensland study but we have presented this evidence to many state and territory government inquiries. The University of Queensland, two or three years ago, did a study after 10 years of legal prostitution in Queensland, to mark the tenth anniversary of the Beattie government's passing of the Prostitution Act. It found that 90 per cent of all prostitution in Queensland was unregulated.

**Mr RUDDOCK:** We may have to see them.

**CHAIR:** It is here. It is footnote 40.

**Mr RUDDOCK:** It says, 'Queensland's Crime and Misconduct Commission has noted that rather than minimising harm and controlling criminal element and the industry's expansion, the effect has frequently been the reverse.' That is the quote. I do not know what the evidence is.

**Mr Shelton:** That is quoting the CMC's—

**Mr RUDDOCK:** We may never see them. That is why I am asking. I am looking at all of the evidence that I see, and I see a lot of people rewriting what other people have written. As far as I am concerned it may have come from one of the Grimm's fairy tales, but it is quoted often enough that you are assuming it to be factually correct. All I am asking for is the original research that proves the proposition. When somebody tells me that there is evidence that I can take as being credible, that if you legalise prostitution it makes sex slavery grow, I want to see the evidence.

**Mr Shelton:** There is reference to the University of Gottingen in the—

**Mr RUDDOCK:** Get them, too. I am just preparing you for what the others have had to endure.

**CHAIR:** Please continue.

**Mr Shelton:** I will try and stand ready for that.

In short, the system is a failure. This was epitomised by the tragic death of a 17-year-old girl of a drug overdose in a legal Canberra brothel in October 2010. We know from evidence that Australia's culture of legal prostitution—that is, treating it like any other form of work—makes it easier for traffickers to lure women into sexual slavery in legal and illegal brothels here. The warnings have been sounding for some time. In 2004 the UK Home Office, in its landmark study of global prostitution regulation, noted that Victoria and New South Wales were two of the worst states for the abuse of children through prostitution. The trafficking of East Asian women for the purposes—

**Mr RUDDOCK:** Who has determined that? Somebody in London?

**Mr Shelton:** The UK Home Office.

**Mr RUDDOCK:** Somebody in London has determined that in relation to New South Wales. What evidence do they base that on?

**Mr Shelton:** They did a pretty comprehensive study. They were looking at prostitution reform in the UK and they looked at the regulatory regimes all around the world, including in Australia.

**Mr RUDDOCK:** Did they quote the evidence in New South Wales and Victoria that gave rise to that view?

**Mr Shelton:** I would have to go back to the report, but it was a very comprehensive report. Our submission documents how the UN, the University of Gottingen and the Seoul metropolitan police agency note that Australia is seen by women traffickers as an attractive destination. The University of Gottingen, in a study this year—

**Mr RUDDOCK:** So women traffickers?

**Mr Shelton:** People who are trafficking women.

**CHAIR:** Traffickers of women.

**Mr RUDDOCK:** Okay, so not women traffickers.

**Mr Shelton:** No. 'Traffickers of women' perhaps would have been a better choice of words. It is the same way that people smugglers are smugglers of people, I suppose.

**Mr RUDDOCK:** That is right.

**Mr Shelton:** One part of the world that has made inroads in the battle against trafficking of women is the Nordic region. Having tried Australia's approach to legal brothels and found it exploitative and violent against women, Sweden introduced a new policy approach, in 1999. Instead of criminalising prostituted women, the hard edge of the law fell on the purchaser of sex. Just as the prohibition of murder does not succeed in stamping out all killing, neither has the Swedish approach been a cure-all. However, it has dramatically lessened the harm to women of prostitution and has made Sweden an unattractive place for sex traffickers. Other Nordic countries have adopted this approach as well. The European Parliament has found that traffickers have had problems finding enough sex buyers in Sweden. The demand has been much lower than expected. The Coalition Against Trafficking of Women say in their submission that countries that have legalised or regulated prostitution are those into which the highest number of women are trafficked. ACL submits that we cannot seriously tackle sex slavery in Australia until we join the dots between the legalisation of brothels and the demand this creates for trafficked women. We respectfully submit that pressure has to be put on state governments to consider the Nordic policy approach in order to begin to address the scourge of sex slavery.

**CHAIR:** Do you accept that if prostitution is criminalised this might drive it underground? Do you accept that there would be a certain amount of that happening?

**Mr Shelton:** That is always the argument that is put forward in these situations. Of course there would be an element of that just as there is an element of murder that is driven underground as well even though we have a prohibition on murder. I guess it is a case of looking at how we can best lessen the harm. We have got an approach that is now being taken up by other countries in the Nordic region and is also being considered by France and Israel. I believe South Korea has also got a form of this approach. It has been the only policy approach anywhere whereby there has been any evidence that this has reduced the harms of prostitution domestically and also reduced sex trafficking into those countries. So it seems to be an approach that is working. As I say, no approach is perfect but this seems to be demonstrably better than what we have in this country. Our contention is that legalising it will increase demand, and that seems to be borne out by the evidence.

**Mr Simon:** The underground industry seems to grow where it is legal. A University of Queensland study concluded that 90 per cent of the industry is illegal. So some of it may be pushed underground—

**CHAIR:** Do you know why that is?

**Mr Simon:** The demand for prostitution grows and so the supply of it will grow to meet that demand.

**Mr Shelton:** You create a culture where there is a state sanction of it and so people think that it is okay and the illegal industry seems to blossom in concert with it. I am from Queensland. I was in local government at the time when the Beattie government introduced this law and we fought it very strongly because they were forcing local governments to approve brothel applications that complied with the state government law. We said, 'It's not up to the state government to tell our town what to do.' They said, 'No, we've got all these tight restrictions. We're going to make this safe. It is going to be healthy'—and all that sort of thing—'and it's going to put a curb on the illegal industry.' Of course 10 years down the track none of those promises was met and the problem became worse instead of better. Then you had the legal industry screaming out for bigger brothels. They wanted to increase the size of the brothels, which Peter Beattie said would be five workers and no more and 'it's going to be tight with health checks'. Well, the women working there resented the health checks. They wanted to increase the time between them. The whole thing became a farce and then, of course, the legal industry could not compete with the escort services, which were advertising willy-nilly in the *Yellow Pages*. So they wanted brothels to also have those. So the whole thing went on and on with more and more demands and 10 years on, as the University of Queensland found, the problem got worse, not better.

**CHAIR:** Do you think it ought to be the purchasers of sexual services rather than the sex workers themselves?

**Mr Shelton:** Yes. In Sweden this was driven by the women's movement, and I agree with them. You will note there are several women's groups that have made submissions to your inquiry that have said the same thing. It was the women's movement that said we have to change the approach where it has been legalised, that this open approach to prostitution was not working. They said that the premise of the law should be that all forms of prostitution constitute violence against women. I agree with that; I think that is what it is at its heart. Instead of criminalising women, it is not illegal to be a prostitute in Sweden but it is illegal for a man to purchase sex. It struck at the heart of demand and it has been effective—so effective that Norway has now adopted it, Iceland has, South Korea has a form of it, and France and Israel are considering it.

**CHAIR:** Is this something that concerns the ACL as a stand-alone issue? Is it the trafficking part of it that has motivated you or is it the flourishing of the legal industry?

**Mr Shelton:** It is both. It is the harm that it causes domestically that has been our concern. As I said, we have made submissions and campaigned on this issue for many years against state governments all over the country and against the ACT government here in Canberra, but obviously it ties into the global sex-trafficking issue. We see both the domestic situation and the global situation fundamentally as issues of social justice. That is our concern on this issue.

**Mr RUDDOCK:** This evidence has been adduced today by others and I put it to the Law Council of Australia to see whether or not the Law Council had a view. They did not have a view, but they did say that they were not convinced that the evidence that is being put to us was in fact reliable evidence about the nature and extent of the problem and the impact that it has on the sex industry. So let me start with some questions about your evidence. I have been reading it to see whether or not you have any evidence or whether you are reporting simply to us what others say. Do you have any evidence?

**Mr Shelton:** The only evidence we can report is what we have read in academic papers and the experience that is documented from Sweden. Our simple proposition to state and territory governments and now to this committee is that someone goes and does a proper investigation of the Nordic approach. When we first started campaigning on this, Sweden was the only country doing it. It is now spreading. We had an election promise from

Colin Barnett in Western Australia to do a proper investigation. That election promise has not been met. I do not understand why someone cannot jump on a plane and go and talk to the Swedish police.

**Mr RUDDOCK:** There is a lot of public comment about people who jump on planes!

**Mr Shelton:** I understand, but there were a number of MPs and senators who went to observe the US election recently. I do not begrudge that; that is great. But why can't we go and investigate something as serious as sex trafficking and look at a model which, prima facie, seems to be working, according to the European Parliament.

**Mr RUDDOCK:** I am not sure about prima facie. There are assertions.

**Mr Shelton:** There are a number of very creditable bodies, including the European Parliament, that suggest this approach has had the effect of lessening demand for trafficked women. That is a good thing. Why not investigate it? I do not know why we cannot convince anyone in politics on either side in this country to have a serious look at this. I do not know why we would be afraid to have a look at these assertions that have been made.

**Mr RUDDOCK:** One thing I am not afraid of is looking at evidence.

**Mr Shelton:** Sure, and it may require someone to go and physically have a look.

**Mr RUDDOCK:** I am not afraid to look at evidence, but I like approaches that we might take to be evidence based. It is not evidence, to me, simply to have the restatement of what other researchers allegedly have found, without testing that evidence. I have not found a lot of hard evidence. What I look at often is the use of weasel words. When some people say, 'Some clients will be deterred', 'some' can be two or 2,000, but it does not tell me anything. I find a lot of weasel words in what I have been reading: 'Sex Trafficking in Australia; Department of State'—that does not make it any more reliable—'Some women migrate to Australia voluntarily intending to work; some of these women are coerced.' 'There are news reports that some crime groups recruit.' And I am expected to take that as evidence. That can be two. When I actually go to the information about the size and the scope of the problem, when we have enacted laws to deal with it here in Australia—I think the largest figure I have seen proffered is 305, and then I find that is over eight years. I take it that these are investigations. The number of people who actually complained is smaller, and then I get to the number of prosecutions and you are down to about 40, and then I get down to the number of successful prosecutions and I down to about one or two a year. I am to believe that this is the major issue that I, as a legislator, ought to be dealing with and I say to myself, 'Where is the evidence?'

**Mr Shelton:** I think there is a lot of evidence. The Seoul Metropolitan Police believes sex trafficking of women from Korea into New South Wales is a serious issue to the point where I believe—

**Mr RUDDOCK:** But have they quantified it?

**Mr Shelton:** I am not sure what the raw numbers are—

**Mr RUDDOCK:** Just get to the point where I am coming from.

**Mr Simon:** Eighteen Korean pimps were arrested by the Seoul Metropolitan Police; that is quantification. I think these news articles and these statements which you mentioned reflect the fact that it does exist in the country, and the legalisation attempts and regulation have not gotten rid of the problem which they purport to do.

**Mr RUDDOCK:** At the moment we are dealing with people smuggling and we are dealing with a figure of 30,000 that we can identify.

**Mr Shelton:** Sure.

**Mr RUDDOCK:** Here, we are dealing with tens, and maybe you can get it to a hundred if you want to extrapolate it over eight years. We have a study from the University of Gottingen that ranks Australia as a high-volume destination. I start reading to try and find out what that means. I find it extraordinarily difficult to identify where that is quantified. I think it is at 31, *Does Legalised Prostitution Increase Human Trafficking?*, citing the UN Office on Drugs and Crime.

**Mr Shelton:** I would have thought that the UN is a reasonable, credible organisation.

**Mr RUDDOCK:** Well I do not have to look at the UN. I need to look at the evidence that they have adduced.

**Mr Shelton:** They have done a study of 150 countries and they have deduced that Australia is a high-volume destination. So has the US State Department. Where there is smoke, surely there is some fire.

**Mr RUDDOCK:** No, I think—and I said this earlier today—that this is a cause celebre that the United States has run for decades on slavery. It is derived from their own history and their own background. It gives them an issue on which they can take some high moral ground. I think they have made findings about Australia which are not evidence based, but which assert very broad numbers in order to 'evidence' that there is a problem. When I go

to look for the evidence, I find it difficult to identify. That is the point I am making, and I think there is a political agenda to make it a major problem because it is something on which they can take the moral high ground.

**CHAIR:** There is also an argument that people in conditions of slavery are oppressed and silenced, and their story often never gets out.

**Mr Shelton:** I do not think anyone is doubting that there are trafficked women coming into Australia's legal and illegal brothels. Investigative journalism has been done. I think it warrants further investigation. We have got evidence, not just from the US State Department or these other sources. There is clear evidence growing that the Nordic approach is working and that it is lessening the demand for trafficked women. We know that the global trafficking of women is a problem. We know that Australia—

**Mr RUDDOCK:** Are we certain whether the Nordic approach is working? You have asserted so.

**Mr Shelton:** Norway has now adopted it. Iceland has adopted it. There is plenty of documented evidence to say it has reduced prostitution and it has reduced demand for women. That is a good thing. I do not understand why we sit here and blithely dismiss it. We run against this problem with state governments all the time, meanwhile, more countries in the Nordic region and in Europe and Asia are starting to work with this.

**CHAIR:** I do not think the AFP is dismissing it. I do not think the National Roundtable on People Trafficking is dismissing it.

**Mr Shelton:** Well, they are not the ones who are making the profits, with respect.

**Mr RUDDOCK:** I think they have put an enormous amount of effort into investigating and found little. That is what we want to find.

**Mr Shelton:** Well, I do not know. We have been campaigning on this for many, many years, and we are not aware of anyone from Australia who has gone and investigated this to see whether what has been written in academic journals and university studies and taken up by other countries is true or not.

**Mr RUDDOCK:** We have had outposted Australian Federal Police as part of the missions dealing with the whole question of liaison and investigation to look at people trafficking. My concern is that this has become a very major issue and it is taking very significant resources. I see investigations being undertaken by the AFP because it is a topical issue that is pushed by particular interest groups, and I look at it in comparison to fraud and a whole lot of other issues where the AFP say, 'We haven't got enough people to be able to investigate these matters'. I see investigations in relation to these issues which go well beyond the numbers of people who are actually complaining. There are 305 investigations in relation to 190 people who have complained. I say to myself that this is not a question of lack of resources, the resources are being put there. I know that, if you look at fraud, any number of people who complain of fraud never get an investigation.

**Mr Shelton:** I just do not know how easy it is for a non-English-speaking woman, who has been trafficked into a brothel, legal or illegal, in this country, to complain. With respect, the AFP do not set public policy. They can influence it, obviously, but it is state governments essentially that—

**Mr RUDDOCK:** They are not given direction in those matters.

**Mr Shelton:** Well, it is state governments that set—

**Mr RUDDOCK:** The only way in which they get direction from a government is that it appropriates a bucket of money and says to use it for this particular purpose.

**Mr Shelton:** Sure. But with respect, Mr Ruddock, it is state governments that have set prostitution policy in this country. Our contention is that legalisation of brothels and the legitimisation of this plays into the hands of those who would want to traffic women. I think there is evidence to suggest that that is the case and it warrants further investigation. We have a policy approach in the Nordic region which seems to be lessening the demand and striking at the very market that these traffickers are after. I think that warrants further investigation and not just being dismissed, and there is plenty of evidence to suggest that it is working.

**CHAIR:** I am just going to interrupt you there because I know that Senator Furner has to go to question time. Did you have anything you wanted to ask?

**Senator FURNER:** Probably playing the devil's advocate.

**Mr RUDDOCK:** I would not want you to take over my role.

**Senator FURNER:** I might surprise you. I am interested to hear your view, particularly coming from Queensland and being in the era when the moonlight state occurred where prostitution was illegal. There was a series of events, as history can tell us, when we saw a Premier charged, a police commissioner charged and convicted, and a whole series of senior police and senior coalition ministers charged as well when prostitution

was illegal. Do you think that, if we decriminalise prostitution, we would end up in the same situation where that sort of activity undercover would occur again?

**Mr Shelton:** There is always the capacity for that. There is the capacity for human failing; that is always going to be there. I guess it is a case of what is the best policy approach. Decriminalising brothels certainly has not worked by any measure. Prostitution is inherently a dangerous industry. Despite all of the claims that were made that this would be safe for women, any other industry that was allowed to operate a workplace health and safety regime in the same way that a legal brothel is allowed to would be closed down. Special dispensations are made because this sort of industry is inherently unsafe. It cannot be made safe.

So I think it is a flawed policy approach; the evidence 10, 12 or 13 years on has proven that. It has not diminished the scale of the problem; it has increased. The *Moonlight State* was the classic thing that was put forward in the late 1990s and early 2000s to justify this, but, as I say, every promise that was made about how this policy would work has failed.

**Senator FURNER:** I know Mr Ruddock has questioned your referencing of that material in your evidence. The only way to substantiate the validity of that is to research and examine it. In the ACL's experience and knowledge, whether it be the trafficking of women or children into Australia, what is your evidence base other than referring to the sources that you have in your submission?

**Mr Shelton:** All we can do, like anyone else who makes a submission to a government inquiry, is look at the academic literature and at media reports. I understand media reports are not on the same level as academic reports, but they are a valid thing to cite. We have cited a vast body of academic evidence, including from UN bodies and the Korean police. I do not know that we can be expected to do much more than that. We do not have the resources to get on a plane and trawl through these places around the world, but we can look at what is on the public record at what other governments are reporting and present that. I think that is very valid.

**Senator FURNER:** What is your view on providing safe and legal channels and equitable access for sex workers to migrate to Australia? Would that reduce the issues associated with migrant sex workers?

**Mr Shelton:** I think that would make it worse. Inherent in your question is the idea that this can be safe and healthy for a woman to engage in. I have spoken to enough former prostitutes to know that that is a fiction.

**Senator FURNER:** So you do have some evidence base in having had discussions—

**Mr Shelton:** For sure, yes. We have consulted with former prostitutes widely over the years on this issue—if that is the sort of evidence that you are looking for. I know some of these people personally and I know the horrors of what they have gone through, in both the legal and the illegal sector.

**Senator FURNER:** Give us some examples in that area.

**Mr Shelton:** Linda Watson is a well-known campaigner from Perth in Western Australia. Another woman, Bronwen Healy, has also been a vociferous campaigner in Queensland. They have assisted us greatly in our understanding of the harms that this does to women, but you only have to look at some of the feminist organisations. There are the writings of Sheila Jeffreys—I will not mention some of the titles of her books in polite company! But there is plenty of evidence.

I am disappointed and saddened that we still maintain this utopian view of prostitution where somehow it is this safe, wonderful environment that we would all be very happy for 18-year-old daughters to go and work in, as if it is on a par with serving fries at McDonald's. It is a completely different scenario, and yet we have state governments that, by the legalisation of it, are saying that this is just as safe for our daughters to go and work in—and of course it is not. That is a nonsense. As I say, if McDonald's had the workplace health and safety standards that brothels are allowed to exist under, they would be shut down. We are living in this cognitive dissonance as a society by somehow thinking that we can have this utopian view of prostitution. Anyone who is involved in public policy knows that the first rule of public policy is: what you sanction in public policy you get more of. That is exactly what has happened with this issue, and we wonder why we have this global sex-trafficking issue. It is because we have so many Western countries that fuel the demand through legalising it or turning a blind eye to it.

**Mr RUDDOCK:** We have not sanctioned speeding. We legislate against it, but it has not stopped it.

**Mr Shelton:** Absolutely, yes. Prohibition has not stopped murder either, but there are certain things that we do because we want to send a message to society, to young people in particular, about looking at the evidence of these activities. We know that they are harmful, and that is why we as a society do not sanction them.

**Mr Simon:** If we sanctioned speeding, we would probably get a lot more of that as well.

**CHAIR:** We certainly would!

**Mr RUDDOCK:** We had some evidence today from Fair Work Australia, from the ombudsman—

**CHAIR:** The Fair Work Ombudsman.

**Mr RUDDOCK:** the Fair Work Ombudsman—that they receive something in the order of 800,000 complaints. When they look for key words relating to this sort of area of activity, 'enslavement' and 'coercion', they come up with 48 complaints—800,000 and 48 complaints.

**Mr Shelton:** I think the capacity of a non-English-speaking woman to complain in a legal or illegal brothel is rather limited.

**CHAIR:** And, as was pointed out during that evidence, if a person fails to use the word 'slave' in their complaint then it is not recorded as a slavery complaint. I hear what you say about state governments and criminalising and decriminalising prostitution. Is there anything else that you think the Australian government ought to be doing to deal with this issue of trafficking?

**Mr Shelton:** Where state governments have failed to look at the evidence overseas, perhaps the AFP could be tasked to look at what is happening in the Nordic countries. This is an international, global thing. It would be within their purview, perhaps, to investigate it. But I just think that, to achieve the third dot point of your terms of reference, this very much has to be part of the solution. I realise that this is a Commonwealth inquiry, but perhaps it could be a strong recommendation either that the AFP further investigate this or that pressure be put on state governments through COAG to have a look at a policy approach which does appear to be working, according to a lot of academic literature and groups like the European Parliament. I just think that we cannot afford to ignore it.

**CHAIR:** How was the European Parliament view expressed? Was it in a committee of the parliament or some other plenary?

**Mr Shelton:** We have a reference to it here. It is footnote 42. This is the European Parliament *Study on national legislation on prostitution and the trafficking in women and children*, at page 133.

**CHAIR:** So it is a study of the European Parliament?

**Mr Shelton:** Yes.

**Mr RUDDOCK:** You are not a lawyer, are you?

**Mr Shelton:** No, I am not.

**Mr RUDDOCK:** Has your organisation formed a view as to whether there is any competent basis on which the Commonwealth can be involved in this matter?

**Mr Shelton:** I think, as I said earlier, only in terms of—and I do not know the interaction of the Commonwealth parliament and the AFP—whether that is something that the AFP can be tasked to look at. As I say, I think the main avenue would be through COAG.

**Mr RUDDOCK:** Sorry, tasked to look at whether the Nordic model—

**Mr Shelton:** To look at the Nordic model and to look at whether that has been effective in combating global sex trafficking.

**Mr RUDDOCK:** They are investigators. They are not policy—

**Mr Shelton:** As I say, I am not an expert in what the Commonwealth parliament or the government can cause the AFP to do, but—

**Mr RUDDOCK:** I have suggested that, given that we have all these international treaties that we are party to, somebody could find how we can use the foreign affairs power to be able to hang off some—

**Mr Shelton:** I am sure that, if there were a will, we could probably get some information that goes beyond the ACL's evidence.

**CHAIR:** There is a UN Convention against Transnational Organized Crime with a protocol on trafficking in persons, especially women and children.

**Mr RUDDOCK:** There you are, you see!

**Mr Shelton:** We will leave that to the wisdom of the committee, but I am sure that the committee would be able to find a way.

**CHAIR:** As there are no further questions, I thank you very much for your attendance today and for your submission.

**Mr RUDDOCK:** Thank you for your good-humoured approach.

**CHAIR:** You will be sent a copy of the transcript of your evidence, to which you can make corrections of grammar and fact. Thank you.

**Mr Shelton:** Thank you so much.

**BENNETT, Ms Susan Elizabeth, General Manager, Mobility, South and South East Asia Branch, International Education and Science Division, Department of Industry, Innovation, Science, Research and Tertiary Education**

**BORTHWICK, Ms Jessie, Head of Division, Tertiary Quality and Student Support Division, Department of Industry, Innovation, Science, Research and Tertiary Education**

**GRIEW, Mr Robert, Associate Secretary, Department of Industry, Innovation, Science, Research and Tertiary Education**

[13:54]

**CHAIR:** I now welcome representatives from the Department of Industry, Innovation, Science, Research and Tertiary Education to today's hearing.

**Mr Griew:** We have brought some colleagues with us because the basis of the advice you will want is not immediately and entirely clear, so we thought we would bring people to the table.

**Mr RUDDOCK:** Bring everybody!

**CHAIR:** Okay.

**Mr Griew:** It is an important issue, and we will do what we can to assist you.

**CHAIR:** Thank you.

**Mr RUDDOCK:** What is your division, Jessie?

**Ms Borthwick:** The Tertiary Quality and Student Support Division.

**Mr RUDDOCK:** It is a fascinating title!

**CHAIR:** It is clearer than Fusion!

**Mr RUDDOCK:** At least I know where to find Fusion. It is at Hornsby.

**CHAIR:** A restaurant, is it?

**Mr RUDDOCK:** No, it is a youth work organisation.

**Mr Griew:** Susan Bennett has just joined me at the table.

**CHAIR:** What is your position?

**Ms Bennett:** I am General Manager of the Mobility, South and South East Asia Branch, in the International Education and Science Division.

**Mr RUDDOCK:** Mobility and South?

**Ms Bennett:** And South-East Asia. Mobility is student mobility.

**Mr RUDDOCK:** Are they the only ones that are mobile?

**Ms Bennett:** No, this is Australian students going to Asia.

**CHAIR:** Thank you for that. I remind witnesses that, although the subcommittee does not require you to give evidence under oath, this hearing is a legal proceeding of parliament and therefore has the same standing as proceedings of the chambers themselves. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Would you like to make an opening statement to the committee?

**Mr Griew:** I had intended to, simply because it might help us locate the evidence you want from us. I am conscious that there are two of you and five of us and it could take a bit of time, so I will just pick a couple of the key points that I was going to make and then we might explore it in discussion perhaps. The key points that I want to make are that, insofar as you wish to talk about specific matters that are under investigation that relate to international education providers or students, we are of course bound by normal procedure that would mean that we are pretty limited in what we can tell you, and in fact these matters are handled more by investigation authorities, by the Federal Police or others. But I can give you some broad background on that element of the work that we have done.

Our engagement with this is principally going to be through the international education program. Susan is one of the branch managers who until recently had responsibility for the broad range of reforms following on the Baird review, which included legislating new protections and controls in the international education sector and the reregistration of all of the registered education providers, so it is quite a significant kind of effort that has been put into increasing the quality and reputation of Australia's international education sector.

Also, in the last few years, we have significantly remade the architecture of regulation of the tertiary education sector more generally. Jessie here has responsibility for our engagement with the new regulatory authorities across tertiary education, in the higher education sector and in the VET sector, who are now responsible for regulation in the international education sector.

We have also brought with us people who are responsible for the data we hold on international education providers and students, which is an area you might want to explore, which is a kind of shared resource with DIAC and which DIAC access in order to fulfil their responsibilities for managing the integrity of the visa program.

We can explain also the basis and requirements of the legislation that regulates the international education sector and overseas students, the ESOS Act and all of the changes that have been made to that under Baird.

Those are the broad points. If you wish, we can go through a bit more about the kind of general work we have done, which is significant, to increase the integrity of the international education sector—that reregistration process, which actually knocked quite a few of the providers out of the system—or what we do through ESOS with DIAC or, I guess, thirdly, the work we have done with the Federal Police when they have asked us for information to assist them in investigations that they are undertaking.

**CHAIR:** Thank you. Just as a general matter, obviously we are interested in this issue from the point of view of international students being open to exploitation in the labour market. What evidence do you have that that is occurring, and what support does the department provide to victims?

**Mr Griew:** The primary thing to understand about our interactions is that they are primarily with the education providers. We, with the agencies in our portfolio, regulate the education providers. We require, among other things, the education providers to enter information about students—the fact that they actually attend and that they are making adequate progress and so on—into the database, which DIAC then primarily access in order to, as I said, maintain the visa—

**Mr RUDDOCK:** So you just would not ever ask a question as to whether or not a student, endeavouring to cover the fees that the family could never afford when they got them a visa, was having to engage in prostitution in an unlawful environment in order to meet them?

**Mr Griew:** My point is that our engagement in the international education sector is not with the students; it is with the education providers. DIAC would have the interaction with the students. Primarily that is the distinction between our roles.

**CHAIR:** Do you have any role in relation to those agents who are organising visas for students to come to Australia to study, those agents who are liaising with education providers, or is it Immigration that deals with that?

**Mr Griew:** The regulation of immigration agents is primarily a responsibility of the immigration department—

**Mr RUDDOCK:** Yes.

**Mr Griew:** as you would be aware. We do have requirements of the education providers that, if they have relationships with the agents, there are certain standards that they must meet. They have to take responsibility for the accuracy of what the agents say, for example. The point I am making is that the regulatory action we may take will be against the providers, but there are cases where we would take regulatory action, or one of our regulatory agencies would take regulatory action, against a provider because of their relationship with an agent or the—

**Mr RUDDOCK:** I assume that what you are saying to us is that the department of immigration has to satisfy itself before it grants a visa that the student and the student's family have the funds to be able to properly meet the fees—

**Mr Griew:** That is right.

**Mr RUDDOCK:** without having to engage in unlawful activity, and Education would be encouraging DIAC to rigorously enforce those rules. I saw a nod.

**Ms Bennett:** Yes.

**CHAIR:** When you are looking at providers—and obviously you are looking at the quality of what is being provided in terms of education, whether it is a legitimate course or whether it is a shonky one—are you also looking at the kinds of services that the education provider is providing for students, like housing and other forms of welfare?

**Ms Bennett:** It is a useful point to understand the parts played by this department in regulating education providers—the ones who are enrolling international students—and the two new regulators. Currently, there have

been recent reforms, as Robert said, in terms of the landscape of regulation. There are two new Commonwealth bodies where powers under our legislation have been drawn together into these bodies. Previously, it was at a state and Commonwealth level. So you had the eight states, plus the Commonwealth, regulating education providers. Now there are just the two regulators. There is ASQA and there is TEQSA. As a department we just have some residual regulatory functions for schools, because they do not fit into those two national regulators.

**CHAIR:** What kinds of schools?

**Ms Bennett:** Schools that take on international students, so schools that are registered on CRICOS, which is the Commonwealth Register of Institutions and Courses for Overseas Students. They are registered to enrol students on student visas.

**CHAIR:** What age are we talking about and what students?

**Mr Griew:** Secondary students.

**Ms Bennett:** It can be primary.

**Mr Griew:** There would not be many primary.

**Ms Bennett:** No, not many. They are boarding schools.

**CHAIR:** Do you cover the students who are children of 457 visa holders?

**Ms Bennett:** I do not think they are on student visas. They come under their parents' visas.

**CHAIR:** You do not cover them at all?

**Ms Bennett:** No.

**Mr Griew:** Mr Ruddock asked earlier about encouraging DIAC. Not only would we encourage DIAC to pursue those matters but we have actually said to them, 'Is there anything that we can do to provide you information if you have suspicions about providers being in anyway involved in dubious activities. Or in the worst case, if any of them were involved in trafficking, we would want to know about that because that would be cause for regulatory action against them.'

**Mr RUDDOCK:** Was the Baird review undertaken under the auspices of your department?

**Ms Bennett:** Yes.

**Mr RUDDOCK:** Did it receive any evidence that students were being inveigled into sex slavery or prostitution, legal and illegal?

**CHAIR:** Or other forms of exploitative work.

**Mr RUDDOCK:** Or other forms of sexual exploitation?

**CHAIR:** Not necessarily sexual.

**Ms Bennett:** I do not believe so.

**Mr RUDDOCK:** You do not believe so? You did not take any evidence to that effect.

**Ms Bennett:** I do not believe so.

**Mr Griew:** We can take that on notice.

**Ms Bennett:** Yes.

**CHAIR:** I have heard of stories of students working as cleaners for extremely low wages.

**Mr RUDDOCK:** I have heard of students who come out here in expectation that they will be able to earn the money to pay the fees that their families initially could not afford. But whether that leads to the evils which we are being told exist—

**Mr Griew:** It should be clear that the department and the government were aware of a lot of stories of students being exploited, ending up in very difficult situations, whether or not they were being exploited or not, living in difficult parts of town and working in situations where they were vulnerable in various ways, not just to—

**Mr RUDDOCK:** They are permitted to work 20 hours a week. A lot are involved in the 7-Elevens and those sorts of places. They work late hours but often work well beyond what they are supposed to work.

**Mr Griew:** There is a question of ending up working beyond the hours they are meant to work or—

**Mr RUDDOCK:** In more questionable fields.

**Mr Griew:** I am aware of the stories, which also led to the Baird review and a whole range of activities, including that reregistration and also the change in policies regarding the relationship between visas and education. In some ways, participation arose from concerns for the welfare of those students and some concerns

about the quality of the education received at the bottom end of the market, too. I guess we were more focused in the answer we have been giving today on the more specific, high-end kinds of worries about people trafficking or sexual exploitation of students.

**Mr RUDDOCK:** You say that you are aware of some of these issues of exploitation. Can you quantify them? I am trying to pin people down to actual evidence—the number of complaints and what the size and dimension is of the problem we are dealing with. How many overseas students do we have in Australia?

**Ms Bennett:** At the moment it is probably around 300,000.

**Mr RUDDOCK:** 300,000.

**Ms Bennett:** There was about 470,000 this year, so some students have done short courses.

**Mr Griew:** To date.

**Mr RUDDOCK:** So we are looking at 400,000. Are we looking at 40,000, 50,000 complaints of people being inveigled into inappropriate forms of employment? What are you looking at? I do not know.

**Mr Griew:** I think a couple of dozen. I think we should be clear that we do not—and I do not believe that DIAC does—keep records of the employment of students within their 20 hours. As to exactly what employment students are doing, I am not sure there would be a collection on that. As to whether and where some are working and being exploited, I do not think that there is a test we could put to that empirically.

We have had a couple of referrals. Do not let me give you the wrong impression: we have had a number of referrals—requests for information from the Federal Police over the last 2½ or three years—

**Mr RUDDOCK:** Two and a half to three years: a couple went to a number.

**Mr Griew:** Yes.

**Mr RUDDOCK:** It does not really tell me very much.

**Mr Griew:** As I explained at the beginning, our advice is that these are investigations that are open and that we should not be quantifying them.

**Mr RUDDOCK:** I would not have thought that it would be appropriate for you to give details to us of specific investigations, which have to be the subject of investigation where you might be warning people or you might prejudice your inquiries or possible prosecution. I would not ask that. But to have some idea of the dimension of the problem does not seem to me to be one of those issues of difficulty.

If what you are saying is that it goes from a couple over several years to a number, that should suggest that it may now be 400 or 500—

**Mr Griew:** No, I am sorry, let me be clear; it is a small number. The other point I was making is that all I am telling you is the number of requests we have had from the Federal Police. I do not know how many complaints they have had and I do not know whether the number of complaints they have had reflect the depth of the problem.

**CHAIR:** Your department is not responsible for the employment of students?

**Mr Griew:** No; their visa requirements are the responsibility—

**CHAIR:** So you are not necessarily going to hear about those complaints, are you?

**Mr Griew:** No, that is right—that is the point I am making.

**CHAIR:** Which is the department that is responsible? Is it the department of employment and the Fair Work Ombudsman?

**Ms Bennett:** The immigration department has responsibility for student visa conditions under the Migration Act. The fact that students have the 20 hours that they are allowed to work is a matter for DIAC.

**CHAIR:** But if there were some abuse of the student during that employment, which department deals with that? If there were some exploitation? Would that be—

**Mr Griew:** If they are exploited in relation to their working conditions I guess that is a matter for Fair Work—

**Ms Borthwick:** It would not come to us.

**Mr Griew:** No. But if they are in an extreme form of coercion—and some of the cases have led to this—then that would be a police matter.

**CHAIR:** Who do the two national regulators, TEQSA and ASQA, report to? Do they come under a minister?

**Mr Griew:** Yes.

**CHAIR:** Which minister?

**Mr Griew:** Minister Evans.

**CHAIR:** It obviously still comes back within your—

**Mr Griew:** The regulation of the providers. That is the area of the department that Jessie is responsible for.

**CHAIR:** Your department is not part of the national roundtable that the Attorney-General's Department convenes on trafficking?

**Ms Borthwick:** No.

**CHAIR:** Is there anything that you think your department could contribute to that national roundtable on trafficking?

**Mr Griew:** We made it very clear to them that we are more than happy to help, including when there have been specific case conferences organised by the police or DIAC or any other agencies. We have made it clear to all those agencies that we are more than happy to provide information. Obviously, we would be very concerned about the potential damage to both individuals and the reputation of the Australian industry here. I am not sure that we have a lot to offer in terms of the policy settings, because they mostly seem to sit elsewhere. We are regulating the providers and we would be very aggressive in our regulation of them if we thought they were involved in farming out students or participating in the misleading of students. If Attorney-General's wanted our involvement or if you recommended our involvement, we would be happy to be involved too.

**Mr RUDDOCK:** I am delighted to hear that over 400,000 overseas students know that your department has no responsibility in relation to these matters and never would think to even raise them with you.

**Mr Griew:** I think the Baird review and everything that has followed from the Baird review would indicate that we are pretty concerned for the welfare of students. The answers we have been giving, with respect, go to the legislative and regulatory levers that we have and who we therefore interact with.

**Mr RUDDOCK:** The question that follows from what I have put, now that you have qualified it, is: to what extent, amongst those 400,000 students—even though you have no remedy, no legal obligation—have reports of some form of coercion involving students come to you?

**Mr Griew:** I am sorry but I did not quite follow what the question was.

**Mr RUDDOCK:** You have 400,000 students. They do not know who they should raise these matters with, but presumably they are concerned that they are being subjected to some form of slavery—that is the issue we are dealing with. I am saying: you have got no responsibility, so when somebody rings up and says, 'We've got a problem,' you say, 'Well, that's not our business.'

**Mr Griew:** I have to reject that.

**Mr RUDDOCK:** No, you don't. You say, 'We've got some responsibility to at least listen.' So I am asking: to what extent have you quantified amongst those 400,000 students expressions of concern to you that in your interdepartmental liaison role you might have wanted to take up with those who you know now to have responsibility?

**Mr Griew:** Let me answer this. Let me be very clear that, if any student were to ring a member of the department with a complaint that they were being subjected to exploitation or an extreme form of exploitation such as slavery, which I think was the word used, there would be a very clear expectation that that would be taken seriously and we would find the appropriate point of referral for that individual. In the case you cite, that is clearly the police, and not to refer it to the police would in fact be quite wrong.

**Mr RUDDOCK:** I am asking: would you have some record, amongst those 400,000 students, of the number of times that such a matter may have been raised?

**Mr Griew:** I have made two points to you already. One is that the students themselves do not primarily interface with our department. Our department is involved in the regulation of the education providers, and they have a contact, from the point of being issued with a visa, with the department of immigration. So it is not particularly surprising that students, especially in an extreme form of coercion such as your site—if they were to make contact with the department, I would want them supported in every way possible, but it does not surprise me—

**Mr RUDDOCK:** That there have been no complaints.

**Mr Griew:** That there have not been complaints to us. I would hope those people would feel that they could go to the police or the immigration department.

**Mr RUDDOCK:** If there are any. I am trying to quantify the extent to which we have a problem, and that is the test that I have been putting to everybody that I have been talking to. There is a lot of rewriting about what

other people have written, and as far as I am concerned they may be Grimm's fairytales. I am asking you—you are an education provider, in effect—whether these matters have ever been raised with you. You have fudged and pushed around who is responsible for this and that. We have all these other regulators.

**CHAIR:** I do not think it is fair to say that he has fudged.

**Mr Griew:** With respect, we have answered your questions directly.

**Mr RUDDOCK:** Very bureaucratic.

**Ms Bennett:** You are asking for numbers. We could say that, in terms of the approaches that we have had from law enforcement agencies, it has been a really tiny number. We do not know how many cases there are, because when the queries come they are very narrowly targeted. It is a question to do with data that is on our database. Then they might ask us something three months later, and we do not know if it is the same case.

**Mr RUDDOCK:** But all you are dealing with are queries that have been raised by the AFP—

**Ms Bennett:** Yes.

**Mr RUDDOCK:** not any individual complaint that is made to the department where you refer them to somebody else.

**Mr Griew:** Because, with respect, as I have explained, the cases are going to come through the AFP or through DIAC.

**Mr RUDDOCK:** Students know that they really have to go to the AFP and DIAC and they would not ever come to you?

**Mr Griew:** With respect, I think it is more likely that the student, in the kind of situation you are talking about, would—

**Mr RUDDOCK:** I am just surprised by how well informed they are. That is all. They are just so tremendously well informed that they know exactly who they should go to—or it may mean that there is next to no problem there.

**Mr Griew:** There are clearly people who would be better able than we are to quantify the number of cases that are being pursued by the investigatory authorities, and those would be those authorities.

**CHAIR:** Do you have any further questions?

**Mr RUDDOCK:** Yes, it is just boosted by cynicism.

**CHAIR:** Just for a change! Is there anything else you would like to tell us today about your efforts to deal with trafficking issues?

**Mr Griew:** I guess what I would do is repeat the points that we have made to the AFP, to other arms of law enforcement and to DIAC: if any education provider were engaged in supporting trafficking or any related offences, we would be very keen to ensure that the toughest regulatory action possible was taken against them. If in your report you want to suggest anything that we could do, we would obviously take that very seriously.

**Ms Borthwick:** I think the other issue, as Mr Griew noted earlier, is that the new regulatory and quality regimes that have been introduced with the national regulators only—perhaps I should not say 'only'—go to the educational quality of the provision, but that has already shown early signs of improving the rigour of the provision of education, which is likely to lead to a better regulated system of provision and, I think, in some ways make it easier to identify providers that are likely to take action in arenas that you are looking at today. So, on the sorts of questions that you are raising, we should be able to in effect identify those providers more quickly, possibly through this increased and more active regulatory regime that we now have in place.

**CHAIR:** I note that there is also an Overseas Students Ombudsman. What do they deal with?

**Ms Bennett:** Student complaints.

**CHAIR:** Student complaints about anything to do with their experience in Australia?

**Ms Bennett:** The Commonwealth Ombudsman's office covers private providers. The state ombudsmen cover the public providers.

**CHAIR:** And, if they have a problem with their workplace environment, they would not go to that ombudsman? They would go to the Fair Work one, perhaps, to deal with that?

**Ms Bennett:** I think students can do either. The ombudsman takes complaints.

**Mr Griew:** I would be very surprised if the attitude in the ombudsman's office was not that a student who made contact with the Overseas Students Ombudsman raising a matter was not directly in their jurisdiction; they would help them find the right point of contact, as would, I expect, our staff.

**Mr RUDDOCK:** But it may be useful to ask them if they have not made submissions to us.

**CHAIR:** Yes, we could do that. In the event that any of your staff receive a complaint directly, do they receive training so that they know who to refer the student to?

**Mr Griew:** I am not sure that we provide direct advice, but knowing the staff—it is not a huge area—I would be very surprised if such a call would not find its way directly to Susan's office or to one of Jessie's staff. I would be fairly confident that a call that came in from a distressed individual would be pushed up or across to somebody who knew how to deal with it.

**CHAIR:** You would be confident, but you just do not know.

**Mr Griew:** But we have not got direct training in that area, and that is a fair point.

**CHAIR:** Training does not have to involve much more than awareness raising—a memo.

**Mr Griew:** Or in a staff meeting saying, 'By the way, this has been raised with us'. I would be happy to ensure that that is done.

**CHAIR:** I think that would be a good thing.

**Mr Griew:** It is a good idea, yes.

**CHAIR:** Thank you very much for your time.

**Mr Griew:** We will follow up those two matters from the review, whether they received evidence of either sexual servitude exploitation or, more broadly, labour market exploitation.

**CHAIR:** Yes, if you could send that to the secretariat, that would be great.

**Mr Griew:** We will.

**CHAIR:** You will be sent a copy of the transcript of your evidence, to which you can make corrections of grammar and fact.

**Proceedings suspended from 14:26 to 15:23**

**STEWART, Ms Melissa, Senior Advisor, Trafficking in Persons, World Vision Australia**

[15:23]

*Evidence was taken via teleconference—*

**CHAIR:** I welcome the representative from World Vision Australia to today's hearing. I remind witnesses that although the subcommittee does not require you to give evidence under oath, this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the chambers. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The evidence given today will attract parliamentary privilege. Do you wish to make an opening statement to the committee?

**Ms Stewart:** Yes, I do, thank you. First of all, World Vision Australia greatly appreciates this opportunity to make a submission to the Human Rights Subcommittee and notes that this is the first time that there has been this opportunity to shift the vision of what an antitrafficking response should be outside of Australia and Australia's responsibility to the international community. As we know, trafficking in persons is not a problem that can be solved exclusively domestically. We commend the Australian government for its understanding of the need for greater global engagement on this issue.

As you know, World Vision Australia is a Christian relief advocacy and development organisation. It is Australia's largest international NGO, directly supported by more than 400,000 Australians. World Vision advocates a rights based approach to the issue of trafficking in persons and labour exploitation, and especially that which directly impacts children. World Vision is implementing several regional antitrafficking programs in the Asia-Pacific and globally. World Vision Australia commends the Australian government for their comprehensive international and domestic initiatives to prevent and respond to trafficking in persons, and especially for the recent amendments to the domestic legislation in the Crimes Legislation Amendment Bill 2012.

On the domestic front, World Vision Australia fully endorses all recommendations detailed in the report of the Special Rapporteur on Trafficking in Persons, especially women and children, on her mission to Australia in November last year. We especially endorse the call for the appointment of a suitably qualified and internationally respected ambassador on trafficking in persons—someone who can influence international law and policy. In addition to endorsing the special rapporteur's recommendations, our submission today makes a number of additional recommendations which focus specifically on the role the Australian government can play in the review of its own procurement policies and in influencing Australian businesses who unknowingly or indirectly fuel this crime, particularly when their supply chains are long and complex and in high-risk areas for trafficking in persons. World Vision believes that individuals, governments and businesses directly fuel the crime of trafficking in persons and all have a role to play in combating it.

We recommend that the Australian government consider legislative and regulatory change—in line with the Australian parliamentary motion which took note of John Ruggie's Protect, Respect and Remedy framework, enshrined in the UN principles and guidelines on business and human rights—to encourage Australian companies to respect human rights in the communities in which they operate, to ensure Australian businesses are able to provide transparent, traceable and independently verifiable information on their supply chains and to ensure they are free from trafficking and labour exploitation.

**CHAIR:** You have recommended that the government adopt the recommendations of the special rapporteur. Which recommendations have not been picked up by government but ought to be?

**Ms Stewart:** World Vision does not program on the domestic front, so when it comes to advocacy on the domestic front we tend to align with the recommendations that were made by the special rapporteur. Specifically on the international front, we recommend that the Australian government appoint a suitably qualified ambassador on trafficking in persons. We commend the government for the announcement today of \$50 million for the Asia Regional Trafficking in Persons Project. That will build on 10 years of innovative leadership on the criminal justice response in the ASEAN region.

**CHAIR:** Do you have a view on the issue of terminology, in that most of the government responses in this area use the term 'trafficking' in quite a broad sense, even to encompass what might be referred to as slavery or slavery-like conditions, which do not necessarily involve any movement of people anywhere. Do you think that to have the term 'trafficking' covers up some of the issues that we are dealing with?

**Ms Stewart:** Australia is the only country in the world that uses the terminology 'people trafficking'. It is also one of the few countries that separates the crimes of slavery and slavery-like practices and trafficking of persons to be very distinct crimes. Under international law slavery is a very distinct crime. We believe that, today, the concept of trafficking in persons in the meaning under international law is accepted as an umbrella concept for a wide range of exploitation. The word 'movement' is not in the international definition of trafficking. While

previously assumed that there needed to be movement as an essential element of the crime of trafficking, this has been replaced by the feeling that trafficking is actually just a process by which individuals are moved into situations of exploitation. There is a broader understanding whereby any action, which includes receiving and harbouring, will result in the end exploiter in the trafficking continuum also being a trafficking offender.

**CHAIR:** Would you include a child in a village in South-East Asia involved in child labour and exploitation as a trafficking situation, even if they have never been moved anywhere?

**Ms Stewart:** I think if you used the action of receiving and harbouring. Obviously with a child you do not need the means. All you need is one of those verbs, including receiving and harbouring, into a situation of exploitation. I think World Vision would agree that we would call that a trafficking situation.

**CHAIR:** Thank you. In your submission you have suggested that Australia could leverage its role in the Bali process to demonstrate leadership on the issue and to complement the work of the Ambassador for People Smuggling Issues and the Global Ambassador for Women And Girls. What would you envisage Australia could do in such a role?

**Ms Stewart:** I think we have to acknowledge that, to date, the Bali process has predominantly only been about the smuggling of migrants, and that the two issues have been conflated to the detriment of the work on trafficking in persons. But the Bali process is an important forum for Australia to play an international role on this issue. If it is possible to distinctly separate the issues and actually put trafficking as a separate crime and give it more weight, then we support using that forum to do so. If, as we have seen to date, trafficking has only been a side issue or that the two issues have been conflated together, then we would not support more focus on the linking of the two issues. It concerns us that Australia may be perceived to have other agendas at play when the two issues are conflated.

**CHAIR:** One of your recommendations is that the Australian government should consider bringing the Commonwealth procurement guidelines into line with other developed countries by specifically addressing child enforced labour. Can you tell us what is happening in other developed countries in that regard and whether there is any evidence that Commonwealth procurement is actually getting products that are the result of child enforced labour.

**Ms Stewart:** Right now the Commonwealth procurement guidelines do not take note of whether contractors are trying to address child enforced labour in the supply chain or are taking action once they find out there is trafficking of child enforced labour in their supply chain. Recently, in September, President Barack Obama and the United States issued an executive order combating human trafficking in their procurement policy. I think this shows great leadership in that it expressly bans US government contractors from engaging in human trafficking. The President noted that the United States was the largest purchaser of goods and services globally and that the executive order was being used to put that economic influence to work in combating the crime. We recommend that Australia take note of what has been happening in other jurisdictions like the US on a state level, with the Californian Transparency in Supply Chains Act, and currently in the United Kingdom there is a transparency in supply chains bill in front of the parliament right now which mirrors the Californian Transparency in Supply Chains Act. So a number of other jurisdictions are already showing great leadership on this issue, realising the enormous impact that a government can have, both on a practical level and on a symbolic level, by putting pressure on businesses to report on what is happening and to take a closer look at not only their first tier suppliers but also at their second tier and third tier subcontractors and suppliers.

**CHAIR:** In relation to encouraging corporate Australia to do more in this field, and of course we had a recent example of the Sherrin footballs, are you aware of a relatively new organisation that has been formed by Andrew Forrest called the Walk Free organisation?

**Ms Stewart:** Yes.

**CHAIR:** Are you aware of their activities? Are you in touch with them at all?

**Ms Stewart:** I am in touch with a number of individuals who have recently joined the Walk Free entity, in particular Fiona David, who is their executive director for global research. It is a new organisation. We believe that they have a role to play. We commend Andrew Forrest for, in his submission, committing to a policy of zero tolerance for forced labour or for slavery in the Fortescue Metals Group's supply chain and for working with other corporates in order to influence their supply chains. So if we continue to see the good work that they will be doing on this issue we will be happy to support them.

**CHAIR:** It has not been going very long, has it?

**Ms Stewart:** No. It is relatively new and, from my understanding, they are setting up and working on the strategy for their policy calls.

**CHAIR:** With 'those kinds of initiatives' is that the kind of thing you have in mind or are you advocating more solid government regulation of this field?

**Ms Stewart:** We believe that it has to be a three pronged approach. From my understanding, Walk Free is exclusively going to focus on doing advocacy—maybe even quiet advocacy—with the business community and focus on consumers through social media. I am not familiar with or I have not seen whether Walk Free has advocated for any corporate legislation or legislative or regulatory changes on this issue. World Vision believes that there has to be a three pronged approach while gently nudging corporates to look at their supply chains. In the same way that the environmental movement has changed as to corporates and corporates are now part of 'environmental impact' in their annual report, we believe that, in line with the Ruggie guidelines and in line with international commitments that Australia has made as to the UN principles and guidelines, this will be something that will be happening in the foreseeable future.

**CHAIR:** I am not quite understanding it. Are you saying that we ought to be regulating or that we ought to be encouraging business to adopt these practices?

**Ms Stewart:** World Vision is suggesting that there is a number of measures that could be taken by the Australian government in their consideration of a legislative and regulatory response. These are the three ideas that we suggested in our submission:

This could include, but not be limited to:

- Mandatory disclosure of human rights actions and impacts on non-shareholders, in the annual reporting of all Australian Stock Exchange (ASX) listed companies.
- Establishing a mandatory reporting regime, requiring financial lenders to receive, consider, and report on information about the human rights practices of the corporations and associated supply chains, to which they lend.
- Mandatory disclosure of all human rights due diligence procedures and remediation mechanisms for Australian business operating in industries identified as being at a high risk of engagement with slavery, slavery-like conditions, and people trafficking.

**CHAIR:** And those industries would be which ones?

**Ms Stewart:** Research has shown that situations of trafficking have been found in the electronics industry, the fishing industry and the apparel industry.

**CHAIR:** Okay, thank you.

**Ms Stewart:** Furthermore, we also suggest that the Australian government could consider revising the Corporations Act 2001 to integrate directors' duties with a human rights agenda by introducing more specific obligations regarding several non-financial considerations, including express consideration of human rights impacts.

**Senator MOORE:** Ms Stewart, how long have you been in your position?

**Ms Stewart:** I have been in my current role with World Vision Australia for three years.

**Senator MOORE:** I think I have met you before.

**Ms Stewart:** Yes, we have. We met in Brisbane.

**Senator MOORE:** I thought so, but I just wanted to check. How are you?

**Ms Stewart:** I am very good, except I sound very nervous because this is my first appearance.

**Senator MOORE:** No, you are doing fine.

**Ms Stewart:** Ms Stewart, in terms of the process, your submission concentrates very much on that regulatory process, particularly with business. Has World Vision established dialogue with the large business enterprises—the Australian Industry Group and that mob—about what their willingness would be to take on some of the things that you have suggested?

**Senator MOORE:** World Vision is not taking an adversarial approach with business; World Vision is hoping to work with business to see how business can bring itself into line with international standards. As you know, from our approach to the chocolate industry, we have had great success in working with our advocates but also with the companies directly in promoting supply chains or cocoa acquisition that is free from child labour. Similarly, we have just joined the Australian branch of the UN Global Compact, which gives us a forum for speaking with business on the implementation of the Reggie principles and the UN principles and guidelines. Most notably, we are actually noting Australian companies—in particular, Australian mining companies—are taking a leading role in taking their responsibilities on this quite seriously. This is especially the major mining companies. We commend them for those efforts.

**Senator MOORE:** It seems to me that in the mining industry they have established an international concord around these kinds of issues in terms of getting the regulatory process in place and having this social awareness about their processes. I am not convinced that in the recommendations that you have got before us that there is the same knowledge and awareness across the board.

**Ms Stewart:** There are similar initiatives in the electronics industry. There are some codes of conduct that the electronics industry in certain companies have signed on to—in particular, the EICC, which is the Electronic Industry Citizenship Coalition, and the GeSi, which is the Global e-Sustainability Initiative, which provide codes of conduct to ensure ethical supply chains in the electronics industry. One of the problems is that there are no set professional standards for social auditing yet, and one of the concerns on the flipside of Obama's executive order is that there will be an increasing number of social auditing companies and individuals bidding for contracts that are not certified to undertake professional auditing, such as there is in the financial audit side of things. That is something that has just recently been raised with us. I recently attended the UN Special Rapporteur's expert working group meeting on trafficking and supply chains in Ankara, Turkey—just two weeks ago—and this was a point that was raised by a number of academics and experts, and industry reps, around the table. The other thing is that, to date, most companies are still only looking at their first-tier suppliers—

**Senator MOORE:** Yes.

**Ms Stewart:** and Ruggie's principles, the UN principles and guidelines, very specifically state that it has to extend to subcontractors as well. In practice, that is very difficult. In some of those major corporations, there can be up to 70,000 third-tier suppliers. So we appreciate that this is not an easy road and an easy challenge, but steps need to be taken to start to address it in the best way that we can.

**Senator MOORE:** Right. You mentioned that other countries were taking into account their government procurement processes. I am aware of Obama's process and the pre-existing Senate guidelines that we used in the chocolate industry—

**Ms Stewart:** Exactly.

**Senator MOORE:** I forget the name; I know it begins with 'h'. But I am unaware of any country apart from the UK that has legislation before the house, and it could take years. That is my understanding; it is kind of just sitting there. Could we get information on any other countries that you are aware of that have these kinds of guidelines in place? Then, when the committee are looking at their work, we will have some indication of what the knowledge base is.

**Ms Stewart:** I am going to have to take that on notice and get back to you.

**Senator MOORE:** Please do. That would be great.

**Ms Stewart:** Okay.

**Senator MOORE:** You made the point about the difficulty of obtaining the transparent history you are asking for. I have to admit, when I was reading the submission, that came to me as well—that, when you are trying to encourage companies to do this, they will immediately look at the budget impact and the workload impact of doing it. It is about whether the knowledge base there can easily be tapped into. If you wanted to do the right thing—as it seems Twiggy Forrest's organisation does—how easy is it to get the information?

**Ms Stewart:** That is a very good point. With the model he is using, we will wait and see what the impact is of the work that that organisation is doing. But, by building an educated public and consumer base, we will be able to provide eyes and ears on the ground where we cannot always be there to do the auditing. That is also an important role for NGOs to play in the hot spot, high-risk areas to ensure that we can act as watchdogs on some of the reports from victims and case studies that we hear about, in order to report back where we have concerns.

I think, in the age of social media, things have changed dramatically. We can find out these things, as Apple knows. They found out about labour abuse in one of their factories in China immediately, and it is a real brand management risk to them. That is why the major multinationals are taking this issue much more seriously than they perhaps previously would have.

For us, it is far more important how an organisation, company or business deals with the incidence of labour exploitation. For example, we commend Apple's annual report from two years ago, where they actually took note of a reported incident of child labour and they outlined exactly the steps they took to mitigate the situation and provide compensation to the victims involved and the liability they put on their supplier. We call on companies to not only respond to such incidents but also take preventative measures before a supplier is engaged to ensure that the risks of such events are minimised.

**Senator MOORE:** This is my last question, Chair. We have had a number of submissions to this inquiry, and they are all public so you can read them. I am interested in whether there is a kind of network of people working in this area, sharing their knowledge and interest. Whilst I am aware that there have been a couple of conferences, like the one I met you at in Brisbane, they do not seem to be regular. They are driven by individuals' passion and occur from time to time. Are you aware of any process within Australia where people who have a real interest in this area—and we know there are—have some form of networking and sharing so that, instead of working in isolation, there is that power of cooperation?

**Ms Stewart:** I think it operates on a number of levels. The anti-trafficking organisational community and interested individuals are a relatively small number in Australia. Most of us sit on or are represented on the National Roundtable on People Trafficking. A number of the points that were raised in our submission have already been raised repeatedly in some of those meetings. As well, when the special rapporteur visited, there were a number of ad hoc meetings organised with civil society to come together to speak to her. Antislavery Australia regularly hosts in Sydney—it has actually become quite national, or at least focused on Victoria and New South Wales—what we call the anti-trafficking network, which brings together NGOs and sometimes guest speakers from government to discuss common issues. Then, of course, there are also personal relationships. A number of us have been working in the anti-trafficking field for over a decade, both in Australia and internationally, predominantly in the South-East Asia region, and we regularly keep each other up to date and are fuelled by a common passion on this issue.

**Senator MOORE:** Thank you very much.

**CHAIR:** The deputy chair asked me to ask some questions on his behalf because he was not able to be here at this time. He wanted to know what are the root causes of human trafficking and are they different from those aspects of the Millennium Development Goals that we are trying to address, such as poverty? Could you address that briefly.

**Ms Stewart:** World Vision takes a really important stand on this, and that is to recognise that trafficking is a crime and that the root cause of this crime is the demand by offenders to exploit other people. The reasons people are vulnerable to ending up in trafficking situations are very much because of lack of employment and economic opportunities, lack of opportunities for low-skilled workers to migrate to other countries and when people leave conflict areas where children are left in vulnerable situations and in need of protection.

All of these reasons can make people more vulnerable to ending up in these situations, but the root cause is actually the fact that, to date, there has not been enough focus on prosecutions of the end exploiters in the trafficking continuum, the worst offenders in this process—the people who are profiting from the exploitation of others—and the lack of support for victims. Other reasons that make people vulnerable are the lack of social protection in a lot of countries, the lack of the rule of law and the lack of effective child protection systems. These are all need to be addressed.

Under the Millennium Development Goals, trafficking is not identified as a specific issue, but by reducing the factors that make people vulnerable we help to reduce the opportunity for offenders to exploit people for their labour.

**CHAIR:** Is there any evidence that Australian procurement, particularly government procurement, is resulting in Australia getting products that have been obtained through child forced labour?

**Ms Stewart:** I will take part of that on notice and get back to you. It is really difficult in some of these complex supply chains to directly attribute where something has come from. So it is difficult to attribute, in any of the government supply chains, complicity in exploiting labour to a single supplier. What we do know is that in certain industries there is a very significant risk of there being forced or child labour with some of the products mined. For instance, in regard to artisanal mining in Congo, there is a high incidence of child labour in subsistence mining. We know that the electronics industry is the single largest consumer of coltan, tungsten and tin sourced from the DRC, and there is a high risk that this is tainted for forced and child labour. Imported electronics products almost certainly have elements or traces down to the supply chain, but I am not sure we can attribute them to a single supplier. That is why we hope that the Australian government puts the onus on suppliers to start looking closer to the ground level of the supply chain.

**CHAIR:** Is the main point of getting the government to bring in Commonwealth procurement guidelines to set an example for others?

**Ms Stewart:** Absolutely. We hope the government of Australia shows its leadership on this issue and brings it in line with some of the initiatives that are happening in the UK and the US, to be an example for business. That would be the first step in showing business how the Australian government expects them to be operating. To

make a strong statement about having traceable supply chains that are free from child labour would show the Australian government's incredible commitment to ending forced and child labour. The impact would be similar to that that Obama's executive order had on businesses, the general public and the media. Also, it would put pressure, if it was implemented correctly, on the corporates and their suppliers to start reporting on this. The process of reporting, even at the first level, raises the awareness of procurement officers and CEOs that this is an important issue and it makes them more alert to looking at this. I think that for many years it was not just that people turned a blind eye but that they were not even aware that there was a possibility of things happening. I think it would turn businesses on to understanding that there are things happening in their supply chain that they never knew existed.

**CHAIR:** What other advocacy do you think Australia could do at the international level to raise awareness? Do you think something could be done during Australia's hosting of the G20 or in our submissions to the universal periodic reviews?

**Ms Stewart:** Yes. I will take that on notice as well. On both those points Australia has a really important role to play, especially with the G20 meetings. The WTO is another place to raise these comments. Oftentimes great initiatives at a state level can be criticised or the WTO can put pressure on initiatives. That is another avenue for advocacy, certainly in the UPR process. I also think that, on the international stage right now, and following from this UN expert group working meeting, this is the new area that people and agencies working on trafficking are focusing on. The focus to date has been on implementing national legislation and on good protective systems for victims et cetera. But, now, the next generation thinking on trafficking is that we should focus on the incredible power that business can have down at the supply chain end. That is oftentimes more powerful than national governments can have if they are just focusing domestically, as many of these multinationals go far outside borders.

We would certainly appreciate and support the Australian government for raising this in forums such as the G20. With the appointment of a suitably qualified and well respected Australian ambassador, focused exclusively on trafficking of persons, that person could also be sitting at the international tables where Australia does not currently have a seat. There are a number of high-profile ambassadors including from the US government, Luis CdeBaca; the Swedish government—there are a number of high-profile ambassadors—and the special rapporteur, meet regularly to influence international law and policy on this very issue. Until such time as Australia has someone that can sit at that table Australia will not have as much influence in these small circles of influence.

**CHAIR:** What is the name of that body that meets?

**Ms Stewart:** It happens ad hoc, but they meet very frequently.

**CHAIR:** So that does not have a name?

**Ms Stewart:** The UN Special Rapporteur has her own expert working group meeting on specific thematic issues but she regularly consults with the ambassadors on trafficking and the various states that have them.

**CHAIR:** I have another question from the deputy chair. World Vision has made a recommendation that the Australian government should sign and ratify ILO convention 94 concerning labour clauses and public contracts. The deputy chair wanted to know what the implications and unforeseen consequences might be of this.

**Ms Stewart:** I will have to take that one on notice. The primary objective of C94 is to remove labour costs as an element of competition between bidders for public contracts and to ensure that public contracts do not force wages and working conditions to fall below minimum labour standards. We believe that the implementation of this will have a real impact on Commonwealth procurement guidelines as C94 requires that all public procurement contracts awarded by the central public authorities shall include appropriate labour clauses which set minimum standards for workers who were employed by a contractor.

**CHAIR:** What interaction do you think such a signing of this treaty would have in relation to our free trade agreements?

**Ms Stewart:** I will have to take that question on notice.

**CHAIR:** Many of those free trade agreements actually exclude labour clauses. That is an ongoing matter.

**Ms Stewart:** Yes.

**CHAIR:** There have been a number of submissions that have referred to the fact that wherever prostitution is legalised this has actually created a greater trafficking problem—more of a demand for trafficked women particularly—and that a better approach would be to criminalise the users of prostitution services. Does World Vision have a view on this issue?

**Ms Stewart:** Our experience in the field has shown no evidence to suggest that that is correct. And we feel the need to exercise great caution in linking trafficking with prostitution. We acknowledge that there have been academic criticisms of the Swedish model, and from what we understand, no direct impact of the implementation of the Swedish model in reducing trafficking of persons. World Vision takes a human rights approach to this issue and focuses primarily on issues regarding children. Therefore the issue with regard to adults is not something we focus on. We also have a stronger focus on the issue of labour trafficking, which is a much bigger issue globally than trafficking and sexual exploitation. Nonetheless, we are always concerned that any criminal justice approach takes a strong look at the impact and whether it has the unintended consequence of pushing an industry farther underground in order to make people more vulnerable and victims less identifiable by law enforcement agencies.

**CHAIR:** In its submission, the Australian Christian Lobby cited a study of the European Parliament on national legislation on prostitution and the trafficking of women and children. It stated that there has been a decrease in trafficking since Sweden introduced its prostitution laws and that it has led to a concrete decrease in the number of victims of human trafficking. Do you have any comment to make on that?

**Ms Stewart:** World Vision Australia is not familiar with that report. However, I would always caution in statistics when it comes to the number of trafficking cases. An increase or decrease in the number of trafficking cases reported can be due to one of two things, and they are the increased ability of law enforcement to identify victims and therefore an increase shows, or there is a decrease in that the problem is actually getting better because we have been spending so much money on the antitrafficking response over the last decade. I have not read the report so I cannot comment on its veracity. Speaking in my personal capacity as an expert on this issue, I am always very wary of what indicators indicate when it comes to numbers on trafficking.

**CHAIR:** Finally, I note the request for the government to establish a body for the promotion of capacity development to improve corporate citizenship. Did you want to expand upon that?

**Ms Stewart:** Just to acknowledge that pulling together a forum, bringing business and government and civil society together, to discuss these important issues in a meaningful way, in a non-adversarial way, would be very progressive and productive.

**CHAIR:** Was there anything else that you wanted to add?

**Ms Stewart:** No. I think that covers every part of our submission. Thank you very much.

**CHAIR:** Thank you, Ms Stewart, for your evidence at the hearing today. Any additional material that you have been asked to provide on notice, would you please forward it to the secretariat. You will be sent a copy of the transcript of your evidence, to which you can make corrections of grammar and fact.

**Subcommittee adjourned at 16:07**