



**PROJECT
PARADIGM**
WORKING TO END CHILD EXPLOITATION



**SUBMISSION -
SLAVERY**

The National Strategic Partnership welcomes the opportunity to provide a submission on the *Modern Slavery Act 2018 (Cth)*.

Terms of reference:

Whether it is necessary or desirable to do anything else to improve the operation of the Act and any rules;

Modern slavery is an umbrella term that refers to a range of serious exploitative practices (**National Action Plan**) for all forms of slavery, human trafficking and exploitation and takes many forms. It is a hidden crime with victims often unable to come forward due to fear or shame, or because they are unable to leave their situation. The prevalence of the different types of modern slavery across Australia varies by region and may change over time. Reporting is partial and quantifying the number of victims is challenging. At present the *Modern Slavery Act* encompasses criminal offences relating to deprivation of civil liberties, human trafficking, forced marriage and child labour. The National Strategic Partnership group are concerned about the omission of child sexual exploitation (CSE) as a specific type of modern slavery within its definition/s, noting that it is imperative that in order to be effective, the Act must recognise that child sexual exploitation as it falls within a wider continuum of exploitation, violence and abuse.

Currently, under the Act, slavery describes situations where coercion, threats or deception are used to exploit victims and undermine their freedom. The Act defines modern slavery with reference to eight types of serious exploitation; trafficking in persons, slavery, servitude, forced labour, forced marriage, debt bondage, deceptive recruiting for labour or services and the worst forms of child labour. The Act fails to identify the unique experience of child sexual exploitation explicitly.

Under the **National Action Plan to Combat Modern Slavery (2020-2025)**, sexual exploitation is mentioned under trafficking, captured under the 'purpose' field but fails to extrapolate on the issue throughout the remainder of the document.

The **Objectives of the Modern Slavery Act** are that it complements other laws and international conventions that criminalise and forbid slavery. Currently, the Australian Modern Slavery Act legislation stands in stark contrast to international legislation and policies which clearly enshrine child sexual exploitation within the context of human trafficking and modern slavery regimes.

In the USA, child sexual exploitation is recognised under human trafficking legislation as "sex trafficking of children," (U.S Advisory Council on Human Trafficking, 2022).

The US Department of Justice defines Human Trafficking as:

"Human Trafficking, also known as trafficking in persons, is a crime that involves compelling or coercing a person to provide labor or services, or to engage in commercial sex acts. The coercion can be subtle or overt, physical or psychological. Exploitation of a minor for commercial sex is human trafficking, regardless of whether any forms of force, fraud or coercion was used," (US Department of Justice, 2022).

The US Department of Justice notes that anyone can be trafficked, but in the case of children, those in the welfare system, juvenile justice system, who have run away or are homeless, who are unaccompanied or do not have lawful immigration status in the United States are more likely to be targeted as are members of marginalized communities (2022).

Originally prohibited under the 13th Amendment to the U.S Constitution which barred slavery and involuntary servitude in 1865, since 2000, Congress has passed 9 associated bills (US Department of Justice, 2022a). Prior to this, attempts to respond to human trafficking fell under several federal statutes related to involuntary servitude and slavery but these were “narrow and patchwork,” (US Department of Justice, 2022a).

The United Kingdom’s Modern Slavery legislation clearly articulates that modern slavery includes sexual exploitation, criminal exploitation, and forced labour and domestic servitude and furthermore, children (those aged under 18 years) are considered victims of trafficking whether or not they have been coerced, deceived or paid to secure their compliance. This echoes the USA definition.

Article 4(a) of the Council of Europe Convention on Action against Trafficking in Human Beings (the Convention) defines ‘human trafficking’ as:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” Exploitation includes prostitution or other forms of sexual exploitation.

What is Child Sexual Exploitation?

The United Nations says...

Child sexual exploitation is the abuse of a child where some form of remuneration is involved whereby the perpetrators benefit – monetarily, socially, politically, etc. Exploitation constitutes a form of coercion and violence, detrimental to the child’s physical and mental health, development, and education.

Offenders are deceptive and manipulative, targeting children and young people in effective ways, ensnaring, isolating and controlling away from families and support networks, without people to look out for them or recognise the signs that they are being exploited.

The Act outlines modern slavery as conduct which would constitute:

- (a) an offence under Division 270 or 271 of the *Criminal Code*; or
- (b) an offence under either of those Divisions if the conduct took place in Australia; or

- (c) trafficking in persons, as defined in Article 3 of the Protocol to Prevent, Suppress and punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000 ([2005] ATS 27);
- (d) or the worst forms of child labour, as defined in Article 3 of the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, done at Geneva on 17 June 1999 ([2007] ATS 38).

Extrapolating on the United Nations Human Rights Instruments, the preamble states that Parties to this Protocol declare effective action against trafficking. Exploitation is clearly captured within the definitions listed under subsection c, Article 3 terms which states

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

Within **Australia's international engagement strategy on human trafficking and modern slavery: delivering in partnership** report, it clearly articulates that the crimes of trafficking and slavery are not only viewed as criminal offences but as human rights violations and highlights the crucial role that Governments play in combatting modern slavery in their own jurisdictions, as lawmakers, regulators and through law enforcement.

Recommendations:

Australia does not currently have a consistent national definition of CSE making it difficult for practitioners and agencies to identify, monitor and respond effectively (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017). Much of the discourse and language relating to CSE within a social policy and law enforcement context, focuses on online grooming or child exploitation material (CEM) (CDPP, 2019), both of which, while important issues, distract from CSE that takes place in the community (Townson, 2019).

The National Strategic Partnership wishes to see a nationally consistent definition of CSE as it pertains to community contexts coupled with the Modern Slavery Act amended to reflect child sexual exploitation under the definition and descriptions of child trafficking and a clear reference made to CSE. The fragmented nature of the supporting documents that have been designed to support community understandings of the Modern Slavery Act legislation need to be realigned so as all of their definitions of modern slavery are consistent and inclusive of CSE .

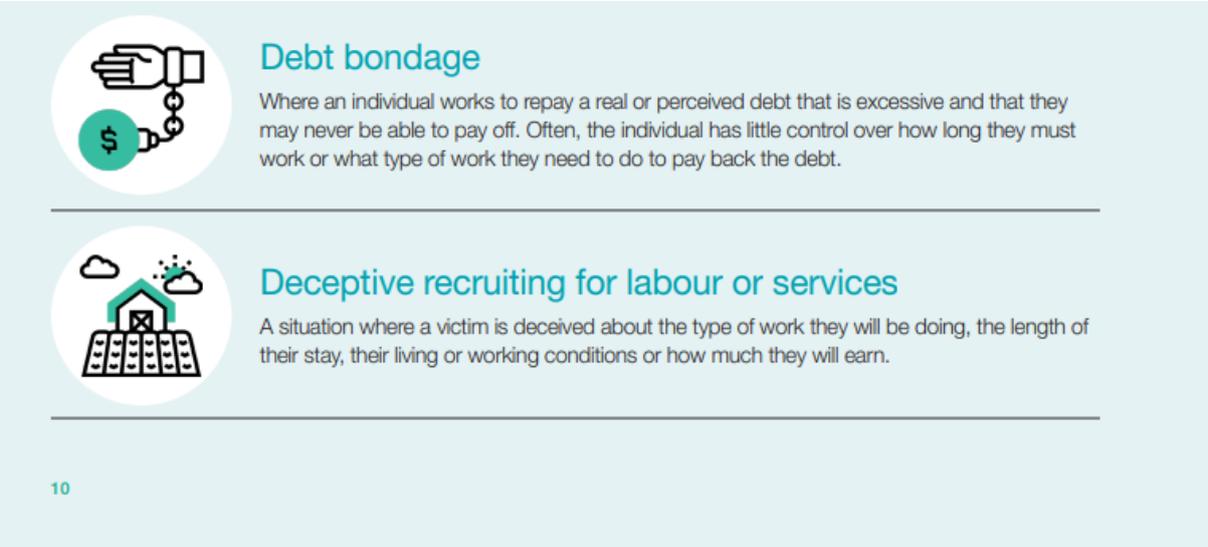
Amendments are needed on page 8 of the **Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities**,

6. The Act defines modern slavery as including eight types of serious exploitation: trafficking in persons; slavery; servitude; forced marriage; forced labour; debt bondage; deceptive recruiting for labour or services; and the worst forms of child labour. The worst forms of child labour means situations where children are subjected to slavery or similar practices, or engaged in hazardous work.

And within its Appendix 1:

Trafficking in persons	Describes the recruitment, harbouring and movement of a person for exploitation through modern slavery.	An orphanage actively recruits children from families and pays parents to place children in their care. They promise children will be well educated and cared for in the orphanage. The children are removed from their parents and housed in substandard conditions. The orphanage makes false claims that the children are orphans to attract donations. The children are exploited in the orphanage, including for sexual exploitation and for the purpose of orphanage tourism. A number of Australian travel companies regularly visit the orphanage with tour groups.
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And furthermore across the **National Action Plan to Combat Modern Slavery (2020-2025)** on page 10 where it is omitted.



The infographic is set against a light blue background and contains two sections. The first section, titled 'Debt bondage', features an icon of a hand holding a chain with a dollar sign. The text explains that it occurs when an individual works to repay an excessive debt, often with little control over their work. The second section, titled 'Deceptive recruiting for labour or services', features an icon of a house with a lightning bolt. The text explains that it is a situation where a victim is deceived about their work, living conditions, or earnings. The page number '10' is located in the bottom left corner of the infographic.

The National Strategic Partnership seeks to see primary, secondary and tertiary CSE disruption efforts encapsulated within the five **National Strategic Priorities** that are provided to address modern slavery.

Within priority 1, **Prevention**, addressing the root cause of CSE by funding domestic community-based programs that prevent and deter child sexual exploitation and looking for opportunities to educate and empower communities about the risks and vulnerabilities of CSE.

Within priority 2, **Disrupt, investigate and prosecute** the National Strategic Partnership is keen to see dedicated CSE training and resourcing to ensure effective and successful investigations and prosecutions coupled with a review of the current Criminal Code relating to CSE with the view of strengthening the legislative framework to detect, prevent and respond to CSE crimes by the production and implementation of laws and policies that specifically seeks to address child sexual exploitation as it associated with the term ‘modern slavery.’

Within priority 3, **Support and protect**. The Group is advocating for increased community access to tailored CSE information and funding for training across

frontline professionals, ensuring that holistic, trauma informed and victim-centred support is available to young people and their families impacted by CSE.

Within priority 4, **Partnership** the National Strategic Partnership is keen to maintain and establish close multiagency collaborations across government, partners, business and academia to ensure shared language, definitions and a coordinated response to addressing CSE nationwide.

Lastly with respect to priority 5, **Research**, the Group would like to see emphasis placed on building the current evidence base to combat modern slavery, with dedicated research funding assigned to exploring the emerging CSE issue which is present nationally.

The National Strategic Partnership wishes to see an addendum made to the Modern Slavery Act to ensure that adults over the age of 18 years are required by law to report reasonable suspicions of acts deemed modern slavery to the Australian Federal Police and relevant government authorities. At present the Act only requires Australian entities and entities that carry out business within Australia to complete a modern slavery statement, with a focus on assessing modern slavery risks within their operations and supply chains but an omission about reporting the very acts that constitute modern slavery itself.

Critiques of the UK anti-slavery legislation have commented that despite the number of children with experience of exploitation in the UK, children have been largely sidelined in UK anti-slavery policies highlighting an absence of a children's rights approach undertaken with the Act and its policies. The National Strategic Partnership would like to see the Modern Slavery Act revised to frame it as a human rights issue and as a criminal justice and immigration issue (Jimenez et al, 2022) ensuring that the unique needs of children and young people, who are disproportionately affected, are reflected within its parameters.

This submission is for and on behalf of the following agencies and individuals, collectively referred to as the **National Strategic Partnership on Child Sexual Exploitation**:

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Reference:

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