



Submission No 63

**Inquiry into Slavery, Slavery-like conditions and People  
Trafficking**

**Organisation:** National Children's and Youth Law Centre

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**From:** Matthew Keeley <matthew.keeley@ncylc.org.au>  
**Sent:** Monday, 13 May 2013 4:32 PM  
**Subject:** RE: Inquiry into Slavery, Slavery-like conditions and People Trafficking

Thank you for your email, and your invitation to make a brief submission.

The following comments pertain to the first of the Inquiry's terms of reference: *Australia's efforts to address people trafficking, including through prosecuting offenders and protecting and supporting victims.*

After perusing the submissions made and transcripts to date, I note with concern the lack of any contributions from State or Territory Governments or Departments (apart from the Victorian Department of Justice and Victoria Police joint submission). It is disappointing, to say the least, that no other State or Territory Government or Department has seen fit to contribute to this most worthy of Inquiries regarding matters occurring within their own State or Territory borders.

I also note with concern the lack of any significant attention paid in the submissions and hearings to the specific issue of *forced child marriage in Australia*. Forced child marriage is a specific subset of child abuse and of forced marriage requiring unique responses, in particular due to the vulnerability of its victims. To be effective, those responses require cooperation, collaboration and information sharing between State or Territory agencies, Commonwealth government agencies and non-government organisations. This lack of specific attention to the issue is, however, not uncommon. Within discussions about forced marriage in Australia, the dominant discourse is one about the forced marriage of (adult) women within a service response context consistent with responses to adult family, domestic and sexual violence towards women, or slavery and trafficking contexts. Conversely, a coherent discourse that places *forced child marriage in Australia* within a service response context consistent with existing frameworks focusing on preventing or responding to child abuse and neglect is only beginning to emerge. It is perhaps for this reason that State or Territory child protection authorities may not have recognised the opportunity to contribute to the Inquiry.

That said, my concern is now that the Inquiry cannot make well founded findings and recommendations pertaining to the specific issue of *forced child marriage in Australia*, precisely because significant actors on the issue – State or Territory child protection authorities and State or Territory police – have failed to give evidence. My concern on this score is exacerbated by recent correspondence I have received from the Australian Government. In that correspondence, the Australian Government asserts that forced child marriage in Australia is a criminal justice concern, and the child protection framework of each State and Territory forms part of the criminal justice response to forced child marriage. Specifically, the correspondence states that the AFP is the agency with primary responsibility for responding to suspected victims of forced child marriage, including referring them to child protection authorities and the Support Program. I list below some direct quotes from the correspondence detailing and repeating the Australian Government's position:

- *The AFP is the agency with primary responsibility for responding to suspected victims of forced marriage, including referring them to child protection authorities and the Support Program.*

- *We view that it is a criminal justice concern, and that the child protection framework forms part of the criminal justice response to child forced marriage.*
- *This section refers to the primacy of child protection authorities. We note again that this should emphasise the role of the AFP, and its role in contacting child protection authorities. All other responders fall in behind that.*
- *The list of main services needs to emphasise the AFP as the agency with primary responsibility, and its role in contacting child protection authorities. All other services fall in behind that.*
- *As per our comments above, this needs to emphasise the AFP as the agency with primary responsibility, and its role in contacting child protection authorities*
- *We note that workers should call triple zero in an emergency or when risk of serious harm or danger. In every other circumstance, the worker should contact the AFP (i.e. not only when there is an overseas element or an immediate risk of harm).*
- *To be clear, if a person is a suspected victim of a forced marriage, the appropriate referral and support pathway is through the AFP and Support Program, which may include referral to child protection.*

The Sub-Committee would no doubt have benefited from State and Territory evidence as to the accuracy of the above position from their perspectives and specifically whether:

- State and Territory police agree that the AFP must be the first point of contact?
- State and Territory police consider that the AFP's asserted role will undermine the reporting of state-based offences associated with forced child marriage, such as sexual assault, domestic violence etc?
- State and Territory child protection authorities agree that the AFP must be the first point of contact?
- State and Territory child protection authorities consider that the AFP's asserted role undermines each State and Territory's mandatory reporting scheme for child abuse?
- MOUs or other arrangements have been entered into giving effect to the position asserted by the Australian government?

In conclusion, I respectfully submit that as regards the specific issue of *forced child marriage in Australia*, the Sub-Committee should not make any findings or recommendations consistent with the position put by the Australian Government above, without first having had the opportunity to hear evidence from State and Territory Governments and relevant Departments. I understand that this is not likely to occur in the Sub-Committee's preferred timeframe, and I therefore respectfully ask that the Sub-Committee give consideration to recommending that a future Committee be referred an *Inquiry into Australia's efforts to address forced child marriage in Australia, including through all levels of government, non-government organisations, child care and protection approaches and support for victims and the role of criminal investigation and prosecution agencies within that.*

As discussed with you, I look forward to also making a more detailed, formal written submission to the Inquiry in due course.

Yours sincerely

## Matthew Keeley

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