



Law Council
OF AUSTRALIA

International Strategy on Human Trafficking and Modern Slavery: Consultation Paper

Department of Foreign Affairs and Trade

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About the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Law Firms Australia, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar
- Law Firms Australia
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of more than 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the constituent bodies and six elected Executive members. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive members, led by the President who normally serves a 12 month term. The Council's six Executive members are nominated and elected by the board of Directors.

Members of the 2020 Executive as at 1 January 2020 are:

- Ms Pauline Wright, President
- Dr Jacoba Brasch QC, President-elect
- Mr Tass Liveris, Treasurer
- Mr Ross Drinnan, Executive Member
- Mr Greg McIntyre SC, Executive Member
- Ms Caroline Counsel, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.

Acknowledgement

The Law Council is grateful to its Business and Human Rights Committee and the Law Society of New South Wales for assistance in the preparation of this submission.

Executive Summary

1. The Law Council welcomes the opportunity to make a submission to the Department of Foreign Affairs and Trade (**DFAT**) regarding the consultation paper on a new *International Strategy on Human Trafficking and Modern Slavery (the 2020 Strategy)*.
2. It notes that the 2020 Strategy arises as part of the Australian Government's *Foreign Policy White Paper* commitments from 2017, and will build upon the previous *International Strategy on Human Trafficking and Slavery (the 2016 Strategy)*, providing a coordinated framework to inform Australia's international efforts to help eradicate modern slavery, including through diplomacy, international development, multilateral engagement, and trade and advocacy work, with a focus on the Indo-Pacific region. The 2020 Strategy is also intended to complement the proposed *National Action Plan to Combat Modern Slavery 2020-24*, as well as other international strategies such as the proposed new *International Development Policy* and the *Ending Violence against Women and Girls Framework for Action (2020-2030)*.
3. In responding to the consultation paper, the Law Council draws upon its recent submission to the Australian Border Force (**ABF**) regarding the Australian Government's Public Consultation Paper on the proposed *National Action Plan to Combat Modern Slavery 2020-24*, which it submitted on 21 February 2020.¹
4. It uses the term 'modern slavery' according to Australia's federal legislative framework as including human trafficking, slavery, servitude, forced marriage, forced labour, debt bondage, deceptive recruiting for labour and services, and the worst forms of child labour.
5. The Law Council makes several key recommendations at this stage of the consultation, including that:
 - the 2020 Strategy specify the full range of relevant international human rights and labour standards that should guide Australia's response on modern slavery;
 - the 2020 Strategy be developed based on an evaluation of the 2016 Strategy, and include specific actions, timelines and review processes;
 - Australia should promote the *Modern Slavery Act 2018* (Cth) legislation internationally as one leading example of a legislative model, and seek corresponding responses to address modern slavery as a global issue;
 - Australia should also engage with other States' best practices on modern slavery to inform its own response, in particular by introducing due diligence legislation;
 - Australia work with its regional counterparts to build awareness of modern slavery and address risks in the Pacific region, including under the Pacific Step-Up initiative;
 - the 2020 Strategy include proposed objectives responding to the impacts of the Covid-19 pandemic exacerbating global modern slavery risks, and increasing guidance in respect of remediation;
 - Australia adopt a National Action Plan on Business and Human Rights to establish a roadmap for implementing all aspects of business respect for

¹ Law Council of Australia, Submission to the Human Trafficking and Slavery Branch of the Australian Border Force, *Public Consultation Paper on the National Action Plan to Combat Modern Slavery 2020-24*, 21 February 2020 <<https://www.lawcouncil.asn.au/resources/submissions/national-action-plan-to-combat-modern-slavery-2020-24-public-consultation-paper>>.

international human rights standards, including in their multinational and international operations;

- Australia increase its engagement with multinational businesses to ensure that their international operations address modern slavery risks, including linking the corporate world to civil society organisations, programs and resources;
- Australia lead by example in identifying and addressing slavery risks in its procurement processes, including with respect to its procurements from international suppliers and in the development context;
- the 2020 Strategy be based upon and expand the existing evidence base regarding modern slavery, and prioritise understanding the underlying causes of modern slavery in the Indo-Pacific at a high level of detail, disaggregated by country, gender, residency status and industry.

Consultation Questions

Do the proposed objectives of the 2020 Strategy capture the priorities for Australia's international engagement on human trafficking and modern slavery in the Indo-Pacific region?

6. The Law Council supports the five proposed objectives outlined in the consultation paper as reflecting important priorities for Australia in its contribution to the international effort to eliminate modern slavery.
7. The Law Council notes that the 2020 Strategy is intended to 'build upon' the 2016 Strategy and, further, that the proposed objectives 'reflect areas where the Government is currently working as well as emerging priorities for Australia's international engagement'.² Accordingly, the Law Council suggests that it would be helpful if development of the 2020 Strategy were accompanied by an evaluation of the 2016 Strategy, including whether specific policy goals have not been implemented and remain relevant, as well as the degree to which existing policies and programs are proving successful.
8. It also expects the proposed objectives to be further developed, with significant detail added in future stages of the consultation process. While more comprehensive and targeted proposed objectives form a positive feature of the 2020 Strategy in comparison to the 2016 Strategy, which was organised around the three broad pillars of 'setting strategic priorities', 'enhancing leadership and coordination' and 'enhancing advocacy',³ these should be accompanied by specific actions, timelines and review processes in order that the 2020 Strategy is successfully and efficiently implemented, rather than remaining a mere statement of intent.
9. At this early stage, the Law Council is pleased to make the following observations and recommendations in respect of the proposed objectives, including what further information might be necessary.

² Department of Foreign Affairs and Trade, 'International Strategy on Human Trafficking and Modern Slavery' (Consultation Paper, Australian Government, March 2020) <<https://www.dfat.gov.au/sites/default/files/consultation-paper-international-strategy-on-human-trafficking-and-modern-slavery.pdf>>.

³ *Amplifying Our Impact: Australia's International Strategy to Combat Human Trafficking and Modern Slavery* (Australian Government, 2016) 6 <<https://www.dfat.gov.au/sites/default/files/amplifying-our-impact-australias-international-strategy-to-combat-human-trafficking-and-slavery.pdf>>.

Proposed Objective 1: Addressing the drivers to human trafficking and modern slavery

10. Given the broadness of the statement ‘addressing the drivers to human trafficking and modern slavery’, it is helpful that the consultation paper gives some further detail on Australia’s plans in this area, including to ‘target specific drivers of human trafficking and modern slavery in the most vulnerable countries across the Indo-Pacific region’ and ‘undertake and respond to a gender analysis on the responses to and drivers and experience of human trafficking and modern slavery’.⁴

Targeting specific drivers of modern slavery

11. The Law Council suggests that the 2020 Strategy includes information on how the Australian Government plans to identify both the ‘most vulnerable countries across the Indo-Pacific region’ and the ‘specific drivers’ of modern slavery in these countries.
12. As DFAT is aware, the ‘Indo-Pacific’ is a relatively new construct in terms of geopolitical terminology and strategy.⁵ Most sources suggest the Indo-Pacific region is broadly understood as the space between the Indian Ocean and the Pacific Ocean, with the ASEAN nations at the centre, but the outer limits contested.⁶ Geo-spatially this is an enormous area. It is also an enormous population and economy. Geo-strategically, there are many different interests at play, including in relation to major shipping routes, significant portions of the global commons, the relationship between the United States and China, and the rise of India.
13. Similarly, the factors driving modern slavery are vast and cover different policy terrain. Drivers related to business operations might include: long, complex or buried supply chains; insecure employment relationships, where workers are outsourced, sub-contracted or employed via an agency; and a lack of access for workers to representation, such as human resources or trade unions. Geopolitical drivers include such issues as: a lack of government regulation; corruption and general disregard for the rule of law; and social inequalities relating to class, race, religion, gender or immigration in the country. The nature of the work – such as jobs requiring unskilled labour; temporary, seasonal or agency work; dangerous or physical work; or work in consumer-driven industries such as fast fashion – can also disproportionately drive modern slavery.
14. As such, it is important that the 2020 Strategy recognises that the factors driving modern slavery are numerous and then clearly identifies Australia’s international priorities at this time.
15. The Law Council recommends that Australia prioritise action in the Asia-Pacific region, to reflect the fact that available estimates indicate that modern slavery is particularly prevalent in the region, accounting for 62 per cent of all victims of modern slavery and the highest prevalence of forced labour.⁷ Specific emphasis on the Asia-Pacific would

⁴ Department of Foreign Affairs and Trade, ‘International Strategy on Human Trafficking and Modern Slavery’ (Consultation Paper, Australian Government, March 2020) 1.

⁵ See, eg, Udayan Das, ‘What Is the Indo-Pacific?’, *The Diplomat* (online, 13 July 2019) <<https://thediplomat.com/2019/07/what-is-the-indo-pacific/>>; Lloyd Alexander M Adducul, ‘The Indo-Pacific Construct in Australia’s White Papers: Reflections for ASEAN-Australia Future Strategic Partnership’ (2018) V:6 *Centre for International Relations and Strategic Studies Commentaries* 1 <<http://www.fsi.gov.ph/wp-content/uploads/2018/03/Vol-V-No-6-0314-The-Indo-Pacific-Construct-in-Australia%E2%80%99s-White-Papers-Adducul-1-1.pdf>>.

⁶ *Ibid.*

⁷ International Labour Office, *Global Estimates of Modern Slavery* (Report, Geneva, 2017), 10 <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf>.

reflect the reality of extreme labour exploitation across the region, with an estimated 2.5 million people living in modern slavery in Southeast Asia alone.⁸

16. There are also significant geo-political drivers to modern slavery in the region. The Law Council understands that awareness and visibility of modern slavery issues in the Pacific region has historically been low, both domestically and internationally. It is aware of recent efforts to build local awareness of human rights standards, issues and remedies in the region, given the large amount of extractive business activity occurring,⁹ and suggests that more can be done in this regard. This might involve local capacity-building with a view to amplifying local voices, documenting human rights issues and engaging with companies.
17. The Law Council recognises that Australia is pursuing international efforts to address modern slavery, particularly in the Asia-Pacific region, through the Bali Process and its Pacific Step-Up initiative.¹⁰ It suggests that Pacific Step-Up could place greater emphasis on the prevention of modern slavery in the Pacific, both through stand-alone initiatives and in implementing all of its flagship priorities, including the \$2 billion Australian Infrastructure Financing Facility for the Pacific, and the Coral Sea Cable.¹¹
18. As suggested below at paragraph [67], the 2020 Strategy could explicitly refer to Australia's efforts in maintaining and strengthening the rule of law in the Pacific as an important element in addressing modern slavery.

Gender analysis of drivers of modern slavery

19. To this end, the Law Council supports plans for a gender analysis. Incorporating a gender perspective into public policy is important, as clearly, men, women and non-binary individuals can be affected differently by issues and solutions. The risk in failing to adopt a gender perspective is that public policy responses will not only ignore or perpetuate existing forms of oppression but also create new forms.
20. Global estimates suggest that far more females than males are affected by modern slavery globally (71 per cent versus 29 per cent).¹² However, this varies across forms and regions. Women and girls are disproportionately victimised above all for forced labour in the private economy (including domestic work and the sex industry) and forced marriage. Women and girls represented 99 per cent of victims of forced sexual exploitation and 84 per cent of victims of forced marriages.¹³
21. Recognising that these are global statistics, data that compares the differences between countries is needed. The data might support an enhanced response to certain forms of modern slavery in certain parts of the Indo-Pacific region, as has been recognised as the case for forced marriage in Australia for example.¹⁴
22. The Law Council suggests that civil society organisations and academic experts with extensive background in gender issues are consulted in the development and implementation of a gender analysis. It is important that any gender analysis is

⁸ Ibid.

⁹ See, eg, Business and Human Rights Resource Centre, *Pacific Business and Human Rights* (online, undated) <<https://www.business-humanrights.org/en/pacific-business-human-rights>>.

¹⁰ Department of Foreign Affairs and Trade, 'Stepping Up Australia's Engagement with our Pacific Family' (Factsheet, Australian Government, September 2019).

¹¹ Ibid.

Ibid 5.

¹³ Ibid, 21.

¹⁴ The Hon Jason Wood MP, Senator the Hon Marise Payne, the Hon Christian Porter MP and the Hon Anne Ruston MP, *New initiatives to combat modern slavery* (Joint Media Release, 4 December 2019) <<https://minister.homeaffairs.gov.au/jasonwood/Pages/new-initiatives-combat-modern-slavery.aspx>>.

intersectional and takes account of other factors that impact on women's vulnerability to certain forms of modern slavery, including geography, ethnicity and poverty. For example, there are likely to be different drivers to the exploitation of Indigenous women versus migrant women.

Companies carrying on business in Australia

23. Addressing the drivers to modern slavery internationally also necessarily entails working closely with Australian businesses, which risk contributing to modern slavery both through their own global trade flows and through importing products generated by modern slavery into Australia. The messages of non-tolerance for modern slavery sent from Australian businesses to international suppliers, including, for example, in the Indo-Pacific region, can have a significant foundational impact in establishing ethical work environments, but these messages need to be committed and followed-up through due diligence and, where modern slavery is uncovered, remediation.
24. Australian businesses and other reporting entities are now encouraged in these efforts and actions with the implementation of the *Modern Slavery Act 2018* (Cth) (**the Modern Slavery Act**). The Law Council welcomed the announcement of the Modern Slavery Act and has been closely involved in supporting its implementation including through regular consultation with the ABF's Modern Slavery Business Engagement Unit.¹⁵
25. Under the Modern Slavery Act, the first round of modern slavery statements is due to be submitted this year, including from reporting entities that account according to the Australian financial year.¹⁶ The Law Council is pleased that the Australian Government is supporting businesses to continue with their plans to report under the Modern Slavery Act during the Covid-19 pandemic, with extended deadlines. Recent guidance released by the ABF emphasises that 'the impacts of Covid-19 may increase the vulnerability of workers in [businesses'] global operations and supply chains to modern slavery'¹⁷. It asks these businesses to 'clearly explain in their modern slavery statements how Covid-19 has impacted their capacity to assess and address modern slavery risks during their reporting periods'.¹⁸
26. It is important that the increased risk of modern slavery due to the extraordinary pressures on businesses from the coronavirus – especially in ensuring continuity of supply – is understood. Addressing modern slavery risks should be embedded in governments' and businesses' response to the crisis. As stated in the United Nations' recent brief on 'Covid-19 and Human Rights':

*This is not a time to neglect human rights; it is a time when, more than ever, human rights are needed to navigate this crisis in a way that will allow us, as soon as possible, to focus again on achieving equitable sustainable development.*¹⁹

27. In order to support cooperation between government and business in addressing the drivers of modern slavery in the Indo-Pacific region, the Law Council recommends that the Department increase its corporate guidance, working with the ABF. It suggests the

¹⁵ See, eg, Law Council of Australia, 'Modern Slavery Act a reality after years of advocacy' (Media Release, 29 November 2018) <<https://www.lawcouncil.asn.au/media/media-releases/modern-slavery-act-a-reality-after-years-of-advocacy>>.

¹⁶ *Modern Slavery Act 2018* (Cth) ss 4, 13(2)(a).

¹⁷ Australian Border Force, *Modern Slavery Act Information Sheet: Coronavirus* (online, 21 April 2020) 1 <<https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-covid-19.pdf>>.

¹⁸ *Ibid*, 2.

¹⁹ United Nations, *COVID-19 and Human Rights: We Are All In This Together* (April 2020) <https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf>.

Department publish information emphasising the important role of business in Australia's efforts internationally and practical steps that business can engage in. This should include linking the corporate world to civil society organisations, programs and resources, which companies can take-up in their offshore operations or pass along to their suppliers. There are civil society organisations already working in areas of the Indo-Pacific to build visibility on business and human rights issues and engaging closely with business to provide education and amplify local voices.²⁰ Whether at the national or international level, combatting modern slavery is necessarily going to be a joint effort between government, business and civil society. This is discussed further at paragraph [55] below.

Recognising and responding to the impacts of Covid-19

28. The Law Council recommends that the 2020 Strategy recognise and respond as a specific, additional objective to the impacts of the Covid-19 pandemic, including as a new driver of modern slavery.
29. In addition to having devastating effects in terms of public health, Covid-19 has resulted in global economic and social upheaval. The virus – and the response of governments attempting to control the rate of transmission, as well as the behaviours of consumers – is likely to significantly compound the challenges the world already faces in terms of modern slavery for a number of reasons. First, the virus exposes vulnerable cohorts to greater risk. There are many people who are already working and living in unstable, crowded, dangerous and unsanitary conditions without avenues to call for increased protections. Modern slavery victims, women and migrants experience a high degree of socio-economic marginalisation, becoming even more vulnerable during the coronavirus pandemic owing to factors such as their hidden workforce participation, their work in factories or domestic servitude situations without social distancing or personal protective equipment, a lack of access to health and social services, poverty wages, as well as (particularly for migrants and hospital workers) discrimination and xenophobia related to community fears around the spread of the virus, which can also lead to harsh containment measures, including the loss of housing.²¹
30. Second the pandemic risks pushing greater numbers of workers into exploitative situations. Government restrictions as well as the downturn in certain industries due to social distancing measures and closures has led to millions of job losses and fostered a climate where people's financial futures are uncertain. This risks forcing more people into exploitative labour conditions, including underemployment, informal employment and working poverty, as they attempt to find any new job or keep hold of their existing job in a worsening market. As noted by the International Labour Organization:

*Underemployment is expected to increase on a large scale. As witnessed in previous crises, the shock to labour demand is likely to translate into significant downward adjustments to wages and working hours. ... For this reason, informal employment tends to increase during crises. ...*²²

²⁰ See, eg, Business and Human Rights Resource Centre, *Pacific Business and Human Rights* (online, undated) <<https://www.business-humanrights.org/en/pacific-business-human-rights>>.

²¹ See, eg, Angharad Smith and James Cockayne, 'This is the impact of COVID-19 on modern slavery', *The Mandarin* (online, 8 April 2020) <<https://www.themandarin.com.au/130272-this-is-the-impact-of-covid-19-on-modern-slavery/>>; International Labour Organization, *Covid-19 and the world of work: Impact and policy responses* (18 March 2020) 6 <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_738753.pdf>; Business and Human Rights Resource Centre, *COVID-19 (Coronavirus) Outbreak* (online, undated) <<https://www.business-humanrights.org/en/covid-19-coronavirus-outbreak>>.

²² International Labour Organization, *Covid-19 and the world of work: Impact and policy responses* (18 March 2020) 4.

Working poverty is also likely to increase significantly. The strain on incomes resulting from the decline in economic activity will devastate workers close to or below the poverty line. The growth impacts of the virus used for the unemployment estimates suggest an additional 8.8 million people in working poverty around the world than originally estimated (i.e. an overall decline of 5.2 million working poor in 2020 compared to a decline of 14 million estimated pre-Covid-19). Under the mid and high scenarios, there will be between 20.1 million and 35.0 million more people in working poverty than before the pre-Covid-19 estimate for 2020.²³

31. Third the pandemic is placing significant pressure on business, particularly in terms of guaranteeing continuity of supply or meeting increased demand. This is recognised by the International Labour Organization, which states that '[t]he crisis has already transformed into an economic and labour shock, impacting not only supply (production of goods and services) but also demand (consumption and investment)'.²⁴ The pressure on business to guarantee supply of materials and products risks their engagement with new suppliers without conducting the necessary due diligence, including an increase in orders placed with companies that have a history of human rights abuses.

Proposed Objective 2: Securing justice by strengthening governance, legal systems and redress mechanisms

32. The Law Council recommends that this goal should be amended to add 'that are regularly reviewed against international and domestic standards and best practice'.
33. Internationally, the Law Council is pleased to note the recent announcement of the launch of an initiative between Australia and the Association of Southeast Asian Nations (**ASEAN**) to address human trafficking, modern slavery and forced labour.²⁵ The ASEAN-Australia Counter-Trafficking Initiative provides \$80 million over 10 years to strengthen criminal justice responses and protect victim rights, including by providing police training, supporting joint international investigations, providing professional development for judges, promoting child-friendly courtrooms, and responding to private sector concerns identified in supply chains. This provides an important example of Australia's involvement in combatting modern slavery through strengthening governance in the Indo-Pacific region that is already in train.

Building and learning from best practice

34. In terms of securing justice by strengthening legal systems, Australia has enacted its Modern Slavery Act, as noted above at paragraphs [24]-[25], which will affect multinational business in their international operations. Notwithstanding its room for future improvement, the Law Council recognises the Modern Slavery Act as a key contribution internationally to the development of legislative frameworks on modern slavery issues.
35. The Law Council recommends that DFAT pursue further engagement with other States demonstrating international leadership on modern slavery solutions.
36. Australia might take proactive action, noting its current positions of formal global leadership, such as its seat on the UN Human Rights Council and position as Co-Chair of the Bali Process, to promote conversations and forums that share best and emerging

²³ Ibid 5.

²⁴ Ibid 2.

²⁵ Senator the Hon Marise Payne, *ASEAN-Australia Counter-Trafficking Initiative* (Media Release, 1 August 2019) <<https://foreignminister.govcms.gov.au/minister/marise-payne/media-release/asean-australia-counter-trafficking-initiative>>.

practice on governance, legal and redress mechanisms to combat modern slavery internationally and in the Indo-Pacific region.

37. There is opportunity for Australia's own growth to be guided by international practice, including in areas that may fall under the responsibility of DFAT (judging by past practice and current advice), such as developing a broader National Action Plan on Business and Human Rights, which is discussed further below at paragraphs [49]-[54].
38. According to UNICEF Australia in 2019, 23 countries around the world already had a National Action Plan on Business and Human Rights, and 12 other countries were in the process of developing one.²⁶ Thailand recently became the first country in Asia to adopt such a plan.²⁷
39. In addition, several European countries have either adopted, or started to consider, legislation that embeds elements of human rights due diligence (HRDD) into law. In France, the duty of vigilance law adopted in 2017, requires the largest French companies to develop, publish and implement plans that include 'reasonable vigilance measures to allow for risk identification and for the prevention of severe violations of human rights and fundamental freedoms'.²⁸ The new Finnish Government has committed to conducting a study with a view to adopting mandatory HRDD legislation at a national and European Union level,²⁹ addressing both domestic and transnational activities. The study will be conducted with employers' associations, entrepreneurs' associations and employee organisations, taking into consideration the position of small and medium-sized enterprises (**SMEs**).³⁰ Further, a recent study confirmed that voluntary measures had been inadequate in tackling human rights and environmental issues in businesses and supply chains,³¹ leading the European Commission to announce a proposal to introduce mandatory due diligence legislation.³²
40. The Law Council considers that more is required to ensure that Australia builds on the international leadership demonstrated through the passage of the Modern Slavery Act, ensuring that it does not fall behind in other areas which complement and bolster these objectives.

Magnitsky legislation

41. The Joint Standing Committee on Foreign Affairs, Defence and Trade's recent inquiry into the use of targeted sanctions to address human rights abuses is also relevant to modern slavery, as one example of a wider range of possible human rights abuses.

²⁶ UNICEF Australia, *Building Better Business for Children* (2019) 8.

²⁷ Business and Human Rights Resource Centre, 'Thailand: Government Adopts First NAP on Business and Human Rights' (online, 31 October 2019) <<https://www.business-humanrights.org/en/thailand-govt-adopts-first-nap-on-business-human-rights>>.

²⁸ Anna Triponel and John Sherman, 'Legislation Human Rights Due Diligence: Opportunities and Potential pitfalls to the French Duty of Vigilance Law' (International Bar Association, Corporate and Mergers & Acquisitions Law Committee Publications, 17 May 2017).

²⁹ Business and Human Rights Resource Centre, 'Finland Commits to Mandatory Human Rights Due Diligence at National and EU Level' (online, 3 June 2019) <<https://www.business-humanrights.org/en/finland-commits-to-mandatory-human-rights-due-diligence-at-national-eu-level>>.

³⁰ *Ibid.*

³¹ Smit et al, 'Study on due diligence requirements through the supply chain: final report' (European Commission, January 2020) <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en?utm_source=POLITICO.EU&utm_campaign=d0f7c07c00-EMAIL_CAMPAIGN_2020_04_30_04_55&utm_medium=email&utm_term=0_10959edeb5-d0f7c07c00-189017913>.

³² Responsible Business Conduct, 'EUROPEAN COMMISSION PROMISES MANDATORY DUE DILIGENCE LEGISLATION IN 2021' (online, 30 April 2020) <<https://responsiblebusinessconduct.eu/wp/2020/04/30/european-commission-promises-mandatory-due-diligence-legislation-in-2021/>>.

Targeted sanctions might form part of a redress scheme responding to instances of modern slavery.

42. In its recent submission to this inquiry, the Law Council considered that Australia's use of sanctions to apply pressure to individuals to end the repression of human rights would be a legitimate objective for the purposes of international human rights law.³³ However, it emphasised that any sanctions regime must be accompanied by effective safeguards to ensure that it is reasonable, necessary and proportionate. It suggested several recommendations for amending Australia's existing autonomous sanctions regime to this end.
43. The Law Council also canvassed the possibility of Australia following the example of international jurisdictions that have adopted Magnitsky laws, noting several advantages to pursuing a separate Magnitsky Act, including mitigating against consequences to Australia's broader foreign policy objectives, by enabling sanctions against individuals rather than being concerned with the role of the state in allowing instances of gross human rights abuses and serious corruption by individuals.
44. In the context of modern slavery, a separate Magnitsky Act would enable Australia to implement sanctions against individuals who have sufficient authority in a supply chain or operations, such as the head of the company, to the extent that they could be said to be responsible for gross human rights abuses or serious corruption that occurs in that supply chain or operations. This might be particularly important in the global effort to stop modern slavery, given Australia's position as a financial hub in the Asia-Pacific region, as Magnitsky laws will only be sufficiently deterrent if they are taken up by enough States (that is, if there are few 'gaps' in the regime).

Proposed Objective 3: Promoting integration of human rights and labour standards in responses to human trafficking and modern slavery

45. The Law Council suggests that the 2020 Strategy should specifically identify the international human rights and labour standards which relate to this goal. Eliminating modern slavery is a global priority and is reflected in commitments set out in international instruments, including the following:
 - the *Convention against Transnational Organized Crime*, including the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*;³⁴
 - the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*;³⁵
 - the *Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power*;³⁶
 - the *International Covenant on Civil and Political Rights (ICCPR)*;³⁷

³³ Law Council of Australia, Submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade, *Inquiry into the Use of Targeted Sanctions to Address Human Rights Abuses*, 4 March 2020 <<https://www.lawcouncil.asn.au/resources/submissions/inquiry-into-whether-australia-should-examine-the-use-of-targeted-sanctions-to-address-human-rights-abuses>>.

³⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, UN Doc A/RES/55/25, annex II art 2(a).

³⁵ Opened for signature 4 February 2003, 2375 UNTS 237 (entered into force 22 June 2006).

³⁶ UN GA UN Doc A/RES/40/34 (adopted 29 November 1985).

³⁷ Opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

- the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*,³⁸ and
- the *Convention on the Rights of the Child (CRC)*³⁹ and the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*.⁴⁰

46. These international standards should guide and inform a human rights approach to addressing modern slavery.

47. In addition, both the United Nations Guiding Principles on Business and Human Rights (**UNGPs**)⁴¹ and Organisation for Economic Cooperation and Development Guidelines for Multinational Enterprises (**OECD Guidelines**)⁴² set out standards for companies to ensure that they are not violating human rights, including by profiting from modern slavery, in their operations and supply chains.

48. The Law Council further recommends that the development of the 2020 Strategy take into account relevant international instruments Australia has endorsed or voted to adopt since the 2016 Strategy was prepared. These include the 2030 Agenda for Sustainable Development⁴³ and the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking.⁴⁴ By referring to these instruments in the 2020 Strategy, Australia's contributions to the elimination of modern slavery and human trafficking will be informed by the most recent internationally recognised principles and norms. Moreover, and in light of Australia's historical advocacy on modern slavery, express recognition and support for these instruments will bolster international efforts to address the issue.

National Action Plan on Business and Human Rights

49. As noted above, business recognition of human rights standards can have a significant impact down supply chains in setting up ethical work environments. While the Modern Slavery Act is an important starting point in government leadership that seeks to expand business engagement with human rights standards, it is a narrow instrument. The broader responsibilities of government and business to work jointly to respect, protect and fulfill human rights are articulated by the UNGPs and the OECD Guidelines.

50. The OECD Guidelines are recommendations addressed from governments to multinational enterprises. Australia adopted the updated Guidelines on 25 May 2011, including a new human rights chapter consistent with the UNGPs. In doing so, it committed to promoting these standards for responsible business conduct in a global context.

51. The business sector relies on guidance from government when it comes to human rights responsibilities. Indeed, the UNGPs require States to provide effective guidance to

³⁸ Opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

³⁹ Opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

⁴⁰ Opened for signature 25 May 2000, 2171 UNTS 227 (entered into force 18 January 2002).

⁴¹ The Guiding Principles were developed by the Special Representative of the Secretary-General, on the issue of human rights and transnational corporations and other business enterprises. They were annexed to his final report to the Human Rights Council (UN Doc A/HRC/17/31) and endorsed by the Human Rights Council in its resolution 17//4 of 16 June 2011.

⁴² Organisation for Economic Cooperation and Development, *Guidelines for Multinational Enterprises* (2011).

⁴³ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, 21 October 2015, A/RES/70/1.

⁴⁴ Prime Minister the Rt Hon Theresa May MP, *A Call to Action to end Forced Labour, Modern Slavery and human trafficking*, 19 September 2017 <<https://www.gov.uk/government/publications/a-call-to-action-to-endforced-labour-modern-slavery-and-human-trafficking>>.

business enterprises as part of meeting their duty to protect against human rights abuses by third parties within their jurisdiction.

52. In August 2017, a multi-stakeholder advisory group convened by the then Minister for Foreign Affairs, Julie Bishop, recommended that the Australian Government express its commitment to implementation of the UNGPs through developing a National Action Plan on Business and Human Rights.
53. While the Law Council understands that the Australian Government chose in 2017 not to progress this, it considers given the passage of time and recent developments that the recommendation should now be implemented.
54. A National Action Plan on Business and Human Rights would ensure that Australia builds on the international leadership demonstrated through the passage of the Modern Slavery Act, as well as progress in other areas that complement these objectives. It would provide a practical map to help business enterprises meaningfully respect all human rights in conformity with the UNGPs in their international, multinational and domestic activities. It would articulate international human rights standards in the language of business, and place these standards on a level playing field between businesses, rather than leaving individual businesses to interpret how international human rights standards should apply in their day-to-day practices, which risks playing to the lowest common denominator. A National Action Plan on Business and Human Rights would help cement Australia as a leading global citizen in synch with the international zeitgeist, noting, as discussed above, that other countries in Asia are moving in this direction, with Thailand recently being the first country in the region to adopt such a plan.

Proposed Objective 4: Strengthening government, business and civil society partnerships to address exploitation in supply chains and responsible recruitment practices

55. The Law Council encourages the Department to support strengthening the enforcement mechanisms of the Modern Slavery Act,⁴⁵ and increase its corporate guidance, including through linking corporations to civil society organisations, programs and resources and considering the adoption of a National Action Plan on Business and Human Rights. It is important that business understands its responsibilities with respect to human rights and how these obligations might translate into actions in offshore operations and supply chains.

Proposed Objective 5: Mitigating modern slavery risks in Australia's international engagement

56. It is commendable that the consultation paper identifies 'Australian government procurement processes and supply chains' as a specific area of focus. However, the Law Council suggests the 2020 Strategy explicitly reference the commitment by the Australian Government to lead by example by complying with the reporting requirements under the Modern Slavery Act. This will require the Australian Government to consider issues of risk, due diligence and remediation in completing its annual modern slavery statement.
57. The Law Council further recommends that the 2020 Strategy expand on this point, as actions taken by the Australian Government in this area will drive widespread change

⁴⁵ Law Council of Australia, Submission to the Senate Legal and Constitutional Affairs Legislation Committee, *Modern Slavery Bill 2018*, 24 July 2018, 6-9. See also Law Council of Australia, Submission to the Human Trafficking and Slavery Branch of the Australian Border Force, *Public Consultation paper on the National Action Plan to Combat Modern Slavery 2020-24*, 21 February 2020, 14.

across the wide range of industries from which it purchases services, from construction to defence. As such, the Law Council understands that businesses seeking to tender or maintain government contracts are looking to the Australian Government for specific guidance on how it intends to implement these obligations in practice – such as through its requests for tender, decision-making processes and broader contractual arrangements. This guidance, which may be set out in the Department of Finance's Commonwealth Procurement Rules, will send an important signal about the seriousness with which the Australian Government approaches modern slavery issues.

58. Australian Government procurement policies that identify and address modern slavery risks, and active monitoring of their implementation, will be particularly important in this regard. There is an important role for DFAT, as well as Australian Government finance agencies, to lead this work, such as with respect to its procurements from international suppliers and in international development. For example, the Pacific Labour Mobility Scheme, which is another flagship priority under the Pacific Step-Up initiative discussed above, is intended to safeguard against worker exploitation.⁴⁶ The Law Council would welcome evaluations of how the scheme is operating in practice.
59. The Law Council understands that internationally, governments are increasing the use and better enforcement of labour clauses in public procurement contracts. For example, the Danish Government has committed to increasing its use of labour clauses, such as in all public tender calls by government contracting authorities for construction projects.⁴⁷ These are directed towards ensuring fair and reasonable pay and working conditions.⁴⁸ Meanwhile, the German Government is currently implementing several public procurement measures with regard to its international human rights obligations. Its further commitments include exploring the inclusion of binding minimum requirements for the corporate exercise of human rights due diligence being enshrined in procurement law.⁴⁹ Movements to date in this area may help inform Australia to establish its own procuring arrangements.

Should there be additional objectives included in the scope of the 2020 Strategy? What are they?

Mainstreaming the issue of addressing modern slavery

60. The Law Council suggests that DFAT could explore the concept of mainstreaming modern slavery concerns throughout its broader policies and programs. For example, as well as addressing modern slavery risks through its procurement arrangements, as discussed above, it could investigate the possibility of incorporating modern slavery clauses into its Free Trade Agreements. The International Labour Organization notes that globally an 'increasing number' of Free Trade Agreements now include labour clauses that comprehensively address human rights issues:

Not only do such labour clauses list minimum commitments for the protection of human rights at work and refer to specific international labour standards adopted by the International Labour Organization, but they also

⁴⁶ Department of Foreign Affairs and Trade, 'Pacific Labour Scheme' (Factsheet, Australian Government, March 2019).

⁴⁷ See, eg, Government of Denmark, *Danish National Action Plan – Implementation of the UN Guiding Principles on Business and Human Rights* (March 2014) [2.4].

⁴⁸ *Ibid.*

⁴⁹ Government of Germany, *National Action Plan – Implementation of the UN Guiding Principles on Business and Human Rights 2016-2020* (2017) 16.

*provide for conflict resolution systems as well as funds and parallel labour cooperation/consultation.*⁵⁰

61. As DFAT would be aware, Australia has previously negotiated agreements that include general labour provisions, such as the Australia-United States Free Trade Agreement (**AUSFTA**) and the Comprehensive and Progressive Trans-Pacific Partnership Agreement (**TPP-11**).⁵¹
62. However, given the global challenge of modern slavery and its prevalence in the Asia-Pacific, Australia's Free Trade Agreements in this region could include specific provisions that accelerate or delay benefits for each country and sector on the basis of whether there are modern slavery violations.

Improving guidance in relation to remediation processes

63. In addition to including as an additional objective the impacts of the Covid-19 pandemic, discussed above at paragraphs [28]-[31], the Law Council suggests the 2020 Strategy would be further strengthened by requiring government to prepare guidance for Australian businesses with an international supply chain on remediation processes to respond to instances of modern slavery. Depending on the circumstances, remediation processes can include formal apologies, compensation, steps to ensure the harm does not recur, grievance mechanisms, or supply chain hotlines. Government guidance on this issue would ideally be tailored to specific sectors and geographic regions, though the Law Council appreciates there may be resource constraints that require a priority focus on high-risk sectors and regions.
64. In making this recommendation, the Law Council notes that a June 2018 report commissioned by signatories to the 2015 Australian Business Pledge against Forced Labour – which includes Woolworths, Coles, Big W, Masters, Simplot, Goodman Fielder, Inghams and Officeworks – determined that:

*[L]eading retailers are perceiving a role in understanding and remedying the broader drivers of forced labour within regions and beyond suppliers' premises. While such initiatives continue to take shape, it is also clear that the mainstream features of responsible sourcing programs, while important in many respects, are not geared to the effective remedy of forced labour drivers in most instances.*⁵²

65. The report found in particular that many existing grievance mechanisms ignore the acute imbalances of power that give rise to human rights abuses in the first instance.
66. Despite the enactment of the Modern Slavery Act, there is currently limited practical guidance on effective remediation processes, beyond a one-page summary of the concept in the Guidance for Reporting Entities prepared by the Department of Home Affairs.⁵³ The provision of clear guidance to businesses on how to respond upon an identification of modern slavery would complement the requirements in the Modern

⁵⁰ International Labour Organization, 'Free Trade Agreements and Labour Rights' (website, undated) <<https://www.ilo.org/global/standards/information-resources-and-publications/free-trade-agreements-and-labour-rights/lang--en/index.htm>>.

⁵¹ Attorney-General's Department, 'Labour Provisions in Free Trade Agreements' (website, undated) <<https://www.ag.gov.au/industrial-relations/international-labour-issues/Pages/labour-provisions-in-free-trade-agreements.aspx>>.

⁵² Australian Business Pledge against Forced Labour, *The business response to remedying human rights infringements: The current and future state of corporate remedy* (June 2018) 1.

⁵³ Department of Home Affairs, *Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities* (26 September 2019).

Slavery Act, and assist in achieving the 2017 Foreign Policy White Paper commitment to ensure goods and services are not tainted by exploitation.

Do the proposed objectives adequately support action on human trafficking and modern slavery prevention, enforcement and/or prosecution, victim support and partnerships?

Rule of Law

67. The Law Council recommends that the 2020 Strategy specifically reference Australia's efforts in maintaining the rule of law in the Indo-Pacific.
68. It notes that at a foundational level, the Pacific Step-Up is intended to support sovereignty, stability, security and prosperity in the region,⁵⁴ and includes measures to support development, police and defence assistance.⁵⁵ While welcoming this emphasis, the Law Council recommends that broader attention be given to maintaining and strengthening the rule of law in the Pacific. Beyond policing, this includes support for key law and justice infrastructure. It is essential that express recognition is given to the role of the legal profession and independent courts in facilitating access to justice and protecting the rights of citizens, including with respect to modern slavery. The Law Council continues to strongly support the South Pacific Lawyers Association, the views of which may help to inform policy efforts in this area, alongside other civil society and NGO voices. Commitment to the rule of law can also help address the geopolitical drivers of modern slavery, such as local corruption.

Orphanage slavery and trafficking

69. The Law Council would also encourage DFAT to continue to expand its work on the issue of orphanage slavery and trafficking, noting its 2018 Smart Volunteering Campaign, which sought to discourage Australian tourists from inadvertently contributing to child exploitation by visiting or volunteering in overseas orphanages engaged in unethical practices.⁵⁶ It also notes further work done to implement recommendations of the *Hidden in Plain Sight* report, including DFAT's funding guidelines for the Friendship Grant, which made programs involving unskilled volunteers in orphanages ineligible.⁵⁷
70. An estimated 80 per cent of children living in overseas orphanages have at least one living parent.⁵⁸ Many have been taken from their families to meet the demand in 'voluntourism' at these institutions.⁵⁹ Children are also placed in orphanages for reasons of poverty, natural disasters, homelessness, illness and disability, due to a perception that orphanages can provide greater material support than the family.⁶⁰ Along with

⁵⁴ Australian Government Department of Foreign Affairs and Trade, 'Stepping-up Australia's engagement with our Pacific family', Factsheet, September 2019.

⁵⁵ Ibid.

⁵⁶ The Hon Julie Bishop MP, 'New Campaign to Tackle Orphanage Tourism' (Joint Media Release, Australian Government, 1 March 2018) <<https://www.foreignminister.gov.au/minister/julie-bishop/media-release/new-campaign-tackle-orphanage-tourism>>.

⁵⁷ Kathryn E van Doore, 'Regulating Australia's Participation in the Orphanage Industry' (2020) 7(1) *Institutionalised Children Explorations and Beyond* 74 <<https://journals.sagepub.com/doi/pdf/10.1177/2349300319894498>>.

⁵⁸ Madeline Palmer, 'The Dark Side of "Voluntourism" Causes Orphanage Numbers to Boom in Developing Countries', *ABC News* (online, 18 August 2019) <<https://www.abc.net.au/news/2019-08-18/the-dark-side-of-voluntourism-causing-orphanages-to-spread/11408396>>.

⁵⁹ Ibid.

⁶⁰ Samantha Lyneham and Lachlan Facchini, 'Benevolent Harm: Orphanages, Voluntourism and Child Sexual Exploitation in South-East Asia' (Trends and Issues in Crime and Criminal Justice No 574, Australian Institute of Criminology, March 2019) 2.

harmful practices such as generating funds through manufacturing orphans for voluntourism, the Australian Institute of Criminology has also identified that the sexual exploitation of children living in orphanages is on the rise, particularly in South-East Asia, which 'has the fastest growing tourism industry in the world, with voluntourism being a significant driver of tourism in the region'.⁶¹

*Institutional care settings are emerging as the third most prominent site of child exploitation in South-East Asia, behind exploitation occurring on the streets (ie in public places such as beaches, parks, markets and transit areas around bus and train stations) and in commercial establishments such as brothels, massage parlours, karaoke venues, restaurants, bars and clubs. There is a complex relationship between orphanages, child sexual exploitation and other harmful practices that increase children's vulnerability. Orphanage tourism exposes children to the risk of sexual exploitation. It also creates a financial incentive for unscrupulous operators to use illegitimate methods such as child trafficking, illicit adoption or paper orphaning to manufacture orphans to meet the demands of tourists and generate funds. Orphanage tourism also creates opportunities to scam those who volunteer or donate money.*⁶²

71. The Law Council recommends Australia continue the holistic approach to the issue initiated by the recommendations of the *Hidden in Plain Sight* report, which suggests, for example, divestment in orphanages and investment in legitimate social welfare infrastructure, particularly moving beyond an over-reliance on institutional care in certain regions.⁶³
72. The Law Council supports enactment of the recommendations that remain outstanding or ongoing, including Australia: working with its international partners to ensure children living in overseas residential institutions are included in data gathered to monitor progress against the United Nations Sustainable Development Goals; engaging with ASEAN, APEC and other regional fora to raise awareness of orphanage trafficking as a form of modern slavery; ensuring that Australian aid and other funds do not support overseas residential institutions not operating in compliance with the United Nations Convention on the Rights of the Child or the United Nations Guidelines for the Alternative Care for Children; and prioritising aid and funding for family preservation and community-based initiatives that are safe and appropriate.⁶⁴

Support, protection and remedies for survivors of trafficking and slavery

73. In addition to engaging with international best practice such as in relation to developing due diligence legislation, as discussed above at paragraphs [34]-[40], the Law Council supports DFAT continuing to exchange information with States that are undertaking new and innovative efforts to provide better support, protection and remedies for trafficking and slavery survivors.
74. Non-prosecution outcomes for trafficking and slavery survivors who are compelled to commit crimes are worth particular consideration. The United Kingdom, for example, has implemented appeal mechanisms, reduced sentencing and a complete defence in

⁶¹ Ibid, 4.

⁶² Ibid, 2.

⁶³ Kathryn E van Doore, 'Regulating Australia's Participation in the Orphanage Industry' (2020) 7(1) *Institutionalised Children Explorations and Beyond* 74
<<https://journals.sagepub.com/doi/pdf/10.1177/2349300319894498>>.

⁶⁴ Parliament of Australia, *Hidden in Plain Sight* (Report, December 2017) ch 8
<https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Final_report>.

certain circumstances for survivors of trafficking and slavery who commit crimes, as well as procedural safeguards, including anonymity and trauma-informed court processes.⁶⁵ It has also attempted to apply a modern slavery lens to domestic investigations of country line drug trafficking, seeing those involved as exploited persons rather than as perpetrators, with practice guidance and referral mechanisms for frontline responders.⁶⁶ Information on the success of these measures could help guide Australia's own responses to survivors.

75. In addition, and in line with its longstanding policy position of absolute opposition to the death penalty,⁶⁷ the Law Council also suggests that DFAT might canvass the options available to Australia to support the plight of survivors of trafficking and slavery who are made to commit crimes carrying the death penalty.

How can the 2020 Strategy, including its design, implementation and monitoring, best be informed by the voices of survivors of human trafficking and modern slavery?

76. The Rights Lab at the University of Nottingham released a report in 2019 recommending that the testimony of survivors be at the forefront of work to address modern slavery. The report, entitled *Voices: Ideas for using survivor testimony in antislavery work*, provides a database of survivor testimonies and a guide for how these could be used by stakeholders.

77. This evidence base offers significant insights for key actions and interventions:

*In their narratives, survivors themselves identify what care and support they need post-enslavement. First and foremost, survivors recognise the urgent necessity of physical, emotional and psychological support. ... Unsurprisingly, survivors face extreme trauma, stress and often require medical treatment, but the level of aftercare varies depending on available resources or a society's willingness to provide them.*⁶⁸

*Numerous survivors also point to specific ideas for antislavery interventions, including the value of raising awareness and providing education ... survivors place a large emphasis on the education of others, including immediate family members ...*⁶⁹

78. As noted below, the Law Council recommends government utilise an evidence base that combines quantitative and qualitative data, including the direct testimonies of survivors, to inform its work. The Law Council also notes that civil society organisations often have

⁶⁵ See, eg, *Modern Slavery Act 2015* (UK) cl 45; Minister for Modern Slavery and Organised Crime, *Modern Slavery Bill Factsheet: Defence for Victims (Clause 45)* (online, undated) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/372789/DefenceVictims.pdf>.

⁶⁶ See, eg, Ministry of Justice, *County Lines Exploitation* (Practice Guidance, 1 October 2019) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839253/moj-county-lines-practical-guidance-frontline-practitionerspdf.pdf>.

⁶⁷ Law Council of Australia, *Policy Statement: The Death Penalty* (September 2007) <<https://www.lawcouncil.asn.au/docs/c07d9246-cd39-e711-93fb-005056be13b5/0709-Policy-Statement-Death-Penalty.pdf>>. The policy includes a commitment to lobbying the Australian Government to proactively advance the abolition of the death penalty across the world.

⁶⁸ University of Nottingham Rights Lab, *Voices: Ideas for using survivor testimony in antislavery work* (Report, October 2019) 12 <<https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/mseu/mseu-resources/2019/september/voices.pdf>>.

⁶⁹ *Ibid*, 14-15.

close links with survivors and can be a useful conduit to accessing their voices. As such, these organisations require adequate resourcing.

How can the 2020 Strategy support a stronger emphasis on evidence and research to tackle human trafficking and modern slavery in the Indo-Pacific region?

79. The Law Council considers that the 2020 Strategy should be based upon the existing evidence base regarding modern slavery, but seek to expand this evidence base in targeted areas of greatest vulnerability to modern slavery and most relevance to the Australia's policy priorities. This will guide the basis on which policy choices are developed and direct limited taxpayer resources towards the most critical issues.
80. The 2020 Strategy could support a stronger emphasis on evidence and research to tackle modern slavery through encouraging and facilitating the publication of deidentified data (where appropriate and ensuring client confidentiality and privacy is maintained), resources and advisory information on human rights and modern slavery, including for specific regions in which modern slavery is little understood or addressed.
81. The evidence base should be both quantitative and qualitative and its objectives include understanding the underlying causes of modern slavery in the Indo-Pacific at a high level of detail, for example with a country-by-country or group-by-group analysis, but also on developing recommendations for action by different stakeholders.
82. Research might focus on identifying and understanding groups that are disproportionately affected by modern slavery. As well as the gender analysis envisaged under the first proposed objective above, the Law Council suggests that another analysis focus on migrants. The International Organisation for Migration notes that migrant workers are particularly vulnerable, being in situations that are 'either unseen, hard to access or simply not covered by existing legal protections'.⁷⁰ In a globalised world, planning for services to assist modern slavery victims and educate communities must take account of demographic shifts, as many victims of modern slavery may be geographically isolated and far from practical support – including individuals in domestic servitude situations and people on visas who are exploited by unscrupulous employers. Building the evidence base regarding common pathways of victims towards help will also be important in considering the training of the frontline officials who are most likely to encounter victims of modern slavery, noting that these will vary depending on the kind of offence, victim and country.
83. Australia has a strong research community on issues of modern slavery, with significant expertise across several leading universities, which may be able to assist with the research.

⁷⁰ International Organisation for Migration, *Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour* (26 July 2019) 10.

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