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## **‘The state of NSW anti-slavery’**

**Keynote address: NSW Anti-slavery Forum 21-22 May 2024**

**Transcription of Dr James Cockayne, NSW Anti-slavery  
Commissioner, delivered on 21 May in Sydney, NSW**

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Thank you so much Cindy, for that lovely introduction and thank you all for being here today. In particular, thanks to Attorney General Michael Daley for your commitment and for being here. It's clear from your words just now the extent to which you understand the challenges that people suffering modern slavery in New South Wales face, and not only when they're being exploited, but afterwards. Thank you for your commitment and your government's commitment to continue to work to tackle this problem.

Cross-party political support has been really crucial so far to getting us to this state of conversation and to all of the efforts to tackle the challenges facing 16,400 people who are estimated to have suffered modern slavery in New South Wales. So, I'd like to thank also the members of Modern Slavery Committee, the Chair, Dr. Joe McGirr, Deputy Chair Jenny Leong, for your commitment to this work and the time that you're putting in with the committee. I look forward to working closely with the committee in the months ahead, particularly as you look to engage with people with lived experience.

Thank you also to the Gadigal people of the Eora nation who looked after this country for tens of thousands of years before my mob showed up. First Nations communities, as we've emphasised this morning, have survived practices imposed by the state of New South Wales that would today constitute modern slavery and our efforts to tackle modern slavery and our efforts to address indigenous disadvantage shouldn't be thought of as mutually exclusive. We need to lift the veil of silence around the history of slavery and slavery like practices in this country.

Whether the victims of those abuses were Indigenous, South Sea Islander, or from anywhere else, it's the right thing to do, not just as a matter of policy, because we all have so much to learn from the relational approach that Dr. McComsey and Uncle Widdy modelled so beautifully this morning, but also because it's right as a matter of law. Under international human rights law, survivors of serious human rights abuses such as modern slavery are entitled to an effective remedy. So, we should be asking ourselves, I think in the anti-slavery community, whether we have helped to secure effective remedy for the thousands of survivors in our state, including First Nation survivors.

And this brings me really to the theme of my speech this morning. What is the state of anti-slavery in New South Wales? In a word promising. Now, promising is what a teacher puts on your report card when you're heading in the right direction, but there's still quite a lot of room for improvement. Promising is when a building's foundations are laid down. You're beginning to see the structure emerge, take shape. Promising means the jury's still very much out.

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So, my message to you today is deliberately ambivalent and nuanced because you're all incredibly intelligent people who are perfectly capable of holding two slightly contradictory truths in your heads at the same time. We should be both proud of the efforts undertaken and the progress made in this field. And we should be uncomfortable. We should recognise that our efforts are becoming more effective, but we should also recognise that there's room for improvement as the Attorney General has just said.

Many of you in this work have been doing profoundly important work to lay down those legislative foundations that he talked about over many years and now to bring them to life. And I want to thank all of you very sincerely in this room who've been doing that work for decades, three decades in Fiona's case. And there are others in the room who've also been working so hard on this for so long. Lives have been changed because of that work and I think that deserves to be celebrated. That's why at the end of the day, we'll be handing out not the first Commissioner's condemnations as Joe would have you believe, but the Commissioner's first commendations. We're going to make this a regular event. We want to celebrate the great work that's going on in this field and we're taking as our symbol for this community, this waratah that I have here in my lapel and a few others do too. It's not the official waratah logo of the New South Wales government because I'm independent of government as I often remind many of you. But something a little bit different. And we felt the waratah was the appropriate symbol for this work because it's from here, obviously. And because it emerges as a symbol of beauty, strength, and resilience, strong and proud, regenerated by fire.

So, my mood here today is founded very much in optimism. There's a lot to celebrate, much promise, but I also think that we're at a moment in our national anti-slavery discussion that requires some uncomfortable truths to be confronted, some blind spots.

First, we need more tents. Today there are hundreds and I mean quite literally hundreds of Pacific Island workers who've disengaged from the Pacific Australia Labour Mobility scheme in many cases due to exploitation and abuse, who are homeless and destitute in rural and regional New South Wales and in other states. And I know this for a fact because I've spoken to over 80 of them myself directly, and because a number of them have contacted our helpline for help and support.

Support services in Griffith told us last week that they have literally run out of tents to give people. These people are not necessarily entitled to crisis accommodation services because of their visa status. So, they're being given tents to sleep in parks. They've come from Pacific Islands where it's nice and warm and now they're sleeping, if they can get one, in a tent in a park in Griffith. And because they've disengaged from the PALM scheme, they don't have access to Medicare and often can't access food, appropriate clothing, or safe work. And as a result, medical authorities, police, and child protection have reported to me a pattern of women presenting to give birth, having received no antenatal care - zero. With some signs additionally, in certain cases of sexual servitude. They report a pattern of growing community tensions and a rise in petty crime. And even some signs that there may be organised labour trafficking emerging.

So, tents are of course just a cypher, a symbol here for the broader lack of resourcing of basic needs for those at risk of and suffering modern slavery in our state. We have just a few dozen dedicated beds in crisis accommodation specifically for victims of modern slavery in the state, and almost none of them are in rural and regional New South Wales. As yet, we have no dedicated system of support for victims of forced marriage, although the *Modern Slavery Act of 2018* in New South Wales requires me to report annually to parliament on the steps being taken by the Department of Communities and Justice to create one. And as yet, neither the previous government nor this one has decided to allocate funds towards the creation of the hotline that I'm required by the Modern Slavery Act to develop.

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There are however some reasons for optimism here too. The Federal Government is creating both an alternative referral pathway that will allow referrals to the Support For Trafficked People Program without going through the criminal justice system - a deterrent of course to reporting for many people - and a new Forced Marriage Specialist Support Program. And both initiatives are strongly to be welcomed. And here in New South Wales, my office is pushing forward to develop our existing basic helpline capabilities.

We've had that basic capability in place for the 21 months I've been in my role. And in that time we've identified over 150 people that appear to be survivors of modern slavery in New South Wales and beyond, and we provided direct support and assistance in line with my statutory functions to over 65 people. We've referred people to more than 80 different organisations for support depending on their needs, ranging from Anti-Slavery Australia to the Fair Work Ombudsman, from the Salvation Army to the Support for Trafficked People Programme run by the Red Cross. And we've activated regulatory and law enforcement actors from the Australian Federal Police all the way through to the Australian Maritime Safety Authority. As the Attorney General kindly mentioned, we've offered support to a range of different survivors. We've offered support to fishermen facing forced labour and deceptive recruiting on Sydney Harbour, disengaged Pacific Island agricultural workers, women escaping decades of trafficking and abuse, cleaners, security guards, tech workers, creatives, and survivors of cultic organisations.

The demands on this basic helpline capability have risen very, very steadily. We're now averaging around three or four presentations each week, many of them involving complex matters without any significant effort on our part to advertise that capability. And this is a doubling of the rate of presentations in the first five months of this year. So, it means that my office is now actually, if we sustain that rate, it's on track to receive more modern slavery presentations in New South Wales in 12 months than report to the Australian Federal Police from this state.

So, we're going to need to think together about the capabilities we have in place to provide appropriate supports, referrals, and remedy. And if we can bring up the next slide today, I'm very pleased to announce that we're upgrading our basic helpline capability by the introduction of a new phone number from August. Don't try it right after this. 1-800-FREEDOM. And as you see on the screen, I'm pleased to announce that we'll begin a gentle advertising campaign through a collaboration with Homes New South Wales. Corflutes placed on 22 construction sites around the state in English, Chinese, and Arabic. We'll also be advertising it through an exciting new survey of migrant workers that the Migrant Justice Institute is leading, which Associate Professor Laurie Berg will tell you a lot more about tomorrow in her keynote speech. Now this new hotline number meets the statutory responsibility imposed on me by section 12(d) of the Modern Slavery Act. But we have so much work to do to ensure it meets its promise and we will absolutely, absolutely need all of your help to make that happen.

So, my team is currently undertaking comparative research on a range of other hotlines here and overseas and will consult with many of you later this year to ensure we have suitable and effective triage assistance and referral pathways in place. And after we've sharpened our tools, we will present a new request to government for funding after this work, specifically. Now under existing funding arrangements, my office's work is resourced from the budget of the Department of Communities and Justice and I want to thank Secretary Michael Tidball, in particular Deputy Secretary Paul McKnight and the others in the department who've made possible the substantial progress over the last 21 months in developing my office and our work. And they've done this, I want to be clear by carving out from a budget already facing significant headwinds, a baseline package of resources to support my office's development, showing their real commitment to this

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work. So, Secretary, thank you very much. We're truly grateful and we look forward to continued collaboration.

Now let's consider another uncomfortable truth about the state of our anti-slavery efforts. As we've heard mentioned this morning, we're still not identifying the vast majority of victims. In fact, as our capabilities improve, we're likely to see even more resources be required to provide them support and assistance. In New South Wales, using Australian Institute of Criminology, AFP, and Walk Free data, we estimate between 80 and 98% of victims still go unidentified. Often that's because incidents aren't reported. Many victims we know feel unsafe to report because of the risks of retaliation against them or their family, or simply risks, for example, of deportation. But too many times the incidents are reported and simply aren't recognised for what they are - cases of modern slavery.

Frontline workers, including law enforcement, appear to need additional training in two areas in particular, I would suggest. First, recognising forced labour, deceptive recruiting, and debt bondage cases. And second, investigating online offences. Despite the incredible efforts of many of you in this room to explain to frontline workers all around the state that the cage that traps victims in modern slavery is often made up psychological, financial, and contractual bars, not necessarily physical restraints, I still see police concluding that where victims have access to passports or mobile phones or can leave the workplace, there mustn't be modern slavery present, without asking in the interview questions about pay, debt, fees, coercive control, or deception. I still see victims as a result being left in situations with all of the indicators of modern slavery as a result, with little prospect of exit or recovery and the harm further compounding.

And then there's the online issue. Overnight, I wrote to the New South Wales Police Commissioner calling on her to investigate social media platforms such as Instagram and BrandArmy for potential modern slavery offences under New South Wales law, after the airing last night of the investigation by ABC's Four Corners called 'Kidfluencers', which pointed to parents selling access to sexualised content of children online. In New South Wales it's a modern slavery offence to administer a digital platform used to deal with child abuse material that's under section 91HAA of the Crimes Act. So, I was particularly shocked to hear on the Four Corners report last night that some families have been told by state police that there's nothing they can do. So, I wrote to the Commissioner and called on her to urgently investigate these possible crimes of the New South Wales law.

Not all of the crimes under New South Wales law are covered by Federal law. The AFP leads in modern slavery investigations and on child sexual exploitation, but there are offences under New South Wales law if we are committed to the safety of children, if we are committed to fighting modern slavery, we should be using the full force of New South Wales law and law enforcement capabilities to address these problems. Now the Modern Slavery Act also requires me to report annually to parliament on what steps New South Wales government agencies are taking to require mandatory training for frontline workers. So, I'm hopeful that the government will act on this soon and I'll have progress to report to parliament later this year and to assist with that, I'm very proud that my team has developed a new project - It's Healthy to Fight Modern Slavery - working with healthcare providers across the state. In the interest of time, and only for that reason, I'm not going to say too much about it, but if you'd like to know more, please talk to Corinne, who's the mastermind of the project. We're looking forward to that flourishing in the months ahead, with a big workshop drawing in international best practice in September. So, Corinne's your person to talk about that.

To me, one of the reasons we may be struggling with identification is that our movement and its governance may remain not fully representative, both of the people we seek to serve, and arguably of those doing the work. And this is a third uncomfortable truth, I

think, our anti-slavery efforts have generally not created pathways to meaningful participation and visible leadership in the movement for people who have lived experience, whether they're victims, or they're descendants, or family. There have been very notable exceptions and you've met some of them this morning. People like Moe Turaga, and I'm quite optimistic that we see now a new wave of survivor leaders coming through, people like Sarah and forceful advocates such as Scarlett Franks, Anna Bowden, Carly McConkey and Nanushka. This is really important that we have people in numbers, there is safety in numbers and there is power in collective organisation. In New South Wales, a fifth of my advisory panel have lived experience and the Federal Government continues importantly to fund a Lived Experience Engagement Programme that Yvette is doing so much to lead, which promises to strengthen the ranks of survivor leadership even further.

And that's all very promising. But we mustn't shy away from the uncomfortable truth that there's a lot more we need to do here. Right now, survivors aren't included in our anti-slavery policy-making and decision-making as a matter of course as participants, rather than just as a tick-a-box cohort to be consulted along the way. Fifteen years into its existence, there are no declared survivors included as full members in the National Round Table. Imagine what we'd be saying if that was the case in the disability sector or in the domestic, family and sexual violence sector. There's only one declared survivor working in a full-time role in any government anti-slavery body in the whole country and that's Sarah. That compares really poorly again to adjacent spaces like disability support or child abuse. And that's before we even consider the under-representation of the huge variety of experiences of modern slavery in Australia. We lack voices of First Nations survivors in our anti-slavery policy making. We lack prominent temporary migrant worker leaders. We lack disability advocates, Asian migrant sex workers, textile workers, all of these groups are underrepresented.

Looking at you I see a very intelligent, strong community and frankly a very white community as well. We need to think about how we represent to the people we're trying to support, what it is that we're modelling. What's also surprising is that we often lack representation of the very services that are supporting these people. What survivors frequently need is housing, police support, healthcare, psychological counselling, and legal assistance, and in our federation, it's states that provide those things in the first instance. Yet the states aren't represented in the National Round Table on Slavery and Human Trafficking.

Indeed, recently when as the only government official in the country with a specific mandate to provide support and assistance to people with lived experience of modern slavery, I asked to join the Round Table, or even simply the working group that's revising the NGO guidelines on working with trafficked people. Both requests were refused.

If we want systems that provide effective, cost-efficient supports, we need the people who are receiving the support and the people who are providing these supports at the table when the systems are designed and as they're managed. And we probably need to think more fulsomely about how our work in this space is organised and governed more generally. It's notable how different our space is to adjacent spaces that deal with vulnerable people. We have no peak body, we have no enforceable sectoral standards of care, nor any actor in power to ensure service providers meet those standards. We have no training standards, no professional development pathways. There's no shared model of treatment outcomes, no shared directory of services, no place-based problem-solving task forces or even routine case management coordination. And we don't have sector-wide advocacy routinely to government or a coordinated annual funding ask. So, it's very hard for government to know what money we actually want, to go where, to do what, to help whom.

Our sector remains very fragmented. If we want to be effective and indeed to be better resourced, I would argue these are all areas we're going to have to think about in the months and years ahead. And that brings me to another blind spot. How we talk about modern slavery in the public discourse, our narrative. And this is one area where I think the glass is currently definitely less than half full. In his book, *How to Be an Anti-racist*, the African American scholar Ibram X. Kendi writes: "Like fighting an addiction, being an anti-racist requires persistent self-awareness, constant self-criticism and regular self-examination." I would say the same is true of anti-slavery. We need to critique our own biases, our blind spots, our habits, our practices, our prejudices to think about whether the way we support people with lived experience truly empowers them or inadvertently reproduces dependency and loss of agency. And to do that, we have to move beyond questions of policy and programming and get to questions of culture and values. The structures that make slavery possible in contemporary Australia are complex. They include racist and sexist biases in the general population and in the media.

A few weeks ago, I did a half-hour interview with the national newspaper about the risks of exploitation that international students face. It was pretty clear to me during the interview that the journalist was taking an angle where they wanted to slant the resulting article towards sexual exploitation. So, I took the trouble several times during the interview to make clear that international students face risks of exploitation in restaurants, in hospitality, in agriculture, probably more so even than in sexual exploitation. Yet when the interview was published, the headline on page three of the national newspaper was all about sexual slavery. Unsurprisingly, credit to them, sex workers immediately wrote to me to express their disappointment. I wrote back agreeing, saying I too am disappointed. But I know that I contributed there to the reproduction of the narrative that it is not helpful to the overall effort. Just as the media has developed more nuanced and grounded treatment of domestic and family violence now, we badly needed to pull up socks on reporting on modern slavery.

And we need to stop treating stories of modern slavery as trauma porn and start asking how ethical storytelling can actually empower victims. That goes also for our own organisations. Are we using images in our own communications of survivors that reduce them to tropes of cowering women, hands tied, perhaps of barcode on the body? Are we stopping to ask, is that actually empowering those people or simply reproducing the practise of commodification that we're seeking to end? And while we're at it, perhaps we could stop and think about the rescue narrative. Is the rescue narrative really about empowering the victims that are being rescued? Or is it really about making us the white knights riding in on the horse to save the damsel in distress? The hero.

There is one area, however, where I think our glass is at least half full and rising steadily. And that's the work on fostering responsible business practises that the Attorney General so kindly referred to. That's going to be a focus of our discussion tomorrow, so I won't dwell a lot on it now, but I do want to thank the New South Wales government for its remarkable leadership in this area, both the parliament and the government, New South Wales government agencies and other New South Wales public buyers with annual procurement worth more than \$45 billion are now actively taking reasonable steps to ensure they don't buy goods and services made with modern slavery. And we've been able to make that happen because I've had very close cooperation with New South Wales government agencies, Treasury and others since I came into the role to bring that to life.

We also have consultations underway with both the renewable sector, and as of now the investment sector, to develop two new codes of practice, which we aim to publish under section 27 of the Act later this year. So New South Wales is really showing the way in this area, and I would argue in the process, it's setting up New South Wales businesses

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and markets for success in a global economy that is paying increasing attention to the social impact of procurement practices in both the private and public sector.

So overall, the picture here of anti-slavery in New South Wales is I believe mixed. We are making progress, but we have lots of work to do and there is a certain discomfort in that. I'm okay with being uncomfortable and I'd invite all of you to be too because being anti-slavery, I believe is like being anti-racist. It's not enough to disapprove of slavery or racism. It's not enough to seek to rescue people from slavery or from the effects of racism if we don't shut down the pipeline of abuse. No, to be truly anti-slavery, you have to work actively to identify and oppose slavery. You have to work to dismantle the systems and policies and practices and prejudices that generate and tolerate slavery in the first place.

And that means being disruptive to business as usual. It means challenging the established way of doing things. And that's pretty uncomfortable in Australia. We don't like to rock the boat. And in a sense, that's what we are here to do for the next couple of days. Have a really honest conversation, even if it is at times uncomfortable, an honest conversation about what's working and what's not working so well. About what's promising and what should be retired. About what we need to do more of and what we need to do less of. Because that is ultimately how we learn and how we'll grow as a community.

And for me, that word community is really at the heart of what it means to be anti-slavery. I often like to say slavery is a theft of agency. And because we human beings are social beings because our agency occurs in a community setting, slavery is as the great Caribbean scholar Orlando Patterson put it, it's a form of social death. It's as much about having your social personhood taken away from you as your legal personhood. So, to be anti-slavery, we have to help survivors recover their social agency, we have to bring lived experience to the heart of an anti-slavery community. And in the process, we'll see survivors flourish and find real freedom.

It was Amartya Sen and Martha Nussbaum who explained that freedom isn't just about liberty, it's also about capability. Not just freedom from but freedom to. So, to be anti-slavery isn't just to be for your victims' rescue or their rights. It's also about being committed as all those people who are on stage this morning show being committed in the long term to helping survivors recover the capabilities that make for a free meaningful life, to recover and own their own voices, their financial competence, their autonomy, their confidence. And so many of you in this room are already deeply involved in and dedicated to that work in the Salvation Army with the Safe House to the Red Cross with its Support to Trafficked People Programme, from Taldumande Youth Services to Australian Muslim Women's Centre for Human Rights with their work supporting victims of forced marriage, from Freedom Hub Survivor School to Anti-Slavery Australia's Speak Now initiative.

But it's work ultimately for all of us. And it's all about building community, a community of purpose. And that's what we're here to do today and tomorrow, to foster a genuinely anti-slavery culture, embedding it across the work of government, business, unions, civil society. And to do that by creating a safe, brave space. I'm really grateful to Alison Dietz and Abigail McGregor and Norton Rose Fulbright for giving us this beautiful space. It's up to all of you to turn it into a safe, brave space.

So, it is going to be a difficult two days. It should be. We are here to celebrate success and progress, but that doesn't mean we should be entirely comfortable. We shouldn't be comfortable with 80 to 98% of victims going unidentified. We shouldn't be comfortable with people sleeping in tents because they can't access services after being exploited.

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I'm going to be uncomfortable the next couple of days and I suspect some of you will too.

So, the challenge is to listen, to reflect carefully and deeply and with respect, and to look after each other, not to overpromise, because changing systems is really, really hard and slow work. But to commit together to that work, to commit to not only fight slavery, but to be anti-slavery. And that depends on all of you. But you all give me frankly, huge amount of hope. I see in this room huge expertise, huge energy, huge commitment from government, civil society, unions, academia, and people with lived experience. I see a burgeoning community of purpose and I see a great deal of promise.

Thank you so much.