



# Identifying and responding to forced marriages and trafficking

This fact sheet summarises the Ask LOIS webinar on this topic, presented by Aimee Chaffer of the Salvation Army on 6 November 2014. This webinar can be viewed for free at [www.asklois.org.au/webinars/past-webinars](http://www.asklois.org.au/webinars/past-webinars).

## Australia's criminal code

- Trafficking of people and forcing someone to marry against their will are crimes in Australia
- The *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act* came into effect in March 2013 and criminalises the following:
  - Forced Labour
  - Servitude
  - Forced marriage
  - Organ trafficking
  - Harboursing a person

## Types of industries that use trafficked persons

Trafficked people may be recruited for these industries, it may turn out the job is exploitative and different to what they had been told, and they are unable to leave:

- Construction
- Retail
- Hospitality
- Agriculture
- Nail Salon / day spas
- Domestic work
- Childcare
- Massage
- Sex work
- Organ trafficking

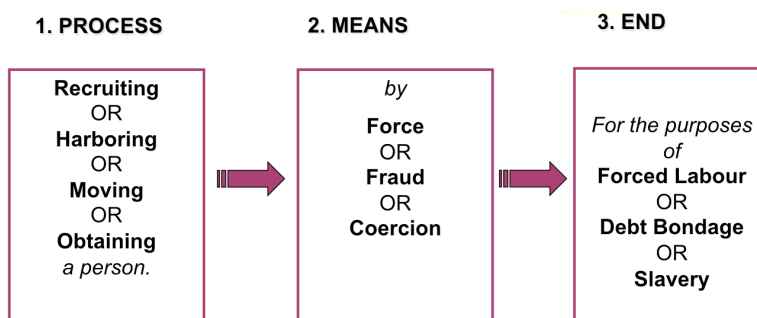
## Identifying trafficking and slavery

### Definition of 'trafficking':

The **recruitment, transportation, transfer, harbouring or receipt** of persons, by means of the **threat** or use of **force** or other forms of **coercion**, of **abduction**, of **fraud**, of **deception**, of the **abuse of power** or of a position of vulnerability or of the giving or receiving of **payments or benefits** to achieve the consent of a person having **control over another** person, for the **purpose of exploitation**.

**Exploitation** shall include, at a minimum, the exploitation of the **prostitution** of others or other forms of **sexual exploitation, forced labour or services, slavery** or practices similar to slavery, **servitude** or the **removal of organs**. (*United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2003*)

## Elements of trafficking





### Questions to ask someone you think may have been trafficked

- Were any promises made to you?
- Where is your passport? Who has it?
- Have there been any threats made (to you or to others)?
- What would have happened if you refused (to do the house work or the job, etc)?

### Why don't people in these situations leave?

Modern slavery can be thought of as a prison without walls. Some reasons a person may not leave include:

- Debt bondage
- Threats of deportation
- Withholding of documents
- Threats to family members in home countries
- Isolation
- Verbal abuse, humiliation
- Psychological coercion is often coupled with threatened or actual physical violence and sexual assault
- Forced labour

### Forced marriage

Definition of “**forced marriage**”:

A “marriage that is **not freely or fully consented to** because of the use of **coercion, threat or deception**”.  
*Section 270.7A (1) of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013*

- It is important to acknowledge that there is a difference between **arranged** and forced marriage and recognition of culturally appropriate practice.
- **Questions for determining if it was a forced marriage:**
  - Was there full and free consent to say no?
  - Are there threats, duress or consequences if an individual was to say no?
  - Is there emotional or physical abuse?
  - Are one or both parties under the age of 18?

### Responding to situations

- Most important – to make a person safe, both physically and also emotionally. Then consider the following things:
  - Legal situation (immigration, family law, etc)
  - Accommodation
  - Health (physical and mental)
  - Financial
  - Clothing/material assistance
  - Language
  - Education
  - Employment
  - Court support
- Given the level of trauma that people have experienced; cooperation between social welfare services, legal practitioner or other service is critical
- While acknowledging professional legal privilege, it is important for all professionals to acknowledge key supports and work holistically
- In the collaborative space, client consent is extremely important



## Getting Help

**Australian Federal Police (AFP) human trafficking team: 1800 813 784** or report online:

[https://forms.afp.gov.au/online\\_forms/report\\_a\\_crime](https://forms.afp.gov.au/online_forms/report_a_crime)

- The AFP is responsible for investigating the trafficking of people into all industries and domestic situations and may be able to help refer clients to supported accommodation and financial aid. The AFP may also help other Australian Government departments in their work, such as Immigration, Taxation or Centrelink

**The Trafficking and Slavery Safe House (The Salvation Army): (02) 9211 5794**

- Provides supported accommodation to single women who have experienced modern day slavery: human trafficking, slavery and/or slavery-like practices
- Work with individuals, families, groups, communities, organisations and societies. In addition to women living in supported accommodation, also provide services and support individuals who do not reside at the service (including men and families)

**Red Cross Trafficking Project, [national\\_stpp@redcross.org.au](mailto:national_stpp@redcross.org.au)**

- Red Cross manages the Support for Trafficked People Program (STPP) and provides support to people who have been impacted by people trafficking and who have been referred by the Australian Federal Police (AFP)
- Red Cross provides intensive casework support, accommodation and financial assistance, and offers referrals to legal advice, counselling and mental health supports while people recover from their trafficking experience

**Anti-Slavery Australia: (02) 9514 9662, [www.antislavery.org.au](http://www.antislavery.org.au)**

- Provide free access to comprehensive legal advice, representation and assistance to people who have experienced trafficking or slavery in Australia, including advice about immigration, citizenship, human rights, employment law, family law, criminal law, victims' support and more

**Fair Work Ombudsman: 13 13 94**

- Enforces the Fair Work Act which sets employment conditions and standards that must be met, such as maximum weekly hours of work, leave, public holidays, notice of termination and redundancy pay requirements, and the right to request flexible working arrangements. It also outlines minimum wages for employees. Exploited persons in Australia should contact the Fair Work Ombudsman to investigate any claims of forced labour

**Sex Worker Outreach Project: (02) 9206 2166 or 1800 622 902** (free call), [www.swop.org.au](http://www.swop.org.au)

- SWOP offers free and confidential services open to all people who engage in sex work—everyone providing sex for cash, favours, drugs, clothing, a place to stay, alcohol or anything else either often or on occasion
- Offer information about the trafficking laws, information on support services and visas available for victims of trafficking and referrals to services for people who may have been trafficked

**Women's Legal Advice Line: (02) 8745 6988**

- Provides free legal advice for women on a range of legal issues including family law, domestic and family violence, sexual assault, discrimination, employment issues and child protection matters