



Photo credit: Tim Page. Girl on road to Battambang

# Encounters with modern slavery

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Author of Australians and modern slavery, with a Foreword by  
The Hon Catherine Branson QC, President of the Australian Human Rights Commission

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## What do we mean by modern slavery?

Slavery did not end 200 years ago. There are perhaps 27 million slaves in the world today. The United Nations High Commission for Human Rights (UN HCHR) refers to eleven forms of modern slavery and this session will consider how poor and vulnerable people come to be owned, bonded or trafficked - children, women, men who are *born into slavery* or trapped by:

- Child labour
- Child soldiery
- Child trading
- Debt bondage
- Forced labour
- Forced marriage
- Human trafficking
- Labour trafficking
- Organ trafficking
- Slavery in war.

Some slaves are moved around the world. Many are enslaved close to where they were born, trapped by systems of slavery that have allowed child trading, debt bondage and forced marriage to persist for generations. These slave-making systems are described in the 1956 Supplementary Convention. The Convention defines slave and slavery in terms of ownership.<sup>1</sup>

Some potential forms of slavery (domestic service or organ trafficking) have only been recognised recently. These situations have their own international treaties which define who is affected, what causes will be dealt with and what organisations will be responsible for tackling them.

## Definitions do matter: Avoid conflation

Slavery means that one person owns another. What does it signify, to be a slave owner or to be owned? Loss of freedom involves a change of state that goes beyond every day violence, abuse and exploitation. Being *owned* is what makes slavery a crime against humanity.

Some treaties refer to slavery by implication and we need to tease out what refers to violence, abuse and exploitation and what refers to slavery. Take for example the International Labour Organisation (ILO) Conventions on child labour. Child labour traps millions of children. To find a workable way through this huge problem the ILO has separated out the worst forms of child labour for special attention.<sup>2</sup> The worst forms of child labour are those forms where a child is at risk of harm such as working in a quarry or down a mine or using toxic chemicals. Such children are oppressed, but are they owned? The *form* of work does not signify the *status* of the worker. In classical Greek and Roman times, a young slave might be assigned to an educated amiable life as a scribe; but that slave person was owned and could be punished or sold on an owner's whim. Ownership is the essence of slavery.

In this session we will ask: In Australia, do we conflate slavery and exploitation? Does it matter?

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<sup>1</sup> Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

### Article 7

For the purposes of the present Convention:

(a) "Slavery" means, as defined in the Slavery Convention of 1926, the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, and "slave" means a person in such condition or status;

<sup>2</sup> ILO Convention on Worst forms of child labour, C182, 1999

## The “engines of slavery” make excluded groups vulnerable

In Australians and modern slavery we identify four “engines” that enable systems of slavery to persist. These engines operate in a summative way: Poverty and powerlessness and crime / corruption and conflict work together to keep slave systems operating. Slave systems place at risk the most vulnerable groups of people. Groups become vulnerable by virtue of exclusion from the mainstream. We identify groups who are excluded based on gender, race, religion or caste. We describe programs in south Asia that address systems of debt bondage, child trading and forced marriage. These programs manage the balance between ‘top-down’ and ‘bottom-up’ processes. They make it possible for vulnerable people to have ‘agency’. We may need to address the engines of slavery in Australia. We can learn from Asia.

By defining slave systems, the Supplementary Convention directs attention to system change and the social development that is required to address slavery. Social change to address crime? Indeed! In this session we will consider how criminal law, human rights law and civil law can work together with other means to minimize exclusion and risk of enslavement. In Australia, as in Asia, we need to keep our systems operating to minimize exclusion.

## Encounters with slavery

Australians may encounter modern slavery in three ways:

### 1. Within Australia

Sometimes people are married too young or trapped into forced marriage

Criminals bring workers into Australia with the false promise of good jobs. They trick and trap women into the sex industry or men into forced labour

Humanitarian entrants may have lost family members to some form of slavery. People from Afghanistan, Burma, Congo, Sudan, Sri Lanka or the Gulf may have direct experience of child labour, child soldiery or forced labour

### 2. When travelling

Australians who travel overseas may encounter child labour or forced labour or sex trafficking or debt bonded labour or medical tourism / organ trafficking

### 3. Australian business and purchase decisions affect economies in our Region. Businesses may contribute to slave-like working conditions, perhaps without realizing. Individual consumers may contribute to some form of slavery, perhaps by seeking a lowest-cost produce where a low price is achieved by un-fair trade practices or employment

This session will help you to recognise how you might encounter slavery

## What can Australians do about slavery?

What can you do when you have an encounter with slavery? Start with a simple list:

1. Prepare families, teachers and others to protect marriage-with-consent
2. Support police, officials and others to protect workers and stop criminals
3. Educate Australian services to understand the experience of slavery. We can promote community inclusion and protect people while they build new lives
4. When you travel as a tourist or on business, learn to recognise slavery. Do not add to child labour, forced labour, sex trafficking or debt bonded labour
5. When you buy or consume, buy fair trade. Buy products that are slave-free
6. Invest in companies which uphold ILO labour standards and sustainable practice

On its web site, the Australian Human Rights Commission refers to the issues of trade and business ethics by referring to the Global Compact, a UN initiative to embed the principles of human rights in business practice. (The initiative is sometimes called the Ruggie Process, after the name of the UN Special Rapporteur).



## Two important issues

### How does slavery come into the remit of the Australian Human Rights Commission?

Freedom from slavery is embedded in the Universal Declaration of Human Rights (UDHR).<sup>3</sup> It is also mentioned in Article 8 of the International Convention of Civil and Political Rights (ICCPR).<sup>4</sup> Yet it is only by reading the Supplementary Convention that any meaningful understanding can be given to Article 8 of the ICCPR. For reasons that are not clear, the Supplementary Convention was not included in the list of so-called 'core treaties'; a list that apparently emanated from the UN Non-Government Liaison Service but has been adopted by some as if it had some official standing.

Would it be better to include the Supplementary Convention within Australia's core treaties?

### Treaty Monitoring and the Universal Periodic Review

In 2000, David Weissbrodt and Anti Slavery International prepared a paper for the Human Rights Council.<sup>5</sup> It differentiated forms of abuse, such as incest, from those forms of ownership that came to be known as "Contemporary forms of slavery".<sup>6</sup> Weissbrodt's paper also drew attention to the absence of any real form of monitoring or enforcement process for the Supplementary Convention. He proposed options, for example using the ILO's Forced Labour Convention<sup>7</sup> as a pragmatic way to deal with slavery, a sort of shadow law to substitute or fill the gap and enable action to be taken. One problem is that forced labour is not slavery. Forced labour is "*work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily*". We do slaves no favours by conflating 'menace' or 'penalty' with ownership.

Since Weissbrodt wrote his paper, the United Nations has instituted a process of Universal Periodic Review (UPR), where each country will present its human rights record for a sort of peer review, once every four years. Australia was an early participant in the first round, in 2011; and will participate again in 2015. There is time, if we choose, to include Australia's record on addressing slavery in the next round of the Review.

## What is Slavery Links Australia Inc?

Slavery Links Australia Inc. is a community association, incorporated in Victoria. We have a Board, a five-year track record of education, research, policy development.

Slavery Links' projects include public speaking; the development of education materials such as Australians and modern slavery; an exhibition and a web portal (awaiting funds).

## How do we operate?

We transfer expertise. You add the language of slavery to existing operations. Be aware of slavery and human rights. Make the necessary adjustments. Or bigger changes.

We work based on expertise (not mass membership at this stage). We are funded by members, not by Government, philanthropic trusts or appeals for public money.

## What difference do we make?

We intend to produce better business decisions, more informed consumers, more engaged members of Non Government Organisations. We aim to increase community awareness, increase community action and assist organisations to recognise their anti-slavery roles.

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<sup>3</sup>GA Resolution 217A (III), UN Doc A/810 (1948)

<sup>4</sup>Article 8 of the ICCPR states:

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited
2. No one shall be held in servitude

<sup>5</sup>Weissbrodt, David (2002) Abolishing Slavery and its contemporary forms, Report from Anti-Slavery International and David Weissbrodt to UN High Commission for Human Rights, HR/PUB/02/4

<sup>6</sup>United Nations, Office of High Commissioner for Human Rights (n.d.) Contemporary forms of slavery, Fact Sheet 14.

Go to: [www.ohchr.org/documents/publications/Fact-Sheeten.pdf](http://www.ohchr.org/documents/publications/Fact-Sheeten.pdf)

<sup>7</sup>International Labour Organisation (1930) Convention concerning Forced Labour, C. 29