

Modern Slavery

in Remote Australia?

Jon Altman

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The Government's welfare reforms for Indigenous Australians look like slavery

On 19 September 2017 in New York, where I happened to be residing temporarily, the International Labour Organization (ILO) released new research developed jointly with the Walk Free Foundation and published in *Global Estimates of Modern Slavery*. The research reveals that there are an estimated 40 million victims of modern slavery in 2016, with about 25 million entrapped in situations of forced labour. There are also an estimated 152 million in child labour around the world. The ILO tells us that without dramatically increased efforts the UN's Sustainable Development Goals, particularly Goal Target 8.7, which looks to eradicate forced labour, human trafficking and child labour (including the recruitment and use of child soldiers), will not be achieved.

The ILO newsroom tells us that the ILO is the UN agency for the world of work. It sets international labour standards, promotes rights at work, and encourages decent employment opportunities, the enhancement of social protection and the strengthening of dialogue on work-related issues. The Walk Free Foundation is an international human rights organisation founded by Andrew and Nicola Forrest. The foundation was established to pursue their vision to end modern slavery, globally. To this end, Walk Free provides the information and capabilities required for countries to fight slavery in their jurisdictions. The foundation engages with governments (via the Global Slavery Index), businesses and corporations (via the Bali Process Business Forum) and global faiths (via the Global Freedom Network).

Forced labour is defined by ILO Forced Labour Convention No. 29 (1930) as 'all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'. For the purposes of measurement, forced labour of

adults is defined as work for which a person has not offered him or herself voluntarily (criterion of 'involuntariness'), and which is performed under coercion (criterion of 'menace of penalty') applied by an employer or a third party.

The ILO newsroom quotes Walk Free Foundation chairman Andrew Forrest:

The fact that as a society we still have 40 million people in modern slavery, on any given day, shames us all. If we consider the results of the last five years, for which we [the Walk Free Foundation] have collected data, 89 million people experienced some form of modern slavery for periods of time ranging from a few days to five years. This speaks to the deep-seated discrimination and inequalities in our world today, coupled with a shocking tolerance of exploitation. This has to stop. We all have a role to play in changing this reality—business, government, civil society, every one of us.

Australia appears to be positioning itself to be at the forefront of global efforts to combat modern slavery, influenced in large measure by the advocacy of the Walk Free Foundation. There has been a flurry of activity during 2017.

In July the Parliamentary Joint Committee on Law Enforcement completed a two-year inquiry with a report on human trafficking, slavery and slavery-like practices. The report also looked at the issues of sex trafficking, cybersex trafficking and forced marriage, and made recommendations to the Australian government for action.

Currently, the Joint Standing Committee on Foreign Affairs, Defence and Trade is undertaking an inquiry into establishing a Modern Slavery Act in Australia similar to the one established in the United Kingdom. In August it released an interim report, *Modern Slavery and Global Supply Chains*. The report notes that 'Modern slavery is a heinous crime that affects millions of people around the world. Evidence to this inquiry has highlighted the devastating impact of modern slavery and the need for stronger measures to combat it'. The committee's recommendation for the development of a Modern Slavery Act includes supply-chain-reporting requirements for companies, businesses, organisations and governments in Australia, as well as the appointment of an independent Anti-Slavery Commissioner. The committee is especially keen to document the nature and extent of modern slavery within Australia, deploying a wide-ranging definition of modern slavery that includes forced labour and wage

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10 2017–11 2017
Nº 150

exploitation, involuntary servitude, debt bondage, human trafficking, forced marriage and other slavery-like exploitation.

Also in August, the Attorney-General's Department released a public consultation paper, *Modern Slavery in Supply Chain Reporting Requirements*. In his foreword, Michael Keenan, the minister for justice, notes that millions of people around the world today are subjected to modern slavery practices such as servitude and forced labour. These, he writes, are grave violations of human rights and serious crimes with devastating impacts that have no place in our community or in the supply chains of our goods and services. The minister notes: 'There is no silver bullet to end modern slavery. Government, business and civil society all have a role to play, and we need to work collaboratively'.

In the same month Australia hosted the Bali Process Government and Business Forum on people smuggling, trafficking in persons and related transnational crimes in Perth. The Australian co-chairs were Julie Bishop, the minister for foreign affairs, and Andrew Forrest, chairman of Fortescue Metals Group and founder of the Walk Free Foundation. The co-chairs' concluding statement refers to the development of the Perth Forum Pledge, a declaration that modern slavery fails to respect the dignity and freedom of the person. Participating signatories pledged to use their influence and power within the Indo-Pacific region and globally to work together for the freedom of those enslaved and trafficked.

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What strikes me as significant in all this attention to modern slavery is that the practice is defined widely: the definition of slavery includes myriad forms of wage exploitation and forced labour and their role in global supply chains, as well as serious criminal activity such as human and sex trafficking. The role that is being played by the Walk Free Foundation in this area, both in Australia and globally, is also noteworthy: sometimes the language deployed to condemn modern slavery by politicians such as Julie Bishop and Michael Keenan and businessman-philanthropist Andrew Forrest are almost identical.

In referring the Modern Slavery Act inquiry, Attorney-General George Brandis asked the committee to ensure that there would be no unnecessary overlap between its work and that of the Joint Committee on Law Enforcement in relation to human trafficking. What he did not do—and should have done, in my view—is draw the committee's attention to another inquiry currently under way. In March 2017 the Senate Finance and Public Administration References Committee was referred a wide-ranging inquiry into the appropriateness and effectiveness of the objectives, design,

implementation and evaluation of the Community Development Program (CDP). One term of reference for this inquiry focuses on the impact of the CDP on the rights of participants and their communities, including the appropriateness of the payments and penalties systems.

The CDP has been referred for inquiry because, since its launch by the Abbott government in December 2014 and its implementation from 1 July 2015, it has proven to be highly controversial. The Human Rights Law Centre, the only agency to make submissions to both the modern slavery and CDP inquiries, describes the CDP as unfair and discriminatory. It is unfair because it requires jobless people in remote Australia to work almost twice as many hours as jobless people in non-remote Australia over the year for the same amount of income support. And it is discriminatory because it largely targets Indigenous people, who comprise 84 per cent of the 35,000 participants: the 'program logic' diagram for the CDP outlines behavioural goals to modify the norms of Indigenous jobless to suit the requirements of mainstream labour markets and society, while remaining silent on the norms of non-Indigenous jobless.

Considerable evidence has been provided in forty-two submissions and other supporting material to the CDP inquiry demonstrating how brutally the payments and penalties systems operate. I provide a cursory summary.

Official information from the Department of Employment shows that nearly 300,000 penalties, mainly 'no show, no pay' penalties, have been imposed since 1 July 2015, with over 90 per cent of these borne by Indigenous people. Each 'no show, no pay' penalty results in the loss of a day's income support for people who are already living well below the poverty line. And while an estimated 4000 full-time jobs (measured by twenty-six weeks of continuous employment) have been generated, only 64 per cent of these went to Indigenous jobseekers, and it is far from clear that these jobs are sustainable.

This is a program, as I argued in my inquiry submission, that is more effective in penalising participants than in finding them meaningful work. The level of penalising is higher than for any previous 'employment' program for remote Indigenous Australia, and it is over twenty times higher than for the corresponding 'jobactive' program for mainly non-Indigenous people in non-remote regions.

How did this extraordinary situation come about? Somewhat remarkably, it came from a recommendation embedded in a review of Indigenous employment chaired and authored by the same Andrew Forrest who is now a global anti-slavery champion.

To summarise the policy-development pathway briefly, the incoming Abbott government in 2013 committed to this review prior to the general

election, announcing Forrest, a strong supporter of Abbott, as its chair. The 200-page report *Creating Parity: The Forrest Review* (on which Indigenous academic Marcia Langton was engaged as a special adviser) was made publicly available in August 2014.

In a comment resonating with what William Davies terms ‘punitive neoliberalism’, where economic dependence and moral failure are conflated (‘The New Neoliberalism’, *New Left Review* No. 101, 2016), Forrest wrote in *Creating Parity*:

Idle hands and a lack of the dignity that work brings have contributed to the dysfunction of many remote communities. Compounding the pernicious effects of welfare, remote Australia is now an easy target for those peddling drugs, illegally sold alcohol and gambling. Full-time Work for the Dole activities from day one of unemployment will keep people active.

Forrest also recommended that income-support payments for the jobless should not be paid in cash but via a so-called Healthy Welfare Card (now the Cashless Debit Card).

The Commonwealth bureaucracy was given carte blanche to convert these Forrest recommendations into policy. In his media release announcing the CDP on 6 December 2014 (‘More opportunities for job seekers in remote communities’), Minister for Indigenous Affairs Nigel Scullion berated the ALP for introducing a program (the Remote Jobs and Communities Program) that failed local communities because it was not geared to the unique social and labour-market conditions of remote Australia:

Labor simply put the urban model of employment services into remote Australia. The result was widespread disconnection and a return to passive welfare. *The Forrest Review – Creating Parity* highlighted that idleness is again entrenched in many remote communities, significantly contributing to the erosion of social norms.

The CDP puts in place an approach that is quite exceptional. The jobless, irrespective of their English-language proficiency, are required to sign contractual ‘Job Plans’ with employment agents termed ‘providers’, with work requirements and penalties clearly specified—there are no options to be negotiated. And for an estimated 17,000 to 20,000 jobless aged eighteen to forty-nine, work requirements are specified at five hours a day, five days a week, forty-six weeks in the year, with no end date, potentially year in, year out. Arguably, this is better than the full-time option of

thirty-five hours a week that Forrest sought, and better than the fifty-two weeks a year initially announced by Minister Scullion, but it is still close to twice the work requirement (1150 hours a year) than for those on the jobactive program (650 hours).

I want to make three brief points about design elements of the CDP.

First, unlike those on the earlier Community Development Employment Projects (CDEP) scheme, those on the CDP are classified as unemployed, yet they are required to work for income support at an hourly rate of about \$11, well below the current legal minimum wage of \$18.29. If the Forrest recommendation had been implemented, that rate would have been \$7.80 per hour.

Second, what constitutes work is dictated by external program guidelines and providers, not Indigenous jobless. People are in effect required to work for public- and private-sector employers alongside others who properly enjoy award conditions. There are supply-chain implications here, because goods and services might be sold that pay labour at exploitative below-award rates. And Indigenous forms of work in self-provisioning or in cultural or domestic activities are not recognised as legitimate.

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Third, policing of compulsory work is undertaken by providers that can be community-based organisations. These providers are paid for the delivery of training, employment placement, and what is termed ‘work-like’ activity by the government, increasingly as ‘bullshit work’ by participants. Rather perniciously, providers are also paid for providing the government with information that allows the implementation of punitive penalty regimes for non-attendance.

Deploying the definition in the ILO convention above, the CDP is a form of forced labour. Given that forced labour is so central to the definition of modern slavery, the CDP is a form of modern slavery. And when people work for government agencies or in the private sector for pay below the legal minimum, they are being exploited. The CDP is also a form of involuntary servitude, because if people do not turn up for work and exercise their basic human right to withdraw their labour, they are punished with financial penalties. Ultimately, refusal to participate results in a person being placed entirely outside the safety net of welfare support. Arguably, the CDP is a form of ‘credit bondage’, as ‘participants’ see their remuneration mandatorily income managed via the BasicsCard (50 per cent) or the Cashless Debit Card (80 per cent). For Indigenous jobless, such an approach

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replicates past discriminatory treatment they experienced as non-citizen wards of the state: ineligible for award wages and paid in kind with rations rather than cash.

In its 2016 Global Slavery Index, the Walk Free Foundation estimates that there are only 4300 people in modern slavery in Australia. ‘Modern slavery’, it notes in its submission to the Modern Slavery Act inquiry, ‘refers to situations where one person has taken away another person’s freedom—their freedom to control their body, their freedom to choose to refuse certain work or to stop working—so that they can be exploited. Freedom is taken away by threats, violence, coercion, abuse of power and deception. The net result is that a person cannot refuse or leave the situation.’ This sounds very much like the CDP. What would happen to Australia’s global reputation if the 35,000, mainly Indigenous, people on the CDP were added to the number Walk Free quotes in its Slavery Index?

The Australian government is working closely with the Walk Free Foundation and its high-profile chairman Andrew Forrest to eradicate modern slavery globally. And yet domestically Forrest is the architect of recommendations on which the CDP, a form of modern slavery, is based. This raises big questions on this form of alliance building between government and the corporate sector, and of why it is that a mining magnate was commissioned to address the difficult issue of employment creation for remote Australia.

ILO convention No. 169 (unratified by Australia) calls for respect for the cultures and ways of life of Indigenous and tribal peoples. It aims to overcome discriminatory practices affecting these peoples and to enable them to participate in decision making that affects their lives. The CDP as a form of modern

slavery has the potential to destroy culturally distinct ways of life. The ILO assumes that the Australian state and the Walk Free Foundation are strong opponents of modern slavery, but both have been involved in promoting a modern slavery-like program in Australia. Perhaps the ILO needs to more carefully scrutinise who it partners by examining whether the CDP does in fact constitute a form of modern slavery and how it came about.

Today in remote Indigenous communities there are few job possibilities. Indigenous jobless have been offered a draconian choice: find a job (even if none exists), or work twenty-five hours a week for the dole indefinitely, or, if they withdraw their labour, be punished with no income support whatsoever. The earlier CDEP scheme was a relative success because its establishment forty years ago was based on a hard-headed recognition that there are few jobs in remote Australia. And so it aimed to provide a sensible intermediate position between the extremes of standard work for some and welfare and poverty for most.

The challenge for the Senate inquiry into the appropriateness and effectiveness of the CDP is to ensure that the program is replaced by a version of the earlier and more successful CDEP scheme. There are several proposals in submissions made to the inquiry. The CDP is a destructive program. It violates human rights and stands in the way of alternative development and livelihood pathways. It should be abolished immediately. **a**



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