

**Submission
No 5**

**INQUIRY INTO MODERN SLAVERY ACT 2018 AND
ASSOCIATED MATTERS**

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Modern Slavery Acts and its Contemporary Artifacts

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Since 1926, Slavery and Forced Labor has been an important consideration for Human development. Not only is Slavery an offence against humanity, but it has also been a cause of Great Wars - indeed a precursor to determination of the price of human life.

In today's world, most civilized countries are signatories to International Conventions that abolishes such acts of Slavery and Slave Trading. However, modern Slave Trading is far beyond the 'classical' model of Slave trading and there are some important differences that have to be noted, beyond the objections of a man-in-chains concept. The 'chains' today, are not as much a physical constraint, rather more an implementation of the effects that may co-incide with a considered person, if that person was thus physically constrained.

For example, in Australia, the Modern Slavery Act requires organisations to report to the Commonwealth their Supply-Chains and if it qualifies by any measure as per the provisions of the Commonwealth. However, the Act does not explicitly state what would or would not qualify as per the considered Act and what should indeed, be reportable to the Commonwealth. Here, organisations face a dilemma as to their Supply-Chain aspects and whether it should be reported. Several companies today, have their operations based overseas, in developing countries in Asia and Africa, and it certainly causes a high-risk operations to operate under such conditions where it is unknown whether the company is in violation of Australian and International laws, unless some certain specifics are indicated as per the Act.

So what could or what would be certain characteristics that an organisation or indeed the Commonwealth should look out for whilst enforcing this Law? Certainly, the 'Man-in-Chains' equivalence would provide some indications as to what would be considerable.

Identifiable Slavery

A person who is called a 'worker' can be identified as working in 'Slavery', if a 'Right of Ownership' (Right) can be exercised over the person by the 'Employer'. A Right is enacted by an 'Employer' if there is an expectation that the Worker will abide by the 'Whims' of the Employer. Importantly, a 'Whim' can be defined as an unexplained demand or request for services, over which the 'Worker' has limited understanding, visibility or expectation. Thereby, a 'Worker' only goes by and does exactly what the Employer sets out. Contemporarily, it this may translate to an expectation that the 'Workers' services can be availed at any time of the day or night - and/or to provide services without any questions, clarifications or understandings. Here, it is not only a violation of the applicable Labor Laws, but that a 'Worker' may be unaware or not be given access to such Laws, and/or be required by the Employer to ignore such Laws, as per requirements of the services being provided. So, a 'Slave' can also be identified as someone who is working in mere oblivion, forced or otherwise imposed, that requires that the 'Worker' do not worry about any applicable Laws and applicable working conditions.

Such traits can be identified as a contemporary implementation of Slavery. Here a 'Slave' can be differentiated based on unapplied laws, non standard working conditions and unrestricted access to services, over which the 'Slave' has no understandings, visibility or expectations.

Applied Forced Labor

Forced Labor can be identified when the Employer has a certain expectation of extracting services from the Worker, but over which the Worker has limited understanding, visibility or expectation, in terms of the services to be provided, the time of day or amount of effort required. Indeed, such Employee expectations is not one-off but is repeated, identifiable and a basic tenet the operations and supply chain of the organisation. The organisation's success or indeed, survival would be quite dependent on such Employee expectations, failing which the organisation may go out of business or incur severe losses. Also, a Worker may in the ordinary course of operations be under a position of threat of losing employment, monies or other receivables, upon non-conformation.

Another aspect of contemporary Forced Labor, is an Employer oversight on the Livings of the Worker. This can be observed by having the Employee provide degrading conditions of living for the Worker, providing a free access method to implement or avail services, such as a connected electronic device through which service requests can be made and provided to the Employer at the Employer's whims. An Employer may even administer some control over the food, clothes, entertainment or recess of the Worker, by determining such factors to a considerable extent, where a Worker may actually have no choice but to utilize such provisions by Employer.

Applied Debt Bondage

A Worker may seek employment of a particular Employee in certain expectations of Debt forgiveness. This is prevalent in societies where a Worker may not be able to return promises of Debt to the potential Employer, but would provide unconditional services in return. Often, the services thus provided, would be identifiable in certain conjunctions with Slavery and Forced Labor, as the Worker may work in Fear of repercussions. A Debt may not necessarily have to be in financial terms, but may be in formats of influence in society, protection from adversities or further promises of improvements in living. A tangible or intangible property thus availed by the Worker from the Employer would be a Debt for which an applicable Bondage can be made applicable by the Employer.

Human Trafficking

With globalisation, the opportunity to work in diverse places has presented to communities and groups for whom such opportunities did not exist previously. What this has also introduced are Employees who promise the 'Experience' of foreign employment as a form of Debt to then induce Forced Labor and Slavery. So, an Employee would ask a potential Worker to adhere to the particular Slavery practices of the organisations in return for the opportunity to get a Visa to an overseas destination. A Worker who does not have the money to pay for the processing fees may even be given a waiver in return for certain further conditions of limitations in the Services to be provided. An Employee may hold the Passport of the Worker in the foreign destination, and have certain authority of when the Worker may return to their Country of Origin and under what conditions. At any stage of the employment, the Worker may have no control or selection of the foreign country that the Worker resides and under what conditions. Importantly, the Worker would be discouraged to interact or report to the local Law enforcement officials and may receive specific or inferred threats to the Worker or their family overseas.

So, a Worker can be identified as being Human Trafficked if the Visa for foreign travel is somehow owned or administered by the Employee, who imposes certain and strict conditions of employment, a

Worker having no choice of the location for work as per the whims of the Employer and when the Worker is subjected to any kind of personal, family or employment threats upon taking up employment. Such a Worker would also negate or deny any wrong impositions by the Employer and be averse of disclosure to local law enforcements and any legal provisions, in fear of being sent back from the foreign location or cancellation of Visa.

Declaration by Organisations

Organisations should explicitly declare that they do not undertake any aspects of Modern Slavery etc., especially in consideration of the above auditable factors, and that their organisation makes explicit and observable efforts to prevent such practices from their organisation supply chain or other operations, as applicable accordingly, and in any Country, location or economic zone where the organisation may exist and operate from, to provide its services as a whole and in order to bring its products or services to market.

References

- Slavery Convention - Signed at Geneva on 25 September 1926
- Attorney General's Department, Australian Government
- Modern Slavery Act 2018 - Australia
- Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 (NSW)
- 18 USC Ch. 77: Peonage, Slavery, and Trafficking in Persons - United States of America