

INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

Organisation: Enfield Parish Against Trafficking of Humans

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Submission:

Inquiry into the Modern Slavery Act 2018 (NSW) and associated matters

Legislative Council Standing Committee on Social Issues

PATH - Enfield Parish Against Trafficking of Humans

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September 2019



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BACKGROUND

Enfield Parish Against Trafficking of Humans (PATH) was established in 2015.

PATH VISION/MISSION STATEMENT

**PATH Members, being true to the spirit of St Joseph, seek to participate in the mission of Jesus who came so that all “may have life and have it to the fullest”
Jn 10:10**

In keeping with this we endeavour to raise awareness of Human Trafficking, to advocate for and to support all who have been Trafficked so that they are “slaves no more but brothers and sisters in Christ” (Pope Francis Jan. 2015).

Since 2015 awareness raising initiatives have included events which were open to the public such as film nights on Supply Chains e.g. *The True Cost*, guest speakers e.g, Professor Jennifer Burn (Interim Anti Slavery Commissioner) and Ruth Pilkinton (Legal Aid NSW) on Forced Marriage and Carolyn and Fuzz Kitto on Supply Chain.

Along with these initiatives PATH members have contributed to the support of victims and survivors of Human Trafficking through the Josephite Counter Trafficking Project, an initiative of the Sisters of St. Joseph. During the last couple of years we have worked in collaboration with Anti Slavery Australia, to bring 2 young women who were victims of Forced Marriage, back to safety in Australia.

As part of our advocacy program we have also had discussions with the then, Federal Government Minister Craig Laundy on the government's Seasonal Workers' Program and the registration of Labour Hire Agencies.

In June 2019 we celebrated the anniversary of the passing of the NSW Anti Slavery Act in 2018, with Professor Jennifer Burn as our guest speaker.



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PATH would like to congratulate the NSW Government on the passing of the Modern Slavery Act in 2018. It is the strongest and most holistic Modern Slavery legislation in the world today. We believe that any form of slavery “constitutes a grave **violation of human rights of the victims and is an affront to their dignity**, as well as a defeat for the global community” (Pope Francis).

Terms of Reference 1 (a)

The operability of the proposed anti-slavery scheme.

We applaud the NSW government for its proposed recommendations to amend the Act which includes the following

- Mandatory reporting of risks of modern slavery occurring in supply chains of government agencies and commercial organisations and clarification of supply chain reporting obligations
- Appointment of an Independent NSW Anti-slavery Commissioner, amendments to clarify the role of the Commissioner to ensure that there is greater flexibility in reporting by businesses, and the establishment of a Parliamentary Modern Slavery Committee.
- Community awareness raising and the provision of education and training about modern slavery.
- Extending support under the NSW scheme to victims of modern slavery. It is especially important that education about modern slavery be included in the training of police and law enforcement agencies in NSW, so that survivors and victims of slavery can access the protection they need.
- Aligning legislation with Commonwealth definitions in relation to organ trafficking, forced marriage and internet crimes.
- Providing assistance and support for victims



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- The appointment of an Independent Anti-Slavery Commissioner and clarification regarding the role of the Commissioner to ensure that there is greater flexibility in reporting by businesses, as well as the establishment of a Parliamentary Modern slavery Committee.

In the light of research by Australian Institute of Criminology which states that modern slavery occurs in Australia with up to 1900 people estimated to be living in conditions of modern slavery, we are surprised and concerned that there is a question as to whether the NSW Act is necessary. The delay in the implementation of the Act is impacting on victims of Modern Slavery, here in NSW.

While there are overlaps between the Commonwealth and NSW Acts, the NSW Act is more robust. The proposal that those organisations with a threshold of \$100 million and above report to the Commonwealth and from \$50 million to \$100 million report to NSW government is a good way of ensuring that organisations are clear about reporting procedures.

Terms of Reference 1 (b)

The effect of the anti-slavery scheme on business, including the supply chain reporting obligations under section 24 of the NSW Act

In the business world today many businesses are becoming more aware of their international human rights obligations for the workers in their supply chain. The reputational risk of not taking steps to ensure that there are no risks of slavery in their supply chain is more costly than any cost of compliance. Customers today would be unwilling to purchase goods or services tainted by slavery in the supply chain.



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During the Australian Modern Slavery Conference held in Sydney on 26th June 2019, a Senior officer from the Modern Slavery Unit in the UK informed us that only 22% of businesses are complying with the mandatory reporting of risks in their supply chain.

The introduction of penalties in the NSW Act for non-reporting of risks in an organisation's supply chain is one way of encouraging organisations to report and it would also be a means of levelling the playing field for businesses who comply with the Act. They should not be penalised for doing the right thing.

Terms of Reference 1 (g)

Whether the passage of the Modern Slavery Act 2018 (Cth) renders parts or all of the NSW Act unnecessary, or requiring of amendments to address inconsistencies or gaps.

The NSW Modern Slavery Act has a more inclusive person centred focus than the Commonwealth Act 2018 which is more about Supply Chains.

We commend the NSW Government for the inclusion of the following components in the Act some of which we have mentioned earlier in this submission

- The appointment of a Commissioner who has an overview of the implementation of the Act, for advocacy and victim support and regular review of the Act.
- Education and awareness raising for civil society and businesses
- Compensation, protection and support systems for victims and survivors of slavery
- Government procurement and the amendments to include Local Government agencies.
- The inclusion of penalties for non-compliance to Modern Slavery risk reporting
- Changes to the criminal law as proposed in the Department of Premier and Cabinet Submission to the Inquiry in June 2019 e.g.



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- to use existing schemes to address the future risk posed by modern slavery offenders (p8)
- rewording a reference to the Human Tissue Act to that of Organ trafficking (p9)
- to remove risks arising from inconsistencies with equivalent Commonwealth offences (p9)

This all-inclusive, person-centred approach provides opportunity for the engagement of civil society, businesses, government and the community to work together to end Modern Slavery. It is a great opportunity for NSW to lead the way in the eradication of slavery in our midst.

Terms of Reference 1 (h)

The preferred course of action to address the matters identified

The Modern Slavery Act was passed in 2018 and it is ready for implementation. The delay in the implementation of the Act means that more people are being enslaved and unable to receive the support and compensation to help them recover from the trauma of slavery.

PATH proposes that there is a clear timeline for the implementation to be disclosed by the Government as soon as possible.

Terms of Reference 1 (i)

Any other related matter

This Act is about respecting and upholding human rights including the fundamental right of people to be free, by eliminating all forms of slavery.

We commend the NSW Government for the appointment of Professor Jennifer Burn as the Interim Anti Slavery Commissioner. Her legal expertise and vast experience in



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working with survivors of slavery is an asset in ensuring that those who have been enslaved will receive the support they need.

Most businesses do not set out to exploit or enslave people but by investigating areas of risk in their supply chains they can be the catalysts of change with their suppliers and in the community.

We would also like the Committee to consider the possibility of a NSW state-based licencing scheme of labour hire agents as has been done in Victoria and Queensland.

As Premier Gladys Berejiklian has mentioned in the second reading speech for the Act, "There is an undeniable moral imperative to take action in relation to all forms of modern slavery."

Through the implementation of the Modern Slavery Act NSW can lead the way in making a difference in the lives of those who have been enslaved so that we are not wearing, eating or drinking someone's misery.

Sr. Margaret Ng rsj

President of PATH