

**Submission
No 7**

INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

Organisation: Josephite Counter-Trafficking Project

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Josephite Counter-Trafficking Project

SUBMISSION:

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Slavery Act 2018 (NSW)
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Legislative Council Standing Committee on Social Issues

Josephite Counter-Trafficking Project

Sr Margaret Ng

Co-ordinator: Josephite Counter-Trafficking Project



ABOUT JOSEPHITE COUNTER-TRAFFICKING PROJECT (JCTP)

Josephite Counter-Trafficking Project (JCTP) is a Congregational project of the Sisters of St. Joseph of the Sacred Heart. JCTP was established in 2005 to promote, by way of holistic direct services, the spiritual, physical and emotional development of people who have undergone the trauma of being trafficked to Australia.

Since 2005 JCTP has developed networks among others working on the issue of trafficking and worked in collaboration with the Australian Border Force, Australian Federal Police (AFP), Red Cross, Salvation Army, other Religious Organisations, NGOs and Embassies. JCTP provides culturally sensitive support and direct services to trafficked children, women and men. This includes reintegration and repatriation programs. We have also conducted a survey in 2007 on the social needs of Trafficked women. The identified needs are still being addressed.

JCTP has run awareness-raising programs for schools, parishes, Catholic Migrant Chaplains and the wider community. For the 14 years since 2005 we have provided physical, emotional and financial support for trafficked persons and especially those who have been victims of forced marriage, forced labour and domestic servitude. We also continue to advocate for children, women and men who are working in slave-like situations, so that they are “Slaves no more but Brothers and Sisters in Christ.” (Pope Francis)

Weekly visits have been made to Villawood Detention Centre where we met women who had been victims of sexual and domestic servitude, and forced marriage. We also met men and women who had been trafficked into the labour force. Some had been arrested and detained for working illegally in a vineyard.

We believe that because of the complex nature of Trafficking of Persons it is of vital importance that Government agencies, NGOs and individuals work together to address the issue of slavery in our region and our very backyard. This view has been confirmed by the papers presented by Caritas Internationalis and other NGOs in 2016.

JCTP believes that this is an opportune time for NSW to take the lead in addressing the issues regarding modern slavery, considering that the majority of people who have



been identified as being trafficked have entered through Sydney and Melbourne. In the light of the increasing instances of exploitation of migrant workers in domestic servitude, horticulture, viticulture, meatworks and in other industries such as the construction industry it is imperative that action be taken to address modern slavery in our backyard, NSW.

JCTP appreciates the opportunity to participate in the Inquiry into the Modern Slavery Act 2018 and associated matters having contributed to the NSW Inquiry on Human Trafficking in 2017.

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).

It has been said in the past that it takes a village to raise a child (African Proverb). Unfortunately, today it takes the ‘**global village**’ (the whole world) to raise a child. We are part of the ‘**global village**’. Raising a child today includes feeding, educating and, above all, protecting him/her from harm. We must play our part as members of the Global Village in this work of protecting children. (see Appendix A)

JCTP also contributed to the Inquiry into Human Trafficking in 2017 and we welcomed the passing of the Modern Day Slavery Act in 2018.

We congratulate the NSW Government on the passing of the Modern Slavery Act in 2018 which is one of the strongest and most holistic Modern Slavery legislations in the world today. It is good to see that NSW is taking the lead in addressing the issue of modern slavery through this Act.

Due to the number of cases that have come up in NSW, strong legislation is required. The NSW Government has already made a significant investment to do so and we prefer the NSW Act which is more robust to deal with Slavery cases in NSW.

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 which is under reported. It is vital that law enforcement agencies and the wider community become more aware of the indicators of slavery
- Extending support under the NSW scheme to victims of modern slavery. It is of great importance 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 so that there are no inconsistencies in the Act.
- Providing assistance and support for victims, very necessary for those who have been severely traumatised by their experience of being enslaved.
- 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.

According to the International Labour Organisation, 40.3 million people live in modern slavery most commonly in the Asia Pacific Region which we belong to.



Research on modern slavery by the Australian Institute of Criminology shows that modern slavery occurs in Australia with up to 1900 people estimated to be living in conditions of modern slavery. A recent survey by the National Union of Workers of 650 workers has highlighted labour exploitation and the risk of modern day slavery in the horticulture sector.

Australia needs low paid workers. Farmers are constantly looking for migrant workers willing to pick the fruits during the fruit-picking seasons. Moreover, migrant workers are vital to our meat processing workforce in Australia, helping to ensure affordable cost and convenience for us as we pick up our meats from supermarkets and butchers. In November 2017 the AMIEU uncovered a culture of bullying, intimidation and harassment by labour hire firms in the Tamworth area. Migrant workers were forced to stay in (specific designated) vermin infested accommodation with 15-20 people in each house. Guaranteed employment included a non-refundable \$500 bond to the labour hire agent. Anybody who dared to complain would be blackballed and not rostered to work. Women were also sexually harassed.

Consequently, 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. We concur with 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. This 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, whether it is in the using of children as slave labour in the cocoa industry or digging under dangerous and toxic conditions for cobalt which is used in the production of batteries for our mobile phones.

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 focus of the Commonwealth Act 2018 is more about Supply Chains and we welcomed the passing of the NSW Modern Slavery Act which is more inclusive and person centred.

As we mentioned earlier, it is a matter of urgency that NSW hastens the implementation of the Act.



“You may choose to look the other way but you can never say again that you did not know.” (William Wilberforce, abolition of slavery in the British empire)

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.
 - using 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)
 - removing risks arising from inconsistencies with equivalent Commonwealth offences (p9)

This 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.

JCTP 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.

The NSW Government is to be commended for the appointment of Professor Jennifer Burn as the Interim Anti Slavery Commissioner. Her legal expertise and vast experience in 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. Reporting is not about catching people out but about raising awareness. However, 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.

Another matter of concern which does not seem to have been picked up in the Act is that of Domestic Servitude. This is an issue that is hidden in plain sight. JCTP has worked with women who have escaped from Domestic Servitude. Quite often local law enforcement agencies do not have the training to know of the existence of this (crime/issue)

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.

The plight of children who have been exploited and abused is poignantly encapsulated by the following poem by Professor Eddie Mhlanga

**I cried when Mama died
There was silence
I cried when we were thrown out
There was silence
When will you be silent?
Till I be silent?
Do you love me?
You told God you care about me!**

I ask how can we be Silent and not Act? Together we can make a difference!

JCTP is available to give extensive, on the ground examples to support this submission.

Sr. Margaret Ng rsj

Coordinator: Josephite Counter Trafficking Project

APPENDIX A



Today, more than a quarter of the world's slaves are children and more than half of them are in hazardous work.¹ The largest numbers are in Asia and the Pacific, followed by the Sub Sahara, with Africa as the region with the highest numbers, mainly in the agricultural sector, especially in the cocoa plantations.

Much of the chocolates sold in Australia is from the Ivory Coast where children as young as 12 years old are used to pick the cocoa beans.

Child labour in its most extreme forms results in children being enslaved, separated from their families and being forced to work long hours, often in hazardous conditions. The worst forms of child labour include the sale and trafficking of children, forced or compulsory labour, forced recruitment for use in armed conflict, procurement for sex work and pornography.² Poverty is a major factor forcing many children to work preventing them from going to school, and being able eventually to find decent work. Often a child's income is what helps the family to survive. Sadly, there are instances when they are not paid, only receiving food and a place to sleep.

Children are also a source of cheap labour for employers and are unable to speak up for themselves. The Trafficking of unborn children who are bought and sold is an area of grave concern. Pregnant mothers are targeted. Traffickers prey on the maternal instincts of the women with the promise of a better life for the child and/or monetary compensation which would enable the family to survive. These children have no identity but that which the Trafficker determines and many end up in slave labour and/or prostitution.

Natural disasters such as the Tsunami in Indonesia and Earthquake in Nepal have left many children orphaned leaving them vulnerable to being Trafficked and subject to sexual and domestic violence.

Similarly, Child forced labour is used in the mines where some of our smartphones/electronics are born, e.g. Cobalt mining in Democratic Republic of

¹ International Programme on the Elimination of Child Labour

² International Labour Organisation



Congo – mobile phones. A girl of 14 could have been trafficked to make our cotton shirt

We can make a difference by the implementation of the Modern Slavery Act to ensure that our supply chains are risk free of modern day slavery.