

## INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

**Organisation:** Australian Catholic Religious Against Trafficking in Humans  
(ACRATH) and Catholic Religious Australia (CRA)

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[www.acrath.org.au](http://www.acrath.org.au)

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# INQUIRY INTO MODERN SLAVERY ACT 2018

SUBMISSION FROM:

Australian Catholic Religious  
Against Trafficking in Humans  
Inc (ACRATH)

and

Catholic Religious Australia  
(CRA)

## **INQUIRY INTO MODERN SLAVERY ACT 2018**

Australian Catholic Religious Against Trafficking in Humans (ACRATH) and Catholic Religious Australia (CRA) thank you for this opportunity to contribute to this *Inquiry into the Modern Slavery Act 2018*. This submission is made by ACRATH, with the endorsement of CRA.

### **ABOUT ACRATH**

#### **Who we are:**

ACRATH is committed to working towards the elimination of human trafficking in Australia, the Asia Pacific and internationally.

We are endorsed by Catholic Religious Australia - the peak body for approximately 150 religious orders in Australia, representing more than 5000 religious sisters, brothers and priests.

ACRATH is a member of the Nation Roundtable on Human Trafficking, Slavery and Slavery-like practices convened by the Commonwealth Government.

#### **We carry out our vision by:**

In our Strategic Plan 2017-2020 we have five objectives:

- Eliminate forms of human trafficking in sexual exploitation and in forced labour
- Eliminate forced marriage in Australia and globally
- Ensure people who have been trafficking access their rights
- Promote slavery-free supply chains
- Develop our organisational sustainability and influence

#### **ACRATH aims to achieve these goals by:**

- Raising awareness about the existence of human trafficking and slavery in our world today
- Sharing education resources
- Acting regionally and nationally
- Working for systemic change locally and globally
- Advocating with Governments
- Collaborating with counter trafficking networks

## **ABOUT CRA**

### **Who we are:**

CRA is the national peak body for Catholic Leaders of Religious Institutes and Societies of Apostolic Life who are resident in Australia.

Leaders of more than 150 congregations of sisters, brothers and priests living and working in all States and Territories of Australia are members of CRA and comprise more than 5,000 Catholic religious women and men.

CRA represents leaders in the Australian Church, who are active in effecting change within the Church and society in a diverse range of areas, some of which are justice, professional standards, education, stewardship and governance.

Our members and their lay colleagues work in education, health care and social services. We work with indigenous people, refugees and asylum seekers, people surviving on the margins and many others.

The governance of Catholic Religious Australia (CRA) operates under both canon law and civil law.

CRA was canonically established as a public juridic person by the Holy See. CRA's Statutes were approved by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. CRA's Statutes and the norms of canon law outline the responsibilities of CRA. The governance of CRA as a public juridic person is entrusted to the Council who are elected by the Members of CRA.

The civil entity of CRA is a statutory body corporate created under the Roman Catholic Church Communities Lands Act (NSW) 1942.

The Council of CRA comprise the President and Councillors listed on the website.

### **Mission & Purpose**

CRA's mission is to promote and support the contemplative and prophetic voice of Religious in Australian society. Our values are being attentive to the Spirit, inclusive and prophetic.

## **INTRODUCTION**

ACRATH took part in the 2011 *Inquiry into the Exploitation of People through Trafficking, in all its forms in NSW* conducted by the Community Relations Committee and in the 2017 NSW Legislative Council *Inquiry into the Exploitation of Women through Human Trafficking*. In both submissions ACRATH outlined

- i. the need to raise awareness about the existence of human trafficking in NSW and beyond
- ii. measures required to support people who have been exploited through human trafficking and slavery and
- iii. actions that would enhance the NSW Government's response to trafficking and slavery.

Recommendations of both the 2011 and the 2017 Inquiries were welcomed by ACRATH.

## **SUPPORT FOR MODERN SLAVERY ACT 2018 (The NSW Act)**

ACRATH would like to congratulate the NSW Parliament for passing the Modern Slavery Act 2018 (NSW) (the NSW Act). The NSW Act is ground-breaking legislation that acknowledges the Government's responsibility to prevent human trafficking through education and legislation, to protect those who have been exploited by providing support and opportunities for rehabilitation and to prosecute those responsible for exploitative practices.

ACRATH applauds the following aspects of the NSW Act:

- i. Provision of assistance and support for victims of modern-day slavery
- ii. Appointment of an independent Anti-Slavery Commissioner
- iii. Community awareness raising and the provision of education and training about modern slavery
- iv. Establishment of a Parliamentary Modern Slavery Committee
- v. Mandatory reporting of risks of modern slavery occurring in supply chains of government agencies and commercial organisations
- vi. A register of reports maintained by the Commissioner and publicly available free of charge
- vii. New offences of child marriage and cybersex trafficking in the NSW Criminal Code.

## **MODERN SLAVERY ACT 2018 (Cth)**

Subsequent to the NSW Parliament passing the NSW Act, the Commonwealth Parliament also passed the Modern Slavery Act 2018 (Cth). One Term of Reference of the Inquiry into the Modern Slavery Act 2018 asks "whether the passage of the Modern Slavery Act 2018 (Cth) renders parts or all of the NSW Act unnecessary or requiring of amendment to address inconsistencies or gaps." While recognising there may need to be some amendments to the NSW Act, ACRATH fully supports the NSW Act being retained. Slavery continues to exist in NSW and beyond, therefore, implementing the NSW Act is a matter of urgency.

## STRENGTHS OF THE NSW ACT

While there are overlaps in the two acts, the NSW Act is more robust in its attempt to address modern slavery. The Cth Act focuses on transparency in supply chain legislation. The Cth Act does not include provision for assistance and support for victims, an Independent Anti-Slavery Commissioner, a Parliamentary Modern Slavery Committee, education and training, nor penalties for non-reporting of risks in an organisation's supply chain. These additional requirements of the NSW Act strengthen the safeguards for those who have been trafficked or are at risk of being trafficked by enacting a more holistic approach to tackling modern slavery.

Special mention needs to be made of the provision for an Anti-Slavery Commissioner. A Commissioner with the authority to advocate for and support victims and to review the implementation of the Act is an important element in the fight against modern slavery. By legislating for victim support services, the NSW Act is attempting to identify and protect those who have been exploited. Currently offences listed in Divisions 270 and 271 of the Commonwealth Criminal Code are very under reported. By providing safe and protected means for victims to come forward they can be empowered to take up their lives and perhaps even engage in the process of convicting their offenders. Empowering people who have been enslaved and restoring their human rights should be front and centre of any legislation on modern slavery.

Education and training will be important if businesses are to understand why they are being required to investigate their supply chains. Evidence shows that mandatory schemes without penalties have had little success in combatting modern slavery. For example, less than 32% of businesses have complied with the UK Modern Slavery Act.

## REPORTING THRESHOLDS

It is noted that the threshold for reporting differs in the two Acts. The Cth Act only applies to organisations with "an annual consolidated revenue of more than \$100 million"<sup>1</sup> while the NSW Act applies to organisations with "a total turnover in a financial year of the organisation of not less than \$50 million"<sup>2</sup>. *Hidden in Plain Sight*, the report from the Commonwealth Inquiry into establishing a Modern Slavery Act in Australia recommended that the mandatory reporting threshold be set at \$50 million. It is unclear why this recommendation was not accepted by the Commonwealth. Ideally the two Acts should be aligned in terms of the reporting threshold. However, ACRATH supports the NSW Act retaining the \$50 million threshold.

ACRATH notes that reporting should not be just an exercise of complying with legislation. The spirit of the Modern Slavery Act is to protect human rights by working to eliminate forms of

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<sup>1</sup> *Modern Slavery Act 2018, No 153, 2018*. Part 1 Section 5, <https://www.legislation.gov.au/Details/C2018A00153> accessed 26th September 2019

<sup>2</sup> *Modern slavery Act 2018 No 30*. Part 3 Section 24. <https://www.legislation.nsw.gov.au/#/view/act/2018/30/part3/sec24> accessed 26th September 2019

modern-day slavery. It is therefore important that businesses are aware of how their actions might perpetuate modern slavery.

## **IMPACT ON BUSINESSES**

Most businesses do not deliberately set out to enslave and exploit people but sometimes this can be an unintentional consequence of their actions. By being more attuned to the human rights impacts of their business decisions, by investigating areas of risk in their supply chains and engaging with suppliers to educate and encourage positive social change, businesses become agents for change and protectors of human rights. There will be financial costs for businesses as they comply with the Act. However, legislation seeking compliance creates a level playing field for all businesses. Businesses respecting human rights are not penalised as they compete with other businesses using slave labour and therefore able to supply goods and services at lower costs. In addition, as annual reports are publicly available, business reputations will be enhanced as public interest in ending modern slavery grows.

## **APPLICATION OF MODERN SLAVERY ACTS FOR CHARITIES AND NOT-FOR -PROFIT ORGANISATIONS**

The Inquiry Terms of Reference seeks comments on the intended application of the anti-slavery scheme with respect to charities and not-for-profit organisations. As already noted, protecting and upholding human rights should be at the core of activities aimed at eliminating slavery. Most charities and not-for-profit organisations exist to promote human rights and prevent harm. They would want their activities to avoid causing harm. Similarly, people donating to charities would want to be sure their donations are not being used to procure goods and services tainted by slavery. Consequently, where such organisations meet the reporting threshold requirements there is no reason why they shouldn't be required to report under the NSW Act.

## **CONCLUSION**

In conclusion ACRATH urges the NSW Parliament to proceed with haste in implementing the Modern Slavery Act 2018 (the NSW Act). This Act acknowledges the need to take action on the human rights of some of the world's most vulnerable people. In her second reading speech for the Act, Premier Gladys Berejiklian stated:

“It is not every day that members of this place (Legislative Assembly)  
or the other place (Legislative Council)  
put forward something that will have a positive impact  
for literally thousands of people.”<sup>3</sup>

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<sup>3</sup> Premier Gladys Berejiklian, in her second reading speech for the Act, 6 June 2018, <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-102537> accessed 26th September 2019