

**Submission  
No 41**

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

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## Background

My name is Wiatt Hinton and I am a Political Science major who is currently an exchange student at University of Sydney. I am writing a submission to the inquiry partly for an assignment but mostly because of my own concern in the matter as someone who supports this bill and wants it help NSW better address modern slavery. Although Australia does not have a significant amount of human trafficking when compared to the rest of the world (as seen by its placement as a Tier 1 country in the US Annual Trafficking Report)<sup>1</sup>, there are still an estimated 4,000 slaves in Australia; and any amount of modern slavery is unacceptable.<sup>2</sup>

Many of them are exploited migrant workers, women, and children. This bill strives for transparency and regulation in these supply chains and takes a smart approach to these goals. The reports and the Anti-Slavery Commissioner will work well but could benefit from some slight changes that would increase the scope of the bill. I also want to emphasize the federal aspect of the bill and highlight the necessary differences between the NSW bill and the Commonwealth bill. My explanation will help explain why this state bill is not simply a ditto of the national one. I would like to address three main terms of reference: G, B, and E and I hope the recommendations I make would make the bill more effective, long-lasting, and specific. is something that needs to be addressed.

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<sup>1</sup> <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf> p.75

<sup>2</sup>

<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1323879322-102537'>

## Summary of Recommendations

**Term of Reference G- 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.**

I cannot understate the importance of an Anti-Slavery Commissioner, the lower numerical standard for profit of corporations, and the modern slavery risk order that separate this bill from the Commonwealth Act. These key aspects of the bill cannot be removed and customize the bill for New South Wales.

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

The punishment and follow up regulations for companies are not strict enough and would not sufficiently motivate companies to file sufficiently as shown by the UK modern slavery bill from three years ago where only 14% of companies filed satisfactory reports. There should be more workers under the Anti-Slavery Commissioner who can create action plans for companies who do not submit or submit unsatisfactory reports.

**Term of Reference E- The unintended consequences of drafting issues with the NSW Act, including with respect to the Human Tissue Act 1983 (NSW) and the sale and supply of human tissue**

Miscellaneous legislative adjustments that will improve the breadth and accuracy of the bill with regards to charities, non-for profits and unintended consequences concerning the Human Tissue Act of 1983.

### Term of Reference G

Some members of the committee might question the importance of this bill and view it as an unnecessary repeat of the Commonwealth Act, but several important differences modify this bill to benefit New South Wales. Overall, the bill is more dedicated to prevention and awareness. Therefore, it is better than the Commonwealth Act. The Commonwealth Act and the New South Wales act both mandate corporate report, but NSW takes further preventive and punitive actions.

First, the Anti-Slavery Commissioner is vital to making this bill more effective. According to powers laid out in Part 2 of the bill, they will perform educational and awareness roles.<sup>3</sup> This will serve as a preventive measure so employees can recognize any internal issues in the company and how to report them. Furthermore, they will catalogue and evaluate the supply chain reports sent in by companies, which will carry punishment for incomplete reports and lead to an action plan that saves exploited laborers. The Commissioner can also work with companies and the police to spread information and workshops. A dedicated human trafficking hotline and awareness programs worked in the UK, where the National Crime Agency reported a 36% increase in number of human trafficking victims identified.<sup>4</sup> But I think one person cannot handle all these important responsibilities. Although they can work with agencies, the commissioner's office should still have a few staff members under them that liaison with agencies. This will ensure that the commissioner's action plan is executed better because there will be more monitoring of agencies.

The next two important factors of the bill, the lower standard for companies and the modern slavery risk further support federal distinctions. The lower bar for companies and the modern slavery risk order. In the commonwealth act, the bar for a company is 100 million dollars, but in the New South Wales bill, the bar is at 50 million. This adjustment makes sense so that more companies that only have headquarters in New South Wales can be examined. The other factor is the modern slavery risk order which is a measure of punishment and prevention and makes the bill more personal. This risk order targets convicted offenders and monitors them so that they have a lower change of becoming repeat offenders. Both measures show that the state government cares about modern slavery with sterner punishments for offenders and greater punitive measure. These factors differentiate is from the Commonwealth in positive ways and the bill does not have to be changed to match the national bill because that would reduce its effectiveness.

### Term of Reference B

Companies with tainted supply chains indirectly promote modern slavery. Supply chains of large companies can be complex and spread across the world, but that is still not an excuse for poor monitoring. The reports are meant to motivate companies to oversee their operations more precisely and the reports are a great measure to increase transparency. But the punishment is not great enough to encourage acceptable reporting and there are not strict enough guidelines set to ensure future actions.

The UK enacted a similar bill to combat modern slavery in 2015, but only 14 of 102 companies analyzed in the process met the compliance standards.<sup>5</sup> Their punishment was clearly not severe enough to motivate them. And the monetary penalty of 10,000 penalty units may not be enough to motivate large

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<sup>3</sup> <https://www.parliament.nsw.gov.au/bill/files/3488/Passed%20by%20both%20Houses.pdf>

<sup>4</sup> <https://www.parliament.nsw.gov.au/lcdocs/submissions/64692/0001%20%20NSW%20Government.pdf>

<sup>5</sup> <https://knowthechain.org/what-progress-have-companies-made-under-the-uk-modern-slavery-act/>

companies. Although it would force companies around the 50 million range to participate because 10,000 penalty units could be a noticeable loss in profit; but companies larger than that might decide the resources needed for the report are a greater cost than the penalty units.<sup>6</sup> For example, would a company with a 1 billion dollars profit assess that the labor costs of the report are greater than the potential .01 percent loss in profit? The better option is to create awareness of a large company's refusal to submit a report instead of simply putting it in a catalogue. Public shame is a better motivator than a relatively small fine.

Furthermore, even if the report is turned in, it does not necessarily mean that the Anti-Slavery commissioner can work with that company to create an action plan. That person and the modern slavery committee need more support and employees whose jobs are simply to work with companies that are identified as having dangerous supply chains.

#### Term of Reference E

There are a few specific legislative specifics that should also be addressed in this bill to tidy up its language. Also, an unintended consequence relating that the Human Tissue Act (NSW) of 1983 also needs to be addressed.

The modern slavery bill includes section 32 of The Human Tissue Act (NSW) of 1983 which prevents the sale of human tissue within NSW. But Australia relies on overseas blood and plasma donation where donors are paid. So, this bill would make such overseas transactions illegal. What the bill should really be trying to eliminate is organ trafficking, not the overseas trade of blood and plasma. The language should be amended so it is understood that this bill does not apply to overseas shipments of blood and plasma or the medically approved donation of blood and plasma in NSW. This bill could unintentionally diminish the amounts of those two substances and hurt the medical system.

The bill also does not have specific language regarding large charities or not-for-profit organizations. They can still be large enough to warrant a risk analysis in their supply chains and the bill should clearly state that they could qualify if they are large enough.

#### Concluding Statement

Thank you for taking the time to read my submission even though I am just a college student. Coming from the U.S., the practice of inquiry submissions reveal how the NSW government considers the opinions of its citizens and seeks help from other agencies. Maybe the U.S. could benefit from something like this!

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<sup>6</sup> <https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/fines.html> (penalty unit description in nsw)

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