Submission No 69

INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

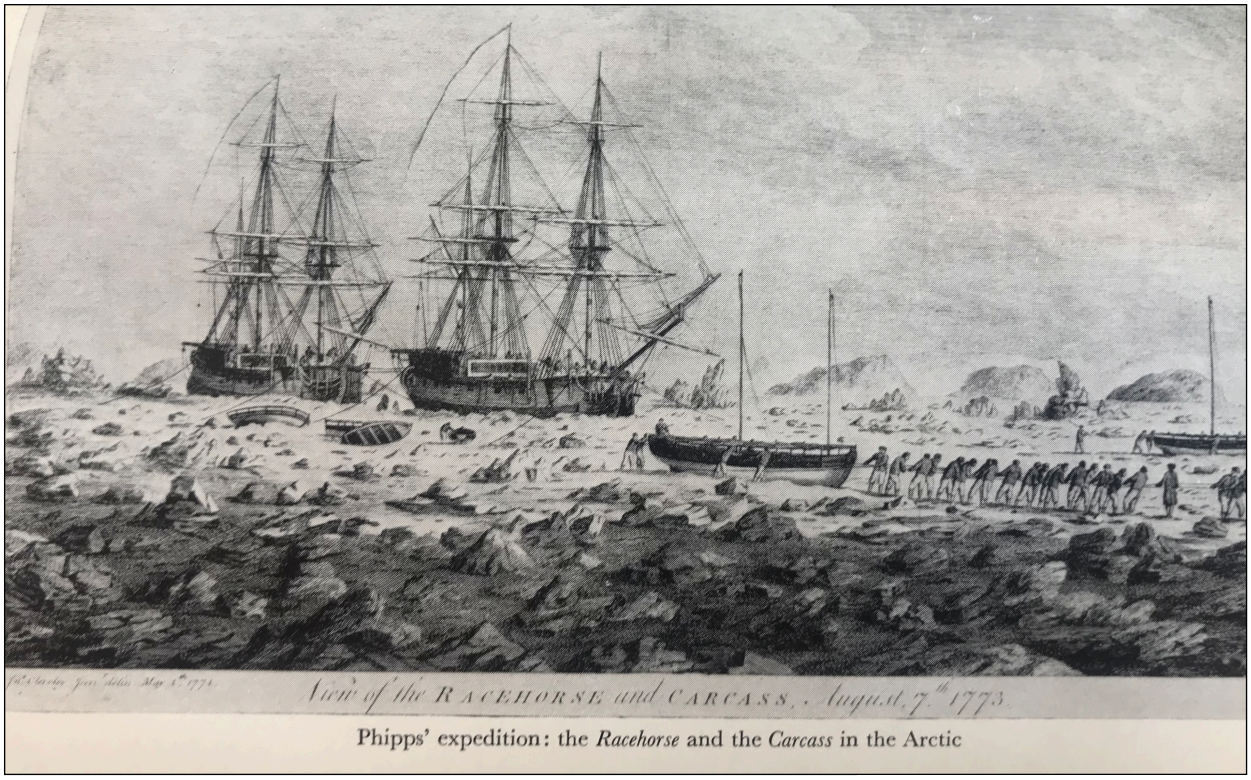
Name: Ms Andrea Tokaji

Date Received: 5 October 2019

NSW Modern Slavery Act Reporting Requirement Recommendations

The NSW Legislative Council's Standing Committee on Social Issues - Inquiry into the *Modern Slavery Act 2018* and associated matters

Andrea Tokaji - 2 October 2019



Phipps' expedition: the *Racehorse* and the *Carcass* in the Arctic

Andrea TOKAJI
BUSINESS AND HUMAN RIGHTS CONSULTANT
LECTURER / MEDIATOR / POLITICAL STRATEGIST
www.andreatokaji.com

ABOUT

And Tokaji is a trained international human rights lawyer, completing a PhD in Slavery in Business supply chains (NDU). With over 10 years of anti-slavery lobbying, advocacy and legal education training experience, Andrea founded and ran Fighting for Justice Foundation working in this area of human rights in the Asia region, including into Thailand, Cambodia, Myanmar, in Refugee camps, in the USA and Geneva.

Andrea has partnered with Hilary Clinton's Vital Voices women in anti-trafficking leadership training in the USA (2016) and presented on Modern-day slavery legislation at the Geneva Institute of Leadership and Public Policy (2016).

As a legal academic, Andrea lectures on, and writes about sustainable business practices. As a former political candidate, Andrea applies her years working in procurement, government and the UN into her lobbying advocacy work. As a former refugee child, Andrea is passionate about providing access to human rights legal and education pathways for vulnerable people.

Andrea Tokaji has read, endorsed and co-branded with both the* Be Slavery Free (Stop the Traffik) *and* War on Slavery's *submissions - showing a coalition of support on like-minded recommendations.

Introduction

Modern day slavery is not only a human right violation, a crime at international law, but it is also a threat to our national security and way of life. It erodes our economic structures, creating a false market and economy. The International Labour Organisation estimates that across the world, forced labour generates US$150 billion of illegal profit a year, equal to a quarter of a million US dollars every minute of every day, making modern slavery the third most profitable criminal activity in the world. These funds are taken from honest, hard woking people and placed in the hands of criminals, thugs, predators and thieves. In all countries, unscrupulous employers and recruiters are increasingly exploiting gaps in international labour and migration law and enforcement. After drugs and arms, human trafficking is now the world's third biggest criminal business.

According to the Australian Institute of Criminology, it is estimated there were up to 1,900 people in Australia living in conditions of modern slavery from 2015-16 to 2016-17. In Australia, victims have been identified in a range of industries, including domestic service, hospitality, construction and sex work.

We need government leaders to confront corporate greed. Every person must be afforded their rights, wages and decent working conditions. Corporations and businesses

must also go beyond a recognition of their corporate social responsibility to the ideas of their role in creating shared value in communities driven by sustainability in the market.

Disrupting slavery in supply chains is possible, but it requires political will. Former USA President Barrack Obama acknowledged at a Clinton Foundation event that any business built on a reliance on slavery has a flawed business model. Economists such as Eric Williams[1] proved that slavery was economically non-viable to business, enterprise or social life during Wilberforce's abolition of slavery in a time where all privileged families had slaves as a common practice. G20 Labour Ministers accept that the global economy cannot be built on oppression and rights violations. Despite ample legislation criminalising slavey, human trafficking and exploitation, slavery is more common than ever before in history.

In 2015, Australia and all 193 UN member nations signed up to eradicate modern slavery, forced labour and human trafficking by 2030, child labour by 2025.

The New South Wales Parliament Legislative Council Select Committee on Human Trafficking 2017 Report recommended the establishment of a Modern Slavery Act for Australia, similar to 2015 legislation in the United Kingdom. The United Kingdom legislation established the office of an independent Anti-Slavery Commissioner to encourage good practice on the prevention, detection, investigation and prosecution of modern slavery offences. I welcome the NSW Government's posting of Dr Jennifer Burn's interim post as NSW's Anti-Slavery Commissioner, as this role is integral in the regulatory, education awareness, investigating and reporting of slavery in commercial and other supply chains.

As a coalition of supporters to the Modern Slavery Act in both NSW and the Commonwealth, we commend the Government on the consultation draft of the *Modern Slavery Bill 2019* (MSA Amendment Bill) with the focal point of these changes being to ensure that the NSW MSA better aligns with the policy intent behind the NSW MSA (2018), the constitutionality and the ability of the NSW Act to operate and function effectively.

The following are my recommendations and legal human rights observations:

---

[1] Eric Williams, *Capitalism and Slavery*, The University of North Carolina Press, 1944, p183.

International Standards

Internationally, we can look to other jurisdictions for specific guidance on how transparency in supply chain reporting has gone beyond a reporting requirement to a human rights due diligence practice shift. For example, the French corporate duty of vigilance law[2] establishes a legally binding obligation for parent companies to identify and prevent adverse human rights and environmental impacts resulting from their own activities, from activities of companies they control, and from activities of their subcontractors and suppliers, with whom they have an established commercial relationship.

Article 2(e) of the ILO Protocol on forced labour calls on member States to take measures *"supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour"*.[3]

According to the Business and Human Rights Resource Centre, National legislation that includes mandatory transparency provisions should:

- Include requirements to report on known instances of modern slavery in a company's operation and supply chains, and to provide consistent information about whether the measures companies are taking are effective or not;
- Have extra-territorial reach and apply to all companies regardless of where their country of headquarters is located;
- Make approval of the board of directors, sign-off by senior management and prominent disclosure of the statement on the company's website a legal requirement;
- Require annual statements that demonstrate progress over time;
- Publish a list of the companies required to produce statements under the laws and maintain a free accessible registry and benchmark with information regarding company compliance;
- Provide robust monitoring and enforcement mechanisms including labour inspectorates and impose sanctions where companies fail to produce a modern slavery statement, produce statements that fail to meet the minimum requirements, produce

[2] The new Art. L. 225-102-4 of the Commercial Code of Law No. 2017-399 on Corporate 'Duty of Care' Devoir De Vigilance.

[3] P029 - Protocol of 2014 to the Forced Labour Convention, 1930 Protocol of 2014 to the Forced Labour Convention, 1930 (Entry into force: 09 Nov 2016) Adoption: Geneva, 103rd ILC session (11 Jun 2014) - Status: Up-to-date instrument, at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029

statements that lack mandatory information on due diligence practices, or report they have not taken any steps to address their modern slavery risks;

- Include provisions similar to the US Trafficked Victims Protection Act, which would enable victims of modern slavery to access civil and criminal remedy; and
- Provide clear official guidance prior to the law taking effect and allow for third-party complaints to the court system where the process fails.

The corporate responsibility to respect human rights, as set out in the second pillar of the Guiding Principles, is a standard of conduct for companies. The Guiding Principles make clear that companies should have in place:

- A statement of their policy commitment to respect human rights;
- A human rights due diligence process to: assess their actual and potential human rights impacts;
- integrate the findings and take action to prevent or mitigate potential impacts;
- track their performance;
- communicate their performance;
- Processes to provide or enable remedy to those harmed, in the event that the company causes or contributes to a negative impact.

The French Due Diligence Law

In early 2017, the French Parliament adopted *Law No. 2017-399 on corporate 'duty of care' (devoir de vigilance)*[4] for parent and subcontracting companies. The law requires the largest French companies that have more than 5,000 employees in France, or more than 10,000 employees globally, to have a due diligence plan to identify and address adverse human rights impacts in their operations, supply chains and business relationships. The Californian Transparency in Supply Chains Act (2010) and the UK Modern Slavery Act 2015 and therefore Australia's Modern Slavery Acts lack a due diligence element that the equivalent French law captures.

Article 1 of the French Due Diligence law[5] provides that if a company under the law's scope fails to establish, implement or publish a vigilance plan, any concerned parties can file a complaint with the relevant jurisdiction. After receiving formal notice to comply

[4] The new Art. L. 225-102-4 of the Commercial Code of Law No. 2017-399 on Corporate 'Duty of Care' Devoir De Vigilance.

[5] The new Art. L. 225-102-4 of the Commercial Code of Law No. 2017-399 on corporate 'duty of care' Devoir De Vigilance.

with the law, a company is given a three-month period to meet its obligations. If the company still fails to meet obligations after the three-month period is over, a judge could oblige the company to publish a plan. The judge also rules on whether a vigilance plan is complete and appropriately fulfils the obligations described in the law.

Article 2 of the law – which incorporates an article of the French Commercial Code[6] - sends a strong signal to judges. Article 2 refers to the provisions of the French Civil Code[7] and states that in the event of a breach of the obligations laid down in Article 18, when harm occurs, the company can be held liable, and will have to compensate for the harm that proper fulfilment of the obligations – publishing an adequate vigilance plan – would have avoided.

The duty of vigilance law in France ensures better prevention of adverse impacts by companies, and aspires to help victims of corporate abuse overcome some of the hurdles they face in achieving justice. The law requires companies to identify key risks of severe impacts, either linked to its activities or to those of business partners and take actions to prevent them.

The law is an important step forward in a global context where achieving corporate accountability is hindered by the complexity, scale and reach of corporate structures; the absence of a level playing field; the legal and practical barriers faced by victims to access remedies; or the lack of enforcement of existing standards especially concerning transnational corporations with a myriad of subsidiaries and suppliers.

It is important to distinguish between a regulatory framework that calls on commercial entities to fill out some more paperwork so that we all 'feel good' about trying to eradicate slavery and the very different approach of implementing a human rights due diligence culture and practice that seeks to uphold the dignity of the person and refuses to allow slavery in commercial supply chains to exist in principle as a way of combating slavery by shifting consumer and commercial culture. These cultural shifts predominantly take place through prevention of this abhorrent human right violation and an active effort to uphold a higher standard of practice based on a principled approach in all commercial transactions.

---

[6] (Art. L. 225-102-5).

[7] (1240 and 1241) .

[8] (i.e. Art. L. 225- 102-4).

The French law encourages the practice of the principle of duty of care - more in line with due diligence human rights standards. There is international precedent that this is the best and most effective way forward.

The UN Guiding Principles Reporting Framework defines human rights due diligence as:

"[A]n ongoing risk management process… in order to identify, prevent, mitigate and account for how [a company] addresses its adverse human rights impacts. It includes four key steps:

1. assessing actual and potential human rights impacts;

2. integrating and acting on the findings;

3. tracking responses; and

4. communicating about how impacts are addressed."[9]

Article 2 of the International Labor Organisation Protocol establishes that member states should take measures 'supporting due diligence by both the public and private sectors to prevent and respond to risk of forced or compulsory labour'[10], including a strong focus on prevention and the education of those considered particularly vulnerable, employers and the wider public on the realities, harms and dangers of forced labor.

Human trafficking and slavery in the form of forced labor perpetuates not only grave human rights violations against the most vulnerable, but it often perpetuates poverty, generational debt and compromises corporate transactions due to its criminal, fraudulent nature - neglecting the basic principles of the rule of law, human rights for all, the dignity of the person and a fair wage for all[11].

---

[9] United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, OHCHR, New York and Geneva, 2011 at: https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf

[10] P029 - Protocol of 2014 to the Forced Labour Convention, 1930, Protocol of 2014 to the Forced Labour Convention, 1930 (Entry into force: 09 Nov 2016), Adoption: Geneva, 103rd ILC session (11 Jun 2014) at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029

[11] Reflected in several international instruments already mentioned, as well as the sustainable Development Goals, in particular Goal 8: stable economy decent work for all at: https://www.un.org/sustainabledevelopment/economic-growth/

Efficient human rights due diligence plans are key to more responsible business practices. They allow companies to identify and assess their existing and potential adverse impacts, to prevent or mitigate these impacts, and to track and report on the outcomes of their actions in a transparent way.

Making human rights due diligence mandatory for businesses could help gradually shift focus towards prioritising risks to people rather than risk to the company. While it could equally help companies get ahead of potential risks – which have legal, financial and reputational implications – and capture new opportunities.

The French law represents the most effective response to date to the existing business and human rights governance gaps. Several other European and national level legislative initiatives are also evidence of a growing trend towards regulating human rights due diligence, either through transparency requirements, or through obligations to conduct due diligence. Legislation similar to the French duty of vigilance law is currently being considered in Switzerland.

Under the EU Non-Financial Reporting Directive, 8,000 large EU companies and financial corporations have to report on their principal impacts and risks regarding human rights, environmental, social and labour, and anti-corruption matters, including the due diligence processes implemented to address these issues. Companies will start providing this information as part of their annual reports for 2017. The EU Parliament and the EU Council in adopting the Conflict Minerals Regulation in 2017 requires European companies to ensure their trade of minerals from conflict- affected areas is not linked with human rights abuses.

In consideration of the UK, Californian and French supply chain transparency laws, the French duty of care law is the most compliant in principle with the above, as it requires companies to develop and implement a public 'devoir de vigilance'[12] setting out the oversight mechanisms the company has in place to identify and mitigate the occurrence of:

- violations of human rights and fundamental freedoms,
- severe bodily or environmental damage, or

[12] The French legislation Law No. 2017-399 or 'devoir de vigilance (duty of care') can be found at: https://www.legifrance.gouv.fr/eli/loi/2017/3/27/2017-399/jo/texte

- health risks resulting from the company's activities, the activities of the companies it controls or the activities of its subcontractors or suppliers.

The French law does not explicitly refer to the UN Guiding Principles' standard of human rights due diligence, but it specifies the content of the due diligence plan.[13]

Due diligence is the key. Where corporations take responsibility for due diligence and consequently make their supply chains transparent, then it is possible to establish grievance procedures that can facilitate remedy of any violations of rights at work from forced labour to paying below the minimum wage.

The United Nation's Guiding Principles as our Framework

A range of existing international standards and emerging national laws, based on the UN Guiding Principles on Business and Human Rights (UNGPs), emphasise the role of due diligence in identifying and avoiding risks to human rights, including the risk of modern slavery, which is now up to 45 million people identified and growing.

Under the UNGPs, companies should have in place "a human rights due diligence process to identify, prevent, mitigate and account for how a company addresses their impacts on human rights".[14]

Principle 17 of the UNGPs, states:

"In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence: (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its

14 Friedrich Ebert Stiftung, Modern Slavery in Company Operations and Supply Chains: Mandatory transparency, mandatory due diligence and public procurement due diligence, written by: Business and Human Rights Resource Centre (BHRRC) commissioned by the International Trade Union Confederation (ITUC), September 2017.

14 14 United Nations Guiding Principles on Business and Human Rights, Office of the High Commission, New York and Geneva, 2011, p 18 at: https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

operations, products or services by its business relationships; (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations; (c) Should be ongoing, recognising that the human rights risks may change over time as the business enterprise's operations and operating context evolve."[15]

Conducting appropriate human rights due diligence should help business enterprises address the risk of legal claims against them by showing that they took every reasonable step to avoid involvement with an alleged human rights abuse. However, business enterprises conducting such due diligence should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to human rights abuses.

UN Guiding Principle 17 provides that:

"…Human rights due diligence:

Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;

Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;

Should be ongoing, recognising that the human rights risks may change over time as the business enterprise's operations and operating context evolve."

Annual reporting requirements should reflect this standard.

The commentary to UN Guiding Principle 22 states that:

"Even with the best policies and practices, a business enterprise may cause or contribute to an adverse human rights impact that it has not foreseen or been able to prevent. Where a business enterprise identifies such a situation, whether through its human rights due diligence process or other means, its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors. Operational-level grievance mechanisms for those potentially impacted by the business enterprise's activities can be one effective means of enabling remediation when they meet certain core criteria, as set out in Principle 31.

[15] United Nations Guiding Principles on Business and Human Rights, Office of the High Commission, New York and Geneva, 2011, at: https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Human Rights due diligence practices therefore have to be seen as an ongoing risk management process that a reasonable and prudent company needs to follow in order to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. It includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.

Governments can't be exempt and model public procurement due diligence legislation should be included on the same terms.

A UN Treaty, currently in negotiation, would ensure a global mandate in relation to these standards.

Prevention along with Due Diligence Human Rights Approaches to combating slavery are *key*

Without a doubt, prevention is a central theme to combating human trafficking, slavery and slave-like conditions, reinforced by international law in the *United Nations Convention against Transnational Organised Crime* , adopted by General Assembly resolution 55/25 on the 15th November, and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*[16] adopted by General Assembly resolution 55/25, entered into force on 25 December 2003.

The NSW Government, along with the Commonwealth Modern Slavery Act initiatives are a part of an international sweep of reforms ensuring human right due diligence practices are adhered to in business and commercial transactions, initiated by the *United Nation's 2011 Guiding Principles to Human Rights in Business*.

Australia has a comprehensive, whole-of-government anti-trafficking strategy in place which addresses all facets of human trafficking and aims to prevent and deter human trafficking and slavery; to detect, investigate and prosecute offenders and to provide support to trafficked people. The anti-trafficking strategy is informed by the

[16] United Nations Convention against Transnational Organised Crime and the Protocols Thereto, Adopted by the UN General Assembly: 15 November 2000, by resolution 55/25, Entry into force: 29 September 2003, in accordance with article 38, Signatories: 147, Parties: 189 (as of 26 July 2018), accessed at: https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html

National Action Plan to Combat Human Trafficking 2015-19, and overseen by the Interdepartmental Committee on Human Trafficking and Slavery.

Concerningly, the reality is that Australia is a developed nation in a developing region, and there are several push and pull factors in the Austral-Asia region which results in Australia using people from our neighbouring countries as our slaves either within Australian borders, or enslaving them at the first-point of production in their country of origin, whether in agriculture, fisheries, the textiles industry or in cocoa production.

Change is needed in the cocoa industry. Modern slavery and illegal child labor are manifestations of the industry's profit maximising business model in which direct and equal relations between producers, purchasers and consumers have disappeared.

Big chocolate multinationals buy cocoa at the commodity market, without traceability. This non-transparent way of doing business leads to the quiet acceptation and preservation of inequality, exploitation and extreme poverty [17].

The Australian Government funds a number of programs with the goal of preventing and deterring human trafficking and slavery in Australia, including: training for Immigration and Border Protection staff posted in Australia and overseas on detection and prevention of human trafficking and slavery, and research into prevention of human trafficking, conducted by the Australian Institute of Criminology.

So, why does slavery continue in our business supply chains, and why do we still allow profits to circulate the Australian market and allow big banks to profit as a result of the suffering of the most vulnerable in the world? According to the Global Slavery Index, there are currently 7,000 known slaves in Australia, predominately from our region.

[17] Joshua Kissi and Tony's Chocolonely; *Reframed: The Narrative of the Cocoa Industry*, PRESS RELEASE PR Newswire, Market Insider, Oct. 1, 2019, at: https://markets.businessinsider.com/news/stocks/reframed-the-narrative-of-the-cocoa-industry-presented-by-joshua-kissi-and-tony-s-chocolonely-1028567422

Australia's geo-political relations matters. If countries in our region do not prioritise the prevention, prosecution and promotion of business, trade and commerce free of human slavery and trafficking, it threatens our state security by undermining our dearly held principles of the rule of law, human rights, the dignity of the person and other fundamental principles to our security as a democratic nation.

New South Wales has a responsibility to ensure that its own policies and strategies provide for the prevention of, and effective investigation into, human trafficking and slavery and protect the welfare of trafficked people, with the NSW Government being urged to lead by example and strengthen the Code of Practice to specifically prevent human trafficking and slavery in the supply chains of its departments and agencies.

The NSW Government has agreed to conduct an annual evaluation of the progress made by its departments, agencies, state owned corporations and other government related entities in preventing human trafficking and slavery in the supply chains of goods and services procured, as expressed in Recommendation 12 of the NSW Government Report 2017:

"That the NSW Government conduct an annual evaluation of the progress made by its departments, agencies, state owned corporations and other government related entities in preventing human trafficking and slavery in the supply chains of goods and services procured."

This will be an integral step in ensuring human dignity, the rule of law, state security, human rights in business, trade and commerce practices are upheld, as Government entities leads the way. The NSW Anti-Slavery Commissioner's role is imperative to ensure these important goals are realised, enforced and investigated.

The UK Modern Slavery Act Review Findings

In 2015 Britain enacted the *Modern Slavery Act* 2015 which aims to bring human trafficking and slavery to an end and provide support to slavery victims in the United Kingdom. The Act provides for the establishment of an independent Anti-Slavery Commissioner to encourage good practice on the prevention, detection, investigation and prosecution of modern slavery offences and the identification of victims of modern slavery offences and the identification of victims.

The recent review of the UK Modern Slavery Act reported[18] that the number of potential victims identified in the UK each year has more than doubled from 3266 in 2015 to 6993 in 2018, and that the proportion of children identified has increased during the same period from 30% to nearly 45%, in large part due to the rise in cases of county lines and other forms of criminal exploitation, with UK nationals represent by far the highest proportion of potential victims identified at almost a quarter of all those recorded due to the rising number of children identified.

The Report concluded that:

"it was clear from the evidence that the Commissioner's primary roles in carrying out his/her statutory duties should be: to advise the Government on measures to tackle modern slavery; to scrutinise and hold the Government and its agencies to account on their performance; and to raise awareness and promote cooperation between sectors and interest groups."[19]

In relation to the UK's transparency in supply chain section 54 reporting requirements, the Report ascertained that:

"stakeholders were clear that the lack of clarity, guidance, monitoring and enforcement in modern slavery statements needed to be addressed to increase compliance and quality; agreeing and recommending that companies should not be able to state they have taken no steps to address modern slavery in their supply chains, as the legislation currently permits, and that the six areas of reporting currently recommended in guidance should be made mandatory.

The Report also recommends that Government should set up a central repository for statements; that the Independent Anti-Slavery Commissioner should monitor transparency; sanctions for non-compliance should be strengthened; and that Government should bring forward proposals for an enforcement body to enforce sanctions against non-compliant companies. A requirement for greater transparency from business is becoming usual practice, with businesses

[18] Independent Review of the Modern Slavery Act 2015: Final Report Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty May 2019, at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803554/Independent_review_of_the_Modern_Slavery_Act_-_final_report__print_.pdf

[19] Independent Review of the Modern Slavery Act 2015: Final Report Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty May 2019, p13 at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803554/Independent_review_of_the_Modern_Slavery_Act_-_final_report__print_.pdf

required to report on a number of issues, including for example their gender pay gap. It is only right that reporting on modern slavery should be taken equally seriously."[20]

These are important learnings for Australia in how we proceed in implementation of the transparency in supply chain reporting requirements of Australian companies above the prescribed threshold, particularly to ensure that the process affords those required to report clarity, guidance, monitoring and enforcement in modern slavery statements, and for there to be sanctions for non-compliance strengthened - as advised by the UK Report.

Comparatively, Section 24 of the NSW Modern Slavery Act (Cth) 2018 sets out the requirement that commercial organisations must prepare a modern slavery statement that outlines their actions to address modern slavery in their operations and supply chains. The NSW Act requires commercial organisations over $50million annual profit and under the Commonwealth specified reporting[21] threshold of $100million annual turnover to prepare an annual modern slavery statement on the steps they have taken during their financial year to ensure their operations and supply chains do not involve modern slavery.

Given that the Commonwealth has not projected for a Nation Anti-Slavery Commissioner, the jurisdiction of the NSW Anti-Slavery Commissioner should be ensured as relevant across State borders, and to advise on the Commonwealth Act with the same name.

With respect, both the NSW and Commonwealth Reporting Requirements should consider due diligence obligations, and ensure that the Reports in the public repositories can be cross-cross-referenced easily.

---

[20] Independent Review of the Modern Slavery Act 2015: Final Report Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty May 2019, p15 at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803554/Independent_review_of_the_Modern_Slavery_Act_-_final_report__print_.pdf

[21] *The Commonwealth regulation requires reporting entities over the 100 million threshold to submit a 'modern slavery statement' to the Minister for Home Affairs, including; 1. the identity of the reporting entity; 2. the structure, operations and supply chains of the reporting entity; 3. the risks of modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls; 4. the actions taken by the reporting entity and any entity that the reporting entity owns or controls, to asses and address those risks; 4. how the reporting entity assesses the effectiveness of such actions; 5. the process of consultation with any entities the reporting entity owns or controls or is issuing a joint modern slavery statement with; and 6. any other information that the reporting entity, or the entity giving the statement, considers relevant.*

Forced Labour linked to Social Justice and Universal Peace

For decades now, international instruments have linked social justice to stable economies and political and military peace. In fact, the *International Labour Organisation's* (ILO) origins are found in the *Peace Conference* convened at the end of the First World War. Following this global conflict, social justice was seen as a prerequisite for the maintenance of the peace, which had only just been restored. The ILO was entrusted with working towards several social justice objectives and was given the competence to adopt international labour standards as its principal means of action.[22]

On November 9, 2016, the International Labour Organisation (ILO) announced that its *International Protocol P029 of 2014 to the Convention Concerning Forced or Compulsory Labour (the Forced Labour Convention of 1930)* had officially entered into force. The Protocol and its Recommendations bring the International Labor Organisation standards against forced labour into the modern era.

The Protocol establishes the obligations to prevent forced labour, protect victims and provide them with access to remedies, and emphasises the link between forced labour and trafficking in persons. In line with Convention No. 29, the Protocol also reaffirms the importance of prosecuting the perpetrators of forced labour and ending their impunity.

The Forced Labor Protocol seeks to recognise that the prohibition of forced or compulsory labour forms part of the body of fundamental rights, and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and noting that the effective and sustained suppression of forced or compulsory labour contributes to ensuring fair competition among employers as well as protection for workers.[23]

Part XIII of the *Treaty of Versailles* was the outcome of the Commission's work, and it became the founding text of the ILO with most of its provisions contained in the ILO's

[22] This was primarily achieved at the Peace Conference, where a Commission brought together government delegates and representatives of the world of work specifically entrusted with developing proposals on matters relating to labour.

[23] P029 - Protocol of 2014 to the Forced Labour Convention, 1930, Protocol of 2014 to the Forced Labour Convention, 1930 (Entry into force: 09 Nov 2016), Adoption: Geneva, 103rd ILC session (11 Jun 2014) at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029

Constitution. The Preamble to Part XIII of the Treaty of Versailles states: *"Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice ..."*.[24]

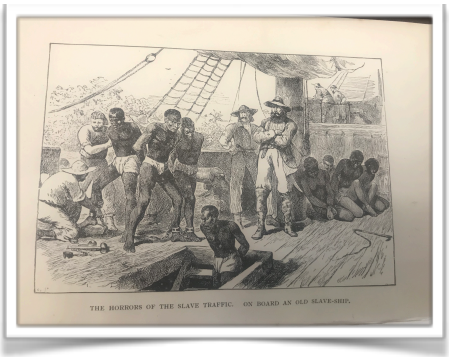
The world has recognised that the principle of social justice requires a due diligence human rights approach to the eradication of slavery, trafficking and criminality of all kinds in the labor force globally for the sake of global peace, security and justice.

The commentary to UN Guiding Principle 20 states that:

"Tracking is necessary in order for a business enterprise to know if its human rights policies are being implemented optimally, whether it has responded effectively to the identified human rights impacts, and to drive continuous improvement. Business enterprises should make particular efforts to track the effectiveness of their responses to impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalisation. Tracking should be integrated into relevant internal reporting processes. Business enterprises might employ tools they already use in relation to other issues. This could include performance contracts and reviews as well as surveys and audits, using gender-disaggregated data where relevant. Operational-level grievance mechanisms can also provide important feedback on the effectiveness of the business enterprise's human rights due diligence from those directly affected (see Principle 29)."

A company's salient human rights issues are those human rights that are at risk of the most severe negative impact through its activities or business relationships. Identifying the company's salient human rights issues is also the first step of human rights due diligence under the UN Guiding Principles. For due diligence, this assessment and prioritisation of human rights risks is about sequencing: knowing where to focus the company's efforts and resources first if it cannot address all impacts at once. It is not about ignoring less salient issues. For human rights reporting, the company's salient human rights issues define a cut-off point: the company's reporting will then focus on how the company understands and manages these issues.

[24] International Labour Office; Official Bulletin, Volume I April 1919-AUGUST1920, Geneva 1923, at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---jur/documents/genericdocument/wcms_441862.pdf



Recommendations in response to the NSW Terms of Reference in the *Modern Slavery Act Regulation* Inquiry

(a) the operability of the proposed anti-slavery scheme:

In consideration of the precedent for successful repotting practices in other jurisdictions, in addition to the existing framework, I recommend an introduction of a zero tolerance approach to human trafficking and slavery in all Australian businesses and supply chains - including brothels, a more consistent legal definition of corporations requiring to report, the upholding of penalties for non-reporting, and ensuring that the Anti-Slavery Commissioners role brings with it enforcement powers. Without these provisions, the operability of the anti-slavery scheme is in question.

A Zero Tolerance Approach

This means an introduction of legislation that encourages all businesses to report on slavery in their supply chains voluntarily - without penalties applying.

A very real concern in requiring only select companies above a certain threshold ($50 million in the NSW legislation, and $100 million in the Federal legislation), is that the cost, duty, responsibility and liabilities of corporations and large business requirement to report is passed on to the 'little guy'. In reality, if this occurs, this will mean that not only will large corporations and businesses re-neg on their legal responsibilities but the burden of checking for and reporting on slavery in supply chains will fall onto smaller businesses - at risk to their commercial transactions. Does this legislation prevent corporations from penalising small business for their obligation to report?

The NSW Act's reporting threshold of $50m reflects the recommendations of its own NSW Committee as well as the recommendations of the Commonwealth report Hidden in Plain Sight. It also reflects the United Kingdom's 2015 Modern Slavery Act threshold of £37m. The Commonwealth Modern Slavery Act $100m threshold for companies required to report is significantly weaker - with no penalties or other provisions for non-reporting. Consistency is key.

Defining a 'Small Business'

Slavery, human trafficking and exploitations are crimes, no matter what the size of the enterprise. For taxation purposes, the Australian Taxation Office defines a small business as one that has an aggregated annual turnover (excluding GST) of less than $2 million (AUD). For employment purposes, Fair Work Australia defines a small business as one that has less than 15 employees.

The Australian Corporations Act defines a large business as one with with a consolidated revenue in excess of A$50 million with 100 or more employees. To suggest that a business with a consolidated revenue or turnover between A$50 and A$100 million with 20 employees is 'small' or need exemptions is inconsistent with these definitions and associated requirements.

Most businesses with a turnover or consolidated revenue in excess of $50 million will also have 20 or more employees. In the case of a high-turnover business with a small number of staff, there is no obvious rational for an exemption. This exemption serves no purpose. If the Government proceeds with exempting businesses that employ fewer than 20 employees, it needs to be clear where those employees are located. Whilst we assume it is anywhere in the world, this is not stated and could be assumed otherwise.

The Powers of the Anti-Slavery Commissioner

Operability of the NSW Modern Slavery Act will rely on the thoroughness and scope of the Anti-Slavery Commissioner's role and whether Dr Jennifer Burn as Interim Anti-Slavery Commissioner will be able to enforce the requirement to report, and report those who have violated these requirements to the appropriate authorities.

The Anti-Slavery Commissioner's role is integral in ensuring correct and thorough reporting takes place in the public repositories, in a way that civil society and the Commissioner are able to benefit from the information provided in the reports will be key in ensuring the operability of this new legislation.

The Anti-Slavery Commissioner, in having powers to investigate, and partner with entities such as law enforcement to refer to, or engage in co-investigative efforts will remain crucial to assisting victims of slavery and slavery -like offences.

Penalties for non-reporting

Penalties for non-non-reporting should be upheld, even if it is a 'naming and shaming' exercise by the Minister in accordance with the public repository reporting requirements, or a fine based penalty, given the civli nature of the violation.

No penalties for non-reporting may lead to a failed reporting response rate, similar to that of the United Kingdom, after its 2015 Modern Slavery Act was enacted.

In its first three years of operation, the UK Modern Slavery Act did not have mandatory reporting, resulting in a mere 32% of businesses complying with the requirement and 40% of the FTSE Top 100 failing to file a report. Such levels of non-compliance make the legal requirement to report meaningless.

A commitment to slavery-proofing supply chains should be seen as a necessary responsibility and cost of running a business - just as companies and organisations are required by law to provide annual accounts and tax returns, maintain public liability, pay their staff superannuation, fulfil health and safety requirements, and so forth.

Slavery-proofing supply chains is an integral step towards compliance with international standards to practising corporate social responsibility, and taking a shared values approach to sustainable business.

Modern day economists such as Michael Porter[25] advocates for the benefits of corporations structuring their businesses and supply chains in a way that brings a shared value to the market, the economy and to communities. In the Harvard Business Review, Mr Porter states:

"The purpose of the corporation must be redefined as creating shared value, not just profit per se. This will drive the next wave of innovation and productivity growth in the global economy." - Michel E Porter

[25] Micheal E Porter - Shared Value Initiative: Michael E. Porter is a leading authority on competitive strategy, the competitiveness and economic development of nations, states, and regions, and the application of competitive principles to social problems such as the environment, health care delivery and corporate responsibility, at: https://www.sharedvalue.org/partners/thought-leaders/michael-e-porter

The NSW Modern Slavery Act's penalty scheme which subjects companies and organisations failing to report or producing false or misleading information to significant fines is, and should remain as part of the necessary provisions in the legislation, particularly in the light of UK experience. The requirement must be mandatory and properly policed if international and national commitments to eradicate slavery in line with Target 8.7 of the Sustainable Development Goals[26] are to be taken seriously and real change effected and seen in the next few years.

Consider France as a case study for due diligence standards

Consider a like-threshold and reporting model to the French *Law No. 2017-399 on corporate 'duty of care' (devoir de vigilance)*[27] which emphasises due diligence human rights practices as a culture shift in companies and businesses and requires a human rights due diligence standard of commercial practice consistently across sectors, jurisdictions and business models, in line with the UN Guiding Principles standards. This approach should apply to both the NSW State and Australian Federal Modern Slavery Acts as a matter of principle.

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

The Commonwealth Inquiry Report, 'Hidden in Plain Sight' recommended a reporting threshold of $50 million, which is a similar threshold to the United Kingdom's 2015 Modern Slavery Act of £36 million. The reason given for choosing a higher threshold was explained as lack of capacity within the Commonwealth government to identify and process more than the estimated 3,000 - 3,500 reports.

Some Australian companies, many of them with an employee in NSW, operating in the United Kingdom, are required to report in the UK but will not be required to report in

---

[26] *GOAL 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. TARGET 8.7 Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms. BACKGROUND; In 2015, world leaders adopted the 2030 Sustainable Development Goals. Also known as the Global Goals, these 17 interrelated goals and their 169 associated targets are designed to guide global development, eliminate human rights violations and ultimately create fair and prosperous world for current and future generations. ALLIANCE 8.7 IS THE GLOBAL INITIATIVE SUPPORTING PROGRESS TOWARDS TARGET 8.7 AT ALL LEVELS.*

[27] The new Art. L. 225-102-4 of the Commercial Code of Law No. 2017-399 on Corporate 'Duty of Care' Devoir De Vigilance.

the Commonwealth transparency in supply chain scheme. In the proposed NSW scheme the threshold matches the UK threshold, and is better practice.

There is no doubt that initial requirements to report will have a time and cost burden to companies and businesses. This cost has been projected by The Commonwealth Government in producing a Modern Slavery Risk statement at $21,950. The submission to the Inquiry from the NSW Government uses this same figure for companies covered under the NSW Act.

This monetary and time cost brings benefits that far outweigh the cost slaves experience, including the injustices of loss the loss of wage, the indignity of exploitation, which is often coupled with the traumas of slavery and at times, even human trafficking.

(c) the intended application of the anti-slavery scheme with respect to charities and not-for- profit organisations, State Owned Corporations and local councils

The Catholic Church's compliance to, and lead initiative in ensuring that their supply chains are salve frees is testament to not for profit organisations are able to consider and implement compliance as a moral imperative, albeit costly and time consuming.

The Most Rev Anthony Fisher OP, Catholic Archbishop of Sydney, announced a suite of initiatives that make the Catholic Church a leading body in the drive to eradicate modern slavery and human trafficking in Australia in 2018 following the NSW Parliament's Inquiry into Human Trafficking and Modern-Day Slavery in 2017[28].

The NSW Government should consider incentives for all Not For Profit entities and Charities to engage slave-free supply chain models of procurement and services, as the Commonwealth proposed $21,950 estimate of compliance with this new law is too burdensome for charities to cary on their own. A solution could be for the Government to provide a free and accessible slave free procurement website for due diligence human rights practices for the general public as a procurement starting point for charities.

---

[28] The initiatives include a process to slavery-proof Archdiocesan supply chains, incorporating anti-slavery topics into the Catholic school curriculum, and equipping welfare services to support survivors of slavery. Archbishop Fisher encouraged the audience of about 500 to pursue compassion through both personal and organisational change, and through both prayer and action.The announcement is another jigsaw piece within a growing alliance of religious and non-religious organisations responding to the unconscionable number of people forced into slavery – estimated to be about 40 million by the International Labour Organization (ILO). At: https://newmatilda.com/2018/02/09/catholic-church-takes-lead-eradication-global-slavery/

(d) the appropriateness and enforceability of Modern Slavery Risk Orders under section 29 of the NSW Act

It is yet to be seen how this section in the legislation will be implemented and to what effect. It is advisable, however, that there is a clear distinction that is carried and adhered to in relation to the penalties Ordered for a person in violation of a criminal act who has received a criminal charge in contrast to a civil law matter resulting in a civil legal procedure - which results in a civil damages penalty. The burden of proof is distinct for civil and criminal matters, is entrenched in both common and statutory laws, and this clear legal distinction is required at law to be upheld in this Act.

In relation to the powers of the Anti-Slavery Commissioner, they should have discretion to investigate, to make a report to law enforcement and to parliament on slavery risk-like behaviour of companies and businesses within their jurisdiction. The Anti-Slavery Commissioner is to be provided with the powers to give evidence as to reasons why a Modern Slavery risk Order should/should not be Ordered by the Court, at their discretion.

In relation to S29(1) of the NSW Modern Slavery Act;

In order to ensure the enforceability of the Modern Slavery Risk Orders under s 29 (1), the criminal procedural legal threshold of 'beyond reasonable doubt' must be upheld in law as not to contravene the entrenched principle of law that separates civil matters from criminal, in its procedural distinctions and the measure of penalties for the offences, given the vast differences between the two. If indeed this provision seeks to criminalise the practice of slavery in commercial supply chains, the standard of proof required here is 'beyond reasonable doubt' – in consistency with Australia's Criminal Code (Cth) 1901

In relation to S29(2) of the NSW Modern Slavery Act;

The phrase *'nature and pattern'* referred to here is to include cross-jurisdictional records/known activities of the accused. Jurisdiction should not impede such investigations into the accused's 'patterns' of operations.

In relation to S29(3) of the NSW Modern Slavery Act;

I am concerned with reference to modern slavery being referred to as a *'less serious crime'*, as this is inconsistent with international precedent, Australia's Criminal Code (Cth) 1901 and the United Nations' efforts to combat slavery globally in all its forms.

The wording of this provision should instead find consistency with these national and international provisions, ensuring that the nature and severity of the distinct crimes of the practices of slavery, human trafficking and exploitation are captured separately.

In relation to S29(8) of the NSW Modern Slavery Act;

To ensure that real cultural change is achieved in the operation and structure of businesses, it is essential that the *'reasonable excuse'* clause under s 29(8) is removed.

This section operates counter to the purposes of the Modern Slavery Act in its pardon of perpetrators of modern slavery offence. Observation of s29(8) raises concerns with a provision that allows a loophole to exist for perpetrators of slavery in commercial transactions, as there is no 'reasonable excuse' for engaging in known criminal conduct.

There can be no reasonable excuse to breach an order that prohibits a convicted person from engaging in conduct which is likely to place people at risk of physical or psychological harm, particularly in consideration s 1 (c) of the same Act. For this reason, a contravention of the Order requires further penalties such as a fine, and the naming and shaming of the Commercial entity by the Minister as an example of misconduct and application of the law.

(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

In light of my previous submissions to both the NSW and Cth Parliaments[29] on Transplant Organ trafficking, I note that Part 8 Section 36 of the Human Tissue Act 1983[30] dealing with offences does not cover transplant organ harvesting or tourism.

It is my opinion that the medical profession's procurement practices should fall under human rights due diligence practices in accordance with the Modern Slavery Act.

---

[29] INQUIRY INTO HUMAN ORGAN TRAFFICKING AND ORGAN TRANSPLANT TOURISM Submission #2, at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/HumanOrganTrafficking/Submissions

[30] *Part 8 Section 36 of the Human Tissue Act 1983 No 164 Current version for 15 June 2018 to date (accessed 2 October 2019 at 15:35) at: https://www.legislation.nsw.gov.au/#/view/act/1983/164/part8/sec36*

The procurement of live organ tissue fo the purpose of saving lives should also come under scrutiny. Tissues should be procured with the full and transparent consent of its donor, with provided evidence that the donor had the capacity to consent.

The transport of live human tissue across jurisdictions should be undertaken in a transparent, ethical manner. Australians who procure live tissue internationally should be warned of medical complications and the risk that the organs they procure may be harvested - agains the will of the donor.

The NSW Human Tissue Act 1983 should make organ transplant tourism a felony, as this creates a demand for organ harvesting and trafficking across national and intentional borders. This should be undertaken with consistent wording with the United Nations Office of Drugs and Crime Organ Trafficking initiatives[31], and the recent Council of Europe Convention against Trafficking in Human Organs, the first international treaty aimed at preventing and combating trafficking in human organs.

"The illicit removal and trafficking of human organs is a serious human rights violation. Donors are often extremely vulnerable individuals exploited by organised crime, which takes advantage of the shortage of organs available for transplantation. International co-operation is essential to fight this crime. I call on states in Europe and beyond to swiftly sign and ratify the convention", said Council of Europe Secretary General Thorbjørn Jagland.

The convention provides a comprehensive framework to make trafficking in human organs a criminal offence, to protect the victims, and to facilitate cooperation at national and international level to prosecute those responsible for trafficking. It criminalises the illicit removal of human organs from living or deceased donors and their use for transplantation or other purposes, and other related acts.

Protection measures for victims include physical, psychological and social assistance, legal aid and providing the right to compensation from the perpetrators.

The convention aims to prevent trafficking in human organs by, for example, requiring states to ensure the transparency of their national system for transplantation of organs, and equitable access to transplant services.

[31] United Nations Office of Drugs and Crime Organ Trafficking initiatives, at: https://www.unodc.org/unodc/en/organized-crime/intro/emerging-crimes/organ-trafficking.html

The medical profession should stand the scrutiny of a transparency in supply chain reporting requirements and should fall under the Government's commitment to ensure full transparency in their procurement practices - as government and non-government agencies.

In 2012 over 114 000 transplants were undertaken in 109 countries, of which some 70% (77 800) are kidney transplants (from both living and deceased donors).[32] The World Health Organisation warns of an alarming rise in the illegal trade in human organs, stating that around 10% of transplant procedures involve organs that have been bought on the black market.

The commercialisation of the human body and its parts is prohibited by all relevant international and EU law documents, as well as in national legislations of member states.

The international community has responded to the rise in this abhorrent human right violation and international crime by calling on the Government of the People's Republic of China and the Communist Party of China to immediately end the practice of organ harvesting from all prisoners of conscience. This includes declarations and resolutions from from Canada[33], America[34] and the European Union[35].

(f) the risk of a possible constitutional challenge to current provisions in the NSW Act due to inconsistencies with the Criminal Code Act 1995 (Cth)

Section 109 of the Australian Constitution States: *'when a law of a state is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.'*[36] On precedent, the Courts will therefore deem the inconsistencies invalid to the extent of the inconsistencies found within the NSW Modern Slavery Act

---

[32] GODT, Newsletter Transplant 2014 vol 19, September 2014.

[33] Passed by Canadian Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development in November 2014.

[34] US House of Representatives unanimously passes Resolution 343 in June 2016, at: https://www.congress.gov/bill/114th-congress/house-resolution/343/text

[35] European Parliament Written Declaration under Rule 136 of Parliament's Rules of Procedure, on stopping organ harvesting from prisoners of conscience in China, in July 2016, at: http://endorganpillaging.org/2010-spanish-criminalcode-amended-to-combat-transplant-tourism-and-organ-trafficking/

[36] *Mabo v Queensland [1998] HCA 69 the High Court decided by a majority that the Queensland Coast Islands Declaratory Act 1985 was inconsistent with the Commonwealth Racial Discrimination Act 1975 and that under s109 of the Constitution, it was invalid to the extent of the inconsistency.*

with the Federal Modern Slavery Act as well as the Commonwealth Criminal Code, and other relevant legislation. This includes penalties, definitions of key legal terms and provisions that may affect the legal outcome of a matter.

(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

The passage of the NSW *Modern Slavery Act 2018* has been politically successful, insofar as the Bill receiving royal assent in parliamentary procedure on the 31st of October 2018. The Federal Modern Slavery Act 2018 received royal assent soon after, on the 10th December 2018.

The NSW legislation is more robust, calling on public procurement to be scrutinised by transparency in supply chain reporting, sanctioned penalties for non-reporting, and the institution of an Anti-Slavery Commissioner, all of which is missing from the Commonwealth Act with the same name.

The NSW *Modern Slavery Act* is seen internationally as a significantly more comprehensive piece of legislation in the way it is intended to combat modern slavery, in comparison to the Commonwealth Act but also as a world-leading standard to combat slavery in supply chains.

The NSW economy is the largest in Australia and state budgets worth $35billion. The inclusion and scrutiny of public procurement on this State-based budget spend demonstrates the NSW Government leading by example from the front.

If the NSW Act is rescinded, this level of scrutiny on public procurement will not exist, Australia will not have an Anti-Slavery Commissioner, and the Commonwealth Act with the same name does not have the same level of scrutiny or seriousness in combating slavery in Australian procurement and commercial and trade practices.

(h) the preferred course of action to address the matters identified

That the aforementioned matters be considered.

Concluding Remarks

The Modern Slavery Act Act is not just a piece of legislation, but rather, it is a blueprint for the kind of society we want; respecting and upholding human rights including the fundamental right of people to be free. The Act is an expression of the society and values we want to characterise, aiming to set world standards, as there is a moral imperative to do so.

World trade and commerce is shifting. Sustainability and transparency are key priorities of today's consumers and commercial partners. A Modern Slavery Act requiring a mandatory assessment of risk and reporting for transparency in supply chains is good for business, as it creates a level playing field.

Under transparency in supply chain legislation, those who are doing the right thing are not penalised. There are costs involved with checking for and addressing modern slavery, but this cost far-outweighs the cost of slavery, human trafficking and exploitation, often fuelled by criminal enterprise at a risk to our national security within our trade and commerce practices.

At a time when other Parliaments around the world are looking at strengthening their modern slavery legislation or are introducing strong, full human rights compliance beyond slavery, the Inquiry committee must not step back from taking meaningful swift action on the human rights of the world's most vulnerable people.

I would request an opportunity to give evidence to the Inquiry.

If I can be provided with the areas the committee wishes to examine more fully from this submission, I can ensure the correct response is made.

With thanks for your consideration of the above,

Andrea TOKAJI
BUSINESS AND HUMAN RIGHTS CONSULTANT
LECTURER / MEDIATOR / POLITICAL STRATEGIST
www.andreatokaji.com