

Submission  
No 78

## INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

**Organisation:** Mercy Foundation

**Date Received:** 4 October 2019

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**Submission to: Legislative Council Standing Committee on Social Issues**

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**1. About the Mercy Foundation**

The Sisters of Mercy North Sydney established the Mercy Foundation in 1990. It is an organisation committed to social justice and structural change with the goal of creating greater social equity and inclusion in the Australian community. The Mercy Foundation addresses its social justice agenda through seed funding, advocacy and education.

The Mercy Foundation is an independent voice, informed by evidence and current research that works to change social structures and practices, laws and ways of thinking. The Mercy Foundation works in partnership with other organisations on issues and activities that support its mission.

The key intent of the work of the Mercy Foundation is to assist communities and organisations to build capacity that will help create structural change and bring about greater social justice in Australia. The current focus issues are ending homelessness and anti-human trafficking.

**2. Introduction**

The Mercy Foundation commends the NSW Government for its commitment to combat modern slavery and appreciates the opportunity to provide a submission to the Inquiry into the Modern Slavery Act 2018 (the NSW Act). Human trafficking and slavery is a violation of human rights where the majority of victims are women and children. The root causes are poverty, denial of fundamental rights, displacement of people, limited access to education and the global demand for cheap, exploitable labour. The NSW Act is an important piece of legislation that has provisions to help protect, detect, and support people experiencing modern slavery and prevent people from experiencing

modern slavery. The Mercy Foundation strongly advocates for this Act to be implemented as soon as possible.

The Mercy Foundation supports the co-branded submission from Be Slavery Free. The key recommendations are:

- i. That the threshold for reporting entities remains at \$50 million and include penalties for non-compliance
- ii. The language of 'turnover' and 'consolidated revenue' be harmonised with the Modern Slavery Act (Cth) 2018
- iii. Should the Government proceed with exclusions, that a list of excluded entities be prepared; together with guidance making the nature of the exclusion clear
- iv. The committee develop a timetable to report earlier than currently proposed
- v. The regulations be developed and approved alongside the Inquiry process
- vi. A clear timeline for the implementation be disclosed by the Government as soon as possible, enabling the Act to come into effect on 1 January 2020
- vii. The Inquiry committee include in its final report the capacity such an Act has to release people who are enslaved and to prevent further enslavement of people
- viii. The Inquiry Committee consider the introduction of Forced Marriage Prevention Orders
- ix. The Inquiry committee to consider and recommend a NSW state-based licencing scheme of labour hire agents as has been done in Victoria and Queensland.

### **3. Comments on specific Terms of Reference**

The Mercy Foundation makes the following comments on particular Terms of Reference:

***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*

The Anti-Slavery reporting requirement will require businesses with a turnover in excess of \$50 million to report on the incidence and risks of modern slavery in their supply chains. These crimes are often hidden from view and difficult to identify without

investigation. Businesses and consumers may inadvertently be sanctioning these crimes through their purchases.

This legislation will ensure businesses make more informed choices in procurement and enable consumers to make informed purchasing decisions. By decreasing the demand for products tainted with modern slavery, there will ultimately be a reduction in the number of people whose lives are impacted by slavery and human trafficking.

In terms of cost, the Commonwealth Modern Slavery Bill 2018 Explanatory Memorandum estimated the annual regulatory impact on the business community of the modern slavery reporting requirement to be \$21,950.<sup>1</sup> This was estimated for an entity with a turnover of \$100 million. It is likely that the cost to prepare the reporting requirement for a business with half the turnover will be less.

If the cost to a business with a turnover of \$50 million was \$21,950, this represents 0.0439% of an organisation's turnover, a small price to pay to address modern slavery in an entity's supply chain. It is likely that the reporting costs will reduce after the initial reporting requirement is developed, as entities develop a template and become experienced in developing these statements.

***Terms of Reference 1 (c)*** *the intended application of the anti-slavery scheme with respect to charities and not-for-profit organisations, State Owned Corporations and local councils*

All entities with a turnover in excess of \$50 million, including charities and not-for-profit organisations, should be required to report. Charities and not-for-profit organisations exist for public benefit. Like any other business, there is a risk that a charity or not-for-profit organisation may be causing, contributing to or directly linked to modern slavery in their supply chains.

Organisations that exist for public benefit should be expected to lead the way in ensuring their supply chains are slavery free.

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<sup>1</sup>Commonwealth of Australia *Modern Slavery Bill 2018* Explanatory Memorandum

***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 amendment to address inconsistencies or gaps***

It is our opinion that the Modern Slavery Act 2018 (Cth) does not render the NSW Act as unnecessary. The NSW Act includes additional provisions to the Commonwealth Act.

One key provision in the NSW Act is that of an Anti-Slavery Commissioner who has a wide range of functions. The Commissioner's key focus is on combatting modern slavery and supporting victims of modern slavery in NSW. The establishment of an Anti-Slavery Commissioner was also recommended by the Joint Standing Committee on Foreign Affairs, Defence and Trade's Inquiry into a Modern Slavery Act in Australia. This recommendation was made in response to the Committee's analysis of a number of roles similar to that of an Anti-Slavery Commissioner in Europe and USA, its investigation into the function and role of the UK Anti-Slavery Commissioner and the recommendations from a number of submitters about the importance of this independent role.<sup>2</sup>

The Mercy Foundation considers the role of the Anti-Slavery Commissioner to be crucial in combatting modern slavery in NSW. The Commissioner's wide range of functions broadens the impact of the NSW Act and has potential to address other types of modern slavery in NSW such as domestic servitude.

***Terms of Reference 1 (i) any other related matter***

The Mercy Foundation is especially concerned with the issue of domestic servitude in Australia. Domestic servitude is difficult to detect. By its nature, it is a hidden form of employment and often part of the informal economy. Workers are isolated, making them vulnerable to abuse and exploitation. The ILO estimates that of the 24.9 million people trapped in forced labour, 16 million are exploited in the private sector in domestic work, construction or agriculture. Of this group, the majority were in domestic work (24%).<sup>3</sup> The Global Slavery Index (2018) increased its estimated prevalence of modern slavery in Australia from 4,300 people in 2014 to 15,000 in 2016 after including vulnerability

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<sup>2</sup> Commonwealth of Australia *Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia* Joint Standing Committee on Foreign Affairs, Defence and Trade 2017

<sup>3</sup> *Global estimates of modern slavery: Forced labour and forced marriage* International Labour Office (ILO), Geneva, 2017

factors.<sup>4</sup> These facts give some indication of the number of people that may be trapped in domestic servitude in Australia.

The Mercy Foundation commissioned research about domestic servitude<sup>5</sup> in 2019, which revealed that there is a lack of awareness by the public and by other government agencies that may be in a position to identify and assist a victim of domestic servitude. The research showed that most victims of domestic servitude are women with an average age of 35 years. Many spoke little or no English and all individuals reported experiencing exploitation and forms of control or restricted movement. In 13% of cases, individuals that attempted to escape their situation received a response that caused them to remain in exploitation for an additional period of time or were left vulnerable to re-exploitation or further harm. The research revealed a general lack of understanding of rights and entitlements for domestic workers exploited by diplomats and other foreign officials. Media coverage of domestic servitude cases also shows that workers report insufficient assistance from Australian authorities.<sup>6</sup>

These findings indicate that there is a need to educate authorities, service organisations and the general public regarding domestic servitude in NSW and Australia.

#### **4. Conclusion**

The Mercy Foundation recommends that the NSW Government implement the Modern Slavery Act as soon as possible. By doing so, the NSW Government will lead the way to prevent, detect, protect and deliver justice to potentially thousands of men, women and children who are currently facing grave exploitation and are denied their fundamental human right to freedom.

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<sup>4</sup> Minderoo Foundation *Global Slavery Index 2018*

<sup>5</sup> Moore, Heather. *Service or servitude: A study of trafficking for domestic work in Australia*. Mercy Foundation, The Salvation Army, 2019

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