

**Submission
No 87**

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

Name: Mr Kevin Hyland OBE

Date Received: 9 October 2019

Kevin Hyland OBE
Modern Slavery
Special Advisor

1. Relevant Background Kevin Hyland:

Following 30 years in policing investigating serious crime, including leading London's Human Trafficking Unit, in 2014 I was appointed as the UK's first Independent Anti-Slavery Commissioner serving with distinction until 2018.

In 2015, I authored SDG 8.7 and led efforts for its inclusion for the eradication of human trafficking within the UN 15-year Global Agenda Sustainable Development Goals (SDGs).

In 2018, I was elected as Ireland's representative to the Council of Europe Independent Group of Experts for Trafficking. I was instrumental in the establishment of the Santa Marta Group (SMG) and remain as chief advisor. SMG is a high-level partnership between law enforcement agencies, faith groups and civil society endorsed by Pope Francis at its launch at the Vatican in 2014.

I currently lead several international anti trafficking projects chairing the Responsible Recruitment Group of the Institute of Human Rights and Business, strategic advisor the Global Fund to End Modern Slavery, chair the Island of Ireland Human Trafficking Project and provide leadership and oversight to the OSCE group producing victim support guidance for the 57 participating states and UN.

2. Engagement with Australian Parties:

During the development of the Australian Modern Slavery Act, I gave evidence to the pre-legislative committee in Canberra and met with ministers and officials. During my time as a police officer, as Commissioner and more recently I have enjoyed collaboration with Australian representatives at meetings in Australia, the UK, Holy See, USA, Argentina and Vietnam. I have also been delighted to have met with senior police officers and visited excellent training provided by the Australian Federal Police to Vietnamese Police Officers in Hanoi.

I participated in high level meetings with the former Australian Prime Minister Malcom Turnbull at the UN and with the former and current Australian Foreign Ministers.

In my recent visit to Australia in July 2019, I was delighted to have positive meetings with Commonwealth Ministers, members of the New South Wales Parliament, NGOs and Jennifer Burn, the NSW Interim Antislavery Commissioner. I was particularly pleased to have a meeting with the Chair of the NSW Legislative Council Standing Committee on Social Issues, Hon Shayne Mallard, MLC, with whom I had a very positive conversation on modern slavery.

3. Background of Responses:

The issue of modern slavery and human trafficking has in recent years received increased attention from regional and multilateral organisations such as the UN, the Association of South East Asian Nations (ASEAN), the European Union (EU), the Organisation for Security and Co-ordination in Europe (OSCE), the Bali Process and the African Union.

Also business representation and industry bodies such as the B Team, the Institute for Business and Human Rights (IHRB), the Ethical Trading Initiative (ETI), the Minderoo Foundation, the Consumer Good Forum (CGF), the British Retail Consortium (BRC) and the Business and Human Rights Centre (BHRC), have all implemented projects and strategies to address modern slavery.

The public conscience has been heightened through campaigning NGOs and the media exposing the connection of this crime to local communities or in the supply chain of every day produce and products available on high streets across the world. That the mobile phone in our hand may have profited a criminal group exploiting children; or that the internet is used for live time child sex trafficking for the satisfaction of paedophiles including in our cities or towns; or that wealthy residents in London, Dublin or Sydney may have a domestic worker in servitude in opulent homes is becoming more publicly known. These revelations are viewed by the general public with disgust, outrage and with an anticipation that justice will be served with serious efforts to identify those who suffer and to convict those who perpetrate these crimes.

The presence of this phenomenon brings shame on our globalised world and particularly on all of us in leadership positions. But this is an issue where the globalised community together - governments, multilateral bodies, civil society and businesses - do have an opportunity to deliver real change by eradicating these models of exploitation and thereby realising some of the ambitious aims of the UN SDGs. This will take strong ethical leadership from all sectors to place humans before profit, end so called entertainment or the ability to buy services, including sexual, at the cost of human suffering and thereby redesign business models to a position where modern slavery is no longer a possibility, financially viable or socially acceptable.

Many governments have introduced legislation to tackle this criminal abuse with 164 introducing legislation since the introduction of the UN Palermo Protocol.

Current relevant legal instruments include:

- UN Palermo Protocol¹
- Council of Europe Convention

¹ <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

- EU Directive
- UK Modern Slavery Act 2015
- Australian Modern Slavery Act
- US Trafficking Victims Protection Act (TVPA) 2000

With many more across the world.

Most legal instruments respond to the criminal justice aspects of modern slavery and human trafficking including prosecution, victims support and prevention. Many of these instruments and policies highlight the important role played by civil society and the need for engagement and collaboration, not just at operational level but strategically.

The UN Palermo Protocol of 2000, championed by UNODC, provides the definition of this crime as:

Article 3 of the Protocol:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

Article 2 of the Protocol:

Statement of purpose:

(a) To prevent and combat trafficking in persons, paying particular attention to women and children;

(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

(c) To promote cooperation among States Parties in order to meet those objectives.

4. Assessment of Current Position and Outcomes:

As stated, since the introduction of the Palermo Protocol in 2000, over 164 countries have introduced domestic legislation. Whilst legislative responses are often subject of accolade, in terms of successful impact, the impact has at best been limited and overall we have seen a decline in positive outcomes in some of the most important critical areas such as victim identification, long term support and conviction of perpetrators.

The most recent global estimate of prevalence provided by the Australian Walk Free Global Slavery Index² (GSI), endorsed by the United Nations ILO³ and IOM⁴, provides the current figure of people exploited in modern slavery worldwide at over 40 million, 1 in 4 of whom is a child.

An international recognised monitoring body for evaluating global progress is the US State Department Trafficking in Persons Office (TIP), established under the US Trafficking Victims Protection Act of 2000.

Part of the remit of the TIP Office is to evaluate national responses that are graded under a tier system, ranging from Tier 1 (reaching minimum international standards) to Tier 3 (serious failings which may result in sanctions).

The US TIP Office report on Australia includes reference as follows;

The Government of Australia fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore, Australia remained on Tier 1. These efforts included passing legislation that requires businesses disclose efforts to combat human trafficking in their supply chains, increasing staffing levels in the Witness Assistance Service to provide support to victims of trafficking testifying against their traffickers, increasing funding for their victim support program, and identifying and referring victims to services. Although the government meets the minimum standards, it did not convict any traffickers, initiated fewer prosecutions, did not adequately screen for indicators of trafficking among vulnerable groups, and limited some victims' access to services based on their participation in law enforcement investigations.

Prioritised recommendations of US TIP Office for Australia:

- *Significantly strengthen efforts to investigate and prosecute trafficking offenses, with increased focus on labour trafficking, and sentence convicted traffickers to significant prison terms.*
- *Strengthen efforts to proactively identify trafficking victims among vulnerable groups, such as undocumented migrants and agricultural workers.*

²<https://www.globallslaveryindex.org/>

³ International Labour Organisation

⁴ International Organisation for Migration

- *De-link the provision of services from participation in the criminal justice process and increase services available to victims who are unable or unwilling to participate in the criminal justice process.*
- *Ensure that the statutory definition of trafficking under the criminal code does not require movement of the victim as an element of the crime.*
- *Increase efforts to train police, immigration officials, and other frontline officers to recognize indicators of trafficking and respond to suspected cases of both sex and labour trafficking.*
- *Increase training for prosecutors and judges on Australian trafficking laws.*
- *Conduct initial screening interviews with potential victims in a safe and neutral location, and in the presence of a social service professional.*
- *Increase multi-year funding to NGOs for robust victim protection services and prevention campaigns.*
- *Consider establishing a national compensation scheme for trafficking victims.*
- *Implement or fund awareness campaigns, particularly among rural communities and migrant populations vulnerable to forced labour.*
- *Strengthen efforts to prosecute and convict Australian child sex tourists.*
- *Increase efforts to investigate and hold accountable foreign diplomats posted in Australia suspected of complicity in trafficking*

In 2018 Australian Authorities investigated 179 suspected cases of trafficking (166 in 2017, 105 in 2016) and initiated prosecutions against two defendants one for forced labour and sex trafficking (six in 2017, five in 2016). Authorities continued prosecutions from previous reporting periods against 11 defendants. There were no convictions under the trafficking provisions of the criminal code in 2018 (five convictions in 2017, one conviction in 2016).

5. International Effectiveness

As already highlighted, despite efforts of many multilateral bodies and governments, the last reporting year indicates a decline in successful outcomes whilst high levels of impunity continue in a crime which the ILO reports generates over US\$150 billion per year in financial benefit⁵.

2018 saw a global decline in victims identified and prosecutions of perpetrators. This raises questions about current strategies, policies and laws and whether implementation is commensurate and agile enough to meet the security threat this criminal activity poses.

⁵ https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang-en/index.htm

Global data published by the US State Department TIP Office⁶:

(Numbers in brackets relate to labour exploitation; source reporting nations).

YEAR	PROSECUTIONS	CONVICTIONS	VICTIMS IDENTIFIED	NEW OR AMENDED LEGISLATION
2012	7,705 (1,153)	4,746 (518)	46,570 (17,368)	21
2013	9,460 (1,199)	5,776 (470)	44,758 (10,603)	58
2014	10,051 (418)	4,443 (216)	44,462 (11,438)	20
2015	19,127 (857)	6,615 (456)	77,823 (14,262)	30
2016	14,939 (1,038)	9,072 (717)	68,453 (17,465)	25
2017	17,471 (869)	7,135 (332)	96,960 (23,906)	5
2018	11,096 (457)	7,481 (259)	85,613 (11,009)	5

This data highlights a reduction of 11,000 victims identified from 2017 to 2018, notably including 12,000 fewer victims of labour exploitation; 6,000 below that of 2012.

The numbers of convictions in 2018 was 7,481; only 259 for labour exploitation, whereas in 2012 this was 518.

The calculation of identified victims of 85,613 against the estimates 40 million in modern slavery equals less than a 0.25 per cent chance of being identified by officially recognised systems.

The same calculation of convictions versus number of victims and therefore crimes, results in a figure of below 0.02 per cent.

Whilst not scientific, these calculations are indicative of current responses across the world, and if reversed, mean there is a 99.75 per cent chance a victim will not be identified and a 99.98 per cent likelihood that an offence will not result in a conviction.

6. Other Issues and Impact of Modern Slavery:

Modern slavery and human trafficking are both criminal justice and human rights issues. This is not unique, as many violations against individuals are both crimes and human rights violations, placing a duty on a state to protect citizens and prevent such criminal acts from occurring.

Currently the financial profit this exploitation generates is estimated at US\$150 billion per year⁷ equalling the world's 56th largest economy. By comparison, OECD Nations collectively

⁶ <https://bz.usembassy.gov/press-release-trafficking-in-persons-tip-report-2019/>

⁷ https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang--en/index.htm

contribute US\$153 billion a year to international aid, so the criminal enterprise profit is, in monetary terms, equal to the entire international aid budget to end some of the world's greatest challenges and injustices.

This crime, being a significant national and international security risk, requires introduction of robust legal frameworks that counter and prevent modern slavery and the criminal networks it supports and feeds off.

In the absence of counter measures, this crime will continue, knowingly or unwittingly, to flourish unhindered. The premise that an individual or company can profit or operate with modern slavery or exploitation as part of their business model needs to be reversed. It must become the norm for society and businesses to exist without exploitation by modern slavery. Likewise, governments must take all steps necessary to prevent their activities unwittingly supporting modern slavery and to ensure tax-payers' money does not end up in the hands of modern slavers and human traffickers through public procurement contracts and government spending.

7. UN Security Council Position & International Risk:

In its resolution 2388 (2017), the Security Council⁸ reiterated its deep concern that, despite its condemnation of acts of trafficking in persons in areas affected by armed conflict, such acts continued to occur. The Council also expressed grave concern over the high number of women and children subjected to trafficking in areas affected by armed conflict and the abduction of children in conflict situations. In the resolution, the Council called upon Member States to, among other things, improve their implementation of applicable legal obligations to criminalize, prevent and otherwise combat trafficking in persons and to step up their efforts to investigate, disrupt and dismantle networks engaging in trafficking in persons in areas affected by armed conflict. The Council also called on Member States to combat related crimes, such as money-laundering, corruption, the smuggling of migrants and other forms of organized crime and encouraged relevant United Nations agencies and entities to develop, in accordance with their mandates, their capability to assess and respond to situations of trafficking in persons in armed conflict.

8. Links to Conflict, Child Trafficking & Everyday Products:

In January 2021, the European Union will introduce new legislation relating to conflict minerals⁹. In politically unstable areas, the minerals trade can be used to finance armed groups, fuel forced labour and other human rights abuses, and support corruption and money laundering. These so-called 'conflict minerals' such as tin, tungsten, tantalum and gold, also referred to as 3TG, can be used in everyday products such as mobile phones and cars or in jewellery.

⁸ <https://reliefweb.int/report/world/report-secretary-general-trafficking-persons-armed-conflict-pursuant-security-council-0>

⁹ <https://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/>

The legislation will ensure that EU importers of 3TG (tin, tungsten, tantalum and gold) meet international responsible sourcing standards, set by the Organisation for Economic Co-operation and Development (OECD). This in turn will ensure that global and EU smelters and refiners of 3TG source responsibly to break the link between conflict and the illegal exploitation of minerals and put an end to the exploitation and abuse of local communities, including mine workers, and support local development. The US 2010 Dodd Frank Act places a similar responsibility on businesses sourcing from the Democratic Republic of Congo and the neighbouring nations.

9. Australian Commonwealth Modern Slavery Measures:

This Commonwealth Modern Slavery Act is primarily based on business and Government supply chains and procurement. It requires entities based or operating in Australia, which have an annual consolidated revenue of more than \$100 million, to report annually on the risks of modern slavery in their operations and supply chains, and to take actions to address those risks. Other entities based or operating in Australia may report voluntarily.

The Commonwealth is required to report on behalf of non-corporate Commonwealth entities, and the reporting requirements also apply to Commonwealth corporate entities and companies with an annual consolidated revenue of more than \$100 million.

Reports are kept by the Minister in a public repository known as the Modern Slavery Statements Register. Statements on the register may be accessed by the public, free of charge, on the internet.

The Australian New South Wales Act sets a Wider Mandate (closely linked to the Palermo Protocol and International Recommendations):

- Establishing an Anti-Slavery Commissioner to combat and raise awareness of modern slavery in NSW.
- Developing a responsive approach to support victims.
- Setting out guidelines for businesses and NSW Government agencies to acknowledge and address modern slavery risks.
- On commencement, the Act and corresponding regulations will require commercial organisations with employees in NSW and an annual turnover between \$50 million and \$100 million to submit a statement to the Anti-Slavery Commissioner.
- The statement must outline the steps they have taken to reduce the risk of modern slavery across their operations and supply chains.
- The NSW Modern Slavery Act directs all NSW Government agencies to respond to the risk of modern slavery in the products they buy and the services they provide.
- Everyone is responsible for operating at the highest ethical standards and the Act is an opportunity for shared learning with the business community in the fight against modern slavery. Collaboration strengthens our stance against modern slavery.
- As one of the largest procurers of goods and services in Australia, the NSW Government's actions can make a difference around the world.

The introduction of the Commonwealth Modern Slavery Act is extremely welcomed, providing leadership and progress in the eradication of this abhorrent crime. The duties this legislation places on Government to examine their own procurement practices is particularly welcome and demonstrates the willingness of Australia to use its economic influence as a means to reduce modern slavery and improve the lives of many across the world.

This Act also demonstrates action in line with recommendations of the 2018 and the 2019 G20 Summits. During both summits, all G20 leaders made a commitment to address modern slavery as detailed in the 'Leaders Declaration'.

In 2018, Argentina G20 Leaders Declaration Item 7 includes:

We will take actions to eradicate child labour, forced labour, human trafficking and modern slavery in the world of work, including through fostering sustainable supply chains

In 2019, Japan G20 Leaders Declaration Item 21 includes:

We remain committed to promote decent work and reaffirm our commitment to take actions to eradicate child labour, forced labour, human trafficking and modern slavery in the world of work, including through fostering sustainable global supply chains.

10. Position of the UN General Assembly in New York:

In 2018 Australia, USA, New Zealand, Canada and the UK committed to adopting the following 4 key principles and encouraging other countries to do the same:

1. Governments should take steps to prevent and address human trafficking in government procurement practices

- analyse, develop and implement measures to identify, prevent and reduce the risk of human trafficking in government procurement supply chains
- provide tools and incentives and adopt risk assessment policies and procedures that require their procurement officers and contractors to assess the nature and extent of potential exposure to human trafficking in their supply chains
- take targeted action, including adopting appropriate due diligence processes, to identify, prevent, mitigate, remedy, and account on how they address human trafficking

2. Governments should encourage the private sector to prevent and address human trafficking in its supply chains

- work in partnership with business, workers and survivors to set clear expectations for private sector entities on their responsibility to conduct appropriate due diligence in their supply chains to identify, prevent and mitigate human trafficking
- provide tools and incentives to the private sector to encourage meaningful action and public reporting of their efforts, including through programmes policies or legislation

3. Governments should advance responsible recruitment policies and practices

- advance responsible recruitment practices, including by implementing policies that incentivise and support responsible practice, and by supporting initiatives such as the 'Employer Pays Principle'
- contribute to the growing knowledge base of promising practices for protecting workers from fraud and exploitation in the recruitment process

4. Governments should strive for harmonisation

- make reasonable efforts to share information and work with other committed governments to align existing and proposed laws, regulations and policies to combat human trafficking in global supply chains

11. Relationship to Wider Development and the Sustainable Development Goals (SDG's):

The serious nature of modern slavery and the negative effects it has on individuals cannot be overstated. But this crime has wider negative impact on global development:

- It is a gender issue echoing the secondary status of women in society. 72 percent victims for all forms of exploitation are women and girls, rising to over 95 percent for sexual exploitation.
- It is a health issue, as many suffer from HIV or other medical conditions as a direct consequence of their trafficking, including removal of organs for illicit transplant markets.
- It has negative economic impact, as remittances often intended to be returned to families are taken by criminals as payment for bonded labour.
- It is a corruption issue as those with power are the very architects of the conditions that create vulnerability, to cultivate their human commodity.
- It is a governance issue, as current low risk high reward means it has become a crime of choice.

Addressing modern slavery requires a more ambitious approach with laws, strategies and action that get to the heart of the drivers and social factors that permit this crime to continue unabated within what appears to have developed as embedded in business, social and cultural norms.

12. The New South Wales Act details how it will address modern slavery:

The objects as detailed in the Act are as follows:

- (a) To combat modern slavery.
- (b) To provide assistance and support for victims of modern slavery.
- (c) To provide for an Antislavery Commissioner.

(d) To provide for detection and exposure of modern slavery that may have occurred or be occurring or that is likely to occur.

(e) To raise community awareness of, and provide for education and training about, modern slavery.

(f) To encourage collaborative action to combat modern slavery.

(g) To provide for the assessment of the effectiveness and appropriateness of laws prohibiting modern slavery and to improve the implementation and enforcement of such laws.

(h) To provide for mandatory reporting of risks of modern slavery occurring in the supply chains of government agencies and commercial organisations.

(i) To make forced marriage of a child and certain slavery and slavery-like conduct offences in New South Wales.

(j) To further penalise involvement in cybersex trafficking by making it an offence to administer a digital platform for the purpose of child abuse material.

These ten objectives include many of the elements necessary to introduce effective legislation looking at prevention, prosecution, partnership and accountability.

Often legislation provides gaps for the traffickers to operate with impunity or an absence of holding to account those with a responsibility to prevent this crime occurring, not just domestically but in their wider operations.

In commenting on the ten objectives I will use even reference (a) to (j):

(a). This as an overriding principle is necessary and clearly establishes the purpose of the legislation.

(b). The support provided to victims and introduction of effective identification is crucial to providing a holistic and accountable system to improve and maintain standards and services. Some National Referral Mechanism operate in an 'ad hoc' manner which has proven to be erratic, inefficient with victims sometimes waiting many months or even years for decisions as experienced in the United Kingdom¹⁰. Establishing victim identification and support on a statutory footing will allow for greater accountability, monitoring of services and can provided the potential for a more victim focussed, efficient and effective system. It is widely accepted where victims support is good and meets the needs of individuals, the likelihood of engagement with the criminal justice system is greatly enhanced.

(c). The provision of a **New South Wales Antislavery Commissioner** will provide credibility, transparency and confidence across sectors both statutory and non-government in the fight

¹⁰ <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/886/88602.htm>

against modern slavery. The current proposed legislation provides assurances for independence and clearly defines the role. Such an office holder can provide for Government, NGOs, businesses sector, the public and importantly victims to feel assured that an identifiable individual has a cross-sector overview and is empowered, within reason, to influence and recommend implementation of effective policy and strategies. The measures of reporting and preparation of a strategy for the Commissioner, as currently contained in the New South Wales legislation, appear to be well thought through and will allow the office holder to operate effectively.

For a Government, this type of role can be particularly beneficial when navigating some of the complex and competing challenges. To have independent opinion and advice can only be of benefit. As the UK Antislavery Commissioner, on a number of occasions in addition to my own priorities as contained in my strategic plan, the Government requested I conduct research on specific issues, sometimes confidentially due to the sensitive nature of security risks involved. I provided independent evidence-based reports, sometimes confidentially, that were used to shape policy and, in some cases, legislation. The role of a Commissioner is different to that of the DFAT Human Trafficking Ambassador. I have met with the incumbent and two former holders of this role. I worked very closely with the Office of the Ambassador and collaborated extensively on a number of issues, including the establishment of Alliance 8.7 of which Australia was the first chair. These roles look at external international engagement, whereas the Commissioner would be identifying and recommending effective implementation of legislation and measures to address modern slavery primarily within the State of New South Wales. Establishing a Commissioner will significantly accelerate progress in this area and enhance confidence and collaboration across actors and stakeholders involved.

(d)(e) &(f). Providing the public, schools, government departments, criminal justice actors, legislators, businesses and officials and ministers at State and Commonwealth level with information of the types and prevalence of modern slavery is critical to developing effective responses. These three aims of the legislation to raise awareness will glean much of the knowledge to prepare effective strategic plans to counter this crime.

(g). This section is in many ways self-explanatory. Having a legislative bases for continuous monitoring and development will greatly inform best practice and allow for rapid intervention and longer-term planning as necessary. Often the intention of a law and implementation can be limited due to a failure of monitoring progress or otherwise.

(h) The setting out of guidelines for businesses and New South Wales Government Agencies is, in my opinion, to be applauded. There could be a suggestion the Commonwealth Legislation already encapsulates this function and will suffice.

The Commonwealth Modern Slavery legislation is an advancement on section 54 of the UK Modern Slavery Act and the California Transparency Supply Chain Act of 2010. Yet, these three pieces of legislation fall short of many of the measures available in the French 2017 Due Diligence Laws.

The New South Wales Government could seek to implement legal measures that have the best opportunity of impact and will have potential to influence change, both in society and business cultures, towards this crime.

The commitments of nations during UNGA and the G20 include governments should introduce, analyse, develop and implement measures to identify, prevent and reduce the risk of human trafficking in government procurement and all supply chains. The measures currently proposed in New South Wales have greater potential of meeting this aim, particularly with qualification for reporting being at a lower entry of AUS\$50 million turnover per year, thus including a greater numbers of businesses required to report on transparency.

Since the introduction of the California Act each new piece of subsequent transparency legislation has been progressive and included more requirements of accountability. New South Wales should seek to introduce legislation that sets a standard that others will follow and which within a short period of time is likely to become the norm, and eventually is likely to be surpassed.

(i) The aim to end forced marriage of children is a very positive move. The aim to introduce other activities that amount to offences applicable to this legislation is unlikely to receive objection. Recent media coverage has revealed child marriage in certain parts of the world is a lucrative business where children as young as 9¹¹ have been traded for marriage and rape.

(j) With the increase of online trafficking, particularly for cybersex¹², legal instruments are long overdue to require those who supply and provide the internet 'virtual highways' to guarantee they will control the traffic and materials that transmit across their systems. This should be part of a legally binding framework and should be linked to the provision and upgrading as service providers seek to win contracts to supply 5G technology, which is expected to move to an even higher generation version in the near future.

In Conclusion:

This report recognises and highlights some of the complex manifestations of modern slavery but also the opportunities to counter this insidious crime of abuse. Australia at Commonwealth and State level in New South Wales is demonstrating world leadership in encouraging and implementing more action in the eradication of this most evil of crimes.

However, despite many international, regional and domestic protocols and laws, criminals continue to operate with impunity whilst the financial benefits, knowingly or unwittingly,

¹¹ <https://www.independent.co.uk/topic/child-marriage>

¹² <https://news.yahoo.com/uk-australian-police-help-philippines-122720051.html; ylt=AwrC0F806ZtdoCwAQxfQtDMD; ylu=X3oDMTEzcXF2ODV0BGNvbG8DYmYxBHBvcwMxMAR2dGikA0I3NTA2XzEEc2VjA3Ny>

continue to flow without much or any opposition. Therefore, it is no wonder this crime continues to increase, and criminals appear to operate undeterred.

The idea that anyone can reasonably argue that robust measures to prevent and eliminate criminal abuse in business or supply chains are unfair, overbearing or unnecessary in the 21st century is, in my view, without foundation or credibility. This aim will only be successful through positive engagement with the business sector to develop policies that end the infiltration of criminal practice within supply chains and business models. There will be a need for action to be mandatory and those who decline or neglect to take effective measures should potentially face some form of sanction, as without these measures those who do take positive action may be disadvantaged by those who do nothing, yet may get a financial competitive edge built on abusive or exploitative business models.

In 1845, Frederick Douglass, who had escaped slavery in Maryland to become a nominee for US Vice President and a US Federal Marshal, visited Ireland. He spoke in the Cork City Courthouse, where he said;

“I demand that the people of these countries be interested in the question of slavery. In vain, may the slaveowner tell you it is no concern of yours. Mr. President, it belongs to the whole nation of America; and to the Irishmen, not because they are Irish, *but because they are men*. Slavery is so gigantic that it cannot be coped with by one nation. Hence I would have the intelligence and humanity of the entire people of Ireland against that infamous system.”

For those who are exploited today, perhaps little has changed. The collaboration of nations is underway but there needs to be action at pace, as this suffering will not be put on hold while negotiations and compromises fall short of the need of human beings. The urgency required to end this global abuse must increase commensurate to the levels of suffering and abuse this crime generates.

Achieving society and business free of modern slavery will be a challenge but no more so than the development of many new technologies, lifesaving medicines or the ability to fly direct from London to Perth, that only a decade ago would have been viewed impossible.

The Archdiocese of Sydney, under the leadership of former Australian Ambassador John McCarthy QC, is well into the journey of introducing a system of governance to prevent their procurement from financing modern slavery. The idea is not to stop trading in certain high-risk sectors or geographical areas where foreign trade is an important source of income, but to use financial and buying power to influence ethical business models to be free of modern slavery.

The current situation where children suffer or die whilst mining cobalt or mica, often for use in high-quality batteries¹³ for mobile phones or carbon free omission cars¹⁴, is counterintuitive to the objectives of the Sustainable Development Goals. Of course,

¹³ <https://www.theguardian.com/global-development/2018/oct/12/phone-misery-children-congo-cobalt-mines-drc>

¹⁴ <https://theirworld.org/news/drc-children-dig-for-cobalt-to-power-electric-cars-phones>

protecting the climate and reducing carbon emissions is paramount, but so also is protecting the lives of children, women and men suffering in modern slavery. Both should be priorities. Modern slavery has been designed and is operated by humankind and for the same reasons can be ended by humankind.

It is defeatist to claim it is too difficult to locate and protect the children working in mines excavating cobalt for batteries used in the world's most technologically advanced aircraft. It is possible to find the minerals deep underground using advanced technology but finding and protecting children is often claimed to be impossible. Whilst there are many considerations, simply put, if there is the political will and desire to develop accountability of business models, then ethical change can follow. We as the globalised world have given ourselves until 2030 to achieve business models free of modern slavery and finally making this cruel abuse something of the past¹⁵.

In the early 1800's when William Wilberforce was voicing his outrage in Parliament at the presence of the Transatlantic Slave Trade, he met some harsh resistance from political, business and military leaders.

When his Bill failed in 1804, letters were exchanged between noble men in business and Parliament claiming the Slavery Abolition Bill would severely affect the financial benefits and advantages Britain enjoyed¹⁶ from the activity of slavery.

A distinguishing difference from the early 1800s and today is that in Wilberforce's day slavery and human trafficking were legal. Today in over 164 countries it is illegal, yet it is at one of the highest levels ever recorded in history generating incredible sums of financial gain.

I have put forward a six-point strategy which I believe is necessary to end modern slavery. The points in briefest terms include:

- Government and supply chain transparency and accountability (as suggested in the NSW Act).
- Introduction of the notion of 'tainted money' to remove the potential to profit from modern slavery and human trafficking.
- By legislation, all nations requiring the internet to be free of child exploitation and facilitation of human trafficking.
- Extending the use of the international agencies who have a role to play.
- A review, and where necessary amendment, of international instruments to make them fit for the hi-tech fast-moving world.
- Leadership where setting the moral compass is integrated into decision-making so ethical business free of modern slavery becomes the norm.

The New South Wales Government, as leading one of the largest economies in the Pacific Region, has an opportunity to demonstrate global leadership in the fight against modern

¹⁵ Sustainable Development Goal – Target 8.7

¹⁶ <https://blog.soton.ac.uk/slaveryandrevolution/category/defence-of-slavery/>

slavery by introduction of one of the most comprehensive legislations in the world. It will bring improved victim identification and care, introduce an antislavery commissioner, provide continual monitoring, raise awareness and lead businesses into generating ethical profits free from exploitation and modern slavery.

I wish the Committee every best wish in their considerations and deliberations. If I can be of any further assistance, I will be delighted to assist in any way I can.

Kevin Hyland