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**Submission of the Synod of Victoria and Tasmania, Uniting Church in Australia to the Senate Legal and Constitutional Affairs Committee on the *Modern Slavery Bill 2018***  
**20 July 2018**

The Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes the opportunity to make a submission to the inquiry into the *Modern Slavery Bill 2018*. The Synod supports the Bill and urges its passage through the Parliament. The Bill, combined with the establishment of a new Modern Slavery Business Engagement Unit, is a vastly superior system design for the reporting of entities on what they are doing to address modern slavery in their supply chains over the UK *Modern Slavery Act*. It keeps the number of reporting entities to a workable number, making it hard for companies that give the least consideration to the risks of modern slavery from being able to hide in a pack of thousands of entities that fail to fulfil their reporting obligation. It also, unlike the UK Act, spells out meaningful aspects that the reports by entities must address. Ideally, the Bill would have additional sections addressing other issues, but as the Bill stands it is a valuable step forward even without amendment.

The Uniting Church in Australia is concerned about the well-being of all people, wherever they live and work, out of our understanding of the Christian faith that God loves all people and wants us to care for all people. In 2011 the Synod meeting of approximately 400 delegates from across congregations in Victoria and Tasmania called on the Commonwealth Government to require businesses in sectors with a high risk of human trafficking, slavery or forced labour to “have to report publicly what they are doing to ensure they are not importing goods produced with slavery, human trafficking and forced labour”:

11.6.18.2.3

The Synod resolved:

- (a) To support and encourage industries and businesses to take all reasonable steps to make sure the products they supply into the Australian market are free from the involvement of slavery, forced labour and human trafficking in their production;
- (b) *To call on the Federal Government*
  - i. *to follow the lead of the US Department of Labor and develop a list of goods imported into Australia where there is evidence that slavery, human trafficking or forced labour are likely to have been used in the production of the goods;*
  - ii. *to ensure that Government procurement processes take effective steps to exclude products made with slavery, human trafficking or forced labour in their production;*



- iii. *to require industries and businesses to take reasonable steps to ensure slavery, forced labour and human trafficking have not been used in making products supplied to the Australian market; and*
  - iv. *At a minimum, to require companies importing goods identified through the research outlined in clause (i) of this resolution to report publicly what they are doing to ensure they are not importing goods produced with slavery, human trafficking and forced labour.*
- (c) *To write to the Prime Minister, the Minister for Trade, the Minister for Foreign Affairs, the Minister for Home Affairs, the Leader of the Opposition, the Shadow Minister for Trade, the Shadow Minister for Foreign Affairs, the Shadow Minister for Home Affairs, and the Leader of the Greens to inform them of this resolution.*

The Synod began campaigning for Australian Government action to address the issue of modern slavery in international supply chains in 2009, when it was acting as the secretariat for STOP THE TRAFFIK Australia. At that time, the issue of domestic labour trafficking was starting to see some government action, but the issue of modern slavery in international supply chains was not being addressed by the Australian Government. When cases of alleged modern slavery in international supply chains were raised with relevant Commonwealth bodies and departments, the response was it was not a matter that they would take action on. As acknowledged in the Regulatory Impact Statement (page 38 of the Explanatory Memorandum):

*Although Australia's strategy to combat modern slavery is strong and effective, it is primarily focused on identifying and supporting victims and deterring and prosecuting offenders. This means the strategy does not directly target modern slavery in business operations and supply chains or support the business community to take action to combat modern slavery. This is particularly the case where exploitation occurs offshore. For example, the Australian Government does not currently provide detailed guidance or awareness-raising materials about modern slavery specific to the business community. Nor is there a Government-sponsored mechanism to enable the business community to inform consumers, investors and other bodies about their efforts to address modern slavery.*

That has changed since 2009 across successive governments, with the Commonwealth Government now taking action to engage with businesses about modern slavery in their international supply chains in some cases. This has been the case with the Ambassador for People Smuggling and Human Trafficking. However, significantly greater action is needed to address the scale of modern slavery risks in cross-border supply chains.

In 2011 we released a report, which was jointly co-ordinated by the Synod, ACRATH and Oaktree Foundation, *Unshackling Laws Against Slavery*, under the STOP THE TRAFFIK Australia banner. The then Shadow Parliamentary Secretary for the Status of Women, Senator Cash, spoke at the launch of the report at Parliament House. The report exported what consumer side governments could be doing to contribute to the global efforts to address modern slavery in cross-border supply chains. One of the measures was a reporting obligation for businesses to report what actions they were taking to risks of modern slavery in their supply chains.

This measure primarily addresses the problem in international supply chains, as there is more capacity to detect and investigate modern slavery in domestic supply chains. It is often easier in the domestic context to map the supply chains of businesses. This is much more difficult for



international supply chains, as custom's data is kept concealed from public access. So even where it is known that a supplier is involved with modern slavery, it is very difficult to establish if they have any Australian customers and who those customers are.

The reporting obligation will raise awareness amongst reporting entities of the risk of modern slavery in their supply chains causing some to take mitigating action. It will also have the benefit of identifying which entities and sectors take the risk seriously and which sectors need greater attention for further follow up and action. It will help government and organisations committed to eliminating slavery, human trafficking and forced labour identify industries where greater effort is needed. The proposed measure will help businesses address the most obvious instances of these abuses of people and practices such as confiscation of travel and identity documents, but in the experience of the Synod often these abuses are concealed from buyers and it requires work with trade unions and civil society organisations on the ground to detect and address these abuses.

The UK reporting requirement has triggered constructive dialogue on the issues both within companies and more widely in the public arena. Critically, within companies, it has had the effect of elevating the issue of slavery to board level and focusing the minds of directors on these issues.<sup>1</sup> The UK Act has also raised consciousness more generally and generated public debate on our expectations of business with respect to issues of forced labour and human rights abuses. This has created the impetus for positive change in compliance with corporate human rights obligations and is driving change in corporate culture and practices.<sup>2</sup>

While the UK reporting requirement has had the positive impacts outlined above, there is significant opportunity to improve on the UK model and learn from some of the mistakes in the UK model. These especially include setting the threshold at a level that ensures a high level of compliance by those entities required to report, mandating areas that need to be addressed in the reports and having a public accessible, government managed central repository for the reports with a list of all the entities that are required to produce reports.

Ideally a *Modern Slavery Bill* would contain the following additional elements to address modern slavery:

- An Independent Anti-Slavery Commissioner or Special Adviser on Modern Slavery which should be targeted at the implementation of the current and future *National Action Plan to Combat Human Trafficking and Slavery*;
- Publicly accessible customs data, which is the case in the US and allows Australian buyers to be identified when a supplier overseas is found to involve modern slavery in their operations;
- Establishing an investigation unit to identify cases where there is a high risk of modern slavery in the international supply chains of Australian businesses to then engage with those businesses to take corrective action;
- A requirement for people on temporary visas with work rights to be put in touch with a civil society organization in Australia to provide support and a safeguard against forced labour and other forms of exploitation; and

<sup>1</sup> <https://www.ashridge.org.uk/getattachment/Faculty-Research/Research/Current-Research/Research-Projects/Corporate-approaches-to-addressing-modern-slavery/Modern-Slavery-v3-named.pdf>.

<sup>2</sup> FTSE 100 BHRRC Report. Accessible here: <https://business-humanrights.org/sites/default/files/documents/FTSE%20100%20Modern%20Slavery%20Act.pdf>.



- A compensation scheme for victims of modern slavery in Australia.

However, the worst possible outcome would be for the current Bill to fail to pass through the Parliament due to disagreement over additional aspects to be included. The Bill is a substantial step forward in the measures needed to address modern slavery in international supply chains. The Independent Anti-Slavery Commissioner, compensation for victims of modern slavery in Australia and civil society contact for people on temporary visas with work rights in Australia have nothing to do with modern slavery in international supply chains and thus the transparency measure to address the risk of modern slavery in supply chains should not be discarded if amendments to address other issues are not agreed upon. As stated in the Regulatory Impact Statement (page 39 of the Explanatory Memorandum):

*Australian Government action on this issue, including the establishment of a Modern Slavery Business Engagement Unit, will support the Australian business community to meaningfully strengthen its response to modern slavery. Without this support, modern slavery risks in business operations and supply chains may not be addressed. As a result, Australian businesses and consumer may continue to be exposed to goods and services tainted by modern slavery.*

Many of the civil society organisations that have made submissions on the possibility of a *Modern Slavery Act* do not work on modern slavery in international supply chains and thus have little investment in whether the reporting measure in the Bill is passed. Some may be willing to see the Bill not pass if it does not include amendments to address the issues they do see as aligning more to their work.

The Synod strongly supports the definition of modern slavery used in the Bill.

The Synod strongly supports the requirement for a review of the Act after three years. The review should seek to identify the extent to which the reporting mechanism has impacted on the presence of modern slavery, as ultimately the aim must be to end modern slavery and ensure people producing goods and services in Australia or imported into Australia have decent jobs. The review should also assess the extent to which the reporting obligation has changed corporate behaviour to reduce the presence and risks of modern slavery in supply chains. By comparison, a review of the operation of the *Illegal Logging Prohibition Act* carried out by KPMG found that businesses importing timber into Australia had reduced their appetite for risk and took greater steps to ensure timber they were importing into Australia had a legal source.

On the reporting measure itself the following amendments would be desirable to improve the effectiveness of the reporting requirement, but are not essential to the initial functioning of the measure:

- A public list of who is required to report;
- Penalties for companies that fail to submit a report as required; and
- Penalties for companies that provide false or misleading information in their reports.

### **Threshold for reporting**

On the reporting threshold issue, there are civil society organisations that believe the legislation is better the greater the number of reporting entities, regardless of the resources provided to follow up reporting entities to even make them aware they have a reporting obligation. In our experience, an effective regime requires the number of reporting entities and the government staff assigned to make entities aware that an obligation exists to be aligned. In the absence of



anyone to promote awareness of the obligation, adding more and more reporting entities largely goes to reduce the proportion of entities that comply (largely through lack of awareness). It also weakens the regulatory regime for companies that do comply. Firstly, they see that competitors are able to do nothing with impunity, which will cause some to reflect on why should they bother. Secondly, it builds a case to scrap the measure as thousands of reporting entities will be able to argue, with some justification, that they produce reports that nobody reads, let alone engages with them on. On the latter point, many of the civil society organizations that have now been making submissions on the movement towards a *Modern Slavery Act* have no plans to commit any resources to engage with the reports produced under the Bill or follow up with companies in any meaningful way. We wrote to seven of the larger civil society organisations that have been making submissions on the reporting obligation and asked what level of staffing will they be allocating to engage with companies and follow up on their reports if the Bill is passed. Only three replied and the three that did reply indicated that they were not in a position to allocate any staff time to follow up with reporting entities. The Synod will only be able to allocate 0.2 full time equivalent to follow up other reporting entities and conduct supply chain investigations, noting that the Synod itself will be a reporting entity. We will probably be in a position to spend between \$5,000 and \$10,000 a year on supply chain investigations.

**Recommendation:** The Committee ask each civil society organization that appears before the Committee what level of staff they will allocate to engage with reporting entities about their obligations if the Bill is passed? What level of staffing and/or resources will be allocation to investigation of supply chains of reporting entities?

The Committee could also send a survey to civil society organisations that have made submissions to ask what resources they will allocate to follow up with reporting entities and investigate supply chains if the legislation is passed?

Given the budget of the Modern Slavery Business Engagement Unit is \$3.6 million over the forward estimates, that works out at five staff from our understanding. With around 3,000 reporting entities under the existing threshold definition that means a ratio of one staff member to 600 reporting entities. That is already a significant stretch for those staff, even if their only task was making reporting entities aware they have an obligation to report. Action by civil society organisations could supplement this allocation of public servants, but with very few civil society organisations willing or able to allocate resources to do so adding thousands or tens of thousands of reporting entities will only weaken the measure, not strengthen it.

Some civil society organisations have expressed the naïve belief that by setting a lower threshold and catching tens of thousands of more reporting entities the Commonwealth Government will be forced to allocate substantially more resources to the Modern Slavery Business Engagement Unit. There are a wealthy of examples where government lacks the resources to provide regulatory entities with the resources they need to properly fulfil their enforcement obligations. Such an argument is to design the reporting obligation for failure.

Having a lower threshold for reporting carries the significant risk of having the undesirable outcome experienced in the UK where the majority of entities that should report do not and there is no ability to follow up and make sure they do. This in effect renders the UK law a voluntary mechanism. It means businesses that care least about the risk or presence of modern slavery in their supply chains are free to ignore the reporting requirement. There is no need for government legislation if a high degree of non-compliance will be tolerated, as there are plenty of voluntary initiatives that



businesses that care about modern slavery can already participate in. To make government action meaningful, the threshold should be set at a level where very high compliance is both possible and likely and matched by government allocation of staff to follow up with businesses to ask for their compliance.

Analysis by Ergon of 150 company statements in the UK has found that smaller companies are less likely to be aware of their obligations, with 36% of the statements being from companies with over £500 million in global turnover, 34% from those with global turnover between £100 million and £500 million and only around 20% of statements were from companies between £36 million and £100 million global turnover despite much larger numbers of companies in this category being caught under the reporting obligation.<sup>3</sup> These results suggest that greater resources will need to be available from both government and civil society if companies with a lower revenue level are going to be encouraged to comply with the reporting obligation.

The analysis by Ergon of 150 statements made by companies under the UK *Modern Slavery Act* has found that 21% were not clearly signed off by a director or equivalent and 25% were not directly available from the homepage of the business.<sup>4</sup>

An example of the challenge of informing companies of their reporting requirements is the *Illegal Logging Prohibition Act 2012*, which introduced an obligation on importers and processors of timber and wood products in Australia to conduct due diligence to ensure the timber and wood products being imported or processed were legally sourced. The regulations implementing the due diligence requirements came into force on 30 November 2014. In 2016, 20,007 businesses imported regulated timber products.<sup>5</sup> Desktop assessments were carried out by the Department of Agriculture and Water Resources on the 512 importers who had imported the greatest value of regulated timber products. The assessments found that a large proportion of the regulated businesses were insufficiently aware of their obligations under the laws, with 59% of selected businesses found to be non-compliant or failed to respond 18 months after the regulations had come into force.<sup>6</sup> While many of the largest importers specialising in timber products already had systems in place that met the requirements, the importers of smaller quantities were in many cases unaware of the laws and had no adequate system in place to manage the risk of importing products made from illegally logged timber.<sup>7</sup> While many of the businesses wanted to comply, most approached by the Department of Agriculture and Water Resources were not aware of the laws and/or how to comply.<sup>8</sup>

It is naïve to assume many businesses will have the ability to detect and address the presence of modern slavery in their supply chains on their own without collaborative engagement with

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<sup>3</sup> Ergon, 'Modern slavery statements: One year on', April 2017, 2.

<sup>4</sup> Ergon, 'Modern slavery statements: One year on', April 2017, 1.

<sup>5</sup> Department of Agriculture and Water Resources, 'Illegal Logging Compliance Program. Report on 2015/16 importer compliance assessments against the *Illegal Logging Prohibition Regulation 2012*', October 2016, iv.

<sup>6</sup> Department of Agriculture and Water Resources, 'Illegal Logging Compliance Program. Report on 2015/16 importer compliance assessments against the *Illegal Logging Prohibition Regulation 2012*', October 2016, iv.

<sup>7</sup> Department of Agriculture and Water Resources, 'Illegal Logging Compliance Program. Report on 2015/16 importer compliance assessments against the *Illegal Logging Prohibition Regulation 2012*', October 2016, iv.

<sup>8</sup> Department of Agriculture and Water Resources, 'Illegal Logging Compliance Plan 2017', 9.



government, unions and civil society. This is often an assumption made by those who have no deep experience of working with businesses to address modern slavery in supply chains.

At the start of November 2015, academics at Tulane University published an evaluation of the Californian transparency law. They found of the 2,126 businesses that potentially are required to disclose under the law, 1,325 (62%) had a pertinent statement.<sup>9</sup> However, many of the statements were only partially compliant with the requirements of the law. Given the Californian law has been implemented without any enforcement activity, the assessment points to the impact of the law being greater if there was even a small amount of enforcement activity. It also points to relying on media pressure, civil society organisations, unions and consumers to bring about a high level of compliance is an over-optimistic hope. Again the findings in California point to the need for a higher reporting threshold and government staff to work with businesses to bring about both compliance and meaningful action to reduce the presence of modern slavery in supply chains.

The compliance with the UK *Modern Slavery Act* by businesses that have a reporting obligation at this stage has been poor. The Business & Human Rights Resource Centre that maintains a public track record of companies' statements under the UK *Modern Slavery Act* reported as of 20 July 2018 5,594 companies had submitted a total of 6,385 statements of the somewhere between 9,000 and 17,000 businesses that should be filing reports have done so.<sup>10</sup> That is currently a compliance rate of somewhere between 33% and 62%. A higher threshold with less reporting entities should mean a much higher compliance rate should be possible. It would be better to start with a higher threshold and establish a high level of reporting compliance with fewer entities and then lower the threshold over time, while maintaining a high compliance rate, than start with a low threshold and very high levels of non-compliance as has been the case in the UK.

Also, the fact that there is no clear knowledge of which entities in the UK should be reporting, with numbers varying between 9,000 to 11,000 according to the UK Advisory Committee of the Modern Slavery Registry<sup>11</sup> and some UK media sources putting the number as high as 13,000 while the CORE Coalition (which is both a member of the Advisory Committee of the Modern Slavery Registry and has members who are on the Advisory Committee) has put the number of businesses required to report as high as 17,000<sup>12</sup>, is a strong reason not to follow the UK example on threshold. A higher threshold where there is clarity about which entities need to report is vastly preferable to a lower threshold where no one knows which entities should report and thousands of entities either choosing not to report or unaware they have an obligation to report.

In summary, the setting of a threshold for reporting must be matched by allocation of government resources to make the businesses and other entities caught under the provision aware of their obligation, assist them to comply and follow up with those that are non-compliant.

### **Publicly Accessible List of Entities to Report**

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<sup>9</sup> Chris Bayer et. al., 'The compliance with the California Transparency in Supply Chains Act of 2010', 2 November 2015.

<sup>10</sup> <http://www.modernslaveryregistry.org/>

<sup>11</sup> Contrary to the Advisory Committee of the Modern Slavery Registry, the Business and Human Rights Resources Centre has put the estimate at 12,000 in September 2017, see ITUC CSI IGB and Business and Human Rights Resource Centre, 'Modern Slavery in Company Operation and Supply Chains', September 2017, 9.

<sup>12</sup> CORE Coalition, 'Risk Adverse?', September 2017, 4.



Ideally there should be a publicly accessible list of entities that are required to report under the Bill once it is implemented. However the problem is how easy it is to generate such a list. This is tied to how the threshold for reporting is defined in the Bill. A highly undesirable outcome would be that the staff of the Modern Slavery Business Engagement Unit spend all their time putting together a reporting list each year, rather than having the time to engage with reporting entities to improve both the quality of their reports and improving on how they address the risks of modern slavery in their supply chains. With charities registered with the Australian Charities and Not-for-profits Commission (ACNC) it is easy to identify entities at any given threshold level as total income for these entities is made publicly available on searchable spreadsheets.<sup>13</sup> The problem is with businesses, as ASIC produces no equivalent searchable list of companies by revenue data. For those companies that file annual accounts, the files are PDFs and producing a list would mean going through each of these PDF files. The ATO may be able to provide such a list, but again only with significant allocation of staff. This is further complicated by the Bill using “consolidated revenue” rather than Australian revenue.

The problem could be overcome by tying the definition of reporting business entities to the public list of companies the ATO does produce each year under the tax transparency measure. The definition of company caught under this measure is outlined in the *Tax Administration Act 1953* Section 3C:

*Reporting of information about corporate tax entity with reported total income of \$100 million or more*

*(1) This section applies to a corporate tax entity for an income year if, according to information reported to the Commissioner in the entity's income tax return for the income year:*

*(a) the entity has total income equal to or exceeding \$100 million for the income year and, at the end of the income year:*

*(i) the entity is not an Australian resident that is a private company for the income year; or*

*(ii) the entity is a member of a wholly-owned group that has a foreign resident ultimate holding company; or*

*(iii) the percentage of foreign shareholding in the entity is greater than 50%; or*

*(b) the entity has total income equal to or exceeding \$200 million for the income year and, at the end of the income year, the entity is an Australian resident that is a private company for the income year.*

This list had 2,043 companies on it in the 2015-2016 financial year, all of which would have a reporting obligation under the *Modern Slavery Bill* with the threshold definition being used. The advantage here is that the list is already being compiled each year and it is publicly accessible. The main drawback is that the reporting obligation would need to apply to companies based on the data they provide to the ATO for the previous financial year. However, the benefits of having a publicly accessible list outweigh this drawback.

The Committee could make recommendations that the Treasury consultation on modernizing business registries<sup>14</sup> should result in a searchable corporate database, similar to what exists for charities under the ACNC.

<sup>13</sup> <https://data.gov.au/dataset?q=acnc>

<sup>14</sup> <https://treasury.gov.au/consultation/c2018-t310411/>





The Explanatory Memorandum states that the Bill:

*will drive a 'race to the top' as reporting entities compete for market funding and investor and consumer support. The Bill also aims to increase awareness of modern slavery risks among the Australian business community, and assist investors and consumers to make more informed decisions when using, buying and selling goods and services.*

This aim would appear to be partially undermined for those reporting entities that are not on the ATO list or the ACNC list and where there will be uncertainty if the entity should be reporting or not as there is no list that investors, consumers and other members of the business community can access.

The problem of using 'consolidated revenue' as the Bill does, means it will be hard for consumers, investors and other members of the business community to know if some businesses should be reporting entities or not, depending on if the business in question files accounts with ASIC. Further, it will be expensive for anyone wanted to investigate if a number of companies should be reporting entities, even if they file with ASIC, given the charges that ASIC applies to accessing company accounts.

### **Penalties**

The Synod would favour financial penalties for entities that should report and willfully do not do so, with additional higher penalties for entities that deliberately or recklessly provide false and misleading information in their reports under the Bill. However, we acknowledge that such penalties will improve compliance but will not ensure complete compliance. It is far more important that someone follows up with reporting entities to make them aware they need to report than it is to have a penalty that may rarely be used due to a lack of enforcement personnel. Further, it is better to obtain voluntary compliance where possible.

As examples of where penalties fail to ensure complete compliance for companies, there are penalty of example of companies that fail to inform ASIC of changes to addresses and changes to directors despite there being fines for failing to do so. There are also examples of companies that fail to file financial reports as required, including very large companies. There are also companies that provide false addresses for their place of business and the residential addresses of directors, despite the presence of more serious financial penalties for doing so.

An alternative to blanket penalties for non-reporting, would be to include a clause that would allow the Modern Slavery Business Engagement Unit to issue a notice requiring an entity to report or provide proof that it does not meet the requirements in the Bill to have to report. Should the entity then refuse to report, or provide proof it does not meet the criteria for needing to report, a fine could be issued. This would allow the Modern Slavery Business Engagement Unit some power to address entities that clearly should be reporting by simply choose not to.

Further, ideally it should be a requirement for entities to have produced a report under the Bill in order to be eligible to bid for Commonwealth Government contracts, if they are an entity that meets the criteria for reporting under the Bill.

### **More than reporting obligation needed**

More than the reporting obligation of the Bill will ultimately be needed to address the risks of modern slavery in the supply chains of Australian companies and other entities. In the experience of the Synod often these abuses are concealed from buyers and it requires work with trade unions and civil society organisations on the ground to detect and address these



abuses. This is because slavery, human trafficking and forced labour are universal crimes, so those carrying them out usually need to conceal them from law enforcement (or bribe law enforcement not to enforce the law) and so it becomes part of the concealment efforts to also conceal the abuses from buyers. Buyers are often hampered by starting with the assumption that their suppliers would always seek to act lawfully, so any illegal actions are due to recklessness or misunderstanding. One conversation the Synod had with an Australian company purchasing a factory in Thailand where workers at the factory stated they were subjected to forced labour the Australian company owners indicated they would not suspect such illegal activity could take place as they had attended the birthday parties of the children of the factory owner. When an Australian buyer is not open to the possibility that a supplier might be knowingly involved in modern slavery, it is easier for the supplier to conceal their illegal activities from the buyer.

Even where a business has systems to detect violations of local law, such as third party auditing of suppliers, civil society is often more likely to detect the presence of modern slavery through contacts on the ground.

It is naïve to assume many businesses will have the ability to detect and address the presence of modern slavery in their supply chains on their own without collaborative engagement with government, unions and civil society. Tactics used to defeat third party auditing include removing workers in modern slavery conditions from the workplace during the audit, having the workers in modern slavery in a separate workplace that is concealed from the auditors and intimidation of the workers to ensure none of them reveal to the auditors what is really happening.

As an example, the Synod, the Salvation Army and ACRATH have funded an investigation into three garment factories in India that have supplied Australian companies (other civil society organisations that were approached to assist in funding the work indicated they did not have the funds to contribute or opposed such an investigation). The first results have come in from one of the factories, following interviews with 32 workers at the factory. This factory has been the subject of business auditing, which appears not to have detected most of the issues raised by the workers.

The workers reported that terms and conditions of the employment were verbally informed to workers during recruitment but 16 workers were reported that they were not informed about the status of their employment. 11 respondents said that they were not informed about social security benefits. 30 out of 32 respondents did not sign any kind of work contract or appointment letter and two workers who signed did not know the terms and conditions or the content of the contract as it was in English.

Management makes them work for more than the legally stipulated working hours of 9 hours as 93% of the respondents said that they work for 12 hours minimum every day and 6 days (80 hours and more) in a week, and they do not have a choice to refuse because of the ease with which management can fire them, or for the fear of getting abused both verbally and physically.

Workers cannot take rest when they are tired apart from their allotted breaks of two 15-minute tea breaks and one 45-minute lunch break. 17 respondents (53%) said that they work approximately 30 hours of overtime every week and workers do not really have a choice to decline overtime (20 out of 32 respondents said that they do not have a choice to refuse



overtime). Workers also said that they do not refuse overtime because of extremely low wages and therefore they end up doing overtime for extra money to run households.

As per the law, workers are entitled to get 14 days paid sick leave but 100% of the respondents said that there is no such thing as paid leave. If they take leave, they lose wages. If workers, for some reason, take leave for more than three days, one-third of the workers said that they are reported to higher management and face verbal and physical abuse with the possibility of losing the job. 28% (9) of respondents said that management also withholds their wages for the same reason. The treatment is different for local workers and migrant workers, 38% (12 out of 32) workers said that migrant workers are treated differently from local workers. They are verbally and physically harassed for every small mistake. One respondent recalled of an incident where for similar kind of issues, local workers were treated well whereas the two migrant workers (one of them is a girl) were beaten up by the management before terminating them from their job. There is ill treatment of migrant workers as witnessed by respondents. They are also paid less than local workers but that may also be because of the free accommodation and free food provided to them by the factory. But all respondents staying in company provided hostel complained of hostel not being maintained well - no water, fan and mattresses. Up to 25 residents share a single toilet and bathroom.

Though they are not restricted to go out of the hostel, they cannot go out of the factory even during their free time. Only three respondents said they can but only during their designated breaks and 16 of them said that they will be verbally abused or will be reported to higher management and one said that their wages, bonus and other benefits will be removed or held back. The security does not let them go out till the shift is over. They are not allowed to use their mobile phones as there are cameras everywhere. If they are caught using phones they would be harassed verbally and physically. In case of late arrival too their wages are cut.

Women workers are not paid any maternity benefits nor are maternity leaves provided to them. Women workers usually quit job after delivery and then rejoin again if there is still a vacancy.

Everyone, except one male and two female workers, said that they do not feel safe in factory. The reason for this kind of fear may be ill treatment by the supervisors as 18 respondent reports that they faced verbal harassment. Verbal harassment is same across gender. One male worker also reported physical harassment.

88% (28 respondent) suffer from back pain/ spinal cord problem, leg pain because of long working hours where they have to stand or sit in one place with no rest, 50% of them said they would be scolded and verbally harassed, four of them said that it will be reported to the higher management if they are found taking rest or not working.

Even though they face all kinds of verbal abuses and physical harassment, nobody dares to raise their voice for the fear of losing job or being beaten up. For the same reason nobody tries to form a union or be a part of union as they have been warned that any attempt to form, or be a part of, union will result in termination from job or other actions will be taken against such person. Therefore, none but one worker is a part of a union.

We are in discussion with the Australian company that appears to have previously bought from this factory (as they supplied the address of the factory to us on the basis of confidentiality).



### **Independent Anti-Slavery Commissioner**

There are significant benefits to establishing an Independent Anti-Slavery Commissioner whose key function based on the UK model would be “to encourage best practice in the fight against slavery and provide independent assessment on the effectiveness of actions taken by the Government and other actors to fight slavery.”<sup>15</sup> The Commissioner’s work in mobilising support and action by government agencies, civil society and community members has had measurable impact. In evidence provided to the Modern Slavery Inquiry, Commissioner Hyland noted that identification of victims had risen sharply in his first two years in office (63%), prosecutions had greatly increased (71%), and convictions had also risen (44%).<sup>16</sup>

Mr. Hyland strongly argued that it is the independence of the Office that has enabled him to engage government agencies and business as a “critical friend” and in a way that a departmental employee simply could not do. This point was echoed by the Australian People Smuggling and Trafficking Ambassador in his own evidence to the Committee.<sup>17</sup>

The current National Action Plan concludes next year, thus it is time to begin reflecting on areas of strength and weakness, to set a new course in 2020 with clear roles for business, the community, the states and territories, and survivors themselves. It is therefore an appropriate time for independent leadership and coordination of Australia’s response to modern slavery.

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<sup>15</sup> *Modern Slavery Act 2015* (UK) s 41(1).

<sup>16</sup> <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv%3Dyes;orderBy%3Dcustomrank;page%20%3D0;query%3DId%3A%22committees%2Fcommjnt%2Ffe3a87c9-7fdd-492c-9ea9-747829afc155%2F0000%20%22;rec%3D0;resCount%3DDefault>

<sup>17</sup> [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/Modern\\_Slavery/Public\\_Hearings](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Modern_Slavery/Public_Hearings) 22 June 2017.