

Joint Standing Committee on Foreign Affairs, Defence, and Trade
Inquiry into establishing a Modern Slavery Act in Australia



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Thank you for the opportunity to provide input to the consideration of legislation to stem modern slavery in Australia and the supply-chains of Australian based companies. CARE Australia's response has particular regard to the Inquiry's terms of reference to identify international best practice by governments, companies, business and organisations to prevent modern slavery in domestic and global supply chains, with a view to strengthening Australian legislation. We invite the Committee to consider:

- reducing the opportunities for slavery to occur, by alleviating poverty and improving working conditions within the international supply chain, and
- how legislative responses can enhance shared responses (by governments, private sector and non-government agencies) to reduce slavery.

CARE Australia seeks a world of hope, tolerance and justice, where poverty has been overcome and all people live with dignity and security. Formed in 1987 CARE Australia has a special focus on gender equality to bring lasting development to communities. CARE Australia has earned an international reputation for our innovative, sustainable and effective long-term development projects and our ability to respond quickly to emergency situations. CARE Australia is a member of the CARE International confederation of 14 autonomous members working in 94 countries undertaking development assistance and disaster relief. The primary geographic focus of CARE Australia is the Pacific and South-East Asia where we manage all programs and activities of the CARE International confederation in Cambodia, Laos, Myanmar, Papua New Guinea, Timor-Leste, Vanuatu and Vietnam. In addition, CARE Australia undertakes development assistance and disaster response activities in another 16 countries in Asia, the Middle East and Africa.

Recommendations

1. Reduce the opportunities for slavery to occur, by
 - a. supporting decent and dignified work programming through overseas development assistance, increasing gender equality specific aid programming;
 - b. continuing to be a leading champion for women's economic empowerment in the Asia-Pacific region; and
 - c. increasing shared value undertakings by supporting business and civil society partnerships, including via legislative and taxation reform.
2. Include specific requirements to support women and children in any Australian legislative responses to modern slavery.
3. Ratify the ILO *Protocol to the Forced Labour Convention*.

4. If Australian legislation is modeled on the UK *Modern Slavery Act*, include a central reporting mechanism and sanctions for non-compliance, and consider how to broaden the scope of covered entities.
5. Consider the implementation of legislative frameworks as established by the French *Corporate Duty of Vigilance Law*.

The impacts of modern slavery are significant and long-lasting. At least 20.9 million people are experiencing forced labour each year, with over half (11.7 million) of these coming from the Asia-Pacific region. Fifty-five per cent of victims are women and girls, and one quarter of victims are under the age of 18.¹ While the Committee's terms of reference are focused on appropriate legislative deterrents to slavery, we must also consider how we can reduce the opportunities for slavery to occur in the first place. As outlined in the *National Action Plan to Combat Human Trafficking and Slavery 2015-19*:

Factors that make people vulnerable to exploitation through human trafficking and slavery include poverty; underemployment and unemployment; and a lack of education, opportunities and access to resources in source countries. Gender inequality, corruption and social and political instability, including as a result of natural disaster or war, are also factors.²

In the Asia-Pacific region informal or vulnerable employment is the norm with over 70 per cent of workers in Southern Asia and over 54 per cent in South-East Asia and the Pacific in vulnerable employment.³ Women are more likely to be informally employed than men. For example, in India, 9 out of 10 women in non-agricultural work are employed in the informal sector.⁴ These workers have no protections, even if they are connected in to formal, global supply chains.

The sixty-first United Nations Commission on the Status of Women in 2017 called for all member states to:

Devise, strengthen and implement comprehensive anti-trafficking strategies that integrate a human rights and sustainable development perspective, and enforce, as appropriate, legal frameworks, in a gender- and age-sensitive manner, to combat and eliminate all forms of trafficking in persons, raise public awareness of the issue of trafficking in persons, in particular women and girls, take measures to reduce the vulnerability of women and girls to modern slavery and sexual exploitation, and enhance international cooperation, inter alia, to counter, with a view to eliminating, the demand that fosters all forms of exploitation, including sexual exploitation and forced labour.⁵

¹ Minister Julie Bishop 2014 "Australia supports action against forced labour" media release

² Australian Government 2014 *National Action Plan to Combat Human Trafficking and Slavery 2015-19* p.7

³ International Labour Organization 2016 *World Employment Social Outlook – Trends 2016* p.49

⁴ Asia Foundation 2015 *Women's Labor Rights: The Road Ahead*
<http://asiafoundation.org/2015/04/29/womens-labor-rights-the-road-ahead/>

⁵ United Nations Commission on the Status of Women 2017 *Women's Economic Empowerment in the Changing World of Work: Agreed Conclusions* p.16 (qq)

In looking to grow a strong response to modern slavery in our region, Australia should support initiatives and policy directions delivering decent and dignified work through reforms to discriminatory labour laws. The International Labour Organisation defines decent work as productive work for women and men in conditions of freedom, equity, security and human dignity. Decent work involves opportunities for work that:

- is productive and delivers a fair income;
- provides security in the workplace and social protection for workers and their families;
- offers prospects for personal development and encourages social integration;
- gives people the freedom to express their concerns, to organise and to participate in decisions that affect their lives; and
- guarantees equal opportunities and equal treatment for all.⁶

Dignified work is connected to decent work, but focuses on women having access to, and control over, decent work and its reward. CARE defines dignified work as:

women gaining respect and recognition through earning a living wage, exercising greater agency (the knowledge and ability to make choices) and experiencing equitable relations at work and in the home and benefiting from structures that respond to the needs of women and men equally and with dignity.

The recent report by the United Nations High-Level Panel on Women's Economic Empowerment outlines a range of measures to progress the realization of dignified work:

actions to eliminate violence against women (at home and in the workplace), sharing the burden of unpaid care work, ensuring women's access to financial services and new technology, increasing women's access to justice, changing culture and practices in employment, procurement and other practices of both the public and the private sector, and ratifying key international agreements for protecting the rights of women workers, especially women in the informal sector and domestic workers⁷.

Women and girls must be empowered across all aspects of their lives if they are to avoid exploitation and slavery. Men and boys also need support, from a strong international development program, to access to education and employment pathways to prevent exploitative norms.

In Myanmar CARE is working with women migrants to improve employment options, increase their access to health and legal services, and support them to voice their

⁶ International Labour Organization 2008 *Toolkit for mainstreaming employment and decent work* p.vi

⁷ United Nations 2017 *Leave no one behind- taking action for transformational change on women's economic empowerment* Final Report of the UN High Level Panel on Women's Economic Empowerment: <http://www.unwomen.org/en/news/stories/2017/3/new-final-report-of-the-un-high-level-panel-on-womens-economic-empowerment#sthash.2JQxHta1.dpuf>

concerns and take action to improve their circumstances. Through the provision of vocational training, direct legal aid and mobile reproductive health clinics, women can be targeted directly and then supported to raise their voices through self-help groups working together to share information and address concerns.

The Australian Government has already been active in championing women's economic empowerment, such as through its chairing of the G20 in 2014. The Leaders' Communique from the Brisbane G20 summit committed to reducing the gap in participation rates between men and women in G20 countries by 25 per cent by 2025, to bring more than 100 million women into the labour force. However, strengthening women's economic empowerment requires much more than simply bringing more women into the formal economy. Global policies urging economic growth risk further marginalising women through their continued exclusion from productive assets or value chains. Too often, women remain trapped in exploitative workplaces, subject to harassment, violence or discrimination.

Australia must continue to be a leading champion for women's economic empowerment in the Asia-Pacific region through our bilateral partnerships, engagement at regional fora, and collaboration with region actors such as ASEAN, APEC, and the Pacific Islands Forum. Trade negotiations can endeavour to deliver agreements promoting women's rights as workers without adding other impediments to communities working to escape poverty.

The private sector also has a key role to play in achieving dignified work through investing in better employee protections, sustainable incomes, promoting workplace cultures of gender equality and respect, and training and investment in staff. Australian legislation can support shared value approaches, enhancing partnerships between business and communities. Shared value is the "policies and operating practices that enhance the competitiveness of a company while simultaneously advancing the economic and social conditions in the communities in which it operates."⁸ For example CARE's partnership with GAP Inc. through the PACE project (Personal Advancement and Career Enhancement), has helped garment factory workers across Bangladesh, Cambodia, Vietnam, Indonesia and Myanmar to strengthen knowledge and skills in literacy and financial literacy, physical and mental health, effective communication and analysing gender roles, among other subjects. This work in garment factories across Asia increased retention rates by as much as 66 per cent in Cambodia, saw an increase of 54 per cent of women who valued their work skills and saw a 133 per cent increase in women feeling highly capable of reprimanding a man's inappropriate behaviour on the street.

In Cambodia the garment sector employs approximately 600,000 people, with up to 85 per cent women. Since the mid-1990s the total annual output of the garment sector has grown from an estimated USD 20 million to over USD 5 billion turnover, accounting for nearly a third of national GDP. Recent research by CARE found 1 of 3 female garment workers experience sexual harassment in their workplaces, with a significant financial cost to employers – almost USD 89 million per annum.⁹ In an industry so reliant on

⁸ Michael E Porter and Mark R Kramer 2011 "Creating Shared Value" *Harvard Business Review*

⁹ CARE International 2017 *I know I cannot quit – The prevalence and productivity cost of sexual harassment to the Cambodian Garment Industry* <https://www.care.org.au/preventing-sexual-harassment/>

women's labour, workplace sexual harassment is not only a human rights issue, but an economic one. CARE works with the Garment Manufacturers Association of Cambodia (GMAC) and factories directly, to develop and implement effective policies to protect workers and enhance workplaces. These benefits of shared value see improved productivity, and also improvements in the wellbeing of the community.

More can be done, however, and government has a role to play to provide incentives for business to engage in shared value endeavors ensuring supply chains deliver dignified work. The DFAT Business Partnerships Platform is one current positive method that could be expanded to include specific streams for supply chain assurance of dignified work. In addition the tax system could be reviewed to include mechanisms to increase incentives for the private sector to align its work towards international development. While philanthropic and corporate social responsibility contributions are already tax deductible, further incentives could drive investment and result in much needed social improvements in and around the supply-chain.¹⁰

Recommendations:

Reduce the opportunities for slavery to occur, by

- *supporting decent and dignified work programming through overseas development assistance, increasing gender equality specific aid programming;*
- *continuing to be a leading champion for women's economic empowerment in the Asia-Pacific region; and*
- *increasing shared value undertakings by supporting business and civil society partnerships, including via legislative and taxation reform.*

Progressing legislation in the domestic sphere gives life to international covenants, and provides the necessary framework for Australian companies and entities to grapple with the complex issues associated with modern slavery. Any legislative response needs to include specific requirements to support women and children, as they are especially vulnerable to modern slavery and are already marginalised in the workforce. The recent Corporate Human Rights Benchmark study found only 11 per cent of companies have public women's rights guidelines with their suppliers.¹¹ An estimated USD 47 billion is lost in the Asian regional economy per year because of the gap in female labour force participation.¹²

Engagement in the work of the International Labour Organisation is vital to the global response to modern slavery. Australia is yet to adopt the ILO *Protocol to the Forced*

¹⁰ For more detail see CARE Australia's 2017 pre-Budget submission (available on request)

¹¹ The 2017 Corporate Human Rights Benchmark assesses 98 of the largest publicly traded companies in the world on 100 human rights indicators. *Corporate Human Rights Benchmark*, March 2017 https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB_Findings_web_pages.pdf p47

¹² Asia Foundation 2015 *Women's Labor Rights: The Road Ahead* <http://asiafoundation.org/2015/04/29/womens-labor-rights-the-road-ahead/>

Labour Convention, despite taking a lead in its development.¹³ The protocol encourages practical measures aimed at preventing forced labour as well as measures to protect and assist victims of forced labour.

The United Kingdom's *Modern Slavery Act* provides a base from which to consider legislation in Australia. When considering the UK legislation we propose the following enhancements be considered:

- A central repository of statements (i.e. links to corporate websites) to enhance monitoring of compliance with the legislation
- Sanctions against companies for non-compliance with the most basic requirements
- A review of who should be covered by the legislation in the Australian context ie the inclusion of the public sector, and smaller companies (by reduced requirements or the opportunity to opt-in)

We urge the Committee to review the more recent French *Corporate Duty of Vigilance Law*. The European Coalition on Corporate Justice states "the French law represents the most effective response to date to the existing business and human rights governance gaps." The *Corporate Duty of Vigilance Law*, adopted in February 2017¹⁴, establishes a legally binding obligation for parent companies to identify and prevent adverse human rights and environmental impacts resulting from their own activities, from activities of companies they control, and from activities of their subcontractors and suppliers, with whom they have an established commercial relationship. Article 1 of the law, notes the vigilance plan has to include:

1. A mapping that identifies, analyses and ranks risks;
2. Procedures to regularly assess, in accordance with the risk mapping, the situation of subsidiaries, subcontractors or suppliers with whom the company maintains an established commercial relationship;
3. Appropriate actions to mitigate risks or prevent serious violations;
4. An alert mechanism that collects potential or actual risks, developed in working partnership with the trade union organisations representatives of the company concerned;
5. A monitoring scheme to follow up on the measures implemented and assess their efficiency.¹⁵

¹³ Minister Julie Bishop 2014 "Australia supports action against forced labour" media release

¹⁴ The law was challenged but in a decision on 23 March 2017 the French Constitutional Council (the highest authority) maintained the law's text, and noted its 'compelling public interest benefits'. European Coalition for Corporate Justice 2017: <http://corporatejustice.org/news/435-last-hurdle-overcome-for-landmark-legislation-french-corporate-duty-of-vigilance-law-gets-green-light-from-constitutional-council>

¹⁵ European Coalition for Corporate Justice 23 February 2017 *French Corporate Duty of Vigilance Law – Frequently Asked Questions* <http://corporatejustice.org/news/405-french-corporate-duty-of-vigilance-law-frequently-asked-questions>

Recommendations:

Include specific requirements to support women and children in any Australian legislation responses to modern slavery.

Ratify the ILO Protocol to the Forced Labour Convention.

If Australian legislation is modeled on the UK Modern Slavery Act, include a central reporting mechanism and sanctions for non-compliance, and consider broadening the scope of covered entities.

Consider the implementation of legislative frameworks as established by the French Corporate Duty of Vigilance Law.