



## **MERCY FOUNDATION SUBMISSION IN RESPONSE TO:**

### **INQUIRY INTO ESTABLISHING A MODERN SLAVERY ACT IN AUSTRALIA**

April 2017

#### **BACKGROUND**

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

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

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

The Mercy Foundation's Strategic Plan 2016-2020 commits us to building a sustainable future while bringing about systemic change and combatting poverty and exclusion in the spirit of Catherine McAuley.

#### **INTRODUCTION**

The Mercy Foundation congratulates the Federal Government on holding this Inquiry into establishing a Modern Slavery Act in Australia. The Mercy Foundation supports efforts that bring about systemic change and combat poverty and exclusion. We believe that the adoption of a Federal Modern Slavery Act will assist in delivering justice and human rights to those people who have been trafficked and/or are working in slavery or slavery-like conditions. We also believe it is important that such an Act would serve to offer redress to victims and to punish those people who have profited from the exploitation and slavery of other human beings.

The Mercy Foundation has no specific legal expertise and does not offer direct services to people affected by human trafficking and modern slavery. As such, we don't believe we are in an appropriate position to address all the terms of reference of the Inquiry. This submission will address the final two terms of reference, *whether a Modern Slavery Act should be introduced in Australia; and Any other related matters.*

#### **Should a Modern Slavery Act be introduced into Australia?**

Human Trafficking and Slavery exists in Australia as domestic servitude, forced labour, deceptive recruiting for labour or services, forced and early marriage and debt bondage. It involves the exploitation of vulnerable people for a profit and it is an abuse of human rights. The Australian Government has already passed laws through the Commonwealth Criminal Code 1995 that make

slavery and slavery-like offences illegal, including forced marriage and forced labour. However, there are currently no laws in Australia that require businesses to ensure their supply chains are free from slave labour.

Globalisation has delivered many positives for Australians. We now have greater choice of products and more competitive prices. Shareholders have benefitted from greater profitability as a result of lower costs of supply. These advantages may come at a great cost to workers in developing countries who do not have the legal protection of work rights that exist in Australia. Slave labour drastically reduces the cost of raw materials and manufacturing.

There is currently no requirement for businesses to publish where their raw materials are sourced from and where production occurs. Consumers are generally not provided with information that would assist them in making more ethical purchasing decisions. Without such knowledge, it is likely that Australian businesses may be profiting from the use of slave labour and consumers are unaware unknowingly supporting such practices.

There are NGOs in Australia that are working to address this lack of transparency to provide consumers with a more informed choice. The Ethical Fashion Guide 2017 recently published by Baptist World Aid Australia is a good example of this, as is the recent Slavery-Free Easter Chocolate campaign by ACRATH and Matter of Taste campaign by Stop the Traffik, both campaigns providing consumers with information about chocolate made without slave labour.

The Fair Trade movement provides an example of how developing countries benefit from fairer working conditions and improved living standards as a result of more transparent supply chains and fairer trading practices.

Some businesses are working to address the issue of slavery in their supply chains and we commend the work of Konica Minolta and Fortescue Metals Group for their efforts.

These examples show that there is an appetite for businesses and consumers for ethical manufacturing processes, however, this fractured approach has had limited reach.

The Mercy Foundation endorses the view of the Walk Free Foundation that the collaboration of business, government and civil society is required to make a major impact in this area. The introduction of a Modern Slavery Act in Australia will make a significant contribution towards eradicating slavery.

The UK Modern Slavery Act provides a blueprint for the development of legislation in Australia. The Act would provide a level playing field for all businesses to ensure those that do address slavery practices in their supply chains are not penalised by competing with businesses that do not.

The adoption of a Modern Slavery Act should include:

1. The establishment of an Anti-Slavery Commissioner

The Mercy Foundation supports the establishment of an Anti-Slavery Commissioner, to monitor legislation and hold businesses accountable.

We endorse the case put forward by Anti-Slavery Australia to support the establishment of an Anti-Slavery Commissioner, to monitor and implement the National Action Plan to Combat Human Trafficking and Slavery 2015-2019 and to further strengthen Australia's strategy to combat human trafficking and slavery in clear and measurable ways, in particular in the identification and protection of vulnerable people and support for survivors of human trafficking and slavery.<sup>1</sup>

## 2. Annual Reporting by large companies

In line with similar legislation introduced in the UK, all large companies should be required to publish an Annual statement detailing how they are working to ensure their organisation and supply chains are free from slavery.

## 3. Repository for Statements

All statements should be publicly available. This public scrutiny would encourage businesses to work towards ensuring their supply chains are free from slavery.

## 4. Ensure appropriate penalties for all crimes of human trafficking and slavery

Legislation should also provide penalties to businesses that fail to comply with mandatory reporting requirements.

### ***Other related matters***

#### Establishment of a National Compensation Scheme

The Mercy Foundation supports the need for a National Compensation Scheme as put forward by Anti-Slavery Australia and the Law Council of Australia. In Australia, victims' compensation schemes are provided by each State and are not designed to provide remedies for victims of Federal offences. There are currently inconsistencies between the State and Territory compensation frameworks and the lack of a coordinated approach to compensation, resulting in an impediment to trafficked people obtaining fair, effective and timely access to justice and departs from international best practice.<sup>2</sup> The Federal government is the appropriate body to implement and co-ordinate this.

### **Conclusion**

The Mercy Foundation commends the leadership of the Australian Government in working towards the establishment of a Modern Slavery Act. Human trafficking and slavery is a serious crime and abuse of human rights. In developing countries, poverty is further entrenched as a result of slavery and slave-like conditions that result from lack of legal protection and corruption. The establishment of a Modern Slavery Act would result in systemic change that has the potential to work towards ending human trafficking and slavery.

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<sup>1</sup> The case for an Anti-Slavery and Human Trafficking Commissioner, Policy Positioning Paper no. 1, 2016 Anti-Slavery Australia

<sup>2</sup> Report on Establishing a National Compensation Scheme for Victims of Commonwealth Crime, Anti-Slavery Australia & the Law Council of Australia

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