

**Submission
No 71**

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

Organisation: Hagar Australia

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HAGAR

The whole journey

Submission to the NSW Legislative
Council Standing Committee on
Social Issues - Inquiry into the
Modern Slavery Act 2018 and
associated matters

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1. INTRODUCTION

It is hard to fathom that in our modern, connected world an estimated 40.3 million people are still trapped in modern slavery.¹

In overcrowded factories and stifling brothels, on dangerous construction sites, isolated farms and weathered boats, and inside family homes, our fellow human beings are being stripped of their freedom, dignity and identity and subjected to damaging, repetitive trauma.

Perhaps most confronting of all is that, wherever we live, slavery touches our lives almost every day. Here in Australia, it is estimated that around AUD \$18 billion of imported goods carry a risk of slavery in their sourcing or production in the top five high-risk industries alone.² What an incredible opportunity this presents us to tackle this injustice from the demand end.

Encouragingly, the movement to bring an end to these injustices is rapidly gaining momentum. Champions are emerging across business, government, philanthropy, academia, journalism, technology and the social sector. Their diversity is their strength, yet they are working in increasingly connected ways.

Awareness is growing. Data is becoming richer. Laws are being changed. Nations and States are working together across borders. Companies are moving to greater transparency and accountability. Consumers are increasingly looking for ethically-sourced products. And, slowly, the voices of survivors are being heard and gaining influence.

Hagar wants this movement to become unstoppable.

In 2018, the New South Wales (NSW) Government staked its claim in this movement, showing great leadership to both the Australian people and the world by passing the Modern Slavery Act, consistent with Australia's international human rights obligations and commitments.³

Above all the other recommendations in this submission, Hagar's strongest encouragement to the NSW Parliament is to maintain this trailblazing leadership role in the movement to abolish modern slavery. It is true that the passage of the Commonwealth *Modern Slavery Act* precipitates a need to ensure reporting processes are consistent and complementary, but it is certainly not a reason to dilute the vision, ambition and global leadership embodied by the NSW Act.

Recommendation 1: New South Wales maintain a trailblazing leadership role in the movement to end modern slavery.

¹ Alliance 8.7, 2017. <https://www.alliance87.org/2017ge/modernslavery#!section=0/> / https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf

² Walk Free Foundation, *Global Slavery Index 2018*, <https://www.globalslaveryindex.org/2018/findings/country-studies/australia/>

³ Including under the Universal Declaration of Human Rights; the Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination Against Women; the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol); the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; the ILO Convention No. 182 on the Elimination of the Worst Forms of Child Labour; the United Nations Guiding Principles on Business and Human Rights; and the Sustainable Development Goals.

2. SUMMARY OF RECOMMENDATIONS

1. New South Wales maintain a trailblazing leadership role in the movement to end modern slavery.
2. Reporting entities should be required to provide information in their Modern Slavery Statements about the training provided to staff to build their understanding of modern slavery and capacity to mitigate the risks associated with modern slavery.
3. As a demonstration of the NSW Government's commitment to lead by example in eradicating modern slavery, NSW Government agencies should be subject to the same reporting obligations as other entities under the Modern Slavery Act.
4. NSW Government State-Owned Corporations should be subjected to the same reporting obligations as other entities under the Act.
5. Not-for-profit entities that meet the reporting threshold should be required to submit Modern Slavery Statements in accordance with the Act.
6. Businesses and local councils that meet the reporting threshold should be required to submit Modern Slavery Statements in accordance with the Act.
7. The public register should include all Modern Slavery Statements submitted in accordance with the Act.
8. The question of "what will be the effect on business?" should be balanced against the question of "what will be the impact on human beings?" Any regulatory burden imposed by the Act is eminently justifiable in light of the human rights abuses and trauma it seeks to avert.
9. Victims of slavery should have access to the necessary support to overcome their trauma, access justice and rebuild their lives.
10. The Committee should actively seek out opportunities to hear directly from survivors of slavery as part of this inquiry.
11. The NSW Government should foster opportunities to develop the concept of survivor leadership as part of its response to modern slavery.
12. The NSW Government should consider supporting a collaborative effort across government, business and civil society to map out appropriate remediation processes and pathways for victims of slavery.
13. The words "victims of slavery" be inserted at the end of Regulation 7(1)(d).
14. The NSW Modern Slavery Act include a provision to allow for voluntary reporting for entities that fall below the reporting threshold.
15. The NSW Government, in collaboration with the Commonwealth Government, develop and present to the Council of Australian Governments, a coordinated plan to tackle modern slavery across all Australian jurisdictions.

3. ABOUT HAGAR AUSTRALIA

Hagar Australia works as an active member of the global Hagar network toward our shared vision of “communities free and healed from the trauma of human trafficking, slavery and abuse.”

Hagar was established in Cambodia in 1994 by Pierre Tami who, a decade later, was named by the U.S. State Department, in its seminal *Trafficking in Persons Report*, as one of the international heroes in the struggle against human trafficking and modern-day slavery.⁴

Hagar works both to prevent and respond to trafficking, slavery and severe human rights abuses, at both the individual and systemic level.

At the individual level, we provide a holistic pathway to recovery and empowerment for women and children who have experienced human trafficking, slavery or severe abuse in the countries of Cambodia, Vietnam, Afghanistan and Singapore. This pathway – which we call “the whole journey” – consists of providing survivors with:

- Protection and safe place to live
- Legal support
- Medical and dental care
- Specialist trauma counselling
- The chance to catch up on missed schooling
- The opportunity to go to university or learn vocational skills
- Placement in a job with one of our many business partners, and
- Case management support for two years following their reintegration into the community.

Using this approach, we have helped transform the lives of more than 20,000 survivors.

At the systemic level, Hagar works with governments, international organisations, companies, non-government organisations, and local communities to prevent human trafficking and slavery, ensure the rights of survivors are protected and respected, and equip frontline responders to deliver best-practice, trauma-informed, community-based care.

For example, in Afghanistan, Hagar is partnering with the International Organisation for Migration on a USAID-funded counter-human trafficking project focusing on five high-risk border towns. We work closely with government, non-government organisations, community and religious leaders, and academics to mitigate the risk of trafficking and strengthen repatriation mechanisms and referral services for those who are trafficked.

In Cambodia, we are working with the Ministry of Justice, the judiciary and the legal profession to ensure appropriate protection for child victims of trafficking, slavery and abuse when they give evidence in court.

⁴ U.S. State Department, <http://www.tipheroes.org/pierre-tami/>

Here in Australia, Hagar is a member of the Australian Government’s National Roundtable on Human Trafficking and Slavery and a member of the Be Slavery Free coalition (formerly Stop The Traffik).

Hagar Australia is also a member of the Australian Council for International Development and a signatory to its Code of Conduct. The Department of Foreign Affairs and Trade has provided funding for Hagar’s programs in Cambodia and Vietnam as part of the Australian Aid program.

4. THE NSW MODERN SLAVERY ACT

The NSW *Modern Slavery Act 2018* positions NSW as the leading Australian jurisdiction, and one of the leading jurisdictions in the world, in establishing legislative measures to prevent and respond to modern slavery.

The fact that this was a Private Member’s Bill introduced by Mr Paul Green MLC should be celebrated as evidence of a thriving democracy where all members of Parliament are able to actively contribute to the legislative agenda, and Hagar Australia applauds Mr Green for his leadership on this issue.

At the same time, the Act’s origin as a Private Member’s Bill meant that full consultation with NSW Government agencies occurred after its passage, rather than before. The subsequent passage of the Commonwealth *Modern Slavery 2018* also raised additional questions about the consistency, complementarity and operability of a number of provisions.

Hagar Australia commends the NSW Government for the work it has undertaken to give effect to the original intent behind the legislation, while addressing some of these complexities. We welcome the NSW Premier’s strong statement that “there is an undeniable moral imperative to take action in relation to all forms of modern slavery.”⁵

We support many, though not all, of the amendments proposed in the Draft Modern Slavery Amendment Bill 2019.

(a) Strengths of the NSW Modern Slavery Act 2018

Hagar would like to take this opportunity to note the many strengths of the NSW *Modern Slavery Act 2018*, which collectively make it a world-leading piece of legislation and should be remain as core provisions of the Act. They include:

(i) The establishment of the Anti-Slavery Commissioner

Establishing an Anti-Slavery Commissioner to champion collaborative efforts across government, business and civil society to tackle modern slavery is one of the stronger features of the Act. Already, the Interim Anti-Slavery Commissioner is playing an important and constructive leadership role – bringing focus and expertise, building understanding and fostering collaboration, not only within NSW but also with other jurisdictions, including the Commonwealth.

⁵ Premier Gladys Berejiklian, in her second reading speech for the Act, 6 June 2018, <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/>

Hagar notes the learning emerging from the Anti-Slavery Commissioner role in the UK, which was reviewed as part of a four-part look at the *UK Modern Slavery Act*. That review recommended the role's statutory duties should be to advise the Government and agencies on measures to tackle modern slavery, as well as raise awareness and promote cooperation.⁶

Hagar commends the NSW Government on the appointment of an interim Commissioner prior to the full implementation of the Act and eagerly looks forward to the formal appointment of NSW's first Anti-Slavery Commissioner. We expect that the Commissioner will continue to play a critical role in both demonstrating and championing NSW's global leadership in combatting modern slavery but hope that, in the future, the position will be made fully independent to strengthen its leadership role even further.

(ii) The establishment of a Modern Slavery Committee within the NSW Parliament

Similarly, the establishment of a Modern Slavery Committee within the NSW Parliament provides an important mechanism to maintain focus and leadership on tackling modern slavery within the NSW Parliament. This Committee will have the opportunity to monitor the implementation of the Act and build the Parliament's understanding of particular forms of modern slavery.

(iii) Penalties for failing to report under the Act

The inclusion of penalties for failing to report under the Act underscores the significance of the modern slavery statements and addresses one of the key deficiencies in the Commonwealth Act. Entities are routinely required to report to government on other matters and face penalties if they do not. Hagar welcomes the fact that the same expectation applies to modern slavery statements.

As demonstrated by France's *Corporate Duty of Vigilance Law* (2017), the use of periodic penalty payments can be an effective monitoring and deterrent tool ensuring companies fulfil their obligations to establish, publish and effectively implement plans to protect against human rights abuses.⁷ The Independent Review of the *UK Modern Slavery Act* (2018) also recommended the introduction of sanctions (warnings, fines, court summons and director's disqualification) to strengthen compliance.⁸ Given this experience in other jurisdictions, the NSW Modern Slavery Act is heading in the right direction with the inclusion of penalties.

At this early stage in the implementation of a new legislative regime, the focus should squarely be on requiring companies to move towards greater transparency so it is appropriate for the penalties to attach to a failure to report. However, in the

⁶ Independent Review of the Modern Slavery Act 2015, (2019), Final Report, p.13 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf

⁷ <https://www.business-humanrights.org/sites/default/files/documents/French%20Corporate%20Duty%20of%20Vigilance%20Law%20-%20Penalties%20-%20Int%2527%20Rev.Compl.%20%26%20Bus.%20Ethics.pdf>

⁸ Independent Review of the Modern Slavery Act 2015, (2019), Final Report, Recommendations 30 & 31, p.24 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf

future, penalties for failures to reduce known risks or respond appropriately to suspicions of slavery could be effective in further shifting corporate behavior.

(iv) The threshold of \$50 million

Hagar welcomes the NSW *Modern Slavery Act*'s application to entities with an annual turnover of \$50 million or more. This is an appropriate threshold in light of a number of considerations.

First, it is now well-established under instruments such as the United Nations Guiding Principles on Business and Human Rights, that all companies – “regardless of their size, sector, location, ownership and structure” – have an obligation to protect and respect human rights and to provide a remedy where those rights have been violated.⁹

Second, the threshold of \$50 million is consistent with the definition of a large proprietary company used by the Australian Securities and Investments Commission (ASIC) for the purposes of lodging annual audited financial reports and directors' reports.¹⁰

Third, in the interests of working towards greater global consistency in modern slavery reporting requirements, which is becoming an increasingly important consideration, \$50 million is closer to the threshold set by the UK Modern Slavery Act.

For all these reasons, Hagar submits that there is a strong case for \$50 million being the appropriate threshold and our view is that that should also be the threshold in the Commonwealth *Modern Slavery Act*. However, given that over two-thirds of operating Australian businesses are registered in NSW or Victoria (approximately 783,000 in NSW alone),¹¹ the NSW legislation helps ameliorate this failing of the Commonwealth Act and ensures that large entities, as defined by ASIC, are fulfilling their duty to eradicate slavery from their supply chains.

(v) Application of the Act to government agencies

As with the Commonwealth *Modern Slavery Act*, the inclusion of government agencies in the reporting requirements under the NSW Act is one of its greatest strengths and demonstrates a powerful commitment to lead by example. If the NSW Government is to require companies to undertake due diligence to prevent slavery in their supply chains, it must lead by example by doing the same. In this respect, the NSW Modern Slavery Act echoes the Executive Order made by former U.S. President Barack Obama in 2012¹² expressing a “zero-tolerance policy” regarding

⁹ *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, United Nations Human Rights Office of the High Commissioner, New York and Geneva 2011, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹⁰ <https://www.asic.gov.au/regulatory-resources/financial-reporting-and-audit/preparers-of-financial-reports/are-you-a-large-or-small-proprietary-company/>

¹¹ Australian Bureau of Statistics, (2019) “Counts of Australian Businesses including Entries and Exits June 2014 to June 2018,” <https://www.abs.gov.au/ausstats/abs@.nsf/mf/8165.0>

¹² The White House, Executive Order – Strengthening Protections Against Trafficking In Persons in Federal Contracts, 25 September 2012, <https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/executive-order->

government employees and contractors engaging in human trafficking and slavery and expressly forbidding such conduct.

(vi) Inclusion of information about employee training in modern slavery statements

The Parliament of Australia’s Joint Standing Committee on Foreign Affairs, Defence and Trade, in its Interim Report on the *Inquiry into Establishing a Modern Slavery Act*, noted that awareness of modern slavery issues is generally low in Australia, including at the highest level of organisations.¹³

Training staff at all levels of entities is a vital part of the due diligence that those entities should undertake and will help boost awareness in the Australian community more broadly. In this respect, Hagar encourages the Committee to look to the experience of the Commonwealth Department of Foreign Affairs and Trade in incorporating child protection¹⁴ and disability inclusiveness¹⁵ into all aid programs funded by the Australian Government. This experience demonstrates that training and ownership of key regulatory provisions by staff at multiple layers of an organisation or business is crucial to mitigating and managing the risks of human rights abuses.

Hagar welcomes section 24(5)(d) of the Act that provides that modern slavery statements may include “training about modern slavery available to its employees” and recommends that this be included as a mandatory reporting requirement in the Modern Slavery Regulation 2019.

Recommendation 2: Reporting entities should be required to provide information in their Modern Slavery Statements about the training provided to staff to build their understanding of modern slavery and capacity to mitigate the risk associated with modern slavery.

(b) Key questions arising

(i) Should government agencies be included in the reporting requirement?

Quite simply, yes. The value of including government procurement in the reporting requirement is two-fold. First, the sheer size of government agencies in NSW and the volume and dollar value of their procurement creates the opportunity to make a significant impact in reducing slavery in our region. Second, the requirement for NSW Government agencies to prepare a public annual modern slavery statement is a powerful signal that the Government intends to lead by example.

Introducing new provisions into the NSW Government’s Procurement Framework, Directions and/or Code of Practice, as proposed in the NSW Government’s submission, makes some sense. However, what this approach lacks is the

¹³ Supply Chain Reporting in Australia (2018), 3.27, Joint Standing Committee on Foreign Affairs, Defence and Trade https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Interim_Report/section?id=committees%2Freportint%2F024092%2F24952#footnote13target

¹⁴ DFAT Child Protection Policy (2017), Minimum Child Protection Standard No. 3, p.10 - <https://dfat.gov.au/international-relations/themes/child-protection/Documents/child-protection-policy-2017.pdf>

¹⁵ DFAT Development for All 2015-2020, p.26, <https://dfat.gov.au/about-us/publications/Documents/development-for-all-2015-2020.pdf>

transparency and accountability of a public statement and the symbolic value of submitting to the same reporting requirements as corporations. Furthermore, amendments to the Procurement Framework, Directions and/or Code of Practice could be used to *complement* the public reporting requirements under the Act, rather than *substitute* them.

In Hagar's view, if the Commonwealth Government is willing and able to submit to the same public reporting requirements as other entities under the Commonwealth Act, there is no compelling reason why the NSW Government should not also do the same under the NSW Act.

Hagar agrees with the NSW Government that State Owned Corporations should be subjected to the same reporting requirements as other corporations under the Act.

Recommendation 3: As a demonstration of the NSW Government's commitment to lead by example in eradicating modern slavery, NSW Government agencies should be subject to the same reporting obligations as other entities under the Modern Slavery Act.

Recommendation 4: NSW Government State-Owned Corporations should be subjected to the same reporting obligations as other entities under the Act.

(ii) *Should Not-For-Profits be exempt from the reporting requirement?*

The complexity of modern slavery demands concerted efforts across different levels of government, international institutions, the private sector and civil society in order to overcome it. The NSW Government can play an important leadership role in bringing these different stakeholders together through the *NSW Modern Slavery Act*.

As a not-for-profit, Hagar Australia is entrusted with spending the funds our supporters donate to us transparently and accountably. As a registered member of the Australian Charities and Not-for-profits Commission and the Australian Council for International Development, we are tasked with demonstrating a number of compliance and regulatory procedures. These requirements mean that our supporters can be confident that:

- their donations will be used effectively and for the purposes for which they were given;
- Hagar has undertaken the necessary due diligence to ensure funds are not being used for things like terrorism, political partisan activities or proselytisation;
- children are being protected; and
- disability, gender, environmental sustainability and the views of local communities are central considerations in our project design.

Beyond the requirements of our regulatory and peak bodies, charities are constantly attuned to the need to show due diligence to a philanthropic public that demands transparency and impact for its every dollar.¹⁶ Complying with the NSW Modern Slavery Act is just one additional regulatory requirement that will help give

¹⁶ Giving Australia, *Philanthropy and Philanthropists*, (2017), P.20 https://www.communitybusinesspartnership.gov.au/wp-content/uploads/2017/04/giving_australia_2016_philanthropy_and_philanthropists_report.pdf

supporters confidence that Australian charities that meet the threshold are not unwittingly contributing to slavery in the pursuit of their respective missions. Indeed, Hagar is aware that many large Australian not-for-profits already apply ethical screening processes and procurement guidelines in their operations.

The ACNC Annual Report 2017-18 indicated that charities report more than \$142 billion in revenue and employ up to 10% of Australia's workforce.¹⁷ While much of this revenue is concentrated in a relatively small number of organisations, what these figures attest to is that the charitable sector has a significant contribution to make to collaboratively addressing the risks of modern slavery.

Recommendation 5: Not-for-profit entities that meet the reporting threshold should be required to submit Modern Slavery Statements in accordance with the Act.

(iii) *Should small business and local government be exempt from the Act?*

Local Government Authorities in the UK who have voluntarily reported against the *Modern Slavery Act* have identified their considerable effectiveness in better identifying modern slavery through their broad outreach and interactions with the public.¹⁸

In an Australian context, most individuals interact with government at their local council level and therefore Council leadership on eradicating slavery has the potential to have an immediate awareness-raising impact in local communities. Exempting Councils from reporting against the NSW Act extinguishes this opportunity to signify action at every level and to build greater understanding of modern slavery in Australia.

In Hagar's view, small businesses are already exempt from the Act as they fall under the threshold of \$50 million in annual revenue. Businesses above the \$50 million threshold are not small businesses and should not be exempt.

Recommendation 6: Businesses and local councils that meet the reporting threshold should be required to submit Modern Slavery Statements in accordance with the Act.

(iv) *What should the public register include?*

The nature of the public register provided for by section 26 of the Act is problematic in that it is restricted to entities that disclose evidence or suspicions of slavery in their supply chains. This has the potential to discourage entities from genuinely looking for risks of slavery in their supply chains and reporting them if they find such risks. In other words, it has the potential to discourage the kind of corporate transparency that appears to be one of the key objectives of the Act.

Hagar's view is that the public register should operate as a central repository for all

¹⁷ ACNC Annual Report 2017-18, p.5 <https://www.acnc.gov.au/tools/reports/acnc-annual-report-2017-2018>

¹⁸ <http://www.bhre.org/blog/2018/3/12/local-authorities-at-the-forefront-of-the-modern-anti-slavery-campaign>

modern slavery statements submitted under the Act. We support the NSW Government's proposal for a new subsection allowing the Commissioner to publish on the public register any other information that the Commissioner thinks is appropriate and the provisions in the draft regulation relating to the publication of modern slavery statements.

Recommendation 7: The public register should include all Modern Slavery Statements submitted in accordance with the Act.

(v) What will be the effect on business?

"If slavery is not wrong, nothing is wrong." Abraham Lincoln, 1864

Modern slavery is a crime. Indeed, it is one of the most egregious human rights abuses there is. At an event in NSW in July 2019, former UK Anti-Slavery Commissioner, Kevin Hyland, likened it to child abuse. "Is it ok to have child abuse in your business?" he asked. Of course not. Any reasonable person would agree that a business has a duty to stop child abuse, regardless of the impact on the business. Hagar's view is that modern slavery is no different.

It is easy to ask about the impact on business from the high-rises of Sydney but as an organization working on the frontline of this issue in Asia, Hagar suggests that the more appropriate question is: what is the effect on human beings?

Sometimes numbers speak louder than words. And the numbers show that the cost of businesses complying with the *NSW Modern Slavery Act* is far outweighed by the psycho-social costs of caring for people who have been traumatised by modern slavery.

In our work, Hagar has found that the most basic cost of supporting someone with complex trauma needs after slavery is, on average, around AUD \$3,300 each year. This includes access to medical care, safe accommodation, counselling and therapy, legal support, education, training and job placement. Given the estimated 40.3 million people still enslaved around the world, the cost of supporting each of these individuals to rebuild their lives would be more than \$13 billion each year, with many requiring long-term support over a number of years.

The reporting requirements under this Act are not onerous. They enable companies to embark on a journey towards greater transparency and due diligence to guard against the risks of slavery in their supply chains.

As the Independent Review of the *UK Modern Slavery Act* highlighted, far from being seen as a burden, business stakeholders indicated that reporting against Modern Slavery standards should be seen as the normal regulatory and compliance cost of doing business in country, similar to reporting on the gender pay gap.¹⁹

¹⁹ Independent Review of the Modern Slavery Act 2015, (2019), Final Report, p.15 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf

Recommendation 8: The question of “what will be the effect on business?” should be balanced against the question of “what will be the impact on human beings?” Any regulatory burden imposed by the Act is eminently justifiable in light of the human rights abuses and trauma it seeks to avert.

(c) Additional recommendations

(i) Listening to survivors and supporting them to heal, seek justice and actively contribute to the community

“I want to help others and my country to heal.”

Poignant words from Longdy, a now 29-year-old survivor of modern slavery who was trafficked from Cambodia to Thailand as a young boy. After being detained by the Thai Police, repatriated to Cambodia and referred to Hagar, Longdy was supported to overcome his trauma and is now a fully-qualified counsellor helping young boys overcome the kind of trauma he endured. With two Bachelor degrees and now commencing a Masters degree, Longdy regularly travels internationally to share his story and is doing everything he can to address the injustice of modern slavery.

Individuals who have experienced slavery first-hand have a unique and vital contribution to make to the movement to eradicate it. We must ensure their voices are heard and inform the development of new strategies, laws and policies to tackle slavery.

With more than 25 years’ experience working at the frontline of modern slavery in Asia, Hagar knows all too well the deep trauma that slavery inflicts on those trapped in it. We strongly support the legislative amendments proposed by the NSW Government to ensure that victims of modern slavery are able to access victims support, including counselling and financial assistance.

Hagar has found that many of our clients simply want to live quiet lives after the trauma they have survived and we support them in that decision. However, there are some who emerge from the deep trauma they have experienced with a strong desire to speak out about their journey or help others in practical ways, just like Longdy.

Hagar encourages the Committee to actively seek out opportunities to hear directly from survivors of slavery as part of this inquiry.

Beyond that, Hagar encourages the NSW Government to go a few steps further than ensuring victims are supported financially and with counselling, and to embrace the concept of survivor leadership into its response to modern slavery.

US-based organisation Girls Education & Mentoring Services (GEMS), which works with women and girls who have experienced commercial sexual exploitation and domestic trafficking, defines survivor leadership as follows:

“Survivor leadership embodies the notion that survivors are more than a collective montage of traumatic events. We believe that survivors are in no way defined by

their experiences, but are to be valued for their skills, abilities, and will to create their own life path. Leadership is not a standard unit of measurement. In the movement to end commercial sexual exploitation, it can look like survivor-led agencies, survivor-created materials or survivor-informed programming. Survivor leadership does not necessarily mean telling your story, or even working in the advocacy movement, or as a counselor in direct services. It could mean working for law enforcement, obtaining an advanced degree, working as a lawyer, a teacher, or in any desired profession. Survivors can be leaders in any field – from astrophysics to computer programming to the music industry. There is no limit or set picture of what survivor leadership looks like.”²⁰

Recommendation 9: Victims of slavery should have access to the necessary support to overcome their trauma, access justice and rebuild their lives.

Recommendation 10: The Committee should actively seek out opportunities to hear directly from survivors of slavery as part of this inquiry.

Recommendation 11: The NSW Government should foster opportunities to develop the concept of survivor leadership as part of its response to modern slavery.

(ii) Actively support remediation efforts

Through our work in Cambodia, Vietnam and Afghanistan, Hagar has learned some important lessons about effective strategies to prevent human trafficking and slavery. It is our opinion that assessing risk is only the start of a journey; one which ends with survivors of slavery controlling their own healing process to ensure that new beginnings are possible after trauma.

As with the best risk management practices and business contingency planning, responding to occurrences of modern slavery should form part of a whole-of-organisation approach with front-end investment in planning. This is a nexus where business, government and civil society can cooperate to determine realistic and suitable pathways for remediation for those individuals enslaved in Australian supply chains. The NSW Government should demonstrate its leadership by actively resourcing businesses and civil society to work collaboratively to determine how best to support survivors when slavery is exposed.

In addition, we urge the Standing Committee to consider specifically including the following wording in regulation 7(1)(d) of the draft NSW Modern Slavery Act Regulation 2019 to reinforce the intent and purpose of the Act as freeing those enslaved:

*“describe the action taken by the organization and any entity that the organization owns or controls to assess and address those risks, including due diligence and remediation processes **for victims of slavery.**”*

Recommendation 12: The NSW Government should consider supporting a collaborative effort across government, business and civil society to map out

²⁰ <http://www.gems-girls.org/survivor-leadership/survivor-leadership-institute-learn-moreand-join-the-movement>

appropriate remediation processes and pathways for victims of slavery.

Recommendation 13: The words “victims of slavery” be inserted at the end of Regulation 7(1)(d).

(iii) Include provision for voluntary reporting

Significant evidence was submitted at the Commonwealth *Parliamentary Inquiry into establishing a Modern Slavery Act in Australia* in 2017 that many Australian businesses are already striving to address issues of modern slavery through voluntary initiatives such as the United Nations Global Compact,²¹ and the Australian Business Pledge against Forced Labour.²² Andrew Forrest, Chairman and Founder of the Walk Free Foundation, echoed a similar sentiment in that a mechanism that “*encourages those beneath the threshold to opt-in will improve competition and improve the value of businesses across Australia*”.²³ The NSW Modern Slavery Act should include a provision for voluntary reporting for those entities that fall below the current threshold.

Recommendation 14: The NSW Modern Slavery Act include a provision to allow for voluntary reporting for entities that fall below the reporting threshold.

(iv) Provide leadership on Modern Slavery through COAG

The complexity of modern slavery demands comprehensive and concerted efforts across all Australian governments in order to overcome it. NSW is already playing a significant leadership role on this issue, with discussions now commencing about the possibility of similar legislation in other state jurisdictions.

Hagar urges the NSW Government to continue to lead the way by prioritizing the inclusion of a coordinated plan to tackle modern slavery on the agenda for the Council of Australian Governments.

Recommendation 15: The NSW Government, in collaboration with the Commonwealth Government, develop and present to the Council of Australian Governments, a coordinated plan to tackle modern slavery across all Australian jurisdictions.

5. CONCLUSION

Not only is slavery one of the modern world’s most persistent, widespread and egregious human rights abuses, it is an issue all Australians can agree on.

²¹ The UN Global Compact was launched in 2000 and is the leading global voluntary initiative for corporate social responsibility and sustainability, including business and human rights. The UN Global Compact has over 9000 business signatories in 162 countries, including some of Australia’s largest companies.

²² The Australian Business Pledge against Forced Labour is an initiative of the Retail and Supplier Roundtable Sustainability Council, an industry-led forum for collaborating on sustainability practices. Signatories to the Pledge include Woolworths, Big W, Simplot, Ingham’s and Goodman Fielder.

²³ Mr Andrew Forrest AO, Chairman and Founder, Walk Free Foundation, *Committee Hansard*, Sydney, 23 June 2017, p.2.

Hagar strongly supports the implementation of the *NSW Modern Slavery Act* as soon as possible, as an important step forward for New South Wales to demonstrate its commitment to combatting slavery. The Act has the potential to set a gold standard in eradicating modern slavery and inspire other jurisdictions within to follow suit.

Hagar Australia urges the NSW Government to take up this mantle and model a collaborative effort across government, business and civil society by influencing consumer and corporate behaviours.

There is no doubt that slavery is a complex issue to tackle but this should spark innovation and determination, rather than despair. We need legislation that is more than words on paper and we need research, evidence, investment, different perspectives, and creative thinking to tackle this issue in new ways.

Hagar welcomes the *NSW Modern Slavery Act* as legislation that has listened to different perspectives and included benchmarks to strengthen Australia's efforts to tackle slavery. We urge the Standing Committee to remain steadfast to the original intent of the Act and to make recommendations that strengthen the legislation and ensure justice for survivors of slavery.