



AUSTRALIAN CATHOLIC
**ANTI-SLAVERY
NETWORK**

Inquiry into the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 [Provisions]

Senate Legal and Constitutional Affairs Legislation Committee

**Submission by Domus 8.7 and the Australian Catholic Anti-slavery Network
(ACAN)**

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Introduction to the Australian Catholic Anti-slavery Network (ACAN)

As one of the largest employers in Australia, the Catholic Church is in a pivotal position to lead the momentum for change on this critical issue. More than five million people across Australia identify as Catholic. Schools, hospitals, aged care facilities, social services, universities, finance and investment are just some of the Catholic institutions which touch the lives of millions of Australians regardless of their faith.

One in five Australian children are educated in Catholic schools (approximately 800,000 students) and on a typical day, one in ten hospital patients and aged care residents receive care in Catholic health facilities.

The major exposure to modern slavery of the Church in Australia is related to procurement decisions - the buying of goods and services and investments. A key factor driving change in relation to modern slavery in Australia has been the introduction of the Modern Slavery Act 2018 (Cth) hereafter referred to as the Act.

The Sydney Archdiocesan Anti-Slavery Taskforce initiated coordination of Catholic entities covered by the Act in March 2019 and established the ACAN modern slavery risk management program (ACAN Program).

Over 95 Catholic entities participate in the ACAN Program with modern slavery risk management activities recorded in 41 Modern Slavery Statements. Ten of these entities submit Modern Slavery Statements despite having annual revenue below the reporting threshold, in solidarity with Catholic reporting entities, through their commitment to build strong culture and practice to assess and address the risk of modern slavery in their operations and supply chains.

ACAN is supported by peak associations, the Australian Catholic Bishops Conference, National Catholic Education Commission, Catholic Schools NSW, Catholic Education Western Australia, Catholic Education Commission of Victoria, Catholic Health Australia and Catholic Social Services Australia.

The protection of the dignity of workers everywhere is fundamental Catholic Social Teaching and ACAN entities are united in their commitment to act against modern slavery.

In 2021, in a message for the International Day of Prayer and Reflection against Trafficking in Persons, Pope Francis called for an economy of care, courage, and the promotion of justice aimed at building a society that puts the human person at the centre.

"An economy without human trafficking is an economy of care. An economy of care is also one that cares for work, creating employment opportunities that do not exploit workers through degrading working conditions and gruelling hours." Pope Francis

By adopting the Pope Francis-inspired United Nations Sustainable Development Goal (SDG) 8.7, Australia and 190 other nations pledged to end modern slavery by 2030. ACAN aspires to help the Australian Government to meet Australia's international obligations under SDG 8.7.

The ACAN Program anticipates the evolving needs of Catholic entities as their response matures from policy to embedding practice in procurement processes and procedures.

Fostering capacity and capability of staff to implement processes to identify and mitigate modern slavery risks is a substantial Catholic board and management undertaking assisted by the ACAN Program.

Moe Turaga is a Fijian-Australian man who is a modern slavery survivor consultant for ACAN.

Mr Turaga has provided the following statement in support of the ACAN submission.

“There are thousands of people in Australia picking and packing our food every day whose experience of work is harsh and relentless. They have no access to Medicare or other services most Australians have. They certainly do not enjoy the same workplace pay and conditions as the rest of us – and some are working in slavery-like conditions.”

“As a person who experienced deceptive recruitment and modern slavery myself, in 2017, I gave evidence at the Commonwealth Inquiry into Establishing a Modern Slavery Act for Australia. My story is part of the official record in the Hidden in Plain Sight report.

“In telling and re-telling my story since then, I suppose I’ve become something of a human face of the campaign against modern slavery.

“Since I began sharing my story, I have been contacted non-stop by many people, particularly migrant workers, with stories of abuse.

“I think the current estimate of 41,000 people in Australia living in modern slavery is conservative, and the actual numbers are likely to be much higher.

“I was personally elated when the Modern Slavery Act passed into law in the last hours of the last sitting day of Parliament in December 2018. It’s now been over five years since the Modern Slavery Act passed and despite everyone’s great efforts I think awareness remains a huge challenge.

“The Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 is an important step forward.

“In my work as part of NSW Anti-Slavery Commissioner’s Advisory Panel I’ve seen firsthand how a public advocate can improve awareness and collaboration about modern slavery and how it works its way into supply chains and operations.

“I believe the NSW Anti-Slavery Commissioner is making an impact, and that the NSW role is a good starting point for the Commonwealth to base a national role.

“People who are struggling in situations of modern slavery and the people who are trying to help them really need to feel someone from the federal government is in their corner.”

“Clearer pathways and remedies for people escaping modern slavery, greater accountability across supply chains, and giving survivors a voice are all achievable benefits of a federal Anti-Slavery Commissioner.”

ACAN submits the following recommendations to the Review of the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 [Provisions] (the Bill). These recommendations represent a vital step to strengthen the Act and grant sufficient authority and accountability to the role of Australian Anti-Slavery Commissioner (the Commissioner).

The ACAN recommendations are drawn from:

1. Responses to survey questions completed by Catholic entities.
2. The expertise and experience of ACAN Program Managers: Alison Rahill, Jenny Stanger, Carsten Primdal and Laura Giassetti.
3. Recommendations contained in the *Hidden in Plain Sight Report*¹ - *An inquiry into establishing a Modern Slavery Act in Australia*.

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1 – establish the role

ACAN supports the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 for the establishment of an Australian Anti-Slavery Commissioner.

The Commissioner should have the budget, powers and function to administer and enforce the reporting requirements in the Modern Slavery Act across government, business and non-profit reporting entities. Administration of the Act should reside with the Anti-Slavery Commissioner.

RECOMMENDATION 2 – measure effectiveness of response

Amend the Bill to require the Anti-Slavery Commissioner to monitor and report on the impact and effectiveness of the response to modern slavery. Specifically, the legislation should provide the Commissioner with the authority to collect, analyse, interpret and disseminate information relating to modern slavery, and effectiveness and impact of responses to modern slavery.

RECOMMENDATION 3 – develop codes of practice

Amend the Bill to enable the Anti-Slavery Commissioner to develop codes of practice for the purpose of providing guidance in identifying modern slavery within the supply chains of entities.

RECOMMENDATION 4 – specify reporting in Statements on particular goods or services

Amend the Bill to enable the Anti-Slavery Commissioner to have the power to specify that certain goods or commercial activities be reported in Modern Slavery Statements as global issues arise.

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https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Modern_Slavery/Final_report

RECOMMENDATION 5 – public procurement

Amend the Bill to enable the Anti-Slavery Commissioner to drive best practice in public procurement.

RECOMMENDATION 6 – responsibility for people impacted by modern slavery

Amend the Bill specifically for the Anti-Slavery Commissioner to have powers and resources to ensure people impacted by modern slavery crimes are identified and have access to best practice remediation response.

RECOMMENDATION 7 – review of the Act

Amend the Bill to provide the Anti-Slavery Commissioner with the authority and resources to undertake the following functions:

- **Responsibility for undertaking the statutory review of the Act**
- **Review the effectiveness of, and possible changes to, the Act and other measures to mitigate the risk of modern slavery.**
- **Review the operation of supply chain reporting requirements and the Australian Government’s online Modern Slavery Statements Register, the revenue threshold level, penalties and compliance measures and the prescribed reporting requirements.**

RECOMMENDATION 1 – establish the role

ACAN supports the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 for the establishment of an Australian Anti-Slavery Commissioner.

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The results of a survey of Catholic entities show over 80% support for the appointment of a Commissioner. Catholic entities were asked to respond to the following survey question in 2022:

Qu: The appointment of an Independent Anti-slavery Commissioner would:

- *raise awareness about modern slavery in Australia*
- *drive better practice and collaboration to mitigate modern slavery in Australian operations and supply chains.*

Results of Survey question about the appointment of a Commissioner:

- Strongly agree, 18.75%
- Agree, 62.50%
- Neither agree nor disagree, 14.58%
- Disagree, 2.08% and
- Strongly disagree, 0%

A Commissioner could also drive continuous improvement by:

- Being a leading stakeholder in developing and implementing best practice across public sector procurement.
- Reviewing Modern Slavery Statements that have been referred to the Commissioner's Office for non-compliance by third parties. This function should include such powers as required to direct entities to resubmit Modern Slavery Statements. This would improve the quality of reporting.

RECOMMENDATION 2 – measure effectiveness of response

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In measuring our own effectiveness and to demonstrate our own continuous improvement, the ACAN Program collects, analyses and publishes aggregated baseline data in our annual ACAN Executive Summary submitted with the ACAN Compendium of Modern Slavery Statements.

The ACAN Program also provides all Catholic entities an end of year reporting pack with baseline data to include in Modern Slavery Statements.

The most recent [ACAN Executive Summary baseline data table](#) has facilitated consistent reporting on risk management activities, allowing us to demonstrate continuous improvement, and to develop key performance indicators. The ACAN Program analyses over 500 data collection points and includes the following aggregated data on supplier engagement activities across Catholic entities:

1. Total number of suppliers
2. Suppliers across high-risk categories
3. Completed ACAN Supplier Surveys
4. Suppliers attending capacity building webinars
5. Suppliers invited to join Sedex
6. Supplier who have joined Sedex
7. Sedex SAQ completed
8. Social audits conducted
9. Corrective actions

A Commissioner should have the authority and resources available to issue meaningful reports across all reporting entities.

RECOMMENDATION 3 – develop codes of practice

Amend the Bill to enable the Anti-Slavery Commissioner to develop codes of practice for the purpose of providing guidance in identifying modern slavery within the supply chains of entities.

By way of example, in 2023 the NSW Anti-slavery Commissioner issued a discussion paper Code of Practice for the renewable sector²:

“Public procurement: NSW public buyers that purchase renewable energy, specifically photovoltaic solar power, are likely to be directed, by the forthcoming Anti-slavery Commissioner’s Guidance on Reasonable Steps, to undertake heightened due diligence and reporting, in order to meet their legal obligation to take “reasonable steps” to ensure they are not buying goods and services made with modern slavery. That Guidance is expected to direct reporting entities to conform with any Code of Practice issued by the Anti-slavery Commissioner pursuant to section 27 of the NSW Act.”

The NSW Anti-Slavery Commissioner part 3 Supply Chains Section 27 Codes of Practice:

- (1) *The Commissioner may develop, and make publicly available, codes of practice for the purpose of providing guidance in identifying modern slavery taking place within the supply chains of organisations and steps that can be taken to remediate or monitor identified risks.*
- (2) *A code of practice may refer to or incorporate, with or without modification, a standard or*

² <https://dcj.nsw.gov.au/documents/legal-and-justice/anti-slavery-commissioner/renewables-code-of-practice-discussion-paper.pdf>

other document prepared or published by a body specified in the code, as in force at a particular time or from time to time.

In the absence of a Commissioner creating a code of practice in relation to goods with an inherent high risk of forced labour, responsibility for due diligence is relegated to importers and customers.

Goods manufactured overseas make up a significant proportion of goods supplied to Catholic entities.

The following figures are not reflective of dollar value or volume, however, of 969 suppliers participating in a Supplier Survey identified as sales and distribution. Suppliers' responses to the question "*In which country or countries are the good(s) made?*", were as follows:

- 568 suppliers (59%) responded that the goods are manufactured in China
- 109 suppliers (11.55) responded that the goods are manufactured in India
- Over 50 countries were identified

RECOMMENDATION 4 – specify reporting in Modern Slavery Statements on particular goods or services

Amend the Bill to enable the Commissioner to have the power to specify that certain goods or commercial activities be reported in Modern Slavery Statements as global issues arise.

By way of example, the 3rd ACAN Executive Summary included analysis of the results from a Sedex Self-Assessment Questionnaire, which indicated a potential high-risk pattern in the procurement of labour services by Catholic entities.

A focus on suppliers of labour hire services revealed data requiring action, strategies for deeper engagement and risk mitigation:

- 34% of suppliers engage in subcontracting to other suppliers
- 39% of suppliers do not have contracts in place with workers
- 40% of suppliers engage workers through precarious employment contracts

The implications of these findings by ACAN show a high-risk of labour exploitation in the procurement of labour services. The absence of formal employment contracts for workers and the prevalence of subcontracting and non-permanent contracts place both the suppliers and Catholic entities at risk of being associated with modern slavery.

The ACAN Program response to identified risks, has been the development of additional resources to address and mitigate the risk of workers exploitation in the operations of Catholic entities. ACAN also participates in the Cleaning Accountability Framework (CAF) as a response to a focus on the procurement of cleaning services.

RECOMMENDATION 5 – public procurement

Amend the Bill to enable the Anti-Slavery Commissioner to drive best practice in public procurement.

A useful point of reference would be the authority provided to the NSW Anti-Slavery Commissioner under NSW Modern Slavery Act 2018³ *Division 2 Functions of Commissioner 9 General functions of Commissioner:*

(1) The functions of the Commissioner are as follows—

(e) to monitor reporting concerning risks of modern slavery occurring in supply chains of government agencies,

(f) to monitor the effectiveness of legislation and governmental policies and action in combating modern slavery,

And Part 3 Supply Chains - Section 25 Government agency procurement:

*The Commissioner must regularly consult with the Auditor-General and the NSW Procurement Board to **monitor the effectiveness of due diligence procedures** in place to ensure that goods and services procured by government agencies are not the product of modern slavery.*

Anecdotal evidence from suppliers to Catholic entities suggests the expectations and requirements of modern slavery risk management are driven primarily by privately operated facilities and independent schools. This has created a two-tiered system of buyer expectations, one with modern slavery controls and one without (public procurement).

The efforts of Catholic entities would be amplified with major suppliers in the healthcare and education sectors if equivalent or parallel government programs existed. Supplier engagement activities conducted by Catholic entities would be more effective if government procurement referenced included ineligibility for government tenders, contracts, funding or grants for non-compliance.

Catholic entities response to the ACAN Survey question "*should the Australian Government require greater accountability for compliance with the Act by introducing: Sanctions such as: ineligibility for government tenders or contracts for non-compliance accountability for government funding or grants for non-compliance fines for repeat offenders*"

75% of ACAN entities supported one or more of the sanctions and 25% support the status quo.

A Commissioner should have the authority to set standards for public procurement. A Commissioner is vital to drive improvement with public procurement policy, practice, procedure and reporting of risk management activities.

³ <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2018-030>

RECOMMENDATION 6 – responsibility for people impacted by modern slavery

Amend the Bill specifically for the Anti-Slavery Commissioner to have powers and resources to ensure people impacted by modern slavery crimes are identified and have access to best practice remediation response.

By way of example, the NSW Anti-Slavery Commissioner has important functions and authority in relation to people impacted by modern slavery:

Division 2 Functions of Commissioner

Section 14 Co-operation between the Commissioner and New South Wales agencies:

(1) Government agencies of the State and persons and bodies that provide services to, or advocate for, victims of modern slavery in the State must work in co-operation with the Commissioner in the exercise of the Commissioner’s functions.

(2) The duty to co-operate includes the following duties—

(a) the duty to disclose information that is likely to be of assistance to the Commissioner or an agency in the exercise of functions imposed on the Commissioner or agency with respect to modern slavery and victims of modern slavery,

(b) the duty to provide reasonable assistance and support to the Commissioner or an agency in connection with the exercise by the Commissioner or an agency of functions with respect to modern slavery and victims of modern slavery.

(3) Arrangements may be made by the Minister with the Minister to whom a government agency is responsible to secure such co-operation, including in connection with the provision by the agency of information (or access to documents) required by the Commissioner in relation to services or issues affecting the victims

Division 2 Functions of Commissioner Section 9 General functions of Commissioner

(1) The functions of the Commissioner are as follows—

(b) to identify and provide assistance and support for victims of modern slavery

(c) to make recommendations and provide information, advice, education and training about action to prevent, detect, investigate and prosecute offences involving modern slavery

(d) to co-operate with or work jointly with persons and organisations to combat modern slavery and provide assistance and support to victims of modern slavery

Improving policy and procedures to identify and support remediation for people impacted by modern slavery is also outlined in the Hidden in Plain Sight Report Chapter 4 – Independent Anti-Slavery Commissioner Recommendation 6 (4.59):

- *Improve coordination between criminal justice agencies in identifying and prosecuting modern slavery cases.*
- *Provide independent oversight of the response to modern slavery across all sectors, and identify gaps and solutions.*
- *Work with various agencies, law enforcement bodies, prosecutors and others to increase the identification and reporting of modern slavery crimes, and to bolster the prosecution rates for modern slavery offences.*

The Bill should be amended to include the authority for the Commissioner, as outlined in *Hidden in Plain Sight Report* Recommendation 7 (4.62), to undertake a legislated review of:

- The appropriateness of, and prosecution levels for, offences under Divisions 270 and 271 of the Criminal Code.
- Further support measures for victims of modern slavery, including the need for specific risk and prevention orders.
- Australia's visa policies and their potential to create vulnerability for modern slavery.

RECOMMENDATION 7 – review of the Modern Slavery Act

Amend the Bill to provide the Commissioner with the authority and resources to undertake the following functions:

- **Responsibility for undertaking the statutory review of the Modern Slavery Act**
- **Review the effectiveness of, and possible changes to, the Act and other measures to mitigate the risk of modern slavery.**
- **Review the operation of supply chain reporting requirements and the Australian Government's online Modern Slavery Statements Register, the revenue threshold level, penalties and compliance measures and the prescribed reporting requirements.**