

Submission to the Review of Australia’s *Modern Slavery Act (2018)*

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This submission has been informed by data collected through the following research methods:

- A **focus group discussion with five individuals with lived experience of modern slavery**, facilitated on the 2nd of October 2022 in collaboration with the Australian Red Cross (Survivor FGD).
- A **focus group discussion with seven representatives from six not-for-profit *Modern Slavery Act (2018)* reporting entities**, facilitated on the 13th of September 2022 in collaboration with the Australian Red Cross (NFP Reporting Entity FGD);
- A **survey on modern slavery with 1068 Australian consumers**, collaboratively designed with and run by CHOICE, Australia’s leading consumer advocacy group, between the 7th and 19th of September 2022. The data has been weighted to ensure it is representative of the Australian population based on the 2016 ABS Census data on age, state, gender, household income and education levels (Consumer Survey).

Ethics approval has been granted by the University of South Australia Human Research Ethics Committee for a doctoral research project which is inclusive of the above data collection methods.

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Introduction

“Modern slavery laws help the exploited victims to get justice and help them get their freedom and live a better life.”

- Participant of Survivor FGD

The Australian Government’s Commonwealth *Modern Slavery Act (2018)* (the Act) falls far short of what those with lived experience of modern slavery (survivors) see a law addressing modern slavery should do. Despite its name, the Act does not address the multitude of diverse exploitative practices that it legally defines as forms of ‘modern slavery’. Unfortunately, it does not help people who have experienced modern slavery to get freedom, justice and to live a better life.

There is also a significant disconnect between what the Act does, and what survivors think it does. When asked what they know about the Act, survivors identified the Act as containing “*a serious criminal offense*” against modern slavery as well as measures to protect people who are exploited and encourage workers to raise their voice. Although the Act seeks to address modern slavery occurring in global business operations and supply chains, it does not make it a criminal offense for businesses to use exploited labour that constitutes modern slavery. Nor does it contain provisions for the protection of victims or to create safe avenues for workers to report concerns. Instead, the Act aims to simply ‘increase business and government awareness of these modern slavery risks and support entities to identify, report and address the risks’¹. It does this through a ‘transparency framework approach’, mandating public reporting by certain entities through modern slavery statements.

When shown an example of a modern slavery statement produced by a reporting entity complying with the Act, a survivor assumed that the information contained in it was intended for workers. As someone who had been exploited within a commercial environment, it made sense to them that such statements would contain information about workers rights and entitlements and reporting pathways for workers to follow when these are not met. Modern slavery statements don’t do this. They are not intended as information for workers, but instead for consumers and other stakeholders who may be interested in knowing which entities are ‘doing the right thing’. However, a Consumer Survey found that the overwhelming majority of Australian consumers have never read a modern slavery statement.

It’s very difficult to ascertain from statements what is ‘the right thing’ and which entities are indeed doing it. Far too many statements discuss risks to modern slavery as abstract constructs, things entities condemn but can’t connect to any real human impact or to any of their business practices. However, the human impact of the diverse forms of exploitation labelled ‘modern slavery’ is well known. The methods used to exploit workers by private enterprise and by states are well known. The profit achieved for businesses and governments through the exploitation of workers, is also well known. These things are not ‘hidden in plain sight’ and never have been. They can be clearly seen if we choose to look.

Despite the significant resources that have been invested into implementing and adhering to the Act over the past 3 years, it has failed to have a measurable positive impact on the lives of those affected by modern slavery. Therefore, the belief underpinning the current ‘transparency framework’ approach of the Act, that mandating business transparency will instigate a ‘race to the top’, must be abandoned. A new approach, and a true commitment to reversing the role that business has played in the proliferation of labour exploitation in Australia and globally, is urgently required.

¹ Australian Government, 2022, *Review of Australia’s Modern Slavery Act 2018 - Issues Paper*, p. 6.

Summary of Findings

The impact of the Act

- The Act lacks an associated monitoring and evaluation framework to be able to assess and measure the impact and effectiveness of the regulatory method it employs.
- It is believed that the Act has raised awareness of modern slavery within reporting entities, which is perceived as being positive, however any impact of this increased awareness is unclear.
- The Act has not had any measurable positive impact on the lives of those affected by modern slavery.

The effectiveness of the transparency framework approach

- The transparency framework approach is ineffective in confronting and addressing modern slavery threats as it does not address the drivers of modern slavery, many of which are structurally embedded within the functioning of the global economy and systems of global migration.
- The Act's over-reliance on business reputation as a compliance incentive and lack of alternative enforcement mechanisms contribute to its ineffectiveness.
- For many businesses, fear of a bad reputation is more powerful than a desire for a good one, and a fear of being linked to modern slavery can drive a 'cover up' culture.
- A sole reliance on self-reporting and a lack of means to verify information has meant that the quality and accuracy of the supposed 'transparency' achieved through the Act is unreliable.

The role expected of consumers

- The transparency framework approach is not an effective method of engaging consumers in efforts to address modern slavery or utilising consumer power to regulate business. Relying on increased consumer support to incentivise ethical business practice does not work as there are many barriers which prevent consumers from using business 'transparency' to inform their purchasing decisions.
- There is a lack of awareness of modern slavery and the Act within the Australian community, which limits the role that Australians can play in helping to prevent modern slavery as both community members and consumers.
- Consumers feel it is difficult to determine which businesses and products or services are 'ethical'. Modern slavery statements are not valuable to consumers and cannot be used to ascertain a business's level of complicity in modern slavery.
- Consumers are prioritising other factors, such as price, value for money and environmental sustainability, over worker welfare when choosing the products and services they buy.
- An entities disclosure of modern slavery risks can have the opposite effect on consumers than the Act intends, as the connection between a company or product and modern slavery in the media can lead to consumers boycotting that company or product.
- Australians see that the government is responsible for ensuring products and services sold to them are not made using exploited workers and expect businesses to be regulated accordingly.

The importance of engaging, empowering and listening to workers

- Workers themselves should be placed at the centre of efforts to reduce labour exploitation.
- 'Top down' methods like lead companies asking suppliers for information and auditing workplaces must be accompanied by 'bottom up' methods which engage with, educate and empower workers.
- Workers are the best source of truth as to what labour conditions are like within a workplace, therefore speaking directly with them is essential. Listening to workers can help to counteract a 'cover up' culture which is common within businesses where exploitation occurs.
- Workers need to feel safe to report to independent parties, including police and other first responders, when something goes wrong to ensure their safety and wellbeing.

The impact of the Act

Key points:

- **The Act lacks an associated monitoring and evaluation framework to be able to assess and measure the impact and effectiveness of the regulatory method it employs.**
- **It is believed that the Act has raised awareness of modern slavery within reporting entities, which is perceived as being positive, however any impact of this increased awareness is unclear.**
- **The Act has not had any measurable positive impact on the lives of those affected by modern slavery.**

When considering the first consultation question of the review's issues paper, *'Has the Modern Slavery Act had a positive impact in the first three years?'*, a key problem arises, being that the Act lacks an associated monitoring and evaluation framework to be able to assess and measure the impact and effectiveness of the regulatory method it employs. Government reporting, as required by *Section 23A* of the Act, to-date has been entirely descriptive, with no methodology or measurements established to monitor and evaluate effectiveness or impact of the legislation. The implementation of the Act is part of the government's broader modern slavery strategy, as outlined in the *National Action Plan to Combat Modern Slavery 2020-2025* (NAP). However, the NAP also lacks a monitoring and evaluation framework, despite being over halfway through its implementation period. In the absence of this, it's difficult to ascertain what impact the Act has indeed had in its first three years of implementation.

Some research participants identified a belief the Act has raised awareness of modern slavery within reporting entities, which was perceived as being positive. Indeed, awareness raising appears to have been a primary objective of government in implementing the Act to-date, with two out of four of the government's key work streams dedicated to raising awareness of the Act itself and of best-practice responses to modern slavery². However, any impact of this increased awareness is unclear. Despite any supposed increased awareness within reporting entities, a third-party review of reporting under the Act found there remains a 'shocking gap in corporate understanding of both the problem of modern slavery in supply chains and what are effective and sustainable co-ordinated responses to address it'³. Another review found that companies are failing to identify or disclose obvious modern slavery risks⁴. In lieu of such findings, it is hard to see that any perceived increased awareness has had a positive impact.

There was also wide recognition by research participants that the Act is yet to have any measurable positive impact on the lives of those affected by modern slavery. NFP Reporting Entity FGD participants all shared this sentiment which was summarised by one person's response to the first consultation question, *"I think it's done a bit to raise awareness but if I think about positive impact, and I think impact for victims, I don't really think it's had an impact for victims or survivors of modern slavery yet"*. In considering if 'awareness raising' was an acceptable outcome so far and the future of the legislation, one participant stated *"I wouldn't see it as being a positive impact just staying at that level. I would definitely need to see an actual impact on the for the victims."* Another participant agreed

² See the first and second key work steam; The Australian Government, 2021, *Implementing the Modern Slavery Act 2018 The Australian Government's Annual Report 1 January 2020–31 December 2020*, p. 5

³ International Justice Mission Report, 2022, *Spot Fires in Supply Chain - An analysis of Australian corporate modern slavery statements and recommendations for extinguishing risk through protecting workers in South Asia*, p. 2.

⁴ Sinclair, A & Dinshaw, F, 2022, *Paper Promises? Evaluating the early impact of Australia's Modern Slavery Act*, p. 2.

that although awareness raising was a positive thing, it didn't necessarily mean the Act has had a positive impact, sharing their thoughts that *"in terms of impact, I'm not convinced yet whether it actually has had a positive impact in the first three years."*

The effectiveness of the transparency framework approach

Key points

- **The transparency framework approach is ineffective in confronting and addressing modern slavery threats as it does not address the drivers of modern slavery, many of which are structurally embedded within the functioning of the global economy and systems of global migration.**
- **The Act's over-reliance on business reputation as a compliance incentive and lack of alternative enforcement mechanisms contribute to its ineffectiveness.**
- **For many businesses, fear of a bad reputation is more powerful than a desire for a good one, and a fear of being linked to modern slavery can drive a 'cover up' culture.**
- **A sole reliance on self-reporting and a lack of means to verify information has meant that the quality and accuracy of the supposed 'transparency' achieved through the Act is unreliable.**

In response to the second consultation question from the government's issues paper, *'Is the 'transparency framework' approach of the Modern Slavery Act and effective strategy for confronting and addressing modern slavery threats, including the drivers of modern slavery?'*, research participants generally felt that the transparency framework approach is not an effective strategy. This was because it does not require any action to specifically address, stop or reverse the drivers of modern slavery, many of which are structurally embedded within the functioning of the global economy and systems of global migration. NFP reporting entities all agreed that there was no evidence to suggest the approach has proved to be an effective strategy so far. One participant summarised the group sentiment by saying *"it's difficult to see where the effectiveness of transparency comes from"*. They also felt it was unlikely it would prove to be effective in future since the drivers of modern slavery are complex and *"structurally embedded in cultures and economies and frameworks of different countries and jurisdictions and regions"*. Root causes of modern slavery such as poverty and inequality mean workers who migrate to secure economic opportunities not available to them in their country are highly vulnerable to being exploited. As explained by a survivor, *"A farmer who is on the farm in a third world country like where I'm from, I know their life was not easy. They don't have much income, so... I believe if they could come here to work, even the worst condition, [they would] make this decision to come here"*. Immigration systems and labour migration programs can also increase the vulnerability of migrants to exploitation. As explained by a survivor, *"where you need to have a visa to be in Australia you are going to do whatever is required"* and as shared by another survivor, *"sometimes you're afraid to report, because you might going to lose the job, you might be going to lose your visa"*. The Act does not address such well-known and evidenced root causes of modern slavery or factors which can increase a worker's vulnerability to experiencing exploitation. It is also well established that workers who are most at risk of experiencing exploitation are usually employed with entities operating multiple tiers deep within the supply chains of western businesses. The Act however does not require businesses to explicitly engage with these tiers.

The transparency framework approach is built upon an assumption that reputation is important to businesses and leveraging this reputation by mandating transparency will lead to more ethical behaviour. The importance of public reputation was generally accepted by research participants as being true for large entities. As one survivor explained, *"the big firm always try to protect their face"*.

However, survivors spoke of the importance of also recognising the role of small businesses in the exploitation of workers. *“Small businesses like the family businesses, they do a lot of things which are not acceptable as well. It's not just in the large organization.”* They felt that this reputational incentive wasn't the same for small businesses. As explained by a survivor, *“for the large organization they intend to keep what they stay on the statement because of their name as well. But I'm not sure if this will work for this small organization, you know, and because when you are small, not everybody pay attention to you”*. NFP reporting entities also raised concerns with the Acts over-reliance on reputation as a compliance incentive and the absence of any communication from government as to which entities are responding well and which ones are not. One participant explained that *“there are lots of academic papers and other organizations reviewing statements but nothing that's actually come out to formally rebuke or make clear who there is or isn't meeting those obligations”*. Participants agreed that a lack of criminal, civil or financial penalties or alternative enforcement mechanisms meant that the act essentially had *“no governmental teeth behind it”*, and therefore relied entirely on good faith of businesses to voluntarily do the work, which as a result, they felt many are not.

The transparency framework intends to instigate a 'race to the top', by leveraging businesses desire for a good reputation to attract consumer and investor support. However, research participants generally felt that the fear of a bad reputation is a much stronger incentive for business than a desire for a good one. Survivors felt that when businesses publicly state that they treat their workers well and are then found to have exploited them, they break a promise with the public and this can hurt their reputation and can lead to a loss of income. As explained by a survivor, when a situation of exploitation is brought to light by the media *“people go back to what they promise and that hurts them most”*. Therefore, it is believed that the fear of being found to be exploiting workers is what businesses are most concerned about, rather than competing to be seen as the most ethical. However, this fear of being linked to modern slavery can drive a 'cover up' culture within businesses. As explained by a survivor *“there is a lot of things hiding under the carpet”*. It was felt that businesses are not likely to report instances of modern slavery publicly because as well as risking their public reputation, they may also risk losing workers and in turn, productivity.

For transparency to triumph over such a 'cover up' culture, there must be mechanisms for verifying and ensuring accountability for information that is collected and made 'transparent'. However, NFP reporting entities raised several issues related to the Act. Participants felt the Act's sole reliance on self-reporting and lack of means to verify information has meant that the quality and accuracy of the information disclosed by reporting entities is unreliable, and often questionable. One participant summarised this point through their comment that *“I've read a lot of modern slavery statements of organizations and they are works of fiction”*. Expanding on these concerns, participants explained they felt *“there's a lot of information gathering and not necessarily any verification happening”*. However, participants also identified challenges they themselves have experienced in verifying information received from suppliers due to a lack of resources and capacity, with one participant sharing that *“there's no actual holding anybody to account to verify info, because it's so hard to do”*.

The role expected of consumers

Key points:

- **The transparency framework approach is not an effective method of engaging consumers in efforts to address modern slavery or utilising consumer power to regulate business. Relying on increased consumer support to incentivise ethical business practice does not work as there are**

many barriers which prevent consumers from using business ‘transparency’ to inform their purchasing decisions.

- There is a lack of awareness of modern slavery and the Act within the Australian community, which limits the role that Australians can play in helping to prevent modern slavery as both community members and consumers.
- Consumers feel it is difficult to determine which business and products or services are ‘ethical’. Modern slavery statements are not valuable to consumers and cannot be used to ascertain a business’s level of complicity in modern slavery.
- Consumers are prioritising other factors, such as price, value for money and environmental sustainability, over worker welfare when choosing the products and services they buy.
- An entities disclosure of modern slavery risks can have the opposite effect on consumers than the Act intends, as the connection between a company or product and modern slavery in the media can lead to consumers boycotting that company or product.
- Australians see that the government is responsible for ensuring products and services sold to them are not made using exploited workers and expect businesses to be regulated accordingly.

The Act’s transparency framework approach relies on the idea that information disclosed by entities will be assessed by stakeholders and used to reward entities ‘doing the right thing’ and punish those that are not. The Act aims to ‘drive a race to the top’ by enabling businesses to compete for ‘market funding’ and investor and consumer support⁵. In justifying this objective, the Government’s rationale is that ‘the market will reward entities that adopt a best-practice approach to compliance’, giving the example that consumers may use modern slavery statements to inform their purchasing decisions⁶. Indeed, a specific aim of the Act is to assist ‘consumers to make more informed decisions when using, buying and selling goods and services’⁷. However, there is no evidence to suggest that this is occurring or is likely to occur, and instead there are many barriers which prevent consumers from fulfilling this role expected of them. These include a lack of awareness within the Australian community of modern slavery and the Act itself, the difficulty consumers experience in determining which businesses and products or services are ethical and competing consumer priorities. Therefore, relying on increased consumer support to incentivise business compliance with the Act is not effective and is very unlikely to be effective in the future. Indeed, consumers may respond to information disclosed by reporting entities in the opposite way the Act intends, choosing to boycott businesses who disclose modern slavery risks. The transparency framework approach is not an effective method of engaging consumers in efforts to address modern slavery or utilising consumer power to regulate business. Australians expect strong regulation to be in place to ensure the products and services sold to them are not made using exploited workers.

Awareness and understanding

There is a lack of awareness of modern slavery, the Act, and modern slavery statements within the Australian community which limits the role that Australians can play in helping to prevent modern slavery as both community members and consumers. The consumer survey component of this research found that approximately 1 in 4 people believe slavery does not exist in Australia. It also found that almost 80% of Australians have never heard of the Act. The majority of those that have heard of the Act only have a limited understanding of it, and only 7% of Australians have ever engaged with modern slavery statements. This is despite an objective of the government’s key work stream in

⁵ Modern Slavery Bill 2018, *Explanatory Memorandum*, p. 2

⁶ Department of Home Affairs 2018, *Submission 79 - Submission to the Senate Legal and Constitutional Affairs Legislation Committee Inquiry into the Modern Slavery Bill 2018*, p. 6

⁷ Modern Slavery Bill 2018, *Explanatory Memorandum*, p. 2

implementing the Act being to assist consumers to understand the purpose of the Act and how modern slavery can manifest in supply chains⁸.

There are also several misperceptions that exist within the community related to workers most at risk of experiencing modern slavery. The survey found that almost half of Australians believe that migrants in Australia on work visas don't have the same rights as workers who are Australian citizens. These misperceptions extend to the way in which Australian's view the issue of modern slavery from the perspective of a consumer, as 13% believe that high risk products including clothing, shoes, coffee, mobile phones, tea, rice, computers and chocolate are not made using exploited workers and 11% believe that high risk industries such as textiles, domestic service, agriculture, hospitality, building and construction do not exploit workers.

The entities which the Act applies too are very diverse and consist of businesses operating in both consumer facing and non-consumer facing industries. The assumption within the Act that competition for consumer support will incentivise ethical businesses practice applies equally to all entities, including not-for-profit ones. However, the survey found that consumers have a much greater awareness of the existence of worker exploitation within traditional consumer facing industries such as textiles and electronics than in non-traditional consumer facing industries such as renewable energy. For example, 69% of consumers identified clothing as a product that came to mind when they thought of worker exploitation, whereas only 1% identified solar panels as coming to mind. This is despite the widespread reporting of global production of solar panels using forced labour from China's Uyghur Muslims in Xinjiang province.

If Australian's are unaware of the prevalence of slavery in their own community or how it may be present in the making of the goods and services they consume, it is unlikely they will consider it as an issue that needs addressing and what role they can play in doing so.

Difficulty in determining business and product/service ethics

Although there is a belief from some Australians that what they choose to buy can make a difference, the consumer survey found that 3 out of 4 feel it is difficult to identify which products and services are ethical. As explained by a survey respondent, "*as a consumer it is difficult to determine whether products are ethically produced*". A survivor further explained that as there are risks to modern slavery in the supply chains of all major companies, it's very difficult for consumers to decide which ones are "better".

The information contained in modern slavery statements is generally not seen as being of value to consumers as it cannot be used to ascertain the degree in which a business causes or contributes to modern slavery. Modern slavery statements are too long, and the information they contain is too complex, to have meaning for the average person. In addition, as the statements are produced by businesses themselves, they are generally not seen as trustworthy sources of information. Almost half of Australian consumers do not trust businesses to make sure the products and services they sell are ethical. This lack of trust was expressed by a survivor who, after viewing two entities modern slavery statement, said "*not everything what they say, it's true*". Consumers feel that businesses are not likely to self-report instances of modern slavery, or to honestly disclose the ways in which they may cause or contribute to modern slavery because of how doing so may damage their reputation.

⁸ See second key work stream; The Australian Government, 2021, *Implementing the Modern Slavery Act 2018 The Australian Government's Annual Report 1 January 2020–31 December 2020*, p. 5

The survey also found that 84% of Australians believe businesses should be required to report when they or their suppliers are found to have been using slave or child labour. This type of transparency was considered to be useful to the community from the perspective of both workers and consumers, as explained by a survivor *“it feels like it's supporting the worker, as well as the customers who's buying the products”*. Consumers also feel that transparency about the location of where the goods and services they buy are made is important and a lack of this contributes to difficulties ascertaining the ethical nature of something. For example, a survey respondent explained that *“I spend a long time analysing prior to making a purchase but we never really know where things come from, even when they are an Australian brand”*. Another respondent shared their view that *“It should be a requirement that all businesses selling online state where the goods have been made!”*. This suggests that consumers expect businesses to know, and disclose, the details of country of origin of suppliers in all tiers of their supply chain. Participants of the Survivor FGD also shared this general view that transparency of all tiers within a business's supply chains is important to understand where goods are coming from. *“You need to understand the chain from where it's coming from”* said a survivor, giving the example *“for the grapes, we all know that it comes from the farm, but you don't know which one it comes from”*.

Consumer motivations and purchasing behaviour

Consumers are predominately motivated by value for money when choosing which products and services they purchase. As explained by a consumer survey respondent, *“I choose the product with best bang for buck and most longevity”*. This may be because consumers are more likely to see the cost-of-living crisis, as well as climate change, as issues that are very or extremely important to be addressed in Australia, than worker exploitation. This concern for such issues then translates into their purchasing behaviour as consumers reported that they consider the price and environmental sustainability of a product or service more often than they consider ethical sourcing and manufacturing and the welfare of employees that make the product or provide the service. Over one third of consumers have never considered whether slave or child labour has been used in an item they have purchased or sought out information about the most ethical purchase option. Even consumers with lived experience of modern slavery don't choose what they buy based on how a business may treat their workers, as they need to consider their own basic needs first and therefore prioritise other factors such as quality, convenience, and price. As explained by a survivor *“when we buy food it's more about, you know, if the food is fresh, if the location is convenient for you for your lifestyle, if the price is reasonable”*.

Consumer boycotts

Consumers are more likely to avoid purchasing something due to ethical concerns than to seek out an ethical brand. This indicates that consumers are more likely to punish businesses that have been found to cause or contribute to modern slavery, rather than choose to support those that have not. A consumer survey respondent expressed their view that *“everyone should boycott businesses who take advantage of their workers”*. Accordingly, an entities disclosure of modern slavery risks can have the opposite effect on consumers than the Act intends, as the connection between a company or product and modern slavery in the media can lead to consumers boycotting that company or product. A survivor who had been shown an example of a media article reporting on two different modern slavery statements of competing businesses, identified as wanting to avoid purchasing from a company which disclosed risks of modern slavery in their supply chains and no such desire for a company that didn't disclose modern slavery risks. However, survivors felt any boycott behaviour they themselves or other consumers undertook would generally only be temporary as other factors related to ensuring people can meet their basic needs would soon prevail. As explained by a survivor, *“when it just pops up on*

media, I will stop buying the product for a while”, however “when the scandal is gone, I might go back with that because I need to live”.

Consumer perspectives

The survey also found that most Australians see that the government is responsible for ensuring products and services sold to them are not made using exploited workers, whereas only 3% see that consumers and everyday people hold this responsibility. A consumer survey respondent expressed their view that *“strict laws should be made against those people who exploit their workers”*. Four out of five consumers also believe that Australian businesses should be legally required to ensure they know what they sell is not made from slave or child labour. This conflicts with the expectation placed on consumers within the Act to utilise information disclosed by businesses to try to establish this. As explained by a survivor, *“I believe that it's more about the law enforcement on the business rather than on the people themselves like us”*. Perhaps due to the lack of trust in business reporting discussed earlier, the survey also found that 84% of consumers believe that Australian businesses should be held responsible for misleading the public about their ethical behaviour, including their use of slave or child labour. These perspectives indicate that the Australian community has a much higher expectation of the government in the role it should play in regulating business and ensuring corporate accountability for modern slavery in global supply chains, that is currently achieved through the implementation of the Act.

The importance of engaging, empowering and listening to workers

Key points:

- **Workers themselves should be placed at the centre of efforts to reduce labour exploitation.**
- **‘Top down’ methods like lead companies asking suppliers for information and auditing workplaces must be accompanied by ‘bottom up’ methods which engage with, educate and empower workers.**
- **Workers are the best source of truth as to what labour conditions are like within a workplace, therefore speaking directly with them is essential. Listening to workers can help to counteract a ‘cover up’ culture which is common within businesses where exploitation occurs.**
- **Workers need to feel safe to report to independent parties, including police and other first responders, when something goes wrong to ensure their safety and wellbeing.**

When asked for their opinion on the operating model of the Act, survivor FGD participants were clear in their view that any legislation or initiative that aims to reduce labour exploitation must engage, empower and listen to workers. Although they understood the value in placing the onerous on larger businesses to request information from their suppliers and undertake things like audits, they saw that these ‘top down’ methods must be accompanied by ‘bottom up’ ones which engage with and empower workers. As explained by a survivor, *“it's not just about approaching the organization, but about educating the employee as well”*. Migrants face particular risks to exploitation, partly because of a lack of understanding of rights and entitlements. As explained by a survivor, *“for many people, especially for the immigrants, they don't really have an understanding what they entitled to; and if even a labour contract that set out, they may believe in everything, and may not be able to cross check with the law”*. Engaging with, and educating all workers, on their rights and entitlements is essential.

Workers are the best source of truth as to what labour conditions are within a workplace, therefore speaking directly with workers is fundamental and will give a more realistic indication of the conditions

of a workplace than periodical auditing will. As explained by a survivor *“I know they will be auditing but it’s not happening all the time”* and then further supported by another survivor, *“if they speak directly to the employees, they will also be able to find a whole lot more on the things that are going around in the workplace”*. Listening to workers voices and perspectives can help to counteract a ‘cover up’ culture within businesses where exploitative conditions are often ‘swept under the carpet’. As explained by a survivor, *“they will try to hide a lot of things just so, you know, they don't get exposed as much. They will try to cover up things, you know, they will blame it on the workers, the employees, you know, something went wrong with them, they were not working, they don't want to work, you know things like that. So that's why, you know, they have to speak to both parties to under to have an understanding of what is actually going on, and how it can be prevented”*.

Workers feel a responsibility to speak up, not just to change their own situation, but to also help other workers. As explained by a survivor, *“in my scenario, it happened that one of us has to talk and say the truth, and then just report it. Otherwise, all the others are gonna be working in the same way and not speaking up”*. They further explained *“So the workers has to stop the situation, not to prevent to another person happen the same”*. However, workers need to feel safe to report to independent parties when something goes wrong to be able to ‘speak up’ for themselves and others. Ensuring safe and independent reporting pathways are available and accessible to all workers in an entity’s supply chain is essential due to the complicated risk environment that the workers face and the many fears they may have in reporting harm they experience. As explained by a survivor, *“sometimes you're afraid to report, because you might going to lose the job. You might going to lose your visa and everything you know”*. To mitigate such fears, educating workers on their rights and entitlements is also essential, as an employee’s lack of knowledge of these is what is often exploited by employers.

It is important that reporting pathways include options of reporting directly to police and other first responders to ensure an immediate response can be initiated when required to uphold workers safety and wellbeing. As explained by a survivor, *“for me, I'll go for the police because they do things instantly, you know, they will take my report urgently because I am human capital, I am facing that and then I need to come out of that situations ASAP because it will really affect me physically and mentally”*. Whereas, when considering the option of reporting to an employer’s lead company within a supply chain, the same survivor said, *“my question is how soon these things will be taken so seriously? So, I might go for the Police, for the facts”*. Ensuring pathways to report to authorities are available was considered particularly important for workers in regional and rural areas. A survivor explained that for workers who are living and working on farm as opposed to within a city, being able to go directly to the police to report is essential because they saw that the police are an agency that can take prompt action and would take such reports seriously. Another survivor shared their personal positive experience going to the police about their situation, describing that *“in that case you feel like protected, because, uh, that part of the, you know, government that's make you feel protected, you know, and so you can trust them reliably. You can tell everything that you going through, and then maybe they can help you to get out of that situation and might get it a better life”*. Internal reporting pathways should be independent of workers direct employers and allow for workers to report anonymously, or without fear of retribution. This is important because, as explained by a survivor, *“if the employers are being unfair and unjust, I don't think that employees will be comfortable going up to them and talking about the situation”*. Ensuring accessibility of reporting pathways are also essential in order to help overcome various communication barriers workers may experience. For example, as suggested by another survivor, *“if there's a language barrier, I think it's best to write it down...”*.

Placing workers themselves at the centre of efforts to reduce labour exploitation, is fundamental.

Recommendations

- The ‘transparency framework approach’ is abandoned as a strategy for addressing modern slavery risks in business operations and supply chains. Instead, any future iteration of the Act includes:
 - Specific measures to address what is well-known about the drivers of modern slavery in private enterprise, the functioning of the global economy and global migration;
 - Methods which enable engagement with and empowerment of workers, as well as safe reporting pathways for workers to independent parties including police and other first responders; and
 - Numerous and diverse enforcement mechanisms.
- If reporting remains a component of the overall strategy that a revised Act adopts:
 - Modern slavery statements are shortened, standardised and simplified.
 - Mandatory reporting criteria is amended to include disclosure of information which can be used to assess the degree in which a business causes or contributes to modern slavery, such as:
 - if allegations of modern slavery have been made against an entity and what actions the entity took to investigate and respond;
 - when modern slavery has been found in an entity’s operations or supply chains and what actions the entity took to respond;
 - the country of origin of suppliers in all tiers of an entities supply chain.
- Any future iterations of the Act or additional legislative initiatives to address modern slavery contain methods of measuring and quantifying the impact and effectiveness of the regulatory methods they employ. These should be linked to a future monitoring and evaluation framework of the *National Action Plan to Combat Modern Slavery 2020-2025*, or similar overarching government strategy to address modern slavery.
- All future regulatory efforts are centred by the experience of workers and in particular, of those with lived experience of modern slavery.
- A government strategy to engage Australians as both citizens and consumers in efforts to combat modern slavery is developed and implemented, in collaboration with civil society.
- Regulation which requires businesses to ensure the goods and services they sell to Australian consumers are not made with modern slavery, such as the *Customs Amendment (Banning Goods Produced By Forced Labour) Bill 2021*, is introduced.
- Regulation which holds Australians businesses responsible for misleading the public about their ethical behaviour, including their use of slave or child labour, is introduced.

Author Biography

Kyla Raby is an anti-slavery researcher and practitioner, currently undertaking her PhD at UniSA researching the role of the consumer in state legislative efforts to eradicate modern slavery in global supply chains. Kyla's recently published research includes an article on commonly held stereotypes of human traffickers published in [the Anti-Trafficking Review](#) and the impact of COVID-19 on the identification of victims of modern slavery and their access to support published in a [special edition of the Journal of Modern Slavery](#). She is currently involved in research projects on the support needs of dependents of survivors of human trafficking, barriers to accessing accommodation for survivors and the role of coercive control in human trafficking and forced marriage. Having worked in the humanitarian sector for the past 15 years, Kyla has designed anti-slavery interventions in the United Kingdom and Australia, where she currently manages a national support service for survivors of human trafficking and forced marriage for the Australian Red Cross. She is a registered aid worker with the International Red Cross and Red Crescent Movement and has been deployed to Greece and Bangladesh to provide support to refugees, asylum seekers and migrants in or at risk of human trafficking and forced marriage. She holds a Master of Public and International Law, a Bachelor of Journalism and a Bachelor of International Relations. Kyla is a sessional teacher with UniSA Online and RMIT Online, a role in which she teaches various topics from victimology to employment law.