

Submission to Department of Home Affairs

on

National Action Plan to Combat Modern Slavery 2020-24: Public Consultation Paper



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Submission on National Action Plan 2020-2024

1. Context

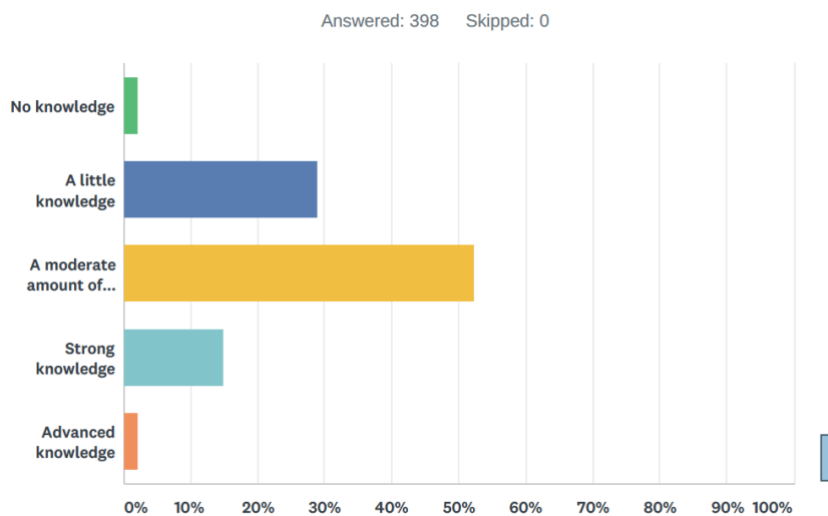
1.1 This is urgent. We are not winning.

- 1.1.1. Modern slavery is a grave human rights violation and serious and heinous crime that we are not only complicit with but allow criminal organisations and unscrupulous businesses to profit from when governments, businesses and consumers buy goods from supply chains containing modern slavery. It is estimated 25,200 new people enter into slavery every day and globally it is estimated that are helping approximately 150 are being helped out of slavery each day.
- 1.1.2. Even with the ‘strongest’ Modern Slavery Act (MSA) in the world (as Australia’s MSA has been described) – much of our energy (and legislation) addresses transparency in supply chains and not the deep cultural shifts and mindsets which need to occur in order to disrupt, prevent and ultimately eliminate these human rights abuses. There is much more which requires attention than transparency in supply chains.
- 1.1.3. The language in the current plan does not reflect this urgency or the heinous nature of the crime – words like enhance, maintain, promote and engage are too passive. What we need are stronger verbs to convey the needed gravity and empathy that will motivate and scale up the necessary change to tackle these realities.

1.2 Results from activist’s survey

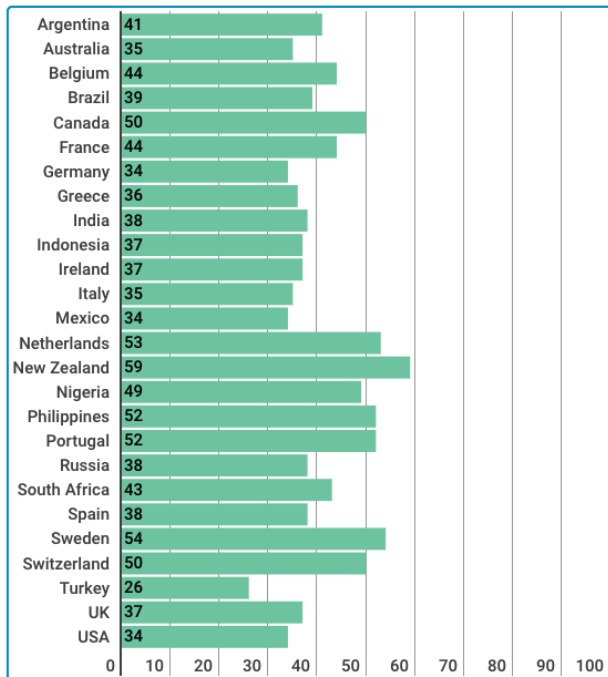
One of our partners is Freedom Unitedⁱ. In late 2019, they undertook a survey of their supporters asking, “What’s needed to tackle modern slavery?” with a focus on the role of Government. 398 people from Australia completed the survey and Freedom United generously shared their raw data from Australia. These respondents are people who would have been targeted with information and campaigning around the Commonwealth Modern Slavery Act and other issues of modern slavery concerned Australians over a period of many years.

Responder’s Self-Reported Knowledge of Modern Slavery



How would you rate your country's government response to modern slavery on a scale from 0 to 100?

(0 being extremely poor and 100 being excellent.)



The global average was a very low 39 with Australia scoring slightly below the global average at 35. At the left is a listing of countries from which people responded.

When Australians were asked why they gave the score they did, most reflected a belief that the Government was not concerned about this issue. Around 75% of the comments expressed concern for seasonal and migrant worker visas and slavery in Australia. Below is a sample of the responses.

“Australia has a lack of protection for guest workers, foreign students and backpackers, who are vulnerable to financial and physical exploitation and poor record in prosecuting employers who exploit workers.” Tracey

“New arrivals on jets (modern boat people) often just disappear off the radar. We know they end up in the sex trade, manufacturing and agriculture. Their lives are horrendous. There is no escape.” – Cheryl

Other comments had the following themes

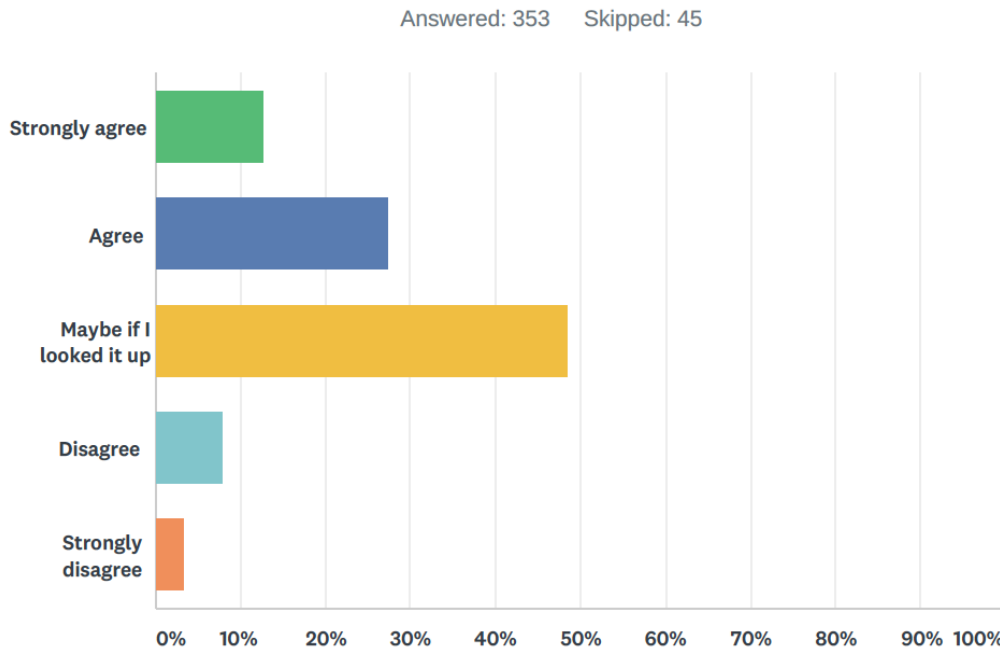
“This is not a vote winning issue for any politician.” John

“Once slavery is identified, the response is swift and can be severe. Identifying slavery in Australia is difficult however.” - Jenine

“I think our government chooses to believe that slavery doesn't exist here.” - Marion

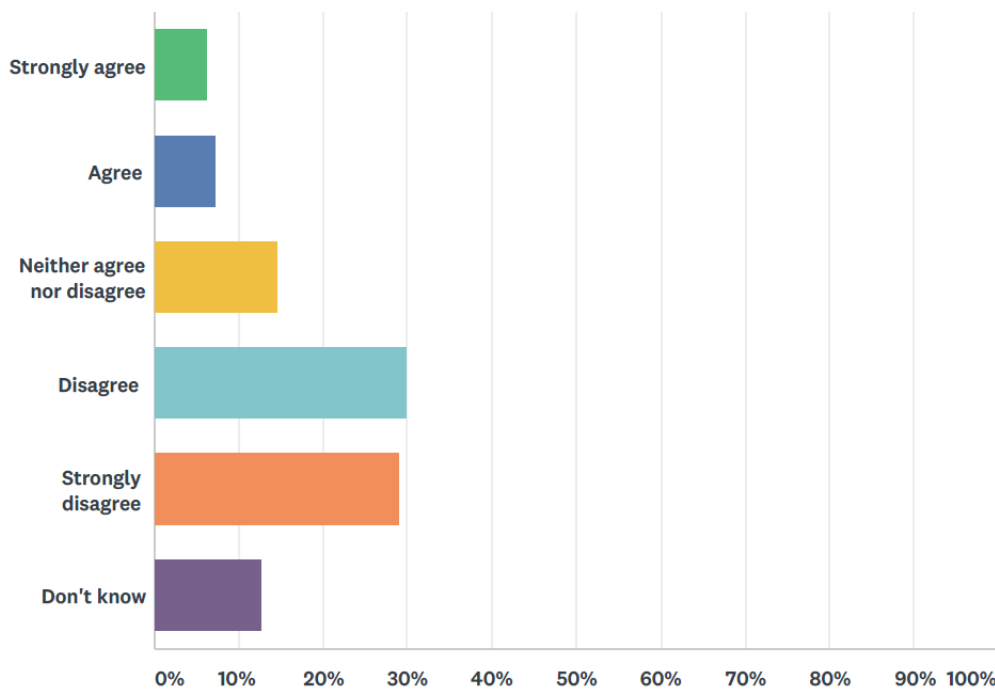
“Modern Slavery Reporting Act (Commonwealth) is a good start, but no penalties and only an assessment of risk. The Government constantly fails to take action against wage theft, so I'm not convinced that they care about workers.” – Rebecca

1.2.2 Agree or Disagree: If you saw or knew of a potential case of modern slavery, you would know how to report it?



Of the 353 who answered this question, 142 would know how to report a case of modern slavery, 171 might if they looked it up and 40 would not know what to do.

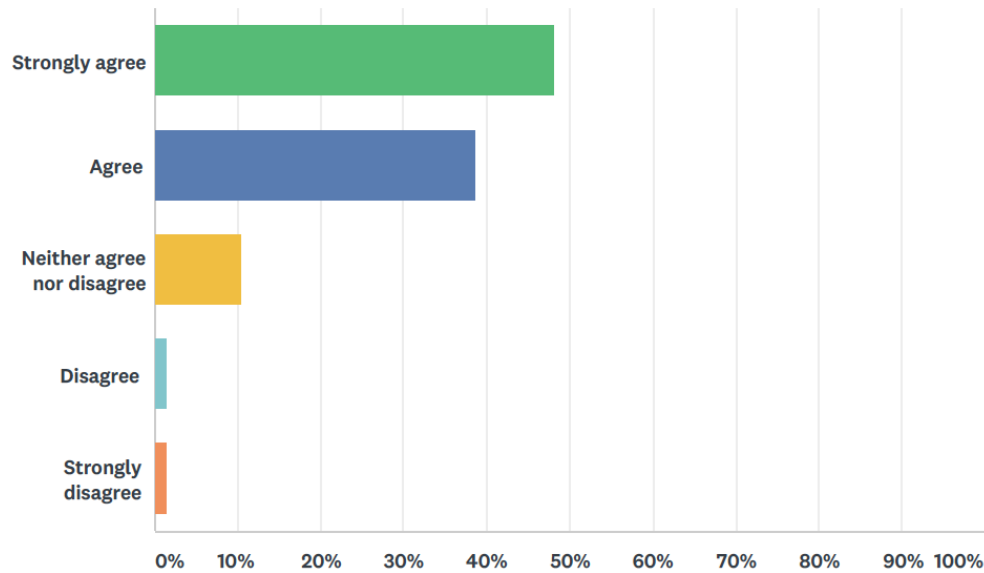
1.2.3. Agree or disagree: undocumented victims of human trafficking can come to the authorities in my country without fear of being deported or punished for immigration offenses.



Of the 354 Australians who responded, 209 felt that undocumented workers would not be able to go to authorities without fear of being deported.

1.2.4. Agree or disagree: foreign survivors of human trafficking should have the right to stay (i.e. a visa) in the country where they were trafficked in order to obtain rehabilitation support.

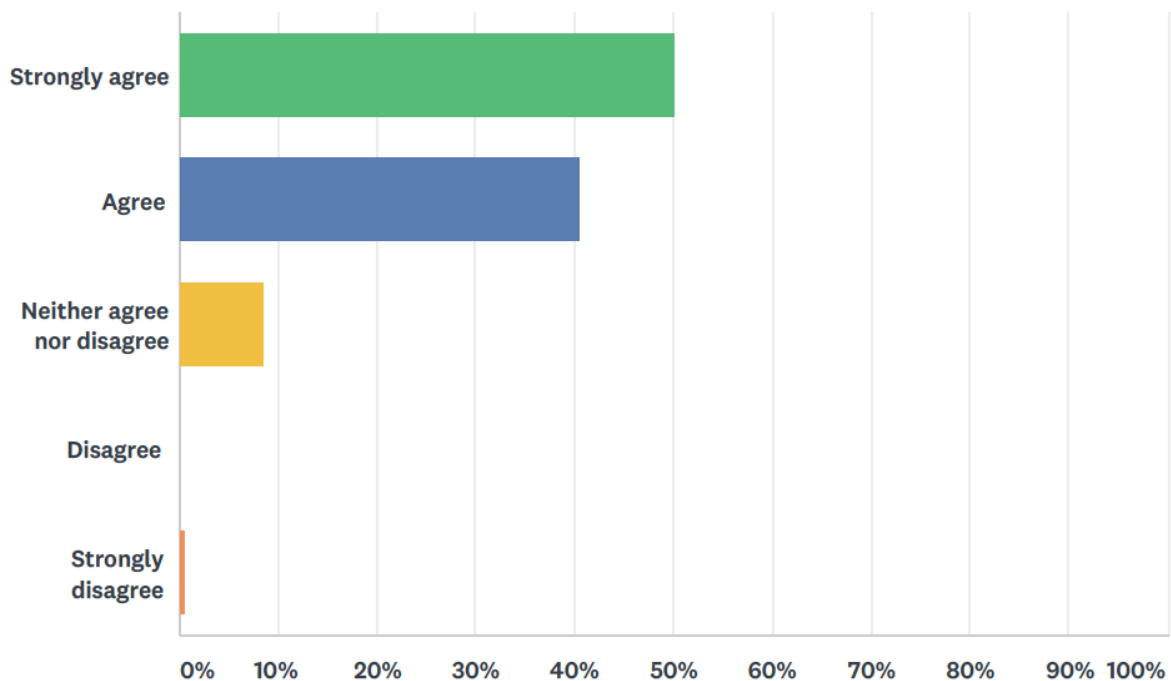
Answered: 354 Skipped: 44



307 of the 354 respondents (or 87% of respondents) strongly agreed or agreed that victims should have a right to stay in the country where they were trafficked so they can receive support.

1.2.5. Agree or disagree: victims of trafficking should be given the right to work while their case is being investigated by the government

Answered: 353 Skipped: 45



302 of the 353 who answered (or 86% of respondents) strongly agreed or agreed that victims should be given to right to work why their case was being investigated.

1.3 In the last five years there have been consistent calls from civil society for:

- 1.3.1 An Independent Anti-Slavery Commissioner
- 1.3.2 A de-linking of access to the Support for Trafficked People Program and the Human Trafficking Visa Framework (including the Bridging F visa and Referred Stay (Permanent visa) from compliance with criminal investigation
- 1.3.3 Extending the 45-day period of initial support available under the Support for Trafficked People Program to a minimum of 90 days, with multiple options for extension
- 1.3.4 Labour Hire Agent regulation with auditing
- 1.3.5 A National Compensation Scheme for Victims
- 1.3.6 Addressing Visa Frameworks which particularly make the situation for migrant and seasonal workers tenuous
- 1.3.7 Ratification of ILO/UN protocols (particularly P29 on Forced Labour)
- 1.3.8 Using trade mechanisms to address modern slavery risks on imported goods
- 1.3.9 Increased funding for civil society to support victims and raise community awareness/education
- 1.3.10 Increased funding for the Government and Government Departments to fully implement any National Action Plan with adequate staffing

These have been supported by the recommendations of two Parliamentary Inquiries on Modern Slavery. ⁱⁱ, ⁱⁱⁱ

Any National Action Plan must include goals which can achieve these initiatives (or stronger and better alternatives) in the next period of the Action Plan. Our goals should be ambitious without being impossible.

2 The four pillars

- 2.1 The Four Pillars^{iv} need to be assessed in terms of both the successes we have had in each area as well as how each of the Pillars interacts with and impacts the others. Do we have the ‘right’ pillars for the next stage of addressing Modern Slavery?
- 2.2 Prevention is a key focus of many civil society groups and included in one of the pillars. Yet little work has been done or agreement reached on how prevention is measured. If ‘an evidence based’ approach is being engaged this work is essential.
- 2.3 The pillars need to include an overarching focus on victims (or survivors) and of prevention.

3 States and Territories

- 3.1 In a Federal system where states and territories are responsible for service delivery, we believe it is essential that the Council of Australian Governments agree to the National Action Plan and a shared strategy and vision for addressing and ending modern Slavery. This is particularly

important should other states follow New South Wales and legislate their own Modern Slavery Acts.

4 Do the 12 goals capture key areas of focus for Australia over the next five years?

Our first comment would be that 12 goals are too many to have a focussed and achievable plan. Any plan should be able to be clearly imagined in an A3 page.

Our changes to the suggested goals are listed in italics

1. maintain and promote compliance with international standards on modern slavery
Change to “engage in compliance with international standards on modern slavery so as to maintain our position as a world leader in prevention, protection and prosecutions.”
2. engage the Australian community to understand and combat modern slavery
Engaging is not an outcome in itself unless it is leading to specific changes in behaviour or actions. This could be combined with the suggested number 5.
3. promote an evidence-based response to modern slavery
We suggest this is not a goal but a methodology for responding. Instead of advocating for the promotion of an evidence-based response, the Government should be ‘committed to implementing an evidence-based response to modern slavery’.
4. maintain a robust and comprehensive legislative framework to combat modern slavery
Change to “engage in robust critique of our current legislative framework to ensure it is making it riskier for the operation of human trafficking and slavery - and amendments and legislation suggested in the “Hidden In Plain Sight”^v Report are developed.”
5. train frontline officials to support the identification of victims and effective investigations of modern slavery
Change to “train frontline officials and the general Australian community to support the identification of victims. This should include helping the community to know how to report modern slavery in such a way as to contribute to the effective investigations of modern slavery by the appropriate agencies.”
6. progress effective prosecutions to secure convictions against offenders
Change to: “Strengthen the effectiveness of prosecution through streamlining and resourcing the policing, prosecution and judiciary systems needed to speed up cases and identify offenders.”
7. enhance our response to combat forced marriage
8. enhance our response to combating serious forms of labour exploitation, including forced labour and deceptive recruiting
We believe that all forms of slavery as defined in the criminal code and the Modern Slavery Act (Cth 2018) should be included in any National Action Plan and change “enhance” to “develop effective responses to prevent and combat ... such that there is increased prevention and protection in and for vulnerable people groups. ”
9. promote transparency and accountability for combating modern slavery risks in global supply chains, including in Government procurement
This goal should in some way refer to the 3-year review of the MSA (Cth 2018)
10. provide appropriate support, protections and remedies to empower victims of modern slavery

First, we need to ask victims what they want to be empowered from, for and to. To be able to self-determine and choose their own futures? To be more willing and able to cooperate in criminal investigations? “Appropriate” support, protections and remedies need to be defined and articulated. Without definition it cannot be evaluated.

11. enhance our leadership and partnerships to promote regional and international cooperation on combating modern slavery, and

Change to “to develop and evaluate our leadership and partnerships (successes and failures) in order to refine and improve our regional and international cooperation and collaboration on combating modern slavery.”

12. work collaboratively across government, along with non-government stakeholders, to combat modern slavery.

We suggest this is not a goal but a methodological process for responding and would better be expressed as governments, business and civil society.

5 A Final Comment on Funding

Any plan needs to be backed by adequate government funding. This is an area that is not included in the Federal budget. Federal government funding to NGOs, who do a huge amount the work included in the plan, has declined over recent time. This is in a period where the workload is increasing dramatically.

Not only does the plan need to be funded for NGO work, other government departments need to be adequately funded for investigations, research, prosecutions. Alongside the prevention and protection work, there needs to be adequate funding for investigation and prosecutions leading to criminal cases and not just civil cases in the area of forced labour.

Submission from

- Sr Noelene Simmons (ACRATH, president@acrath.org.au),
- Fuzz Kitto and Carolyn Kitto (Be Slavery Free, australia@beslaveryfree.com),
- Jane Jeffes and Beck Honey (War on Slavery, jane.jeffes@waronslavery.org) and
- Dr Shelley Marshall (Vice-Chancellor’s Senior Research Fellow RMIT University, Melbourne, shelley.d.marshall@gmail.com)

ⁱ <https://www.freedomunited.org>

ⁱⁱ https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/Humantrafficking45/Report

ⁱⁱⁱ https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024102/toc_pdf/HiddeninPlainSight.pdf;fileType=application/pdf

^{iv} The Four Pillars 1. Prevention and Deterrence 2. Detection and Investigation 3. Prosecution and Compliance, and Victim Support and Protection

^v Ibid iii