

MODERN SLAVERY Information Sheet

What is Modern Slavery?

Modern Slavery encompasses a range of exploitation including conduct amounting to ‘ownership’ as a slave, forced marriage, forced labour and human trafficking. International law imposes obligations on signatory states to combat human trafficking and to protect victims. Some of these obligations are contained within international instruments including the following:

- Slavery Convention.
- Forced Labour Convention.
- Convention Against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Particularly Women and Children.

There are also regional instruments such as the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT) and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP). The objective is to protect and assist the victims of modern slavery with full respect for their human rights and the context is not limited. There can be links with the smuggling of migrants and cybercrime.

The U.N. Trafficking Protocol (‘The Protocol’) to the UN Convention on Transnational Organised Crime defines human trafficking widely to include slavery and slavery-like practices. It is described by UNODC as ‘the first global legally binding instrument with an agreed definition on trafficking in persons. The intention is to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. The Protocol avoided separate definitions of slavery or forced labour or sexual exploitation which could inhibit legal and policy responses. The International Labour Organisation (ILO) Committee of Experts on the Application of Conventions and Recommendations (‘CEACR’) has provided guidance on the scope of the definition of forced labour, stressing that it encompasses trafficking in persons for the purposes of labour and sexual exploitation as defined by the Protocol.

What is the role of Criminal Law?

Slavery did not end with the transatlantic slave trade. Abolition of slavery meant that it was no longer lawful to own a human being. However, people are still exploited across the globe on a massive scale in organised crime and where there is an overlap with corporate supply chains. Many states now criminalise aspects of Modern Slavery, such as slavery and slavery like practices, forced marriage and forced labour and human Trafficking which can cross jurisdictions and involves the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit. Some states also provide a criminal defence for those who commit crime by the means and purposes of others, although often these are limited to certain harms or certain crimes. There are serious concerns that trafficked persons are not identified in criminal justice systems and end up in prison for crimes they were compelled to commit. This can include trafficked persons facing the death penalty when their vulnerability was abused to commit crime.

What is Corporate Responsibility?

The U.N. Human Rights Council has unanimously endorsed the U.N Guiding Principles on Business and Human Rights. Essentially, the Guiding Principles do not create new international law obligations or limit existing legal frameworks but provide an authoritative statement on the relationship between business and human rights and provide standards for preventing and addressing the risk of adverse human impacts linked to business activity. The UK and Australia have implemented corporate reporting of due diligence requirements through the Modern Slavery Act 2015 (UK) and the Modern Slavery Act (Cth) 2018, respectively. Reporting obligations relate to the risk of modern slavery in the operations and supply chain of a reporting entity (and its owned and controlled entities), as well as the steps it has taken to respond to the risks identified. In Australia, the reporting criteria are mandatory. Reporting entities must have a reasonable basis for any opinions expressed in their Modern Slavery statement, so it is important that reporting entities take the time to assess their risk.

Felicity's Modern Slavery Expertise – Law, Business, and Innovation

Professor Felicity Gerry QC has core expertise and experience in both the criminal law and commercial law relating to Modern Slavery. She has particular expertise in the use of technology to combat human trafficking and how it can also affect data and privacy rights of victims.

She has advised on business and human rights issues in a range of jurisdictions, most recently in relation to the UK, Australia, Myanmar, and Singapore. She gave evidence to the Australian Senate Inquiry which led to the Modern Slavery Act (Cth) 2018 and has made several submissions to government and stakeholders in both the UK and Australia. In 2017 she delivered a keynote address at the International Bar Association Conference on the issues of global corporate responsibility that arise from the UN commitment to transformative change.

She has long history of dealing with cases involving trafficked victims as accused persons at trial and on appeal. She assisted lawyers in the Philippines for Mary Jane Veloso who was reprieved from execution in Indonesia whilst her status as a human trafficking victim in the drug trade is investigated. Felicity's role was the subject of ABC Foreign Correspondent's documentary Saving Mary Jane, and she received a Charles Darwin University Ryan Family Award for commitment to excellence and outstanding results in research for her international research on the matter.

She has taught Modern Slavery Law at tertiary level, consulted on for the UNODC E4J project, provided CPD training to lawyers on modern slavery and human trafficking on both criminal and corporate law context and provided training to the Commonwealth Parliamentary Association as part of The Modern Slavery Project which is a two-year multilateral project providing practical advice and support to Commonwealth legislatures in the pursuit of combatting modern slavery.

Felicity's Modern Slavery Media Selection



[Frost over the World](#)



[Saving Mary Jane Veloso](#)



[ABC on Mary Jane Veloso](#)



[Defending the rights of the world's most vulnerable](#)



[Law Week lecture on Modern Slavery and Human Trafficking](#)



[Human trafficking victims should not be charged with murder](#)

Felicity's Modern Slavery Publications

Criminal Law and Practice

- *Modern Slavery and Human Trafficking Law and Practice* (Bloomsbury, 2nd ed, 2021) (Contributor to 3 chapters).
- *Human Trafficking: Emerging Legal Issues and Applications* (Lawyers & Judges Publishing Company, Inc, 2017) (Contributor to 3 chapters).
- Felicity Gerry et al, 'Human trafficking and the proposed reintroduction of the death penalty', *International Bar Association* (Blog Post, 20 July 2020) <<https://www.ibanet.org/article/1F1659DA-6FAD-4296-9614-38D4CF90D2B6>>.
- 'Trafficked women suffer doubly', Civil Liberties Australia (Web Page, 14 May 2015) <<https://www.cla.asn.au/News/trafficked-women-suffer-doubly/>>.
- Felicity Gerry and Narelle Sherwill, 'Human Trafficking, Drug Trafficking and the Death Penalty' (2016) 6(3) *Indonesia Law Review* 265.

- Felicity Gerry et al, 'Is the Law an Ass When It Comes to Mules? How Indonesia Can Lead a New Global Approach to Treating Drug Traffickers as Human Trafficked Victims' (2016) 8(1) *Asian Journal of International Law* 166.
- Felicity Gerry, 'Let's Talk About Slaves...Human trafficking: Exposing Hidden Victims and Criminal Profit and How Lawyers Can Help End a Global Pandemic' (2015) 3(1) *Griffith Journal of Law & Human Dignity* 118.

Policy Submissions

- Felicity Gerry et al, Submission No [forthcoming] to Department of Agriculture, Water and the Environment, *Illegal Logging Sunsetting Review* (7 October 2021).
- Felicity Gerry et al, Submission No 75 to Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into the Criminal Justice System* (31 August 2021).
- Felicity Gerry et al, Submission No 86 to Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into the Criminal Justice System* (1 September 2021).
- Felicity Gerry, Submission to Australian Border Force, *National Action Plan to Combat Modern Slavery 2020-24* (29 February 2020) <<https://www.homeaffairs.gov.au/reports-and-pubs/files/national-action-plan-2020-24/nap-2020-24-submission-felicity-gerry.pdf>>.
- Felicity Gerry, Submission No 2 to Independent Anti-Slavery Commissioner United Kingdom, *Use of the Modern Slavery Act's Section 45 statutory defence* (2 March 2020).
- Commonwealth, 'Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia' (Report, December 2017) 98 [5.28] and Recommendation 22 citing submissions authored by Felicity Gerry on behalf of Civil Liberties Victoria.

Law, Mathematics and Technology

- Felicity Gerry, Joseph Barr and Peter Shaw, 'Graph Theory–The Case for Investigating Corruption and Modern Slavery through Suspicious Employment Data' (Conference Paper, Second International Conference on Transdisciplinary AI (TransAI), 21-23 September 2020) 113.
- Felicity Gerry and Peter Shaw, "Emerging and Future Technology Trends in the Links between Cybercrime, Trafficking in Persons and Smuggling of Migrants," (Conference Paper, *First International Conference on Transdisciplinary AI (TransAI)*, 25-27 September 2019) 1.
- Felicity Gerry, Julia Muraszkiwicz and Olivia Ianelli, 'The drive for virtual (online) courts and the failure to consider obligations to combat human trafficking – a short note of concern on identification, protection and privacy of victims' (2018) 34(4) *Computer Law & Security Review* 912.
- Felicity Gerry, Siva Vallabhaneni and Peter Shaw, 'Game Theory and the Human Trafficking Dilemma' (2021) 7(2) *Journal of Human Trafficking* 168.
- Felicity Gerry, Julia Muraszkiwicz and Olivia Ianelli, 'The drive for virtual (online) courts and the failure to consider obligations to combat human trafficking – A short note of concern on identification, protection and privacy of victims' (2018) 34(4) *Computer Law & Security Review* 912.
- Felicity Gerry, Julia Muraszkiwicz and Niovi Vavoula, 'The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns' (2016) 32(2) *Computer Law & Security Review* 205
- Felicity Gerry, 'Data Uses to Combat Human Rights Abuses' (2014) 33(4) *IEEE Technology and Society Magazine* 42

Business and Human rights

- Various Contributions to the Law Council of Australia and the VicBar Human Rights Committee.
- Felicity Gerry, 'Modern Slavery and Corporate Responsibility – How Can Commercial Organisations Measure up in Australia?', *Greens List Barristers* (Blog Post, 2 April 2019) <<https://www.greenslist.com.au/greens-blog/modern-slavery-and-corporate-responsibility-how-can-commercial-organisations-measure-up-in-australia>>.

Felicity's Modern Slavery Lecturing, Training and CPD Delivery

- 2021 UNODC Knowledge Week on Human Trafficking and Migrant Smuggling, session on 'Working Together to Unlock Innovation'.
- 2021 Modern Slavery and Human Trafficking Webinar, Libertas Chambers.
- 2020 Modern Slavery and Human Trafficking Webinar, Deakin University.
- 2020 Modern Slavery and Human Trafficking, VicBar Webinar.
- 2019 UNODC E4J Tertiary Level Module Module 14 'Links between Cybercrime, Trafficking in Persons and Smuggling of Migrants'.
- 2019 Victorian Women Lawyers CPD – The Modern Slavery Act and corporate responsibility
- 2019 Doogue and George CPD – Defences for Human Trafficking Victims who Commit Crime
- 2018 LegalWise Seminars, Melbourne – Defences for Human Trafficking Victims who Commit Crime

- 2017 International Bar Association Conference. Sydney: Keynote Address for Corporate litigation section: *Towards Global Corporate Criminal Liability*.
- 2017 Commonwealth Parliamentary Association training as part of The Modern Slavery Project
- 2017 Delivering section of Bangladesh Judiciary Management Project and Research Program on Terrorism, Money Laundering, Issues in International Law and Links between Financing Organizations and Trans-national Crime (including illegal wildlife trade)
- 2016 International Criminal Law Congress: Human Trafficking, Drug Trafficking, and the Death Penalty
- 2016 International expert meeting: Future of Women in International Law, Griffith University
- 2016 2nd Law Scholar's Writing Colloquium, Universitas Indonesia. Paper chosen as Editor's Choice for Indonesian Law Review. Human Trafficking, Drug Trafficking, and the Death Penalty.