



# Submission

## Senate Legal and Constitutional Affairs Legislation Committee

Inquiry into the Crimes Amendment  
(Strengthening the Criminal Justice  
Response to Sexual Violence) Bill 2024

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## Introduction

This submission is presented in response to the inquiry into the Crimes Amendment (Strengthening the Criminal Justice Response to Sexual Violence) Bill 2024, which aims to amend the Crimes Act 1914, to enhance protections for victims and survivors of child sexual abuse and vulnerable persons in Commonwealth criminal proceedings. The Bill represents a commitment to implement recommendations from the 2017 findings of the Royal Commission into Institutional Responses to Child Sexual Abuse and supports the objective to improve the experiences of victim-survivors of sexual assault in Commonwealth criminal proceedings.

## Context

We are still awaiting Government responses to the Statutory Review of the Modern Slavery Act 2018<sup>i</sup>, the Targeted Review of the Criminal Code Act 1995 (Cth), specifically concerning modern slavery offenses detailed in Divisions 270 and 271<sup>ii</sup>, while the Senate Legal and Constitutional Affairs Committee has only recently presented its report on the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023, following stakeholder submissions and evidence in February 2024.<sup>iii</sup>

Recognising the broad implications of this Bill, it is important to consider its intersection with survivors of human trafficking and modern slavery, whose experiences often involve complex dimensions of sexual violence.<sup>iv</sup> Amendments to the Bill should be made with potential legislative revisions in related areas in mind, once the Government addresses the Reviews and report mentioned above. The recommendations outlined below should be seen in the context of the pending legislative revisions in related areas.

## Support

I express strong support for the Bill's objectives. The introduction of measures such as expanding the circumstances for enhanced protections for vulnerable witnesses and prohibitions on the admissibility of evidence related to sexual reputation, are crucial. These measures are particularly relevant for survivors of human trafficking and modern slavery, who frequently confront challenges in the criminal justice system, including stigma and re-traumatization.<sup>v</sup>

## Recommendations

While the Bill is a significant advancement, I believe there are areas where further enhancements could be made:

### 1. Procedural Safeguards for Evidence Recording:

While the introduction of evidence recording hearings is laudable, additional procedural safeguards are necessary. Standard operating procedures for evidence recording should be developed that outline every step of the process, to ensure consistency, fairness, and the protection of vulnerable witnesses. Importantly, strict protocols should be in place for the handling, storage, and access to recorded evidence. Secure digital storage solutions with encryption should be adopted.<sup>vi</sup>

### 2. Enhanced Support for Witnesses and Complainants:

While the Bill provides for support persons and the use of intermediaries for vulnerable witnesses, more can be done to offer support. This could include training for legal professionals on trauma-informed practices and the provision of psychological support services for witnesses and complainants throughout the legal process.<sup>vii</sup> This can be achieved through closer collaboration between the criminal justice system and specialized support services for survivors, ensuring that individuals have access to holistic care and support throughout legal proceedings.

### 3. Provisions for Trafficking and Slavery Survivors:

Relating to Recommendation 3, to enhance support for witnesses and complainants, specific provisions should be introduced that recognise the unique vulnerabilities of human trafficking and modern slavery survivors. This could include tailored support mechanisms and protections during court proceedings, recognising the complex trauma and coercion these individuals have experienced.<sup>viii</sup> This should include access to safe housing, counselling, and legal advocacy tailored to the needs of survivors.<sup>ix</sup>

### 4. Integration with National Anti-Trafficking Legislation

Ensure the Bill's provisions are in line with the national anti-trafficking and slavery framework. This includes clear guidelines on how the Bill complements existing protections in related legislation, providing a coherent and comprehensive approach to supporting survivors. This improves the Bill's objective to enhance protections for victims, as survivors of modern slavery often experience sexual violence.

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- <sup>i</sup> Attorney-General's Department, 'Report of the statutory review of the Modern Slavery Act 2018 (Cth) |' (25 May 2023), <https://www.ag.gov.au/crime/publications/report-statutory-review-modern-slavery-act-2018-cth>, <https://www.ag.gov.au/crime/publications/report-statutory-review-modern-slavery-act-2018-cth> (accessed 22 March 2024).
- <sup>ii</sup> Attorney-General's Department, *Targeted Review of Modern Slavery Offences in Divisions 270 and 271 of the Criminal Code Act 1995* (2023).
- <sup>iii</sup> Parliament of Australia, 'Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023' (23 January 2024), [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/bd/bd2324a/24bd39](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd2324a/24bd39) (accessed 22 March 2024).
- <sup>iv</sup> Carmen Meneses-Falcón and Jorge Uroz-Olivares, 'Identification, Rescue, and Social Intervention with the Victims of Trafficking for Sexual Exploitation in Spain' *The SAGE Handbook of Human Trafficking and Modern Day Slavery*, (55 City Road: SAGE Publications Ltd, 2019), 486.
- <sup>v</sup> Veronica M. Lugris, Mary C. Burke, Shannon White, and Tina Krolikowski, 'Mental Health Care - Human Trafficking and Posttraumatic Stress Disorder' *Human Trafficking - Interdisciplinary Perspectives*, (Routledge, 2022), 384.
- <sup>vi</sup> Radina Stoykova, 'Digital evidence: Unaddressed threats to fairness and the presumption of innocence' (2021) 42 *Computer Law & Security Review* 105575.
- <sup>vii</sup> Laken Gilbert Albrink, 'Trauma-Informed Legal Advocacy' (2023) 13 *Wake Forest Journal of Law & Policy* 67.
- <sup>viii</sup> Frances Simmons and Jennifer Burn, *Beyond storytelling: towards survivor-informed responses to modern slavery* (2022).
- <sup>ix</sup> Victorian Government, 'Strengthen support for victim survivors' (4 December 2023), <https://www.vic.gov.au/strong-foundations/our-priorities-future/strengthen-support-victim-survivors> (accessed 22 March 2024).