



Australian Association of Women Judges

Advancing human rights and equal justice for all

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Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100, Parliament House
Canberra ACT 2600

By email: legcon.sen@aph.gov.au

Inquiry into the Crimes Legislation Amendment (Slavery, Slavery-Like Conditions and People Trafficking) Bill 2012

1. The Australian Association of Women Judges

The Australian Association of Women Judges (AAWJ) is the Australian branch of the International Association of Women Judges (IAWJ). The IAWJ is a non-profit, non-partisan organisation of more than 4,000 members from over 100 nations. Formed in 1991, the IAWJ encourages female judicial officers from diverse legal-judicial systems to share knowledge through judicial training programs and international collaboration on a range of topics related to equal justice, the rule of law and the independence of the judiciary. Currently the IAWJ is specifically supporting and promoting projects in member countries to develop and implement measures to combat human trafficking.

2. Support for the Crimes Legislation Amendment (Slavery, Slavery-Like Conditions and People Trafficking) Bill 2012

The AAWJ welcomes the opportunity to provide a submission to the Senate Inquiry into the *Crimes Legislation Amendment (Slavery, Slavery-Like Conditions and People Trafficking) Bill 2012* ('the Bill').

In its current form, the Bill amends the *Criminal Code Act 1995* (Criminal Code), the *Crimes Act 1914*, the *Migration Act 1958*, the *Process of Crime Act 2002* and the *Telecommunications (Interception and Access) Act 1979* to:

- Establish new offences in the Criminal Code of forced labour, forced marriage, organ trafficking, and harbouring a victim;

- Seek to ensure that the slavery offence applies to conduct which renders a person a slave, as well as conduct involving a person who is already a slave;
- Extend the application of the existing offences of deceptive recruiting and sexual servitude so they apply to non-sexual servitude and all forms of deceptive recruiting;
- Increase the penalties applicable to the existing debt bondage offences, to ensure they are in line with the nature of the offences;
- Broaden the definition of exploitation under the Criminal Code to include all slavery-like practices;
- Amend the existing definitions to ensure the broadest range of exploitive conduct is criminalised by the offences, including psychological oppression and abuse of power or taking advantage of a person's vulnerability, and
- Increase the availability of reparations to victims.

The AAWJ commends the Australian Government for the ongoing commitment to the United Nations Convention against Transnational Organised Crime Convention, and the whole-of-government strategy to combat trafficking in persons.

The AAWJ considers that the Bill is comprehensive and reflects the seriousness of the issues surrounding slavery and people-trafficking.

Trafficking, slavery, slavery-like practices and forced marriage violate human rights. It is the submission of the AAWJ that the Bill is an important step in meeting Australia's human rights obligations, particularly in relation to:

- freedom from slavery and forced labour
- protection of children against exploitation, violence and abuse
- respect for the family, specifically that no marriage shall be entered into without the free and full consent of the intending spouses
- provision for an effective remedy, specifically by increasing the ability to prosecute trafficking and slavery offences; and
- the right to work and rights in work, by criminalising forced labour and expanding the concept of deceptive recruiting.

The AAWJ strongly supports the amendment of existing definitions of trafficking, slavery and slavery-like offences, and the introduction of new offences relating to forced labour and forced marriage.

3. Recommendations in relation to implementation

The crimes targeted by the Bill classically affect women and children, although it is acknowledged that men may be equally likely to be the subject of forced labour crimes. The victims involved will also commonly be from non-English speaking backgrounds. The very nature of these crimes, involving as they do high levels of secrecy, will mean that victims are also characterised by lack of access to services, and thus assistance and detection.

To maximise the effectiveness of the legislation for those sought to be protected by the proposed amendments, the AAWJ urges the government to ensure ample provision is made

for education of the general public and of law enforcement authorities, about the new law. Information for judicial officers will also assist. Of course, law enforcement authorities must be adequately resourced to enable them to discharge their front line role. This is likely to require substantial resources, given that those involved in these criminal activities operate secretly to avoid detection. Offenders will also rely on fear of detection by authorities on the part of their victims, who will commonly have immigration issues, to assist in the offenders avoiding detection.

NGO's delivering a variety of services in the community, including in communities where English is not the first language of service users, are likely to play a particularly important role in detection of this offending, and support for victims. Good resourcing of such service delivery organisations together with excellent education programmes for both service-delivery workers and the public, including ethnic communities, will maximise the ability of this legislation to protect the intended victims. Effective law enforcement will of course also have a significant deterrent effect on these categories of criminal behaviour.

Thank you for the opportunity to make a submission to the Committee on this important issue. The AAWJ strongly supports continued work on attempts to outlaw slavery and people-trafficking, and values the Bill's role in ensuring that the broadest range of exploitive behaviour is captured and criminalised, in accordance with the provisions of the Convention.

Yours faithfully,

Judge Sarah Bradley
President