



Submission No 2

**Inquiry into Slavery, Slavery-like conditions and People
Trafficking**

Organisation: Family Voice Australia

Submission

on

Slavery, Slavery-like conditions and People Trafficking

to the

Joint Standing Committee on Foreign Affairs, Defence and Trade

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1. Introduction

On 13 August 2012 the Minister for Foreign Affairs, The Hon Senator Bob Carr, asked the Joint Standing Committee on Foreign Affairs, Defence and Trade to inquire into and report on slavery, slavery-like conditions and people trafficking.

The Committee has invited submissions which are due by 28 September 2012.

The terms of reference for the inquiry are to “*inquire into and report on slavery, slavery like conditions and people trafficking with a particular focus on:*

- *Australia's efforts to address people trafficking, including through prosecuting offenders and protecting and supporting victims;*
- *ways to encourage effective international action to address all forms of slavery, slavery-like conditions and people trafficking; and*
- *international best practice to address all forms of slavery, slavery-like conditions and people trafficking.*

2. Sexual servitude

Trafficking of women into Australia for sexual servitude is, according to the most recent US State Department report, the primary trafficking problem for Australia.

Australia is primarily a destination country for women subjected to forced prostitution and to a lesser extent, women and men subjected to forced labor.¹

Sexual servitude is inherently different from other forms of servitude because it involves forced acts of sexual intimacy – the violation of a woman’s body, essentially repeated acts of rape. This is not the same as being forced to perform domestic labour or work in a sweat shop.

The *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012* which is currently before the Senate would abolish the specific offences related to sexual servitude currently contained in sections 270.4-270.0 of the Code.

Instead new generic offences relating to “servitude” and “forced labour” would be introduced. It is quite appropriate to ensure that all forms of servitude and forced labour are treated as offences. However, this does not require abolishing the specific and distinct offences related to sexual servitude.

Criminal law generally treats rape and sexual assault as distinct crimes from other forms of assault.

The Commonwealth *Criminal Code* has separate crimes against humanity offences for “enslavement” (section 268.10) and “sexual slavery” (section 268.15) even though it applies the same penalty to the two offences.

It is important that the Commonwealth *Criminal Code* continues to contain explicit offences that appropriately penalise sexual servitude.

Forcing or coercing a person to provide sexual services should be considered a form of “cruel, inhuman or degrading treatment”. If considered in this light then sexual servitude would be an

aggravated offence of servitude and subject, appropriately, to a higher penalty of 20 years imprisonment.

Recommendation 1:

Specific offences related to sexual servitude should be retained in the Commonwealth Criminal Code with an appropriately high penalty of 20 years imprisonment.

2.1 Demand for sexual services from those in sexual servitude

The US State Department notes that:

Some women from Thailand, Malaysia, South Korea, China, and, to a lesser extent, India, Vietnam, Eastern Europe, and Africa migrate to Australia voluntarily intending to work legally or illegally in a number of sectors, including the sex trade. Subsequent to their arrival, however, some of these women are coerced into prostitution in both legal and illegal brothels. There were news reports that some Asian organized crime groups recruit Asian women to migrate to Australia, sometimes on student visas, and then subsequently coerce them into the sex trade. The women and girls are sometimes held in captivity, subjected to physical and sexual violence and intimidation, manipulated through illegal drugs, and obliged to pay off unexpected or inflated debts to their traffickers.²

It is noteworthy that several of the prosecutions for sexual servitude offences have involved legal brothels.³

The Age has reported extensively on how:

Chinese organised crime syndicates are running multimillion-dollar prostitution rackets across Melbourne by bribing officials and exploiting abysmal regulation. The syndicates are linked to human trafficking and arrange for dozens of Asian women to travel from interstate and overseas - often on student visas - to work in brothels. In several instances, figures linked to the illegal prostitution syndicates - including Mulgrave woman Xue Di Yan - are also licensed by the Victorian government to run legal brothels.⁴

The fact that prostitution is legal in parts of Australia is used by traffickers to help recruit women for sexual servitude. For example, a Korean pimp recently arrested has been reported to have used this approach:

The broker lured the women, saying that they could work without risk, since prostitution is legal in Australia, and make big money. He introduced 25 women to brothels in Melbourne and Sydney since 2007.⁵

The US State Department has drawn attention to the link between legalised prostitution and trafficking for sexual servitude since at least 1999:

Trafficking in East Asian women for the sex trade is a growing problem. Immigration and federal police have developed profiles and identified trends in the industry, but lax laws—including legalized prostitution in parts of the country—make enforcement difficult at the working level.⁶

The most recent State Department report notes that during 2011:

The government did not take significant steps to reduce the demand for commercial sex acts.⁷

One effective measure to reduce demand for commercial sex acts is to introduce penalties for clients who buy or attempt to buy a sexual service.

Penalties for clients are increasingly being introduced into prostitution law by jurisdictions impressed with the successful implementation of this approach in Sweden since 1999.

2.1.1 Sweden

On January 1, 1999, the Swedish Law that Prohibits the Purchase of Sexual Services (the Law) entered into force (Law That Prohibits the Purchase of Sexual Services, 1998:408).⁸

National President of FamilyVoice Australia Dr David Phillips and his wife Roslyn visited Sweden in 2004 and spoke to Tuve Skånberg, a member of the Swedish Riksdagen (parliament). Mr Skånberg said that Sweden's new prostitution laws which came into operation in 1999 have made a positive impact. Earlier laws against pimping, procuring and running brothels remain, and new laws against buying or attempting to buy sexual services have been added. He said there had not been many prosecutions for buying sex, because warnings were given at the first offence. The new laws have had a significant deterrent effect.

This view was reinforced recently by Patrik Cederlof, who is the Swedish coordinator for the prevention of prostitution and human trafficking. He spoke with Peter Abetz, a member of the WA Legislative Assembly, who recently visited Stockholm on a fact-finding tour.⁹ Mr Cederlof reported that Swedish police were aware of around 500 brothels operating in their country in 1999. He now challenges opponents to show him a brothel – but they have not been able to do so. There is still some prostitution in Sweden, but it mainly involves women operating from apartments who advertise on the internet and provide a mobile phone number. Police track these women and encourage them to join exit support programs.

An official review of the first ten years of the operation of the Law found that:

- Street prostitution had halved in Sweden since the Law came into effect while remaining the same in neighbouring Nordic countries;¹⁰
- While the overall incidence of prostitution, including prostitution where contact is made through the Internet, had increased in neighbouring Nordic countries, it had decreased, or at least not increased, in Sweden;¹¹
- Trafficking in human beings for sexual servitude is less of a problem in Sweden than in neighbouring Nordic countries and the National Criminal Police consider that the ban on purchasing sexual services is a barrier to human traffickers and procurers establishing business in Sweden;¹² and
- The proportion of men in Sweden that purchase sexual services has decreased with a number of men reporting that the ban had deterred them from continuing to purchase sex.¹³

Overall the official report concluded that “the ban on the purchase of sexual services has had the intended effect and is an important instrument in preventing and combating prostitution.”¹⁴

2.1.2 Norway

On January 1, 2009 a new law came into effect in Norway making it an offence to purchase a sexual act. Observers already noted a visible decrease in the number of street prostitutes as the law came into effect.¹⁵

2.1.3 United Kingdom

The United Kingdom has introduced a new approach to prostitution law that specifically tackles demand by penalising the paying for sex with a person who is being controlled against their wishes for someone else's gain.

This policy development followed a thorough investigation of the demand side of prostitution.

Tackling the demand for prostitution is an integral element of the Government's Co-ordinated Prostitution Strategy and the UK Action Plan on Tackling Human Trafficking, and in January 2008, the Home Office launched a six month review to explore what further action could be taken by Government and statutory agencies to reduce demand.

The Review involved key stakeholders and practitioners, including the Police and the Crown Prosecution Service as well as organisations supporting individuals involved in prostitution. Work undertaken within the Review included an assessment of academic research on sex buyers, an audit of enforcement and prosecution practice in England and Wales to identify best practice, an independent evaluation of approaches to tackling demand in nine other countries, and Ministerial visits to Sweden and the Netherlands to learn more from the differing approaches taken in these countries.

The Review concluded that there was evidence to support the development of a new offence to criminalise those who are found to be paying for sex with a person who is being controlled against their wishes for someone else's gain. The new offence should be a strict liability offence meaning that it will be irrelevant whether the sex buyer knew that the prostitute was controlled or not. This will help to achieve the goal of reducing the size of the 'sex market' by sending a clear message that those who pay for sex should consider the potential implications of their actions. Penalties for the new offence should be in line with other offences which target demand for prostitution. This would mean a non-custodial penalty, with a fine of up to £1000 (fine level 3).¹⁶

The new offence was added as Section 53A of the *Sexual Offences Act 2003* by amending legislation passed in 2009.

2.1.4 France

In April 2011 a parliamentary commission report recommended the adoption of the Swedish approach of criminalising the purchase of sex.

In December 2011 the National Assembly voted unanimously by a show of hands a cross-party, non-binding resolution which is due to be followed by a bill.

The resolution said the country should seek "a society without prostitution" and that sex work "should in no case be designated as a professional activity".

It urged abolition at a time when "prostitution seems to be becoming routine in Europe."¹⁷

The foreshadowed legislation would introduce six-month prison sentences and fines of 3,000 euros for clients of prostitutes.¹⁸

2.1.5 New offence

It would be appropriate for the Commonwealth to introduce a new strict liability offence of purchasing a sexual act with a person who is being held in sexual servitude.

Recommendation 2:

The Commonwealth Criminal Code should be amended to include a new strict liability offence of purchasing a sexual act with a person who is in sexual servitude.

3. Slavery in an international context

The transatlantic slave trade which operated from 1525 to 1867 is a serious blot on British, European and American history.

It is estimated that over 12 million Africans were transported as slaves during this period.¹⁹

The campaign to end the slave trade and to abolish slavery, led in Britain by William Wilberforce, required persistence and passion. The 1807 *Act for the Abolition of the Slave Trade* was a major turning point in the campaign. Slaves throughout the British Empire were emancipated in 1833.

Of course in the United States the abolition of slavery came only in 1867 at the end of the US Civil War.

In Northwest and East Africa and in the Middle East slavery was not formally abolished until much later with institutionalised slavery continuing in several countries to the present day.

In several Islamic countries support for slavery is justified on the basis of Islamic law.

3.1 Mauritania

Mauritania became the last country in the world to officially abolish slavery in 1981. It was not made a criminal offence until 2007.

The Mauritanian government denies that slavery exists in the country.

However, slavery remains endemic in Mauritania with an estimated 10-20% (340,000-680,000) of the population enslaved.

A 2012 report by CNN journalist John Sutter notes:

Slave masters in Mauritania exercise full ownership over their slaves. They can send them away at will, and it's common for a master to give away a young slave as a wedding present. This practice tears families apart.

Most slave families in Mauritania consist of dark-skinned people whose ancestors were captured by lighter-skinned Arab Berbers centuries ago. Slaves typically are not bought and sold — only given as gifts, and bound for life. Their offspring automatically become slaves, too.²⁰

Sutter notes the role Islam plays in the perpetuation of slavery in Mauritania:

Local Islamic leaders, called imams, historically have spoken in favor of slavery. Activists say the practice continues in some mosques, particularly in rural areas. Various religions in many countries have been used to justify the continuation of slavery. "They make people believe that going to paradise depends on their submission," one Mauritanian activist, Boubacar Messaoud, said of how religious leaders handle slavery.²¹

3.2 Niger

In 2008 Anti-Slavery International compiled a background report on slavery in Niger. It reported that:

Slavery was abolished in Niger in 1960 (upon independence from France), prohibited in 1999 and criminalised in 2003.

The minimum estimate is that 43,000 people are in slavery across Niger.

Slavery remains deeply embedded in Niger society. It exists across the country, in rural and urban areas, and is practised predominantly by the Tuareg, Maure (Berber Arab) and Peule (also known as Pulaar, or Fulani) ethnic groups.

Virtually all cases of slavery documented in Niger concern individuals whose ancestors were enslaved many generations ago. Slavery status is ascribed at birth and passed on through the generations.

Slaves are told that, under Islam, their paradise is bound to their master, and that if they do what the master tells them, they will go to heaven.

This is a powerful mechanism of control, teaching those who are enslaved to follow orders and accept their fate or they will be forsaken by God and live outside Islam.

Some Hausa follow the “fifth wife” practice - a form of slavery). The Hausa (both in Niger and Nigeria) are sold their “fifth wife” by Tuareg masters.

Islam allows a man to take a maximum of four wives. However, in Niger, the practice exists of taking a fifth wife. These women are known as wahiya among the Tuareg and sadaka among the Hausa.

Sometimes men take several fifth wives. The fifth wife does not receive any of the status benefits of being a wife, as there is no actual marriage. She is, in effect, a slave to her “husband”.²²

3.3 Sudan

Slavery has been a major issue in Sudan as a consequence of the civil war.

More than 14,000 men, women and children were abducted and forced into slavery in Sudan between 1986 and 2002.

The majority of abductees are Dinka from the Bahr el-Ghazal region in Southern Sudan. Other ethnic groups have also been affected, such as the Joor.

Over half were under-18 when abducted.

Furthermore, thousands of children were born into slavery to people who had been abducted, and suffer the same abuse.

The thousands of women and children who were captured in the course of the raids in Sudan were forced into different kinds of abuse, including forced labour as domestic workers, cattle herders, agricultural workers as well as forced marriage and rape. Some were sold or given to others as presents, or hired out as casual workers, for example in agriculture. The money that was paid was given to their masters. In many of these cases, abductees were ill-treated including being subject to physical abuse and having food and drink withheld.²³

Subsequently similar abductions took place in Darfur from 2003 onwards:

Government supported militia, like the Janjaweed and the Popular Defence Forces, together with the Sudanese Armed Forces, have systematically abducted civilians for the purposes of sexual slavery and forced labour as part of the Darfur conflict.

The vast majority of those abducted are from non-Arabic speaking ethnic groups like the Fur, Massaliet and Zagawa. Women and girls who are abducted are subjected to rape, forced marriage and sexual slavery as well as forced labour which typically would involve cooking, cleaning, washing clothes, collecting firewood and water, but may also include cultivating crops. Abducted men and boys are subject to forced labour which is usually agricultural work, looking after livestock, loading or carrying goods for their abductors and, in the case of boys, domestic work.²⁴

3.4 Saudi Arabia

Saudi Arabia officially abolished slavery in 1962.

However, reports indicate that slavery is still rife in this rigorously Islamic country.

A 2011 article by Joe Kiarie for Standard Media (Kenya) reported on the fate of Kenyan migrant workers in Saudi Arabia:

With about 40,000 Kenyan migrants working in Saudi Arabia, and over 400 of them deported in the last four months, the personal accounts of girls still in captivity abroad are disquieting. They paint a picture of a kingdom where upon entry, most workers have no choice but to surrender their travel documents along with their human rights and dignity to employers.

The most common violations include sexual assault; overwork with no pay, torture, lack of privacy and starvation. Chilling murders sum it all, with the recent discovery of a body of a Kenyan girl locked up in a freezer adding to statistics of unexplained murders of migrants in The Gulf. Fatuma Masoud, a mother of four from Kisauni, ... sent an SoS to Mombasa last weekend. She recently fell off a ladder while cleaning her boss's home at Al Khudar, Saudi Arabia and suffered a fracture to her back. But she continues to be overworked and cannot access any medical help.

"I am always locked in; eat smelly food or leftovers, one meal a day. I am a Kenyan, please help me get out of here, alert my embassy. You are my last hope," she wrote. When contacted, her employer, Hussein al Doussary, claimed to be unaware of the situation. Ms Fatuma is yet to receive any help. Most survivors make it back to Kenya with broken limbs. And although their accounts mirror scripts akin to gruesome movies, they are the reality.

My boss' family locked me in at all times and forced me to work while stark naked to ensure I neither escaped nor stole anything in the house," notes a lady who recently fled Saudi Arabia, but who seeks anonymity.

With slavery outlawed, it is believed the locals subtly use contracts to legitimise and camouflage this custom. For a migrant to work in Saudi Arabia or the UAE, she must first secure a visa via a sponsorship system called kafala. This is a routine practice among Gulf Cooperation Council states used to regulate residency and employment of foreign workers. Under it, expatriate workers can only enter, work, and leave member countries with the consent of their sponsor or a local employer. A worker's salary, stay, meals, ability to work elsewhere, and even ability to return home are thus entirely at the mercy of employers.

Khalid notes that although both the sponsor and the employee can break the contract, this apparent equality is a mere veil considering that if the worker breaks her contract; she must pay the cost of her return ticket (a fee that the employer would have otherwise paid). She may also be fined or forced to pay debts to the recruitment agency, thus forcing her to continue working.²⁵

Mary Doreen, an American woman who worked as a registered nurse at the King Faisal Specialist Hospital and Research Center, in Riyadh, Saudi Arabia, has reported that:

Women from Third World countries are purchased to serve in aristocratic households throughout the Kingdom of Saudi Arabia. They come from the Sudan, Thailand, Ethiopia, India and the Philippines and are frequently bought and sold, their families and extended family are given cash in exchange for one of their children. They are eager to sell a daughter to benefit the family, believing their child will live in luxury with a Saudi prince.

For the vulnerable, this is a dream come true, but in reality, is a farce. A Saudi prince who purchases a slave girl believes he committed a charitable act by rescuing a family from abject poverty while delivering his slave into a fate worse than death. He brings young girls into his palace, dumps them in damp basements without so much as a blanket for cover at night. She is lucky to have food, is often raped, tortured and persecuted by her owners and members of the royal household, both male and female.²⁶

3.5 Islamist endorsements of slavery

Daniel Pipes has documented recent support for slavery from leading Islamic religious authorities and activists in Saudi Arabia, Egypt and Kuwait:

- Sheikh Saleh Al-Fawzan, the author of a religious textbook (At-Tawhid, “Monotheism”) widely used to teach Saudi high school students as well as their counterparts abroad studying in Saudi schools (including those in the West), announced in a lecture in 2003 that “*Slavery is a part of Islam. Slavery is part of jihad, and jihad will remain as long there is Islam.*” He argued against the idea that slavery had ever been abolished, insulting those who espouse this view as “*ignorant, not scholars. They are merely writers. Whoever says such things is an infidel.*” Al-Fawzan is a member of the Senior Council of Clerics, Saudi Arabia's highest religious body; and a Professor at Imam Mohamed Bin Saud Islamic University, the main Wahhabi center of learning.²⁷
- In May 2011 prominent Egyptian Salafi Shaykh Abi-Ishaq al-Huwayni explains that Muslims' financial difficulties are due to the fact that they have abandoned jihad.

“The poverty that we’re in—is it not due to our abandonment of jihad? But if we could conduct one, two, or three jihadist operations every year, many people throughout the earth would become Muslims. And whoever rejected this da’wa, or stood in our way, we would fight against him and take him prisoner, and confiscate his wealth, his children, and his women—all of this means money. Every mujahid who returned from jihad, his pockets would be full. He would return with 3 or 4 slaves, 3 or 4 women, and 3 or 4 children. Multiply each head by 300 dirhams, or 300 dinar, and you have a good amount of profit. If he were to go to the West and work on a commercial deal, he would not make that much money. Whenever things became difficult (financially), he could take the head (i.e. the prisoner) and sell it, and ease his (financial) crisis. He would sell it like groceries.”²⁸

- In June 2011 Kuwaiti female political activist Salwa Al-Mutairi called for prisoners of war from Chechnya to be bought as sex slaves for Kuwaiti men:

“A Muslim state must [first] attack a Christian state—sorry, I mean any non-Muslim state—and they [the women, the future sex-slaves] must be captives of the raid. Is this forbidden? Not at all; according to Islam, sex slaves are not at all forbidden. Quite the contrary, the rules regulating sex-slaves differ from those for free women [i.e., Muslim women]: the latter's body must be covered entirely, except for her face and hands, whereas the sex-slave is kept naked from the bellybutton on up—she is different from the free woman; the free woman has to be married properly to her husband, but the sex-slave—he just buys her and that's that. For example, in the Chechnyan war, surely there are female Russian captives. So go and buy those and sell them here in Kuwait; better that than have our men engage in forbidden sexual relations. I don't see any problem in this, no problem at all.”²⁹

- In July 2012 Egypt's “first sex-slave marriage” took place mere days after the Muslim Brotherhood's Muhammad Morsi was made president. Abd al-Rauf Awn, who identified himself as an Islamic scholar who studied at Al Azhar and an expert at Islamic jurisprudence, released a video of himself “marrying” his slave. The woman, who has a non-Egyptian accent said, “I enslave myself to you,” kissing him in front of an applauding audience. Then, even though she was wearing a hijab, her owner-husband declared that she is forbidden from such trappings and commanded her to be stripped of them, so as “not to break Allah's laws.” She took her veil and abaya off, revealing, by Muslim standards, a seductive red dress (all the other women present were veiled). Abd al-Rauf Awn, justified this marriage, from Islam's prophet Muhammad's “sunna,” or practice, of “marrying” enslaved captive women, to Koran 4:3, which declares: “Marry such women as seem good to you, two and three and four... *or what your right hands possess.*” Though the term *malk al-yamin* literally means “that which is owned by your right hand,” for all practical purposes, and to avoid euphemisms, according to Islamic doctrine and history, she is simply a sex-slave.³⁰

3.6 Australia's response

Australia should consistently oppose all forms of slavery, including those entrenched by custom and supported by Islamic religious justifications in countries such as Mauritania and Niger; facilitated by civil war such as in Sudan; or justified by Islamist scholars in countries such as Saudi Arabia.

Australia should refuse to accept the official denials by these countries that slavery exists there.

Australia should support efforts in international forums to condemn all forms of slavery and to work for its effective abolition and the emancipation of all slaves.

Recommendation 3:

Australia should consistently oppose all forms of slavery, including those entrenched by custom and supported by Islamic religious justifications in countries such as Mauritania and Niger; facilitated by civil war such as in Sudan; or justified by Islamist scholars in countries such as Saudi Arabia.

Australia should refuse to accept the official denials by these countries that slavery exists there.

Australia should support efforts in international forums to condemn all forms of slavery and to work for its effective abolition and the emancipation of all slaves.

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