

## **ADDITIONAL COMMENTS BY COALITION SENATORS**

1.1 On 19 June 2012, the Senate referred the provisions of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 (Bill) to the Senate Legal and Constitutional Affairs Legislation Committee (Committee) for inquiry and report by 13 September 2012.<sup>1</sup>

1.2 Coalition Senators express reservations about certain aspects of the Committee's report into the Bill.

1.3 Coalition Senators are concerned about the very broad definition of 'coercion' in the Bill. The Addendum to the Explanatory Memorandum explicitly says that the term has been drafted "to be broad and non-exhaustive in order to supplement the existing framework and ensure the broadest possible range of exploitive behaviour is captured and criminalised". The failure to actually define what 'coercion' means leaves open the possibility that a broad range of relationships in which power is unequal might be characterised as coercive.

1.4 Similarly, Coalition Senators are concerned at the broad way in which the Bill provides that consent or acquiescence of a victim is not a defence to offences under the legislation. Clearly consent which has been obtained through duress or force cannot be characterised as true consent, but the Bill does not appear to make the distinction between real and apparent consent.

1.5 This distinction is highlighted by the way the Bill deals with servitude and forced labour offences within marriage or a marriage-like relationship. Clearly, there is a broad spectrum of unequal and undesirable power relationships within marriages in Australia, ranging from violent and coercive relationships to ones where one partner exercises an inappropriate level of influence over the other partner. Clearly, at one end of that spectrum behaviour should be criminalised and at the other it should not, but it is very hard to discern where, in that spectrum, the legislation draws the line of criminality.

1.6 Coalition Senators are concerned that many stakeholders are confused or dissatisfied with the approach the legislation takes, and believe that further work needs to be done to make clear the ambit of the legislation.

1.7 Coalition Senators welcome the effort to clarify the law regarding slavery and servitude, but are concerned that the operation of the law will leave open many questions of scope and definition which will necessarily need to be resolved in expensive litigation.

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1 Journals of the Senate, No. 92 – 19 June 2012, pp 2528-2529.

**Senator Gary Humphries**  
**Deputy Chair**

**Senator Sue Boyce**