



Migration Amendment (Overseas Organ Transplant Disclosure and Other Measures) Bill 2023 Inquiry Submission

Be Slavery Free welcomes the Inquiry into the Migration Amendment (Overseas Organ Transplant Disclosure and Other Measures) Bill 2023 (Inquiry). The proposed legislation is an important step towards preventing and eradicating forced organ harvesting, an insidious element of global modern slavery.

About Be Slavery Free

Be Slavery Free is a coalition of 18 member organisations. It aims to stop slavery by changing demand and supply. As slavery is a global problem, our work starts in Australia, but extends to include partnerships with other organisations and businesses around the world, especially in the Asia-Pacific region to achieve systemic and lasting change. We work to educate those who have power to end slavery – business, consumers, media, academics, civil society and governments – because we recognise that ending modern slavery is a shared responsibility.

Organ Trafficking and Leadership on Modern Slavery

Be Slavery Free is deeply invested in the development of an effective and pragmatic modern slavery legislative landscape in Australia that produces results for people who are caught in, or at risk of being caught in, situations of modern slavery. While Australia currently assumes a global leadership role in the fight against modern slavery, as evidenced by the ground-breaking Modern Slavery Act 2018 (Cth) and the Modern Slavery Act 2018 (NSW), ongoing research highlights the expanding footprint of modern slavery within Australian communities and the economy, signalling a pressing need for concerted action.

For instance, the Australian Federal Police reported a 31.25% increase in instances of modern slavery and human trafficking during 2021-22, with concerning evidence of a rising tide of social media-related modern slavery cases.¹ On a global scale, the Global Slavery Index (GSI) paints a disconcerting picture, revealing a surge in forced labour and forced marriage affecting 10 million people from 2016 to 2021,

¹ Reports of Human Trafficking and Slavery to AFP reach new high. Australian Federal Police. July 30, 2022. Retrieved January 22, 2023, from <https://www.afp.gov.au/news-centre/media-release/reports-human-trafficking-and-slavery-afp-reach-new-high>.

with a significant number being children. The report also underscores the emerging impact of Covid-19 on various industries and workers.²

Addressing organ trafficking inevitably requires engaging with broader global trends in modern slavery, particularly the well-documented human rights crisis in China, involving the Uyghurs and members of other Turkic Muslim cultures. More than 1 million people confined to 're-education' camps are reportedly subjected to political indoctrination, forced to renounce their religion and culture, and torture.³ Recent research also indicates a shift from 're-education' to direct forms of forced labour, 'consolidating the mass transformation of ethnic (non-Han) agriculturalists into factory workers through intensified monitoring, transforming a mobilization-driven labour transfer campaign into an institutionalized long-term mechanism.'⁴ Reports detailing the extensive forced organ harvesting by the Chinese government targeting ethnic minorities such as the Turkic Muslim and Falun Gong communities, are specifically relevant for this inquiry.⁵ This information is prescient for an Amendment Bill aimed at preventing and deterring organ trafficking.

Modern slavery is a crime that is perpetuated in systemic failures, necessitating comprehensive systemic solutions. In the short term, one actionable step that the Government can take to address the transnational movement of people and goods, which contributes to and is driven by modern slavery, is to amend the Migrations Act 1958 (Cth). This can be achieved by introducing a straightforward yet effective customs question.

Furthermore, a systemic solution could involve a forced labour ban, banning the importation into Australia of goods or services produced with forced labour, child labour or prison labour is another systems solution designed to stem the flow of modern slavery. This has been committed to by the Labor Party⁶ and in multiple proposed changes to the Customs Legislation Amendment (Controlled Trials and Other Measures) Bill 2022.

² Walk Free. (2023). "The Global Slavery Index 2023," Walk Free. Retrieved February 1, 2024, from: <https://cdn.walkfree.org/content/uploads/2023/05/17114737/Global-Slavery-Index-2023.pdf>, 2.

³ V. Xiuzhong Xu, "Uyghurs for sale: 'Re-education,' forced labour and surveillance beyond Xinjiang," The Australian Strategic Policy Institute, 2020, <https://www.aspi.org.au/report/uyghurs-sale>, 4.

⁴ Adrian Zenz, "The conceptual evolution of poverty alleviation through labour transfer in the Xinjiang Uyghur Autonomous Region," *Central Asian Survey* 42, no. 4 (2023), 654. <https://doi.org/10.1080/02634937.2023.2227225>.

⁵ Sir Geoffrey QC Nice, *The Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China: Judgment*, China Tribunal, January 31, 2024, https://chinatribunal.com/wp-content/uploads/2020/03/ChinaTribunal_JUDGMENT_1stMarch_2020.pdf.

⁶ Australian Labor Party, *Australian Labor Party National Platform* (August 2023), <https://www.alp.org.au/media/3569/2023-alp-national-platform.pdf>

Amending the Migrations Act 1958

Be Slavery Free welcomes the proposed amendments to the Migrations Act 1958, and would stress the following positive ramifications:

Increased Awareness

Requiring a mandatory question on organ transplants for every individual entering Australia is an important opportunity to raise awareness of the issue of organ trafficking amongst the broader Australian community. The proposed legislation will require all Australians travelling into the country to complete the incoming passenger card. According to the Australian Bureau of Statistics, in November 2023 there were 1,562,520 arrivals into Australia. Out of the 1,562,520 arrivals, 834,290 were Australian resident arrivals, and 714,300 were overseas visitor arrivals.⁷

To utilise the opportunity, the Australian Governments should fund a social marketing campaign as per the recommendations of The Human Rights Sub-Committee of the House of Representatives Joint Standing Committee on Foreign Affairs, Defence and Trade, in its report 'Compassion, Not Commerce: An Inquiry into Human Organ Trafficking and Organ Transplant Tourism'.⁸

Recommendation 8:

The Sub-Committee recommended that the Australian Government establishes a multilingual public health education program that addressed legal, ethical and medical risks associated with participation in organ transplant tourism, includes a stream for educating frontline staff about how to best identify possible cases of organ harvesting and support both vulnerable victims and desperate patients, based possibly on the Anti-Slavery Australia e-learning model; is multi-lingual; and is designed in particular to educate Australians who were born in, or have family associations in, countries where human organ trafficking is known or suspected to occur.

Recommendation 9

The Sub-Committee recommended that the Australian Government includes information on trafficking in human organs and transplant tourism on relevant government websites, including on the SmartTraveller.gov.au website, on country-specific pages of countries where human organ trafficking is known or suspected to occur.

An appropriately funded social marketing campaign, focusing on strategic locations and communities most likely to be affected, could transform the incoming passenger form requirement into widely recognised public knowledge and practice.

⁷ Australian Bureau of Statistics. (2023). Overseas Arrivals and Departures, Australia. Retrieved February 1, 2024, from: <https://www.abs.gov.au/statistics/industry/tourism-and-transport/overseas-arrivals-and-departures-australia/latest-release>

⁸ Human Rights Sub-Committee. (2018). Compassion, Not Commerce: An Inquiry into Human Organ Trafficking and Organ Transplant Tourism, House of Representatives Joint Standing Committee on Foreign Affairs, Defence and Trade. Retrieved January 31, 2024, from <https://www.aph.gov.au/~media/02%20Parliamentary%20Business/24%20Committees/244%20Joint%20Committees/JFADT/Foreign%20Affairs%20Defence%20and%20Trade/Organ%20Harvesting%20Inquiry/Full%20report.pdf>

Due Diligence

The proposed legislation may assist certain Australian businesses and the proposed federal Anti-Slavery Commissioner to better assess and identify modern slavery risks of organ trafficking as required by the Modern Slavery Act 2018 (Cth). The Modern Slavery Act 2018 (Cth) Review recommended a shift from reporting to due diligence, a recommendation that ‘shone through’ in many submissions to the inquiry⁹ and will hold reporting entities to a higher standard of scrutinising their supply chains for the risk and presence of modern slavery.

The report proposed in the Migration Amendment Bill would provide critical information on geographies, products or sectors that have been identified as presenting high risks of adverse impacts such as organ trafficking or forced organ harvesting. This would be relevant for reporting entities including hospitals, universities, pharmaceutical companies, medical equipment manufacturers and health insurance providers.

The proposed report would also assist a pending Anti-Slavery Commissioner in the execution of their functions if the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 is passed. Under the current proposal, the Commissioner is charged with supporting reporting entities address risks of modern slavery practices in their operations and supply chains and consulting Commonwealth, State and Territory governments to address risks of modern slavery practices in their operations and supply chains, and in the operations and supply chains of entities they own or control.¹⁰

The Migration Amendment Bill is an opportunity for the government to introduce a pragmatic and impactful initiative that can contribute towards the eradication of organ trafficking, in particularly overseas transplants and all associated crimes and human rights violations. Be Slavery Free supports the proposed legislation for the reasons stated above in this submission.

⁹ J. McMillan, Report of the statutory review of the Modern Slavery Act 2018 (Cth), May 24, 2023.

¹⁰ Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023, Explanatory Memorandum, https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr7122_ems_3ebc74c7-0ea5-4d0a-a4f4-951bcfdcbf09%22