



31 July 2012

Ms Julie Dennett  
Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
By email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Ms Dennett,

Thank you for the opportunity to provide a submission on the Senate Legal and Constitutional Affairs Committee Inquiry into the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012*. Please find attached a submission from the Migration Institute of Australia (MIA).

The MIA is the peak body for migration advice professionals, representing more than 2200 Registered Migration Agents (RMAs) across Australia and overseas. The MIA holds interests in all areas of migration policy development and would appreciate the opportunity to contribute to future consultations regarding the Inquiry.

Some MIA members are prepared to assist people, who have been subjected to trafficking to regularise their migration status, by providing pro bono migration advice.

If you wish to discuss or have any questions in relation to this submission, please contact

Yours sincerely,

Maurene Horder  
Chief Executive Officer  
The Migration Institute of Australia

The MIA is supportive of the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012* and any government efforts to deter forced marriage, slavery, slavery-like conditions and people trafficking. Such exploitation of people, frequently women and children, is a serious breach of human rights.<sup>1</sup>

The victims of such offences are often vulnerable, with limited English language skills and anxiety over their migration status which is often uncertain. They fear the perpetrators, the criminal justice system and deportation. Anecdotal evidence also suggests that victims of forced marriage may also be subject to further exploitation as they may be used to sponsor a person to come into Australia.

The United Nations Principles on Guidelines on Human Rights and Human Trafficking (“the Principles”) state that “...legal and other material assistance should be provided to trafficked persons to enable them to realize their adequate and appropriate remedies”.<sup>2</sup>

### Legal Assistance

The Principles state that the

“...right [to adequate and appropriate remedies] is often not effectively available to trafficked persons as they frequently lack information on the possibilities and processes for obtaining remedies, including compensation, for trafficking and related exploitation. In order to overcome this problem, legal and other material assistance should be provided to trafficked persons to enable them to realize their right to adequate and appropriate remedies.”<sup>3</sup>

The MIA is of the view that there is a need for additional resources to be allocated to community legal services that focus solely on trafficked persons. The service should educate such persons on their legal rights in the Australian workplace, on immigration law, criminal law and reparations in civil law.

### Reparations

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime provides that “Each

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<sup>1</sup> The *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) provide that no one shall be required to perform compulsory or forced labour and that everyone has the right to freely choose one's work.

<sup>2</sup> Guideline 9, UN Office of the High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, 20 May 2002, E/2002/68/Add.1, available at: <http://www.unhcr.org/refworld/docid/3f1fc60f4.html>

<sup>3</sup> Ibid.

State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered”.<sup>4</sup>

The rights of victims to effective remedies are set out in the Universal Declaration of Human Rights, the ICCPR and the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. The Declaration states offenders should, “where appropriate, make fair restitution to victims, their families and dependents.” It also provides that judicial and administrative procedures should enable victims of crime to obtain redress through procedures that are “expeditious, fair, inexpensive and accessible.”<sup>5</sup>

Victims of people trafficking suffer both economic and non-economic losses and it is the function of responsible government to make provision for restitution. This is a matter of social justice and sends a strong message to the perpetrators of people traffickers that their crimes will not go unpunished. It is also essential to ensure that victims of these crimes are provided with protection and duly compensated in order to meet our International obligations under the United Nations Covenants.

### Conclusion

It is submitted that legal assistance and reparations for victims of people trafficking in the form of the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012* are a step in the right direction. Whilst outside the scope of this submission, it is further submitted that attention needs to be given to the other needs of the victims of such offences such as the need to resolve their migration status and their need for protection and rehabilitation.

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<sup>4</sup> Article 6.6, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, United Nations, 2000, [http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf)

<sup>5</sup> Article 5, UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Annex, A/RES/40/34, 29 November 1985, <http://www.un.org/documents/ga/res/40/a40r034.htm>