



Submission No 81

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

Organisation: Slavery Links Australia – Supplementary
submission

Supplementary Submission from Slavery Links Australia Inc

Consultation with Government

Through the process of seeking submissions, the Committee has identified a number of not-for-profit (NFP) and community associations who are engaging with the subject of slavery as defined in Division 270 of the Criminal Code (Cth). Yet the community sector that works in relation to slavery is not being engaged by government in a systematic way.

The Committee process has demonstrated the need to reform and strengthen consultation and engagement in relation to slavery through the Round Table and the NGO Forum [Refer to Submission 7, Implementation – Section 3].

“Core” human rights treaties

On 9 May during oral evidence by Slavery Links, Senator Stephens made a remark to the effect that slavery is being overlooked.

Slavery Links agrees that slavery is being overlooked by government. However this is not a whim or fluke. Government has adopted a list of so-called “core” human rights treaties. For reasons that are not understood the Supplementary Convention is not one of the “core” treaties identified by the United Nations or the Australian Government. The International Convention to Suppress the Slave Trade and Slavery, 1926, was a foundation document in the development of human rights. In our submission it is open to the Government to add the Supplementary Convention to the list of “core” treaties in Australia and thereby to address the concerns raised in our written submission [Submission 7, Implementation – Treaty Monitoring, Page 2]. In particular this would address concerns around funding and programs.

Forced marriage

In oral evidence on 8 May, Plan Australia referred to early and forced marriage where women may be married without consent, sold or transferred, or inherited. These are the three limbs of forced marriage as it was defined in the Supplementary Convention 1956.

Slavery Links agrees that this definition warrants attention. Regrettably, reforms to the Act do not implement the Convention. [Refer to Section 6 of Submission 7]. That needs to change.

Indicia of Slavery

On 9 May during oral evidence, Slavery Links responded to a question posed by Mr Slipper on 8 May which was, in effect, *how do we distinguish a forced marriage from an arranged marriage*. Slavery Links provided a copy of a flow chart, prepared in 2011-2012, and in which Slavery Links retains copyright with permission-to-use-with-acknowledgement granted to the Committee.

May I point out that the legal analysis contained in this flow chart would attract a large fee in any other circumstance. Slavery Links is funded by members and we would be grateful if the Committee would encourage government to make such causes eligible for funding via human rights education, a criminal law program, a communities program, a families (harm) program, a trade program, a victim of crime program, and or some other government sources. The copy of the flow chart that was handed up showed two elements in highlight:

1. The three limbs of the Supplementary Convention definition of forced marriage
2. The eleven “indicia of slavery” as defined by the International Criminal Tribunal for the Former Yugoslavia (ICTFY) and as used by the High Court in R v Wei Tang.

What status do these elements have following the recent reforms to Section 270?

- The indicia have come into Australian case law and could be used again in any slavery case, for example if a Court was asked to distinguish a forced marriage from an arranged marriage
- The flow chart shows the “three limb” definition of forced marriage. However that definition was not used in the reforms. It is not clear how the Courts would regard this definition in the event that a woman in Australia claimed to have been inherited by or transferred to another. This needs to be clarified.
- Finally, having been used by the High Court, the indicia are available to be applied as guidelines in the development of an anti-slavery program, including a forced marriage program.

In the submission of Slavery Links, the indicia are also in a program development context. We stand ready to assist in a process of program development if government wants that.

Judicial Education

On 9 May, during oral evidence by Shakti, the Committee heard that Judges need to be trained to recognise indicators of slavery. Slavery Links agrees that it is desirable for judicial officers and prosecutors to become more educated about how slavery might be present in Australia. In speaking with judicial officers about my involvement with Slavery Links, the response is much the same as with lay members of the public: “Is slavery still a problem?”

On 9 May I presented a copy of the handout from the paper presented by Roscoe Howell and Robert Evans on behalf of Slavery Links to the Conference of the Australian Institute of Judicial Administration in Brisbane in August 2012 (in which Slavery Links retains copyright with permission-to-use-with-acknowledgement granted to the Committee). As indicated in Slavery Links’ oral evidence, this paper draws attention to cases going to lower courts where the slavery component is not being recognised or where matters are treated as Fair Work, Occupational Health or other workplace matters.

The session by Slavery Links at the Institute of Judicial Administration Conference was well attended, with positive comments made.

On 8 May 2013 the Committee received oral evidence from Dr Anne Gallagher to the effect that Judges object to being trained. In Slavery Links’ experience, that assertion is not correct and or does not apply to judicial education.

Role of AusAID

On 8 May during oral evidence, Plan Australia set out a community-based response to forced marriage. The Committee Chair asked Plan Australia about the role of AusAID.

In Submission 35, Slavery Links has set out (in our commentary on the Human Rights Action Plan) how a community response to slavery could be implemented in Australia and the Region.

In our submission, AusAID needs to engage with the subject of slavery and with the potential for community responses to slavery as part of development programmes.

ENDS