

24 January 2017

Mr Craig Kelly MP
Chair
Parliamentary Joint Committee on Law Enforcement
PO Box 6100
Parliament House
Canberra ACT 2600

By email: le.committee@aph.gov.au

Dear Chair

Inquiry into Human Trafficking

1. Thank you for the opportunity to provide a submission to the Parliamentary Joint Committee on Law Enforcement's (**the Committee**) current inquiry into human trafficking.
2. The Law Council is grateful for the assistance of the Law Society of South Australia in the preparation of this submission.
3. The Law Council notes that the Committee intends to refer to the evidence received during the 44th Parliament, in addition to any new evidence received.
4. To this end the Law Council refers the Committee to its submission of 15 February 2016 (**attached**). In addition, the Law Council makes the following comments for the Committee's consideration.

Establishing a national compensation scheme

5. Human trafficking, including slavery, slavery-like practices and people trafficking offences, are contrary to international law, often target highly vulnerable victims, and involve significant breaches of human rights. The Law Council welcomes all efforts to prevent such practices and considers that Australia's response to these issues should reflect international best practice and be consistent with Australia's international legal obligations.
6. Since 2003, successive Commonwealth Governments have progressively implemented a number of legislative and policy initiatives to ensure that Australia adequately responds to human trafficking. The Law Council has welcomed these developments, but considers that the Government should take a human rights approach to all efforts to prevent and combat these offences, and to protect, assist and provide redress to victims.

7. The Law Council maintains its previous recommendations to the Committee in February 2016, including those that it has previously recommended to Parliamentary inquiries, such as the establishment of a national compensation scheme for victims of these offences. The Law Council considers that it is imperative that the Government continue and improve its support for and work in these areas, in order to adequately address human trafficking, including slavery, slavery-like practices and people trafficking.
8. The Law Council also refers the Committee to a *Report on Establishing a National Compensation Scheme: Victims of Commonwealth Crime* published by the Law Council, Anti-Slavery Australia at the University of Technology Sydney (October 2016) (**attached**). This Report makes a compelling case for the establishment of a national compensation scheme for survivors of human trafficking, slavery and slavery-like practices.
9. It discusses how survivors of these human rights abuses have suffered harm and trauma. The right to an effective remedy is long established in international law and in Australia. While some survivors can make claims to State or Territory schemes, many are excluded. The Report notes that State and Territory schemes are simply not designed to provide compensation for Commonwealth crimes such as slavery, servitude or forced labour. The Report draws on extensive research, advocacy and experiences of Anti-Slavery Australia and the Law Council. In preparing the paper, Anti-Slavery Australia and the Law Council consulted with a range of civil society organisations and government agencies and received valuable feedback.
10. The Law Council and Anti-Slavery Australia consider that it is essential to develop a national compensation scheme as part of Australia's response to human trafficking.

Crimes Legislation Amendment (International Crime Cooperation and Other Measures Bill 2016

11. The Law Council commends the proposed amendments in Schedules 5 and 6 of the Crimes Legislation Amendment (International Crime Cooperation and Other Measures Bill 2016 which is currently before the parliament. Schedule 5 includes measures to strengthen protections available to vulnerable complainants and witnesses who give evidence in a criminal trial relating to slavery, slavery-like offences and human trafficking. Schedule 6 expands and clarifies the meaning of 'debt bondage' in the *Criminal Code Act 1995* (Cth) and the evidence which may be taken into account by a court concerning slavery-like offences. The Law Council considers that these amendments will assist in combating slavery and slavery-like offences.

Comments on Terms of Reference

12. The Law Council notes the National Action Plan to Combat Human Trafficking and Slavery 2015-2019 published by the Commonwealth Government in 2014 outlines the Commonwealth Government's action plan to comply with international obligations.
13. The Law Council suggests that within the Committee's second Term of Reference which deals with the role and effectiveness of Commonwealth law enforcement agencies in responding to human trafficking, the following matters be considered:

- The effectiveness of cooperation and collaboration between Federal and State governments and Federal and State governmental agencies to combat trafficking; and
 - The effectiveness of cooperation and collaboration between government and governmental agencies with civil society organisations and unions to combat trafficking.
14. In relation to the third Term of Reference which examines practical measures and policies, the Committee should consider whether current victim protection programs are adequate and in line with the *Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime*.
 15. In relation to the sixth Term of Reference, which examines the effectiveness of relevant Commonwealth legislation and policies, the Committee should include a consideration and evaluation of the effectiveness of the trafficking visa framework in protecting victims of human trafficking.
 16. In relation to the seventh Terms of Reference, the Committee should consider the level of cooperation and collaboration between civil society organisations within Australia and any practical measures to improve this.

I trust these observations are of assistance to the Committee's deliberations.

The Law Council welcomes the pending human trafficking review by the Committee and would be pleased to address any questions that the Committee may have or expand on the above issues where required.

Yours sincerely



Fiona McLeod SC
President