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Submission by **National Council of Women of Australia (NCWA**) to the **Legal and Constitutional Affairs Legislation Committee** on the
Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012

By Ms Margaret Findlater-Smith, President, National Council of Women of Australia

1. **NCWA thanks the Senate Legal and Constitutional Affairs Committee** for the opportunity to make this submission regarding the *Crimes Legislation Amendments (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012*.

2. About the National Council of Women of Australia:

2.1 NCWA is a national non-government umbrella organisation with broadly humanitarian and educational objectives, which seeks to raise the awareness of women to their rights and responsibilities as citizens and to encourage the participation of women in all aspects of community life. NCWA links NCW groups across Australia, each with diverse affiliates, in a federal structure and provides a forum for considered debate on policy matters brought forward by the constituent Councils. Individually and in partnership, NCWA works for improved conditions for women and children, especially the most vulnerable. In the ACT, New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia members maintain an active program of seminars, conferences, consultations, submissions and publications. NCW New South Wales was set up in 1896. Australia was one of the earliest countries to join the **International Council of Women** , the world's oldest international women's organisation.

2.2 NCWA has regularly participated in both International meetings of ICW, and the UN Commission on Status of Women as well as ICW regional gatherings in partnership the most recent in Nandi Fiji in November 2011_and is well-briefed on the UN Convention Against Transnational Organized Crime (2000) and its Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, the 'Trafficking Protocol' which was the basis for Australia's National Action Plan on Trafficking.

3. NCWA supports this Bill, which when enacted will criminalise a range of exploitative behaviours including forced labour, forced marriage, organ trafficking and harbouring a victim; as well as clarify and extend the scope of slavery offences; extend the application of existing offences of deceptive recruiting to situations of non-sexual servitude; increase penalties for debt bondage offences; and amend existing definitions to penalize a broad range of exploitative conduct. NCWA is also pleased to see the forced and servile marriage aspects of the Bill.

4. NCWA is also supportive of the process used in developing this Bill. Our members have been pleased to be able to take part in formal national round tables at which stakeholders have identified issues needing legislative resolution. NCWA has position of seeking to ensure trafficked people's needs are met, be they retraining, access to financial compensation, medical and dental care, accompaniment, or other needs, and notes the relevance of the comments made by the UN Special Rapporteur on Trafficking in Persons, Ms Joy Ngozi Ezeilo while she was in Australia in November 2011 regarding the areas in which the Australian Government could strengthen its efforts to preventing trafficking in persons and protecting trafficked persons, including re-developing, consultatively, a national plan of action for combating trafficking which applies a human rights based approach, including measurable targets and indicators; placing a greater focus on a victim centred approach and on a victim's rights particularly in the areas of housing, settlement and orientation services, medical and psycho-social support and translation and interpreting services; providing specialist services for trafficked children, including appropriate housing, education and care; ensuring trafficked persons including children are not arrested, detained for long periods and deported for breach of migration regulations without proper identification, while paying particular attention to the vulnerability of smuggled entrants to Australia to trafficking related deception, coercion and exploitation.

5. NCWA records its concern that, as shown by submissions to the Parliament of Victoria Drugs and Crime Committee, Inquiry into People *Trafficking* For Sex Work, June 2010, much of the inter-agency effort applied to apprehending those engaged in exploitative behaviour will fail, because of the difficulty of satisfying the requirement of proof that the persons held for example by debt bondage have been trafficked internationally; while persons of overseas origin without right of permanent residence in Australia may be found to be moving within Australia for example from NSW to WA in as sex workers, it has not been easy to demonstrate that they have been deceptively recruited into Australia.

6. NCWA commends the Government's efforts to prevent people trafficking and slavery and to protect the rights of the victims of such crimes but stresses how vital it is that Australia commits to dealing with these issues within a human rights framework, and continues to engage with stakeholders and other CSOs to develop effective measures to tackle these issues including conducting education and community awareness campaigns; and working with Human Rights bodies in Australia, the Asia Pacific region and internationally, to advocate for measures to address people trafficking. NCWA is concerned that efforts should be made to harmonisation of these state and commonwealth

schemes for support of victims of people trafficking and slavery related offences, not contingent on participation in criminal justice witness protection programs.

7. NCWA supports the insertion of two new forced marriage offences causing a person to enter into a forced marriage and being a party to a forced marriage. and the use of a broad definition of 'marriage' to maximise the relationships captured by the offences.

7.1 NCWA has had reports through its local groups for example in the Goulburn Valley and through its organizational affiliates, of significant numbers of young women who have been pressured into false marriages. Some have been brought to Australia thinking they were marrying but find themselves enslaved here in Australia. Other young women have been sent from Australia to the home country of their parents, or to a third country, and have found themselves subject to a forced marriage.

7.2 The forced and servile marriage aspects of the legislation should serve as a deterrent, but community awareness raising work will be needed to ensure the law fulfils its strong deterrent potential. The extra-territorial reach of the offences is crucial to ensure that Australians cannot circumvent these new offences by use forced or servile marriage overseas. We support submissions relating to the 'Forced and Servile Marriage' Discussion Paper that proposed that prevention of sham, forced or servile marriages should be the first priority, through means such as community education programs and the distribution of information to women pre-marriage by marriage celebrants and immigration officers in order to inform them of their rights. The Government must continue to work on the non-legislative measures discussed in the 'Forced and Servile Marriage' Discussion Paper.

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