9 September 2024

The Hon Tony Burke MP
Leader of the House
Minister for Home Affairs

Dear Minister Burke,

Firstly, we wish to congratulate you on your appointment as Minister for Home Affairs. Each signatory organisation on this letter is dedicated to ending modern slavery and slavery-like practices in all their forms. The portfolio of Home Affairs overlaps with our mission in many aspects, and we look forward to working with you to bring an end to these crimes.

We wish to draw to your attention the **Migration Amendment (Overseas Organ Transplant Disclosure and Other Measures) Bill 2024** (the Bill). The Bill was passed in the Senate on 21 August 2024. We write to request that the Government take the lead in introducing and supporting this Bill in the House of Representatives.

Organ trafficking is a form of modern slavery pursuant to s4 of the ***Modern Slavery Act 2018*** **(Cth)** and a criminal offence under the ***Criminal Code Act 1995*** **(Cth)**. Organ trafficking is a heinous offence involving a broader range of other crimes where a person's freedom is taken away and they are exploited for the benefit of another.

Australians may, either through genuine or deliberate ignorance, as recipients of trafficked organs, become implicated, or in some instances be complicit, in this abusive and criminal practice. As stated above, organ trafficking (including in the form of forced organ harvesting) is an extreme form of slavery. Serious crimes are committed including violations of fundamental human rights including the right to life, the right to health and the right to a fair trial. Organ trafficking is a global human rights issue, which Australia should play a significant role in addressing. Additionally, Australia has legal obligations to prevent these offences from occurring.

The Bill requires that a person entering Australia answer the question on their incoming passenger card, ***Have you received an organ transplant outside Australia within the last 5 years?*** If the answer is yes, subsequent questions regarding the place and medical facility must be answered.

Why is this Bill important?

- First, it seeks to implement recommendations made in the 2018 ***Compassion, not Commerce*** report of the Joint Standing Committee on Foreign Affairs, Defence and Trade following a Federal inquiry into human organ trafficking and organ transplant tourism.[1]
- Second, without knowing the extent of Australian involvement in organ trafficking, we know little about this complex problem. In very simple terms, you cannot fix what you cannot see. We know that organ trafficking occurs in neighbouring countries, yet Australia does not collect any data about how many people enter Australia having had an organ transplant overseas. In addition to the potential human rights violations, transplantation from overseas places an extra burden on the Australian healthcare system due to higher rates of complications from such surgery.
- Third, passing this Bill would bring Australia in line with international efforts in the United Kingdom, United States of America and Canada.[2]

The focus of the debate by the Government in the Senate was around whether people will honestly complete their Incoming Passenger Declaration. Although this is a valid concern, we note that the question of honesty arises for many of the questions on the arrival card, for example about visiting farmland. In the same way that Australia's biosecurity is a priority for the Government, so too should the eradication of modern slavery. As highlighted above, the serious burden on the Australian healthcare system, especially given the costs implications of patient aftercare, urgent action is required. Given the insertion of s4 of the Bill, providing for an independent review of the operation of the amendments after 3 years, we respectfully submit that the issue of honesty can be revisited and addressed once data on this crime is available.

We have a responsibility to inform Australians and to advocate for the human rights of global citizens. The Incoming Passenger Card will have a significant impact on increasing the awareness of organ trafficking as well as collecting data on overseas transplants, which is essential to understanding the nature of this offence, and all other associated offences. The inclusion of the question proposed, in and of itself supports recommendations 3, 4, 8, 9 and 10 of the ***Compassion, Not Commerce*** report, which call for community education on this matter and better data collection.

You can find the submissions from our organisations on the Committee's page regarding the **Inquiry into Migration Amendment (Overseas Organ Transplant Disclosure and**

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[1] 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

[2] https://endtransplantabuse.org/legislation/

Other Measures) Bill 2024.[3] Anti Slavery Australia, End Transplant Abuse in China and Be Slavery Free, all gave evidence to the Public Hearing on 22 March 2024.

We ask that you reconsider the Government's position on this Bill and offer the leadership required to enact this legislation. We further call on the Government to implement additional measures to comprehensively address organ trafficking and organ transplant tourism as a matter of urgency, including investment in public awareness, education and training, systematic data collection and research and the strengthening of Australia's existing legal framework.

We remain available to speak with you or your staff on this matter.

Yours faithfully,

Carolyn Kitto, OAM, Co-Director, Be Slavery Free (carolyn.kitto@beslaveryfree.com)

Madeleine Bridgett, Member of the Australian Committee, ETAC (madeleine.bridgett@endtransplantabuse.org)

Professor Wendy Rogers, Distinguished Professor, Macquarie University and Chair, International Advisory Committee of ETAC (wendy.rogers@endtransplantabuse.org)

cc:

- The Hon Anthony Albanese, MP, Prime Minister of Australia
- The Hon Mark Dreyfus KC, MP, Attorney General
- Senator the Hon Penny Wong, Minister for Home Affairs

Members of the Inquiry Committee

- Senator Raff Ciccone, Chair of Foreign Affairs, Defence and Trade Legislation Committee
- Senator David Shoebridge
- Senator Dean Smith

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[3] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/OverseasOrganTransplant47/Submissions

This letter is supported by the following individuals and organisations:

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