
The Parliament of the Commonwealth of Australia

Trading Lives: Modern Day Human Trafficking

Inquiry of the Human Rights Sub-Committee

Joint Standing Committee on Foreign Affairs, Defence and Trade

June 2013
Canberra

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ISBN 978-1-74366-044-7 (Printed version)

ISBN 978-1-74366-045-4 (HTML version)

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Foreword

Trafficking in persons, slavery and slavery-like practices is an egregious violation of an individual's human rights. Trafficking and slavery victims are exploited physically, emotionally and mentally and the effects of this trauma can be long lasting and destructive.

Trafficking in persons, slavery and slavery-like practices are some of the fastest growing criminal activities in the world. The International Labour Organisation (ILO) estimates that between 2002 and 2011 there were over 20 million victims of forced labour globally. In 2009, the ILO also estimated that the annual global profits from trafficked forced labourers were around US\$32 million. This equates to a profit of US\$13,000 for each woman, man and child trafficked into forced labour.

The crimes of trafficking in persons, slavery and slavery-like practices place an additional economic burden on each country. Funding is provided for resources devoted to its prevention, the treatment and support of victims and the apprehension and prosecution of offenders.

Every country around the world is affected, including Australia. Since 2004 the Australian Federal Police have undertaken more than 375 investigations and assessments into allegations of trafficking in persons, slavery and slavery-like practices. 209 suspected victims of trafficking in persons and slavery were provided government support through the Support for Trafficked People Program, and there have now been 17 convictions for slavery, slavery-like and trafficking in persons offences.

The Committee acknowledges the steps taken by the Government to strengthen Australia's criminal justice framework, establishing additional offences of forced marriage, forced labour, organ trafficking and harbouring a victim in the Criminal Code.

Australia has an opportunity to maximise its effectiveness by implementing a suite of mechanisms and tools to combat these crimes and increase support for its victims at the national and international level.

Nationally, Australia can take action to prevent these crimes, prosecute the offenders and support the victims. The Committee has therefore recommended that suspected victims of trafficking be provided an initial automatic reflection period of 45 days with two further extensions of 45 days if required; the Australian Government review the People Trafficking Visa Framework and the Support for Victims of People Trafficking Program; the Australian Government further investigate the establishment of a federal compensation scheme for victims of slavery and people trafficking; and review the current rates of compensation.

Internationally, Australia can increase its engagement with this issue in international fora and examine introducing anti-trafficking and anti-slavery mechanisms appropriate for the Australian context to bring awareness to forced labour in global supply chains. The Committee has recommended that the Australian Government continue to use international forums including the United Nations Human Rights Council's Universal Periodic Review to combat people trafficking; undertake a review to establish anti-trafficking and anti-slavery mechanisms appropriate for the Australian context with the objective of improving transparency in supply chains, introducing a labelling and certification strategy for products and services that have been produced ethically, and increasing the prominence of fair trade in Australia.

In order to protect the more vulnerable members of our society which traffickers target for exploitation, particularly individuals on visas, the Committee recommends that the Department of Immigration and Citizenship develop a fact sheet to provide visa applicants appropriate information on their rights as part of the visa application process.


To prevent offenders from accessing sites containing trafficked children, the Committee recommends that the dynamic list of individual web pages with child sexual abuse content maintained by the UK's Internet Watch Foundation be utilised to block access to these sites in Australia.

Lastly, the Committee calls for the Australian Government to negotiate re-funding of contracts for non-government organisations one year ahead of the contract's conclusion.

The Committee would like to sincerely thank all of the Departments, law enforcement agencies, academics, NGOs, civil society organisations and concerned individuals for generously donating their time, effort and resources to make submissions and appear at public hearings. I would also like to thank my hard working colleagues on the Committee who are dedicated advocates for human rights both domestically and internationally.

Hon Laurie Ferguson MP

Chair



Membership of the Committee

| | | |
|---------------------|--|--|
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Hon Melissa Parke MP (from 19/09/12 to 5/02/13)

Deputy Chair Hon Philip Ruddock MP

Members Senator David Fawcett
Senator Mark Furner
Senator Sarah Hanson-Young
Senator Claire Moore
Senator Stephen Parry
Senator the Hon Ursula Stephens

Hon Dick Adams MP

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Terms of reference

The Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade shall inquire into and report on slavery, slavery like conditions and people trafficking with a particular focus on:

- Australia's efforts to address people trafficking, including through prosecuting offenders and protecting and supporting victims;
- ways to encourage effective international action to address all forms of slavery, slavery-like conditions and people trafficking; and
- international best practice to address all forms of slavery, slavery-like conditions and people trafficking.



List of abbreviations

| | |
|--------|---|
| AATIP | Australia-Asia Program to Combat Trafficking in Persons |
| ACC | Australian Crime Commission |
| ACID | Australian Criminal Intelligence Database |
| ACL | Australian Christian Lobby |
| ACRATH | Australian Catholic Religious Against Trafficking in Humans |
| ACTU | Australian Council of Trade Unions |
| AFP | Australian Federal Police |
| AGD | Attorney-General's Department |
| AIC | Australian Institute of Criminology |
| ALEIN | Australian Law Enforcement Intelligence Network |
| ALHR | Australian Lawyers for Human Rights |
| ARC | Australian Red Cross |
| ARTIP | Asia Regional Trafficking in Persons Project |
| ASA | Anti-Slavery Australia |
| ASEAN | Association of Southeast Asian Nations |
| AusAID | Australian Agency for International Development |

| | |
|--------------------------|--|
| the Bureau | Department of Labor, Bureau of International Labor Affairs |
| BVF | Bridging F visa |
| CDPP | Commonwealth Director of Public Prosecutions |
| CHOGM | 2011 Commonwealth Heads of Government Meeting |
| CJSV | Criminal Justice Stay visa |
| Criminal Code | <i>Criminal Code Act 1995</i> |
| CSR | Corporate Social Responsibility |
| CSW | Commission on the Status of Women |
| Cth | Commonwealth |
| DEEWR | Department of Education, Employment and Workplace Relations |
| DFAT | Department of Foreign Affairs and Trade |
| DIAC | Department of Immigration and Citizenship |
| EFIC | Export Finance and Insurance Corporation |
| EU | European Union |
| FaCHSIA | Department of Families, Housing, Community Services and Indigenous Affairs |
| FECCA | Federation of Ethnic Communities' Councils of Australia |
| Forced Labour Convention | <i>1930 Convention concerning Forced or Compulsory Labour</i> |
| FVA | Family Voice Australia |
| HT Desk | National Human Trafficking Desk |
| HTT | Human Trafficking Teams |
| IDC | Interdepartmental Committee |

| | |
|----------------------------------|---|
| ILO | International Labour Organisation |
| JCTP | Josephite Counter-Trafficking Project |
| LCA | Law Council of Australia |
| MOGEF | Ministry of Gender Equality and Family |
| NGOs | Non-Government Organisations |
| NSA | No Slavery Australia |
| NSW Bar | New South Wales Bar Association |
| NTEU | National Tertiary Education Union |
| OECD | Organisation for Economic Co-operation and Development |
| OON | Officer of the Order of the Niger |
| OSCE | Organization for Security and Cooperation in Europe |
| PIA | Plan International Australia |
| Slavery Convention | <i>1926 International Convention to Suppress the Slave Trade and Slavery</i> |
| STPP | Support for Trafficked People Program |
| Supplementary Slavery Convention | <i>1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery</i> |
| TIP Report | US Department of State <i>Trafficking in Persons</i> Report |
| Trafficking Protocol | <i>2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children</i> |
| TRIANGLE | Project Childhood, Tripartite Action to Protect Migrants in the Greater Mekong Sub-region from Labour Exploitation Project |
| the Tribunal | Victorian Victims of Crime Assistance Tribunal |
| UK | United Kingdom |

| | |
|--------|--|
| UN | United Nations |
| UNICEF | United Nations Children's Fund |
| UNIFEM | Fonds des Nations Unies pour la Femme |
| UNGA | United Nations General Assembly |
| UNODC | United Nations Office on Drugs and Crime |
| UNTOC | <i>United Nations Convention against Transnational Organized Crime</i> |
| UPR | Universal Periodic Review |
| US | United States |
| WPTV | Witness Protection (Trafficking) (Permanent) visa |
| WVA | World Vision Australia |



List of recommendations

3 Current extent of slavery and people trafficking in Australia

Recommendation 1

The Committee recommends that the Department of Immigration and Citizenship, in conjunction with the Interdepartmental Committee on Human Trafficking and Slavery and relevant non-government organisations, develop a fact sheet to provide visa applicants appropriate information on their rights as part of the visa application process. The information should be available in the visa applicant's language.

4 Australia's response to people trafficking

Recommendation 2

The Committee recommends that the Australian Government continue to use international mechanisms including, but not limited to, the United Nations Human Rights Council's Universal Periodic Review to combat people trafficking.

Recommendation 3

The Committee recommends that the Australian Government negotiate re-funding of contracts for non-government organisations one year ahead of the current contracts' conclusion.

5 Support for victims of trafficking and slavery

Recommendation 4

The Committee recommends that suspected victims of trafficking be provided an initial automatic reflection period of 45 days, with relevant agencies given the capability to grant two further extensions of 45 days if required. In addition, the suspected victims of trafficking should be provided appropriate support services through the Support for Trafficked People Program.

Recommendation 5

The Committee recommends that the Australian Government consider Recommendation 3 of the Senate Legal and Constitutional Affairs report on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012, having regard to the need to ensure that even if assistance does not lead to a conviction, it is still substantial in terms of giving assistance to authorities.

Recommendation 6

The Committee recommends that the Australian Government further investigate the establishment of a federal compensation scheme for proven victims of slavery and people trafficking. The compensation fund should be funded by persons convicted of these crimes. The Committee also recommends that the Australian Government review the current rates of compensation.

6 Exploitation in product supply chains

Recommendation 7

The Committee recommends that the Australian Government, in consultation with relevant stakeholders, undertake a review to establish anti-trafficking and anti-slavery mechanisms appropriate for the Australian context. The review should be conducted with a view to:

- introducing legislation to improve transparency in supply chains;
- the development of a labelling and certification strategy for products and services that have been produced ethically; and
- increasing the prominence of fair trade in Australia.

7 Community perceptions on international best practice

Recommendation 8

The Committee recommends that the Australian Government utilise the UK Internet Watch Foundation's URL list to block access to child abuse sites in Australia.

Introduction

Conduct of the inquiry

1.1 On 13 August 2012, the Minister for Foreign Affairs, Senator the Hon Bob Carr, asked the Committee to inquire into and report on Slavery, Slavery like conditions and People Trafficking. The terms of reference of the inquiry were to:

...inquire into and report on slavery, slavery like conditions and people trafficking with a particular focus on:

- Australia's efforts to address people trafficking, including through prosecuting offenders and protecting and supporting victims;
- ways to encourage effective international action to address all forms of slavery, slavery-like conditions and people trafficking; and
- international best practice to address all forms of slavery, slavery-like conditions and people trafficking.

1.2 The Committee invited an array of stakeholders, and groups and individuals with established interest in human rights to submit to the inquiry, including relevant government departments, non-government organisations (NGOs), and civil society¹ groups in Australia.

1 The World Bank defines Civil Society as referring to: *the term civil society to refer to the wide array of non-governmental and not-for-profit organisations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organisations (CSOs) therefore refer to a wide of array of organisations: community groups, non-government organisations, labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and*

- 1.3 The Committee received 74 submissions and 41 exhibits from a range of Government Departments, non-government organisations, civil society groups, and individuals within Australia and the region.
- 1.4 The Committee also took evidence from 39 organisations and individuals at ten public hearings held in Canberra, Sydney, and Melbourne over the course of the inquiry.²

Structure of the report

- 1.5 The Committee's report is structured around the inquiry's terms of reference. This introductory chapter provides an outline of the conduct of the inquiry.
- 1.6 Chapter two provides an overview of the international and domestic definitions of slavery, slavery-like conditions and people trafficking.
- 1.7 Chapter three examines the current extent of slavery, slavery-like conditions and people trafficking in Australia including details of the investigations, prosecutions and convictions; research on slavery and people trafficking; and the community perceptions of slavery and people trafficking in Australia.
- 1.8 Chapter four focuses on the Australian Government response to people trafficking nationally as well as international efforts to combat slavery, slavery-like conditions and people trafficking.
- 1.9 Chapter five provides an overview of Australia's efforts to support victims of trafficking and slavery including the people trafficking visa framework, the support for trafficked people program and suggests additional support for victims of trafficking.
- 1.10 Chapter six examines exploitation in product supply chains and Chapter seven looks at community perceptions on international best practice.

foundations. World Bank, 'Defining Civil Society', viewed on 29 March 2012, <<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20101499~menuPK:244752~pagePK:220503~piPK:220476~theSitePK:228717,00.html>>.

2 See appendices A, B and C.

Definitions of slavery, slavery-like practices and people trafficking

2.1 This chapter provides a brief outline of the principal international and Australian definitions of slavery, slavery-like practices and people trafficking.¹ It also discusses varying understandings of these definitions and addresses the differences between people trafficking and people smuggling.

Overview of international definitions of slavery, slavery-like practices and people trafficking

2.2 Slavery, slavery-like practices and people trafficking are defined in a number of international instruments developed by the United Nations (UN) and the International Labour Organisation (ILO).

Slavery

2.3 Slavery is defined by the 1926 *International Convention to Suppress the Slave Trade and Slavery* (Slavery Convention). Article 1 of the Slavery Convention states that:

Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.²

1 The Australian Government uses the term 'people trafficking' rather than the international term of 'trafficking in persons.' These terms are synonymous and are used interchangeably within this report.

2 Article 1, *International Convention to Suppress the Slave Trade and Slavery*, viewed on 26 April 2013, < <http://www.austlii.edu.au/au/other/dfat/treaties/1927/11.html>>.

- 2.4 Australia ratified the Slavery Convention on 18 June 1927.³ There are currently 99 parties to the Convention.⁴

Slavery-like practices and forced labour

- 2.5 Slavery-like practices and forced labour are defined in two separate international conventions:
- the 1956 *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery* (Supplementary Slavery Convention); and
 - The 1930 *Convention concerning Forced or Compulsory Labour* (Forced Labour Convention).
- 2.6 The Supplementary Slavery Convention states that debt bondage, serfdom, servile forms of marriage and the exploitation of children constitute practices similar to slavery.⁵ Article 1 of the Supplementary Slavery Convention provides a definition for each of these slavery-like conditions.
- 2.7 Debt bondage is defined as:
- ...the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.⁶

3 Department of Foreign Affairs and Trade, 'Slavery Convention', viewed on 26 April 2013, <<http://www.info.dfat.gov.au/Info/Treaties/treaties.nsf/AllDocIDs/50A009A21202EB83CA256B83007C3FAB>>.

4 United Nations, 'United Nations Treaty Collection', viewed on 26 April 2013, <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-2&chapter=18&lang=en>.

5 Article 1, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, viewed on 26 April 2013, <<http://www.austlii.edu.au/au/other/dfat/treaties/1958/3.html>>.

6 Article 1, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, viewed on 26 April 2013, <<http://www.austlii.edu.au/au/other/dfat/treaties/1958/3.html>>.

- 2.8 The Supplementary Slavery Convention defines Serfdom as:
- ...the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.⁷
- 2.9 Servile forms of marriage are defined by the Supplementary Slavery Convention as:
- Any institution or practice whereby:
- A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
 - The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or
 - A woman on the death of her husband is liable to be inherited by another person.⁸
- 2.10 The exploitation of children is defined as:
- Any institution or practice whereby a child or young person under the age of eighteen years is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.⁹
- 2.11 Australia ratified the Supplementary Slavery Convention on 6 January 1958.¹⁰ There are currently 123 parties to the Convention.¹¹
- 2.12 As noted earlier, the definition of forced labour established by the Forced Labour Convention also encompasses slavery-like practices.
-

7 Article 1, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, viewed on 26 April 2013, <<http://www.austlii.edu.au/au/other/dfat/treaties/1958/3.html>>.

8 Article 1, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, viewed on 26 April 2013, <<http://www.austlii.edu.au/au/other/dfat/treaties/1958/3.html>>.

9 Article 1, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, viewed on 26 April 2013, <<http://www.austlii.edu.au/au/other/dfat/treaties/1958/3.html>>.

10 United Nations, United Nations Treaty Collection, viewed on 26 April 2013, <http://treaties.un.org/Pages/ViewDetailsIII.aspx?&src=TREATY&mtdsg_no=XVIII~4&chapter=18&Temp=mtdsg3&lang=en>.

11 Article 1, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, viewed on 26 April 2013, <<http://www.austlii.edu.au/au/other/dfat/treaties/1958/3.html>>.

- 2.13 Article 2 of the Forced Labour Convention defines forced labour as:
 ...all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.¹²
- 2.14 The ILO states that this definition of forced labour encompasses varying forms of exploitation, including slavery, slavery like-practices and people trafficking.¹³
- 2.15 Australia ratified the Forced Labour Convention on 2 January 1932.¹⁴ There are currently 177 parties to the Convention.¹⁵

People trafficking

- 2.16 People trafficking is defined by the 2000 *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime* (Trafficking Protocol). Article 3 of the Trafficking Protocol states:
 “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.¹⁶
- 2.17 Australia ratified the Trafficking Protocol on 14 September 2005.¹⁷ There are currently 154 parties to the Convention.¹⁸

12 Article 2, Convention Concerning Forced or Compulsory Labour, viewed on 26 April 2013, <http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312174>.

13 International Labour Office, *ILO Global Estimate of Forced Labour: Results and Methodology*, 2012, p. 19.

14 International Labour Organisation, Ratifications of C029 – Forced Labour Convention, 1930 (No. 29), viewed on 26 April 2013, <http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312174>.

15 International Labour Organisation, Ratifications of C029 – Forced Labour Convention, 1930 (No. 29), viewed on 26 April 2013, <http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312174>.

16 Article 3, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, viewed on 26 April 2013, <<http://www.unodc.org/unodc/treaties/CTOC/#Fulltext>>.

17 United Nations, United Nations Treaty Collection, viewed on 26 April 2013, <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en>.

Overview of Australian definitions of slavery, slavery-like practices and people trafficking

- 2.18 Slavery, slavery-like practices and people trafficking are defined in the Commonwealth *Criminal Code Act 1995 (Criminal Code)* which criminalises a range of offences, including slavery, servitude, debt bondage and people trafficking.¹⁹
- 2.19 The *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* amended the *Criminal Code* to establish additional offences of forced marriage, forced labour, organ trafficking and harbouring a victim.²⁰ The Act received Royal Assent on 7 March 2013.²¹
- 2.20 The Attorney-General's Department (AGD) informed the Committee that the slavery, slavery-like practices and people trafficking offences contained within the *Criminal Code* reflect Australia's international obligations:

Australia's definition of 'people trafficking' is consistent with the international definition of 'trafficking in persons', set out in Article 3 of the Trafficking Protocol...The elements of the other offences contained within Divisions 270 and 271 of the *Criminal Code* (i.e. those that criminalise slavery, slavery-like practices and people trafficking) implement the Trafficking Protocol definition, Australia's obligations under the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, as well as a number of other international instruments.²²

Slavery, forced labour, servitude, forced marriage and debt bondage

- 2.21 As noted above, the *Criminal Code* sets out the legislative definitions for slavery, and slavery-like practices including forced labour, servitude, forced marriage and debt bondage.

18 United Nations, United Nations Treaty Collection, viewed on 26 April 2013, <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en>.

19 *Criminal Code Act 1995* (Cth), ss. 270.1-270.5; 271.1-271.9.

20 Parliament of Australia, Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill: Bills Digest No. 14, 2012-13, p. 3.

21 Parliament of Australia, Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking Bill), viewed on 26 April 2013, <http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r4840>.

22 Attorney-General's Department, *Supplementary Submission 48*, p. 8.

- 2.22 Slavery involves the control or ownership of one person by another and is defined in Division 270.1 of the *Criminal Code* as:
- ...the condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including where such a condition results from a debt or contract made by the person.²³
- 2.23 Forced labour is defined in Division 270.6 of the *Criminal Code* and involves the exploitation of a person's labour or services.²⁴ A person may be a victim of forced labour where he or she is unable to stop providing labour or services, or to leave the place where he or she provides labour or services, because of the use of coercion, threat, or deception. A victim could be coerced through force, duress, detention or psychological oppression, or by somebody abusing their power or taking advantage of the victim's vulnerability.
- 2.24 If the person is also significantly deprived of his or her personal freedom, he or she may be a victim of the more serious slavery-like practice of servitude. Servitude is defined in Division 270.4 of the *Criminal Code*.²⁵
- 2.25 Forced marriage is defined by Division 270.7A of the *Criminal Code* as a marriage in which the victim enters the marriage without fully and freely consenting, because of the use of coercion, threat, or deception.²⁶ A victim could be coerced through force, duress, detention or psychological oppression, or by somebody abusing their power or taking advantage of the victim's vulnerability.
- 2.26 Debt bondage is defined in Division 271.8 of the *Criminal Code* and involves the use of unfair debt contracts or similar arrangements to force victims into paying off large debts.²⁷ For example, a victim located overseas may be asked by the trafficker to pledge his or her services to repay the costs of coming to Australia. Once the victim arrives, he or she may be in a condition of debt bondage if the reasonable value of his or her services is not applied to repay the debt, or the length or nature of his or her services is not limited or defined.

23 *Criminal Code Act 1995* (Cth), s. 270.1.

24 *Criminal Code Act 1995* (Cth), s. 270.6.

25 *Criminal Code Act 1995* (Cth), s. 270.4.

26 *Criminal Code Act 1995* (Cth), s. 270.7A.

27 *Criminal Code Act 1995* (Cth), s. 271.8.

People trafficking

2.27 Division 271 of the *Criminal Code* contains a number of offences related to trafficking in persons.²⁸ These offences reflect the Australian Government's definition of people trafficking as:

...the physical movement of people across and within borders through deception, coercion or force for the purpose of exploiting them when they reach their destination.²⁹

The differences between people trafficking and people smuggling

2.28 People trafficking and people smuggling are complex and distinct crimes. Article 3 of the UN *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime* defines people smuggling as:

...the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.³⁰

2.29 The United Nations Office on Drugs and Crime (UNODC) has identified four main differences between people trafficking and people smuggling:

- consent;
- exploitation;
- trans-nationality; and
- the source of profits.³¹

2.30 A key difference between people trafficking and people smuggling is the nature of consent. The UNODC states that:

28 *Criminal Code Act 1995* (Cth), ss. 271.1-271.7G.

29 The Anti-People Trafficking Interdepartmental Committee, *Trafficking in Persons: The Australian Government Response 1 July 2011 – 30 June 2012*, p. 3.

30 Article 3, United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

31 United Nations Office on Drugs and Crime, 'Migrant Smuggling FAQs', viewed on 26 April 2013, <https://www.unodc.org/unodc/en/human-trafficking/faqs-migrant-smuggling.html#Overlaps_and_differences>.

...migrant smuggling, while often undertaken in dangerous or degrading conditions, involves consent. Trafficking victims, on the other hand, have either never consented or if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive action of the traffickers.³²

2.31 The end purposes of people trafficking and people smuggling are also different. The UNODC argues that:

...migrant smuggling ends with the migrants' arrival at their destination, whereas trafficking involves the ongoing exploitation of the victim.³³

2.32 A third difference between people trafficking and people smuggling is the type of movement involved. The UNODC observes that:

...smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another state or moved within a state's borders.³⁴

2.33 The source of profits in people trafficking and people smuggling crimes are also different. The UNODC notes that:

...in smuggling cases profits are derived from the transportation of facilitation of the illegal entry or stay of a person into another county, while in trafficking cases profits are derived from exploitation.³⁵

32 United Nations Office on Drugs and Crime, 'Migrant Smuggling FAQs', viewed on 26 April 2013, <https://www.unodc.org/unodc/en/human-trafficking/faqs-migrant-smuggling.html#Overlaps_and_differences>.

33 United Nations Office on Drugs and Crime, 'Migrant Smuggling FAQs', viewed on 26 April 2013, <https://www.unodc.org/unodc/en/human-trafficking/faqs-migrant-smuggling.html#Overlaps_and_differences>.

34 United Nations Office on Drugs and Crime, 'Migrant Smuggling FAQs', viewed on 26 April 2013, <https://www.unodc.org/unodc/en/human-trafficking/faqs-migrant-smuggling.html#Overlaps_and_differences>.

35 United Nations Office on Drugs and Crime, 'Migrant Smuggling FAQs', viewed on 26 April 2013, <https://www.unodc.org/unodc/en/human-trafficking/faqs-migrant-smuggling.html#Overlaps_and_differences>.

Community interpretations of slavery, slavery-like practices and people trafficking definitions

2.34 The Committee received evidence from Government Departments, Non-Government Organisations (NGOs), and concerned individuals who provided differing views on the term people trafficking and the distinctions between people trafficking and slavery, and between people smuggling and people trafficking.

Interpretations of people trafficking

2.35 Dr Anne Gallagher AO told the Committee that terms such as people trafficking are used and understood in different ways, observing that:

While it has a specific meaning in international and national laws, trafficking in persons...is today accepted as an umbrella concept for a wide range of exploitative practices, often but not always motivated by private profit.³⁶

2.36 Dr Gallagher added that:

It was previously assumed that 'movement' was an essential aspect of the definition of trafficking in persons – that trafficking was essentially the process by which individuals were moved into situations of exploitation. However, international law and the overwhelming majority of national laws support a broader understanding of the term whereby any 'action' (including receiving and harbouring a person) for 'purposes' of exploitation, made possible through the use of 'means' such as coercion and deception, constitutes trafficking.³⁷

2.37 World Vision Australia (WVA) agreed that the term people trafficking encompasses a range of exploitative practices, noting that:

We believe that, today, the concept of trafficking in persons in the meaning under international law is accepted as an umbrella concept for a wide range of exploitation.³⁸

36 Dr Anne Gallagher AO, *Submission 39*, p. 3.

37 Dr Anne Gallagher AO, *Submission 39*, p. 3.

38 Ms Stewart, World Vision Australia, *Transcript*, 20 November 2012, p. 51.

- 2.38 WVA also highlighted that interpretations of people trafficking definitions are continuing to change:

The word 'movement' is not in the international definition of trafficking. While previously assumed that there needed to be movement as an essential element of the crime of trafficking, this has been replaced by the understanding that trafficking is actually just a process by which individuals are moved into situations of exploitation. There is a broader understanding whereby any action, including 'receiving' and 'harbouring' for the purpose of exploitation, will result in the end exploiter in the trafficking continuum also being considered a trafficking offender.³⁹

- 2.39 At the final public hearing for this inquiry, AGD noted that the Australian Government had revised its terminology, stating:

...the Australian government has revised the terminology used in the strategy to combat slavery and human trafficking. There was concern raised by stakeholders that the term 'people trafficking' did not necessarily represent the full suite of offences and was also often confused with people smuggling. The formal phrase is in fact now 'human trafficking, slavery and slavery-like practices' to more accurately reflect the importance of forms of exploitation that do not require an element of movement. Slavery, of course, does not necessarily require movement whereas trafficking does entail movement.⁴⁰

Distinctions between slavery and people trafficking

- 2.40 A number of organisations made comments about the differences between people trafficking and slavery.

- 2.41 The Australian Institute of Criminology (AIC) commented that the differences between slavery and people trafficking are subject to debate, adding that:

...there has been some discussion about what exactly the problem is; what is the definition of trafficking? There is quite a bit of technical debate about where the boundaries of that are, and there is the term 'slavery' as well. In the research we do, we follow a practice in other areas like homicide, domestic violence and violent crime where our focus is on a type of crime. We use the

39 Ms Stewart, World Vision Australia, *Transcript*, 20 November 2012, pp. 50-51.

40 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 1.

term 'trafficking-type crime'. We could equally use the term 'slavery-type crime'.⁴¹

- 2.42 However, Slavery Links Australia argued that slavery should be considered as distinct from people trafficking:

Slavery is not trafficking. Consulting about trafficking will not illumine slavery. The issues are different. The solutions are different. The stakeholders are different.⁴²

- 2.43 The Law Council of Australia also suggested that the distinction between slavery and people trafficking be preserved:

We are certainly aware that the submission from the Attorney-General's Department suggests that trafficking be used in that broader sense, and I understand that the Australian Crime Commission witness this morning also referred to the fact that among agencies that is what is understood – that trafficking encompasses slavery and slavery-like conditions. Certainly if you trace it from the conventions, they are distinct concepts. In terms of public awareness, it may be better if those distinctions are maintained.⁴³

- 2.44 AGD observed that public reactions to the use of terms like slavery and people trafficking may differ:

...some people might respond to a term like 'slavery' and simply dismiss it out of hand and say, 'Slavery doesn't happen in Australia,' whereas people trafficking does have a certain resonance with people.⁴⁴

Distinctions between people trafficking and people smuggling

- 2.45 The AIC emphasised to the Committee that the difference between people trafficking and people smuggling is often misunderstood by the public:

To give you some idea of the scale of misunderstanding about trafficking, we ran a community attitudes survey – and we will rerun it in a more rigorous way later. We did a preliminary survey and enormous numbers of people who responded to that confused slavery type crimes with smuggling, which is understandable because the verb 'trafficking' is often misused or not used in a technical way in the media. For example, a lot of the respondents

41 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 11.

42 Slavery Links Australia, *Submission 7*, p. 1.

43 Ms Budavari, Law Council of Australia, *Transcript*, 20 November 2012, p. 22.

44 Mr Anderson, Attorney-General's Department, *Transcript*, 9 October 2012, p. 6.

thought that the typical profile of a victim would be asylum seekers coming on boats. So there is a lot of confusion about what we are talking about and we are really talking about very, very different crimes. That is problematic in a crime prevention sense.⁴⁵

2.46 The AIC added that:

Community awareness in this area – indeed, in any kind of crime detection area – is very important, and we are a long way from where we want to be in terms of the average member of the community having some understanding that it is not smuggling but actually a different crime.⁴⁶

2.47 Australian Catholic Religious Against Trafficking in Humans (ACRATH) agreed that many people in Australia are unable to differentiate between people trafficking and people smuggling, noting that ‘those who have heard of human trafficking in Australia often confuse it with people smuggling’.⁴⁷

2.48 Similarly, AGD noted that the media often conflate people smuggling and people trafficking, stating that:

...while it and other Government agencies do all they can to maintain and promote the distinction between these crime-types, the terms ‘people trafficking’ and ‘people smuggling’ are unfortunately regularly used interchangeably in media.⁴⁸

2.49 The importance of distinguishing between people trafficking and people smuggling was emphasised by Dr Gallagher, who argued that:

It is now widely accepted that effective international action to address trafficking and related exploitation requires explicit acknowledgement of the legal, policy and practical distinctions between trafficking in persons and smuggling of migrants.⁴⁹

2.50 Professor Andreas Schloenhardt of the University of Queensland made similar comments about the importance of the differences between people trafficking and people smuggling. Professor Schloenhardt stated that the:

45 Ms Beacroft, Australian Institute of Criminology, 21 November 2012, p. 12.

46 Ms Beacroft, Australian Institute of Criminology, 21 November 2012, pp. 12-13.

47 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 4.

48 Attorney-General’s Department, *Supplementary Submission 48*, p. 6.

49 Dr Anne Gallagher AO, *Submission 39*, p. 7.

...conceptual distinction between 'smuggling of migrants' and 'trafficking in persons' is subtle, and sometimes blurry, but is imperative as both phenomena are addressed by separate international legal instruments with widely different requirements and consequences.⁵⁰

2.51 AGD highlighted the difference between people trafficking and people smuggling as distinct crimes, stating:

The specific crime of people trafficking is the physical movement of people domestically or across borders through the use of deceptive means, coercion or force. Importantly, people traffickers are motivated by the prospect of exploiting their victims once they reach the destination country. People smuggling is the organised, irregular movement of people across borders, usually on a payment-for-service basis.⁵¹

50 University of Queensland, *Submission 3*, p. 39.

51 Attorney-General's Department, *Supplementary Submission 48*, p. 6.

Current extent of slavery and people trafficking in Australia

Investigations, prosecutions and convictions

- 3.1 During the course of the inquiry the Attorney-General's Department (AGD), the Australian Federal Police (AFP) and the Commonwealth Director of Public Prosecutions (CDPP) provided details about the number of investigations, prosecutions and convictions that had been undertaken for the slavery and trafficking offences set out in the *Criminal Code*.¹
- 3.2 In its evidence to the Committee, the AGD stated that since 2004, the AFP had 'undertaken more than 350 investigations and assessments into allegations of people trafficking and related offences.'²
- 3.3 Of those 350 investigations, over seventy-five per cent conducted by the AFP were in Melbourne and Sydney (see table 1.1 below).³
- 3.4 The AFP did however comment that the figures on these crimes may not necessarily be representative of the problems due to underreporting, stating:

I think there is a difficulty in the sense that you cannot definitively get a number on the offence rate because there are difficulties with under-reporting and there are quite significant reasons that these crimes are under-reported, particularly for people who are victimised in the sex industry, or in a forced marriage context

1 Slavery and trafficking offences are set out in divisions 270 and 271 of the Commonwealth *Criminal Code*. The slavery offences (division 270) were enacted in 1999 and the specific people trafficking provisions were enacted in 2005.

2 Attorney-General's Department, *Submission 8*, p. 3.

3 Attorney-General's Department, *Supplementary Submission 48*, p. 2.

there are a lot of cultural and religious stigma attached to reporting these crime types. So I do not know that there is a way to definitively get an answer on the full extent of the problem.⁴

Table 1.1 Locations of the 350 investigations and assessments under Divisions 270 and 271 of the Commonwealth Criminal Code

| Operational Office | Referrals |
|--------------------|------------|
| Adelaide | 5 |
| Brisbane | 33 |
| Cairns | 12 |
| Canberra | 19 |
| Darwin | 1 |
| Hobart | 2 |
| Melbourne | 107 |
| Perth | 13 |
| Sydney | 158 |
| Total | 350 |

Source Attorney-General's Department, *Supplementary Submission 48*, p. 2.

3.5 The AGD also provided details of the investigations between 2010 and 2012 noting that:

AFP Human Trafficking Teams (HTT) commenced 41 new investigations in 2011-12, compared with 35 new investigations in 2010-11. Approximately 59 per cent of the investigations in 2011-12 related to trafficking for sexual exploitation. Since 2004, the CDPP has obtained 15 convictions for trafficking-related offences.⁵

3.6 The AGD added that of those fifteen convictions, 'ten of those individuals were convicted of slavery offences, three of sexual servitude offences and two of people trafficking offences.'⁶

3.7 At a public hearing, the CDPP advised the Committee that:

- the AFP had referred 46 defendants who had committed potential offences under divisions 270 or 271 of the Commonwealth *Criminal Code* to the CDPP;
- the CDPP charged 42 of the 46 defendants with offences (four defendants were not charged with offences because there was insufficient evidence);
- of the 42 defendants that were charged, 15 were convicted;

4 Mrs Sengstock, Australian Federal Police, *Transcript*, 19 March 2013, p. 5.

5 Attorney-General's Department, *Supplementary Submission 48*, p. 2. See Appendices D, E and F.

6 Attorney-General's Department, *Submission 8*, p. 5.

- five defendants were acquitted;
- the CDPP withdrew charges against 11 defendants before trial;
- there were four defendants to whom the jury discharged on the first trial and the CDPP decided to withdraw charges and not go to a retrial;
- trials for two defendants ended in a hung jury and the CDPP decided to withdraw the charges rather than go to a retrial;
- three defendants are awaiting trial at the moment; and
- there are two defendants who were charged and then the CDPP referred the matter to be prosecuted by the State Director of Public Prosecutions under corresponding State charges.⁷

3.8 The Victoria Police were also able to provide some information on their experiences with trafficking in their State. At a public hearing, the Victoria Police stated that to date it had encountered trafficking in Victoria primarily around the sex industry. They did, however, acknowledge that while labour trafficking and servile marriage were becoming emerging issues, they 'do not have really good visibility as of yet.'⁸

3.9 The Victoria Police also elaborated on the prevalence of labour trafficking in Victoria stating:

Labour trafficking was first raised with us as an issue when the Australian Institute of Criminology's Fiona David did a study. One of the community focus groups was in Mildura and it was interesting in starting to talk to a few of those community groups that in fact trafficking had occurred, to the point that there were quite significant and very serious offences that have occurred. One was around a person who was employed for a farmer who had held the person to a certain degree of coercion about their visa arrangements and for that purpose received sexual favours. That was not something we were aware of and as that discussion emerged it became more and more obvious about the potential within these environments for that sort of activity, not necessarily that serious but labour trafficking all the same. That really underpinned our belief that it is an issue that is not something that sits elsewhere in the world, it is actually on our doorstep and we need to do something significant there.⁹

7 Ms Hinchcliffe, Commonwealth Director of Public Prosecutions, *Transcript*, 21 November 2012, p. 4. See Appendix E.

8 Detective Superintendent Jouning, Victoria Police, *Transcript*, 8 May 2013, p. 25.

9 Detective Superintendent Jouning, Victoria Police, *Transcript*, 8 May 2013, p. 26.

Non-Government Organisations' assistance for trafficked victims

- 3.10 The Salvation Army Safe House for Trafficked Persons noted that not all trafficked victims choose to seek the assistance of the police and proceed with an investigation or criminal proceedings.
- 3.11 The Salvation Army stated that it had case-managed and delivered assistance to 84 individuals since 2008. Of those, 34 individuals made reports to the AFP (28 female, six male). Eighteen of those 34 individuals chose to engage with the AFP and seven individuals received a negative assessment from the AFP.¹⁰
- 3.12 The Salvation Army also noted that it had:
- received 23 referrals for slave-like marriage;
 - lodged 19 protection visas on behalf of clients (of which 13 have been granted);
 - lodged six claims before Fair Work; and
 - were providing support to 12 dependants in Australia and overseas.¹¹
- 3.13 The Salvation Army added that it had assisted or come into contact with 38 individuals who have worked in the sex industry, stating:
- In terms of the number of clients we have assisted or come into contact with, who have worked in the sex industry, I believe the number is 38. That does not mean we have case-managed all of those people; it is people we have come into contact with. Thirty-six of those were women who knew that they would be working in the sex industry before they migrated to Australia. Out of the 38 we have come into contact with, only two were deceptively recruited to work in the sex industry.¹²

Research on slavery and people trafficking

- 3.14 The Australian Institute of Criminology (AIC) is responsible for the research component of Australia's whole of government response to trafficking in persons.

10 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, p. 10.

11 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, p. 10.

12 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, pp. 10-11.

- 3.15 The AIC noted that it had initiated research projects on trafficking and marriage arrangements, labour trafficking, trafficking in the construction industry, and migrant sex worker vulnerabilities and protections to trafficking.¹³
- 3.16 The AIC noted that some migrant women in Australia had experienced trafficking and slavery-like conditions within their marriage arrangements, stating:
- ...some migrant women have experienced the type of exploitation associated with trafficking and slavery within various marriage arrangements, such as love marriages, arranged marriages, and marriages resulting from online marriage brokering and internet dating sites.¹⁴
- 3.17 The AIC also noted a report that it was about to release on issues in the marriage context. The report found that:
- ...in the small number of cases identified in the study, marriage visa classes had been used to facilitate trafficking, slavery-like exploitation or associated risky scenarios. Marriages have been identified where there was no intention on the part of the husband for the marriage to be genuine, which you might call a sham marriage – a bit like the Kovacs case: the husband is already in a relationship, and the marriage is really to facilitate a form of labour trafficking.¹⁵
- 3.18 On the incidence of labour trafficking in Australia, the AIC stated that ‘while the precise size of the labour trafficking problem remains unknown, there have been instances of unreported and/or unrecognised labour trafficking.’¹⁶
- 3.19 The AIC was also able to provide some information on the vulnerabilities to trafficking and slavery type crime in the sex industry from an upcoming report stating:
- The research we have done is not meant to provide an accurate view of the exact level of vulnerability in the sex industry because we do not know what the population of the sex industry is and also we use convenience sampling. But it does give some idea of the exposure to recognised vulnerabilities to trafficking and slavery type crime, using, for example, the ILO indicators. The research overall suggests that exposure to vulnerabilities is not the

13 Australian Institute of Criminology, *Submission 18*, pp. 5-6.

14 Australian Institute of Criminology, *Submission 18*, p. 5.

15 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 18.

16 Australian Institute of Criminology, *Submission 18*, p. 5.

norm in the sex industry but that what you can find is that there are a very small number of sex workers who are potentially connected with a niche. That is coming back to that point I made earlier about an engineered niche where there is high vulnerability.¹⁷

3.20 On their findings, the AIC added:

There are some interesting findings – for example, the use of brokers increases the vulnerability of a sex worker. Interestingly, some of the disadvantaged backgrounds that one might have thought would have also increased too – for example, low English proficiency or lower education – did not emerge as significant.¹⁸

3.21 The AIC did, however, highlight that knowledge and data on trafficking is very limited and ‘there have been attempts to overcome this by doing estimates’.¹⁹ The AIC elaborated:

We have got a very serious problem internationally and in Australia. A lot of conclusions that might be drawn from the data that is currently available have to be taken in that light. To the extent that they are based on not just data but estimates, which involves methodologies that then complicate the reliability, many agencies have said that estimates – the ones that are repeatedly cited – are very problematic.²⁰

3.22 The AIC added:

It has been widely accepted that accurate information and data on many aspects of trafficking in persons is difficult to obtain. This can be explained by the clandestine nature of the crime; the lack of domestic, regional and international data collection standards; and variances in domestic legislation. This is not a problem exclusive to Australia, it is a global issue and attempts are being made to address this in various ways. Nevertheless, a strong evidence base is central to the development of strategies to address trafficking.²¹

3.23 The AIC also put forward the view that this crime may not be reported by the victims, stating:

17 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 19.

18 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 19.

19 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 11.

20 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 12.

21 Australian Institute of Criminology, *Submission 18*, p. 4.

Another hurdle for research and reducing the crime is that it may not be reported by victims. Where a service, usually highly specialised, does identify a potential trafficking in persons type crime, it seems only some matters proceed to investigation and then prosecution.²²

3.24 The AIC also pointed out that while the number of convictions may not show the actual level of trafficking:

...the actual number of convictions is not necessarily indicative of the actual level of trafficking in persons-type crime (eg unreported/historical focus on sex industry by law enforcement). They do indicate, however, that there are problems in three sectors, being the sex industry, ...non-sex industry, ...and marriage arrangements...²³

3.25 The Australian Crime Commission (ACC), an agency that delivers specialist law enforcement intelligence analysis and investigative capabilities, also agreed that obtaining accurate data on the extent of trafficking in Australia was difficult, stating:

The clandestine nature of people trafficking, along with difficulties in detection and probable high levels of underreporting makes the collection of accurate information and data on people trafficking difficult.²⁴

3.26 The ACC were able to provide some more information about the extent of trafficking in Australia, noting some of the findings from their *Organised Crime in Australia 2011* and *Organised Crime Threat Assessment 2012* reports that:

- Most victims of trafficking into Australia have been women trafficked for the purpose of exploitation in the sex industry (in both legal and illegal brothels). However, victims are increasingly being identified in other industries, including the agricultural, construction and hospitality industries.
- The hospitality, agricultural, construction and legal and illegal sex industries are key targets of exploitation by human traffickers. Some victims are also trafficked for other purposes, such as domestic servitude. In many cases, victims believe they are coming to Australia to study or work legitimately. Some victims are trafficked into Australia knowing that they will undertake a particular type of work, but are then held in debt-bondage or slavery-like conditions.

22 Australian Institute of Criminology, *Supplementary Submission 52*, p. 3.

23 Australian Institute of Criminology, *Supplementary Submission 52*, p. 4.

24 Australian Crime Commission, *Supplementary Submission 53*, p. 4.

- In Australia, the extent of organised crime involvement in the labour hire industry has not been assessed. However, recent research has indicated that labour trafficking exists in a broader context of exploitation of migrant workers, particularly those in low-skilled professions. Workers perceived to be at most risk of exploitation are those on 457 visas, migrants working in the agricultural sector or as domestic workers, international students and those working in the maritime/seafarer sector.
- Almost 70 per cent of these investigations related to trafficking for the purposes of sexual exploitation and the remainder related to exploitation in other industries.
- Cases of trafficking for sexual exploitation have largely involved small crime groups rather than large organised crime groups. The small crime groups use family or business contacts overseas to facilitate recruitment, movement and visa fraud. People trafficking matters have also generally involved other crime types, including immigration fraud, identity fraud, document fraud and money laundering.
- People traffickers are alert to matters raised in court by investigators and prosecutors, and to indicators that alert authorities to potential criminality which are discussed in open source publications. In response, people trafficking syndicates are changing their modus operandi to avoid detection and, if detected to make elements of the offence harder to prove to the standard that satisfies the courts and juries.²⁵

3.27 Both the AIC and ACC noted that they were actively working to obtain better data on people trafficking.

3.28 The AIC stated it would 'develop a relevant framework of indicators for monitoring trafficking in persons in Australia and the region', adding that:

The Framework will be supported by a Guide for Collecting Information and Data on Trafficking in Persons in Australia and the Region, to guide government and non-government sectors in their information and data collection. This Guide will ensure that relevant and comparable information and data is collected across all sectors. Subject to the agreement of relevant agencies and ethics approvals, as part of its future monitoring the AIC will analyse information and data consistent with this Guide from both government and non-government sectors.²⁶

3.29 The ACC stated that it was gathering information and intelligence relating to people trafficking through the recently established National Human Trafficking Desk:

25 Australian Crime Commission, *Submission 6*, pp. 4-5.

26 Australian Institute of Criminology, *Supplementary Submission 52*, p. 8.

In June 2012, the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and state and territory police agencies collaborated to establish a National Human Trafficking Desk (HT Desk) on the Australian Criminal Intelligence Database and Australian Law Enforcement Intelligence Network (ACID/ALEIN). This system is administered by the ACC.

Although in its infancy, the HT Desk functions as a centralised point for the collection and dissemination of information and intelligence relating to people trafficking. The HT Desk is accessible to nominated users from all contributing agencies.²⁷

Community perceptions of slavery and people trafficking in Australia

3.30 During the course of the inquiry a number of Non-Government Organisations (NGOs) and civil society organisations put forward their views on the prevalence of trafficking in Australia.

3.31 Anti-Slavery Australia (ASA) reported on the prevalence of trafficking in the sex industry as well as forced labour, forced marriage and organ trafficking, stating:

In Australia, fewer than 400 people have been officially identified as being trafficked in the period of 2005 to 2011. The majority of people identified have been women exploited in the sex industry, however there have been increasing reports of men and women trafficked into other industries and experiencing other forms of exploitation such as forced labour in the hospitality industry, agriculture and in private homes. There have been reported cases of forced marriage and a reported case of organ trafficking.²⁸

3.32 The Josephite Counter-Trafficking Project (JCTP) stated that 'men, women and children have been brought into Australia under false pretences and have ended up in debt bondage and working in terrible slave-like conditions.'²⁹ The JCTP also noted a growing awareness of labour trafficking as well as trafficking in the sex industry.³⁰

27 Australian Crime Commission, *Supplementary Submission 53*, p. 6.

28 Anti-Slavery Australia, *Submission 34*, pp. 11-12.

29 Josephite Counter-Trafficking Project, *Submission 10*, p. 3.

30 Josephite Counter-Trafficking Project, *Submission 10*, p. 3.

3.33 Walk Free, the Federation of Ethnic Communities' Councils of Australia (FECCA) and the Australian Council of Trade Unions (ACTU) also commented on labour trafficking in Australia.³¹ FECCA highlighted the country of origin of trafficking victims stating:

...victims in Australia are predominantly from culturally diverse backgrounds – largely being transported from countries such as Malaysia, Thailand and South Korea to work in industries including prostitution and hospitality.³²

3.34 The ACTU believed that there had been an increase in labour trafficking, stating:

There are an increasing number of victims in the agriculture, construction, manufacturing, and hospitality sectors as well as domestic work.³³

3.35 The ACTU also commented on the vulnerability of certain parts of the labour workforce to trafficking, stating:

- a high proportion of the workforce in the agriculture sector is working illegally which exposes workers to the risk of exploitation and debt bondage;
- the risk of forced labour and labour trafficking in the construction and manufacturing sectors is linked with the high use of temporary visa arrangements;
- a high proportion of workers in the meat industry hold lower levels of education and literacy attainment and little knowledge of industrial rights which exposes workers to the risk of exploitation;
- domestic workers are vulnerable to labour trafficking due to very limited social and other support networks and as they are frequently dependent on their employer for all of their accommodation, food and transportation;
- international students are particularly vulnerable to exploitation as they are under significant financial pressure due to working time restrictions, inadequate non-wage support, and over representation in poorly paid work and cash-in-hand work.³⁴

31 Walk Free, *Submission 20*, p. 1; Federation of Ethnic Communities' Councils of Australia, *Submission 14*, p. 3.

32 Federation of Ethnic Communities' Councils of Australia, *Submission 14*, p. 3.

33 Australian Council of Trade Unions, *Submission 28*, p. 4.

34 Australian Council of Trade Unions, *Submission 28*, pp. 4-5.

3.36 The National Tertiary Education Union (NTEU) also believed that international students were vulnerable remarking that ‘international students have been used (and continue to be used) as source of exploitable labour.’³⁵ The NTEU added:

Given the numbers, it is concerning to note that student visas are one of the preferred mechanisms for trafficking of people intended underpaid/unpaid labour, to be brought in to Australia, and, to a lesser extent, in sexual trafficking.³⁶

3.37 Family Voice Australia held the view that trafficking of women into Australia for sexual servitude was a problem³⁷ and highlighted the US Department of State *Trafficking in Persons* (TIP) Report which states:

Australia is primarily a destination country for women subjected to forced prostitution and to a lesser extent, women and men subjected to forced labor.³⁸

3.38 Collective Shout, the Coalition Against Trafficking in Women Australia, Christian Faith and Freedom, Project Respect and the Australian Christian Lobby agreed with the view of Family Voice that trafficking of women for sexual servitude was a problem in Australia.³⁹

3.39 In particular, Christian Faith and Freedom put forward the view that trafficking victims were from Asian countries, stating:

Australia has been reported as being a destination country for human trafficking, with victims being trafficked from predominantly China, Korea and Thailand, with many being coerced into exploitative conditions.⁴⁰

3.40 The Scarlet Alliance, however, suggested that trafficking was not widespread:

What we know from anecdotal evidence and from our extensive contact with sex workers is that trafficking is not a widespread phenomenon in Australia.⁴¹

35 National Tertiary Education Union, *Submission 15*, p. 3.

36 National Tertiary Education Union, *Submission 15*, p. 5.

37 Family Voice Australia, *Submission 2*, p. 1.

38 US Department of State, 2012, *Trafficking in Persons Report*, p. 73.

39 Collective Shout, *Submission 5*, p. 2; Coalition Against Trafficking in Women Australia, *Submission 19*, p. 2; Christian Faith and Freedom, *Submission 32*, p. 19; Project Respect *Submission 38*, p. 4; Australian Christian Lobby, *Submission 42*, p. 3.

40 Christian Faith and Freedom, *Submission 32*, p. 19.

41 The Scarlet Alliance, *Submission 26*, p. 5.

- 3.41 The Salvation Army, Australian Catholic Religious Against Trafficking in Humans (ACRATH), Ms Kittu Randhawa and Ms Avyi Patitsas all voiced their concerns over the presence of slave-like sham marriages in Australia.⁴²
- 3.42 As noted above, the Salvation Army highlighted that it had assisted 23 victims of forced marriage from other countries in its Safe House for Trafficked Persons.⁴³
- 3.43 ACRATH also highlighted that they had been contacted about women who have been brought into Australia for sham marriages and found their way to family violence shelters.⁴⁴
- 3.44 Many organisations that provided evidence for this inquiry agreed with the AIC and ACC's comments that trafficking in Australia is largely under-reported.
- 3.45 The JCTP stated 'it is impossible to have exact numbers for people who have been trafficked to Australia due to high levels of under-reporting.'⁴⁵
- 3.46 ASA agreed stating that 'the 400 identified victims is under-representative of the full nature and extent of slavery, slavery-like conditions and people trafficking within Australia.'⁴⁶
- 3.47 The ACTU also believed that trafficking in Australia goes largely under-reported, in particular for labour trafficking:
- It is likely that the number of reported cases of labour trafficking in Australia understates the scale of the problem. This is due to incidences going unrecognised, under-reporting by victims, and the challenges of addressing illegal activity. Therefore, it is recommended that the statistics not be taken as providing the full picture of the issue of trafficking in Australia.⁴⁷
- 3.48 While acknowledging that people trafficking is a serious problem, the Law Council of Australia agreed with the AIC that the current data on trafficking is unreliable:

42 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 12; Ms Kittu Randhawa, *Submission 9*, p. 1; Ms Avyi Patitsas, *Submission 24*, p. 1.

43 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, p. 9.

44 Ms Carolan, Australian Catholic Religious Against Trafficking in Humans, *Transcript*, 8 May 2013, p. 14.

45 Josephite Counter-Trafficking Project, *Submission 10*, p. 3.

46 Anti-Slavery Australia, *Submission 34*, p. 12.

47 Australian Council of Trade Unions, *Submission 28*, p. 4.

The absence of completely reliable data regarding the incidence of people trafficking and slavery at the global, regional and domestic levels makes it difficult to ascertain the true extent of these problems throughout the world.⁴⁸

Committee comment

- 3.49 The evidence received for this inquiry has highlighted that obtaining accurate data about the extent of slavery and trafficking in Australia is extremely complex.
- 3.50 The Committee acknowledges the work of the AIC and ACC to obtain better data on people trafficking through the development of a relevant framework of indicators for monitoring trafficking in persons in Australia and the establishment of the National Human Trafficking Desk.
- 3.51 The strengthening of the offences for slavery and trafficking in the Commonwealth *Criminal Code* should also provide another means of gauging the extent of slavery and trafficking in Australia.
- 3.52 It will be important for the Australian Government to closely monitor the outcomes of all these initiatives.
- 3.53 Slavery and people trafficking are serious crimes and a violation of an individual's basic human rights. We must take appropriate action to combat these heinous crimes.
- 3.54 It is important to consider a suite of mechanisms and tools to combat these crimes which includes the strengthening of legislation, increased investigations and prosecutions, as well as increasing community awareness.
- 3.55 As noted above, there are more vulnerable members of our society which traffickers target for exploitation. The evidence has highlighted that some individuals on visas (particularly student visas, 457 visas for skilled workers, and prospective marriage and partner visas) can be vulnerable.
- 3.56 It is important to make sure that individuals who apply for a visa to enter Australia are made aware of their rights. Increased education and awareness can act as a preventative mechanism to decrease the chances for exploitation.

48 Law Council of Australia, *Submission 29*, p. 6.

- 3.57 The Committee therefore sees a benefit in ensuring that overseas students, skilled migrant workers and prospective partners obtain appropriate information on their rights. In order to make it accessible and understandable the information should be translated into the visa applicant's language and provided as part of the visa application.

Recommendation 1

The Committee recommends that the Department of Immigration and Citizenship, in conjunction with the Interdepartmental Committee on Human Trafficking and Slavery and relevant non-government organisations, develop a fact sheet to provide visa applicants appropriate information on their rights as part of the visa application process. The information should be available in the visa applicant's language.

Australia's response to people trafficking

4.1 Australia has adopted a coordinated approach to tackling people trafficking that includes both whole-of-government strategies and joint government and non-government activities. This chapter describes Australia's response to people trafficking, both internationally and within Australia, by the Australian Government and by non-government organisations.

Australian Government response

Anti-People trafficking strategy

4.2 The Australian Government submitted that it has had a strategy in place to target people trafficking (including slavery and slavery-like practices) since 2003. The Anti-People Trafficking Strategy (the strategy) targets all forms of people trafficking, including for sexual and labour exploitation, and has four main components:

- prevention;
- detection and investigation;
- prosecution; and
- victim support and protection.¹

4.3 A whole-of-government approach is taken to the implementation of the strategy through an Interdepartmental Committee (IDC) comprising the following agencies:

¹ Attorney General's Department, *Submission 8*, p. 1.

- Attorney-General's Department (AGD) (Chair);
- Australian Agency for International Development (AusAID);
- Australian Crime Commission;
- Australian Federal Police (AFP);
- Australian Institute of Criminology;
- Commonwealth Director of Public Prosecutions (CDPP);
- Department of Education, Employment and Workplace Relations;
- Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA);
- Department of Foreign Affairs and Trade (DFAT);
- Department of Immigration and Citizenship (DIAC);
- Department of Prime Minister and Cabinet;
- Fair Work Building and Construction; and
- Fair Work Ombudsman.²

4.4 The IDC has the following responsibilities:

- monitoring implementation of the anti-people trafficking strategy;
- reporting annually to the Australian Parliament on its effectiveness; and
- ensuring that emerging issues are addressed on a whole-of-government basis.³

4.5 The IDC has also established an Operational Working Group, comprised of the AFP, AGD, CDPP, DIAC and FaHCSIA, which is to 'resolve operational issues and refer emerging policy issues for the IDC's consideration.'⁴

4.6 Under the strategy, the Australian Government has provided more than \$100 million since 2003 to support domestic, regional and international anti-trafficking measures, including:

² Attorney-General's Department, *Submission 8*, p. 1.

³ Attorney-General's Department, *Submission 8*, p. 1.

⁴ Attorney-General's Department, *Submission 8*, pp. 1-2.

- specialist teams within the AFP to investigate trafficking-related matters. The Human Trafficking Teams have responsibility for investigating people trafficking and related offences, working both proactively and following referrals from other Commonwealth or State and Territory Government agencies, industry and non-government organisations;⁵
- legislation to criminalise trafficking in persons and trafficking-related activities, which is discussed further below;
- the Support for Trafficked People Program, administered by FaCHSIA and delivered by the Australian Red Cross, which provides individualised case management support, including assistance in accessing accommodation, financial assistance, legal advice, medical and counselling services, training and social support;⁶
- an Australian Policing Strategy to Combat Trafficking in Persons, which was endorsed by the AFP and all State and Territory police services on 4 May 2011. The Policing Strategy encompasses all forms of people trafficking, including labour exploitation and organ harvesting, and imposes a number of obligations on the police services;⁷
- visa arrangements to enable suspected victims of trafficking to remain in Australia and support the investigation and prosecution of trafficking offences. The People Trafficking Visa Framework enables people who are suspected victims of trafficking to remain lawfully in Australia if they do not hold a valid visa (see chapter five for further discussion of this framework);
- specialist immigration officers posted in Thailand, China and the Philippines, who focus on people trafficking issues and aim to prevent trafficking in source countries;
- support for the CDPP to prosecute trafficking matters, including funding and training;
- research into trafficking trends in Australia and our region by the Australian Institute of Criminology;
- increased regional cooperation to combat trafficking in persons; and

5 Attorney-General's Department, *Submission 8*, p. 4.

6 Attorney-General's Department, *Supplementary Submission 48*, p. 20. This program and victim support more broadly is discussed further in chapter five.

7 Attorney-General's Department, *Submission 8*, pp. 4-5.

- reintegration assistance for trafficking victims who are returned to key source countries in our region.⁸
- 4.7 In June 2008, the Government established the National Roundtable on People Trafficking as a ‘consultative mechanism between the Government and NGOs on trafficking issues.’ The ministerial level Roundtable has convened each year since 2008 and from 2011, has been supported by an operational level Senior Officials’ Meeting.⁹
- 4.8 In 2011, 30 government and non-government organisations and the UN Special Rapporteur on trafficking in persons, especially women and children, were invited to participate in the Roundtable.¹⁰
- 4.9 Anti-Slavery Australia commented that the Roundtable has provided:
- ... a meaningful and effective forum for discussion of emerging issues and consultation about priorities and responses. From the national roundtable there have been significant outcomes, including the development of the NGO guidelines for people working with trafficked people. That document set out 10 guiding principles for those who are having contact with trafficked people in Australia. Representations at the very first roundtable in 2008 led to a review of the Australian Migration Regulations, and better visas were established to protect those who have experienced trafficking. This year the development of the national action plan is on the agenda.¹¹
- 4.10 Since 2008, the Government has provided \$2.4 million in funding for outreach, and education and awareness raising initiatives to four NGOs: Anti-Slavery Australia, Australian Catholic Religious Against Trafficking in Humans (ACRATH), Project Respect and Scarlet Alliance.¹² The work undertaken with this funding is discussed further below.

8 Australian Government, *The Australian Government’s Anti-People Trafficking Strategy*, Fact Sheet, 20 September 2012, p. 1; See also Law Council of Australia, *Submission 29*, p. 10.

9 Attorney-General’s Department, *Submission 8*, p. 6.

10 Attorney-General’s Department, *Supplementary Submission 48*, p. 18.

11 Associate Professor Burn, Anti-Slavery Australia, *Transcript*, 22 April 2013, p. 25.

12 Australian Government, *The Australian Government’s Anti-People Trafficking Strategy*, Fact Sheet, 20 September 2012, p. 3; Attorney-General’s Department, *Submission 8*, p. 6.

- 4.11 In 2011, the Government also provided just under \$500,000 from confiscated criminal assets to five groups for projects to combat labour exploitation in susceptible industries.¹³ The funding recipients were Asian Women at Work (\$96,098), Australian Council of Trade Unions (\$200,000), Australian Hotels Association (\$25,000), Australian Red Cross (\$64,974), and the Construction, Forestry, Mining and Energy Union (\$100,000).¹⁴
- 4.12 Also in 2011, the Government provided \$126,960 to the Australian Red Cross to develop and deliver a professional training package for the community sector. Between April and September 2012, the Red Cross delivered 52 training sessions to almost 1,000 participants from 196 organisations.¹⁵
- 4.13 The AFP hosted a collaborative awareness exercise for a number of Australian NGOs and IDC agencies in April 2011, which led to the creation of the Anti-Human Trafficking Community Resource. This is a comprehensive reference guide to all key government agencies, NGOs, unions and industry groups that have a role 'in caring for victims and cooperatively obstructing and investigating people trafficking and related offences.'¹⁶
- 4.14 As noted in chapter three, a National Human Trafficking Desk (HT Desk) was created within the Australian Criminal Intelligence Database and Australian Law Enforcement Intelligence Net managed by the Australian Crime Commission in June 2012. The HT Desk is a centralised point for information and intelligence relating to people trafficking that is accessible to all contributing agencies.¹⁷
- 4.15 In its submission, AGD advised that the Government will soon commence work on a revised national action plan to combat trafficking that includes benchmarks and indicators to measure progress and impact. This is in line with recommendations by the United Nations Special Rapporteur on trafficking in persons, especially women and children, Dr Joy Ngozi Ezeilo OON, who undertook a fact-finding mission to Australia in November 2011.¹⁸

13 Australian Government, *The Australian Government's Anti-People Trafficking Strategy*, Fact Sheet, 20 September 2012, p. 3.

14 Attorney-General's Department, *Submission 8*, p. 7; Attorney-General's Department, *Supplementary Submission 48*, p. 13.

15 Attorney-General's Department, *Supplementary Submission 48*, p. 14.

16 Attorney-General's Department, *Submission 8*, p. 7.

17 Attorney-General's Department, *Submission 8*, p. 5.

18 Attorney-General's Department, *Submission 8*, pp. 6, 7.

- 4.16 More recently, AGD informed the Committee that the term ‘people trafficking’ used in the strategy and more broadly has been revised by the Government to ‘human trafficking, slavery and slavery-like practices’ to better reflect the range of offences and reduce confusion with people smuggling. The IDC, the strategy and the revised national action plan will all use the changed terminology.¹⁹

International agreements

- 4.17 Australia is party to a number of agreements that together form an international framework on trafficking.
- 4.18 The key international instruments used to combat people trafficking are the *United Nations Convention against Transnational Organized Crime* (UNTOC) (ratified by Australia in 2004) and its *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (the Trafficking Protocol), which Australia ratified in 2005.²⁰ AGD stated that the Trafficking Protocol is:
- ... the first globally legally binding instrument with an agreed definition on trafficking in persons and covers trafficking for sexual servitude, slavery and labour exploitation.²¹
- 4.19 As party to both UNTOC and the Trafficking Protocol, Australia has called for and works toward universal adoption of both instruments. Australia also supports the work of the UNTOC Working Group on Trafficking in Persons.²²
- 4.20 Australia is also party to other international agreements on trafficking:
- *International Covenant on Civil and Political Rights*;
 - *International Covenant on Economic, Social and Cultural Rights*;
 - *Convention on the Elimination of All Forms of Discrimination against Women*;
 - *Convention on the Rights of the Child and Optional Protocols on the sale of children, child prostitution and child pornography and on involvement of children in armed conflict*;
 - *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*; and

19 Mr Anderson, Attorney General’s Department, *Transcript*, 14 May 2013, pp. 2-3.

20 Department of Foreign Affairs and Trade, *Submission 40*, p. 4.

21 Attorney-General’s Department, *Submission 8*, p. 2.

22 Department of Foreign Affairs and Trade, *Submission 40*, p. 4.

- several International Labour Organization conventions on forced labour.²³

4.21 Chapter seven, which focusses on international best practice, outlines other agreements that contributors to the inquiry considered Australia should join.

International forums

4.22 In its submission, DFAT outlined Australia's activities in the United Nations and other forums, such as the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*. DFAT commented that, as part of the Anti-People Trafficking Strategy:

Australia takes a holistic approach to combating people trafficking and is working with regional and international partners to strengthen legal and operational frameworks and to build the capacity of criminal justice agencies and civil society to prevent trafficking, prosecute perpetrators, and ensure victims are protected.²⁴

4.23 Australia's activities in the United Nations include, in summary:

- participation in the UN Human Rights Council's Universal Periodic Review;
- co-sponsoring creation and renewal of the UN Special Rapporteur on contemporary forms of slavery, its causes and consequences;
- dialogue in the United Nations General Assembly in 2012 on the Global Plan of Action to Combat Trafficking in persons, and Fighting Human Trafficking; and
- support for adoption of the UN Guiding Principles and Business and Human Rights and the UN Global Compact.²⁵

4.24 Australia has also been active in the Commonwealth Heads of Government Meeting and supports the efforts of the Organization for Security and Cooperation in Europe (OSCE) through grant funding and hosting the OSCE Asian Partners Conferences in 2013.²⁶

23 Attorney-General's Department, *Submission 8*, p. 2.

24 Department of Foreign Affairs and Trade, *Submission 40*, p. 3.

25 Department of Foreign Affairs and Trade, *Submission 40*, pp. 4-5, 6.

26 Department of Foreign Affairs and Trade, *Submission 40*, p. 5.

- 4.25 With Indonesia, Australia co-hosts the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*, through which Australia works with regional partners to combat people trafficking.²⁷
- 4.26 The Committee was informed that people trafficking has been a central focus of the Bali Process and that Australia has advocated strongly for cooperation amongst Bali Process member countries to address this issue both domestically and regionally.²⁸

Universal Periodic Review

- 4.27 Australia participates in the United Nations Human Rights Council's Universal Periodic Review (UPR), a process that involves periodic review of the human rights records of all 193 UN Member States. In addition to promoting human rights, the UPR aims to enhance the capacity of States to deal effectively with human rights challenges and share best practice among States and other stakeholders.²⁹
- 4.28 Slavery Links Australia described Australia's participation in the first round of the UPR in 2011 as a 'model' for other countries.³⁰
- 4.29 DFAT commented that, at both the Universal Periodic Review and UN General Assembly, Australia:
- ... continues to raise the issue of people trafficking, noting both progress and concerns within UN member states. During the Universal Periodic Review's 12th and 13th sessions in 2011 and 2012, Australia made reference to people trafficking in its interventions during the reviews of human rights in Haiti, Tajikistan, Thailand, Togo and the United Kingdom.³¹

27 Department of Foreign Affairs and Trade, *Submission 40*, pp. 6-7.

28 Department of Immigration and Citizenship, *Submission 56*, pp. 8-9.

29 Office of the High Commissioner for Human Rights, 'Basic Facts about the UPR', viewed 27 May 2013, <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>>.

30 Slavery Links Australia Inc, *Submission 7*, p. 4.

31 Department of Foreign Affairs and Trade, *Submission 40*, p. 4.

Global Ambassador for Women and Girls

- 4.30 In September 2011, the Government appointed the first Global Ambassador for Women and Girls, who is responsible for promoting gender equality and the social, political and economic empowerment of women and girls, particularly in the Asia-Pacific region. DFAT stated that the Ambassador provides a 'new avenue' for Australia to combat trafficking in women and girls.³²

Ambassador for People Smuggling

- 4.31 Australia's Ambassador for People Smuggling Issues is responsible for advancing Australia's interests in promoting effective and practical international cooperation to combat people smuggling and trafficking in persons, particularly in the Asia-Pacific region. The Ambassador also promotes closer regional cooperation through the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*, which Australia co-chairs with Indonesia.³³

Australia's aid program

- 4.32 For the period 2006 to 2014, the Australian Government provided over \$50 million for anti-trafficking programs, including \$8.5 million for AusAID programs in 2012-13.³⁴ In its submission DFAT described Australian aid as follows:

Australian aid works to increase public education and awareness of people trafficking and enhance regional cooperation to combat trafficking in Association of Southeast Asian Nations (ASEAN) member countries. In particular, AusAID funds a number of targeted programs in South East Asia to improve the capacity of governments' criminal justice systems to identify and prosecute traffickers, prevent sexual exploitation of children and reduce the exploitation of migrant workers.³⁵

- 4.33 On 20 November 2012, the Prime Minister announced \$50 million in funding for 2013 to 2017 to establish the Australia-Asia Program to Combat Trafficking in Persons (AAPTIP), which is designed to strengthen the criminal justice systems in Cambodia, Indonesia, Lao PDR, Myanmar,

32 Department of Foreign Affairs and Trade, *Submission 40*, p. 7.

33 Department of Foreign Affairs and Trade, *Annual Report 2011-12*, p. 106.

34 Department of Foreign Affairs and Trade, *Submission 40*, p. 7.

35 Department of Foreign Affairs and Trade, *Submission 40*, p. 7.

the Philippines, Thailand, and Vietnam.³⁶ AAPTIP's activities will include training for more than 1,900 judges and prosecutors, establishment of a research fund to strengthen data collection and victim support. The program will also be extended to three recipient countries of suspected trafficked labour: Singapore, Malaysia and Brunei.³⁷

4.34 AAPTIP follows on from two earlier projects: Asia Regional Cooperation to Prevent People Trafficking (2003-2006) and Asia Regional Trafficking in Persons Project (ARTIP) (2006-2011, with a further transitional period 2012-2013). The ARTIP trained over 8,100 police officers, prosecutors and judges. Police and prosecutors trained by the project investigated more than 150 cases of human trafficking between January and June 2012, with 107 prosecutions.³⁸

4.35 The Law Council of Australia (LCA) commented on the effectiveness of the ARTIP, stating:

ARTIP has been widely applauded for its innovative and professional approach, and is considered to have made a substantial contribution to regional anti-trafficking efforts as well as to global understanding of effective criminal justice responses to trafficking.³⁹

4.36 Dr Anne Gallagher AO agreed that the ARTIP project had been successful, stating:

This project is just about to commence its third phase, and it is the world's largest and most ambitious criminal justice initiative against trafficking. It has been widely acclaimed for its impact on laws, policies and practices within and outside the ASEAN region. I believe very strongly that it represents Australia's single most important contribution to the global fight against human trafficking.⁴⁰

36 Attorney-General's Department, *Submission 8*, pp. 21-22; Ms Niblett, AusAID, *Transcript*, 23 April 2013, p. 10.

37 Ms Niblett, AusAID, *Transcript*, 23 April 2013, p. 21.

38 Department of Foreign Affairs and Trade, *Submission 40*, p. 10.

39 Law Council of Australia, *Submission 29*, p. 11.

40 Dr Gallagher AO, *Transcript*, 8 May 2013, p. 8.

4.37 Dr Gallagher went on to say:

AusAID has for 10 years now been working in an area that many donors did not touch for a very long time, and that is the hard edge of human trafficking – not victim protection and building shelters and things like that, but actually working to end the impunity of traffickers and to secure justice for victims. I think that is a very big deal.⁴¹

4.38 Other AusAID funded projects include Project Childhood, Tripartite Action to Protect Migrants in the Greater Mekong Sub-region from Labour Exploitation (TRIANGLE) Project and the MTV 'End Exploitation and Trafficking' campaign, undertaken in partnership with the United States.⁴²

4.39 Agencies such as DIAC, AGD and the AFP also work with countries in the region to strengthen immigration and legal regimes, international crime cooperation and law enforcement.⁴³

4.40 The LCA pointed out the challenges associated with these activities, whereby:

- very few Asian countries are party to the Trafficking Protocol;
- many countries lack national legislation that specifically targets people trafficking; and
- even where such legislation exists, laws are often not effectively enforced due to a lack of law enforcement capability.⁴⁴

4.41 Australia's aid program is centred upon the Millennium Development Goals.⁴⁵ AusAID commented that its broad programs are aimed at reducing poverty as well as addressing gender inequality and the education of women and girls, improving governance, and strengthening justice and human rights issues in recipient countries. Ms Niblett stated:

... these programs, in broad, go to the root causes of some of the issues around human trafficking.⁴⁶

41 Dr Gallagher AO, *Transcript*, 8 May 2013, p. 10.

42 Department of Foreign Affairs and Trade, *Submission 40*, pp. 9-10.

43 Department of Foreign Affairs and Trade, *Submission 40*, pp. 10-11. See also Law Council of Australia, *Submission 29*, p. 11.

44 Law Council of Australia, *Submission 29*, p. 8.

45 Adopted by 189 countries, the Millennium Development Goals are 'a shared world vision for reducing poverty'. The primary goal is to reduce by half the proportion of people living on less than US\$1.24 a day by 2015 relative to 1990. Department of Foreign Affairs and Trade, 'Millennium Development Goals', viewed 29 May 2013, <<http://www.dfat.gov.au/un/millennium-development-goals.html>>.

46 Ms Niblett, AusAID, *Transcript*, 23 April 2013, p. 25.

- 4.42 ACRATH stressed the importance of the Millennium Development Goals, arguing that overseas development assistance that is linked to reducing poverty makes people less vulnerable to trafficking.⁴⁷ Similarly, the Josephite Counter-Trafficking Project considered projects to improve education outcomes would lead to better job opportunities, reducing the need for children to leave home.⁴⁸
- 4.43 Plan International Australia also commented, in relation to forced marriage:
- Australia is a key donor for education initiatives, and research has established that both early childhood care and development and primary school education is a key strategy to delay marriage, and to increase the value placed on the role of girls in their communities. A continued emphasis on education and robust aid program will support efforts to eradicate early and forced marriage.⁴⁹
- 4.44 AusAID also provides funding through the AusAID NGO Cooperation Program to programs that complement Australia's aid program and directly and tangibly alleviate poverty, and the AusAID Human Rights Scheme for projects that directly promote and protect human rights.⁵⁰

Australian legislation

- 4.45 The Commonwealth *Criminal Code* sets out offences and severe penalties 'relating to slavery and trafficking persons, into, from, and within Australia for the purposes of exploitation.'⁵¹
- 4.46 The Trafficking Protocol sets out the scope of the legislative framework to be adopted by States Parties.⁵² The offences under Divisions 270 and 271 of the *Criminal Code* cover conduct, in line with the Trafficking Protocol, which:
- occurs both across borders and within Australia – subject to constitutional limitations
 - is for a range of exploitative purposes

47 Ms Carolan, Australian Catholic Religious Against Trafficking in Humans, *Transcript*, 8 May 2013, p. 13.

48 Sister Ng, Josephite Counter-Trafficking Project, *Transcript*, 22 April 2013, pp. 5-6.

49 Mrs Fawcett, Plan International Australia, *Transcript*, 8 May 2013, p. 21.

50 AusAID, *Submission 65*, p. 1. A list of relevant AusAID NGO Cooperation Program activities for 2012-13 is at Appendix G. A list of relevant AusAID Human Rights Grants Scheme projects for 2012-13 is at Appendix H.

51 Attorney-General's Department, *Submission 8*, p. 3. See Chapter 2.

52 Law Council of Australia, *Submission 29*, p. 9.

- includes men, women and children as victims, and
 - takes place with or without the involvement of organised crime groups.⁵³
- 4.47 The maximum penalties for offences under Division 270 and 271 range up to 25 years' imprisonment for slavery and trafficking in children.⁵⁴
- 4.48 On 8 March 2013 legislation amending the *Criminal Code* to 'ensure that the broadest range of exploitative behaviour is captured and criminalised' commenced operation. The amendments established new offences of forced marriage and harbouring a victim, standalone offences of forced labour and organ harvesting, extended the application of existing offences relating to slavery and sexual servitude, broadened definitions and increased penalties.⁵⁵
- 4.49 In its submission, Anti-Slavery Australia argued that the then bill would:
- ... have the effect of creating a hierarchy of criminal offences signalled in part by the differing severity of penalties.⁵⁶
- 4.50 Anti-Slavery Australia went on to comment that:
- an important practical effect of the legislation 'is that slavery offences will be reserved for the gravest crimes against humanity';⁵⁷
 - servitude offences will replace the specific offence of sexual servitude, with the new offence addressing 'the condition of servitude, regardless of the form of servitude';⁵⁸
 - stand-alone offences of forced labour have been included, fulfilling international obligations under the Forced Labour Convention;⁵⁹
 - debt bondage is included in an expanded definition of exploitation and the aggravated offence of debt bondage is introduced, necessary provisions for Australia to meet its obligations under a number of international agreements;⁶⁰

53 Attorney-General's Department, *Submission 8*, p. 3.

54 Attorney-General's Department, *Submission 8*, p. 3.

55 Parliament of Australia, Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking Bill 2012, viewed 21 May 2012, <http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r4840>; Attorney-General's Department, *Submission 8*, p. 3.

56 Anti-Slavery Australia, *Submission 34*, p. 50.

57 Anti-Slavery Australia, *Submission 34*, p. 50.

58 Anti-Slavery Australia, *Submission 34*, pp. 50, 52.

59 Anti-Slavery Australia, *Submission 34*, p. 50.

60 Anti-Slavery Australia, *Submission 34*, p. 55.

- with regard to trafficking in children, the new offences and unchanged offences will not fully implement recommendations made by the Committee on the Rights of the Child in September 2012, nor respond to criticisms of Australia's treatment of unaccompanied minors;⁶¹ and
- new offences and aggravated offences are introduced relating to organ trafficking, a comparatively new form of human trafficking.⁶²

4.51 Non-government groups and individuals expressed broad support for the legislative changes⁶³ although some groups considered the amendments did not fully implement Australia's obligations under the Trafficking Protocol.⁶⁴ For example, Project Respect stated that:

... the development of a general consent provision, the increasing of penalties that may apply to conviction of breaches of debt bondage offences, the broadening of definitions, particularly exploitation, and the relative increase of reparations to victims of human trafficking are acknowledged as substantial steps in combating trafficking of persons. However, as signatories to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Protocol), the government has failed to substantially cater for the human rights components that the Protocol espouses.

As such, for Australia to meet its international obligations, it is paramount that humanitarian concerns such as victim support and compensation are satisfactorily met with the same vigour as the criminalization provisions.⁶⁵

4.52 Dr Anne Gallagher AO commented that the amendments 'will not do much to rationalise the framework or reduce its complexity'. Dr Gallagher supported a formal review of the efficiencies and effectiveness of the new offences under Divisions 270 and 271 of the *Criminal Code*, five years after enactment.⁶⁶

61 Anti-Slavery Australia, *Submission 34*, p. 57.

62 Anti-Slavery Australia, *Submission 34*, p. 58.

63 Josephite Counter-Trafficking Project, *Submission 10*, p. 5; Slavery Links Australia Inc, *Submission 7*, p. 1; Federation of Ethnic Communities' Councils of Australia, *Submission 14*, p. 4; Ms Brianna Lee, *Submission 16*, p. 2; Coalition Against Trafficking in Women Australia, *Submission 19*, pp. 5-6; Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 4; World Vision, *Submission 27*, p. 1; Australian Human Rights Commission, *Submission 31*, p. 10; Project Respect, *Submission 38*, p. 6; Dr Anne Gallagher AO, *Submission 39*, p. 1; Australian Lawyers for Human Rights, *Submission 44*, pp. 3-4.

64 See, for example, Australian Council of Trade Unions, *Submission 28*, p. 10; Civil Liberties Australia, *Submission 36*, pp. 1-2.

65 Project Respect, *Submission 38*, p. 6.

66 Dr Anne Gallagher AO, *Submission 39*, pp. 4-5.

4.53 The AFP stated that the amended legislation was developed in response to observed trends and that it would allow the AFP to deal with matters it was unable to previously. Specifically:

... the recent reforms that were passed by parliament and commenced on 8 March expanded the reach of the slavery offences to make sure that we are able to capture offending across all different industries, and also exploitation and trafficking in all of its different forms.⁶⁷

4.54 The Salvation Army similarly observed that the amendments, particularly for forced labour and servitude, would 'improve people's ability to engage with the AFP'.⁶⁸

4.55 The CDPP informed the Committee that historically the Commonwealth has been the main victim of Commonwealth offences, such as social security fraud or tax fraud. There is, however, a growing range of Commonwealth offences, including people-trafficking offences, where the victim is a person rather than the Commonwealth.⁶⁹ In its submission, the LCA argued that victim and witness protection, including the use of victim impact statements, should be addressed for Commonwealth offences.⁷⁰

4.56 The Committee notes that on 29 May 2013 further amendments to the *Criminal Code* were introduced into the Australian Parliament.⁷¹ The proposed amendments include measures to support victims of slavery, slavery-like and people trafficking offences. The Explanatory Memorandum states:

The objective of the Bill is to expand protections available for vulnerable witnesses in Commonwealth criminal proceedings, and provide for the use of victim impact statements in the sentencing of federal offenders.

67 Mrs Sengstock, Australian Federal Police, *Transcript*, 19 March 2013, p. 3.

68 Ms Stanger, Salvation Army, *Transcript*, 23 April 2013, p. 10.

69 Ms Hinchcliffe, Commonwealth Director of Public Prosecutions, *Transcript*, 21 November 2012, p. 2.

70 Law Council of Australia, *Submission 29*, p. 32.

71 Parliament of Australia, Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Bill 2013, viewed 29 May 2013, <http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5067>.

Specifically, the Bill will:

- extend existing vulnerable witness protections available to children in sexual offence proceedings in Part IAD of the *Crimes Act 1914* (Cth) to apply to adult victims of slavery, slavery-like and human trafficking offences, as well as witnesses who apply to a court to be recognised as ‘special witnesses’ due to a particular characteristic, in certain cases
- add a new category of vulnerable witness protections to Part IAD of the *Crimes Act 1914* (Cth) to assist victims of child sex-related, slavery, slavery-like and human trafficking offences give evidence in retrials and subsequent trials for those offences
- amend Part IB of the *Crimes Act 1914* (Cth) to provide a scheme for use of victim impact statements in the sentencing of federal offenders, and
- amend Divisions 270 and 271 of the *Criminal Code Act 1995* (Cth) to allow a court to hear evidence by video-link from witnesses outside Australia in proceedings for slavery, slavery-like and human trafficking offences.⁷²

4.57 The Explanatory Memorandum explains that the protection for vulnerable witnesses is intended to minimise the risk of intimidation, additional trauma, fear for personal safety and undue public embarrassment. The introduction of victim impact statements will bring the support and protection afforded to victims and witnesses of Commonwealth criminal offences in line with State and Territory provisions.⁷³

Committee comment

4.58 The Committee welcomes the strengthening of Australia’s legislation to combat human trafficking, slavery and slavery-like offences.

4.59 People trafficking cannot be addressed solely through domestic legislation and initiatives, however, but requires a global response to tackle not only the crimes themselves but also circumstances, such as poverty, that contribute to a person’s vulnerability.

⁷² Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Bill 2013, Explanatory Memorandum, pp. 11-12.

⁷³ Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Bill 2013, Explanatory Memorandum, pp. 3-4.

- 4.60 The Committee received evidence about the leadership role taken by Australia in our region. Through an active approach to international and regional mechanisms and targeted aid funding, Australia has gained a positive international reputation. Hagar Australia, for example, described Australia as a 'key opinion leader' in the region and a country other regional governments and communities 'look to for help in reforming and refining their own civil institutions.'⁷⁴
- 4.61 The Committee supports an ongoing leadership role for Australia in combating people trafficking, both globally and regionally.

Recommendation 2

The Committee recommends that the Australian Government continue to use international mechanisms including, but not limited to, the United Nations Human Rights Council's Universal Periodic Review to combat people trafficking.

Non-Government organisations' responses

- 4.62 There are a number of NGOs that are actively involved in anti-trafficking activities in Australia and, as noted above, several groups have received Commonwealth funding under the *Proceeds of Crime Act 2002* to support these activities.
- 4.63 The Australian Red Cross commented that:
- A major component of the Australian Government's anti-trafficking efforts is its engagement with the NGO sector.⁷⁵
- 4.64 The Australian Red Cross occupies an important role in the non-government sector as the provider of the Government's Support for Trafficked People Program.

⁷⁴ Mrs Kennedy, Hagar Australia, *Transcript*, 9 May 2013, p. 2.

⁷⁵ Australian Red Cross, *Submission 47*, p. 20.

4.65 Professor Andreas Schloenhardt of the University of Queensland commented that:

The most significant and most visible means by which the Australian Government and NGOs cooperate to provide victim assistance is through the Australian Red Cross, which has been commissioned to deliver on-the-ground case management services for the Australian Government's Support for Victims of People Trafficking Program. ... [T]he Australian Red Cross provides a 24-hour a day, 7 days a week 'national response' across Australia to assist victims of trafficking referred to them by the AFP. Support consists of an individualised case management, accommodation assistance, counselling and mental health support, medical treatment, income support, legal advice, skills development training, and social support. The Australian Red Cross also provides referrals to other relevant support services, legal advice, and training services.⁷⁶

4.66 In addition to the Commonwealth funding received for the Support for Trafficked People Program and community service providers' training, the Australian Red Cross received \$64,974 under the *Proceeds of Crime Act 2002* in November 2011 to raise awareness of labour exploitation.⁷⁷

4.67 The Australian Red Cross described organisations such as Anti-Slavery Australia, Project Respect, Samaritan Accommodation, ACRATH and Scarlet Alliance, that have also received Commonwealth Government funding, as 'key partners in supporting Red Cross clients'.⁷⁸

4.68 The Australian Red Cross considered that there is potential to expand engagement to other groups within the NGO sector, leading to a 'more efficient, cost-effective and successful response led by Government'.⁷⁹

76 Professor Andreas Schloenhardt, University of Queensland, *Submission 4*, pp. 12-13.

77 Australian Red Cross, *Submission 47*, p. 3.

78 Australian Red Cross, *Submission 47*, p. 7.

79 Australian Red Cross, *Submission 47*, p. 21.

Commonwealth funded community awareness and education programs

- 4.69 Anti-Slavery Australia of the Faculty of Law at the University of Technology, Sydney, is the only specialist legal and policy centre in Australia focussed on slavery, trafficking and other labour exploitation. It provides trafficked people and people who are vulnerable to trafficking with information about their rights under Australian laws.⁸⁰
- 4.70 Anti-Slavery Australia has also produced a general community awareness campaign that includes community service announcements shown in cinemas and on free-to-air television. Anti-Slavery Australia indicated that one of these announcements had screened 9,000 times in cinemas across Australia, targeting the 18 to 24 year old age group.⁸¹
- 4.71 Project Respect is a non-profit community organisation that aims to empower and support women in the sex industry, including women trafficked to Australia. Its funding is being used for outreach to women in the sex industry.⁸² Ms Kelly Hinton told the Committee:
- The federal government grant that we use is for outreach into legal brothels with the aim of supporting women in the sex industry but recognising that our work with them also leads us to work with women who have been trafficked and identifying issues with trafficking gaps like this so that we can recommend to the government.⁸³
- 4.72 Ms Hinton pointed out that Project Respect's funding is project based and that the organisation does not have any secure or ongoing funding.⁸⁴
- 4.73 Scarlet Alliance is the Australian Sex Workers Association and is working to decrease the vulnerability of migrant sex workers to trafficking through enhancing the capacity of its peer educators.⁸⁵ Scarlet Alliance told the Committee that it receives funding for both domestic work and through AusAID to build capacity in other sex-worker organisations in the region.⁸⁶

80 Attorney-General's Department, *Supplementary Submission 48*, p. 12.

81 Associate Professor Burn, Anti-Slavery Australia, *Transcript*, 22 April 2013, p. 25.

82 Attorney-General's Department, *Supplementary Submission 48*, p. 12.

83 Ms Hinton, Project Respect, *Transcript*, 8 May 2013, p. 4.

84 Ms Hinton, Project Respect, *Transcript*, 8 May 2013, p. 4.

85 Attorney-General's Department, *Supplementary Submission 48*, p. 12.

86 Ms Fawkes, Scarlet Alliance, *Transcript*, 23 April 2013, p. 20.

4.74 ACRATH facilitates the provision of direct services to people trafficked into Australia and works to raise awareness, share information and build national and international networks.⁸⁷ Like Project Respect, ACRATH pointed out the difficulties associated with funding:

... each of the four NGOs funded in the original funding ... received \$600,000 over six years. ... We have used that money and added over 3,000 hours per six month of volunteer time to it to achieve what we work on. We have been told that the Proceeds of Crime Act funding, which has funded us up until now at \$100,000 a year, has been frozen and will no longer be available to any of the NGOs. Our money runs out in June 2014. We believe that we are providing enormous value for that \$100,000...⁸⁸

4.75 Ms Carolan provided an example of how ACRATH is raising community awareness and the cost-effectiveness of its approach:

We were given a donation of \$5,000. We employed a young community worker and we have run something we call the ACRATH Rap, a radio awareness project. We have picked up the new legislation that has forced labour as an issue, we have advertised in the ethnic broadcasting world and put community service announcements into the Chinese program, the Thai program, the Malaysian program, so that people listening to those programs can say, 'Oh, this is what is happening in our community and it is wrong and it is actually now against Australian law.' We have the \$5,000, and we have community service announcements now in four languages being run on 3ZZZ and community radio stations around Victoria. The SBS Chinese language program interviewed me. I do not speak Chinese. They did a half-hour interview on trafficking and the journalist said to me, 'This is happening in our community; I know it.' That is a \$5,000 amount, but if we did a little costing we think it would cost the government over \$100,000 to do that community awareness raising because the government would need to pay for what we have been able to call on community sector volunteers to do.⁸⁹

4.76 The Committee also received evidence from several groups which operate internationally, including:

87 Attorney-General's Department, *Supplementary Submission 48*, p. 13.

88 Ms Carolan, *Australian Catholic Religious Against Trafficking in Humans, Transcript*, 8 May 2013, p. 13.

89 Ms Carolan, *Australian Catholic Religious Against Trafficking in Humans, Transcript*, 8 May 2013, p. 14.

- Hagar Australia, which operates in Cambodia, Vietnam and Afghanistan to support survivors of slavery and trafficking.⁹⁰ In evidence to the Committee, Hagar advocated for a greater focus from the Australian Government on victim support in its international activities, including aid funding;⁹¹
- Walk Free, a joint initiative of the Australian Children's Trust and Hope for Children Foundation with the stated goal of 'ending all forms of slavery, slavery-like practices and human trafficking in our lifetime'.⁹² Walk Free saw opportunities for Australia through its membership of the UN Security Council and aid program to advance efforts to address slavery;⁹³ and
- Plan International Australia, which works in over 70 countries across the world to protect and advance the rights of children and promote community development.⁹⁴ Plan International Australia saw a key role for Australia (based on its earlier advocacy and aid program emphasis upon education) to continue to champion the eradication of early and forced marriage.⁹⁵

4.77 AGD noted that the United Nations Special Rapporteur on trafficking in persons, especially women and children, Dr Joy Ngozi Ezeilo OON 'commended Australia's robust working relationship with NGOs' when reporting on her November 2011 fact finding mission to Australia.⁹⁶

Committee comment

4.78 The Australian Government has demonstrated a commitment to tackling the issues of slavery and human trafficking through cooperation at the government level and in cooperation with non-government organisations.

90 Hagar Australia, *Submission 13*, p. 1.

91 Mrs Kennedy, Hagar Australia, *Transcript*, 9 May 2013, p. 2.

92 Walk Free, *Submission 20*, p. 4.

93 Mr Grono, Walk Free, *Transcript*, 12 March 2013, p. 1.

94 Plan International Australia, *Submission 20*, p. 1.

95 Mrs Fawcett, Plan International Australia, *Transcript*, 8 May 2013, p. 21.

96 Attorney-General's Department, *Submission 8*, p. 6.

- 4.79 The Committee supports the active involvement of the non-government sector in this process. Non-government organisations have taken on an important role as part of the Anti-People Trafficking Strategy, through implementing victim support programs, raising community awareness and other outreach. The Committee considers it is essential that ongoing Commonwealth funding support be provided to the non-government sector to continue these activities.

Recommendation 3

The Committee recommends that the Australian Government negotiate re-funding of contracts for non-government organisations one year ahead of the current contracts' conclusion.

Support for victims of trafficking and slavery

- 5.1 Victims of trafficking and slavery in Australia are provided support through various programs administered by both the Australian Government and non-government organisations (NGOs).
- 5.2 This chapter will provide an outline of the facilities that are currently available to victims of trafficking, slavery or slavery-like conditions in Australia as well as an examination of suggested additional support mechanisms for victims of trafficking.

People trafficking visa framework

- 5.3 In its submission, the Attorney General's Department (AGD) commented on the types of visas available to foreign nationals who are suspected victims of trafficking:

The Australian Government People Trafficking Visa Framework, administered by DIAC [Department of Immigration and Citizenship], enables foreign nationals who do not already hold a valid visa, and are suspected victims of trafficking, to remain lawfully in Australia. They are then, like other valid visa holders who are suspected victims of trafficking, able to access support through the Support Program. The Visa Framework comprises three visas: the Bridging F visa (BVF), the Criminal Justice Stay visa (CJSV), and the Witness Protection (Trafficking) (Permanent) visa (WPTV).¹

¹ Attorney-General's Department, *Submission 8*, p. 6.

- 5.4 The AGD added that the suspected victim can be granted a BVF for up to 45 days initially, stating:

A person assessed by the police as a suspected victim of trafficking may be eligible for a BVF for up to 45 days, irrespective of his or her willingness or ability to assist in the criminal justice process. BVFs can also be granted to immediate family members in Australia. There are no work rights associated with BVFs, but holders receive intensive support through the Assessment Stream of the Support Program. On the expiry of the first BVF, in cases where a suspected victim is willing, but not able, to assist police, there is also an option to grant a second BVF for a further 45 days (taking the total to 90 days). During this time, the suspected victim would continue to receive support through the Extended Intensive Support Stream of the Support Program.²

- 5.5 The ADG noted that after the BVF expires:

... a CJSV may be granted to a suspected victim of trafficking who is willing and able to assist with the criminal justice process. CJSVs enable holders to remain in Australia for as long as they are required for law enforcement purposes. CJSV holders are allowed to work, and also receive support under the Justice Support Stream of the Support Program.³

- 5.6 At the conclusion of the criminal justice process, suspected victims of trafficking may be eligible for the WPTV. The AGD's submission states:

A suspected victim of trafficking who has made a contribution to an investigation or prosecution of an alleged trafficking offence may be eligible for a WPTV if, as a result of that contribution, they would be in danger upon return to their home country. WPTVs allow holders to remain in Australia permanently. Immediate family members may be included in WPTV applications.⁴

- 5.7 DIAC also noted the need for victims to make a contribution to a prosecution of the slavery and trafficking offences, stating:

To be eligible for a visa, victims need to make a contribution to a prosecution of an offence under Division 270 or 271 of the Criminal Code or to an investigation in relation to such an offence where the Director of Public Prosecutions has decided not to prosecute, and also meet the additional criteria set out in regulation 2.07AK(3) of the regulations. There is no requirement

2 Attorney-General's Department, *Submission 8*, p. 6.

3 Attorney-General's Department, *Submission 8*, p. 6.

4 Attorney-General's Department, *Submission 8*, p. 6.

for a perpetrator to be in Australia for the grant of a WPTV nor is the grant of a WPTV reliant on a prosecution.⁵

- 5.8 During a public hearing, DIAC provided some details about the number of visas that had been granted in the last five years noting that:
- between 2009-2012 DIAC granted 56 bridging F visas (33 in 2009-10, 24 in 2010-11 and 12 in 2011-12); and
 - between 2008-2012 DIAC granted 99 criminal justice stay visas (30 in 2008-09, 23 in 2009-10, 29 in 2010-11 and 17 in 2011-12).⁶

Table 5.1 People trafficking visas granted between 2003 - 2013

| Year | Subclass 060 Bridging F Visa | Subclass 951 Criminal Justice Stay Visa ⁷ | Subclass 787 Witness Protection (Trafficking) (Temporary) Visa | Subclass 852 Witness Protection (Trafficking) (Permanent) Visa |
|---------------------------|---------------------------------|--|---|---|
| 2003-04 | Visa framework not in place | | | |
| 2004-05 | 31 | 23 | 0 | 0 |
| 2005-06 | 11 | 8 | 0 | 0 |
| 2006-07 | 16 | 18 | 4 | 0 |
| 2007-08 | 34 | 18 | 13 | 0 |
| 2008-09 | 39 | 30 | 0 | 5 |
| 2009-10 | 33 | 23 | | 21 |
| 2010-11 | 24 | 29 | | 42 |
| 2011-12 | 12 | 17 | Removed by legislative change 1 July 2009 | 26 |
| 2012- (Mar 31) | 13 | 17 | | 8 |

Source Department of Immigration and Citizenship, *Supplementary Submission 74*, p. 1.

- 5.9 DIAC also advised that since the introduction of the people trafficking visa framework on 1 January 2004, '19 trafficked people had been granted a Witness Protection (Trafficking) (Permanent) Visa before the case they had contributed to was finalised.'⁸

5 Department of Immigration and Citizenship, *Submission 56*, p. 28.

6 Mr Casey, Department of Immigration and Citizenship, *Transcript*, 21 November 2012, p. 25.

7 Note. A criminal Justice Stay Visa may have been issued to the same individual more than once.

8 Department of Immigration and Citizenship, *Supplementary Submission 74*, p. 1.

Concerns about the trafficking visa framework

The 45 day 'reflection and recovery' period

- 5.10 A number of groups that provided evidence to the inquiry raised concerns about the current visa trafficking framework including the initial grant of the BVF for 45 days.
- 5.11 The Josephite Counter-Trafficking Project (JCTP) put forward the view that 45 days was not adequate for a trafficked victim to assess their options, stating:
- 45 days do not give a person who has been traumatised by the trafficking process ... adequate time for reflection to make a well informed decision about their options.⁹
- 5.12 The JCTP called on the Australian Government 'to implement the 90 days 'reflection and recovery' period to all trafficked persons regardless of their ability or willingness to assist in an investigation.'¹⁰
- 5.13 Australian Catholic Religious Against Trafficking in Humans (ACRATH), Law Council of Australia (LCA), Anti-Slavery Australia (ASA), and the Australian Human Rights Commission (AHRC) all agreed with that view.¹¹
- 5.14 ASA recommended that:
- ...any person identified by law enforcement as a 'suspected victim of human trafficking' may access a visa and support for 90 days, instead of the current 45 days.¹²
- 5.15 In particular the AHRC pointed out that the 90 day time frame was in line with the United Nations (UN) Trafficking Protocol, stating:
- The Commission supports the Special Rapporteur's recommendation to extend the 45-day period for which a Bridging visa F is available to 90 days for all persons identified or provisionally identified as having been trafficked. The Commission notes that this is a period in which the victim of trafficking will need to make some critical decisions and it would be more appropriate and in accordance with article 6 of the

9 Josephite Counter-Trafficking Project, *Submission 10*, p. 6.

10 Josephite Counter-Trafficking Project, *Submission 10*, p. 6.

11 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 6; Law Council of Australia, *Submission 29*, p. 29; Anti-Slavery Australia, *Submission 34*, p. 8; Australian Human Rights Commission, *Supplementary Submission 61*, p. 6.

12 Anti-Slavery Australia, *Submission 34*, p. 8.

Trafficking Protocol to extend the period for a Bridging visa F to 90 days.¹³

5.16 Ms Briana Lee noted another UN article (under the United Nations Model Law against Trafficking in Persons) that victims are ‘provided 90 days of support services regardless of their immigration status or ability and willingness to participate in legal procedures.’¹⁴

5.17 Professor Andreas Schloenhardt of the University of Queensland commented that victims were less likely to provide evidence under pressure, stating:

Despite the 15-day increase in the duration of the visa, there remain concerns that the initial 45-day reflection period is insufficient. This is particularly so, given that trafficked persons often remain under the influence of their former captors and require a substantial period of re-adjustment in order to make decisions independently of this influence. Indeed, international best practice suggests that a victim is less likely to provide evidence under pressure.¹⁵

5.18 In the report on her mission to Australia in November 2011, Ms Joy Ngozi Ezeilo OON, the UN Special Rapporteur on Trafficking, recommended extending the reflection and recovery period to 90 days, stating:

...the Special Rapporteur observes that the initial reflection period of 45 days is very short. Although an extended period of reflection is possible, in reality it was reported that a second Bridging Visa F will only be granted in situations where victims can evidence extreme trauma. A 45-day reflection period may not be an adequate time period for persons who have been trafficked to reflect and make critical decisions. An initial automatic reflection period of 90 days for all persons would be more appropriate and in accordance with article 6 of the Trafficking Protocol.¹⁶

5.19 At a public hearing, DIAC stated that the 45-day reflection and recovery period was sufficient:

The view of government – and I think the view of the departments which administer the policy – has been that that 45-day period has been sufficient to get an indication of engagement from people who have been involved in trafficking and wish to cooperate with

13 Australian Human Rights Commission, *Supplementary Submission 61*, p. 8.

14 Ms Briana Lee, *Submission 16*, p. 4.

15 Professor Andreas Schloenhardt, *Submission 4*, p. 6.

16 United Nations, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, 18 May 2012, p. 14 and 20.

the law enforcement agencies. ... But our visa issuing is reflective of the advice we receive from the AFP [Australian Federal Police] about what is an appropriate response. I do not think that there is sufficient evidence, on the basis of the characteristics of the case load or the advice we receive from the AFP, to change the initial visa period from the 45 days to the 90 days.¹⁷

5.20 The AFP also advised that the 45-day period was sufficient, stating:

In the majority of cases, the 45 days is sufficient for the victim or client to determine whether they are willing and able to assist an investigation. There are some instances where there may be mental health or medical issues where an extension to the 45 days is required, but the vast majority are able to determine whether they are willing to assist within those 45 days.¹⁸

5.21 The AGD put forward the view that the 45-day period was consistent with the UN High Commission for Human Rights recommended principles and guidelines on human rights and human trafficking.¹⁹

5.22 The AGD added that:

It is our assessment that that initial period of 45 days is appropriate, in particular, because work rights do not actually attach to the bridging F visa, and accommodation during that initial 45-day period is short-term crisis accommodation. Our experience is that many victims are keen to move on. In particular they are keen to obtain or return to work, and they are keen to move out of the crisis accommodation. So, our perception is that the 45 days is adequate for them to receive initial rehabilitation and then they want to move on.²⁰

Committee comment

5.23 The Committee notes the concerns of many groups and individuals that the 45 day 'reflection and recovery' period for victims of trafficking is inadequate.

5.24 The Committee also notes article 30(3) of the UN Model Law against Trafficking in Persons which states:

17 Mr Casey, Department of Immigration and Citizenship, *Transcript*, 21 November 2012, pp. 21-22.

18 Federal Agent Drake, Australian Federal Police, *Transcript*, 19 March 2013, p. 1.

19 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 2.

20 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 2.

Any [natural] person who believes he or she is a victim of trafficking in persons shall have the right to submit a written request to the [competent immigration authority] to be granted a recovery and reflection period of not less than 90 days in order to make an informed decision on whether to cooperate with the competent authorities.²¹

- 5.25 Victims of slavery and people trafficking have had their basic human rights seriously violated. In many cases, they have been exploited physically, emotionally and mentally. The emotional effects this trauma can be persistent and devastating. Trafficking victims need an appropriate time to ‘reflect and recover’ prior to making a decision on whether they are willing and able to assist in an investigation.
- 5.26 The Committee considers that the current automatic reflection period of 45 days is appropriate. At the conclusion of the 45 day period, the suspected victim of trafficking should be able to apply for two additional 45 day periods on the basis of evidence of psychological trauma in order to decide on whether they are willing and able to assist in an investigation.
- 5.27 The suspected victims of trafficking should be provided appropriate support services through the Support for Trafficked People Program (STPP).

Recommendation 4

The Committee recommends that suspected victims of trafficking be provided an initial automatic reflection period of 45 days, with relevant agencies given the capability to grant two further extensions of 45 days if required. In addition, the suspected victims of trafficking should be provided appropriate support services through the Support for Trafficked People Program.

Additional concerns about the trafficking visa framework

- 5.28 Several groups that provided evidence for this inquiry also raised some additional concerns about the current visa trafficking framework including increasing the access to benefit payments for trafficking victims, delinking the trafficking visa from the criminal justice system, and granting permanent visas for trafficking victims. A few groups also put forward some alternatives to the current visa trafficking framework.

21 United Nations, *Model Law against Trafficking in Persons*, 2009, p. 60.

Benefit payments for trafficking victims

- 5.29 The Australian Red Cross (ARC) highlighted some issues for trafficked visa holders' access to services, stating:
- Access to and eligibility for most services is tied to the visas under the Framework and not to initial referral to the STPP;
 - The temporary nature of the Criminal Justice Stay Visa (CJSV) means that holders are ineligible for many services in the community;
 - Witness Protection Trafficking Visa (WPTV) holders are ineligible for a number of supports and face restrictions in accessing services provided to other Australian Permanent Residents.
 - CJSV and WPTV holders are only eligible for one type of Centrelink payment, namely the Special Benefit payment, which has many restrictions.²²
- 5.30 The ARC recommended holders of a WPTV have greater access to benefit payments, stating:
- Clients eligible to access Centrelink Special Benefit are eligible to access other Centrelink payments and services in order to support their work and study opportunities without any waiting period.²³
- 5.31 ACRATH suggested that individuals who have been granted a WPTV be provided the same entitlements as individuals on protection visas:
- This would improve access to Social Security payments and remove the requirement that the Witness Protection Trafficking visa holders are subject to the 2 year waiting period; it would also reduce the length of time on the low paid Special Benefits.²⁴
- 5.32 ASA agreed that the individuals on a WPTV should have access to social security payments:
- A better framework would be to reclassify the Witness Protection (Trafficking) (Permanent) visa for social security payments, in the same way that a Protection visa is classified.²⁵
- 5.33 The Salvation Army also agreed that individuals on a WPTV should be able to access more appropriate benefit payments.²⁶

22 Australian Red Cross, *Submission 47*, p. 8.

23 Australian Red Cross, *Submission 47*, p. 15.

24 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 6.

25 Anti-Slavery Australia, *Submission 34*, p. 35.

26 Salvation Army, *Submission 37*, p. 11.

- 5.34 ASA commented that individuals on a WPTV were disadvantaged compared with holders of other visas granted on refugee or protection grounds:

In light of the link between visa status and social security entitlement, we observe that while victim-witnesses who hold the Criminal Justice Stay visa or who are granted the Witness Protection (Trafficking) (Permanent) visa are eligible to access Medicare and limited social security payments, they are disadvantaged in comparison with holders of other visas granted on refugee or protection grounds. If a victim-witness is certified by the Attorney-General as having made a contribution to a police investigation or criminal prosecution they may be granted the permanent visa, but the visa type is restricted and they are subject to the 2 year waiting period for more favourable Centrelink payments.²⁷

- 5.35 ASA added that:

...if a victim-witness holds a Witness Protection (Trafficking) (Permanent) visa and is in receipt of Special Benefit social security payments, then any compensation that they receive, for example, through a statutory victims' compensation scheme, will be treated as income and the Special Benefit will cease during the time that the compensation award is exhausted through day to day living expenses.²⁸

- 5.36 The JCTP recommended re-categorising the WPTV as a humanitarian visa to increase the access to humanitarian services:

The Witness Protection Trafficking Permanent Visa is not categorised as a humanitarian visa and this limits access to humanitarian services. These settlement services are particularly important with Trafficked people who have children offshore who are all granted permanent residency in Australia.²⁹

Delinking the trafficking visa from the criminal justice system

- 5.37 The Law Council of Australia (LCA) commented that the visa framework was too closely tied to the criminal justice system:

...members of [the Law Council's] Constituent Bodies note the limited eligibility for visas for victims of trafficking under the People Trafficking Visa Framework (the Framework). ...to become

27 Anti-Slavery Australia, *Submission 34*, p. 35.

28 Anti-Slavery Australia, *Submission 34*, p. 35.

29 Josephite Counter-Trafficking Project, *Submission 10*, p. 8.

eligible for visas, victims are generally still obliged under the Framework to contribute to a police investigation against the persons who trafficked them. As observed by one of the Law Council's Constituent Bodies, the New South Wales Bar Association (NSW Bar), this not only makes a victim's ability to stay in Australia and access services dependant on the discretion of police and prosecutors, but also on arbitrary factors such as whether their traffickers are still in Australia. A Human Rights based approach would provide victims with a right to stay in Australia based on their need to access services. It would also enable them to stay as long as they need those services or if they are at risk of harm if deported.³⁰

- 5.38 The LCA also voiced concerns that victims may be discouraged from seeking a visa if required to contribute to an investigation and the eligibility of applying for a WPTV:

Members of the NSW Bar are also concerned that the requirement that victims must contribute to an investigation may discourage victims from seeking a visa, as they may fear reprisals against themselves or against their families. They also note that, even if a victim does give evidence, to be eligible for a Witness Protection (Trafficking) (Permanent) Visa it must be demonstrated that he or she would be in danger upon returning home. This may be difficult to establish, and may not take into account the possibility that the victim will be ultimately re-trafficked due to socio-economic factors.³¹

- 5.39 Ms Brianna Lee also commented about the requirement for victims to contribute to a criminal investigation:

One issue with the current support program is the requirement for victims to contribute to criminal investigations and prosecutions in order to qualify for temporary and permanent visas or access the government funded support service.³²

- 5.40 Professor Schloenhardt advised the Committee that the criminal justice approach of the trafficking visa framework was problematic for three main reasons:

- victims continue to be seen ultimately as tools for investigations and prosecutions, and not as victims of a serious crime;

30 Law Council of Australia, *Submission 29*, p. 28.

31 Law Council of Australia, *Submission 29*, p. 28.

32 Ms Briana Lee, *Submission 16*, p. 4.

- the ability of victims to cooperate will often be limited by the trauma they have experienced, mistrust or misunderstanding of law enforcement, and a fear of reprisals against them or their family if they are returned to their country of origin; and
- the criminal justice approach risks further traumatising victims by making permanent protection largely contingent on involvement in investigations and prosecutions exposing them to the risk of painful courtroom experiences and putting victims and their families at risk of reprisal if they testify against their traffickers.³³

5.41 Christian Faith and Freedom also recommended delinking the current visa trafficking framework:

Reform the current visa regime to protect all victims of trafficking and slavery, seeking to prevent re-enslavement and re-trafficking of victims, regardless of their cooperation with authorities.³⁴

5.42 The ARC advised that there were limitations to the criminal justice framework:

This means that people who have been trafficked who are unable or do not wish to participate in the justice process beyond the Assessment phase of the program lose access to the specialised support service and to the People Trafficking Visa Framework. This therefore also limits the migration options available to such people to remain in Australia.³⁵

5.43 The ARC added:

However, there are other trafficked people in Australia for whom the protection visa process is not an option and whose support opportunities are even more limited. These people may obtain no support, or not even be identified as a trafficked person when coming into contact with the authorities.³⁶

5.44 Project Respect suggested continuing the criminal justice approach in addition to establishing a parallel process:

We would suggest retaining the current model, which is attached to the criminal justice process, where women are referred on by the police but also having a model running alongside that where women are identified by accredited NGOs. They would then be entitled to the same sort of support and a visa with the idea of

33 Professor Andreas Schloenhardt, *Submission 4*, pp. 8-9.

34 Christian Faith and Freedom – *Supplementary Submission 46*, p. 49.

35 Australian Red Cross, *Submission 47*, p. 7.

36 Australian Red Cross, *Submission 47*, p. 7.

developing the trust and becoming settled enough to decide if they want to participate in the criminal justice process, recognising that this is a crime that has happened to women, in this case, on our soil and that we should protect them whether they are willing to engage in the criminal justice process or not.³⁷

5.45 At a public hearing, DIAC commented that a departmental review in 2009 found that the visa 'framework should still stay linked to the criminal justice nature of Australia's efforts on people trafficking.'³⁸

5.46 DIAC added:

I am aware of the special rapporteur's commentary on this and also the Senate committee's recommendation, but I think it is fair to say that has only recently been made and there has been no formal response from government to that.³⁹

5.47 The AFP, in response to a question on whether threshold for access to the criminal justice stay visa be lowered to 'willing to assist', advised that was appropriate:

I think a willingness to do so is enough. There is a whole range of circumstances we need to look at here. Whilst it may be that they are willing to assist in the first instance, and we are happy to work with them in that regard, it may be because of ... health issues or a change of heart down the track that they may change their mind. We accept that because we understand some of the conditions they have been subject to. From our perspective, willingness to assist is a good starting point and we can work with that.⁴⁰

5.48 The AGD did not believe that the criminal justice framework should be completely separated from the trafficking visa:

Human trafficking and slavery prosecutions rely heavily on witness assistance and testimony, and the complete de-linking of witness assistance and visa provisions from the criminal justice framework may affect the success of prosecutions.⁴¹

Granting permanent visas for trafficking victims

5.49 The JCTP indicated that it would be helpful to grant permanent visas to suspected victims of trafficking, stating:

37 Ms Hinton, Project Respect, *Transcript*, 8 May 2013, p. 3.

38 Mr Casey, Department of Immigration and Citizenship, *Transcript*, 21 November 2012, p. 21.

39 Mr Casey, Department of Immigration and Citizenship, *Transcript*, 21 November 2012, p. 21.

40 Commander Hurst, Australian Federal Police, *Transcript*, 19 March 2013, p. 2.

41 Attorney-General's Department, *Supplementary Submission 76*, p. 7.

It would be helpful if a permanent visa is given within 6 months after the CJSV is issued and that those who are unable to participate in a criminal investigation be eligible for this visa on compassionate grounds.⁴²

- 5.50 The Salvation Army agreed with the JCTP's view commenting that 'the Australian Federal Police/Department of Immigration and Citizenship commence permanent visas as soon as victims sign their witness statements.'⁴³
- 5.51 ASA also recommended reviewing the timing of when a permanent visa is issued to trafficking victims:
- Witnesses who have made a contribution to the criminal justice process and who would be in danger if they return to their home country may be offered a permanent visa. Investigations of complex crimes can be time-consuming, involve multiple jurisdictions and require translation and interpretation of foreign language material. An unforeseen consequence is that victims may experience uncertainty about their long-term security and face continued separation from their family members, often young children, for long periods of time. We recommend that the currently operating informal policy about the timing of a recommendation to consider offering a permanent visa, (usually within three months of a decision to charge or not to charge a person with a criminal offence) should be reviewed.⁴⁴
- 5.52 ASA also recommended granting a permanent visa in some circumstances when a trafficking victim is either unwilling or unable to provide a contribution to a police investigation or a criminal prosecution.⁴⁵
- 5.53 Professor Schloenhardt suggested allowing victims to initiate the application for a protection visa, stating:
- ...allowing victims to initiate the application process for a Witness Protection (Trafficking) (Permanent) visa (as opposed to waiting for an invitation) or implementing standard and regular reviews of the status of the victim with a view to whether a protection visa is required should also be considered.⁴⁶
- 5.54 The Australian Lawyers for Human Rights (ALHR) recommended that all trafficking victims be given access to permanent visas:

42 Josephite Counter-Trafficking Project, *Submission 10*, p. 8.

43 Salvation Army, *Submission 37*, p. 7.

44 Anti-Slavery Australia, *Submission 34*, p. 8.

45 Anti-Slavery Australia, *Submission 34*, p. 8.

46 Professor Andreas Schloenhardt, *Submission 4*, p. 11.

ALHR recommends that all victims of trafficking be able to access permanent visa options, regardless of whether they are identified by the AFP and/or decide to participate in the criminal justice process.⁴⁷

5.55 The ALHR also recommended:

...that permanent visa options be accessible for those victims of slavery, forced marriage, forced labour and other offences identified in the Bill where appropriate. This would reflect their status as a victim pursuant to the Trafficking Protocol, in particular, under Articles 6 and 7 of the Protocol.⁴⁸

Alternatives to the current visa trafficking framework

5.56 The Salvation Army recommended that an alternative to the current visa trafficking framework be considered:

The Salvation Army recommends that the Australian government consider a self-petitioning visa process within the migration system for victims of trafficking/slavery and review how similar visas are provided in the United States, Italy, Belgium and other countries.⁴⁹

5.57 Project Respect also proposed an alternative to the current visa trafficking framework calling on:

...the creation of a 'Social Protection Visa' particularly fashioned for victims of trafficking would function independently from the judicial path that is based on willingness to 'contribute' to police investigations. It shall be the role of accredited NGOs to identify and determine the eligibility of the individuals for a Protection Visa, which should have a fixed duration of 12 months.⁵⁰

5.58 The Australian Human Rights Commission recommended that the visa framework be amended to provide victims of child trafficking with a permanent visa, stating:

... amend the visa framework for victims of trafficking to ensure every person who is identified as a victim of child trafficking and who would face danger if returned to their country of origin is eligible for a permanent visa, regardless of whether they participate in law enforcement processes.⁵¹

47 Australian Lawyers for Human Rights, *Submission 44*, p. 5.

48 Australian Lawyers for Human Rights, *Submission 44*, p. 5.

49 Salvation Army, *Submission 37*, p. 7.

50 Project Respect, *Submission 38*, p. 11.

51 Australian Human Rights Commission, *Submission 31*, p. 4.

Delay in processing of trafficking visas

5.59 The Salvation Army advised that it was their experience that there are substantial delays, of over two years in some cases, in the granting of a trafficking visa. The Salvation Army added:

The process is quite simple in comparison to other migration pathways that individuals undertake; and, as a result of the delay, clients are less inclined to proceed down that pathway. ... They are more inclined to proceed under the protection visa pathway.⁵²

5.60 DIAC provided some details on how long it takes to grant a trafficking visa:

- The BVF is usually granted on the same day that a valid application is made.
- The CJSV is usually granted on the same day as the Criminal Justice Stay Certificate (CJSC) is issued.
- The Witness Protection (Trafficking) (Permanent) visa is usually granted within one week of the department receiving all of the documentation required for grant.⁵³

5.61 DIAC added that there are some external factors that influence the visa processing timeframe:

As applicants are victims of trafficking the department takes a flexible approach to timeframes for provision of documents. However, some factors in processing the visa are outside the department's control and influence the processing timeframe. This includes obtaining information from overseas, such as offshore police certificates, evidence of name changes, custody documentation, health information and translation of documentation. In some countries obtaining documentation can take significant time.⁵⁴

Other recommendations

5.62 The ARC also made a number of recommendations focussed on increasing access to services for individuals on a trafficking visa. The ARC recommended that:

- the names of the Criminal Justice Stay and Witness Protection Trafficking Visas be changed to address identified concerns; including

52 Mr Geary, The Salvation Army, *Transcript*, 23 April 2013, p. 6 and 8.

53 Department of Immigration and Citizenship, *Supplementary Submission 74*, p. 2.

54 Department of Immigration and Citizenship, *Supplementary Submission 74*, p. 2.

avoiding stigmatisation and to ensure confidentiality and respect for the privacy and integrity of victims of trafficking;

- State and Territory Government Housing support services across the country allow people who have been trafficked and are on temporary visas to access their services via an exemption criteria;
- trafficked people be charged local student rates at higher education and training institutions regardless of visa status;
- access to the Adult Migrant Education Program be available to all trafficked people, regardless of visa type;
- DIAC-funded settlement support services be made available to people who have been trafficked and their dependents once they receive a Witness Protection Trafficking Visa; and
- access to services including Centrelink, Housing and Education be de-linked from the visa sub-class for trafficked people.⁵⁵

Committee comment

5.63 The Committee acknowledges the concerns raised by the many NGOs, civil society organisations, and individuals that provided evidence for this inquiry into the current visa trafficking framework.

5.64 The Committee notes that in its inquiry into the Crimes Legislation Amendment (Slavery, Slavery-like conditions and People Trafficking) Bill 2012 the Senate Legal and Constitutional Affairs Committee considered the establishment of a visa and support stream which is not dependent on a victim assisting in the criminal justice system.⁵⁶

5.65 The Committee notes the Senate Legal and Constitutional Affairs Committee's recommendation that:

...the Australian Government review the People Trafficking Visa Framework and the Support for Victims of People Trafficking Program, and consider establishing an ongoing visa and access to victim support mechanism which is not conditional on a victim of people trafficking providing assistance in the criminal justice process.⁵⁷

55 Australian Red Cross, *Submission 47*, p. 23.

56 Senate Legal and Constitutional Affairs Committee, *Crimes Legislation Amendment (Slavery, Slavery-like conditions and People Trafficking) Bill 2012*, September 2012, p. 36.

57 Senate Legal and Constitutional Affairs Committee, *Crimes Legislation Amendment (Slavery, Slavery-like conditions and People Trafficking) Bill 2012*, September 2012, p. vii.

- 5.66 The Committee recommends that the Australian Government review the People Trafficking Visa Framework and the Support for Victims of People Trafficking Program, and consider establishing an ongoing visa and access to victim support mechanism that is conditional upon victim assistance in the criminal justice process but not on securing a conviction.

Recommendation 5

The Committee recommends that the Australian Government consider Recommendation 3 of the Senate Legal and Constitutional Affairs report on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012, having regard to the need to ensure that even if assistance does not lead to a conviction, it is still substantial in terms of giving assistance to authorities.

Support for trafficked people program

- 5.67 The STPP is administered by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). Between 2004 and 2009 the delivery of the STPP was initially provided by Southern Edge Training. In March 2009 the ARC was engaged by FaHCSIA to deliver the program.⁵⁸
- 5.68 The STPP has an annual appropriation of \$0.755 million and 'will receive an addition \$1.2 million in funding from 2011-12 to 2014-15, bringing the annual amount to \$1.055 million per year between 2011-12 to 2014-15.'⁵⁹
- 5.69 At a public hearing, FaHCSIA provided some additional details about the funding for the program, stating:

Since 2009 the government has committed additional funding to the support program for the Women's Safety Agenda. This is on top of the annual appropriation of \$755,000. The government provided an additional \$120,000 in 2009-10 and an additional \$300,000 in 2010-11. In March 2012 the Minister for the Status of Women announced an additional \$300,000 per year to 2014-15.

58 Attorney-General's Department, *Submission 8*, p. 5 and Josephite Counter-Trafficking Project, *Submission 10*, p. 7.

59 Attorney-General's Department, *Supplementary Submission 48*, p. 20.

This brings the annual funding of the support program to \$1,055,000, or \$4.22 million for the four years from 2011-12.⁶⁰

- 5.70 Suspected victims of trafficking obtain entry to the STPP through a referral by the AFP.⁶¹
- 5.71 The AGD commented that entry into the STPP was not dependent upon participation in a criminal justice process adding that individuals who were not willing to provide assistance to law enforcement could leave the STPP.⁶²
- 5.72 In a submission, the AGD noted that suspected victims had been identified through a number of avenues:
- Possible victims may be identified through a number of avenues, including immigration officials, law enforcement agencies, NGOs, hospitals, medical practitioners, consulates and government departments. Possible victims are referred to the AFP for assessment and, where appropriate, entry to the Support Program.⁶³
- 5.73 The AGD added that:
- The Support Program seeks to ensure that clients have access to accommodation, income support, counselling, medical treatment, legal and migration advice, skills development training and interpreter services as required.⁶⁴
- 5.74 The AGD pointed out that people who are going to be in Australia for a long time, and are participating in or assisting a criminal justice process, will be more likely to access housing and English-language classes.⁶⁵
- 5.75 The AGD advised that suspected victims of trafficking may access support through the following streams:
- Assessment Stream – up to 45 days of intensive support for all clients referred by the AFP, irrespective of whether they are willing and/or able to assist with an investigation and prosecution of a people trafficking offence;
 - Extended Intensive Support Stream – an additional 45 days of intensive support for clients who are willing but not able to

60 Ms McKenzie, Department of Families, Housing, Community Services and Indigenous Affairs, *Transcript*, 21 November 2012, p. 30.

61 Attorney-General's Department, *Supplementary Submission 48*, p. 20.

62 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 3.

63 Attorney-General's Department, *Supplementary Submission 48*, p. 20.

64 Attorney-General's Department, *Supplementary Submission 48*, p. 20. A Summary of assistance under the Support for Trafficked People Program is at Appendix I.

65 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 3.

- assist with an investigation and/or prosecution because of trauma or health issues;
- Justice Support Stream – support while the client participates in the criminal justice process;
 - Transitional Period – a 20 day transition period for clients leaving the Support Program; and
 - Temporary Trial Support Stream – temporary support for victims who return to Australia to participate in a trial.⁶⁶
- 5.76 As of 14 May 2013, 209 suspected victims of trafficking had been identified and referred to the STPP since it was established in 2004.⁶⁷ Of the 209 suspected victims:
- 188 were female and 21 were male;
 - 164 were trafficking into the sex industry and 45 were trafficked into other industries;
 - 82 were from Thailand, 35 from South Korea, 33 from Malaysia, 10 from the Philippines, 12 from China, 8 from Indonesia, and 21 from other countries.⁶⁸
- 5.77 As noted above, the ARC stated that it had ‘been managing the Program since March 2009 and recently signed a Funding Agreement with the Australian Government to continue service provision until 2015.’⁶⁹
- 5.78 The ARC provided some details about the number of people it had supported as part of the STPP since its engagement, stating:
- Since March 2009 Red Cross has supported 114 people that have been referred to the Program and who have remained for periods ranging from one week to seven years.⁷⁰
- 5.79 The ARC added:
- One hundred and one of our clients have been women but in the last eighteen months, the majority of new referrals have been men. As of August 2012, there were sixty-four clients on the Program.⁷¹
- 5.80 The AFP advised that some trafficked individuals have chosen not to enter the STPP, stating:
- There are a range of reasons why a suspected victim of trafficking may not want to enter the full support program. In some circumstances they have been in the country for quite some time
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66 Attorney-General’s Department, *Supplementary Submission 48*, p. 21.

67 Attorney-General’s Department, *Supplementary Submission 67*, p. 1.

68 Attorney-General’s Department, *Supplementary Submission 67*, p. 2.

69 Australian Red Cross, *Submission 47*, p. 2.

70 Australian Red Cross, *Submission 47*, p. 5.

71 Australian Red Cross, *Submission 47*, p. 5.

and have established other networks in which, for example, they may have a spousal visa and not require the support of the program. In other circumstances they would rather not use the program but they have established networks with perhaps a local NGO who is providing a range of support services. They may have obtained a migration adviser and come to other arrangements for themselves and they do not require it. Obviously, there are others who simply do not want to participate.⁷²

5.81 The AFP also pointed out that it was providing assistance to other trafficking victims who were not part of the STPP, stating:

...the AFP has a number of victims with whom it is currently engaged and who are not part of the support program, but are still willing and able to assist the investigation into their particular circumstances.⁷³

5.82 FaHCSIA highlighted that the administrative arrangements of the STPP were reviewed in 2011 by FaHCSIA and the Red Cross.⁷⁴

Suggested additional support for victims of trafficking

Compensation scheme for victims of trafficking

5.83 During the course of this inquiry a number of groups recommended establishing a compensation scheme for victims of trafficking.

5.84 The JCTP commented that trafficking victims are unable to access compensation:

Human Trafficking is an offence in Federal Legislation but is not part of the States' Legislative Framework. This is a problem for Trafficked persons who cannot access compensation for the crime that has been committed against them. They have to seek the closest appropriate parameters and use surrounding circumstances to determine under which crime in State legislation they can apply for compensation.⁷⁵

72 Federal Agent Drake, Australian Federal Police, *Transcript*, 19 March 2013, pp. 4-5.

73 Federal Agent Drake, Australian Federal Police, *Transcript*, 19 March 2013, p. 5.

74 Ms McKenzie, Department of Families, Housing, Community Services and Indigenous Affairs, *Transcript*, 21 November 2012, p. 30.

75 Josephite Counter-Trafficking Project, *Submission 10*, p. 9.

- 5.85 The JCTP, Project Respect, Ms Lee, the LCA, ASA, and ACRATH noted that compensation claims vary in each State and Territory, ranging from \$7,500 to \$50,000.⁷⁶
- 5.86 ACRATH highlighted that it had provided assistance to several victims of trafficking to make compensation claims through the Victorian Victims of Crime Assistance Tribunal (the Tribunal). ACRATH noted that while the claimants were awarded the full amount by the Tribunal (\$7,500 or \$10,000 depending on when they were trafficked), the Tribunal's magistrate commented that it was not compensation money.⁷⁷
- 5.87 ACRATH indicated its preference for a 'nationally uniform state-based scheme of compensation.'⁷⁸
- 5.88 The LCA also put forward its views on how a compensation scheme might be established:
- We could introduce a pilot Commonwealth scheme for the payment which is linked to the protection and trafficking visa framework at this stage. Our goal, however, is to press for a federal compensation scheme which addresses those federal crimes that have direct impact upon victims, particularly victims of violence.⁷⁹
- 5.89 The National Tertiary Education Union recommended that 'the Australian government make efforts to improve the access of trafficking victims to opportunities to seek financial compensation and civil remedies.'⁸⁰
- 5.90 The Scarlet Alliance also called on the Australian government to increase avenues for statutory compensation.⁸¹
- 5.91 Project Respect suggested establishing a national compensation scheme for victims of sex trafficking.⁸²
- 5.92 Professor Schloenhardt and the AHRC highlighted Australia's obligations under article 25(2) of the *United Nations Convention against Transnational Organized Crime* as well as protocol article 6(6) *United Nations Protocol to*

76 Josephite Counter-Trafficking Project, *Submission 10*, p. 9; Ms Hinton, Project Respect, *Transcript*, 8 May 2013, p. 1; Ms Brianna Lee, *Submission 16*, p. 6; Law Council of Australia, *Submission 29*, p. 23; Associate Professor Burn, Anti-Slavery Australia, *Transcript*, 22 April 2013, p. 25; Ms Carolan, Australian Catholic Religious Against Trafficking in Humans, *Transcript*, 8 May 2013, p. 12.

77 Ms Carolan, Australian Catholic Religious Against Trafficking in Humans, *Transcript*, 8 May 2013, p. 12.

78 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 7.

79 Ms McLeod, Law Council of Australia, *Transcript*, 20 November 2012, p. 18.

80 National Tertiary Education Union, *Submission 15*, p. 4.

81 Scarlet Alliance, *Submission 26*, p. 7.

82 Project Respect, *Submission 38*, p. 13.

Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the Convention on Transnational Crime, which require state parties to establish appropriate procedures to provide access to compensation.⁸³

5.93 The AHRC also noted some obstacles preventing trafficking victims from making a compensation claim, including:

- obtaining legal advice about claiming compensation;
- a lack of visa options to stay in Australia to pursue compensation claims;
- limited legal avenues to pursue compensation claims; and
- a need to improve access for victims to information and legal services for assistance with making compensation claims.⁸⁴

5.94 The AHRC recommended that Australian Government develop a federal victims' compensation scheme for victims of trafficking, slavery and slavery like conditions.⁸⁵

5.95 In addition to Australia's international obligations, ASA highlighted the view of the Australian Law Reform Commission on the effectiveness of compensation schemes, that:

Like restitution orders, victims' compensation schemes provide a more informal and efficient forum than civil litigation. They are also more effective in that victims have access to a pool of dedicated funds, whereas restitution from an offender depends upon the offender's capacity to pay.⁸⁶

5.96 ASA pointed out some practical problems associated with trafficking victims apply for compensation, stating:

- Slavery and human trafficking are Commonwealth offences and, (with the exception of sexual servitude offences), there are no State or Territory offences which correspond precisely to the criminal acts envisaged in the Commonwealth legislation;

83 Professor Andreas Schloenhardt, University of Queensland, *Submission 4*, p. 34; Australian Human Rights Commission, *Submission 31*, p. 5. Australia ratified the *United Nations Convention against Transnational Organized Crime* on 27 May 2004. The *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the Convention on Transnational Crime* was ratified by Australia on 14 September 2005.

84 Australian Human Rights Commission, *Submission 31*, pp. 6-7.

85 Australian Human Rights Commission, *Submission 31*, p. 3.

86 Anti-Slavery Australia, *Submission 34*, p. 19.

- the breadth of the elements of the offences as set out in the relevant Divisions of the Criminal Code Act 1995 (Cth) are not reflected in the State/Territory schemes, especially where there is an absence of physical violence;
 - in situations where there may be a claim under a State/Territory scheme, it is usually the case that only certain elements of the crime, such as the sexual assault element are compensable under those schemes; and
 - they risk failure because the various schemes either do not contain an appropriate category under which a person can apply or do not reflect the breadth of criminality as set out in the Commonwealth offences.⁸⁷
- 5.97 ASA also highlighted concerns with jurisdictional victim compensation legislation noting that under the recent legislation passed by the NSW Government, the Victims Rights and Support Bill 2013:
- slavery and slavery-like offences are possibly included in the below definition of a 'Category B recognition payment' there are likely to be instances where violence was not involved and therefore a NSW victim may fall outside the ambit of the new Scheme; and
 - the proposed maximum 'recognition payment' of \$10,000 falls well below the \$50,000 available under the previous NSW scheme and even further below the \$75,000 available to victims in Queensland, and Western Australia.⁸⁸
- 5.98 ASA recommend establishing a national compensation scheme for victims of slavery, trafficking and related crimes, suggesting four possible models:
- Model 1: the establishment of a new Federal tribunal to administer a Federal victims' compensation scheme or increasing the jurisdiction of a current Federal tribunal or other administrative body to determine compensation claims by victims of Federal crimes.
 - Model 2: ex-gratia payments are made available to victims of crime where their circumstances would exclude them from claiming under the state victims' compensation scheme.
 - Model 3: that the Commonwealth nominate one State or Territory compensation scheme and legislate for that particular scheme to exercise Federal jurisdiction.
 - Model 4: compensation payments to be made to victims from the Consolidated Revenue Fund through appropriation by the Parliament.⁸⁹

87 Anti-Slavery Australia, *Supplementary Submission 79*, p. 3.

88 Anti-Slavery Australia, *Supplementary Submission 79*, pp. 3-4.

89 Anti-Slavery Australia, *Submission 34*, pp. 29-31.

5.99 The Salvation Army recommended mandatory compensation in cases where trafficking offenders have been convicted, stating:

The Salvation Army recommends that the Commonwealth establish a compensation scheme for all victims of trafficking, slavery and related offences. In cases where there is a conviction, such compensation should be mandatory.⁹⁰

5.100 The ALHR also supported the introduction of a federal compensation scheme.⁹¹

5.101 Dr Anne Gallagher AO, provided an international law perspective on compensation, advising that:

...the victims of crime and human rights violations, the people have been trafficked or people who have subject to this kind of exploitation have an internationally recognised legal right to a remedy the damages, including unpaid wages and damages for the harm committed against them.⁹²

5.102 Dr Gallagher put forward the view that a federally funded compensation scheme might be appropriate but recommended a review of the current arrangements:

What I do see in Australia is a need to do a thorough review, a rigorous assessment of the current arrangements, to figure out what is working and what is not working, why certain victims have not received the support they may in fact have been legally entitled to, how other aspects of Australia's response to trafficking—for example, issues related to return of victims, issues related to victims as witnesses—impact on the capacity of victims to access remedies and for them to move on from there.⁹³

5.103 The Commonwealth Director of Public Prosecutions (CDPP) pointed out that the recent amendment to the *Crimes Act*, in particular paragraph 21B(1)(d), 'allows an individual victim to be awarded reparations for any loss suffered or any expense incurred by reason of the offence.'⁹⁴

90 Salvation Army, *Submission 37*, p. 19

91 Australian Lawyers for Human Rights, *Submission 44*, p. 5.

92 Dr Anne Gallagher AO, *Transcript*, 8 May 2013, p. 11.

93 Dr Anne Gallagher AO, *Transcript*, 8 May 2013, p. 11.

94 Commonwealth Director of Public Prosecutions, *Submission 54*, p. 1.

- 5.104 However, the AGD in its response to questions on notice from the Senate Standing Committee on Legal and Constitutional Affairs, as part of its inquiry into the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012, stated that section 21B(1) of the Crimes Act deals with reparations, not compensation.⁹⁵
- 5.105 AGD acknowledged the differences in State/Territory compensation schemes but advised that there was no intention to establish a national scheme:
- At this stage there is no intention to go beyond that to erect a national compensation scheme. There is a range of different considerations that would go into that – for example, whether it should be limited to particular classes of victims and the amount of compensation which should be established. Traditionally, it has been a matter for states and territories because they deal so much more with individual human victims. At this stage, there has not been any decision to move to a national compensation scheme.⁹⁶
- 5.106 AGD did note that a ‘national approach to victims’ compensation was considered by the former Standing Committee of Attorneys-General’, adding:
- In March 2008, Ministers agreed that an officers’ working group should report back to Ministers on a comparison of victims’ rights schemes in jurisdictions, considering best practice approaches including a national approach to victims’ compensation. The working group determined that a national approach to victims of crime compensation is not feasible.⁹⁷
- 5.107 AGD also highlighted that steps had been taken to provide greater consistency for victims’ rights across jurisdictions:
- All Australian jurisdictions have recently agreed to the National Framework of Rights and Services for Victims of Crime 2013-2016. Ministers endorsed this framework on 4 April 2013. The framework aims to ensure greater consistency between jurisdictions in support of victims’ rights, and will allow better coordination of services across the Commonwealth, States and Territories.⁹⁸

95 Senate Legal and Constitutional Affairs Committee, *Response to questions on notice provided by Attorney-General's Department*, received 4 September 2012, p. 16.

96 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 5.

97 Attorney-General's Department, *Supplementary Submission 76*, p. 10.

98 Attorney-General's Department, *Supplementary Submission 76*, p. 10.

Committee comment

- 5.108 The Committee notes that, in its inquiry into the Crimes Legislation Amendment (Slavery, Slavery-like conditions and People Trafficking) Bill 2012, the Senate Legal and Constitutional Affairs Committee considered reparations for victims of trafficking and slavery as well as establishing a federal compensation scheme.
- 5.109 The Senate Legal and Constitutional Affairs Committee recommended, that:
- ...the Australian Government further investigate the establishment of a federal compensation scheme for victims of slavery and people trafficking.⁹⁹
- 5.110 The Committee recommends that the Australian Government further investigate the establishment of a federal compensation scheme for proven victims of slavery and people trafficking. The Committee is of the view that the compensation fund should be funded by persons convicted of these crimes. The Committee also recommends that the Australian Government review the current rates of compensation.

Recommendation 6

The Committee recommends that the Australian Government further investigate the establishment of a federal compensation scheme for proven victims of slavery and people trafficking. The compensation fund should be funded by persons convicted of these crimes. The Committee also recommends that the Australian Government review the current rates of compensation.

⁹⁹ Senate Legal and Constitutional Affairs Committee, *Crimes Legislation Amendment (Slavery, Slavery-like conditions and People Trafficking) Bill 2012*, September 2012, p. vii.

Exploitation in product supply chains

- 6.1 The subject of human trafficking and global supply chains was a theme articulated by many groups and organisations that provided submissions and appeared at public hearings for this inquiry.
- 6.2 This chapter provides an overview of the current global estimates of people in forced labour, suggestions received by the submitters on combatting exploitation in the global supply chain, a brief overview of the steps taken by other countries to look at exploitation in global supply chains, and Australia's efforts to combat trafficking, slavery and forced labour in global supply chains.

Global estimates of people in forced labour

- 6.3 According to the International Labour Organization (ILO) there are 20.9 million people in forced labour around the world.¹ This includes:
- 18.7 million (90%) exploited in the private economy, by individuals or enterprises: 4.5 million (22%) are victims of forced sexual exploitation, and 14.2 million (68%) are victims of forced labour exploitation in economic activities such as agriculture, construction, domestic work and manufacturing;
 - 2.2 million (10%) in state-imposed forms of forced labour (e.g. prison);
 - 11.4 million victims (55%) are women and girls;
 - 9.5 million (45%) are men and boys;
 - 11.7 million (56% of the global total) are in the Asia-Pacific region;

¹ International Labour Organization, *Global Estimate of Forced Labour: Results and methodology*, 2012.

- 3.7 million (18%) are in Africa;
- 1.8 million (9%) are in Latin America and the Caribbean;
- 1.5 million (7%) are in the European Union;
- Central, Southeast and Eastern Europe (non-EU) and the Commonwealth of Independent States have 1.6 million (7%); and
- an estimated 600,000 (3%) victims in the Middle East.²

Table 6.1 Global estimates of people in forced labour by region

| | |
|--|-------------------|
| Asia and the Pacific | 11,700,000 |
| Africa | 3,700,000 |
| Latin America and the Caribbean | 1,800,000 |
| Central and South Eastern Europe and CIS | 1,600,000 |
| Developed Economies and European Union | 1,500,000 |
| Middle East | 600,000 |
| Total | 20,900,000 |

Source *International Labour Organization, Global Estimate of Forced Labour: Results and methodology, 2012*

6.4 The United States (US) Department of Labor, Bureau of International Labor Affairs (the Bureau), publishes a list of goods from countries that the Bureau has reason to believe are produced by forced labour or child labour in violation of international standards.³ According to Bureau's 2012 report:

- The list of goods includes 123 goods in the 'child labor' category: 58 agricultural goods, 38 manufactured goods and 26 mined/quarried goods, as well as pornography.
- The relatively large number of agricultural goods produced by child labor is consistent with the ILO estimate that 60 per cent of child labor worldwide is in agriculture.
- The list of goods includes 56 goods in the 'forced labor' category: 26 agricultural goods, 18 manufactured goods and 11 mined/quarried goods, as well as pornography.
- Agricultural goods with notable concentrations of forced labor include cotton (eight countries), cattle (five countries) and sugarcane (five countries). Among manufactured goods, the highest concentrations of forced labor were found in the production of garments (eight countries) and bricks (seven countries).

2 International Labour Organization, *Global Estimate of Forced Labour: Results and methodology*, 2012.

3 United States Department of Labor, 'Trafficking Victims Protection Reauthorization Act', viewed on 23 May 2013, <<http://www.dol.gov/ilab/programs/ocft/tvpra.htm>>.

- Goods associated with a notably high concentration of child and/or forced labor include cotton (17 countries), sugarcane (16 countries), coffee (14 countries), cattle (12 countries), rice (eight countries), fish (seven countries) and cocoa (six countries) in the agricultural sector; bricks (18 countries), garments (eight countries), carpets (five countries) and footwear (five countries) in the manufacturing sector; and gold (19 countries), diamonds (seven countries) and coal (seven countries) in the mining/quarrying sector.
- Burma and China have a high number of goods made by forced labor, with 14 and 11, respectively.
- South Asian countries – the region with over 55 per cent of the world’s forced laborers, according to the ILO – also had high numbers of goods in the forced labor category.⁴

Overview of international action

- 6.5 A number of countries, most notably the US, have taken comprehensive steps to combat trafficking, slavery and forced labour in global supply chains.
- 6.6 In the US, authorities at the Federal and State-level have taken steps to increase the oversight of US-based companies’ global supply chains.
- 6.7 As noted at paragraph 6.4 above, the US Department of Labor, in accordance with the US Trafficking Victims Protection Reauthorization Act, publishes a list of goods from countries that the Bureau has reason to believe are produced by forced labour or child labour.⁵
- 6.8 In October 2010, the California Transparency in Supply Chains Act was signed into law. This Act took effect on 1 January 2012 and applies to all retailers and manufacturers with annual global revenues of more than \$100 million that do business in California. The Act requires retail sellers and manufacturers in California to disclose information about their efforts to eradicate slavery and human trafficking from their direct supply chains.⁶

4 United States Department of Labor’s Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, 26 September 2012, pp. 13-14.

5 United States Department of Labor, ‘Trafficking Victims Protection Reauthorization Act’, viewed on 23 May 2013, <<http://www.dol.gov/ilab/programs/ocft/tvpra.htm>>.

6 Senate Bill 657 – the *California Transparency in Supply Chains Act*.

- 6.9 On 1 August 2011, a similar Bill to the California legislation was introduced at the Federal level, the Business Transparency on Trafficking and Slavery Act (H.R.2759). If passed, the Bill will require businesses to disclose, in annual reports, measures taken during the year to identify and address conditions of forced labour, slavery, human trafficking, and the worst forms of child labour within their respective supply chains.⁷
- 6.10 The US has also taken steps to identify exploitation in specific countries such as the Democratic Republic of the Congo.
- 6.11 On 22 August 2012, the US Securities and Exchange Commission adopted a rule legislated under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The rule requires companies to publicly disclose their use of conflict minerals (tantalum, tin, gold, or tungsten) from the Democratic Republic of the Congo or an adjoining country.⁸
- 6.12 In addition, on 25 September 2012, President Obama issued an executive order that prohibits all US Federal contractors and subcontractors from engaging in any types of trafficking-related activities.⁹
- 6.13 The United Kingdom's Government is also proposing a similar legislative mechanism, having introduced to the Parliament the Transparency in UK Company Supply Chains (Eradication of Slavery) Bill in June 2012. If passed, the Bill will require:
- ...large companies in the UK to make annual statements of measures taken by them to eradicate slavery, human trafficking, forced labour and the worst forms of child labour (as set out in Article 3 of the International Labour Organisation's Convention No. 182) from their supply chains; to require such companies to provide customers and investors with information about measures taken by them to eliminate slavery, human trafficking, forced labour and the worst forms of child labour; to provide victims of slavery with necessary protections and rights; and for connected purposes.¹⁰

7 Congress.gov, 'H.R.2759 - Business Transparency on Trafficking and Slavery Act', viewed on 23 May 2013, < <http://beta.congress.gov/bill/112th-congress/house-bill/2759>>.

8 US Securities and Exchange Commission, 'SEC Adopts Rule for Disclosing Use of Conflict Minerals', viewed on 23 May 2013, < <http://www.sec.gov/news/press/2012/2012-163.htm>>.

9 The White House, 'Executive Order - Strengthening Protections Against Trafficking In Persons In Federal Contracts', viewed on 23 May 2013, < <http://www.whitehouse.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe>>.

10 The Transparency in UK Company Supply Chains (Eradication of Slavery) Bill.

- 6.14 British businesses are also being encouraged by the UK Government to sign a business charter which commits them to:
- develop anti-human trafficking policies and strategies
 - review and implement a code of conduct for suppliers
 - check supply chains to ensure each step of the process is accounted for
 - revise recruitment practices, for example, by requiring recruiting managers to only use specified reputable recruitment agencies
 - increase awareness training for staff and customers
 - develop and share best practice.¹¹
- 6.15 Brazil has also taken steps to target people and corporations found to be using slave labour. As noted by the ILO in its report on the *Good Practices of Labour Inspection in Brazil*, Brazil established an Employer Offender Registry in 2004.¹²
- 6.16 Administered by the Ministry of Labour, the Registry is a public list of people and corporations found to be using slave labour. The Registry is updated every six months and is available on the websites of the Ministry of Labour and the NGO Reporter Brazil.¹³
- 6.17 The people and corporations that are on the list cannot receive public financing. The names are only included on the list after a trial, verdict and when the accused no longer has a right of appeal.¹⁴
- 6.18 The ILO report also noted that names can be removed from the list:
- Employers that are included on the register are monitored for a period of two years after which their names are removed if: there is no reoccurrence of the crime, all fines are paid and, they settle their labour and tax debts.¹⁵
- 6.19 The ILO has also released a handbook 'for employers and business to strengthen their capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains.'¹⁶

11 UK.GOV, 'Businesses urged to sign human trafficking charter', viewed on 23 May 2013, <<https://www.gov.uk/government/news/businesses-urged-to-sign-human-trafficking-charter>>.

12 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 15.

13 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 34.

14 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 34.

15 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 34.

16 International Labour Organization, *Combating forced labour: A handbook for employers and business*, 2008.

- 6.20 The European Commission has taken similar steps as the ILO and produced a guide on socially responsible public procurement: *Buying Social - A Guide to Taking Account of Social Considerations in Public Procurement*.¹⁷
- 6.21 World Vision Australia (WVA) provided more detail on other European countries that have adopted socially responsible public procurement, stating:
- Denmark has ratified ILO Convention No. 94, which, under Danish law, has binding effect in relation to government procurement.
 - The Norwegian Government produced a *Guide to Socially Responsible Public Procurement* on 12 September 2012.
 - The Scottish Government has prepared guidance on 'Community Benefits on Public Procurement', which illustrates the scope to incorporate social benefits in public procurement contracts, hoping to maximise the impact of public spending.
 - A number of local governments in Sweden include social requirements in contracts, such as compliance with fundamental ILO conventions. These terms are consistent with Swedish procurement law.¹⁸

Suggestions for combatting exploitation in global supply chains

- 6.22 Ms Briana Lee put forward the view that Australia has an obligation under the Trafficking Protocol to prevent and combat trafficking, stating:
- Part of Australia's obligations under the Trafficking Protocol is to establish measures to prevent and combat trafficking in persons. The Trafficking Protocol requires states to take measures which alleviate the factors that make persons, especially women and children, vulnerable to trafficking.¹⁹
- 6.23 Ms Lee added that 'part of the way to address the issue of human trafficking is to reduce the demand for goods produced with slavery, forced labour or human trafficking.'²⁰

17 European Commission, *Buying Social - A Guide to Taking Account of Social Considerations in Public Procurement*, 2010.

18 World Vision Australia, *Supplementary Submission 57*, pp. 3-5.

19 Ms Briana Lee, *Submission 16*, p. 7.

20 Ms Briana Lee, *Submission 16*, p. 7.

- 6.24 Ms Lee called on the Government to ‘take steps to ensure that goods being imported and sold in Australia are free of slavery, forced labour and human trafficking.’²¹
- 6.25 Walk Free, in its submission, suggested that business could play a role in the fight against slavery, slavery-like practices and human trafficking.²² Walk Free also suggested that the Government look at implementing legislation on transparency in supply chains.²³
- 6.26 Walk Free did, however, caution against the use of an overly intrusive regulatory approach, stating:
- I fully understand. I am a big supporter though in approaches that talk about transparency and publishing information and then leave it to the market, civil society and others to encourage businesses without imposing Draconian requirements on them. I suggest that is an appropriate model that has been implemented in America as reasonably commerce-free but the US is willing to impose these obligations on corporations.²⁴
- 6.27 Australian Catholic Religious Against Trafficking in Humans (ACRATH) submitted that Australia was lagging behind other developed countries ‘in taking actions to encourage companies to ensure the goods they import and sell are free from slavery and trafficking.’²⁵
- 6.28 ACRATH made several recommendations for actions the Government could take to combat slave or trafficked labour in supply chains:
- Government could consider enacting, as USA has done (Trafficking Victims Reauthorisation Act [2005]), legislation requiring it to engage with companies, working with them towards the elimination of slavery and human trafficking in their supply chains.
 - The Commonwealth Government could require that projects failing to meet a required standard demonstrating that reasonable action has been taken to ensure that their supply chain is free from slave and trafficked labour are denied the services of EFIC [Export Finance and Insurance Corporation].

21 Ms Briana Lee, *Submission 16*, p. 8.

22 Walk Free, *Submission 20*, p. 1.

23 Mr Grono, Walk Free, *Transcript*, 12 March 2013, p. 5.

24 Mr Grono, Walk Free, *Transcript*, 12 March 2013, p. 5.

25 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 9.

commit to public research to identify those types of goods at risk of having slavery, human trafficking and forced slavery in their production. The government should also commit to introduce legislation based on the California Transparency Act, and I also understand the UK is considering a similar act right now to require retailers and importers operating in Australia to have to publicly disclose what voluntary efforts they are making to curb the risk of slavery, forced labour and human trafficking and their supply chains.³⁰

6.33 Hagar Australia also recommended:

- the Commonwealth Government should require that products at risk of slavery or trafficked labour in their supply chains must carry labels identifying themselves as such; and that
- the Australian Government should withdraw its support from companies failing to demonstrate adequate action to address the possibility of slavery or human trafficking in their supply chain, through excluding such companies from eligibility for government procurement contracts.³¹

6.34 The Law Council of Australia stated that 'it would be extremely advantageous for the Commonwealth to examine its supply chains and procurement policies and to coordinate a response with States and Territories about those issues.'³²

6.35 No Slavery Australia (NSA) recommended establishing a task force to evaluate the economic cost of slavery on the Australian economy; legislating mandatory requirements for multinationals trading in Australia to report on their supply chains; and the development of a labelling and certification strategy for products and services that have been produced ethically.³³

6.36 NSA also highlighted that there are a number of not-for-profit organisations that offer third-party certification of Fair Trade products.³⁴

30 Mrs Kennedy, Hagar Australia, *Transcript*, 9 May 2013, p. 3.

31 Hagar Australia, *Submission 13*, p. 3.

32 Ms McLeod, Law Council of Australia, *Transcript*, 20 November 2012, p. 20.

33 No Slavery Australia, *Supplementary Submission 70*, p. 1.

34 Mr Gruber, No Slavery Australia, *Transcript*, 23 April 2013, p. 2.

- 6.37 The joint submission provided by Stop the Traffik, the Oaktree Foundation, and the Uniting Church Synods of Victoria and Tasmania stated that, in the 2009–2010 financial year, Australia imported over \$600 million worth of goods in categories where there is a risk of forced labour or exploited child labour used in their production.³⁵ They called on the Government to take action in line with other jurisdictions, particularly the US, recommending:
- establishing a commission similar to the Bureau;
 - establishing a consultative committee focussed on eliminating slavery, forced labour and human trafficking from the production of goods imported into Australia;
 - amending the *Financial Management and Accountability Act 1997* and the Commonwealth Procurement Guidelines to prohibit the acquisition of products produced by forced and indentured child labour;
 - introducing legislation that would require retailers and importers operating in Australia to publicly disclose what voluntary efforts they are making to curb the risk of slavery, forced labour and human trafficking in their supply chains; and
 - negotiating an agreement with cocoa importers and processors in Australia that by 2018 eighty per cent of cocoa imported to Australia will have third-party certification that it is free of forced labour, the worst forms of child labour and human trafficking.³⁶
- 6.38 The Uniting Church in Australia, at a public hearing, commented that ‘this is a problem that cannot be left to voluntary corporate action and NGOs.’³⁷
- 6.39 Dr Anne Gallagher AO agreed that there was some evidence that:
- ...goods imported into Australia – from seafood to clothing to consumer electronics to sporting goods – have been produced through the use of forced or otherwise highly exploitative labour.³⁸
- 6.40 While acknowledging that there are considerable difficulties in combatting trafficking in supply chains, Dr Gallagher said it was essential for Government to attend to the problem:

35 Stop the Traffik, the Oaktree Foundation, and the Uniting Church Synods of Victoria and Tasmania, *Submission 30*, p. 5. See Appendix J: List of goods produced with high risk of forced labour or child labour by country.

36 Stop the Traffik, the Oaktree Foundation, and the Uniting Church Synods of Victoria and Tasmania, *Submission 30*, pp. 1-2.

37 Dr Zirnsak, Uniting Church in Australia, *Transcript*, 9 May 2013, p. 15.

38 Dr Anne Gallagher AO, *Submission 39*, p. 9.

While the difficulties of dealing with trafficking and slavery in supply chains are considerable and should not be underestimated, it is essential for the Australian Government to acknowledge and pay attention to trafficking in supply chains. The critical issue in this regard is improving supply chain transparency – from product assembly right down to the sourcing of raw materials – thereby disrupting the economic advantage that such exploitation provides. Consumer action through investigation, boycotts and petitions is important and should be encouraged. However, it is foolish and dangerous to imagine they are any substitute for explicit, demonstrable commitment on the part of both government and corporations to exploitation-free supply chains.³⁹

Australian Government action

- 6.41 On 8 March 2013, the Prime Minister announced that the Australian Government would ‘ensure that its procurement rules and practices assist in identifying and stamping out slavery.’⁴⁰
- 6.42 The Prime Minister announced that the Government’s procurement arrangements would be improved by:
- Processes: the Department of Finance and Deregulation will ensure that Commonwealth procurement arrangements adequately identify slavery as an important issue when considering the ethical behaviour of suppliers.
 - Advice to Agencies: the Department of Finance and Deregulation will issue revised procurement guidance to reinforce the need for specific actions or behaviours to eliminate the chances of slavery being used in supply chains.
 - Training: the Department of Finance and Deregulation will strengthen training and development arrangements for Commonwealth procurement officers to reinforce specific legal and policy requirements, including reporting of breaches of policy.⁴¹
- 6.43 At a public hearing the AGD acknowledged that it had not focussed on combatting trafficking, slavery and forced labour in global supply chains. They did, however, highlight that Australia has:

39 Dr Anne Gallagher AO, *Submission 39*, pp. 9-10.

40 The Hon. Julia Gillard MP, Prime Minister, ‘Further Government Action To Eliminate Modern Slavery’, *Media Release*, 8 March 2013, p. 1.

41 The Hon. Julia Gillard MP, Prime Minister, ‘Further Government Action To Eliminate Modern Slavery’, *Media Release*, 8 March 2013, p. 1.

...criminalised a range of different offences with respect to corporations under the slavery and human trafficking offences, so there is provision already to tackle behaviour by corporations with respect to procurement overseas and things like that if their supply chain does involve some slavery or human trafficking.⁴²

Committee comment

6.44 As noted earlier in this chapter, the ILO and the Bureau estimate that there are millions of men, women and children throughout the world who are forced into exploitative labour conditions worldwide in the agricultural, construction, manufacturing, and mining industries as well as domestic work.

6.45 Slavery, slavery-like practices and people trafficking is a fundamental violation of an individual's human rights. The cost on its victims, who may have suffered psychological, emotional, and physical abuse and mistreatment, is immeasurable.

6.46 In addition to its direct victims, the flow on effects of these crimes impact on families, communities, and countries.

6.47 The ILO estimated in 2005 and 2009 that the annual profits from all trafficked forced labourers are around US\$32 billion (an annual average of US\$13,000 per victim) and that 'victims of forced labour forgo at least US\$21 billion each year in unpaid wages and illegal recruitment fees.'⁴³

6.48 As part of the United Nations Global Initiative to Fight Human Trafficking, the United Nations Office on Drugs and Crime published a report entitled *An Introduction to Human Trafficking: Vulnerability, Impact and Action*. While noting the difficulties in assessing the economic costs of trafficking, the report was able to highlight some of the additional economic consequences:

The costs of the crime of trafficking in persons incorporates many elements, including the value of all resources devoted to its prevention, the treatment and support of victims and the apprehension and prosecution of offenders. These costs may be offset in part by the recovery of criminal proceeds and assets of the traffickers. Trafficking in persons also results in loss of human

42 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 6.

43 International Labour Organization, 'Questions and answers on forced labour', viewed on 25 May 2013, <http://www.ilo.org/global/about-the-ilo/newsroom/comment-analysis/WCMS_181922/lang--en/index.htm>; International Labour Organization, *Forced Labour and Human Trafficking: Estimating the Profits*, March 2005, p. 17.

resources and reductions in tax revenue. Further, trafficking in persons redirects the financial benefits of migration from migrants, their families, community and government or other potential legitimate employers to traffickers and their associates. All indications are that the income generated by related organized crime is significant and global. Given the ongoing nature of exploitation, human trafficking generates a stable and regular source of income for criminal networks, with a consequent impact on other forms of criminal activity as well as legitimate business.⁴⁴

6.49 AusAID in its Project Design Document, *Australia-Asia Program to Combat Trafficking in Persons*, also highlighted some of the additional economic consequences of trafficking, stating:

The economics of trafficking are significant. Unlike smuggling of migrants, which produces a one-time profit, trafficking involves the long-term exploitation of individuals, which translates into continuous income. ... Human trafficking crimes are also closely integrated into legal business interests such as tourism, employment and recruitment agencies, and leisure and entertainment businesses throughout the region. Criminal organisations hide revenues from their illegal activities by directly and indirectly investing their profits into legitimate financial institutions. Although some businesses are simply established to launder money and not necessarily to make profits, this practice may in turn have a negative impact on the economy, as legitimate businesses may find themselves having to compete against enterprises being subsidised by laundered proceeds of crime or supported by the exploitation of trafficked persons. Fair competition may also be affected when exploited trafficked persons have been used further down the supply chain to produce value-added materials such as textiles.⁴⁵

6.50 As noted in chapter three, it is important to consider a suite of mechanisms and tools to combat slavery, slavery-like practices and people trafficking both domestically and internationally. It is therefore important to consider how Australia can contribute to removing trafficking, slavery and forced labour in global supply chains.

44 United Nations Office on Drugs and Crime, United Nations Global Initiative to Fight Human Trafficking, *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, 2008, p.10.

45 Australian Agency for International Development, *Australia-Asia Program to Combat Trafficking in Persons*, June 2012, p. 7.

- 6.51 The Committee appreciates the considerable thought and effort of all those who provided recommendations on various mechanisms for removing trafficking, slavery and forced labour in global supply chains.
- 6.52 The Committee notes that many of these recommendations are based on initiatives that have been recently introduced in other countries. It is therefore difficult to assess the effectiveness of these mechanisms at this time.
- 6.53 It is important for Australia to take appropriate and effective action that will play a significant role in the reduction of goods and services produced by trafficking, slavery and forced labour. It is also important for Australia to establish a mechanism that is suitable for the Australia context.
- 6.54 The Committee therefore recommends that the Australian Government undertake a review to examine the current anti-trafficking and anti-slavery mechanisms with a view to establishing a mechanism appropriate for the Australian context.
- 6.55 The review should extensively consult with relevant stakeholders and should be conducted with a view to: introducing legislation to improve transparency in supply chains; the development of a labelling and certification strategy for products and services that have been produced ethically; and increasing the prominence of fair trade in Australia.

Recommendation 7

The Committee recommends that the Australian Government, in consultation with relevant stakeholders, undertake a review to establish anti-trafficking and anti-slavery mechanisms appropriate for the Australian context. The review should be conducted with a view to:

- **introducing legislation to improve transparency in supply chains;**
- **the development of a labelling and certification strategy for products and services that have been produced ethically; and**
- **increasing the prominence of fair trade in Australia.**

Community perceptions on international best practice

- 7.1 Organisations, groups and individuals that provided evidence to the inquiry submitted numerous examples of what they considered international best practice to address all forms of slavery, slavery-like conditions and people trafficking.
- 7.2 The following chapter provides a brief overview of the examples provided by these submitters.

Appointing an ambassador for trafficking in persons

- 7.3 Dr Anne Gallagher AO noted that the United States (US) Department of State and the United Nations Special Rapporteur on Trafficking both recommended that Australia appoint an Ambassador on Trafficking.¹
- 7.4 Dr Gallagher added:
- ...the functions of such a post cannot and should not be assumed by Australia's Ambassador for People Smuggling Issues. It is also submitted that the assignment of 'trafficking' functions to the recently appointed Global Ambassador for Women and Girls, who is concurrently the Executive Director of the Australian Passport Office, is very much out of step with the practice of other countries and an inadequate and incomplete response to our need for high-level international representation on this issue. Highly qualified and respected Trafficking in Persons Ambassadors from countries

¹ Dr Anne Gallagher AO, *Submission 39*, p. 6; US Department of State, *Trafficking in Persons Report 2011*, June 2011, p. 75; United Nations, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, 18 May 2012, p. 22.

such as the United States and Sweden have become powerful international players in current efforts to shape global law, policy and practice on this issue. That Australia is unable to join this group in a situation of equality is truly a missed opportunity.²

- 7.5 World Vision Australia (WVA) agreed that an Ambassador on Trafficking has the potential to influence international law and policy on slavery, slavery-like conditions and people trafficking issues.³
- 7.6 WVA added that the appointment of an Ambassador for Trafficking in Persons would demonstrate Australia's commitment to combatting all forms of slavery, slavery-like conditions and people trafficking.⁴
- 7.7 The National Tertiary Education Union also suggested that the Australian Government 'consider appointing an Ambassador dedicated to addressing human trafficking issues worldwide.'⁵
- 7.8 The Department of Immigration and Citizenship (DIAC) stated that Australia's international and regional diplomacy was 'focussed on ensuring that the concepts of people smuggling and people trafficking remain distinct.'⁶
- 7.9 DIAC added that the Ambassador for People Smuggling Issues as official-level co-chair of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, played a key role in:
- ...advocating Australia's interest in promoting effective and practical international cooperation to combat people trafficking, particularly in the Asia-Pacific region.⁷
- 7.10 The Attorney-General's Department (AGD) elaborated on the role and responsibilities of the Ambassador for People Smuggling Issues, stating:
- The Ambassador for People Smuggling Issues is responsible for high-level advocacy of Australia's interests in promoting effective and practical international cooperation to combat people trafficking and people smuggling, particularly in the Asia-Pacific region.

2 Dr Anne Gallagher AO, *Submission 39*, p. 7.

3 Ms Stewart, World Vision Australia, *Transcript*, 20 November 2012, p. 55.

4 World Vision Australia *Submission 27*, p. 2.

5 National Tertiary Education Union, *Submission 15*, p. 4.

6 Department of Immigration and Citizenship, *Submission 56*, p. 10.

7 Department of Immigration and Citizenship, *Submission 56*, p. 10.

The Ambassador promotes closer regional cooperation on trafficking in persons through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, which Australia co-chairs with Indonesia.⁸

Criminalising the purchase of sexual services

- 7.11 On 1 January 1999, Sweden introduced legislation criminalising the purchase (but not the sale) of sexual services (also referred to as the Nordic Model). The prohibition of the purchase of sexual services is set out in Sweden's Penal Code (Chapter 6, Section 11).⁹
- 7.12 Several groups that provided submissions and appeared at public hearings put forward the view that Australia should introduce similar legislation.
- 7.13 Family Voice Australia (FVA) recommended that:
- The Commonwealth Criminal Code should be amended to include a new strict liability offence of purchasing a sexual act with a person who is in sexual servitude.¹⁰
- 7.14 FVA also highlighted that:
- Norway had also adopted similar legislation;
 - it is an offence in the United Kingdom, under Section 53A of the *Sexual Offences Act 2003*, to pay for the sexual services of a prostitute subjected to force; and
 - France was considering criminalising the purchase of sex.¹¹
- 7.15 The Coalition Against Trafficking in Women Australia (CATWA), Australian Catholic Religious Against Trafficking in Humans, Australian Christian Lobby (ACL), Collective Shout argued that the legislation in Sweden criminalising the purchase of sex was the best approach to addressing trafficking in the sex industry.¹²
- 7.16 CATWA stated that the Swedish Legislation has had:

8 Attorney-General's Department, *Submission 48*, p. 8.

9 Sweden, Committee of Inquiry to Evaluate the Ban against the Purchase of Sexual Services, *Förbud mot köp av sexuell tjänst. En utvärdering 1999–2008*, 2 July 2010.

10 Family Voice Australia, *Submission 2*, p. 5.

11 Family Voice Australia, *Submission 2*, pp. 3-4.

12 Coalition Against Trafficking in Women Australia, *Submission 19*, p. 2; Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 23; Australian Christian Lobby, *Submission 42*, p. 3; Collective Shout, *Submission 5*, p. 5.

...a significant impact on the demand for prostitution and has reduced the number of prostituted women in Sweden including halving the number of women in street prostitution.¹³

7.17 The ACL also commented on a reduction in the demand for street prostitution:

Sweden's National Board of Health and Welfare has reported significant decreases in the number of women in street prostitution and the number of men buying sex.¹⁴

7.18 The ACL called for the Federal Government to put pressure on the State and Territory Governments to consider the Nordic policy approach.¹⁵

7.19 The Scarlet Alliance posited the alternate view stating that:

There is also no evidence that the Swedish model will reduce the number of cases of trafficking in the sex industry.¹⁶

7.20 Project Respect, at a public hearing, stated that it was not aware of 'any evidence that suggests that [the Nordic Model] stops trafficking.'¹⁷

7.21 Dr Gallagher stated that there is limited evidence to advocate for either criminalising or legalising prostitution, stating:

International experience has confirmed the need to exercise caution in linking trafficking with prostitution. There is absolutely no doubt that trafficking is present in the Australian sex industry and it is both naïve and unwise to ignore the fact that the buying and selling of sexual services creates and sustains acute vulnerabilities to exploitation. Accepting these realities is not incompatible with efforts to avoid harmful targeting of an already marginalised and vulnerable group and to expand the current focus to include trafficking for labour exploitation. However, there is, as yet, no conclusive evidence that a particular approach to prostitution – for example, criminalisation or legalisation – significantly affects levels of trafficking related exploitation one way or another.¹⁸

7.22 In response to the question of whether the Commonwealth has an obligation to make the purchase of sexual services unlawful in Australia, the Law Council of Australia stated:

13 Coalition Against Trafficking in Women Australia, *Submission 19*, p. 6.

14 Australian Christian Lobby, *Submission 42*, p. 5.

15 Mr Shelton, Australian Christian Lobby, *Transcript*, 20 November 2012, p. 36.

16 Scarlet Alliance, *Submission 26*, p. 11.

17 Ms Hinton, Project Respect, *Transcript*, 8 May 2013, p. 3.

18 Dr Anne Gallagher AO, *Submission 39*, p. 11.

... the Law Council has examined the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Supplementing the United Nations Convention against Transnational Organized Crime and the International Labour Organisation Convention No. 29 on Forced or Compulsory Labour and is of the view that these instruments do not contain any provisions that would support an obligation on the part of Australia to make the use of prostitutes unlawful. It would therefore appear that the Commonwealth would not be able to use the external affairs power in section 51(xxix) of the Constitution to support such legislation in relation to these Conventions.¹⁹

- 7.23 AGD also held the view that there was little evidence to suggest that criminalising the purchase of sexual services was an effective anti-trafficking mechanism, stating:

In the view of IDC agencies, there is no persuasive evidence to suggest that the criminalisation of the purchase of sexual services is effective in preventing trafficking or slavery for the purpose of sexual exploitation.²⁰

- 7.24 AGD added that the laws criminalising the purchase of sexual services could be having a negative effect, stating:

Rather, there is some evidence that laws prohibiting the purchase of sexual services undermine the efforts of agencies working to combat slavery and trafficking. For example, such laws may force victims underground, and make clients less willing to assist in cases involving exploitation, slavery or trafficking (as they fear sanction themselves). In Australia, at least one successful prosecution for sexual servitude was brought to the attention of authorities by a client, who assisted the victim at her request.²¹

- 7.25 AGD indicated that the 'Swedish model' was 'unlikely to be an effective strategy for combating slavery, slavery-like practices or people trafficking.'²²

19 Law Council of Australia, *Submission 51*, p. 5.

20 Attorney-General's Department, *Submission 48*, p. 14.

21 Attorney-General's Department, *Submission 48*, pp. 14-15.

22 Attorney-General's Department, *Submission 48*, p. 15.

Increased engagement in international forums

7.26 Plan International Australia (PIA) commented that Australia had championed the issue of child marriage at the 2011 Commonwealth Heads of Government Meeting (CHOGM):

Opportunities such as high-level dialogue with countries already considering ways to prevent child marriage and establishing an action plan for the Commonwealth Secretariat are valuable ways Australia can improve international action. We believe that working with countries who have expressed interest in addressing the issue and encouraging them to be champions at the international level has great value.²³

7.27 PIA suggested Australia could play a greater role in other international fora such as the Commission on the Status of Women (CSW), the United Nations General Assembly (UNGA), and UN Human Rights Council Working Group on Discrimination Against Women in Law and in Practice.²⁴

7.28 PIA added that 'Australia can play a valuable role in facilitating dialogue, sharing best practice, and supporting potential champions for change.'²⁵

7.29 Hagar International Australia also suggested increasing the profile of trafficking issues at CHOGM, stating:

Hagar believes an NGO forum focused on Slavery and the surrounding issues at CHOGM would be very useful. Our belief is that an agenda developed in consultation with lead Trafficking focused NGO's would be most useful and enhance relevant outcomes for the region. It would be another good way to highlight the emergence of the issue in the region.²⁶

7.30 WVA also called on the Australian Government to 'demonstrate strong leadership in tackling slavery, slavery-like conditions and people trafficking through a range of bilateral and multilateral approaches', such as the Bali Process and the Association of Southeast Asian Nations (ASEAN).²⁷

7.31 WVA added that trafficking and slavery issues could also be highlighted during Australia's hosting of the G20, in Australia's submissions to universal periodic reviews, as well as several other fora including:

23 Plan International Australia, *Submission 22*, pp. 4-5.

24 Plan International Australia, *Submission 22*, pp. 4-5.

25 Plan International Australia, *Submission 22*, p. 5.

26 Hagar Australia, *Supplementary Submission 72*, p. 2.

27 World Vision Australia, *Submission 27*, p. 2.

ASEAN, UN Office of Drugs and Crime (e.g. Conference of Parties), UNICEF [United Nations Children's Fund] (e.g. reports to the CRC Committee), UNIFEM [Fonds des Nations Unies pour la Femme], the International Organisation for Migration, the OECD [Organisation for Economic Co-operation and Development], as well as relevant trade associations such as the International Textile, Garment and Leather Workers Association²⁸

7.32 The Australian Lawyers for Human Rights (ALHR) commented that Australia could increase its engagement internationally with States, in multilateral and civil society in forums in order to:

- encourage ratification and implementation of relevant international instruments;
- support the work of relevant international mechanisms and mandate holders, including the work of the UN Special Rapporteur and the UN Global Plan of Action to Combat Trafficking in Persons;
- promote the adoption of a rights-based approach with respect to addressing slavery, slavery-like conditions and people trafficking;
- promote and develop effective processes with respect to international cooperation in the identification, protection, support, repatriation and reintegration of enslaved and trafficked persons, and also the prosecution of responsible individuals;
- recognise the different contexts in which slavery, slavery-like conditions and trafficking arise, including in respect to sexual slavery and exploitation, labour exploitation, marriage, organ removal and child trafficking;
- address the social, economic, cultural, political and other factors that make people vulnerable to slavery and trafficking, including poverty, discrimination, inequality, marginalisation and conflict; and
- develop and implement effective remediation processes, including through asset recovery from traffickers.²⁹

7.33 AusAID agreed that working collaboratively with partner countries and at the regional level was an effective strategy, stating:

The way we find we can be most effective is working with partner governments, but also working at the regional level through regional organisations such as ASEAN. In relation to this particular program, we are wanting to further strengthen the

28 World Vision Australia, *Supplementary Submission 57*, p. 1.

29 Australian Lawyers for Human Rights, *Submission 44*, p. 6.

regional capacity to tackle human-trafficking by working through the ASEAN secretariat.³⁰

Suggested best practice for victim support

- 7.34 A few submitters highlighted the actions that some countries had taken to support victims of trafficking and slavery, suggesting that they could be examples of best practice which Australia could emulate.

Republic of Korea

- 7.35 The Josephite Counter-Trafficking Project (JCTP) suggested that the Republic of Korea's victim support program was an example of best practice, stating:

JCTP notes that from our recent conversations with South Korean NGOs, Victims of Trafficking returning to South Korea are given assistance and free accommodation for up to one and a half years at a Medium Time Centre. Once they start working they make a small contribution towards their board. There is also a Social Integration Centre which victims can attend for a period of 3 years for training in vocational skills (e.g. internship at the local coffee shop) and for social interaction. Australia does not have such a program.³¹

- 7.36 The US Department of State's *Trafficking in Persons* (TIP) Report 2012 states that in 2011 the Republic of Korea:

...spent US\$16.9 million providing financial support to NGOs offering shelter, counselling, medical and legal assistance, vocational training, educational programs, and rehabilitation services to a variety of persons in need, including sex trafficking victims.³²

- 7.37 The TIP Report noted that the Republic of Korea's Government provided a number of victim support mechanisms, including:

- Ministry of Gender Equality and Family (MOGEF) operated 18 shelters for Korean victims of sex trafficking, sexual assault, and domestic violence, offering medical and legal services;

30 Ms Niblett, AusAID, *Transcript*, 23 April 2013, p. 21.

31 Josephite Counter-Trafficking Project, *Submission 10*, p. 17.

32 US Department of State, *2012 Trafficking in Persons Report*, p. 211.

- the operation of one specialized shelter for foreign victims of sex trafficking; and
- funding an extensive network of support centres for foreign wives and runaway teenagers, two groups vulnerable to trafficking in South Korea, which provided counselling in a number of languages, legal advice, and referrals to medical services and shelters.

7.38 However, the TIP report states the Republic of Korea:

- lacks formal proactive victim identification procedures;
- provides fewer services for labour trafficking victims than sex trafficking victims; and
- does not have a formal mechanism to guide front-line responders, such as police, social workers, and labour and health officials, in how to identify human trafficking and refer potential victims to available services.³³

Taiwan

7.39 The JCTP noted that Taiwan had established two mechanisms aimed at providing additional support to victims of trafficking and labour exploitation: a victim assistance hotline and monitoring job placements.

7.40 Taiwan has two victim assistance hotlines: a free twenty-four hour bilingual counselling and assistance Hotline for foreign workers; and a hotline administered by the Filipino Inter-Agency Council Against Trafficking.³⁴

7.41 JCTP added that the Taiwanese Council of Labour Affairs monitors job placements and service fees charged by brokers, and social workers accompany victims when they are being interviewed as part of an investigation.³⁵

7.42 The TIP Report stated that authorities in Taiwan continued to be proactive in the identification and assistance of victims of trafficking, noting some of the support that had been provided, including:

- distributing reference indicators with specific questions and a standardized evaluation form to law enforcement officials for use in interviewing potential victims of trafficking;
- maintaining four shelters dedicated to victims of trafficking in Taiwan which provided victims of trafficking with medical and psychological

33 US Department of State, *2012 Trafficking in Persons Report*, p. 211.

34 Josephite Counter-Trafficking Project, *Submission 10*, p. 18.

35 Josephite Counter-Trafficking Project, *Submission 10*, p. 18.

services, legal counselling, vocational training, small stipends, and repatriation assistance;

- providing social workers and interpreters to accompany victims during court proceedings; and
- assisting foreign victims of trafficking in filing 229 civil cases for compensation during.³⁶

7.43 The TIP Report also highlighted that ‘Taiwan authorities encouraged victims to participate in investigations against their traffickers by offering residency and temporary work permits.’³⁷

Italy

7.44 Ms Briana Lee believed that Italy’s human rights approach to human trafficking could be considered as best practice.

7.45 Ms Lee stated that foreign victims of human trafficking are provided with a permit allowing them to stay in Italy for at least six months. Ms Lee added that the permit:

...can be renewed for an additional 12 months in order to ‘free themselves from the violence and conditioning by criminal organizations and take part in a programme of assistance and social integration’. This program can be accessed by the victim or a public prosecutor applying directly to the chief of police or via an NGO who takes action on behalf of the victim. The stay permit is however conditional on the victim participating in support and social integration programs. These measures are thought to provide ‘the incentive for victims to report their exploitation to the authorities’.³⁸

7.46 The TIP Report also identified Italy’s trafficking victim centred approach, stating:

Although Italy does not have a formal reflection period during which trafficking victims can recuperate and decide whether to assist law enforcement, authorities informally grant this to victims and do not limit it to a finite number of days.³⁹

7.47 Other government support provided to victims in 2011 included:

- Government funding of US\$13 million for victim assistance provided by NGOs;

36 US Department of State, *2012 Trafficking in Persons Report*, p. 334.

37 US Department of State, *2012 Trafficking in Persons Report*, p. 334.

38 Ms Briana Lee, *Submission 16*, p. 5.

39 US Department of State, *2012 Trafficking in Persons Report*, p. 197.

- three to six months' assistance (Article 13 of the Law 228/2003);
- a guaranteed victim shelter benefits for another 12 months and reintegration assistance (Article 18 of Law 286/1998); and
- foreign child victims of trafficking received an automatic residence permit until they reached age 18.⁴⁰

7.48 The TIP Report also notes that 'victims are not required to cooperate with police in order to receive a residence permit.'⁴¹

European Union

7.49 The Falun Dafa Association of NSW (FDA) suggested that the European Union Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 (EU Strategy) was a model of best practice.

7.50 The FDA advised that the EU Strategy is comprised of the following five priorities aimed at addressing trafficking in humans:

- identifying, protecting and assisting victims of trafficking;
- stepping up the prevention of trafficking of human beings;
- increasing the prosecution of traffickers;
- enhancing coordination and cooperation among key actors and policy coherence; and
- increasing knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.⁴²

Ratification of UN and ILO conventions

7.51 In the report on her mission to Australia in November 2011, Ms Joy Ngozi Ezeilo OON, the UN Special Rapporteur on Trafficking, recommended that Australia:

*Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.*⁴³

7.52 The Scarlet Alliance, the Australian Council of Trade Unions, the JCTP, Australian Catholic Religious Against Trafficking in Humans, also

40 US Department of State, *2012 Trafficking in Persons Report*, p. 197.

41 US Department of State, *2012 Trafficking in Persons Report*, p. 197.

42 Falun Dafa Association of NSW, *Submission 23*, p. 9.

43 United Nations, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, 18 May 2012, p. 22.

supported the ratification of the *UN Convention on the Protection of the Rights of all Migrant Workers and Their Families*.⁴⁴

7.53 Dr Gallagher, however, thought that the *UN Convention on the Protection of the Rights of all Migrant Workers and Their Families* was problematic and understood why Australia had been reluctant to ratify it.⁴⁵

7.54 At a public hearing, the Department of Foreign Affairs and Trade advised that the Government was not considering ratifying the *UN Convention on the Protection of the Rights of all Migrant Workers and Their Families*, stating:

The objective of that international convention is to protect the human rights of migrant workers, and I think the Australian government believes we have in place the domestic legal framework and have other international commitments that give us confidence that we do provide the standard of human rights for migrant workers. The concern about this particular convention is that we believe it is incompatible with some domestic migration policies that have been policies of successive governments. In particular, Australia becoming a party to the convention would require Australia to treat migrant workers and their family members more favourably than other migrants in visa application processes. So the government is not considering ratifying that particular convention.⁴⁶

7.55 The Special Rapporteur also recommended that Australia consider ratifying the International Labour Organization Convention No. 189 (2011) concerning Decent Work for Domestic Workers.⁴⁷

7.56 The JCTP and Anti-Slavery Australia (ASA) also supported the Special Rapporteur's recommendation.⁴⁸

7.57 ASA noted that the Convention Concerning Decent Work for Domestic Workers seeks to provide domestic workers specific protection against slavery-like conditions, adding that:

The Convention expressly establishes international obligations in respect of hours of work, remuneration, occupational health and safety, social security, minimum levels of information, child

44 Scarlet Alliance, *Submission 26*, pp. 11-12, Australian Council of Trade Unions, *Submission 28*, p. 11; Josephite Counter-Trafficking Project, *Submission 28*, p. 19; Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 15.

45 Dr Anne Gallagher AO, *Transcript*, 8 May 2013, p. 10.

46 Mr Chittick, Department of Foreign Affairs and Trade, *Transcript*, 9 May 2013, p. 25.

47 United Nations, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, 18 May 2012, p. 22.

48 Josephite Counter-Trafficking Project, *Submission 10*, p. 19; Anti-Slavery Australia, *Submission 34*, p. 54.

labour, live-in working conditions, migrant workers, private employment agencies and dispute resolution.⁴⁹

- 7.58 Dr Gallagher also believed that it was important for Australia to ratify the Convention Concerning Decent Work for Domestic Workers, stating:

I definitely think that if the provisions of that convention are covered by Australian law it should be easy for us to ratify it. I think that ratification of international instruments provided they are in Australia's general interests and conform with our laws and traditions is a very important thing for us to do as part of our international status.⁵⁰

- 7.59 Department of Education, Employment and Workplace Relations put forward the view that many of the requirements of the convention are already given effect in Australian law, adding:

The Convention is not part of the current list of ILO Conventions currently under active consideration by the Government. Therefore no immediate action is envisaged at this stage in relation to the Convention or the Recommendation.⁵¹

Internet Watch Foundation

- 7.60 At a public hearing, the Uniting Church in Australia, Synods of Victoria and Tasmania, suggested that the United Kingdom's Internet Watch Foundation could be a useful mechanism to minimise the amount of child abuse material online.

- 7.61 The Uniting Church in Australia stated:

...the Internet Watch Foundation and Cybertip out of Canada – basically argue that there has been no expansion in the number of commercial child sexual abuse providers, so that suggests the profitability in this activity is not great. Also, the subscription costs for these sites have gone up, which also suggests they are feeling a cost pinch. Previously you could subscribe to one of these sites for about \$30 a month. The latest figures suggest you cannot get anything less than \$100, and some sites now charge up to \$1,200 a month to access commercial child sexual abuse material.⁵²

49 Anti-Slavery Australia, *Submission 34*, p. 54.

50 Dr Anne Gallagher AO, *Transcript*, 8 May 2013, p. 10.

51 Department of Education, Employment and Workplace Relations, *Submission Report on ILO Instruments*, 18 November 2012, p. 2.

52 Dr Zirnsak, Uniting Church in Australia, Synods of Victoria and Tasmania, *Transcript*, 9 May 2013, p. 20.

7.62 The joint submission from the Uniting Church in Australia (Synods of Victoria, Tasmania and South Australia), the Salvation Army Justice and Peace Office, the Catholic Archdiocese of Sydney, Stop the Traffik Australia and the Catholic Archdiocese of Melbourne noted some results from the Internet Watch Foundation, stating:

A combination of the above measures globally has already been yielding detectable results in removing commercial child sexual abuse material. According to the UK Internet Watch Foundation, the average length of time child sexual abuse images are hosted has been reduced from years to just days as a result of the above measures. The webpage blocking list maintained by the Internet Watch Foundation now typically contains 600 URLs at any one time, down from 1,200 in 2008. Further, in 2006 the common subscription price to commercial child sexual abuse sites was \$30 a month. Today, due to the combination of efforts to shut down and disrupt these criminal enterprises, it is not unusual to find sites that cost up to \$1,200 per month and it is rare to find sites charging less than \$100 per month.⁵³

7.63 These groups also provided details about the scale of the problem in Australia, stating:

As of October 2011 five Australian ISPs are already working with the Australian Federal Police [AFP] to block ready access to a limited list maintained by INTERPOL of child sexual abuse sites. Telstra is one of those ISPs. Between 1 July 2011 and 15 October 2011 Telstra blocked 84,000 attempts by Australians to access the child sexual abuse domains on the list.⁵⁴

7.64 The Uniting Church in Australia recommended that the AFP and the Australian Communications and Media Authority issue internet service providers with the UK Internet Watch Foundation list of URLs containing child sexual abuse material.⁵⁵

53 Uniting Church in Australia (Synods of Victoria, Tasmania and South Australia), the Salvation Army Justice and Peace Office, the Catholic Archdiocese of Sydney, Stop the Traffik Australia and the Catholic Archdiocese of Melbourne, *Submission 25*, p. 4.

54 Uniting Church in Australia (Synods of Victoria, Tasmania and South Australia), the Salvation Army Justice and Peace Office, the Catholic Archdiocese of Sydney, Stop the Traffik Australia and the Catholic Archdiocese of Melbourne, *Submission 25*, p. 4.

55 Dr Zirnsak, Uniting Church in Australia, Synods of Victoria and Tasmania, *Transcript*, 9 May 2013, p. 21.

Committee comment

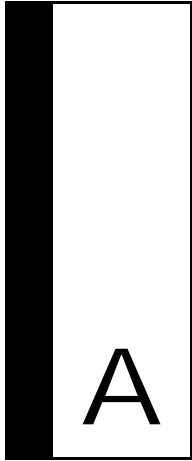
- 7.65 The Committee acknowledges that many countries have taken steps to prevent, detect, investigate and prosecute slavery and trafficking in persons as well as providing differing levels of victim support and rehabilitation.
- 7.66 The Committee sees a need for enhancing mechanisms that address all forms of slavery, slavery-like conditions and people trafficking.
- 7.67 However, as noted in Chapter six, it is important for Australia to establish a mechanism that is suitable for the Australia context.
- 7.68 The Committee is of the view that a thorough examination of these options should be undertaken before any mechanisms can be developed or agreed upon.
- 7.69 The Committee believes that it is important to continually monitor and evaluate the steps other countries are taking to combat slavery and people trafficking. The Committee requests that the Australian Government continue to evaluate the effectiveness of various countries human rights mechanisms established to combat slavery and people trafficking.
- 7.70 It is also important for the Australian Government to take appropriate action to make it as difficult as possible to access child abuse material online.
- 7.71 The Committee commends the work being undertaken by the AFP to block child sexual abuse sites in Australia.
- 7.72 The Committee believes that there is value in working collaboratively with other States and jurisdictions to block sites that host child abuse material.
- 7.73 The Committee therefore recommends that the dynamic list of individual web pages with child sexual abuse content (the URL list) maintained by the UK's Internet Watch Foundation (IWF) be utilised to block access to these sites in Australia.

Recommendation 8

The Committee recommends that the Australian Government utilise the UK Internet Watch Foundation's URL list to block access to child abuse sites in Australia.

Hon Joel Fitzgibbon MP
Chair
Joint Standing Committee on Foreign
Affairs, Defence and Trade

June 2013



Appendix A – List of Submissions

1. Inner South Community Health Services
2. Family Voice Australia
3. Confidential
4. University of Queensland
5. Collective Shout
6. Australian Crime Commission
7. Slavery Links Australia Inc.
8. Attorney-General's Department
9. Kittu Randhawa
10. Josephite Counter-Trafficking Project
11. Catholic Justice and Peace Commission of Brisbane
12. Mrs Marion Smith AM
13. Hagar Australia
14. Federation of Ethnic Communities' Councils of Australia
15. National Tertiary Education Union
16. Brianna Lee
17. Shakti Migrant and Women's Support Group
18. Australian Institute of Criminology
19. Coalition Against Trafficking in Women Australia
20. Walk Free
21. Australian Catholic Religious Against Trafficking in Humans
22. Plan International Australia
23. Falun Dafa Association of NSW
24. Avyi Patitsa

25. Synod of Victoria and Tasmania, Uniting Church in Australia;
Synod of South Australia, Uniting Church in Australia;
Salvation Army; Justice and Peace Office, Catholic Archdiocese of Sydney;
STOP THE TRAFFIK Australia; and
Office for Justice and Peace, Catholic Archdiocese of Melbourne
26. Scarlet Alliance
27. World Vision
28. Australian Council of Trade Unions
29. Law Council of Australia
30. Stop the Traffik; Oaktree Foundation; and Uniting Church Synod of
Victoria and Tasmania
31. Australian Human Rights Commission
32. Andrea Tokaji, Christian Faith and Freedom
33. Karen Bos, Christian Faith and Freedom
34. Anti-Slavery Australia
35. Slavery Links Australia
36. Civil Liberties Australia
37. Salvation Army
38. Project Respect
39. Dr Anne T Gallagher AO
40. Department of Foreign Affairs and Trade
41. Confidential
42. Australian Christian Lobby
43. Victorian Department of Justice and Victoria Police
44. Australian Lawyers for Human Rights
45. Commonwealth Director of Public Prosecutions
46. Andrea Tokaji, Christian Faith and Freedom (supplementary submission)
47. Australian Red Cross
48. Attorney-General's Department (supplementary submission)
49. Department of Innovation, Industry, Science, Research and Tertiary
Education
50. Department of Families, Housing, Community Services and Indigenous
Affairs
51. Law Council of Australia (supplementary submission)
52. Australian Institute of Criminology (supplementary submission)

53. Australian Crime Commission (supplementary submission)
54. Commonwealth Director of Public Prosecutions (supplementary submission)
55. Fair Work Ombudsman
56. Department of Immigration and Citizenship
57. World Vision (supplementary submission)
58. No Slavery Australia
59. Hagar Australia (supplementary submission)
60. Submission withdrawn
61. Australian Human Rights Commission (supplementary submission)
62. Department of Families, Housing, Community Services and Indigenous Affairs (supplementary submission)
63. National Children's and Youth Law Centre
64. Falun Dafa Association of NSW (supplementary submission)
65. AusAID
66. Confidential
67. Attorney-General's Department (supplementary submission)
68. National Tertiary Education Union
69. Australian Federal Police
70. No Slavery Australia (supplementary submission)
71. Scarlet Alliance
72. Hagar Australia (supplementary submission)
73. Plan International Australia (supplementary submission)
74. Department of Immigration and Citizenship (supplementary submission)
75. Australian Federal Police (supplementary submission)
76. Attorney-General's Department (supplementary submission)
77. Anti-Slavery Australia (supplementary submission)
78. Department of Immigration and Citizenship (supplementary submission)
79. Anti-Slavery Australia (supplementary submission)
80. Department of Foreign Affairs and Trade (supplementary submission)
81. Slavery Links Australia (supplementary submission)
82. Victoria Police (supplementary submission)

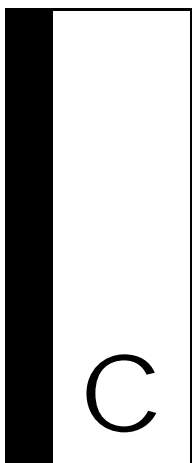


Appendix B – List of Exhibits

1. Endeavour Forum Inc – *Paper presented at the World Congress of Families VI, Madrid, Author – Babette Francis*
2. Ms Lily Munroe – *The Swedish Law That Prohibits the Purchase of Sexual Services. Ministry of Industry, Employment, and Communications, Sweden*
3. Ms Lily Munroe – *On Comprehensive Prostitution Reform: Criminalizing the Trafficker and the Trick, But Not the Victim - Sweden's Sexköpslagen in America. William Mitchell Law Review, Vol. 37, No. 4*
4. Ms Lily Munroe – *Consent, Coercion, and Compassion: Crafting a Commonsense Approach to Commercial Sexual Exploitation of Minors. Yale Law & Policy Review*
5. National Tertiary Education Union – *Letter to the Attorney-General's Department from NTEU*
6. National Tertiary Education Union – *International Students: Your rights at work fact sheet, Fair Work Ombudsman*
7. National Tertiary Education Union – *Post-Study Work Arrangements: Frequently asked questions, Department of Immigration and Citizenship*
8. Uniting Church in Australia, Synod of Victoria and Tasmania – *Unshackling Laws Against Slavery: Legal options for addressing goods produced with trafficked and slave labour*
9. Uniting Church in Australia, Synod of Victoria and Tasmania – *From the Field: Travels of Uzbek Cotton Through the Value Chain, Responsible Sourcing Network*
10. Uniting Church in Australia, Synod of Victoria and Tasmania – *Company Pledge Against Forced Child Labour in Uzbekistan Cotton, Responsible Sourcing Network*
11. Falun Dafa Association of NSW – *Washington Times: China's illegal organ harvesting*

12. Falun Dafa Association of NSW – *Winnipeg Free Press: Tell China to stop slave labour*
13. Australian Institute of Criminology – *Trafficking in persons monitoring report: January 2009-June 2011*
14. Australian Institute of Criminology – *Labour Trafficking*
15. Australian Institute of Criminology – *International Labour Office: Operational indicators of trafficking in human beings*
16. Australian Institute of Criminology – *British Society of Criminology: The application of the framework of situational crime prevention to organized crime*
17. Australian Institute of Criminology – *Trends and Issues in crime and criminal justice. No. 432 November 2011*
18. Australian Institute of Criminology – *UN Global initiative to fight human trafficking: Analysing the business model of trafficking in human beings to better prevent the crime*
19. Australian Institute of Criminology – *Trends and Issues in crime and criminal justice. No. 389 March 2010*
20. Australian Institute of Criminology – *International Organization for Migration: Is trafficking in human beings driven?*
21. Australian Institute of Criminology – *NSW Government: Regulation of brothels in NSW issues paper*
22. Australian Institute of Criminology – *Australian Bureau of Statistics: Sexual assault information development framework*
23. Australian Institute of Criminology – *Labour Trafficking: Case Study One, Case Study Two*
24. Australian Institute of Criminology – *Submission by the Australian Institute of Criminology to the Senate Standing Committee on Legal and Constitutional Affairs*
25. Australian Institute of Criminology – *Trafficking in persons involving marriage and partner migration*
26. Australian Institute of Criminology – *Overview of AIC Trafficking in Persons Research Program 2007-2012*
27. Australian Institute of Criminology – *Trafficking in persons monitoring report: January 2009–June 2011, AIC Report 19*
28. Australian Institute of Criminology – *Labour trafficking, AIC Report 108*
29. Australian Institute of Criminology – *Migration and people trafficking in southeast Asia, No. 401 November 2010*
30. Australian Institute of Criminology – *The trafficking of children in the Asia-Pacific, No. 415 April 2011*

31. Australian Institute of Criminology – *Vulnerabilities to trafficking in persons in the Pacific Islands*, No. 428 November 2011
32. Australian Institute of Criminology – *Australia’s Pacific Seasonal Worker Pilot Scheme: Managing vulnerabilities to exploitation*, No. 432 November 2011
33. Australian Institute of Criminology – *Organised crime and trafficking in persons*, No. 436 March 2012
34. Australian Institute of Criminology – *People trafficking in Australia*, No. 441 June 2012
35. Inner South Community Health Service – *Migrant and Multicultural Sex Worker Report 2012*
36. Hagar Australia – *Man, 93, flees child sex charges*
37. Slavery Links Australia – *Google search results for “modern day slavery”*
38. Slavery Links Australia – *Summary of applications made by Slavery Links Australia*
39. Slavery Links Australia – *Doing Justice for Young People*
40. Slavery Links Australia – *Encounters with Modern Day Slavery*
41. Uniting Church Synod of Victoria, Tasmania and South Australia – *Company Pledge Against Forced Child Labour in Uzbek Cotton*



Appendix C – Witnesses who appeared at public hearings

Canberra, Tuesday, 9 October 2012

Attorney-General's Department

Mr Iain Anderson, First Assistant Secretary, Criminal Justice Division

Ms Rebekah Kilpatrick, Director, People Trafficking Section, Criminal Justice Division

Ms Danica Yanchenko, Senior Legal Officer, People Trafficking Section, Criminal Justice Division

Canberra, Tuesday, 20 November 2012

Australian Christian Lobby

Mr Lyle Gavin Shelton, Chief of Staff

Mr Daniel James Simon, Research Officer

Australian Crime Commission

Ms Karen Harfield, Executive Director

Christian Faith and Freedom Inc.

Mrs Karen Bos, Board Vice President

Ms Andrea Tokaji, Board Member

Department of Industry, Innovation, Science, Research and Tertiary Education

Ms Susan Elizabeth Bennett, General Manager, Mobility, South and South East Asia Branch, International Education and Science Division

Ms Jessie Borthwick, Head of Division, Tertiary Quality and Student Support Division

Mr Robert Griew, Associate Secretary

Fair Work Ombudsman

Mr Bill Loizides, Group Manager, Policy, Education and Partnership Group

Ms Sheridan White, Director, Government and Parliamentary Policy

Law Council of Australia

Ms Rosemary Budavari, Co-Director, Criminal Law and Human Rights

Ms Fiona McLeod, Director

World Vision Australia

Ms Melissa Stewart, Senior Advisor, Trafficking in Persons

Canberra, Wednesday, 21 November 2012

Australian Institute of Criminology

Ms Laura Beacroft, Research Manager, Trafficking in Persons Research Program

Dr Lisa Rosevear, Research Officer

Commonwealth Director of Public Prosecutions

Ms Jaala Corinne Hinchcliffe, Senior Assistant Director, Legal, Policy and Law Reform Branch

Ms Penelope Joanne (Penny) McKay, Acting Senior Assistant Director, People Smuggling and People Trafficking Prosecutions

Department of Families, Housing, Community Services and Indigenous Affairs

Ms Cate McKenzie, Group Manager, Women, Children and Mental Health

Ms Fiona Smart, Branch Manager, Safety Taskforce

Department of Immigration and Citizenship

Mr Dermot Casey PSM, Assistant Secretary, Character and Case Management

Mrs Helen Wright, Acting Assistant Director, Character and Case Management

Canberra, Tuesday, 12 March 2013

Walk Free

Ms Fiona David, Executive Director Global Research

Mr Nick Grono, Chief Executive Officer

Canberra, Tuesday, 19 March 2013

Australian Federal Police

Superintendent Jennifer Cullen, National Coordinator, Human Trafficking Team

Federal Agent Karen Drake, Acting National Coordinator, Crime Operations

Commander Jennifer Hurst, Manager, Crime Operations

Mrs Elsa Sengstock, Coordinator, Legislation Program

Sydney, Monday 21 April 2013

Anti-Slavery Australia

Associate Professor Jennifer Burn

Mrs Joanne Wilton, Researcher

Australian Council of Trade Unions

Mr Tim Chapman, Executive Team Director

Mr David Oliver, Secretary

Ms Amy Schwebel, Research Officer

Falun Dafa Association of New South Wales

Mr John Andrew Deller, Secretary

Ms Caroline Dobson, Research Coordinator

Ms Jennifer Zeng, author, 'Witnessing History': One Woman's Fight for Freedom

Dr Lucy Zhao, President

FamilyVoice Australia

Mrs Roslyn Helen Phillips, Research officer

Josephite Counter-Trafficking Project

Sister Margaret Ng, Coordinator

Sister Noelene Simmons, Volunteer

Sydney, Tuesday, 23 April 2013

AusAID

Ms Julia Niblett, Assistant Director General, Asia Strategies and Partnerships, East Asia Division

Ms Susan Wilson, Director, East Asia Regional

No Slavery Australia

Mr Kurt James Gruber, Chief Executive Officer

Salvos Legal

Mr Luke Patrick Geary, Managing Partner

Scarlet Alliance, Australian Sex Workers Association

Ms Janelle Fawkes, Chief Executive Officer

Ms Jules Kim, Migration Project Manager

Ms Zahra Stardust, Policy Officer

The Salvation Army

Ms Jennifer Stanger, Supervisor, Safe House for Trafficked Persons

Melbourne, Wednesday, 8 May 2013

Australian Catholic Religious Against Trafficking in Humans

Ms Christine Carolan, National Projects Coordinator

Coalition Against Trafficking in Women Australia

Dr Meagan Tyler, Executive Committee Member

Dr Anne Therese Gallagher, AO**Inner South Community Health Service**

Ms Sue White, General Manager

National Tertiary Education Union

Mr Jen Tsen Kwok, Policy and Research Officer

Ms Terri MacDonald, Policy and Research Officer

Plan International Australia

Mrs Amalia Fawcett, Senior Child Rights Specialist

Project Respect

Ms Kelly Hinton, Executive Director

Victoria Police

Detective Superintendent Rod Jouning, Sexual and Family Violence Crime Command

Senior Sergeant Marilyn Ross, Sex Industry Coordination Unit

Mrs Claire Waterman, Senior Project Coordinator, Sexual and Family Violence Crime Command

Melbourne, Thursday, 9 May 2013**Department of Foreign Affairs and Trade**

Mr Craig Chittick, Ambassador for People Smuggling Issues

Fair Work Building and Construction

Mr Murray Gregor, Executive Director, Field Operations Eastern

Hagar Australia

Ms Tessa Horsely, Business Support Officer

Mrs Kate Kennedy, Chief Executive Officer

Shakti Migrant and Refugee Women's Support Group, Melbourne

Ms Hiba Casablanca, Youth Advocate

Ms Emma Chow, Volunteer, Student Placement

Ms Samira Hassan

Ms Siga Hassan

Mrs Namrata Mundkur, Volunteer, Centre Coordinator

Slavery Links Australia

Mr Robert Charles Evans, Chairman

Mr Roscoe Howell, Board Member

Synod of Victoria and Tasmania, Uniting Church in Australia

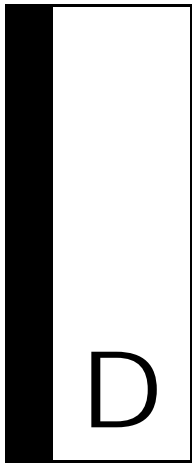
Dr Mark Andrew Zirnsak, Director, Justice and International Mission Unit

Canberra, Tuesday, 14 May 2013

Attorney-General's Department

Mr Iain Anderson, First Assistant Secretary, Criminal Justice Division

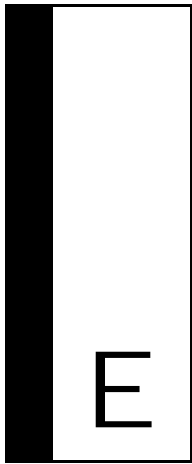
Ms Rebekah Kilpatrick, Director, People Trafficking Section, Criminal Justice Division



Appendix D – Total number and type of offences charged where an offence under Division 270 or Division 271 of the Criminal Code was the primary offence

**Total number and type of offences charged where an offence under Division 270 or Division 271 of the *Criminal Code* was the primary offence
(by region)**

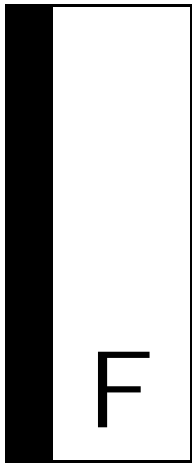
| Offence | NSW | Vic | Qld | ACT | Total |
|--|------------|------------|------------|------------|--------------|
| s135.1 Criminal Code: Influencing a Commonwealth public official | 1 | | | | 1 |
| s270.3 Criminal Code: Slavery | 7 | 11 | 2 | 2 | 22 |
| s270.6 Criminal Code: Sexual servitude | 20 | 1 | 2 | | 23 |
| s270.7 Criminal Code: Deceptive recruiting | 5 | | | | 5 |
| s271.2 Criminal Code: People trafficking | 10 | | 1 | | 11 |
| s271.4 Criminal Code: Trafficking in children | | | 2 | 1 | 3 |
| s271.8 Criminal Code: Debt bondage | 4 | | | | 4 |
| s400.3 Criminal Code: Dealing in proceeds of crime (>\$1m) | 2 | | | | 2 |
| s400.4 Criminal Code: Dealing in proceeds of crime (>\$100K) | 3 | | | | 3 |
| s400.6 Criminal Code: Dealing in proceeds of crime (\$10K) | | 1 | 1 | | 2 |
| | | | | | |
| s234 Migration Act: false documents relating to non-citizens | 1 | 1 | 1 | | 3 |
| s240 Migration Act: Arrange marriage to obtain permanent residence | 1 | | | | 1 |
| s243 Migration Act: Application for permanent residence | 1 | | | | 1 |
| s245AB Migration Act: Allowing an unlawful non-citizen to work | | | | 1 | 1 |
| s245AC Migration Act: Allowing a non-citizen to work in breach of visa conditions | 4 | | | 1 | 5 |
| | | | | | |
| s31 Financial Transactions Reports Act: conduct transactions so as to avoid reporting requirements | | 2 | | | 2 |
| | | | | | |
| s80D Crimes Act (NSW): causing sexual servitude | 3 | | | | 3 |
| s80E Crimes Act (NSW): conduct of business involving sexual servitude | 3 | | | | 3 |
| S86 Crimes Act (NSW): kidnapping | 6 | | | | 6 |
| | | | | | |
| s10 Prostitution Control Act (Vic): living on earnings of prostitute | | 1 | | | 1 |
| | | | | | |
| s18 Prostitution Act (ACT): operating a brothel in other than a prescribed location | | | | 1 | 1 |



Appendix E – Summary by region of offences under Divisions 270 and 271 of the Criminal Code and related offences referred by AFP to CDPP

Summary by region of offences under Divisions 270 and 271 of the *Criminal Code* and related offences referred by AFP to CDPP

| Region | Matters referred | Defendants charged | No charge (insufficient evidence) | Conviction | Acquittal | Charges withdrawn before trial | No re-trial after jury discharged | No re-trial after jury hung | Awaiting trial | Referred by CDPP to State DPP (post charge) |
|---------------|------------------|--------------------|-----------------------------------|------------|-----------|--------------------------------|-----------------------------------|-----------------------------|----------------|---|
| NSW | 27 | 24 | 3 | 6 | 2 | 8 | 4 | 2 | 2 | - |
| Victoria | 12 | 12 | - | 5 | 3 | 3 | - | - | 1 | - |
| Qld | 5 | 5 | - | 3 | - | - | - | - | - | 2 |
| WA | - | - | - | - | - | - | - | - | - | - |
| ACT | 2 | 1 | 1 | 1 | - | - | - | - | - | - |
| Total: | 46 | 42 | 4 | 15 | 5 | 11 | 4 | 2 | 3 | 2 |

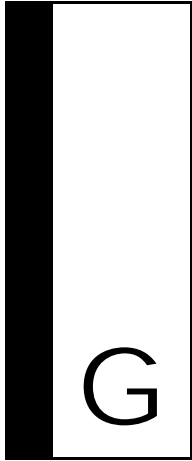


Appendix F – A list of relevant AusAID NGO
Cooperation Program activities for 2012-13

List of relevant AusAID NGO Cooperation Program Activities for 2012-13

This information has been provided by ANCP NGOs as part of their 2012-13 Annual Development Plans, which detail the projects they intend to implement. Due to the unpredictable nature (e.g. natural disasters, internal conflict etc) of the areas NGOs work in projects are subject to change. 2012-13 Final Performance Reports, including financial acquittals will be submitted by 30 September 2013.

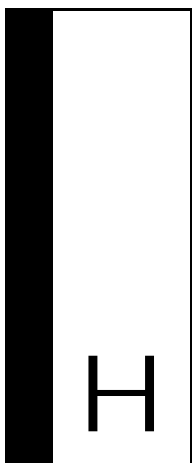
| Country | Organisation | Project Title | Project Description | Estimated ANCP Funding 2012-13 FY |
|----------------------|---|--|--|-----------------------------------|
| Vietnam | World Vision | End Trafficking in Persons (ETIP) - Victim Protection Pillar - Vietnam | The End Trafficking in Persons (ETIP) - Victim Protection Project in Vietnam is part of the regional project covering Cambodia, China, Laos, Myanmar, Thailand and Vietnam. The regional project aims to strengthen the protection services to vulnerable persons and victims of trafficking in Vietnam. | \$64,000.00 |
| Laos | Save the Children Australia | Strengthening Child Protection Systems to Keep Children Safe | This is the second year of a five year program supporting the Lao Government to develop effective and functioning child protection systems at provincial, district and community levels, which at present do not exist under any formal social services mechanism. | \$252,000.00 |
| Ghana | International Needs Australia (INA) | Preventing the Commercial Sexual Exploitation of Children in Accra | International Needs Australia (INA) will work towards preventing the commercial sexual exploitation of children in Accra. | \$115,500.00 |
| Vietnam | ChildFund | Strengthening Child Rights Promotion and Child Protection in Tra Linh District, Cao Bang Province, Vietnam | The aim of this project is to enhance the protection of children in 4 communes in Tra Linh District, Cao Bang province, bordering China. | \$61,000.00 |
| Myanmar/China Border | International Women's Development Agency (IWDA) | Women's Crisis and Resource Centre (WCRC) | This project will support the Palaung Women's Organisation (PWO) in managing a Women's Crisis and Resource Centre, and conducting youth and women's exchanges in the Palaung community. | \$29,930.00 |
| Thai/Myanmar Border | International Women's Development Agency (IWDA) | Women's Advanced Empowerment Training | This project supports the Palaung Women's Organisation (PWO) and their partners, in developing and implementing an intensive train the trainer course and peer education discussion workshop series on women's rights, child rights, gender-based violence (GBV) and community organising/mobilisation. | \$26,000.00 |
| Ethiopia | Save the Children Australia | Combating Child Marriage in North Gondar Zone of Amhara Region | This project aims to prevent child marriage and contribute to the attainment of children's rights to education and protection in the North Gondar Zone of the Amhara Region. | \$97,000.00 |



Appendix G – A list of relevant AusAID
Human Rights Grants Scheme projects for
2012-13

List of relevant Human Rights Grants Schemes for 2012-13

| Country | Organisation | Project title | Project description | Funding amount |
|-----------------|--|--|---|----------------|
| Burkina Faso | Voluntary Service Overseas | Sustainable protection of marginalised youth and children against trafficking and the worst forms of labour | This project will seek to address the commercial and sexual exploitation of children in Burkina Faso. | \$99,837.00 |
| Burkina Faso | BEOG NEERE (A Better Tomorrow) | Children's rights protection in the context of natural resource exploitation in Burkina Faso | The project aims to better integrate child rights into the design and implementation of mining policies. | \$50,000.00 |
| Cambodia | Cambodian Human Rights and Development Organisation | Preventing and combating human trafficking and abuses of migrant workers' rights through community-based initiatives | The project aims to assist victims in their quest for justice; empowering citizens, grassroots communities and local authorities; and monitor the general situation of Cambodian migrant workers' rights. | \$95,447.62 |
| Iraq | Development Iraq | Rule of law in child labour issues in Iraq | This project seeks to collect data and research child labour issues across six governorates in Iraq. | \$73,848.00 |
| Nepal | Pravasi Nepal | Promoting and protecting the human rights of migrant workers from Nepal and South Asia | This project aims to assist organisations in Nepal and South Asia to more effectively promote the application of international human rights standards and good practice in international labour migration. | \$54,000.00 |
| Solomon Islands | Save the Children Australia | Taking action against child trafficking and commercial and sexual exploitation of children in the Solomon Islands | The project will collect and analyse data to develop national action plans, legislation and policy which will target trafficking and commercial and sexual exploitation of children. | \$100,000.00 |
| Vietnam | The Asia Foundation (TAF) | Protecting migrant workers' rights in Vietnam | This project will work to improve the provision of legal rights information and legal counselling services to migrant workers in Ho Chi Minh City; increase civil society advocacy capacity on behalf of migrant workers; and, co-ordinate and advocate for positive policy change. | \$100,000.00 |
| Malawi | Centre for Human Rights Education Advice and Assistance (CHREAA) | Protecting sex workers in Blantyre (Malawi) from police abuse | This project intends to empower sex workers to report any police abuse that they experience to CHREAA through its helpline. | \$71,700.00 |

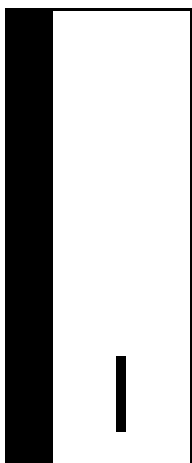


Appendix H – Summary of convictions for Divisions 270 and 271 of the Criminal Code and related offences prosecuted by the Commonwealth Department of Public Prosecutions

**Summary of convictions for
Division 270 (slavery, sexual servitude and deceptive recruiting) and Division 271 (people trafficking and debt bondage) *Criminal Code* and related offences
prosecuted by CDP**

| No. | Defendant's Name | Region | Charges | Matter Type | Co-accused | Outcome | Penalty |
|-----|--|--------|--|--------------------|---------------------------|---|--|
| 1 | SIEDERS, Johan | NSW | 1 x s270.3(1) Criminal Code (possessing a slave); 1 x s270.6(2) Criminal Code (conducting a business that involves sexual servitude); 1 x s86(2)(a) Crimes Act (NSW) (aggravated offence of kidnapping) | Sexual servitude | YOTCHOMCHIN, Somsri | Trial on s270.3(1) charge only (remaining charges not proceeded with) jury discharged, retrial, jury discharged, re-trial, guilty, sentenced, appeal against conviction and sentence (dismissed). | 4 years' imprisonment with 2 years non-parole |
| 2 | YOTCHOMCHIN, Somsri (AKA KENT, Somsri) | NSW | 1 x s270.6(1) Criminal Code (causing a person to enter or remain in sexual servitude); 1 x s270.3(1) Criminal Code (possessing a slave); 1 x s270.6(2) Criminal Code (conducting a business that involves sexual servitude); 1 x s86(2)(a) Crimes Act NSW (aggravated offence of kidnapping) | Sexual servitude | SIEDERS, Johan | Trial on s270.3(1) charge only (remaining charges not proceeded with), jury discharged, retrial, jury discharged, re-trial, guilty, sentenced, appeal against conviction and sentence (dismissed). | 5 years' imprisonment with 2 years 6 months non-parole |
| 3 | McIVOR, Trevor Frank | NSW | 12 x s270.3(1) Criminal Code – counts (possessing a slave); 3 x s270.6(1) Criminal Code (causing a person to enter or remain in sexual servitude); 3 x s271.8(1) Criminal Code (debt bondage); 3 x s86(1)(b) Crimes Act NSW (kidnapping) | Slavery | TANUCHIT, Kanokporn | Committed on s270.3(1) charges only (other charges withdrawn), trial, convicted on 10 charges, acquitted on 2 charges, sentenced, appeal against conviction (upheld), re-trial ordered, re-trial, convicted, sentenced, appeal against sentence (dismissed). | 12 years' imprisonment with 7 years 6 months non-parole |
| 4 | TANUCHIT, Kanokporn | NSW | 12 x s270.3(1) Criminal Code – counts (possessing a slave); 3 x s270.6(1) Criminal Code (causing a person to enter or remain in sexual servitude); 3 x s271.8(1) Criminal Code (debt bondage); 3 x s86(1)(b) Crimes Act NSW (kidnapping) | Slavery | McIVOR, Trevor Frank | Committed on s270.3(1) charges only (other charges withdrawn), trial, convicted on 10 charges, acquitted on 2 charges, sentenced, appeal against conviction (upheld), re-trial ordered, re-trial, convicted, sentenced, appeal against sentence (dismissed). | 12 years' imprisonment with 7 years non-parole |
| 5 | NETTHIP, Namthip | NSW | 1 x 270.6(2) Criminal Code (conducting a business involving sexual servitude); 1 x s234 Migration Act 1958 (false documents relating to non-citizens); 9 x 271.2(1B) Criminal Code (people trafficking - entry or receipt with recklessness); 11 x 271.8(1) Criminal Code (debt bondage); 10 x s234(1) Migration Act 1958 (false documents relating to non-citizens) | Sexual servitude | | Guilty plea to sexual servitude and 1 x false documents charges (other false documents charges taken into account (s16BA Crimes Act)), remaining charges withdrawn, convicted and sentenced. | 2 years' 3 months imprisonment with 13 months non-parole |
| 6 | TRIVEDI, Diveye | NSW | 1 x 271.2(1B) Criminal Code (people trafficking - entry or receipt of persons into Australia with recklessness about exploitation) | People trafficking | | Guilty plea, convicted and sentenced. | 250 hours community service and \$1,000 fine. |
| 7 | "DS" (supressed) | Vic | 3 x s270.3(1)(a) Criminal Code (possess a slave); 2 x s270.3(1)(b) Criminal Code (slave trading) | Slavery | PICK, Paul; TANG, Wei; | Guilty plea, convicted, appeal against sentence (upheld), sentence reduced. | 6 years' imprisonment with 2 years and 6 months non-parole |
| 8 | TANG, Wei | Vic | 10 x s270.3(1)(a) Criminal Code (possessing and using a slave) | Slavery | PICK, Paul; DS; | Trial, hung jury, re-trial, convicted and sentenced, appeal against conviction (upheld) and sentence (not necessary to consider), CDP appeal to High Court (upheld), defendant's appeal against sentence remitted to Court of Criminal Appeal (upheld), sentence reduced. | 9 years' imprisonment with 5 years non-parole |

| No. | Defendant's Name | Region | Charges | Matter Type | Co-accused | Outcome | Penalty |
|-----|--------------------------|--------|--|--------------------|---|---|--|
| 9 | HO, Kam Tin | Vic | 5 x s270.3(1)(a) Criminal Code (possessing a slave); 1 x s270.3(1)(a) Criminal Code (exercising power of ownership over a slave) 4 x 31(1) Financial Transaction Reports Act (conduct transactions so as to avoid reporting requirements) | Slavery | HOO, Chee Fui, HO, Kam Ho, LEECH, Sarisa, RAHARDJO, Slamet Edy | Trial, convicted, sentenced, appeal against conviction (dismissed) and appeal against sentence (upheld), sentence reduced. | 8 years and 3 months' imprisonment with 5 years non-parole |
| 10 | HO, Ho Kam | Vic | 10 x s270.3(1) Criminal Code (possessing and using a slave); 1 x s400.6(1) Criminal Code (dealing in proceeds of crime); 1 x s31(2) Financial Transactions Act (conduct transactions so as to avoid reporting requirements) 1 x s10 Prostitution Control Act (Vic) | Slavery | HOO, Chee Fui, HO, Kam Tin, LEECH, Sarisa, RAHARDJO, Slamet Edy | Trial, convicted, sentenced, appeal against conviction (dismissed) and appeal against sentence (upheld), sentence reduced, leave sought to appeal to High Court (refused). | 5 years 9 months' imprisonment with 3 years non-parole |
| 11 | LEECH, Sarisa | Vic | 2 x s270.3(1) Criminal Code (possessing a slave); 1 x s234(1) Migration Act 1958 (aiding and abetting making a false statement to an officer) | Slavery | HOO, Chee Fui, HO, Kam Ho HO, Kam Tin, RAHARDJO, Slamet Edy | Migration Act charge withdrawn, trial on people trafficking charges, convicted, sentenced, appeal against conviction (dismissed), appeal against sentence (upheld), sentence reduced. | 5 years and 6 months' imprisonment with 3 years non-parole |
| 12 | KOVACS, Zoltan "John" | Qld | 2 x s270.3(1) Criminal Code (possessing a slave); 1 x s240(1) Migration Act 1958 | Slavery | KOVACS, Melita | Trial, convicted, sentenced, appeal against conviction (upheld), re-trial, guilty plea, convicted, sentenced. | 8 years' imprisonment with 15 months non-parole |
| 13 | KOVACS, Melita | Qld | 2 x s270.3(1) Criminal Code (possessing a slave); 1 x s240(1) Migration Act 1958 | Slavery | KOVACS, Zoltan "John" | Trial, convicted, sentenced, appeal against conviction (upheld), re-trial, convicted, sentenced, appeal against conviction and sentence (abandoned) | 4 years' imprisonment with 291 days non-parole |
| 14 | DOBIE, Keith William | Qld | 1 x s271.2(2B) Criminal Code (people trafficking); 2 x s271.2(2B) Criminal Code (people trafficking); 1 x s400.6(1) Criminal Code (dealing in proceeds of crime); 4 x s234(1)(a) Migration Act 1958 (false documents relating to non-citizens) | People trafficking | | 1 x s271.2(2B) charge withdrawn, committed on remaining charges, guilty plea on non-trafficking charges prior to trial and guilty plea on trafficking charge at trial, sentenced, appeal against conviction and sentence (dismissed), further appeal (dismissed). | 5 years' imprisonment with 22 months non-parole |
| 15 | NANTAHKHUM, Watcharaporn | ACT | 1 x s270.3(1) Criminal Code (possessing a slave); 1 x s271.8(1) Criminal Code (debt bondage); 1 x s18(1) Prostitution Act (ACT) (operating a brothel other than in a prescribed location); 1 x s43(1) Crimes Act 1914 (attempting to pervert justice); 1 x s245AC(2) Migration Act 1958 (allowing non-citizen to work in breach of visa condition - aggravated); 1 x s245AC(1) Migration Act 1958 (allowing a non-citizen to work in breach of a visa-condition); 1 x s245AB(2) Migration Act 1958 (allowing an unlawful non-citizen to work - aggravated); 2 x s245AB(1) Migration Act 1958 (allowing an unlawful non-citizen to work) | Slavery | | 1 x s245AB(1) Migration Act charge withdrawn, trial on remainder of charges, convicted, sentenced, appeal against conviction (abandoned) and appeal against sentence (ongoing). | 8 years' imprisonment with 4 years and 9 months non-parole |



Appendix I – Summary of assistance under the Support for Trafficked People Program

Summary of assistance under the Support for Trafficked People Program

The Support for Trafficked People Program (Support Program) provides individualised case management, with support tailored to the particular needs of each client. Clients have access to a range of support and assistance as required.

The types of assistance available, depending on need and circumstances, can include:

| |
|---|
| All Streams |
| <u>Medicare and Pharmaceutical Benefits Scheme</u> |
| <u>Emergency items</u> such as clothing and personal items on entry to the Support Program and at other times such as during a safety-related change of accommodation |
| <u>Counselling</u> – clients may require assistance with specialised counselling because of their trafficking experiences |
| <u>Additional medical fees</u> for services related to the Support Program and/or criminal justice process and/or a Witness Protection (Trafficking) visa processes |
| <u>Training/education</u> – clients are encouraged to undertake vocational training to improve their options and opportunities including English language training, as well as courses that assist in the socialisation of clients |
| <u>Access to interpreter and translation services</u> |
| <u>Legal/migration advice</u> – clients may be assisted with the cost of legal/migration advice that involves Support Program matters and/or the criminal justice process |
| Assessment Stream, Extended Intensive Support, Temporary Trial Support |
| <u>Living allowance</u> – based on financial need and not to exceed 89 per cent of the applicable rate of Special Benefit (extra for dependent children living with the client) |
| <u>Financial assistance with short term, furnished accommodation</u> |
| Justice Support Stream |
| <u>Financial assistance to enter long term accommodation – may include help with bond and initial rent</u> |
| <u>Household set up costs</u> – help with basic home set up which may include essential furniture, utensils, and whitegoods |
| <u>Centrelink benefits</u> – clients covered by a Criminal Justice Stay visa / Witness Protection (Trafficking) visa may be eligible for Centrelink benefits such as Special Benefit, Rent Assistance, Health Care Card, Family Tax Benefit |
| Transition period |
| When exiting the Support Program, clients are provided with assistance during the 20 day transition period in line with their needs and circumstances including the Support Stream they are exiting from. |



Appendix J – List of goods produced with high risk of forced labour or child labour by country

| Country | Goods | Child Labour | Forced Labour | Value of imports to Australia 2009-20103 (\$millions) |
|----------------------|----------------------|--------------|---------------|---|
| Bangladesh | Footwear | X | | 0.12 |
| | Textiles | X | | 17.4 |
| Côte d'Ivoire | Cocoa | X | X | |
| Ghana | Cocoa | X | | 2.9 |
| India | Bricks | X | X | 22 for all construction materials |
| | Carpets | X | X | 40 |
| | Footwear | X | | 25.9 |
| | Garments | X | X | 92 |
| | Gems | X | | 142 gems and pearls |
| | Rice | X | X | 24 |
| | Silk Fabric | X | | 45 in textile yarn and fabrics |
| Malaysia | Garments | | X | 67 |
| | Palm Oil | | X | 66 for all animal and vegetable oils |
| Nepal | Bricks | X | X | |
| | Carpets | X | X | 1.2 |
| | Embroidered Textiles | X | X | 0.13 |
| Pakistan | Bricks | X | X | |
| | Carpets | X | X | 5.4 |
| | Cotton | | X | 9.9 |
| Philippines | Rice | X | | |
| | Rubber | X | | 14.6 in rubber tyres, treads and tubes |
| Thailand | Garments | X | X | 66.8 |

Source Stop the Traffik, Oaktree Foundation, Uniting Church Synod of Victoria and Tasmania, Submission 30, p. 5.