



Submission No 35

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

Organisation: Slavery Links Australia

Adding slavery to Australia's National Human Rights Action Plan

October 2012

**Working Paper
for the Board of Slavery Links Australia Inc
submitted to the Human Rights Sub-Committee of the
Joint Standing Committee on Foreign Affairs Defence and Trade**

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Adding slavery to Australia's National Human Rights Action Plan

Slavery Links Australia Inc is a community association whose work refers to the Supplementary Convention 1956. The Convention is where the United Nations defined slavery and the slave-making systems which persist in our region.

Australia and modern slavery

Australia lives within the Asia Pacific in the 21st Century. An 'international practice' based on the past slave trade across the Atlantic will not work in Australia's region. Australia needs to think through these issues afresh. Why?

- We live in a region where *systems* of slavery persist, systems that trap whole groups or classes of people
- Slavery is about *ownership*. Australia needs to bring anti-slavery work 'up to speed'; to match the investment that has been made over the past decade against trafficking scams.

Slavery Links and the Parliamentary Inquiry

The Joint Standing Committee on Foreign Affairs, Defence and Trade is holding an Inquiry regarding 'best practice' to address forms of slavery, slavery-like conditions and people trafficking. Slavery Links has provided a Submission to the Inquiry in three parts, which refer to 'best practice' policy, the requirements for implementation; and to coordination.

There are two essential points in our Submission.

1. Slavery is not trafficking.
Consulting about *trafficking* will not illumine *slavery*. Trafficking is exploitation, not *ownership*. The issues are different. The solutions are different. The stakeholders are different. Pathways to recovery are different.
2. It is necessary to implement the Supplementary Convention 1956.
Australia acquired an obligation to implement upon signing the Convention. Moreover, the Supplementary Convention identifies *systems* of slavery which persist in the Asia Pacific. This insight about systems offers a real chance to get to the heart of the matter and develop solutions that will likely be effective

We request an opportunity to give oral evidence to the Committee in relation to slavery and the **policy issues** covered in this submission.

The Exposure Draft of the National Action Plan

According to its authors, Australia's National Human Rights Action Plan intends to create an inclusive society where all are valued, and have the opportunity to participate fully, regardless of factors such as age, gender, race, religion or disability. It is of concern that the Exposure Draft of the Action Plan does not cover or include slavery.

In the present Working Paper we have set out to provide a commentary on the Exposure Draft to identify gaps where slavery could and should be covered. To enable comparison with the original, we have retained the table format of the Exposure Draft and the numbering of Action Points. Information added by Slavery Links is in the right hand column. The format and layout of the three columns on the left of the table are as close to the original Exposure Draft as possible.

The impact of gender, caste, race, religion or disability

In Australians and modern slavery we show that – because of their gender, caste, race, religion or disability – whole groups or classes of people are vulnerable to being gathered up or harvested as slaves.

In Australia's region there are slave-making systems which trap people who are on the margins of their society or economy, people who have been excluded from the mainstream because they are women, they are of 'low' caste, they are of a particular religion or tribe or skin colour or because they have a disability.

These systems of slavery were identified in the Supplementary Convention 1956. The Convention refers to slave-making systems of child trading, debt bondage, forced marriage, peonage (serfdom). The Convention invites us to think about how other systems work.

Why the silence on slavery?

The Action Plan drew some of its information from the results of a national consultation and a Baseline Study. It appears that the subject of slavery did not show up in the national consultation; or the Baseline Study. How come?

Slaves are excluded from society, they are the most marginalized *people* in the world. Often the *subject* of slavery is marginalized as well. It appears that the Action Plan has also put slave *people* and the *subject* of slavery at the margins. Slavery is not always obvious. It insinuates and permeates. For many Australians, slavery may be out of sight. Out of mind. Able to be ignored – until the revealed costs of abuse and corruption show that all of us pay.

This is likely why the subject of slavery did not show up in the national consultation; perhaps why slavery did not figure in the Baseline Study. In discussion groups and surveys, people respond in terms of what they know and understand. The changes that emerge from a consultation are likely to be ‘more of the same’ or ‘more and better’. Proposals are not likely to be ‘something different’; and Australia needs to do ‘something different’ if we are to deal with slavery.

Slavery in Australia

The Criminal Code refers to slavery (Section 268 and Section 270). Examples of slavery have been found in Australia. There have been ‘landmark’ cases in higher courts. Note that these cases, such as Wei Tang and Kovacs, were cases of *slavery* rather than trafficking. Slavery Links’ paper to the 2012 Conference of the Australian Institute of Judicial Administration gave enough examples to show that serious study is required to gauge the fuller extent of slavery in Australia. The paper argued that cases with a slavery component have also come before the lower courts. We believe that, on occasion, the slavery component may have been disguised in cases presented as workplace or OH&S matters.

A recipe for success

Australia is part of a global economy and subject to trends and influences from elsewhere. In Australians and modern slavery we show that four ‘engines’ drive these slave-making systems. The ‘engines’ are to be found in the economy (**poverty**), in the social system (**powerlessness**), in the justice system (**crime / corruption**) and in systems for managing disputes (**conflict**). This means that an anti-slavery program must deal with each engine, must address each and all of

- Poverty *and*
- Powerlessness *and*
- crime / corruption *and*
- conflict

In the following pages we take some first steps in showing how Australia’s Human Rights Action Plan could respond to slavery by addressing these root causes. Wider consultation would be required to complete the work and the present Inquiry may provide an appropriate forum for that.

We ask the Human Rights Sub-Committee to consider how Australia’s National Human Rights Action Plan should proceed, to include action regarding slavery in Australia and the region.

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Protection and promotion of human rights in Australia

The exposure draft of the Action Plan indicates that Australia *protects and promotes human rights both domestically and abroad, through the UN human rights system and by promoting the role of national human rights in the Asia Pacific region and internationally*.. Yet slavery, education about slavery and slavery action in the region are not part of Australia’s draft national Plan.

Slavery Links Australia Inc has some experience in human rights education regarding slavery. Over the past five years Slavery Links has engaged with and provided workshops for associations, faith groups, interest groups, service clubs, schools, universities, departments and parliamentarians. The following comments derive from that experience in working with Australian audiences. The comments also derive from evidence and case studies in the book Australians and modern slavery, published by Slavery Links.

We find that many essential anti -slavery actions have been overlooked by the Plan, perhaps by government. Most Slavery Links’ activities have been member-funded. In the following commentary, we point to instances where anti-slavery organizations and associations (such as Slavery Links) would benefit if funds were allocated by government for human rights education and action.

	Priority in the Plan	Actions in the Plan / Alternative Action	Slavery Links Comment
1.	<i>Improving data collection and analysis</i>	The Australian Government will establish an advisory group to provide advice on matters related to the collection and interpretation of data and other information, with the aim of improving measurement of progress on human rights in Australia.	Slavery is not the same as trafficking. Add slavery to the remit of the advisory group
2A INSERT	<i>Australia’s international human rights commitments¹</i>	Australia is obliged to implement the Supplementary Convention, 1956 . This is not currently part of the Action Plan. It needs to be added	Australia is obliged to implement the Supplementary Convention, 1956 Insofar as legislation is concerned, implementing the Convention would require amending Section 270 of the Criminal Code: <ul style="list-style-type: none"> • To encompass items not covered currently <ul style="list-style-type: none"> ○ Child Trading ○ Peonage (serfdom) • To bring Section 270 into line with the Convention <ul style="list-style-type: none"> ○ Forced marriage (three limbs to be defined) ○ Debt bondage (may need to be harmonized) Insofar as implementation is concerned, the Australian Government needs to work with <ul style="list-style-type: none"> • States and territories to address the ways slavery can be present in local areas • Governments in the region, to address the ways that <i>systems</i> of slavery operates

3.		<p>The Australian Government will review its reservations under the following international human rights instruments:</p> <ul style="list-style-type: none"> • ... • Optional Protocol to the Convention on the Rights of the Child: Children in Armed Conflict Article 3(5) • ... <p>The Government will place this review on the Agenda of the Standing Council of Treaties, for consultation with State and Territory Governments</p>	<p>Issues to be taken into account are:</p> <ul style="list-style-type: none"> • Australia is obliged to assist the recovery, rehabilitation and re-integration of child soldiers • Some child soldiers meet the definition of slavery (being owned) • Former child soldiers have come to this country as humanitarian entrants • Former leaders of child soldiers may not have disclosed their roles fully • Families in Australia have lost children to child soldiery in other countries. The families need support and assistance with tracing
5.		<p>The Australian Government will review its position on International Labour Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries</p>	<p>Issues to be taken into account are</p> <ul style="list-style-type: none"> • Climate change, forest clearing and other practices have a large and disproportionate effect on indigenous peoples in the region. • Some countries in effect do not recognize the distinct needs of their indigenous peoples (eg Dyak, Pygmy) • The Australian government needs to consult and ensure that ILO and human rights standards apply in the region
6.		<p>The Australian Government will establish and maintain a publicly accessible database of UN human rights treaty body recommendations</p>	<p>There is no treaty body for the Supplementary Convention. The data base should include slavery issues identified by the UPR, by the slavery Special Rapporteur and other sources</p>
8.		<p>The Australian Government will increase aid to 0.5% of Gross National Income.</p>	<p>Funds should be applied to develop country-specific programs to address slave-making systems and the 'engines' of slavery: i.e. each and all of:</p> <ul style="list-style-type: none"> • Poverty <i>and</i> • Powerlessness <i>and</i> • Crime / corruption <i>and</i> • Conflict <p>Complement the aid budget by facilitating remittances and protecting migrant workers, via CMW</p>

9.		The Australian Government will work with the Australian Human Rights Commission, the Asia-Pacific Forum, the Commonwealth secretariat and the Pacific Islands Forum to promote human rights in the region.	Issues to be addressed: <ul style="list-style-type: none"> • Include slavery in the remit of the Commission, the Forums and the Secretariat • Develop country-specific programs to address systems of slavery
10		The Australian Government will continue its promotion of human rights through official aid programs.	Issues to be addressed: <ul style="list-style-type: none"> • Develop country-specific programs to address systems of slavery • Commence monitoring in the region • Protect migrant workers (CMW) and facilitate remittances
11.		The Australian Government will continue its funding support for the Office of the High Commissioner for Human Rights (OHCHR).	Issues to be addressed: <ul style="list-style-type: none"> • Develop a treaty-monitoring body for slavery (the Supplementary Convention) • Provide substantial support for the role of the slavery Special Rapporteur • Include slavery in the UPR for Australia by 2015 and then other countries in the region
12.		The Australian Government will continue to work to build the capacity of the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights.	Issues to be addressed: <ul style="list-style-type: none"> • Include slavery in the remit of the Commission • Develop country-specific programs to address systems of slavery • Commence monitoring in the region
14.		The Australian Government will continue to resource the International Pro Bono Advisory Group to support pro bono work internationally. The work of the Advisory Group will help to promote human rights and the rule of law in the region and address law and justice challenges confronting Pacific partners.	Issues to be addressed: <ul style="list-style-type: none"> • Add slavery to the remit of the International Pro Bono Advisory Group • Develop country-specific programs to address systems of slavery • Provide appropriate training with regard to slave-making systems and options for community-based change
15.		The Australian Government will provide \$300,000 over three years from financial year 2011-12 to the Australian Human Rights Commission to support participation by representatives of people with disability in key international forums on human rights	This principle and precedent should be continued to enable community associations with anti-slavery expertise to attend key international forums on human rights

<p>16.</p>	<p>Australia's Human Rights Framework⁷</p>	<p>The Australian Government will prioritise human rights education by:</p> <ul style="list-style-type: none"> providing \$2 million over four years to non-government organisations (NGOs) for the development and delivery of community education and engagement programs to promote a greater understanding of human rights investing \$3.8 million in an education and training package for the Commonwealth public sector... <p>... including development of guidance materials for public sector policy development and implementation of Government programs</p> <ul style="list-style-type: none"> providing \$6.6 million over four years to the AHRC Australian Human Rights Commission to enable it to expand its community education role on human rights and to provide information and support for human rights education programs (including through development of a new human rights web portal), and 	<p>Community education and engagement: "Average" grants to community associations have been small / up to \$40,000. Community-based slavery education needs a major injection of funds, ongoing. Slavery Links estimate for initial community program :\$250,000</p> <p>Community associations cannot access this money for the purpose of educating public sector. Paradoxically, Slavery Links' member funds have paid costs of travel, accommodation, preparation, evaluation and professional time to provide sessions for several <i>public sector</i> organisations</p> <p>There has been, in effect, no public sector policy development around slavery. Refer to the book <u>Australians and modern slavery</u> & submissions in Aug & Sept 2012 from Slavery Links to</p> <ul style="list-style-type: none"> Senate Legal and Constitutional Committee Joint Standing Committee, Foreign Affairs, Defence and Trade <p>The funds given to AHRC can only be spent on and or by public servants. A slavery program needs community based change. Funds are required to enable and enhance community initiatives.</p> <p>The AHRC web site is not a 'linking' web portal. It is a one-way 'notice-board' for announcing AHRC activities.</p> <p>Funds are required to develop a web portal that is:</p> <ul style="list-style-type: none"> Based on the needs and interests of user groups Will promote linking as part of a community development process. Slavery Links' submission to the Joint Standing C'tee, Foreign Affairs, Defence and Trade refers to this
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		<ul style="list-style-type: none"> • enhancing support for human rights education in primary and secondary schools by: <ul style="list-style-type: none"> ○ continuing to work with States and Territories and ACARA, the Australian Curriculum, Assessment and Reporting Authority to include human rights and principles across the Australian Curriculum to ensure that human rights forms a part of student learning, and ○ providing funding to the NCHRE National Committee for Human Rights Education to hold two seminars on human rights education in schools 	<p>Slavery insinuates through social economic justice and political systems; and so education about slavery can take place in many subject areas or school activities</p> <p>SlaveryLinks endorses the work done by AHRC</p> <p>Slavery can be referred to in existing parts of the curriculum (history, economics, legal, SOSE, etc.)</p> <p>Slavery Links has developed exercises to show slavery happens, based on the book <u>Australians and modern slavery</u></p> <p>Slavery Links has material for students, teachers and lecturers. This needs funding / ACARA backing</p> <p>It is essential to promote community-based change.</p> <ul style="list-style-type: none"> ○ This NCHRE remit should be extended to include slavery. ○ This NCHRE planning process should be extended to include Community Associations with expertise in slavery
22.		<p>The Australian Government has overseen the passage of legislation to:</p> <ul style="list-style-type: none"> • establish a Parliamentary Joint Committee on Human Rights which will provide greater scrutiny of legislation for compliance with Australia’s international human rights obligations under the seven core UN human rights treaties to which Australia is a party • require all Bills and disallowable legislative instruments to be accompanied by a statement assessing its compatibility with the rights in the seven core UN human rights treaties to which Australia is a party, and • appoint the President of the Australian Human Rights Commission as a permanent member of the Administrative Review Council 	<p>Australia is obliged to implement the Supplementary Convention.</p> <ul style="list-style-type: none"> • The Convention should be on Australia's list of 'core' human rights treaties' • It is essential that the Convention is part of the remit and consideration of the Parliamentary Joint Committee on Human Rights <p>Slavery Links endorses this appointment for the President</p>

23.	The Australian Government will consider appropriate recognition of human rights in any revision of the Australian Public Service Values .	Slavery permeates and insinuates. To account for slavery, most agencies will need to <ul style="list-style-type: none"> • Revise the values in the agency manual • Have access to (at least) slavery awareness training
24.	The Australian Government will review legislation, policies and practices for compliance with the seven core UN human rights treaties to which Australia is a party, commencing with legislation administered by the Attorney-General's Department.	Australia is obliged to implement the Supplementary Convention. <ul style="list-style-type: none"> • The Convention should be on Australia's list of 'core' human rights treaties' • It is essential that the Convention is part of the remit and consideration of the Parliamentary Joint Committee on Human Rights

The human rights concerns of the general community

The Action Plan refers at this point to the “Baseline Study on the key human rights issues in Australia”. Slavery Links responds:

The issue of slavery did not emerge from the National Consultation; and was not part of the Baseline Study. How come slavery was overlooked in the Consultation and by the Baseline Study?

1. Surveys are not appropriate ways to set priorities in the human rights arena. People who are vulnerable to human rights abuses have been marginalized. They are not in the mainstream. They are not part of the popular imagination. They are not going to win a popular vote
2. As we remarked in the introduction to this working paper:
 - Slaves are the most vulnerable and marginalised *people* in the world. Often the *subject* of slavery gets marginalised too
 - Slavery needs to be given a priority by virtue of its special status
 - Specialised programs are needed because slaves are not part of the mainstream. Generalised programs will not reach them
3. As the Supplementary Convention shows, there are systems of slavery operating in Australia's region. These systems trap whole groups or classes of people. Stories of Atlantic slavery 200 years ago do not apply in Australia and the region. We need to think for ourselves, afresh
4. Unlike the USA and Britain, there is no discourse around slavery in Australia. We need to build a language of slavery, so that we understand the problem and action can be taken that relates to addressing the problem. Slavery Links has developed this language in [Australians and modern slavery](#)
5. Slavery Links wants to contribute to a process of program development and human rights education that will inform Australians about slavery and provide a sound basis for action by government, communities and people who have been affected by slavery

	Priority in the Plan	Actions in the Plan / Alternative Action	Slavery Links Comment
26.	Access to Justice ⁸	The Australian Government will build a stronger evidence base for the civil justice system to assist in ensuring compliance with the objectives identified in the Strategic Framework for Access to Justice in the Federal Civil Justice System, and to inform future access to justice policy and program decisions.	As to civil justice, Slavery Links states: A slave should not be required to negotiate about their situation While injunctive relief may have a role in relation to slavery (for example to prevent a planned forced marriage), on the whole slavery should be dealt with as a criminal matter and not (for example) a workplace or OH&S matter At the same time it is essential to uphold the primacy of civil law regarding marriage and celebrants
28.		The Australian Government will maintain and expand the Access to Justice Website (www.accesstojustice.gov.au) which draws together information about legal assistance providers, alternative dispute resolution services providers and related professional assistance and dispute resolution services in Australia, and monitor feedback.	A slave should not be required to negotiate about their situation Training for service providers should clarify that dispute resolution is not an acceptable frame of reference where slavery is concerned.
29.		The Australian Government will promote a dispute resolution culture that focuses on early intervention and resolution of disputes: <ul style="list-style-type: none">• the <i>Civil Dispute Resolution Act 2011</i>, to encourage parties to take genuine steps to resolve their disputes before considering entering the court system• supporting the National Alternative Dispute Resolution Advisory Council NADRAC• promoting the use of alternative dispute resolution, and• continuing to ensure the availability of non-legislative systems and programs that provide access to fair, simple, effective assistance for family matters, including family dispute resolution services	<u>Resolution</u> The policies of NADRAC and services need to ensure that a slave will not be required to negotiate about his or her situation <u>Early intervention</u> <ul style="list-style-type: none">• Injunctive relief and protective services may have a role in relation to slavery (for example to prevent a planned forced marriage) <u>Disputes</u> <ul style="list-style-type: none">• Slavery should be dealt with as a criminal matter
30.		The Australian Government will fund family law clinical legal education programs which increase law students' awareness of social justice and equity issues in the legal system, including participating in alternative dispute resolution.	SL's paper to AIJA shows that lawyers and court officers need training to discern slavery cases. Where forced marriage is concerned, we need a three-way program of criminal sanction, injunctive relief and protection for vulnerable persons Other forms of slavery need other forms of program

31.		The Victorian Government will continue providing court employed applicant workers and referral to support services through the Specialist Family Violence Services available at three Magistrates' Court sites. It will also continue supporting the specialist Family Violence Court Division at two Magistrates' Court sites.	Slavery Links endorses such initiatives However ... applicants and lawyers and court officers need training to differentiate every-day violence from the "owner-ship" which characterises forced marriage and other forms of slavery In slavery matters, the safety protection and relief of all affected family members is required..
35.		The Victorian Government will continue supporting the Neighbourhood Justice Centre , which is a multi-jurisdictional court that offers a range of services to support victims, offenders, civil litigants and residents.	Victims of slavery need protection and to be kept apart from perpetrators. Neighbourhood justice should exclude slavery cases

Slavery is not Trafficking

(Refer to Australians and modern slavery)

43.	<p>People trafficking</p> <p>Slavery Links' general comment:</p> <p>Slavery is a crime against humanity.</p> <p>Each of the Action</p>	The Australian Government will continue to support victims of trafficking through the Support for Victims of People Trafficking Program, involving case management for victims of trafficking who have been referred by the Australian Federal Police, regardless of the purpose for which they were trafficked and, initially, whether they are willing or able to assist in the criminal justice process.	Slaves are <i>owned</i> . They are victims of a crime against humanity Slavery and trafficking are not the same. <ul style="list-style-type: none"> • Slave-related programs are required • Victims of Crime Funding should be sought / applied
44.	<p>Plan bids #43 to #58 (for trafficking services, training and victim support) demonstrates the need for a separate / complementary</p> <p>program to be funded for slavery services, training and victim support</p>	The Australian Government will fund the Australian Red Cross to develop and deliver a training package to assist community service providers to better understand the complex needs of victims of people trafficking and how best to support them.	Slavery is <i>ownership</i> ; not the same as trafficking (<i>exploitation</i>). A separate package is required in relation to slavery. Slavery Links has developed a package and is seeking A-G's funds to enable deliver y
45.		The Australian Government will monitor Australia's strategy to combat people trafficking to ensure it is in line with international best practice , including the OHCHR Principles and Guidelines .	Principles and Guide-lines are required for anti-slavery practice <ul style="list-style-type: none"> • Trafficking is defined in a <i>crime</i> protocol. The Guidelines derive from UN ODC. • Slavery is defined in a human rights treaty. Guidelines for detecting slavery have been developed by the ILO, the EU and others. Slavery Links has made Submissions regarding international best practice to the Joint Standing Committee on Foreign Affairs, Defence and Trade

46.	The Australian Government will continue to investigate and criminally prosecute trafficking offenders.	Evidence and experience show that case-finding at an individual level will not address systems of slavery
47.	The Australian Government will review criminal sanctions for people trafficking and slavery to ensure that law enforcement has the best tools available to investigate and prosecute perpetrators . This review will include consideration of perceived gaps in the Commonwealth Criminal Code, including the lack of specific forced labour and labour exploitation offences.	<i>Slavery</i> is not the same as trafficking. In our region, there are slave-making systems . Anti-slavery work requires system change, to address each and all of: Poverty <i>and</i> Powerlessness <i>and</i> crime / corruption <i>and</i> conflict
48.	The Australian Government will implement the Australian Policing Strategy to Combat Trafficking in Persons 2011-13, including ensuring that Australia's anti-trafficking strategy remains relevant and responsive to emerging trends and issues.	A focus on individual crime finding and sanctions will not be useful where slave <i>systems</i> are concerned
49.	The Australian Government will continue to strengthen the criminal justice sector in the ASEAN region with a focus on prosecution, judicial and law enforcement responses to people trafficking.	Community based change is required, to maintain the 'agency' of people who are vulnerable to slave systems
50.	The Australian Government will work with the ILO to protect migrants from labour exploitation in the South-East Asian region.	Australia relies on migrant workers.
51.	The Australian Government will educate employers about their rights and responsibilities under workplace laws and investigate suspected contraventions of the law.	On one hand, Stephen Howells' report identifies 50,000 – 100,000 workers in Australia without visas and subject to criminal influence
52.	The Australian Government will initiate civil proceedings against employers of migrant workers for serious contraventions of the <i>Fair Work Act 2009</i> .	On the other hand, migrant workers send remittances home (At a world scale, remittances are equal to the value of foreign aid)
53.	The Australian Government will further consider the recommendations of the 2010 Review of the <i>Migration Amendment (Employer Sanctions) Act 2007</i> to ensure that direct action can be taken against those who employ or refer for work non-citizens who do not have lawful permission to work or who work in breach of their visa conditions. The Government has agreed in principle to the recommendations to introduce new civil penalties and infringement notices, and new powers to gather documentary evidence. The reforms will retain the current criminal penalties with aggravated offences available against those who would exploit migrant workers . The proposed reforms will provide a more effective deterrent	Slavery Links considers that Australia should <ul style="list-style-type: none"> • Contest the growth of corruption around migrant workers and labour gangs • Facilitate migrant work and protect workers by signing the CMW (Convention on Migrant Work) • Differentiate exploitation from slavery (<i>ownership</i>) • Recognise that slavery is a crime. Civil proceedings are not appropriate for the crime of enslavement

54.	<p>The Australian Government will continue its commitment to the Bali Process as the principal forum on people smuggling, trafficking in persons and transnational crime in the region. It will work with other countries to:</p> <p>(a) address and enhance the region's response to irregular migration under the auspices of the Regional Cooperation Framework, and</p> <p>(b) implement the Bali Process Ministerial directives to build the capacity of regional States to combat people trafficking through technical experts meetings, seminars, workshops and specific research programs.</p>	<p>Slavery (ownership) is not the same as trafficking (exploitation)</p> <p>Most people trapped by slave making systems are enslaved locally, in a particular place. Many are not moved (trafficked). They are <i>owned</i>, not exploited (forced or trafficked)</p> <p>Anti-slavery work would seek to change slave-making systems.</p> <p>Processes of community-based change are required, not "combat"</p> <p>A Forum for <i>trafficking</i> may not be the place to deal with <i>slavery</i></p> <p>A separate "Bali process" may be required for regional co-ordination of anti-slavery programming and action</p>
55.	<p>The Australian Government will continue to work with countries in our region to encourage ratification and implementation of the key international legal instruments used in the fight against people trafficking and people smuggling, particularly the UN Convention against Transnational Organized Crime and its supplementary protocols on people trafficking and people smuggling.</p>	<p>Slavery (ownership) is not the same as trafficking (exploitation).</p> <p>The relevant instrument for slavery is the Supplementary Convention.</p> <p>The Australian Government should work with ASEAN, ILO and countries in the region to strengthen regional cooperation and standard setting to promote anti-slavery research, programming and action which will maintain the 'agency' of people who are exposed to slave-making systems</p>
56.	<p>The Australian Government will continue to work with ASEAN and the ILO to strengthen regional cooperation and standard setting to combat people trafficking and labour exploitation of migrants, and produce regional public goods to help implement these standards.</p>	<p>Similarly a slave-making systems 'threat assessment' can be made using measures of the "four engines of slavery", which are: of:</p> <p style="padding-left: 40px;">Poverty <i>and</i> Powerlessness <i>and</i> crime / corruption <i>and</i> conflict</p> <p>A focus on individual crime finding and sanctions will not be useful where slave systems are concerned Community based change is required, to maintain the 'agency' of people who are vulnerable to slave systems</p>
57.	<p>The Australian Government will continue to support the UN Office on Drugs and Crime's undertaking a Transnational Organised Crime Threat Assessment for East Asia and the Pacific in order to determine the size and nature of transnational organised crime threats in the region, including people trafficking and people smuggling, and to better inform national and regional responses.</p>	<p>Technical assistance: Slavery is a crime (but not trafficking). Slavery Links has the expertise and could assist AusAID and the region.</p>
58.	<p>The Australian Government will continue to provide technical assistance to countries in the region with law enforcement, immigration and legal frameworks to improve capacity to combat people trafficking.</p>	

59.	Workers' rights	The Australian Government will continue to implement the <i>Fair Work Act 2009</i> which provides for collective bargaining and industrial action that achieves the right balance between the interests of Australian employees, employers and their representatives.	<p>Fair work refers to exploitation. Slavery is ownership not exploitation. See comments Point 50-53 above.</p> <ul style="list-style-type: none"> • Slavery is a crime against humanity. • Civil proceedings are not appropriate for such a crime • Persons touched by slavery should not be required to negotiate <p>Australia needs to differentiate action to address exploitation (trafficking) from action to address slavery (<i>ownership</i>) and slave-making systems.</p>
62.	Poverty	Governments will continue to implement policy and programs consistent with its Social Inclusion Agenda , which promotes economic, social and cultural rights, including by reducing disadvantage and increasing social, civic and economic participation.	<p><u>Slavery Links comment:</u></p> <p>Community-based change to address slavery involves building relationships. It would be useful as part of an anti-slavery strategy to 'sell' a social inclusion program to countries in the region, where some groups or classes of people have been excluded systematically</p>

The human rights experience of specific groups in Australia

Slavery Links comments:

One of the workshops that Slavery Links has developed refers to humanitarian entrants and the ways in which they may have encountered slavery on their journeys to Australia. It is not uncommon for entrants to encounter child labour, child soldiery, debt bondage, forced labour; and there are stories that some encounter other forms of slavery such as child trading or forced marriage.

Slavery Links developed this workshop for a two-day meeting of MultiCultural SA (a unit of the SA Attorney General's Department)

Aboriginal and Torres Strait Islander peoples

Slavery Links comments:

Slavery Links does not have permission from any group of Aboriginal or Torres Strait Islander (ATSI) people to tell their story in relation to slavery. It is for ATSI people to decide what to tell. It is also appropriate for persons of standing (government for example) to invite a conversation about the past and the present, about features that may have a slavery component.

Slavery Links comes across anecdotes or examples that may qualify in having a slavery component. These include:

- The stolen wages cases, where children were taken from school and required to work; and their wages were stolen (see Point 79 below; and refer to government inquiries on the subject)
- The capture of Aboriginal women by sealers in the mid-1800s; and the mis-use and abuse of the women at places such as Kangaroo Island
- The mis-treatment of Aboriginal people who were displaced from their land land then required to labour on pastoral properties in southern Australia; or along the so-called Canning stock route; or in places like Broome

In the current time period, another conversation may be warranted, to consider tribal marriage arrangements in context of forced marriage.

These issues are not part of the Exposure Draft Action Plan. They need to be covered. Insofar as slavery is concerned, the only reference in the Action Plan is Point 79, as follows:

	Priority in the Plan	Actions in the Plan / Alternative Action	Slavery Links Comment
79.	<i>The stolen generations and stolen wages</i>	The Victorian Government will provide \$6.24 million over four years for services specifically for members of the Stolen Generations. This includes Connecting Home, which delivers a range of public education, advocacy, case management, healing and support and service coordination activities for Aboriginal people affected by past child removal policies.	<u>Slavery Links comment:</u> The stolen wages cases refer to children who were taken from school and made to work. Their wages were stolen Point 79 refers to 'stolen wages'. An action needs to be identified and taken.

Women

Slavery Links comments:

Slavery goes beyond everyday violence and abuse. Slavery is defined in terms of *ownership*. Being owned is a change of state, from free to un-free. Owning someone - making him or her un-free - is a crime against humanity. Slavery can affect men, women, children; even whole families, villages and tribes.

An anti-slavery program needs to discern when slavery is happening; and workers in the program need to be trained and able to differentiate when a situation goes beyond everyday violence and abuse and 'crosses the line' into ownership and slavery.

It is essential therefore to 'add the language of slavery' to programs and services that operate in the community. This applies, too, in relation to programs and services regarding 'violence against women' and families. It applies to

- The National Plan to Reduce Violence Against Women and their Children (Action Point 100) and
- Measures "to provide adequate deterrence against the practices of forced and servile marriage and to provide appropriate protection for victims" (Action Point 104)
- Freedom from violence in Family Law (Action Point 122)

	Priority	Actions	Slavery Links comments
100.	Freedom from violence	Governments will implement the <i>National Plan to Reduce Violence Against Women and their Children</i> (see http://www.fahcsia.gov.au/sa/women/progserv/violence/nationalplan/Pages/default.aspx).	Provision is needed to assist people of each gender who are trapped in a family where cultural practice may allow or condone violence
104.		The Australian Government will consider the outcomes of its public consultation process on whether additional measures are needed to provide adequate deterrence against the practices of forced and servile marriage and to provide appropriate protection for victims.	Provision is also needed to assist young people (12 –17 years) of each gender to address forced marriage and family violence related to so-called family "honour". Action to be taken includes: <ul style="list-style-type: none"> • Injunctive relief • Protection • Penalties • Primacy of civil law over cultural practice • Regulate celebrants • Train legal services how to discern slavery-ownership • AND develop tools to assist the young themselves to act.
111.		The Australian Government will continue to provide funding to legal assistance services with a focus on raising awareness about family violence, early intervention for women and their children at risk of or experiencing family violence, including funding to help victims access compensation.	Slavery Links has sought funding from A-Gs human rights education framework for such a tool to assist young people

Children and young people

Slavery Links comment:

Refer to Australians and modern slavery

	Priority in the Plan	Actions in the Plan / Alternative Action	Slavery Links Comment
122.	Freedom from violence²⁴	The Australian Government will seek passage of legislation to prioritise the safety of children in family law proceedings and communicate that family violence and child abuse are unacceptable.	<p>Provision is needed to assist people of each gender who are trapped in a family where cultural practice may</p> <ul style="list-style-type: none"> • allow or condone violence • assert that cultural rules take precedence over Australian law <p>Provision is also needed to assist young people (12 –17 years) of each gender to address forced marriage and family violence related to so-called family "honour".</p> <p>Action to be taken includes:</p> <ul style="list-style-type: none"> • Injunctive relief • Protection • Penalties • Primacy of civil law over cultural practice • Regulate celebrants • Train legal services how to discern slavery-ownership • AND develop tools to assist the young themselves to act.
123.	Juvenile justice	The Australian Government will continue to fund community legal centres that target young people to assist with legal information and help in relation to the matters that most commonly affect young people.	<p>Slavery Links has sought funding from A-Gs human rights education framework for such a tool to assist young people</p>
124.		The Australian Government will continue to provide funding through the Commonwealth Community Legal Services Program to enhance access to legal help and information for children and young people.	

Older People

Slavery Links comment:

There are issues – some positive and some negative from the point of view of the individual’s human rights – surrounding elders from communities where cultural rules may take precedence over Australian civil law.

Consultation and research are required, beyond the scope of this paper. Except to say that in a workshop that included humanitarian entrants in South Australia, Australian professionals discerned two separate problems – isolated elders and troubled young people. This writer discerned an opportunity to connect the young people with elders they could respect. In Swahili, the term for such mentoring is ‘bwana funze’. The Africans in the room understood immediately. The ‘Anglos’ in the room did not.

People with disability

The Exposure Draft of the Action Plan states that: “Australia is committed to upholding and safeguarding the rights of people with disability. A key priority for the Government will be continuing work on implementing the National Disability Strategy. The Strategy sets out a ten-year national plan for improving quality of life for Australians with disability, their families and carers.”

Slavery Links’ comment:

Around the world, from Cambodia and China to the United Kingdom and the United States, people with disabilities have been found trapped in slavery or slave-like situations. On occasion these people have been trapped in full view of the public but in effect, invisible.

The Action Points from 151 - 171 do refer to people with disabilities; but nowhere is there recognition of their special vulnerability to being harvested as slaves. Nor is there provision for specific protection and relief or for general community education about the need for special protection and relief

There are actions to be taken in Australia and in the region

	Priority in the Plan	Actions in the Plan / Alternative Action	Slavery Links Comment
154.	<i>Freedom from discrimination</i> ²⁷	<p>The Australian Government will continue to work on preparing a national action framework for implementing the National Disability Strategy²⁸ (NDS): This involves:</p> <ul style="list-style-type: none"> identifying priority areas for action through consultation with State and Territory Governments, disability advisory bodies and the National People with Disabilities and Carer Council measuring progress across the Strategy’s 10-year lifespan using national trend indicator data based on the six outcome areas of the NDS, and developing more comprehensive performance indicators, by improving the reporting of people with disability assisted through mainstream services, through the inclusion of disability specific questions in mainstream data collections. <p>The draft indicators will be subject to consultations in the first year of the Strategy with people with disability, their families and carers, organisations, experts and governments to ensure the measures reflect areas that really matter in improving outcomes for people with disability.</p>	<p>Add the language of slavery to each of these projects and train the staff, so that slave related issues will be identified and addresses when and if they emerge</p>

Refugees, asylum seekers, migrants and people from culturally and linguistically diverse backgrounds

The Exposure Draft of the Action states: “Australia is proud of its multicultural heritage. New arrivals to Australia face diverse challenges in settling into life in Australia. The Australian Government has reviewed and redesigned key settlement programs and will consolidate changes and enhancements to client services. Implementing Australia’s multicultural policy will be an immediate priority, including initiatives to strengthen access and equity to Government services.”

Slavery Links comments:

One of the workshops that Slavery Links has developed refers to humanitarian entrants and the ways in which they may have encountered slavery on their journeys to Australia. It is not unknown – perhaps not uncommon – for entrants to encounter child labour, child soldiery, debt bondage, forced labour; and there are stories that some encounter other forms of slavery such as child trading or forced marriage.

Slavery Links developed the workshop for a two-day meeting of MultiCultural SA (a unit of the SA Attorney General's Department). It is an example of how transformative change and ‘training’ can go together to produce benefit

	Priority in the Plan	Actions in the Plan / Alternative Action	Slavery Links Comment
202.	<i>Refugees, humanitarian entrants and asylum seekers in the community</i>	The Australian Government will consolidate the new Adult Migrant English Program (AMEP) business model to maximise the settlement and learning outcomes of AMEP clients, encourage greater commitment to the program and increased retention, and equip newly arrived migrants and humanitarian entrants with the language skills they need to access services and participate in Australian society.	Add the language of slavery to each of these programs and train the staff, so that slave related issues will be identified and addresses when and if they emerge
203.		The Australian Government will consolidate the Humanitarian Settlement Services (HSS) program, featuring strengthened case management and accommodation services for eligible humanitarian clients, according to their needs.	
204.		The Australian Government will continue to provide guardianship, monitoring and settlement support for all unaccompanied humanitarian minors until they reach 18 years of age.	
205		The Victorian Government will develop a Refugee Health and Wellbeing Plan 2012-2022 to set priorities for actions to ensure that refugees and asylum seekers across Victoria achieve health outcomes comparable to the broader population.	
206		The Australian Government will continue to fund community legal centres including those with a primary focus on providing legal information and help in relation to refugee and immigration matters.	

209.	Community attitudes and multiculturalism ³⁴	The Australian Government will monitor the effectiveness of the recently established Australian Multicultural Council (AMC).	Add the language of slavery to each of these programs and train the staff, so that slave related issues will be identified and addresses when and if they emerge
210.		The Australian Government will monitor the effectiveness of the recently established People of Australia Ambassadors program to promote the benefits of multiculturalism.	
211.		The Australian Government will conduct an inquiry into the responsiveness of Australian Government services to clients disadvantaged by cultural or linguistic barriers.	
212		The Australian Government will work with State and Territory Governments under COAG to ensure that data collected by government agencies on client services can be disaggregated by markers of cultural diversity.	
213.		The Australian Government will monitor the effectiveness of the recently established Multicultural Arts and Festivals Grants program.	
214		Monitor the effectiveness of the recently established Multicultural Youth Sports Partnership Program.	
215		The Australian Government will coordinate an annual Harmony Day to celebrate Australia’s cultural diversity on March 21 to coincide with the United Nations Day for the Elimination of Racial Discrimination.	
216		The Australian Government will undertake future work on community grants to promote social cohesion and combat violent extremism e.g. Building Community Resilience Youth Mentoring Grants Program.	
217		The Australian Government will continue to fund the Federation of Ethnic Communities’ Councils of Australia (FECCA) to undertake consultations on access and equity in Government services and provide feedback to government from culturally and linguistically diverse communities.	
218	The Victorian Government will continue to support health service providers to better meet the needs of the diverse communities they serve, including people from Culturally and Linguistically Diverse (CALD) backgrounds through a variety of initiatives.		

Monitoring and Research and Evaluation

This Exposure Draft of the Action Plan states “The Commonwealth Attorney-General’s Department will monitor the overall implementation of the Action Plan. A progress report will be prepared after three years and a final report will be prepared after five years. Both the interim and final report will include reporting on a range of human rights outcome indicators, to be developed by a joint Government and NGO Advisory Group and approved by the Commonwealth Attorney-General. The Advisory Group will also provide advice to the Australian Government on potential improvements to data collection and interpretation to better measure progress on human rights in Australia into the future.”

Slavery Links comments:

As regards monitoring and evaluation of programs, a major effort is required to work out:

- What needs to be measured, in relation to slave-affected communities in Australia and the region
- In whose interests information will be collected and reported; and how this will be done
- As regards research, there is a significant impediment to work being done.
- Slavery needs to be identified as a priority by The Australian Research Council. (At present, the ARC lists trafficking / border protection, but not slavery)
- Slavery insinuates in obscure ways and research needs to be encouraged in a range of fields well beyond research about "the law"
- In particular Slavery Links has identified ways to address slavery via community-based programs

	Priority in the Plan	Actions in the Plan / Alternative Action	Slavery Links Comment
220.	Data collection and analysis.	The Australian Government will establish a joint Government and NGO Advisory Group to provide advice on improving measurement of progress on human rights in Australia, primarily focused on the collection and interpretation of data.	It would be appropriate to include Slavery Links and others with expertise in relation to slavery on the Government and NGO Advisory Group

Other action by Slavery Links to inform government

Apart from our work with community organizations, interest groups, schools and universities, Slavery Links Australia Inc seeks to inform parliamentarians and government organizations. In September 2012 Slavery Links made three submissions to the Joint Standing Committee on Foreign Affairs, Defence and Trade on the subject of ‘best practice’ in relation to slavery and slavery-like conditions. The Committee is ‘owner’ (publisher) of the Submissions themselves. The following Attachments are therefore only extracts, which have been included here only to refer readers to the published version, which is to be found on the Joint Standing Committee’s web site.

Each extract lists the Recommendations that Slavery Links made in relation to:

- Attachment 1: Policy Issues
- Attachment 2: Implementation Issues
- Attachment 3: Coordination / Web Portal

ATTACH 1: POLICY ISSUES

EXTRACT FROM SUMMARY AND RECOMMENDATIONS

The discourse around modern slavery has been framed around the Atlantic slave trade and emancipation in the Americas. Australia needs to think through these issues afresh. Supposed 'international practice' based on the Atlantic's past will not work in Australia's region in the present.

- We live in a region where *systems* of slavery persist, systems that trap whole groups or classes of people
- Slavery is about *ownership*. Australia needs to bring anti-slavery work 'up to speed'; to match the investment that has been made over the past decade against trafficking scams. Trafficking is exploitation, not ownership.

Slavery Links has done that re-thinking and published the result in Australians and modern slavery (300 pp). This submission draws on that work.

Recommendation (Section 3)

We recommend principles to guide best practice action

Recommendation (Section 5)

To address slave-making systems, we recommend best practice that would be systemic, targeted, holistic and bottom-up

Recommendation 3

We respectfully request the Joint Committee to consider how the slave-making systems of child trading, forced marriage and peonage might be included in the Bill

Recommendation 4

We ask the Joint Committee to consider how consent can be framed so that the parties to marriage give consent which expresses their own interests as individuals

Recommendation 5

We ask the Committee to consider how the Bill can make explicit that a married person may not be transferred to another or inherited

Recommendation 6

We ask the Committee to establish a framework for program development to facilitate processes for change to assist communities to differentiate arranged marriage from forced marriage and servile marriage

ATTACH 2: IMPLEMENTATION ISSUES

EXTRACT FROM SUMMARY AND RECOMMENDATION

Recommendation

We ask the Joint Committee to consider how best practice anti-slavery policy can overcome the barriers to implementation that we identify in this submission. We commend twelve action steps in particular, as follows:

Action 1

We ask the Joint Standing Committee to consider that Australia could provide the resources required to strengthen action by the Special Rapporteur for slavery

Action 2

We respectfully request the Joint Standing Committee to encourage the Joint Committee on Human Rights to develop expertise, early in its life, with regard to slavery and the Supplementary Convention

Action 3

We ask the Joint Committee to consider that the Attorney General does have discretion; and that what is to be included in Australia's report to the Universal Periodic Review is a matter for the Attorney General. We ask for slavery to be included in the 2015 Universal Periodic Review.

Action 4

We ask the Committee to consider which of these proposals (and other necessary changes) could be funded within the stricture of 'no new funds' announced by the Attorney General; and to identify where new funds would be required and or where there may be opportunities to re-deploy 'victim of crime' funds

Action 5

We ask the Joint Committee to consider how priorities of the Australian Research Council and the Australian Institute of Criminology can take account of slavery in Australia; and how resources can be found to fund evidence-based and rigorous research by community associations, academics, PhD projects and government

Action 6

We ask the Joint Committee to consider how evidence-based research programs of community associations can be encouraged, supported and utilised by government

Action 7

We ask the Joint Committee to consider ways to develop and strengthen the academic component of Australia's slavery research capacity

Action 8

We ask the Joint Committee to consider the benefits of continuing the human rights education grants framework, to be funded at a level sufficient to support ongoing, evidence-based education and change-making

Action 9

We ask the Joint Committee to consider the benefits of community-based responses to slave-making systems; and to encourage government in supporting community-based change

Action 10

We ask the Joint Committee to consider the scope and resources for academic research and formal courses of education and training in relation to slavery, including graduate and post-graduate studies

Action 11

We ask the Joint Committee to consider ways in which prosecutors and court officers can be informed about the sometimes obscure ways in which slavery cases may arise

Action 12

When considering what might constitute best practice beyond Australia, we ask the Joint Committee to take account of the formal and informal relationships, processes and structures shown in Chart 2 of this submission

We refer the Committee to the submission from the Slavery Links Web Portal Working Group; whose proposal would address these coordination problems

ATTACH 3: WEB PORTAL AND COORDINATION ISSUES

EXTRACT FROM EXECUTIVE SUMMARY

This submission is about using the internet as a tool for community development and linking of anti-slavery activity in Australia and the region.

The submission refers to the Supplementary Convention 1956; and to the necessity of recognising the *systems* of slavery that enable whole groups or classes of people to be harvested as slaves.

When a web page is published, its ranking by Google or other search engines depends on the number of links between the page and pages on other web sites. These two-way links need to be negotiated between each site. It is the process of identifying relevant pages for linking and then negotiating the links that can be managed to become a community development process.

This submission addresses a problem identified in the Slavery Links submission regarding implementation and the co-ordination of effort within and beyond Australia (see Chart 2 on Page 14 of the submission by the Slavery Links Implementation Working Group entitled: Slavery and Slavery-like Conditions: Implementation Issues)