



Submission No 40

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

**Organisation:** Department of Foreign Affairs and Trade



# Australian Government

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*Human Rights Sub-Committee of the Joint Standing Committee on  
Foreign Affairs, Defence and Trade inquiry into Slavery, Slavery-like  
Conditions and People Trafficking*

## **Australian Government submission: international dimensions**

October 2012

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## Executive Summary

The Australian Government has had a comprehensive strategy in place to target people trafficking in all its forms since 2003. This strategy includes domestic and international measures to prevent trafficking; detect, investigate and prosecute perpetrators; and protect and support victims. The use of the term 'people trafficking' in the strategy is intended to encompass slavery and slavery-like practices.

This submission describes the Government's international efforts to encourage effective action to address all forms of slavery, slavery-like conditions and people trafficking, and the benchmarks by which the Australian Government assesses its efforts against international best practice.

Australia plays a leading role in international efforts to prevent and disrupt people trafficking and slavery and has invested significant resources over the past decade to improve the capacity of other countries in the region to tackle these crimes effectively. Australian agencies work bilaterally and through forums such as the United Nations and the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime* to advocate strong responses to trafficking, strengthen legal and justice systems, promote law enforcement cooperation, support information campaigns and provide technical training and assistance on victim protection.

The Australian Agency for International Development (AusAID) funds a number of significant programs in South East Asia to address the causes of trafficking. Through these programs, Australia helps to strengthen criminal justice systems, including through training and capacity building for law enforcement officers, judges and prosecutors. The programs bring together regional partner governments in ASEAN and have been critical to fostering cooperation across jurisdictions.

The Attorney-General's Department (AGD) works with regional partners to strengthen legal regimes so countries can investigate and prosecute traffickers. AGD has helped countries to strengthen their domestic laws so that they meet international obligations.

The Australian Federal Police (AFP) is involved in a wide range of cooperative activities with other countries that aim to reduce opportunities for people traffickers to operate in the region. AFP international liaison officers work with international law enforcement agencies to investigate crimes such as trafficking, promote information and intelligence exchange and build the capacity of local law enforcement through training exercises.

The Department of Immigration and Citizenship (DIAC) has established specialist compliance positions in Bangkok, Manila and Guangzhou, which assist efforts to prevent people trafficking.

This submission was compiled in consultation with DFAT, AusAID, DIAC, AFP and AGD and is current as at 2 October 2012. AGD will provide a separate joint submission with AFP, CDPP, DIAC and FaHCSIA on domestic implementation of the Government's strategy to combat people trafficking.

## **1. Australia's international efforts to address people trafficking**

People trafficking is a serious crime that exploits victims and poses significant threats to human security, particularly in developing countries. The Australian Government recognises the scale of the problem and the negative impact it has on people's lives and has been a long standing and consistent supporter of efforts to combat it domestically and abroad.

Australia, as part of its anti-people trafficking strategy, is active in international and regional efforts to combat trafficking, engaging in a wide range of activities to build the capacity of regional partners to tackle this problem and reduce opportunities for traffickers to operate in our region (see item 2 below).

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.

## **2. Ways in which Australia encourages effective international action to address all forms of slavery, slavery-like conditions and people trafficking**

### *Participation in the Conference of Parties to the United Nations Convention against Transnational Organized Crime (UNTOC)*

Australia ratified the *United Nations Convention against Transnational Organized Crime* (UNTOC) in 2004 and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons* (the Trafficking Protocol) in 2005. As the key international instruments used to combat people trafficking, Australia continues to call for universal adoption of the UNTOC and the Trafficking Protocol.

Australia supports the work of the UNTOC Working Group on Trafficking in Persons in progressing and improving implementation of the Trafficking Protocol. Australia participated in the Fourth Session of the Working Group in Vienna in October 2011. We highlighted our initiatives in the field, including on the care and protection of victims. Australia co-hosted a side-event on 'Lessons learned, best practice and the way ahead for awareness-raising and education on trafficking in persons', during which experts shared experiences of developing effective awareness raising campaigns to combat trafficking.

The prohibition on slavery is a long-standing principle of international law. In addition, Australia is party to other international instruments on trafficking, including the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention on the Rights of the Child* and its *Optional Protocols on the sale of children, child prostitution and child pornography*, and on *involvement of children in armed conflict*, the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, as well as several International Labour Organization conventions on forced labour.

### *Advocacy and engagement through the United Nations and other international organisations*

At the UN Human Rights Council's Universal Periodic Review, and in the 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.

In 2007, Australia co-sponsored in the UN Human Rights Council the creation of a UN Special Rapporteur on contemporary forms of slavery, its causes and consequences. In 2010, Australia co-sponsored a renewal of the Special Rapporteur's mandate for three years. Since then, the Special Rapporteur has produced reports and recommendations

on servile marriage, child slavery in the artisanal mining and quarrying sector and domestic servitude.

A Global Plan of Action to Combat Trafficking in Persons, which recognises the need to coordinate global efforts to combat trafficking, was adopted by the UN General Assembly in 2010. At an interactive dialogue convened by the UN General Assembly in April 2012 to enhance implementation of the Global Plan of Action, Australia contributed to the panel discussion, which focused on: enhancing political commitment to prevent and combat trafficking in persons; strengthening collective action by the member states and other stakeholders; cooperation between governments, the private sector and civil society to curb the demand for trafficked victims; vulnerability to trafficking; human rights measures that contribute to more effective treatment of victims; and the role of governments, international organisations and civil society in providing victims of trafficking with access to effective and appropriate remedies.

The outcomes of the interactive dialogue will contribute to the fifty-seventh session of the Commission on the Status of Women, in March 2013.

On 3 April 2012, the UN General Assembly convened an interactive dialogue entitled 'Fighting Human Trafficking: Partnership and Innovation to End Violence against Women and Children'. Australia's statement at the dialogue underscored the critical role played by non-governmental organisations in providing support to victims of trafficking and raising community awareness, and our desire to do more to support those who work internationally on this issue. In this context, Australia announced a \$200,000 contribution to the UN Voluntary Trust Fund for Victims of Trafficking in Persons. The Fund provides humanitarian, legal and financial aid to victims of trafficking.

At the 31<sup>st</sup> International Conference of the Red Cross and Red Crescent (ICRC) in 2011, Australia pledged to work with the Australian Red Cross to support the humanitarian needs of children, women and men who have been trafficked whether for sexual exploitation, domestic servitude and/or labour exploitation. The Government is currently exploring ways in which we can continue our strong collaboration with the Australian Red Cross in support of the humanitarian needs of trafficked persons.

In October 2011, Australia advocated for and achieved strong language on trafficking in persons in the Commonwealth Heads of Government Meeting (CHOGM) Communiqué. In addition to committing to put in place the necessary legal and administrative frameworks to tackle trafficking, CHOGM leaders also affirmed their commitment to cooperation between states with regard to the identification, assistance and protection of victims of trafficking. All Commonwealth countries were urged to become parties to and implement the UNTOC and the Trafficking Protocol.

Australia also supports the efforts of the Organization for Security and Cooperation in Europe (OSCE). In February 2012, the Australian Government signed a three year grant agreement that will promote human rights protection for trafficked persons and vulnerable groups in Central Asia. The agreement provides \$360,000 to the OSCE over three years. The project will build the capacity of government and civil-society

stakeholders, including by working to establish national referral mechanisms in line with the commitments of OSCE participating states.

In 2013, Australia will host the OSCE Asian Partners Conference, for which Australia has proposed a thematic approach covering women and girls' issues, including human trafficking. Australia's presentations will raise awareness about Australian activity in this field, and the conference overall will share best practice among OSCE member countries.

*Encouraging Australian businesses to have supply chains that are free from labour exploitation*

In 2011, the Australian Government supported the adoption of the UN Guiding Principles on Business and Human Rights at the UN Human Rights Council. The UN Guiding Principles set out practical guidelines on corporate responsibilities to respect human rights in business operations. The Government encourages corporate social responsibility by promoting business adherence to the OECD Guidelines for Multinational Enterprises. These guidelines specifically encourage businesses to contribute to the effective abolition of child labour.

Australia supports the UN Global Compact, which provides guidelines for companies committed to sustainability and responsible business practices, including encouraging businesses to abolish child labour and to refuse to participate or condone human rights abuses (372 Australian organisations are signatory to these guidelines).

In addition, Australian citizens, residents or corporations who engage in exploitative conduct overseas may be subject to investigation and prosecution by Australian law enforcement authorities. Australia's slavery-like and transnational people trafficking offences, contained within Divisions 270 and 271 of the Commonwealth *Criminal Code*, have extended geographical jurisdiction. As such, the offences may apply to conduct that occurs wholly or partly outside Australia where the perpetrator is an Australian or a body corporate incorporated in Australia. Further, Australia's slavery offences, also contained within Division 270 of the *Criminal Code*, have universal jurisdiction, and may therefore apply to conduct committed anywhere in the world by any perpetrator, whether or not the perpetrator has a connection to Australia.

*Promoting regional cooperation through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime and the Ambassador for People Smuggling Issues*

As co-chair with Indonesia of the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime* (the Bali Process), Australia works with regional partners to combat trafficking in persons, including through workshops and seminars aimed at strengthening members' capacity in the areas of prevention, prosecution and victim protection.

As official-level co-chair of the Bali Process, the Ambassador for People Smuggling Issues plays 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.

In May 2012, Australia and Indonesia co-hosted a Bali Process workshop on trafficking in persons. Participants considered the role of policy in implementing international standards, explored ways to strengthen a coordinated approach to prevent and address trafficking in persons, and considered how the Bali Process could assist in efforts to combat trafficking in persons. Participants agreed that the Bali Process had a valuable role to play in advancing regional cooperation on trafficking in persons.

The recently launched Bali Process Regional Support Office will promote greater information sharing and practical cooperation on people trafficking, including through projects that: support the harmonisation of national legislation on people trafficking; support the design and implementation of information campaigns; and provide technical training and assistance on victim protection, as well as law enforcement cooperation.

In November 2012, Australia and Indonesia will co-host a Bali Process Trafficking in Persons Forum, at which Bali Process members and chairs of other Regional Consultative Processes on Migration will share lessons learned on regional cooperation to combat trafficking. This interactive forum will examine trafficking trends and anti-trafficking initiatives from around the world and explore how all Regional Consultative Processes on Migration can work together to address trafficking issues into the future.

#### *Advocacy by the Global Ambassador for Women and Girls*

In September 2011, the Government appointed its first Global Ambassador for Women and Girls. The Ambassador is responsible for advocacy to promote policies and activity regarding gender equality and the social, political and economic empowerment of women and girls, particularly in the Asia-Pacific region. The Ambassador works closely with regional partners to support measures to eradicate violence against, and trafficking of, women and girls. For example, the Ambassador moderated a senior-level panel on violence and trafficking at the Lower Mekong Initiative Gender Equality and Women's Empowerment Dialogue in Cambodia in July. The appointment of the Global Ambassador for Women and Girls has provided a new avenue through which Australia can pursue its work, domestically and within the region, to combat trafficking in women and girls.

#### *Building regional capability through Australia's aid program*

The Australian Government works to combat and prevent slavery, slavery-like conditions and people trafficking through its aid program. In 2012-13 AusAID's programs to combat trafficking will exceed \$8.5 million, with more than \$50 million allocated to anti-trafficking programs between 2006 and 2014.

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.

These projects include the *Asia Regional Trafficking in Persons (ARTIP) Project* (\$21 million), *Project Childhood* (\$7.5 million) and the *Tripartite Action to Protect Migrants in the Greater Mekong Sub-region from Labour Exploitation (TRIANGLE) Project* (\$10.5 million). AusAID also funds a range of community-based non-government organisation projects that address trafficking prevention, victim support and child protection.

AusAID targets forced and servile marriage through broader programs on gender and equality, human rights and people trafficking. These programs address the fundamental vulnerability of women to forced and servile marriage. Over four years from 2011-12, Australia is investing \$96.4 million to eliminate violence against women and to help women affected by violence in developing countries throughout Asia and the Pacific.

Australia also contributes funding to other organisations targeting this issue, including \$16.5 million in core contributions to UN Women over two years from 2011. These contributions support activities including establishing and improving crisis services, strengthening counselling and legal support, and sharing best practice approaches.

#### *Asia Regional Trafficking in Persons (ARTIP) Project*

AusAID's flagship regional counter-trafficking program, the Asia Regional Trafficking in Persons project (ARTIP) (2006-2011 primary project; 2012-2013 transition phase), focuses on strengthening the criminal justice response to trafficking in persons by working with law enforcement, and strengthening judicial and prosecutorial functions in ASEAN member countries, including Cambodia, Indonesia, Lao People's Democratic Republic (PDR), Myanmar, Philippines, Thailand and Vietnam.

ARTIP has enabled ASEAN to take greater ownership of trafficking in persons through regular meetings between the senior police who head specialist anti-trafficking in persons units, and a regular Working Group on Trafficking in Persons under the ASEAN Senior Officials Meeting on Transnational Crime.

The ARTIP project has trained over 8,100 police officers, prosecutors and judges, and prepared world-class training materials, standard operating procedures and handbooks. Between January 2012 and June 2012, more than 150 cases of human trafficking were investigated (of which 107 were prosecuted), in ARTIP partner countries with the involvement of police and prosecutors trained by the project

Following formal completion of the project in August 2011, ARTIP is currently in a scaled-back transition phase. AusAID, in consultation with national and regional partners, has commenced design of a new five-year program to combat trafficking in persons in South East Asia. This new initiative will be informed by the achievements of ARTIP and is expected to commence in early 2013.

### *Tripartite Action to Protect Migrants from Labour Exploitation (TRIANGLE)*

As migrant workers cross borders to take up jobs in informal or poorly regulated labour markets, they are often at risk of exploitation. The Tripartite Action to Protect Migrants from Labour Exploitation (TRIANGLE) (2010-15) project is a five-year, \$10.5 million initiative that aims to prevent labour exploitation and create decent work opportunities for migrant workers in the Greater Mekong Sub-region. TRIANGLE is being implemented by the International Labour Organization (ILO) Cambodia, Lao PDR, Thailand, Vietnam, and Malaysia.

TRIANGLE works with governments, trade unions, recruitment agencies and civil society to pursue labour law reform, increase community awareness of exploitative practices, and provide better support services for migrant workers. The ILO has demonstrated that it can effectively influence national and regional dialogue on migrant workers. There has been considerable buy-in from government, industry and workers in the project.

The project has achieved significant results in the past two years. In Cambodia, Lao PDR, Thailand, Vietnam and Malaysia, a total of 3,813 male and female migrants have received training or advice on safe migration and rights at work and a total of 3,216 migrants in Malaysia and Thailand have received legal assistance. In Cambodia, Thailand, Vietnam, and Malaysia, a total of 261 public servants from central and provincial level governments (48 per cent female, 52 per cent male) have been trained on safe labour migration and protection for men and women migrant workers.

### *MTV End Exploitation and Trafficking (EXIT) Campaign*

The MTV End Exploitation and Trafficking (EXIT) campaign (2011-2013), undertaken in partnership with the United States and now in its third phase, continues to raise awareness on trafficking in persons by directly engaging youth across Asia and empowering young community leaders to advocate on the dangers of trafficking. In the last year, MTV EXIT has trained a total of 870 youth advocates in Cambodia, Myanmar, Vietnam and the Philippines to deliver anti-trafficking messages in their communities.

MTV EXIT reaches out to youth through on-air community service announcements, advertising and documentaries, on-line information and social media engagement, and concerts, youth forums and road shows. The campaign has reached 700,000 people in person. Its television content has been viewed 60 million times on air and has reached over 27 million people online, with an active community of over 100,000 users.

The next phase of MTV EXIT (Phase IV) is currently under development.

### *Project Childhood*

Project Childhood (2010-2014) builds on more than ten years of Australian Government efforts to combat child sexual exploitation in travel and tourism in East Asia. The project is being implemented in partnership with governments of Cambodia, Lao PDR, Thailand

and Vietnam. Project Childhood consists of two pillars of work to address both prevention and protection activities.

Under the protection pillar, the United Nations Office on Drugs and Crime (UNODC) aims to protect at-risk children by working with the four partner governments to review national legislation, identify gaps in countries' responses to child sexual exploitation, and strengthen compliance with international conventions. UNODC also works with INTERPOL to train local law enforcement agencies, with the aim of increasing arrests and prosecutions.

Under the prevention pillar, World Vision Australia is working to prevent children in tourism areas from becoming victims of travelling child sex offenders by increasing awareness within communities, training businesses and ministries in child safe tourism practices and promoting reporting hot lines.

#### *Building capacity through technical assistance and training*

Australia undertakes capacity building activities and provides technical assistance to a number of countries to support their efforts to address people trafficking. In 2011-12 DIAC undertook targeted capacity building programs with immigration agencies in the Middle East, Asia and Pacific regions. These programs included:

- document examination equipment and training provided to front line immigration officers at airports and land borders, enabling more officers to confidently and accurately detect fraudulent travel documentation at borders;
- facial image comparison training, which has improved immigration officers' skills in detecting fraudulent use of travel documents by impostors;
- intelligence analysis capacity building activities which encourage information and intelligence sharing between DIAC and other immigration agencies, which is crucial to investigating people trafficking activities; and
- immigration investigations training; this has strengthened officers' capacity to investigate criminal activity related to people trafficking.

DIAC also builds capacity through activities including border assessments, alert systems design and implementation, and development of border management systems including biometric capabilities, passport systems, identity verification, legal and regulatory frameworks, and protection frameworks.

#### *Building legal and law enforcement capacity in our region*

In 2011-12, AGDs worked with countries in the region to strengthen legal regimes and capacity to address trafficking in persons and related issues. This assistance included:

- assistance to countries to implement in their domestic laws international obligations under the *United Nations Convention against Transnational Organized Crime* and its supplementary Protocols on Migrant Smuggling and Trafficking in Persons;

- working with partner countries bilaterally and through regional forums to strengthen international crime cooperation (mutual assistance and extradition) regimes so countries can successfully investigate and prosecute organised criminal syndicates, including trafficking syndicates; and
- assistance to countries to strengthen anti-money laundering and proceeds of crime frameworks in order to target trafficking in persons and associated money laundering, and to confiscate the proceeds of trafficking in persons offences.

The AFP also works with regional partners and through regional forums to build law enforcement capacity to combat trafficking in persons. In May 2012, two AFP human trafficking team members participated in an Asia Regional Forum on Combating Trafficking in Taiwan to share AFP's anti-trafficking expertise.

In July 2012, the AFP partnered the US-funded International Law Enforcement Academy in Bangkok to deliver a two week Human Trafficking Investigations Program to 48 police investigators and prosecutors from 10 South East Asian countries. The program was designed to raise the skills of police in preventing, detecting, investigating and prosecuting cases of trafficking in accordance with international best practice.

The AFP's International Network cooperates with other Australian Government agencies domestically and abroad to ensure a whole-of-government approach to fighting crime at its source. The International Network has 93 people in 29 countries to broker collaboration with international law enforcement agencies to drive investigations and support bilateral or multilateral cooperation across a range of transnational crime types, including people trafficking.

Transnational Crime Centres have been established by the AFP Law Enforcement Cooperation Program over recent years to build the capacity of partner foreign law enforcement agencies and to assist with combating transnational crime at its source. These ongoing projects in Indonesia, Vietnam, Cambodia, Thailand and Colombia have assisted collaboration.

The establishment of international networks and coordination centres has proven an effective strategy in the sharing of intelligence, resulting in successful operational outcomes.

DIAC has three positions at overseas posts in the Asia-Pacific (Bangkok, Manila, and Guangzhou) which are focused on preventing people trafficking at its source. These positions are part of DIAC's overseas compliance network and provide regional coverage to help identify possible people trafficking cases.

### **3. International best practice to address all forms of slavery, slavery-like conditions and people trafficking**

The Australian Government encourages the benchmarking of its response to people trafficking against international standards and best practice through participation in the UN Human Rights Council's Universal Periodic Review and engagement with the UN, including on the UNTOC and the Trafficking Protocol (as detailed under item 2). Australia has an ongoing commitment to support and facilitate the work of the United Nations Special Procedures mandate holders. In 2011 Australia hosted a visit by the UN Special Rapporteur on Trafficking in Persons, Ms Joy Ngozi Ezeilo, and has already made progress in responding to her recommendations.

Ms Ezeilo praised Australia's strong leadership and commitment to tackling people trafficking and commended the government's robust working relationship with civil society. She acknowledged Australia's role as a regional leader in combating trafficking. Her recommendations focused on ways we could improve our response to trafficking in persons, especially in relation to support for and treatment of victims.

Australia has already taken steps to address the Special Rapporteur's recommendations. This includes preparation of a revised national plan of action, which will include benchmarks and indicators to measure progress and impact, and the recent introduction of proposed legislation to strengthen laws criminalising trafficking and related exploitative practices, which will ensure Australia's ongoing compliance with international obligations (i.e. the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012). The proposed legislation will create offences against forced marriage and forced labour (see the submission provided by AGDs for more details).

The Government recognises that there are areas where our systems can be improved. In line with the Special Rapporteur's recommendations, Australia will continue to strive to improve training for frontline officials, support services and victim identification procedures. Australia will also continue to increase options for safe and legal migration whilst ensuring such schemes do not allow for exploitation.

Regional projects to counter people trafficking delivered under the aid program are subject to regular independent evaluation. An independent evaluation of ARTIP in 2011 found it contributed to 'genuinely transformational development' in the criminal justice systems of ASEAN countries. The evaluation judged that trafficking in persons was now better identified, investigated and prosecuted in these countries.

In 2012, an independent review of the MTV EXIT campaign was undertaken. The review found that MTV EXIT was an effective broad-based awareness and advocacy campaign that was unique in the counter-trafficking sector, with significant reach and potential influence to raise awareness and affect change in response to people trafficking.

Since 2001, the United States has released a Trafficking in Persons Report (TIP Report). The TIP Report assesses countries' adherence to standards set out under US legislation on people trafficking.

Australia's work to combat trafficking in persons has been reviewed as part of the TIP Report every year since 2004. Australia consistently receives a 'Tier 1' rating, which means it is fully compliant with the minimum standards to combat people trafficking set out in US legislation. The other ratings are 'Tier 2', 'Tier 2 Watch List' and 'Tier 3'. Other countries that consistently receive a Tier 1 rating include Canada, New Zealand and the United Kingdom.

The 2012 Report states that Australia fully complies with the minimum standards for the elimination of trafficking and praises Australia for its 'robust efforts' to prevent trafficking in Australia and throughout the region.