



Submission No 48

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

Organisation: Attorney-General's Department – supplementary
submission



Australian Government

Attorney-General's Department

**Questions on Notice and
Additional Questions from
the 9 October 2012 public hearing**

*Human Rights Sub-Committee
Joint Standing Committee
on Foreign Affairs, Defence and Trade*

30 November 2012

Notes

For the purposes of the responses to these questions on notice, and Australia's anti-people trafficking strategy more broadly, a reference to the term 'people trafficking' is a reference to the comprehensive suite of offences in Divisions 270 or 271 of the Commonwealth *Criminal Code* (the Criminal Code). The exception is where the reference to people trafficking is a reference to the specific offences in Division 271 of the Criminal Code which relate to the facilitation of the movement of a victim by an offender for the purposes of exploitation.

Divisions 270 and 271 of the Criminal Code contain the Commonwealth legislation criminalising slavery, slavery-like practices and people trafficking. The people trafficking offences in Division 271 of the Criminal Code are crimes where an offender facilitates the movement of a victim from one place to another for the purposes of exploiting that victim. As the offences require proof of the offenders' intention, they are harder to prove. As evidenced in **Attachment A**, only two of the 15 convictions for slavery, slavery-like practices and people trafficking have been for offences of people trafficking. The offences in Division 270 relate to exploitation more generally, and do not require the prosecution to prove the person was moved to make out the offence.

While the offences for slavery, slavery-like practices and people trafficking are distinct, for ease of reference, Australian Government policies and programs use the term 'people trafficking' to encompass a range of exploitative crimes. These crimes include those where a person is moved for the purposes of exploitation, as well as those where a person is subjected to slavery or slavery-like practices such as servitude, deceptive recruiting and debt bondage (whether that exploitation occurs after trafficking, or entirely separately, such as may be the case where a person who was already in Australia is exploited).

The link between these crimes is that the victim loses their freedom, whether that is because of the use of force, threats, deception or coercion, or because the powers of ownership have been exercised over them.

Australian Government initiatives and processes, including the AFP Human Trafficking Teams, the Support for Trafficked People Program, the People Trafficking Visa Framework and the National Roundtable on People Trafficking (the Roundtable), focus equally on people trafficking, slavery and slavery-like practices.

Responses to these questions on notice and additional questions have been coordinated by the Attorney-General's Department (AGD), with input from members of the Anti-People Trafficking Interdepartmental Committee (IDC), including the Australian Institute of Criminology (AIC), Australian Agency for International Development, Australian Federal Police (AFP), Office of the Commonwealth Director of Public Prosecutions (CDPP), Department of Foreign Affairs and Trade (DFAT), Department of Immigration and Citizenship (DIAC), Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), Fair Work Building & Construction (FWBC) and the Fair Work Ombudsman (FWO).

Questions on Notice – 9 October 2012

Question

Senator STEPHENS: It would be a concern to me if we were moving away from a direct tackling of the issue by fudging the language. I will put that on the record for now. I would like to concur with the deputy chair's concerns about the lack of detail, and it would be very helpful if you could provide some more information around the numbers. We have some initial stuff. Since 2004 there have been 350 investigations and assessments.

We have some sense of how many cases have been prosecuted. It would help to have a breakdown of where they were and what kinds of offences were being caught, and perhaps even some indication of where there has been suspicion of activity but there has not been the evidence yet.

CHAIR: Like forced marriage or something.

Senator STEPHENS: Yes, like forced marriage. That comes back into the other work that Mr Ruddock and I are doing on another committee where additional powers are being sought for the proof of these situations.

Mr Anderson: We will see if we can provide some more detail on locations, offences and sentences—things like that.

Answer

The table below breaks down the locations of the 350 investigations and assessments under Divisions 270 and 271 of the Commonwealth Criminal Code by AFP office:

Operational Office	Referrals
ADELAIDE	5
BRISBANE	33
CAIRNS	12
CANBERRA	19
DARWIN	1
HOBART	2
MELBOURNE	107
PERTH	13
SYDNEY	158
Total	350

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

Attachment A summarises the 15 convictions and provides details of defendant, region, charges, matter type, co-accused, outcome and penalty.

Question

Mr JENKINS: In the cases that were investigated, were there other domestic laws that were used—for instance, were they used in cases that involved transgressions of industrial labour laws?

Mr Anderson: I would have to take that on notice. I think that generally, in the cases where there is a criminal prosecution under the trafficking offences, the trafficking offences would be more serious than the labour laws so they would be going with the most serious offences that they can bring the evidence forward for. But I will take that on notice. (pp. 6 -7)

Answer

Where information comes to light during an investigation instituted by FWBC or the FWO which suggests trafficking has occurred, the organisations have systems in place to refer the information to AFP and DIAC.

Similarly, the AFP and DIAC refer matters to FWBC and the FWO where evidence suggests that workplace laws are being or have been contravened.

Attachment A details the charges in the 15 convictions for offences under Divisions 270 and 271 of the Criminal Code. In some instances, this includes ‘other domestic laws’.

Attachment B details the offences charged in the matters considered by the CDPP where an offence under Division 270 or Division 271 of the *Criminal Code* was the primary offence.

Additional questions

- 1. Can the Department provide details on the number of prosecutions for slavery and slavery-like conditions; which State/Territory that they took place; and what type of offences were being caught?**

AGD's submission to the inquiry, dated 28 September 2012, noted the following on page five:

Since the commencement of Divisions 270 and 271 of the Criminal Code, the AFP has referred briefs of evidence in relation to 47 potential defendants to the CDPP for consideration of prosecution action.

Since the submission was finalised, the AFP has identified two other related matters that were not initially referred to the CDPP as offences under Divisions 270 or 271 of the Criminal Code, but which involved such alleged offending. This took the number to 49. The CDPP subsequently identified three matters that were initially classified as people trafficking matters, but were ultimately referred pursuant to the *Migration Act 1958* and other Divisions of the Criminal Code. This takes the final number of referrals pursuant to Divisions 270 and 271 to 46.

Attachment B summarises the number and type of offences charged in the 46 matters considered by the CDPP (in many matters more than one type of offence was charged).

Attachment C summarises the 46 matters considered by the CDPP by region, and provides details on the following:

- the number of matters referred to each region
- the number of defendants charged
- the number of matters where there was no charge because of insufficient evidence
- the number of convictions
- the number of matters in which there were acquittals
- the number of matters in which all charges were withdrawn prior to trial
- the number of matters in which there was no re-trial after a jury was discharged prior to delivering a verdict or was hung in its verdict
- the number of matters awaiting trial, and
- the number of matters where charges were laid after consideration by the CDPP but the matters were subsequently referred to the State Director of Public Prosecutions for prosecution.

– **Do agencies consider these numbers to be a good indication of the extent of the problem?**

Due to a lack of definitive data, the Government cannot comment about whether the number of prosecutions reflects the extent of the problem.

AGD notes that there is little reliable data about the nature and extent of people trafficking at a global, regional or domestic level. Estimates of the annual number of people trafficked across international borders range from 700,000 to four million. An estimated 2.5 million people are in forced labour (including sexual exploitation) at any given time as a result of people trafficking.

In part, this is due to the clandestine nature of the crime type. In addition, individuals with information about people trafficking activities and the victims of those crimes are likely to be apprehensive about contacting authorities or non-government organisations for assistance (for example, due to fear of reprisals and/or authorities). This is particularly the case for victims, who may be vulnerable and traumatised as a result of slavery, slavery-like practices or people trafficking.

AGD also notes that there are a number of factors that affect the ability of authorities to progress successful prosecutions. For example:

- investigations are lengthy and complex
- prosecutions rely heavily on the testimony of victims, but witnesses and victims can be reluctant to give evidence for a variety of reasons, including because they fear reprisals from the alleged offender or their family, and
- the clandestine nature of the crime type, difficulties with witnesses, and other evidentiary issues can adversely impact upon the ability of investigation and prosecution authorities to adduce sufficient evidence to satisfy the requisite standard.

– **Can the Department provide a rough idea of the number of suspected cases where not enough evidence was available to facilitate a prosecution?**

The AFP has advised that 260 investigations and/or assessments into offences under Divisions 270 and 271 of the Criminal Code have been finalised, rejected or terminated. Of these 260, approximately 200 were finalised due to insufficient evidence being available to facilitate a prosecution. Four matters were discontinued after referral to the CDPP on the basis of insufficient evidence. The remaining cases were finalised, rejected or terminated due to various other reasons including State jurisdiction, where the AFP has no power to investigate or has no jurisdiction, or referred to another agency.

As noted above, Attachment C provides a summary of those matters where a brief of evidence was referred to the CDPP by the AFP for consideration but no charge was commenced because there was insufficient evidence.

2. What is the difference between people smuggling and trafficking in persons?

As outlined in the fact sheet on the Australian Government's anti-people trafficking strategy which formed Attachment A to the submission from AGD to the inquiry dated 28 September 2012, people trafficking and people smuggling are very different crimes.

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

People smuggling and people trafficking are criminalised in Australia under distinct pieces of legislation. People trafficking is criminalised, along with slavery and slavery-like practices, under Divisions 270 and 271 of the Commonwealth Criminal Code. People smuggling is criminalised under the *Migration Act 1958* for ventures entering Australia and the Criminal Code for other ventures.

– Do you think that the difference is well understood by the general public?

The AIC has researched the extent to which the general public understand the nature and definitions of trafficking in persons through an online community survey published in their *Trafficking in persons monitoring report: January 2009–June 2011*, referred to in the original submission to the Committee from the AIC (dated 28 September 2012).

There were 1617 respondents to the online community survey, administered in the Australian Capital Territory in 2008 and nationally in 2009. One of the key findings was that the majority of respondents (61 per cent) confused people trafficking with people smuggling.

Media reporting can heavily influence the understanding of the general public. AGD notes that, while it and other Government agencies do all they can to maintain and promote the distinction between these crime-types, the terms 'people trafficking' and 'people smuggling' are unfortunately regularly used interchangeably in media.

– How does forced adoption or organ trafficking fit into that definition?

Forced adoption

A commitment of Australia as a contracting State under the *Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption* is to prevent the abduction, sale of, or traffic in children for the purpose of intercountry adoption through the implementation and observance of Convention safeguards. The *Guide to Good Practice to the Convention* defines the term 'trafficking' as referring to the payment of money or other compensation to facilitate the illegal movement of children for the purposes of illegal adoption or other forms of exploitation.

While there are differing interpretations of 'trafficking' within intercountry adoption and broader international frameworks, malpractice in adoption is clearly inconsistent with the principles of the Hague Convention.

The sale of a child for the purpose of adoption may amount to an offence of slavery under section 270.3 of the Criminal Code. The trafficking of a child for the purpose of adoption may amount to an offence of trafficking in children under section 271.4 of the Criminal Code, or domestic trafficking in children under section 271.7 of the Criminal Code.

Organ trafficking

Article 3 of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)*, which supplements the United Nations Convention against Transnational Organized Crime (UNTOC) defines 'trafficking in persons' to mean:

...the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs... [emphasis added]

Under existing subsection 271.2(1B) of the Criminal Code, a person commits an offence of trafficking in persons if the person organises or facilitates the entry or proposed entry, or the receipt, of another person into Australia and in doing so is reckless as to whether the other person will be exploited, either by the first person or another, after that entry or receipt.

Currently, the Dictionary in the Criminal Code defines 'exploitation' as occurring where, *inter alia*:

the exploiter's conduct causes an organ of the victim to be removed and:

- i) the removal is contrary to the law of the State or Territory where it is carried out
- ii) neither the victim nor the victim's legal guardian consented to the removal and it does not meet a medical or therapeutic need of the victim.

The Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012, which is currently being considered by the Senate, would amend Division 271 of the Criminal Code to insert stand-alone offences of organ trafficking and domestic organ trafficking, which will clarify the circumstances in which the offences apply.

– **Is Australia’s definition for people trafficking different from the international definition and, if so, why?**

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

While the offences for slavery, slavery-like practices and people trafficking are distinct, for ease of reference, Australian Government policies and programs use the term ‘people trafficking’ to encompass a range of exploitative crimes. These crimes include those where a person is moved for the purposes of exploitation, as well as those where a person is subjected to slavery or slavery-like practices such as servitude, deceptive recruiting and debt bondage (whether that exploitation occurs after trafficking, or entirely separately, such as may be the case where a person who was already in Australia is exploited). The link between these crimes is that the victim loses their freedom, whether that is because of the use of force, threats, deception or coercion, or because the powers of ownership have been exercised over them. As noted above, Australian Government initiatives and processes, including the AFP Human Trafficking Teams, the Support for Trafficked People Program, the People Trafficking Visa Framework and the Roundtable, focus equally on people trafficking, slavery and slavery-like practices.

The people trafficking offences in Division 271 of the Criminal Code are crimes where an offender facilitates the movement of a victim from one place to another for the purposes of exploiting that victim. As the offences require proof of the offenders’ intention, they are harder to prove. As evidenced in Attachment A, only two of the 15 convictions for slavery, slavery-like practices and people trafficking have been for offences of people trafficking. The offences in Division 270 relate to exploitation more generally, and do not require the prosecution to prove the person was moved to make out the offence.

3. Can you elaborate on the role of Australia’s Ambassador for People Smuggling Issues?

The Ambassador for People Smuggling Issues is responsible for high-level advocacy of Australia’s interests in promoting effective and practical international cooperation to combat people trafficking and people smuggling, particularly in the Asia-Pacific region.

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

– **Has Australia considered establishing an Ambassador for people trafficking like the United States?**

The Government has two Ambassador-level positions that advocate internationally on people trafficking issues.

The Ambassador for People Smuggling Issues is responsible for high-level advocacy on trafficking in persons in the Asia-Pacific region through the Bali Process.

The Global Ambassador for Women and Girls, appointed by the Government in September 2011, advocates internationally for the eradication of trafficking in women and girls.

– **Could the Ambassador for People Smuggling Issues ‘double hat’ the role to look after slavery and trafficking as well?**

The Ambassador for People Smuggling Issues is responsible for high-level advocacy of Australia's interests in promoting effective and practical international cooperation to combat people trafficking and people smuggling, particularly in the Asia-Pacific region.

4. How many programs administered by the Department focus on trafficking?

AGD's responsibilities are focused on policy development rather than program management. Other Commonwealth agencies have responsibility for administering programs aimed at addressing slavery, slavery-like practices and people trafficking. The People Trafficking Section of AGD has oversight of Australia's strategy to combat slavery, slavery-like conditions and people trafficking. The People Trafficking Section is responsible for whole-of-government policy development, administering Divisions 270 and 271 of the Criminal Code (which criminalise slavery, slavery-like practices and trafficking), administering Witness Protection (Trafficking) certificate applications made by the AFP, as well as chairing the Roundtable, IDC, and the Anti-People Trafficking Operational Working Group.

– **When was the last time those programs were reviewed?**

Australia's anti-people trafficking strategy is routinely and robustly reviewed through a number of mechanisms, both internationally and domestically.

Internationally, Australia's strategy is reviewed by a number of bodies, including through the United Nations. For example, through the Universal Periodic Review (UPR) process, United Nations Member States' human rights records are reviewed once every four years. Among other things, during Australia's UPR in 2011, our role as a leader in regional efforts combat trafficking was recognised.

In June 2012, the United Nations Special Rapporteur on Trafficking in Persons, Dr Joy Ngozi Ezeilo OON, tabled her Report on her mission to Australia at the 20th regular session of the United Nations Human Rights Council. Among other things, the Special Rapporteur's Report recognised Australia's role as a regional leader in combating trafficking.

In consultation with stakeholders, the Government will shortly begin work on the next phase of its formal national plan of action to combat people trafficking. In line with the Special Rapporteur's recommendation, the plan of action will be prepared to include benchmarks and indicators to measure progress and impact.

Domestically, in 2008-09, the Australian National Audit Office (ANAO) conducted an audit of the *Management of the Australian Government's Action Plan to Eradicate Trafficking in Persons*. Recommendations in the ANAO report included that the IDC strengthen arrangements for reviewing progress and measuring results of the anti-trafficking strategy by developing an appropriate whole-of-government performance framework. In response to ANAO recommendations, the IDC tables an annual report in Parliament, and the Government reports on a Performance Management Framework on a six-monthly basis. Data reporting on this Framework is published on AGD's website.

To monitor and resolve operational matters, respond to new and emerging issues, and continue to explore ideas for enhancement of the strategy, the Australian Government has established an Operational Working Group, which is comprised of AGD, AFP, the CDPP, FaHCSIA, and DIAC. The Operational Working Group meets approximately every six weeks.

In addition, the Government has established the Roundtable, which is supported by a National Roundtable Senior Officials' Meeting (SOM). Further information on these two bodies is at question 10, below.

– **What are the outcomes of those programs?**

Outcomes of the Government's processes and policies on people trafficking vary, depending on the nature of the process or policy, but usually result in enhancements to the strategy.

For example, on 30 May 2012 the Attorney-General, the Hon Nicola Roxon MP, introduced the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill into Commonwealth Parliament. The Bill was prepared following extensive public consultation, including through the release of two discussion papers and an exposure draft of the Bill.¹

The Bill aims to further the Australian Government's commitment to doing all it can to prevent people trafficking, to equip authorities to investigate and prosecute perpetrators, and to support and protect victims. Through amendments to the slavery and people trafficking offences in Divisions 270 and 271 of the Criminal Code, the Bill aims to strengthen and expand the existing legal framework, and ensure Australia further fulfils its international obligations to comprehensively criminalise people trafficking and related crimes.

Significant work is also undertaken through the Roundtable and the SOM. Further information on these two bodies is at question 10, below.

¹ The discussion papers on *The Criminal Justice Response to Slavery and People Trafficking; Reparation; and Vulnerable Witness Protections* and *Forced and Servile Marriage*, and the exposure draft of the Bill, are available as downloads on the people trafficking page of the Attorney-General's Department website: <http://www.ag.gov.au/PeopleTrafficking>.

5. What steps are being taken to make the community aware of modern slavery and people trafficking?

In 2008, a working group established by the Roundtable prepared factsheets to provide employers and employees with a practical guide to the steps they can take to combat forced labour and people trafficking. The factsheets have been translated into six community languages and are available on AGD's website.

In 2011, the AIC held a series of information sessions on people trafficking in various locations in Australia. The sessions were primarily aimed at community service providers who are likely to come into contact with people who may have been trafficked, however they were attended by government, non-government, union, embassy and academic representatives. The AIC's interactive workshop-style presentation included an overview of trafficking in persons, including a discussion of relevant definitions; a discussion of some known case studies; and a discussion of risks and protective factors that participants identified as existing in their own community.

In June 2012, the AFP and the AIC co-hosted a discussion exercise on supply and demand related to trafficking in persons in Australia. The exercise involved over 40 participants from government, industry, unions and NGOs. The workshop was interactive and collaborative and sought to identify key issues of concern and achievable actions to address supply and demand associated with trafficking in persons. A report detailing the outcomes of the workshop, including key achievable actions identified, has been prepared by the AIC in conjunction with the AFP, and will be distributed to participants later in 2012.

As noted above, in consultation with stakeholders, in 2012-13, the Government will shortly begin work on the next phase of its formal national plan of action to combat people trafficking. As part of this process, AGD will reconsider the communications awareness strategy (CAS), to ensure communication activities target the broad-range of slavery, slavery-like practices and people trafficking, in line with the legislative framework.

In addition, AGD is considering a range of non-legislative measures to assist with the effective implementation of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012, including:

- strengthening the education and training provided to front-line professionals, including law enforcement officers, judges, consular staff and immigration officers
- engaging with a range of community groups and NGOs, and raising awareness amongst the broader community about issues of slavery, slavery-like practices and people trafficking, and
- ensuring information and support is provided to potential victims and their families.

NGO funding for people trafficking activities

NGOs play a vital role in identifying and supporting people who are victims of slavery, slavery-like practices and people trafficking in Australia, as well as raising community awareness of these issues.

Since 2008, the Government has provided \$2.4 million to support four Australian NGOs working to combat people trafficking, provided from confiscated criminal assets under the *Proceeds of Crime Act 2002* (POCA). Using this funding, the NGOs have undertaken a range of initiatives to raise community awareness about all forms of slavery and trafficking in Australia.

In October 2008, the Australian Government announced funding of \$1 million to support four Australian NGOs in their efforts to combat people trafficking. Anti-Slavery Australia, Project Respect, Scarlet Alliance and the Australian Catholic Religious Against Trafficking in Humans (ACRATH) were each granted \$250,000 to provide vital outreach for trafficking victims and to conduct education and awareness-raising initiatives on people trafficking. At the 2010 National Roundtable, the then Minister for Home Affairs and Justice announced further funding for the four NGOs of \$1.4 million (\$350,000 each) to support their work in 2011-2014. The funding is provided from confiscated criminal assets under the POCA. A description of NGO activities which are funded under these grants is below.

Anti-Slavery Australia

Anti-Slavery Australia is the only specialist legal and policy centre in Australia focused on slavery, trafficking and extreme labour exploitation. It is part of the Faculty of Law at the University of Technology, Sydney. With its grant, Anti-Slavery Australia is developing an enhanced general community awareness campaign to raise awareness of all forms of labour trafficking in consultation with stakeholders, and is also providing trafficked people and people who are vulnerable to trafficking with information about their legal rights under Australian immigration and labour law. For example, Anti-Slavery Australia used its first grant of funding received over the period 2009 to 2011 to develop three Community Service Announcements (CSAs) about people trafficked into domestic servitude, commercial hospitality and the agricultural sector. As at 30 June 2012, the CSAs had been shown in cinemas across Australia over 9,000 times. Anti-Slavery Australia also used the funding to prepare four longer films targeted at the general community, secondary school students, the legal profession and health practitioners.

Project Respect

Project Respect is a non-profit community organisation that aims to empower and support women in the sex industry, including women trafficked to Australia.

Project Respect is using its grant to expand its program of outreach to women in the sex industry, and to provide information and referrals to services for health, housing, legal advice, drugs and alcohol, and other issues.

Scarlet Alliance

Scarlet Alliance is the Australian Sex Workers Association. Scarlet Alliance is working to enhance the capacity of peer educators in Australia to provide support to migrant sex workers to decrease their vulnerability to trafficking. As part of this project, Scarlet Alliance is working in partnership with Empower Foundation of Thailand.

ACRATH

ACRATH is committed to working towards the elimination of people trafficking in Australia, the Pacific and internationally. With its grant, ACRATH is working to raise awareness, share information and build networks nationally and globally. ACRATH also facilitates the provision of direct services to people trafficked into Australia.

Funding to combat labour exploitation

As outlined in AGD's submission to the inquiry, as part of its commitment to combating people trafficking in all its forms and for all kinds of work, in 2011 the Australian Government awarded a total of almost \$500,000 to five organisations to undertake projects to combat labour exploitation in Australian industries.

Following a competitive expression of interest process, funding for 2011-13 was awarded to the Australian Council of Trade Unions (\$200,000), the Australian Hotels Association (\$25,000), Australian Red Cross (\$64,974), Asian Women at Work (\$96,098) and the Construction, Forestry, Mining and Energy Union (\$100,000). The funding is provided from confiscated criminal assets under POCA.

With support from the Government, these organisations are currently working to raise awareness of labour exploitation through the development of training programs and materials, community and industry resources, and through outreach to vulnerable workers. A description activities which are funded under these grants is below.

Australian Council of Trade Unions (ACTU)

The ACTU is using its grant for a campaign entitled 'Labour trafficking is a crime – Spot It, Report It'. The campaign will include dissemination of videos and other material via electronic and social media and in union training program, particularly for organisers active in hospitality, agriculture, manufacturing, construction, domestic work and mining. The ACTU is affiliated with the International Trade Union Confederation and participates in the governing forums of the ILO. These organisations make labour trafficking a priority issue.

Australian Hotels Association (AHA)

The AHA is using its grant for a labour exploitation awareness project involving the distribution of an information brochure to 5,000 hotels on how to legally employ overseas workers and manage the visa process. The AHA will also facilitate an online seminar on strategies to discourage exploitation in the supply chain. The AHA has previously conducted other campaigns to ensure employers are aware of their obligations under relevant awards and legislation.

Australian Red Cross

Australian Red Cross is using its grant to increase capacity to identify and combat labour trafficking and exploitation among Indian community groups in New South Wales and Victoria. The project will include the development of training materials and translation of an information flyer into the major Indian languages. Red Cross is a leading humanitarian organisation and has first-hand experience in supporting victims of trafficking, including as the contracted service provider of the Australian Government's Support for Trafficked People Program.

Asian Women at Work

Asian Women at Work is using its grant to carry out further outreach on work rights and other awareness raising, education and social support to migrant women in low-paid and precarious employment across Sydney, including clothing outwork, factories, cleaning, nail and beauty salons, restaurants, aged care and child care.

Construction, Forestry, Mining and Energy Union (CFMEU)

The CFMEU is using its grant for the production of multi-lingual pamphlets in the industries it sees as high priorities for anti-labour exploitation efforts (construction, mining, forestry and parts of manufacturing), the facilitation of workshops for union organisers and the sharing of results with the union movement and NGOs, and engagement with media. The CFMEU has a record of running campaigns to raise awareness about workers' rights, including the rights of workers on subclass 457 visas, and of providing support to migrant and other disadvantaged workers and their families.

Other funding

On 17 July 2011, the Government announced funding of \$126,960 (excluding GST) for the Australian Red Cross to develop and deliver a professional training package for the community sector to enable them to better support trafficked people.

Delivery of training commenced in April 2012. As at 25 September 2012, Australian Red Cross had completed 52 training sessions across all states and territories attended by almost 1000 participants representing around 196 organisations. Feedback on the training indicates that participants found the training improved their knowledge of human trafficking in Australia including increased awareness about indicators of trafficking, referral pathways and services to support trafficked people.

6. In 1999, the Swedish Government enacted a law that prohibits the purchase of sexual services with the aim to address the root cause of prostitution and trafficking.

– Does the Department have a view on the effectiveness of this legislation?

The regulation of the sex industry in Australia is the responsibility of the States and Territories.

AGD notes that, under the Trafficking Protocol, State Parties are obliged to address the 'exploitation of the prostitution of others or other forms of sexual exploitation' [emphasis added], rather than prostitution itself.

AGD is aware that some countries have criminalised the purchase of all commercial sexual services, in an attempt to reduce demand for these services. Ostensibly, this measure is also intended to prevent trafficking for the purpose of sexual exploitation.

In the view of IDC agencies, there is no persuasive evidence to suggest that the criminalisation of the purchase of sexual services is effective in preventing trafficking or slavery for the purpose of sexual exploitation. Rather, there is some evidence that laws prohibiting the purchase of sexual services undermine the efforts of agencies working to combat slavery and trafficking. For example, such laws may force victims underground, and make clients less willing to assist in cases

involving exploitation, slavery or trafficking (as they fear sanction themselves). In Australia, at least one successful prosecution for sexual servitude was brought to the attention of authorities by a client, who assisted the victim at her request.

Accordingly, the IDC's view is that the 'Swedish model' is unlikely to be an effective strategy for combating slavery, slavery-like practices or people trafficking.

7. Does the Commonwealth Criminal Code contain an offences related to sexual servitude? If so, what is the penalty?

Section 270.6 of the Criminal Code contains offences related to sexual servitude, and section 270.7 of the Criminal Code contains offences related to deceptive recruiting for sexual services.

Subsection 270.6(1) criminalises a person whose conduct recklessly or intentionally causes another person to enter into or remain in sexual servitude. The maximum penalty for this offence is 20 years' imprisonment for an aggravated offence (i.e. where the victim is under 18 at the time of the offence), or 15 years' imprisonment in any other case.

Subsection 270.6(2) criminalises a person who knowingly or recklessly conducts any business that involves the sexual servitude of other persons. For the purposes of the section, the term 'conducting a business' includes, but is not limited to:

- taking part in the management of the business
- exercising control or direction over the business, or
- providing finance for the business.

The maximum penalty for this offence is 20 years' imprisonment for an aggravated offence (i.e. where the victim is under 18 at the time of the offence), or 15 years' imprisonment in any other case.

Subsection 270.7 of the Criminal Code criminalises the conduct of a person who, with the intention of inducing another person to enter into an engagement to provide sexual services, deceives that other person about any one of the following:

- the fact that the engagement will involve the provision of sexual services
- the nature of sexual services to be provided (for example, whether those services will require the person to have unprotected sex)
- the extent to which the person will be free to leave the place or area where the person provides sexual services
- the extent to which the person will be free to cease providing sexual services
- the extent to which the person will be free to leave his or her place of residence
- if there is or will be a debt owed or claimed to be owed by the person in connection with the engagement – the quantum, or the existence, of the debt owed or claimed to be owed, or
- the fact that the engagement will involve exploitation, debt bondage or the confiscation of the person's travel or identity documents.

Subsection 270.7(2) of the Criminal Code provides a non-exhaustive list of matters that a judge or jury may consider in determining whether a person has been deceived about any of the matters listed in subsection 270.7(2). For example, the court can consider the economic relationship between the alleged victim and the alleged offender, and/or the alleged victim's ability to speak, write and understand English.

The maximum penalty for the offence of deceptive recruiting for sexual services is nine years' imprisonment for an aggravated offence (i.e. where the victim is under 18 at the time of the offence), or seven years' imprisonment in any other case.

AGD notes that the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill, which was passed by the House of Representatives on 22 August 2012 and is currently before the Senate will amend both sections 270.6 and 270.7 of the Criminal Code. Under the proposed changes, the existing offences of sexual servitude and deceptive recruiting for sexual services will be amended so they apply to any form of servitude or deceptive recruiting, not just servitude or deceptive recruiting which is sexual in nature.

The amended offences will carry the same maximum penalties as the existing provisions – that is, 20 years' for an aggravated offence of servitude, or 15 years' imprisonment in any other case; and nine years' for an aggravated offence of deceptive recruiting, or seven years' imprisonment in any other case. However, the Bill will also expand the definition of an 'aggravated offence' so the higher maximum penalty will apply in any the following circumstances:

- the victim was under 18 years old at the time of the offence
- in committing the offence, the offender subjects the victim to cruel, inhuman or degrading treatment, or
- in committing the offence, the offender engages in conduct that gives rise to a danger of death or serious harm to the victim or another person, and is reckless as to that danger.

The offence of servitude will apply regardless of whether the conduct constituting the offence occurred in the private sphere (for example, between two spouses) or the public sphere (for example, in an employee/employer relationship).

8. The *California Transparency in Supply Chains Act of 2010* requires retail sellers and manufacturers doing business in California to disclose the policies, if any, they have in place for eradicating human trafficking from their supply chains.

- **Does the Department have a view on whether similar legislation would be beneficial for Australia?**

The *California Transparency in Supply Chains Act of 2010* came into force on 1 January 2012. To AGD's knowledge, the legislation has yet to be reviewed for effectiveness.

AGD does not have a view on the appropriateness of establishing a similar scheme in Australia. Significant work would need to be done, in conjunction with stakeholders including peak industry bodies, to review the specifics of the Californian legislation to determine if a similar scheme would be possible or appropriate in the Australian context.

9. Does Australia work cooperatively with the NZ government to combat forced labour in the fishing industry?

The Australian Government is aware of the work undertaken by New Zealand to combat forced labour in the fishing industry, but is not involved in the project.

The Government is not aware of any cases of forced labour in the Australian fishing industry.

10. Can you provide some details on the National Roundtable on People Trafficking including who is involved; how many times have they met; how are participants determined; how is feedback provided to the participants; and are submissions accepted?

The National Roundtable on People Trafficking (the Roundtable) was established in 2008, and has met annually since then. The 2012 Roundtable was held on 28 November 2012 in Canberra.

The following agencies and organisations were invited to/participated in the 2011 Roundtable:

Attorney-General's Department

Anti-Slavery Australia

Australian Agency for International Development

Australian Building and Construction Commission (now Fair Work Building & Construction)

Australian Catholic Religious Against Trafficking in Humans

Australian Chamber of Commerce and Industry

Australian Council for International Development

Australian Crime Commission

Australian Federal Police

Australian Hotels Association

Australian Human Rights Commission

Australian Institute of Criminology

Australian Red Cross

Asian Women at Work

Commonwealth Director of Public Prosecutions

Department of Education, Employment and Workplace Relations

Department of Families, Housing, Community Services and Indigenous Affairs

Department of Foreign Affairs and Trade

Department of Immigration and Citizenship

Department of the Prime Minister and Cabinet

Fair Work Ombudsman

International Organization for Migration

Law Council of Australia

Project Respect

Master Builders of Australia

Salvation Army

Scarlet Alliance

United Voice

Victim Support Australia

Victorian Bar

The UN Special Rapporteur on trafficking in persons, especially women and children, Dr Joy Ngozi Ezeilo OON, also attended the 2011 Roundtable as part of her fact-finding mission to Australia.

The 2011 Roundtable was an important opportunity for representatives of Government and stakeholders to engage with Dr Ezeilo and identify areas for improvement, such as under-reporting of labour trafficking in Australia. The Roundtable also discussed domestic and global achievements and opportunities for increased engagement between Roundtable members, as well as the outcomes of two public consultations announced at the 2010 Roundtable – one on the criminal justice response to slavery and people trafficking, reparations and vulnerable witness protections; and a second on forced and servile marriage.

Attendance at the Roundtable varies from year to year, depending on the issues for discussion. As the 2012 Roundtable focused on implementing the new offences of forced marriage, three additional organisations with particular expertise on forced marriage were invited (Good Shepherd, the National Children's and Youth Law Centre, and Shakti). Stop the Traffik and the Australian Women Against Violence Alliance (AWAVA) were also invited.

Stop the Traffik was invited because it is at the forefront of research and awareness-raising efforts to address supply-chain slavery and the importation of goods produced using slavery, slavery-like conditions or people trafficking. For example, in 2011, Stop the Traffik released the *Unshackling Laws against Slavery: Legal Options for Addressing Goods Produced with Trafficked and Slave Labour* report.

AWAVA was invited because of its experience in addressing violence against women, and its focus on types of people trafficking, such as forced marriage, as forms of violence against women.

AGD does not generally call for submissions in advance of the Ministerial-level Roundtable; however, three public consultations have been announced in previous years (two in 2010 and one 2011), to which Roundtable participants were invited to provide submissions.

The Government sets the agenda for the Ministerial-level Roundtable. However, through engagement with Government agencies throughout the year, NGOs can and do assist in this process. In addition, the Roundtable has been supported by the National Roundtable

Senior Officials' Meeting (SOM) since 2011. The agendas for SOM meetings, which usually occur in May, are based on the nomination of agenda items by NGOs and Government agencies.

– **What are the outcomes of the round table?**

The outcomes from the Roundtable vary from year to year. Please see above for further details.

– **How are they communicated to the participants?**

At the end of each Roundtable, the Chair summarises the outcomes for participants. In the event that working groups are formed under the Roundtable to progress work on particular programs or policies, the nature of the working group will inform the way that outcomes are communicated.

By way of example, following the 2008 Roundtable, Government agencies and NGO members of the Roundtable collaborated to produce national guidelines for NGOs working with trafficking victims, along with multilingual fact sheets that inform victims of their rights in Australia.

The Guidelines have been updated to provide the latest information about arrangements for visas and victim support. The updated Guidelines have been translated into community languages, including Chinese, Korean, Tagalog, Thai and Vietnamese, and are available from the AGD website.

11. Does the Interdepartmental Committee coordinating the anti-people trafficking strategy also have contact with state and territory agencies?

The Interdepartmental Committee was established at the Commonwealth level, so States and Territories are not represented. However, individual agencies work closely with State and Territory agencies as appropriate.

For example, as noted above, the Government will shortly begin work on the next phase of its formal national plan to combat trafficking, which will include benchmarks and indicators to measure progress and impact. In doing so, AGD will engage with a range of stakeholders, including the States and Territories, and Roundtable participants.

In addition, AGD works closely with its State and Territory counterparts to combat slavery, slavery-like practices and people trafficking through a number of mechanisms, including the National Criminal Law Reform Committee and the Standing Council on Law and Justice Victims' Working Group.

On 4 May 2011, the Australian Policing Strategy to Combat Trafficking in Persons 2011-13 was endorsed by the AFP and all State and Territory police. The AFP and its State and Territory policing partners have committed to ensuring that Australia's anti-trafficking strategy remains relevant and responsive to emerging trends and issues. For this reason, and in recognition of Australia's international obligations, the focus of the Australian Policing Strategy was broadened to encompass all forms of people trafficking, including labour exploitation and organ harvesting.

In August 2011, the AFP and State and Territory Police service representatives agreed to develop an implementation plan, focusing on the proposed initiatives intended to support the strategic elements identified in the Australian Policing Strategy. One of the

initiatives identified from this process was to convene stakeholder liaison forums in each State and Territory, co-hosted by the AFP and the relevant State and Territory police service.

In March 2012, in conjunction with the AIC and Western Australia and Northern Territory police, the AFP conducted forums in Kalgoorlie, Karratha, Perth, Darwin and Alice Springs. The forums were held as part of the implementation of the Australian Policing Strategy, and engaged stakeholders in discussions to collectively combat and reduce the impact of people trafficking. These forums also focused on familiarising all stakeholders with the indicators which identify possible victims of people trafficking and the referral process to Government agencies, victim support networks or other NGO support groups.

12. Your submission notes that since 2008 the Australian Government has provided \$2.4 million in funding to four NGOs.

– What funding was provided to NGOs prior to 2008?

The Australian Government did not provide funding to NGOs prior to 2008 for people trafficking activities. A detailed explanation of NGO funding since 2008 is at question 5, above.

13. What programs are in place to support the victims of slavery or people trafficking? What kind of assistance is provided?

The Australian Government provides support for victims of slavery, slavery-like practices and people trafficking through the Support for Trafficked People Program (Support Program).

The Support Program is demand driven, and has an annual appropriation of \$0.755 million. The Support Program will receive an addition \$1.2 million in funding from 2011-12 to 2014-15, bringing the annual amount to \$1.055 million per year between 2011-12 to 2014-15.

The Support Program and is available to all victims of trafficking who meet the eligibility criteria, regardless of their gender, the purpose for which they were trafficked, their visa status and, initially, whether they are willing and/or able to assist with an investigation and prosecution.

Entry to the program is by referral from the AFP where the individual is, or is suspected of being, a victim of an offence under Divisions 270 or 271 of the Criminal Code. Possible victims may be identified through a number of avenues, including immigration officials, law enforcement agencies, NGOs, hospitals, medical practitioners, consulates and government departments. Possible victims are referred to the AFP for assessment and, where appropriate, entry to the Support Program.

The Support Program is administered by FaHCSIA, and delivered through case management services provided by the Australian Red Cross. The support is tailored to meet the needs of individual clients. The Support Program seeks to ensure that clients have access to accommodation, income support, counselling, medical treatment, legal and migration advice, skills development training and interpreter services as required (see the summary of Support Program allowances/other services at **Attachment D**).

Clients may access support through the following streams:

- Assessment Stream – up to 45 days of intensive support for all clients referred by the AFP, irrespective of whether they are willing and/or able to assist with an investigation and prosecution of a people trafficking offence;
- Extended Intensive Support Stream – an additional 45 days of intensive support for clients who are willing but not able to assist with an investigation and/or prosecution because of trauma or health issues;
- Justice Support Stream – support while the client participates in the criminal justice process;
- Transitional Period – a 20 day transition period for clients leaving the Support Program; and
- Temporary Trial Support Stream – temporary support for victims who return to Australia to participate in a trial.

14. Is Australia involved in any international efforts to combat slavery or people trafficking?

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.

The DFAT submission to the JSCFADT of 11 October 2012 describes the Government's international efforts to encourage effective action to address slavery, slavery-like conditions and people trafficking, and the benchmarks by which the Australian Government assesses its efforts against international best practice.

15. Does Australia support the United Nations Global Plan of Action Against Trafficking in Persons?

Australia welcomed the adoption of the UN Global Plan of Action by the General Assembly in 2010, which recognised the need to coordinate global efforts to combat human trafficking, including through the UN *Convention against Transnational Organised Crime* (UNTOC).

Australia—as a party to the UNTOC and its *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*—supports the UN Global Plan of Action and will continue to develop and implement national policies to address trafficking in persons, in accordance with the UNTOC, and that align with the Global Plan of Action.

16. How much funding is provided to international programs that address trafficking in persons?

The DFAT submission to the JSCFADT of 11 October 2012 describes the Government's international efforts to encourage effective action to address slavery, slavery-like conditions and people trafficking, including funding arrangements.

In addition to the funding outlined in the DFAT submission, on 20 November 2012, the Prime Minister announced funding of \$50 million to establish the *Australia-Asia Program to Combat Trafficking in Persons (AAPTIP)* (\$50m; 2013-17) at the East Asia Summit.

AAPTIP will provide technical assistance to improve criminal justice capacities and improve policy formulation and implementation in Cambodia, Indonesia, Lao PDR, Myanmar, the Philippines, Thailand, and Vietnam.

A competitive tender process for AAPTIP is expected to commence in late 2012. Further whole-of-government consultation is expected during the inception phase after the competitive tender process has completed.

The Asia Regional Trafficking in Persons Project (ARTIP) formally concluded in 2011 but is in a scaled-back transition phase to ensure that critical mechanisms are kept in place until AAPTIP commences.

17. Is forced labour prosecuted under industrial relations laws or slavery laws?

As noted above, where information comes to light during an investigation instituted by FWBC or the FWO which suggests trafficking, slavery, or slavery-like conduct has occurred, the organisations have systems in place to refer the information to AFP and DIAC.

Similarly, the AFP and DIAC refer matters to FWBC or the FWO where evidence suggests that workplace laws are being or have been contravened.

18. How often does the Department examine international efforts to combat slavery or people trafficking?

In line with the Government's commitment to evidence-based policy, Australia considers international efforts to combat slavery, slavery-like practices and people trafficking whenever existing policies and procedures are reviewed, and when new options are considered or progressed.

The AIC does not examine international efforts to combat slavery or people trafficking *per se*. However, the approaches to research outlined at **Attachment E** provide insight into, or are shaped by, international trends and standards.

19. The report of the mission to Australia by the UN Special Rapporteur on trafficking in persons made a number of specific recommendations including developing a new framework for collecting data on trafficked persons, increasing capacity building activities for government officials, addressing key gaps in the support programme, and ensuring ongoing regional engagement to strengthen national responses and address the root causes of trafficking in sending countries.

– What steps is Australia taking to address the 31 recommendations made in the report?

The Australian Government was pleased to welcome the United Nations (UN) Special Rapporteur on trafficking in persons, especially women and children, Dr Joy Ngozi Ezeilo OON, to Australia in November 2011. Dr Ezeilo presented her report on her visit to the UN Human Rights Council in June 2012, in which she recognised Australia as a regional leader in the fight against people trafficking. The Report presented 86 recommendations. The Government has carefully considered each of the recommendations and has either fully or partially accepted the majority of them.

Members of the IDC are currently working to implement a number of Dr Ezeilo's

recommendations. For example, the Australian Government recently introduced legislation, the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill, to strengthen laws criminalising trafficking and related exploitative practices. Further, in consultation with stakeholders, the Australian Government will shortly begin work on the next phase of its formal national plan of action to combat trafficking. In line with Dr Ezeilo's recommendation, the plan of action will be prepared to include benchmarks and indicators to measure progress and impact.

As part of its ongoing response to the Report, the Australian Government continues to engage in productive dialogue with the Special Rapporteur, and is committed to ongoing support and facilitation of the work of United Nations Special Procedures mandate holders.

**Summary of convictions for
Division 270 (slavery, sexual servitude and deceptive recruiting) and Division 271 (people trafficking and debt bondage) Criminal Code and related offences
prosecuted by CDP**

No.	Defendant's Name	Region	Charges	Matter Type	Co-accused	Outcome	Penalty
1	SIEDERS, Johan	NSW	1 x s270.3(1) Criminal Code (possessing a slave); 1 x s270.6(2) Criminal Code (conducting a business that involves sexual servitude); 1 x s86(2)(a) Crimes Act (NSW) (aggravated offence of kidnapping)	Sexual servitude	YOTCHOMCHIN, Somsri	Trial on s270.3(1) charge only (remaining charges not proceeded with) jury discharged, retrial, jury discharged, re-trial, guilty, sentenced, appeal against conviction and sentence (dismissed).	4 years' imprisonment with 2 years non-parole
2	YOTCHOMCHIN, Somsri (AKA KENT, Somsri)	NSW	1 x s270.6(1) Criminal Code (causing a person to enter or remain in sexual servitude); 1 x s270.3(1) Criminal Code (possessing a slave); 1 x s270.6(2) Criminal Code (conducting a business that involves sexual servitude); 1 x s86(2)(a) Crimes Act NSW (aggravated offence of kidnapping)	Sexual servitude	SIEDERS, Johan	Trial on s270.3(1) charge only (remaining charges not proceeded with), jury discharged, retrial, jury discharged, re-trial, guilty, sentenced, appeal against conviction and sentence (dismissed).	5 years' imprisonment with 2 years 6 months non-parole
3	McIVOR, Trevor Frank	NSW	12 x s270.3(1) Criminal Code – counts (possessing a slave); 3 x s270.6(1) Criminal Code (causing a person to enter or remain in sexual servitude); 3 x s271.8(1) Criminal Code (debt bondage); 3 x s86(1)(b) Crimes Act NSW (kidnapping)	Slavery	TANUCHIT, Kanokporn	Committed on s270.3(1) charges only (other charges withdrawn), trial, convicted on 10 charges, acquitted on 2 charges, sentenced, appeal against conviction (upheld), re-trial ordered, re-trial, convicted, sentenced, appeal against sentence (dismissed).	12 years' imprisonment with 7 years 6 months non-parole
4	TANUCHIT, Kanokporn	NSW	12 x s270.3(1) Criminal Code – counts (possessing a slave); 3 x s270.6(1) Criminal Code (causing a person to enter or remain in sexual servitude); 3 x s271.8(1) Criminal Code (debt bondage); 3 x s86(1)(b) Crimes Act NSW (kidnapping)	Slavery	McIVOR, Trevor Frank	Committed on s270.3(1) charges only (other charges withdrawn), trial, convicted on 10 charges, acquitted on 2 charges, sentenced, appeal against conviction (upheld), re-trial ordered, re-trial, convicted, sentenced, appeal against sentence (dismissed).	12 years' imprisonment with 7 years non-parole
5	NETTHIP, Namthip	NSW	1 x 270.6(2) Criminal Code (conducting a business involving sexual servitude); 1 x s234 Migration Act 1958 (false documents relating to non-citizens); 9 x 271.2(1B) Criminal Code (people trafficking - entry or receipt with recklessness); 11 x 271.8(1) Criminal Code (debt bondage); 10 x s234(1) Migration Act 1958 (false documents relating to non-citizens)	Sexual servitude		Guilty plea to sexual servitude and 1 x false documents charges (other false documents charges taken into account (s16BA Crimes Act)), remaining charges withdrawn, convicted and sentenced.	2 years' 3 months imprisonment with 13 months non-parole
6	TRIVEDI, Diveye	NSW	1 x 271.2(1B) Criminal Code (people trafficking - entry or receipt of persons into Australia with recklessness about exploitation)	People trafficking		Guilty plea, convicted and sentenced.	250 hours community service and \$1,000 fine.
7	"DS" (supressed)	Vic	3 x s270.3(1)(a) Criminal Code (possess a slave); 2 x s270.3(1)(b) Criminal Code (slave trading)	Slavery	PICK, Paul; TANG, Wei;	Guilty plea, convicted, appeal against sentence (upheld), sentence reduced.	6 years' imprisonment with 2 years and 6 months non-parole
8	TANG, Wei	Vic	10 x s270.3(1)(a) Criminal Code (possessing and using a slave)	Slavery	PICK, Paul; DS;	Trial, hung jury, re-trial, convicted and sentenced, appeal against conviction (upheld) and sentence (not necessary to consider), CDP appeal to High Court (upheld), defendant's appeal against sentence remitted to Court of Criminal Appeal (upheld), sentence reduced.	9 years' imprisonment with 5 years non-parole

No.	Defendant's Name	Region	Charges	Matter Type	Co-accused	Outcome	Penalty
9	HO, Kam Tin	Vic	5 x s270.3(1)(a) Criminal Code (possessing a slave); 1 x s270.3(1)(a) Criminal Code (exercising power of ownership over a slave) 4 x 31(1) Financial Transaction Reports Act (conduct transactions so as to avoid reporting requirements)	Slavery	HOO, Chee Fui, HO, Kam Ho, LEECH, Sarisa, RAHARDJO, Slamet Edy	Trial, convicted, sentenced, appeal against conviction (dismissed) and appeal against sentence (upheld), sentence reduced.	8 years and 3 months' imprisonment with 5 years non-parole
10	HO, Ho Kam	Vic	10 x s270.3(1) Criminal Code (possessing and using a slave); 1 x s400.6(1) Criminal Code (dealing in proceeds of crime); 1 x s31(2) Financial Transactions Act (conduct transactions so as to avoid reporting requirements) 1 x s10 Prostitution Control Act (Vic)	Slavery	HOO, Chee Fui, HO, Kam Tin, LEECH, Sarisa, RAHARDJO, Slamet Edy	Trial, convicted, sentenced, appeal against conviction (dismissed) and appeal against sentence (upheld), sentence reduced, leave sought to appeal to High Court (refused).	5 years 9 months' imprisonment with 3 years non-parole
11	LEECH, Sarisa	Vic	2 x s270.3(1) Criminal Code (possessing a slave); 1 x s234(1) Migration Act 1958 (aiding and abetting making a false statement to an officer)	Slavery	HOO, Chee Fui, HO, Kam Ho HO, Kam Tin, RAHARDJO, Slamet Edy	Migration Act charge withdrawn, trial on people trafficking charges, convicted, sentenced, appeal against conviction (dismissed), appeal against sentence (upheld), sentence reduced.	5 years and 6 months' imprisonment with 3 years non-parole
12	KOVACS, Zoltan "John"	Qld	2 x s270.3(1) Criminal Code (possessing a slave); 1 x s240(1) Migration Act 1958	Slavery	KOVACS, Melita	Trial, convicted, sentenced, appeal against conviction (upheld), re-trial, guilty plea, convicted, sentenced.	8 years' imprisonment with 15 months non-parole
13	KOVACS, Melita	Qld	2 x s270.3(1) Criminal Code (possessing a slave); 1 x s240(1) Migration Act 1958	Slavery	KOVACS, Zoltan "John"	Trial, convicted, sentenced, appeal against conviction (upheld), re-trial, convicted, sentenced, appeal against conviction and sentence (abandoned)	4 years' imprisonment with 291 days non-parole
14	DOBIE, Keith William	Qld	1 x s271.2(2B) Criminal Code (people trafficking); 2 x s271.2(2B) Criminal Code (people trafficking); 1 x s400.6(1) Criminal Code (dealing in proceeds of crime); 4 x s234(1)(a) Migration Act 1958 (false documents relating to non-citizens)	People trafficking		1 x s271.2(2B) charge withdrawn, committed on remaining charges, guilty plea on non-trafficking charges prior to trial and guilty plea on trafficking charge at trial, sentenced, appeal against conviction and sentence (dismissed), further appeal (dismissed).	5 years' imprisonment with 22 months non-parole
15	NANTAHKHUM, Watcharaporn	ACT	1 x s270.3(1) Criminal Code (possessing a slave); 1 x s271.8(1) Criminal Code (debt bondage); 1 x s18(1) Prostitution Act (ACT) (operating a brothel other than in a prescribed location); 1 x s43(1) Crimes Act 1914 (attempting to pervert justice); 1 x s245AC(2) Migration Act 1958 (allowing non-citizen to work in breach of visa condition - aggravated); 1 x s245AC(1) Migration Act 1958 (allowing a non-citizen to work in breach of a visa-condition); 1 x s245AB(2) Migration Act 1958 (allowing an unlawful non-citizen to work - aggravated); 2 x s245AB(1) Migration Act 1958 (allowing an unlawful non-citizen to work)	Slavery		1 x s245AB(1) Migration Act charge withdrawn, trial on remainder of charges, convicted, sentenced, appeal against conviction (abandoned) and appeal against sentence (ongoing).	8 years' imprisonment with 4 years and 9 months non-parole

ATTACHMENT B

Total number and type of offences charged where an offence under Division 270 or Division 271 of the *Criminal Code* was the primary offence
(by region)

Offence	NSW	Vic	Qld	ACT	Total
s135.1 Criminal Code: Influencing a Commonwealth public official	1				1
s270.3 Criminal Code: Slavery	7	11	2	2	22
s270.6 Criminal Code: Sexual servitude	20	1	2		23
s270.7 Criminal Code: Deceptive recruiting	5				5
s271.2 Criminal Code: People trafficking	10		1		11
s271.4 Criminal Code: Trafficking in children			2	1	3
s271.8 Criminal Code: Debt bondage	4				4
s400.3 Criminal Code: Dealing in proceeds of crime (>\$1m)	2				2
s400.4 Criminal Code: Dealing in proceeds of crime (>\$100K)	3				3
s400.6 Criminal Code: Dealing in proceeds of crime (\$10K)		1	1		2
s234 Migration Act: false documents relating to non-citizens	1	1	1		3
s240 Migration Act: Arrange marriage to obtain permanent residence	1				1
s243 Migration Act: Application for permanent residence	1				1
s245AB Migration Act: Allowing an unlawful non-citizen to work				1	1
s245AC Migration Act: Allowing a non-citizen to work in breach of visa conditions	4			1	5
s31 Financial Transactions Reports Act: conduct transactions so as to avoid reporting requirements		2			2
s80D Crimes Act (NSW): causing sexual servitude	3				3
s80E Crimes Act (NSW): conduct of business involving sexual servitude	3				3
S86 Crimes Act (NSW): kidnapping	6				6
s10 Prostitution Control Act (Vic): living on earnings of prostitute		1			1
s18 Prostitution Act (ACT): operating a brothel in other than a prescribed location				1	1

ATTACHMENT C

Summary by region of offences under Divisions 270 and 271 of the *Criminal Code* and related offences referred by AFP to CDPP

Region	Matters referred	Defendants charged	No charge (insufficient evidence)	Conviction	Acquittal	Charges withdrawn before trial	No re-trial after jury discharged	No re-trial after jury hung	Awaiting trial	Referred by CDPP to State DPP (post charge)
NSW	27	24	3	6	2	8	4	2	2	-
Victoria	12	12	-	5	3	3	-	-	1	-
Qld	5	5	-	3	-	-	-	-	-	2
WA	-	-	-	-	-	-	-	-	-	-
ACT	2	1	1	1	-	-	-	-	-	-
Total:	46	42	4	15	5	11	4	2	3	2

Summary of assistance under the Support for Trafficked People Program

The Support for Trafficked People Program (Support Program) provides individualised case management, with support tailored to the particular needs of each client. Clients have access to a range of support and assistance as required.

The types of assistance available, depending on need and circumstances, can include:

All Streams
<u>Medicare and Pharmaceutical Benefits Scheme</u>
<u>Emergency items</u> such as clothing and personal items on entry to the Support Program and at other times such as during a safety-related change of accommodation
<u>Counselling</u> – clients may require assistance with specialised counselling because of their trafficking experiences
<u>Additional medical fees</u> for services related to the Support Program and/or criminal justice process and/or a Witness Protection (Trafficking) visa processes
<u>Training/education</u> – clients are encouraged to undertake vocational training to improve their options and opportunities including English language training, as well as courses that assist in the socialisation of clients
<u>Access to interpreter and translation services</u>
<u>Legal/migration advice</u> – clients may be assisted with the cost of legal/migration advice that involves Support Program matters and/or the criminal justice process
Assessment Stream, Extended Intensive Support, Temporary Trial Support
<u>Living allowance</u> – based on financial need and not to exceed 89 per cent of the applicable rate of Special Benefit (extra for dependent children living with the client)
<u>Financial assistance with short term, furnished accommodation</u>
Justice Support Stream
<u>Financial assistance to enter long term accommodation – may include help with bond and initial rent</u>
<u>Household set up costs</u> – help with basic home set up which may include essential furniture, utensils, and whitegoods
<u>Centrelink benefits</u> – clients covered by a Criminal Justice Stay visa / Witness Protection (Trafficking) visa may be eligible for Centrelink benefits such as Special Benefit, Rent Assistance, Health Care Card, Family Tax Benefit
Transition period
When exiting the Support Program, clients are provided with assistance during the 20 day transition period in line with their needs and circumstances including the Support Stream they are exiting from.

Australian Institute of Criminology research that provides insight into, or is shaped by, international trends and standards

In the most recent monitoring report released by the AIC (see Joudo Larsen et al. 2012):

- An update on initiatives being undertaken in Europe and Southeast Asia to address trafficking
- The country of origin/citizenship was reported for clients of the Support for Trafficked People program. In 2010-11, the majority of clients came from southeast Asian countries. The majority came from Thailand (n=32), with a respective 17, nine and seven clients coming from Malaysia, the Philippines, and South Korea. These numbers were generally comparative with numbers from 2009-10, except that there were no clients from the Philippines during this period. Since 2004, and prior 2010-11, only one client from the Philippines had previously been on the program.
- The community attitudes and awareness survey found that the largest proportion of respondents (19%) believed that Afghanistan was the country from which most trafficked persons originate. As discussed for Q2, this reflects the general public's confusion between smuggling and trafficking in persons. Overall, however, respondents indicated a belief that most persons trafficked into Australia originated from a Southeast Asian country (53%), with Indonesia (17%) and Thailand (14%) identified as the top two countries in this region, followed by China (10%).

As noted in its submission to the inquiry, the AIC is in the process of developing an evidence-based framework of indicators for monitoring trafficking in persons in Australia and the region. As part of this review process, the AIC is consulting the handbooks and guidelines produced by various international bodies to inform the framework and indicators that will form the foundation of monitoring. These sources include:

- International Organization for Migration (IOM):
 - Handbook on performance indicators for counter-trafficking projects (2008)
 - Guidelines for the collection of data on trafficking in human beings, including comparable indicators (2009)
- International Centre for Migration Policy Development (ICMPD)
 - Handbook on anti-trafficking data collection in southeastern Europe (2009)
 - Anti-trafficking data collections and information management in the European Union (2009)
- Statistics Canada
 - Towards the development of national data collection framework (Ogrodnik 2010)

The indicators involved in the framework, and the case file analysis associated with monitoring, can be expected to highlight various trends of international significance, and that may shed light on international efforts to combat trafficking-like crimes. These include the country of origin of trafficked persons, vulnerabilities associated with country of origin

and migration trends (including push/pull characteristics).

It is also of note that the term 'Trafficking-type crime' will be used for the monitoring program to refer to the range of crimes in Australia commonly referred to as 'modern day slavery' (UNODC 2009: 6). At the Commonwealth level in Australia, these are set out in Divisions 270 and 271 of the Commonwealth *Criminal Code*. There are also a range of complementary State/Territory crimes such as sexual servitude, deceptive recruiting offences and forced prostitution.

While these crimes vary in their precise legal elements, they aim to criminalise scenarios where the control exercised over the trafficked person is such that their freedom is seriously undermined or removed - in the most extreme case of slavery the person trafficked is effectively 'owned' and in the case of 'servitude' they are not free to cease providing services or to leave due to threats or force. On a similar note, the monitoring program will be considering overlapping crimes such as domestic violence, which provide insight into behaviour that is otherwise undetected as trafficking.

In addition, and as suggested in the submission, future monitoring will not initially involve developing estimates relating to the extent to which trafficking occurs. This is because the US Government Accountability Office (GAO 2006: 2) found that 'such estimates are questionable...because of methodological weaknesses, gaps in data, and numerical discrepancies'.

The resulting monitoring report is expected to be released in 2014 for the period to 30 June 2013.

The submission also outlined a range of research activities undertaken by the AIC that were concerned with international trafficking trends. These included:

- Trafficking in the Pacific – Consultations by the AIC and analysis of known trafficking-like cases in the Pacific suggest that people trafficking into the region may be occurring in a variety of industries. The AIC's research in this area have included hosting a Pacific Trafficking in Persons Forum (see Lindley & Davis 2009), and vulnerabilities to exploitation and people trafficking in the Pacific Island region (see Lindley & Beacroft 2011; Ball, Beacroft & Lindley 2011). Further papers on issues related to human security and child guardianship in the Pacific will be published in 2013.
- The trafficking of children in the Asia-Pacific – The AIC published a review of the available literature on the issue of child trafficking in both Asia and the Pacific (see Joudo Larsen 2011). Although it was not possible to determine the extent of the problem, much is known about factors which can increase a child's vulnerability. In the Pacific region these factors include:
 - Low availability and high cost of education
 - Lack of employment opportunities for young people
 - Risks linked to cultural practices such as billeting, informal adoption and early marriage.
- Assisting the IOM with analysis of human trafficking data – The IOM is an inter-governmental organisation committed to the principle that humane and orderly migration benefits migrants and society. In 2011-12, the AIC collaborated

with IOM to analyse the Indonesian victim component of their Counter-Trafficking Module (CTM). The CTM is the largest global database containing primary data on victims of trafficking, and holds quantitative and qualitative information relating to 3,700 Indonesian victims of trafficking identified between January 2005 and January 2010. Papers on the following topics are due to be published by 2013:

- Experiences of trafficked persons: an Indonesian sample
- Support needs of trafficked men, women and children: a case study of Indonesia
- Barriers to trafficked peoples' involvement in criminal justice proceedings: an Indonesian case study
- Exploitation and trafficking: experiences of Indonesian migrant domestic workers.