



Submission No 47

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

Organisation: Australian Red Cross

Australian Red Cross Public Submission

to the

**Joint Standing Committee on Foreign
Affairs, Defence and Trade
Human Rights Sub-Committee
*Inquiry into Slavery, Slavery like
conditions and People Trafficking***

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1 INTRODUCTION

Australian Red Cross (Red Cross) welcomes the opportunity to contribute to the Parliament of Australia's Joint Standing Committee on Foreign Affairs, Defence and Trade Human Rights Subcommittee *Inquiry into Slavery, Slavery like conditions and People Trafficking*. In recognition of our preference for confidential dialogue with Government as an auxiliary in the humanitarian field, we initially requested that this submission be kept confidential. However at the Committee Secretariat's request and as Red Cross is mindful that the information provided may not otherwise be available to inform the recommendations of the inquiry, we have since agreed to release it publicly.

Red Cross welcomes the Joint Standing Committee's initiative and considers this Inquiry an excellent contribution to the ongoing dialogue associated with trafficking in persons, the supports provided to trafficked people in Australia, and a review of Australia's commitments to combat people trafficking through domestic efforts and laws and international agreements and obligations.

Given that Red Cross' role and expertise relates to supporting people who have been trafficked, we have limited our submissions to the Inquiry's Terms of Reference related to our mandate, and have provided information on client experiences and the ways Red Cross works with people who have been trafficked in Australia.

2 RED CROSS' ROLE

Red Cross is part of the International Red Cross and Red Crescent Movement and has a strong commitment to supporting people made vulnerable through the process of migration. This commitment is guided by our fundamental principles of Humanity, Impartiality, Neutrality, Independence, Voluntary Service, Unity and Universality and is bound within both international and Australian policy frameworks. Through our work, we have been able to contribute to policy and program delivery as a neutral, impartial and independent organisation.

A number of other Red Cross and Red Crescent National Societies are also active in the anti-trafficking sphere. Their work includes prevention and awareness-raising activities, leading regional coalitions and networks and delivering support programs to people who have been trafficked and undertaking advocacy through the principle of humanitarian diplomacy.

In Australia, the Support for Trafficked People Program (herein 'STPP' or 'the Program') was established in 2004 as part of the Commonwealth Government's whole-of-government approach to combating People Trafficking. Australian Red Cross has been managing the Program since March 2009, and recently signed a Funding Agreement with the Australian Government to continue service provision until 2015. The Program consists of a number of streams which provide short and longer-term support to trafficked people who are assisting the Australian Federal Police (AFP) in the administration of criminal justice.

The STPP sits within Red Cross' Migration Support Programs department, which in addition to supporting people who have been trafficked, provides a range of supports to people made vulnerable through the process of migration such as asylum seekers and refugees. These programs, contracted by the Department of Immigration and Citizenship (DIAC), include the Asylum Seeker Assistance Scheme (ASAS), Community Assistance Support (CAS) Program and the Community Detention Program (CD). Additionally Red Cross Humanitarian Observers visit people in immigration detention whilst the Tracing Service helps people restore family links where these have been lost following conflicts or natural disasters.

Red Cross has supported a number of people who have experienced trafficking-like conditions as clients of the ASAS, CAS and Immigration Detention programs. Red Cross therefore has extensive experience in supporting trafficked people in addition to STPP clients, and from that, a strong awareness of the issues.

Furthermore, on 17 July 2011, the former Minister for the Status of Women, the Hon. Kate Ellis MP, announced funding of \$126,960 to enable Australian Red Cross to develop and deliver a training package for community service providers to better understand the complex needs of trafficked people and how to best support them. Then, in November 2011, Red Cross received a further \$64,974 under the Proceeds of Crime Act from the Attorney General's Department as part of the Building Knowledge and Links project to raise awareness on labour exploitation.

These additional programs aim to develop community service provider knowledge of the issue of people trafficking in Australia, and through case studies, develop skills and competencies to work safely and ethically with trafficked people by building collaborative relationships among colleagues and partner agencies and thus facilitating referrals to specialist support services. Secondly, they focus on increasing knowledge of indicators of labour exploitation with an emphasis on identifying potential signs of people trafficking, pathways for referral and reporting and clarifying the rights and responsibilities of the individual who is witness to, or a victim of, trafficking.

To date, Red Cross has facilitated 64 workshops, consisting of 1093 participants from over 200 different organisations in Melbourne, Sydney, Hobart, Canberra, Perth, Darwin and Brisbane.

The training has been welcomed by the community services sector, and the joint delivery of the program by Red Cross and AFP Human Trafficking Team representatives at some sessions is evidence of the positive collaborations and consultation undertaken by Red Cross.

3 SCOPE OF SUBMISSION

Red Cross does not seek to address each term of reference, but will instead focus on the issues related to its work supporting trafficked people through the Support for Trafficked People Program. Specifically:

- Australia's efforts to address people trafficking, including through prosecuting offenders and protecting and supporting victims.

The Red Cross response focuses on Australian Government efforts in protecting and supporting trafficked people.

4 AUSTRALIA'S EFFORTS TO ADDRESS PEOPLE TRAFFICKING, INCLUDING THROUGH PROSECUTING OFFENDERS AND PROTECTING AND SUPPORTING VICTIMS

Whole-of-Government Approach to Combating People Trafficking

In 2003, the Australian Federal Government established a whole-of-government strategy to combat people trafficking. Key agencies involved in delivering the strategy are Attorney-General's Department, DIAC, AFP, Commonwealth Director of Public Prosecutions (CDPP), Department of Foreign Affairs and Trade (DFAT) and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). Australia also fulfilled its international legal obligations by ratifying the United Nations Protocol and drafting it into existing legislation under the Criminal Code Act 1995 (Cth) in 2005.

The strategy is comprised of four key elements:

- Prevention
- Detection and Investigation
- Criminal Prosecution
- Victim Support and rehabilitation.

It is understood that these recognise the full cycle of human trafficking, from recruitment to victim support and aim to address each of these. Part of the strategy around Victim Support was the establishment of a Support for Trafficked People Program in 2004, funded by FaHCSIA.

As Red Cross is responsible for service delivery of the Support for Trafficked People Program, this submission will focus on this aspect of Government initiatives and policies.

Support for Trafficked People Program structure and People Trafficking Visa Framework

People who have been trafficked may be identified through a number of avenues, including immigration officials, law enforcement agencies, non-government organisations, hospitals, medical practitioners, consulates and government departments. However, it is the AFP who determines a person's eligibility for the Program. Importantly Red Cross is required to deliver the Program within the Australian government's framework as follows:

- **Assessment Stream** – intensive support for up to 45 days to all trafficked people determined by the AFP to be eligible for the Support Program, irrespective of whether they are willing or able to assist police. This provides a recovery and reflection period and time for clients to assess their options. Clients have access to the following support as needed: secure accommodation; a living allowance; an amount for the purchase of essentials such as clothing and toiletries; access to health care, including counselling; access to interpreters; and access to legal services.
- **Extended Assessment Stream** – this provides access to a further 45 days support for clients who are willing, but unable, to assist with an investigation or prosecution of a people trafficking offence. This extended period of support is provided on a case-by-case basis and is designed to provide additional assistance to clients suffering from medical conditions and trauma.
- **Justice Support Stream** – support until the investigation and prosecution of a people trafficking matter is finalised. Clients have access to the following support as needed and eligible: Centrelink Special Benefit, Rent Assistance and a Health Care Card; assistance with securing longer-term accommodation; assistance to purchase essential furniture and household items; access to Medicare and the Pharmaceutical Benefits Scheme; access to legal services and interpreters; assistance to obtain employment and training (including English-language training) if desired; and links to social support.
- **Temporary Trial Support Stream** – intensive support (similar to that provided under the Assessment Stream) for trafficked people who return to Australia to give evidence pertaining to a people trafficking prosecution. Recipients are entitled to short-term accommodation and a weekly living and food allowance.
- There is also a 20-day **transition period** for clients leaving the Support Program¹.

People Trafficking Visa Framework

The People Trafficking Visa Framework provides access to specific visas for people who have been trafficked if they are accessing the Program. Importantly, where people already have a substantive visa upon referral to the Program, such as a working holiday, work or student visa, they are able to choose to maintain their initial visa or apply for one under the people trafficking framework. The Framework comprises of three different visa types which entitle the holder to different levels of social support services:

¹ <http://www.fahcsia.gov.au/our-responsibilities/women/programs-services/reducing-violence/anti-people-trafficking-strategy>

- **Bridging Visa F (BVF)**

The BVF is valid for up to 45 days and is available to suspected victims of trafficking who are willing to assist with an investigation. It is issued by DIAC and can be granted to immediate family members who are also in Australia². There are no work rights associated with a BVF but it is generally issued upon referral to the Program as part of the Assessment Stream where a person does not already have a valid visa. A second BVF can be issued if the client moves to the Extended Intensive Support Stream.

Clients have also been issued with Bridging Visa A or Bridging Visa E upon referral to the Program.

- **Criminal Justice Stay Visa (CJSV)**

A CJSV allows a person to remain in Australia lawfully for the period of criminal justice proceedings, and can be issued to both a witness and alleged perpetrator³. Trafficked people holding these visas continue to have access to the Program and also have work and study rights⁴. CJSV holders are eligible to apply for a Centrelink Special Benefit and Health Care Card if their CJSV has 'been issued only for the purpose of assisting in the administration of criminal justice in relation to the offence of people trafficking, sexual servitude or deceptive recruiting'⁵. Witnesses who have not been trafficked are therefore eligible to hold this visa.

- **Witness Protection (Trafficking) Visa (WPTV)**

The WPTV is a permanent visa and allows a person who has made a contribution to the investigation or prosecution of an alleged trafficking offence, and who may be in danger if they return to their home country, to remain in Australia lawfully⁶. Dependents of trafficked people, including children, are also able to be included on the trafficked person's WPTV offer.

Program numbers

Since March 2009 Red Cross has supported 114 people that have been referred to the Program and who have remained for periods ranging from one week to seven years.

One hundred and one of our clients have been women but in the last eighteen months, the majority of new referrals have been men. As of August 2012, there were sixty-four clients on the Program. The major countries of origin as identified in the Third Report of the Anti-People Trafficking Interdepartmental Committee (covering the period 1 July 2010 – 30 June 2011) are:

- Thailand
- Malaysia
- Republic of Korea
- Philippines⁷.

The impact of the trafficking experience

The impact of the trafficking experience on clients is highly individualised, and caseworkers work together with clients to identify their needs, set goals and plan for the future as they recover from their trafficking experience.

²Australian Government, *Trafficking in Persons, The Australian Government Response 30 May 2009 – 30 June 2010: The Second Report of the Anti-People Trafficking Interdepartmental Committee*, 2010, p. 8.

³Commonwealth Consolidated Acts, 'Migration Act 1958 – Section 141,' http://www.austlii.edu.au/au/legis/cth/consol_act/ma1958118/s141.html, and 'Migration Act 1958 – Section 142,' http://www.austlii.edu.au/au/legis/cth/consol_act/ma1958118/s142.html, accessed March 26, 2012.

⁴Australian Government, *Trafficking in Persons, The Australian Government Response 30 May 2009 – 30 June 2010: The Second Report of the Anti-People Trafficking Interdepartmental Committee*, 2010, p. 9.

⁵Australian Government, Guide to Social Security Law, 9.2.14 Visa Subclass ZB 951 Criminal Justice Stay Visa, http://www.fahcsia.gov.au/guides_acts/ssg/ssguide-9/ssguide-9.2/ssguide-9.2.14.html, accessed October 27, 2011.

⁶Australian Government, *Trafficking in Persons, The Australian Government Response 30 May 2009 – 30 June 2010: The Second Report of the Anti-People Trafficking Interdepartmental Committee*, 2010, p. 9.

⁷Australian Government, *Trafficking in Persons, The Australian Government Response 1 July 2010 – 30 June 2011: The Third Report of the Anti-People Trafficking Interdepartmental Committee*, 2011, p. 34.

A major focus is on the establishment of strong professional and safe relationships with clients so that they are able to connect with how they make meaning and connections in their life. Building trust through such relationships reduces the isolation felt by people who have been trafficked, and increases independence through drawing on clients' resilience and strengths. Clients are then able to make informed and sustainable decisions around their future, including about work, study, staying in Australia and participating in the justice process.

Clients' experiences as a trafficked person include, but are not limited to:

- Physical abuse;
- Sexual abuse and assault;
- Psychological abuse and threats (including to/about family members);
- Physical confinement;
- Post-traumatic stress disorder;
- Work-related physical injuries;
- Deception;
- A sustained pattern of the above behaviours amounting to torture.

As a result, clients may face barriers in accessing services and assistance from organisations within Australia.

Barriers identified by caseworkers include:

- financial hardship;
- homelessness (and lack of access to housing services due to visa status);
- lack of social support and family networks;
- limited language proficiency;
- racism and discrimination (real and perceived), both cultural and from the stigma related to being a current or former sex worker;
- lack of adequate child support/child care (both casual and long term);
- limited education and access to further education;
- limited parenting skills (identified in some cases, but not all) and
- the complexity of negotiating formal systems.

Australian Red Cross has developed its knowledge of impact of the trafficking experience and the systemic issues affecting people who have been trafficked through its management of the Support for Trafficked People Program.

Red Cross casework approach

Red Cross works with clients in a way that is inclusive, respectful and collaborative and the principle of self-determination is embraced. Red Cross adopts a client directed, strengths-based casework approach – where clients' strength and capacities are recognised and built upon and their resilience acknowledged. Red Cross sees the importance of delivering a service that is responsive and flexible to client needs and directed by their own voice.

The casework approach adopted by Red Cross is influenced by the knowledge of the impact of the trafficking experience. As each client's trafficking experience is unique; so too are their responses and recovery. However, Red Cross has learned that client understandings of their trafficking experience are completely foreign to anyone who has not also lived through it. Even where clients are physically out of their trafficking experience, psychologically they may still feel trapped and are constantly fearful of what others may be capable of doing to them and their loved ones. Understandably, this also affects a client's capacity to engage with services.

Additional support services

As mentioned previously, a number of other Red Cross programs also provide casework and financial support for people with unresolved migration status. These programs may be an option for people who do not wish or are unable to participate in the justice process or for whom there is no ongoing investigation but wish to remain in Australia. These programs may also provide an option to former STPP clients who exit the Program with an unresolved migration status, depending on client eligibility. Other organisations (including Anti-Slavery Australia, Project Respect, Samaritan Accommodation, ACRATH and Scarlet Alliance) have received funding from the Commonwealth Government to 'provide vital outreach for trafficking victims and to conduct education and awareness-raising initiatives on people trafficking'⁸. These organisations are key partners in supporting Red Cross clients.

5 LIMITATIONS TO THE CRIMINAL JUSTICE FRAMEWORK

Red Cross acknowledges that the Support for Trafficked People Program's exclusive link with the criminal justice process can be a barrier to providing comprehensive support to people who have been trafficked in Australia particularly for those not wishing to participate in the justice process, or for those who are no longer required by government agencies in the justice process.

As outlined above, ongoing assistance through the Program, beyond the initial 45 day Assessment phase is linked to participation in the criminal justice process. This means that people who have been trafficked who are unable or do not wish to participate in the justice process beyond the Assessment phase of the program lose access to the specialised support service and to the People Trafficking Visa Framework. This therefore also limits the migration options available to such people to remain in Australia.

At present, people who have been trafficked but who are not engaged in the justice process must rely on other, non-specific supports. Red Cross continues to come into contact with, and support such people through its other Migration Support Programs, where clients fit within Red Cross' mandate of assisting people made vulnerable through the process of migration and who are applying for protection under Australia's refugee visa determination process.

However, there are other trafficked people in Australia for whom the protection visa process is not an option and whose support opportunities are even more limited. These people may obtain no support, or not even be identified as a trafficked person when coming into contact with the authorities. Others may be repatriated or return to their country of origin. In this context, Red Cross recognises its invaluable partnerships with specialist NGO agencies who fill much-needed government-funded service delivery gaps.

In recognition of the fact that referral to the Program requires formal identification by the AFP, the United Nations Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo recommended in her 2012 report, that the Commonwealth Government:

- De-link government support for victims from participation in criminal justice processes;⁹
- Increase funding assistance for service providers and civil society organizations to provide support services, especially housing, for victims of trafficking, including those who do not immediately wish their matter to come before the authorities;¹⁰

Red Cross supports these recommendations of the UN Special Rapporteur and recommends that:

⁸ Australian Government, *Trafficking in Persons, The Australian Government Response 1 July 2010 – 30 June 2011: The Third Report of the Anti-People Trafficking Interdepartmental Committee*, 2011, p. 44.

⁹ UN Special Rapporteur Report, p. 20.

¹⁰ UN Special Rapporteur Report, p. 21.

1. *the UN Special Rapporteur's comments relating to increasing the ambit of specialised supports provided to trafficked people in Australia, specifically those available to people outside the criminal justice framework/system be adopted by the Australian Government.*

6 NARROWNESS OF THE PEOPLE TRAFFICKING VISA FRAMEWORK

As mentioned above, the People Trafficking Visa Framework makes available specific visas to people who have been trafficked. In the following section, we will differentiate between people who have been trafficked that are supported by the STPP and those that are not, by referring to the former as 'clients'.

Red Cross notes a number of benefits associated with the Framework which have positively affected clients. These include the opportunity to access financial assistance through Centrelink and where people who have been trafficked are eligible, access to the Witness Protection Trafficking Visa (WPTV) which provides clients with the opportunity to remain in Australia on a permanent visa and include children and dependents as part of the visa application process.

However, there are also a number of issues associated with the Visa Framework. Some are broad overarching issues, whereas others relate to specific visa types.

The broad overarching issues are as follows:

- Access to and eligibility for most services is tied to the visas under the Framework and not to initial referral to the STPP;
- The temporary nature of the Criminal Justice Stay Visa (CJSV) means that holders are ineligible for many services in the community;
- Witness Protection Trafficking Visa (WPTV) holders are ineligible for a number of supports and face restrictions in accessing services provided to other Australian Permanent Residents.
- CJSV and WPTV holders are only eligible for one type of Centrelink payment, namely the Special Benefit payment, which has many restrictions.

These specific visa issues are expanded upon in the following sections.

7 CRIMINAL JUSTICE STAY VISA

As previously outlined, a CJSV allows a person to remain in Australia lawfully for the period of criminal justice proceedings, and can be issued to both a witness and alleged perpetrator¹¹. Trafficked people holding a CJSV hold full work rights and are able to study. Clients may hold this visa for periods ranging from a number of months to a number of years.

i) Centrelink

Clients holding a CJSV are eligible to access Centrelink Special Benefit (SBP) payment if they meet the eligibility criteria. This option provides clients with the opportunity to receive financial support as they recover from their trafficking experience. Once clients are receiving SBP, they are also eligible for

¹¹ Commonwealth Consolidated Acts, 'Migration Act 1958 – Section 141,' http://www.austlii.edu.au/au/legis/cth/consol_act/ma1958118/s141.html, and 'Migration Act 1958 – Section 142,' http://www.austlii.edu.au/au/legis/cth/consol_act/ma1958118/s142.html, accessed March 26, 2012.

the following benefits by virtue of meeting Centrelink's residency requirements for the purposes of family assistance (subject to other eligibility requirements):

- Baby Bonus;
- Child Care Benefit;
- Child Care Rebate;
- Family Tax Benefit - A & B

This assistance is particularly beneficial for clients whose families have recently arrived in Australia and/or are single parents raising a number of children.

Access to Special Benefit Payment offers our clients the opportunity to access an income while they are:

1. participating in the investigation and criminal justice system;
2. addressing their health and welfare needs;
3. exploring resettlement needs (e.g. learning about the Australian tax system);
4. exploring educational and employment needs.

However there are a number of restrictions as part of the SBP which systemically restrict client recovery by placing limitations on the ability of clients to study and work whilst claiming benefits.

ii) Study and education rights

According to advice from Centrelink received by Australian Red Cross, the SBP:

- is not intended as a payment for students;
- is intended to be a short-term income support payment for people who do not qualify for any other type of payment and have no other means of support;
- Centrelink can approve requests for part-time study or training of less than twelve (12) months duration if the study or training is likely to lead to an early employment outcome;
- Under no circumstance can full-time study of more than 12 months duration be approved.¹²

CJSV holders are therefore restricted in their access to study and, as per this advice, are restricted in undertaking any substantial education and training. This is problematic as education is a key component of rehabilitation in the post-trafficking phase of a client's life because it provides opportunities to gain new skills, knowledge and build confidence. Attaining skills through training and an increased level of English can assist in clients' integration into Australian society and in fostering independence, whilst also providing one of the few opportunities for clients to pursue employment pathways which are not exploitative or low-paying.

Without further education, English lessons and/or vocational/skills training, clients are again at higher risk of (and have few alternatives than) re-engaging in exploitative labour conditions. Without further education and training, clients may also be at risk of being re-trafficked, particularly if they exit the program and/or return to their country of origin. Others may re-enter the industry into which they were trafficked resulting in further re-traumatisation and adverse mental and physical health effects for the client.

Additionally, such a policy does not address the educational needs (and requirements) of young people who are on the Program, particularly of minors for whom attending school may be a requirement and an integral part of the day-to-day recovery from the trafficking experience.

Thus, the inability to study full-time removes the opportunity for trafficked people to from study and build a sustainable future for themselves. Given that there are already special conditions for CJSV holders to access Centrelink and SBP, then the same special conditions could be adopted to ensure that CJSV holders be eligible to study full-time whilst receiving SBP or alternatively that CJSV holders be eligible for other Centrelink payments that would enable them to study full-time.

¹² Email to Australian Red Cross from Centrelink Staff, March 30, 2011.

iii) Working whilst claiming benefits

CJSV holders have work rights as part of their visa. Unlike other Centrelink payments, there is 'no income-free area' for SBP recipients, whose payment reduces by \$1 for each \$1 of income they earn.¹³ Each dollar earned working reduces their SBP benefit.

This dollar-for-dollar deduction applicable to SBP recipients has broader implications for STPP clients. Such a deduction provides a disincentive for STPP clients to seek work as every dollar they earn reduces their SBP by the same amount. Unfortunately it may also provide a disincentive to declare income, especially if clients are working in informal sectors or they do not receive a regular wage, such as in the sex industry.

The current dollar-for-dollar reduction in payments reduces a clients' capacity to transition into the workplace via casual/part-time work, as they receive no financial incentive to work part-time and are, in fact potentially financially worse off for working part-time.

Clients' ability to work is also affected by their participation in the justice process. This includes time disruptions attributed to engaging with the AFP as part of the ongoing statement giving process and presenting for medical, legal, immigration and Centrelink appointments, as well as giving evidence and attending court.

The psychological effect of participating in the justice process can also limit clients' capacity to work. Clients' mental health is also affected by their participation, through reliving and retelling their experiences to Police, Immigration and CDPP but also in the psychological preparation required for each meeting/event.

Seeking and attaining work are significant steps for some clients in their post-trafficking journey: working indicates that they are taking a step towards providing for themselves and their families, developing a routine and working towards future and immediate life planning. The opportunity to increase their financial stability is another factor which assists in building a client's sense of self. When clients obtain employment it signals an opportunity for independence, and is an achievement and a sign of a trafficked person's abilities, strengths and capacity. It is also a good compliment to study, particularly as a way to improve clients' English-language skills, networks and gain valuable experience in their field of study. However, under the current Visa Framework, clients have little financial incentive to manage both work and study and the current provisions around Centrelink SBP do not encourage trafficked people to transition into work.

Other Centrelink payments such as Newstart Allowance and Parenting Payments (both Partnered and Single payments) have provisions (Working Credit) for recipients to continue to receive the full payment until they earn a certain amount of money.¹⁴ Adopting this provision for trafficking-related CJSV holders -a special sub-group of recipients due to their trafficked-related status - would encourage trafficked people to build their skills and employment experience through casual/part-time work without affecting their benefits. Such a provision would also encourage clients to seek employment and training opportunities (should they choose) in the areas not related to their trafficking experience as they could combine work and study in their chosen fields.

iv) Housing

Obtaining safe, stable and affordable housing is a challenge for clients and caseworkers, particularly in cities such as Melbourne and Sydney. This is compounded by a number of factors, including cost, safety issues and unfamiliarity with their surrounds/city. Given that most STPP clients are located in

¹³ Australian Government, Centrelink, 'Special Benefit- income and assets' http://www.centrelink.gov.au/internet/internet.nsf/payments/special_iat.htm, accessed 28 October, 2011.

¹⁴ Centrelink, 'Working Credit' Brochure, [http://www.centrelink.gov.au/internet/internet.nsf/filestores/lw015_0809/\\$file/lw015_0809en.pdf](http://www.centrelink.gov.au/internet/internet.nsf/filestores/lw015_0809/$file/lw015_0809en.pdf), accessed April 13, 2012. [link offline as of September 14, 2012]

New South Wales and Victoria, this section will focus on the experiences of CJSV-holding clients in these states. Furthermore, although government and community housing provide a safe, stable and cost-effective option for many vulnerable groups in the community, there are significant barriers for people who have been trafficked in accessing these services.

It is important to note in this context that in Australia, the States and Territories manage and determine housing policy with State and Federal funding. Consequently, there is no national consistency around eligibility and access to public housing for CJSV holders, leading to a situation where CJSV holders are ineligible for permanent public housing in both states, but may or may not have access to temporary and emergency housing depending on which State they reside in.

The NSW Social Housing Eligibility and Allocations Policy requires public housing applicants to hold residency (proof of citizenship or permanent residency). In the past, Housing New South Wales (HNSW) exercised their discretion to allow asylum seekers and people who have been trafficked and were holding temporary visas to access their services, if they met the HNSW requirements.

From November 2011, asylum seekers and other temporary visa holders are no longer exempt from the residency requirement. The application of this policy has excluded people who have been trafficked, including vulnerable clients with children who would normally meet the requirements for HNSW. Services that were previously utilised, including Emergency Accommodation, Emergency Temporary Accommodation, Rent Start, are no longer available to trafficked people. Obviously, this will have future ramifications for the housing status of other CJSV holders who may require housing support.

While the number of people who have been trafficked that have accessed HNSW services have been small (four women in NSW, all with dependent children, since 2009), the impact on sustainable housing options and support to homeless clients has been significant.

The effect of stable housing for someone who has experienced extreme physical and psychological trauma is profound. Red Cross' experience has found that establishing safety and stability provide people who have been trafficked the space to process their experiences, engage in the criminal justice process, care for any dependent children, stabilise any medical treatment and move forward with their lives.

CJSV holders in NSW are then forced to enter the private rental market, which may be cost-prohibitive. Some clients holding CJSV have received support from community housing providers, but the lack of access to government and public housing supports severely impacts/restricts their capacity/opportunities to move on from their trafficking experience.

On the other hand, CJSV holders in Victoria are eligible for different housing supports to their NSW counterparts, reflecting the differences in Housing policy structures between the states. In Victoria CJSV holders are eligible for emergency and transitional housing, but are not able to register for the public housing waiting list.

Access to emergency and transitional housing includes refuges and shelters. CJSV holders may also receive support from Community Housing organisations, at their discretion. Red Cross' experience has been that Victorian Community Housing organisations have been able to show greater flexibility than their NSW colleagues in supporting CJSV holders.

Given that current waiting times for public housing are in excess of 10 years, CJSV holders are not particularly disadvantaged by this policy.

The differences in housing policy between the states mean that NSW clients are at a greater disadvantage than in Victoria, and again highlights the inconsistencies in supports provided to trafficked people in Australia across the States and Territories.

v) Education

The benefits of education for trafficked people have been noted in section 2(a)(ii) but CJSV holders face disadvantage in accessing affordable education and training opportunities. The temporary status of the visa attracts fees at many education institutions. At TAFE this would involve in excess of \$10 per hour, a price unaffordable for people on a low income.

The capacity to develop English language skills is critical for this client group, many of whom have very limited English. The Adult Migrant Education Program (AMEP), which is managed by the Department of Immigration and Citizenship provides English language classes to all humanitarian entrants who hold a permanent visa. However, given the temporary status of the CJSV, its holders are not eligible for AMEP classes and must instead pay for English language classes themselves at the international student rates which is cost prohibitive given their low income. This is because clients are only eligible for local student rates once they receive their WPTV.

The high costs of educational courses act as a barrier to accessing education, with clients missing out on the afore-mentioned benefits. As such, caseworkers in NSW have advocated on an individual level to service providers for temporary visa fee-waivers for clients on the grounds of extreme financial hardship.

One specific TAFE institute has recognised the needs of this client group by granting special consideration for these applications.

This system has enabled a significant amount of students to study at these various campuses and had remarkable impact on the lives of people who have been trafficked. Expanding this provision to a nation-wide exemption for CJSV holders would provide better access to education and training opportunities for trafficked people, regardless of their geographic location.

It is only once the WPTV has been granted that clients are also then eligible to access 500 hours of free English lessons as part of the Adult Migrant Education Program (AMEP).

However, by the time that many clients receive their WPTV, they have already been in Australia for a number of years and may have developed their own routine of work and social life, or have undertaken alternative study. English classes may no longer be as 'necessary' to clients who have been living in Australia on the Program for a significant period of time.

The situation in Victoria is somewhat different: in October 2010, the Victorian Government allowed asylum seekers and trafficked people access to Government-funded training places through the Victorian Training Guarantee.¹⁵ This gives clients access to TAFE training courses at the local student rate, making education and training opportunities more accessible and affordable.

vi) Visa names

Both the Criminal Justice Stay Visa and the Witness Protection Trafficking Visa identify holders as trafficked people or participating in the justice process. Proof of visa/visa status is required by clients in order to access services, to travel and to work.

Red Cross has found that a visa which clearly identifies a trafficked person who has participated in the justice process can encourage undue questioning, proof and explanation of their experiences and status. Clients report that this impacts on their sense of self and security and they feel discriminated against.

¹⁵ 'Asylum Seekers to Get Access to Hands-on Training' Press Release from the Victorian Minister for Skills & Workforce Participation, Friday 22 October 2012, accessed via <http://www.asrc.org.au/in-the-news/asylum-seekers-to-get-access-to-hands-on-training/>, accessed August 17, 2012.

This experience has been reinforced by the UN Special Rapporteur who in her concluding remarks notes that, the current visa names “prima facie identify, criminalize and stigmatize trafficked persons and will affect victims’ ability to find employment and integrate in [the] Australian Community.”¹⁶

Australian Red Cross supports the UN Special Rapporteur’s recommendation that the Australian Government should ‘reconsider visa titles to avoid stigmatisation and to ensure confidentiality and respect for the privacy and integrity of victims of trafficking.’¹⁷

Red Cross recommends that:

2. *the names of the Criminal Justice Stay and Witness Protection Trafficking Visas be changed to address identified concerns; including avoiding stigmatisation and to ensure confidentiality and respect for the privacy and integrity of victims of trafficking*
3. *State and Territory Government Housing support services across the country allow people who have been trafficked and are on temporary visas to access their services via an exemption criteria;*
4. *Trafficked people have access to local student rates at higher education and training institutions regardless of visas status;*
5. *Access to the Adult Migrant Education Program be available to all trafficked people, regardless of visa type;*

8 WITNESS PROTECTION TRAFFICKING VISA

i) Centrelink Special Benefit Payment and 104-week waiting period

Once clients are granted a Witness Protection Trafficking Visa (WPTV), they must serve a mandatory 104-week waiting period before they are eligible to access benefits other than Special Benefit.

Clients who are granted a WPTV and are eligible for Centrelink payments report feeling marginalised and confused as to why a mandatory waiting period applies to their payments. This creates difficulties in regards to establishing independence and requires significant casework intervention to ensure clients are placed on Special Benefit in order to be able to meet their basic needs.

The impact of SBP on study and work opportunities/capacity has been discussed within section 7 (ii) and (iii). Despite their status as Australian Permanent Residents, WPTV holders are unable to access benefits available to other Permanent Residents such as Newstart, Austudy, Single Parent Pension, etc.

Importantly, many WPTV holders received Special Benefit prior to their visa grant (whilst holding a CJSV); for period ranging from a number of weeks to many years and have arguably served part or all of the 104-week waiting period before receiving their CJSV.

ii) Victims of Crime Compensation

Although there is currently no Federal Victims of Crime Compensation, Victims of Crime may be eligible for State Government Funded Crime Compensation and other support services if:

¹⁶ Concluding remarks, UN Special Rapporteur in Trafficking in Persons, especially Women and Children concludes her country visit to Australia

¹⁷ Concluding remarks, UN Special Rapporteur in Trafficking in Persons, especially Women and Children concludes her country visit to Australia, November 2011.

- They are a victim and have been directly injured as the result of a crime.
- They have suffered either physically or psychologically by the crime.
- The crime was reported to the police and they made a police statement.
- The crime was committed in Australia.¹⁸

According to the Victorian Victims of Crime Counselling and Compensation Services (VOCCS), compensation to victims of crime may include:

- a cash payment called Special Financial Assistance for pain and suffering based on the nature of the crime and injuries sustained
- payment of any loss of wages or income
- medical expenses and ambulance expenses
- dental expenses and other treatment expenses
- physiotherapy, chiropractic and other similar expenses
- surgical and related expenses, including plastic surgery
- psychology/psychiatry/counselling expenses
- damage to clothing expenses
- security related expenses
- as well as any other related out of pocket expenses¹⁹.

This represents recognition of the need to compensate people for their loss and suffering as a result of criminal acts committed against them and the opportunity to begin rebuilding their lives with some financial assistance. In this context, a number of clients have applied for, and received, Victims of Crime Compensation payments as a result of their trafficking experiences in Australia. However, we have observed that where clients have been granted awards by the courts, there have been unforeseen impacts on their eligibility to continue receiving Centrelink SBP. This is because a Centrelink Special Benefit rule considers Victim of Crime Compensation payments as assets. Consequently Special Benefit payments are suspended until the asset falls below \$5,000.²⁰ This is not the case for other Centrelink benefits, which are not affected by such payments.²¹

Consequently, number of clients of the Program who are accessing Special Benefit have been forced to live off their Compensation payments, until the value of these payments is less than \$5,000. This reduces their ability to utilise the payments to assist them in building a sustainable future through paying for educational and training opportunities, developing a small business or supporting family reunification.

Red Cross has observed the frustration and anger shown by clients whose Centrelink benefits have ceased and were forced to use their compensation payments as daily living expenses.

For many clients, the cessation of Centrelink benefits- on top of the emotional experience of re-telling their trafficking experience through the Victims of Crime Compensation process has meant that this course of action has sometimes been a negative and disempowering one.

iii) Settlement services

As noted previously, WPTV recipients are able to include their children and dependents in their application. These dependents are able to migrate to Australia once they have received their visa. However, the Program is not currently funded to support the costs of family reunification.

¹⁸ Victorian Victims of Crime Counselling and Compensation Services, 'Victims of Crime Eligibility'<http://victimsofcrime.com.au/> accessed September 29, 2012

¹⁹ Victorian Victims of Crime Counselling and Compensation Services, 'Compensation'<http://victimsofcrime.com.au/compensation/> accessed September 29, 2012

²⁰ Australian Government, Centrelink, 'Payments: Income and Assets, Special Benefit'http://www.centrelink.gov.au/internet/internet.nsf/payments/special_iat.htm, accessed October 31, 2011.

²¹ Australian Government, Centrelink, Compensation Kit,[http://www.centrelink.gov.au/internet/internet.nsf/filestores/co297_1109/\\$file/co297_1109en.rtf](http://www.centrelink.gov.au/internet/internet.nsf/filestores/co297_1109/$file/co297_1109en.rtf), accessed October 31, 2011

Additionally, WPTV holders and their dependents are ineligible for mainstream settlement support services including pre-departure support, English language classes, household formation packages and orientation support.

The situation of people who have been trafficked must be contrasted with the situation of humanitarian arrivals in Australia. Importantly, 'in recognition of the multiple challenges refugees face in building a new life here,'²² recipients of humanitarian and other visas are eligible to receive settlement support (as outlined above) from either the Humanitarian Settlement Service (HSS) or from other organisations as part of the Settlement Grants Program funded by the Department of Immigration. This ensures that a much smoother transition to life in Australia is available for humanitarian arrivals than is possible for people who have been trafficked.

Ineligibility for support around family reunification and settlement affects clients in a number of ways. For example, clients must fund the purchase of travel documents and flights for family members themselves. Once in Australia, clients must also fund all the costs associated with the establishment of family life in Australia, including school fees, healthcare costs, transport and furniture on Centrelink Special Benefit payments or other low income. Such issues are compounded by the restrictions around accessing Centrelink benefits. This is often a source of additional anxiety for clients particularly after already prolonged absences from their children. Red Cross casework support in such circumstances has involved providing basic settlement support in addition to usual casework undertakings.

It is in this context, that the UN Special Rapporteur recommended that the Commonwealth Government 'provide support services for dependents and relatives of victims of trafficking who migrate to Australia'²³. Red Cross also supports this recommendation.

Red Cross recommends that:

- 6. Clients eligible to access Centrelink Special Benefit be eligible to access other Centrelink payments and services in order to support their work and study opportunities without any waiting period;***
- 7. DIAC-funded settlement support services be made available to people who have been trafficked and their dependents once they receive a Witness Protection Trafficking Visa.***

9 SUPPORT FOR PEOPLE WHO HAVE BEEN TRAFFICKED ACCESSING OTHER VISAS

Most clients supported by the Program hold visas under the People Trafficking Visa Framework, however there have been a (small) number of instances where clients have accessed other visas whilst on the Program, such as Bridging Visas and Working Holiday Visas. This is because clients sometimes prefer to maintain visas that give them substantive rights for a fixed period (such a Working Holiday or Student Visa) rather than rely on a CJSV which is a temporary visa that is only available whilst there is an on-going investigation or prosecution.

However, these instances highlight that eligibility for many services such as Centrelink, Housing, Education and Travel concessions is tied to visa status, not status on the Program. Additionally, clients holding other visas may not hold work/study rights, which can sometimes reduce their capacity to support themselves and exacerbate vulnerabilities.

²² Department of Immigration and Citizenship *Humanitarian Settlement Services: Onshore Orientation Program*, 2011, p. 11.

²³ UN. Special Rapporteur Report, p. 21.

i) Ineligibility for Centrelink

Trafficked people are eligible to apply for Centrelink Special Benefit if they hold one of two visas under the People Trafficking Visa Framework: either the CJSV or WPTV. Clients holding other visas whilst on the Program are not automatically eligible to access Centrelink.

These clients therefore are ineligible for financial support via the Justice Support stream and must support themselves - or rely on others to meet their needs around living and accommodation expenses.

The need for people who have been trafficked to financially support themselves, can also increase the isolation and marginalisation of clients, as their capacity and time to recover, study and integrate within their community is reduced due to financial pressures and the need to work. This can often mean that clients forgo mental health supports due to a lack of financial means and time off work to attend appointments. Housing instability may also become a reality for many people in such circumstances.

These pressures may also impact a client's involvement in the justice process. Clients may be unable to work during the statement-giving process and court case processes, or may be emotionally affected by this process and unable to work as a result. These clients suffer from the inability to be financially supported through the Program or through Centrelink during this time.

ii) No study and/or work rights

A number of visas (such as Bridging Visas) do not allow holders to work and/or study. Clients are therefore not able to work to support themselves, and are dependent on others for support. This not only discourages independence, but increases vulnerability and the potential for clients to be further exploited through such relationships. Clients may additionally choose to work, but do so in breach of their visa conditions.

Consequently, many clients who wish (and are able) to study, miss out on the opportunity to gain skills to assist in future job prospects, recover from the trafficking experience and build relationships with their peers. This systemic barrier in accessing education and training opportunities unfortunately assists in keeping people who have been trafficked de-skilled and heightens the risk exploitation and isolation whilst they try to rebuild their lives in Australia.

iii) No/limited access to services

Section 7 above has already detailed the difficulties for CJSV holders in accessing services on a temporary visa due to their status as neither permanent residents nor asylum seekers.

Clients holding a visa outside the Framework are also ineligible for many services, which again has a negative effect on a client's recovery. A lack of access to services means clients cannot access relevant supports such as housing, education and training, employment and job seekers, material aid and counseling from organisations other than Australian Red Cross through the Support for Trafficked People Program. This represents a further systemic barrier faced by trafficked people in being able to recover from their trafficking experience.

Red Cross recommends that

- 8. access to services including Centrelink, Housing and Education be de-linked from the visa sub-class for trafficked people;**

10 GUARDIANSHIP AND CHILD PROTECTION

Children and young people are supported by the Program in one of two ways: either as clients themselves or as the children of clients. Red Cross has supported 5 clients who have been minors whilst on the Program, the majority in Victoria and New South Wales. Additionally, Red Cross has, through its work with clients, assisted in the support of seventeen children of clients, approximately half of whom were born in Australia. The remainder have migrated to Australia after receiving a WPTV. In compliance with mandatory reporting requirements around child welfare and risk, Red Cross makes reports to State child protection agencies. This section deals with systemic issues associated with guardianship and child protection.

i) Guardianship

Many of these clients who are minors travelled to Australia without a parent or guardian and/or the guardian was allegedly involved in the trafficking of the young person. There is currently no clarity around where the responsibility surrounding Guardianship of clients who are minors lies. Whilst some, State Child Protection Agencies have been involved in these matters, their responses have been inconsistent.

In some cases, clients were in the care of State Child Protection Agencies upon referral to the Program. The agency in one of these cases was proactive in taking on responsibility for the minor client's welfare and took steps to enact guardianship orders and source appropriate housing via a foster carer. This ensured that the client was housed in safe and age-appropriate accommodation and received age-appropriate supports.

In other cases clients were not in the care of child protection agencies on referral to the Program. Upon referral, Red Cross reported the client's status – as per state and territory laws, mandatory reporting requirements to the child protection agency and Red Cross policy. The agency refused to intervene, citing the age of the client (between 16 and 18), the fact that other support organisations were already involved in the care of the client and the perception that the supports offered by these agencies were more comprehensive than that able to be provided by the state child protection agency.

Despite assumptions of child protection agencies that guardianship lay with the Minister for Immigration, DIAC has advised Red Cross that in this instance, as the minor had not entered Australia with an intention to reside permanently, guardianship does not rest with the Minister for Immigration. Based on this new scenario and information provided by DIAC, this was determined to be a 'cross-jurisdictional' issue.

This creates inconsistencies in supports provided to clients, and muddies the role clarity of care providers. Young people are therefore receiving inconsistent levels of care across the country without a lead agency being responsible for their care. This affects the safety and well-being of these young people, and does not reduce their vulnerability to further exploitation. Without clarification and clear policies around the Guardianship status of trafficked minors, responses and actions taken to support them are open to interpretation by state and territory child protection agencies.

The UN Special Rapporteur recommended that the Government 'appoint an independent guardian for any child identified as, or suspected of, having been trafficked in order promote the best interests principle and to safeguard the rights of that child'²⁴. Australian Red Cross supports this recommendation of the UN Special Rapporteur.

ii) Child Protection

Clients with children also face parenting challenges alongside their personal recovery from the trafficking experience. Clients with children who are supported by the Program are almost exclusively female and the majority are single mothers.

²⁴ UN. Special Rapporteur Report, p. 21.

Occasionally there is a risk of harm to children and young people involved with the Program and Red Cross has attempted to engage with state child protection agencies in these instances. As Red Cross caseworkers work closely with the mother they develop a strong understanding of the multiple barriers affecting the family and the impact of their trafficking experience on the client and family unit.

Even where Red Cross has observed that the overall pattern and family system (i.e. a number of compounding issues such as drug use or mental health concerns) is contributing to ongoing, cumulative and significant harm to the child, state child protection agencies have repeatedly stated that such reports do not meet the threshold of harm and do not intervene. Thus, when Red Cross' expertise and understanding of the family dynamic is not recognised by statutory agencies, where the relevant state authority does not respond to a child protection report, it can lead to outcomes where there is no satisfactory resolution for either agency, and children can continue to be at risk of harm.

A lack of consistency in action by State Child Protection Agencies mean that potential risk of harm to trafficked young people and the children of trafficked people is not being adequately addressed by either the state or federal governments.

Red Cross recommends that:

- 9. the Australian Government's Minister for Families, Community Services and Indigenous Affairs and the Federal Children's Commissioner as well as State/Territory Child Protection Authorities engage with Australian Red Cross on education regarding the impact of trafficking and exploitation on clients and their children so that the experience of trafficking can be considered an additional risk factor by child protection authorities when making decisions around child protection intervention.***
- 10. the Department of Immigration and Citizenship and State Child Protection Authorities provide clarity on who the responsibility of guardianship rests with for children or young persons who have been trafficked to Australia;***

11 STAKEHOLDER ENGAGEMENT

The US State Department and the UN Special Rapporteur have both described the Australian Government's approach to combating people trafficking as 'world-leading'. Australian Red Cross also wishes to acknowledge the Government's work in this arena.

A key aspect of the Federal Government's Whole-of-Government strategy to combating people trafficking is engagement with stakeholders, in both government and non-government sectors. As the provider of the government-funded Support for Trafficked People Program, and having developed and delivered two national community awareness-raising projects, Red Cross is a key stakeholder for the Government. This is also consistent with our role as an auxiliary to government in the humanitarian field.

This section focuses on the Government's work with its internal and external (non-governmental and Red Cross) stakeholders, and highlights opportunities for Government to maximise its efforts to address people trafficking.

i) Membership of the Anti-People Trafficking Interdepartmental Committee

The Whole-of-Government approach adopted by the Federal Government in its Anti-People Trafficking Strategy, including the role of the Support for Trafficked People Program is described earlier in this submission. As mentioned, the strategy is comprised of four key elements:

- Prevention
- Detection and Investigation

- Criminal Prosecution
- Victim Support and rehabilitation.

Red Cross acknowledges that the Anti-People Trafficking Interdepartmental Committee (IDC) plays a key role in overseeing the strategy, its effectiveness and development. The Committee comprises the following Governmental Departments and Agencies:

- Attorney-General's Department
- AusAID
- Australian Building and Construction Commission (now called Fair Work Building and Construction)
- Australian Crime Commission
- Australian Federal Police (AFP)
- Australian Institute of Criminology
- Commonwealth Director of Public Prosecutions (CDPP)
- Department of Education, Employment and Workplace Relations
- Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)
- Department of Foreign Affairs and Trade
- Department of Immigration and Citizenship (DIAC)
- Department of the Prime Minister and Cabinet, and
- Fair Work Ombudsman.²⁵

Red Cross commends the IDC for expanding its membership, however, notes that a number of key Government Departments currently working with trafficked people are not members of the Committee.

This includes the Federal Department of Human Services (DHS), which administers Medicare and Centrelink, both services accessed by clients of the Support for Trafficked People Program. Red Cross engages with Centrelink staff around a number of aspects related to payments, including registering clients for Centrelink and supporting them to access interviews.

Given that all clients of the Program are eligible for Medicare, regardless of stream, and that CJSV and WPTV holders are eligible to access Centrelink Special Benefit payment (as described in section 7 above), DHS represents a major Government stakeholder active in supporting trafficked people. Representation on the IDC would enable DHS staff to actively engage with other Agencies and Departments working with trafficked people and provide policy input and guidance based on their involvement and work with trafficked people.

The frontline services provided by DHS staff may mean that they come into contact with people who have been trafficked and people experiencing trafficking-like conditions, therefore their input would be invaluable in this forum. Membership of the IDC would also build DHS' capacity and skills in working with, and potentially identifying trafficked people.

Additionally, Red Cross plays an integral role in the trafficking space in Australia and has a unique position in the not-for-profit community. As an auxiliary to government, and using the principles of humanitarian diplomacy, Red Cross is able to engage with government in a way which is respectful, constructive and consistent with the Fundamental Principles of the International Red Cross and Red Crescent Movement. This and its work in the highly sensitive humanitarian monitoring of immigration detention centres in Australia are two excellent examples of the nuanced role that Red Cross plays in its relationship with government in highly politically sensitive environments.

As noted already, Red Cross' expertise in the trafficking arena has been developed through its work as the service provider of the government-funded Support for Trafficked People Program and the development and delivery of two national community awareness raising projects. Consequently, Red

²⁵ Australian Government, *Trafficking in Persons, The Australian Government Response 1 July 2010 – 30 June 2011: The Third Report of the Anti-People Trafficking Interdepartmental Committee*, 2011, p. 4.

Cross engages with both people who have been trafficked and the organisations working with them, and has a broad base of knowledge and experience in the sector.

In this context, Red Cross wishes to propose the IDC and Operational Working Group be expanded to include Australian Red Cross, in recognition of its independent and auxiliary role and its mandate to support government in its humanitarian work. Importantly, membership of both the IDC and OWG would expand the Government's capacity and understanding of the needs of people who have been trafficked, and the experiences and effects of participating in the justice process.

ii) Trafficking knowledge within the Government sector

Red Cross works closely with the trafficking-related sections/teams/departments of IDC members, such as the AFP Human Trafficking Team and the People Trafficking Prevention and Support Section of DIAC, however through its other migration support programs that assist people awaiting an immigration outcome, Red Cross is aware that not all sections/teams/departments share knowledge of trafficking and related issues, including working effectively with trafficked people.

This includes staff and departments within AFP and DIAC, such as those who support and assist Red Cross clients on the Asylum Seeker Assistance Scheme and the Community Assistance Support Program, and DIAC staff working in Compliance and Immigration Detention sections. Continuing awareness raising of people trafficking, and Government efforts to combat it for staff and sections in these departments could increase identification of trafficked people and promote cross program and sector coordination, enabling trafficked people to access the specialist services developed by Government, such as the Support for Trafficked People Program and the People Trafficking Visa Framework.

Expanding eligibility under the Framework to include AMEP for CJSV holders and Settlement services for WPTV recipients and their families would require awareness-raising and education for DIAC staff working in these areas.

Red Cross' community awareness-raising program saw approximately 139 Centrelink staff in six states/territories trained in 2012. Centrelink staff built their knowledge of people trafficking, and gained an increased awareness of how to identify people trafficking, work effectively with clients and potential referral pathways. The experiences of Centrelink staff could be replicated across other Government departments via education and training opportunities, such as amongst State Child Protection Agencies in regards to the issues noted in section 10 above.

Government agencies would also be able to refer clients where appropriate to non-governmental service providers, such as Anti-Slavery Australia, Project Respect and Samaritan Accommodation as a result of increased knowledge and awareness of trafficking issues and the Government framework.

iii) Non-Governmental stakeholder engagement

A major component of the Australian Government's anti-trafficking efforts is its engagement with the NGO sector. The Government does so in a number of ways, through high-level engagement via the twice-yearly National Roundtable, to the development of community resources and support of NGOs providing services to trafficked people, and awareness-raising via funds appropriated under the Proceeds of Crime Act (POCA).

The Australian Government also engaged with the NGO sector through consultations and inquiries around the development of the new legislation²⁶ and the Government's criminal justice response to Trafficking and slavery²⁷.

²⁶ Attorney-General consultation- Exposure draft – legislative amendments to Australia's people trafficking and slavery offences, <http://www.ag.gov.au/Peopletrafficking/Pages/Exposure-draft---legislative-amendments-to-Australia's-people-trafficking-and-slavery-offences.aspx>, accessed September 17, 2012. and Senate Committee Inquiry, Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=legcon_ctte/slavery_and_people_trafficking/info.htm, accessed September 17, 2012.

The development of the NGO Guidelines for working with Trafficked People and AFP Anti-Human Trafficking Community Response are examples of Government efforts to consult with the NGO sector and harness its knowledge and expertise to help build the capacity of others in the sector.

Ongoing funding to both service providers and community groups will increase community awareness of trafficking, and provide further opportunities for trafficked people to receive support should they be ineligible or elect not to receive support from the Support for Trafficked People Program and therefore not participate in the criminal justice process.

iv) Stakeholder engagement gaps

Despite the above efforts, there are a number of key gaps in Government engagement with the non-government sector in relation to this issue. This engagement has remained focused on a small number of areas, resulting in knowledge, capacity and experience remaining within a small number of organisations. There is little sector-wide oversight and strategy for engaging with the non-government sector.

Red Cross acknowledges that the coordination of services, information gathering and knowledge/skills transfer between trafficking and related organisations is difficult and complex. However, the current Government response to the challenges associated with addressing trafficking in persons – from prevention through to victim support and rehabilitation – has not fully realised the potential role that the non-government sector can play in supporting and contributing to Government anti-trafficking efforts.

To date, non-government engagement has largely focused on organisations within the community sector. However, Red Cross believes that engaging with additional sectors around anti-trafficking initiatives will expand and enhance current efforts. These sectors include:

- Multicultural and ethnic community groups;
- Peak bodies and associations;
- Advocacy organisations;
- International humanitarian organisations.

A comprehensive and inclusive strategy of engagement with the NGO sector - alongside the expansion of knowledge (increasing breadth) within Government stakeholders - would result in a more efficient, cost-effective and successful response led by Government.

Government and non-governmental stakeholders would increase their knowledge in how to identify and work appropriately with people who have trafficked, and therefore be able to provide more specialised services for this group. Additionally, greater identification of people who have been trafficked within the sectors listed above may lead to increased engagement with Government agencies through investigations and prosecutions.

As a result of Red Cross' development and implementation of the Community Awareness Raising Training projects in 2012, significant gaps in knowledge amongst the community sector and lack of collective action in working with people who have been trafficked were highlighted and documented. The training projects proved both an effective model for capacity building organisations that knowingly and unknowingly work with people who have been trafficked, but also as a preliminary stakeholder mapping activity.

As a result, Red Cross' experience in the sector is a valuable resource for Government in the development of further initiatives and strategies. Red Cross' delivery of both the Support for Trafficked People Program and the Community Awareness-Raising Training projects means it is well

²⁷ Attorney-General's Department, The Criminal Justice Response to slavery and people trafficking, reparations and vulnerable witness protections.
<http://www.ag.gov.au/Consultationsreformsandreviews/Pages/TheCriminalJusticeresponsetoslaveryandpeopletraffickingreparationsandvulnerablewitnessprotections.aspx>, accessed September 17, 2012.

positioned to be the key agency to provide national, multi-sector, multi-agency oversight and coordination alongside government in the campaign against trafficking persons.

Red Cross recommends that:

- 11. The Department of Human Services (Centrelink) be appointed/designated a member of the Interdepartmental Committee;*
- 12. Australian Red Cross, in its role as the service provider of the Support for Trafficked People Program and status as auxiliary to government in the humanitarian field be appointed/designated a member of the Interdepartmental Committee;*
- 13. Australian Red Cross be appointed as a member of the Operational Working Group in an advisory capacity;*
- 14. The Whole-of-Government approach be expanded to include strategic engagement with the non-governmental sector, including community service providers, multicultural and ethnic community groups, peak bodies and associations, advocacy organisations and International humanitarian organisations.*

7 RECOMMENDATIONS

Red Cross recommends that:

1. *the UN Special Rapporteur's comments relating to increasing the ambit of specialised supports provided to trafficked people in Australia, specifically those available to people outside the criminal justice framework/system be adopted by the Australian Government.*
2. *the names of the Criminal Justice Stay and Witness Protection Trafficking Visas be changed to address identified concerns; including avoiding stigmatisation and to ensure confidentiality and respect for the privacy and integrity of victims of trafficking*
3. *State and Territory Government Housing support services across the country allow people who have been trafficked and are on temporary visas to access their services via an exemption criteria;*
4. *Trafficked people have access to local student rates at higher education and training institutions regardless of visas status;*
5. *Access to the Adult Migrant Education Program be available to all trafficked people, regardless of visa type;*
6. *Clients eligible to access Centrelink Special Benefit be eligible to access other Centrelink payments and services in order to support their work and study opportunities without any waiting period;*
7. *DIAC-funded settlement support services be made available to people who have been trafficked and their dependents once they receive a Witness Protection Trafficking Visa.*
8. *access to services including Centrelink, Housing and Education be de-linked from the visa sub-class for trafficked people;*
9. *the Australian Government's Minister for Families, Community Services and Indigenous Affairs and the Federal Children's Commissioner as well as State/Territory Child Protection Authorities engage with Australian Red Cross on education regarding the impact of trafficking and exploitation on clients and their children so that the experience of trafficking can be considered an additional risk factor by child protection authorities when making decisions around child protection intervention.*
10. *the Department of Immigration and Citizenship and State Child Protection Authorities provide clarity on who the responsibility of guardianship rests with for children or young persons who have been trafficked to Australia;*
11. *The Department of Human Services (Centrelink) be appointed/designated a member of the Interdepartmental Committee;*
12. *Australian Red Cross, in its role as the service provider of the Support for Trafficked People Program and status as auxiliary to government in the humanitarian field be appointed/designated a member of the Interdepartmental Committee;*
13. *Australian Red Cross be appointed as a member of the Operational Working Group in an advisory capacity;*

14. *The Whole-of-Government approach be expanded to include strategic engagement with the non-governmental sector, including community service providers, multicultural and ethnic community groups, peak bodies and associations, advocacy organisations and International humanitarian organisations.*