

Australia's response to people trafficking

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

Australian Government response

Anti-People trafficking strategy

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

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

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

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

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

4.4 The IDC has the following responsibilities:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

International agreements

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

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

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

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

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

- several International Labour Organization conventions on forced labour.²³
- 4.21 Chapter seven, which focusses on international best practice, outlines other agreements that contributors to the inquiry considered Australia should join.

International forums

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

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

- 4.23 Australia's activities in the United Nations include, in summary:
- participation in the UN Human Rights Council's Universal Periodic Review;
 - co-sponsoring creation and renewal of the UN Special Rapporteur on contemporary forms of slavery, its causes and consequences;
 - dialogue in the United Nations General Assembly in 2012 on the Global Plan of Action to Combat Trafficking in persons, and Fighting Human Trafficking; and
 - support for adoption of the UN Guiding Principles and Business and Human Rights and the UN Global Compact.²⁵
- 4.24 Australia has also been active in the Commonwealth Heads of Government Meeting and supports the efforts of the Organization for Security and Cooperation in Europe (OSCE) through grant funding and hosting the OSCE Asian Partners Conferences in 2013.²⁶

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

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

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

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

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

Universal Periodic Review

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

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

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

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

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

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

Global Ambassador for Women and Girls

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

Ambassador for People Smuggling

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

Australia's aid program

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.37 Dr Gallagher went on to say:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Australian legislation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Specifically, the Bill will:

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

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

Committee comment

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

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

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

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

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

Recommendation 2

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

Non-Government organisations' responses

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

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

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

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

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

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

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

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

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

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

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

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

Commonwealth funded community awareness and education programs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Committee comment

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

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

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

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

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

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

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

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

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

Recommendation 3

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