
TRAFFICKING IN PERSONS

The Australian Government Response

1 July 2011 – 30 June 2012

THE FOURTH REPORT OF THE
ANTI-PEOPLE TRAFFICKING INTERDEPARTMENTAL COMMITTEE

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Foreword

Slavery, slavery-like practices, and people trafficking are heinous crimes and serious violations of human rights. Since 2003, the Australian Government has had a comprehensive whole-of-government strategy in place to combat people trafficking in all its forms, including slavery and slavery-like practices. The measures under this strategy, to which the Australian Government has committed more than \$100 million, address the full cycle of trafficking from recruitment to reintegration through four central pillars: prevention; detection and investigation; prosecution; and victim support and protection.

Among other significant achievements, this year the Australian Government moved to further strengthen Australia's anti-people trafficking legislative framework by introducing the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill into the Commonwealth Parliament. The Bill will ensure the broadest range of exploitative behaviour is captured and criminalised, including by introducing new offences of forced labour, forced marriage, organ trafficking and harbouring a victim, and by clarifying existing offences and their definitions to enhance operational effectiveness. The Bill also increases the availability of reparation orders to individual victims of Commonwealth offences, including slavery and people trafficking.

In November 2011, the Australian Government was pleased to host the United Nations Special Rapporteur on trafficking in persons, especially women and children, on her mission to Australia. The Special Rapporteur's report, tabled during the 20th Session of the United Nations Human Rights Council in June 2012, recognised Australia as a regional leader in combating trafficking. Australia actively engages in a wide range of activities with international partners to build capacity and reduce opportunities for traffickers to operate in our region, including through our aid program, international legal cooperation, and through our role as cochair of the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*.

The Australian Government's appointment of Australia's first Global Ambassador for Women and Girls in September 2011 provided a new avenue to pursue Australia's work, domestically and within the region, to combat trafficking in women and girls.

The Australian Government is committed to combating all forms of exploitation, to protecting and supporting victims through the Support for Trafficked People Program and the People Trafficking Visa Framework, and to investigating and prosecuting the perpetrators of this heinous conduct. During 2011–12, the Australian Federal Police undertook 41 new investigations and assessments, and the Commonwealth Director of Public Prosecutions secured an additional two convictions.

However, people trafficking and slavery are complex crimes and government action is only part of the solution. The Australian Government is committed to building strong partnerships with the not-for-profit sector. In line with its commitment to addressing exploitation outside the sex industry, in 2011 the Government was pleased to announce grants totalling almost \$500,000 to two non-government organisations, two union bodies and an industry association to carry out awareness raising activities to combat exploitation occurring outside the sex industry.

We are pleased to present this fourth report of the Anti-People Trafficking Interdepartmental Committee. This report details the important work of Australian Government agencies and their partners during the 2011–12 financial year.

The Hon Nicola Roxon MP

Attorney-General

Senator the Hon Bob Carr

Minister for Foreign Affairs

The Hon Chris Bowen MP

Minister for Immigration and Citizenship

The Hon Julie Collins MP

Minister for the Status of Women

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Abbreviations

Asia Regional Trafficking in Persons Project	ARTIP
Association of Southeast Asian Nations	ASEAN
Attorney-General's Department	AGD
Australian Agency for International Development	AusAID
Australian Building and Construction Commission	ABCC
Australian Catholic Religious Against Trafficking in Humans	ACRATH
Australian Crime Commission	ACC
Australian Customs and Border Protection Service	ACBPS
Australian Federal Police	AFP
Australian Institute of Criminology	AIC
Bridging F visa	BVF
Commonwealth Director of Public Prosecutions	CDPP
Criminal Justice Stay visa	CJSV
Culturally and linguistically diverse	CALD
Department of Families, Housing, Community Services and Indigenous Affairs	FaHCSIA
Department of Foreign Affairs and Trade	DFAT
Department of Immigration and Citizenship	DIAC
Fair Work Building & Construction	FWBC
Financial Action Task Force	FATF
Heads of Commonwealth Operational Law Enforcement Agencies	HOCOLEA
Human Rights Council	HRC
Human Trafficking Teams	HTT
Interdepartmental Committee	IDC
International Labour Organization	ILO
International Organization for Migration	IOM
Non-government organisation	NGO
Organisation for Economic Co-operation and Development	OECD
<i>Proceeds of Crime Act 2002</i>	POCA
Senior Migration Officer (Integrity) (Trafficking)	SMOIT
United Nations Convention against Transnational Organized Crime	UNTOC
United Nations Office on Drugs and Crime	UNODC
Universal Periodic Review	UPR
Witness Protection (Trafficking) (Permanent) visa	WPTV

Executive Summary

In 2009, in response to a recommendation of the Australian National Audit Office, the Australian Government agreed to undertake more systematic annual reporting of outcomes under its anti-people trafficking strategy. In June 2009, the Government tabled in Parliament the first report of the Anti-people Trafficking Interdepartmental Committee (IDC), covering the period from January 2004 to 30 April 2009. The second report captured the period 1 May 2009 to 30 June 2010, and the third report covered 1 July 2010 to 30 June 2011.¹ This is the IDC's fourth annual report, and covers the period 1 July 2011 to 30 June 2012.

During November 2011, Australia was pleased to host the United Nations (UN) Special Rapporteur on trafficking in persons, especially women and children, Dr Joy Ngozi Ezeilo OON, who spent two weeks meeting with IDC member agencies, non-government organisations (NGOs), federal and state politicians and other stakeholders in Canberra, Melbourne and Sydney. Dr Ezeilo's visit coincided with the fourth National Roundtable on People Trafficking, which was convened on 23 November 2011 by the then Minister for Home Affairs and Justice, the Hon Brendan O'Connor MP. Dr Ezeilo also addressed the Australian Institute of Criminology's research forum, visited the Villawood Immigration Detention Centre, and met with the IDC at the beginning and end of her visit. Dr Ezeilo presented her report on her visit to the UN Human Rights Council in June 2012, in which she recognised Australia as a regional leader in the fight against people trafficking. Dr Ezeilo made 86 recommendations to the Government, the majority of which were either fully or partially accepted. Members of the IDC are currently working to implement a number of Dr Ezeilo's recommendations.

In November 2011, the Government released an exposure draft of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill for public consultation. The exposure draft followed two public consultation papers released during November 2010 – one on the criminal justice response to slavery and people trafficking, reparations and vulnerable witness protections, and a second on forced and servile marriage. Following extensive consultation on the draft Bill, it was introduced into the Commonwealth Parliament on 30 May 2012.

In 2011, the then Minister for Home Affairs and Justice awarded funding to two NGOs, two union bodies and an industry association for projects which target labour exploitation. These projects are currently being developed and implemented, and will raise community awareness about exploitation occurring outside the sex industry.

¹ Previous reports are available as downloads on the people trafficking page on the Attorney-General's Department website, <http://www.ag.gov.au/PeopleTrafficking>.

In the reporting period, both Fair Work Building & Construction² and the Fair Work Ombudsman recovered significant amounts in underpaid wages for migrant workers through audits and investigations. The Fair Work Ombudsman also initiated court action against a number of employers of migrant workers for contraventions of Australian workplace laws.

The Australian Federal Police undertook 41 new investigations and assessments into people trafficking matters in 2011–12, taking the total to 346 since 2004. Almost 59 per cent of these investigations related to trafficking for sexual exploitation and the remainder to other forms of labour exploitation. As at 30 June 2012, there were four trafficking-related matters before the courts involving five individuals, two of which were in the appeal phase.

In 2011–12, the Support for Trafficked People Program,³ administered by the Department of Families, Housing, Community Services and Indigenous Affairs and delivered by Australian Red Cross, provided assistance to 77 clients, including nine new clients, all of whom were women. Of the nine new clients, seven were trafficked into the sex industry and two were trafficked into other industries. One of the clients referred to the Support Program was a minor aged between 15 and 17 at the time of referral.

Under the People Trafficking Visa Framework, the Department of Immigration and Citizenship granted 26 Witness Protection (Trafficking) (Permanent) visas (WPTVs) in 2011–12, including 16 to suspected victims of people trafficking and 10 to immediate family members. This compares with a total of 42 WPTVs granted in 2010–11 (28 to suspected victims and 14 to immediate family members). Twelve Bridging F visas were granted in the reporting period (24 in 2010–11), as well as 17 Criminal Justice Stay visas (29 in 2010–11).

Australia continues to take an active role in regional and international efforts to combat people trafficking, including through the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime* (Bali Process) and the Conference of Parties to the *United Nations Convention against Transnational Organized Crime* (UNTOC). Australia also appeared before the UN Committee on the Rights of the Child in Geneva on 4–5 June 2012.

The Australian Government worked with international partners on a wide range of activities aimed at building regional capacity and reducing opportunities for people traffickers to operate in the region. In 2011–12, Australia provided \$4.8 billion worth of official development assistance to help reduce poverty and promote sustainable development, which will help to reduce the number of people vulnerable to traffickers. The aid program also addresses violence against women and children.

During the next year there will be a continued focus on issues related to trafficking of people for exploitation outside the commercial sex industry. Australia will also present its fifth periodic report under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

2 Formerly Australian Building and Construction Commission (ABCC). Following the passage of the *Building and Construction Industry Improvement Amendment (Transition to Fair Work) Act 2012*, the ABCC was replaced by Fair Work Building & Construction on 1 June 2012.

3 Formerly the Support for Victims of People Trafficking Program.

Introduction

People trafficking is a complex crime and a major violation of human rights. It is very different from the crime of people smuggling. People trafficking is the physical movement of people across and within borders through deception, coercion or force for the purpose of exploiting them when they reach their destination. By contrast, people smuggling is the organised unlawful movement of people across borders, usually on a payment-for-service basis.

There is little reliable data about the nature and extent of people trafficking at a global, regional or domestic level. However, there is general consensus that people trafficking affects almost every country in the world, whether as a source, transit or destination country – or as a combination of these.

The nature of people trafficking varies from region to region. Its most visible form involves trafficking in women and children for sexual exploitation. But around the world men, women and children are trafficked for a wide range of other purposes, including forced labour in industries such as hospitality, construction, forestry, mining and agriculture; domestic and sweatshop labour; illicit adoption; street begging; forced recruitment into militias and armed forces; and the harvesting of body organs.

Opportunities to traffic people into Australia are limited because of our strong migration controls and geographic isolation. However, Australia is a destination country for victims of trafficking, historically from Asia (particularly Thailand, Malaysia, the Philippines and the Republic of Korea).

The Australian Government remains committed to working with other governments domestically and internationally, and with international and local NGOs, to prevent people trafficking, prosecute the perpetrators and protect and support victims. Australia's response to people trafficking reflects our obligations as a party to the UNTOC since 2004 and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (the Trafficking Protocol) since 2005.

Australia has taken a comprehensive, whole-of-government approach to combating people trafficking since instituting its strategy to eradicate people trafficking in late 2003. Since then the Australian Government has committed more than \$100 million to support a range of domestic, regional and international anti-trafficking initiatives, including:

- specialist teams within the AFP to investigate trafficking and slavery offences and the Australian Policing Strategy to Combat Trafficking in Persons
- legislation to criminalise people trafficking and trafficking-related activities
- a victim support program that provides individualised case management to eligible victims of trafficking, including access to accommodation, financial assistance, legal and migration advice, training and social support

- visa arrangements to enable suspected victims and witnesses of trafficking to remain in Australia and support the investigation and prosecution of trafficking offences
- specialist immigration officers posted in Thailand, China and the Philippines who focus on people trafficking and aim to prevent trafficking in source countries
- regional activities to deter trafficking, train law enforcement officials and assist the victims of trafficking under Australia's overseas aid program, and
- research into national and regional trafficking activities by the Australian Institute of Criminology.

These initiatives reflect the four central pillars of Australia's anti-people trafficking strategy: prevention; detection and investigation; criminal prosecution; and victim support and rehabilitation. Together these measures address the full cycle of trafficking from recruitment to reintegration and give equal weight to the critical areas of prevention, prosecution and victim support.

Australia's anti-people trafficking strategy is overseen by the IDC, chaired by the Attorney-General's Department (AGD), with membership from the following agencies:

- Australian Agency for International Development (AusAID)
- Australian Crime Commission (ACC)
- Australian Federal Police (AFP)
- Australian Institute of Criminology (AIC)
- Commonwealth Director of Public Prosecutions (CDPP)
- Department of Education, Employment and Workplace Relations (DEEWR)
- 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 the Prime Minister and Cabinet (PM&C)
- Fair Work Building & Construction (FWBC), and
- Fair Work Ombudsman (FWO).

The IDC is responsible for monitoring the implementation of the strategy, reporting to the Government on its effectiveness, and ensuring that emerging issues are addressed on a whole-of-government basis. Relevant agencies remain responsible for administering individual components of the strategy.

An Operational Working Group (OWG) comprising AGD, AFP, CDPP, FaHCSIA and DIAC, has been established as a subcommittee of the IDC to resolve systemic operational issues that arise in the management of individual cases. The OWG also has an important role in referring emerging policy issues for the IDC's consideration.

This is the fourth report of the Anti-People Trafficking IDC and covers the period from 1 July 2011 to 30 June 2012.

Legislative Amendments

To ensure that Australia's anti-people trafficking strategy remains robust and responsive to emerging issues, the Australian Government is committed to forward thinking and proactive policy-making. This includes regularly examining the legal frameworks criminalising slavery, slavery-like practices, and people trafficking.

On 30 May 2012 the Attorney-General, the Hon Nicola Roxon MP, introduced the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill into Commonwealth Parliament. The Bill was prepared following extensive public consultation, including through the release of two discussion papers and an exposure draft of the Bill.⁴

The Bill aims to further the Australian Government's commitment to doing all it can to prevent slavery and people trafficking, to equip authorities to investigate and prosecute perpetrators, and to support and protect victims. Through amendments to the slavery and people trafficking offences in Divisions 270 and 271 of the Commonwealth *Criminal Code Act 1995* (Criminal Code), the Bill aims to strengthen and expand the existing legal framework, and ensure Australia further fulfils its international obligations to comprehensively criminalise people trafficking and related crimes.

Measures in the Bill reflect the Australian Government's focus on combating slavery and people trafficking in all their forms and for all kinds of work. While the majority of identified victims in Australia have been women trafficked for the purposes of exploitation in the sex industry, authorities are increasingly identifying men and women who have been subjected to exploitation in a range of other industry sectors, such as hospitality. Subject to its passage through Parliament, the Bill will introduce a standalone offence of forced labour and expand the existing offences of sexual servitude and deceptive recruiting to ensure they apply regardless of industry. These measures will establish a continuum of offences criminalising exploitative conduct from slavery, at the gravest end of the spectrum, to debt bondage.

The Bill will also introduce specific protections against forced marriage. Forced marriage places young people at risk, and results in harmful consequences including the loss of access to education, restriction of movement and autonomy, and emotional and physical abuse. Following suggestions from the community that the practice of forced marriage is occurring in Australia but is underreported, specific criminalisation of this insidious practice is warranted. It is important to note that the forced marriage offences in the Bill do not target consensual religious or cultural marriages, including arranged marriages.

⁴ The discussion papers on *The Criminal Justice Response to Slavery and People Trafficking; Reparation; and Vulnerable Witness Protections and Forced and Servile Marriage*, and the exposure draft of the Bill, are available as downloads on the people trafficking page of the Attorney-General's Department website: <http://www.ag.gov.au/PeopleTrafficking>.

Key measures in the Bill include:

- the introduction of new offences of forced marriage and harbouring a victim, and standalone offences of forced labour and organ trafficking
- the expansion of the definition of exploitation to include a range of slavery-like practices
- the expansion of the existing offences of sexual servitude and deceptive recruiting for sexual services to apply regardless of industry
- amendments to ensure the slavery offence will apply to conduct which reduces a person to slavery, as well as conduct involving a person who is already a slave
- amendments to existing definitions to capture more subtle forms of coercion, including psychological oppression and the abuse of power or a person's vulnerability
- an increase to the penalties applicable to the existing debt bondage offences to ensure they adequately reflect the seriousness of the offences, and
- amendments to improve the availability of reparations to individual victims of Commonwealth offences, including slavery and trafficking.

On 19 June 2012, the Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee for inquiry. The Committee is due to report on the Bill on 13 September 2012.

A copy of the Bill is available from the Australian Parliament House website at: http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4840.

Visit of the UN Special Rapporteur

The UN Special Rapporteur on trafficking in persons, especially women and children, Dr Joy Ngozi Ezeilo OON, visited Australia in an official capacity from 17 to 30 November 2011. The Special Rapporteur is responsible for assessing measures taken by countries to combat trafficking and protect the human rights of trafficked people.

Dr Ezeilo visited Sydney, Canberra and Melbourne on her mission to Australia. At the Commonwealth level, she met with representatives of the ACC, AGD, the AFP, the AIC, AusAID, the Australian Customs and Border Protection Service (ACBPS), CDPP, DEEWR, DFAT, DIAC, the FWO, FaHCSIA, and PM&C. Dr Ezeilo met with the Governor-General and attended two important national events on trafficking: the National Roundtable on People Trafficking and the AIC Research Forum on Trafficking. She also conducted a briefing for foreign diplomats on people trafficking in Australia.




From left: Mr Iain Anderson (AGD) and Dr Joy Ngozi Ezeilo OON, Special Rapporteur.

In Victoria, Dr Ezeilo met with representatives of the Victoria Police and the Department of Justice, as well as with Members of Parliament and a local council. She also met with a range of legal professionals, including judges of the County Court and the Supreme Court of Victoria, and barristers and lawyers who have represented victims of trafficking. In New South Wales, Dr Ezeilo met with representatives of the Australian Human Rights Commission (AHRC), the New South Wales Police Force and the New South Wales Victims Compensation Tribunal, as well as with the Mayor of Sydney. Dr Ezeilo visited Villawood Immigration Detention Centre, where she met with detainees. In all States and Territories visited, Dr Ezeilo met with victims of trafficking, and liaised with a diverse range of civil society organisations and academics.

Dr Ezeilo tabled her report at the 20th session of the UN Human Rights Council in June 2012. In her report, Dr Ezeilo recognised Australia as a leader in the Asia-Pacific region in the fight against people trafficking and slavery. The report highlighted the need to ensure strategies target all forms of trafficking, including for labour exploitation, and commended the close working relationship between the Australian Government and civil society, including through the National Roundtable on People Trafficking. Dr Ezeilo's report makes a number of recommendations to the Australian Government with regard to, *inter alia*, developing a new framework for collecting data on trafficked persons, increasing capacity-building activities for government officials, addressing key gaps in the support program, and ensuring ongoing regional engagement to strengthen national responses and address the root causes of trafficking in source countries, including the creation of more opportunities for safe labour migration.



Members of ACRATH meeting with Dr Joy Ngozi Ezeilo OON, Special Rapporteur.



The Australian Government welcomed the findings of the Special Rapporteur. The Government is proud of its comprehensive, whole-of-government strategy to combating people trafficking and all forms of exploitation. However, the Government is committed to continually improving the strategy. The Government has carefully considered each of the recommendations made by Dr Ezeilo on her mission to Australia. In some cases, improvements have already begun.

In line with Dr Ezeilo's recommendation, the Australian Government recently introduced legislation to strengthen laws criminalising trafficking and related exploitative practices (see page 5).

In consultation with stakeholders, the Australian Government will shortly begin work on developing a revised formal national plan of action. In line with Dr Ezeilo's recommendation, the plan of action will be prepared to include benchmarks and indicators to measure progress and impact.

The Australian Government notes Dr Ezeilo's recommendations for improvement, and continues to better our efforts including training for frontline officials, victim identification procedures, and support services. Australia will also continue to increase options for safe and legal migration whilst ensuring such schemes do not provide an avenue for exploitation.

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

Senate Inquiry into Marriage Visa Classes

On 24 November 2011, the References Committee of the Senate Standing Committee on Legal and Constitutional Affairs initiated an inquiry into Prospective Marriage (subclass 300) visas. The inquiry examined a range of issues relating to Prospective Marriage visas, including:

- whether existing procedures for protecting against fraud are sufficient and whether the procedures for ascertaining the consent of an applicant for a Prospective Marriage visa are reliable, and
- ways in which protections against fraud and forced marriage could be strengthened for women in other countries applying for a Prospective Marriage visa.

The inquiry received submissions from DIAC, the AIC, the Australian Law Reform Commission and a range of other Government agencies and NGOs and individuals. The inquiry also held a public hearing in Canberra on 25 May 2012. DIAC, AGD, the AIC and other agencies gave evidence at the hearing, along with NGOs including the Immigration Advice & Rights Centre.

The final report of the inquiry was released on 26 June 2012. The report made seven recommendations which the Committee considered would improve existing systems in relation to Prospective Marriage visas. These recommendations include:

- institute a formal requirement for Prospective Marriage visa program decision-makers to separately interview all applicants and sponsors under the age of 18, and increase the minimum age of visa holders within the Prospective Marriage visa program to 18 years of age to help minimise the incidence of forced marriage and trafficking in Australia
- investigate and implement a way in which to record the non-consent of one party to a Prospective Marriage visa application, which takes into account the safety and well-being of that party should the other party or the members of either party's family become aware of the disclosure of a forced marriage, and
- develop an information package for newly arrived migrants on a Prospective Marriage visa or Partner visa, which informs such migrants about: the law in Australia with respect to family violence and forced marriages; factors which might indicate the existence of a forced marriage; and how migrants experiencing family violence or a potential or actual forced marriage can seek assistance.

The Government is currently considering the Committee's recommendations and will respond in due course. Further information on the inquiry, including its final report, is available from the Australian Parliament House website at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=legcon_ctte/marriage_visa_classes/index.htm

Dr Anne Gallagher AO – recognition for anti-people trafficking achievements

In June 2012, Australian legal practitioner, teacher and scholar, Dr Anne Gallagher AO, was recognised in the 2012 US State Department Trafficking in Persons Report. In a ceremony in Washington D.C., US Secretary of State Hillary Clinton presented Dr Gallagher with her award. Also in June 2012, Dr Gallagher was appointed as an Officer in the General Division of the Order of Australia. Dr Gallagher is the leading global authority on the law and policy of people trafficking, and has made major contributions to combating trafficking in the Australian and international contexts.

From the inception of the Australian Government's anti-people trafficking strategy in 2003, Dr Gallagher has been instrumental in developing an effective regional approach to combat trafficking in persons in the criminal justice sector, working closely with ASEAN. As the leading expert on ARTIP, Dr Gallagher has driven an ambitious program aimed at strengthening legislative and criminal justice responses to trafficking in Southeast Asia. This initiative, funded by AusAID, has been widely acclaimed for its positive impact on laws, policies and practices within and outside the ASEAN region, and represents one of the longest running and most comprehensive donor-funded criminal justice sector trafficking in persons interventions in the world.



Dr Anne Gallagher AO being presented with a 2012 Trafficking in Persons Hero Award by US Secretary of State Hillary Clinton in Washington D.C., June 2012.

In addition to her work in the Asia-Pacific region, Dr Gallagher has been a key player in shaping international approaches to combating people trafficking. She was a UN official from 1992 to 2003, and served as Advisor on Trafficking to the UN High Commissioner for Human Rights from 1998 to 2002. During this time she represented the High Commissioner at negotiations on the Trafficking Protocol and guided the development of the UN Principles and Guidelines on Human Rights and Human Trafficking.

Dr Gallagher has lectured at a range of academic institutions, published legal commentary for the UN and other scholarly publications, and is the author of an award-winning book, *The International Law of Human Trafficking*, published by Cambridge University Press in 2010.

The Australian Government commends Dr Gallagher for her outstanding contribution to combating people trafficking, and congratulates her on her recent honours in Australia and the United States.

Investigation and prosecution

One of the performance indicators of Australia's anti-people trafficking strategy is the prosecution and conviction of people involved in criminal activities associated with people trafficking.

People trafficking matters are complex and difficult, so Australian Government law enforcement agencies work together to ensure that matters are investigated and effectively prosecuted, and that victims get the support they need.

The UNTOC and its Trafficking Protocol establish a framework for international cooperation, including various forms of assistance for the conduct of investigations and prosecutions and for the extradition of offenders.

The AFP maintains an extensive network of officers posted to Australia's overseas missions. The officers provide a conduit for Australian and overseas law enforcement agencies to exchange information and progress investigations. This network is complemented by DIAC specialist immigration officers posted in Thailand, China and the Philippines who focus on people trafficking issues and aim to prevent trafficking in source countries.



Superintendent Glyn Lewis, AFP National Coordinator Human Trafficking.

The AFP Human Trafficking Teams (HTTs) investigate people trafficking matters, both proactively and through referrals from other Commonwealth or State and Territory Government agencies, industry or NGOs. The HTT National Coordinator is based in Canberra, with HTTs in Sydney, Melbourne and Brisbane. The AFP also has members trained in people trafficking in Darwin and Perth. For trafficking matters in other locations, the HTT can draw upon additional support from the AFP's generic crime operations function which involves members in each capital city.

Since 2004, the majority of victims have come to the attention of authorities in Sydney and Melbourne, and have primarily been linked to allegations of sexual exploitation. This reflects the population concentration and the size of the local sex industries in these cities. Trafficking victims have also been identified in Queensland, South Australia and the Australian Capital Territory. The HTT is increasingly focusing its attention on the States and Territories other than New South Wales and Victoria, particularly with its renewed focus on labour trafficking, in accordance with the Australian Policing Strategy to Combat Trafficking in Persons 2011–13.

Primary legislative provisions

Criminal Code offences⁵

Australia's slavery, slavery-like and people trafficking offences are set out in Divisions 270 and 271 of the Commonwealth Criminal Code.

The slavery offences in Division 270 apply to all persons, regardless of whether the conduct occurs within, or outside of, Australia. Enacted in 1999, these offences have a maximum penalty of 25 years' imprisonment. Division 270 also contains slavery-like offences including sexual servitude and deceptive recruiting for sexual services, which carry maximum penalties of 20 years' and nine years' imprisonment respectively.

Specific people trafficking offences were inserted into the Criminal Code in 2005, fulfilling Australia's obligations under the Trafficking Protocol. The offences in Division 271 are not limited to trafficking that involves sexual exploitation, but cover trafficking in all its forms. Division 271 provides for:

- people trafficking offences, in which the trafficker organises or facilitates the transport of the victim into, out of, or within Australia, by using force, threats or deception, or by being reckless as to the exploitation of the victim
- debt bondage offences, to prevent traffickers from using unfair debt contracts or other similar arrangements to force victims into providing services to pay off large debts,⁶ and

5 At 30 June 2012, the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 was before the Commonwealth Parliament. The Bill proposes to amend the Criminal Code slavery, slavery-like and people trafficking offences, as discussed on page 5.

6 'Debt bondage' is defined in the Criminal Code as occurring when a person pledges their services or the services of another person as security for a debt, where the reasonable value of those services is not applied to repay the debt or the length and nature of the services respectively is not limited or defined.

- specific offences for trafficking in children, which criminalise organising or facilitating the transportation of a child into, out of or within Australia, where there is intention for the child to be used, or recklessness as to whether the child will be used, to provide sexual services or will be exploited.⁷

With the exception of offences related to domestic trafficking, all these offence provisions have extended geographic jurisdiction, and can cover circumstances in which the crime has taken place in Australia and overseas, or in which the crime has been committed outside Australia by an Australian company, citizen or resident.

Table 1: Criminal Code provisions

Section	Offence	Maximum penalty
270.3(1)	Intentionally possess or exercise rights of ownership over a slave, ⁸ engage in slave trading, ⁹ enter into a commercial transaction involving a slave, or exercise direction or control over, or provide finance for slave trading or a commercial transaction involving a slave	25 years
270.3(2)	Enter into a commercial transaction involving a slave, or exercise direction or control over, or provide finance for slave trading or a commercial transaction involving a slave, reckless as to whether the transaction or act involves a slave, slavery or slave trading	17 years
270.6(1)	Cause another person to enter into or remain in sexual servitude ¹⁰	15 years, or 20 years for an aggravated offence ¹¹
270.6(2)	Conduct a business ¹² involving the sexual servitude of another	15 years, or 20 years for an aggravated offence
270.7(1)	Intentionally induce another person to enter into an engagement to provide sexual services ¹³ , where the other person is deceived ¹⁴ about providing sexual services, the nature of the sexual services to be provided, the extent to which the person will be free to leave or cease providing sexual services, the involvement of exploitation or debt bondage or the confiscation of travel or identity documents	7 years, or 9 years for an aggravated offence

7 The elements of this offence are different from the elements of trafficking in adults as it does not require the use of force or deception.

8 'Slavery' is defined in section 270.1 of the Criminal Code.

9 'Slave trading' is defined in subsection 270.3(3) of the Criminal Code.

10 'Sexual servitude' is defined in subsection 270.4(1) of the Criminal Code.

11 Under section 270.8 of the Criminal Code, an offence of sexual servitude or deceptive recruiting is aggravated where the offence was committed against a person who is under 18.

12 'Conduct a business' is defined in subsection 270.6(3) of the Criminal Code.

13 'Sexual service' is defined in subsection 270.7(2) of the Criminal Code.

14 'Deceive' is defined in section 271.1 of the Criminal Code.

Section	Offence	Maximum penalty
271.2(1), (1A), (1B), (1C)	Organise or facilitate the entry, proposed entry, exit, proposed exit, or receipt of another person using force or threats, or reckless as to whether the other person will be exploited	12 years, or 20 years for an aggravated offence ¹⁵
271.2(2), (2A), (2B), (2C)	Organise or facilitate the entry, proposed entry, exit, proposed exit, or receipt of another person where the other person is deceived about the provision, or nature of the provision, of sexual services, exploitation, debt bondage, or the confiscation of travel or identity documents	12 years, or 20 years for an aggravated offence
271.4(1), (2)	Organise or facilitate the entry, proposed entry, exit, proposed exit, or receipt of a person who is under 18, intending or reckless as to whether the person will be used to provide sexual services or will be otherwise exploited	25 years
271.5(1), (2)	Organise or facilitate the transportation of a person from one place in Australia to another using force or threats, or reckless as to whether the other person will be exploited	12 years, or 20 years for an aggravated offence ¹⁶
271.5(2A), (2B)	Organise or facilitate the transportation of a person from one place in Australia where the other person is deceived about the provision, or nature of the provision, of sexual services, exploitation, debt bondage, or the confiscation of travel or identity documents	12 years, or 20 years for an aggravated offence
271.7	Organise or facilitate the transportation of a person who is under 18 from one place in Australia to another intending or reckless as to whether the person will be used to provide sexual services or will be otherwise exploited	25 years
271.8(1)	Intentionally cause another person to enter into debt bondage ¹⁷	12 months, or 2 years for an aggravated offence ¹⁸

15 Under section 271.3 of the Criminal Code, a trafficking offence is aggravated where the offender intends for the victim to be exploited, where the offender subjected the victim to cruel, inhuman or degrading treatment, or where the offender engaged in conduct reckless as to a danger of death or serious harm to the victim.

16 Under section 271.6 of the Criminal Code, a domestic trafficking offence is aggravated where the offender intends for the victim to be exploited, where the offender subjected the victim to cruel, inhuman or degrading treatment, or where the offender engaged in conduct reckless as to a danger of death or serious harm to the victim.

17 'Debt bondage' is defined in the Dictionary to the Criminal Code.

18 Under section 271.9 of the Criminal Code, a debt bondage offence is aggravated where the offence was committed against a person who is under 18.

Employer sanctions offences

Since 2007 it has been an offence under the Commonwealth *Migration Act 1958* (Migration Act) for a person to allow to work or refer for work an unlawful non-citizen or a non-citizen who is working in breach of a visa condition that limits work. The penalty for committing such an offence is two years' imprisonment. The Migration Act escalates these offences to aggravated offences if the worker is being exploited and the person knows of, or is reckless to, that circumstance. The penalty for committing an aggravated offence is five years' imprisonment.

One case was successfully prosecuted in the reporting period. Along with offences under the Criminal Code and Commonwealth *Crimes Act 1914* (Crimes Act), the defendant was convicted of two counts of allowing an unlawful non-citizen to work,¹⁹ and two counts of allowing a non-citizen to work in breach of a visa condition that limits work.²⁰

Table 2: Migration Act provisions

Section	Offence	Maximum penalty
234(1), (2)	Provide false documents or false and misleading statements relating to non-citizens ²¹	10 years or \$110,000 or both
234A(1), (2)	Provide false documents or false and misleading statements relating to at least five non-citizens	20 years or \$220,000 or both
245AB(1)	Allowing an unlawful non-citizen to work	2 years, or 5 years for an aggravated offence ²²
245AC(1)	Allowing a non-citizen to work in breach of a visa condition	2 years, or 5 years for an aggravated offence
245AD(1)	Referring an unlawful non-citizen for work	2 years, or 5 years for an aggravated offence
245AE(1)	Referring a non-citizen for work in breach of a visa condition	2 years, or 5 years for an aggravated offence

Reforms to employer sanctions

Following completion of the independent Howells 2010 Review of the *Migration Amendment (Reform of Employer Sanctions) Act 2007*, on 12 December 2011 the Australian Government announced its intention to reform the employer sanctions and consult on draft legislative amendments. The reforms will implement the recommendations of the Review with minor adjustments that take account of outcomes of consultations held in 2011 with industry, unions, government agencies and the community.

19 One of these counts was for an aggravated offence.

20 One of these counts was for an aggravated offence.

21 The Migration Act also contains various other provisions relating to fraud.

22 Under subsection 245AB(2) of the Migration Act, an offence of allowing a non-citizen to work is aggravated if the worker is being exploited and the person knows of, or is reckless to, that circumstance. Under section 245AH, 'exploited' is defined to mean a circumstance in which a person is in a condition of forced labour, sexual servitude or slavery.

The reforms will include legislative amendments to supplement the criminal offences with graduated sanctions of infringement notices and civil penalties. The range of employment relationships subject to the employer sanctions offences will also be expanded and powers for authorised DIAC officers to gather evidence to prove suspected breaches of the employer sanctions will be introduced. Stakeholder engagement in the development of the legislation is planned for early 2012–13.

The legislative changes will form part of a broader strategy aimed at increasing employers' awareness of their obligation not to allow non-citizens to work where they do not have a visa permitting that work. The strategy is also aimed at enhancing departmental systems to expedite employer checks of prospective employees' work entitlements.

State and Territory criminal offences

State and Territory Governments are responsible for regulating the sex industry. Most jurisdictions have enacted legislation relating to sexual servitude and deceptive recruiting which would allow them to prosecute cases of trafficking for the purposes of sexual exploitation. However, in practice State and Territory police services generally refer people trafficking-related matters to the AFP. This is because the AFP has the appropriate specialisation and resourcing to conduct the often protracted, complex and resource intensive investigations required to investigate these matters.

All jurisdictions have a range of offence provisions to cover related crimes such as assault, sexual assault, forced prostitution, kidnapping and deprivation of liberty. State offences may be used in conjunction with Commonwealth offences.

Investigations

Between January 2004 and June 2012, AFP HTTs undertook 346 investigations and assessments of slavery and people trafficking-related offences. These assessments and investigations sometimes lead to matters being referred to the CDPP, mostly for matters related to sexual exploitation. A smaller number of investigations involved labour exploitation as the primary criminal conduct.

The AFP commenced 41 new investigations and assessments in 2011–12. This compares to 35 new investigations and assessments in 2010–11. Approximately 59 per cent of the new matters in 2011–12 related to sexual exploitation, with remainder relating to other forms of labour exploitation.

Significant AFP operations

Investigation of people trafficking matters can be protracted, complex and resource intensive, particularly given their transnational nature.

There are significant practical challenges in investigating crime across international borders, including the challenges of communication, and differences in legal and political systems and national institutions. Victims, offenders and evidence can be located in more than one country, and the same set of circumstances can generate investigations and prosecutions in more than one jurisdiction. Larger operations can involve concurrent investigations in multiple locations throughout Australia, and require the support of the AFP's overseas liaison network.

In 2011–12, the AFP HTT assisted Queensland Police with an investigation which resulted in a man and woman from Brisbane being charged with Commonwealth trafficking in children and sexual servitude offences. The man and woman were also charged with numerous State prostitution, sexual assault, and child exploitation offences in relation to the 16 year old victim.

In February 2012, a Sydney man was arrested in relation to conducting a business involving sexual servitude. The charges related to three alleged victims of sexual servitude. During the execution of search warrants, two passports belonging to the alleged victims were located in an inaccessible area. As at 30 June 2012, this matter was before the court.

Working with State and Territory law enforcement

Australian Policing Strategy to Combat Trafficking in Persons

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

The Australian Policing Strategy outlines a number of obligations, primarily for the AFP, but also for State and Territory police forces, which are:

- promoting awareness of people trafficking as a crime
- maintaining partnerships with government and NGOs and developing prevention programs
- contributing to assessments and intelligence products prepared by the Commonwealth, States and Territories
- ensuring that appropriate technical tools are available to police agencies
- ensuring that all suspected victims are referred to the case management service provider
- providing appropriate training and education to police personnel, and
- contributing to reviews of legislation and regulatory regimes.

In August 2011, the AFP and State and Territory Police service representatives agreed to develop an implementation plan, focusing on the proposed initiatives intended to support the strategic elements identified in the Australian Policing Strategy. One of the initiatives identified from this process was to convene stakeholder liaison forums in each State and Territory, co-hosted by the AFP and the relevant State and Territory police service.

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

In June 2012, the AFP, the ACC and State and Territory police services facilitated the creation of a National Human Trafficking Desk (HT Desk) within the Australian Criminal Intelligence Database (ACID) and Australian Law Enforcement Intelligence Net (ALEIN) that are both managed by the ACC. The HT Desk will function as a centralised point for the collection, collation, analysis and dissemination of information and intelligence relating to people trafficking. The HT Desk will be accessible to nominated users from all contributing agencies, including the ACC, the AFP, New South Wales Police, Victoria Police, Queensland Police, Western Australia Police, Tasmania Police and Northern Territory Police.

Referrals

In Australia, people trafficking cases have been referred to authorities by various sources and means. The referral of many matters has resulted from official State and Australian Government activities, including by State and Territory police. Other matters have been referred by industry representatives or NGOs, which are increasingly playing a role in referrals. In 2011–12, 41 referrals were received from NGOs. Some matters have been referred by concerned individuals or co-workers of those suspected of being trafficked.

DIAC has a network of compliance officers in every State and Territory in Australia. Officers conduct field operations to locate foreign nationals who have breached their visa conditions or who are unlawfully in Australia. These officers are provided with specific training to identify possible indicators of people trafficking activity during compliance operations. They are trained to ask questions designed to elicit information that might indicate whether a person has been trafficked. Any indicators are referred to the AFP for further assessment, irrespective of the visa status of the person concerned.

People trafficking does not imply illegal entry: to date all suspected victims but one have entered on a valid visa, although immigration malpractice or fraud may later become apparent. In 2011–12, DIAC referred 31 reports of possible people trafficking, involving 26 possible victims, to the AFP for assessment. The suspected victims involved had entered Australia on a variety of visa types, including tourist, student, and sports visas, and some held electronic visas. Some visas had expired by the time their holders were located, making them unlawful overstayers, while the immigration status of others remained lawful.

During the reporting period, Melbourne, Sydney and Brisbane-based HTT personnel assisted DIAC with approximately 86 compliance visits at various work sites in both metropolitan and regional/rural areas.

Changes in criminal methodology

As identified in previous reports, people traffickers are alert to matters raised in court by investigators and prosecutors and adapt their methodologies accordingly. For example, it is now common for people traffickers not to physically restrain (lock up) or overtly control victims, or seize passports or identification papers from victims.

To ensure Australia's anti-people trafficking legislative framework remains current and responsive to emerging issues and trends, the amendments proposed in the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill will broaden the application of the people trafficking and slavery offences to ensure they apply where subtle forms of coercion are utilised by criminals, including psychological oppression and the abuse of power or a person's vulnerability. For more information on the Bill, please see page 5.

Prosecutions

Securing prosecutions is a key objective of the Australian Government's anti-people trafficking strategy.

The CDPP is an independent prosecuting service established by the Australian Parliament to prosecute offences against Commonwealth law. The CDPP has no investigative function, and matters are referred to the CDPP from the AFP and other investigative agencies.

Decisions about whether to proceed with people trafficking prosecutions are guided by the *Prosecution Policy of the Commonwealth*. This means the CDPP must be satisfied that:

- there are reasonable prospects of a conviction being secured, and
- the prosecution would be in the public interest.

In making this decision, the prosecutor must evaluate how strong the case is likely to be when presented in court. This evaluation continues at each phase of the trial process. The decision can only be made based on admissible evidence. Not all the information gathered during the course of the investigation will necessarily be admissible. The evaluation must take into account such matters as the availability, competence and credibility of witnesses and their likely effect on the arbiter of fact, and the admissibility of any alleged confession or other evidence. The prosecutor should also have regard to any lines of defence open to the defendant and any other factors that could affect the likelihood of a conviction. A copy of the Prosecution Policy of the Commonwealth is available from the CDPP's website at: <http://www.cdpp.gov.au/Publications/ProsecutionPolicy/>.

The cooperation of suspected trafficking victims is essential to the investigation and prosecution of people trafficking offences. The major impediment to prosecuting

trafficking-related offences is the reluctance of people to give evidence, particularly as they (or their families) may have been the subject of violence or threats of violence. Because people trafficking prosecutions rely heavily on the evidence of individual victims, corroboration of that evidence is often necessary to meet the high standard of proof in criminal proceedings. It is often challenging to corroborate this evidence.

Since the commencement of Divisions 270 and 271 of the Criminal Code, 15 individuals have been convicted of people trafficking-related offences. Ten of those individuals were convicted of slavery offences, three of sexual servitude offences and two of people trafficking offences. One of the people trafficking convictions was for a matter involving labour exploitation. As at 30 June 2012, four people trafficking-related matters, involving five individuals, were before the courts. Two of those four matters were at the appeal stage.

The following provides a summary of matters finalised in 2011–12. More detailed information on these matters, and on ongoing prosecutions, can be found at Appendix 1.

On 11 April 2012, an ACT Supreme Court jury found **Watcharaporn Nantahkhum** guilty of six charges, including possessing a slave. In 2007, Ms Nantahkhum had recruited the victim from Thailand to work as a sex worker, and then forced her to pay off a debt of \$43,000. Ms Nantahkhum also allowed the victim and another sex worker to work in contravention of their visa conditions, and offered the victim money to keep quiet about her circumstances. Ms Nantahkhum was found guilty of:

- possessing a slave, contrary to subsection 270.3(1) of the Criminal Code
- attempting to pervert the course of justice, contrary to section 43 of the Crimes Act
- allowing an unlawful non-citizen to work, contrary to section 245AB of the Migration Act (two counts)
- allowing a non-citizen to work in contravention of a visa condition, contrary to section 245AC of the Migration Act (two counts)

Ms Nantahkhum was sentenced to eight years and ten months' imprisonment, with a nonparole period of four years and nine months. As at 30 June 2012, Ms Nantahkhum had appealed against both her conviction and sentence.

On 6 October 2011, **Diveye Trivedi** pled guilty to one count of people trafficking contrary to subsection 271.2(1B) of the Criminal Code. Mr Trivedi facilitated the entry of the victim into Australia and was reckless as to whether the victim would be subject to labour exploitation. On 8 May 2012, Mr Trivedi was sentenced to 250 hours of community service and a fine of \$1,000 by the NSW District Court. The Trivedi case is significant as it represents Australia's first successful prosecution for trafficking for the purposes of labour exploitation.

On 17 December 2010, **Trevor Mclvor** and **Kanokporn Tanuchit** were sentenced in the NSW District Court after being convicted of possessing a slave, contrary to subsection 270.3(1) of the Criminal Code. Mr Mclvor and Ms Tanuchit were also found guilty of related State offences. Mr Mclvor was sentenced to 12 years' imprisonment with a non-parole period of seven years and six months, while Ms Tanuchit was sentenced to 12 years' imprisonment with a non-parole period of seven years. Both Mr Mclvor and Ms Tanuchit appealed their convictions. On 14 June 2012, the appeals were to be heard in the NSW

Court of Criminal Appeal, but the defendants withdrew their appeals, and they were dismissed by the court.

Table 3: Matters finalised, by Criminal Code provision, 2011–12

	270.3(1)	270.3(2)	270.6(1)	270.6(2)	271.2(1B)	271.2(2B)	271.8(1)
McIVOR, Trevor							
NANTAHKHUM, Watcharaporn							
TANUCHIT, Kanokporn							
TRIVEDI, Diveye							

Table 4: Matters finalised, by Criminal Code provision, 2004–12

	270.3(1)	270.3(2)	270.6(1)	270.6(2)	271.2(1B)	271.2(2B)	271.8(1)
DOBIE, Keith*							
DS							
HO, Ho Kam							
HO, Kam Tin							
KOVACS, Melita							
KOVACS, Zoltan							
LEECH, Sarisa							
McIVOR, Trevor							
NANTAHKHUM, Watcharaporn							
NETTHIP, Namthip**							
SEIDERS, Johan							
TANG, Wei							
TANUCHIT, Kanokporn							
TRIVEDI, Diveye							
YOTCHOMCHIN (KENT), Somsri							

* The corresponding table from the Third Report of the Anti-People Trafficking Interdepartmental Committee, which covered the period 1 July 2010 to 30 June 2011, did not include the charges against Keith Dobie (see page 22 of that report). Mr Dobie was convicted of an offence under subsection 271.2(2B), as reflected above.

** The corresponding table from the Third Report of the Anti-People Trafficking Interdepartmental Committee, which covered the period 1 July 2010 to 30 June 2011, incorrectly included charges under subsections 271.2(1B) and 271.8(1) (see page 22 of that report). These charges were withdrawn before the matter was finalised.

Law enforcement training

Human Trafficking Investigation Program

In cooperation with its State and Territory police partners, the AFP has started meeting its Australian Policing Strategy obligations by training three police officers respectively from New South Wales, Victoria and Queensland Police at the 1/2011 Human Trafficking Investigation Program (HTIP). The HTIP was the first people trafficking training course to be delivered in two years, and 20 investigators from Canberra, Sydney, Melbourne, Brisbane, Darwin and Perth successfully completed the two-week program.

An objective of the program is to develop the knowledge and skills required to successfully conduct complex, sensitive and/or protracted investigations of offences involving people trafficking in a multi-jurisdictional or international environment.

The program focuses on:

- identification of relevant legislation
- identification of relevant best practice investigation procedures
- key issues and considerations in victim-led, reactive investigations of trafficking
- understanding cultural issues that affect a victim's ability and willingness to become a witness in a trafficking investigation, including displaying sensitivity to cultural issues when conducting interviews, and
- identifying and demonstrating behavioural interview techniques when dealing with adult victims of people trafficking.

The program includes presentations from NGOs about the different perspectives on trafficking. While the program was primarily developed to meet the needs of AFP investigators, the course is also open to investigators from State and Territory police services and foreign law enforcement agencies.

Between 2004 and 30 June 2012, 175 investigators completed the course, including 122 AFP investigators, 31 investigators from State and Territory police (all jurisdictions), one representative from DIAC and 21 investigators from foreign police services.

Immigration compliance training

DIAC continues to provide training about combating people trafficking to onshore compliance officers through the people trafficking module of the compliance training program, with guest speakers from the AFP and an NGO, Anti-Slavery Australia. During 2011–12, a total of 49 onshore compliance officers received this training. Three training sessions on people trafficking were also provided to staff being posted overseas and to staff working within the border environment. A total of 61 participants received this training.

Australia's response to serious and organised crime

People trafficking is a complex form of transnational organised crime. A range of people may be involved in the trafficking process, including those engaged in recruitment, transport and harbouring of trafficking victims, and in providing false identification or immigration documentation.

The Australian Government is committed to disrupting, investigating and prosecuting organised crime in all its forms. In 2008, the Government recognised organised crime as significant national security threat for the first time.

On 25 November 2009, the then Attorney-General, the Hon Robert McClelland MP, and the then Minister for Home Affairs and Justice released the Commonwealth Organised Crime Strategic Framework. AGD led development of the Framework on behalf of the Heads of Commonwealth Operational Law Enforcement Agencies (HOCOLEA).

The Framework establishes a comprehensive and coordinated response to target the most significant threats from organised crime in order to reduce its impact on the community. It aims to ensure effective cooperation and collaboration among policy, regulatory, law enforcement and intelligence agencies to combat organised crime.

The Framework also aims to improve information and intelligence sharing between law enforcement and partner agencies to create a more accurate picture of organised crime in Australia and enhance the Government's ability to address organised crime in all its forms.

The key elements of the Framework are:

- the Organised Crime Threat Assessment, prepared every two years by the ACC, to provide a picture of the most significant threats from organised criminal activity
- the Commonwealth Organised Crime Response Plan to align Commonwealth efforts to respond to the most significant organised crime threats, and
- multi-agency responses, such as taskforces, and working groups to respond to operational, policy, regulatory and legislative issues.

The 2011 unclassified Organised Crime Threat Assessment, titled *Organised Crime in Australia*, includes an assessment of crimes against the person including people trafficking and is available at from the ACC website at: www.crimecommission.gov.au.

Commonwealth Organised Crime Response Plan 2010–11

On 26 November 2010, the then Minister for Home Affairs and Justice released the overview of the Commonwealth Organised Crime Response Plan 2010–11 (Commonwealth Response Plan). The Commonwealth Response Plan targeted the three priority organised crime risks of amphetamine-type stimulants, money laundering and identity crime, identified by the ACC in its Organised Crime Threat Assessment. The Commonwealth Response

Plan has been endorsed by the HOCOLEA. The Government will prepare the next iteration of the Commonwealth Response Plan taking into account the latest version of the Organised Crime Threat Assessment and the results of an evaluation of the Framework finalised in mid-2012.

National Organised Crime Response Plan 2010–13

On 10 December 2010, the then Attorney-General and the then Minister for Home Affairs and Justice released the National Organised Crime Response Plan overview (the National Response Plan) in conjunction with State and Territory Attorneys-General. It provides a new framework for strengthened multi-jurisdictional collaboration and coordination in combating organised crime in Australia.

Under the National Response Plan, Commonwealth and State and Territory Governments have agreed to a set of strategic principles and protocols to underpin a national response to organised crime. Governments have also committed to work together on a range of specific measures, including to:

- improve consistency of legislation to fight organised crime
- remove impediments to effective sharing of information and intelligence, and
- target the priority organised crime risks identified in the Organised Crime Threat Assessment.

The National Response Plan has been endorsed by all Australian Attorneys-General and Police Ministers through the then Standing Committee of Attorneys-General²³ and the then Ministerial Council for Police and Emergency Management – Police.²⁴

National Criminal Intelligence Fusion Centre

The ACC's National Criminal Intelligence Fusion Centre (the Fusion Centre) is a key element of the Commonwealth Organised Crime Strategic Framework, which supports an integrated Commonwealth response to organised crime. The Fusion Centre was launched in July 2010, with \$14.3 million allocated over four years. It brings together experts, analysts and investigators from law enforcement, national security and related agencies, each with access to their own agency's information holdings.

This unique partnership involves the ACBPS, the ACC, the AFP, the Australian Securities and Investments Commission, the Australian Taxation Office (ATO), the Australian Transaction Reports and Analysis Centre, the Clean Energy Regulator, the Department of Climate Change and Energy Efficiency, DFAT, the Department of Human Services, DIAC, the Department of Sustainability, Environment, Water, Population and Communities, the national intelligence community, and State and Territory law enforcement agencies.

²³ The Standing Committee of Attorneys-General has been renamed the Standing Council on Law and Justice.

²⁴ The Ministerial Council for Police and Emergency Management has been renamed the Standing Council on Police and Emergency Management.

Working collaboratively through the Fusion Centre, the ACC is painting a more comprehensive picture of criminal targets, risks, threats and vulnerabilities than is possible in isolation. This includes breakthrough intelligence uncovering layers of the picture that would not otherwise be seen. For example, the Fusion Centre has identified more than 70 high-threat criminal targets previously unknown to national law enforcement, and has produced around 1,000 intelligence reports for 53 partners in 2011–12. Regular information sharing and reporting enables action on emerging threats before they become entrenched.

As the Fusion Centre moves into its third year, the ACC is introducing leading-edge data management tools that enable significantly faster and more effective integration and analysis of data. The ACC is also working with partners to explore a new level of collaboration and engagement. Together, these developments promise to leverage even greater value from the data.

Australian Criminal Intelligence Database/Australian Law Enforcement Intelligence Network (ACID/ALEIN)

Commencing in August 2012 an ACC Analyst will facilitate communication and coordination between law enforcement agencies by monitoring intelligence being uploaded to the HT desk which has been established on ACID/ALEIN. This will involve reviewing information reports as they are uploaded to the desk, confirming entities where appropriate, identifying syndicate linkages across jurisdictions and disclosing actionable intelligence back to the AFP and jurisdictions.

Criminal Assets Confiscation Taskforce

The Criminal Assets Confiscation Taskforce, led by the AFP, commenced operation in January 2011 and was formally launched by the then Attorney-General and the then Minister for Home Affairs and Justice on 10 March 2011.

The Taskforce takes a dynamic, integrated approach to criminal asset confiscation at the Commonwealth level by bringing together intelligence, operations, legal and other specialist resources to enhance the identification of potential asset confiscation matters and strengthen their pursuit.

The objectives of the Taskforce are to:

- disrupt and deter serious and organised crime in Australia by removing the proceeds and instruments of crime
- provide a coordinated approach to Commonwealth criminal asset confiscation
- maximise the effectiveness of confiscation efforts, and
- protect the public finances of Australia from criminal abuse of the tax system through asset confiscation action and identification of matters appropriate for referral to the ATO for taxation treatment.

On 5 December 2011, the Crimes Legislation Amendment Act (No. 2) 2011 came into force. This legislation enables the AFP Commissioner to conduct proceeds of crime litigation on behalf of the Taskforce. The Taskforce became permanent in 2012.

Support and assistance to victims

The Australian Government response to people trafficking continues to focus on providing appropriate support and services for victims of trafficking.

People Trafficking Visa Framework

The Australian Government's comprehensive People Trafficking Visa Framework enables foreign nationals who do not already hold a valid visa and are suspected victims of trafficking to remain lawfully in Australia. They are then, like other valid visa holders who are suspected victims, able to access support through the Support for Trafficked People Program.

The People Trafficking Visa Framework comprises three visas: the Bridging F visa (BVF), the Criminal Justice Stay visa (CJSV), and the Witness Protection (Trafficking) (Permanent) visa (WPTV).

- A person assessed by the police as a suspected victim of people trafficking may be eligible for a BVF for up to 45 days. A BVF can also be granted to immediate family members in Australia. There are no work rights associated with a BVF, but victims receive intensive victim support through the Support for Trafficked People Program. There is also an option to grant a second BVF for a further 45 days (taking the total to 90 days), during which time the person will continue to receive intensive victim support. The offer of a second BVF, made by the AFP, is considered on a case-by-case basis.
- After the expiry of a BVF, a CJSV may be granted to a suspected victim of trafficking at the request of the police. A CJSV allows the holder to remain in Australia for as long as they are required for law enforcement purposes. A person on a CJSV is allowed to work and receives support under the Justice Support Stream of the Support Program.
- A suspected victim of trafficking who has made a contribution to an investigation or prosecution of an alleged trafficking offender may be eligible for a WPTV if they would be in danger upon return to their home country. This visa allows the holder to remain in Australia permanently, and immediate family members may be included in the visa application.

A WPTV may be granted to a person if the following, among other criteria prescribed in the *Migration Regulations 1994*, are met:

1. the Attorney-General certifies that:
 - the person made a contribution to, and cooperated closely with, the prosecution of a person who was alleged to have trafficked a person or who was alleged to have forced a person into exploitative conditions (whether or not the person was convicted), or
 - the person made a contribution to, and cooperated closely with, an investigation in relation to which the Director of Public Prosecutions has decided not to prosecute a person who was alleged to have trafficked a person or who was alleged to have forced a person into exploitative conditions
2. the person is not the subject of a prosecution for an offence that is directly connected to the prosecution referred to above, and
3. the Minister for Immigration and Citizenship considers the person would be in danger if he or she returned home.

Between 1 July 2011 and 30 June 2012, DIAC granted 12 BVFs and 17 CJSVs visas to suspected victims and immediate family members. A total of 26 WPTVs were granted, sixteen to suspected victims of trafficking and ten to their immediate family members. The following table includes visa grant statistics for previous years.

Table 5: Trafficking visas granted, 2004-05 to 2011-12

Visa Type	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
BVF	31	11	16	34	39	33	24	12
CJSV	23	8	18	18	30	23	29	17
Witness Protection (Trafficking) (Temporary) visa	-	-	4	13	-	The Witness Protection (Trafficking) (Temporary) visa was removed by legislative change on 30 June 2009.		
WPTV	-	-	-	-	5	21	42	26

Note:

- The number of visas cited includes those granted to both suspected victims of trafficking and their immediate family members.
- For the Bridging F and Criminal Justice Stay visas only, the total number of visas granted may include the grant of more than one visa to the same person.

Support for Trafficked People Program

Australia provides a comprehensive range of support services for suspected trafficking victims through its Support for Trafficked People Program. Possible victims may be identified through a number of avenues, including immigration officials, law enforcement agencies, NGOs, hospitals, medical practitioners, consulates and government departments. Possible victims are referred to the AFP for assessment and, where appropriate, entry to the Support Program.

To date, most victims of trafficking identified in Australia have been women working in the sex industry, both in legal and illegal brothels. Generally the women have been recruited from low socio-economic countries and are attracted by the perception of improved economic opportunities in Australia. Increasingly, Australian authorities are identifying men and women trafficked into other industries, including the hospitality industry.

FaHCSIA administers the Support Program, which is delivered by a contracted case management service provider. In March 2009, Red Cross was contracted to deliver case management services for the Support Program following a two stage tender process. The original contract was extended to 30 June 2012 while FaHCSIA and Red Cross negotiated and signed a three-year funding agreement to continue provision of the case management service from 2012–13 to 2014–15. This followed a direct source approach to Red Cross on the basis of their understanding of the Support Program and their track record of successful delivery of case management services for trafficked people.

Red Cross provides a 24 hours a day, seven days a week, 365 days a year national response within all States and Territories in Australia. Red Cross allocates an individual case manager to each client referred to the Support Program. Case managers are responsible for ensuring the appropriate delivery of support services tailored to meet the client's individual needs.

Case managers help clients to access a range of support services to improve their mental and physical health and well-being following the trauma of their trafficking experience and to provide opportunities to learn new skills and develop options for life after exiting the Support Program.

These services may include:

- case management support
- suitable accommodation that meets the AFP's security requirements
- medical treatment (through Medicare and the Pharmaceuticals Benefits Scheme, or as approved)
- counselling
- access to legal and migration advice
- appropriate skills development training including English language and vocational guidance, where appropriate, and
- social support.

Clients who have dependent children living with them may receive assistance with arranging child-care, schooling, counselling and medical support. They can also be assisted to access parenting support or education.

The Support Program is divided into the following streams:

- **Assessment Stream** – intensive support for up to 45 days to all identified victims of trafficking irrespective of whether they are willing or able to assist police. If the person does not have a valid visa, they can be granted a BVF for 45 days. This provides an extended recovery and reflection period and time for victims to assess their options. Victims have access to the following support as needed: case management support; 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** – access to a further 45 days' support for victims of trafficking who are willing, but not able, to assist with an investigation and 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 victims suffering from medical conditions and trauma. If the suspected victim of trafficking does not hold a valid visa, a second BVF for up to 45 days may be granted.
- **Justice Support Stream** – support until the investigation and prosecution of a people trafficking matter is finalised. In the Justice Support Stream clients have access to the following support as needed and if eligible: Special Benefit, Rent Assistance and Health Care cards administered by Centrelink; 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; links to social support; as well as case management support.
- **Temporary Trial Support Stream** – intensive support (similar to that provided under the Assessment Stream) for victims who return to Australia to give evidence pertaining to a people trafficking prosecution. Recipients are entitled to short-term accommodation and a weekly living allowance.

There is also a 20-day **transition period** for victims leaving the Program.

Statistical profile of the Support Program

New clients referred to the Support for Trafficked People Program between 1 July 2011 and 30 June 2012

Nine new clients entered the Support Program between 1 July 2011 to 30 June 2012. All the new clients were female and as at 30 June 2012, five remained on the Support Program.

Seventy-eight per cent of the new clients (seven) who entered the Support Program between 1 July 2011 and 30 June 2012 were trafficked into the sex industry. The remaining two clients were located in non-sex industries.

In 2010–11, one minor was referred to the Support Program having been trafficked into the sex industry.

The individual country of origin/citizenship for the nine new clients referred to the Support Program during the reporting period is not reported on for privacy reasons as the numbers are all less than five for any particular country.

Of new clients referred to the Support Program in this period, seven clients (78 per cent) were located in New South Wales (see Table 6).

Table 6: New clients referred to the Support Program between 1 July 2011 and 30 June 2012 by State and Territory

State/Territory	Number of new clients
NSW	7
Rest of country	2
TOTAL	9

Total number of clients on the Support Program during 2011–12

There were a total of 77 clients supported on the Support Program during 2011–12, compared to 80 clients in 2010–11. As at 30 June 2012, a total of 193 clients had been referred to the Support Program since its inception in 2004 (see Table 7).

Table 7: Number of clients on the Support Program by Financial Year

Financial Year	Number of Clients
2005–06	41
2006–07	48
2007–08	60
2008–09	59
2009–10	65
2010–11	80
2011–12	77

At 30 June 2012, there were 62 clients on the Support Program compared to 68 clients on 1 July 2011. Fifteen clients left the Support Program between 1 July 2011 and 30 June 2012.

Seventy nine per cent (61) of clients supported on the Support Program between 1 July 2011 and 30 June 2012 were females trafficked into the sex industry (see Table 8).

Table 8: Number of clients on the Support Program by type of exploitation and gender

	Non-sexual exploitation*		Sexual exploitation		Total	
	2010–11	2011–12	2010–11	2011–12	2010–11	2011–12
Male	9	9	0	0	9	9
Female	8	7	63	61	71	68
TOTAL	17	16	63	61	80	77

* Non-sexual exploitation includes all other forms of exploitation and trafficking that occurs outside the sex industry including trafficking into other industries (labour trafficking), slavery, domestic servitude and organ trafficking.

Thailand (43 per cent), Malaysia (17 per cent), the Philippines (13 per cent) and the Republic of Korea (8 per cent) were the main source countries for clients supported on the Support Program in 2011–12 (see Table 9).

Table 9: Number of clients on the Support Program by country of origin/citizenship

Country of Origin/Citizenship	2011–12	Total since 2004
Thailand	33	81
Malaysia	13	32
Philippines	10	10
Republic of Korea	6	32
Other*	15	38
TOTAL	77	193

* Client total where individual countries had less than five clients.

Challenges in delivering the Support Program

The new funding agreement will provide Red Cross with greater flexibility to deliver case management services and tailor support for the individual clients so that their complex and diverse needs can be addressed. However, the challenges faced in delivering the Support Program continue to include:

- **Access to safe, appropriate and affordable accommodation.** Accessing affordable and safe accommodation, particularly at short notice, remains a challenge for the Support Program. This has particularly been the case for new clients with complex needs such as mental health issues or drug/alcohol dependency issues. Clients requiring secure, independently funded long term accommodation also present a challenge.

- **Support for minors.** The Support Program was not initially designed to provide support to individuals under 18 years of age. However, a total of five young people aged between 15 and 17 at the time of referral have been referred to the Support Program since 2009. These clients received appropriately tailored support. In most cases the young people have spent only a short period of time on the Support Program. All minors are referred to the relevant State or Territory child protection authority.
- **Family re-unification for clients granted WPTVs.** The Support Program has seen an increase in the number of clients seeking family re-unification once they have been granted a WPTV. Many clients have dependent children residing in their home country. These clients often face significant costs associated with travel and establishing their children in Australia. Families receive extensive casework support and financial assistance to help with issues such as housing, furniture, clothing and access to childcare, schools and other government, health and social services.

CASE STUDY

A Support Program client

K* was trafficked to Australia for sexual exploitation and referred to the Support Program in 2007. K engaged with the AFP and provided a statement. The offender was subsequently found guilty and imprisoned.

During her time on the Support Program, K was provided initially with accommodation, financial support, trauma counselling and medical treatment. As time went on, K was assisted in finding ongoing accommodation and was provided with a furniture allowance to set up this accommodation.

K was also assisted with access to English language classes and was supported by her Red Cross caseworker in getting to know local services and supports, including Medicare and public transport. Having access to the Red Cross caseworker helped to ease the cultural transition for K.

Through her participation on the Support Program, K was able to access migration and legal advice and was supported in applying for a WPTV.

As K was feeling settled and was dealing with her initial trauma through access to counseling, K's Red Cross caseworker and her legal and migration agent discussed the possibility of K making an application for victims of crime compensation. The Red Cross caseworker sought pro-bono legal support from a major law firm, who assisted K in completing and lodging her application. This application included a psychological assessment and a victim impact statement, showing proof of the injury/damage caused to her and the psychological harm she experienced.

Reliving the physical and psychological trauma of her trafficking experience was difficult for K and through the Support Program she accessed mental health support.

K's Red Cross caseworker supported her to attend these appointments and provided support around her experiences in re-telling and reliving her trafficking experience. Despite an initial reluctance in engaging with a counsellor or psychologist, K has found this engagement a positive experience in the long-term.

When K was notified that she had been awarded a financial settlement, she felt it was an acknowledgement of her suffering and her experience as a trafficked person.

The support provided to her by her Red Cross caseworker during the emotional process of applying for victims of crime compensation enabled her to access additional mental health supports and further identify future goals and plans. These have been important steps for K as she continues to build a secure and positive future in Australia.

* Given the small number of clients on the Support Program and the need to preserve the privacy of individual clients, this case study is representative, drawing on common experiences of a number of clients.

Protection for vulnerable workers

Discussions about people trafficking sometimes conflate issues of trafficking, forced labour and substandard working conditions.

People are in a situation of forced labour if they enter work or service against their will and cannot leave it without penalty or threat of penalty. Forced labour is currently²⁵ defined in the Criminal Code Dictionary by reference to section 73.2(3):²⁶

forced labour means the condition of a person who provides labour or services (other than sexual services) and who, because of the use of force or threats:

- a) is not free to cease providing labour or services; or
- b) is not free to leave the place or area where the person provides labour or services.

While many victims of trafficking end up in situations of forced labour, not all victims of forced labour are trafficked. The International Labour Organization (ILO) estimates that globally some 21 million people are victims of forced labour. There is also an important distinction to be drawn between people in forced labour situations and those who may have poor working conditions.

Australia's workplace law and practice – supported by migration law and relevant State and Territory laws – requires all people who undertake productive work in Australia to be engaged in accordance with its provisions (including salary, employment conditions and standards, workers' compensation, and occupational health and safety) and to receive the same protection as Australian nationals (in terms of investigation by the competent Australian authority of all underpayment and exploitation claims).

Australian employers who sponsor and employ foreign workers are covered by the Migration Act. There are a number of obligations that employers must be willing and able to meet to sponsor foreign workers, including complying with any requirements regarding the pay and conditions of workers that are set out under the Migration Act and workplace relations laws.

However, foreign workers may be vulnerable to exploitation by those who facilitate their journey to Australia or by employers once in Australia. Labour trafficking may result in exploitation of foreign workers through forced labour, debt bondage or slavery.

25 Amendments proposed in the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill include an amendment to the definition of 'forced labour'. For more information on the Bill, please see page 5.

26 Forced labour is defined by the International Labour Organization as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (ILO Convention No. 29, 1930).

It is also possible for Australian citizens and permanent residents to be trafficked for labour exploitation within Australia.

While the matters investigated by the FWO, the former ABCC, and the newly established FWBC, may not fall within the criminal offences of slavery or trafficking, they illustrate the important role of these organisations in protecting the rights of workers who are exploited in Australia.

Fair Work Ombudsman

The FWO is an independent statutory agency created by the *Fair Work Act 2009* (FW Act) and is responsible for providing education, assistance and advice about the Commonwealth workplace relations system. In addition, the agency is also responsible for impartially enforcing compliance with the FW Act and related instruments.

Offences relating to trafficking of persons do not fall within the operational remit of the FWO. Where the FWO identifies behaviour in the course of its investigations that could amount to trafficking of persons, evidence is referred to the AFP.

The FW Act contains minimum entitlements for all employees in the federal workplace system, including short- and long-term migrant workers and international students. In enforcing compliance, the agency makes no distinction between legal and illegal workers.

The FWO works closely with other government regulators, including DIAC to ensure that migrant workers receive their minimum rights and entitlements. The FWO also works cooperatively with relevant government stakeholders through the Anti-People Trafficking IDC.

During 2011–12, the FWO conducted 990 investigations involving Temporary Business (Long Stay) (Subclass 457) and other visa holders, and recovered more than \$718,000 in unpaid entitlements for these workers.

The FWO launched the National Overseas Workers Initiative in 2011. This initiative aims to monitor, promote and ensure compliance with the FW Act by employers of migrant workers through targeted education and compliance activities in areas or industries identified as employing high numbers of migrant workers. The FWO consulted widely with DIAC in addition to industry partners as part of this initiative, and commenced undertaking field visits in October 2011.

Investigations and audits arising out of the initiative are the subject of ongoing activity undertaken in New South Wales, Victoria, Queensland, Western Australia, South Australia, and the Northern Territory, in a variety of industries including the horticulture, hospitality and accounting industries. A number of newspaper, radio and television articles have resulted from the ongoing investigations.

During 2011–12, the FWO was engaged in a number of litigations concerning foreign workers. On 30 March 2012, the Federal Magistrates Court of Victoria handed down \$72,000 in penalties with respect to FWO litigation. The penalties were awarded against

Taj Palace Tandoori Indian Restaurant Pty Ltd and Mr Nathi Singh Rawat, for the underpayment of an Indian worker who was employed on a subclass 457 visa.

In order to increase awareness amongst migrant workers in relation to their workplace rights and entitlements in Australia, the FWO has developed and implemented a culturally and linguistically diverse (CALD) community engagement strategy. The strategy includes:

- workplace rights information factsheets as well as videos presented in 14 community languages and distributed through YouTube
- targeted, translated publications available on Fair Work Online
- initiatives such as community capacity building programs, ethnic media and public relations, search engine marketing and the direct mail distribution of tailored material, and
- continued and pro-active engagement with community organisations who work with migrant workers, such as migrant resource centres and Anti-Slavery Australia.

Fair Work Building & Construction

FWBC is a newly established statutory authority which replaced the ABCC on 1 June 2012. FWBC assumed responsibility for many of the roles and functions previously held by ABCC. The references to work undertaken by FWBC during this reporting period include work undertaken by ABCC prior to its abolition.

FWBC's primary responsibility is to regulate compliance with Commonwealth workplace laws in the building and construction industry through education, advice and compliance activities, including investigations and litigation. FWBC ensures building and construction work is carried out fairly and productively for the benefit of all building industry participants and the Australian economy as a whole. FWBC's role is to assist industry participants understand workplace relations laws, monitor workplace conduct and investigate alleged contraventions.

FWBC is a member of the Anti-People Trafficking IDC. FWBC's predecessor agency, ABCC, joined the IDC on 31 March 2011.

An important aspect of the work of FWBC is to ensure compliance with obligations under the FW Act, Commonwealth industrial instruments (including awards and workplace agreements), and safety net contractual entitlements (such as wages and entitlements matters) in the building and construction industry. This includes matters involving the exploitation of vulnerable workers, such as workers of various nationalities who are in Australia on a variety of visas permitting work, others working in contravention of visa conditions or who have no valid visa.

In 2011–12, FWBC recovered \$930,000 on behalf of 662 employees in the building and construction industry. A significant number of these workers were migrant workers and many could be classified as vulnerable.

FWBC and DIAC have established a memorandum of understanding (MOU) that enables the transfer of operational information on matters relating to subclass 457 visas between the agencies. The agencies are currently working together to establish a new MOU that will provide greater flexibility for sharing of information, opportunities to work collaboratively, and access to training materials for operational staff at both agencies.

Arrangements are in place in each of the FWBC offices to share relevant operational information with DIAC. Such interchange occurs on a regular basis and has proven beneficial to both agencies.

FWBC also provides advice and assistance to all building and construction industry participants, including those from CALD backgrounds. These industry participants may be vulnerable to exploitation, and, in extreme cases, this exploitation could take the form of slavery or people trafficking. If, in the process of conducting its operations relating to workplace relations laws, FWBC staff become aware of conduct that may amount to slavery or people trafficking, the agency will refer the matter to the AFP as a matter of priority.

In November 2011, the FWBC Executive Committee endorsed a communications and engagement strategy specifically targeting building industry participants from CALD backgrounds.

Community consultations were held across Australia in April 2012, including one-on-one meetings with key stakeholders. The intention of these consultations was to understand the barriers and issues facing CALD community members working in the building and construction industry.

The consultations revealed that workers from CALD backgrounds are more vulnerable and less likely to know their workplace rights and responsibilities. Key findings from the consultation process identified:

- language barriers
- limited understanding of Australian cultural norms
- fear of authority organisations such as government, and
- a lack of workplace rights awareness and where/how to access information.

People trafficking was identified as a risk for vulnerable CALD building participants as a result of the barriers to information and understanding about their workplace rights and responsibilities.

To respond to the consultation findings and as part of the CALD communications strategy, FWBC is developing a comprehensive suite of educative in-language tools, documents and resources to deliver key information to CALD participants working in Australia's building and construction industry.

One of the key resources is a series of in-language videos that respond directly to the issues raised in the consultations and aim to build greater awareness of workplace rights and encouraging information seeking behaviour among CALD audiences.

The launch of these tools and resources will coincide with the new FWBC website (scheduled for late 2012). The new website includes a dedicated language assistance hub that will provide clustered language specific information and tools. The video will be accessible through YouTube, embedded in the new website languages assistance pages, and delivered as a DVD available for distribution to migrant resource centres and community libraries etc.

Sham contracting

Sham contracting in the building and construction industry has detrimental consequences for employees and employers, the building and construction industry and the broader economy. Following an inquiry process that involved a vast array of stakeholders and the publication of a substantial report, FWBC commenced a wideranging research activity into the incidence and nature of sham contracting in the building and construction industry. The scope of this research activity was recently expanded to include the specific examination of the impact of sham contracting on migrant workers, particularly those that work in trades such as plastering, painting and tiling.

Building partnerships with the community

The Australian Government is committed to building stronger partnerships with the non-government sector.

National Roundtable on People Trafficking

The fourth National Roundtable on People Trafficking was convened on 23 November 2011 by the then Minister for Home Affairs and Justice, in partnership with the Minister for Immigration and Citizenship, the Hon Chris Bowen MP, and the then Minister for the Status of Women, the Hon Kate Ellis MP. The purpose of the Roundtable is to provide an opportunity to reframe relationships between the Government and NGOs and to establish a consultative mechanism on trafficking issues, especially emerging issues.

The 2011 Roundtable was attended by representatives from a range of organisations, including Anti-Slavery Australia (formerly the Anti-Slavery Project), Australian Catholic Religious Against Trafficking in Humans (ACRATH), the Australian Hotels Association, the Australian Council for International Development, Asian Women at Work, AHRC, Red Cross, the Construction, Forestry, Mining and Energy Union, the International Organization for Migration (IOM), United Voice (formerly the Liquor, Hospitality and Miscellaneous Workers Union), Master Builders Association, Project Respect, Scarlet Alliance, the Salvation Army, and Victim Support Australasia, along with the member agencies of the IDC.

The UN Special Rapporteur on trafficking in persons, especially women and children, Dr Joy Ngozi Ezeilo OON, also attended the Roundtable as part of her fact-finding mission to Australia. The Roundtable was an important opportunity for representatives of Government and stakeholders to engage with Dr Ezeilo and identify areas for improvement, such as under-reporting of labour trafficking in Australia.

Ministers and members of the Roundtable discussed domestic and global achievements and opportunities for increased engagement between Roundtable members. The meeting discussed the outcomes of the public consultations, announced at the 2010 Roundtable, on the criminal justice response to slavery and trafficking, reparation and vulnerable witness protections, and on forced and servile marriage. The then Minister for Home Affairs and Justice outlined the Australian Government's approach to combating people trafficking, with a major focus of the meeting on the Government's proposed legislation to strengthen laws criminalising trafficking and related exploitative practices (see page 5).

The Minister for Immigration and Citizenship noted the outcomes of the Howell Review on hiring people without visas and breach of working conditions, and warned of the potential misuse of student visas for exploitative purposes. Minister Bowen emphasised the importance of enhanced regional cooperation in addressing these issues, and strengthening regional law and policy in cooperation with other governments.

The then Minister for the Status of Women told the Roundtable that there are increasing numbers of men and women trafficked for labour, with people as young as 16 years old being referred to the Support for Trafficked People Program. Minister Ellis also announced additional funding for Red Cross to develop and deliver training to mainstream community services so that community workers can identify potential victims of trafficking, better understand their needs, and provide the best possible support to help them to recover and look forward to a better life.

The Ministers expressed their appreciation to all individuals and organisations whose hard work, passion, commitment and dedication contributed to the fight against people trafficking.



Members of the 2011 National Roundtable on People Trafficking, including the Hon Kate Ellis MP, Dr Joy Ngozi Ezeilo OON, Special Rapporteur, and the Hon Chris Bowen MP.

National Roundtable Senior Officials' Meeting

At the Roundtable meeting held in November 2010, members agreed that a less formal meeting of the Roundtable should be held annually to supplement the ministerial-level Roundtable.

The second Senior Officials' Meeting of the Roundtable, chaired by AGD, took place in Sydney on 16 May 2012. Members provided updates on their activities and achievements and the issues and challenges that might be confronting them.

The meeting discussed the operation and status of the proposed legislative amendments to the trafficking and slavery offences in the Criminal Code. The legislation is the first phase of work arising from the 2010 discussion paper on the *Criminal Justice Response to Slavery and People Trafficking; Reparation; and Vulnerable Witness Protections*. At the Senior Officials' Meeting, AGD also noted that work on the second phase of implementation, focusing on vulnerable witness protections, will be progressed in the second half of 2012.

Australian Government representatives outlined strategies for enhanced international engagement on people trafficking, including through the Bali Process, and bilaterally with regional partners. AGD also provided an update on Australia's response to questions by the UN Committee on the Rights of the Child about Australia's implementation of the *Convention on the Rights of the Child*, and its Optional Protocols, which specifically included questions on trafficking.

The visit by the UN Special Rapporteur was another key focus of the meeting, and representatives shared preliminary views on issues relating to the redevelopment of the National Action Plan, which was one of the recommendations by Dr Ezeilo in her final report. Members outlined activities being undertaken to enhance community awareness about trafficking. Anti-Slavery Australia also provided an update on the online training module it had developed as an educational resource for community organisations.

Practical support for the work of anti-trafficking NGOs

NGOs play a vital role in identifying and supporting people who have been trafficked, as well as raising community awareness of all forms of trafficking in Australia.

In October 2008, the Australian Government announced funding of \$1 million to support four Australian NGOs in their efforts to combat people trafficking. Anti-Slavery Australia, Project Respect, Scarlet Alliance and ACRATH were each granted \$250,000 to provide vital outreach for trafficking victims and to conduct education and awareness-raising initiatives on people trafficking. At the 2010 National Roundtable, the then Minister for Home Affairs and Justice announced further funding for the four NGOs of \$1.4 million (\$350,000 each) to support their work in 2011–14. The funding is provided from confiscated criminal assets under the *Proceeds of Crime Act 2002* (POCA).

Anti-Slavery Australia is the only specialist legal and policy centre in Australia focused on slavery, trafficking and extreme labour exploitation. It is part of the Faculty of Law at the University of Technology, Sydney. With its grant Anti-Slavery Australia is developing an enhanced general community awareness campaign to raise awareness of all forms of labour trafficking in consultation with stakeholders, and is also providing trafficked people and people who are vulnerable to trafficking with information about their legal rights under Australian immigration and labour law.

Project Respect is a non-profit community organisation that aims to empower and support women in the sex industry, including women trafficked to Australia. Project Respect is using its grant to expand its program of outreach to women in the sex industry, and to provide information and referrals to services for health, housing, legal advice, drugs and alcohol, and other issues.

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

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

Further information on the work of these NGOs in 2011–12 is available below.

Anti-Slavery Australia (formerly the Anti-Slavery Project) – University of Technology, Sydney



Thanks to the funding received from the Australian Government to raise awareness of all forms of trafficking in Australia, Anti-Slavery Australia has had another exciting year which has seen the nationwide screening of three Community Service Announcements (CSAs) and the launch of the inaugural Anti-Slavery Australia Freedom Awards. In addition, the funding has supported

Anti-Slavery Australia's pro bono legal service, provided to people who have experienced people trafficking and slavery in Australia.

The first grant of funding received over the period 2009 to 2011 saw the development of three CSAs about people trafficked into domestic servitude, commercial hospitality and the agricultural sector, and four longer films targeted at the general community, secondary school students, the legal profession and health practitioners. The CSAs have now been shown in cinemas across Australia over 9,000 times.



A still from Anti-Slavery Australia's Community Service Announcement on domestic servitude.

The grant also funded the development of the Anti-Slavery Australia Freedom Awards which recognise pioneering individuals and organisations who work tirelessly to protect the rights of trafficked people. Information on the 2011 Freedom Awards is below. The 2012 Freedom Awards will be held in Sydney, and seek to recognise

Continued next page

innovative projects and campaigns that have contributed to the struggle against people trafficking and slavery in Australia over the last year; particularly in areas such as ethical consumerism, advocacy, use of media and community engagement.

Under the second grant of funding, Anti-Slavery Australia's awareness raising activity is focused on the development of an online training program on people trafficking, slavery and exploitation in Australia. It will be the first training program of its kind in Australia and will be targeted at law enforcement agencies, government departments and community organisations. This online training will look at Australia's response to the issues, in the domestic legal framework, and internationally. Using case studies, it will highlight some possible behaviours that may indicate to frontline workers that they are dealing with a possible victim of trafficking, slavery and/or exploitation. It is also designed to educate the audience on the sensitivities involved when dealing with people who have experienced the trauma of such exploitation.

Anti-Slavery Australia has begun conducting a legal needs analysis of people who have been the victims of trafficking, slavery and other forms of severe exploitation in Australia. A survey has been distributed to law enforcement agencies, government departments, the private sector and community organisations, seeking information about their experience with obtaining assistance for their clients' legal needs. Their responses will inform the development of a 'best practice' paper for delivering a legal service to people who have experienced people trafficking and slavery.

Anti-Slavery Australia is also developing new materials to publicise its activities, in particular, the pro bono legal service. The aim of this new material is to engage and inform a wider audience by providing clear and accessible information about our services and to use images that inspire a more positive and hopeful view of the future. An energetic outreach project, undertaken in the last few months by the Anti-Slavery team, has focused on providing information and materials to community organisations throughout the greater Sydney area. This outreach project has also highlighted the need for awareness raising materials which are currently being developed with Anti-Slavery Australia's community partners to raise awareness of forced marriage in communities and to develop best practice responses in this complex area.

Anti-Slavery Australia's current research focus is to explore the complex area of forced marriage and to continue our research into human rights responses to trafficking.

2011 Anti-Slavery Australia Freedom Awards

In November 2011, Anti-Slavery Australia hosted its inaugural Freedom Awards at Parliament House in Canberra. In a deeply moving ceremony, the then Minister for Home Affairs and Justice awarded individuals and organisations for their distinctive contributions and commitment to stopping slavery, people trafficking and forced labour.

People trafficking and slavery are confronting crimes and many of the Freedom Award recipients and nominees dedicated many years of service in working to combat them.

The Australian Government congratulates Anti-Slavery Australia on establishing the Freedom Awards, which are another example of the successful collaboration between government and NGOs.

Nominations for the Freedom Awards were sought through a public process, and an independent advisory panel judged the winners.

The winners of the 2011 Individual Contribution Award were as follows (in alphabetical order):

- **Sister Louise Cleary CSB, ACRATH**

Brigidine Sister Louise Cleary, CSB is the former Chair of ACRATH's National Committee and a founding member. Sr Louise has made a dynamic contribution to the ongoing work of ACRATH in raising the community profile of people trafficking in both international and domestic contexts, inspiring collaboration between community groups and identifying the need for legislative and policy change.

- **Sister Pauline Coll SGS, ACRATH**

Sister Pauline Coll is a member of the Good Samaritan order, and was the inaugural chair and a driving force of ACRATH. Sister Pauline was indefatigable in her personal endeavours to get people trafficking on the government and community agenda, forging effective and enduring partnerships with a range of diverse groups.

- **Jennifer Cullen, Federal Agent, AFP**

Federal Agent Jennifer Cullen of the AFP made a significant contribution to Australian Government efforts to combat human trafficking from 2007 to 2009. In her role as National Coordinator of the AFP Human Trafficking Team she had oversight of police investigations in Sydney, Melbourne and Brisbane. Federal Agent Cullen left a legacy of corporate governance, crime specific training and strong stakeholder relationships.

- **Dr Anne Gallagher AO**

Dr Anne Gallagher is recognised as a global authority in her field. She worked with the UN from 1992 to 2003, the last five years as Special Adviser on Human Trafficking to the High Commissioner for Human Rights. From 2003 to 2011, Dr Gallagher headed the AusAID funded Asia Regional Trafficking in Persons project (ARTIP) to improve effective criminal justice responses to people trafficking in the Association of South East Asian Nations (ASEAN) region. In June 2012, Dr Gallagher was appointed as an Officer in the General Division of the Order of Australia, and was recognised by US Secretary of State Hillary Clinton as a Trafficking in Persons Hero.

Continued next page

- **Dr Dianne Heriot, former Assistant Secretary of the Attorney-General's Department**

In her former position at AGD, Dr Dianne Heriot played a key role in developing and implementing the Australian Government's anti-people trafficking strategy. Dr Heriot had oversight of legislative developments in response to Australia's ratification of the UN Trafficking in Persons Protocol, and steered the development of the National Roundtable on People Trafficking. Dr Heriot was pivotal in establishing robust, collaborative relationships between government and stakeholders.

- **Fiona McLeod, Senior Counsel**

Ms Fiona McLeod is a prominent Melbourne barrister and Senior Counsel. She has been a pioneer in the field of anti-slavery and trafficking in Australia, in particular as a legal representative and advisor to victims. Ms McLeod was counsel in two landmark cases in Australia concerning slavery and people trafficking, and has used her very considerable legal expertise to pursue victims' rights at law and to highlight the issue of modern-day slavery in Australia.

- **Merima Trbojevic, Assistant Manager, NSW Compliance Trafficking and Liaison, DIAC**

Ms Merima Trbojevic has been an immigration officer for 11 years. For the past five years, she has worked with men and women who have been trafficked, enslaved and exploited in Australia. Ms Trbojevic has inspired many Immigration officers and community members with her respect for the human rights and dignity of victims, and her vigilance in applying the law with compassion, rigour and integrity.



From left to right, Sr Maree Marsh (for Sr Louise Cleary), Francesca Pagani (Red Cross), Dr Dianne Heriot, Sr Pauline Coll, Kelly Hinton (Project Respect), Sr Margaret Ng (Josephite Counter-Trafficking), Fiona McLeod SC, the Hon Brendan O'Connor MP, Merima Trbojevic (DIAC), Dr Anne Gallagher AO, Jennifer Cullen (AFP), Jenny Stanger (Salvation Army), Jules Kim (Scarlet Alliance).

The following recipients were presented the Organisation Contribution Award (in alphabetical order):

- **Australian Red Cross – Support for Victims of People Trafficking Program**

Red Cross delivers the Australian Government's Support for Trafficked People Program, which provides intensive casework support to people who have been made vulnerable by people trafficking and who are engaged in judicial proceedings.

- **Josephite Counter-Trafficking Project**

The Josephite Counter-Trafficking Project is a Congregational Ministry that responds to the needs of trafficked women. They provide culturally-sensitive mentoring to enable women who have been trafficked to Australia to make informed choices, including about returning to their country of origin.

- **Project Respect**

Project Respect is has been providing direct support and outreach to women in the sex industry, including victims of trafficking, since it was established in 1998. They have been effective lobbyists in raising the profile of this issue, particularly in Victoria, and have actively engaged in developing Australian legal and policy responses to trafficking of women.

- **Scarlet Alliance**

Scarlet Alliance represents the interests of sex workers and sex worker organisations, projects, groups and networks in Australia. The organisation has been active in Australia and in the broader region on a range of initiatives to prevent people trafficking by providing information to sex workers about laws, migration and trafficking. They have been active contributors to policy and legislative development in Australia.

- **The Salvation Army Safe House for Trafficked Women**

In 2008, the Salvation Army opened a safe house for trafficked women. The safe house provides secure accommodation for women and individual support including crisis assistance, legal, health, training and job assistance. Residents at the Safe House receive comprehensive and culturally appropriate support as they rebuild their lives free from exploitation.

ACRATH – Australian Catholic Religious Against Trafficking in Humans



Highlights from ACRATH's past year include:

- the ACRATH National Conference and Annual General Meeting in February 2012, which was attended by 40 people and affirmed the organisation's direction over the coming two years. At this conference ACRATH focused particularly on building stronger networks to tackle people trafficking with existing partners in the Pacific (especially the Solomon Islands and New Zealand) and in Asia (especially Timor Leste, Thailand, Singapore, the Philippines) and at the UN
- energetic and efficient uploading on ACRATH's website which has borne fruit with a significant hit rate and resulting networking and opportunities for educating the community or public
- the first successful victims of crime compensation payments to women supported by ACRATH and its pro bono law firm, Allens, and
- the announcement by Nestlé and Ferrero that they will ensure no forced or slave labour will be involved in the supply chain of cocoa they import into Australia from 2012.



ACRATH members are developing online materials for two projects: to promote awareness of the demand side of people trafficking, and to raise awareness within CALD communities.

During the reporting period, ACRATH reaffirmed its three main objectives:

Objective 1: Raise awareness of trafficking, its causes and the scope for local action

Objective 2: Work to ensure that the needs of people trafficked into Australia are met, including education and retraining, access to financial compensation, medical, dental and other health needs, and pastoral care

Objective 3: Collaborate with like-minded organisations in Australia, in the Asia-Pacific region and internationally to advocate for measures to address trafficking ACRATH's challenges in the next 12 months include:

- awareness raising with CALD communities in South Australia, Western Australia, Victoria and New South Wales concerning forced marriages and labour trafficking
- new links with mining communities in Western Australia, South Australia and Queensland, and
- trialling and disseminating online education materials on demand.

Project Respect



Project Respect is a non-profit, non-faith based community organisation established in 1998 to work with, empower and support women in the sex industry.

Project Respect is committed to addressing violence against women in the sex industry, and working to prevent exploitation and enslavement of women by the industry – including those who are trafficked.

During the past year, Project Respect has been grateful for the opportunity to work with the Australian Government in supporting women trafficked into and within the sex industry. Project Respect's work in providing outreach and information to women in the sex industry, ongoing intensive support, social and community development activities, training and awareness raising continued in this period.

Highlights from Project Respect's work in 2011–12, as supported by funding through POCA, include:

- two outreach and support workers, one of whom is bilingual, plus a number of skilled bilingual volunteers from Thai and Korean backgrounds to provide information and support to women in the sex industry in Victoria
- developing relationships with NGOs that support women trafficked in other countries, including the Philippines, United States, Japan and the Republic of Korea
- meeting with UN Delegates, including the Special Rapporteur on trafficking in persons, especially women and children, and the Special Rapporteur on violence against women, its causes and consequences

Continued next page

- regular outreach to 28 legal brothels and some illegal brothels within Victoria, supplying each with information kits containing details on trafficking and other issues raised by women in the sex industry (in a number of languages)
- assistance to women receiving ongoing support through this project in accessing more than 50 other specialist service providers, including for counselling, housing, legal assistance, drug and alcohol assistance, family violence, immigration assistance, reporting crime to authorities, victims of crime compensation, English lessons, alternative employment, and mental health
- continued active involvement of a number of women from the sex industry in the organisation's planning and service delivery, including on the Committee of Management, staff team and volunteers
- continued peer support and education through weekly community lunches and three annual weekends away
- providing over 35 training and information sessions to ensure that other services and the wider community are aware of issues in the sex industry (including trafficking) and are able to offer appropriate responses to trafficked women and women in the sex industry, and
- advocacy to all levels of government, as informed by our direct work with women, around issues of the sex industry and trafficking.

Scarlet Alliance



The Scarlet Alliance Australian Sex Workers Association Migration Project has continued to promote and advocate for an evidence and rights based approach to trafficking prevention. Principal to this is in advocating for the removal of legal barriers to migrant sex workers' access to justice, services and the prevention of exploitative workplace conditions through access to industrial rights for all sex workers, access to accurate, translated information and multi-lingual peer support.

Good word-of-mouth has meant the project and demand for its services has grown. External evaluation of the project has affirmed that, as the project has developed, it has built a positive reputation among partners, its members, and individual sex workers as a source for reliable information on migration to Australia, anti-trafficking initiatives and visa matters for sex workers. Word-of-mouth has also spread amongst sex workers in Thailand through our partnership in the project with Empower Foundation. Empower reports, '(t)he migration project continues to strengthen Empower, our ties with Scarlet Alliance and our ability to respond to sex workers' needs'.

This year Scarlet Alliance has witnessed a substantial increase in direct contacts from migrant sex workers requiring assistance, information and referral in relation to visas, laws and rights. In addition to this, Scarlet Alliance has maintained its support of the important work of peer educators from State and Territory sex worker organisations with CALD and migrant sex workers. This has included translation and translation checking, interpreting, provision of information, resources and support.

In addition to submissions and briefings at all levels, project staff have presented and represented on migrant sex worker issues at a variety of forums. These have included presentations at local community meetings, universities, conferences, parliament and interviews in the media. In November 2011, Scarlet Alliance met with the UN Special Rapporteur on trafficking in persons, especially women and children, and took her on a tour of Asian brothels in Sydney to show her the real situation for migrant sex workers.

As always, the steering committee, comprised of sex workers of Chinese, Korean and Thai sex workers and peer educators from local and international sex worker organisations, continues to guide Scarlet Alliance's work to ensure it is being truly representational and evidence based in its work.



Scarlet Alliance Migration Project Officer Mon, Dr Joy Ngozi Ezeilo OON, Special Rapporteur, and Scarlet Alliance Migration Project Manager Jules Kim.

Funding to combat labour exploitation

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

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

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

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

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

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

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

Australian Council of Trade Unions



The ACTU has 46 affiliated unions with members spread across various industries including hospitality, agriculture, manufacturing, construction, domestic work and mining. This coverage provides a wide outreach of Australian workplaces where union members are at the forefront, well placed to identify suspicious labour exploitative activity.

With the allocated POCA funding, the ACTU is in the process of executing its people trafficking awareness campaign under the working title 'Labour trafficking is a crime – Spot it, Report it.'

Central to the project is the creation and delivery of a video cut into two versions. The first version is a 10–15 minute version which will highlight the facts and statistics of the issue, case studies, how to spot suspicious activity and where to report those suspicions to ensure the exploited or trafficked person receives the best possible assistance. This will be used to inform and educate members and will be shown in all introductory union organiser and delegate training courses.

The second version is a 3–5 minute summarised edit of the first. Its principal aim is to raise and trigger awareness of the issue. This will be posted on the ACTU website and be made available to all affiliates to embed on their individual national and State and Territory level websites.

The videos will also be complemented with a training package to equip trainers and educators as subject matter experts who will in turn lead discussion and present the video in their courses.

The campaign will also deliver workplace materials such as posters and brochures distributed through the training courses to organisers and delegates. This ensures that workers in vulnerable sectors such as agriculture and manufacturing workers where there may be limited internet access will still have exposure to the messages of the campaign.

Australian Hotels Association



In 2011 the AHA received a grant of \$25,000 to undertake the Labour Exploitation Awareness Project, a multi-faceted campaign aimed at increasing the awareness of labour exploitation and people trafficking amongst employers in the hotel industry.

The materials developed by AHA recognise the low-risk levels of trafficking within the hotel industry, but aim to help protect the integrity of hotel workplaces by building awareness of the potential risks posed by the engagement of outside contractors to undertake work within the hotel.

The AHA has produced a four-page educational booklet containing information explaining what labour trafficking and exploitation are, and outlining the steps an employer should take if they believe that someone in their workplace has been trafficked or is being exploited. This booklet was printed and distributed to more than 5,000 AHA member hotels in early 2012.

Workplace relations officers in each AHA staff branch have been briefed on Australia's people trafficking laws to ensure AHA members have access to accurate and timely information from their industry association.

The AHA has also produced an online seminar able to be used as a training tool by hotel industry employers, and continues to make information available to the industry through its website at: www.aha.org.au/trafficking.

Australian Red Cross



In November 2011, Red Cross received \$64,974 under POCA as part of the Building Knowledge and Links project to raise awareness of labour exploitation, with a focus on the Indian community.

Based on research, Red Cross identified the Indian community as being one of the largest groups holding temporary work visas in Australia, thus highlighting the importance of empowering community members with information about their work rights.

The project focuses 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 a witness to, or a victim of, trafficking.

There are two components to the project: To produce a brochure on migrant workers and labour exploitation (which will be translated into a number of Indian community languages), and to conduct workshops to raise awareness. The workshops will focus on how to identify labour exploitation and people trafficking, what to do if a suspected case is identified, and how to promote anti-trafficking messages.

To date, Red Cross has consulted with multicultural community organisations, partner agencies and unions across the country to assist in the project's development. Workshops are planned for July and August 2012 and the brochure will be distributed later in the year.

Asian Women at Work Inc



Asian Women at Work Inc is a network of Asian migrant women workers that empowers, resources and assists women to stand up, speak out, and take collective action to advocate for their rights. It also assists women to develop strategies that improve their lives, end exploitation in the workplace and home, obtain secure employment and enable them to understand and contribute to

Australian society. Asian Women at Work has a current membership of over 1,800 migrant women workers in low paid employment.

Asian Women at Work's project is called 'Outreach, Empowerment and Support through Education and Awareness Raising to Vulnerable Migrant Women Workers in Low Paid Employment'. Through outreach, the project facilitates access by vulnerable migrant women workers to information and resources. This contributes to breaking

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down isolation, building self-confidence and self-worth, increasing knowledge of Australian society, identifying and developing leaders, and working together on issues of common concern, such as employment related issues.

Asian Women at Work has been running 'Your Rights at Work' information sessions at Navitas classes, particularly in Campsie and Hurstville in New South Wales where it has started two support groups. The sessions are run in English, Chinese and Vietnamese. Asian Women at Work has also been delivering 'Your Rights at Work' information to Thai and Indonesian migrant women, and organising seminars targeting international students who are vulnerable to labour exploitation while studying in Australia.

In addition to teaching skills that assist migrant women in their working and personal lives, Asian Women at Work has organised social activities that give migrant women an opportunity to enjoy an exciting activity (such as fishing), relax after long hours of work, spend time with their families, receive information about their rights at work, and have the opportunity to establish friendships with other women.

Asian Women at Work has forged links and partnership with other groups in the community, including ethno-specific community organisations (Thai, Korean, Indonesian and Pakistani), community centres (Asian Welfare Centre), churches, international student networks and unions.

This project enables Asian Women at Work to expand its reach in the community, inform migrant women workers in low paid work about their rights at work, and encourage more women to stand up and speak out for their rights.



Guidelines for NGOs Working with Trafficked People

The *Guidelines for NGOs Working with Trafficked People*, a collaborative product of the National Roundtable on People Trafficking, are based on 10 principles for working safely and ethically with the victims of trafficking:

1. Understand and protect the rights of trafficked people
2. Always act to protect people's safety
3. Negotiate informed consent
4. Provide appropriate referral information
5. Protect privacy and confidentiality
6. Provide culturally appropriate services
7. Provide professional and ethical services
8. Know how to respond to subpoenas and other requests for information
9. Know how to support witnesses in court proceedings
10. Recognise families and children have special needs.

The 48-page Guidelines have been translated into Chinese, Korean, Tagalog, Tamil, Thai and Vietnamese. The Guidelines are available in seven languages from AGD's website at: www.ag.gov.au/peopletrafficking.

Raising community awareness

Australian Red Cross Training for community service providers

On 17 July 2011, the then Minister for the Status of Women announced funding of \$126,960 to enable Red Cross to develop and deliver a training package for community service providers to better understand the complex needs of victims of people trafficking and how to best support them.

As at 30 June 2012, Red Cross has facilitated 18 workshops, consisting of 325 participants, in Melbourne, Sydney and Hobart. Additional sessions are confirmed in Canberra, Perth, Adelaide, Sydney, Darwin, Brisbane and Melbourne.

The program aims 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 relationships to work collaboratively with colleagues and partners to facilitate referrals to specialist support agencies.

The training has been welcomed by the community services sector, and the joint delivery of the program by Red Cross and AFP HTT representatives at some sessions is evidence of the positive collaborations and consultation undertaken by Red Cross as part of this project.

AIC information sessions

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

AIC research forum

In December 2011, the AIC hosted a research forum on trafficking in persons at Parliament House in Canberra. The forum was attended by a range of government, non-government, embassy, and academic representatives. The forum provided an opportunity for researchers (including AIC staff) to present on research findings. Discussion on the day allowed attendees to comment on current research and identify priority areas for future research. The forum also provided a useful networking opportunity for key stakeholders operating in the anti-trafficking space.

AFP and AIC discussion exercise – 'Actions to Reduce Demand'

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



Superintendent Glyn Lewis, AFP National Coordinator Human Trafficking, at the AFP and AIC discussion exercise 'Actions to Reduce Demand', June 2012.

Building partnerships in our region and beyond

Australia continues to take an active role in international efforts to combat people trafficking.

Bali Process

Australia, as co-chair with Indonesia of the Bali Process, has worked closely with regional partners to enhance cooperation on trafficking in persons, and to renew efforts to strengthen members' capabilities on prevention, prosecutions, and victim support and protection.

In May 2012, AGD and the Indonesian Ministry of Foreign Affairs co-chaired a successful Bali Process Workshop on Trafficking in Persons. A range of experts from member countries participated, including from law enforcement, immigration, legal policy and prosecution agencies. From Australia, there was whole-of-government participation by experts from AGD, the AFP, and DIAC. Participants shared lessons learned on measures to implement a coordinated approach to combating trafficking, covering prevention, prosecution of perpetrators, and protection of victims. Members noted that progress has been made on anti-trafficking measures but challenges remain, and agreed that the Bali Process plays an important role in advancing regional cooperation to counter people trafficking.

Bali Process member countries, including Australia, also exchanged expertise and experiences specifically on the protection of victims of trafficking at a workshop in January 2012.

The Bali Process has agreed to establish a Regional Support Office to implement practical measures to enhance capacity across the region to better respond to irregular migration, including trafficking in persons. The support office will help to strengthen and build on regional efforts to respond to trafficking in persons by promoting greater information sharing and practical cooperation.

United Nations

Australia continues to actively engage on anti-trafficking issues at UN Human Rights Council (HRC) sessions, through the UN HRC's Universal Periodic Review (UPR) process, and in the UN General Assembly.

At the HRC's UPR, Australia continues to raise the issue of people trafficking, noting both progress and concerns within UN member States. During the UPR's 12th and 13th sessions, which took place during the reporting period, Australia made reference to people trafficking in its interventions during the reviews of human rights in Haiti, Thailand, Tajikistan, Togo and the United Kingdom.

To enhance the implementation of the Global Plan of Action to Combat Trafficking in Persons, on 3 April 2012 the UN General Assembly convened an interactive dialogue entitled 'Fighting Human Trafficking: Partnership and Innovation to End Violence Against Women and Children'. Australia contributed to the panel discussions, which focused on:

- enhancing political will and commitment to prevent and combat trafficking in persons
- strengthening international efforts and collective action by the Member States and other stakeholders, including regional and international organisations, NGOs, the private sector and media
- cooperation between governments, the private sector and civil society to curb the demand for trafficked victims
- factors and vulnerability to trafficking
- human rights measures that contribute to more effective treatment of victims, and
- the role of governments, international organisations and civil society in providing victims of trafficking with access to effective and appropriate remedies

The outcome of the interactive dialogue will be a President's summary, which will contribute to the fifty-seventh session of the Commission on the Status of Women, in March 2013.

Conference of Parties to the *United Nations Convention against Transnational Organized Crime*

Australia continued to call for universal adoption of UNTOC and its supplementary Trafficking Protocol, the key international instrument used to combat people trafficking. Australia also continued to support the ongoing work of the UNTOC Working Group on Trafficking in Persons in progressing and improving implementation of the Trafficking Protocol. Australia participated in the Fourth Session of the Working Group in Vienna in October 2011, and co-hosted a side-event on 'Lessons learned, best practice and the way ahead for awareness-raising and education on trafficking in persons'. Australia also participated in the 21st Session of the UN Commission on Crime Prevention and Criminal Justice in Vienna in April 2012, and co-hosted a side-event on the Bali Process.

Australia's Fifth Report under the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

In 2011–12, the Australian Government consulted State and Territory governments, relevant Australian Government agencies, individuals and interested NGOs on a 'List of Issues Prior to Reporting' (LOIPR). The response to the LOIPR will form Australia's fifth periodic report under the *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Australia's report will be lodged with the UN Committee Against Torture in the later portion of 2012 after a final round of public consultation. The report will focus on key initiatives and developments since 2005, including Australia's efforts to prevent and punish people trafficking and provide effective remedies for victims.

UN Committee on the Rights of the Child (CRC Committee)

Australia appeared before the CRC Committee in June 2012 to answer questions on Australia's implementation of the *UN Convention on the Rights of the Child*, the *Optional Protocol on the involvement of children in armed conflict*, and the *Optional Protocol on the sale of children, child prostitution and child pornography*. In its concluding observations, the CRC Committee welcomed Australia's positive initiatives in areas relevant to the implementation of the Optional Protocol on the sale of children, including:

- the National Plan of Action to Combat Trafficking in Persons
- the Australian Policing Strategy to Combat Trafficking in Persons 2011–13, and
- development assistance and intergovernmental cooperation to combat offences against the Protocol in the Asia-Pacific region.

UN Committee on the Elimination of Discrimination against Women (CEDAW Committee)

Australia appeared before the CEDAW Committee on 20 July 2010 to discuss Australia's CEDAW report. In its concluding observations, the CEDAW Committee outlined its principal areas of concern and recommendations regarding Australia's implementation of CEDAW (previously detailed in the Third Report of the Anti-people Trafficking IDC).

Australia is due to submit a follow-up report in 2012 but the report will not address people trafficking.

UN Commission on the Status of Women

The Australian Government Office for Women attended the fifty-sixth session of the United Nations Commission on the Status of Women (CSW 56), which took place in New York between 27 February and 9 March 2012. The closing meeting was held on 15 March 2012. This year, the Commission considered:

- **Priority Theme:** The empowerment of rural women and their role in poverty and hunger eradication, development and current challenges.
- **Review Theme:** Financing for gender equality and the empowerment of women (agreed conclusions from CSW 52), and
- **Emerging issue:** Engaging young women and men, girls and boys, to advance gender equality.

Despite the best efforts of delegations to reach consensus in what were protracted and difficult negotiations, CSW 56 concluded without any Agreed Conclusions. During the negotiation process, Australia had some success in negotiating the inclusion of language on trafficking, women with disabilities, Indigenous women, unpaid work, the role of National Human Rights Institutions and gender responsive policy. Unfortunately, it was not possible for delegations to agree on language in a number of key areas.

Further information is available from FaHCSIA's website at: <http://www.fahcsia.gov.au/our-responsibilities/women/programs-services/international-engagement/united-nations-commission-on-the-status-of-women>

National Human Rights Action Plan

At the UN Human Rights Council's UPR of Australia in January 2011, the Australian Government committed to the preparation of a National Human Rights Action Plan. The Action Plan is intended to reaffirm the Government's commitment to major existing social policy initiatives and highlight new priority areas for human rights over the next five years.

To provide an evidence base for the Action Plan, in 2011 the Government prepared a Baseline Study to assess key human rights issues for Australia, and existing measures to address them. The Baseline Study includes information on the nature and extent of people trafficking in Australia, and Australia's efforts to combat this fundamental abuse of human rights, including through:

- the Support for Trafficked People Program
- the People Trafficking Visa Framework
- support for investigations and prosecutions, and
- partnerships with the community, in the region, and beyond.

Following consultation on the Baseline Study, on 9 December 2011 the Government released a draft Action Plan for further public consultation. The draft Action Plan includes a number of recommendations on people trafficking, including that the Australian Government continue to work with other countries and emphasise prevention, detection and investigation, prosecution and victim support. A final version of the Action Plan is expected to be released before the end of 2012.

Global Ambassador for Women and Girls

In September 2011, the Australian Government appointed its first Global Ambassador for Women and Girls. The Ambassador's terms of reference include international advocacy to eliminate trafficking of women and girls, with a particular focus on the Asia-Pacific region. The Ambassador has promoted regional cooperation to combat trafficking in women and girls.

Ambassador for People Smuggling Issues

The Ambassador for People Smuggling Issues advocated Australia's interests in promoting effective and practical international cooperation to combat both people smuggling and trafficking in persons, particularly in the Asia-Pacific region, including as co-chair of the Bali Process. Strengthening Australia's advocacy and international engagement on trafficking in persons will remain a priority for the Ambassador, not only through the Bali Process, but bilaterally and through other international fora.

Commonwealth Heads of Government Meeting (CHOGM)

CHOGM was held in Perth from 28 to 30 October 2011. One outcome from the meeting was a commitment by Commonwealth Leaders to improving gender equality and the empowerment of women. Among other commitments, Commonwealth Leaders, giving due consideration to the domestic legislation of member countries, agreed that the Commonwealth may address the issue of early and forced marriage, consider actions to support the rights of women and children, and share best practices to promote the implementation of measures to tackle early and forced marriage. Commonwealth Leaders also committed to combating people trafficking by clamping down on illicit criminal organisations and bringing the perpetrators of these crimes to justice, while protecting and supporting the victims of trafficking. Commonwealth Leaders committed to put in place the necessary legal and administrative framework to address the challenge of people trafficking; and affirmed their commitment to the principle of solidarity and cooperation between states with regard to the identification, assistance and protection of victims of trafficking. They further committed to complying with all obligations arising under international law and urged

all countries to become parties to and implement the UN Convention against Transnational Organised Crime and the Protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The Australian Government followed through with its stated commitment to addressing the issue of forced marriage with the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 (see page 5).

Building regional capability

Development outcomes in the East Asia region remain uneven. Increased regional economic integration has delivered growth and new income-generating opportunities for many, but there remains widespread disparity in incomes, education and access to basic services. This increased integration raises new and highly complex development issues that stretch across borders.

The increased opportunity to migrate for work has bought new opportunities for people previously excluded from the gains of development. However, as migrant workers cross borders to take up jobs in informal or poorly regulated labour markets, they are at risk of exploitation. The growing number of trafficked persons and high instance of exploitative labour conditions in the East Asia region highlight the need for specific regional responses to these and other negative consequences of greater integration and increased economic activity.

Tourism also plays an important role in promoting new opportunities for economic growth in East Asia. However, rapid and increasing flows of tourists to the region can have adverse effects on vulnerable groups and communities, including the children who live in thriving tourism areas.

An effective response to combating people trafficking and exploitation requires changing the conditions that allow trafficking and exploitation to thrive.

Governments also require sufficient capacity and resources to implement penalties and promote crime deterrence. Australia combats people trafficking in East Asia by working in the criminal justice sector; a leadership role that is recognised internationally, and is welcomed by Australia's development partners. However, the incidence of trafficking in persons continues to rise both globally, and in the region. Combating these increases will require commitment over several decades.

In 2011–12, AusAID provided more than \$11 million to address these trans-boundary challenges to human security, including people trafficking, labour exploitation and the sexual exploitation of children in tourism. This investment builds on at least eight years of experience working in East Asia on trafficking issues and supports a number of specific activities to fight the crime of people trafficking in East Asia region.

Asia Regional Trafficking in Persons (ARTIP) Project

ARTIP is a five-year, \$21 million initiative to help combat trafficking in persons in the South East Asian Region. Partner countries are Burma, Cambodia, Indonesia, Lao People's Democratic Republic (PDR), Philippines, Thailand and Vietnam. ARTIP has achieved genuine transformative change in a number of areas, including in building regional cooperation and coordination on the issue of trafficking in persons.

Through ARTIP, ASEAN has taken greater ownership of trafficking in persons. With ARTIP support, ASEAN has brought together senior anti-trafficking police across the region to share information and investigate cross-border trafficking cases. ARTIP support also assists the Senior Officials Meeting on Transnational Crime Working Group on Trafficking in Persons. This high-level group prepares and endorses counter-trafficking training materials, standard operating procedures and handbooks for criminal justice agencies across ASEAN. ARTIP used these ASEAN materials to train over 7,000 police officers, prosecutors and judges on trafficking, victim support, and ethics and human rights issues across the region.

At the national level, investigators and police trained by ARTIP have been involved in successfully identifying trafficking cases. Between October 2011 and February 2012, 53 cases of trafficking were identified and investigated by ARTIP trained police, and ten recruiters and traffickers were arrested and/or prosecuted in relation to these trafficking cases.

Following formal completion of the project, ARTIP entered a scaled-back transition phase in 2011 to preserve critical elements of the project. Over the next five years, Australia, with ASEAN, will continue to support programs to strengthen the criminal justice sector response to trafficking in persons. A new five-year program to combat trafficking in persons in East Asia is expected to commence in early 2013. This new initiative will be led by AusAID and informed by the achievements of ARTIP.

ARTIP Best Practice Examples of International and Cross-border Cooperation

The AusAID funded ARTIP is building regional cooperation and coordination to combat trafficking in persons. Recent international cooperation between the Philippines and Malaysia resulting in the trial and conviction of a trafficker shows that this cooperation is producing results. After identifying a trafficker who had exploited two Filipino women in Malaysia before escaping to the Philippines, the Government of the Philippines requested that Malaysia assist with the investigation and prosecution of the suspect.

Requesting the assistance was the Chief State Prosecutor from the Philippines Department of Justice, who attended the ARTIP organised ASEAN Regional Workshop on Trafficking in Persons and the ASEAN Senior Officials' Meeting on Transnational Crime (SOMTC) Working Group on Trafficking in Persons.

The Prosecutor has also attended workshops in Malaysia as a representative of the SOMTC Working Group on trafficking in persons.

The Prosecutor used the contacts that he made at the workshop to assist with the investigation. The Royal Malaysia Police assisted and arrested the trafficker, a Singaporean national. In March 2012, the Sessions Court in Kuala Lumpur convicted the accused on two counts of trafficking in persons and sentenced him to six years' imprisonment.

Tripartite Action to Protect Migrants from Labour Exploitation (TRIANGLE)

Migrant workers are one of the groups most at risk of being trafficked and exploited. The TRIANGLE project is a five-year, \$10.5 million initiative that aims to prevent labour exploitation and create decent work opportunities for migrant workers in the Greater Mekong Sub-region. TRIANGLE is being implemented by the ILO in partnership with Cambodia, Lao PDR, Thailand, Vietnam, China and Malaysia.

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

The project has achieved significant results in the last two years. Two hundred and sixty-one public servants (48 per cent female, 52 per cent male) from Cambodia, Thailand, Vietnam, and Malaysia have been trained on safe labour migration and protection for men and women migrant workers.

In Cambodia, Lao PDR and Vietnam, 2,025 women and men have received counselling or training on safe migration and rights at work and 3,216 women and men migrants in Malaysia and Thailand have received legal assistance. In Malaysia and Thailand, 1,788 women and men migrants have received counselling or training on safe migration and rights at work.

TRIANGLE Migrant Worker Resource Centres

The AusAID funded TRIANGLE project aims to prevent labour exploitation and create decent work opportunities for migrant workers in the Greater Mekong Sub-region. In Cambodia, the project has been active in setting up a series of Migrant Worker Resource Centres in key locations for migrating workers.

Migrant Worker Resource Centres serve as a focal point for migrants and potential migrants to obtain accurate information and counselling on safe migration and rights at work. These centres are a powerful alternative to the often-misleading information provided by unscrupulous brokers and employers that can lead a migrant worker into an exploitative situation, or result in their being trafficked.

Migrant Worker Resource Centres are also used to deliver pre-departure training, safety and health training, capacity building activities for migrant associations and other networking and training activities relevant to migrant work. Migrants can receive legal advice or request assistance in order to reach settlement of contract disputes with employers. Some test cases will be pursued through the judicial system.

Some of the Migrant Worker Resource Centres also offer employment services and provide migrant workers with safe and decent work opportunities both domestically and across borders.



In Cambodia, the TRIANGLE project provides information, counselling and legal assistance on safe migration through its Migrant Worker Resource Centres and through outreach to the community. Battambang Province, Cambodia. Photo courtesy of the ILO.

MTV End Exploitation and Trafficking (EXIT) Campaign

The MTV EXIT campaign, now in its third phase, continued to raise awareness on trafficking in persons by directly engaging youth across Asia and empowering young community leaders to advocate on people trafficking issues. This was undertaken in partnership with the United States Agency for International Development and delivered through educational and creative arts workshops, youth sessions, concerts, radio and television, and on-line communication products.

In the last year, MTV EXIT has trained 870 youth advocates in Thailand, Cambodia, Vietnam and the Philippines to deliver anti-trafficking messages in their own communities.

AusAID supporting Mekong Governments tackle the twin problems of trafficking and unsafe migration

As the Mekong economies continue to grow, efforts to ensure safe migration and reduce people trafficking are becoming increasingly important. Australia is playing its part. AusAID funded projects including ARTIP, MTV EXIT, and Project Childhood work to reduce the trafficking of men, women and children through improved police and law enforcement training, awareness raising, and improvements in counter-trafficking legislation and its implementation.

Just before Christmas 2011, a fishing boat carrying trafficked workers docked in Ambon, Indonesia, for a registration check. The crew were allowed off the boat, but were kept close to the pier. A Cambodian man, trafficked onto the boat in Thailand with three of his friends, started watching MTV on a nearby television. The music channel was showing the AusAID-funded documentary MTV EXIT's *Enslaved*, which tells the stories of South East Asian trafficking victims and what people can do if they find themselves in this situation.

The fisherman was able to call a hotline highlighted in the documentary, the counsellor on the other end of the line advised him and his friends how to get off the boat and surrender themselves to immigration. In time, they were repatriated to Phnom Penh. The fisherman also passed onto authorities the details of the boat he was kept on and its owner, with authorities now building a case for prosecution.

Project Childhood

Project Childhood builds on more than ten years of Australian Government efforts to combat child sexual exploitation in tourism in East Asia. The project is being implemented in partnership with governments of Cambodia, Lao PDR, Thailand and Vietnam. Project Childhood consists of two distinct but linked pillars of work covering both prevention and protection activities. World Vision Australia is working with governments and communities to prevent children from becoming victims of sexual exploitation in tourism by raising

awareness and building community resilience. UNODC, in partnership with INTERPOL, is working with law enforcement agencies to protect children by strengthening law enforcement responses.

During 2011, key partnerships with partner governments and an evidence base on gaps in existing legislative frameworks have been built from which our engagement on this issue can expand and deepen. This groundwork will allow us to undertake capacity building and awareness-raising efforts with governments and vulnerable communities in the Mekong. Under the Prevention Pillar, World Vision has collaborated with tourism authorities and social services ministries to integrate child safe practices into the rapidly expanding tourism industry. Under the Protection Pillar, UNDOC has worked with the four partner governments to review national legislation, identify gaps in countries' responses to child sexual exploitation, and strengthen compliance with international conventions.

DIAC capacity building activities

DIAC also undertakes capacity building activities and provides technical assistance to a number of countries to support their efforts to address all forms of irregular migration, with particular focus on people trafficking and people smuggling.

In 2011–12, DIAC continued its targeted capacity building programs with immigration agencies in the Middle East, Asia and Pacific regions. These programs included:

- document examination equipment and training provided to front line immigration officers at airports and land borders. The training and equipment contribute to deterring people trafficking and people smuggling by enabling more officers to confidently and accurately detect fraudulent travel documentation at borders
- facial image comparison training, which has enhanced agencies' ability to prevent irregular movement by developing immigration officers' skills in detecting fraudulent use of travel documents by impostors
- intelligence analysis capacity building activities conducted to boost agencies' capacity to capture data, analyse and report on trends in irregular migration throughout the region. Immigration intelligence capacity building initiatives are currently underway with several high priority countries. These activities encourage information and intelligence sharing between DIAC and other immigration agencies, which is crucial to investigating people trafficking activities, and
- immigration investigations training, which has strengthened officers' capacity to investigate criminal activity related to irregular migration, such as people trafficking.

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

Preventing people trafficking to Australia

DIAC has three positions at overseas posts in the Asia-Pacific (Bangkok, Manila, and Guangzhou) which are focused on preventing people trafficking at its source. These positions are part of DIAC's overseas compliance network and provide regional coverage. DIAC's overseas compliance staff are known as 'integrity officers' and the three specialised positions as Senior Migration Officers (Integrity) (Trafficking), or SMOITs.

The SMOITs vet visa applications for evidence of fraud that may indicate potential trafficking and analyse trends in visa processing, including:

- applicants' travel patterns
- the use of migration agents, and
- the visa classes being targeted by trafficking organisations.

In addition, the SMOITs analyse data relating to non-compliance with visa conditions for use in screening for immigration fraud, as well as to identify possible people trafficking cases.

The SMOITs work closely with the AFP liaison officer at post to identify trafficking links with Australia and liaise with local government and non-government agencies to identify ways to prevent trafficking.

SMOITs are part of a larger network of compliance officers attached to key overseas posts to identify, respond to and counter immigration fraud and malpractice. They also work closely with local police and immigration officials to combat people smuggling, people trafficking and irregular migration.

Key achievements for 2011–12 include:

- a referral leading to the first people trafficking investigation under recently introduced Thai legislation
- identifying a Bangkok trafficking syndicate
- delivering training to Thai police regarding victim profiles and recruitment methodology
- contributing to ongoing local and Australian investigations
- contributing evidence to an ACT prosecution, which led to the conviction of an Australian-based people trafficker, and
- a presentation by Manila SMOIT at the Bali Process Technical Experts' Workshop in May 2012.

DIAC also works closely with other whole-of-government stakeholders on the Bali Process to develop regional responses to current challenges and implement a practical workshop program on border control, law enforcement and people trafficking. Through the Bali Process and the adoption of a regional cooperation framework, DIAC undertakes a range of immigration related workshops, research projects and information sharing, such as the Technical Experts' Meeting on People Trafficking held in May 2012, in Malaysia.

Building legal and law enforcement capacity in our region

As part of its holistic approach to combating people trafficking, Australia works with partner countries in the region to strengthen legal frameworks and capacity to prevent trafficking in persons, prosecute the perpetrators, and ensure victims are protected.

In 2011–12, the International Legal Assistance Branch (ILAB) in AGD worked with countries in the region on measures to strengthen legal regimes and capacity to address trafficking in persons and related issues. This assistance included:

- providing significant assistance to countries in the Asia-Pacific region to ‘follow the money’ from transnational crimes, including by strengthening anti-money laundering and proceeds of crime frameworks in order to target trafficking in persons and associated money laundering, and to confiscate the proceeds of trafficking in persons offences
- continuing to assist Pacific island countries with the reform of criminal legislation, which includes strengthening provisions on trafficking in persons
- collaborating with key Maldivian stakeholders to prepare draft laws that criminalise trafficking in persons, and
- ongoing participation with the Malaysian Attorney-General’s Chambers through the Malaysia-Australia Bilateral Technical Legal Working Group on People Smuggling and Trafficking, which has met regularly since December 2009 to discuss technical legal issues, including legislating effectively against trafficking in persons.

ILAB works collaboratively with other agencies such as DIAC and AusAID, and with intergovernmental organisations such as UNODC and the IOM, to ensure that our anti-trafficking in persons capacity-building initiatives are coordinated, and to maximise the effectiveness of the Australian Government’s investment in regional capacity building on trafficking in persons.

The AFP also works with partner countries in the region and through regional forums to build law enforcement capacity to combat trafficking in persons. For example, in May 2012, two AFP HTT members participated in an Asia Regional Forum on Combating Trafficking in Taiwan to share AFP’s anti-trafficking expertise.

Trafficking in children for adoption

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

adoption or other forms of exploitation.²⁷ While there are differing interpretations of the term 'trafficking' within intercountry adoption and broader international frameworks, illicit practices in adoption are clearly inconsistent with the principles of the Hague Convention. In 2011–12, AGD, as the Australian Central Authority under the Hague Convention, has continued in its endeavours to address child trafficking and illicit practices in intercountry adoption at the domestic and international level.

At the domestic level, Australia has developed a Protocol for Responding to Allegations of Child Trafficking in Intercountry Adoption which is available on AGD's website.²⁸ The Protocol provides information about assistance and support available to adoptive families and adoptees where there are allegations or concerns about child trafficking within a country of origin, from where a child has been adopted to Australia, or there have been specific concerns raised in an individual case. To assist when cases of concern arise, Australia has developed *Guidelines for Raising Cases of Concern*. These provide guidance around information sharing between Australian Central Authorities regarding intercountry adoption cases of concern.

To maintain the integrity of its intercountry adoption programs, Australia only has programs with a limited number of countries where it can be satisfied that the principles of the Hague Convention are in place. This is the case even where the country concerned is not a signatory. Australia regularly reviews its programs to ensure a country's ongoing compliance with these principles, and to identify risks of child trafficking. Where cases of concern arise, consideration is given to whether there are broader program implications and whether it is necessary to prioritise a review of the program concerned. Australia may consider introducing safeguard measures for a program, such as suspending a program or limiting the sending of new adoption applications.

To inform Australian families of the realities and inherent risks in intercountry adoption Australia has prepared an *Information Statement on the Realities of Intercountry Adoption* which is provided to prospective adoptive families when they are first considering intercountry adoption and is available on AGD's website.²⁹ Educating prospective adoptive parents about the realities and risks of intercountry adoption is identified in the Convention's *Guide to Good Practice* as an important measure to prevent undue pressure on sending countries.³⁰

Australia has also contributed to the work of the Intercountry Adoption Technical Assistance Program (ICATAP). ICATAP, which is operated by the Permanent Bureau of the Hague Conference, provides assistance to governments of certain States planning to ratify or accede to the Hague Convention, or which have ratified or acceded but are experiencing difficulties with implementation of the Convention. The provision of this assistance is an important way for Australia, as a receiving country, to support countries of origin.

27 *The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention: Guide to Good Practice* No. 1, paragraph 74, http://www.hcch.net/index_en.php?act=publications.details&pid=4388.

28 http://www.ag.gov.au/www/agd/agd.nsf/Page/Intercountry_AdoptionWhats_New#protocoljune.

29 http://www.ag.gov.au/www/agd/agd.nsf/Page/Intercountry_AdoptionAdoption_Fundamentals.

30 *Guide to Good Practice*, paragraph 641.

Trafficking and money laundering

People trafficking is an organised crime that may involve other offences such as money laundering (ML).

The Financial Action Task Force (FATF), established by the G7 (now the G20) Summit in Paris in 1989, is the international body responsible for the development and promotion of national and international policies to combat ML and terrorist financing (TF). The FATF identifies ML and TF techniques, assesses compliance with the FATF Standards through a sophisticated peer review system and, in the case of non-cooperative and high-risk jurisdictions, recommends whether countermeasures should be applied by other countries. Since its creation, the FATF has spearheaded the effort to adopt and implement measures designed to counter the use of the financial system by criminals.

The FATF's International Cooperation Review Group (ICRG) adopted new procedures in 2009 in response to a call by G20 leaders. Those procedures aim to encourage jurisdictions identified by the ICRG as having systemic anti-ML and counter-TF deficiencies to comply more closely with FATF standards. This includes the requirement to fully implement the UNTOC and to criminalise people trafficking and the smuggling of migrants.

There is limited knowledge about the methods used by criminal organisations to launder the illegal proceeds of people trafficking. Therefore, the FATF Working Group on Typologies (WGTY) has conducted a typology project on ML risks arising from people trafficking. Typologies study the methods, techniques and trends of ML and TF. Australia responded to a questionnaire of FATF member countries as part of the WGTY research for the report.

The WGTY's report, released in July 2011, said there is evidence that criminals are increasingly turning to people trafficking and people smuggling as these are seen as highly profitable. According to the UNODC, people trafficking is the third-largest source of income for organised crime groups after drug trafficking and arms trafficking.

According to the report, common regions of origin for trafficked people are the Commonwealth of Independent States (former Soviet Republics), Central and South-Eastern Europe, Western Africa and South-East Asia. Trafficked people are destined for Western Europe, North America and Western Asia.

The report said that the questionnaires showed the main trends detected for trafficking-related ML are the use of cash-based trades, money service businesses, hawala systems, cash couriers, front companies, commingling of funds, aliases, straw men and false documents. Investments in real estate, cars and lavish lifestyles are also frequently reported.

The main findings arising from the questionnaire, case studies, analysis of the literature and a workshop in Cape Town in November 2010 include:

- there is a lack of adequate information about the number of people trafficked and even less information about the income generated and how it is laundered
- there is a need to change people trafficking from 'low-risk/high-reward' to 'high-risk/low-reward' crimes

- there are region-specific trends and distinctions that can be drawn among countries of origin, transit and destination
- the ML techniques are similar to those found with other serious crimes
- there are links between people trafficking and other organised crime, and
- pursuing ML activity from people trafficking and calls for effective cooperation between all relevant agencies.

Financial investigations

The complexity of the investigation of people trafficking cases necessitates long-term sustained efforts based on solid intelligence gathering and analysis and multi-agency collaboration. Financial investigations play a crucial role in the prosecution and disruption of people trafficking syndicates.

In most instances proceeds of crime are difficult to identify due to the mixing of legitimate and illegitimate income of brothels and other businesses as well as misrepresentation of true earnings to avoid scrutiny by taxation and law enforcement authorities. In some instances, poor recordkeeping by business owners makes it even more difficult to identify true earnings.

Understanding people trafficking

Australian Institute of Criminology research

The AIC will conclude its initial four-year Trafficking in Persons Research Program in 2012, and following extensive consultation and review is currently finalising its plan for a further four years.

Key areas of focus for the AIC fall under four streams, all of which involve a crime prevention approach:

- improved monitoring of trafficking in persons in Australia and the region
- further examining the nature of trafficking in the sex industry as well as non-sex industry contexts, such as marriage and the construction industry
- examining the nature of offending and offenders, and
- further examining trafficking issues in the Pacific region.

A sample of key areas of work being undertaken by the AIC under these streams is provided below.

Monitoring trafficking in persons

Accurate information and data on many aspects of trafficking in persons is difficult to obtain. This is not a problem exclusive to Australia, it is a global issue and attempts are being made to address this in various ways. A critical matter has been the decision of whether or not to develop estimates; there are difficulties at this time with such a methodology and the US Government Accountability Office found that 'such estimates are questionable... because of methodological weaknesses, gaps in data, and numerical discrepancies'. Therefore the AIC's approach will not attempt to establish estimates at this time, but will follow a best practice approach to monitoring trafficking and gathering evidence about risk and protective factors for people trafficking in Australia and its region. The AIC will work collaboratively with government and non-government sectors, particularly the AFP, to develop an evidence-based framework of indicators for monitoring trafficking in persons in Australia and the region.

The Framework will be supported by a Guide for Collecting Information and Data on Trafficking in persons in Australia and the region, to guide government and non-government sectors in their information and data collection. This Guide will ensure that relevant and comparable information and data is collected across all sectors. Subject to the agreement

of relevant agencies and ethics approvals, AIC will analyse information and data consistent with this Guide from both government and non-government sectors. The Framework and Guide will underpin the next Monitoring Report, due to be published in late 2014 with data to 30 June 2013.

Examining trafficking for the purpose of exploitation in the sex industry as well as non-sex industries

Trafficking and marriage arrangements

In response to increasing concern, and anecdotal and officially reported evidence of trafficking within marriage arrangements, the AIC initiated a research project focusing on this issue. The project focuses on the role of marriage in trafficking-related exploitation of migrant women and considers:

- forced and servile marriage in the context of people trafficking
- the use of sham marriages and spousal visas to facilitate people trafficking
- the different types of marriage arrangements that may increase or decrease risks to trafficking, including marriage brokering and online introductory and dating services, and
- the implications for Australia in regard to prevention, detection, prosecution and victim services.

Preliminary findings from this research confirm that forced, servile and sham marriages can involve elements of trafficking and slavery. Also, some migrant women have experienced the type of exploitation associated with trafficking and slavery within various marriage arrangements, such as love marriages, arranged marriages, and marriages resulting from online marriage brokering and internet dating sites.

Preliminary findings were shared across a range of agencies and informed the AIC's submission to the Senate Standing Committee on Legal and Constitutional Affairs' Inquiry into Marriage Visa Classes (see Appendix 2).

A final report and other publications will be published in 2013.

Trafficking in the construction industry

In light of previous AIC research on labour trafficking³¹ and interest by policy and program decision-makers in further research in this area, the AIC has partnered with an NGO to consider issues related to trafficking in the construction industry. Research on risks and protective factors for migrant workers in the construction industry will not only contribute to the existing research on people trafficking in a meaningful way, but it will provide an evidence base for frameworks to prevent and address very serious exploitation within this substantial industry. The project is jointly funded by the AIC, the Sisters of the Sacred Heart Josephite Counter-trafficking Project and the Catholic Archdiocese of Sydney. Consultations with key

31 David F 2010. Labour trafficking. Research and Public Policy Series no.108. Canberra: Australian Institute of Criminology.

industry, union and regulatory bodies are currently underway. A final report is expected to be published in late 2013.

Migrant sex worker vulnerabilities and protections to trafficking

To improve knowledge about vulnerabilities and protections relevant to trafficking in persons, the AIC funded Scarlet Alliance, the peak body representing sex workers and sex worker organisations in Australia, to conduct a multilingual survey of both migrant and non-migrant sex workers in Sydney, Melbourne, Adelaide, Brisbane, Townsville, Perth, Kalgoorlie and Canberra. The survey is available in English, Thai, Korean and Chinese languages. The project will allow a better understanding of sex workers' experiences in Australia, identifying vulnerabilities to trafficking and exploring the strategies used by sex workers to reduce the risks of trafficking and related exploitation. Data collected for this project is currently being analysed and a final report is expected to be published in 2013.

Examining understandings of trafficking offending, offenders and victims

Although it is often noted that organised crime groups dominate the landscape of trafficking in persons offender typologies, there is also evidence to support significant un-organised criminal involvement. An individual or duo can be responsible for orchestrating all stages of the trafficking process, from recruitment to transportation and exploitation. Social networks can include friends, relatives, or acquaintances, often from the same ethnic diaspora as the victims. Where this is the case, existing trust-relations and cultural vulnerabilities are abused in order to recruit victims.

While the existing research is far from comprehensive, several themes do emerge from the current literature which suggests that the role of organised crime networks in the trafficking process is complex. In 2012, AIC published a report on organised crime and trafficking in persons (see Appendix 2) that concluded:

- the level of organisation involved in the trafficking process appears to vary by degrees, with some studies formulating typologies of offending based on the nature and level of organisation apparent in the action of trafficking a person/people (among other variables)
- evidence suggests that while 'traditional' networks (centralised networks with a defined hierarchy) are less likely to be involved in the trafficking process, the trafficking process can involve a high level of organisation between a variety of actors
- trafficking offenders can use pre-existing networks (whether diaspora communities or organised networks for crimes other than trafficking in persons) or spontaneously develop links and networks in response to trafficking opportunities
- such types of 'organised' trafficking in persons can contribute to considerable challenges in detecting and prosecuting the crime, and
- there is a great deal of diversity in the characteristics, criminal histories, operations and motives of trafficking offenders which highlights the need for these differences to be captured more effectively through identification of common typologies of trafficking crimes.

A further publication on the nature of trafficking offenders in Australia will be published in late 2012.

Trafficking in the Pacific

The Pacific region remains an important area for research due to its proximity to Australia. While little is documented about trafficking in the Pacific, consultations by the AIC and analysis of known trafficking-like cases in the Pacific suggest that people trafficking into the region may be occurring for sex work and non-sex work, for example agricultural work. Also, there are risks of Pacific countries being used as transit points for international trafficking in persons, in part due to the special migration status of some nations for migration into developed destination countries such as the United States, New Zealand and France. Some cultural practices have been identified as creating greater risks of trafficking in persons especially in regard to children and women, for example bride price and customary adoption. Finally, the Pacific labour market situation, in some cases involving a lack of local employment opportunities and in others a shortage of local labour due to external migration, drives irregular migration within the region which creates opportunities for exploitation and possible trafficking of such migrants.

Two papers generated from the first analyses of trafficking in the Pacific were released in 2011 (see Appendix 2). Further papers on issues related to human security and also child guardianship in the Pacific will be published in 2013.

Community awareness and attitudes survey

Examining the level of community awareness of trafficking, including expectations of who victims are, is valuable for informing policy and practice in the area. This information is important for two reasons: members of the community are more likely than the authorities to come into contact with trafficked persons and the juries before which such cases are likely to be tried are drawn from the wider community. Such information can shape future awareness raising activities and shed light on issues which can have a significant impact on trial outcomes.

To this end, the AIC developed an online survey which asked respondents for their understanding of trafficking and sought to examine attitudes towards issues including key labour sectors, migrants, and victim-status. The survey was piloted in Canberra in December 2008 and was run nationally in mid-2009. Survey responses suggest that trafficking in persons is misunderstood and unrecognised, contributing to its low reporting. A complete analysis of the survey data (including the attitudinal measures examined in the survey instrument) are published in the AIC's Trafficking in Persons Monitoring Report January 2009-June 2011 (see Appendix 2). A further community attitudes survey will be conducted in 2013.

Assisting the International Organization for Migration with analysis of trafficking data

The IOM is an inter-governmental organisation committed to the principle that humane and orderly migration benefits migrants and society. The IOM has been working actively to counter people trafficking worldwide since 1997 by providing direct assistance to trafficked persons and collecting data for research and analysis. To date, the IOM has provided assistance to approximately 15,000 trafficked persons from over 80 different nationalities trafficked to more than 90 destination countries.

In 1999, the IOM developed and implemented the Counter-Trafficking Module (CTM), which is the largest global database containing primary data on victims of trafficking. The CTM facilitates the management of the IOM's Return, Recovery and Reintegration Program as well as mapping the victim's trafficking experience. As such, it strengthens the research capacity and understanding of the causes, processes, trends and consequences of trafficking. Further information on the CTM is available at: www.iom.int/jahia/Jahia/counter-trafficking.

During 2011–12 the AIC collaborated with the IOM to analyse the CTM Indonesia database. The database holds qualitative and quantitative information relating to 3,700 Indonesian victims of trafficking identified between January 2005 and January 2010. The database contains a wealth of information regarding the characteristics and histories of trafficked persons, the nature of the trafficking process (including recruitment and transportation methods), patterns of exploitation and abuse, instances of re-trafficking, and the nature of assistance provided by the IOM. The IOM and the AIC carried out joint research and analysis with the aim of providing insight for more targeted government responses, including victim identification, risk and protective factors for trafficking or associated activity, prosecuting cases, better victim support and re-integration issues for victims. Several papers will be published in 2012 and 2013.

The year ahead

In recognition that exploitation outside the sex industry is an increasing challenge for Australia, the Government will continue its holistic approach to combating the full range of trafficking and related offences.

A key focus of the year ahead will be implementation of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill, subject to its passage through the Commonwealth Parliament. Implementation of the Bill will involve a number of whole-of-government initiatives, including activities aimed at raising awareness in the Australian community and judicial education, in addition to training for AFP officers in enforcing the new laws, including the newly created offences of forced labour, forced marriage, and harbouring a victim.


In consultation with stakeholders including IDC members and National Roundtable on People Trafficking participants, in 2012–13 AGD will begin work on developing a revised formal national plan of action to combat trafficking. In line with the UN Special Rapporteur's recommendation, the plan of action will be prepared to include benchmarks and indicators to measure progress and impact. The existing communication awareness strategy will also be redeveloped as part of the revised national plan of action to ensure it remains responsive to emerging issues and trends.

In 2012–13, the AFP will continue to conduct its Human Trafficking Investigation Program, with invitations extended to participants from all State and Territory Police services. Also in 2012–13, the AFP will deliver an International Human Trafficking Investigation Program at the International Law Enforcement Academy in Bangkok in Thailand. Participants will primarily be drawn from South East Asia.

The CDPP has a number of ongoing prosecutions in relation to people trafficking offences, two of which are set down for trial in 2013. The CDPP will assess any additional briefs of evidence referred to it by the AFP as to whether a prosecution should be commenced.

DIAC is undertaking various initiatives to raise awareness across the Department in 2012–13, including the extension of specific people trafficking training to a broader audience of counter staff and visa processing officers, and introducing relevant content into call centre resources and the compliance policy documents which guide their operations. DIAC is also improving public access to information about people trafficking on its website. DIAC is moving towards more effectively utilising its systems capability to enable the collection of relevant data for analysis to identify trafficking victims and offenders.

In 2012–13, FaHCSIA will finalise the Support Program's Communications and Operations Protocol to provide clarity for OWG member agencies and Red Cross. The Communications and Operations Protocol will help to ensure that the Support Program is delivered in a manner that contributes more broadly to whole-of-government strategy and benefits the



clients. FaHCSIA will also concentrate its efforts on enhancing Support Program client access to improved benefits and services and look at how to remove structural barriers to other forms of support. With the increased flexibility of the new funding arrangements, FaHCSIA will work with Red Cross on innovative ways to get the best value out of Support Program funding.

AusAID will continue to focus efforts in areas where Australia can make a difference and where our resources can most effectively and efficiently be deployed. In 2012–13, Australia will provide \$5.2 billion of official development assistance, with a focus on Asia-Pacific. This will assist to reduce the vulnerability of individuals and communities to trafficking and other forms of labour exploitation by reducing poverty and increasing opportunities for education and sustainable livelihoods. In 2012–13, AusAID's programs to combat trafficking in persons are estimated at more than \$8.5 million. Australia will continue to support a criminal justice response to combat trafficking in persons and is designing, in consultation with ASEAN, a major successor program to the successful ARTIP.

In 2012–13, Australia will continue to encourage an active anti-trafficking work program in the region through the Bali Process. In the second half of 2012, Australia and Indonesia will co-host a Bali Process Symposium on trafficking in persons. Members of the Bali Process and other Regional Consultative Processes (RCPs) on Migration will share lessons learned on regional cooperation to combat trafficking in persons. This interactive forum will examine trafficking trends and anti-trafficking initiatives from around the world and explore how RCPs can work together to address trafficking issues into the future. The Bali Process Regional Support Office will also help to strengthen and build on regional efforts to respond to irregular migration, including trafficking in persons, by promoting greater information sharing and practical cooperation. The support office will help facilitate coordinated capacity building and exchange of best practices among Bali Process members by providing for the pooling together in one place of common technical resources; and logistical, administrative, coordination and operational support for joint projects. A first year work plan has been agreed and will include a range of capacity building activities.

The Conference of the Parties to the UNTOC and its Protocols will take place in October 2012. A key item for consideration will be the introduction of an Implementation Review Mechanism (IRM), an important tool to ensure States' implementation of their international obligations, including under the Trafficking Protocol. The IRM will enhance international cooperation to prevent and fight people trafficking, identify areas where States require technical assistance and facilitate the provision of that assistance. Representatives from AGD, DFAT and the AFP will participate in the Conference.

Appendix 1: Prosecutions

Song Chhoung Ea

On 2 February 2012, the AFP charged a Sydney man with two counts of people trafficking contrary to subsection 271.2(1B) of the Criminal Code, one count of conducting a business involving sexual servitude contrary to subsection 270.6(2) of the Criminal Code, three counts of debt bondage contrary to subsection 271.8(1) of the Criminal Code, and Migration Act offences.

The charges relate to three women from Thailand who were allegedly told they were travelling to Australia on student visas, but who on arrival had their passports confiscated and were taken to a brothel where they were held against their will.

The man appeared before the Downing Centre Local Court in Sydney on 14 February 2012, where he did not enter a plea to the charges. A trial date for the matter has not been set.

Kam Tin Ho and Ho Kam Ho

Kam Tin Ho and Ho Kam Ho were part of a sophisticated and well-organised scheme to bring Thai women to Australia to work in the sex industry. In the course of the scheme, the women were variously traded, possessed and used as items of property, thereby reducing them to the condition of slavery.

In 2009, the defendants were convicted of possessing a slave contrary to subsection 270.3(1) of the Criminal Code. Ho Kam Ho was also convicted of an offence under subsection 31(1) of the *Financial Transactions Reports Act 1988*. In 2011, both defendants lodged appeals against conviction and sentence in the Victorian Court of Appeal. Their appeals were unsuccessful.

Trevor McIvor and Kanokporn Tanuchit

This case resulted in the first convictions for slavery in New South Wales. Trevor McIvor owned and co-managed a brothel with his wife, Kanokporn Tanuchit. All five victims were recruited in Thailand to work in Australia between July 2004 and June 2006. During the victims' period of slavery, the defendants forced the victims to work and sleep in locked premises. The victims were not allowed to leave the brothel without being in the company of the defendants or a trusted associate. The defendants confiscated the victims' passports on their arrival and for a period of one to two months restricted their access to telephones by confiscating their mobile telephones and locking brothel telephones with a PIN code.

The defendants forced the victims to work during their menstruation and during severe illnesses and infections.

Following a jury trial in the NSW District Court in 2007, the accused were each convicted of five counts of intentionally possessing a slave and five counts of intentionally exercising a power attaching to the right of ownership over a slave contrary to subsection 270.3(1) of the Criminal Code. Mr Mclvor was sentenced to a total effective sentence of 12 years' imprisonment with a non-parole period of seven years and six months. Ms Tanuchit was sentenced to a total effective sentence of 11 years' imprisonment with a non-parole period of seven years.

On appeal to the NSW Court of Criminal Appeal in 2009, the convictions were set aside and retrials ordered on the basis that on a number of occasions the trial judge had instructed the jury in relation to the fault issue and the indicia of slavery in a way that may have confused the jury. On 30 July 2010, following a retrial, Mr Mclvor and Ms Tanuchit were found guilty on all counts. On 17 December 2010, Mr Mclvor was sentenced to 12 years' imprisonment with a non-parole period of seven years and six months (the same penalty as was imposed after the first trial). Ms Tanuchit was sentenced to 12 years' imprisonment with a non-parole period of seven years.

Both Mr Mclvor and Ms Tanuchit appealed their convictions again. On 14 June 2012, the appeals were to be heard in the NSW Court of Criminal Appeal, but the defendants withdraw their appeals, and the court dismissed them.

Watcharaporn Nantahkhum

On 11 April 2012, an ACT Supreme Court jury found Watcharaporn Nantahkhum guilty of six charges, including possessing a slave contrary to subsection 270.3(1) of the Criminal Code, and Migration Act offences. Ms Nantahkhum had pled not guilty to the charges, which involved a Thai woman recruited by Ms Nantahkhum to work as a sex worker in Canberra, under exploitative conditions. The woman was forced to pay off a debt to Ms Nantahkhum of \$43,000. Ms Nantahkhum also allowed the woman and another sex worker to work in contravention of their visa conditions, and offered the woman money to keep quiet about her circumstances.

On 24 May 2012, Ms Nantahkhum was sentenced to eight years and ten months' imprisonment, with a non-parole period of four years and nine months. Ms Nantahkhum has appealed against both her conviction and sentence.

Diveye Trivedi

On 6 October 2011, Diveye Trivedi pled guilty to one count of people trafficking contrary to section 271.2(1B) of the Criminal Code. Mr Trivedi facilitated the entry of the victim into Australia and was reckless as to whether the victim would be subject to labour exploitation.

Mr Trivedi was charged after the AFP received a referral from DIAC in relation to an Indian national (the complainant) who arrived in Australia on a Temporary Business (Long Stay) (Subclass 457) visa to work in the restaurant. The complainant provided a statement to the AFP alleging that his travel and requirements for travel to Australia were organised by Mr Trivedi and upon arrival to Australia, the complainant was subjected to exploitative conditions in the restaurant. The exploitative conditions included having to live and bathe in the restaurant, and to work approximately 12 hours a day, seven days a week with minimal and irregular rest periods. The complainant stated that he had limited freedom of movement, was continually abused and that his family in India was threatened.

On 8 May 2012, Mr Trivedi was sentenced to 250 hours' community service and a fine of \$1,000 by the NSW District Court.

Chee Mei Wong

On 11 August 2010, Chee Mei Wong was charged with conducting a business involving sexual servitude contrary to section 270.6 of the Criminal Code, organising or facilitating the entry of a person to Australia reckless as to whether the person will be exploited contrary to subsection 271.2(1B) of the Criminal Code, and Migration Act offences. The charges involve 11 women from Malaysia who allegedly worked for Ms Wong as sex workers under very harsh circumstances. Ms Wong was charged following the AFP's Operation Burlywood investigation into people trafficking, sexual servitude and migration-related offences, and committed for trial on 13 September 2011.

The original trial date of 18 June 2012 was vacated because Ms Wong was unrepresented. The trial is set down for 28 January 2013 in the NSW District Court.

Mao Ru Zhang

On 12 November 2010, Mao Ru Zhang was charged with two counts of sexual servitude contrary to subsection 270.6(1) of the Criminal Code, and two counts of debt bondage contrary to subsection 271.8(1) of the Criminal Code. Ms Zhang was due to go on trial in the Victorian County Court on 13 April 2012, but the matter was discontinued by the CDPP on the basis that there were not reasonable prospects of securing a conviction.

Appendix 2: AIC research

AIC people trafficking outputs in 2011–12

Publications

Ball R, Beacroft L & J Lindley 2011. Pacific Islanders in Australia and the Australian Horticulture Sector: Implications for Australia's Pacific Seasonal Worker Pilot Scheme. Trends & issues in crime and criminal justice no 432. Canberra: Australian Institute of Criminology.

Joudo Larsen J & Renshaw R 2012. People trafficking in Australia. Trends & issues in crime and criminal justice no. 415. Canberra: Australian Institute of Criminology.

Joudo Larsen J, Renshaw L, Gray-Barry S, Andrevski H & Corsbie T 2012. Trafficking in persons monitoring report January 2009 – June 2011. Monitoring Reports. Canberra: Australian Institute of Criminology.

Lindley J and Beacroft L 2011. Vulnerabilities to Trafficking in Persons in the Pacific. Trends & issues in crime and criminal justice no 428. Canberra: Australian Institute of Criminology.

David F 2012. Organised crime and trafficking in persons. Trends & issues in crime and criminal justice no.436. Canberra: Australian Institute of Criminology.

Submissions, Presentations, Papers and unpublished material

AIC 2012. Inquiry into Marriage Visa Classes. Submission to the Senate Standing Committee on Legal and Constitutional Affairs, 2 March.

AIC 2012. Preventing trafficking through addressing demand. A background paper for Discussion Day: Actions to Reduce Demand, AFP and AIC Discussion Day, Canberra, 20 June 2012.

AIC 2011. A series of papers presented to the Australian Institute of Criminology Trafficking in Persons Research Forum 2011, Parliament House, Canberra, 24 November 2011.

Beacroft L 2012. Research on Trafficking in Persons: practical assistance for policy and programs, paper presented at AIC's Commonwealth Agency Forum, Canberra, October 2011.

Beacroft L, 2011. The Inconvenient (and hard to measure) Truths, paper presented at 'The Inconvenient Truths', Pacific Trafficking in Persons Forum of the Salvation Army, 2–3 December 2011, Wellington NZ.

Gray-Barry S 2011. The role of marriage in human trafficking-related exploitation of migrant women. Paper presented to 24th Annual Australian and New Zealand Society of Criminology Conference, Geelong, 28–30 September 2011.

Gray-Barry S & Richards K 2012. The role of marriage in human trafficking. Paper presented to the Regulatory Institutions Network (RegNet), Australian National University, Canberra, 17 April 2012.

Joudo Larsen J 2011. People trafficking in Australia. Paper presented to the British Society of Criminology Conference, Newcastle-upon-Tyne, 3–6 July 2011.

Joudo Larsen J. 2011. The trafficking of children in the Asia-Pacific region. Paper presented at the Pacific Trafficking in Persons Forum, New Zealand, 23 December 2011.

Westropp-Evans H 2011. Report on Trafficking in Persons Information Sessions, May-August 2011. Canberra: Australian Institute of Criminology (unpublished).

Information Sessions, Workshops and Research Forums

AIC and AFP 2012. Discussion Day: Actions to Reduce Demand, Canberra, 20 June 2012.

AIC 2011. Information Sessions on Trafficking in Persons: recent research and approaches to tackling it. A series of forums for non-experts, Adelaide and Hobart, July 2011.

AIC and AFP 2012. Anti-Human Trafficking. A series of forums jointly delivered by the Australian Federal Police & Australian Institute of Criminology in Perth, Karratha, Darwin and Alice Springs, March 2012.

AIC 2011. Australian Institute of Criminology Trafficking in Persons Research Forum 2011, Parliament House, Canberra, 24 November 2011.