

Australia - United States Department of State

AUSTRALIA: Tier 1

The Government of Australia fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore Australia remained on Tier 1. These efforts included increasing investigations, prosecutions, and convictions for trafficking offenses, increasing staffing and funding levels in the Witness Assistance Service to provide support to victims of trafficking testifying against their traffickers, and increasing efforts to combat child sex trafficking by Australians overseas. Although the government meets the minimum standards, it did not adequately screen several vulnerable groups traffickers may target, including domestic workers and migrant workers, which at times possibly resulted in the penalization of unidentified victims. The government also did not publish its annual assessment of progress implementing the National Action Plan for a second consecutive year.

PRIORITIZED RECOMMENDATIONS:

Significantly strengthen efforts to investigate and prosecute trafficking offenses pursuant to trafficking laws, with increased focus on pursuing labor trafficking crimes instead of labor or employment violations, and sentence convicted traffickers to significant prison terms. • Significantly strengthen efforts to proactively identify trafficking victims among vulnerable groups, such as undocumented migrants, agricultural and hospitality industry workers, and domestic workers, and to refer those victims to appropriate government authorities. • De-link the provision of services from participation in the criminal justice process and increase services available to victims who are unable or unwilling to participate in the criminal justice process. • Ensure that the statutory definition of trafficking under the criminal code does not require movement of the victim as an element of the crime. • Increase efforts to train police, immigration officials, and other front-line officers, both offshore and onshore, to recognize indicators of trafficking and respond to suspected cases of both sex and labor trafficking. • Establish the National Labour Hire Registration Scheme with sufficient compliance tools. • Increase training for prosecutors and judges on Australian trafficking laws. • Conduct initial screening interviews with potential victims in a safe and neutral location and in the presence of a social service professional. • Consider establishing a national compensation scheme for trafficking victims. • Implement or fund awareness campaigns, particularly among rural communities and migrant populations, including international students, vulnerable to forced labor. • Strengthen efforts to prosecute and convict Australian child sex tourists. • Increase efforts to investigate and hold accountable foreign diplomats posted in Australia suspected of complicity in trafficking. • Resume publication of the government's annual assessment of progress implementing its National Action Plan.

PROSECUTION

The government increased law enforcement efforts. Divisions 270 and 271 of the Commonwealth Criminal Code, when read together, criminalized sex trafficking and labor trafficking. Inconsistent with international law, the definition of “trafficking” under Division 271 required the element of movement of a victim. However, Division 270, which criminalized “slavery,” “servitude,” and “forced labor” offenses, could be utilized to prosecute trafficking offenses that did not involve victim movement. Division 271 prescribed penalties of up to 12 years’ imprisonment for offenses involving an adult victim and up to 25 years’ imprisonment for those involving a child victim. These penalties were sufficiently stringent and, with regard to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. Division 270 prescribed penalties of up to 25 years’ imprisonment for slavery, up to 15 years’ imprisonment for servitude, and up to nine years’ imprisonment for forced labor. These penalties were all sufficiently stringent.

In 2019, the government referred 213 suspected cases of trafficking for possible investigation, an increase compared with 179 in 2018 and 166 in 2017, and initiated prosecutions against nine defendants, also an increase compared with two in 2018 and six in 2017. Authorities continued prosecutions from previous reporting periods against 12 defendants. The government secured convictions in two cases against three defendants under the trafficking provisions of the criminal code, compared with zero convictions in 2018 and five in 2017. One case involved two defendants for forced labor of a Fijian domestic worker; courts sentenced the traffickers to five and six years’ imprisonment. Courts convicted the other defendant for sex trafficking of two Thai migrants and sentenced her to eight years’ imprisonment. The government also prosecuted 30 defendants for engaging in, or planning, sexual activity with children overseas (some of these cases were initiated in the previous reporting period); efforts led to 10 convictions (11 prosecutions with no convictions reported in 2018, four prosecutions in 2017). Authorities often opted to pursue labor or employment violations in lieu of trafficking charges, resulting in potential labor traffickers receiving only fines and other civil penalties that were inadequate to deter trafficking crimes. The government did not report any investigations, prosecutions, or convictions of government officials complicit in trafficking offenses. The government funded and facilitated training on trafficking investigations, legal provisions, and victim support for approximately 170 Australian Federal Police (AFP), prosecutors, and other law enforcement officers and approximately 400 immigration officials. In September 2019, the government enacted new amendments to combat further child sex trafficking within Australia, overseas, and online, and initiated prosecutions for the new offense of possessing child sex abuse material sourced by a communications carriage service.

PROTECTION

The government increased efforts to protect victims. Authorities identified 84 potential victims, including 54 for sex trafficking and/or forced labor—an increase compared with 41 sex trafficking and/or forced labor victims identified in 2018 and 38 in 2017; for the remainder of victims, the form of exploitation was unclear. Seventeen of the potential victims were younger than 18 years old. Authorities referred all 84 potential victims to the Australian government’s NGO-implemented Support for Trafficked People Program (support program). The government also assisted 17 potential Australian trafficking victims abroad (25 in 2018 and 21 in 2017); however, it was not clear how many of these individuals were victims of trafficking compared to victims of forced marriage or individuals vulnerable to

forced marriage. Authorities identified most victims through the efforts of joint agencies, task forces, and cooperative action with foreign governments. Authorities utilized a list of indicators to identify trafficking victims and refer them to services; however, authorities did not routinely screen for indicators of trafficking among offshore migrants and onshore agricultural, hospitality industry, and domestic workers, and authorities often linked trafficking to migration. The government did not report screening for trafficking indicators among individuals smuggled via sea before forcing intercepted boats back outside of Australian territorial waters, or among refugees and asylum-seekers held in offshore detention centers. Due to a lack of formal identification procedures for this offshore population, some victims may have remained unidentified. Immigration authorities forcibly deported some asylum-seekers who may have been vulnerable to traffickers upon their return to their home countries. Government policy sought to prevent victims from being held in immigration detention or otherwise penalized for actions taken solely as a result of their exploitation, and the government provided temporary visas to identified and eligible victims. Civil society previously reported some victims may have been reluctant to communicate with law enforcement officers due to fear of detainment and deportation.

Authorities provided formally identified trafficking victims with accommodation, living expenses, legal advice, health services, vocational training, and counseling through the support program. The government allocated 2.25 million Australian dollars (\$1.58 million) to the support program in the 2019-2020 funding year (2.22 million Australian dollars (\$1.56 million) during the 2018-2019 funding year). Only the AFP had the legal authority to refer victims to the support program; experts reported this requirement prevented some victims from accessing needed support services. The government expanded the support program to include a fifth support stream; however, the new stream targeted victims of forced marriage who may or may not have been victims of trafficking. The assessment and intensive support stream assisted victims for up to 45 days irrespective of whether they were willing or able to assist with the investigation or prosecution of a human trafficking or slavery-related offense. The extended intensive support stream allowed for an additional 45 days of access to the program on a case-by-case basis for victims willing to assist with investigation or prosecution but not yet able to do so due to age, ill health, trauma, or a practical impediment. Minors were automatically entitled to the extended support program, if in their best interests. The justice support stream aided victims until the finalization of their case investigation and/or prosecution. The temporary trial support stream assisted victims giving evidence pertaining to a human trafficking-related prosecution. The new forced marriage support stream provided those in or at risk of forced marriage—who may or may not have been trafficking victims—with up to 200 days of support without being required to participate in a criminal investigation or prosecution against perpetrators. NGOs previously reported the government denied access to or ceased provision of services to some victims who were unable or unwilling to participate in law enforcement investigations, or when investigation of their case ended. The government did not report on how it provided services to adults unable or unwilling to participate in law enforcement investigations. In 2019, the government provided 75 temporary stay visas to an unspecified number of foreign trafficking victims, and several victims received more than one visa (12 victims in 2018, 13 in 2017). It also granted permanent “referred stay” visas to fewer than five individuals (fewer than five in 2018, eight in 2017), including victims and their immediate family members, although some of these cases may have been forced marriage rather than trafficking. The government increased funding and staffing levels within the Commonwealth

Director of Public Prosecutions' (CDPP) Witness Assistance Service, which provided support to victims of human trafficking during the court process. The government did not report whether prosecutors requested or courts provided restitution for victims. The government did not have a centralized victim compensation system, and victims relied on civil proceedings to access compensation.

PREVENTION

The government maintained efforts to prevent trafficking. The Australian Interdepartmental Committee on Human Trafficking and Slavery coordinated the government's anti-trafficking efforts. The government continued implementation of its five-year national action plan to combat trafficking. Launched in 2014, the plan funded research projects and facilitated awareness sessions for government agencies and civil society groups. The government also submitted its annual report to Parliament (but did not publicize the report for a second consecutive year) on progress implementing the action plan and invited public consultation on development of its next five-year action plan. The government established a Modern Slavery and Human Trafficking Branch within the Australian Border Force to lead the government's response to trafficking domestically within Australia. In July 2019, the government announced availability of almost 400,000 Australian dollars (\$280,700) for NGOs to implement a community prevention program in Australia, a reduction from the prior period (500,000 Australian dollars (\$350,880) for 2018-2019). NGOs implementing this program in 2019 focused on forced labor and forced marriage. The government, through the AFP, continued to operate a national hotline to report victims of trafficking.

The Modern Slavery Act, which required businesses and entities with annual revenue of 100 million Australian dollars (\$70.18 million) or greater to publish an annual modern slavery statement detailing their efforts to combat modern slavery in their supply chains and operations, among other provisions, entered into force in January 2019. The government published final, detailed guidance to assist businesses with implementation of the act's requirements in September 2019. The Fair Work Ombudsman continued to prioritize prevention of potential labor exploitation—including human trafficking—amongst migrant workers, focusing on awareness in the horticulture and hospitality industries and among international students. An NGO reported that traffickers threatened to report to authorities some international students working hours in excess of mandatory limits as a means to exploit the students in forced labor. The government established a Migrant Workers' Interagency Group to implement recommendations from the February 2019 Migrant Workers Taskforce Report. One recommendation was to create a national Labour Hire Registration Scheme to require recruitment agencies in designated high-risk industries to register with the government and employers to use only these registered agencies. While this recommendation had not been implemented nationally at the close of the reporting period, similar registration schemes had been implemented in Queensland and South Australia in 2018 and in Victoria in 2019. An NGO reported severe lack of monitoring and enforcement of labor laws in rural parts of Australia, heightening risks of forced labor. Domestic workers within Australia, especially in the state of Western Australia, those lacking a contract, or residing within diplomatic households remained extremely vulnerable to exploitation due to the lack of clear protective oversight mechanisms relevant to these populations. However, an NGO reported that Western Australia authorities began reviewing its industrial relations framework to consider including domestic

work in the definition of “employee” to bring such work under state regulation.

The government made efforts to reduce the demand for participation in international sex tourism of its citizens. It did so by continuing to publish materials for passport applicants outlining the application of Australian child sex trafficking laws to Australians overseas. The government cancelled 180 passports and denied 20 to registered child sex offenders during the reporting period (88 cancelled and 2,028 denied during the last reporting period, the first year these authorities were implemented) and provided 347 notifications to foreign law enforcement regarding traveling Australian child sex offenders (723 notifications last reporting period). The government did not make efforts to reduce the demand for commercial sex within Australia. The Department of Foreign Affairs and Trade conditioned the departure of diplomatic personnel to overseas posts on compliance with Australia’s anti-trafficking legislation, and Home Affairs distributed a training package to its overseas staff and visa service providers. The government also trained peacekeepers on human trafficking prior to their deployments, although it provided few details on the content or results of such trainings.

TRAFFICKING PROFILE

As reported over the last five years, human traffickers exploit domestic and foreign victims in every state and territory in Australia. Traffickers primarily exploit women and men in forced labor, and to a lesser extent, women and girls in sex trafficking. Traffickers exploit a small number of children, primarily teenage Australian and foreign girls, in sex trafficking within the country. Some women from Asia and, to a lesser extent, Eastern Europe and Africa, migrate to Australia to work legally or illegally in a number of sectors, including commercial sex. After their arrival, traffickers compel some of these women to enter or remain in commercial sex in both legal and illegal brothels, as well as massage parlors and private apartments. Traffickers hold some foreign women—and sometimes girls—in captivity, subject them to physical and sexual violence and intimidation, manipulate them through illegal drugs, and force them to pay off unexpected or inflated debts. Traffickers attempt to evade authorities by allowing victims to carry their passports while in brothels and frequently move the victims to different locations to prevent them from establishing relationships with civil society or other victims. Some victims of sex trafficking and some women who migrate to Australia for arranged or forced marriages are exploited by their husbands or families in domestic servitude. Unscrupulous employers and labor agencies subject some men and women from Asia and several Pacific Islands who are recruited to work temporarily in Australia to forced labor in agriculture, cleaning, construction, hospitality and tourism, and domestic service. An investigation by the Fair Work Ombudsman found some fraudulent foreign contracting companies exploit farm workers in bonded labor. There are reported cases of forced labor and other forms of exploitation in the agriculture and horticulture sectors, where victims (often foreign migrants and often from Asia) are threatened against leaving their jobs or seeking help. Traffickers may exploit temporary migrants and international students in forced labor, especially when based in remote regions with limited access to support. Some identified victims are foreign citizens on student visas who pay significant placement and academic fees. Unscrupulous employers coerce students to work in excess of the terms of their visas, making them vulnerable to trafficking by exploiting fears of deportation for immigration violations. Some foreign diplomats allegedly subject domestic workers to forced labor in Australia. Recent changes to entitlements for

diplomats in Australia may reduce slightly the overall number of foreign domestic workers in the country; however, instances of forced labor in domestic service are frequently undetected or unacknowledged by authorities and thus not captured in official statistics. Victims of domestic servitude in Australia work in extremely isolated circumstances with little to no oversight or regulation.