**Role of Organised Criminal Groups with regard to Contemporary Forms   
of Slavery: Call for Input**

The below questionnaire addressed to Member States and other stakeholders is intended to assist the Special Rapporteur on contemporary forms of slavery, including its causes and consequences to develop a report on the on the role of organised criminal groups in contemporary forms of slavery. The report will be presented to the General Assembly during its 76th session in October 2021.

**1. Types of criminal groups involved in contemporary forms of slavery**

1. **Is there evidence of organised criminal groups engaging in contemporary forms of slavery in your country?**

There is evidence to suggest organised crime groups are engaged in debt bondage, deceptive recruiting, sexual exploitation and labour exploitation.

1. **If so, please provide further information about these groups, including their names, social, cultural or ethnic profiles, and structures (e.g. large hierarchical groups or network-based small groups working individually or in collaboration with others).**

Asian organised crime groups have been, and are likely to remain, engaged in debt bondage, deceptive recruiting, sexual exploitation and labour exploitation practices within Australia. These groups are generally hierarchical and operate independently. However, there are instances where they operate in collaboration with other organised crime groups.

1. **Do these criminal groups operate domestically or internationally?**

Organised crime groups operate both domestically and internationally.

**2. The nature and extent of criminal groups’ involvement in contemporary forms of slavery**

1. **What is the nature and extent of the involvement of organised criminal groups in contemporary forms of slavery in your country?**

Serious and organised crime groups continue to use visa fraud, debt bondage and identity document confiscation to facilitate human trafficking, slavery and slavery‑like practices, and to control and exploit their victims. Serious and organised crime groups are also adapting these methods in response to changes in Australian law, policy and practice.

Some labour agencies and other businesses in Australia contribute through falsification of records, systematic underpayment of wages and unauthorised wage deductions, and the enforcement of excessive working hours.

There is an increase in organised crime groups exploiting the visa regime by exploiting people on or arranging protection visas for victims to enable the victims to have work rights in Australia.

1. **Is there information regarding individuals being exploited by organised criminal groups in criminal activities (e.g. drug production, theft, etc.)?**

Repeated intelligence and investigative outcomes indicate foreign sex workers who obtain visas through organised crime-facilitated fraudulent applications are regularly employed for sex work in illegal brothels and/or working in conditions that do not meet legal standards.

There is also limited intelligence reporting that specific organised crime groups who have facilitated the fraudulent entry of individuals into Australia will then use that service as leverage to have the individual undertake logistical roles in drug supply.

1. **Is there evidence of individuals being exploited in legitimate businesses run by organised criminal groups, such as agriculture, domestic work, construction and catering?**

Organised criminal groups involved in visa and migration fraud, tax fraud and money laundering have been involved in labour hire firms in Australia. These labour hire firms use foreign individuals on various visa statuses. The most reported areas of employment for the visa holders (whether legitimate or fraudulent) are agricultural and construction sectors.

1. **Is there evidence of corruption (e.g. bribery) and obstruction of justice (e.g. witness & jury intimidation) committed by organised criminal groups? If so, in what way does this affect victims/survivors of contemporary forms of slavery?**

There is evidence that serious and organised crime groups have attempted to enter Australia to interfere with a victim of human trafficking with the aim of having the victim withdraw criminal charges. In this instance the organised crime group members were stopped while attempting to enter the country and prevented from achieving their objectives.

1. **Does the involvement of organised criminal groups in contemporary forms of slavery pose additional challenges in the identification of victims? If so, please provide details.**

Involvement of serious and organised crime groups creates a number of challenges with identifying victims. Serious and organised crime groups have been known to move the victims between different locations to prevent detection and to control the victims. The groups often use violence and threats against the victim or their family and to control the victim. Due to the transnational nature of the serious and organised crime groups and their ability to carry out the threats against themselves and their family, victims are fearful to escape the situation, report the matter to Police and/or cooperate with Police when they are identified.

**3. Legislative Frameworks**

1. **In addition to legislation relating to contemporary forms of slavery, does your country have any statutory frameworks criminalising the activities of organised criminal groups (e.g. participating, leading/directing, organising or being a member)? If so, please provide details, including statistical information on prosecutions/convictions if available.**

The Australian Government takes a hard line against organised crime groups, including individuals who support or facilitate organised crime groups and their activities. Under the Australian Constitution, the States and Territories have primary responsibility for criminal laws. States and Territories have comprehensive criminal organisation laws, which compliment Commonwealth legislative frameworks.

The *Commonwealth Criminal Code Act 1995* (the Commonwealth Criminal Code) contains a range of anti-association offences to target criminal organisations at Part 9.9. This includes offences that criminalise:

• Associating in support of organised criminal activity,

• Supporting a criminal organisation,

• Committing an offence for the benefit, or at the direction of, a criminal organisation, and

• Directing activities of a criminal organisation.

These offences only apply where conduct involves the commission of an offence with a federal aspect, including human trafficking, slavery and slavery-like practice offences.

Two individuals have been convicted of criminal association offences under the Commonwealth Criminal Code since the laws came into effect in 2010.

1. **Do the legislative frameworks on contemporary forms of slavery stipulate the involvement of organised criminal group as an aggravating factor increasing penalties?**

Involvement of organised criminal groups is not an aggravating factor for offences of human trafficking, slavery and slavery-like practices under Divisions 270 and 271 of the *Crimes Code Act 1995*.

1. **Does your country have legislative frameworks to promote intelligence-led law enforcement (the use of special investigative techniques such as surveillance and interception of communications) to combat contemporary forms of slavery?**

The Australian Government has a robust legislative framework that regulates the use of surveillance devices and access to data for the purposes of investigations into serious crimes and national security threats. This framework comprises of powers in the *Telecommunications (Interception and Access) Act 1979* (TIA Act) and the *Surveillance Devices Act 2004* (Surveillance Devices Act). These powers are not targeted at specific types of offending but rather are designed to enable Australian agencies to address threats to safety and security generally, including organised crime and human trafficking, slavery and slavery-like practices.

*TIA Act*

The TIA Act regulates access to telecommunications content and data in Australia. The TIA Act broadly prohibits the interception of communications and access to stored communications. The disclosure of information about the use of telecommunications services is also prohibited under the *Telecommunications Act 1997* (Telecommunications Act). The TIA Act sets out certain exceptions to these prohibitions to permit eligible Australian agencies to obtain warrants to intercept communications and access stored communications, and authorise the disclosure of data for law enforcement and national security purposes.

Agencies can access communications for their investigations after obtaining a warrant from a court or tribunal. Applications for warrants must comply with the strict requirements of the Act. Agencies can also access communications without a warrant in certain circumstances, such as in an emergency.

*Surveillance Devices Act*

The Surveillance Devices Act governs the use of surveillance devices by law enforcement agencies, including state and territory agencies, when they are using surveillance devices under Commonwealth laws. Under the Surveillance Devices Act, agencies are able to apply for warrants to use surveillance devices and access data held in computers in the investigation of criminal offences.

*Industry assistance to support the use of electronic surveillance powers*

Australian agencies are also able to seek assistance from communications providers in their investigations and operations. The Telecommunications Actimposes an obligation on telecommunications industry participants to assist agencies as is reasonably necessary for law enforcement and national security purposes. The Telecommunications Act also establishes a framework for Australian agencies and communications providers to work together to address technological obstacles to investigations.

1. **Given the human rights implications arising from intelligence-led law enforcement (such as the rights to privacy and a fair trial), do these legislative frameworks provide for sufficient safeguards against abuse (e.g. judicial or other approval and oversight and grievance mechanisms in case of an abuse of process)?**

The Australian Government’s electronic surveillance framework is supported by a range of thresholds, safeguards and oversight mechanisms which are designed to protect the rights of persons affected by the use of powers. Australian agencies may only use surveillance devices and access data after satisfying the strict legal tests set out in legislation. The key protections are highlighted below.

The Surveillance Devices Act governs the use of surveillance devices and access to data held in computers by law enforcement agencies. Under the Surveillance Devices Act, a law enforcement agency can apply to a court or tribunal for a warrant to use a surveillance device or access data held in a computer.

The TIA Act permits access to communications content for law enforcement and national security purposes. Agencies can access communications for their investigations after obtaining a warrant from a court or tribunal. Applications for warrants must comply with the strict requirements of those Acts.

The TIA Act also permits Australian agencies to access data. This data is the information associated with a communication, not the content or substance of a communication. Agencies may only request access to data after satisfying legal tests set out in the TIA Act. Additional safeguards apply to requests for access of journalists’ data for the purpose of identifying sources. In particular, agencies must obtain an independently-issued warrant.

The information obtained under the powers under Australia’s electronic surveillance framework is strictly protected. This information may only be used for limited purposes, including the investigation and prosecution of criminal offences and national security matters. Agencies must also keep records and report on their use of powers.

The use of electronic surveillance powers by law enforcement agencies is also subject to independent oversight by the Commonwealth Ombudsman. Statistics on the use of powers are published in the TIA Act and Surveillance Devices Act annual reports.

Australian courts retain jurisdiction for judicial review of a decision of a Judge or AAT member to issue a warrant, through the original jurisdiction of the High Court of Australia and in the Federal Court of Australia by operation of section 39 of the *Judiciary Act 1903*. Decisions made under the Surveillance Devices Act are also not exempt from judicial review under the *Administrative Decisions (Judicial Review) Act 1977.*

1. **Does your country have legislative frameworks on money laundering and criminal asset recovery (or confiscation of criminal proceeds)**

*Money laundering*

Australia has a robust anti-money laundering and counter-terrorism financing (AML/CTF) regime, as established under the following laws:

* *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*
* *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*
* *Financial Transaction Reporting Act 1988*, and
* *Anti-Money Laundering and Counter-Terrorism Financing (Prescribed Foreign Countries) Regulation 2018*

These laws create a comprehensive framework to detect, deter and disrupt money laundering, terrorism financing and other serious crimes, including people smuggling. Australia’s AML/CTF regime also provides valuable financial intelligence to revenue and law enforcement agencies, helps to preserve the integrity of Australia’s economy and protects Australian businesses from being misused to commit crimes and support organised criminal activity.

Money laundering is also criminalised under Division 400 of the Commonwealth Criminal Code. The offences under Division 400 have been designed to target the behavior of modern money laundering networks, ensuring that these networks cannot avoid legal liability by committing predicate offending in haven jurisdictions, remaining willfully blind to predicate offending and dealing with property at an arm’s length. These penalties carry dissuasive maximum penalties, with the most serious of these offences being punishable by a maximum penalty of life imprisonment.

Criminal Asset Recovery

The *Proceeds of Crime Act 2002* (POC Act) provides a scheme to trace, restrain and confiscate the proceeds and benefits gained from Commonwealth indictable offences, foreign indictable offences and certain offences against state and territory law. Offences that fall under the scope of this scheme include human trafficking, slavery and slavery-like offences.

POC Act matters are investigated by the Australian Federal Police (AFP)-led Criminal Asset Confiscation Taskforce, a multiagency taskforce made up of the AFP, Australian Taxation Office, Australian Transaction Reports and Analysis Centre, Australian Border Force and Australian Criminal Intelligence Commission. POC Act matters are litigated in court by the Australian Federal Police’s Criminal Assets Litigation team.

The proceeds of confiscated property are paid into the Confiscated Assets Account. The Minister for Home Affairs has the discretion to approve payments from the Account for particular purposes. Under section 298 of the POC Act, this includes expenditure for crime prevention measures, law enforcement measures, measures relating to drug addiction, and diversionary measures relating to illegal use of drugs.

1. **Does your country also support civil asset recovery without criminal conviction? If so, please provide details including any safeguards in place.**

*Proceeds of Crime Act 2002*

The POC Act provides for non-conviction based forfeiture, which allows confiscation action to be taken independently of the criminal prosecution process. This includes where a person cannot be prosecuted or has died or absconded (though it is not a requirement of these provisions) and also more broadly where it can be shown on the balance of probabilities that a person has committed a serious offence or that property is the proceeds of crime.

Section 47 enables the forfeiture of property restrained under section 18 where a court is satisfied on the balance of probabilities that a person has committed a serious offence, although this offence does not need to be particularised. No conviction is required and it is therefore possible to use this provision even where the person is not within jurisdiction. Further, section 325 of the POC Act provides that an order can be applied for and made under the POC Act in respect of a person’s interest in property even if the person has died or on the basis of the activities of a person who has died.

Section 49 of the POC Act, enables the forfeiture of property restrained under section 19 where a relevant restraining order has been in force for at least six months, the court is satisfied that the authority has taken reasonable steps to identify and notify persons with an interest in the property, there has been no application to exclude property from the scope of the restraining order or any such application has been withdrawn.

If a person does make a claim over property by seeking an exclusion order, the court must be satisfied, on the balance of probabilities, that the property is the proceeds of one or more indictable offences, foreign indictable offences or indictable offences of Commonwealth concern or an instrument of one or more serious offences. This need not be based on a finding that a particular person committed any offence and need not be based on a finding as to the commission of a particular offence, and can instead be based on the finding that some offence or other of a kind referred to in section 49(1)(c) was committed.

Where a person has absconded, in certain circumstances they may be deemed for the purposes of the POC Act to have committed the offence with which they were charged and the conviction-based provisions of the POC Act may also apply in addition to the non-conviction based provisions (see section 331 and 334).

*Registration of a foreign order under the Mutual Assistance in Criminal Matters Act 1987 (MACMA)*

Australia has the ability to register a foreign restraining, forfeiture or pecuniary penalty order made by a court in a foreign country in relation to an offender who was not able to be prosecuted in that country by reason of death, flight or absence.

Registration of a foreign non-conviction based restraining, forfeiture or pecuniary penalty order is possible once authorisation has been obtained from the Attorney-General for a proceeds of crime authority (which is defined to include the Commissioner of the AFP) to apply to a court to register the foreign order.

Section 34(3)(b) of the MACMA allows for the Attorney-General to authorise an application be made to a court for the registration of a foreign restraining order made in respect of a foreign serious offence, whether or not the identity of the person who committed the offence is known. Sections 34(2)(a) and 34(2)(b) of the MACMA allow for the Attorney-General to authorise an application be made to a court for the registration of a foreign forfeiture order or foreign pecuniary penalty order, respectively, made in respect of a foreign serious offence whether or not a person has been convicted of that offence.

The MACMA preserves the interests in property (or other forfeitable things) of bona fide third parties claiming an interest in the property. Section 34C of the MACMA sets out a process allowing an application by an affected third party to a court to determine that person’s legitimate interest in property that may be the subject of a foreign forfeiture order.

In order for Australia to provide the above assistance, Australia would require the foreign country to make a mutual legal assistance request to Australia that attaches the foreign order.

1. **How does your country deal with corruption and obstruction of justice committed by organised criminal groups in relation to contemporary forms of slavery?**

*Offences*

At the federal level, Australia has criminal offences relating to corruption and obstruction of justice under theCommonwealth Criminal Code. Sections 141, 142 and 149 make it a criminal offence to:

* bribe or give a corrupting benefit to a Commonwealth public official,
* receive a bribe or corrupting benefit as a Commonwealth public official,
* abuse a public office (for example, using information that the official has obtained in their official capacity to dishonestly cause detriment to another person), and
* obstruct, hinder, intimidate or resist a public official from performing their duty.

There are also offences that address criminal corrupt conduct at the state and territory level.

*Integrity framework*

At the federal level, Australia has a multi-agency approach to combatting corruption, under which a number of government institutions and agencies have specialised roles and responsibilities to prevent and address maladministration, misconduct and broader corruption. These agencies conduct activities to increase awareness of issues relating to corruption and fraud within the public sector.

The Australian Commission for Law Enforcement Integrity (ACLEI) is the key agency responsible for addressing corruption allegations in the federal law enforcement sector. ACLEI’s primary role is to investigate corruption in federal law enforcement agencies, giving priority to serious and systemic corruption.

ACLEI’s functions also include the detection and prevention of corrupt conduct in law enforcement agencies, and the collection and dissemination of information in relation to corruption generally or the integrity of staff members within ACLEI’s jurisdiction.

In relation to organised crime, ACLEI engages with law enforcement agencies to share information about organised crime operations and work together to counter threats to law enforcement integrity.

In December 2018, the Australian Government committed to establishing a Commonwealth Integrity Commission (CIC) to strengthen integrity arrangements across the federal public sector. In March 2021, the Australian Government concluded a comprehensive national consultation process on draft legislation to establish the CIC. The Australian Government is currently considering feedback from that consultation to inform further refinement of the legislation before it is introduced in Parliament.

All Australian states and territories also have anti-corruption agencies with jurisdiction over the public sector, which have roles in identifying and managing corruption cases.

1. **What legislative and other mechanisms are in place to protect witnesses in criminal proceedings involving organised criminal groups?**

The *Crimes Act 1914* (Crimes Act)further provides a range of protections for vulnerable witnesses giving evidence in federal criminal proceedings, including victims of human trafficking, slavery and slavery-like practices. These protective measures are intended to ensure that vulnerable witnesses are able to give effective evidence to the court, including by minimising intimidation, additional trauma, fear for their personal safety and undue public embarrassment.

The Crimes Act also makes it an offence to publish material identifying a victim of human trafficking, slavery and slavery-like practices, and allows victims or survivors of these crimes to make victim impact statements to the court outlining the harm they have experienced.

Recent federal legislation has brought significant changes to the way certain vulnerable and special witnesses give evidence in court; through schedules 2 and 3 of the *Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020 (Cth).* This applies to the evidence of child and adult victims of human trafficking and slavery, including forced marriage and to special witnesses. The reform endeavours to preserve the rights of the accused at the same time as seeking to avoid the risk of re-traumatisation by cross-examination at committal proceedings and help to streamline the criminal justice process. Section 15YHA of the Crimes Act now prohibits cross-examination of these witnesses at committal proceedings, which is the first stage where evidence is tested in some States. Cross‑examination will be reserved until the trial.

Another significant reform is that section 15YM of the Crimes Act has also been amended so that, in most circumstances, a pre-recorded interview of a vulnerable witness or special witness conducted by a specially trained police officer is to be admitted as evidence-in-chief in criminal proceedings without the need for the leave of the court to be granted. This will provide added certainty to child and adult vulnerable persons and special witnesses giving evidence.

Victims are also supported by Australia’s Witness Assistance Service, and the Government’s dedicated Support for Trafficked People Program. Witness Assistance Officers support victims by advocating their needs throughout a criminal proceeding and ensuring they are not re-traumatised.

Division 10.2 of the *Criminal Code 1995* (Cth) provides the defence of duress which may be available to victims of human trafficking and slavery who have acted under a ‘threat’ from an organised crime group.

4. **Victims’/survivors’ access to justice and to remedies**

1. **What types of assistance (e.g. legal, medical, social and financial) is provided to victims who have been enslaved by organised criminal groups?**

All suspected victims of human trafficking, slavery and slavery-like offences identified by the AFP are eligible to receive support through the Australian Government’s Support for Trafficked People Program (Support Program).

The Support Program, which is delivered nationally by the Australian Red Cross provides individually tailored and case managed support to clients. Support includes:

* assistance with accessing suitable accommodation,
* financial support,
* medical treatment,
* assistance accessing medical treatment and counselling,
* referral for legal and migration advice, and
* developing social supports and options for life after they leave the program.

The Government’s dedicated Human Trafficking Visa Framework also enables foreign nationals who do not already hold a valid visa and are suspected victims of human trafficking or slavery to remain lawfully in Australia on either a temporary or permanent basis to receive support and assist in the criminal justice process.

1. **Is provision of such assistance linked to a formal victim identification process and/or cooperation in criminal investigations and proceedings?**

Suspected victims of human trafficking slavery and slavery-like offences identified by the AFP are entitled to an initial 45 day ‘rest and recovery’ period of assistance under the Support Program. This is available to suspected victims regardless of their willingness or ability to participate in a criminal investigation or prosecution.

For suspected victims of forced marriage, or those at risk of forced marriage, individuals are able to access up to 200 days of intensive support without being required to participate in a criminal investigation or prosecution.

Longer term support is available for suspected victims who contribute to a criminal investigation or prosecution.

1. **What mechanisms/channels exist for them to access justice and remedies, and in which ways are they able to participate in criminal proceedings?**

Australia has a comprehensive whole-of-government framework to support and protect victims of human trafficking, slavery and slavery-like practices that is designed to ensure a balance between victim welfare and criminal justice processes.

Victims can participate in criminal proceedings by providing useful intelligence to investigations and providing witness testimonies. Victims who participate in the criminal justice process receive comprehensive support through the Support Program and the Human Trafficking Visa Framework.

Under Commonwealth law (section 21B of the Crimes Act ), the court has the discretion to order that an offender pay reparation to any person, in respect of any loss suffered, or any expense incurred by reason of the offence. The court may make a reparation order once a defendant has been convicted of a federal offence, or is discharged by the court without conviction.

Victims also have the discretion to provide a victim impact statement (VIS). A VIS is a statement that describes the impact of the crime on those affected by it, and the harm the victim suffered as a result. Such harm may include physical, psychological and emotional suffering, economic and other loss, and damage.

Some vulnerable victims of crime may be able to read their VIS aloud to the court with special protections in place such as via CCTV, with a support person present or with people excluded from the courtroom. A VIS is given to the judge or magistrate during sentencing proceedings to assist them with understanding the personal impact the crime has had on the victim/s when deciding what the appropriate penalty should be.

Victims can also pursue civil remedies if they have experienced assault, battery, false imprisonment, or deceit. Under the Australian *National Action Plan to Combat Modern Slavery 2020-25*, the Government will undertake a targeted review of support and legislative protections, defences and remedies available to modern slavery victims and survivors, particularly women and children.

1. **Can victims/survivors of slavery receive compensation in your country and if so, compensations to how many victims have been paid? Please provide details in this regard.**

Under Australia’s federated justice system, victims’ compensation has traditionally been a matter for the states and territories. All states and territories have victims of crime compensation schemes that may be available to victims of human trafficking, slavery and slavery-like offences. This is consistent with Australia’s obligations under the United Nations Trafficking in Persons Protocol, which requires States to provide victims with ‘the possibility of obtaining compensation’.

A number of victims have accessed compensation from Australia’s state and territory schemes, including with the assistance of specialist anti‑slavery non-government organisations.

Under the Australian *National Action Plan to Combat Modern Slavery 2020‑25*, the Government will undertake a review of state and territory victims of crime financial assistance schemes and their availability to victims and survivors of modern slavery.

1. **Are confiscated criminal proceeds redistributed to enhance protection and assistance to victims and survivors? Please provide details.**

Australia has a variety of mechanisms under the POC Act that allow confiscated criminal proceeds to be redistributed in a way that may assist victims and survivors.

Once property is confiscated under the POC Act, the property is liquidated and credited to the Confiscated Assets Account (section 296). The Minister for Home Affairs has the discretion to approve payments from the Account for particular purposes. Under section 298 of the POC Act, this includes expenditure for crime prevention measures, law enforcement measures, measures relating to drug addiction, and diversionary measures relating to illegal use of drugs.

Where the victims and survivors have an interest in the property, they may also exclude property from confiscation (ss 73, 94), which will lead to the property being returned to them, or to obtain compensation orders for the portion of the value of the property that was legitimately acquired (ss 77, 94A).

Moreover, before liquidated property is credited to the Confiscated Assets Account, the Minister may direct under sections 70 and 100 POC Act that the property be alternatively disposed of. This section can be used to return property to its country of origin, which may then decide to share the property with victims and survivors.

1. **Does your country implement the non-punishment principle whereby the victims of contemporary forms of slavery are protected from criminal prosecutions even if they are allegedly involved criminal activities?**

The principle of non-punishment in the context of human trafficking, slavery and slavery-like practices serves to protect victims from prosecution for offences which they may have committed during the course of their enslavement or trafficking experience. By way of example, s 45 of the Modern Slavery Act 2015 (UK) introduced the principle through a statutory defence for victims of slavery or trafficking who were compelled to commit an offence due to their exploitation. A similar defence for victims who are compelled to commit a crime due to exploitation is not currently available under Australia’s legislative frameworks.

However, section 10.2 of the Commonwealth Criminal Code provides that a person is not criminally responsible for an offence if they carry out the conduct constituting the offence under duress. Depending upon the level of coercion or threat that the victim was subject to, this defence may be available.

The decision as to whether it is in the public interest to prosecute a victim in these circumstances is made in accordance with the Prosecution Policy of the Commonwealth. This Policy contains a broad range of discretionary factors which may be relevant to such a decision.

Under the Australian *National Action Plan to Combat Modern Slavery 2020-25*, the Government will undertake a targeted review of support and legislative protections, defences and remedies available to modern slavery victims and survivors, particularly women and children.

**5. Other Questions**

1. **What are the key challenges in combating contemporary forms of slavery committed by organised criminal groups in your country?**

The victims coming forward and supporting a prosecution is the biggest challenge in combatting human trafficking and modern slavery involving serious and organised crime groups in Australia. Some of the reasons why victims don’t come forward or wish to support prosecutions are:

* Language and cultural barriers
* Fear of reprisal or under threat from the serious and organised crime groups in Australia or their home country
* Fear of Police and authorities
* Lack of knowledge about their rights
* The victims not identifying themselves as victims, and
* Isolation from their cultural community

1. **Does your country make use of international cooperation tools to tackle transnational organized crime as it relates to contemporary forms of slavery (e.g. Mutual Legal Assistance, joint investigations, extradition, etc...)? Please provide details.**

Mutual assistance to and from Australia is governed by the *Mutual Assistance in Criminal Matters Act 1987* (Cth). Under this Act, Australia can make requests to any foreign country and can receive requests from any foreign countries in relation to criminal investigations and prosecutions, including contemporary forms of slavery offences and other transnational crime. Australia can provide and request a broad range of assistance to, and from foreign countries, including:

* + obtaining evidence such as bank records and other business records
  + covert surveillance
  + obtaining investigative material held by law enforcement
  + obtaining government records
  + taking evidence from a witness
  + arranging for witnesses to travel to a foreign country to give evidence in foreign criminal proceedings
  + registering and enforcing orders restraining and forfeiting the proceeds of crime.

Australia has bilateral mutual assistance countries with over 25 countries, and is a party to multilateral agreements including the United Nations Convention against Transnational Organized Crime, and the Council of Europe’s Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Where Australia and a foreign country do not share an agreement requests can be made on the basis of reciprocity.

Australia can make or receive extradition requests in relation to serious criminal offences, including contemporary forms of slavery offences and other transnational crime. Extradition between Australia (with the exception of New Zealand which operates under the ‘backing of warrants’ system) is governed by the *Extradition Act 1988* (Cth). This Act sets out a number of requirements that must be met before Australia can make or accept an extradition request. Those requirements may be supplemented by requirements contained in a multilateral or bilateral treaty.

1. **Has COVID-19 had an impact on the modus operandi of the organised criminal groups which operate in your country and if so, in what way?**

Serious and organised crime groups continue to operate within the COVID-19 environment. The main impact for these groups is the challenge of moving victims across international and state borders. This has prevented access to victims from overseas and caused groups to move victims within a state or interstate.

1. **Please provide any additional information which you deem relevant with regard to the subject matter of this questionnaire**

Nil.