

The case for an Anti-Slavery and Trafficking Commissioner

Policy Position Paper No. 1, 2016

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Introduction

Anti-Slavery Australia has identified gaps in Australia's response to human trafficking, slavery and slavery-like practices. In its submission to the Parliamentary Joint Committee on Law Enforcement, Inquiry into Human Trafficking 2016, Anti-Slavery Australia advocated for the appointment of an Anti-Slavery and Trafficking Commissioner (the Commissioner), which Anti-Slavery Australia believes would offer real benefits for vulnerable people and survivors of these human rights abuses in Australia.¹

Key Points

1. The Commissioner's functions would include independently monitoring the implementation of the National Action Plan to Combat Human Trafficking and Slavery 2015-2019, reporting to Parliament and providing recommendations, advice and guidance to government agencies and non-governmental bodies.
2. The appointment of a Commissioner would further strengthen Australia's strategy to combat human trafficking, slavery and slavery-like practices in clear and measurable ways, in particular in the identification of vulnerable people and support for survivors of these human rights abuses.
3. There is increasing international support for, and examples of anti-slavery and trafficking commissioner-type roles being established in other countries to combat these human rights abuses.

The Issue

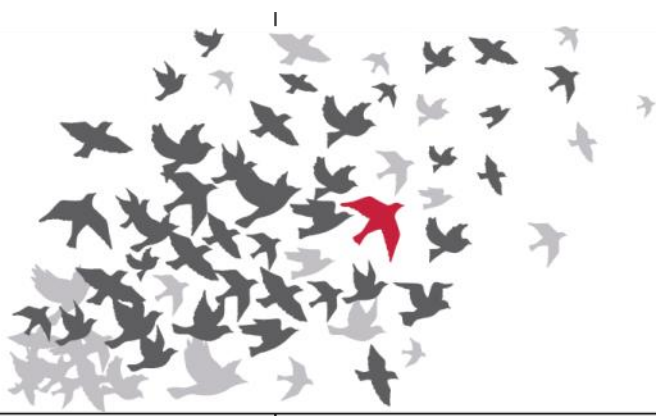
Anti-Slavery Australia's position is that Australia's anti-human trafficking strategy would benefit from the appointment of a Commissioner. One of the key challenges for the successful implementation of this strategy is the multiplicity of key stakeholders, which range from Commonwealth government agencies, state and territory government agencies, universities, civil society organisations, faith based communities, business, industry and unions.

Australia has an Ambassador for People Smuggling and Human Trafficking, a position currently held by Andrew Golezdzinowski AM. This role involves leading Australia's international engagement in the fight against human trafficking.² Mr Golezdzinowski is Co-chair of the Bali Process, an Asia-Pacific forum on issues of people smuggling and trafficking.³ While the ambassadorial role is essential for international collaboration, a domestic Anti-Slavery Commissioner would



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tackle different issues related to trafficking and slavery, and is therefore still necessary.

It is vital that the Australian Government continues to lead Australia's anti-human trafficking strategy through established mechanisms and in doing so, establish effective Commonwealth law enforcement responses to human trafficking. The existing framework would be strengthened by the appointment of a Commissioner with responsibility to independently monitor and review the effectiveness of this strategy as well as identify any areas for improvement.

Role and functions for a Commissioner

The role of a Commissioner should be set out in Commonwealth legislation, which would define the functions and powers of the Commissioner. The Commissioner's independence should also be recognised in its establishing legislation.

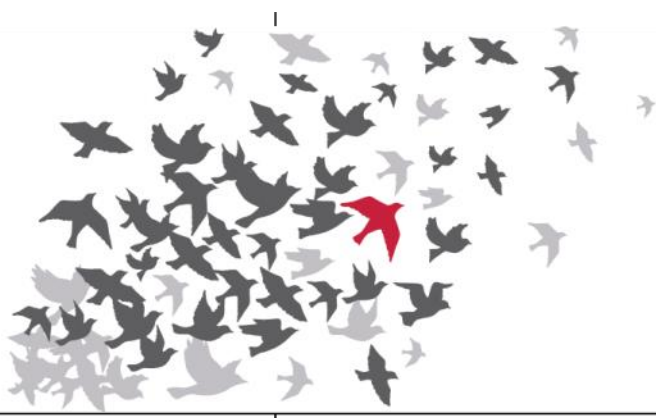
The core functions of the Commissioner would include:

- a) monitoring the implementation of the National Action Plan to Combat Human Trafficking and Slavery 2015-2019 (National Action Plan) and ensuring compliance with human rights obligations;⁴
- b) an appointment to the membership of the Interdepartmental Committee on Human Trafficking and Slavery, the Operational Working Group⁵ and the National Roundtable on Human Trafficking and Slavery;⁶
- c) reporting annually to the Australian Parliament on the exercise of the Commissioner's functions, which are made publicly available;
- d) providing recommendations, advice and guidance to government agencies and non-governmental bodies;
- e) assessing the effectiveness of Commonwealth legislation and policies as well as the impact of any proposed Commonwealth legislation and policies relevant to trafficking and slavery;
- f) having statutory powers to collect and request data and information relevant to trafficking and slavery; and
- g) consulting and engaging with government agencies, non-governmental bodies, business and industry, unions and other persons.



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To ensure that the role is effective, the Commissioner should be well resourced and have the ability to appoint its own staff to assist with the exercise of its functions.

Benefits of having a Commissioner in Australia

The Interdepartmental Committee on Human Trafficking and Slavery, chaired by the Attorney-General's Department (AGD), is responsible for monitoring the implementation of Australia's anti-human trafficking strategy and reporting to the Australian Government on its effectiveness.⁷ The AGD has been the lead Commonwealth government agency in the development of this whole-of-government strategy.

Anti-Slavery Australia believes that the establishment of an independent body, such as a Commissioner, would enhance and further strengthen Australia's anti-human trafficking strategy. The role of the Commissioner would be to independently monitor and review the effectiveness of this strategy, the benefit of which is illustrated by existing international models of similar commissioner-type roles. For example, the first independent Finnish National Rapporteur has noted that "the added value of a Rapporteur lies in providing an objective analysis of how human trafficking is being addressed. The Rapporteur can expose bottlenecks and make recommendations for resolving them."⁸

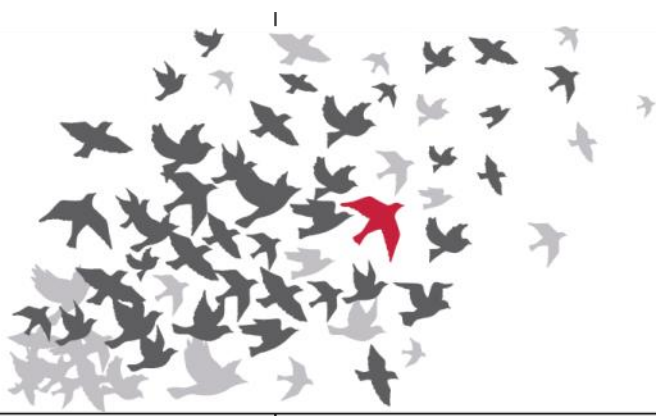
The establishment of a Commissioner would also help to increase the efficiencies in Australia's strategy. For example, a Commissioner could identify any duplication of efforts across Commonwealth law enforcement agencies, identify gaps in the effectiveness of the Commonwealth response to these human rights abuses and make recommendations to ensure that the Australian response is best practice. By having a broad and wide reaching role, the Commissioner would be able to limit the risk of there being any gaps in these Commonwealth law enforcement responses.

Australia's anti-slavery and trafficking strategy is distinctive for the authentic collaboration between multiple government agencies. As part of this strategy, specific Commonwealth agencies have been created, such as the interagency Taskforce Cadena and the establishment of the Ministerial Working Group by the Minister for Employment Senator Michaelia Cash. It is Anti-Slavery Australia's view that these agencies would be strengthened by the expert advice and guidance offered by a Commissioner, particularly in areas such as identification of vulnerable people and support for survivors of human trafficking as well as the adoption of a human rights-based approach to human trafficking.



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The appointment of a Commissioner will also serve to increase Australia's international profile as a nation that takes leadership in and is committed to combating human trafficking.

Support for the appointment of a Commissioner

There is strong support, both internationally and domestically, for the appointment of a Commissioner. For example, the former UN Special Rapporteur on trafficking in persons, especially women and children, recommended in her Mission to Australia report that Australia should, at a national level, appoint a national coordinator or rapporteur to oversee and monitor the national response to multi-agency work on trafficking and, at an international level, appoint an ambassador for human trafficking to further strengthen its international profile on this issue and complement the work of the Ambassador for People Smuggling Issues.⁹

More recently in 2012, various submissions to the Joint Standing Committee on Foreign Affairs, Defence and Trade in relation to their 'Inquiry into Slavery, Slavery-like conditions and People Trafficking' called for the establishment of an anti-human trafficking ambassador. Certain non-governmental bodies have continued to advocate for the appointment of an ambassador for human trafficking.¹⁰

In response to the Parliamentary Joint Committee on Law Enforcement, Inquiry into Human Trafficking 2016, certain non-governmental bodies (in addition to Anti-Slavery Australia) have similarly recommended the appointment of a Commissioner.¹¹

International examples of commissioner-type roles

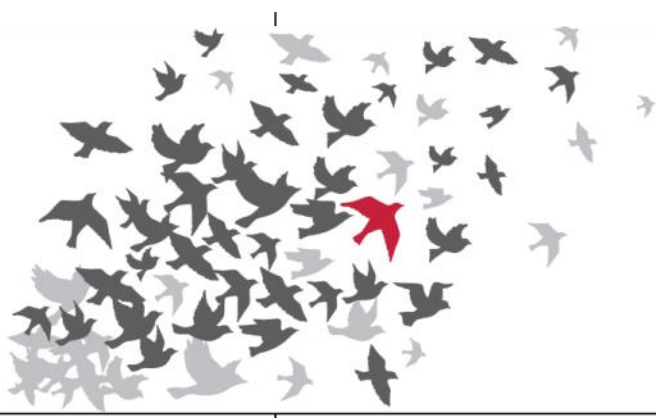
Many other countries have appointed an ambassador, rapporteur or commissioner to monitor their approach to combating human trafficking.¹²

The United Kingdom's appointment of the UK Anti-Slavery Commissioner under the Modern Slavery Act 2015 (UK) is the most recent example. The UK Anti-Slavery Commissioner is to encourage good practice in the prevention, detection, investigation and prosecution of slavery and human trafficking offences, and the identification of victims of those offences.¹³ The functions of the UK Anti-Slavery Commissioner include making annual reports on the exercise of the Commissioner's functions¹⁴ and making recommendations to any public authority about the exercise of its functions.¹³ The UK Anti-Slavery Commissioner may also request a specified public authority to co-operate in any way necessary for the purposes of the Commissioner's functions.¹⁵



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Further information and resources

Australian Government Attorney-General's Department

<https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Pages/default.aspx>

Anti-Slavery Australia

<http://www.antislavery.org.au/>

UK Anti-Slavery Commissioner

<https://www.gov.uk/government/organisations/independent-anti-slavery-commissioner>

World Vision

<http://campaign.worldvision.com.au/news-events/australians-ambassador-trafficking/>



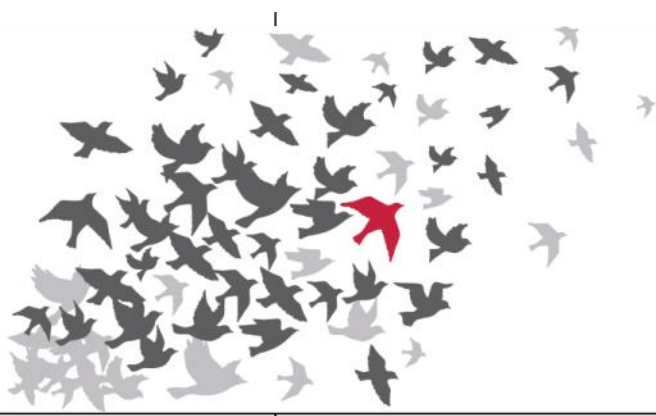
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- 1) Anti-Slavery Australia, Submission No 9 to Joint Committee on Law Enforcement, Inquiry into Human Trafficking, 22 February 2016.
- 2) See description of the role of the Ambassador for People Smuggling and Human Trafficking for Australia, at <http://dfat.gov.au/about-us/our-people/homs/pages/ambassador-for-people-smuggling-issues-for-australia.aspx>.
- 3) 'About the Bali Process', at <http://www.baliprocess.net/>.
- 4) This is currently the responsibility of the Commonwealth Attorney-General's Department. See National Roundtable on Human Trafficking and Slavery, Guidelines for NGOs: Working with Trafficked People (3rd ed, 1 July 2015) 47.
- 5) The Operational Working Group, comprised of the Attorney-General's Department, the Australian Federal Police, Commonwealth Director of Public Prosecutions, Department of Families, Housing, Community Services and Indigenous Affairs and Department of Immigration and Citizenship, has been established as a subcommittee of the IDC to resolve systemic operational issues that arise in the management of individual cases strategy (Interdepartmental Committee on Human Trafficking and Slavery, Parliament of Australia, Trafficking in Persons: The Australian Government Response 1 July 2014 – 30 June 2015 (2015) 6).
- 6) The National Roundtable on Human Trafficking is a coalition among government and non-government actors working together to strengthen Australia's response to trafficking and slavery, convened by the Australian government since 2008.
- 7) Interdepartmental Committee on Human Trafficking and Slavery, Parliament of Australia, Trafficking in Persons: The Australian Government Response 1 July 2014 – 30 June 2015 (2015) iv.
- 8) Interview with Johanna Suurpää, first Finnish National Rapporteur on Trafficking in Human Beings, Dutch National Rapporteur on Trafficking in Human Beings (2010), Human Trafficking – ten years of independent monitoring. The Hague: BNRM, 20.
- 9) Joy Ngozi Ezeilo, Special Rapporteur, Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc A/HRC/20/18 (18 May 2012).
- 10) These included submissions made by World Vision Australia, Slavery Links Australia, Dr. Anne Gallagher AO and the National Tertiary Education Union (available at: http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_representatives_Committees?url=jfadt/slavery_people_trafficking/subs.htm).
- 11) For example, World Vision (available at: <http://campaign.worldvision.com.au/news-events/australians-ambassador-trafficking/>).
- 12) Notable examples include the Netherlands, Finland, the United States of America and the United Kingdom.
- 13) Modern Slavery Act 2015 (UK) ch 30 s 41(1).
- 14) Modern Slavery Act 2015 (UK) ch 30 ss 42(8), (10), (11),(12).
- 15) Modern Slavery Act 2015 (UK) ch 30 s 41(3)(b).
- 16) Modern Slavery Act 2015 (UK) ch 30 s 43(1).



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