

Mr Paul Zinkel
Inquiry Secretary
Joint Standing Committee on Foreign Affairs, Defence and Trade
Department of House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

27th September, 2012

Re: Inquiry into Slavery, Slavery-like conditions and People Trafficking

Dear Mr Zinkel

Hagar Australia is a specialist organisation that proactively works with survivors of slavery and trafficking. Through police and other referrals, Hagar welcomes, supports, rehabilitates and reintegrates those within this vast and complex 'human industry' who are assessed as being most vulnerable. Hagar¹ operates in Cambodia, Vietnam and Afghanistan and is currently supporting 1500 survivors.

Through this submission, Hagar is highlighting what we believe is an important gap in the Australian Government's current policy and programmatic responses to trafficking. Our submission's recommendations are based on evidence collated through Hagar's 18 years of casework which has supported 15,000 survivors and **all** clients are assisted towards safe reintegration into families and communities.

The policy and programmatic recommendations are supported with references, which are described in the background document that accompanies this letter, and we would be very pleased to provide further detail through oral evidence to the Committee.

Key Issue #1: Urgent need to strengthen the fourth pillar of Australia's strategy: survivor² support and rehabilitation

- Current policy and pragmatic responses are heavily skewed towards the first three pillars of Australia's anti-people trafficking strategy: prevention; detection/investigation; and criminal prosecution.
- To date, the regional emphasis of the Australian Government's anti-trafficking efforts have been upon retributive justice and successful prosecutions through prevention efforts, training of police and prosecutors, and support to legal aid organisations.

¹ Hagar receives funding from entities such as USAID, international NGOs such as World Vision, IWDA and the Australian Red Cross, and limited AusAID funding (in Cambodia).

² Hagar deliberately avoids using the term 'victim' and would like to see the Australian Government desist from using this term. Hagar believes the term 'survivor' best conveys an individual's agency, resilience, and ability to take action in spite of the abuse and exploitation they have overcome.

- As important as these are, Hagar is advocating for a deeper policy response that encompasses successful reintegration, access to education and employment programs, psychosocial support, and citizenship rights for victims and survivors of trafficking.
- Members of the Australian Senate, such as Senator Alan Eggleston, have also recognised the importance of targeted support for survivors. *Reference document (i)*
- A case study is provided at the end of this submission to exemplify the points made under this issue.

Recommendation #1: That the Australian Government provides enhanced policy, financial and other in-country program support for survivors of trafficking in target countries, thus strengthening the “fourth pillar” through a rights-based approach

- The Australian Government should support civil society to build capacity in developing country governments, especially those with which Australia has current or developing aid relationships. For example, indications are that child victims and child witnesses are inappropriately treated within the Cambodian Justice System. Therefore, in partnership with UNICEF, Hagar is undertaking research to provide an evidence base for policy and programmatic responses which may include initiatives such as:
 - the establishment of a child-friendly court ; and/or
 - the establishment of a system of legal advocates for child victims and witnesses. *See reference document (ii)*
- The need to build the capacity in the Ministries and other institutions of developing country governments was further endorsed this week by the US department of State and by President Obama, in his speech to the Clinton Global Initiative³.
- The Australian Government should increase the proportion of support available for survivors through ODA programs such as the forthcoming AusAID Asia regional trafficking program – noting that in the previous five-year program, called ARTIP⁴ it appears that little or none of the \$20.5 million budget was allocated to the support of survivors. *See reference document (iii).*
- Establish ODA programs that specifically fund the support, rehabilitation and reintegration of survivors. *See examples of these types of programs in the attached Hagar Concept notes in reference document (iv).*
- USAID and the US Department of Justice have already recognised the need to increase the focus on support for survivors. Hagar endorses the observations made by the US Ambassador-at-large, Luis C'DeBaca in relation to the ‘zones of impunity’ that currently exist with regard to ‘undeserving’ groups of survivors. For example, in Cambodia, strongly stigmatised minority groups include ethnic Vietnamese and sexually-abused boys, and these groups are treated as less deserving of support.

³ President Obama speaks about ways to stop human trafficking at the Clinton Global Initiative in New York City
http://www.youtube.com/watch?v=vuMk-JGcPUQ&feature=youtube_gdata_player

⁴ ARTIP was an AusAID Asia Regional Trafficking in Persons Project which concluded in 2011.

- Existing Australian Government funding for victims who make it to Australia is important and commendable⁵, but far more support needs to be provided to survivors who are in at-risk countries and situations, and/or who don't qualify for an Australian visa (the vast majority of trafficked persons).
 - Hagar provides practical, individual transformational services; legal, accommodation, medical, trauma and career counselling and creation of real jobs through multiple social enterprise and business partnerships in the developing countries in which we operate.
 - Hagar can therefore provide the *offshore* support and restoration in partnership with domestic programs such as those evaluated in the attached report (see excerpt in Annex: Australian Government Anti-People Trafficking Strategy Whole-of-Government Performance Management Reporting – *see reference document (v)*).

Recommendation #2: That the Australian Government supports measures to combat slavery and human trafficking in goods imported into Australia

- **Hagar strongly supports the recommendations to the Australian Government, made by groups such as Stop the Traffick and Uniting Justice, that seek to mirror measures which have been introduced by the US Government. These include the recommendations that:**
 - the Commonwealth Government should require that products at risk of slavery or trafficked labour in their supply chains must carry labels identifying themselves as such; and that;
 - the Australian Government should withdraw its support from companies failing to demonstrate adequate action to address the possibility of slavery or human trafficking in their supply chain, through excluding such companies from **eligibility for** government procurement contracts. *See full detail on these recommendations from p.8 in the Stop the Traffik in the report, reference document (vi)*.

Recommendation #3: That the Australian Government implements a program aimed at “Protecting the Protectors”

Hagar seeks assistance and support from the Australian Government and its Embassies to better protect those are doing the protecting. For example, Cambodia currently has no child protection system in place and as a consequence there are no provisions for custody and guardianship of children. Without an effective child protection system in place to protect children and to protect those who are doing the protecting, staff are left highly vulnerable. The Country Director of Hagar in Cambodia has been unjustly charged three times with trafficking (all pending charges) because those who have money to pursue their vices unabated also have the money to corruptly influence legal processes.

⁵ In 2009 the Attorney General's Department handed over responsibility for its "Support for Victims of People Trafficking" program to the Australian Red Cross.

Key Issue #2: Urgent need to position and prepare for the burgeoning slavery and trafficking-related surge from Burma .

- Burma is a source country for men, women, and children who are subjected to forced labour and for women and children subjected to sex trafficking in other countries. The US Department of State have identified an urgent need for reconciliation and reintegration work in Burma. In the 2012 Trafficking in Persons report – *reference document (vii)* - the state outlined the following key indicators for immediate action:
 - *Poor economic conditions*

Poor economic conditions and internal conflict have displaced increased numbers of Burma's citizens throughout East Asia, leaving them highly vulnerable to forced labour and sex trafficking.
 - *Corruption/child conscription*

Corruption and lack of accountability remain pervasive. Military personnel engage in the unlawful conscription of child soldiers and they continue to be the leading perpetrators of forced labour inside the country, particularly in conflict-prone ethnic areas.
 - *Prevalence*

The ILO continues to receive and investigate forced labor complaints; 324 were received in 2011, of which 236 involved alleged conscription of children for military service.
 - *Lack of recovery services/ social workers*

There is only a very small number of social workers in Ministry of Social Welfare, and thus, a great need for capacity development. While in government facilities, victims receive very limited access to psychosocial counselors. There remain no shelter facilities available to male victims of trafficking. Additionally, though victims have the right to file civil suits against their traffickers, the government does not provide financial support or access to legal assistance as incentives to participate in the prosecution of their traffickers.
- Hagar empowers highly stigmatised and exploited people to participate in economic, social and cultural life. This is demonstrated through our work in post-conflict countries undergoing rapid transitions. Similarly, Burma presents an opportunity for Hagar to respond in a time of high significance to ensure that those most at risk of further abuse and discrimination are given the opportunity to benefit from the positive changes taking place.
- It is also hoped that Hagar's timely arrival might contribute to efforts to mitigate the negative impacts of economic development aimed at solely benefiting the most wealthy and elite. Hagar's approach to systems strengthening aims to promote the inclusion of the voices of the excluded and stigmatised in matters of public policy, community decision making and matters of justice.

Recommendation #4: That the Australian Government recognises Burma as an emerging critical area affected by trafficking, and where trafficking is set to escalate rapidly in the very near future.

- Hagar seeks to partner with the Australian Government to prevent and arrest the surge from and through Burma, that without early intervention, is inevitable.
- Hagar currently provides holistic long-term care to victims of slavery and people trafficking in Cambodia, Vietnam and Afghanistan. The organisation operates via multiple social enterprise and business partnerships and on a case management basis to restore abused, exploited and abandoned women and children through quality holistic healing, community reintegration and social entrepreneurship.
- Hagar's multiple employer partnerships and strong Career Pathways Program are critical aspects of enabling clients and employers to support effective reintegration through sustainable marketplace employment. This is a distinguishing, and probably unique, aspect of Hagar's work.
- By working especially with women and children, Hagar provides immediate practical alignment with the Australian Government's priorities for female rights and empowerment in the Asia-Pacific region.
- Hagar is seeking support specifically for holistic recovery responses targeted at especially vulnerable groups including: former child soldiers; children working in hazardous conditions; internally-displaced people; spontaneous returnees; stigmatised ethnic-minority groups such as the Rohingya people; and, survivors of gender based violence.
- Hagar has the knowledge and experience to facilitate a smooth entry for our organization into Burma to provide desperately needed support services to victims.
- *See reference document (viii) for details of the full briefing note prepared by Hagar Australia.*

I hope to expand on this submission through the provision of oral evidence to the Committee.

Yours sincerely

Kate Kennedy

CEO Hagar Australia

Kate.kennedy@hagar.org.au

M: +61 419 103 006

CASE STUDY FROM CAMBODIA – 27TH September 2012

Phalla (not her real name) is 12 years old. She was only 9 when her poverty-stricken grandmother was offered money by a wealthy couple to employ Phalla as a domestic worker in the home. She was promised education and a future of opportunity. Instead, Phalla was treated like a slave, beaten and tortured every day, and denied food or nutrition. She never went to school or played with other children. Phalla was made to sleep outside like a dog. One day, a neighbor heard her cries and called the police to rescue her.

Since then, Phalla has bravely testified in court against her perpetrators. As a consequence, both were granted deserving prison sentences. Phalla was very happy to see a successful prosecution and this helped aid the healing process. Hagar found a foster family for her and she started attending school.

As the appeal date drew closer, the relatives of Phalla's perpetrators came to visit her home. They intimidated the foster family and soon after they came to Phalla's school and physically assaulted and threatened her. She was immediately moved to a safe house and was unable to attend school until after the appeal process was over.

She was terrified that the 'relatives' would hurt her again and yet she bravely stood in court yet again during the appeal proceedings. It was a very difficult day for Phalla. She was asked how she could make such accusations about her 'adoptive' parents when they treated her like their very own child and provided for her. Phalla felt very discouraged and angry that they would doubt her story. Her confidence and belief in herself wavered.

Both sentences were reduced for Phalla's perpetrators. Although Phalla had the right to appeal this decision, the risk of revenge and retaliation were too high. Her safety was paramount and the highest priority.

Today, Phalla still feels desperately afraid that the 'relatives' will come and hurt her again. Her rights have been violated in so many ways. Like every child, she has the right to safety, family, education. She has the right to develop healthily and be protected from hazardous, dangerous work. Above all, Phalla has the right to be protected from being hurt and mistreated, physically or mentally. Phalla is already so vulnerable and was made even more vulnerable through the criminal justice process. Justice for Phalla needs to be about far more than a successful prosecution. Family belonging, trauma recovery, and access to education all need to form part of Phalla's future of recovery and her justice story.

(i) Australian Senate Hansard: Senator Eggleston, Post Hagar Visit

Relevance: USAID and the US Department of Justice have recognized the need to increase the focus of trafficking aid to the support for survivors. A recent visit to Hagar by key members of the Australian government helped to acknowledge the importance of recovery work with survivors of trafficking and to increase the perception of support services within the Australian government.

Description: Positive comments from key members of the Australian government after a brief visit to the Hagar shelters in Cambodia. Notable members include MP Michael Symon, Senator Alan Eggleston and First Counsellor for AusAID in Cambodia, Megan Anderson.

‘I was in Cambodia a couple of weeks ago and saw a couple of AusAID supported programs. One of them was a prosthesis-making place, which was very impressive because they were training people from Afghanistan to Papua New Guinea in making prostheses. The other one was a Hagar program for children who had been sexually abused. They are very good programs, I must say. You are certainly an organisation that does a lot of good in the world.’ Senator Alan Eggleston

Reference: Alan Eggleston, Australia, Senate, Hansard, 20 Oct ,2011, p140

(ii) Summary of the Proposed Study: The Experiences of Child Victims & Child Witnesses in the Cambodian Justice System - UNICEF and Hagar Cambodia

Relevance: Key findings will identify examples that outline the need to build child protection capacity in the Cambodian legal justice system. Once produced, this report will provide recommendations for a more ‘child friendly’ legal justice system and will contribute to the development of criminal court procedures for children that better reflect the UN-Convention on the Rights of the Child (UN-CRC).

Description: The document outlines a proposed qualitative study to be conducted by Hagar, with the support of UNICEF, that will investigate the experiences of children who have gone through the Cambodian criminal justice system. The study background, objectives, team, design, timeframe are presented in detail, as well as the proposed study output.

Contact: Teresa Lee – Programming Coordinator – teresa.lee@hagarinternational.org

(iii) Asia Regional Trafficking in Persons (ARTIP) Project: Independent Completion Report - Peter Bazeley and Mike Dottridge

Relevance: The aim of the ARTIP project was to support the criminal justice systems of participating governments in the Asia region in their responses to people trafficking. Though the document mentions ‘improved treatment of victims’ as an indicator for success, there is no further mention of resource allocation to this accord.

Description: The document provides a summary of the services provided by ARTIP over the 5-year period. A thorough evaluation of all project elements is included, as well as recommendations and supporting material.

Reference: <http://www.usaid.gov.au/Publications/Pages/artip-project-icr.aspx>

(iv) Concept Papers 2012 – Hagar Cambodia

The ensuing concept papers provide a framework for services offered to victims of slavery and people trafficking to aid their recovery and reintegration.

1. Legal and Protection Unit

Relevance: Hagar’s legal and protection unit has been established as a result of specialist research over time to best address the needs of victims in Cambodia. The concept note provides examples of initiatives to strengthen child-centred justice and protection processes and interventions and victim-sensitive service delivery in order to support the dignity, safety and rights of children who have been victims of abuse and/or trafficking

Description: The document provides a contextual overview of the situation of many of Hagar’s clients, and then continues with a description of the Legal and Protection Unit (LPU), in relation to addressing these needs. The LPU’s goals are outlined, and then followed with specific deliverables and indicators.

Contact: Priscilla Chan – Technical Advisor, LPU: priscilla.Chan@hagarinternational.org

2. Career Pathways

Relevance: The costs of coercion and exploitation cannot be measured but represent a loss in productive capacity of a generation of individuals. Hagar’s Career Pathways program was established to educate and train survivors of trafficking in the most effective way to facilitate their reintegration and thus allow for their positive economic contribution.

Description: The career pathways concept document describes the background of many of Hagar's clients, providing a context for their current situation. It then continues to propose possible outcomes and implementation recommendations.

Contact: Teresa Lee – Programming Coordinator – teresa.lee@hagarinternational.org

3. Counselling

Relevance: Trafficked persons have their development as a person irreparably damaged, and often suffer multiple trauma's and psychological problems. Hagar's psychological care services has been developed in partnership with the Applied Mental Health Research (AMHR) group from Johns Hopkins University and caters to the specific needs of survivors.

Description: The counselling concept document presents a background to the situation of people in Cambodia, and then describes the range of psychosocial services available to survivors in Hagar's care.

Contact: Sue Taylor – Psychosocial Advisor – sue.taylor@hagarinternational.org

(v) Australian Government Anti-People Trafficking Strategy Whole-of-Government Performance Management Reporting

Relevance: Australia has well-established systems for dealing with survivors of people trafficking in-country. However, there remains a clear lack of government support for offshore survivors, including a lack of support for organisations with the capacity to restore and reintegrate these survivors to society.

Description: The document outlines Australia's stance on trafficking and its response to it so far – and includes a description of relevant investigations and prosecutions, as well as the support services offered to victims over the reporting period. Additionally, the document defines the people trafficking visa framework, and includes the number of applicants.

Reference:

<http://www.ag.gov.au/Peoplettrafficking/Documents/AusGovAntiPeopleTraffickingStrategy-1Janto30Jun12.PDF>

(vi) Unshackling Laws against Slavery: Legal Options for Addressing Goods Produced with Trafficked and Slave Labour – Stop the Traffik Australia

Relevance: The argument presented is that law enforcement in source countries is inadequate in combating slavery and human trafficking, and that support from the demand side (Australia) would assist in eradicating these abuses. Following this, recommendations are then presented to the Australian government that propose to increase the accountability of its international supply chains.

Description: This document presents an in-depth review of the current situation in regards to the import of goods that involved the use of forced labour and exploited child labour. In doing so, the document describes endorses the US government Contractual certification and outlines the various options available to the Australian government.

Reference: <http://www.stopthetraffik.org/australia/resources> > Unshackling Laws Against Slavery (3.9MB)

(vii) Trafficking in Persons 2012 – US Department of State

Relevance: The report exemplifies the US Department of State's interest in the causes and consequences of trafficking, and ultimately provides an overview of the global situation. The in-depth and extensively researched introduction and subsequent country narratives act to demonstrate the USA's presence in the sphere.

Description: The report provides thorough insight into the state of trafficking in each country, including the severity, prosecution, protection, prevention and recommendations. Pages 102-105 highlight the situation in Burma as at June 2012.

Reference: <http://www.state.gov/j/tip/rls/tiprpt/2012/> > Country Narratives A-C

(viii) Government Briefing Note: Slavery and human trafficking – Regional impact and Australia’s policy – Hagar Australia

Relevance: Myanmar (Burma) is at a critical point where early intervention will prevent an almost imminent expansion of slavery and trafficking. With well established systems and support services, Hagar is well positioned to expand its operations to this region and presented this case to the Australian Government in mid September 2012.

Description: The document provides a succinct list of requests to the government in relation to Hagar’s positioning to expand service provision to Burma. Additionally, the document gives an overview of the situation in Burma, as well as some policy issues where Hagar’s work intersects an benefit’s Australia’s aid objectives.

Contact: Kate Kennedy – CEO Hagar Australia – kate.kennedy@hagar.org.au