

Australia: a case-study analysis and model for achieving reform through practical engagement with the legislature, judiciary and the executive



PUONGTONG SIMAPLEE

Puontong Simaplee

- Sold by her parents.
- In 1988 she was trafficked to Australia from a Thai or Malaysian brothel
- Discovered by Immigration Officials during raid on a Surry Hills brothel in 2001
- Detained in Villawood as an illegal non citizen on the 23rd of September 2001



The Constitution

Legislative Power

Executive Power

Judicial Power

Governor-General

High Court

The Ministry

House of Representatives

Senate

Other Federal Courts

Government Departments

Legal Response to Trafficking in Australia

- 2003 \$ 20 million Anti-Trafficking package
- 2004 *Australian Government Action Plan to Eradicate Trafficking in Persons*
- 2004 Parliamentary Committee on the Australian Crime Commission *Inquiry into the Trafficking of Women for Sexual Servitude*
- Criminal Code Amendment (Trafficking in Persons Offences) Act 2005

The executive

Government departments

Prosecution

Police

Victim support



Human rights

HREOC

Australian Crime Comm

state/federal coordination

NGOs

Judiciary

Educate judges and those holding judicial or quasi-judicial power.

Trafficking Visas

- New visa framework introduced in January 2004.
 1. Bridging Visa F (BVF) Criminal justice stay visa
 2. Criminal Justice Stay Visa
 3. Witness protection (trafficking) (temporary)
 4. Witness protection (trafficking) (permanent)

Anti-Slavery Project

- Mission: a national initiative to eradicate enslavement and trafficking in persons
- Dedicated exclusively to services and advocacy for trafficked and enslaved persons in Australia
- Utilise collaborative approach with government agencies and community organizations to respond to cases of trafficking

ASP's Programs

- Comprehensive and culturally appropriate case management for survivors of trafficking and slavery
- Legal assistance including immigration assistance, and advice about civil remedies
- Law reform and policy advocacy
- Training and advice for government and non-government agencies
- Public education, outreach and community networking

CHALLENGES TO GAINING COOPERATION FROM VICTIMS



- Safety concerns for self, family, those still enslaved
- Lack of language skills
- Distrust of law enforcement
- Fear of arrest/deportation
- Lack of knowledge about legal systems
- Medical conditions
- Mental health conditions
- Debts owed to traffickers
- Cultural/religious beliefs
- Legal representation retained by traffickers

CHALLENGES OF SERVING VICTIMS



Photo by J. Maillard, International Labour Organization

- Need for training/awareness
- Lack of resources
- Special needs population
- Diverse cultures/languages
- Multiple victims
- Complex legal needs
- Lack of partnership with government agencies
- New laws still being implemented
- Long term clients/cases
- Safety risks
- Staff secondary trauma

What Range Of Services Will Need To Be Provided?

- Trafficked and enslaved persons have suffered from serious physical, psychological and possibly sexual abuse.
- An extensive network of culturally and linguistically appropriate service providers is required to meet their urgent and acute needs.
- Interpretation
- Housing, food & clothing
- Medical care (emerg. & long term) & health education
- Mental health care
- Legal & immigration services
- ESL training
- Independent living skills
- Safety planning
- Job placement & employment education
- Human rights education

Closing Considerations

- A very new area of the law
- Human Rights Approach:
 - Focuses on situation, needs and rights of trafficked and enslaved persons
 - Respects individual autonomy and rights
 - Is empowering and non-judgmental
 - Connects rights of the individual to prosecution of traffickers and slaveholders
- We need to work together to effectively combat this human rights abuse

Recommendation

Aim: To foster greater coordination, communication, collaboration and consultation between government, human rights bodies, Australian Federal Police, state police, Director of Public Prosecutions and NGO.

Strategies: