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Australian Institute of Criminology

Trafficking in persons monitoring report: January 2009–June 2011

Jacqueline Joudo Larsen
Lauren Renshaw
Samantha Gray-Barry
Hannah Andrevski
Toby Corsbie

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Foreword

The Australian Institute of Criminology's Trafficking in Persons Research Program was established in 2007. One of its key activities is a monitoring program to assess the nature and extent of trafficking in Australia. I am pleased to introduce this second monitoring report, which summarises the information on known cases of trafficking in Australia from January 2009 until June 2011.

Most people identified by federal authorities as having been trafficked into Australia are girls and women trafficked for the purpose of sexual exploitation. This is reflected in the types of clients who access the Australian Government's Support for Trafficked People program between January 2004 and 30 June 2011. Of the 184 victims of trafficking who had received assistance, the vast majority (90%) were female. Another key finding was that most came from southeast Asia—over 40 percent from Thailand (n=78) and smaller numbers from Malaysia, South Korea, the Philippines and other Asian countries.

Trafficking is better understood in the broader social and economic context of the movement of people; it often begins with their desire to move to another location in search of an improved quality of life. The Australian Institute of Criminology has been investigating some of the factors that may increase the likelihood of people trafficking in the Asia-Pacific region, including international trends in the supply and demand for cheap labour, lack of employment and educational opportunities, gender attitudes, natural disasters, political instability, economic disparity between countries, international trends in the supply and demand for cheap labour and porous borders.

While people are generally familiar with the idea of women being trafficked for sexual purposes, the reality is that trafficking occurs in industries other than the sex industry. Men, women and children are known to be exploited in domestic service, hospitality, mining and construction—and for a wide range of purposes. The AIC is undertaking research to identify the extent of the exploitation and how various industries can be vulnerable to trafficking and exploitation.

Finally, few of the cases identified in Australia fit the stereotype of the forced movement and confinement of persons by traffickers. The actual situation is far more complex. Many of the persons trafficked into Australia have been recruited from countries with a poor socioeconomic environment and are attracted to Australia by perceived economic opportunities. It is often not until they arrive here that the situation becomes one of trafficking—that is, they are held in a situation of exploitation through debt bondage, intimidation, threats of violence, detention or withholding of travel documents, among other methods.

The AIC is currently undertaking research that continues to examine community attitudes and awareness of trafficking in Australia, the role of organised criminal networks in trafficking, and specific forms of labour trafficking. The AIC has also initiated a project to enhance the dataset that underpins the monitoring of human trafficking in Australia in order to go some way to improving what is known regarding this crime.

Adam Tomison
Director

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Acronyms

ACRATH	Australian Catholic Religious Against Trafficking in Humans
AFP	Australian Federal Police
AIC	Australian Institute of Criminology
AMLAT	ASEAN Treaty on Mutual Legal Assistance in Criminal Matters
ANAO	Australian National Audit Office
APTIDC	Anti–People Trafficking Interdepartmental Committee
ARTIP	Asia Regional Trafficking in Persons Project
ASEAN	Association of South-East Asian Nations
AusAID	Australian Agency for International Development
AWARE	Association of Women for Action and Research
CDPP	Commonwealth Director of Public Prosecutions
CoE	Council of Europe
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
COMPACT	European Action for Compensation for Trafficked Persons
CTM	IOM’s Counter Trafficking Module database
DATPA	Dialysis and Transplant Patients Association
DCIM	Data Collection and Information Management program of the ICMPD
DIAC	Department of Immigration and Citizenship
FMCA	Federal Magistrates Court of Australia
FWO	Fair Work Ombudsman
GAO	United States Government Accountability Office
GMS	Greater Mekong Subregion
HSU	Heads of Specialist Units
ICMPD	International Centre for Migration Policy Development
ILO	International Labour Organization
IOM	International Organization for Migration
MGEC	Mongolian Gender Equality Centre

NGO	non-government organisation
NHMRC	National Health and Medical Research Council
OSCE	Organization for Security and Cooperation in Europe
SAARC	South Asian Association for Regional Cooperation
SAP-FL	Special Action Programme to Combat Forced Labour
SAR	Special Administrative Region
SMOCT	Senior Migration Officer—Compliance (Trafficking)
TDHIF	Terre des Hommes International Federation
UN.ECOSOC	United Nations Economic and Social Council
UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
UNDESA	United Nations Department of Economic and Social Affairs
UNFPA	United Nations Population Fund
UNIAP	United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion
UNICEF	United Nations Children’s Fund
UNINSTRAW	United Nations International Research and Training Institute for the Advancement of Women
UNODC	United Nations Office on Drugs and Crime
UNTOCC	United Nations Transnational Organized Crime Convention
USAID	United States Agency for International Development
USD_oJ	US Department of Justice
WHO	World Health Organization

Executive summary

This second monitoring report provides Australian trafficking data for the period January 2009 to June 2011. It summarises the AIC's work examining community attitudes and awareness, environmental scans of neighbouring regions, the role of organised criminal networks, and labour trafficking. It also sets out areas of future research for the AIC.

Trafficking in persons in Australia

As is the case for most victims of crime, the exact number of trafficked persons is impossible to identify. However, data from Australian Government agencies that respond to people trafficking incidents give some indication of the extent and nature of trafficking into Australia.

The available aggregate statistics from government agencies indicate that between January 2004 and June 2011:

- 305 investigations and assessments of people trafficking-related offences were conducted by the Australian Federal Police's Transnational Sexual Exploitation and Trafficking Teams (TSETT);
- 184 victims of trafficking had been provided with assistance through the government-funded Office for Women's (OfW) Support for Trafficked People (STP) program; and
- 13 people were convicted for people trafficking-related offences (nine of the 13 defendants were convicted of slavery offences, three of sexual servitude and one of people trafficking).

Most investigations and assessments conducted by the AFP between 2004 and 2011 related to trafficking for sexual exploitation (APTIDC 2011). This is reflected in the profile of clients referred to the STP by the AFP, the majority being women trafficked for the purpose of sexual exploitation (81%; n=149). In contrast, the 19 male clients who

were provided with support through the program were all exploited in non-sex labour industries. Four young people, aged between 15–17 years at the time of the referral, were referred to the support program between January 2009 and June 2011 as suspected victims of people trafficking.

As in previous years, clients in the support program in 2010–11 mostly originated from southeast Asian countries. More than one in three people who received support during this time were from Thailand (n=32), a further 17 were from Malaysia and nine were from the Philippines.

Community awareness and attitudes survey

Examining Australians' awareness of trafficking and their perceptions of who the victims of trafficking are, is valuable for informing policy and practice in the area. The knowledge that members of the community possess is important for two reasons:

- Members of the community are more likely than the authorities to come into contact with trafficked persons and their knowledge may assist in identification and reporting.
- Such cases are likely to be tried before juries drawn from the wider community, and an understanding of the facts of people trafficking in Australia is important in reaching just trial outcomes.

Assessing community awareness of people trafficking, as well as attitudes to related issues, such as people smuggling, can also shape future awareness-raising activities and shed light on issues that may have a significant impact on trial outcomes. To that end, the AIC developed an online survey of respondents' understanding of trafficking and their attitude to a range of related issues, including people who are

unlawfully in Australia, labour exploitation, sex work and the notion of ‘deserving’ victims.

The survey was run nationally in mid-2009 and had 1,617 respondents. The majority (63%) of respondents were female, 46 percent were aged between 30 and 49, 76 percent were born in Australia (96% of respondents indicated they were Australian citizens), 75 percent were living in the eastern states of Australia and 50 percent were in full-time employment.

Results from the survey revealed respondents to be confused about the distinction between people trafficking and people smuggling. This is likely to have influenced other findings, including the assumptions that international organised crime networks are primarily responsible for people trafficking, that over 1,000 people are trafficked into Australia each year and that most trafficked persons come from Afghanistan.

Many beliefs about the nature and extent of people trafficking were based on misconceptions commonly found in popular media and were conflated with the issue of people smuggling. This highlights the need for further work in raising awareness and providing factual information to the community. Yet, survey participants were, by and large, reasonably well informed about trafficking and held quite humane attitudes. There was strong support for the notion that the human rights of trafficked persons are paramount and that trafficked persons require support regardless of how they arrive in Australia.

Regional trends and issues

Australia is a destination country for victims of trafficking, who come here mainly from Asia. A number of countries in this region have been rated ‘high’ or ‘very high’ as both source and destination countries, reflecting wide-scale intraregional trafficking (UNODC 2006).

In 2008, the second year of the AIC’s research program, there was a focus on key trends and issues in people trafficking in the south and east Asia regions. This included a scoping of migration trends in the region and a focus on the nature and manifestation of transnational organised crime and related areas, such as the use of international marriage as a tool for trafficking women. The results revealed distinct patterns in the trafficking process:

- *Trafficking movement patterns*—In both south and east Asia, trafficking generally flows from less developed to developing countries and onwards to the most developed areas in the region. India operates as a hub in the south Asia region due to its geographic location, large sex industry and high level of corruption.
- *Offenders and facilitators*—Making the transition from trafficked person to trafficker is known to occur in the Asia region as in other regions. One study of trafficked Nepalese girls in India found several instances in which trafficked Nepalese women whose period of slavery or debt bondage had ended were able to purchase their own *tsukris* (a person in slavery or debt bondage) and operate brothels (TDMIF 2005). Corruption is known to play a role in trafficking in several regions, and this is the case within south Asia, where police and politicians are referred to often work for traffickers.
- *Nature of offending*—Language and cultural similarities among neighbouring areas, specifically Bangladesh and India, affect the control mechanisms exhibited by traffickers in the south Asia region. Because of their familiarity with the language Bangladeshi women trafficked into India are often controlled through physical confinement, social stigma and debt bondage, as opposed to cultural and linguistic isolation which is common among other regions. In east Asia it is evident that traffickers use isolation resulting from language barriers, fear of prosecution, concern about immigration status and deportation, and threats against family members in the source country as a means to control their victims. It seems that the use of these methods is multiregional. Further, in east Asia there appears to be a link between the ethnicity of the trafficker and the victim. For example, North Korean refugees in China are exploited by ethnic Koreans with Chinese citizenship.
- *Response to trafficking*—Government responses in countries within south Asia concentrate on the trafficking of women and children for sexual exploitation to the exclusion of trafficking of men or trafficking for forced labour, resulting in a gender bias whereby men are invariably viewed as ‘migrants’ and women in the sex industry as ‘trafficking victims’. This is also the focus in east Asia, even though there appears to be a greater degree of trafficking for forced labour in this region.

Future research directions

The AIC will conclude its initial, four-year Trafficking in Persons Research Program in early 2012 and is currently developing a new four year workplan. Key areas of work being undertaken or considered for investigation include:

- developing a conceptual framework that will guide the creation of a national minimum dataset on trafficking in persons, providing better data for future monitoring reports
- examining trafficking for the purpose of exploitation in non–sex industries— including marriage arrangements and construction work— and the potential for domestic trafficking within Australia; and
- examining understandings of trafficking scenarios, trafficked persons, offenders, and offending patterns and trafficking in the Pacific.



Introduction

In 2007, the Australian Institute of Criminology (AIC) was granted funding from the Australian Government to establish a program of research on trafficking in persons. The program was developed to contribute to the Australian and international response to people trafficking and has focused on enhancing the existing knowledge base by:

- identifying gaps in knowledge;
- collaborating with other researchers working in the area;
- conducting targeted research; and
- disseminating findings to key stakeholders and the wider community.

As a destination for persons trafficked out of the Asia–Pacific region, Australia will feel the impact of neighbouring countries’ responses to people trafficking. The research program therefore has a strong regional focus and is designed to take into account informal consultations with stakeholders in the region as well as at home.

Monitoring of trafficking in persons

It is not possible to accurately quantify or assess the scale of people trafficking, because of its fluid and covert nature. This is further complicated by regional

variations in conceptual and operational definitions, methodologies and criminal justice responses. It is also unclear what level of people trafficking is being detected by authorities and whether these cases represent the extent of the problem (UNODC 2009b).

A key objective of the AIC’s research program was to establish a regular monitoring program on trafficking in persons relevant to Australia and the Asia–Pacific region. The first report of the monitoring program, covering the period July 2007 to December 2008, was published in 2009 (Joudo Larsen et al. 2009).

The AIC has gathered information and data for analysis from Australian and regional sources to support more accurate and efficient monitoring and to contribute to future research. Due to the under-reporting of incidents of people trafficking globally, the AIC has established new information and data exchange arrangements both within Australia and, importantly, with near neighbours in the Pacific and southeast Asia. These include data-sharing arrangements with key government agencies and non-government organisations, the administration of surveys of migrant sex workers and the community, and access to datasets held by regional offices of the International Organization for Migration in Indonesia (IOM; see Box 1 for further information about the AIC–IOM collaboration). The AIC has also engaged in and convened forums held both nationally and regionally.

Box 1 IOM data analysis

The International Organization for Migration (IOM) is an intergovernmental organisation committed to the principle that humane and orderly migration benefits migrants and society. IOM has been active in countering people trafficking since 1997 by directly assisting trafficked persons and collecting data for research and analysis. To date, IOM has assisted approximately 15,000 trafficked persons from over 80 different nations trafficked to more than 90 countries.

In 1999, IOM developed and implemented the Counter-Trafficking Module (CTM), which is the largest global database containing primary data on victims of trafficking. The CTM facilitates the management of IOM's return, recovery and reintegration program and maps victims' trafficking experience. Thus it strengthens the IOM's research capacity and its understanding of the causes, processes, trends and consequences of trafficking (<http://www.iom.int/jahia/Jahia/counter-trafficking>).

The AIC is collaborating with IOM to analyse the CTM Indonesia database. The database holds qualitative and quantitative information on approximately 3,700 Indonesian victims of trafficking identified between January 2005 and January 2010. It contains a wealth of information regarding the characteristics and histories of trafficked persons, the nature of the trafficking process (including recruitment and transportation methods), patterns of exploitation and abuse, instances of re-trafficking and the nature of assistance provided by IOM Indonesia. IOM Indonesia and AIC will carry out joint research and analysis to identify victims, risk and protective factors for trafficking or associated activity, with the aim of providing insight for more targeted government responses such as prosecuting cases and providing better victim support.

Report structure

This report is divided into five main sections:

- *Background and context*—an overview of the trafficking in persons literature between January 2009 and June 2011;
- *Trafficking in persons in Australia*—what is known about trafficking in Australia to date, changes in the Australian response during the reporting period and Australian Government data on identified trafficked persons;
- *Community attitudes and awareness survey*—the findings of AIC research on community awareness of, and attitudes towards, trafficking in persons and related matters;
- *Trends and issues in east and south Asia*—the regional situation for countries within south and east Asia;
- *Future research directions*—areas being considered for future investigation.

Terminology

Trafficking in persons

As defined in Article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (UN 2000a), trafficking in persons has three elements:

- There must be an action by a trafficker in the form of recruitment, transportation, transfer, harbouring or receipt of persons.
- The action must be undertaken by one of the following means: force or threat of force or other forms of coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, or giving or receiving payments to achieve the consent of a person having control over another person.
- The action must be undertaken for the purpose of 'exploitation', a concept which includes 'at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs' (UN 2000a: Article 3).

Where the trafficking involves children (persons under 18 years), only two elements are required to fit the description: the action and the purpose of exploitation.

Migrant (people) smuggling

Migrant smuggling is defined in Article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Migrant Smuggling Protocol) as:

... the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (UN 2000b: 2).

Debt bondage

Debt bondage is defined in Article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (UN Supplementary Slavery Convention) as:

... the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined (UN 1957).

Domestic servitude

The Organization for Security and Cooperation in Europe (OSCE) describes domestic servitude as a situation where an individual is 'recruited and exploited in the performance of domestic tasks and services, mostly within a private household under physical or psychological threat or coercion' and is at the 'continuous disposal of the householder'. Thus, someone experiencing domestic servitude tends to suffer from restricted or no freedom of movement, no days off and no private life. Further, they may experience low or no salary and psychological, physical or sexual abuse (OSCE 2010: 10–11).

Forced or servile marriage

David (2010: 8) draws on the UN Supplementary Slavery Convention to describe servile forms of marriage as including:

... institutions or practices whereby a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or a woman on the death of her husband is liable to be inherited by another person.

The terms 'people trafficking' and 'trafficking in persons' are used interchangeably throughout this report and in all ways refer to the same issue.

The abbreviated title Trafficking Protocol is used throughout the report to refer to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Background and context



The research literature relating to a current monitoring period—in this case January 2009 to June 2011—is examined by the AIC to monitor the trends and issues in people trafficking. Summarising the cumulative knowledge about trafficking in persons allows gaps to be identified and research priorities to be established and facilitates awareness of emerging trends. Among the issues raised in the literature over the current monitoring period are:

- the continued shift in focus from sex trafficking to labour trafficking and, consequently, the increasing recognition of men as victims of people trafficking, particularly for forced labour;
- the role played by females in offending;
- the global financial crisis (GFC) and recent conflicts and natural disasters of the past few years, which have highlighted the vulnerability to people trafficking of the victims of these circumstances; and
- a greater focus on regional responses to trafficking in persons as an effective anti-trafficking measure supplementing national and international instruments. This has resulted from the predominance of intraregional trafficking flows (UNODC 2009b) and the recognition that trafficking in persons can be a transnational crime that manifests itself in different ways in different contexts.

From sex trafficking to labour trafficking

Although trafficking women for sexual exploitation remains the most commonly detected form of trafficking in persons, there is increased policy and research interest in trafficking for purposes other than sexual exploitation (see Boxes 2 and 3 for summaries of AIC work on trafficking for both sexual and labour exploitation). This shift in focus, evident in Australia and other countries, reflects a practical need to respond to the trafficking of men, women and children across a range of industries.

Sex trafficking has attracted the greatest attention because of moral debates around sex work, its visibility and the legislative focus on it. The criminalisation of trafficking for forced labour is a recent development that is often addressed through labour-related legislation rather than specific trafficking laws and is less likely to be detected and correctly identified. The UNODC (2009b: 51) reported:

... most of the victims of forced labour often work in hidden locations, such as agricultural fields in rural areas, mining camps and garment factories or within the closed environment of a house in the case of domestic servitude. As a consequence, the detection of victims of trafficking for forced labour is less probable than the identification of victims of trafficking for forced prostitution.

Box 2 Sex worker migration and vulnerabilities to trafficking

To improve knowledge about vulnerabilities and protections relevant to trafficking in persons, AIC funded Scarlet Alliance, the peak body representing sex workers and sex worker organisations in Australia, to conduct a multilingual survey of both migrant and non-migrant sex workers in Sydney, Melbourne, Adelaide, Queensland (Brisbane and Townsville), Western Australia (Perth and Kalgoorlie) and the ACT. The survey is available in English, Thai, Korean and Chinese. The project will identify vulnerabilities to trafficking and explore the strategies used by sex workers to reduce the risks. The migration experience, access to justice and services, and the industrial conditions of migrant sex workers, as compared with non-migrant sex workers, will be examined. Data collected for this project is currently being analysed and is expected to be published in 2012.

AIC research with vulnerable groups such as sex workers will help develop better operational indicators of trafficking in persons, which are crucial to researchers and practitioners for identifying trafficking.

Due to the focus on sex trafficking in research and anti-trafficking responses, the trafficking of men for labour exploitation has largely been overlooked. However, there are indications in many countries and regions that males are also exploited in ways that constitute people trafficking (Surtees 2008). As interest in the problem of people trafficking has broadened, men are increasingly being recognised as victims, particularly for labour exploitation.

The role of gender

Crime is an activity dominated by males; men are disproportionately represented as both victims and offenders. Estimates suggest that males make up over 90 percent of prison populations worldwide and are particularly over-represented as the perpetrators of violent crime (UNODC 2009b).

While a large proportion of trafficking offenders are male, women play a prominent role in people trafficking when compared with the overall conviction rate of female offenders for other types of crime (UNODC 2009b). Female perpetrators in trafficking offences appear to be predominant in eastern Europe and central Asia and significant in east Asia and the Pacific, central America and the Caribbean (UNODC 2009b). In addition, the majority of countries in Western and central Europe report female offenders as comprising between 10 and 35 percent of the total number of persons convicted, investigated or prosecuted for trafficking (UNODC 2009b).

Moreover, research findings indicate that in some cases victims go on to become trafficking offenders. A study that examined the profiles of trafficking offenders found that many female traffickers who

sexually exploit women and children were once victims themselves (UN.GIFT 2008). Some of the reasons given for the shift from victim to offender are:

- fear of threatened or actual violence;
- the development of a relationship of dependency between victim and offender stemming from psychological responses in which victims identify with, and grow sympathetic to, the trafficker; and
- the notion that victims are 'promoted' to traffickers once they have paid off their debt.

In the latter instance, the transition from victim to trafficker can represent an improvement in circumstances. That is, in the absence of other livelihood options, the former victim can use the methods of exploitation previously used against them to improve their economic position and general wellbeing.

Natural disasters, wars and financial crises

In recent years, the world has experienced large-scale conflict, natural disasters, war and financial crises, the effects of which continue to reverberate. Events such as the 2004 Indian Ocean tsunami, the 2010 Haitian earthquake, the ongoing conflict in Afghanistan, and the global financial and economic crisis result in displaced persons and damaged communities, who become more vulnerable to trafficking. The ensuing chaos increases physical and economic insecurity and can exacerbate conditions that make people vulnerable to trafficking.

Large-scale tragedies not only aggravate risk factors but reduce the effectiveness of protective factors by

Box 3 Labour trafficking in the Australian context

While the body of literature on trafficking for the purpose of sexual exploitation has grown steadily, much less is known about trafficking where the exploitation occurs *outside* the sex industry. The AIC project *Labour Trafficking in the Australian Context: Understanding the State of Existing Knowledge and Identifying Future Research Priorities* (David 2010) examined what is known about labour trafficking in Australia based on incidences of reported crimes. As it also drew on information about unreported crime, it provided an assessment of the known or likely incidence of trafficking in persons in the agriculture, cleaning, hospitality, construction and manufacturing industries and in less formal sectors such as domestic work and home help.

The study found that the precise nature and extent of labour trafficking within Australia remains unknown but confirmed that there have been instances of unreported and perhaps unrecognised labour trafficking. This suggests under-reporting but also that 'frontline' agencies and services are unaware that certain exploitative practices are also criminal offences under Australian law. Cases of unreported labour trafficking appear to exist in an environment of broader unlawful conduct perpetrated against migrant workers in Australia.

The research highlighted the important role of intermediaries such as agents and recruiters, not only in the migration process but also once individuals are working in Australia, and the (real or perceived) capacity of employers to use the prospect of permanent residency as a method of control over employees. (This was used in a fraudulent way in several documented instances.)

disassembling communities' economic and social structures and the security against exploitation they provide. Children separated from their families due to war and natural disasters are particularly vulnerable in the absence of protective factors such as shelter, food and water afforded by parents and relatives. Unaccompanied children, especially orphans, are at increased risk of being abducted, enslaved, sold or trafficked.

The issue of child trafficking was highlighted in the media following the 2010 Haiti earthquake with reports that 'child-traffickers are likely to have used the confusion in the immediate aftermath of the earthquake to prey upon lost or separated children' (Nunan 2010). UNICEF reported that a number of children who had gone missing from hospitals in the devastated country may have been trafficked, and international aid organisations were swift to warn would-be 'rescuers' of Haitian children against adopting apparent orphans, for fear of encouraging child trafficking (Addley 2010).

The 'restavek' system is another problem that confronts anti-trafficking organisations in the wake of natural disasters, wars and financial crises. A restavek, a term which originated in Haiti, is a child who cannot be supported by his or her parents and has been sent to live with a more affluent relative or stranger who will provide the child with food, shelter and education in exchange for work. The restavek system is prone to exploitation and can lead to children being trafficked and kept as slaves (OHCHR 2010).

War often breeds gender-based violence. Armed conflicts can increase demand for sexual services, which especially endangers women and children. In some circumstances they are known to be trafficked by male combatants for use as sex slaves (USAID 2006). Wars may also put men and children (both boys and girls) at risk of being trafficked for forced conscription, with the latter at risk of becoming child soldiers. Children may also be forced to work as porters, cooks, guards, servants, messengers or spies. It is often the case that, in addition to experiencing the trauma of being forced to wound, maim or kill, both male and female child soldiers are physically and sexually abused. This places them at severe risk of physical and psychological trauma, sexually transmitted diseases, drug addiction, unwanted pregnancy, malnutrition, social ostracism and death. The perpetrators may be government forces, paramilitary organisations or rebel groups (US Department of State 2010).

Growing financial hardship resulting from economic and financial crises also creates vulnerabilities that could lead to people trafficking. In many countries, financial crisis and recession have led to increased unemployment, underemployment and economic instability. The resulting pressure on some sections of society is likely to cause more people to seek work abroad, which corresponds to an increased risk of being trafficked. Traffickers are likely to take advantage of increased vulnerabilities and exploit people's willingness to migrate and take risks to find work as they become more desperate (UNODC 2010a).

Further, the global financial crisis (GFC) as it was experienced in a number of countries may have escalated the demand for trafficked persons, especially to produce cheap goods and services through forced labour. It has been suggested that the GFC could push business underground to avoid taxes and unionised labour, and increase the use of child labour by companies experiencing financial strain (US Department of State 2009).

Natural disasters, war and financial crises disproportionately affect the most vulnerable sectors of society, notably migrants, job seekers, poor families and children, making them easy targets for exploitation and enslavement (US Department of State 2010).

Responses to trafficking in persons

International responses

The Trafficking Protocol was adopted by the General Assembly of the United Nations in 2000 and came into effect in December 2003. Since then, the number of countries with legislation to counter trafficking in persons has more than doubled.

At the time of the Trafficking Protocol's inception, only one-third of the countries covered by the UNODC *Global report on trafficking in persons* had legislation against people trafficking. At the end of 2008, 63 percent of them (98 countries) had passed legislation addressing the major forms of trafficking (sexual and labour exploitation); a further 17 percent (27) had passed laws that covered certain elements of the Trafficking Protocol. More than half had developed additional responses, such as special anti-trafficking police units and national action plans (UNODC 2009b). In 2009, 33 countries introduced new or amended legislation relating to trafficking in persons (US Department of State 2010). In addition to introducing specific anti-trafficking legislation, many countries criminalise trafficking activities through offences related to sexual exploitation, child protection, slavery, labour and immigration.

At 30 June 2010, 139 parties had ratified the Trafficking Protocol. In the current monitoring period 15 countries ratified the protocol, including Ireland,

China, Indonesia, Iraq, Malaysia, Timor-Leste and the United Arab Emirates (UN 2000a).

In 2009, UNODC developed the International Framework for Action to Implement the Trafficking in Persons Protocol 'to help Member States in need to develop effective and multidisciplinary anti-trafficking strategies and build dedicated and sustainable resources to implement such strategies' (UNODC 2009c: 4). The framework is based on the objectives of the Trafficking Protocol. It recommends operational measures that draw on other international instruments, political commitments, guidelines and good practices, and encourages conformity with international standards.

In 2009, the Model Law against Trafficking in Persons was developed by UNODC to promote and assist member states to become party to and implement the provisions contained in the Trafficking Protocol. The model law is intended to facilitate the review and amendment of existing state legislation and the adoption of new legislation. It contains all of the provisions that states are required, or recommended by the protocol, to introduce into their domestic legislation. It is also 'designed to be adaptable to the needs of each State, whatever its legal tradition and social, economic, cultural and geographical conditions' (UNODC 2009d: 1).

Regional responses

The current monitoring period has seen a greater focus on the importance of regional responses to trafficking in persons. This reflects the increased recognition that people trafficking is a crime that manifests itself in different ways in different contexts, and is often committed across borders and therefore requires cooperation and coordination between nations as well as between international and regional organisations (UNODC 2009b).

Cooperation is necessary among international organisations, individual nations, regions, NGOs and the private sector for prevention, protection, detection and prosecution efforts; the implementation of domestic legislation; law enforcement; investigation (such as cross-border investigations); raising awareness in civil society; and implementing international legal instruments. However, these measures need to be reinforced by countries

Box 4 Trends and issues in the Pacific region

The prevalence and nature of people trafficking in the Pacific region is particularly relevant to Australia's consideration of, and response to, this crime because of the region's geographic proximity to Australia. In September 2009 the AIC, together with Salvation Army New Zealand, Fiji and Tonga, and the Pacific Immigration Directors' Conference, hosted the Pacific Trafficking in Persons Forum in Wellington, at which there were consultations with relevant stakeholders. The forum highlighted several key themes for consideration. It also reviewed literature on vulnerabilities to people trafficking in the Pacific Islands and assessed potential links between temporary worker schemes and vulnerabilities to trafficking within the Pacific region. This research highlighted the following key themes:

- *Case studies, trends and patterns*—There have been some serious documented cases of people trafficking or situations reflecting elements of trafficking within the Pacific region. They often involve overseas facilitators who recruit local networks to move the people to the final destination. Victims' countries of origin vary, with individuals from India, Korea and China reportedly finding themselves in situations of severe labour and/or sexual exploitation after being deceptively recruited to travel to the Pacific region. There are also reports of female minors (reportedly local children and Korean girls) trafficked for sexual exploitation or marriage in the Solomon Islands and Papua New Guinea.
- *The Pacific as a destination or transit point*—Documented cases suggest that the Pacific is used as a destination and transit point (for example, into Australia, New Zealand and the US) for trafficked victims. The special visa arrangements that some Pacific nations have with other countries (US, Australia, New Zealand, France and India) may facilitate the use of the region as a convenient transit point for destination countries outside the region.
- *Response capacity*—Many Pacific Island nations, specifically small and/or isolated island countries, do not have access to the resources or infrastructure required for the effective implementation of anti-trafficking schemes and legislation. However, some nations (for example, Palau) have adopted legislative measures in compliance with international standards. Furthermore, model legislation to support Pacific Island nations in establishing domestic legislation is currently being developed. Where trafficking is not recognised as a crime, countries rely on existing criminal law provisions to prosecute trafficking-related situations (ie for kidnapping, kidnapping for slavery, prostitution, abduction, procurement, detention in a brothel etc).

Source: Ball, Beacroft & Lindley 2011; Lindley & Beacroft 2011

and regions on an operational level. Although international coordination—facilitated by international instruments, global information sharing and best practice in anti-trafficking mechanisms—is vital in addressing people trafficking, there is no single comprehensive approach that can be effectively used. What works for one country or region may not work for another.

To be successful, international responses need to complement and be adaptive to source countries' perspectives. Such an approach would provide a better setting for operational effectiveness, closer cooperation and greater adaptability to local problems than individual country responses that are guided solely by international mechanisms. Box 4 contains a summary of key issues emerging from the AIC's work on people trafficking in the Pacific region. Each of the issues highlighted presents challenges to responding to people trafficking within that region.

European initiatives

A number of European organisations, including the European Union (EU), the Council of Europe (CoE) and the Organization for Security and Cooperation in Europe (OSCE), are active in addressing the issue

of trafficking in persons. The EU expressed its commitment to combating trafficking through the establishment of the Experts Group on Trafficking in Human Beings in 2003.

The EU response is to develop anti-trafficking policies and legislation, provide financial and political support for anti-trafficking projects and provide guidelines and technical assistance at the national level. In 2009, the EU extended its commitment by adopting an action plan to strengthen the external dimension of action against trafficking in persons (see Ezeilo 2010).

The Council of Europe Convention on Action against Trafficking in Human Beings (CoE Convention; Ezeilo 2010), a comprehensive treaty focusing on the protection of victims of trafficking, came into force in 2008. In July 2010, the European Action for Compensation for Trafficked Persons (COMP.ACT) project and Pan-European Campaign on Compensation for Trafficked Persons was launched in Prague with the participation of the Executive Secretary of the CoE Convention. The COMP.ACT project and campaign will be undertaken by Anti-Slavery International and La Strada International, together with partners in 13 countries. This initiative,

based on Article 15 of the CoE Convention, is the first and only internationally binding provision recognising the right of victims of trafficking to be compensated for damage suffered, as well as the obligation for member states to guarantee this compensation within their national legislation (Council of Europe nd).

The OSCE formally recognised people trafficking as a major concern in 2000 and has continued to enhance efforts to combat trafficking in persons by initiating and participating in anti-trafficking activities. Major activities undertaken by the OSCE since 2009 include raising the public and political profile of efforts to combat trafficking in humans by participating in forums, conferences and media campaigns; supporting anti-trafficking missions and projects throughout the various subregions of Europe; assisting with the establishment of national anti-trafficking structures; and increasing the scale of efforts to tackle trafficking in human beings by coordinating and cooperating on an international, regional and national level (OSCE 2009).

Southeast Asian initiatives

Southeast Asia, particularly the Greater Mekong Subregion (GMS), is a popular source and destination area for trafficking in persons but is also considered to be a world leader in confronting the issue (UNICEF EAPRO 2009). Several initiatives to combat people trafficking, through a variety of measures, operate throughout the region. These are aimed at raising awareness and understanding of the issue, increasing protective factors, reducing risks and vulnerabilities, and demonstrating best practice in bilateral and multilateral cooperation. Notably, the Association of Southeast Asian Nations (ASEAN), the Asia Regional Trafficking in Persons Project (ARTIP), the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process), and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) are active in tackling people trafficking.

ARTIP, a regional initiative funded by the Australian Government through AusAID, commenced in 2006. ARTIP works in Cambodia, Indonesia, Lao PDR, Burma (Myanmar), the Philippines, Thailand and Vietnam to reinforce the criminal justice response to trafficking by:

- strengthening specialist and general law enforcement responses to trafficking;
- strengthening judicial and prosecutorial responses to trafficking; and
- strengthening the legal and policy framework (ARTIP 2011).

The Bali Process was launched in 2002 following the first Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime. The Bali Process is co-chaired by the governments of Indonesia and Australia and has the participation of more than 50 countries and numerous international organisations (<http://www.baliprocess.net>). It develops and implements practical anti-trafficking measures in the Asia-Pacific region by promoting interagency collaboration, developing model legislation on trafficking, training law enforcement officers in protecting and assisting victims and enhancing operational techniques to combat child sex tourism (Ezeilo 2010).

In 2004, the governments of Cambodia, China, Laos, Burma (Myanmar), Thailand and Vietnam initiated COMMIT in the GMS to encourage collaboration among countries and develop a comprehensive approach to people trafficking. Recent developments mean that each country in the GMS now has a specialised police investigative capacity to combat trafficking at the national level and, through collaboration with ASEAN and ARTIP, the GMS can supply operational law enforcement officers, specialist investigators and prosecutors with training materials to ensure common standards and approaches to people trafficking cases throughout southeast Asia (Smith 2010).

There have also been recent developments in formal cooperation within the region. The ASEAN Treaty on Mutual Legal Assistance in Criminal Matters (AMLAT), which has been ratified by several GMS countries, provides the basis for regional cooperation in collecting evidence for people trafficking cases in one country for use in another. Furthermore, the Heads of Specialist Units process, for which ARTIP provides technical support, allows for the exchange of intelligence on cases of people trafficking, via regular meetings of the heads of specialist anti-trafficking police units throughout ASEAN Countries (Smith 2010).

The vulnerability of children to trafficking and exploitation throughout southeast Asia is well documented, and regional governments and NGOs have been keen to address the issue through a number of programs. In 2009, UNICEF concluded its four-year Children in Need of Special Protection program, which aimed to protect children from trafficking and address the needs of children in armed conflict areas in the Philippines. The program worked with local government to strengthen the capacity of community caregivers to provide professional responses to child protection issues. World Vision has two programs that support the fight against child trafficking and exploitation:

- *Assistance, Support and Protection for Migrants and Trafficked Women and Children*—aims to reduce migrant vulnerability to trafficking in areas along the Thai–Burma border and increase protection and support services.

- *The Mekong Delta Regional Trafficking Strategy Phase 2 project*—focuses on child trafficking in the GMS by targeting source countries, strengthening community capacity to prevent trafficking, and increasing protection and support for trafficking victims.

The World Vision programs were due for completion in 2011 (AusAID 2009a). Both the UNICEF and World Vision programs were supported by AusAID, which contributes funding through its AusAID NGO Cooperation Program. In 2010, AusAID commenced a multi-year program to combat the commercial sexual exploitation of children in the Mekong Subregion. As child trafficking intersects with other forms of child exploitation, this program can contribute significantly to combating trafficking in children for sexual exploitation in the region.



Trafficking in persons in Australia

Australia has a dedicated anti-trafficking response, underpinned by specific and related trafficking in persons legislation that is implemented by a range of government agencies and supported by an active non-government organisation sector. As in other countries, it is difficult to estimate the nature and extent of people trafficking to Australia each year; however, data from government agencies and NGOs provide some insight into the types of cases coming to the attention of authorities and service agencies.

Data collated by NGOs suggest that the number of people who may have experienced situations of trafficking in Australia is higher than that being detected through the government response. Between January 2008 and June 2009, the Salvation Army's Samaritan Accommodation—a shelter for women who have experienced situations of people trafficking—provided services to 37 women, of whom 20 had contact with the AFP and/or the Department of Immigration and Citizenship and 11 participated in the Australian Government's Support for Trafficked People program (Stanger 2009). Overall, however, there is no consensus on the scale of the people trafficking problem in Australia. Although the identification of trafficked persons is an issue worth noting here, the reluctance of victims to report to police for a range of reasons has been acknowledged (Putt 2007) and thus issues of underreporting, a problem for many types of crime, is not unexpected.

Despite the paucity of evidence about the nature and extent of people trafficking, sexual exploitation has been the focal point of responses to trafficking in Australia because the majority of identified victims have been females exploited for sexual purposes (see McSherry & Kneebone 2008; Schloenhardt et al. 2009). This has meant that research and other data have tended to focus on women trafficked for sexual purposes, leading to the view that sex trafficking is the predominant form of trafficking in Australia. This feature is not exclusive to the Australian situation.

Although each case that has been prosecuted in Australia to date has been unique and has not fitted general stereotypes about trafficking, traffickers and trafficked persons (Schloenhardt et al. 2009), this narrow focus has meant that 'perceptions of what slavery and trafficking involve are not accurate ... and fail to take account of other sometimes less severe and more nuanced forms of slavery and trafficking in persons' (Cullen & McSherry 2009: 7).

Until recently, the issue of exploited migrant workers in non-sex sectors has been overlooked because of limited recognition that it could amount to trafficking in persons in circumstances established under Australian or international law. However, as more research is conducted into trafficking other than for sexual purposes, data are emerging to show

that people are trafficked to Australia for a range of exploitative purposes outside of the sex industry, including for forced labour and debt bondage, domestic servitude and forced or servile marriage.

The Australian Government response

Concern about trafficking in persons for purposes other than sexual exploitation has been elevated within Australia over the past two years (Segrave 2009). In recognition of international trends, the Australian Government engaged actively with labour unions, peak employer bodies and industry to make trafficking for labour exploitation a priority issue in 2010 (APTIDC 2009). Over time this will be supported by improvements in knowledge and information on the issue; funding to develop advocacy and awareness-raising materials; improved coordination and a better standard of support services available to victims; resources to assist judges, prosecutors and jurors involved in trafficking cases (APTIDC 2009); and training and protocols for the various agencies involved in monitoring and regulating workplace conditions in Australia (APTIDC 2010).

Although Australian law relating to trafficking in persons, as set out in section 271.2 of the Commonwealth Criminal Code, criminalises eight different scenarios, the emphasis on sexual exploitation may result in law enforcement bodies investigating the recruitment and provision of sexual services to the exclusion of other forms of trafficking (McSherry & Kneebone 2008).

Until recently, possible instances of trafficking in contexts other than the sex industry have generally been pursued under immigration and workplace legislation.

However, the most effective response to trafficking in persons within the criminal justice system considers the best interests of the victim—that is, a victim-centred criminal justice response would be most likely to achieve prosecutions, in addition to protecting and supporting the victim (UN.GIFT 2008). In the last monitoring period there was a shift towards this perspective, demonstrated by changes to Australian

Government policy, visa schemes and the victim support program, as well as the increasing importance placed on the role of NGOs in assisting victims.

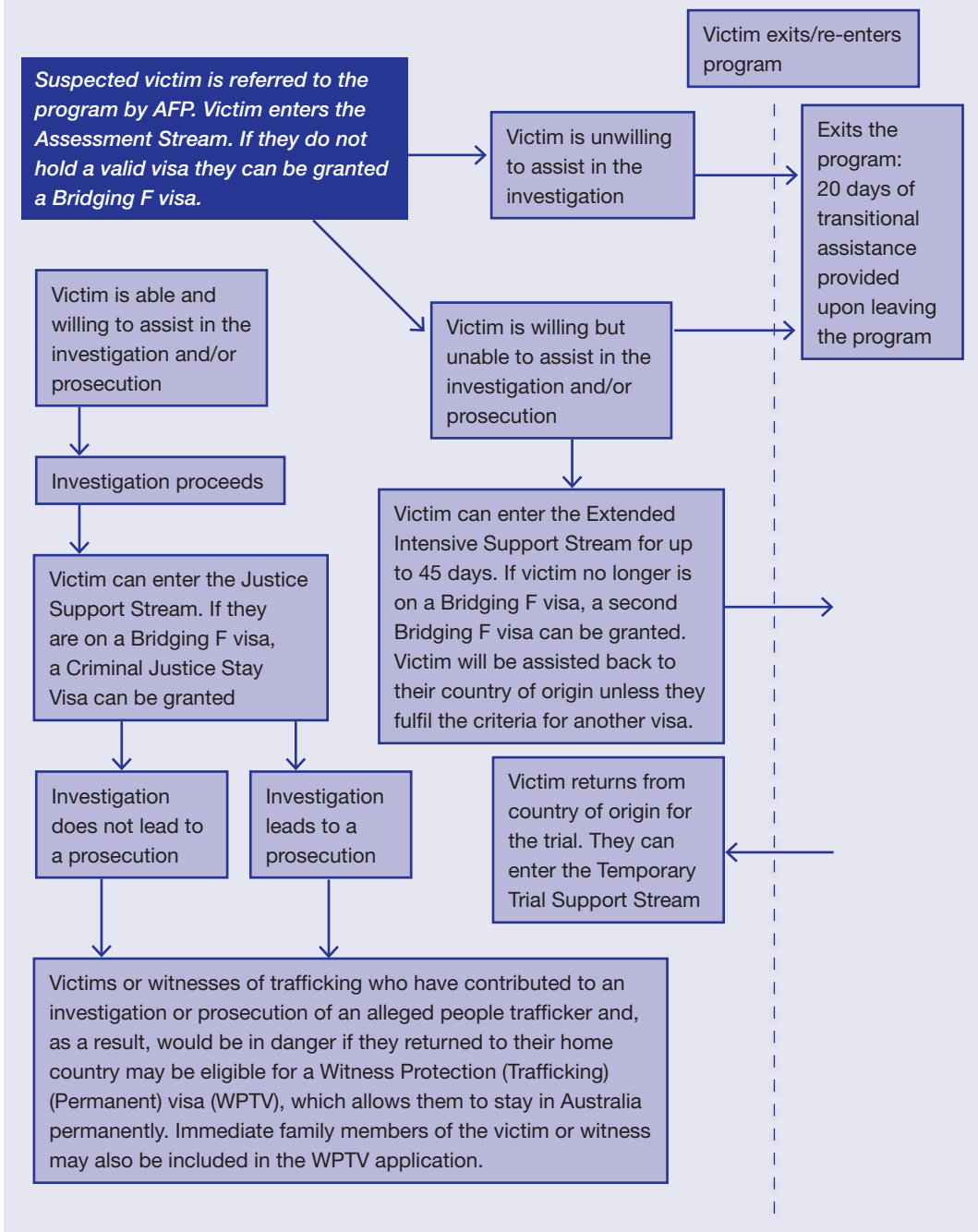
Changes to policy and programs

Under the original arrangements, the Support for Trafficked People program had three phases, and access was restricted to those holding a visa under the People Trafficking Visa Framework (visa framework). Changes to the operation of the program and to the visa framework, which came into effect on 1 July 2009 (see Figure 1), widened access to the program by ensuring that victims holding valid visas are not exempt from receiving support; by extending the recovery period so that victims have more time to assess their options (Attorney-General's Department 2009); and by granting support to victims of trafficking who are unable to assist authorities in the investigation and/or prosecution process for reasons such as trauma.

In being allowed access to the program regardless of the type of visa they hold, victims of trafficking are no longer disadvantaged by having to request cancellation of valid visas to ensure continued support. The initial stage of the program, the Assessment Stream, has been extended from 30 days to up to 45 days for all suspected victims who hold a valid visa. If the suspected victim is in Australia unlawfully, they can be granted a Bridging F visa for up to 45 days.

This stream, is now also available to victims irrespective of their willingness and ability to assist with the investigation and prosecution of a people trafficking offence. Before 1 July 2009, suspected victims who were not able to give this assistance and could not satisfy the criteria for a valid visa were helped to return to their home country. Since then, an additional support stream, the Extended Intensive Support Stream, has been introduced, allowing for 90 days in all of assistance (45 days under the Assessment Stream and 45 days under the Extended Intensive Support Stream) to be given to suspected victims who are willing but unable to assist with the investigation and prosecution of a people-trafficking offence. The extended period of support, which will be provided on a case-by-case basis, is designed to provide additional assistance to

Figure 1 Changes to the operation of the Support for Trafficked People program and visa framework



suspected victims suffering from medical conditions such as trauma. If the suspected victim does not hold a valid visa, a second Bridging F visa for up to 45 days may be granted.

Other changes are:

- a 20-day transition period for victims of trafficking leaving the program, an arrangement that formalises the provision of transitional assistance, which was previously on a more informal basis;
- removal of the Witness Protection (Trafficking) (Temporary) visa, which reduces the pathway to the Witness Protection (Trafficking) (Permanent) visa by at least two years and enables immediate family members, both inside and outside Australia, to be included in the application; and
- lowering of the threshold for receiving a Witness Protection (Trafficking) Certificate from having made a 'significant contribution' to making a 'contribution' to an investigation or prosecution.

Australian anti-trafficking NGOs

A number of non-government organisations in Australia play a key role in protecting and assisting victims of people trafficking. These organisations support, rehabilitate and provide a range of services to people who have been trafficked. They also contribute their knowledge and experience, act as advocates and raise awareness of the issue. They include, but are not limited to, the Red Cross, the Anti-Slavery Project, Samaritan Accommodation, Scarlet Alliance, Project Respect and Australian Catholic Religious against Trafficking in Humans (ACRATH).

Although only a small number of NGOs provide specialist support for victims of trafficking, they contribute fundamentally to Australia's response. The Australian Red Cross is currently contracted to administer the federally funded Support for Trafficked People program in partnership with the Office for Women. Other NGOs complement the support provided under the program and allow victims to seek alternative assistance if they choose not to participate in, or are ineligible for, or no longer receive support through, the program.

In 2008 the then Minister for Home Affairs, the Hon. Bob Debus MP, convened the first National Roundtable on People Trafficking to strengthen Australia's response through a partnership between the Australian Government and NGOs. In June 2009 his successor, the Hon. Brendan O'Connor MP, convened the second meeting of the roundtable. The roundtable is an ongoing mechanism for consultation and the development of policy on trafficking issues. It also aims to foster collaboration, information-sharing and open discussion between government and non-government agencies on current and emerging issues.

Government data on people trafficking in Australia

As is the case for most crimes, the exact figure for trafficking of persons into Australia is impossible to identify; however, data from government agencies involved in responding to trafficking in persons indicate its extent and nature.

Table 1 Trafficking visas granted 2003–04 to 2010–11 (n)

Visa type	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11
Bridging F visas	11	31	11	16	34	39	33	24
Criminal Justice Stay visas	5	23	8	18	18	30	23	29
Witness Protection (Temp.) visas	0	0	0	4	13	0	N.A	N.A.
Witness Protection (Perm.) visas	0	0	0	0	0	5	21	42

Note: The number of visas cited includes those granted to both suspected victims of trafficking and their immediate family members. For the Bridging F and Criminal Justice Stay visas only, the number granted reflects the ability to grant such visas more than once to the same person. The Witness Protection (Trafficking) (Temporary) visa was removed in 30 June 2009.

Source: Department of Immigration and Citizenship

Trafficking visas granted

Between 1 January 2004 and 30 June 2009, DIAC granted 142 Bridging F (subclass 60) visas, 102 Criminal Justice Stay visas (Part 2, Division 4 of the *Migration Act 1958* (Cth)), 17 Witness Protection (Trafficking) (Temporary) (subclass 787) visas, and five Witness Protection (Trafficking) (Permanent) (subclass 852) visas to suspected victims of trafficking. Three of the Witness Protection (Trafficking) (Permanent) visas were granted to immediate family members of the suspected victims.

Between 1 July 2009 and 30 June 2011, 57 Bridging F visas and 52 Criminal Justice Stay visas were granted to suspected victims of trafficking and their immediate family members, while 43 victims and 20 of their immediate family members were granted Witness Protection (Trafficking) (Permanent) visas.

The increase in the number of Witness Protection (Trafficking) (Permanent) visas granted in the most

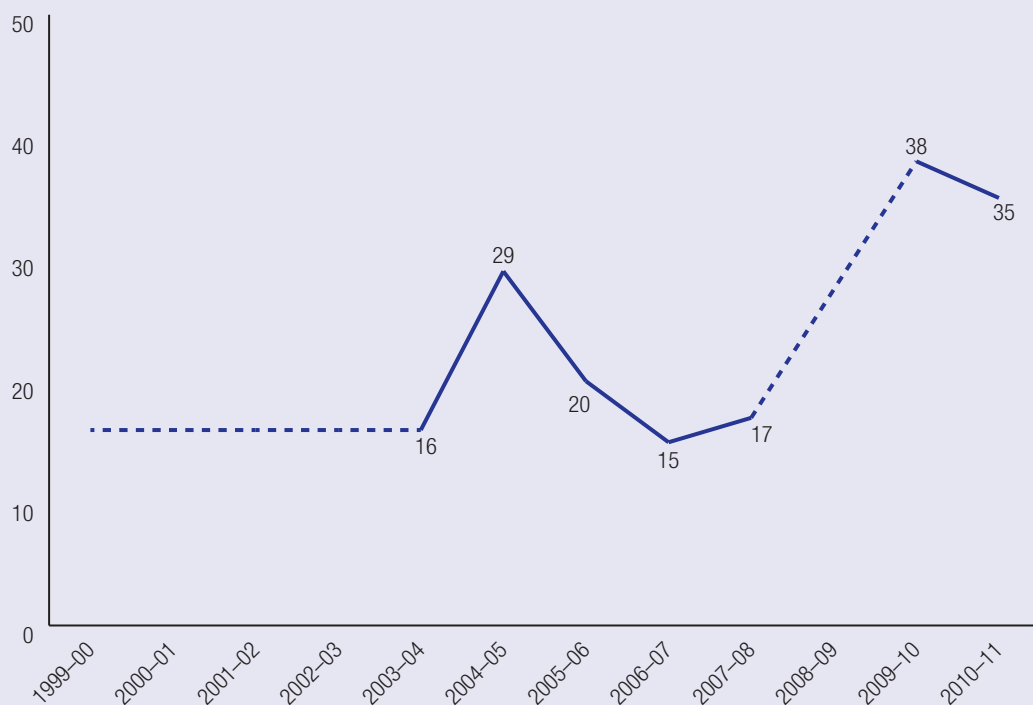
recent financial year is due largely to the removal of the temporary visa option, shortening the way to a permanent visa (Australian Government 2011). A breakdown by financial year is available in Table 1.

Investigations and assessments

Between July 2004 and June 2011, the AFP conducted over 305 investigations of trafficking-related offences. Between 2007–08 and 2009–10 the number of investigations increased from 17 to 38 (see Figure 2). This fell to 35 in 2010–11. The majority (approximately 68%) of investigations over this period related to trafficking for sexual exploitation (APTIDC 2011).

In March 2011, the AFP began investigating Australia's first case of organ trafficking (AFP, personal communication June 2011).

Figure 2 AFP investigations and assessments of people trafficking



Note: a breakdown by financial year is not available prior to 2004–05. A total of 79 investigations and assessments were undertaken by the AFP between 1999–2000 and 2004–05. An average over the five-year period is presented in the figure. The number of investigations and assessments in 2008–09 is not available due to a change in operational practices relating to the recording of trafficking incidents. A full trend line has been provided for visual purposes only and does not represent actual data.

Source: AFP

Support for Trafficked People program

Between 2004, when the program began, and 30 June 2011, 184 suspected victims of trafficking were referred by the AFP and received support and assistance while assisting in an investigation.

The majority of total program clients were female (90%, n=165). The 19 men supported through the program were in all cases involved in exploitation in non-sex labour industries. In contrast, the majority of women (90%, n=149) were trafficked for exploitation in the sex industry. The pattern is the same for 2009–11 (see Table 2). Four young people aged between 15 and 17 years at the time of referral, were referred to the program between January 2009 and June 2011 as suspected victims of people trafficking. As has been the case in previous years, the majority of clients in 2009–10 and 2010–11 were identified in New South Wales and Victoria (Table 3).

Most cases of people trafficking detected in Australia involved young women from Thailand, although smaller numbers came from South Korea, Indonesia, China, India and the Philippines (Joudo Larsen et al. 2009). As in previous years, clients supported through the program in 2010–11 mostly came from southeast Asian countries. More than one in three individuals who received support during this time were from Thailand (n=32), a further 17 were from Malaysia and nine were from the Philippines (Table 4). Before 2010–11 only one client from the Philippines had previously been on the program.

Between 2005–06 and 2010–11, the number of clients on the program steadily increased, from 41 to 80 (Figure 3).

Prosecution of trafficking in persons

As at 30 June 2011, 33 people had been charged with trafficking-related offences. These cases include:

- 13 convictions (Wei Tang, 'DS', Zoltan Kovacs, Namthip Netthip, Kanokporn Tanuchit, Trevor McIvor, Melita Kovacs, Somsri Yotchomchin, Johan Sieders, Keith Dobie, Sarisa Leech, Kam Tin Ho and Ho Kim Ho); and
- matters against 15 defendants that were finalised without resulting in a conviction.

As at 30 June 2011, there were four defendants facing charges before the courts.

Successful prosecutions are difficult to secure for a range of reasons, most relating to the suspected victim, who is often the key witness. Many victims do not wish to testify out of fear of the traffickers and/or the shame of publicising their exploitation to their families or communities. Often their credibility is attacked on the basis of prior inconsistent statements, and their motives for claiming to be a victim are questioned.

Further, the defence counsel may draw on previous illegal or immoral behaviour of the witness or victim in an attempt to discredit them. In at least one Australian case, the defence has attempted to draw on stereotypes of migrant sex workers, challenging the victim's character and claiming that she fabricated her story (David 2008a). The cases are also particularly complex due to the international nature of the offences and the fact that each case prosecuted to date has been unique (David 2008b). Most of the matters that have been discontinued were unable to proceed because there was insufficient evidence to support a prosecution.

Table 2 Clients on program by type of exploitation and sex

	Non-sexual exploitation ^a		Sexual exploitation		Total	
	2009–10	2010–11	2009–10	2010–11	2009–10	2010–11
Male	3	9	0	0	3	9
Female	7	8	55	63	62	71
Total	10	17	55	63	65	80

a: Non-sexual exploitation includes all other forms of exploitation and trafficking that occurs outside the sex industry, including labour trafficking, slavery, domestic servitude and organ trafficking

Source: Office for Women, June 2011

Table 3 Clients on program by state of location^a

	2009–10			2010–11		
	Male	Female	Total	Male	Female	Total
NSW		40	41	9	53	62
VIC		15	17		13	13
Other ^b		7	7		5	5
Total	3	62	65	9	71	80

a: State of location refers to the state or territory where the client is initially identified and referred to the Support for Victims of People Trafficking Program

b: Includes Qld, SA, NT, WA, Tas and ACT

Source: Office for Women, June 2011

Table 4 Clients on program by country of origin/citizenship

Country of Origin/Citizenship	2009–10	2010–11	Total since 2004
Thailand	31	32	78
Malaysia	16	17	32
South Korea	9	7	31
Philippines	^a	9	10
Other ^b	9	15	33
Total	65	80	184

a: Number included in 'Other' category as there were <5 clients

b: Includes all countries with <5 clients in any given financial year

Source: Office for Women, June 2011

Figure 3 Number of clients on the program, 2005–11

Source: Office for Women, June 2011

Box 5 People trafficking and the organ trade

Trafficking in persons for the purpose of organ removal is a growing international problem and sits uneasily within the normal trafficking in persons framework. The global demand for transplantable organs continues to increase with the development of modern transplantation procedures and immunosuppressant drugs (Scheper-Hughes 2005). The organ most commonly procured illegally is the kidney, as it can be retrieved from living donors. As awareness of trafficking in persons for the purpose of organ removal (TPOR) has increased, so has the number of declarations by international bodies and domestic laws condemning and criminalising such acts.

Significantly TPOR was included in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (Trafficking Protocol). However, prosecutions for TPOR continue to be very low (Meyer 2006). This is caused by a number of interrelated factors, including the low reporting of crimes by victims who fear prosecution themselves, variances in domestic legislation and the complex transnational nature of the crime.

The majority of matters since January 2004 have been dealt with under section 270 of the Commonwealth Criminal Code, which covers slavery, sexual servitude and deceptive recruiting. Nine of the 13 defendants were convicted of slavery offences, three of sexual servitude and one of people trafficking.

Defendants were male and female ranging in age from mid-20s to 60, with the majority aged over 40. A large proportion of those convicted were brothel owners and managers. Developing better information regarding trafficking offenders is the focus of a current AIC project.

Conclusion

Although the number of trafficked persons detected in Australia by DIAC and law enforcement authorities is relatively small, much can be learned from these cases, including the characteristics of victims and offenders and the nature of the trafficking process itself. With Australia's evolving response to trafficking, enhanced information systems will help identify trends and emerging issues. In turn, this developing body of knowledge will provide insight for more targeted and better informed anti-trafficking approaches.

A key component of the AIC research program involves monitoring data from a range of sources. The program will continue to explore opportunities to improve understanding of the nature and extent of trafficking in persons in Australia and the region.



Community attitudes and awareness survey

Examining the Australian community's awareness of trafficking and perceptions of who the victims of trafficking are is valuable for informing policy and practice in the area. The knowledge that members of the community possess is important for two reasons:

- Members of the community are more likely than the authorities to come into contact with trafficked persons and therefore their knowledge assists identification and reporting.
- Court cases are likely to be tried before juries drawn from the wider community, and their understanding of the facts of people trafficking in Australia is important in reaching just trial outcomes.

Assessing community awareness of people trafficking as well as attitudes to related issues can also shape future awareness-raising activities and shed light on issues that may have a significant impact on trial outcomes (eg juror perceptions). To that end, the AIC developed an online survey of respondents' understanding of trafficking and attitudes to a range of related issues, including people who are unlawfully in Australia, labour exploitation, sex work and the notion of 'deserving' victims.

The sample

The national online survey was piloted in the ACT in December 2008 and run nationally in mid-2009. There were 1,617 respondents to the survey, which was advertised in the major newspapers in each state and territory (*The Australian*, the *Courier Mail*, the *Adelaide Advertiser*, the *West Australian*, the *Mercury* and the *Northern Territory News*), as well as via Ninemsn, Facebook and the Australian Institute of Criminology's website. The highest number of respondents were female (63%), aged between 30 and 49 (46%), born in Australia (76%; 96% of respondents indicated they were Australian citizens), living in the eastern states of Australia (75%) and in full-time employment (50%)(see Table 5).

Definition, nature and extent of people trafficking

When asked to explain what they believed people trafficking referred to, only nine percent (n=148; Table 6) of respondents correctly identified all three elements of trafficking in persons—the means, action and purpose—as set out in the UN definition. A further 20 percent (n=318) identified two of the

Table 5 Characteristics of respondents

	n	%
Total	1,617	
Gender		
Male	601	37
Female	1,014	63
Age		
Less than 19	61	4
20–29	301	19
30–39	410	26
40–49	338	21
50–59	279	17
60 and older	208	13
Refused to answer	20	1
Birthplace		
Australia	1,125	76
Overseas	358	24
Refused to answer	5	–
State		
NSW	404	25
Vic	321	20
Qld	381	24
WA	222	14
SA	138	9
NT	27	2
Tas	58	4
ACT	48	3
Overseas	16	1
Australian citizen		
Yes	1,546	96
No	69	4
Employed full-time	804	50
Employed part-time/casual basis	262	16
Full-time student	164	10
Full-time homemaker	78	5
Unemployed	65	4
Retired	111	7
Pensioner	58	4
Other	73	5

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

Table 6 Definition of people trafficking

Provided correct definition	n	%
Yes	148	9.3
No	155	9.7
Partly (two elements defined)	318	20.0
Partly—action and means	66	4.1
Partly—action and purpose	197	12.4
Partly—means and purpose	56	3.5
Smuggling	973	61.0
Total	1,595	100.0

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

Table 7 Views on involvement of networks, brokers, family members and local business

People trafficking is committed by	Ave rank	% rank as 1	% rank as 2	% rank as 3	% rank as 4	% rank as 5
International organised crime networks	1.8	50	30	12	4	3
Organised crime networks in Australia	3	7	22	38	28	5
Brokers in the trafficked person's home country	2.1	35	33	22	7	2
Family members of the trafficked person	3.5	5	13	23	41	17
Local business in Australia	4.5	3	1	5	19	71

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

three elements (most often the action and purpose but not the means). However, 10 percent of respondents (n=155) gave completely incorrect responses, while 61 percent (n=973) of respondents clearly confused trafficking in persons with people smuggling. Given the continuing debate on people smuggling into Australia and the high level of media and political attention it receives, it is not surprising that members of the public confuse the two concepts.

Half of respondents (50%; average rank 1.8) believed international organised crime networks were primarily responsible for people trafficking, followed by brokers in the trafficked person's home country (35%; average rank 2.1) (see Table 7). The involvement of organised criminal networks is the subject of a forthcoming AIC paper, and key findings from this work are summarised in Box 5.

Respondents' estimations of the number of people trafficked each year in Australia were generally higher than known cases. Forty-six percent of respondents believed over 1,000 people are

trafficked into Australia each year, while 18 percent believed the number to be between 500 and 1,000 (Table 8). In comparison, as reported earlier, 35 cases were under investigation by the AFP in 2010–11; on average AFP investigations of 32 cases relating to trafficking for sexual or labour exploitation have been completed since 2004–05.

Identifying victims

The majority of respondents (75%; n=1,204) believed they would not be able to identify a trafficked person but, of those who thought they could (22%; n=350), the following characteristics were commonly identified as what they would expect to find:

- poor English language skills
- no freedom of movement/association
- not in possession of personal documents, such as a passport
- unwilling to talk about themselves

Box 6 Organised crime and organised trafficking in persons

The role of organised crime groups often dominates discussions on the structure of criminal involvement in people trafficking. However, key actors in the trafficking of humans can be organised in a variety of ways. A recent report (UNODC 2010b) highlighted a number of key features of trafficking in persons and the role of organised crime.

First, there is a wide spectrum of criminal involvement and the players active in these markets. Traffickers may be highly organised criminal groups, loosely connected networks, individuals, or even family and friends of the victim. The crucial factor that determines the structure of criminal involvement in trafficking in persons is profit maximisation.

Second, traffickers can be classified as organised or unorganised. Organised criminal involvement consists of hierarchical structures and network structures, while unorganised criminal involvement includes individual traffickers and social networks. Hierarchically organised crime groups are structured with clear leadership and subordinate roles that follow a rigid chain of command. The groups are known to operate according to codes of honour, family and clan ties, and vows of secrecy. In contrast, crime groups structured in networks consist of more loosely connected specialised criminals all playing a separate yet coordinated role in the trafficking process. They may operate on a highly independent basis whereby members of the same network do not necessarily know each other in the absence of direct contact.

Although organised crime groups dominate the landscape of offender typologies, there is also evidence to support significant unorganised criminal involvement. An individual or duo can be responsible for orchestrating all stages of the trafficking process, from recruitment to transportation and exploitation. Social networks can include friends, relatives or acquaintances, usually from the same community as the victims. Where this is the case, existing trust relationships are abused in order to recruit victims (UNODC 2010b).

While the existing research is far from comprehensive, several themes do emerge from the current literature, which suggests that the role organised crime networks play in the trafficking process is complex. David (2012) concluded the following:

- The level of organisation involved in the trafficking process appears to vary by degrees, with some studies formulating typologies of offending based on the nature and level of organisation apparent in the action of trafficking a person/people (among other variables).
- Evidence suggests that while 'traditional' networks (centralised networks with a defined hierarchy) are less likely to be involved in the trafficking process, the trafficking process can involve a high level of organisation among a variety of actors.
- Evidence also suggests that trafficking offenders can use pre-existing networks (whether diaspora communities or organised networks for crimes other than trafficking in persons) or spontaneously develop links and networks in response to trafficking opportunities.
- Such types of 'organised' trafficking in persons can contribute to considerable challenges in detecting and prosecuting the crime.

David found a great deal of diversity in the characteristics, criminal histories, operations and motives of trafficking offenders and highlighted the need for these differences to be captured more effectively through identification of common typologies of trafficking crimes.

Table 8 Number of persons believed to be trafficked into Australia each year

Number trafficked into Australia each year	n	%
Missing	5	0.31
None	0	0
Less than 100	28	1.73
100 to 249	94	5.81
250 to 499	164	10.14
500 to 1,000	290	17.93
Over 1000	744	46.01
I have no idea	292	18.06
Total	1,617	100

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

- afraid of authorities
- little money
- Asian background
- poor working conditions
- no family in Australia and few social networks.

Thirteen percent of respondents (n=212) believed they had been in contact with a trafficked person. When asked if they had contacted any of a range of agencies or organisations, their responses were as follows:

- 20 respondents contacted local police about the matter.
- 26 respondents contacted the Australian Federal Police.
- 25 respondents contacted a victim support agency.
- Three respondents contacted a union.
- Seven respondents contacted a sex worker organisation.
- 25 respondents contacted the Department of Immigration and Citizenship.
- 95 respondents did not contact any agency or organisation.
- 48 respondents provided other assistance to the person, including helping them personally, contacting the Department of Foreign Affairs and Trade, a hospital, social worker or the Fair Work Ombudsman (formerly the Workplace Ombudsman).

Twenty-three percent (n=368) of respondents indicated they had come into contact with a person in Australia on a labour contract where the conditions of that contract had changed unexpectedly upon arrival in the country (see Table 9 for the specific conditions that changed).

Country of origin

The largest proportion of respondents (19%; n=311) listed Afghanistan as the country from which most trafficked persons originate. Overall, respondents indicated a belief that most persons trafficked into Australia originated from a southeast Asian country (53%; n=857), with Indonesia (17%; n=270) and Thailand (14%; n=228) identified as the top two countries in this region, followed by China (10%; n=167). Table 10 lists the top five countries ranked as first, second and third by respondents to the survey. The numbers in brackets indicate in which order (highest=1) countries were ranked first, second or third.

Barriers to reporting

Most respondents (72%; Table 11) indicated that fear was the most important barrier to victims of trafficking going to the authorities. Among respondents who listed fear as a barrier, 47 percent specified that trafficked persons would fear deportation, 27 percent specified fear of traffickers and four percent specified a fear of authorities.

Table 9 Type of change to contract

Type of change	n	%
Hours of work	102	28
Salary	97	26
Contract	64	17
Work location	67	18
Type of work	92	25
Other conditions changed	24	7
Not sure what changed	96	26

Note: Categories are not mutually exclusive

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

Table 10 Most common countries of origin of trafficked persons (n)

Source countries	First	Second	Third
Afghanistan	311(1)	159(1)	72(6)
Indonesia	270(2)	157(2)	136(2)
Thailand	228(3)	142(4)	88(4)
China	167(4)	111(5)	137(1)
Philippines	83(5)	83(6)	80(5)
Iraq		146(3)	92(3)

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

Table 11 Barriers to reporting by trafficked persons

	n	%
Threats	107	6.8
Fear	1,133	71.6
Constantly supervised	34	2.1
Language barriers	116	7.3
Don't know where to seek help/not aware of rights	40	2.5
Here by choice/monetary gain/unaware illegal	42	2.7
Other	110	7.0
Total	1,582	100.0

Note: 35 missing responses

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

Table 12 Sources of information for people trafficking

	n
Television	1,398
Internet	453
Newspapers	1,208
Magazines	419
Radio	688
Court reports	165
Academic research	208
Other	294

Note: Total will not sum to 1,617, as respondents were asked to select all that applied

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

Table 13 Attitudes towards trafficking in persons and related issues (%)

No.	Statement	Strongly agree/agree	Neither agree nor disagree	Strongly disagree/disagree	Mode
1	A person can be deceived about the nature of work they are entering into	92.7	3.3	3.9	SA
2	Some people claim they are trafficked only to protect their reputations	26.8	39.3	33.8	N
3	Men can be victims of trafficking	92.6	3.9	3.4	A
4	People claim they are trafficked to avoid deportation	46.8	32.5	20.6	A
5	Migrant workers from poor countries shouldn't expect to get the same pay and conditions as Australian workers	12.7	11.5	75.8	SD
6	The labour sector most vulnerable to trafficking is the sex industry	69	18.6	12.3	A
7	The human rights of trafficking victims are important	87.9	6.2	5.9	SA
8	All victims of trafficking require support, regardless of how they arrived in Australia	74.7	9.1	16.1	SA
9	People who say they have been trafficked but stay in the same industry once they have paid their debt were not real victims	18.9	25.3	55.8	D
10	The government should focus on prosecuting traffickers	91.5	4.2	4.1	SA
11	A sex worker can be trafficked	89.2	3.5	7.2	SA
12	It is reasonable for victims of trafficking not to contact the authorities because they fear what traffickers may do to them or their families	86.3	6.6	7	SA
13	People who accept an offer from a stranger to work overseas have no right to complain about their working conditions upon arrival	13.7	11.9	74.3	SD
14	A person using false documents to enter a country is not a victim of trafficking	25.3	18.9	55.7	D
15	A person who is poor and has little or no education is more likely to be a victim of trafficking	70.9	14.5	14.5	A
16	A victim of trafficking would attempt to contact authorities at the first opportunity	8.2	10.3	81.4	D
17	People who enter Australia and work illegally have done so because they cannot do so legitimately	45.4	23.3	31.2	A

Mode: SD= strongly disagree; D=disagree; N=neither agree nor disagree; A= agree; SA= strongly agree.

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

Main source of information

The majority of respondents indicated that their main source of information on people trafficking was film/television (n=1,398), followed by newspapers (n=1,208) and the radio (n=688) (Table 12). This information is important for future awareness-raising activities.

Attitudes to trafficking in persons and related issues

Respondents were asked to indicate their level of support for 17 statements about trafficking and related issues. Overall, the responses indicated a belief that people can indeed be deceived about the nature of work (93%), that men may also be victims

Table 14 Factor loadings and communalities for 13 items from the attitudes to trafficking and related issues scale (n=1,617)

No.	Statement	Not real victims	Anyone can be a victim	Vulnerabilities to trafficking	False claims of victim status	Communality
1	A person can be deceived about the nature of work they are entering into		0.63			0.57
2	Some people claim they are trafficked only to protect their reputations				0.84	0.76
3	Men can be victims of trafficking		0.69			0.66
4	People claim they are trafficked to avoid deportation				0.8	0.72
5	Migrant workers from poor countries shouldn't expect to get the same pay and conditions as Australian workers	0.68				0.50
6	The labour sector most vulnerable to trafficking is the sex industry			0.67		0.64
7	The human rights of trafficking victims are important	-0.76				0.68
8	All victims of trafficking require support, regardless of how they arrived in Australia	-0.81				0.70
9	People who say they have been trafficked but stay in the same industry once they have paid their debt were not real victims	0.54				0.49
11	A sex worker can be trafficked		0.55			0.45
13	People who accept an offer from a stranger to work overseas have no right to complain about their working conditions upon arrival	0.75				0.63
14	A person using false documents to enter a country is not a victim of trafficking	0.51				0.38
15	A person who is poor and has little or no education is more likely to be a victim of trafficking			0.59		0.54

Note: items with factor loadings <0.5 have been suppressed

Source: Australian Institute of Criminology, People trafficking awareness and attitudes survey [computer file]

(93%), that migrant workers should expect similar work conditions to those of Australian workers (76%), that victims require support regardless of how they entered the country (75%), and that entering the country using false documents does not nullify victim status (56%) (see Table 13).

Results of the data analysis

A factor analysis and principal component analysis were conducted to identify factors underlying the variables. These further analyses sought to classify the questionnaire items into constructs that measure similar attitudes (Appendix A gives an explanation of further analyses conducted). After several iterations, a four-factor solution was found to explain 60 percent of the variance. The factor loading matrix for the final solution is presented in Table 14.

The first factor was marked by high positive loadings on items 5, 9, 13 and 14 and high negative loadings on items 7 and 8—items which refer to the rights of trafficked persons and the notion of a ‘real’ victim. Respondents who believed that migrant workers shouldn’t expect the same work conditions as Australians and shouldn’t complain about conditions if they accept work from a stranger, and that real victims don’t stay on in the sex industry once their debt is paid or use false documents to enter a country were less likely to believe that the human rights of trafficked persons were important or that they required support regardless of the method of arrival in Australia.

The second factor was marked by high loadings on items 1, 3 and 11—items which indicated a belief that anyone can be a victim. Specifically, responses which loaded this factor indicated a belief that people can be deceived about the nature of work, that sex workers can be trafficked and that men too can find themselves in situations of trafficking.

The third factor was marked by high loadings on items 6 and 15, which refer to vulnerabilities to trafficking. Responses loading on this factor indicated a belief that the sex industry is the most vulnerable sector to trafficking and that trafficked persons are more likely to be poor and have little education. While these vulnerabilities have been identified in research, it is not possible to confirm that the sex industry is *the* most vulnerable of sectors in Australia, as little is known at this time

about trafficking in other industries. Certainly, recent research has highlighted the vulnerabilities to trafficking in the agriculture, cleaning, hospitality, construction and manufacturing industries and in less formal sectors, such as domestic service (David 2010).

Similarly, while the poor and less educated are indeed vulnerable, trafficking primarily occurs within high levels of migration driven mainly by the desire for greater economic opportunity and a better quality of life. Further, within southeast Asia the emerging middle class has been identified as more vulnerable due to a greater willingness to take risks and greater access to the necessary funds to enter into the initial migratory process (Joudo Larsen, Lindley & Putt 2009).

The fourth factor was marked by high loadings on items 2 and 4, which refer to protecting reputations and avoiding deportation as motivations for claiming victim status.

Summary

The community awareness and attitudes survey revealed that many respondents confused people trafficking with people smuggling. This is likely to have influenced other findings from the survey, including the assumptions that international organised crime networks are primarily responsible for people trafficking, that over 1,000 people are trafficked into Australia each year and that most trafficked persons originate from Afghanistan.

While it is frequently assumed that international organised crime groups are heavily involved in trafficking in persons, the extent of this involvement remains unclear. The existing literature is far from comprehensive, and the information obtained through AIC consultations in southeast Asia and the Pacific in the first phase of the Trafficking in Persons Research Program presented a mixed picture. As highlighted in Fiona David’s 2012 paper, key actors in people trafficking can be highly organised criminal groups but may also be loosely connected networks, individuals, or family and friends of the victim.

Further, although the extent of people trafficking in Australia remains unclear, information collected by NGOs and through the Australian Government’s Support for Trafficked People program suggests

there are far fewer victims (Joudo Larsen et al. 2009) than survey respondents estimated.

Last, the majority of known victims of trafficking in Australia originated from southeast Asian countries and not the Middle East. The attitudes section of the questionnaire revealed interesting constructs centred on notions of ‘real victims’, ‘anyone can be a victim’, ‘vulnerabilities to trafficking’ and ‘false motivations for claiming victim status’. Responses generally supported the right of trafficked persons to obtain support and justice through the legal process; however, a large proportion (almost half of respondents) indicated a belief that people claim to have been trafficked to avoid deportation.

Attitudes towards people trafficking, trafficked persons and related issues, such as sex work and migrant workers in Australia, provide important

insights for the prosecution of these offences before juries. The survey highlighted community attitudes that may need to be challenged or gaps in knowledge that must be addressed to better inform jury deliberations. Overall, it was concluded that survey participants were reasonably well informed about trafficking and held quite humane attitudes towards trafficked persons, with strong support evident for the notion that the human rights of trafficked persons are paramount and that trafficked persons require support regardless of how they arrived in Australia. However, the clear finding that many beliefs about the nature and extent of people trafficking are based on misconceptions commonly found in popular media—and conflated with the issue of people smuggling—highlighted the need for further work in raising awareness and providing factual information to the community.



Trends and issues in east and south Asia

Regional trends and issues

Australia is a destination country for victims of trafficking who come mainly from Asia. A number of countries in this region have been rated as 'high' or 'very high' as both source and destination countries, reflecting wide-scale intraregional trafficking (UNODC 2006).

Alongside developing a domestic response, the Australian Government has a vested interest in building a picture of trafficking in the region and is working to address the problem through numerous offshore activities. For a number of operational purposes, DIAC and the AFP have liaison officers posted to key regional locations. They maintain strong links to local immigration and law enforcement by providing both operational assistance and relevant training.

In conjunction with these activities, the Australian Government provides funding through AusAID to various projects and organisations for development purposes. Some of the funded programs assist efforts to combat trafficking in persons and other transnational crimes in the region. In doing so, the Australian Government has a strong interest in the developments and emerging issues of neighbouring countries. This regional focus stems in part from the identification of Australia as a key destination country in the region.

In 2008, the second year of the AIC's research program, there was a focus on key trends and issues regarding trafficking in persons in the south and east Asia regions. This included a scoping of migration trends in the region, the nature and manifestation of transnational organised crime, and related areas such as the use of international marriage as a tool for trafficking women. The results yielded distinct patterns in the nature and process of people trafficking:

- *Trafficking movement patterns*—In both south and east Asia, trafficking generally flows from less developed to developing countries and onwards to the most developed areas in the region. India operates as a hub in the south Asia region because of its geographic location, large sex industry and level of corruption.
- *Offenders and facilitators*—Making the transition from trafficked person to trafficker is known to occur in the Asia region as in others and one study of trafficked Nepalese girls in India found several instances in which trafficked Nepalese women whose period of slavery or debt bondage had ended were able to purchase their own *tsukris* (a person in slavery or debt bondage) and operate brothels (TDMIF 2005). Corruption is known to play a role in trafficking in several regions, and this is the case within south Asia, where police and politicians often work for traffickers.

- *Nature of offending*—Language and cultural similarities among neighbouring areas, specifically Bangladesh and India, affect the control mechanisms exhibited by traffickers in the south Asia region. Because of their familiarity with the language, Bangladeshi women trafficked into India are often controlled through physical confinement, social stigma and debt bondage as opposed to cultural and linguistic isolation which is common among other regions. In east Asia it is evident that traffickers use isolation resulting from language barriers, fear of prosecution, concern about immigration status and deportation, and threats against family members in the source country as a means to control their victims. It seems that the use of these methods is multiregional. Further, in east Asia there appears to be a link between the ethnicity of the trafficker and the victim. For example, North Korean refugees in China are exploited by ethnic Koreans with Chinese citizenship.
- *Response to trafficking*—Government responses in countries within south Asia concentrate on the trafficking of women and children for sexual exploitation to the exclusion of trafficking in men or trafficking for forced labour, resulting in a gender bias where men are invariably ‘migrants’ and women in the sex industry are ‘trafficking victims’. This is also the focus in east Asia, even though there appears to be a larger degree of trafficking for forced labour in this region.

Trends and issues in the east Asia region

For the purposes of this report, the east Asia region includes the People’s Republic of China, including the Hong Kong Special Administrative Region (SAR) and Macau SAR; Japan; Taiwan; Mongolia; the Democratic People’s Republic of Korea (North Korea); and the Republic of Korea (South Korea).

A considerable proportion of known trafficking victims in Australia originate from the east Asia region. As at 30 June 2011, 20 percent (n=31 persons) of clients of Support for Victims of People Trafficking originated from the east Asia region. The majority were trafficked for the purpose of sexual exploitation.

People trafficking in the east Asia region is characterised by a large degree of intraregional trafficking from less developed to the more developed countries in the region (UNODC 2006; see Figure 4). Victims from the region are less commonly trafficked to Western countries such as Australia, Canada and the United States. While 20 percent of identified trafficked persons in Australia originated from east Asia, only 9.2 percent of reported trafficking cases in the US involved a victim of Asian background (US Department of State 2009).

There are various factors in the region relevant to people trafficking, including transnational organised crime networks, marriage arrangements and migration patterns.

Transnational crime and organised criminal networks

The types of networks involved in trafficking migrants are said to exist on a spectrum from ‘cottage industry’ style (Marshall 2001) to the more sophisticated Chinese triad and Japanese yakuza organisations (Di Nicola 2005). The extent to which organised crime networks are involved in people trafficking remains unclear, although it has been surmised that the greater the number of countries through which a person must pass to reach the destination, the more sophisticated and organised the criminal network is required to be (Di Nicola 2005).

Similarly, the involvement of organised crime in people trafficking in east Asia is largely unknown. The matter of most concern to law enforcement officials, however, is the possible extension of the current activities of organised crime groups to include people trafficking. Current case reports indicate that the recruitment of victims in the source countries is mainly undertaken by nationals of those regions. These people then sell the victims on to organised groups who undertake to transport them to their destination country (see, for example, MGEC 2007). The victims are then sold to individual exploiters, who may purchase a number of victims to be used for marriage, sexual exploitation or forced labour. This would indicate that there are few instances of organised groups dominating the entire process of recruitment, transport and exploitation but that there are increasingly specialised groups undertaking discrete portions of the process.

An exception to this finding is Japan, where there are strong links between the boryokudan organised crime groups, including the indigenous Japanese yakuza, and people trafficking. This supports organisation theory, which states that the more developed the destination country, the more organised the traffickers must become. This in turn raises the costs of trafficking, forcing the traffickers to exploit their victims further to maintain the same degree of profit (Chisholm 2009). This can be seen in the increasing cost of trafficking women from developing to developed countries. A North Korean victim may be sold in Beijing to a brothel for CHN¥10,000–¥20,000 (A\$1,625–A\$3,250) (Kim et al. 2009). However, a victim sold in South Korea may cost ₩13.5m (A\$13,006) (Choi 2006), while in Japan they may cost as much as ¥1m–¥3m (A\$12,337–A\$37,010) (SAP-FL 2004).

Marriage arrangements and trafficking

The role that marriage can play in the trafficking of women is an issue of concern in the east Asia region, as it is in other parts of the world (including south Asia). International marriage is part of a wider gendered migration process informed by cultural and societal norms about the institution of marriage. In general, there are a number of ways in which marriage may be used in the trafficking of persons. Fraudulent marriage, forced or servile marriage, international and online marriage brokering and arranged marriages have all been identified as enabling women to be trafficked into a variety of exploitative situations.

It should be noted, however, that arranged marriages, customary marriage practices or marriages that have been formed through online dating and introductory services are not in and of themselves trafficking or exploitative. These types of marriage arrangements can protect people from being trafficked and exploited. Conversely, in some cases such marriages have been found to increase vulnerability.

Fraudulent or sham marriage

A fraudulent marriage is one where there is no intention on the part of one or both of the spouses to participate in a genuine relationship as husband

and wife. It is used primarily as a method for circumventing immigration controls in the destination country. For example, there are reports of Colombian women being trafficked to Japan after being ‘married’ to homeless Japanese men whose personal information has been collected by the yakuza (SAP-FL 2004). The victim may or may not be aware that the marriage is not genuine, or even that they are ‘married’. Once the woman has entered the destination country she is placed in a situation of exploitation in a range of possible commercial or private settings and industries, often involving slavery, domestic servitude, the abuse of sexual services and/or the abuse of labour.

Forced and servile marriage

Forced marriage occurs where full and free consent by both parties does not exist, often as the result of coercion or deceit. In east Asia, trafficking for forced marriage is known to occur when migrant women have been unwillingly married to men who are unable to find a wife locally. This situation is a familiar occurrence in China, where the one child policy has resulted in a large gender gap (US Department of State 2009; Zhao 2003). The women are sourced mainly from neighbouring developing countries, such as Mongolia, Burma and Cambodia. If defined as a servile marriage according to the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, forced marriage may be considered trafficking under Article 3 of the UN Trafficking Protocol (Bokhari 2008).

Servile marriage refers to situations in which a person is considered a chattel that can be sold, transferred or inherited into marriage. Article 1 of the UN supplementary convention defines servile marriage as a practice similar to slavery (Bokhari 2008; von Doussa 2007). Servile marriage is therefore trafficking in persons under Article 3 of the Trafficking Protocol.

Trafficking involving marriage: Barriers to exiting

A number of factors specific to trafficking involving marriage restrict the trafficked person’s capacity to leave a situation and seek help, particularly if the victim believes the marriage to be genuine. These

include the possible private or domestic nature of the setting into which they are trafficked and exploited; the unwillingness of the victim to speak out against their spouse; cultural shame related to being divorced; and personal embarrassment as a result of being deceived, especially if the victim has formed an emotional attachment to the perpetrator over a significant period and has hopes for and expectations of a happily married life.

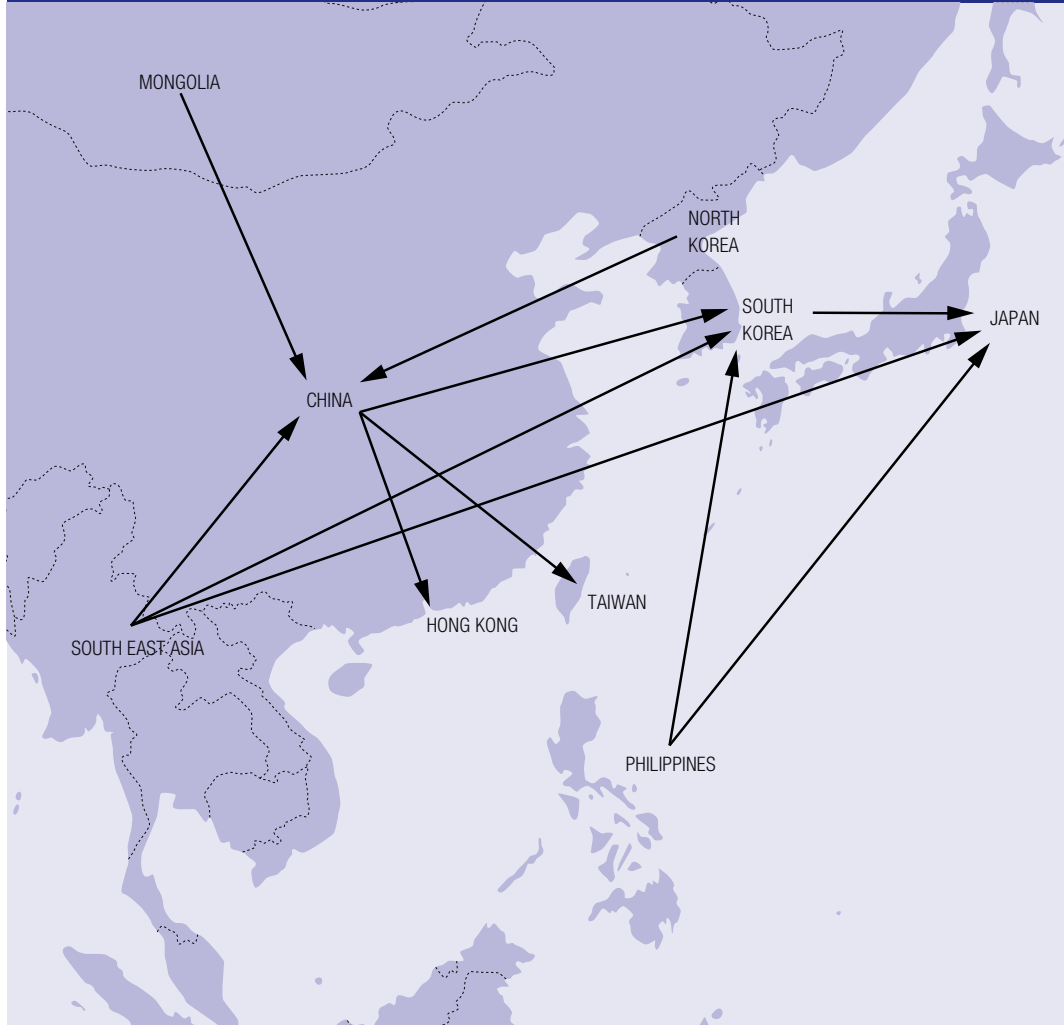
Migration in east Asia

While organised crime and the prevalence of international marriage are relevant factors, the

trafficking of persons in the region also must be seen within the context of large-scale regional migration.

Migration in the region is growing at a phenomenal rate. The number of migrants in the region has grown by over 30 percent, from 4,985,700 persons in 1995 to 6,497,200 in 2005. This compares to a population increase in the region of only 7.4 percent. The major migrant exporters are China, with a net migration loss of 390,000 persons, and the Philippines, with a net loss of 130,000 persons. The primary destination for these migrants is Japan, with a net gain of 54,000 persons, followed by Hong Kong SAR, with a gain of 60,000 persons (Akaha 2009). According to Akaha this flow is due to:

Figure 4 Overview of intraregional trafficking patterns



Source: based on UNODC 2006

... a culmination of wide-ranging demographic patterns, population trends, economic developments, and social changes, as well as disparate policies of the countries in the region and beyond. As a result, the system is prone to produce sizeable irregular and illegal migration flows that remain outside of the legal channels and administrative protections of the region's governments (Akaha 2009: 14).

The majority of this migration is economic, with migrants from less developed countries seeking employment opportunities in the more developed nations. They may be prompted to do so by a lack of job opportunities in their home country and reports from relatives or associates (Miller & Castles 2009) of good working conditions and pay rates overseas. The remittances that migrant workers send home are of increasing importance to the economies of the developing nations from which they originate. In 2006, the estimated value of remittances in the east and southeast Asia region was US\$23.342m. In the Philippines it formed up to 10 percent of GDP (UNDESA 2006). This increasing supply of willing economic migrants stands in contrast to the restrictive immigration policies, even xenophobia, exhibited by some of the more developed countries in the region, such as Japan, Hong Kong SAR and Korea (Akaha 2009; Motoyama 2005).

Another notable trend is the 'feminisation' of migration (UNINSTRAW 2007). In 2006 there were 3,477,300 female migrants in the east and southeast Asia region compared with 3,019,900 males (UNDESA 2006). Traditionally, labour migration was dominated by men seeking employment in sectors considered 'undesirable' by nationals of destination countries (ADB 2006). However, as these figures indicate, recent labour migration patterns in the region are increasingly driven by women who are seeking overseas employment in areas such as factory and domestic work (Eversole 2006). This feminisation of migration is relevant to a discussion of people trafficking, as it can be both a risk factor and a protective factor. On the risk side it can lead to the increased vulnerability of women labour migrants, whereas on the protective side it may lead to the development of informal networks that allow women to migrate independently of traffickers (Kaur 2007).

Trafficking and migration

People trafficking is known to occur where there are high levels of people movement, usually within well-worn migratory pathways. More specifically, it occurs as part of a labour–migration continuum. That is, many trafficked people consent to the initial movement through a facilitator, or they move of their own accord, becoming aware only at the destination that they have been deceived and are being exploited. It is because trafficking is seen as a form of exploitative irregular migration that the International Organization for Migration (IOM) has increased its activities with regard to trafficking over recent years (IOM 2009).

Trafficking in persons, especially for forced labour, occurs not in discrete instances but along a sliding scale of exploitation and abuse, with an indeterminate line between trafficking and migration. Labour migrants can be charged excessive fees for being transported to a destination country, and can be subject to low wages and poor working conditions, often because the labour laws of the destination country do not extend to workers with undocumented immigration status (Akaha 2009). Whether or not these cases fall within the definition of trafficking is a matter for case-by-case analysis. In Australia, cases have emerged that have been prosecuted as breaches of the *Workplace Relations Act 1996* (Cth) but whose elements could also form the basis of a trafficking prosecution. An example is the case of *Inspector Robert John Hortle v Aprint (Aust) Pty Ltd & Anor* [2007] FMCA 1547 (Unreported, O'Sullivan FM, 10 September 2007).

Data on trafficking in persons in the region

People trafficking in the east Asia region occurs within the larger scheme of both regular and irregular migration in the region (Miller & Castles 2009), making it difficult to identify the number of trafficking victims. This is compounded by inconsistent government reporting practices, methodologies and definitions—a common problem in the area of people trafficking and not one that is limited to the east Asia region. Available published data for countries in east Asia is summarised below.

China engaged in a specific program to combat trafficking in persons in April 2009. This resulted in the rescue of 10,820 trafficking victims, including 3,455 children (Lu 2010). The 2007 US Department of State's *Trafficking in persons report* estimated that the number of new internal trafficking victims that year was between 10,000 and 20,000 persons.

A group of US-based researchers has estimated that between 28,000 and 63,000 North Korean women are currently being subjected to exploitation in China after having been trafficked (Kim et al. 2009). This is in addition to the 10,000–70,000 North Korean males who are possibly being trafficked by their own government for forced labour (US Department of State 2009).

Between 2004 and 2007 there were 21 confirmed cases of trafficking Mongolian citizens. Almost all of these victims were discovered in China, apart from two located in South Korea. The Mongolian Gender and Equality Centre was also able to make contact with 48 trafficking victims in the Chinese SARs Beijing, Macau and Hong Kong, as well as in Korea (MGEC 2007). Four of those victims were children aged between 16 and 17 years.

National Police figures from Japan indicate that 559 victims were rescued between 2000 and 2006 (104 victims were rescued in 2000, 65 in 2001, 55 in 2002, 83 in 2003, 77 in 2004, 117 in 2005 and 58 in 2006) (UNODC 2009b). In addition, immigration statistics from 2004 indicated the deportation of 53 confirmed victims from Japan.

This stands in contrast to the estimated 120,000 foreign women working in the entertainment industry in Japan, of whom up to 75,000 are working under some form of duress, according to estimates of the International Labour Organization's Special Action Programme to Combat Forced Labour (SAP-FL 2004).

Summary

Trafficking in the east Asia region generally flows from less developed to developing countries and onwards to the most developed areas in the region, such as Beijing, Hong Kong and Japan. Consistent with this are the increasing prices attached to the victims of trafficking at each stage in the process. In addition, there is a large flow of women, specifically from the poorer southern areas of China, such as

Yunnan and Guangxi provinces, into the burgeoning southeast Asian sex tourism industry (Singh & Hart 2007).

While some patterns of trafficker behaviour are unique to east Asia region, others are consistent with people trafficking in Australia. Trafficking involving international marriage is an area that has yet to be properly documented in Australia, although there have been records of a case involving fraudulent marriage (*R v Kovacs* [2008] QCA 417), and some arranged international marriages have raised concerns (Cameron & Tait 2009). The AIC has begun a project investigating this issue. Further, while trafficking for forced labour is more common in this region than in others, it has largely been overlooked in research and criminal justice responses as until recently the focus has been on trafficking for the purpose of sexual exploitation.

A pattern identified in east Asia that has been seen worldwide is an ethnic link between the trafficker and the victim, such as with the exploitation of North Korean refugees by ethnic Koreans with Chinese citizenship. This linkage is supported by the US Department of Justice, which recorded a 58 percent correlation between the ethnicity of trafficked persons and the offenders (US Department of State 2009). Similarly, in Australia, where most known victims are of Asian background, a large number of the traffickers have been either naturalised Australians of Asian background or foreign nationals.

It also appears that the methods used to control victims in east Asia are multiregional and similar to those known to be employed in Australian cases to date. Traffickers have used language barriers (and consequent isolation), fear of prosecution, concerns about immigration status and deportation, and threats against family members in the source country as methods of control.

Trends and issues in the south Asia region

For the purposes of this report, the south Asia region includes Afghanistan, Pakistan, Nepal, Bhutan, India, Bangladesh, Sri Lanka and the Maldives. These countries also comprise the regional representative body, the South Asian Association for Regional

Cooperation (SAARC). South Asia is considered to have the second highest concentration of people trafficking in the world (UNODC 2006). This occurs within a context of very high levels of migration. An estimated 200 million people within the region migrate annually, driven mainly by poverty and differing development levels (UNODC 2007b).

Socio-religious customs still play a large role in the organisation of labour within the region, with large numbers of people still employed as bonded labourers as were their ancestors for hundreds of years (Bales 2000). While attention is now shifting to contemporary forms of trafficking, specifically the trafficking of women and children for sexual exploitation, the cultural context of labour practices in the south Asia region, as well as the gendered nature of trafficking, are areas that require further attention.

People trafficking and related issues in south Asia

The region is a source of victims for traffickers to bring to Australia—several Indian nationals have been assisted as part of the Support for Victims of People Trafficking program since its inception in June 2004. The region is also a source of both refugees and irregular economic migrants to Australia (DIAC 2010), with a number of routes and paths available for those wishing to transport either themselves or others to Australia. Sri Lanka, Afghanistan, Pakistan and Bangladesh were all among the top 10 source countries for asylum seekers arriving in Australia in 2009 (DIAC 2009).

Trafficking in persons in south Asia operates within a regional and cultural framework. This framework is important in understanding both the processes used by the traffickers and the government responses. There is a higher incidence of labour trafficking in south Asia than in other regions such as southeast and east Asia, and it is certainly substantially greater than has been seen in Australia to date.

Bonded labour has been identified as a concern in a number of countries in the region, including India, Bangladesh, Nepal, Pakistan and Sri Lanka (US Department of State 2011). However, as the trafficking of women and children for sexual exploitation has increased in recent years, the

majority of government responses have focused on this form of trafficking to the exclusion of others.

Transnational crime, corruption, marriage arrangements, labour recruitment agencies, religious practices and patterns of migration are all factors in the nature and extent of people trafficking in the region.

Transnational crime

As is the case for east Asia, the precise involvement of organised crime in the trafficking of people in south Asia is largely unknown; however, the large flow of undocumented goods in the region indicates the existence of wide-scale goods-smuggling operations (UNODC 2007a; Ramachandran 2005). For example, Bangladeshi goods illegally crossing the Bangladesh–India border are estimated to be worth US\$2b annually. There is also a large-scale narcotics trafficking industry centred on opium produced in Afghanistan (UNODC 2007a). This industry is estimated to produce 93 percent of the world's supply of heroin and is worth US\$4b annually, which is equivalent to 52 percent of the country's gross domestic product (GDP). Cultivation is increasing despite only US\$1b of this profit being returned to the producers. Local officials and warlords take a percentage fee, while drug traffickers and associated insurgents extract the bulk of the profits (UNODC 2007a).

Corruption

Corruption is thought to exacerbate the risk of trafficking in persons (UNODC 2011). Bribery of public officials, including immigration staff and law enforcement and judicial officers, to facilitate the trafficking of an individual is thought to be common.

Corruption in south Asia has generally been identified as widespread and deeply entrenched. Transparency International (TI) has examined the endemic nature of corruption in the region, in both public and private spheres, in a number of its *Global corruption reports* (see TI 2009, 2008, 2004). Although it is unclear exactly what role corruption plays in trafficking in south Asia, given the prominence of corruption in the region it is a factor that warrants attention.

Box 7 Trafficking in the domestic service sector

It is widely acknowledged that migrants seeking domestic work are particularly vulnerable to trafficking for labour exploitation. Involuntary domestic servitude is a form of forced labour most commonly performed by women or children. Domestic service occurs in an informal work setting connected to the employee's place of residence and is not often shared with other workers. As such, paid domestic work remains virtually invisible as a form of employment. Domestic work is undervalued and poorly regulated, and many countries do not offer protection to domestic workers under workplace legislation as this type of work is not perceived as regular employment (ILO 2010). The lack of legal protection, combined with the hidden and socially isolating environment inherent in live-in domestic service, is conducive to exploitation, since authorities are not able to scrutinise private working conditions as easily as they can inspect formal workplaces (US Department of State 2010). This renders domestic workers vulnerable to unequal, unfair and abusive treatment, including being overworked and underpaid.

This is a key area for future research within the AIC Trafficking in Persons Research Program.

Marriage arrangements

As discussed earlier, trafficking for marriage is also an issue in south Asia (UNODC 2007b; UNFPA 2006a). Women are known to be trafficked under pretence of a promised marriage (fraudulent marriage) and sold to men seeking to buy a wife (forced marriage). Some research suggests that it is mostly Bangladeshi and Nepalese women who are trafficked through marriage arrangements (UNODC 2007b; UNFPA 2006a).

Labour recruitment agencies and exploitation

There are increasing concerns about the relationship between people trafficking and the practices of labour recruitment agencies, particularly in Nepal, Bangladesh and the Maldives (US Department of State 2009, Ramachandran 2005). These agencies, operating within a weak regulatory environment, recruit poor or middle-class workers for work overseas. The agencies promise high wages and guaranteed employment, but migrants are often forced to perform dirty, dangerous or difficult work for low or no wages, while being housed in substandard accommodation. This may, on a case-by-case basis, fall within the definition of trafficking in persons as defined by Article 3a of the UN Trafficking Protocol (UN 2000b). A number of countries in the region are taking steps to regulate the practices of these agencies, with several introducing administrative and civil penalties for agencies involved in trafficking-like behaviour.

The majority of trafficking in south Asia occurs with the assistance of dalals. This is a Bengali term, used in Nepal, India and Bangladesh, for those who arrange the transportation of people to another

location. The term is often translated as 'broker' and can be used to describe a financial stockbroker as well as a person involved in transporting people. It would appear that the term is used in the latter sense to refer to both people traffickers and migrant smugglers, indicating a degree of overlap in these industries (Siddiqui 2004).

The dalals have numerous methods of operation, but a composite typology compiled from numerous data sources indicates that they employ a number of 'spotters', or recruiters, to identify vulnerable people. These recruiters might be relatives of the dalal or previously trafficked persons who have returned home. Recruiters are paid on a commission basis to introduce the potential victim to the dalal. The dalal will often then gain the confidence of the individual they wish to exploit with promises of lucrative employment or marriage opportunities; force is rarely used (Nair 2003). The dalal arranges the transport of the person to the destination area using smuggling routes, corrupt border officials or fraudulent paperwork, and may involve a number of escorts or associates in the process. Individuals are then sold to the exploiter at the destination.

While some trafficking scenarios may involve organised crime groups, others are characterised by personal and family relationships, informal networks and independent actors (Sen & Nair 2004). From what is known, exploiters range from organised sexual service businesses, to factories seeking cheap labour, to families seeking a domestic servant. It is clear that the level of organisation can vary from one situation to the next, but there is still very little clarity about exactly who is involved in trafficking in the region (Sen & Nair 2004).

Cultural and religious practices

Certain traditional practices associated with culture and religion in the south Asia region have been identified as potentially risky. One example is the devadasi system in southern India—known by alternative names in other regions of India—a traditional practice that has existed for hundreds of years, mostly among the lower castes. Young girls (some as young as infants) are given up by their families to become ‘servants to god’. They are dedicated to protecting and maintaining a deity, object of worship or temple and perform at rituals and celebrations (Sen & Nair 2005; Black 2007). It is unclear how this tradition originated, but most of the theories are premised on the notion that the dedication of a daughter to god will secure good fortune or luck to her family and wider community (Sen & Nair 2005).

Women and girls dedicated to the devadasi system tend to have restricted freedom of movement, may be subject to severe exploitation—including physical, sexual and psychological abuse—and are socially isolated as a result of stigma associated with being a devadasi (Black 2007). In recent years the devadasi system has become strongly associated with the commercial sex trade as devadasi girls and women have become recruited as sex workers. Protection from the law is provided by the garb of religion. Girls who have been dedicated to the devadasi system suffer irreversible stigma, yet families living in extreme poverty are encouraged to dedicate their children in return for a significant monetary payment (Sen & Nair 2005). Although steps have been taken in some parts of India to prevent this, including by developing legislation, they have largely been unsuccessful (Sen & Nair 2005).

Migration in south Asia

People in the south Asia region are extremely mobile; it is estimated that there are 200 million migrants in the region every year (UNODC 2007b). The push factors (ie factors that may encourage migration) include unemployment, low wages, family obligations, poverty and limited social and economic opportunities (UNFPA 2006). For example, 23 percent of Bangladesh’s population, approximately 25 million people, live in extreme poverty, which results in a documented annual migration of 225,000. This is in addition to a large number of undocumented migrants.

Pull factors (ie factors in the destination country that may encourage migration) include higher wages, employment opportunities and existing informal and formal migration structures (Siddiqui 2004).

Migration in the region exhibits a westward trend (Blanchet 2002). Middle-class Bangladeshis, Indians and Sri Lankans undertake migration (both documented and undocumented) in large numbers to the Middle East (US Department of State 2011). Since the Gulf wars there has been high demand for male construction workers and low-skilled labourers. In recent years there has also been an increasing demand for females to work in the domestic service sector (Wickramasekera 2002, 2003). This avenue, however, is open only to those either who can afford air travel or who enter considerable debt (as the recruitment agency often seeks to recover the costs of flights). Nepalese, Bhutanese and lower class Bangladeshis use cheaper land routes into India and Pakistan. A comparatively small number of migrants head to southeast Asia, mainly Malaysia, Singapore and Brunei (Blanchet 2002). The remittances sent by economic migrants provide a source of foreign capital to developing countries (UNFPA 2006); for example, economic migrant remittances constitute 9.6 percent of Sri Lanka’s GDP (Shaw 2007).

There is an increasingly negative perception of unskilled labour in some developed countries. Unskilled workers are considered to be a burden on social welfare structures, contribute to lower working conditions and fill jobs, leading to higher unemployment among the nationals of the developed country (UNFPA 2006). This has resulted in the criminalisation or stringent regulation of unskilled migration, which has in turn led to an increase in the use of irregular migratory pathways.

Irregular migrants are generally employed in jobs that are overlooked by the local population because they are perceived as degrading or dangerous. Because of their undocumented status, these migrants are paid in cash and are often not subject to domestic labour laws (UNFPA 2006). A great majority of these migrants are also poorly educated. Ninety percent of Bangladeshi migrants to the Middle East and India are illiterate (Blanchet 2002). It is not uncommon for migrants in the region to have their documents confiscated and their movement restricted. In Bangladesh it is a criminal offence, under section

24 of the 1982 Emigration Ordinance, to return without completing the employment contract initially undertaken, leaving workers in exploitative situations and open to threats of prosecution if they flee them. All of these factors act to increase the vulnerability of migrants to being trafficked, and indicate an overlap between the trafficking and smuggling industries in the region (Siddiqui 2004).

Further, an increasing number of women are undertaking documented migration in the region (Blanchet 2002; Weeramunda 2004). Estimates place the number of women working in the domestic service industry in the Middle East at one million (UNFPA 2006). While this may be indicative of the worldwide trend towards the feminisation of labour (UNINSTRAW 2007), it may also be in response to government policies facilitating increased unskilled female migration. In 2005, Bangladesh lifted a comprehensive ban on unskilled female migration (Asis 2006), while the Nepalese Supreme Court recently overturned a precedent that required women under 35 to have a male's permission to obtain a passport (US Department of State 2006). These changes increase the opportunity for women to migrate legally, which helps lower the risk of exploitation.

Trafficking and migration

Research suggests that trafficking in the south Asia region occurs within the scope of regular migration patterns (Blanchet 2002; UNODC 2007b). Exploitative situations abound in economic migration within the region, and many of these would fall within the definition of trafficking. For this reason, trafficking must be seen as part of a sliding scale of exploitation (Siddiqui 2004). This pattern is global; however, particular to this region is the nature of female migration and its ties to labour exploitation.

Most female migration from south Asia is to the wealthy regions of the Middle East. In describing the visa arrangements of south Asian women employed in the Middle East, Blanchet (2002) notes that the vast majority of female migrants to the Middle East are engaged as private domestic servants under a sponsorship visa system. In Kuwait, for example, domestic workers enter the country under a no. 20 visa and are sponsored by their employer. Their visa

is therefore tied to their employment. The employer can revoke the visa at any time, leaving the migrant susceptible to immediate deportation. As these migrants have either borrowed large sums of money from family or taken out a debt from a money lender, secured against their wages, the threat to cut off their only source of income and leave them stranded in an unfamiliar country with a large debt is an effective means of control over them. It is both permitted and quite common practice for employers also to confiscate the travel documents and passports of migrants (Sabban 2002). Further, domestic workers are specifically excluded from the labour laws of many Middle Eastern states (Sabban 2002; Kuwait Ministry 2009). All of these factors operate to place female migrants in an extremely vulnerable position. One report notes that up to 75 percent of female migrants to the Middle East reported having to perform sexual services, either commercially or for their male employers (Blanchet 2002).

Summary

Trafficking in the south Asia region follows the worldwide trend of flowing from less developed to more developed countries. India operates as a hub in the region due to its geographic location, large sex industry and level of corruption. Government responses concentrate on the trafficking of women and children for sexual exploitation, to the exclusion of the trafficking in men or trafficking for forced labour. This is largely the result of a widespread notion of women as 'trafficking victims' and men as 'migrants' (Gray-Barry & Joudo Larsen forthcoming; Blanchet 2002).

Another worldwide trend exhibited in the region is the transition from victim to trafficker. While this occurs elsewhere, it appears that female victim/traffickers in parts of south Asia take an active and direct role in the ownership and day to day management of new victims (TDHIF 2005).

The control mechanisms exhibited by traffickers in the region are affected by language and cultural similarities between neighbouring areas, specifically in Bangladesh and India, which make it harder for traffickers to isolate their victims from external influences and identification (Sen & Nair 2004, 2005;

TDHIF 2005). As a result, traffickers operating between these regions therefore utilise debt bondage and physical confinement to a greater extent. Corruption is also endemic in the region: police and politicians often work for traffickers, who can afford large bribes because of the large profit margin in people trafficking (US Department of State 2009).

Another issue in the region is the social stigmatisation of trafficking victims. A perception of

women as commodities, which exists through the region, means that victims who have been exposed, even involuntarily, to the sex industry are seen as 'tainted' (Siddiqui 2004; TDHIF 2005).

Data collection is difficult in the region, with the problems inherent in researching a criminal enterprise compounded by the different definitions of trafficking, as identified above, and inconsistent reporting practices (UNODC 2009b).

Future research directions

The AIC will conclude its initial, four-year Trafficking in Persons Research Program in early 2012 and is planning work for future years. Key areas of work being undertaken or considered for investigation include:

- developing a conceptual framework for monitoring trafficking in persons, providing better data for future monitoring reports.
- examining trafficking for the purpose of exploitation in non-sex industries; and
- examining understandings of trafficking scenarios, trafficked persons, offenders, and offending patterns and trafficking in the Pacific.

A summary of these key areas of work is provided below.

Developing a conceptual framework

Accurate statistics on many aspects of trafficking in persons remain elusive. This is not a problem exclusive to Australia; it is a global issue being addressed in various ways. The lack of reliable statistics makes it a challenge to develop evidence-based responses. Research has identified several principles to guide the development of data collection

and monitoring: the need to ensure data is relevant, reliable and underpinned by clear definitions and standards and that the information collected can inform research and policy (David 2007; GAO 2006). These principles are also consistent with Australian standards, set out by the Australian National Audit Office (ANAO 1998).

The AIC's research role includes providing a sound evidence base for the Australian Government's response to trafficking in persons and contributing to the existing national and international evidence base on trafficking in persons and related areas. To this end, the Trafficking in Persons Research Program will develop a conceptual framework to underpin the monitoring and collection of data on people trafficking.

The AIC intends its conceptual framework to act as a guide for data collection, data coding and data analysis. Considerations for a conceptual framework for monitoring trafficking in persons are:

- context
- individual factors
- risks and protections
- community awareness
- service support
- system responses
- impact
- outcomes.

The framework will underpin the development of a national minimum dataset—a core set of data that has been identified by users and stakeholders as a minimum to be collected for a specific purpose. The AIC is currently in dialogue with the relevant departments and agencies to determine the variables for such a dataset. The intention is that the next AIC trafficking in persons monitoring report will employ the conceptual framework and attempt to collect data agreed under the national minimum dataset.

Trafficking in the non–sex industries

A range of projects either underway or due to commence shortly will examine trafficking in non–sex industries, offenders and the potential for domestic trafficking in Australia. Brief summaries of each project are provided below.

Trafficking and marriage arrangements

In response to increasing concern and to anecdotal and officially reported evidence of trafficking within marriage arrangements, the AIC initiated a research project focusing on the role of marriage in the trafficking-related exploitation of migrant women by investigating:

- forced and servile marriage in the context of people trafficking;
- the use of sham marriages and spousal visas to facilitate people trafficking;
- the different types of marriage arrangements that may increase or decrease risks of trafficking, such as
 - arranged marriages,
 - marriage brokering,
 - online introductory services, and
 - the ‘mail-order bride’ phenomenon; and
- the implications of this form of trafficking for Australia, specifically with regard to prevention, detection, prosecution and victim services.

The project involves a review of domestic and international literature on marriage in the context of people trafficking, which will be supplemented by an analysis of case files, interviews with stakeholders (professionals and case workers in government, NGOs, law enforcement and immigration) and interviews with migrant women for whom marriage may have played a role in being victimised. The research will develop the evidence base upon which more targeted responses (prosecuting cases, offering appropriate visa types, clarifying Australian legislation related to trafficking offences etc) can be built.

The project is currently in the data collection phase; analysis and findings are to be completed in 2012.

Trafficking in the construction industry

In light of recent research (David 2010) and a focus on labour trafficking in research and policy arenas, it was clear that sectors identified as ‘risky’ for exploitation among the migrant workforce required further enquiry. The research on the risks and protective factors for migrant workers project in the construction industry will add to the current research on people trafficking. In addition, it will provide an evidence base for frameworks to prevent and address exploitation within the industry. Specifically, the project aims to identify and critically examine:

- the state of existing knowledge of labour trafficking in the construction industry in Australia;
- features of and/or trends in the construction industry in Australia that may either make workers, especially migrant workers, more vulnerable to exploitation relating or amounting to people trafficking or protect them from such exploitation;
- other risk and protective factors that make workers more or less vulnerable to exploitation relating or amounting to people trafficking;
- existing responses to labour trafficking and related exploitative scenarios in the construction industry (government and non-government);
- stakeholder perceptions of likely risks and opportunities for labour trafficking into the construction industry in Australia; and
- key gaps in knowledge on this issue as part of framing research priorities for the future.

The project is jointly funded by the AIC, the Sisters of Saint Joseph of the Sacred Heart Josephite Counter-Trafficking Project and the Catholic Archdiocese of Sydney. Consultations with key industry and regulatory bodies are underway.

Domestic trafficking

The AIC has initiated research on domestic trafficking within Australia. This is an identified gap in current research which the AIC seeks to address. The project will explore the following research questions:

- What is domestic trafficking under Australian law?
- What is domestic trafficking under the UN Trafficking Protocol?
- Are there elements of domestic trafficking under Australian law and/or under the UN Trafficking Protocol in a small number (eg four) of key cases prosecuted in Australia?
- What risks and protections against domestic trafficking in persons emerge from the analysis of these cases?

A *Trends & Issues* paper on domestic trafficking and definitions of it in the Australian context will be released in 2012.

Understandings of trafficking scenarios, trafficked persons and offenders

Understanding offenders and offending

Supplementing and stemming from the review of organised crime and trafficking in persons conducted in the last reporting period, a more detailed project on trafficking offending has been

initiated by the AIC. The research draws on two major theories of criminology: rational choice theory (ie individual offenders are rational individuals who respond to factors such as cost, profit and risk) and routine activities theory (ie criminal events depend on a convergence of a motivated offender with a suitable opportunity and an absence of capable guardians). The research will seek to analyse a sample of trafficking cases from the perspective of understanding:

- the individuals involved in the offending (analysis of characteristics of offenders); and
- the situations, people and processes that supported and enabled the offending (situational analysis).

The planned methodology includes:

- review of the existing literature on the key research questions;
- analysis of a sample of cases to identify data on the key research questions;
- obtaining data about cases from court submissions, transcripts and reports; interview transcripts, if available; and interviews with frontline officials (government and non-government) who worked/work on the cases; and
- use of existing AIC data.

A *Trends & Issues* paper on organised crime and trafficking in persons will be released in 2012 and will be followed by a larger research and public policy paper detailing the study and its findings.

Trafficking in the Pacific

There remains a lack of research on trafficking in persons in the Pacific area. The Pacific region remains an important area for research because of its proximity to Australia. Two papers generated from the first analyses of trafficking in the Pacific were released in 2011. A larger study into this area is being planned for future years.

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Appendix

Appendix A

Factor and principle components analysis

First, the factorability of the 17 items was examined. The Kaiser-Meyer-Olkin measure of sampling adequacy was 0.82 (over the recommended value of 0.6); the scale reported an alpha of 0.76 (above the recommended 0.7 that suggests reliability); and all but one item had communalities above 0.3. This suggests that the measures were reliable and valid and that a significant proportion of the variance was explained by all possible factors.

The factor analysis was conducted with all 17 items in several stages. A principal components analysis was performed including all possible factors. The initial eigen values indicated that the first factor explained 24 percent of the variance, the second factor 12 percent, the third factor eight percent and the fourth factor six percent. Therefore, a four-factor solution, which explained 40 percent of the variance, was preferred because of the drop in eigen values on the screen plot after four factors and the insufficient number of primary loadings on

subsequent factors. During several steps, four items were eliminated as they failed to contribute to a simple factor structure and did not meet the minimum criterion of having a primary factor loading of 0.5. Factor loading refers to the degree that the variance of an item's responses can be attributable to an underlying attitude being measured. The items: 'The government should focus on prosecuting traffickers', 'It is reasonable for victims of trafficking to not contact the authorities because they fear what traffickers may do to them or their families', 'A victim of trafficking would attempt to contact authorities at the first opportunity' and 'People who enter Australia and work illegally have done so because they cannot do so legitimately' did not load above 0.5 on any factor. This suggests that the responses to these items did not correlate to a single construct, or in this context, a single attitude.

A principal components analysis of the remaining 13 items, using varimax rotation, was conducted on the four-factor solution, with the factors explaining 60 percent of the variance. All items had primary loadings above 0.5 and none had cross-loadings above 0.3.

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