



Australian Government
Australian Institute of Criminology



Pacific Trafficking in Persons Forum

Organised by the Australian Institute of Criminology, the Salvation Army New Zealand, Fiji and Tonga, and the Pacific Immigration Directors' Conference

2-4 September 2009, Quality Hotel, Wellington New Zealand

Jade Lindley and Kristen Davis, Australian Institute of Criminology

Pacific Trafficking in Persons Forum

SUMMARY

The Australian Institute of Criminology together with The Salvation Army, New Zealand, Fiji and Tonga, and the Pacific Immigration Directors' Conference, brought together government agencies, nongovernment organisations and academics to identify existing research and its findings to date, to discuss challenges and identify research priorities for investigating and understanding the various forms of trafficking in persons.

More than 70 delegates attended the forum from nine countries in and around the Pacific Islands to hear more than 30 presentations on trafficking in persons and related issues. The forum themes included human rights; background and causal factors; responses to trafficking and capacity to respond; labour trafficking; child trafficking; sex trafficking; and nongovernment organisations' responses to trafficking. Based on the forum themes, identification of key areas drawn from the presentations are summarised below.

Theme 1: Human rights

It was clearly identified by the three presenters in the session on human rights that the observance and protection of trafficking victims' human rights must be at the core of all anti-trafficking activities. The root causes of trafficking in persons are often due to violations of human rights, such that human rights violations are a cause and a consequence of trafficking in persons.

Early and recent key international anti-trafficking instruments centre their activities on maintaining human rights, highlighting their importance and encouraging Pacific Island Nations contemplating adopting anti-trafficking measures to acknowledge a similar human rights approach.

Theme 2: Background and causal factors

The presenters in the split session on background and causal factors had three extremely varied experiences, which provided a valuable awareness raising opportunity for the forum delegates. It is clear that trafficking in persons is highly clandestine and can present in various forms, making the interception of victims and prosecution of offenders challenging.

Key risk factors identified in this session related to cultural, geographical, political, economic and security related issues. Understanding the complexities of the Pacific region is important when attempting to counter trafficking in persons. Issues such as limited resources and capacity to respond to trafficking, lack of legal framework, lack of training of law enforcement and the judiciary, limited victim support provisions and minimal collaboration within and between government and nongovernment sectors must all be considered in anti-trafficking responses.

Theme 3: Responses to trafficking and capacity to respond

The split session on responses to trafficking and capacity to respond highlighted the varying progress in adopting anti-trafficking measures by Pacific Island countries. The five presenters in this session had varying experiences, including at the frontline, policy development, regional administration, data collection and monitoring and legislation development.

Key issues identified from the presentations included the importance of national and regional collaboration in research, awareness raising, data collection, and information and intelligence sharing. The ongoing challenges due to limited resources were also highlighted as a significant issue, identifying that collaboration may be assisted by pooling resources to achieve positive outcomes.

Theme 4: Labour trafficking

Being an emerging issue, the split labour trafficking session was highly informative both in terms of its status as an emerging issue and its significant links to limited employment opportunity across the Pacific region. The five presenters provided an overview of the labour vulnerabilities, both emerging and ever-present within the Pacific as well as methods to counter the potential for exploitation.

The issue of international migration for employment was a common theme throughout the session, specifically within the seasonal work industries, nursing and rural to urban drift. The concept of Fair Trade Labelling and the potentially positive impact on farmers in the Pacific was addressed along with good practice identified in the recently released New Zealand Plan of Action against trafficking in persons.

Theme 5: Child trafficking

The child trafficking session provided the three presenters the opportunity to share their experiences and counter-child trafficking methods to forum delegates. Presentations provided a wide variety of international experience, highlighting the potential for child exploitation in the Pacific, and a window into what child trafficking in the Pacific might look like.

Identified by the three presenters was the need to ensure protective measures are in place for children from birth, such as the rights to birth registration and education as affirmed by the United Nations Convention on the Rights of the Child. Presenters provided an overview of measures being taken to prevent children being forced into situations of exploitation that may lead to trafficking in persons.

Theme 6: Sex trafficking

The session on sex trafficking aimed to provide delegates with a greater understanding of sex trafficking, a commonly misunderstood topic. The four presenters highlighted issues including demand-driven sex trafficking, gender equality and the ramifications of a patriarchal society, transparency in the sex industry and how to remove 'actual' victims from a situation of trafficking.

Despite varying experiences, the four presenters highlighted that people working with victims of sex trafficking need to understand the victim, their background and their choices in order to provide a supportive service.

Theme 7: Nongovernment organisations' responses to trafficking

This session provided nongovernment organisations working on anti-trafficking activities to provide an overview of lessons learnt and good practice activities that may assist other nongovernment organisations working on anti-trafficking in the Pacific.

The key message drawn from the three presentations was the need for community consultation and collaboration, both within the nongovernment but also the government sectors, to ensure all needs of the community are met.

Identified Research Priorities

- Sex industry legalisation and the potential for trafficking in persons and exploitation
- Understanding culture within the Pacific including the gender imbalance due to a patriarchal society
- Collaboration within and between government and nongovernment sectors to ensure resources are well targeted
- What are the vulnerabilities that may lead to trafficking in persons in the Pacific Island Countries?
- Who are the traffickers?
- Commercial sexual exploitation of children and the potential link into child trafficking and child sex tourism
- Role of parenting norms in the Pacific Islands
- The impact of labelling countries as source, transit and destination counties within the Pacific
- Where are the hotspots in the Pacific region?

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Welcome

Dr Judy Putt

Research Manager Research Services, Australian Institute of Criminology

Acknowledgement of the forum delegates for attending on behalf of the partners, the Salvation Army New Zealand, Fiji and Tonga, the Pacific Immigration Directors’ Conference (PIDC) and the Australian Institute of Criminology (AIC). It was also highlighted that there were a wide cross-section of delegates from agencies and countries across the Pacific region.

It was acknowledged that trafficking in persons occurs around the world, and increasingly that there is potential for trafficking into, within and out of the Pacific Islands. Increasing awareness of trafficking in person in popular media has resulted in an increase in awareness in the general public, though it is not well understood.

The Australian Government acknowledged trafficking in persons in 2004, from which the AIC has received funding for research into trafficking in Australia and within the region, which includes the Pacific Islands. Australia has reported few cases of trafficking in persons; 130 victims and seven defendants, two of which have been labour trafficking cases, since 2004.

Forums are an important way to find out what is happening in the region, which the Pacific Trafficking in Persons Forum brought more than 70 delegates to Wellington, New Zealand between 2 and 4 September 2009.

Day 1 Session 1: human rights

Chair

Dr Judy Putt

Research Manager Research Services, Australian Institute of Criminology

Presentations

Rosslyn Noonan, New Zealand Human Rights Commissioner, New Zealand

Ms Rosslyn Noonan took up a five year appointment as Chief Human Rights Commissioner in May 2001. Her tenure was extended a further five years in June 2006. She has headed the Commission during a period of significant change. Ms Noonan came to the commission from the position of Trade Union and Human Rights Coordinator with Education International. Based in Brussels, she worked with the United Nations Human Rights Commission, the International Labour Organization and other intergovernmental agencies and with education unions in the Balkans, Africa and Asia. She holds a Master of Arts in history, has been active in the women's and the anti-racism movements and had two terms as a Wellington City Councillor (1980–86). She has extensive experience in the trade union movement, including eight years as National Secretary of the New Zealand Educational Institute (NZEI Te Riu Roa) and four years on the National Executive of the New Zealand Council of Trade Unions (NZCTU).

Trafficking in Persons: a human rights approach

Human rights are about dignity, equality and security for all people. Human rights are about relationships between people and between the State and its citizens. Human rights are not simply about the law and a matter for lawyers and the courts. Human rights are inherent – belong to all of us because of our common humanity. They are inalienable – people cannot give them up or be deprived of them; and they are universal – apply to everyone without discrimination and exist in every country.

Trafficking in people is the antithesis dignity, equality and security.

Human rights as they relate to trafficking in persons:

- violations of human rights are both a cause and a consequence of trafficking
- trafficking involves some of the worst forms of human rights abuses
- international human rights obligations set out States' responsibilities to prevent and combat trafficking
- human rights must be at the core of any credible anti-trafficking strategies
- strategies must be developed and implemented from the perspective of those most vulnerable to trafficking.

Trafficking root causes are poverty, gender discrimination and a lack of social, cultural and political rights. It must be acknowledged that human rights violations are a cause and a consequence of trafficking in persons and that everyone has a responsibility to uphold human rights.

Trafficking in persons has been long recognised as an issue of concern. Trafficking is represented in the earlier human rights treaties:

- Slavery Convention 1926 (from League of Nations' temporary Slavery Commission)
- ILO 29 Forced Labour Convention 1930
- UN Trafficking Convention 1949
- Supplementary Slavery Convention 1956 - added debt bondage, serfdom, servile marriage and child servitude

Human rights must be at the core of every law enforcement policy dealing with trafficking – the human being is the first issue of concern. Trafficking in persons encompasses slavery, servitude and forced marriage and is often underpinned by racial as well as sex-based discrimination.

Other key conventions that have relevance to trafficking in persons include:

Convention on the Elimination of all forms of Discrimination Against Women 1979

- Article 6 – take all appropriate legislative and other measures to 'suppress all forms of traffic in woman and exploitation of the prostitution of women'

Convention on the Rights of the Child 1989

- Article 11 (combat illicit transfer and non-return of children abroad)
- Article 21 (protections around inter-country adoptions)
- Article 32 (regulation of child labour)
- Article 33 (prevent use of children in the illicit production and trafficking of drugs)
- Article 34 (protect children from sexual exploitation and abuse)

- Article 35 (prevent abduction, sale of or traffic in children)
- Article 36 (protect against exploitation)

Despite the references to trafficking in earlier conventions and protocols, it was never well defined until the Trafficking in Persons Protocol which emerged in 2000. The three key elements of the Protocol are:

- an **action** - recruiting, transporting, transferring, harbouring or receiving a person
- a **means** - using a threat, force, coercion, abduction, fraud, deception; abusing power or a position of vulnerability; giving or receiving payments or benefits to gain consent from someone who has control over another person
- for the **purpose** of exploitation – exploitation of the prostitution of others, other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs

The UN High Commissioner for Human Rights has identified three principles as essential to effectively combat trafficking in persons.

- place the human rights of trafficked persons at the centre of all efforts
- States have responsibilities under international law to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons
- anti-trafficking measures should not adversely affect the human rights and dignity of persons

Regionally, the 2002 South Asian Association for Regional Cooperation (SAARC) convention provides for preventing and combating against trafficking of women and children.

National human rights institutions, such as the New Zealand Human Rights Commission, are part of the State, but operate independently of government under a broad human rights mandate. According to former High Commissioner for Human Rights, Mary Robinson, National Human Rights Institutions, particularly in the Asia Pacific Region, are an underutilised resource in the fight against trafficking in the Asia Pacific Region.

Recommendations from the Asia Pacific Forum (APF) Advisory Council of Jurists encourage national human rights institutions to ensure their governments:

- ratify the Trafficking Protocol
- ensure laws are in line with international standards and properly enforced
- ensure victims are protected
- run education and training programmes for border control and law enforcement officials, labour inspectors, the judiciary and other relevant government officials and politicians
- advise governments about gaps and weakness in domestic legislation and policies and national plans of action to address trafficking
- research and analyse trafficking, in partnership with nongovernment organisations, UN Agencies, governments and others
- receive and act upon trafficking complaints and enquiries
- cooperate with other National Human Rights Institutions particularly through the Asia Pacific Forum across the Asia Pacific
- share information and research data, develop programmes and projects and seek funding for regional initiatives through United Nations agencies and the business community

Cooperation within the region is important to ensure harmonisation of rights and upholding of rights. There has been a lot of work by National Human Rights Institutions in the region including:

- joint projects between countries to stop trafficking across their borders (Nepal/India, Malaysia/Indonesia, Malaysia/Philippines)
- New Zealand Commission worked with New Zealand and Thai officials and nongovernment organisations to return Thai sex workers safely, and more recently urged government support for Sikh labourers to return from Niue to India
- Australian Human Rights Commission chairs a National Roundtable on People Trafficking which in 2009 produced:
 - Guidelines for nongovernment organisations working in this area
 - *Know Your Rights* publication for trafficked persons

Despite lack of evidence that trafficking is a major issue in New Zealand, there is no room for complacency. In the last 15 years there have been cases which almost certainly involved trafficking in the hospitality sector, in horticulture and in the sex industry.

The Human Rights Commission welcomes the New Zealand Plan of Action to Prevent Trafficking and urges an equivalently explicit human rights approach to tackling separate but related issues, in particular child prostitution

Sandra Bernklau, Regional Rights Resource Team, Secretariat of the Pacific Community, Fiji

Ms Sandra Bernklau is the Programme Manager of the Pacific Regional Rights Resource Team (RRRT) which is a program under the Social Resources Division of the Secretariat of the Pacific Community. Ms Bernklau has lived and worked in the Pacific since 1994; previously with UNDP and UNICEF as well as the Pacific Children’s Programme as a consultant. Ms Bernklau worked closely with UNICEF when RRRT supported the regional studies on CSEC and CSA. RRRT works in the area of human rights and gender equality. One of RRRT’s main projects over the next three years is to assist PICTs in developing legislation to combat violence against women. RRRT will be representing the UNAIDS team forum at this meeting, which consists of the following agencies: UNAIDS, UNDP, UNDP Pacific Centre, WHO, UNFPA, UNICEF, SPC, ILO, UNESCAP and UNIFEM.

Human rights and trafficking in the Pacific

This presentation provided an overview of human rights issues as they relate to trafficking in persons. It highlighted the need to centre all anti-trafficking measure on the core issue of human rights. The key points of trafficking in persons as they relate to the Pacific islands are:

- men and women and children
- not just migration / border issues
- internal and cross border
- labour and sex trade
- assumed more women / girls than men – gender power issues

Where children are present the Secretariat of the Pacific Community always considers the situation trafficking.

Trafficking is a hidden crime with limited data and no comprehensive studies in the Pacific, therefore there is a great importance of highlighting the human rights issues and how they relate to trafficking in the Pacific. The key points are primacy, prevention, protection and assistance. As it related to the Pacific, the specific issues are:

- violations that are gender based
- children (CSEC)
- HIV/AIDS and challenges with discrimination and provision of services
- lack of infrastructure
- large border areas

All trafficking in persons responses in the Pacific need to encompass human rights principles. To date, trafficking responses have been seen as the role of immigration and security, not human rights. There have been a number of case studies in various Pacific island nations, including Papua New Guinea, Fiji, Kiribati and Solomon Islands, of essentially internal trafficking. Due to limited governance in many of these countries, law and order has deteriorated and trafficking victims are not responded to in a human rights appropriate manner. The cases are presented below.

Papua New Guinea case example 1
Some Papuan girls from traditional border crossing families come across the border on family (border crosser) permits from Indonesian Papua to Papua New Guinea, to visit the hotels and bars in Vanimo and to sell sex to Papua New Guinea travelers in transit, mainly Papua New Guinea’s ‘top shots’ and military personnel and Asian logging workers. Sex is available everywhere, both very young girls and women, and the local <i>standard</i> rate charged is about K25,00, which is considerably less than what is being paid in Lae and Port Moresby. <i>p. 41 Papua New Guinea sources, HELP Inc, CSEC/CSA Study, Jan 2005</i>
Papua New Guinea case example 2

The Maprik Crisis Counselling Centre is currently dealing with three cases of what are locally called ‘cash and carry’ girls – child brides bought by Sepik Vanilla farmers from remote border village areas of Sandaun province. In these three cases the girls were bought for K19, 000, K15, 000 and K20, 000 respectively. Now that the vanilla prices have fallen and the perpetrators can no longer maintain the girls, they are often presenting at the crisis centre neglected, overworked and undernourished.
p. 32, CSEC / CSA study, HELP Inc

Transporting off shore - Kiribati

“I know most of these Koreans and the young girls through the offer to transport them from bars to the wharf and from the wharf to the ship. I’ve gained much from them through transporting them from place to place and especially when they want to return to the ship. They often book me for certain times to come and pick them up. One incident I remember was when I transported five Koreans and five girls to a range of motels across South Tarawa”.
Betio taxi driver and boat owner, October 2004, p. 28, Kir Report

Solomon Islands – Logging Camps

In the interviews, there were six stories about marriage below the legal age, affecting 12 girls. All but one of the cases were marriages between Solomon Islander girls and foreign men working at the logging camps. All of the girls involved were aged between 13 and 14, and all stories included money as the reason for marriage. In three cases it was specifically mentioned that the mother or the parents of the child received money for the marriage. In two cases, girls were forced to marry by their parents. In both cases, the girls later ran away to escape the marriage.
Source pg 24/25 – CCC – CSEC in Sols; Study of a remote logging area

These above examples highlight the vulnerabilities to trafficking in the Pacific region. Readdressing primacy, prevention and assistance in relation to the Pacific in light of these case studies, below:

Primacy	Prevention	Protection and assistance
<ul style="list-style-type: none"> • rights at the centre of the response 	<ul style="list-style-type: none"> • stricter border control? • better immigration procedures? • greater awareness / education on trafficking? • violence against women legislation – comprehensive including trafficking – human rights compliant • HIV/AIDS legislation to be comprehensive and human rights compliant with links into protection and treatment and care 	<ul style="list-style-type: none"> • violence against women legislation to be more comprehensive • recognition of trafficking through training and education • extending facilities to victims of trafficking; counselling, safe houses, health care • short term work permits, to allow victims to stay if they choose, and permit employment • consular protection and assistance – access to justice and the rules of law and democracy to be maintained

A focus on HIV/AIDS is relevant to trafficking in persons in the Pacific Islands as it is already a prevalent but complex issue. Some of the key concerns are:

- gender concerns
- attitudes / social norms towards CSW and MSM
- difficult geography – access to health care inadequate in remote areas
- access to healthcare issues generally
- criminalisation of those trafficked fuels the epidemic (hides HIV)

Other vulnerabilities that may link HIV to trafficking in the Pacific Islands, according to United Nations Development Programme (UNDP) include:

- large numbers of poor people (35 percent of the region's people live below the poverty line)
- low levels of literacy
- porous borders
- rural-to-urban and intrastate migration of male populations
- human trafficking
- stigmas related to sex and sexuality
- structured commercial sex and casual sex with non-regular partners
- male resistance to condom use
- high prevalence of sexually-transmitted infections (STIs)
- low status afforded to women, leading to an inability to negotiate safe sex
- high mobility within and between countries in the region
- prevailing gender norms, values and practices that disempowered women and girls
- weak public health infrastructure

Lastly, the following issues must be considered in the Pacific Islands in relation to trafficking in persons:

- how is trafficking recognised in the Pacific
- advocacy for human rights approaches in prevention, protection and assistance – does not have to be resource intensive
- gender – comprehensive violence against women legislation must include trafficking as majority of examples are women / girls victims of sexual violence
- HIV – any response must including HIV – HIV specific legislation which is HR compliant

Gwen Phillips, Regional Rights Resource Team, Secretariat of the Pacific Community, Fiji

Ms Gwen Phillips is a Fiji national working as a Senior Trainer with the Pacific Regional Rights Resource Team which is a program under the Social Resources Division of the Secretariat of the Pacific Community. She completed a law degree at Victoria University, Wellington, New Zealand in 1988. Gwen has worked both in government legal service and the private sector in Fiji as a lawyer and has served as a judicial officer on the Fiji bench as a Magistrate and a High Court Judge.

Pacific Island countries human trafficking legislation from a human rights perspective

This presentation provided a legislative framework overview. The key concept when considering a human rights based anti-trafficking legislative framework is that it needs to be multifaceted and there a number of challenges to bring the Pacific Island countries in line with international standards and best practice.

Several Pacific Island Nations have adopted legislative measures beginning the process of compliance with international standards, listed below:

- Palau – Anti Smuggling and Trafficking Act 2005.
- Tonga – Transnational Crimes Act 2002.
- Cook Islands – Crimes Amendment Act 2004.
- Nauru – Immigration Amendment Act 2005.
- Fiji – Immigration Act 2003.
- Vanuatu – Counter Terrorism and Transnational Organised Crime Act 2005.
- Niue – Terrorism Suppression and Transnational Crimes Act 2006.
- Cook Islands – Crimes Amendment Act 2004

Other countries rely on existing criminal law provisions where trafficking is not recognised as a specific crime. Papua New Guinea, Tuvalu, Kiribati, Solomon Islands, Samoa use current Criminal/Penal Codes that contain various offences relating to kidnapping, procurement, abduction, child prostitution, detention in a brothel, kidnapping for slavery, obtaining minors for immoral purposes, prostitution and brothel-keeping. The French and US territories, Australia and New Zealand are not included into the reform within the region, based on needs. Palau, despite a prosecution of trafficking in persons, is still included in the legislative reform.

A number of gaps in the legislations have been recognised and the aim of the Secretariat of the Pacific Community is to bring the Pacific in line with international standards, in particular the countries that don't have specific trafficking in persons legislation are not complying in full and adopting a separate legislation is essential.

Research shows that women and children are most at risk of being victims in the Pacific and commonly trafficked into domestic labour. There are many challenges in addressing trafficking in the Pacific therefore adopting UN best practice is essential. Countries that have taken the first steps in acknowledging trafficking need to be commended. Anti-trafficking legislations that are human rights focused should have provisions for administrative civil and criminal liability of all legal persons, for example, administrative controls and conditions concerning the licensing and operation of businesses which may serve as a cover for trafficking such as employment agencies, hotels, escort services, massage parlours. Legislation should contain civil liability provisions relating to labour conditions, child labour, and non-payment of wages which are also implicated by trafficking. It should also provide for effective and proportional criminal penalties, graded offences and aggravating factors and contain provisions ensuring assistance to and protection of trafficked victims which should include:

- welfare, remedies, security and rights
- protecting the privacy and identity of victims
- preventing victims from being prosecuted, detained or punished for the illegality of their entry, residence or any consequential activities
- make effective provisions for victims to be given legal information and assistance in a language they understand as well as appropriate social support
- guaranteed protection from summary deportation or return where reasonable grounds to conclude that such action would pose a significant risk to victim and/or family
- consider permitting victims to remain in the country temporarily or permanently in appropriate cases
- provide for the grant of temporary visas for an initial 1-3 month period so that victims are properly able to consider options
- contain provisions for the implementation of measures to provide for the physical, psychological and social recovery of victims in cooperation with nongovernment organisations and other elements of civil society (emergency housing, counselling, medical assistance, employment, education and training opportunities)
- mandate that the age, gender and special needs of victims be a paramount consideration in all anti-trafficking measures
- contain provisions that offer victims the possibility of obtaining compensation for damage suffered
- repatriation provisions should contain a requirement that victims be protected from harm including retaliation

There are many practical obstacles in addressing trafficking in persons in the Pacific. For Pacific Island Nations practical challenges pose a serious disincentive to ratification of the Convention and the supplementary Trafficking Protocol. Ratification will mean inter alia recognition of fundamental rights of victims to receive care and support. Where the realisation of such rights is dependent on expenditure of limited financial resources and competing priorities, implementation of emerging best practices will be problematic. However, the legislative measures suggested are not necessarily resource driven and there is much scope to build on existing frameworks:

- incorporating a precise and comprehensive definition of the crime of trafficking, providing for effective and proportional criminal penalties does not involve spending money
- incorporating administrative and civil liability provisions to monitor business operations, labour conditions and non-payment of wages is not new. Government agencies already exist for this purpose
- protecting the privacy of victims is not resource driven
- preventing victims from being punished is not resource driven
- the right to legal information and assistance which may require the service of interpreters may pose difficulties, however administrative measures such as the appointment of panels of suitable persons may be considered as a starting point
- guaranteed protection from summary deportation or the grant of temporary visas is not resource driven, which is done as a matter of course in other industries

- the implementation of measures to provide for the safety and social recovery of victims can build on existing frameworks. Nongovernment organisations, such as the Fiji Women’s Crisis Centre, already possess an extensive network of counselling facilities and partners and has over the past two decades trained and built capacity with partners throughout the Pacific region
- temporary housing is already provided to unlawful immigrants (awaiting deportation) who are not necessarily victims
- adopting non-discriminatory provisions recognising the age, gender and special needs of victims is more about political will than resource constraints.

Lastly, resource constraints in relatively smaller Pacific Island Countries cannot be ignored and is an impediment to securing full compliance with emerging best practices and effective enforcement mechanisms. However not all best practices are resource driven. Securing the political will to implement legislative reform compliant with human rights standards is often the greatest obstacle.

Day 1 session 2: background and causal factors, part one

Chair

Vyvyenne Noakes
Salvation Army, New Zealand, Fiji and Tonga, New Zealand

Presentations

Lance Bonneau, International Organization for Migration

Mr Lance Bonneau is a graduate of Columbia University and has over 20 years experience working in the field of migration. He is the Senior Program Manager for the International Organization for Migration (IOM) regional office in Canberra. Mr Bonneau has extensive experience working in the field of anti-trafficking, having spent 10 years developing and managing anti-trafficking programs at IOM’s Regional Office Bangkok, prior to assuming his new assignment in Canberra. He has managed programs addressing the return and reintegration of victims of trafficking, development of bilateral MoUs on trafficking, training and capacity building of government officials, community awareness raising, and the facilitation of regional cooperation.

IOM’s response to combating trafficking in persons – building effective national frameworks and promoting regional cooperation

This presentation provides an overview of the functions of the International Organization for Migration (IOM), including the support services provided to victims of trafficking, the IOM counter-trafficking database and lessons learned from the Greater Mekong Subregion that can be applied to the Pacific to assist in implementing national and regional anti-trafficking measures.

The IOM was developed in 1951 and has 127 member states and 93 observers. The IOM has over 440 field offices in over 120 countries with more than 6690 staff working on 2030 projects. There are more than 120 anti-trafficking projects run by IOM globally.

The IOM aims to assist nongovernment and government agencies in building links between their agencies by highlighting the responsibilities they have, drawing upon their strengths. A whole of government approach is essential for all anti-trafficking responses to ensure all resources are utilised in victim support, prosecution, prevention and investigation processes.

IOM has a four-pillar approach to anti-trafficking, which involves prevention, protection and assistance, prosecution and partnership. The role of each of the four pillars is broken up as displayed in the following table:

Prevention	Protection and assistance	Prosecution	Partnership
<ul style="list-style-type: none"> • root causes • research, • data gathering and analysis • awareness raising • sound migration policy 	<ul style="list-style-type: none"> • empowering victims • human rights centred • return and reintegration programming 	<ul style="list-style-type: none"> • securing justice • combating the crime 	<ul style="list-style-type: none"> • institution and capacity building of governments, NGOs, IOs and civil society

Providing technical assistance and capacity building by ensuring a victim centred ‘rights-based’ approach to anti-trafficking efforts, for example by removing victims from detention and building a framework to better respond to protect the victims are core roles of IOM. Bottom up good practice activities are encouraged by IOM. Specific roles IOM undertake in technical assistance and capacity building include:

- providing policy advice/guidance
- critiquing/assisting in drafting of legislation
- conducting assessments of migration management frameworks, with particular regard to assisting trafficked and other vulnerable migrants
- developing National Plans of Action (NPA), SOPs, cooperation frameworks
- facilitating intra/inter governmental cooperation (bilateral/multilateral MoUs)
- providing specialised training to Government agencies and civil society on:
 - building return and reintegration frameworks and processes
 - delivering specialised care for victims of trafficking (counseling, life-skills training, psycho-social support, managing specialised care facilities, safe houses and shelters, etc.)
- vulnerability reduction through awareness-raising
- establishing mentoring programs

Direct assistance to victims is another core element of IOM’s mandate. Activities directly involving victims of trafficking in persons include:

- provision of reception, interim care, return and reintegration support services directly to victims of trafficking
 - counseling
 - temporary shelter
 - psycho-social assistance
 - livelihood planning
 - medical care
- provision of financial and material support through individualised recovery plans to promote sustainable recovery and reintegration
- community based ‘grass-roots’ support initiatives to reduce vulnerability

The return and reintegration (R&R) program ensures victims aren't returned to a situation of harm and provides them with services to benefit the individual. Awareness raising is important as the more information potential migrants have the lesser the chance they may find themselves in vulnerable and potentially exploitative situations upon arrival in the destination location. Awareness raising may not prevent trafficking but it will provide information about it. It is also important to recognise that victims of trafficking are not always people from vulnerable situations. The aim of awareness raising is to ensure that at the core of all prevention activities is an aim to reduce vulnerability to exploitation. An individualised response to victims of trafficking is essential as needs and wants of victims may differ greatly.

The IOM developed a Counter Trafficking Module (CTM) that was developed to facilitate the management of information gathered from all IOM Counter-Trafficking and R&R programmes. As of July 2009, the database includes primary data on 13,643 registered cases of victim of trafficking assisted by IOM since November 1999. The CTM includes profiles of 80 different nationalities trafficked to over 100 countries of destination and generates demographic reports covering, gender, age, socioeconomic background, education and nature of trafficking event, among others.

Lessons that can be learned from the Greater Mekong Subregion, which includes Cambodia, Lao PDR, Myanmar, Thailand, Vietnam, and the Yunnan Province of China, are great due to the experience in developing anti-trafficking responses. Many of these lessons can be adapted and implemented in the Pacific Islands as regional and domestic counter trafficking responses. Some of the key points include:

- development of NPAs that underpin National Cooperation Memorandum of Understanding, Interagency Cooperation
- development of Bilateral Agreements/Memorandum of Understanding and accompanying action plans
- development of Sub-Regional Memorandum of Understanding on Trafficking reinforced by sub-regional action plan
- development of supplementing procedural guiding principles

Bilateral agreements in a region such as the Pacific are important to harmonise the responses to trafficking by agreeing to and acting on the 3P's. Regional consultative processes (RCPs) are deemed very effective for the following reasons:

- RCPs bring together states impacted at different points of the trafficking continuum, whether origin, transit and/or destination countries (some affected at each of these stages), and in differing states of socioeconomic development and operational capacity – where all states share equal status
- RCPs enhance interstate dialogue and efforts to improve cooperation
- RCPs promote a 'habit of cooperation' facilitating confidence-building in inter-state dialogue, information sharing, cooperation and exploration of collaborative approaches on multilateral challenges, such as trafficking in persons, in a non-binding forum.

Finally, it is important to acknowledge that exploitation of any kind is a serious issue and there needs to be a more liberal view on dealing with people who have been exposed to exploitation, whether or not specifically defined as trafficking. The victim should always be the primary focus.

Day 1 session 3: background and causal factors, part two

Chair

Vyvyenne Noakes

Salvation Army, New Zealand, Fiji and Tonga, New Zealand

Presentations

David Evans, Australian Federal Police, Australian High Commission, Vanuatu

Federal Agent David Evans is the AFP Senior Liaison Officer (Counsellor) at the Australian High Commission, Port Vila. He has been a member of the police for 32 years and holds the designation of Detective. He has undertaken a number of roles during his service, starting as a uniform constable, then moving to roles in Criminal Intelligence, Organised Crime Investigations, National Investigations, Professional Standards (Internal Affairs), International Deployment Group in Canberra, deployment to UN Cyprus and AFP National Duty Officer Group in Canberra. He commenced his current position in March 2009.

The Pacific Transnational Crime Network: how it can assist with detection and investigation of human trafficking in the Pacific

This presentation focuses on the activities of the Pacific Transnational Crime Network and their role in combating trafficking in persons at a regional level. The presentation also highlights emerging issues in Vanuatu that may render the country vulnerable to trafficking in persons.

The Pacific Transnational Crime Network (PTCN) is a networked organisation that has jurisdiction over the Pacific Islands. The PTCN was formed by agreement of the Pacific Islands Chiefs of Police (PICP) under the auspices of the Pacific Islands Forum Secretariat. The PTCN is a joint funded operation by Australia and the United States. It incorporates a number of agencies, including:

- Transnational Crime Units (TCUs)
- Australian Federal Police
- Pacific Transnational Crime Coordination Centre

- Micronesia Regional TCU
- US Joint Inter Agency Task Force - West
- other Pacific Law Enforcement Agencies

The PTCN is currently negotiating with the French and US territories to have them on board too.

Transnational Crime Units (TCUs) are smaller offshoots of the PTCN and located throughout the Pacific, including the following locations:

<p style="text-align: center;">Fiji, established July 2002 Samoa, established April 2003 Tonga, established October 2003 Vanuatu, established July 2004 Papua New Guinea, established August 2004 Micronesia Regional, established April 2008 Solomon Islands, establishing in 2009</p>

The TCUs have a range of roles, including:

- multi-agency and multi-national law enforcement
- disrupt transnational crime in Pacific
- undertake complex transnational crime investigations (extend investigation overseas - includes terrorism)
- network of intelligence teams across Pacific
- cooperation with financial intelligence units

The Pacific Transnational Crime Coordination Centre (PTCCC) was established in Fiji in June 2004 and relocated to Samoa in January 2008. The PTCCC is funded by the Australian Federal Police and operated by regional TCU staff who are seconded for a 12-month period. The role of the PTCCC is to:

- manage TCU generated intelligence
- exchange intelligence - Pacific region
- targeting and projects on crime in Pacific
- liaise with the PICP, Oceania Customs Organisation, Pacific Immigration Directors' Conference and Pacific Islands Forum Secretariat
- strategic reporting – Pacific Forum

A main role of the PTCCC is to undertake transnational crime assessments, which are conducted annually. In 2009, the PTCCC is conducting assessments of the following activities:

- criminal deportee's from USA, New Zealand and Australia
- firearms and drugs in the US territories
- people movement and identity crime

The effectiveness of the Network is determined by a number of factors, including:

- low technology infrastructure - CMIS and Splex Net
- people based - networking of TCU Staff
- reach back capability - Australia and US
- capability and capacity development

Complete matters are referred back to Australia and the US from the PTCCC; however the unit can be upgraded very easily to cope with more complex crimes if required.

The future activities of the PTCN include a range of activities, including:

- pacific patrol boat interoperability program with PICP
- Forum Fisheries Agency
- Solomon Islands TCU
- alignment of PTCCC as 'Intelligence Centre' for smaller Pacific Nations
- French Interest In PTCCC deployment
- Interpol
- cruise ship industry

- UNODC
- Guam joining Micronesia Regional TCU
- financial intelligence units to improve interoperability

There has been a probe into the trafficking in persons in the 2009/10 agenda to look at the routes Chinese women are taking to get into the Pacific region, who are then being exploited in the sex industry. This is also connected with the Pacific fishing industries. Research into these activities will be undertaken by the TCUs to determine how the travel is arranged and by whom. The current objective is to identify 10 -20 women who have come to law enforcement notice for vice offences and are who are travelling on Chinese documentation. It is anticipated that official corruption will be involved in order to facilitate border crossings. The TCUs also aim to collate information on these victims and develop a profile through consultation with IOM. A brief will be prepared and necessary people advised on the outcomes.

Vanuatu TCU, in collaboration with customs and immigration, is looking into the irregular migration of Chinese nationals into Port Vila. Anecdotally there seems to be more irregular migration than reported. In order to assist the illegal migration, corrupt practices of illegally provided visas are suspected. Vanuatu seems to be a transit point for refugees, overtaken from Fiji since the civil unrest has made Fiji more difficult to get into. Students of the University of the South Pacific are reportedly undertaking sex work to assist them financially during their studies. There have been anecdotal reports of some students becoming modern ‘concubines’, however there are no official reports. Taxi drivers are known to be middlemen for tourists to engage with sex workers in Port Vila, but also known to exchange free taxi rides for sexual favours.

Child sex tourism is suspected to occur in Vanuatu, though there have been no official reports. It is more common in the outer islands than on the main island on Vanuatu. Incest and child abuse within the home occurs though nongovernment agencies are assisting to prevent it. Customary ‘sorry’ practices are often still conducted in Vanuatu, therefore the official criminal process is averted. It is acknowledged in Vanuatu that demand for trafficking needs to be assessed in more detail.

Questions and comments

Judy Putt - Is there any drug trafficking data that may shed light on the networking within the Pacific?

There is currently no data on networks. Vanuatu TCU has had some drug hauls which have been investigated jointly by customs and immigration in New Caledonia and Vanuatu. There have been links to a P&O cruise ship. There is anecdotal evidence to show that there has been an increase in networking capacity in transnational crime.

Paul Roughan, Islands Knowledge Institute, Solomon Islands

Hollow borders and the slim state: challenges to understanding trafficking in the Solomon Islands

This presentation draws from experience in the Solomon Islands and highlights the potential vulnerabilities to trafficking, including cultural, political and security issues. Drawing from data collection in another clandestine area, corruption, this presentation sought to highlight the potential availability of trafficking in persons data.

The Solomon Islands, which gained independence in 1978, are considered the prototypic ‘Pacific failed state’. These issues are very important when thinking about trafficking in persons in the Solomon’s. According to the ASPI, the movement monitoring factors key to Australian-led RAMSI interventions are as follows:

“...this kind of legal vacuum so close to our shores would make Australia significantly more vulnerable to transnational criminal operations based in or operating out of Solomon Islands—drug smuggling, gun-running, identity fraud and people smuggling, for example. Perhaps even terrorism: the weakness of security institutions means that Solomon Islands’ capacity to monitor people movements is poor”.

The poor capacity to monitor people movement in the Solomon Islands is crucial not only to trafficking but has other implications for the State and society too, including:

- stability, security and nation-building efforts predicated on state capacity to maintain border integrity
- conceptions of state responsibility for law and order

It is important to understand how this translates into practice in the country.

The Solomon Islands can be referred to as a 'slim state', which implies:

- common reference to 'capacity shortfall'
- important to consider what type of capacity is being expected
- Surveillance? Monitoring? Enforcement?
- appropriateness to context is key
- the Solomon Islands archipelago – 1000 islands
- 5,000 villages with approximately 480,000
- only one significant urban area
- more than 100 active logging 'ports' currently
- unregulated and directly exposed to international movement

Autonomous villages with ownership of land are exposed to porous borders, which are often the way in and out for logging camps with cargo ships to carry the logs out. In these locations there are no customs and immigration, therefore there is no protection for the village from the illegal visitors. Some of the issues that related to having 'hollow borders' include:

- beyond capacity of the state as territoriality of the state is fundamentally different in Solomon Islands and 84-87% of land mass is legally and in practice outside state control
- also many inshore waters
- land control is aligned with society
- autonomous communities
- official borders are hollow
 - territory within is legally within the 'VCK domain'
 - economic, social and regulatory functions proceed independent of the state
- a different dimension from state (in)capacity

Hollow borders beyond the state control, doubled with being very porous and state legislation does not have authority, in fact the State would be trespassing if they attempted to enter the region without an invitation.

There is limited data on trafficking in persons generally and there is even less available data in the Pacific Islands. Understanding general factors of the Solomon Islands assists in determining reasonable responses to trafficking.

Factors that may have an impact on trafficking in persons, or may lead into trafficking have been listed below:

- recent cases of suspected sex workers from China (late 2008, early 2009)
- long standing accumulation of anecdotes regarding suspected labour trafficking
- Solomon Islands potentially a 'normalisation' site for final destinations, which often include Australia and New Zealand. The Solomon Islands are used as a 'stepping stone'.
- Solomon Islands is not a country of origin
- illegal and child sexual exploitation – longstanding and only recently documented, even more recently acted on in the capital harbour
 - logging related labour irregularities
 - urban labour market in particular Asian stores
 - money laundering and other signs of organised crime – where is the money coming from and going to?

Since the Solomon Islands are distinct in the State rule over land, there are methods of increasing awareness in the communities without the State intervening in other activities. Some of these activities include:

- community surveillance
 - analogous to community policing
- 5,000 villages
 - a nightmare for surveillance? or unmatched local network?
- anecdote-led research
- appropriate survey techniques

Based on Islands Knowledge Institute (IKI) work on corruption in the Solomon Islands, there are some strategies for understanding trafficking in persons, by approaching the issue of the lack of data in the same way. IKI have taken the concept of generating good quality data seriously and have found that although it is tough to find, assisting and

informative data is available in unexpected places. There has to be a shift in the way of thinking and the expected sources of data in order to find the available data. Some of the lessons learned from collecting data on corruption include:

- high quality information very available
- local capacity essential
- devil in the details
 - correct approach and setting
 - language and gender absolutely vital
 - engineer 'relaxed time frames'
- long term work necessary

Day 1 session 4: responses to trafficking and capacity to respond, part one

Chair

Poloma Komiti, Pacific Immigration Directors' Conference Delegate, New Zealand Department of Labour, New Zealand

Presentations

Api Fiso, Pacific Immigration Directors' Conference Delegate, New Zealand Department of Labour, New Zealand

Mr Api Fiso is the PIDC Delegate, New Zealand Department of Labour, New Zealand. This team has leadership roles in the area of identity management for non-New Zealanders, is developing and enhancing critical relationships with important international security partners in the Pacific, representing Immigration New Zealand's interests at appropriate international engagements and promoting a Pacific security leadership role. The team also develops and manages relationships to enhance New Zealand's role in the Five Country Conference and has a leadership role in the Rugby World Cup 2011 project. Mr Fiso was previously the Group Manager Border Security Group, which was responsible for border security, immigration intelligence, profiling, compliance operations, removals, fraud investigations, verification of certain classes of applications for New Zealand permits and visas and has been responsible for managing and directing the Department of Labour's broad range of international engagements relating to border security and control, including engagements such as the Bali process, Pacific Rim and ASEAN Regional Forum. In October 2006 he was elected Chair to the Pacific Immigration Directors' Conference (PIDC) a group of 23 member immigration agencies.

People smuggling, human trafficking and illegal migration in the Pacific: a regional perspective – January to December 2008

The Pacific Immigration Directors' Conference (PIDC) has been annually compiling a report on human trafficking, people smuggling and irregular migration since 2003. The data collected over time has allowed the PIDC to look at trends in the region on these activities. This presentation will report on data and findings from 2008.

The PIDC is a forum for official Immigration Agencies of the Pacific Region. It has 23 member countries and territories from Commonwealth of the Northern Mariana Islands and Palau in the North and West of the region to French Polynesia in the East, and includes Australia and New Zealand. The Secretariat for the PIDC is based in Suva, Fiji. The principal objective of the PIDC is to promote consultation and cooperation among Immigration agencies within the Pacific region. The annual Conference attended by all member states also provides for the exchange of ideas, the dissemination of information and the provision of technical assistance as well as being a focal point for collaboration with other regional and international bodies.

The purpose of the annual report on human trafficking, people smuggling and irregular migration is multilevel

- to contribute to the security of the region and help build sustainable solutions
- to inform the work of policy-makers, operational planners and strategic analysts within member governments and regional organisations

- to identify and analyse the prevalence of illegal migration, people smuggling, human trafficking and related crime within the context of wider people movements in the Pacific

As trafficking in persons is still considered a new topic in the Pacific, it is important to look at all people movement within the region to capture the overall migrant activity. There is a need to understand the difference between smuggling and trafficking in persons in the Pacific region, which will also facilitate accurate data collection and reporting of member states to the PIDC. The PIDC have adopted the definition of trafficking in persons and smuggling from the International Centre for Migration Policy Development. The report is collated based on information reported by members, therefore must be treated with caution.

There has been a vast increase in the number of arrivals in the Pacific region in recent years, 70% of which have been for the purpose of tourism. It is foreseeable that the number of arrivals will continue to grow.

Border refusals are increasing across the Pacific, however the process varies between the Pacific Island Countries, however refused persons are returned to the point of departure. Some of the reasons for border refusal may include:

- people carry false/altered supporting documents like birth certificates and identity cards etc
- people carrying cancelled, false and altered passports or visa
- people travelling as impostors

The Pacific region has a number of visa-free arrangements with other countries, which means there may be a lot of movement into, out of and even within the region. The increasing vigilance at the borders across the Pacific may send a message to potentially unscrupulous criminals that the Pacific is prepared to intercept illegal activity. Despite this, the capacity and capability of immigration agencies at the borders need to increase to prevent trafficking and smuggling of people into the region. It is acknowledged that the Pacific may only be a transit point on the way to other countries such as Australia, New Zealand, Canada or the US, however it is important to prevent at the Pacific borders. It is important to send a message of zero tolerance through hefty penalties to discourage the Pacific being used as a transit zone. To date, prosecutions for trafficking and smuggling of people have been very low. There are a number of difficulties in securing prosecutions, these include:

- lack of knowledge and expertise in identifying human trafficking characteristics
- lack of expertise to collect human trafficking evidence
- human trafficking cases being investigated for other border control violations
- lack of resources

It is recognised increasingly that facilitators of trafficking are not based within the region but increasingly overseas with minimum local involvement. These facilitators are likely to recruit local networks to transit the people to the final destination. There are some limitations with the prevention, investigation and prosecution of trafficking, in particular:

- not all members have appropriate legislation
- only a small proportion of trafficking cases come to the attention of the authorities
- border agencies have a limited awareness of human trafficking, particularly compared to people smuggling
- difficulty in determining human trafficking cases which are investigated for other border violations
- although victims may not be prosecuted, the protection and care provided to them can be inconsistent

Illegal immigration occurs within the Pacific, however it must be acknowledged that most migration is legal and benefits members' social and economic development, although illegal migration can have the reverse effect and be counterproductive to a country or territory's wellbeing. In order to ensure that irregular migration is kept under control training is essential and regional collaboration is important to maximise the potential gains.

Daiana Buresova, Pacific Islands Forum Secretariat, Fiji

Ms Daiana Buresova currently works as the Legal Drafting Officer at the Pacific Islands Forum Secretariat based in Suva, Fiji. She holds a Master in Laws from the University of Sydney and spent 10 years of her legal career in the Fiji Government. She served in different legal positions within key government institutions, including the Fiji Law Reform

Commission, the Parliamentary Counsel’s Office and the Fiji Police Force. In an effort to raise the interest of Pacific Island young lawyers in legal drafting, she currently teaches the Professional Diploma course in Legislative Drafting at the University of the South Pacific outside her office hours.

Human trafficking: a case study on legislative responses in the Forum Islands Countries (FICs)

The Pacific Islands Forum Secretariat (PIFS) comprises of 16 members who are independent and self governing states within the Pacific. The purpose of the Forum Secretariat serves to implement the Leaders’ decisions and distribute development assistance and undertake the political and legal mandates of Forum related meetings. For the purpose of this presentation, only 14 countries are the focus, excluding Australia and New Zealand.

The PIFS has a number of overarching mandates that encompass their activities. In relation to transnational crime, and trafficking in persons specifically, the Nasonini Declaration on regional security, 2002 highlighted in article 8 that;

“Leaders underlined the importance to Members of introducing legislation and developing national strategies to combat serious crime including money laundering, drug trafficking, terrorism and terrorist financing, people smuggling and people trafficking in accordance with international requirements in these areas, taking into account work undertaken by other bodies including the UN and the Commonwealth Secretariat.”

In addition, the Leaders’ vision, 2004, determined that;

“The Leaders believe the Pacific can, should and will be a region of peace, harmony, security and economic prosperity, so that all its people can lead free and worthwhile lives. We treasure the diversity of the Pacific and seek a future in which its cultures, traditions and religious beliefs are valued, honoured and developed. We seek a Pacific region that is respected for the quality of its governance, the sustainable management of its resources, the full observance of democratic values and for its defence and promotion of human rights. We seek partnerships with our neighbours and beyond to develop our knowledge, to improve our communications and to ensure a sustainable economic existence for all.”

Additionally, the Forum Regional Security Meeting provides scope and issues that require regional responses. The Pacific Plan, 2005, has four pillars that encompass economic growth, sustainable development, good governance and security. The Pacific Plan provides a blueprint on responding to crime in the region based within the security pillar.

The PIFS worked to develop model legislation to counter terrorism and transnational organised crime in 2007. The model legislation serves as a guide and is ever-evolving. A number of member states have enacted the model trafficking legislation. Part 8 of the model law deals with trafficking in persons, the following provisions are covered under this Part:

- offence of trafficking in persons
- offence of trafficking in children
- exploitation of people not legally entitled to work
- consent of trafficked person
- offence relating to fraudulent travel documents
- protection for trafficked persons
- obligation on commercial carriers

A number of the Pacific Islands have provision for prosecution of trafficking under other legislations; however Palau is the only country in the Pacific that has provision under trafficking specific legislation. Palau’s legislation has been taken verbatim from the United Nations Trafficking in Persons Protocol. Examples are listed below:

COOK ISLANDS	
Crimes (Amendment) Act	
FIJI	
Part 5 of the Immigration Act 2003	
Section 18	Application of this Part
Section 19	Offence of trafficking in persons
Section 20	Offence of trafficking in children

Section 21	Exploitation of persons not legally entitled to work
Section 22	Consent of trafficked persons
KIRIBATI	
Part VIII of the Measures to Combat Terrorism and Transnational Organised Crime Act 2005	
42.	Offence of trafficking in persons
43.	Offence of trafficking in children
44.	Consent of trafficked person
45.	Protection for trafficked persons
46.	Offence of people smuggling
47.	Offence to facilitate the stay of an unauthorised person
48.	Offences related to fraudulent travel or identity documents
49.	Aggravated offences
50.	Protection for smuggled persons
Merchant Shipping Act	
A 2006 amendment to section 15 of this Act provides that Foreign Ships shall not be registered by the Registrar unless a declaration is signed stating that the ship will not be used for certain activities including people smuggling, trafficking in persons or unlawful carriage of refugees.	
NIUE	
Part 7 of the Terrorism Suppression and Transnational Crimes Act 2006	
<i>People Trafficking</i>	
36	Offence of trafficking in persons
37	Offence of trafficking in children
38	Consent not a defence
39	Protection for consent of trafficked person
PALAU	
Anti People Smuggling and Trafficking Act 2005	
3906	Offense of people trafficking
3907	Offense of trafficking in children
3908	Offense of exploiting a trafficked person
3909	Consent of trafficked person irrelevant
3910	Immunity of trafficked person
3911	Penalty for non-citizen
3912	Scope of application
3913	Obligation of commercial carriers
TONGA	
Transnational Organised Crimes Act	
TUVALU	
Counter Terrorism and Transnational Organised Crime Bill	
VANUATU	
Part 5 of the Counter Terrorism and Transnational Organised Crime Act No.29 of 2005	
<i>Division 1 – People Trafficking</i>	
34.	Offence of trafficking in persons
35.	Offence of trafficking in children
36.	Exploitation of people not legally entitled to work
37.	Consent of trafficked person
38.	Protection for trafficked persons

In 2008, Palau successfully prosecuted a case of trafficking in persons known as the Carnival Case and the details of the case are listed below.

The Republic of Palau charged four defendants for numerous criminal violations including disturbing the peace, trespass, obstructing justice, advancing prostitution, people trafficking, exploiting a trafficked person, violating and

aiding and abetting a violation of the Foreign Investment Act, violations of the Tax Code, violation of Labor Laws and Money Laundering. The two of the defendants are alleged to have trafficked 10 people in 2004. The forms of exploitation the victims endured were prostitution and debt bondage.

The four defendants were convicted and punished by the Trial Court. The penalties imposed on the defendants ranged from imprisonment to restitution for the illegal deductions from each of the 10 victims' salaries. The four defendants were subject to deportation upon serving one third of their jail terms and unsuspended fines assessed against the defendants were fully paid.

The defendants have appealed their sentences on the following seven ground of appeal:

1. Failure to understand proceedings/lack of interpreter
2. Retrospective application of the Anti People Trafficking Act
3. Constitutional adequacy of charging documents
4. Hearsay admitted at Trial
5. Evidence of 'Dominant Motive'
6. Conflict of one of the defendant's attorney
7. Sufficiency of the Evidence

Only the first ground for appeal was successful, the others were affirmed. For those defendants who were successful, a retrial was ordered on all counts.

The lessons learned from the trafficking case tried in Palau, include:

- political will is fundamental if progress is to be made in enacting appropriate national laws to address this growing phenomenon.
- multidimensional approach is crucial in addressing this problem: Any laws must be supported by appropriate national infrastructure:
 - training of law enforcement agencies in detecting and investigating people trafficking cases,
 - capacity building of the judiciary in interpreting this matters, procedures for protection of victims, monitoring.
- time factor

Nacani Dreu, Oceania Customs Organisation, Fiji

Mr Nacani Dreu is a career Customs Officer, with 21 years experience of the Fiji Islands Revenue and Customs Authority (FIRCA). He was seconded to the OCO Secretariat in 2004 when the office was based in Noumea, New Caledonia. He has attended various regional and international forums representing the 23 OCO member administrations in the Oceania Region.

OCO secretariat's role in combating people trafficking

The Oceania Customs Organisation is comprised of 23 member states throughout the Pacific region. The scattered nature of the Pacific Islands impacts on the ability to respond effectively to trafficking in persons and people smuggling. There are known interlinks between drug trafficking and money laundering in the Pacific and these must be addressed in order to effectively prevent trafficking in persons worsening in the region.

In the Pacific, the majority, if not all cases are likely to be smuggling rather than trafficking in persons, however there is insufficient information to ascertain the circumstances for certain. Since 2007, the OCO has had 13 Customs Regional Intelligence Network (CRIN) reports of illegal migration into the region. Only eight cases specified the method of arrival, namely by land (2), sea (3) and air (2). All the reports were submitted by Papua New Guinea and involved 56 individuals from China (28), Indonesia (16) and Singapore (11). Facilitators came from a range of countries including Australia, Myanmar, China, Indonesia, Malaysia and from the continent of Africa.

Illegal passports are a method by which irregular migration is facilitated. Papua New Guinea reported the attempted use of illegal documentation to enter the country. Bribery and corruption are methods by which criminals gain

access to illegal documents and attempt to use them to enter countries illegally. A package of good governance is essential in order to combat this effectively.

The US trafficking in persons report have highlighted that 2 of the 23 members of the OCO are in Tier 3 of the report. In real terms, this implies that the US government is sanctioning these countries by not providing financial assistance. OCO's role in combating trafficking has been melded into the restructure of the organisation in the division on law enforcement and security. The restructure will divide OCO activities into the following divisions:

1. Trade Facilitation and Revenue Collection Division
2. Law Enforcement and Security Division
3. Research and Development Division
4. Corporate Services Division

The role of the division on law enforcement and security is to modernise the division to address trafficking and other regional illegal activities. The work plan for 2009-2013 of the division on law enforcement and security is highlighted below:

Role: to conduct a regional workshop and follow up at the national levels on the improved border management with effective and efficient strategies to addresses issues such as: intelligence information management, commercial fraud, concealments, document examination/verification, drug trafficking, people smuggling/trafficking, sex crimes, precursors, supply chain security, pharmaceuticals, counterfeits, cigarette/tobacco smuggling, small arms, searches-(body/vehicle/ship/aircraft) and transnational crime. Refer to Activity 9 of the Law Enforcement and Security Resource Plan for detailed activities

Funds Available: None

Funds Required: \$1,120,000

There are several challenges in achieving the goals set out in the work plan for the OCO and the region as a whole. Some of the challenges include:

1. outdated legislation on people trafficking
2. limited understanding of the legislation by law enforcement officers to specifically address people trafficking or smuggling issues, especially at the borders. There is a great urgency to adopt the model legislation in all Pacific Islands nations
3. lack of understanding and awareness on people trafficking/smuggling techniques (trends and patterns)
4. unclear systems and procedure to handle the people in custody/proper mechanism to a successful prosecution
5. limited resources to conduct the operation as well as the facility to house the people involved during their stay in custody
6. lack of resources to monitor movement of pleasure crafts and fishing vessels because of the scattered nature of islands in the region

To ensure that the anti-trafficking activities are actively responded to, the following activities are essential, including to:

- seek the assistance from possible donors to conduct more awareness and training to key stakeholders at the border as well as Police and the Judiciary.
- seek the assistance from key partners for the development or adoption of any model legislation that will address people trafficking issues to suit respective members.
- train the Border Enforcement Officers to understand their powers supported by the adopted legislation and to be able to prepare the cases that leads to successful prosecution.
- seek the necessary funding to implement the priority list of activities at the national level.
- monitor and evaluate progress of these matters and provide feedback to all key partners and other sister law enforcement agencies.

Raka Raula, Papua New Guinea Constitutional and Law Reform Commission, Papua New Guinea

Ms Raula attended the University of Papua New Guinea from 2003 to 2006, graduating with a Bachelor of Laws with Honours in April 2007. She was admitted to practice as a lawyer in Papua New Guinea in November 2007 after

attending the Legal Training Institute for nine months and joined the Constitutional and Law Reform Commission as a Legal Officer in the Research and Publication Division in January 2008. In March 2009 Ms Raula conducted the first Human Trafficking and Smuggling Conference in Papua New Guinea. She has been nominated, on two separate occasions, by the Papua New Guinea Government to attend the Bali Regional Process in Brisbane and Bali in February and April 2009.

What human trafficking means in Papua New Guinea

The anti-trafficking activities in Papua New Guinea commenced as a three people meeting; from the US Embassy, UN High Commissioner for Refugees (UNHCR) and the Papua New Guinea Constitutional and Law Reform Commission discussing the need for it in Papua New Guinea. Trafficking is a very new concept in Papua New Guinea, and trafficking and smuggling in persons were grouped together. This small meeting expanded into a 20-person focus group. The first trafficking conference was held in March 2009 whereby governments from Australia, New Zealand, the EU and US briefed Papua New Guinea on trafficking. Two resolutions were developed from the conference: ratify the UN Trafficking in Person Protocol and prepare an anti-trafficking bill. The encouragement within Papua New Guinea for the ratification of the trafficking protocol was based around the bi-lateral arrangement Papua New Guinea has in place with surrounding countries, and it was determined that it was in the best interest of Papua New Guinea to ratify in order to harmonise bi-laterally.

The focus of Papua New Guinea on anti-trafficking measures follow the 3P's of prevention, protection and prosecution. Activities that fit under the 3P's include:

Prevention	Protection	Prosecution
anti-trafficking conferences	family sexual and violence abuse committee	ratify transnational crime convention and trafficking protocol
national TV campaigns to raise awareness	national taskforce	draft anti-trafficking bill

There are challenges with the above activities, such as:

- the TV campaign is only 16 minutes, and therefore cannot air in a regular timeslot.
- need more people for the national taskforce.

The need for legislation is essential as trafficking in persons is known to hinder development, and since most Pacific Islands are already developing hindering development would be disastrous. The push and pull factors must be addressed to minimise risk of trafficking of Pacific Islanders. It also needs to be acknowledged that the anti-trafficking legislation may not cover all forms of trafficking in persons and therefore there is still space for exploitation.

According to the US Trafficking in Persons Report, Papua New Guinea has a lot of trafficking. The following excerpts are from the report:

"...women from Malaysia, the Philippines, Thailand and China [are] trafficked ...for ...commercial sexual exploitation to brothels in the capital and isolated logging and mining camps"

"...Some of the logging camps bring Asian women into the country...[for] sexual servitude"

"Women are occasionally sold as brides"

"Children in prostitution are common in the night clubs in the larger cities"

There have also been cases of trafficking reported to the PIDC of international trafficking. It is unknown how the concept of internal trafficking would be communicated. The feedback from the conference in March highlighted that all cases have been anecdotally reported and there is no hard data. There is a great need in Papua New Guinea to determine how to identify victims of trafficking through training of law enforcement particularly at the border and how to investigate it thereafter.

Identifying the concept of cultural trafficking may be a way unmasking the cultural idiosyncrasies in Papua New Guinea. The issues listed below may increase the vulnerability of Papua New Guinea nationals to trafficking in persons:

- bride price – acceptance of money or other goods to parents as payment for bride
- early child marriage
- customary adoption

Some of these concepts may be abused in the non-traditional sense and need to be protected so the tradition is not lost, but the vulnerability to trafficking is not hidden within the pretences of culture.

Day 1 session 5: responses to trafficking and capacity to respond, part two

Chair

Kristen Davis, Australian Institute of Criminology

Presentations

Paul Roberts, New Zealand Ministry of Foreign Affairs and Trade, New Zealand

Mr Paul Roberts is a Policy Officer at the New Zealand Ministry of Foreign Affairs and Trade. He currently works in the UN, Human Rights and Commonwealth Division covering issues such as people smuggling and trafficking, refugees, UN reform and peacebuilding. Prior to this role he completed a posting to the New Zealand Embassy in Tokyo and worked on disarmament issues. Mr Roberts completed a degree in arts and law at Auckland University and practised as a lawyer for six years before joining the Ministry.

Bali Process: the regional response to human trafficking

It takes a network to defeat a network and the Bali Process underpins the meaning of a network to combat trafficking in persons. The Bali Process involves the following elements:

- regional cooperation between governments of the Asia-Pacific region
- began in Bali in February 2002
- voluntary, non-binding
- focus on practical activities
- chiefly funded by Australia, New Zealand, Japan and the US
- trafficking and smuggling

The Bali Process is a non-binding process, which is not based around a treaty but around outcomes and activities. The Process is successful in bringing together a wide variety of countries. The Bali Process fits into a regional context and addresses regional anti-trafficking activities, quite separate to domestic and international anti-trafficking activities.

The Bali Process aims to undertake a range of activities. At the third ministerial conference earlier in 2009, the following objectives were identified to:

- protect vulnerable people e.g. women, children, refugees and internally displaced persons
- improve cooperation e.g. law enforcement, information sharing, extradition of offenders
- encourage strong domestic legislation
- build capacity to deal with trafficking
- deter human trafficking
- address the root causes of trafficking

The objectives aim to repatriate victims and protect potential victims in South East Asia and the Pacific and to improve information sharing.

The Bali Process steering group is a useful mechanism as it allows for all members to speak about issues frankly in a closed environment and achieve outcomes. The steering group acts as the 'engine room' of the Process. The steering group consists of Australia, Indonesia, New Zealand, Thailand, IOM and UNHCR.

There are 43 Bali Process countries in total:

Afghanistan	Mongolia
Australia	Myanmar
Bangladesh	Nauru
Bhutan	Nepal
Brunei Darussalam	New Zealand
Cambodia	Pakistan
China	Palau
Democratic People's Republic of Korea	Papua New Guinea
Fiji	Philippines
France (New Caledonia)	Republic of Korea
Hong Kong SAR	Samoa
India	Singapore
Indonesia	Solomon Islands
Iran	Sri Lanka
Iraq	Syria
Japan	Thailand
Jordan	Timor-Leste
Kiribati	Tonga
Laos PDR	Turkey
Macau SAR	Vanuatu
Malaysia	Viet Nam
Maldives	

And 18 observer countries

Austria	Poland
Belgium	Romania
Canada	Russian Federation
Denmark	South Africa
European Commission	Spain
Finland	Sweden
Germany	Switzerland
Italy	United Kingdom
The Netherlands	United States of America
Norway	

And 12 observer organisations

APC	UNDP
ICMPD	UNODC
IGC	ILO
IFRC	ADB
ICRC	World Bank
Interpol	

The Bali Process activities include meetings in 2002, 2003 and 2009 between ministers. Meetings between senior officials occur more frequently. There are two to three workshops each year which cover a range of issues. The steering group decides what issues need to be covered in the workshops. There have been workshops on:

- enabling electronic authentication of travel documents (New Zealand, 2007)
- victim support (Indonesia, 2006)
- regional strategy on child sex tourism (Bangkok, 2005)
- developing inter-agency action plans to combat trafficking (Tokyo, 2005)

- best practice on asylum management (Bangkok, 2003)

The workshops allow networking to ensure harmonisation in dealing with the issues of the Bali Process. Political will is another major element. Though networking and determining which issues need to be addresses, the real action that results is essential.

Questions and comments

Judy Putt - What is the Bali Process doing in the next two years?

The Bali Process has an ongoing schedule, but specifically there has been an agreement to restart a mechanism of an ad-hoc working group. It is determined that the Bali Process is mature enough to come together in small groups to discuss small issues with relevant countries and organisations. Secondary movement is being discussed between source and destination countries including Sri Lanka, Myanmar and Indonesia, Australia and New Zealand to determine the best approach to addressing the issue. Maritime safety and law enforcement cooperation are also presently being discussed.

Dean Blakemore, Immigration New Zealand, Samoa

Mr Dean Blakemore is the Immigration New Zealand Regional Liaison Officer for the Pacific and is based in Apia, Samoa. Mr Blakemore commenced this position in early 2007 and is responsible for liaison activities in the Pacific subregions, Micronesia, Melanesia and Polynesia. As part of his role Mr Blakemore works closely with Pacific Island Immigration agencies to assist with the development of capacity building and assistance programs, developing relationships and conducting liaison activities.

The plight of the Hapuku Indians – a case study in human trafficking in the Pacific

The case study of the Hapuku Indians shows the vulnerability of victims and the need for capacity and resources in the Pacific islands. It also shows the extent exploiters will go to in order to gain profits.

The individuals in the case study were as follows:

- 15 Indian males from the Punjab Region in India each pay facilitators between NZD\$25,000 and \$45,000 to participate in the 'Niue Enterprise Agricultural Scheme'. Many families sell their land in India to finance the groups travel.
- Each participant signs a contract binding him to the venture and was told that at the conclusion of the contract period they would be entitled to New Zealand Citizenship.
- The group are told an 'Agricultural University' exists in Niue and they would learn valuable skills whilst at the same time be earning NZD\$5.00 per hour.
- Facilitators are based in the UK, India, New Zealand and Niue.
- Transit Visa applications are lodged for the group's travel to Niue via New Zealand; however the applications are declined by Immigration New Zealand in New Delhi.
- The group subsequently travel to Niue via Republic of Korea, Fiji and to Samoa where they charter an aircraft to Niue. The additional costs are recouped from the group as an added expense.
- Upon arrival the group surrender their travel documents to the 'supervisor' in Niue, are housed in very poor accommodation and put to work on substandard land with no equipment.
- It soon becomes apparent to the group that they are essentially being used as slave labour.

Many issues emerged during this case and the investigation, such as cultural issues, and the problem of determining whether the case was that of trafficking in persons or people smuggling as the victims signed a contract and paid money to the facilitators. Another issue was around jurisdiction and the role of extradition and there were potentially three jurisdictions (India, New Zealand and Niue) that were involved in specific stages of the situation. Finally the victims were visited by the International Organization for Migration (IOM) and they were returned to India via the return and reintegration (R&R) program. To date, no prosecutions have been made, though one of the victims has attempted to prosecute the facilitators and advised there will be a 20 year wait before the case will be before the courts.

From a cultural perspective, the Indians didn't want to go back home as they didn't want to face the shame to their families, in fact the victims were apparently considering mass suicide to deal with their shame. However, with the counselling of IOM, the group agreed to return home safely.

Many outcomes and lessons learned from this situation resulted, including:

- ultimately this group returned to India bereft financially and without justice
- in many ways the group fitted the classic profile of smuggled labour yet were not interdicted at any border points
- despite the fact that they were denied transit through New Zealand they still managed to arrive at their ultimate destination via alternative routings
- they were told various lies and made promises that were never kept
- the financial impacts on small Pacific Island Countries cannot be underestimated when groups (and even individuals) become stranded in the Pacific
- considerations around health, pastoral care, repatriation and reparation all became major issues
- many cultural and language issues emerged during the course of the investigation
- high level political intervention became necessary to remedy this group's plight

Questions and Comments

Judy Putt - How did the Indian victims find out about the Niue scam?

Dean Blakemore - Word of mouth is very strong and the victims didn't know each other. There are strong push/pull factors to go and work in Niue in an agricultural setting and they were also given the incentive of New Zealand citizenship.

Judy Putt - How was the contract payments disbursed among offenders?

Dean Blakemore - Disbursed among offenders in Niue, New Zealand and the United Nations Kingdom

Judy Putt - What were the locals told about the situation, since it is such a small community?

Dean Blakemore - Unfortunately the locals were not told much, though the Indians were very visible.

Susu Thatun - Was there any follow-up with the victims after the R&R was completed?

Dean Blakemore - The investigation has not closed as there are still suspects in New Zealand who may be perused. The IOM R&R program was successful, however no specific information is known about follow up.

Margaret Hay - This case study is a parallel with the early ancestors who came to Australia and New Zealand from Europe on good will. There needs to be work done to empower the Indian people who wish to migrate. There is often angst in New Zealand relating to Niue due to the relationship between the nations.

Rochelle Ball - How expensive/easy is it to prosecute offender in the Pacific?

Dean Blakemore - Not major issues in the Pacific due to the mono-cultural nature of the region, it is easy to spot outliers and so the locals have a defence mechanism to protect. Community policing exists a lot in the Pacific.

Dave Evans - In Port Vila, new methods to charge offenders are being developed which can be rolled out through the region.

Darren Frazer - The case study has a strong poverty motivation – there needs to be more attention focused at the bottom.

Discussion and Reflection from Day One

In the final session on Day One of the forum, the focus was on highlighting the key themes delegates thought resonated throughout the presentations and what delegates thought need to be considered more later in the forum.

- poverty
- identification of trafficking victims
- community aspect of diversity and cultural issues

- victim repatriation issues
- invested interest in those who have been trafficked
- the work of the OCO, PIDC and PICP
- focus of resources at the grass roots level to mobilise community relationships
- raising awareness
- mono-cultural communities
- push and pull factors
- source countries in the Pacific
- power of case studies
- frustrated by Palau prosecuting only one offender – should work to network agencies to prosecute all offenders
- increasing the role of networking and moving on from the fragmented approach in government and nongovernment to get empirical data by pooling resources and knowledge
- importance of the transnational organised crime convention and domestic trafficking legislation in the Pacific
- states capacity to reduce movement across the region
- how do the discussions convert into practical answers
- partnerships between government and nongovernment agencies to raise awareness
- trafficking protocol and human rights at the centre of all anti-trafficking responses
- priority of the issue – due to the limited victims not being very high therefore need to accept the priority level will be low in many jurisdictions
- a lot can be done that is not resource driven, such as legislative reform
- partnerships are very important and networking to better utilise what resources are already in place
- Determining the ‘hotspots’ of trafficking in persons within the region is important to determine where best to direct responses. In particular, the areas that have a fast wealth increase followed by a bust are more likely to be exposed to exploitation
- the concept of slim states that encourage an underlying vulnerability
- determining who the facilitators are and what level they are involved
- Increasing awareness of the region’s customary and traditional issues and focusing on how they can be seen as strengths and weaknesses of the region to support the community but also create vulnerability to trafficking and other crimes.

Day 2 session 1: labour trafficking, part one

Chair

Wilma Gallet, The Salvation Army, Australia

Presentations

Caroline Scott, International Labour Organisation, Fiji

Ms Caroline Scott is the Technical Legal Officer at the International Labour Organization’s Office for Pacific Island Countries in Suva. In this role she focuses on International Labour Standards promotion and compliance and labour law reform, including with respect to child labour, trafficking and forced labour. Ms Scott is also responsible for gender mainstreaming ILO programmes and acts as the ILO’s liaison with other United Nations agencies and development partners in the Pacific. Prior to taking up this position with the ILO, Ms Scott was a Senior Associate at an Australian law firm working in industrial relations and human rights law.

Combating trafficking in children for labour exploitation in the Pacific

This paper provided an overview of the international regulatory framework; risk factors in the Pacific for child trafficking and ILO/IPEC responses to eliminate child trafficking.

The ILO covers 22 countries within the Pacific region. The ILO includes the rights of children in all of their conventions and protocols and seeks guidance from the UN Convention on the Rights of the Child (CRC) (1989). The CRC became the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social rights. The CRC provides a useful guide to protect vulnerable children. It establishes an overarching call for the child to be considered the ‘subject’ and not the ‘object’ of rights. Child trafficking is a crime under international law and a violation of children’s rights. A second international law instrument of critical importance to child trafficking is the Optional Protocol to the UN Transnational Crime Convention to prevent, suppress and punish trafficking in persons, especially women and children, known as the ‘Palermo Protocol’. The definition of trafficking in person ILO use originates from the ‘Palermo Protocol’.

The ILO has a specific mandate with respect to the abolition of child labour. The preamble to the ILO’s Constitution of 1919 provides that the ILO’s primary mandate is to protect the interests of workers, which would include child workers. Fundamental rights at work are covered in eight ILO conventions and 2 cover the rights of children against child labour. The ILO gets its specific mandate with respect to eliminating child trafficking from Convention 182.

- applies to all children under 18 (Art 2)
- declares child trafficking to be a ‘Worst Form of Child Labour (WFCL)’ (Art 3)
- other WFCL often result from trafficking: slavery, forced labour, debt bondage, serfdom, prostitution, pornography, other illicit activities i.e. drug production / trafficking, forced recruitment for armed conflict and all forms of work that are likely to harm the safety, health or morals of children (Art 3)

All ILO members are mandated to comply with the four main conventions relating to fundamental rights as condition of membership, which therefore provides fundamental rights to be included in all members states despite specific convention ratification. ILO convention 182 is an obligation of all member states regardless of development. The Global Action Plan (GAP) against WFCL (endorsed 2006) commits all 181 member States to time-bound measures against WFCL by end 2008 and the elimination of WFCL by 2016.

The ILO Recommendation 190 on the ‘Worst Form of Child Labour’ provides guidance on holistic and effective implementation of C.182 including:

- collecting detailed information and statistical data on child trafficking
- mobilising public opinion and the support of workers and employers organisations and civil society to eliminate child trafficking
- creating jobs and providing skills training for parents and adult family members of children at risk of child trafficking

Not all child work is considered forced labour, depending on the intensity of the work and the degree of danger involved. Hazardous work and trafficking in persons is always considered the worst forms of child labour.

C.182 has been ratified by over 90% of the ILO’s member states, including by 7 out of the ILO’s 10 member states in the Pacific. Australia, Fiji, Kiribati, New Zealand, Papua New Guinea, Samoa and Vanuatu have ratified C.182. The Solomon Islands, Republic of Marshall Islands and Tuvalu are yet to ratify C.182. It is a requirement of all developed member states to assist countries to implement convention 182.

Further ILO conventions to eliminate child trafficking include:

- C.29 ILO Forced Labour Convention;
- C.105 ILO Abolition of Forced Labour Convention 1957;
- C.97 ILO Migration for Employment Convention (Revised) 1947;
- C.143 ILO Migrant Workers (Supplementary Provisions) Convention 1975; and
- C.181 ILO Private Employment Agencies Convention 1997.

There is not a lot of data on child labour and the information that is available is often out of date. The statistics often don't report internal trafficking which was determined as the most common in the Pacific. The 2004 US State Department's report on trafficking estimates that a flow of between 600,000 and 800,000 people are trafficked across borders each year. Of this amount 80% are women and girls and 50% are children. This amount does not, however, include people trafficked within their own countries, which is likely to far exceed those trafficked between countries in the Pacific.

In 2005, the ILO's global report estimated that there was a 'stock' of between 980,000 and 1,250,000 children who were in forced labour as a result of trafficking. This estimate includes cross-border and internal trafficking and represents just under 15% of the estimated number of children who are involved in the so called worst forms of child labour.

The ILO's 2009 Report on Forced Labour – *'The cost of coercion'* – breaks new ground in assessing the economic impact of forced labour, including the impact of fraudulent recruitment of migrant workers. It found that an estimated 8.1 million victims of forced labour in the world today are denied more than \$20 billion due to the perpetrators of forced labour. These opportunity costs, or 'stolen' wages, are incurred largely in the developing world and most significantly in Asia and the Pacific, which accounts for \$8.9 billion, or almost half of forced labour's costs in the world. As wages were denied to workers and as a result not remitted to workers' home countries, these costs can be viewed as an impediment to economic development.

Child trafficking risk factors for labour exploitation in the Pacific include a range of individual and family risk factors:

- large patriarchal family in poverty
- age and sex (i.e. young girls)
- traditional attitudes and practices
- experience of domestic violence and sexual abuse – domestic violence is very high in the Pacific (reports by WHO, SPC and UNFPA)
- naivety and lack of awareness
- lack of education and skills
- boredom with village life and city attraction
- travelling without money

There are also a number of institutional, community and workplace risk factors including:

- large youth population with low labour market absorption capacity and high youth unemployment
- absence of cheap, fast and transparent migration/job placement services for youth
- weak legal framework, enforcement and corruption
- weak education system not relevant to labour market and distance to schools and training
- gender discrimination in education and labour market
- lack of community entertainment
- history of migration
- poor labour law protection, inspection and enforcement
- unregulated informal economy and 3D jobs (Dangerous, Dirty, Demanding) with poor working conditions
- inability to change employer

- male demand for sex with girls/sex tourism
- lack of organisation and representation of workers

The risk of child labour is increased in the Pacific due to the lack of protections in place. The TACKLE program in Fiji and Papua New Guinea aims to eliminate child labour by 2016 operating in 11 countries in Africa, Caribbean and Pacific. TACKLE's key objectives include:

- reduce poverty by providing access to basic education and skills training to disadvantaged children and youth
- strengthen capacity of authorities in the formulation, implementation and enforcement of policies to tackle child labour in coordination with employer organisations, unions and civil society

TACKLE operates through three key project strategies:

- strengthen legal frameworks on child labour and education
- strengthen institutional capacity to formulate and implement child labour strategies (research)
- targeted actions to combat child labour (database)

The TACKLE program has run workshops to determine how best to collect data, which will be published about Fiji in October 2009. In addition, a database of de-identified child labour victims will be kept for long term programs in Fiji and Papua New Guinea.

IPEC was established in 1992 and is now the world's largest technical cooperation program to end child labour, with a focus on eliminating WFCL, including child trafficking. IPEC acts on a global level to: raise awareness about labour exploitation component of child trafficking; build the knowledge base; mobilise and capacity build partners; and promote participation of children. IPEC acts on a country level to: monitor child trafficking; take direct action at various points in trafficking process; advise on law reform, enforcement and employment related responses to child trafficking. In the Pacific IPEC acts in 2 countries, Fiji and Papua New Guinea through the TACKLE, Tackling Child Labour Through Education Programme. This programme aims to eliminate all forms of child labour, including trafficking as a WFCL.

With the effective implementation of IPEC programs to eliminate child trafficking, the aim is to create an environment where child trafficking does not exist because it is no longer profitable, children are in education, adults have access to decent work and migrant workers are well represented by unions.

Steve Watson and Hannah Malloch, New Zealand Department of Labour, New Zealand

Mr Steve Watson was appointed the Immigration Manager at the Department of Labour, Wellington in June 2007. Mr Watson oversees the smooth running of the Recognised Seasonal Employers Scheme for the Northern cover and manages a team of eight staff. He also manages the Wellington Airport Compliance team. In 2007, Mr Watson was also appointed as Facilitator Coordinator of the Plan of Action to Prevent People Trafficking. Prior to employment at the Department of Labour, Mr Watson had a long career in the New Zealand Police and with his strong skills in management and people skills has brought an operational focus to the successful continuing work of this project.

Ms Hannah Malloch has been a member of the Immigration Policy team at the Department of Labour since 2007. During this time she has managed the coordination of the Plan of Action to Prevent People Trafficking, alongside working on other immigration policy projects. Ms Malloch's developing expertise in migration issues recently led her to be invited by the Japan Foundation to participate in a Future Leaders Programme to consider the challenges faced by vulnerable migrants in Japan. Ms Malloch is continuing her postgraduate study part-time in the field of International Relations at Victoria University of Wellington, with a focus on the politics of international migration.

Plan of Action to Prevent People Trafficking (Hannah Malloch)

This presentation highlights the key features of New Zealand's Plan of Action to Prevent People Trafficking, which was released earlier in 2009.

To date no cases of trafficking in persons has been detected in New Zealand. However, despite this, the Department of Labour, and other Government agencies, are taking a proactive approach to this issue by developing the New Zealand Plan of Action, which draws upon international experience and best practice.

The rationale for the 'Plan of Action to Prevent People Trafficking' The New Zealand Government recognises:

- New Zealand could potentially be targeted as a destination country for victims – and there may be cases that have been, or remain, undetected
- people trafficking is a transnational crime that must be combated with a regional and global approach
- a comprehensive anti-trafficking framework is required so that any future identified victims are treated appropriately by authorities who understand the unique nature of people trafficking crimes

In 2002, New Zealand ratified the United Nations Convention against Transnational Organised Crime and its associated Protocol to Prevent, Suppress and Punish Trafficking in Persons (Trafficking Protocol). An inter-agency working group was established with its aim to coordinate all anti-trafficking initiatives and develop a Plan of Action to Prevent People Trafficking. The following agencies are involved:

- Ministry of Foreign Affairs and Trade
- Department of Prime Minister and Cabinet
- New Zealand Customs Service
- New Zealand Police
- Ministry of Women's Affairs
- Ministry of Justice
- Ministry of Social Development
- Ministry of Health

There was extensive public consultation in preparation of the Plan of Action in June to July 2008 with public meetings held in Auckland, Wellington and Christchurch. In total, 34 submissions were received from nongovernment organisations, interest groups, international organisations, academics, interested individuals and unions. All submitters supported a Plan of Action. The Plan of Action was released on 13 July 2009. It was distributed to stakeholders in the Government and nongovernment sectors, unions and libraries, international organisations, and is available on the Department of Labour website: www.dol.govt.nz/publications/research/people-trafficking/index.asp.

The overall objective of the New Zealand Government Plan of Action is to prevent people trafficking, bring offenders to justice and offer protection and assistance to victims of trafficking. Principles of the Plan of Action include:

- victims of people trafficking have humanitarian needs and should be afforded appropriate assistance and protection
- traffickers and their associates, and people who exploit victims of trafficking, are to be prosecuted to the full extent of the law
- the whole-of-government response to people trafficking is coordinated, timely and comprehensive and meets New Zealand's international commitments

In summary, The Plan of Action to Prevent People Trafficking:

- is focused primarily on prevention
- protection of victims and prosecution of offenders covered too
- takes regional focus to combating people trafficking
- informed by:
 - feedback from stakeholders gained through consultation
 - international best practice literature and tools
 - other countries' examples
- is a living document that can be added to in the future as new changes and amendments are made

The Department of Labour is looking at aid in the region which is applicable to the prevention against trafficking in persons into and out of New Zealand.

People Trafficking: The Operational View (Steve Watson)

Following on from the previous presentation, this presentation aims to highlight the operational side of the Plan of Action to Prevent People Trafficking in New Zealand.

The Compliance Operations consist of the following key elements:

- teams throughout New Zealand – mainly based in Auckland
- ensure visitors and migrants comply with the immigration law and with their permits conditions
- decide whether or not to remove a person from New Zealand
- must have careful regard to various international obligations
- removal only occurs after due process and taking into account the right of appeal
- Effect removal, which is not a deportation. Deportation occurs if a person with a valid resident permit commits a crime that makes them eligible for removal – order for deportation is made by the Minister.
- removal priorities are people who have committed crimes, a cost to the Crown, failed refugees, RSE enforcement or who pose a threat to the community
- important role educating New Zealand employers and educational institutes

Compliance teams undertake a range of responsibilities which are divided into three areas of work; general, regional seasonal employment and failed refugees. The primary activities of compliance team includes:

- enforcing New Zealand's Immigration Act and Government Policy
- locating illegal migrants and removing them from New Zealand (overstayers)
- revocation of permits
- deporting criminal offenders (New Zealand residents)
- ensuring employers do not employ and exploit migrant workers

The compliance team works closely with the sex industry in New Zealand to ensure that exploitation does not occur.

An overview of the findings from operational experience of the compliance team includes:

- there are some strong pull factors to work in the New Zealand sex industry, particularly financially
- the foreign workers engaged in the New Zealand sex industry are willing
- many of the sex workers are primarily from East and South-East Asian origin
- Prostitution Reform Amendment in 2003 led to the decriminalisation of sex work, but it's still illegal on temporary permits
- there is great transparency within the sex industry, particularly around advertising
- the Department of Labour works closely with the New Zealand Prostitutes Collective to maintain harmony
- it has been identified that there are some links to organised crime

Most women work in the sex industry willingly and voluntarily. It is difficult to detect trafficking victims at the border because generally when they pass through the border, they are not yet victims. This is not to say that agencies in New Zealand do not pay attention to exploitative behaviour without a cross-border component. Immigration compliance, labour inspectors and police all work to ensure workers do not become victims and that human rights abuses do not occur.

Characteristics of trafficked victims include:

- money - debt leads to bonded labour
- fear of authorities including police and immigration
- threats / abuse of victim and threats to victims' family
- substance abuse – reliance upon drug supply
- physical confinement

Possible outcomes for law enforcement need to address:

- organised crime involvement
 - increase in organised crime presence in New Zealand
 - increase in associated crime – drugs, identity crime, fraud, money laundering
- ongoing prevention work
 - prioritising sex industry compliance
 - intelligence gathering
 - networking with other agencies – internationally and within New Zealand

Intelligence is an important element of intercepting potential trafficking in persons cases. Some of the key issues relating to intelligence includes:

- immigration, customs and police are developing a people trafficking intelligence 'collection plan'
- 'collection plan' examines holdings and assess future information requirements to better understand and mitigate people trafficking risks
- there have been no cases of people trafficking identified in New Zealand to date but we cannot be complacent and assume immunity to this form of organised crime
- the complex nature of people trafficking means that it is very difficult to identify and quantify
- preliminary research surveyed immigration staff to determine if they see clients exhibiting indicators of people trafficking
- study found staff perceived they were encountering a variety of indicators that may indicate trafficking
- these indicators do not confirm that trafficking has occurred but identify situations where further agency investigation may be required
- this highlights the need to develop best practise and training for identifying, recording and managing potential cases of people trafficking
- frontline immigration staff have received initial training on trafficking indicators, victim interviewing and victim protection
- border, fraud and compliance staff are tasked to feed operational intelligence into the collection plan
- border risk targeting profiles updated to monitor for trafficking indicators
- immigration compliance pre, execution and post operational planning phases updated to include trafficking as an intelligence and evidence gathering priority

There is a network of agencies involved in the intercepting suspected victims of trafficking. The key agencies involved in the interception of suspected victims include, police, immigration, and health and labour inspectors. The information received from international sources is that New Zealand is a destination country. Some of the major indicators of trafficking in New Zealand include:

- increased occurrences of trafficking overseas, especially Australia
- increased organised crime presence in New Zealand, particularly in the sex industry
- reports from the border of increased detections of sex workers
- risk countries with visa-free status

Some of the less visible indicators of trafficking in persons may include:

- victim statements
- passport / ID withheld
- locks on outside of doors
- no time off work
- excessive hours of work
- living at the place of work (brothel)
- no money
- limited practical, everyday clothing
- observed / spoken for by another
- unusual fear of authorities
- signs of depression/suicide attempts

Operationally, the difficulties with tactical indicators are that many foreign women are working in the sex industry both willingly and voluntarily. Moral and emotional motivations in protecting perceived 'victims' should not be taken into account due to the fact that many people are willingly and voluntarily working in the sex industry. Often foreign nationals working in the sex industry have limited or no English skills; have a fear of authorities; live at their place of work and engage in contract/loans for initial costs but this does not mean that they are not trafficking victims.

The challenges for law enforcement in this area includes:

- language and cultural barriers including under-reporting by victims
- post-border offending
- transnational offenders
- poverty/corruption/poor governance in source countries
- challenges in obtaining evidence, identifying perpetrators and prosecuting.
- data is difficult to quantify, even though it is high on the government's agenda

Some of the key action items identified in the Plan of Action include:

- increasing intelligence gathering and sharing
- increasing communication between government agencies, nongovernment agencies and New Zealand Prostitutes Collective. A training package plan is being currently developed.
- communication with international agencies
- specialist training for police and immigration officers – to recognise signs of trafficking

Rochelle Ball, Australian National University, Australia

Dr Rochelle Ball is a geographer who has written extensively on international migration issues for over 20 years. Her current research interests revolve around understanding the impacts of international contract/temporary labour migration on labour supplying developing countries in Asia and the Pacific. Her research has examined the impact of globalised labour markets for labour exporting developing nations on: gender and households; national labour markets; industry stakeholders; the political and economic coherence of the nation state; labour and human rights of workers; and bilateral and multilateral governance of international labour flows. Dr Ball is project leader of the International Labour Mobility in the Pacific Project, and is based in the State, Society and Governance in Melanesia Project in the College of Asia and the Pacific, ANU.

Australia's Pacific Seasonal Worker Pilot Scheme and its role in the Australian labour market: implications for Pacific engagement and workers' labour rights

This presentation provides a summary of the Australian seasonal labour mobility program to understand the key areas for vulnerability and potentially trafficking in persons. The labour market sector in which the temporary labour importation pilot program in Australia is placed was examined and some of the migrant labour vulnerabilities relating to the Pacific that exist in that sector were identified. This research is part of a broader project which concerns recruitment vulnerabilities as part of vulnerable migration pathways from labour sending countries. The research is undertaken within a labour and human rights framework whereby trafficking in persons is the most extreme level of these issues.

Australia has recently embarked on a seasonal labour mobility program, and is making the first steps as a temporary and unskilled labour importer. This is a major step for Australia in becoming a labour importing nation from the 'developing world'. It also has major implications for development for labour exporting nations.

Australia announced at the Pacific Islands Forum in August 2008 that four Pacific Island countries had been selected to be involved in a pilot labour mobility program: Kiribati, Tonga, Vanuatu, and Papua New Guinea. Over the three-year pilot, 2,400 visas have been issued. The two key focus points has been on Pacific development and meeting labour shortages in horticulture.

The Pacific Seasonal Workers Pilot Scheme (PSWPS) is regarded in the Pacific as a major increase in the level of commitment Australia has to engagement with its Pacific Island neighbours. The first 50 workers from Tonga arrived in February 2009, with 6 workers from Vanuatu arriving soon thereafter. It is expected that workers from Kiribati will arrive by the end of this year (2009). Negotiations concerning the pilot arrangement between Australia and Papua New Guinea are ongoing.

There are a number of key elements that may link the PSWPS and the Australian horticultural labour market into trafficking in persons:

- the rural sector is one of the four major sectors of employment for undocumented workers in Australia, the other three being the hospitality, sex industries and industrial manufacturing
- workers coming to Australia on the PSWPS are employed in one the major sectors of the Australian labour market where employment conditions are most marginalised
- the Australian Workers Union (AWU) has found that a significant proportion of Victoria's fresh fruit crop is picked by undocumented workers who are highly vulnerable to exploitation and in some cases are offered wages as low as A\$3 per hour
- from an industry standards perspective a strong argument could be made that the PSWPS could be regarded as a mechanism to legalise and 'clean up' substandard employment practises in the horticulture sector

Due to the less visible nature of the horticulture industry, there is potential for trafficked persons within this industry. Some findings of undocumented workers in the horticulture industry in Australia include:

- it is extremely difficult to obtain estimates of illegal workers by nationality
- the undocumented workforce consists: of unauthorised residents not showing up in immigration records (primarily from the Pacific Islands, Southeast Asia and China), overseas students working in excess of permitted hours, Australians working while in receipt of benefits, foreign travellers working without authorisation and people working on forged documents.
- one in four growers in the Murray Valley surveyed in 2005 by Mares (2006) admitted to employing 'illegal's,' i.e. visa overstayers or people working outside their visa conditions
- research has indicated a high Tongan presence in the harvest workforce both as legal and undocumented workers
- Immigration raids have high media profile but they also have low prosecution rates. Rarely have employers been prosecuted for employing illegal workers.
- the role of unscrupulous labour brokers is problematic

Early issues in the PSWPS:

- very early days in the scheme - only going 6 months, 56 workers
- Department of Education, Employment and Workplace Relations (DEEWR) was conservative and insisted on starting the pilot small, work through the emerging issues in order to develop a workable system
- early disagreements over type of employment contract (permanent or casual). This can vary by employer preference, and affects pay rate and minimum hours
- employment conditions also vary by the complex application of federal and state industrial award systems
- one worker has absconded from the program
- there still appears to be significant contention about the terms under which these seasonal workers are employed under. There is still strong union concern that workers under this scheme are not being paid the agreed salaries.
- unless the labour-supply problems in the horticultural industry are addressed, there is great potential for a growing number of jobs to continue to be filled, by undocumented workers
- early lessons: wages and conditions for workers on the PSWPS need to be stringently monitored by DEEWR and unions, especially given the willingness of tens of international workers who are willing to accept exploitative wages and conditions in order to work in Australia
- caution: there is clear scope for the weakening of these conditions, given the history of the industry

Overall vulnerabilities of the PSWPS:

- this pilot program is being located in a sector where there is a large and vulnerable migrant population, many of whom are undocumented

- with the pilot being so small this is little danger of exploitation at this stage. However, as the pilot expands into a bigger program - the dangers for large scale exploitation of labour migrants will also expand (as in the case of the 457 Visa), as the complexities of monitoring employers increases
- labour recruitment is a major potential vulnerability. As indicated by the operation of the 457 Visa and international experience there is also potential worker vulnerability in the PSWPS through deceptions in labour recruitment practices in labour sending nations and in varying forms of illegal labour supply/ labour exploitation Australia
- since there is a pathway to permanency in Australia through this program, there is a clear concern for debt bondage due to the employers' recommendation on permanent status. AusAID is dedicated to the scheme as well as Immigration

Day 2 session 2: labour trafficking, part two

Chair

Chris Frazer, Salvation Army, New Zealand, Fiji and Tonga, New Zealand

Presentations

Maria Trogolo, Fair Trade Association of Australia and New Zealand, New Zealand

Ms Maria Trogolo completed her Legal Studies and two Master degrees in International Protection of Human Rights and International Humanitarian Law at Sorbonne University in Paris, where she is currently completing her PhD. As a public policy lawyer with the United Nations Office on Drugs and Crime, she worked on the Protocol to Prevent, Suppress and Punish Trafficking in Persons. She developed a training manual for law enforcement officers against human trafficking in Eastern Europe. She has extensive experience in program management in developing countries, working for the UN in Afghanistan, Macedonia, and Bolivia. She is now based in Auckland and manages the Producer Support Program at the Fair Trade Association of Australia and New Zealand.

Children trafficking in the chocolate industry: the Fair Trade approach

This presentation examined the issue of human trafficking as it relates to the chocolate industry in West Africa, aiming to increase understanding of this reality and maximise the effectiveness of measures to overcome it in the Pacific. It aimed to create awareness of our need for responsible and ethical purchasing of the chocolate we consume and the essential role that consumers play in eradication of this crime.

The trafficking of children is one of the gravest violations of human rights in the world today. Children and their families are ensnared by the empty promises of the trafficking networks – promises of a better life, of an escape from poverty – and every year, hundreds of thousands of children are smuggled across borders and sold as mere commodities. Their survival and development are threatened, and their rights to education, to health, to grow up within a family, to protection from exploitation and abuse, are denied.

Their plight is of growing concern to governments, international agencies, the media and even private companies, and there is increasing awareness of the complexity of child trafficking as a complex inter-country phenomenon.

According to the International Labour Organization (ILO), 30% of children under age 15 in sub-Saharan Africa are engaged in child labour, mostly in agricultural activities including cocoa, cotton, tea and coffee farming. There is also forced child labour on farms in Papua New Guinea and Vanuatu. Trafficking in persons in the chocolate industry is an aspect of this trend that is at the earliest stages of recognition. Human trafficking operates in relation to the cocoa industry but can also be extended to tea, coffee etc. The Fair Trade mark is used on cocoa, coffee, tea and cotton products. Children are particularly useful in farming cocoa crops due to their small hands.

Of the 200,000 children working in the Ivory Coast cocoa industry, the ILO claims around 6% (12,000 children) may be victims of child trafficking or slavery, where children are held forcibly on farms and work up to 100 hours per

week, and where attempted escapees are beaten. Children that are forced to work in cocoa farms may receive no pay and no medical care. The use of forced child labour in these industries is becoming much more widespread.

Fair Trade attempts to make the system more equitable by calling for fair wages for workers on plantations as well as for fair minimum market prices for farmers selling their produce to retailers. Fair Trade aims to remove the unscrupulous 'middle men' to ensure farmers are not forced to pay exorbitant commissions.

The Fair Trade mark is an independent certification labelling. To obtain this label, farmers must abide by Fair Trade obligations, such that there is a zero tolerance for forced labour, particularly of children. The certification ensures farmers also receive the Fair Trade agreed minimum price, which is always slightly above the market minimum.

It was the awareness of alarming rates of poverty and resulting forced labour in areas of primary industry that led to the establishment of the Fair Trade minimum price and the Fair Trade premium price. The minimum price operates like a safety net and aims to hinder people from exploiting children for unfair child labour practices. It also covers the production costs and allows provides a profit. Communities of farmers have pooled profits to established various community services including, better infrastructure, schools, mobile healthcare centre, and community programs to encourage the empowerment of women.

Australia and New Zealand are keen to support neighbouring countries. Various bodies work towards getting particular farms certified by Fair Trade as a stepping stone to fighting trafficking more generally. The farms are inspected once a year to ensure they maintain the standards required. The Fair Trade certificate means that specific social and environmental standards are enforced. It also means that processes involving trafficking in persons, and more specifically forced child labour, are made transparent. Most farms are encouraged to also revert to organic farming practices too.

This presentation encouraged the audience as consumers to research the products that we consume. If we do this, ultimately this message can get through to the manufacturers. The delegates were encouraged to make sure that the products we consume are not produced as a result of child trafficking and forced labour. We were advised to look out for the Fair Trade logo on the products we purchase and also to visit the Fair Trade website in order to look more closely at our own consumption practices.

Questions and Comments

Jenny Stanger - Is there a difference between the Fair Trade logo and that of the Rainforest Alliance?

Maria Trogolo - The Rainforest Alliance advocate for upholding environmental development standards, due to farming causing forest degradation. The Rainforest Alliance will encourage farmers to be as environmentally sound as possible. This compares to Fair Trade which encourages social development.

Jenny Stanger - Does Rainforest Alliance guarantee a minimum price for farmers' produce?

Maria Trogolo - No, there isn't a minimum price guarantee. Nor, does Rainforest Alliance need to ensure that 100% of the product is from Rainforest Alliance farms. As low as 30% can be certified.

Rochelle Ball - What about the broader impact of labour practices in the regions where those crops are coming from?

Maria Trogolo - There is a higher impact in South America than the Pacific as the farmers work in clans and tribes. Fair Trade works with them to try and get them to shift their positions, for example, empowerment of women in the organisations. Once an organisation embraces women, the social impact of Fair Trade certification is much increased. When decisions are made by men, they are more to do with enhancing the business.

Leonie Walker, New Zealand Nurses Organisation, New Zealand

Following her science education (BSc Biological Sciences, MSc Immunology and PhD Clinical Immunology), Dr Walker worked in the UK as a health researcher in the National Health Service (NHS) and University settings for over 15 years. She has publications spanning laboratory-based Clinical Immunology, Health Promotion, Clinical Education, Patient Involvement and Primary Health Care. Four years in NHS Health Research Management, particularly diabetes, were followed by a return to hands-on research, and she is now based in Wellington as the researcher with the New Zealand Nurses Organisation.

A mixed picture: the experiences of overseas trained nurses in New Zealand

This presentation examined the experiences of overseas trained nurses in New Zealand. There had been many reports of migrant nurses (particularly those from developing countries and also those for whom English is a second language) experiencing significant hardship linked to difficulties with migration and employment as registered nurses in New Zealand. There had also been anecdotal evidence of migrant nurses have been exploited in New Zealand. This exploitation was linked to overseas emigration advisors, immigration advisors and employment agencies based in New Zealand, as well as employers in New Zealand requiring binding contracts obliging nurses to work as care givers or assistants with terms, conditions and rates of pay way below those they had been led to expect. To address these issues, a study was commissioned and a small project undertaken by the New Zealand Organisation of Nurses (NZNO). The results of this survey are addressed throughout the presentation.

Some of the key background that are relevant include:

- nursing is a highly mobile workforce
- around 25% of registered nurses in New Zealand were trained overseas. Many newly trained New Zealand nurses move to Australia so the gap that they leave is filled by migrant nurses within New Zealand.
- recent large changes in migration patterns for nurses
- anecdotal evidence of abuses

The anonymous survey of Overseas Trained Nurses (OSN's) was:

- developed and piloted in consultation
- obtained regional ethics committee approval
- disseminated by DHB delegates, NZNO / SFWU organisers, FNA
- advertised in Kai Tiaki Nursing New Zealand
- sent to all universities/colleges who tutor overseas nurses

Approximately six hundred surveys were sent out and approximately 200 returned. (Migrant nurses for whom English was *not* a second language were excluded from this survey, as the issues are different, and nurses from the Pacific Islands also, as a separate study was planned to look at their issues)

The vast majority of respondents came in with Student Visas or Visitor Visas and 24% of those used agents to facilitate their employment. These agents offered a range of promises regarding the nurses' prospects in New Zealand, promising them a great standard of living, high income etc. However, the reality was very different with 51% of those who used an agent having to sign a bond in order to get a job. NZNO lawyers helped some nurses to break those bonds although as time went on it became harder to do so. Generally, the nurses who came were desperate to come, highly trained and actively seeking work in New Zealand.

To understanding whether many nurses had been trafficked to New Zealand, the following issues must be considered:

- nurses deceived as to the prospects registration
- nurses forced to sign legal documents under duress
- well organised, systematic recruitment
- bonding and below market rates of pay; many care-givers did not receive any leave allowances
- collusion between employers and educators
- vulnerable immigration status

NZNO received direct evidence of employers providing substandard accommodation, for example, 'hot bedding' between shifts. Some new recruits were also told not to join the union and threatened with being sent home if they did. As new migrants, many of the nurses were:

- isolated
- vulnerable
- intimidated
- did not know rights: employment, safety
- did not receive all the sick, holiday and leave allowances they were entitled to
- Were unable to get registration to work as nurses, but only able to work as care givers
- experienced unsafe working conditions
- communication difficulties

The NZNO response has been to:

- provide information on nursing registration – web sites, embassies PRE immigration to try to educate nurses in the source countries especially in the Philippines so as to give people the best advice and legal support before coming to New Zealand
- feedback to Department Of Labour on employers / agents
- legal support in getting contracts changed and documents returned
- lobbying re IELTS, agents, permits
- with CTU, rights at work campaigns
- lots of leaflets for distribution and publicity

In summary:

- the IELTS language test is the biggest hurdle for OTN
- many gain registration and work as Registered Nurses in hospitals
- however many others fail registration and work as care givers
- there is evidence of deception, abuse, racism and discrimination affecting many migrant nurses.

Questions and comments

Steve Watson - How will off-shore licensing improve the vulnerability of nurses?

Leonie Walker - We're hoping it will help. Agents have been struck off and pop up again and carry on. They are often from the country they are employing people from. Often agents from source countries are still very unscrupulous. Ironically, Filipino nurses often provide feedback back to their home country.

Rochelle Ball - Comment on labour migration issues around trafficking in people, and varying degrees of vulnerability, and also the intern equity issue.

Leonie Walker - The council have looked into this but there is a huge growth of training courses in the Philippines for nurses. There are 482 registered training courses in the Philippines. They need to have the right standards though. New Zealand has signed up to conventions relevant to the intern equity issues. However, there is a balancing act between protecting the New Zealand public (i.e. nurses being trained to the 'right standard') and the needs of those coming to New Zealand.

Jeremy Bioletti, Criminal Barrister, New Zealand

Jeremy Bioletti is a criminal barrister working in Auckland, New Zealand. Mr. Bioletti identified himself as a criminal advocate and a 'car boot lawyer' who had been involved in some trafficking cases in New Zealand.

Case study of prosecuting a trafficking in persons case

Mr. Bioletti acknowledged the uncertainty around the existence and extent of trafficking with a number of sources insisting it does not happen in New Zealand. He outlined a case involving a Ukraine national, 'Tatiani', who entered Auckland on a false Israeli passport in January 2004 and charged in October 2004. Between June 2006 and 2008, she has provided evidence in her defence at trial.

The background to this case was that 'Tatiani' was a Ukraine national who was born and raised in the Ukraine in a very poor family. She lived, and was schooled, on a collective farm. At 16 years of age, she decided she wanted to obtain a domestic passport and to travel to work in Kiev. She obtained work in a Kiev cafe during which time she was effectively being groomed by the employer to be trafficked to Israel. At 18 years of age, she was offered a job in Israel and trafficked there as a sex worker. At the same time, she incurred a debt of USD \$10,000. After four years, she was arrested in Israel and deported back to the Ukraine.

At this stage, she had no valid travel documents or passport. She was approached about working in New Zealand as a sex worker and trafficked out of Kiev to New Zealand on a false Israeli passport by an organised crime network. The initial trial regarding her false passport was discharged and overturned by the High Court. The second trial was unable to reach a verdict. She was acquitted in the third trial as they were unable to determine that the passport was falsified.

'Tatiani' came to New Zealand in 2004. Since then two more women have been trafficked by the same group, also from the Ukraine, and are now going through the same process she went through for travelling under false passports. Since the initial 'Tatiani' case acts as a precedent, it may facilitate the process for subsequent cases. The Crown Solicitor in Auckland has asked for a submission if it is in the public interest for those two women to be prosecuted. Mr. Bioletti has stated that it was obvious to him that 'Tatiani' was a victim of trafficking and yet she had to 'tough it out' through the lengthy court process.

New Zealand is not immune from trafficking in persons as there are many organised criminals within New Zealand with links to overseas organised crime networks, particularly in the sex industry. Following September 11th, many countries – including New Zealand – went into 'hyper-drive' on the issue of false identities and false passports which contributed to the trials that 'Tatiani' had to endure. There were also practical issues which hindered the case, for example, there was a struggle to get a Ukrainian interpreter. The three trials that 'Tatiani' had to endure were very exhausting and draining, both physically and emotionally.

Questions and comments

Robert Earle - Are the women willing to talk to police?

Jeremy Bioletti – since the level of organisation was so high with traffickers based in Kiev and New Zealand, the women have great fear about involving the police, particularly since one of the traffickers are now a New Zealand citizen. They are fearful of returning to Kiev.

Robert Earle - If their security was assured, would they talk?

Jeremy Bioletti - Possibly. They might be comfortable to have their story told in the abstract. Otherwise, they are in a siege mentality and they don't believe the Ukrainian police and the New Zealand police are dissimilar in terms of corruption and victim support.

Peter Williams - Where are the cases up to in terms of processes?

Jeremy Bioletti - Both recent cases have gone through depositions. There is a public consultation process that the Crown is undertaking. The depositions highlight relevant protocols, which has been provided to the Ministry of Foreign Affairs and Trade. The three women were part of a group of thirteen bought in during 2004.

Catherine Healy - Was the victim of trafficking motivated to work in New Zealand as a sex worker?

Jeremy Bioletti - Yes, she saw a situation of hope in New Zealand. Coming from a position of hopelessness and no money, she saw a potential position of hope and some money.

Steve Watson - Did you think of going for immunity from prosecution?

Jeremy Bioletti – This was conducted on the second case but not on the first as the main concern at the time was prosecuting the fake passport.

Day 2 session 3: child trafficking

Chair

Jade Lindley, Australian Institute of Criminology

Presentations

Iris Low-McKenzie, Save the Children Fiji, Fiji

Ms Iris Low-McKenzie is currently the Manager of Programs for Save the Children Fiji, an independently funded non-governmental organisation, affiliated to the International Save the Children Alliance. Ms Low-McKenzie's background is in sociology and population studies/demography however she has a strong interest in child rights and child protection. She first became involved in child advocacy in 2005 when working for the Fiji Council of Social Services. As Child Rights Manager for Save the Children Fiji in 2007 she was responsible for coordinating advocacy activities towards policy and legislative reform as well as broad scale activities aimed at social reform regarding the realisation of children's rights and the prevention of all forms of violence against children. Ms Low-McKenzie is a member of the National Coordinating Committee on Children in Fiji and has been a key player in driving policy and legislative reform through this committee.

The commercial sexual exploitation of children in Fiji

Fiji, as a ratifying state to the United Nations Convention on the Rights of the Child (UNCRC), is committed to recognising children's entitlement to protection and other rights outlined in the Convention. They want to create a better world for children through collaboration with government bodies and nongovernment organisations. Reports in local research, including Save the Children Fiji's Situational Analysis released in 2006 relating to the commercial sexual exploitation of children (CSEC) and child sexual abuse (CSA) of children in Fiji and stories in the media, indicate that the CSEC is occurring in Fiji.

The first step to combating CSEC and CSA in Fiji is to understand the setting in which these issues can occur. Fiji, like most countries in the Pacific region, has little consolidated information on CSEC therefore this analysis is an attempt at consolidating that information and providing an understanding of the CSEC issue in Fiji. The main purpose of this

analysis is to serve as a baseline on which to plan immediate and future action by government and civil society on CSEC and CSA issues. Types and patterns of CSEC and CSA:

- prostitution
- pornography
- 'sinister' adoption
- early marriages
- child sex tourism

Prostitution

"A network of young school girls involved in prostitution operates out of the motel in which I work. How this network works is that if clients want young girls when they come to the motel, then they tell the Receptionist what type of girl they want and come back the next day. In the meantime the Receptionist will get in touch with whichever one of the young girls closely matches the description. Contact is made on the girl's mobile phone. The girl will come into town the next day, change out of her school uniform then come up to the motel to wait for her client"

Motel Worker, Female.

Pornography

Other reports of child pornography include an account concerning some visiting yachtsmen luring children (4-7 year olds) from nearby villages with sweets and lollies, to join them on a picnic and in turn photograph them as they played in the nude.

Focus Group Discussions. 2004.

'Sinister' Adoption

The culture of early and arranged marriages (specifically for girls) particularly in the Indo-Fijian community, sets the platform for potential CSEC situations

Newspapers carry personal advertisements from mainly males based outside of Fiji, seeking young, mainly Indo-Fijian females for the purpose of marriage

Due to lack of employable skills, education, support services and coping mechanisms, these girls engage in prostitution as a means for survival.

Save the Children has a commitment to addressing CSEC and CSA in Fiji, through the following activities:

- The UNICEF/Fiji Government Child Protection Regional Results Framework (RRF) outlines the child protection work (including CSEC and CSA) to be completed by the Fiji Government in partnership with other organisations at national and community level over the next 5 years.
- The Child Protection Annual Work Plan developed within the framework of the RRF, has been endorsed by the NCCC and relevant Permanent Secretaries confirming the states commitment to child protection.
- UNICEF/Fiji Government Child Protection Baseline Research conducted in 4 PIC's. Addressing societal behaviour regarding child protection (involving extensive field research); Institutional stocktaking of child protection, social welfare and protection systems in theory and practice as well as inter-agency collaboration; Legislative and regulatory compliance review
- Regional Stakeholders' Consultation and Planning Workshop on the Commercial Sexual Exploitation of Children (CSEC) and Child Sexual Abuse (CSA) in the Pacific – September 2003 and November 2007 (Cook Islands: Fiji: Kiribati: Papua New Guinea, Samoa, Solomon Islands and Vanuatu)
- East Asia Preparatory Meeting for World Congress III
- World Congress III

Specifically, Save the Children Fiji's commitment to addressing CSEC and CSA in Fiji includes:

- ILO/TACKLE Research 2009 – this has not finished yet but already 66 children have been identified and involved in the CSEC research in Fiji with two sites to go
- US Grant for Trafficking in Persons – training of police, customs.
- more awareness and capacity building initiatives are needed
- media advocacy and public awareness
- educational resources
- education assistance
- mobile playgroup project
- partnership
- child protection policies – should be everyone's responsibilities

Above all, CSEC happens because it is *demand*ed and *supplied* by adults.

Alan Bell, End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT), New Zealand

Mr Alan Bell is National Director of ECPAT New Zealand. Mr Bell has been involved in child focused international development for over 25 years and is currently a member of the ECPAT International Board. He has worked at the community level throughout Asia, Africa and Latin America and has international forum experience.

Trafficking and the commercial sexual exploitation of children

ECPAT, which stands for End Child Pornography, Child Prostitution and Child Trafficking for Sexual Purposes, is an international network of agencies in over 80 countries with a Secretariat in Bangkok. ECPAT Child ALERT is the New Zealand branding of ECPAT whose focus in New Zealand is mainly on Child Prostitution and Child Pornography but there is growing concern regarding the issue of Child Trafficking. There are reports of 110 children prostituting themselves in New Zealand. Child sexual abuse images are also very common in the New Zealand context.

Currently there is no one piece of international law protecting children from CSEC in all its forms. Rather, there are a series of conventions, treaties and declarations of various judicial authorities that make reference to child protection and the criminalisation of sexual crimes against children.

Prevention of CSEC need to encompass the following key elements:

- public awareness – the educating of people to alert them to the reality of trafficking. This form of modern day slavery has to be abolished
- legislation – at all levels to prevent the recruiting, harbouring, transportation, selling and exploitation
- monitoring and reporting – publicly on levels of child trafficking or similar abuse and the responses by government agencies (and other organisations) has a preventive effect.

One of the key problems that is encouraging CSEC to continue is the fact that it is driven by the demand for money.

As a result, the following issues continue:

- the sex industry is driven by demand. The demand is created by consumers – for sex specifically with someone under 18 years of age
- sex industry controlling the sale of human bodies to meet demand can make large profits per person.
- in this context, the younger the age of the victim, the easier it is to control him or her, and the less money it takes to support the upkeep of the young person
- demand is often fed through the trafficking of young people from rural areas within their country to the tourist markets, and even across borders from countries without a tourist market to those that are tourist destinations

Another key issue is the patriarchal role of males within the Pacific community. Due to the patriarchal community, this leads to male driven demand for CSEC, as such the following issues need to be addressed:

- underlying attitudes about male entitlement can foster a perverse notion that it is acceptable for men to sexually exploit children, either in their own countries or abroad (as in the phenomenon of child sex tourism).
- contrary to popular misconceptions, the demand for sex with children does not only come from paedophiles but is actually mostly generated by people who pay for sex. Persons (nationals and foreigners) who patronise the commercial sex market may end up sexually exploiting a child

Other key contributing factors that encourage CSEC to continue to occur include:

- Financial Interests - at minimum, four sub-sectors within the realm of private enterprise have habitually been associated with CSEC and Child Trafficking:
 1. travel and tourism industries (supply)
 2. media industries (portrayal) depict the increasing sexualisation of images of women and children
 3. new technologies – processes
 4. financial alliance – blocking.
- Criminal interests - according to law enforcement, sexual exploitation of women and children is one of the fastest growing organised criminal activities around the globe, and follows in revenue only the trade in narcotics and weapons. Trafficking is estimated to earn USD\$28.5 billion per year. Children are at particular risk of exploitation because trafficking cartels are highly skilled in manipulation and deception.
- Corporate social responsibility (CSR) has advanced alongside globalisation. Globalisation has increased the number of stakeholders affected by the business process of today's world. Currently, 94% of FTSE-350 firms include a reference to CSR in their annual reports - evidence the market is demanding that corporate recognise their impact on local and global communities. Thus, corporate sectors need to take proactive measures.
- Poverty is not a causal factor but where there is poverty there is greater vulnerability. Poverty is one of the main factors behind child trafficking. According to the World Bank, in 2009, 65 million people will fall below the \$2-a-day poverty line and 53 million will be pushed below the level of absolute poverty, which is \$1.25 a day. Living below the poverty line makes people more vulnerable.
- Protracted armed conflicts often determine a rise in demand of sexual services from troops, peacekeepers and humanitarian workers, and traffickers that take advantage of this by luring and selling children into prostitution. Similarly, natural disasters such as earthquakes, flood or famine crises may disrupt entire families and communities, leaving children without necessary protection.

The Repatriation and Reintegration of children rescued from CSEC will have access to the following three potential options:

- repatriation of the child to the place of origin
- local integration in the place of the trafficking destination
- resettlement and integration in a third country

In order to prevent CSEC, the New Zealand Government has taken action to prevent CSEC, including:

- New Zealand's Minister of Immigration introduced The Plan of Action to Prevent People Trafficking in 2009.
- New Zealand's Minister of Justice introduced The National Plan of Action Against the Sexual Exploitation of Children 'Protecting Our Innocence' in 2001. This was reviewed and updated in 2006 called The Stocktake.
- The Plan of Action to Prevent People Trafficking does not have specific reference to trafficking of children.
- The National Plan of Action Against the Sexual Exploitation of Children does have specific reference to trafficking of children.

There is a lack of substantive research regarding trafficking of people (including children) in New Zealand in regard to trafficking both across the borders and within the country, although there are anecdotal stories told of both. Whilst there is plenty of anecdotal evidence, this can be frustrating because authorities need to use it as evidence per se.

To date, none of the Pacific Island states have a National Plan of Action Against Sexual Exploitation of Children (including trafficking), however ECPAT is working with partners to achieve this to protect Pacific children from CSEC.

ECPAT endorses the two Plan of Action documents and commends the Government for their concern – but calls for stronger implementation and monitoring measures. ECPAT intends to campaign on issues related to trafficking of people and will conduct research to quantify the New Zealand context – particularly in regard to children (ECPAT is the only NGO in New Zealand with a sole focus on CSEC – commercial sexual exploitation of children, including trafficking of children for sexual purposes).

Angela Kearney, United Nations Children’s Fund, Indonesia

Ms Angela Kearney is a New Zealand national who assumed duty as UNICEF Representative in Indonesia in January 2009. Between May 2006 and January 2009, she was the Representative in Angola. In Angola, Ms Kearney was responsible for the overall implementation of the UNICEF country program including planning, coordination and evaluation of a broad range of programs, both developmental and humanitarian, benefiting women and children. Prior to May 2006, she served as UNICEF Representative in Monrovia, Liberia where she was responsible for the development, formulation and management of the UNICEF Country Program of Cooperation and all aspects of office management. Ms Kearney is a Registered General and Obstetric Nurse (1975) and a Registered Midwife from Christchurch Hospital (1978). She also holds an Advanced Diploma in Nursing (Maternal and Child Health) from Christchurch Polytechnic (1983).

Adopting a long term approach (systems approach) to combating child trafficking

This presentation provided an overview of UNICEF’s experiences and lessons learnt in combating child trafficking in specific areas such as prevention, protection and policy level leveraging with partners in the region. UNICEF has made significant progress over the last decade including having created a positive policy environment. There has been a surge of government responses to combating child trafficking. Today we know more about the nature of the crime, the means, the nations involved. Yet figures and statistics can’t convey the misery the victims suffer.

There is a need to engage with the destination countries / sites, not just with the source countries. Both destination countries and source countries need to be involved in the process in getting the work done in preventing trafficking in people.

Repatriation doesn’t always lead to successful reintegration. It can vary considerably. The range of estimates of the problem can also vary considerably. The main concern, however, is what *places* people in these situations.

Whilst we have a common definition of what trafficking entails, there are a number of challenges concerning trafficking in persons. One such challenge is that the relevant protocols have only been ratified by 2/3 of the member states. There are also extremely inconsistent approaches to the problem. The Convention on the Rights of the Child (CRC), for example, is a good and useful document but there are discrepancies as to the age of the children involved. We need to look for responses which have the *full* protection of the child foremost in their agenda. Some children receive a lot of support whereas others are not recognised as trafficked victims and do not get to receive any support. Other challenges include push/pull factors and legal responses.

There needs to be a shift away from an issue based, interventionist approach to a broader and more holistic, “systemic approach”. Examples of efforts at a “systemic approach” lead to interventions at all levels, including a strengthening of social welfare practices and education. Investing in, and strengthening systems leads to enduring changes.

To build an effective response we need:

- to ensure that all countries are party to international treaties
- to work together at the destination level
- to tackle the underlying cause at the source community, for example, gender issues
- to build strong responses including strong government responses

Questions and comments

Calum Bennachie - The police figures you quote are not accurate. Also the Miriam Saphira study was flawed and the figures inflated. How do you justify the use of these figures?

Alan Bell - The figures were from the law reform report. All data reported in the presentation has a disclaimer due to the uncertainty of data. ECPACT is keen to do research into this area so that we are able to quantify CSEC.

Judy Putt - What are the current activities of UNICEF?

Angela Kearney – UNICEF has been undertaking anti-trafficking activities as part of the whole system, however specific to the Pacific Islands, there are not any anti-child trafficking activities taking place presently.

Day 2 session 4: discussion and reflection

Chair

Judy Putt, Australian Institute of Criminology

In this session, groups segregated to discuss the following issues, before coming together to discuss as a whole. The issues were as follows:

1. underlying factors / contributing factors leading to a vulnerability to trafficking in persons
2. focus (Places/events, sectors, victims, facilitators / perpetrators)
3. priorities – the 3 P's (preventions, protection and prosecution)

Underlying factors / contributing factors

- lax border control and security in relation to
 - the impact on child sex tourists in the Pacific – offenders may go to the Pacific and they believe they are less likely to get caught
 - Pacific Island remoteness and lack of resources to patrol, particularly in outlying islands
 - complexity of kinship networks and border crossings to see family
- disengagement and disempowerment of sex workers
- violence in the home
- gender power imbalance
- limited education in the Pacific
- normalisation of child sex images on the internet
- vulnerability of migrants
- integrity of passports and other travel documentation such as visas
- internal trafficking to fulfil need in 'boom/bust' operations in mining and logging industries
- traditional practices in relation to
 - village and State governance
 - unwanted pregnancies and the potential trade of children
 - relationships
 - bride price vulnerabilities
 - vulnerabilities relating to informal adoption practices
 - gift giving that may be abused and resulting in corruption
 - cultural awareness of practices – sexual offending within the family may be difficult to prosecute
- fulfilment of the need for cheap unskilled labourers
- economic development and free economic zones
- compliance with international human rights
- geography in relation to
 - urbanisation and the impact of 'youth bulge' on opportunity for education and employment
 - transport and travel costs due to distance
 - isolation due to small populations and large areas

- drift from rural to urban then international within Pacific to find opportunity
- high degree of movement within the region due to lax border control
- the demand for commercial sexual exploitation of children (CSEC) which may arise from within culture and in industries such as logging and fishing as the men are away from their families for extended periods of time
- lack of prosecutions therefore lack of incentive to report by victims - lack of diversion for offenders due to lack of law enforcement awareness
- no proactive recognition in some countries /lack of responses/lack of framework to respond and refer
- community disengagement – societal ambivalence
- demand within the Pacific – is the Pacific likely to be source, transit, or destination?
- there has been a strong focus and there also needs a strong focus on offenders
- ignoring human rights
- education of the judiciary, nongovernment organisations and society in general
- school girls engaging in commercial sexual activities – no recognition that this is abuse, more so a method to make money and may be associated with violence in the home
- poverty in terms of lack of opportunity
- governments more focused on economic development that social development
- labour development at any cost

Focus

- schools raise awareness and educate on vulnerabilities
- educate churches and have the churches educate the community
- intergovernmental prevention activities
- sub-contractors through employment agencies who may be engaging in unscrupulous employment activities
- survey people working within the home to assess level of vulnerability
- ensure the government and politicians are informed so awareness can filter down through policy and create a ‘child safe zone’ with process for law enforcement
- holistic community approach to addressing the issue
- resource development to provide financial allocation for the prevention and protection of trafficking in persons
- tourism organisations should firm their practices to minimise unscrupulous travellers entering the region with the pretence of engaging in prostitution
- migrants entering the Pacific Islands and Pacific Islanders travelling within the region who may be vulnerable to trafficking through the use of unscrupulous agents
- offshore visa processing sites should be closely monitored to ensure best-practices are followed
- border crossings are focal points to ensure that people entering the region are legal and not vulnerable
- major events worldwide such as sporting events (such as the Olympic Games)
- humanitarian approach to victims to ensure they are kept safe
- offenders should be dealt with through the courts in all cases as well as their accomplices, such as deceptive immigration agents
- regional networks already in place such as advocacy groups and organisations such as the Pacific Immigration Directors’ Conference (PIDC), Oceania Customs Organisation (OCO), Pacific Islands Forum Secretariat (PIFS), Secretariat of the Pacific Community (SPC) and Pacific Islands Chiefs of Police (PICP) should take a lead role in bringing awareness of the issue to governments and policy makers
- trade unions to maintain good-practice within all work places and industries
- reduce re-victimisation by not approaching the victim until the appropriate legal measures are in place
-

Priorities – the 3 P’s (prevention, protection and prosecution)

Protection	Prevention	Prosecution
<ul style="list-style-type: none"> • have a representative similar to the UN Trafficking Rapporteur be attached to the PIFS • train victim support organisations to deal with victims of trafficking • collaboration between immigration and community 	<ul style="list-style-type: none"> • youth awareness at a Pacific-wide event • education and awareness raising in high risk areas and use the village networks to support the campaign such as churches and schools • set up a clearinghouse run by a 	<ul style="list-style-type: none"> • bring in a taskforce from a country that has had a successful prosecution (Australia or Palau) to assist with the investigation and prosecution phases to provide a model for action • provide an anonymous free call services with interpreters to

<p>development agencies</p> <ul style="list-style-type: none"> • regional trainings to bring together interpreters and anti-trafficking materials in a range of languages • alliance between nongovernment organisations throughout the region that can provide victim support and minimise fragmentation 	<p>regional organisation to inform about best-practice of 3 P's (protection, prevention and prosecution)</p> <ul style="list-style-type: none"> • have regional and national annual conferences specifically on trafficking in persons (not linked to migration and/or people smuggling) with targeted follow ups and agreed activities that lead to a Pacific Islands anti-trafficking framework • employ youth workers to educate young people on the vulnerabilities of trafficking in persons in the Pacific region • put in place diversionary penalties for offenders • increase life skills training among communities in the Pacific islands to reduce vulnerability • increase border controls to minimise risk of potential victims leaving and entering the Islands illegally • linking with existing networks including the PIFS, SPC, PIDC, PICP and OCO as well as trade unions and tourism boards 	<p>report cases if a witness doesn't want to come forward and be identified</p> <ul style="list-style-type: none"> • spend money on existing structures, such as training law enforcement, community policing and the judiciary • reform legislation to reflect model legislation and political buy-in specific for the Pacific
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Day 3 session 1: sex trafficking

Chair

Judy Putt, Australian Institute of Criminology

Presentations

Denise Ritchie, Stop Demand Foundation, New Zealand

Ms Denise Ritchie is the founder of Stop Demand Foundation, which calls for action globally to stop sexual violence and sexual exploitation against women and children. Ms Ritchie, a barrister, has for the past 16 years played a prominent role in law reform, campaigning and speaking, in New Zealand and overseas, on global sex trade issues. She was instrumental in New Zealand law reforms on child sex tourism and child sex abuse images. Stop Demand focuses on demand factors that fuel and sustain the supply within sex trafficking, prostitution and pornography.

Sex trafficking and demand

This presentation highlights the need to focus prevention measures at those who are fuelling demand for the services of potentially trafficked persons. It addresses demand factors within the global sex trade and the implications and relevance both locally and regionally. Greater understanding of demand dynamics assists in raising awareness of sex trafficking and in identifying measures to reduce the supply of trafficked persons for the global sex industry.

International responses to sex trafficking have traditionally focused on trafficked victims and traffickers, but has remained largely silent about those who create the market that fuels sex trafficking – namely, those who buy commercial sexual services. Calls are made on governments, lawmakers and law enforcers, the private sector and civil society, yet no calls are made on those who are the driving force behind sex trafficking.

To reduce sex trafficking, strategies must increase their focus on ‘demand’ dynamics of the trade. Put simply, if there were no demand, there would be no supply.

The presentation considers the findings of a growing body of international research and studies on sex buying and sex buyers – including the extent, demographics, motivations and influences - across various countries.

Studies that identify attitudes of sex buyers to trafficked victims have found many buyers to be unconcerned. The presentation positively highlights however the small group of buyers who demonstrate concern, as being a key target for demand reduction measures. Deterrents to buying sexual services, as identified in studies of buyers, are also discussed.

While recognising the critical role played by law enforcement, international human trafficking expert and law enforcement agent Brian Iselin Iselin argues that *“there are not now, and never will be, enough police resources to pursue enough trafficking cases to make a difference.”* He proposes that key demand reduction strategies target casual sex buyers who are not as committed, by increasing the effort, inconvenience and price of transactions; by normalising the illegality of prostitution; and by providing information to potential buyers.

The presentation looks at the successes and criticisms of countries that have adopted a joint approach of normative legislation criminalising the purchase of sexual services together with widespread public education programmes. Also examined are public awareness-raising campaigns that have sprung up across a number of countries - those that focus on human trafficking generally, sex trafficking specifically, demand and supply dynamics, international events (particularly sporting) linked to an increase in demand for commercial sexual services and local sex buying behaviour generally.

Stop Demand asserts that ‘we can make a difference’ to curbing the level of sex trafficking but it requires a willingness to introduce demand reduction measures into public policy, plans and outcome documents. Until we do so, little will change. This stance is one that is gaining global momentum. For as Brian Iselin argues, *“to tackle trafficking for sexual servitude without tackling demand is a losing battle. All the expensive measures in the world will add up to nought unless there is an attitude change on the part of men to buying and selling women.”*

Robert Earle, Human Rights Investigator, New Zealand

Mr Robert Earle is a Detective in the New Zealand Police. For four years he worked undercover as an investigator for an international human rights organisation, infiltrating criminal groups involved in the commercial sexual exploitation of women and children around the world. Deployed to countries throughout Southeast Asia, Africa and the Americas, he documented cases of human trafficking, sexual slavery and the prostitution of children. The information he gathered was then used to facilitate the rescue of victims and the prosecution of the perpetrators responsible.

Combating sex trafficking

This presentation refers to the presenters’ experiences in the field and the stories of the real victims and offenders he dealt with in the international arena. It provides an overview of what are considered to be the most effective means of identifying, documenting and intervening in trafficking cases.

It is believed that sex trafficking occurs both in an international context and also domestically in New Zealand citing houses in his suburb where men sell thirteen and fourteen year old girls for sexual favours on a daily basis. Through daily duty, the World Sex Website was used in a conscious and deliberate effort to find victims of sex trafficking.

It is evident that society will only be able to combat sex trafficking if prevention, protection and prosecution agencies agree to work together and to strive for unity. There will continue to be an ongoing debate over definitions and, however harmonisation in the common goal is more important than minor practical and ideological differences.

The 'human rights approach' to combating trafficking is the ideal, however the reality of the human rights approach is often merely lip service. In many countries where there is widespread corruption and inequity, only lip service to delivering an effective human rights approach to trafficking is given.

There are a number of key concepts to apply in combating trafficking which work even in countries where there are no human rights. These practices include:

- case referral – suspicion of trafficking and contacting police or those who are able to assist in cases where the police are corrupt and unwilling to act
- coercion and deception – investigate methods of coercion including threats that may be used to keep the trafficked people there, for example, harm to victim or their family or, in some countries the use of voodoo
- define the intervention outcome – to prosecute and rescue the victims
- identify the power actor who pays the local police and warns them of the raids - look for who is not corrupt and keep them onside
- investigation planning including gain an awareness of local laws – gather irrefutable evidence of the crime including recording the exchange of money
- execute the intervention – where possible gather witnesses to provide evidence against the traffickers and their accomplices
- post-intervention – ensure victim support is provided and ensure sex workers are not prosecuted

Collaboration is the key element necessary to effectively combat trafficking, regardless of the country. NVADER makes a proactive effort to 'invade' some of these countries in order to make a difference.

Doreen Buettner, United Nations Development Fund for Women, Fiji

Ms Doreen Buettner has a law degree from Hamburg, Germany and a Master in International Law from Sydney, Australia. Ms Buettner is the Advisor on CEDAW Legislative Change at UNIFEM in Suva, Fiji. She is currently working on a country specific CEDAW publication aimed to translate a country's obligations under CEDAW into plain language to expand the knowledge of government officials on Women's Human Rights and to give non-government women advocacy groups and civil society a tool to lobby for CEDAW implementation into their domestic legislation.

Gender equality – a necessity to combat human trafficking

This presentation provided an overview of the activities conducted by UNIFEM Fiji relating to trafficking in persons in Pacific Island countries with a specific focus on Papua New Guinea, Solomon Islands and Fiji. Three specific issues were covered in this presentation, namely, the importance of gender equality and the empowerment of women in combating trafficking in women; traditional practices and the extent to which they can be considered a risk factor, and, lastly, to examine commercial sex work and see if it is voluntary or forced. This presentation acknowledged the importance of the '3P's' for prevention, protection and prosecution, encompassing the following elements:

- awareness
- research
- intelligence
- international agreement
- enhancing border security

The importance of adding another 'P' – for a Proactive approach, enhancing gender equality, was also discussed. Gender equality and empowerment were seen as being very important owing to the following factors which constantly undermine it:

- domestic violence
- lack of education
- lack of employment
- economic dependency

Empowered women are less vulnerable. A recent study conducted by UNFPA and SPC in Kiribati and the Solomon Islands showed that over 60 percent of women have experienced domestic violence. This alone is alarming but it can also make women more vulnerable for trafficking. There is a need to prevention trafficking in women though violence against women legislative reform and enforcement, to protect children from violence and sexual abuse and to teach children gender equality.

Education is a very important aspect of ensuring gender equality. There need to be temporary special measures to advance girls' education. In many Pacific Island Countries, gender inequality starts at school level. Schooling is not free in most Pacific Islands Countries; in fact it is very expensive. It is common that parents with limited financial resources and more than one child to send their boys rather than the girls to school. This lessens the girls' chances of decent employment. This also results in situations of economic dependency on the men. In many cases young people move to the city in the hope of finding employment. This may result in working in the sex industry due to limited choices or being trafficked. Thus, to protect women from sexual exploitation, the aim is to advocate advancing education for girls through a variety of means including compulsory free education, scholarships for underprivileged girls, sex education in school and education programs for young mothers.

Employment opportunities.

There also need to be temporary special measures to advance women's employment opportunities. Measures that could be adopted include advancing women's employment, guaranteeing of decent wages, advancing and regulating informal employment. To help avoid women's economic dependency on men, a number of measures also need to be adopted included ensuring property rights, appropriate family legislation e.g. In cases of divorce, the non financial contribution of the family income must be considered when marital property is divided.

To prevent women from developing countries Pacific Island Nations from being trafficked the status of women in the Pacific Islands must be improved. NZAID, AUSAID and UN agencies fund many projects in the Pacific and should ensure that gender equality and empowerment are built into the priority outcomes of the projects. Thus, appropriate legislation against trafficking, transnational agreements, strong enforcement and protecting of victims but we also need to tackle the root causes of the problem, namely, poverty and gender inequality is essential.

The last issue covered in this presentation examined the issue of commercial sex work and, more specifically, the question of distinguishing between those women who have been forced into prostitution and those who are willingly and voluntarily engaged. It has been suggested that legalising commercial sex work might be considered the first step for if brothels are legal, women can have regular health checkups, can go to the police if they have been abused and can request safe sex practices from clients.

However it is unknown whether a legalised sex industry will have a positive impact on gender equality in the Pacific. Women from Papua New Guinea or the Solomon Islands might not be forced into prostitution by a pimp or trafficker but rather by poverty or by the sheer fact that this is their only employment opportunity and they need to feed themselves and/or their children. There are young women who come to the city and learn that they won't be able to find a decent job nor can they rely on a welfare system. However, their family in the village might still expect financial support. This might lead her into commercial sex work where there is a fine line between whether she has 'agreed' to do this or whether she is still a victim of exploitation.

The Swedish model is worth examining at this point as Sweden is unique in that it is the first country to pass a law exclusively criminalising the buyers of the commercial sex act. Presently, buyers of sex in most Pacific Island Countries do not have to fear legal consequences. The women involved in commercial sex work and the pimp are

criminalised but not their clients. In Sweden, under the “Act Prohibiting the Purchase of Sexual Services” passed in 1998, commercial sex work was defined as a form of violence against women. Three years after the Act came into force, 249 men were charged with buying sex. Given that most of the women in the Pacific are forced into commercial sex work by poverty and lack of opportunities, the Swedish approach could be usefully adopted in the Pacific. However, the question is raised – where does the sex worker get the money if their clients don’t purchase their sexual services anymore? In Sweden the new law arrived with a package of training and employment opportunities for women who wanted to leave the sex industry. It is unlikely that most of the PICs government cannot offer the same training, education and job opportunities that the Swedish government was able to. However, NGOs would be in demand to fulfill this role and to provide former commercial sex workers with practical help.

Catherine Healy, New Zealand Prostitutes Collective, New Zealand

Ms Catherine Healy is a founding member of the New Zealand Prostitutes Collective and is currently National Coordinator. She, and other members of the collective, played a significant role in pushing for the laws regarding sex work in New Zealand to be changed to enhance the occupational safety and health of sex workers. She was appointed to the Prostitution Law Review Committee.

How would we know? Trafficking in New Zealand

The New Zealand Prostitutes Collective (NZPC) worries that some anti-trafficking measures will hurt sex workers. In Cambodia, for example, four hundred sex workers gathered to protest that they didn’t want to be rescued and that they didn’t want to be taught to sew again! Instead, they wanted their human rights respected and to be able to make their own choices about their own lives.

Sex workers know their communities intimately. They know their needs and which measures will assist or negatively impact on them.

The NZPC believes that all sex workers should have their choices respected by victim support agencies and these agencies should recognise that sex work is work. There are sex workers who may be exploited but who do want to continue working in the sex industry. They would, however, like the standards of working conditions improved. An example of this may be that they are forced to work longer hours than they have agreed to.

The New Zealand Prostitutes Collective (NZPC) was formed in 1987 by sex workers and allies. Its programs access sex workers throughout New Zealand. It states in its mission: ‘The New Zealand Prostitutes’ Collective advocates for the human rights, health and well-being of all sex workers. The New Zealand Prostitutes’ Collective is committed to working for the empowerment of sex workers, so that sex workers may have control over all aspects of their work and lives.’

The sex industry is structured in the following way:

- most people work indoors, in brothels that are managed by operators
- significant numbers work for themselves from their own home or are street based sex workers
- numbers can vary, but there has been a general trend for people to work for themselves
- most sex workers are aged between 20 and 30
- there are female, male and transgender sex workers in the industry
- New Zealand born and international sex workers on Visitors visa’s, Students visa’s and Working visa’s

The sex industry is usually visible to those people with a knowledge of it. This has been achieved by measures including:

- decriminalisation facilitates in bringing problems to light
- New Zealand decriminalised sex work with the Prostitution Reform Act in 2003. A decriminalised sex industry enables more people to speak out and combat trafficking

- NZPC interacts with sex workers, brothel operators, drivers, website owners which gives the organisation continuous insight into the realities of sex workers' lives and experiences
- it is hard to attract clients without visibility which means it would be difficult to operate completely in secret or in a hidden manner

Since the sex industry in New Zealand is no longer underground, the awareness of trafficking in persons, if occurring within the sex industry, should be relatively high. There are conflicting positions. According to the 2009 US Trafficking in Persons report, New Zealand is reportedly a destination country for women from Hong Kong, Thailand, Taiwan, the People's Republic of China, Eastern Europe, and other Asian countries trafficked into forced prostitution. This information is unsubstantiated by Immigration Service New Zealand and indicates that no situations involving trafficking in the sex industry have been identified (Department of Labour, 2007). In addition, there have been no prosecutions for trafficking under section 98D of the Crimes Act 1961' (Prostitution Law Review Committee, 2008: 167).

It is important to build up accurate information and have evidence based research to capture the situation in relation to trafficking and the sex industry. We must be careful not to generate raids by authorities on sex workers looking for evidence of trafficking. It is inappropriate that the sex industry become the target of raids by authorities in order to find those sex workers who have been 'trafficked'. NZPC has helped support sex workers with providing evidence in court and to the disputes tribunal against the exploitative malpractices of some brothel operators and others. Clients and sex workers may act as 'whistle blowers' and inform others, including government and non-government agencies, if they suspect exploitation of sex workers, including international sex workers. A study showed that 4% of sex workers have been made to work by someone (Christchurch School of Medicine, Otago University 2007); that is four percent too many sex workers.

There are a number of key measures that may be utilised to reduce and potentially combat trafficking in the sex industry in New Zealand. These may include:

- ensure that all sex workers have their rights upheld; sex workers should be able move freely and work with protections in line with other occupations
- continue to create a culture of understanding; all sex workers must be empowered to exercise their right to say no (and yes) to commercial sex and to have their complaints upheld
- authorities need to recognise when violations against sex workers have occurred; there has to be nonthreatening interaction between sex workers and authorities
- overturn policies that ban sex work; encourage interaction with the sex industry to shed light on trafficking and exploitative practices

In conclusion, to gain a clear overview of what is actually occurring in the New Zealand sex industry, sex workers need to be consulted, engaged with, and listened to.

Questions and comments

Judy Putt - Have there been any research on men and boys sex work and demand?

Denise Ritchie - Yes, there will have been. But Stop Demand has not reviewed this area. UNILO estimates 98% of trafficked people for the global sex industry are women and girls. Our focus is on this greater majority and the gendered dynamics of prostitution generally.

Susu Thatun - In combating trafficking, it is important to adopt a human rights approach. We have had some involvement in repatriation cases in Bangkok. Our response has been to identify tensions, for example, the corruption inherent in the Burmese government.

Robert Earle - We cannot insist we work only with those people who have the same human rights as we do. While we push for the ideal of human rights, we cannot insist on it. We need to keep working with these people who don't have the same understanding of human rights as us.

Don Lord - Having worked with the girls who were rescued by Robert Earle, they were *glad* to have been rescued. We can't under-estimate the power of Robert's intervention.

Calum Bennachie - What contact do you have personally with sex workers? And, if none, why? To not have contact with sex workers is to ignore the voice of sex workers.

Denise Ritchie - I have met a number of sex workers over the past 16 years, here and abroad. However the sole focus of 'Stop Demand' is on demand so our focus is on the men who demand sexual services not on the women.

Jack Byrne - I would like to thank people for looking at the human rights approach. It is important to see states have certain obligations specifically about upholding these obligations. Human rights need to be the bottom lines. Empowerment and participation are clearly two components crucial to this approach.

Day 3 session 2: nongovernment organisations' responses to trafficking

Chair

Api Fiso, Pacific Immigration Directors' Conference Delegate, New Zealand Department of Labour, New Zealand

Presentations

Chris Frazer, Salvation Army, New Zealand, Fiji and Tonga, New Zealand

Ms Chris Frazer has a 20 year history of management of social services both within the Methodist Church as an ordained minister and within The Salvation Army, New Zealand, Fiji and Tonga. Qualifications include a Victoria University Certificate in Social Studies, statistics and media training, counselling, and sociology with a focus on gender issues. Achievements include research into foodbanks and poverty with a number of published reports, extensive media work, campaign organising and the setting up of Catalyst, a community trust. In 1993 Ms Frazer was awarded the New Zealand Centennial Suffrage medal. For the past four years Ms Frazer has coordinated The Salvation Army's work in relation to people trafficking.

The paradox of aid: nongovernment organisations responses to people trafficking

The challenge for NGOs is that it is so hard for individuals to put themselves into the position of the person desperately needing help. When statistics are all that is talked about, the focus is taken off the person in need. What is required is to look at the situation of real women and real children. For a balanced and accurate view, the voices of 'real life people' need to be added to the statistics.

In 2001, the World Bank undertook an in-depth study of the men, women and children living daily with the reality of what it means to be desperately financially poor. The research was an unprecedented effort to capture the views, experiences and aspirations of more than 60,000 poor men and women from 60 countries. The 'Voices of the Poor', gave an opportunity for a range of people living in poverty to voice their own realities, and have their voices heard. Throughout the research, community groups identified local networks as being crucial to survival. Yet such informal networking has not been sufficient to strengthen their bargaining ability with either government or non government. Participants highlighted their desire to be in control of their own lives and be part of the decision making process by providing local solutions for local issues. Respondents articulated the value they placed on their own community based organisations because it is within these networks that they felt heard and also able to make a difference. Local networks and support groups were seen as crucial to this process. Nongovernment organizations were viewed as both a great help but also, in some cases, as a hindrance when they were less than affirming. Faith based organisations seemed to be mostly highly valued and especially so in rural areas.

The challenges of determining appropriate, effective responses to trafficking include:

- a lack of credible information, overinflated figures and diverse opinions

- limited evidential data
- trafficking does not occur in a vacuum which means that responses must involve those who have been entrapped within an exploitative situation
- the need for nongovernment organisations, government and law enforcement agencies to work collaboratively together

Trafficking is intertwined with larger issues of immigration policy, poverty reduction, access to education, workers' rights (on farms, in restaurants and as domestic help), women's rights, and official corruption. Rather than tackle this briar patch, the tendency has been to call it all 'sex trafficking' and stage splashy raids on brothels. Such 'rescues' not only fail to stop trafficking, they also sweep up and demonise sex workers who have entered the trade on their own, driving them underground and closing off the opportunity to recruit them as allies against trafficking.'

Conversely, another Mumbai news report, positively highlighted a local not for profit group that works with survivors of trafficking, by means of an innovative rehabilitation model that uses a theatre workshop process. Through the use of comedy, the young girl survivors experience healing, grow in self confidence and learn vital income earning skills that are leading to real employment opportunities and a hope filled future. The strengths of nongovernment organisations in working with survivors of trafficking in India include:

- providing food and medicinal aid in poverty stricken and disaster areas
- providing much needed schooling and school supplies
- constructing wells to provide water
- assisting with micro credit schemes
- providing safe refuge
- providing shelter and clothing

Nongovernment organisations face many challenges when working in various aspects of trafficking, whether in prevention, protection of victims of trafficking or in the advocates of change in legislation and awareness raising. The challenges nongovernment organisations face working on trafficking issues include:

- state funding that can both shape and restrict NGO programs and campaigns
- having the resources to clearly define issues of need and appropriate responses
- working out which takes priority as a response in terms of the research or the action plan

Wilma Gallet, Salvation Army, New Zealand, Fiji and Tonga, New Zealand

Ms Wilma Gallet has a breadth of social policy experience and specifically in employment services, spanning over 25 years, including senior policy development and executive roles within the public and community sector. Ms Gallet was the founding CEO of The Salvation Army Employment Plus and is currently involved in major projects with The Salvation Army including Hope for Life suicide prevention program and establishing the OASIS national homeless youth network. Ms Gallet also works with other major nongovernment organisations in the social policy arena and coordinated the Stop the Traffik campaign for World Vision Australia in 2007. She has a Masters in Social Science.

Harnessing the potential of the NGO sector

This presentation highlights the work of the Salvation Army in Australia and around the world and the work the Army is undertaking in relation to trafficking in persons.

The Salvation Army operates in 118 source, destination and origin countries and has done so for many years. In 2004 the General of the Salvation Army declared the issue of eradicating human trafficking an organisational and mission priority for The Salvation Army and called on the International Salvation Army to develop a response to this issue in its own territory. Consequently, the Salvation Army became involved in the 'Stop the Traffik' campaign. 'Stop

the Traffik' is a global movement which led up to 25 March 2007, the bicentenary of the abolition of the Transatlantic Slave Trade. The 'Stop the Traffik' catchphrases include:

- 'Prevent the sale of people'
- 'Prosecute the traffickers'
- 'Protect the victims'

'Stop the Traffik' undertook a number of campaigns aimed at raising the awareness of the issue to the attention of the public. A major campaign addressed the trafficking of children into the cocoa industries around the world and enslaving people to work on cocoa plantations. Not only did this campaign encourage people to buy Fair Trade chocolate, but Cadbury agreed to bring out a range of 'slave free' chocolate.

July 2008	Verkade committed to 100% Fair Trade cocoa and sugar in their chocolate bars in Netherlands from autumn 2008
February – March 2009	Swiss Noir committed to Fair Trade cocoa in their chocolate bars in Netherlands from March 2009
March 2009	Cadbury committed to Fair Trade Dairy Milk
April 2009	Six weeks after launching Stop the Traffik's campaign 'March on Mars', Mars committed to a traffic free (Rainforest Alliance) Galaxy in the UK and Ireland from 2010 and across the whole product range globally by 2020

In the Australian context, there is some evidence that trafficking in persons has occurred since 1975. Public interest in trafficking increased in Australia particularly after the case of Puong Tong Simaplee, a 26 year old Thai woman, who died in Villawood Detention Centre in September 2001. Simaplee had been trafficked to Australia for prostitution at the age of twelve and had been working in the sex industry since. Project Respect, human rights lawyers and the Australian media bought the Simaplee case, and by extension the wider issue of trafficking, to the attention of the public.

In 2004, measures to combat trafficking were introduced by the Australian Government. It was at this stage that the Australian Government accepted that trafficking in persons was occurring within Australia and the region. Reports of labour exploitation in Australia, including visa abuses, were reported. It emerged that labour agencies often acted as facilitators of trafficking in persons in Australia. There have been numerous reports of employment breaches occurring and of workers being exploited in different industries. Since this period, unions in Australia have been more vigilant in relation to the issue of labour exploitation and have also developed strategies for tackling unfair practices.

The privatisation of human services in Australia has meant that nongovernment organisations are increasingly providing most of the social services in Australia. There are, for example, no longer any government run employment services that provide services to unemployed people. This has meant that the casual labour hire sector is now the major provider of contract labour to employers.

The Salvation Army, Australian branch, provides support to approximately 1 million people each year, across all social programs. The work is divided into different sectors and due to the limited budget, there is significant liaison between teams to ensure overlap is avoided. The Salvation Army provide a number of services including crisis services, family violence, street outreach, homelessness, court, drug and alcohol, suicide prevention and mental health issues.

A number of different services and programs need to be developed to help combat trafficking. These include:

- a broader public information campaign to help combat the high level of ignorance relating to trafficking in persons
- an anti-trafficking system that is accessible, responsive and protective
- a system that is based on, and models, the fundamental human rights of each individual

Jenny Stanger, The Salvation Army, Australia

As a co-founder and staff person at the Coalition to Abolish Slavery and Trafficking (CAST) in Los Angeles, Ms Jenny Stanger has worked as a case manager and advocate for survivors of human trafficking and slavery since 1998. Ms Stanger advocated for the passage of the US Victims of Trafficking and Violence Protection Act of 2000 through media advocacy, congressional testimony and policy advocacy. She is a founding member of Freedom Network USA, a national advocacy network, and directed the Freedom Network Institute on Human Trafficking, a collaborative nationwide training and technical assistance program delivered to thousands of government and nongovernment personnel in 23 American cities. In 2003, CAST opened the first refuge for trafficked persons in America. Ms Stanger relocated to Australia in 2005 and co-founded the Anti-Slavery Project in the Faculty of Law at the University of Technology Sydney. In 2007, Ms Stanger became the Supervisor of Australia's first refuge for women who have experienced human trafficking, slavery and/or slavery-like practices, a project of The Salvation Army. Ms Stanger is a member of the Australian National Roundtable on People Trafficking convened by the Minister for Home Affairs.

The role of the NGO in ensuring a rights-based response to people trafficking

During this presentation, the El Monte case from California, US, was outlined as a model for social change which has helped to shape anti-trafficking responses in the United States and more widely across the world. Outcomes of this particular case included criminal prosecution of the factory owners and operators; damages being awarded to the victims in civil cases; regulatory reform of the garment industry in California; community awareness and policy reform on the issue of trafficking.

Outcomes from the El Monte case can be usefully applied to anti-trafficking responses more broadly. The role of NGOs in providing a rights based response to trafficking in persons is a crucial factor. The bringing together of a whole of government approach to trafficking is also critical in combating trafficking. The importance of developing an effective community approach to mobilise all the rights of victims of trafficking was also stressed. If trafficking in persons' legislation is not in place in a particular district or country, alternate legal remedies can be usefully applied. Other existing legislation can be used to produce similar outcomes. There is the need to engage with victims of trafficking both during the event, and after the event, to develop a response that fits in with the victims' needs and rights. There is a need, for example, to empower the victims. There is also a need to widen the scope of responses to trafficking to ensure that they cover people in all kinds of different places.

In dealing with clients, it is important for agencies to try to have creative strategies, to listen to what the clients want, to be led by what they want and to mobilise the community. It is also important not to treat all victims as uniform but to acknowledge their differing needs for support.

The Salvation Army safe house for trafficked women in Sydney, Australia was set up in January 2008 as an alternative for people who do not receive government support. It provides a number of direct services including crisis and long-term accommodation and support service for single adult migrant women; specialised comprehensive and culturally appropriate case work assistance; limited assistance to non-residential clients (including men); strengths-based approach and works in collaboration with other groups and agencies.

Referrals to the safe house have not been from advertising but from a variety of informal methods and a variety of different organisations including refugee/asylum organisations, homeless organisations, domestic violence organisations, Australian Federal Police, Department of Immigration, legal aid organisations, media, client, local police, and hospitals. The safe house will accept victims from anywhere in the world, to date there have been victims from Fiji at the safe house.

Questions and comments

Judy Putt - Are all your referrals in the Sydney area?

Jenny Stanger - The majority are but we have had a few from other States. In the United States, we have had parents calling from other countries in relation to their missing children. We will consider any cases – wherever they may be from. Part of our role is to look at outreach services.

Rochelle Ball - The garment and textile industries in Sydney are not in a 'happy situation' – there are many problems in these industries. Do you link in with the unions regarding this? Is there labour trafficking that is occurring?

Jenny Stanger - I definitely think so. The majority of people trafficking are not in the sex industry. It is a much wider problem. We do try to reach out to unions and community organisations.

Rochelle Ball - A lot of abuse occurs within specific national communities i.e. within their own community.

Jenny Stanger - Trafficking cases that are public, where the victims and the traffickers are from the same countries, are the cases that really divide the community. Half of the community will be on the side of the victim whilst the other half will be on the side of the trafficker. Often foreign nations find these situations embarrassing for their communities.

Day 3 session 3: Discussion and reflection

Chair

Poloma Komiti

In this session, groups segregated to discuss the following issues, before coming together to discuss as a whole. The issues were as follows:

1. What are the emerging issues presented at this forum?
2. What should be the research priorities?
3. What roles should key agencies take in prevention trafficking in persons?
4. What are the key outcomes from the forum?
5. What recommendations would you make from the information presented at the forum?
6. What priorities should be adopted?

1. What are the emerging issues presented at this forum?

- potentials of labour trafficking in areas outside those commonly referred to, including within the nursing industry
- vulnerabilities of young women in relation to bride price and domestic labour that may result
- vulnerabilities linked to coffee, tea, cocoa and copra growing in the Pacific Islands
- land related issues, particularly when owned by a clan or company
- child labour in the domestic setting and abuse within the home is common in Papua New Guinea but it is not identified as child labour more so just assisting the family; need to change the general attitude and mentality on child's rights as no one is enforcing policies and mechanisms – they need a total paradigm shift. Generations are not evolving; attitudes are bred within
- protection of border control and immigration issues
- recognition of human rights
- gender equality and societal norms, especially in relation to cultural marriages and migration practices
- the use of rouge immigration agents facilitating (irregular) migration
- increasing awareness of trafficking in persons into the wider community
- proactive investigative organisation in the Pacific with a unified approach to removing victims from situations of trafficking
- breakdown between identifying issues, such as trafficking and acting to stop and prevent the issues reoccurring
- fragmented responses within and between governments and nongovernment agencies, staff turnover prevents fluidity in responses
- the need to identify 'hotspots' of trafficking in the Pacific to better focus attention and resources
- galvanising what is trafficking in persons and determining what are the root causes
- what can we do individually to prevent trafficking? Youth advocate to facilitate and guide youth action against

trafficking for example addressing root causes

2. What should be the research priorities?

- Sex industry legalisation and the potential for trafficking in persons and exploitation
- undertaking an attitudes assessment into the international perceptions of New Zealand sex industry
- Understanding culture within the Pacific including the gender imbalance due to a patriarchal society
- Collaboration within and between government and nongovernment sectors to ensure resources are well targeted
- What are the vulnerabilities that may lead to trafficking in persons in the Pacific Island Countries?
- Who are the traffickers?
- Commercial sexual exploitation of children and the potential link into child trafficking and child sex tourism
- Role of parenting norms in the Pacific Islands
- The impact of labelling countries as source, transit and destination countries within the Pacific
- Where are the hotspots in the Pacific region?

3. What roles should key agencies take in prevention trafficking in persons?

- both men and women need to be involved in the anti-trafficking campaigns to encourage change and increase awareness to younger generations of women and men
- people of influence, such as rugby players may be used as role models to encourage an attitudinal change and increase awareness and they will have an impact on young men traditional views of women and girls
- collaboration is very important between nongovernment organisations, international organisations and governments due to the fragmented approach to date to achieve joint action and shared resources- strengths need to be identified and work together with clear goals and knowing how to achieve the goals. Aim to focus at local, national and regional levels
- the government through community policing needs to use education to empower and support communities and reduce fragmentation within society
- unions and having an active role within the community in protecting against unfair and forced labour conditions
- 'sensationalisation' of the media and adhering to presenting unemotional news to ensure people are receiving the facts
- governments in the Pacific should model their anti-trafficking responses on good practice models, such as the New Zealand plan of action in relation to government and nongovernment agencies collaboration – it takes a network to defeat a network as the new ages of transnational crime are very fluid and there is a need to determine what a network is

4. What are the key outcomes from the forum?

- targeting the same objective with pooled resources, as trafficking in person has many root causes and needs to involve multiples layers of anti-trafficking activities to effectively address it effectively
- community consultation that is culturally appropriate, by understanding the audience is essential to ensure addressing the issues that are considered most in need
- increasing awareness of trafficking in persons
- understanding the different strengths of organisations and the roles within those organisations before trying to collaborate
- from a regional perspective, it is important to understand what the government is doing to address the issue
- understanding of demand of trafficking in persons
- understanding of that trafficking in persons means and that the focus should be on all underlying causes and potential vulnerabilities

5. What recommendations would you make from the information presented at the forum?

- high level of community engagement can be achieved by training relevant people within communities and government, this will empower the communities
- capacity building which involves training of law enforcement and the judiciary to understand the issue and know how to recognise it in operational activities
- have in place Memorandums of Understanding between government agencies and nongovernment and international organisations to maximise the collaboration and resources available
- encourage State progress within the Pacific by agreeing to agreed issues and focusing on these issues

- mapping of agencies is important to understand what issues are being addressed by government, nongovernment and international agencies

6. What priorities should be adopted?

- ensure political buy-in on the issue to ensure the issue will not be ignored
- legal education of lawyers, particularly in village courts, of the vulnerabilities that may lead to trafficking in persons
- quantitatively and qualitatively research prevention mechanisms and modus operandi of offenders
- focus anti-trafficking responses at a national level before looking regionally
- issues relating to empowerment of women should be adopted
- anti-child trafficking campaigns are necessary to bring attention to debt bondage of children
- looking to practical examples of effective trafficking responses to guide Pacific Islands in creating anti-trafficking responses
- determining 'hotspots' of trafficking in persons
- don't let definitions get in the way of effective action
- embracing the extradition legislations to allow other countries to assist in prosecuting their own offenders