Trafficking in persons monitoring report July 2007 – December 2008

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Foreword

Trafficking occurs within the context of an unprecedented level of migration across the world, much of it undocumented and unregulated, driven primarily by the desire for a better life and economic opportunities. Estimates of the numbers of persons trafficked worldwide range from 500,000 to four million every year, but these are impossible to verify. Available country estimates are usually at least 10 times that of the number of victims reported by authorities. Partly, this discrepancy is due to under-reporting by victims, as they are frequently fearful of authorities and of the possible consequences to themselves and their families. But there is also the risk of over-inflation within the context of concerted campaigns across the world to draw attention to the dire consequences and circumstances of children, men and women who have moved within and across borders and who, as part of the journey and/or at the end point, are exploited and abused.

In a relatively short period of time—less than 10 years—the international response has been led and guided by the United Nations Convention against Transnational Organized Crime and its supplementary protocol on trafficking in persons, with individual states encouraged to take action by the annual US Trafficking in Persons report which assesses and ranks country's perceived progress in complying with the intent of the protocol. Since the United Nations protocol on trafficking in persons came into being, Australia, like many western destination countries, has ratified the protocol (in 2005), introduced legislative reform (in 1999 and subsequently in 2005) and invested in prevention, criminal justice responses to this crime and support for victims. The initial package of measures announced by the Australian government in 2003 was expanded in 2007 and included funding over four years for the Australian Institute of Criminology

to undertake research on trafficking in Australia and to monitor trends in the region that might impact on Australia.

An outline of the government measures taken in Australia is provided in this monitoring report along with statistics from the key agencies involved. Between January 2004 and December 2008, the Australian Federal Police had conducted 210 investigations and assessments, 34 people had been charged with trafficking offences, there had been seven convictions and 113 persons had entered and received assistance from the victim support scheme (95% of them women and nearly three-quarters of them from southeast Asia). The length of time and complexity of the cases that resulted in the small number of convictions highlight the law enforcement and prosecution challenges associated with people trafficking offences which the Australian Institute of Criminology has reported on in separate papers. Similar to other western destination countries, the identified victims are primarily sex workers from overseas, although as the sections on the Asia-Pacific region reveal, this is a fraction of the volume of cases documented in Asia, with exploitation occurring in a wide range of sectors such as agriculture, fishing and manufacturing. In contrast, in the Pacific region, only one country has prosecuted trafficking cases and many countries have no specific trafficking legislation in place.

This report refers to factors that both contribute to the risk of people trafficking and hamper efforts to identify and prevent it. These include the limited capacity and effectiveness of fragile or developing states to combat any form of exploitation and transnational crime and the push and pull socio-political and economic factors that underpin the movement of people from one place to another.

Reliable official statistics are rare, but based on a literature review and over 80 face-to-face interviews with 140 government and non-government stakeholders in the region and two regional forums, it is concluded in this report that trafficking in persons is being increasingly recognised as a distinct crime in the Asia-Pacific region, with for example, an increase of 30 percent in one year in Indonesia of trafficking cases and legislation now in place in just over half of the Pacific Island nations. The impetus for reform and the collection of information has principally occurred at the regional level, with various policy frameworks and technical assistance programs produced or managed by regional bodies. In the short-term, there is unlikely to be much change to the economic drivers of people movement and migration but improved understanding and monitoring of key areas of trafficking vulnerability—including places, sectors and 'facilitating' small businesses—will help inform Australia's effort to prevent and reduce trafficking in persons within the country and the wider region.

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Acronyms

AIC	Australian Institute of Criminology
ACC	Australian Crime Commission
ACCF	Australian Crime Commissioner's Forum
ACRATH	Australian Catholic Religious Against Trafficking in Humans
AFP	Australian Federal Police
AGD	Attorney-General's Department
ALO	Airport Liaison Officer
ARTIP	Asia Regional Trafficking in Persons Project
ASEAN	Association of Southeast Asian Nations
AusAID	Australian Agency for International Development
AWARE	Association of Women for Action and Research
BKA	German Federal Criminal Office
BNP2TKI	National Board for Placement and Protection of Indonesian Overseas Workers
BNRM	Dutch National Rapporteur on Trafficking in Human Beings
BVF	Bridging Visa F
CCC	Christian Care Centre
CDPP	Commonwealth Director of Public Prosecutions
CJSV	Criminal Justice Stay Visa
CoE	Council of Europe
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CNMI	Commonwealth of the Northern Mariana Islands
CPI	Corruption Perceptions Index
CSEC	Commercial Sexual Exploitation of Children
CTM	Counter Trafficking Module
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship
FSM	Federated States of Micronesia

GMS	Greater Mekong Subregion
ICMPD	International Centre for Migration Policy Development
IDC	Interdepartmental Committee on Trafficking in Persons
ILO	International Labour Organization
IOM	International Organization for Migration
MOU	Memorandum of Understanding
NGO	Non-government organisation(s)
OCO	Oceania Customs Organisation
OfW	Office for Women
OHCHR	Office of the High Commission for Human Rights
OSCE	Organization for Security and Co-operation in Europe
PTCCC	Pacific Transnational Crime Coordination Centre
PICP	Pacific Islands Chiefs of Police
PIDC	Pacific Immigration Director's Conference
PIFS	Pacific Islands Forum Secretariat
PNG	Papua New Guinea
PTCCC	Pacific Transnational Crime Coordination Centre
RKA	National Criminal Investigation Department of the Swedish National Criminal Police
RSE	Recognised Seasonal Employment
SAP-FL	Special Action Programme to combat Forced Labour
SPC	Secretariat of the Pacific Community
STV	Foundation against Trafficking in Women
TIP Office	Office to Monitor and Combat Trafficking in Persons
TIP Report	Trafficking in Persons Report
TSETT	Transnational Sexual Exploitation and Trafficking Team
UN	United Nations
UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIAP	United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
UNTOCC	United Nations Transnational Organised Crime Convention
USAID	United States Agency for International Development

Executive summary

In 2000, global recognition of the importance of trafficking in persons led the United Nations (UN) General Assembly to adopt a protocol to prevent, suppress and punish trafficking in persons. Since this time, trafficking in persons has gained increasing international recognition, which has led to strong preventative responses in numerous countries, including Australia.

Trafficking in persons needs to be understood within the broader context of social and economic factors that underpin the movement of people within and between countries and that facilitate transnational crime. The growth of transnational criminal activity and its facilitation through information and communication technologies; international trends in the supply and demand for cheap labour; and push and pull factors, such as a lack of employment and education opportunities, gender attitudes, natural disasters, political instability, economic disparity between countries and porous borders, all impact on people's decisions to migrate through regular or irregular channels. There are also national and regional initiatives, including legislative changes or increased law enforcement activity, which may affect the flow of people across borders and their potential vulnerability to exploitation. Trafficking can, in part, be seen as a manifestation of irregular movements.

Australia is a destination country, particularly for persons from Asia, and potentially for persons from within the Pacific region. In terms of entry into the country, Australia, unlike many destination countries for trafficking, is largely protected through the absence of land borders and geographical remoteness. Australia is further shielded from the high levels of trafficking seen throughout southeast Asia and Europe through extensive border protection measures, especially those aimed at securing air and seaports and at monitoring the international movement of people. As at December 2008, exploitation in the sex industry had been the most commonly prosecuted form of trafficking in Australia, with only two cases of alleged trafficking for forced labour, although in one case the defendant was acquitted at trial (cf *Fryer v Yoga Tandoori House Pty Ltd* [2008] FMCA 288; *R v Yogalingham Rasalingham* 2007, NSWDC, unreported) and in the other, the defendants' convictions were overturned and a retrial ordered (*R v Kovacs* [2008] QCA 417).

Research context

There is general acknowledgement internationally and domestically that there is a lack of reliable data on trafficking in persons. It has been suggested that victims are trafficked from 127 different countries and undergo exploitation in 135 countries around the world (UNODC 2006). However, the global scale of such activity is impossible to quantify, with best estimates varying from between 500,000 and four million people annually. The world community faces persistent and ongoing challenges in terms of the availability, reliability and comparability of data internationally and by country, including:

- few systematic data collections and varying data collection methods
- a focus on sexual exploitation of women and children to the neglect of other aspects of trafficking and its victims
- little capacity to collect data in source countries
- estimates not representative of all trafficking victims
- little current research focus on perpetrators
- definitions of trafficking differing between collections

- no clear distinction between trafficking, smuggling and illegal migration, particularly in southeast Asia.

The Australian Institute of Criminology's (AIC) Trafficking in Persons Research Program seeks to undertake research aimed at enhancing the knowledge base on trafficking in persons in Australia. The research program comprises four components:

- a quantitative data monitoring project
- identifying and monitoring emerging trends in the Asia–Pacific region
- targeted research projects on priority issues
- activities to improve communications, collaborations and networking between the AIC and stakeholders.

During 2007–08, the AIC released a major report and three papers on trafficking in persons. In addition to these reports, a transnational crime brief examining the differences between trafficking and smuggling was released, a newsletter designed to inform key regional contacts of the AIC's research activities was distributed and summaries of the proceedings of two trafficking forums were released to attendees.

Trafficking in persons in Australia

The Australian Government ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons on 15 September 2005 and has committed a significant number of resources in recent years to addressing the issue of trafficking in persons. Funding has supported a range of initiatives, including a package of support provision for victims of trafficking, the establishment of a specialist law enforcement response in Australia and support for regional development projects.

These initiatives are supported by Commonwealth legislation which was first introduced in 1999, with the enactment of slavery and sexual servitude offences in the Criminal Code (Cth) and significantly reformed in 2005 with the insertion of trafficking in persons and debt bondage offences.

In addition to federal government initiatives, the majority of states and territories have enacted legislation around sexual servitude and deceptive recruiting. As with most crimes, an exact figure for the number of persons trafficked into Australia annually is impossible to obtain, especially given the reporting issues associated with these crimes. The available aggregate statistics from Australian Government agencies indicate that:

- Between 1999 and June 2008, the Department of Immigration and Citizenship (DIAC) referred 269 matters (relating to 250 people) regarding trafficking in persons to the Australian Federal Police (AFP).

From January 2004 to December 2008:

- the Transnational Sexual Exploitation and Trafficking Teams (TSETT) within the AFP had undertaken over 210 investigations and assessments of trafficking-related offences
- 113 victims of trafficking (over 95% of whom were women) had been provided with assistance through the Office for Women's (OfW) Support for Victims of People Trafficking Program
- 34 people had been charged with trafficking-related offences. Of these people, seven have been convicted: four for slavery matters, two for sexual servitude and one for deceptive recruiting.

A great deal of information regarding the level of government and non-government activity in relation to trafficking in persons is recorded by agencies. In order to learn as much as possible about the nature of and trends in trafficking in Australia, the AIC is exploring opportunities to draw this information together and undertake comprehensive and systematic analysis.

Regional trends and issues

Australia's closest neighbours are comprised of the numerous countries in the Pacific and southeast Asian regions. Transnational crime in these regions is likely to have a significant impact on Australia. Southeast Asia in particular has been identified as a region of origin, transit and destination for trafficking in persons.

The region has experienced high levels of migration driven by a range of economic and political push and pull factors. Most labour migration is intra-regional or to take up opportunities in neighbouring regions such as east Asia and the Middle East.

Australia is viewed as a key destination for persons trafficked out of southeast Asia. Of the 113 trafficked persons identified as at December 2008, a southeast Asian country was the origin of almost 70 percent of this group. However, it is unlikely that Australia will experience a significant growth in the number of trafficked persons from southeast Asia for a variety of reasons, including:

- trafficking within the region often follows existing migration pathways which are primarily intra-regional

- most trafficked persons are in search of better economic opportunities of which there are many within the region or in other neighbouring regions such as east Asia and the Middle East

- undocumented movement throughout the southeast Asia region carries fewer risks of detection and is far less expensive than travel to the well-protected Australian sea and airports.

Although little is known of trafficking in the Pacific, its proximity to Australia combined with concerns around transnational crime and governance, make it an important region to examine. The lack of employment opportunities in the Pacific is a significant push factor towards irregular migration throughout the region. This creates opportunity for exploitation and possible trafficking of migrants. During consultations in the region, the issues identified as relevant to trafficking included:

- the perceived increase in risk of transnational crime

- labour mobility and exploitation

- sexual exploitation and sex work

- vulnerability of children.

In 2007, there were six prosecutions of trafficking-related matters reported in Pacific Island nations, all of which took place in Palau. Based on consultations undertaken in the region, most trafficking in persons was believed to occur where island nations were used as transit points into destination countries such as Australia. However, the Palau cases, and reports that foreign sex workers in Fiji might be trafficking victims, suggest that trafficking involving the exploitation of non-Islanders who have moved into the region is occurring.

Australia's strong socioeconomic position in the Asia–Pacific region, together with plentiful job opportunities in low-skilled sectors, will ensure it remains a potential trafficking destination within the region.

Future research directions

The first year of the AIC's Trafficking in Persons Research Program focused on identifying data sources and data needs in Australia and establishing links within the Asia–Pacific region. It is clear from this scoping work that there remains a need for, and value in, establishing a centralised dataset for research purposes. The development of a dataset of this nature would allow for the systematic collection of variables that would add value to current knowledge of the nature of trafficking in Australia, the characteristics of victims and offenders, the methods employed by offenders and the financial profits involved in these crimes.

In the AIC's Trafficking in Persons Research Program's second year, the major research theme is trafficking for the purpose of labour exploitation. As in the first year, several stand-alone projects are being undertaken. These examine:

- community attitudes in Australia to trafficking in persons

- trafficking in children

- labour mobility in the Pacific.

Collaborations with key regional partners, such as the International Organisation for Migration (IOM), will continue to be pursued and activities around communicating and disseminating research will also continue through regular publication of papers and AIC publications, as well as the hosting of roundtables and forums.

Introduction

Although the number of identified victims of trafficking in Australia is relatively small, it has been acknowledged by the Australian Government that 'one victim of trafficking is one too many' (Australian Government 2003) and a variety of measures have been implemented to address the problem. In 2007, the AIC was given $2.4m in funding from the Australian Government to conduct a four year research program on trafficking. The aim of the program is to contribute to the effectiveness of the Australian and international response to trafficking in persons. This will be achieved by:

- building on the existing knowledge base on trafficking in persons in Australia and the region
- identifying gaps in knowledge
- collaborating with other researchers working in the area
- conducting targeted research
- disseminating research findings to stakeholders and the community.

The AIC's people trafficking research program was designed following informal consultations with stakeholders in Australia and the region. The program includes a strong focus on the region surrounding Australia. The activities and responses to trafficking in neighbouring countries will have significant local impact as Australia has been identified as a primary destination for trafficking victims from southeast Asia.

The initial phase of the research program involved undertaking consultations with relevant agencies to determine the extent of the government's response to trafficking in persons and the type of data recorded by various agencies. Alongside an audit of available data, the first year of the research program involved extensive consultations with stakeholders in the Pacific and southeast Asia regions to identify any emerging trends and several stand-alone projects.

Methodology

The first year of the Trafficking in Persons Research Program has focused on building a dataset of all relevant information from government agencies and as such, has been primarily qualitative in nature. An audit of the available data sources, which will shape and inform the data monitoring component of the research program, was conducted and is summarised in a subsequent section of the report. The data monitoring component will remain a focus of the research activities for the life of the program.

A review of literature, legislation and policy was also conducted and forms the basis of much of the background information contained in this report. Further, 82 face-to-face interviews were conducted in Pacific and southeast Asian countries with approximately 140 stakeholders.

Key components of the research program

The research program is comprised of four key components:

- a quantitative data monitoring project
- identifying and monitoring emerging trends in the Asia–Pacific region
- targeted research projects on priority issues

- activities to improve communications, collaborations and networking between the AIC and stakeholders.

In the first year of the research program, activities have focused on:

- identifying data sources and establishing an ongoing data monitoring program
- consulting with stakeholders in the Asia–Pacific region
- identifying emerging issues and targeted projects on trafficking in the areas of adoption, responding to victims and organ trafficking.

Research activities under each component

Data monitoring program

Accurate statistics on many aspects of trafficking in persons are unavailable. This is not a problem exclusive to Australia—it is a global issue and various attempts are being made to address it. The different methods, including calculating estimates of the size of the problem and developing case management models, will be discussed in detail in a subsequent section of the report. The lack of reliable statistics presents a significant challenge

for the development of evidence-based responses to trafficking in persons. The data monitoring component of the AIC's research program seeks to address this limitation by:

- sourcing and identifying data sets that will provide relevant and reliable data for research on trafficking in persons
- negotiating access to this data
- undertaking in-depth analysis of the data gathered.

In an area where few accurate statistics exist, it is essential to make best use of available information. A great deal of information regarding the level of government and non-government activity in relation to trafficking in persons is recorded by agencies. The AIC is exploring opportunities to collate this information. In order to build the most complete and accurate picture of the nature and extent of trafficking in persons in Australia possible, other means of gathering relevant data will also be employed. Data will be drawn from the following sources:

- data published in Commonwealth agencies' annual reports
- surveys of relevant service providers and the wider community
- court transcripts
- other de-identified administrative data provided by Commonwealth departments
- data from large scale programs in the region (eg the IOM Counter Trafficking Module (CTM) database).

This data will be recorded and analysed on an ongoing basis and will add to knowledge of various aspects of trafficking in persons including awareness, attitudes, investigations, prosecutions and emerging issues. These aspects will be measured using the different types of data and data gathering methods outlined above. Awareness and attitudes will be measured through surveys targeting both the wider community and key groups. Aggregate data from agencies will enhance understanding of the different aspects of the criminal justice system's response and the associated level of government activity. Trends and patterns in the nature of trafficking in persons in Australia will be assessed through both qualitative information gathered from consultations and the creation of a centralised national database of all known Australian trafficking cases.

The data monitoring component will utilise multiple methods of data collection alongside secondary analysis of existing datasets and surveys aimed at examining the level of awareness and understanding of the issue of trafficking. Perceptions on related issues among various groups will also be developed under this program. In 2007–08, the first of these surveys, which examines attitudes towards and awareness of trafficking among the wider community, was piloted and results from the national launch will be published in the second monitoring report.

The findings of the first year of scoping work under the data monitoring component of the program are discussed in greater detail in a subsequent section of the report.

Emerging issues in the Asia–Pacific region

Alongside the domestic response, it is important to build a picture of trafficking in the Asia–Pacific region. Australia is also actively combating trafficking through numerous offshore activities. Both DIAC and the AFP have liaison officers posted to key regional locations, with strong links to local immigration departments and law enforcement through both operational assistance and the provision of relevant training. In conjunction with these activities, the Australian Government also provides funding through AusAID to various projects and organisations to combat trafficking in persons and other transnational crimes in the southeast Asia region and in doing so has a strong interest in the developments and emerging issues in Australia's neighbouring countries. This regional focus stems in part from the identification of Australia as a destination country for trafficked persons in the region.

Consultations were undertaken in the Asia–Pacific region to identify emerging trends and issues regarding trafficking. Between February and April 2008, numerous meetings were held with national and international non-government organisations (NGOs), law enforcement, immigration and other relevant government agencies in New Zealand, Fiji, the Solomon Islands, Thailand, Malaysia, Singapore

and Indonesia. A list of agencies consulted during this phase is attached in Appendix A.

The goals of the regional consultations were to:

- identify regional trends and emerging issues which may have some impact on trafficking
- identify responses to trafficking in persons in the region
- establish networks across the region.

The regional consultations were invaluable in developing a picture of the extent to which trafficking in persons is considered an issue in the Pacific and southeast Asia regions. The information gleaned from the consultations is summarised at both the regional and country level in subsequent sections of the report. The regional-trends component of the program will run for the life of the program, allowing for up-to-date assessment of developments in the region.

Targeted research projects on specific issues

Research on trafficking in persons in southeast Asia is voluminous but fragmented (Piper 2005).

There is a great deal of research on trafficking for sexual exploitation and trafficking in the Mekong subregion, however there is comparatively little research on trafficking for the purposes of labour exploitation, trafficking in the Pacific Islands or trafficked children. In consultation with stakeholders, the research program developed three priority research projects which sought to identify and respond to gaps in existing knowledge. Priority areas for the first year were:

- ensuring protection for victims of trafficking
- research into trafficking for the purpose of adoption
- research into organ trafficking.

The first of these involved the AIC commissioning research that sought to identify good practice in relation to victim support. The end result was a framework of victim support based on a human rights approach (see Box 1). Although it is important to identify underpinning principles that can inform policy and program implementation, it became apparent through the commissioned work that there has been very little empirical research conducted on how well various victim support schemes work and

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Box 1 Good practice in ensuring protection for victims of trafficking

Victims of trafficking are victims of crime and of human rights violations. As such, they are entitled to remedies and reparations—to ensure wrongs are redressed and the person recovers from the violation(s). International legal standards and emerging good practice in support for victims of trafficking demonstrate the following elements as fundamental in providing appropriate support:

- respect for human rights at the centre of all policy and practice in supporting victims of trafficking
- rapid and accurate identification
- immediate and unconditional protection and support (including a reflection period), and where children are concerned, that their best interests are paramount at all times
- additional protection for victims who choose to cooperate with authorities, including witness protection and special court procedures to reduce the risk of re-traumatisation as a result of testifying

- non-punishment of victims for status-related offences, such as illegal entry to the country, breach of visa conditions, prostitution etc
- access to crimes compensation
- safe and, to the extent possible, voluntary repatriation, with respect for the principle of non-refoulement (Gallagher & Holmes 2008: 329–343).

In practice, a strategy involving these elements would need to consider the following: the continuing, institutionalised training of all frontline services in identifying and dealing with victims; the utilisation and funding of a range of organisations to ensure comprehensive support services; extra protection measures for victims cooperating with police; the non-prosecution of victims of trafficking for status-related offences; and ensuring that provisions allowed for in law, with respect to the safe return of a trafficked person to her/his origin country, are carried out in practice.

what victim perspectives might be on the services provided by such schemes. As the AIC continues to undertake research over the next few years, a recurring priority will be to investigate what might constitute good victim-support practice.

Short research papers will be published by the AIC on each of these areas during 2009, however the activities undertaken and some findings from each project are incorporated into this report.

Communications and research dissemination

The research program, particularly the data monitoring component, relies heavily on cooperation from stakeholders and many activities to date have been directed at developing strong working relationships with these stakeholders. The three main activities undertaken for this component include:

- dissemination of research papers
- stakeholder consultations
- research and data forums.

Publications

Monitoring reports detailing the activities and findings from the research program will be released during the life of the program. They will also provide an update on the program and current directions.

Recent AIC publications on people trafficking include:

- Putt J 2007. Human trafficking: a research challenge. *Trends & issues in crime and criminal justice* no. 338. Canberra: Australian Institute of Criminology
- David F 2007. Law enforcement responses to trafficking in persons: challenges and emerging good practice. *Trends & issues in crime and criminal justice* no. 347. Canberra: Australian Institute of Criminology
- David F 2008. *Trafficking of women for sexual purposes*. Research and public policy series no. 95. Canberra: Australian Institute of Criminology
- David F 2008. Prosecuting trafficking in persons: known issues, emerging responses. *Trends & issues in crime and criminal justice* no. 358. Canberra: Australian Institute of Criminology

- Australian Institute of Criminology (AIC) 2008. People smuggling versus trafficking in persons: what is the difference? *Transnational crime brief* no. 2. Canberra: AIC

Further publications will be released in 2009 summarising key projects under the program. At this stage, three *Trends & issues in crime and criminal justice* papers are in development and relate to labour trafficking, organ trafficking and responding to victims.

Stakeholder consultations and involvement in UN activities

The AIC research team has been consulting with representatives from Commonwealth agencies on a variety of issues regarding Australia's response to trafficking but primarily to discuss data and related issues of access, quality and confidentiality. The consultations have also involved (to lesser extent) state and territory police and NGOs.

AIC representatives also participated in UN trafficking-related meetings and workshops held in Bangkok, Cairo and Vienna. The relevant events were:

- United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) regional workshop on criminal justice responses to trafficking in persons held in Bangkok, Thailand from 2–4 October 2007
- UN.GIFT expert group meeting on developing new approaches to the study of human trafficking held in Cairo, Egypt from 11–12 January 2008
- Vienna Forum held in Vienna, Austria from 13–15 February 2008.

Forums

Australian research and data on trafficking in persons forum

The AIC hosted a one day forum on 24 June 2008 in Canberra, following the government's National People Trafficking Roundtable on 23 June 2008. The primary focus of the forum was to identify existing research and its findings to date and explore key research priorities in investigating and understanding the various forms of people trafficking. The event was well attended, with representatives from government departments,

NGOs and academics. See Appendix B for a full list of agencies and organisations represented at the forum.

Pacific research and data on trafficking in persons forum

The AIC hosted a two day forum in Apia, Samoa on 21–22 August 2008 which brought together government, NGOs and academics from the Pacific region to discuss key priorities and issues in trafficking in persons. A full list of agencies and organisations represented at the Pacific forum is at Appendix C. Presentations focused on regional issues impacting upon trafficking, responding to trafficking, research and data issues and responses to victims and emerging issues in the Pacific region, such as labour trafficking and commercial sexual exploitation of children (CSEC).

In Hong Kong in November 2008, a further regional forum was held with the University of Hong Kong and will be reported on in the next monitoring report.

Report structure

This report is divided into six main sections:

- an overview of trafficking in persons, its emergence as an issue in the global sphere and the response of the international community including the relevant UN and legal instruments. A discussion of issues regarding obtaining relevant, reliable data and the challenge this presents to research and a review of some key international data collections are also contained in this section

- a summary of the Australian response. This includes a summary of the responses of the Australian Government, as well as state and territory governments, to combat trafficking in persons. The legislative provisions in place in all jurisdictions are also reviewed in this section

- discussion of what is currently known about trafficking in Australia

- a detailed review of the regional situation in southeast Asia, incorporating information arising from regional consultations

- a detailed review of the regional situation in the Pacific, incorporating information arising from regional consultations

- a summary of the findings of the AIC Trafficking in Persons Research Program to date and recommendations for future research.

Terminology

The terms *people trafficking*, *human trafficking* and *trafficking in persons* are used interchangeably throughout this report.

UN Trafficking Protocol and *Trafficking in Persons Protocol* are both used throughout the report and refer to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Background and context

Trafficking in persons is said to be a modern day form of slavery (OHCHR 1991). The transatlantic slave trade was abolished in the nineteenth century; however it was not until December 1949 that the re-emergence of slavery was acknowledged internationally in the form of trafficking in persons, with the adoption of the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (resolution 317(IV)). In 2000, the General Assembly adopted the Convention against Transnational Crime and its supplementing Protocols—the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the UN Trafficking Protocol) and the Protocol against the Smuggling of Migrants by Land, Sea and Air.

During the past decade, the profile of trafficking has been raised among policymakers, law enforcement, human rights organisations and the public through research, media reports of cases, documentaries and even mainstream film, such as *Human Trafficking* 2005; *Saving Grace* 2007; and *The Jammed* 2007.

> The act of trafficking can involve recruitment, transportation, transfer, harbouring or receipt of persons

Defining trafficking in persons

Trafficking in persons has been defined as:

> The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UN 2000a: 3).

This definition can be broken down into three components: an action, a means and a purpose (ASEAN 2006b). The act of trafficking can involve recruitment, transportation, transfer, harbouring or receipt of persons. The means must be fulfilled by undertaking one or more of the following:

• force or threat of harm

• other forms of coercion

• abduction

• fraud

• deception

• abuse of power or of a position of vulnerability

• giving and receiving of payments or benefits to achieve the consent of a person having control over another person.

The purpose of the action must be one of exploitation for trafficking to occur. At a minimum this must include:

• the exploitation or the prostitution of others or other forms of sexual exploitation (as a subset of labour exploitation)

• forced labour or services

• slavery or practices similar to slavery

• servitude

• the removal of organs.

Trafficking of adult men and women must involve all three elements, however the trafficking of children, that is persons aged under 18 years, involves only an action and a purpose (OHCHR 1990).

Key trafficking concepts

The recruitment process may vary widely, depending on the type of work involved and the victim's gender, age and previous employment experience. Many men and women may seek the services of a trafficker in order to facilitate access to better economic opportunities. Alternatively, a person may be sold to traffickers by a family member,

or a trafficking 'recruiter' may make the initial contact with the potential trafficking victim if they fit a particular demand profile (Iselin & Adams 2003). The demand profile may be specific for the type of work to be undertaken in the destination location, but it is believed that persons facing development problems including poverty, economic instability, conflict and population displacement are most vulnerable (USAID 2004). Victims may or may not be deceived about the type of work on offer and in some cases, the victims and traffickers are known to one another (Silverman et al 2003).

The level of control over the victim may also vary greatly. The stereotype of victims being chained to their beds has not been the Australian experience thus far, although for some, their physical freedom has certainly been restricted. This has included being escorted when outside the work premises and being locked in their room at night. Victims generally have their passports removed and returned once they have repaid their debt, indicating they are free to leave. Traffickers may use threats, force and violence as a means of recruitment, control and to obtain the compliance of the victims (AIC 2008).

The most visible and therefore the most reported form of people trafficking occurs in the sex industry (Choi-Fitzpatrick 2006: 68). This has, in part, been driven by the moral debates around sex work and the sex industry; however there are many other sectors and industries where exploitation amounting to trafficking can be found. These include domestic service and the hospitality, mining, fishing, agriculture and construction industries (US Department of State 2008a). Victims of trafficking are not limited to women and girls and it is only in recent times that there has been growing recognition and reporting of men as victims, who are primarily exploited for labour.

Although children are also trafficked for the purpose of sexual and labour exploitation, the nature of the work they are forced to undertake is often quite distinct from that of adults. Globally, the trafficking of children can be for the purposes of street begging, camel jockeying, forced marriage, illicit adoption, criminal activities and recruitment into the armed forces (UNICEF 2006a).

A case of trafficking may not necessarily have been intended as trafficking from the outset. Smuggling,

labour exploitation of migrants and irregular migration are often confused with trafficking. Although all begin with the desire to improve the standard of living, opportunity or general quality of life (Lupini 2006), differences lie in the method of recruitment, the issue of consent, the role of violence and the outcome upon arrival at the destination (see AIC 2008 for a more detailed discussion of the difference between smuggling and trafficking).

Factors impacting on trafficking in persons

There are multiple factors that impact on a person's vulnerability to trafficking and it is clear that poverty is not the only precursor (UN.GIFT 2008: 44). Trafficking in men, women and children usually begins with the desire to move from one location to another, often in search of improved quality of life. In recent years, the world has experienced an increase in both regular and irregular migration. The IOM and the UN Department of Economic and Social Affairs estimate there are more than 200 million migrants worldwide (IOM 2008d), 30 to 40 million of which are unauthorised (UN Department of Economic and Social Affairs Population Division 2006).

Push and pull factors

There are a number of factors that may influence both the domestic and international movement of people. Push factors are those factors in the home country forcing migration and pull factors are those factors in the destination country encouraging migration. Some push and pull factors identified as having an impact on migration are presented in Table 1.

The decision to migrate is often influenced by a belief that there are better prospects abroad. For many, these beliefs stem from the positive migration experiences of others but there can be unforeseeable problems which cause further disadvantage. In some cases, the perception that there are better prospects overseas, particularly in employment, may be based on false or incomplete information intended to mislead and persuade people to accept false employment promises that may amount to trafficking (Schloenhardt 2003).

Table 1 Push and pull factors for inter-country trafficking in persons

Push factors	Pull factors
Lack of employment	Economic disparity between neighbouring countries
Lack of opportunity for education	Expect better quality of living
Environmental degradation	Corruption in immigration
Natural disasters causing displacement	Illegal migration penalties not a deterrent
Persecution, abuse and violence from civil unrest and war	Porous borders
Political instability	

Source: Schloenhardt 2003

Demand exists for cheap labour in both developed and developing countries and the large number of people moving across borders in search of better opportunities means the demand can be constantly met. Responding to trafficking in persons in an effective manner must involve addressing both supply and demand factors: the supply in the source location and the demand in the destination location (UN.GIFT 2008).

Globalisation

Globalisation is another factor that increasingly impacts on crime. Globalisation in itself is a multidimensional concept; in this context it encompasses the increasing homogeneity of financial, economic, environmental, political, social and cultural processes, but also extends to increased opportunities for criminal activity through widespread communication channels and cross-border movement (UN CEPAL/ECLAC 2002). Trafficking in persons has been labelled the third most profitable organised crime following drug and weapon trafficking, with the UN Office of Drugs and Crime (UNODC) and other experts estimating the total market value of illicit human trafficking at US$32b (UNODC 2008a).

Transnational crime networks are well established in the Asia–Pacific region and may expand to involve more people in more locations through globalisation (McCusker 2006). The anonymity associated with mobile phone purchases and email accounts has

allowed traffickers to communicate more easily with other perpetrators involved in the process with less risk of detection (Choo, Smith & McCusker 2007). The internet has facilitated access to illegal material including linking users with potentially trafficked mail-order brides and people available for online dating services, trafficked victims used in pornography and human organ brokers.

Globalisation has also had a significant impact on the freedom of movement of people between borders. Previously well-policed migration points, particularly in Europe and Asia, have merely become gates allowing nationals from one location to enter another unchecked. This has had a significant impact on all transnational crime, particularly drug trafficking (Levinson & Christensen 2002a, 2002b) but also people trafficking. Recent tightening of porous borders has been motivated by an increase in both documented and undocumented people moving across borders (Kaur 2007a).

Extent of trafficking in persons

The extent of trafficking in persons remains unclear. This is due in large part to the wide discrepancies between cases of trafficked persons detected by NGOs and official statistics. In Australia, NGOs have reported coming into contact with as few as 10 victims in 2003 (Scarlet Alliance 2003) and as many as 300 during research conducted between 1 February to 13 March 2004 (Project Respect 2004); the difference in number reflecting varying definitions of a 'victim'. In comparison, government statistics report 113 potential victims having entered the Australian government's Support for Victims of People Trafficking Program between May 2004 and December 2008 (OfW, pers. comm., 2009). A further issue is the well-documented discrepancy between recorded crime and the actual incidence of crime. As is the case for many offences types, those cases which are reported to authorities represent only a proportion of all offences of that nature.

Discrepancies also exist between detected cases and estimates. It is estimated that victims from 127 countries are trafficked and undergo exploitation in 135 countries (UNODC 2008a). Since the emergence

of trafficking in persons onto the international agenda, there have been numerous estimates of the number of trafficked victims crossing borders each year. The global scale of human trafficking is difficult to quantify, although researchers estimate between 700,000 and four million people are trafficked across international borders annually and bought and sold as prostitutes, domestic workers, sex slaves, child labourers and child soldiers, with many more trafficked within the borders of their own countries (ILO cited in CoE 2008; IOM 2008b; USAID 2004).

The disparity between estimates and detected cases is a common issue in most countries. An estimated 45,000 to 50,000 women and children are believed to have been trafficked into the United States, while recorded cases totalled 5,500 victims during 1999–2000. Similarly, annual estimates of 1,000 to 3,000 trafficked victims in both Belgium and the Netherlands far outnumber the 270 cases documented in Belgium in 2000 and the 289 documented cases in the Netherlands in 1999 (Makkai 2003). The reliability of estimates is uncertain due to methodological weaknesses, gaps in the data and very large discrepancies between the reported numbers of cases and estimates (GAO 2006). A key concern has been that many estimates are not replicable as few researchers report the methods through which estimates were derived and in some cases estimates have been the work of a single person who did not document their entire research (GAO 2006: 13).

The United Nations Education, Scientific and Cultural Organization (UNESCO) Trafficking Statistics Project sought to trace the origins of the estimates of trafficking cited by various agencies through a review of the literature and meta-analysis of existing statements on trafficking. Among the primary goals of the project was to determine the source of the estimates and encourage references to reliable statistics within discussions of trafficking in persons. The data comparison in Table 2 has been adapted from a table compiled by UNESCO. It highlights the variation in worldwide estimates of trafficking and their sources. The current tendency is to avoid developing estimates as they are generally unreliable, although the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion (UNIAP) recently sought to address this through sponsoring a contest offering funding to

Table 2 Sources of estimates of victims of trafficking				
Agency	Estimate (number of people)	Target population	Year	Source
UNODC	2.5 million	All persons	2008	UNODC perspectives publication
UNIFEM	500,000 to 2 million	All persons	2007	UNESCO
FBI	up to 2 million	All persons	2006	US State Department
UN	600,000 to 800,000	All persons	2005	US State Department TIP Report 2004
UNHCR	700,000 to 4 million	All persons	2003	US State Department TIP Report 2002
US Government	600,000 to 800,000	All persons	2004	President Bush
US Government	approximately 800,000	All persons	2006	US State Department TIP Report 2007
US Government	480,000 to 640,000	Women and Children	2004	President Bush
US Government	640,000	Women and Children	2006	US State Department TIP Report 2007
International Labour Organization (ILO)	more than 1 million	Children	2005	ILO
United Nations Children's Fund (UNICEF)	approximately 1.2 million	Children	2007	UNICEF Executive Director

Source: UNESCO 2009

methodologically rigorous estimates proposals (UNIAP 2008).

International responses to trafficking in persons

United Nations

In resolution 55/25 on 15 November 2000, the UN General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention against Transnational Organised Crime. The UN Trafficking Protocol came into force on 25 December 2003 and has since been ratified by 117 member states (UN 2008). Upon ratification, UN member states are required to undertake a number of institutional changes such as enacting legislation in support of the Trafficking in Persons Protocol.

The UN Trafficking Protocol provides a definition of trafficking in persons although intentionally does not clarify a number of key terms. This allows member states some flexibility in interpretation, an approach consistent with treaties of this nature. The particulars around what should be legislated is then determined nationally. In a number of member states, the implementation of trafficking in person's legislation was initially limited to the exploitation of women in the sex industry, although most have since amended their legislation to reflect all forms of trafficking.

Member states provide information on their activities through various mechanisms and this information is disseminated in a variety of reports, including reports of the Secretary-General. These reports provide summaries of activities undertaken across UN forums and by member states and identify areas requiring further action and/or attention (see UN 2000b).

United Nations Office of Drugs and Crime

UNODC, through the Global Programme Against Trafficking in Human Beings (GPAT) along with UN Global Initiative to Fight Human Trafficking (UN.GIFT) activities and events, is the lead international agency for counter-trafficking activities. UN.GIFT was launched by UNODC in 2007 and works with relevant government, business, academia, civil society and media stakeholders to support ongoing activities, create new partnerships and develop effective tools to fight trafficking. Furthermore, trafficking in persons is also addressed through two other UNODC programs and bodies. In 2004, a conference of the parties to the Convention against Transnational Organized Crime was established and seeks to improve capacity among state parties to address transnational organised crime (UNODC 2009a). The Commission on Crime Prevention and

Criminal Justice (CCPCJ) is also tasked with 'international action to combat national and transnational crime' (UNODC 2009b).

Several other international instruments, including:

- the Convention on the Elimination of All Forms of Discrimination Against Women
- the Convention on the Rights of the Child
- International Labour Organization (ILO) Conventions on Forced or Compulsory Labour, Abolition of Forced Labour and Worst Forms of Child Labour

form the legal framework for trafficking. Consequently, the UN has allocated specific funds to a number of other UN bodies including UNESCO, UN Development Programme (UNDP), IOM, ILO, UN Development Fund for Women (UNIFEM), UN Children's Fund (UNICEF), UN Interregional Crime and Justice Research Institute (UNICRI), Office of the High Commissioner for Human Rights (OHCHR) and UNIAP to undertake activities to prevent trafficking and protect victims and provide funds to UNICRI to undertake research in the area. The aspect which these agencies focus on and the main activities they undertake are presented in Table 3.

In 2004, a special rapporteur on trafficking in persons, especially women and children, was appointed by the Commission on Human Rights and tasked with:

- examining violations of the human rights of trafficked persons
- undertaking country visits to examine situations firsthand and formulating appropriate recommendations
- submitting an annual report on the special rapporteur's activities.

The most recent annual report of the special rapporteur summarised information submitted by governments and other stakeholders, including NGOs. The report sets out the 'thematic and methodological framework' which will underpin the implementation of this mandate in coming years (UNHCR 2009: 5).

Trafficking in persons also falls under the mandate of the special rapporteur on violence against women, established in March 1994 and the special rapporteur on contemporary forms of slavery, appointed in May 2008. The latter is mandated to focus on 'aspects of contemporary forms of slavery, which are not covered by existing mandates' (UNHCR 2007: 3).

The numerous UN bodies provide a combined response targeted at prevention, protection, policy development, awareness raising and training for

Table 3 UN agencies targeting trafficking		
Agency	Focus	Main activities
UNIFEM	Prevention	Activities directed at women eg awareness raising and advocacy
UNESCO	Prevention	Data collection and research
UNODC	Prevention and prosecution	Data collection, awareness raising, research, training, information campaigns and support for member states
UNDP	Prevention	Advocacy, awareness raising, research
IOM	Prevention and protection	Information, counselling services, research, return and reintegration assistance to victims, legal and technical assistance, data collection
ILO	Prevention	Awareness raising, data collection, research, education and skills training
UNICEF	Prevention	Activities directed at children eg awareness raising, research, advocacy
UNIAP	Prevention	Developing estimates, research, awareness raising and assistance in the implementation of anti-trafficking instruments
UNICRI	Prevention and prosecution	Data collection, research, designs and evaluates technical intervention programs and awareness raising
OHCHR	Protection	Awareness raising, monitoring human rights, capacity building and advocacy

Source: Respective agency websites

relevant groups such as law enforcement officers and prosecutors. More specifically, in 2007, UNODC supported over 30 global technical cooperation projects in various stages of implementation administered by the GPAT (UNODC 2007).

To improve the knowledge base, UNODC developed a database on human trafficking trends which attempted to establish a means for comparative analysis of global trafficking patterns but did not attempt to estimate the scale of trafficking or the number of victims (UNODC 2006). The database drew on various sources of information collected between 1996 and 2003 and despite significant limitations in methodology, the analysis of the information did provide some insight into regional and inter-country flows. More recently, under the auspices of the UN.GIFT, data and information has been collected from countries around the world to better map and understand current trends worldwide.

US Government response

The US Government has responded to trafficking in persons on an international scale through the annual Trafficking in Persons Report (TIP Report) and the provision of aid to combat trafficking. The TIP Report identifies the strengths and weaknesses of counter-trafficking actions being undertaken in countries as compared to US legislative standards and ranks them according to a tier system. For example, Tier 1 includes countries with the most active responses through to Tier 3 where little is done to counter trafficking. The report also identifies 'special cases', that is, countries for which there is little evidence available regarding trafficking in persons, but where anecdotal evidence indicates trafficking may be an issue. Although the report's ranking system has been contentious, it provides a summary of trafficking responses and activities for each country examined.

The United States provides a large amount of financial support to trafficking projects around the world. The Office to Monitor and Combat Trafficking in Persons (TIP Office) awarded US$16.5m to undertake anti-trafficking projects in the 2007–08 financial year (US Department of State 2008a). Administered by the United States Agency for International Development (USAID), anti-trafficking

programs focus on prevention of trafficking, protection of victims and reform and implementation of anti-trafficking legislation. USAID partners with local NGOs to fight trafficking at a local level in coordination with US Government, national and regional activities (USAID 2003).

Domestically, the United States has introduced three pieces of anti-trafficking legislation:

- *Victims of Trafficking and Violence Protection Act 2000*
- *Trafficking Victims Protection Reauthorisation Act of 2003*
- *Trafficking Victims Protection Reauthorisation Act of 2005*.

The anti-trafficking legislation focuses on trafficking in the sex industry more so than in other industries such as agriculture or hospitality. The United States also enacted the *PROTECT Act* in 2003 to make it an offence for any person to enter the United States, or for any citizen to travel abroad, for the purpose of sex tourism involving children. According to the US Government at the time, child sex tourism was viewed as having a strong link to trafficking in persons (US Department of Justice 2003).

In addition to the TIP Office funding, the National Institute of Justice offers funding to various research projects, with strong support for anti-trafficking research in recent years. Much of the research has been targeted at conducting background literature reviews, understanding trafficking in the United States and evaluating victims' services.

In two major reports on trafficking in persons, the Government Accountability Office (GAO) has highlighted the inadequacy of monitoring to assess efficacy of government initiatives and recommended that the Secretary of State seek to:

- improve information on trafficking
- develop and implement a strategy that clarifies agencies' roles and responsibilities and establishes a way to gauge results abroad
- clearly document the rationale and support for country rankings (GAO 2006).

In a 2007 GAO report, the need to develop a strategic framework to enhance collaboration between relevant US Government agencies was highlighted (GAO 2007). The current number of detected cases of trafficking in the United States is

unclear but between 1999 and 2000, 38 cases of trafficking involving 5,500 women were reported (Makkai 2003). Furthermore, the US Government can issue up to 5000 T-visas for trafficking victims each year (US Department of State 2000).

European response

Trafficking in Europe differs across subregions. Central and southwestern Europe are reported to be source regions, central and southeastern Europe are reported to be transit regions and western European countries are commonly reported to be destinations for trafficked persons (IOM 2008a). Many of those persons trafficked into Europe originate from Africa and transit through Italy, Malta and Spain (IOM 2008a). The European Union has been active in addressing trafficking within Africa through funding aimed at improving regional collaboration, particularly in relation to the trafficking of children (Briët 2009).

The member states of the Council of Europe (CoE) initiated a European response to trafficking in persons by declaring the Convention on Action against Trafficking in Human Beings ('the Convention') be adopted. The Convention considers that trafficking constitutes a violation of human rights and an offence to the dignity and the integrity of the human being and seeks to prevent and combat trafficking, protect victims and promote an international coordinated response (CoE 2005). The Convention came into force on 1 February 2008 and has been ratified by 17 member states and signed by 22 member states as at 31 December 2008 (CoE 2008, 2005).

To achieve the goals of the Convention, the CoE conducts awareness-raising workshops for people who may potentially come in contact with victims of trafficking. The action plan adopted by heads of state and governments of the member states includes a legal framework for combating trafficking, prevention activities and victim protection best practice.

The Organization for Security and Co-operation in Europe (OSCE) is also active in addressing the issue of trafficking through both an Action Plan to Combat Trafficking in Human Beings (endorsed by the OSCE Maastricht Ministerial Council in 2003) and the appointment of a special representative and coordinator for Combating Trafficking in Human Beings. It is the role of the special representative to ensure coordination, collaboration and cooperation among states in addressing this issue. (OSCE Ministerial Council Maastricht 2003).

Much work is being undertaken across the European nations to gather data on trafficking. A rapporteur on trafficking has been established in both the Netherlands and Sweden. These positions are responsible for reporting on the extent and nature of trafficking in their respective countries (BNRM 2008; RKA 2006). The International Centre for Migration Policy Development (ICMPD) has established the Program for the Enhancement of Anti-trafficking Responses in southeast Europe which seeks to develop comprehensive and comparable databases at a regional level (ICMPD 2008).

Southeast Asian response

As the southeast Asia region is known to be a significant source of trafficking victims and to experience high levels of intra-regional trafficking, it is important to consider the regional responses, including those initiated through the Association of Southeast Asian Nations (ASEAN) and the Bali and Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) processes. On 29 November 2004, the heads of ASEAN adopted a declaration to reaffirm the UN Trafficking Protocol. The members declared to undertake concerted efforts to address the emerging regional problem of trafficking in persons (ASEAN 2006a). They then outlined numerous measures by which this would be achieved. Among the measures were commitments to enhance the protection of identity documents from fraud, regularly share information, distinguish victims from perpetrators and ensure victims are provided appropriate support and assistance.

The Bali Process is a voluntary and non-binding forum which seeks to improve cooperation, awareness and information sharing. It hosts workshops aimed at training law enforcement and prosecution teams in best-practice responses to transnational crimes, particularly people smuggling and trafficking. The Bali Process is co-chaired by Australia and Indonesia and had representatives from 38 countries in attendance at the first regional conference in 2002—an indication of the importance of this issue in the region.

The COMMIT process has similar goals and was initiated in 2004 by the signing of a memorandum of understanding (MOU) against trafficking in persons by the governments of the six countries within the Greater Mekong Subregion (GMS), including Cambodia, China, Laos, Burma, Thailand and Vietnam (UNIAP 2007b). The process seeks to develop a comprehensive approach to trafficking in persons and encourage collaboration between the countries in the GMS. The process is facilitated by UNIAP. An important project in the region is the Asia Regional Trafficking in Persons (ARTIP) Project, funded by AusAID and implemented from Bangkok. ARTIP aims to promote a more effective and coordinated approach to combating trafficking in persons in the Asia region, with a focus on strengthening the criminal justice system response to trafficking through specialist and general law enforcement, judicial and prosecutorial training and improving policy, legal, research and outreach capacity (AusAID 2007). ARTIP began in August 2006 and is funded until 2011. Partner countries are Cambodia, Indonesia, Laos, Burma, Thailand and Vietnam. ARTIP has also worked closely with ASEAN to develop training materials for all ASEAN member states.

Data issues and challenges

The adoption of the UN Trafficking Protocol cemented trafficking as a global issue and ensured it received attention from government agencies and NGOs. There has been a great deal of activity aimed at addressing the issue and a growing body of research which seeks to examine and understand various aspects of trafficking in persons has emerged. Although work in this area has gone some way towards informing discussions of, and responses to, trafficking, there remains a lack of reliable data and many gaps in knowledge (David 2008a). There has certainly been an increase in research activity on the issue of trafficking in recent years (Laczko 2005) and although a great deal more is known about the nature of some forms of trafficking, particularly the trafficking of women and children for the purpose of sexual exploitation, the extent of this problem remains elusive.

There are several large-scale projects which seek to estimate and document trafficking (Putt 2007), including the US State Department's TIP Report, IOM CTM database, the ILO's work on global estimates of victims of forced labour and UNODC's Global Programme against Trafficking in Human Beings. Although these projects (and others not specifically mentioned here) provide estimates of the extent of trafficking—which goes some way towards building a clear picture of trafficking—the problem lies in the availability, reliability and comparability of that data.

Data collection and research on trafficking presents several major challenges (David 2007b; Makkai 2003; Putt 2007). Victims may be afraid to report to police due to fear for themselves and their families, past negative experiences with corrupt officials, or due to cultural and linguistic barriers (Putt 2007). Underreporting is inevitably high for a crime such as this and reports estimate that only five percent of victims come to the attention of authorities (BNRM 2003). There is little information regarding the level of awareness of trafficking in persons among the wider community and within industries or sectors in which victims of trafficking may find themselves employed. It may be the case that many people do not understand it to be a crime—a common factor leading to underreporting.

Another issue is that few systematic data collections exist. It is difficult to identify trends in trafficking in persons for the purposes of sexual and labour exploitation when no consistent and comparable data has been collected. In terms of reliability, data on trafficking in persons is constrained by the fact that many source countries have little capacity to collect data and much of the known information is based on a relatively small number of victim reports in destination countries (GAO 2006). The small number of known cases presents an issue in terms of how representative those cases are. Clearly, the relatively small numbers of cases on which estimates are based are unlikely to be highly representative of all trafficking that occurs.

Comparing trafficking data is often difficult, primarily due to the use of different definitions across and within countries and the ongoing confusion regarding the distinction between trafficking, smuggling, illegal migration and exploitation.

Although the adoption of the UN Trafficking In Persons protocol has led to a widely accepted definition of trafficking in persons, uncertainties still abound regarding when, or if, a situation of exploitation crosses over into the domain of trafficking. A lack of understanding of the differences will certainly impact upon data quality and undermine attempts to make inter-country comparisons. In a review of government data conducted for ASEAN, IOM found that the data collected was not standardised across agencies, making meaningful comparisons within government impossible (David 2007b); comparisons between countries are even more complicated.

Data on trafficking for the purpose of labour exploitation is scarce as victims are less likely to be identified as having been trafficked and cases are therefore processed as breaches of labour laws rather than as criminal offences. As a result, persons trafficked for labour exploitation, including a large number of men, have been largely unaccounted for in trafficking studies (GAO 2006). This is an important oversight considering that IOM statistics indicate that 55 percent of trafficking victims they have assisted in Indonesia were exploited domestic workers and men comprised 11 percent of those assisted victims.

Recently, there has been an increased awareness of trafficking in men for labour exploitation, particularly in the GMS. Recognition of forms of trafficking aside from sex trafficking will have a significant impact on the statistics of identified victims of trafficking and estimates of potential victims.

Why data collection is important

Data collection is an important source of information for policymakers and in the case of trafficking can have a significant impact on identifying appropriate immigration and criminal justice responses and factors which can affect these responses. Data on trafficking can be used to identify and reduce risk factors and in doing so, assist governments to achieve the overarching objectives of prevention, prosecution and protection (David 2007b). With more detailed information regarding the processes used by offenders and the nature and extent of the problem, relevant government agencies are in a

better position to more effectively target prevention activities and better placed to detect offenders.

Best practice principles

Research examining challenges in collecting data on trafficking has highlighted some important best-practice principles for ensuring relevant, reliable and accurate data is collected (David 2007b; Farrell & McDevitt 2008; GAO 2006). These were identified as follows:

- data needs to be in line with stated objectives to be useful
- data needs to be regular and reliable
- data must be protected
- data must be turned into information and knowledge.

The collection of data must first begin with a clear rationale in order to ensure that it will be useful. Usefulness is further ensured by gathering data on a regular basis which allows for long-term comparisons, the monitoring of changes and identifying of trends, and in setting out clear definitions and procedures.

The protection of data is of considerable importance when dealing with information on a sensitive issue such as trafficking. Depending on the purpose of the dataset (eg operational use), very detailed personal information may be included and consideration needs to be given to protecting information to ensure victims and witnesses are not subject to any harm associated with the misuse of personal information. De-identification of data is one method of ensuring this when operational data is used for research or policy purposes.

Although Australian research into trafficking in persons has addressed issues such as law enforcement, prosecution and protection of victims, little has been done in terms of integrated or system-wide data collection and there remains much to learn about trends, traffickers, male and child victims and labour trafficking. Future AIC research under the Trafficking in Persons Research Program will examine these areas in some detail. Some good examples can be found in international projects and several key data collections are summarised in the following section.

Table 4 International and national data collections

Agency/country	Name	Type of database	Scope	Status
US Government	Trafficking in persons report	Information	Global	Ongoing
UNODC	Global patterns report 2006, UN.GIFT collection	Information	Global	Once-off, Ongoing
IOM	CTM database	Statistical	Global	Ongoing
ILO	Global estimates on forced labour and Labour Force Survey	Statistical	Global	Ongoing
ICMPD	Programme for the Enhancement of Anti-trafficking Responses in South Eastern Europe	Statistical	Regional	Ongoing
Netherlands	Dutch National Rapporteur	Reports data from the Foundation against Trafficking in Women (STV)	National	Ongoing
Sweden	Rikskriminalpolisen, Swedish National Rapporteur	Statistical	National	Ongoing
Germany	Bundeskriminalamt's database on trafficking cases	Statistical	National	Ongoing

Source: Compiled from information on the respective websites

International data collections

There are several large-scale projects which seek to estimate and document the extent of people trafficking. Some, such as IOM's CTM database, the US State Department's annual TIP Report, the ILO's database providing global estimates of victims of forced labour and several UNODC initiatives, have an international focus. Others, such as the ICMPD Programme for the Enhancement of Anti-trafficking Responses in South Eastern Europe—Data Collection and Information Management, focus on a region and others are country specific (Dutch and Swedish rapporteurs and Bundeskriminalamt (BKA)). Table 4 summarises the type of information recorded in these databases.

While some datasets have gathered information from a range of sources (US TIP Report and UNODC 2006 report), others are statistical datasets (IOM, ILO, ICMPD, BKA and the Dutch and Swedish rapporteurs) and as a result are given more attention in this section.

US State Department's Trafficking in Persons Report

The US TIP Report examines the responses to trafficking at country level and ranks countries according to the level of activity around prevention, protection and prosecution of trafficking in persons. The Report was first released in 2001 and has been published annually since. The Reports are based on information collated through US embassies (from immigration, law enforcement and other government agencies, NGOs, the media and victims); other US Government agencies and organisations such as UNICEF, UNHCR and IOM; and Amnesty International, among others.

As stated previously, although the ranking system has been contentious, the Reports provide a sound summary of trafficking-related activities in the countries examined. In the 2008 Report, assessments of 170 countries were made regarding the likelihood of their status as sending, receiving or transit countries and the level of local government responses to the issue.

United Nations Office on Drugs and Crime

The UNODC established the Global Programme against Trafficking in Human Beings which aimed to assist countries combat trafficking (UNODC 2008a). As noted earlier, from 1996 to 2003, UNODC developed a database drawing on a range of sources of information on trafficking and the information was analysed and reported on in 2006 (UNODC 2006). Due to methodological limitations, the report did not attempt to estimate the scale of trafficking or the number of victims, but did

endeavour to provide a picture of international and regional flows. A number of regional and country reports have been produced as a result of the work of UNODC in this area.

Further research examining national responses is being conducted under the UN.GIFT initiative. The Situational Analysis of National Responses to Human Trafficking seeks to assess the awareness of and responses to human trafficking based on national and regional inputs. Data was collected by research teams assigned to conduct empirical research with standardised questionnaires on victims, relevant government agencies, international organisations, embassies and NGOs. The questionnaire covered issues such as responses to known cases of trafficking, cooperation between organisations within their country and between countries, challenges to and recommendations for best practice. A report is expected to be released in 2009.

International Organization for Migration's Counter Trafficking Module database

In 1999, the IOM CTM database was established and first implemented in eastern Europe to manage data related to IOM's Return and Reintegration programs (Laczko & Gramegna 2003). Victims assisted by IOM are interviewed by staff using a standardised questionnaire which covers the victim's experience of trafficking. The database captures a wide range of information on each victim beginning with their

> socio-economic and family background, their experience in migration, their recruitment by traffickers, the route taken, the violence and/or exploitation they suffered, their current condition, and their needs in terms of health, protection, return and reintegration (Laczko & Gramegna 2003: 187)

It also includes details on the assistance received up to the reintegration phase beyond IOM's assistance, including the monitoring of direct assistance. Information relating to 12,500 victims of trafficking was recorded as at 7 December 2007 (IOM 2008d).

The dataset contains information on both international and domestic cases of trafficking and includes information on child as well as adult victims. Since its establishment, the database has expanded to include data from Russia, southeast Asia and South Korea. As at December 2007, the victims recorded in the dataset represented 80 different nationalities who had been trafficked to over 90 destination countries. Due to the sensitive nature of the information it contains, access to the CTM database is strictly controlled to ensure confidentiality. It is important to note that the database cannot provide a complete picture of trafficking within a given country as it only contains information on those victims who are identified and assisted. Despite this, it is the largest global database holding primary data on trafficking victims and contains valuable information regarding the socioeconomic profile of victims, recruitment and trafficking process, exploitation in the destination country and support and service needs of victims— all of which increase understanding of trafficking and allow for the development of appropriate responses.

International Labour Organization's database on global estimates of victims of forced labour

The ILO is dedicated to

> reducing poverty, achieving fair globalization and advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity (ILO 2008b).

The ILO estimates that around 12.3 million people are in forced labour across the globe and established the Special Action Programme to combat Forced Labour (SAP-FL) in November 2001 in response to this problem. Forced labour takes various forms and includes trafficking and debt bondage. SAP-FL has conducted numerous surveys and country-specific studies on issues such as bonded labour, forced domestic work, rural servitude and human trafficking (ILO 2008b).

The ILO is expanding its work on developing national estimates of forced labour and is also seeking to incorporate questions regarding forced labour and trafficking into its broader Labour Force Survey to improve reliable national statistics on these issues (ILO 2008a).

International Centre for Migration Policy Development (ICMPD) Programme for the Enhancement of Anti-trafficking Responses in South Eastern Europe—data collection and information management

The ICMPD program was first initiated in 2004–05 and aims to provide countries with a strengthened system to combat trafficking through the collection of comparable and reliable data by the relevant national governments. The program seeks to establish uniform datasets across southeastern European countries (eg Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Moldova, Montenegro, Romania, Serbia and Kosovo) that are comparable with one another. In 2007, a handbook detailing the project, the type of data to be collected and issues relating to data analysis and presentation was published.

The program will gather both victim-centred and trafficker-centred disaggregated data (ICMPD 2007). The victim-centred database will gather information regarding:

- the victim's personal circumstances including sex, age, citizenship, country of residence, ethnicity, economic condition, household income, area or region of origin, marital status, number of children and reasons for migrating

- the recruitment experience including the date, means and country of recruitment, relationship to the recruiter, the recruiter's country of residence and their citizenship

- the transportation and travel routes used in the process including the means of transportation, border crossings and the use of documents

- the exploitation experience including form of trafficking or exploitation, the country(s) to which the victim was trafficked, date when exploitation began, the debt incurred, means of exit, previous trafficking experience

- information relating to identification and assistance including the country of identification, the identifying institution, type of assistance received and the period of assistance and the statement made to police, among others.

The trafficker-centred database will gather information on the trafficker and also in relation to the criminal justice process. Information that will be collated in the dataset includes:

- the traffickers profile including their name, aliases, sex, age, citizenship, ethnicity, country of birth and residence, criminal record and role in the trafficking process

- investigation-phase data including date initiated, location initiated, initiation method, date of arrest, charges at arrest, type of trafficking, victim statements and pre-trial victim protection

- trial-phase data including charges at trial, location, date commenced and ended, victim testimony, outcome and sentence imposed

- appeal-process data including conviction appealed, basis of appeal, result of appeal process and sentence at appeal

- post trial-phase data including final sentence implementation, fine, post-trial victim protection and victim compensation.

There are few countries which publish official statistics on trafficking. Among them are Sweden, through its National Rapporteur on trafficking in women, the Dutch National Rapporteur on trafficking in persons and the BKA.

Rikskriminalpolisen (Swedish National Criminal Police)

The National Criminal Investigation Department of the Swedish National Criminal Police (RKA) was commissioned as the national rapporteur on trafficking in human beings by the Swedish Government in April 1997 following the government's adoption of the Hague Ministerial Declaration On European Guidelines For Effective Measures To Prevent And Combat Trafficking In Women For The Purpose Of Sexual Exploitation. The RKA has released eight situation reports which summarise the data related to trafficking cases detected in Sweden and these reports have primarily focused on trafficking for the purposes of sexual exploitation (RKA 2006).

The reports provide statistics on the number of cases reported to the police on a yearly basis, the types of offences for which persons have been

convicted, the number of convictions and other offences (aside from trafficking offences) committed by those convicted. The RKA does not provide the number of persons that may have been victims of trafficking, but does indicate which countries victims (and offenders) are likely to originate from.

In 2005 (the most recent data publicly available), 44 cases of trafficking in persons were reported to the police. During this time, seven persons were convicted of trafficking and a further 25 were convicted of related offences (eg procuring and complicity in procuring). Most investigations in 2005 involved women and girls who were trafficked from Estonia, Russia, Poland and Romania. Traffickers were also primarily from Estonia, Russia, Poland and Hungary.

Dutch National Rapporteur on Trafficking in Human Beings and Foundation against Trafficking in Women

On 1 April 2000, the Dutch National Rapporteur on Trafficking in Human Beings (BNRM) was inaugurated and charged with the responsibility of reporting on the nature and extent of human trafficking and the effects of anti-trafficking policies in the Netherlands (BNRM 2008). The BNRM gathers both quantitative and qualitative data through various means—primarily through reports of the Public Prosecution Service—which are supplemented with information from NGOs that provide support and assistance to victims on referral from police. The BNRM publishes an annual report which includes statistics, victim support, investigations and prosecutions and legislative updates.

One of the key sources of data on victims is the Foundation against Trafficking in Women (STV) which is tasked with registering suspected victims of trafficking. The STV gathers information on registered victims including country of origin, age, gender, number of children, mental health issues, drug use, current pregnancy and the type of trafficking or exploitation. In 2005, 424 victims were registered with the STV. Two of these were men and most were aged between 18 and 23 years (39%).

Bundeskriminalamt's (German Federal Criminal Office) database on trafficking cases

The Bundeskriminalamt (BKA) began collecting data on trafficking in persons in 1994. The data is based on information obtained in interviews with victims, witnesses and suspects in trafficking cases during the initial investigation phase. This information is de-identified before being entered into the BKA database. The data includes all reported trafficking into Germany either via legal or illegal means and offences 'committed to the detriment of German nationals' (BKA 2005: 3).

The dataset contains, at a minimum, information regarding:

- the number of investigations
- victims and suspects
- victims' age, nationality and country of birth
- suspects' sex, nationality and country of birth
- the way in which victims were recruited
- whether victims entered Germany legally or illegally
- the use of violence or threats
- the current known location of victims
- whether victims received counselling
- the estimated illegal proceeds and confiscation of assets.

These statistics are gathered annually which allows for yearly comparisons. The findings are published in a situation report.

In 2007, 454 investigations into human trafficking for the purpose of sexual exploitation were recorded (BKA 2007). These investigations involved 689 victims and 714 suspects. German victims accounted for 27 percent of all victims. Most were found to be between 18 and 20 years of age (45%; n=832) and almost one-third (n=95) of these victims were German. The majority of suspects during this period were German (55%) and male (78%).

Of those cases where the characteristics of the offence were known, including the method of recruitment, 15 percent of women were recruited professionally, 25 percent were misled about the purpose of their entry into Germany, just over

one-third agreed to engage in sex work and 16 percent reported being forced into sex work. Ninety-two cases of trafficking for the purpose of exploitation of workers were recorded in 2007. These cases involved a total of 71 identified suspects (40 of whom were male) and 101 victims (61% were female). Most of these cases involved exploitation of migrants working in the catering industry and in domestic service.

Why research on trafficking in persons is important

International data collections and those from individual countries outside Australia are important to continue to monitor as they provide insights into:

- patterns in trafficking including trends in different forms of trafficking and in trafficking methods, characteristics of victims and perpetrators, and trafficking flows across regions and between countries

- how to build up and compare data on Australian trafficking cases with regional or international data

- how to assess and review national and international efforts to combat trafficking in persons.

Administrative and operational data held in Australia could assist in improving the national picture of trafficking in Australia and relevant responses. However, there is also the need to address knowledge gaps, as it is largely a 'hidden crime'. Australian research on trafficking in Australia has focused on trafficking for sexual servitude—particularly on outcomes for the women involved (La Forgia & Marmo 2007; McSherry & Kneebone 2008)—and on examining the government's response to this issue (David 2008a; Seagrave 2004). Recently, research focus has shifted towards labour exploitation with work in this area currently being undertaken by the University of Technology, Sydney's Anti-Slavery Project and the AIC.

Australian responses to trafficking in persons

In 2003, the Australian Government announced funding to support a range of new initiatives, including a package of support provision for victims of trafficking, the establishment of a specialist law enforcement response in Australia and the establishment of a Senior Migration Officer Compliance (Trafficking) position in Thailand. These initiatives are supported by Commonwealth legislation which was first introduced in 1999 and reformed in 2005 to create trafficking in persons and debt bondage offences. Several new classes of visa were also introduced to facilitate victim participation in the criminal justice process. On 15 September 2005, Australia ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. In 2007, further funding was announced to continue and expand the government's counter-trafficking measures.

The Australian Government initiative to combat trafficking in persons focuses on the four pillars of prevention, detection, prosecution and protection. The measures Commonwealth agencies have adopted to contribute to the overall response are detailed in this section. Further, there are various activities and initiatives occurring at the state and territory level to address trafficking in persons.

Australian Government response

Legislation

Criminal Code Act 1995

Trafficking-related legislation was first introduced in Australia in 1999, prior to the UN Trafficking Protocol, through amendments to the *Criminal Code Act 1995*. The *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* created the offences of slavery, sexual servitude and deceptive recruiting but failed to define trafficking in persons. Slavery was defined as the condition of a person over whom the powers of ownership are exercised and includes when this arises due to a debt or contract entered into by the person. Sexual servitude was stated to be the condition of a person who provides sexual services but is not free to cease providing these services or to leave the place where they provide the services due to force or threats from another person. The *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* further states that the offence of deceptive recruiting occurs whenever a person is deceived regarding the sexual nature of the work they are engaged for.

In August 2005, the Criminal Code (Cth) underwent significant reform and a variety of new offences were created which reflected the UN definition of trafficking in persons and the key elements of this crime. Australian legislation is comprehensive and targets the elements of movement across borders, fraud, deception, coercion and exploitation. Under the Criminal Code, exploitation is defined as conduct which causes another person to enter into slavery, sexual servitude or forced labour. Exploitation is also defined as occurring where one person's conduct leads to the removal of another person's organs in contravention of relevant law or without permission. In addition to the offences created in 1999, the *Criminal Code Amendment (Trafficking in Persons) Act 2005* created the following offences:

• trafficking in persons
• trafficking in children
• domestic trafficking in persons
• debt bondage.

Trafficking in persons

Section 271.2 contains eight offences of trafficking in persons. The offences of trafficking in persons involve a person organising or facilitating the entry, proposed entry or receipt of another person into Australia and the exit or proposed exit of a person out of Australia where:

• the first person uses force or threats to obtain the other person's compliance
• the first person is reckless as to whether the other person will be exploited by them or another
• the first person deceives the other person about the fact that the other person's entry or exit will involve the provision by the other person of sexual services or will involve the other person's exploitation or debt bondage or the confiscation of the other person's travel or identity documents
• there is an arrangement for the other person to provide sexual services and the first person deceives the other person about the nature of services to be provided, the extent of freedom to leave the premises where the services are provided, the extent of freedom to cease providing services, the extent of freedom to leave the place of residence and the amount or existence of any debt owed or claimed to be owed constitutes an offence of trafficking in persons.

Section 271.3 contains an aggravated offence of trafficking in persons where the first person intends that the victim will be exploited, where the first person subjects the victim to cruel, inhumane or degrading treatment or the first person engages in conduct that gives rise to a danger of death or serious harm to the victim and is reckless as to that danger.

Trafficking in children

Under s. 271.4 of the *Criminal Code Act 1995*, the offence of trafficking in children involves organising or facilitating the actual or proposed entry or exit of a person aged less than 18 years into Australia either intending, or being reckless as to whether, the other person will be used to provide sexual services or be otherwise exploited. Receiving a person aged less than 18 years for the same purpose is also an offence. In accordance with the UN Trafficking Protocol, there is no need for the use of deception, force or threats for the offence to be considered one of trafficking in persons.

Domestic trafficking

Domestic trafficking involves organising or facilitating the movement of another person within Australia through the use of force or threats to obtain compliance, being reckless as to whether they will be exploited or deceiving the other person in relation to the provision of sexual services (s. 271.5). Section 271.6 contains an offence of aggravated domestic trafficking. As with the general offence of trafficking in children, domestic trafficking in children requires no proof of the use of deception, force or threats (s. 271.7).

Debt bondage

The *Criminal Code Amendment (Trafficking in Persons) Act 2005* also creates an offence of debt bondage which is committed when a person intentionally engages in conduct that causes another to enter into debt bondage. Debt bondage is defined in the Criminal Code as a pledge by a person of their personal services or the personal services of someone under their control as security for a debt where that debt is manifestly excessive, the value

of services is not reasonably applied towards reducing the debt or the length and nature of the services are not limited or defined. Section 271.8(2) details the type of evidence that a court or jury may have regard to, including the personal circumstances of the victim (ability to speak, write and understand English or other relevant language, legal status in Australia and social and physical dependence on the offender), the terms of any contractual agreement and the economic relationship between offender and victim. Allowing the court or jury to consider the circumstances of the relationship allows for consideration of the disparity in power that is often at the foundation of interactions between offenders and victims. An aggravated offence for debt bondage is contained in s. 271.9.

Penalties

The suite of trafficking offences under the *Criminal Code Act 1995* carry considerable penalties. Under the Criminal Code, slavery carries a maximum penalty of 25 years, being involved in a commercial transaction involving a slave or slave trading carries a maximum penalty of 17 years, sexual servitude a maximum penalty of 15 years (20 years for an aggravated offence) and deceptive recruiting a maximum of seven years (9 years for an aggravated offence).

The offences created under the *Criminal Code Amendment (Trafficking in Persons) Act 2005* carry the following maximum penalties: 12 years for the offence of trafficking in persons (20 years for an aggravated offence), 25 years for trafficking in children, 12 years for domestic trafficking (20 years for an aggravated offence) and 12 months for debt bondage (2 years for an aggravated offence). The aggravated offences in the Criminal Code attract higher penalties where children are the victims (sexual servitude, deceptive recruiting and debt bondage offences) or where the victims are subjected to cruel, inhumane or degrading treatment or danger of serious harm or death (trafficking in persons and domestic trafficking in persons offences). Another point of importance is that 'extended geographical jurisdiction' applies to all but the domestic trafficking offences which is significant given the transnational nature of trafficking in persons. All the offences are covered

by the *Proceeds of Crime Act 2002* which means those convicted may forfeit all property.

Other relevant legislation

In addition to the trafficking-specific offences, employers can also be prosecuted under the *Migration Act 1958* for either knowingly or recklessly employing an illegal worker or referring an illegal worker to another business. These offences were created through the *Migration Amendment (Employer Sanctions) Act 2007* No. 7 and came into effect as of 19 August 2007. Under the amendments, allowing an unlawful non-citizen to work, whether knowingly or recklessly, carries a two year term of imprisonment (s. 245AB). This penalty increases to five years where such an offence is aggravated, that is, where it involves exploitation of the worker. Under the *Migration Amendment (employer sanctions) Act 2007* No. 7, exploitation is considered to occur where a person 'is in a condition of forced labour, sexual servitude or slavery in Australia' (s. 245AH). Furthermore, allowing a non-citizen to work in breach of visa conditions (s. 245AC), referring an unlawful non-citizen for work (s. 245AD) and referring a non-citizen for work in breach of a visa condition (s. 245AE) are also punishable by a two year term of imprisonment which increases to five years if the worker was exploited.

In accordance with the Australian Government's policy of ensuring obligations are met prior to ratification, ratification of the UN Trafficking Protocol in 2005 followed the introduction of new legislative provisions. Prior to these developments, the Australian Government strategy to combat trafficking in persons (a national plan of action) was developed and has since been expanded (see below).

Australian Government strategy to combat trafficking in persons

The Australian Government's response to trafficking in persons is delivered through the four key elements of:

- prevention
- detection and investigation
- criminal prosecution and victim support
- rehabilitation.

In 2003, $20m of government funding was used to establish the following:

- an AFP Transnational Sexual Exploitation and Trafficking Team
- a Senior Migration Officer Compliance (Trafficking) position in Thailand
- victim support measures
- a community awareness strategy.

In 2007, a further $26.3m in funding was announced and is targeted at strengthening features of the Australian response. The funding was directed at the following activities:

- research into regional and domestic trafficking activities
- establishment of two additional Senior Migration Officer Compliance (Trafficking) positions in the Asia region
- facilitating the Attorney-General's Department's (AGD's) ongoing role as the lead agency for the government's strategy, including a communication awareness strategy
- prosecution activities by the Commonwealth Director of Public Prosecutions (CDPP)
- extension of the OfW victim support program to victims who are returning to Australia to give evidence.

Role of government agencies

In 2003, the government established an Interdepartmental Committee on Trafficking in Persons (IDC), which is a working group comprised of representatives of all the agencies involved in combating trafficking in persons. The group includes members from AGD, Department of Foreign Affairs and Trade (DFAT), DIAC, CDPP, AFP, Australian Crime Commission (ACC), OfW, AusAID and the AIC. The role and activities conducted by each agency on the IDC are summarised below:

Attorney-General's Department

There are several activities undertaken by the AGD which contribute to the government's response to trafficking in persons:

- overall coordination of agencies' counter-trafficking measures

- Australia's reporting on the strategy and management of the National Roundtable on People Trafficking
- the government communication awareness strategy
- federal people-trafficking legislation.

The AGD also provides legal assistance in requests for mutual assistance and extradition for transnational crimes.

Australian Federal Police

The AFP are responsible for investigating offences under Commonwealth law and as a result, investigate the majority of trafficking in persons cases in Australia. AFP officers in the Overseas Liaison Network also work with their counterparts overseas on cases which are relevant to Australia. The AFP also operates the Transnational Sexual Exploitation Investigations Program.

Department of Immigration and Citizenship

DIAC is responsible for ensuring compliance with the *Migration Act 1958* which may bring officers into contact with victims of trafficking. DIAC and AFP officers work together on trafficking cases both overseas and in Australia. DIAC is also responsible for visas under the People Trafficking Visa Framework. The Senior Migration Officer Compliance (Trafficking) positions also work with the broader DIAC Overseas Compliance Network on people trafficking issues and aim to prevent trafficking at its source.

Office for Women

The OfW is responsible for management of the Australian Government's Support for Victims of People Trafficking Program.

AusAID

AusAID manages the Australian Government's international development assistance program. The aid program is addressing some of the root causes of human trafficking and labour exploitation through its focus on reducing poverty and meeting the other Millennium Development Goals, particularly those relating to gender equality and empowerment,

education, and sustainable development. In addition, AusAID funds several specific projects dealing with different aspects of trafficking in persons in the southeast Asia region and supports a number of antihuman trafficking projects implemented by NGOs.

Commonwealth Director of Public Prosecutions

The CDPP office is responsible for the prosecution of trafficking offences under Commonwealth law.

Australian Crime Commission

The ACC is responsible for conducting intelligence assessments in relation to trafficking cases as directed.

Department of Foreign Affairs and Trade

DFAT has an international liaison role and provides an entry point to countries through Australian embassies. DFAT also coordinates the Bali Process. The Bali Process seeks to improve bilateral and regional cooperation through workshops aimed at training law enforcement and prosecution teams in best practice responses to transnational crime, especially people smuggling and trafficking in persons-related issues. Some of the issues covered in the workshops include document fraud, legislation implementation and prosecution, trafficking awareness-raising and refugee status determination (Bali Process 2008).

Activities under the government response

The main activities under each of the key elements of the government strategy are summarised below.

Prevention

Attempts to prevent trafficking in persons are undertaken in three main ways: through raising awareness of the issue among the community and key industries, skills training for law enforcement, the Senior Migration Officer Compliance (Trafficking) positions and funding of international assistance programs.

Communication awareness strategy

A trafficking in persons communication awareness strategy was developed by the AGD and commenced in 2004. The communication awareness strategy was aimed at promoting greater awareness of the issue of trafficking in persons among the community and industry encouraging 'responsible, culturally appropriate and context-sensitive' (AGD 2008b: 9) reporting of the subject by the media. The strategy also sought to encourage greater reporting of suspicious activity by targeting victims of trafficking who work in the sex industry and others they may come into regular contact with such as, 'other sex workers, clients, brothel owners and managers, brothel regulators, migration agents, sex worker outreach organisations, and providers of sexual health services' (AGD 2008b: 9).

In addition to the communication awareness strategy, the Anti-People Trafficking Interdepartmental Committee, led by AGD, recently released a report detailing its activities from January 1999 to April 2004. Further information regarding the activities of the aforementioned agencies is available in the IDC report (Australian Government 2009).

Law enforcement training

The Transnational Sexual Exploitation Investigations Program is a specialist training program which aims to help investigators develop the skills necessary for successfully investigating these sensitive and often complex cases. The training course is open to state and territory law enforcement and foreign law enforcement agencies and is run by the AFP.

International assistance

In addition to broader development efforts to reduce poverty and promote sustainable development, AusAID funds several regional projects that address trafficking in persons in the Asia region. These include the ARTIP project which involves training law enforcement officers, members of the judiciary and prosecutors in detecting and effectively responding to trafficking cases. ARTIP is being implemented in Thailand, Laos, Burma, Cambodia, Indonesia and Vietnam, and will commence in the Philippines in 2009, subject to Philippines Government agreement.

Two return and reintegration programs funded by AusAID have been implemented by the IOM. The Return and Reintegration of Trafficked Women and Children Phase II project sought to build capacity and develop sustainable mechanisms for the identification, return, recovery and reintegration of victims of trafficking in the Mekong subregion. The project is co-funded by the US Government and the Australian-funded component, completed in September 2008, supported activities in Burma and Laos. The Regional Pilot Project for Returning Victims of Trafficking from Australia to Thailand aims to support and encourage Thai victims of trafficking to seek reintegration assistance on return to Thailand. This pilot project is expected to be completed during 2009. Future initiatives will include working with the ILO and other organisations on trafficking prevention. AusAID also funds various NGO projects that assist victims and aim to combat human trafficking.

According to the Thai Department of Social Development and Welfare, 37 Thai women have been returned to Thailand from Australia. Unfortunately, although it is believed a number of these were trafficked women, statistics do not currently record why the person was returned. This information was only included from 2008 onwards. Table 5 shows the breakdown of Thai women returned from Australia since 2002.

Table 5 Thai returnees from Australia 2002–07	
Year	Victims returned (n)
2002	1
2003	13
2004	8
2005	11
2006	2
2007	2
Total	37

Source: Thai Department of Social Development and Welfare, pers. comm., 2009

Detection and investigation

In 2003, the Transnational Sexual Exploitation and Trafficking Team (TSETT) was created to focus on trafficking in persons into and within Australia and is comprised of an intelligence team based in Canberra and investigative teams in Sydney and Melbourne.

The AFP is also actively involved in conducting investigations in collaboration with neighbouring countries and has established investigative teams in some countries. In 2001, the Joint People Smuggling Investigation Team was established within the Immigration Bureau of the Royal Thai Police in Bangkok and has since expanded to cover trafficking in persons. The following year, the Joint Transnational Crime Investigation Team was established in Phnom Penh, Cambodia.

Potential witnesses may be reluctant to testify in a trafficking case if they fear that they may be required to return to their home country at the end of the trial, possibly to face the persons who trafficked them. The People Trafficking Visa Framework enables persons who are suspected victims of trafficking to remain lawfully in Australia if they are assisting, or have assisted, with an investigation or prosecution of people trafficking offenders.

The visa framework is designed to support those in genuine need of protection and is underpinned by a support program for victims of trafficking. It comprises the Bridging F visa, the Criminal Justice Stay visa and the Witness Protection (Trafficking) (Temporary and Permanent) visas. The visa framework applies to all suspected victims of trafficking, regardless of the industry into which they may have been trafficked.

- The Bridging F visa, introduced on 1 January 2004, is valid for up to 30 days and is available to suspected victims of trafficking who are able and willing to assist with an investigation. Bridging F visas can also be granted to immediate family members in Australia. There are no work rights associated with a Bridging F visa but people receive intensive victim support through the Support for Victims of Trafficking Program.

- Criminal Justice Stay Visas allow a person to remain in Australia lawfully for the period of criminal justice proceedings. People holding these visas continue to have access to the Victims of Trafficking Support Program and also have work rights.

- Witness Protection (Trafficking) Visas—temporary and permanent, allow a person who has made a significant contribution to the investigation or prosecution of an alleged trafficking offence, and who may be in danger if they return to their home country, to remain in Australia lawfully. Immediate family members in Australia can also be granted these visas.

Where a suspected victim chooses not to assist law enforcement authorities, or the person's evidence is insufficient to assist a trafficking investigation or prosecution, the person is assisted in returning to their home country, unless they can meet the criteria for another type of visa.

On 17 June 2009, the Australian Government announced changes to its Anti-Trafficking Strategy, including the People Trafficking Visa Framework and Victim Support Program. The changes simplify the visa framework, enable a wider range of victims to access support and improve services to victims and their families.

In the interests of enhancing detection and investigations of trafficking cases, both the AFP and DIAC have networks of officers posted in Australian embassies. The AFP international liaison network involves more than 85 officers, posted in 28 countries, who facilitate collaboration, intelligence sharing and capacity building with the host country's law enforcement in order to combat transnational crime. For DIAC, this includes the Senior Migration Officer Compliance (Trafficking) position established in 2004 in Thailand and the two additional Senior Migration Officer Compliance (Trafficking) positions established in 2008 in the Philippines and China. These positions are part of DIAC's overseas compliance network, comprising some 28 specialist overseas compliance officers and 18 Airport Liaison Officer positions located in key strategic regions overseas.

Criminal prosecution

The CDPP works closely with law enforcement to ensure all required evidence is obtained so that each case is as strong as possible and there are reasonable prospects of success. The CDPP makes decisions regarding the commencement or continuation of a prosecution once the matter

has been investigated and a brief of evidence is referred from the AFP. The brief is assessed and a decision as to whether to proceed by way of prosecution is then made after consideration of whether there are reasonable prospects of securing a conviction on the evidence available and whether the prosecution is in the public interest. These offences are indictable offences which means that they are prosecuted in the higher courts before a judge and jury. Usually this means that a committal hearing takes place at which time the offences may be dismissed (and the proceedings will end) or the matter is committed for trial.

Trafficking cases are usually complex and to date, few have progressed through the entire legal process, which can be quite time consuming. Box 2 contains a summary of the case involving the defendant Wei Tang, one of the early prosecutions under anti-trafficking legislation.

Victim support

The OfW administers the Support for Victims of People Trafficking Program (the Program), which is delivered on the ground by a contracted case management service provider. Individual case managers are allocated to possible trafficking victims when they enter the Program. The Program supports a range of people, both male and female.

A person is identified as eligible for the Program by the AFP. Support is provided in three streams: the Assessment Stream, the Justice Support Stream and the Temporary Trial Support Stream.

Assessment Stream

Usually the person enters the Program on a Bridging Visa F (BVF) which is valid for up to 30 days. Recipients of the BVF are not permitted to undertake paid employment.

Within the 30 day Assessment Stream, victims have access to the following support as needed:

- short term, secure accommodation (approved by the AFP)
- a living allowance (with an additional allowance available if there are dependent children)
- a food allowance (with an additional allowance available if there are dependent children)

- an amount for the purchase of essentials such as clothing and toiletries
- access to health care, including counselling
- access to interpreters
- an allowance for emergency items
- access to legal services.

Justice Support Stream

To be eligible for the Justice Support Stream, the person must be granted a Criminal Justice Stay Visa (CJSV), which requires them to continue to assist the AFP and the CDPP with the investigation or prosecution of a people trafficking matter and to remain within Australia. CJSV holders are permitted to undertake paid employment.

In the Justice Support Stream, clients have access to the following support as needed:

- special benefit, rent assistance and a Health Care Card administered by Centrelink (if needed and if they meet eligibility requirements)
- assistance with securing longer term accommodation
- assistance to purchase essential furniture and household items
- access to the Medicare Benefits Scheme and the Pharmaceutical Benefits Scheme

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Box 2 Wei Tang case summary

Between 2002 and 2003, a Fitzroy brothel owner named Wei Tang owned a 70 percent interest in a syndicate that purchased four Thai women from a Thai recruiter for $20,000 each. The women arrived using fraudulently obtained visas and upon arrival, were informed that they were 'contract girls' who owed a debt of between $35,000 and $45,000 to be paid through provision of sexual services. They were housed in poor conditions, their movements were restricted and their passports and return tickets were taken from them. The women were required to work six days a week, serving up to 900 clients over a four to six month period, in order to pay off their debt.

After an immigration raid in May 2003, Wei Tang and two associates were arrested and charged under the Criminal Code (Cth) with five counts of possessing a slave and five counts of using a slave. One associate pleaded guilty to three counts of intentionally possessing a slave and two counts of engaging in slave trading and was sentenced to a term of nine years imprisonment (later reduced to 6 years on appeal). In May 2005, the other co-defendant, Paul Pick, was found not guilty of eight counts of slavery. The jury was hung in relation to the two remaining counts against him and all counts against Wei Tang. The CDPP discontinued the remaining two counts against Paul Pick. At the second trial in 2006, Tang was convicted of five counts of possessing a slave and

five counts of exercising over a slave a power attaching to the right of ownership and was sentenced to 10 years' imprisonment.

On appeal to the Court of Appeal, that sentence was overturned, Tang was released on bail and a third trial was ordered. The CDPP appealed to the High Court against the decision of the Court of Appeal and Tang's defence counsel cross-appealed, requesting an acquittal.

The meaning of 'slavery' was discussed at length during the two day High Court appeal which commenced on 13 May 2008. The defence maintained that the contracts under which the women were working for Tang were not coercive and did not involve violence or fraud, arguing that the appropriate offence was debt bondage and not slavery. An offence of debt bondage was created through the 2005 amendment to the Criminal Code (Cth). On 28 August 2008, the High Court upheld the convictions for the slavery offences, dismissed or refused Tang's cross-appeals and remitted the matter to the Court of Appeal to consider her appeal on sentence. On 5 February 2009, the Victorian Court of Appeal heard Tang's appeal on sentence and reserved its decision.

The High Court's interpretation of the term 'slavery' in the modern day is an important issue with significant implications for other cases prosecuted under the slavery offence provisions.

Source: *R v Tang* [2008] HCA 39

- access to legal services and interpreters
- assistance to obtain employment and training (including English language training) if desired
- links to social support.

Persons returning from overseas to give evidence in the prosecution of a trafficker are also provided with intensive support during the periods just before, during and just after the trial.

Temporary Trial Support Stream

During the Trial Support Stream, clients will receive case-managed support and:

- secure accommodation (approved by the AFP)
- a living allowance (clients are not able to undertake paid employment)
- a food allowance.

State and territory responses

The response to trafficking at the state and territory government level has involved legislation regarding sexual servitude and deceptive recruiting, police protocols setting out the process of referral of cases to the AFP for further investigation and non-government anti-trafficking projects.

Legislation

Most jurisdictions have enacted legislation relating to sexual servitude and deceptive recruiting which allows them to prosecute cases of trafficking for the purposes of sexual exploitation. Across the jurisdictions the relevant legislation is as follows:

- Under the *Crimes Act 1900* (NSW), 'causing sexual servitude' (s. 80D) and 'conduct of a business involving sexual servitude' (s. 80F) are criminalised.
- In Victoria, the offences of 'sexual servitude' (s. 60AB) and 'deceptive recruitment for commercial sexual services' (s. 60AD) are offences under the *Crimes Act 1958* (Vic).
- Queensland has no state trafficking offences, although police are able to draw on Commonwealth powers when investigating trafficking cases and do so with the AFP.
- In South Australia 'sexual servitude' (s. 66) and 'deceptive recruiting for commercial sexual services' (s. 67) are offences under the *Criminal Law Consolidation Act 1935* (SA).
- Division 6A of the *Criminal Code Act* (NT) contains the offences of 'sexual servitude' and 'deceptive recruiting for sexual services'.
- Similarly, the *Crimes Act 1900* (ACT) criminalises 'sexual servitude' (s. 78) and 'deceptive recruiting for sexual services' (s. 80).
- Under the Criminal Code (WA), 'sexual servitude' (s. 331B) and 'deceptive recruiting for commercial sexual services' (s. 331D) are offences.
- Tasmania has no trafficking-specific legislation, although the *Sexual Industry Offences Act 2005* specifies that threatening, deceiving or coercing someone to provide or continue to provide sexual services is an offence. All trafficking cases in Tasmania are referred to the AFP.

Table 6 Legislative provisions relating to trafficking offences			
State/territory	**Debt bondage offences**	**Sexual servitude offences**	**Deceptive recruiting offences**
NSW	No	Yes	No
Vic	No	Yes	Yes
Qld	No	No	No
WA	No	Yes	Yes
SA	No	Yes	Yes
Tas	No	No	No
NT	No	Yes	Yes
ACT	No	Yes	Yes

Source: *Crimes Act 1900* (NSW); *Crimes Act 1958* (Vic); *Criminal Law Consolidation Act 1935* (SA); *Criminal Code Act* (NT); *Crimes Act 1900* (ACT); *Criminal Code* (WA); *Sexual Industry Offences Act 2005* (Tas)

There are no debt bondage offences under state or territory legislation, although in Victoria the definition of 'sexual servitude' extends to cover causing another to provide commercial sexual services through the misrepresentation of debt, or through a manifestly excessive debt. Table 6 summarises the relevant offences at the state and territory level.

Despite the availability of some trafficking offences in state and territory legislation, it is more likely that where matters are related to trafficking, they will be referred to the AFP. As at December 2008, 13 of the 14 cases which have been brought before the courts were based on charges under Commonwealth legislation (see the following section of this report for a list of the cases prosecuted to date).

Policing strategy

In 2005, the Australian Policing Strategy to combat trafficking in women for sexual servitude was developed to provide a framework to guide law enforcement activity in relation to the issue. The strategy, which complements the Australian Government's anti-trafficking strategy, sets out six focus areas: prevention, capacity and resources, victim assistance, partnerships, training and education, and regulation and legislation. Objectives of the strategy include:

- promote community awareness
- promote successful investigations and prosecutions
- ensure Australian police agencies have the resources and capacity to fulfil their obligations under the strategy
- encourage the sharing of information across law enforcement agencies
- introduce training and procedures to improve detection of and responses to victims (including the development of appropriate interviewing guidelines)
- establish and maintain effective relationships with state, territory and Australian Government departments, NGOs and regional and international law enforcement agencies
- provide training on the nature, extent and sensitivities of trafficking in persons

- examine legislation and regulations to ensure that law enforcement have the necessary powers to investigate trafficking cases effectively.

States and territories provide annual reports of their activities against the objectives under the strategy and this information is consolidated into a national annual report by the Australian Crime Commissioners Forum (ACCF).

Non-government organisations and support for victims

NGOs have played an active role in providing support for victims and several organisations also made submissions in 2003 to the parliamentary inquiry into the handling of cases of women trafficked into Australia for sexual servitude (Parliamentary Joint Committee on the Australian Crime Commission 2004).

Other responses at the state level include two anti-trafficking projects—Project Respect and the Anti-Slavery Project. Project Respect is an NGO with a focus on women trafficked into the sex industry. It operates a state-based support program through funding from the Victorian Government. The organisation offers accommodation, outreach services and other support to victims of trafficking and also undertakes advocacy and educational activities. The Anti-Slavery Project is operated through the University of Technology in New South Wales. The project provides support and legal services to trafficked women and also conducts outreach, education, research and training on slavery and trafficking issues.

There are numerous religious organisations which also provide support and other services to victims of trafficking, including but not limited to, the Salvation Army, Good Shepherd and the Sisters of St Joseph. Religious organisations may take an active role in fighting trafficking as is evidenced by the formation of Australian Catholic Religious Against Trafficking in Humans (ACRATH).

State and national sex worker organisations also provide support to migrant sex workers and are most likely to come into contact with women trafficked into the sex industry due to various activities, including outreach and language training.

It is important to note that mainstream welfare and support services provided by state and territory governments are also likely to come into contact with trafficking victims. Health professionals, multicultural resource centres, labour unions and support and sexual assault services, most of which are funded by the state government, are among the state and territory-based services and organisations which may also provide support to victims of trafficking.

Summary

The Australian Government ratified the UN Trafficking Protocol and subsequently made corresponding changes to national legislation, law enforcement, victim support and prosecution activities. State and territory agencies, NGOs and academia have also been active in Australia's response to trafficking in persons. NGOs such as the Salvation Army, ACRATH, Scarlet Alliance and Project Respect play an important role in providing support services to victims of trafficking and raising awareness. They are also increasingly involved in research on trafficking

and related issues such as migrant sex workers and child sex tourism.

This section has described the variety of measures being undertaken to combat people trafficking in Australia. Relevant legislation is in place at state, territory and federal level to allow for the prosecution of persons involved in trafficking and there are a number of organisations specifically offering support and services to victims of trafficking. At December 2008, changes to the visa framework were being considered which will seek to separate the granting of visas from providing assistance in investigations—an aspect of the government's response that has received some criticism. A change of this nature would allow all victims of trafficking to gain access to services through OfW's Victim Support Program.

Alongside these activities aimed at prevention, detection, investigation, criminal prosecution, victim support and rehabilitation, there is also a growing body of international and Australian research on trafficking in persons which seeks to contribute to the effectiveness of responses to trafficking through monitoring trends and emerging issues in this area.

Data on trafficking in Australia

There are various existing collections of data which are held by government departments and NGOs on trafficking in persons cases. Sources such as case files, interview transcripts, court transcripts and administrative/operational data can be used to provide two levels of information on trafficking in persons in Australia. At an aggregate level, this type of information provides an indication of the level of government activity directed at the issue. At the unit record level the information recorded can be used to build a picture of the trafficking process from recruitment in the country of origin through to arrival in the destination country and contact with authorities.

Data on the level of government activity
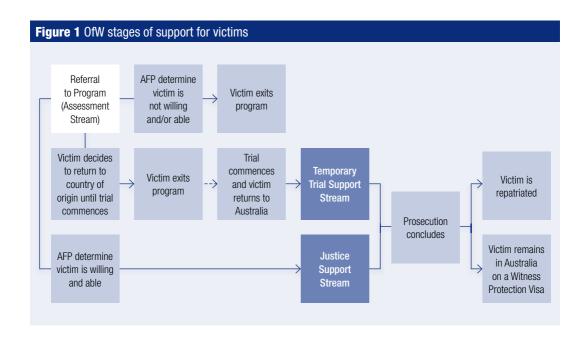
When dealing with a trafficking case or responding to a victim of trafficking, there are various points in the process at which each government department is involved. Each department will hold valuable information in regarding trafficking as part of its involvement. The process maps in the following section outline the primary points in the support,

immigration and investigation processes at which information is, or may be, routinely recorded in each department when dealing with a case of trafficking in persons.

Office for Women

The Support for Victims of Trafficking Program (the Program) provides a range of support services for possible trafficking victims who assist in the investigation and prosecution of these crimes. Persons are referred to the program through the AFP.

Once referred to the program, possible victims are placed in the Assessment Stream for 30 days while the AFP assesses their willingness and ability to assist with an investigation of a people trafficking offence. If a person is not deemed to be a victim of trafficking, or they choose not to assist police with their investigation, support for the victim holding a BVF may be withdrawn by the AFP. To be eligible for the Justice Support Stream, the person must be granted a CJSV, which requires them to continue to assist the AFP and the CDPP with the investigation or prosecution of a people trafficking matter and to remain within Australia. If at any stage during this

Figure 1 OfW stages of support for victims

phase the victim ceases willing participation in the criminal justice process, or insufficient evidence is found to move the investigation forward, the AFP may withdraw support for the CJSV. At this point, a victim may be placed on a bridging visa which allows time to make arrangements to return to their country of origin, or to remain in Australia on another visa class. A suspected victim can also be considered for a Witness Protection (Trafficking) visa. Victims may also remain in Australia if they meet the criteria for other visas.

The Temporary Trial Support Scheme was introduced in July 2007 to provide support for those victims who return to Australia to act as witnesses for the prosecution. Support from the program ceases at the conclusion of the court case. This process is shown in Figure 1.

Table 7 Victims in support for victims program by the phase of support (n)

	Total	Current
Assessment stream	39	1
Justice support stream	74	35
Temporary trial support stream	0	0
Total	113	36

Source: OfW 2009 unpublished data

Since the commencement of the program, 113 suspected victims of trafficking have been referred from AFP and received support and assistance while assisting in an investigation. As at December 2008, 36 victims were currently on the Program. To date, 74 of the 113 suspected victims of trafficking have progressed from the Assessment Stream to Temporary Trial Support Stream (Table 7). Of those on the Program as at December 2008, one is in Assessment Stream 1 and 35 are in Assessment Stream 2.

Department of Immigration and Citizenship

DIAC is an important agency in Australia's response to trafficking in persons and plays a significant role in ensuring compliance with immigration laws. DIAC officers are in a position to detect fraud that may lead to trafficking as early as the visa application stage and also during compliance raids. Any suspicion of potential criminal activity is referred to the AFP who will then apply to DIAC for the relevant trafficking visas in order to begin or continue their investigations. This process is depicted in Figure 2.

Between 1999 and 2008, DIAC referred 269 matters to the AFP regarding trafficking in persons (Table 8).

DIAC identifies indicators of trafficking either prior to or during an operation

↓

Referred to AFP

↓

All suspected victims of trafficking interviewed

↓ ↓

Assessed as suspected victim of trafficking

Not suspected of being a victim of trafficking following assessment

↓ ↓

Process for obtaining BVF and other trafficking visas, as appropriate, follows

Normal DIAC process follows

Table 8 Referrals made to the AFP by financial year (n)

Year	Matters	Suspected victims
1999–00	1	1
2000–01	4	9
2001–02	1	4
2002–03	17	29
2003–04	68	58
2004–05	40	41
2005–06	33	20
2006–07	46	33
2007–08	59	55
Total	269	250

Source: DIAC 2005–08

During this period, DIAC granted the following visas to suspected victims of trafficking:

- 92 Bridging F (subclass 60) visas granted
- 67 CJSVs (Part 2, Division 4 of the *Migration Act 1958*) granted
- 17 Witness Protection (trafficking) (temporary) (subclass 787) visas granted
- no Witness Protection (trafficking) (permanent) (subclass 852) visas granted.
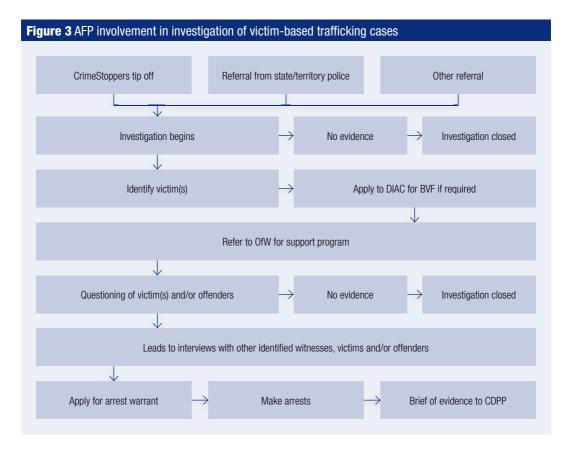
A breakdown by financial year is available in Table 9.

Australian Federal Police

As most trafficking offences fall under Commonwealth legislation, the AFP is responsible for the investigation of these cases. The AFP can

Table 9 Visas issued by financial year (n)

Visa type	2004–05	2005–06	2006–07	2007–08	Total
Bridging Visas F	31	11	16	34	92
Criminal Justice Stay Visas	23	8	18	18	67
Witness Protection (Temporary) Visas	0	0	4	13	17
Witness Protection (Permanent) Visas	0	0	0	0	0

Source: DIAC 2005–08

Figure 3 AFP involvement in investigation of victim-based trafficking cases

| CrimeStoppers tip off | Referral from state/territory police | Other referral |

Investigation begins → No evidence → Investigation closed

Identify victim(s) → Apply to DIAC for BVF if required

Refer to OfW for support program

Questioning of victim(s) and/or offenders → No evidence → Investigation closed

Leads to interviews with other identified witnesses, victims and/or offenders

Apply for arrest warrant → Make arrests → Brief of evidence to CDPP

be alerted to trafficking cases through a variety of sources, including state and territory police, immigration, the wider community via CrimeStoppers, embassies and victims of trafficking themselves. The majority of AFP investigations of suspected trafficking cases have been initiated through referrals from DIAC (David 2008a). As stated previously, once a suspected victim of trafficking has been detected, they may be placed on a BVF to allow AFP officers time to investigate. The visa also gives the suspected victim time to determine if they wish to continue to assist with an investigation and what other options may be available to them. This process is depicted in Figure 3. At any point during an investigation, the AFP may liaise with relevant international networks to seek information informally, or with the AGD to apply for mutual assistance, extradition and telephone intercepts.

Between July 2004 and December 2008, the AFP conducted over 210 investigations

and assessments of trafficking-related offences. As of December 2008, 34 people had been charged with Commonwealth people trafficking related offences.

In relation to specialist training, as of June 2008, 131 investigators completed the Transnational Sexual Exploitation Investigations Program—90 were AFP investigators, 24 were from Australian states and territories, one was a DIAC representative and 17 were foreign police investigators.

Other government departments supporting trafficking investigations and prosecutions

Other departments, such as the AGD, support trafficking investigations and prosecutions. AGD plays an important role in assessing telephone intercepts, mutual assistance and extradition, and certificate requests in trafficking cases.

Data on the nature and trends in trafficking in persons in Australia

It is widely recognised in crime statistics that a significant number of incidents go unreported. Once a crime is reported to authorities, further legal and non-legal considerations (Lievore 2002) result in fewer cases being investigated, even fewer being referred to the CDPP and fewer still being prosecuted. This process of attrition also applies to trafficking cases—few of which are thought to reach the attention of authorities due to low rates of reporting and the hidden nature of this type of crime.

Trafficking cases in Australia

Cases of trafficking in persons detected in Australia have primarily involved women from Thailand, although smaller numbers have also come from South Korea, Indonesia, China, India and the Philippines among other countries (see Table 10). Three male victims of trafficking have been detected and received support through the Support for Victims of People Trafficking Program. The figures presented in the two parts of Table 10 differ as information regarding both the victim's country of origin and the country of which they are a citizen is reported. The former may differ from the latter, as country of origin in this situation is the country from which the victim departed for Australia. This is not necessarily their country of citizenship.

Although the exact number of persons trafficked into Australia each year is unknown, much has been learned about the circumstances by which people enter the country from victims who have been involved in investigations. Trafficking into Australia has predominantly been identified as being for the purpose of sexual exploitation, with the majority of investigations and assessments of trafficking-related offences conducted by the AFP occurring in the sex industry (n=202). The picture that emerges is somewhat mixed, with victims coming from a range of positions (eg mothers, students), although most are from low socioeconomic areas. Some victims are aware of the nature of the work from the outset while others are deceived. Some seek work in Australia while others are approached by recruiters, friends or acquaintances.

Table 10 Victims receiving support by country of origin and citizenship (n)			
Country of origin	**Total**	**Country of citizenship**	**Total**
Thailand	70	Thailand	70
South Korea	23	South Korea	23
China	6	Indonesia	5
Indonesia	5	China	3
India	3	Hong Kong SRA	2
Philippines	1	India	3
Czech Republic	1	Philippines	1
Portugal	1	Czech Republic	1
Singapore	1	Malaysia	1
Uzbekistan	1	Brazil	1
		Macedonia	1
		Singapore	1
		Uzbekistan	1
Total	113	Total	113

Source: OfW 2009 unpublished data

There are also some key commonalities among trafficked persons. Regardless of the method of recruitment, many decide to travel to Australia for the opportunity to earn a larger income than is possible in their country of origin. It is common for 'agents' to be involved in arranging travel and contracts must usually be completed and debts owed to the agents/traffickers repaid before the women find themselves in a position to continue working and earning money that can be sent home.

In terms of entry, unlike many destination countries for trafficking, Australia is largely protected through the absence of land borders and its geographical remoteness (Putt 2007). Australia is further shielded from the high levels of trafficking seen throughout southeast Asia and Europe through 'extensive border protection', with its focus on securing air and seaports and regulating people movement (Putt 2007). Of those persons trafficked into Australia, most are known to enter on a valid visa, although in some cases, a false passport is used to obtain a valid visa. In fact, most persons trafficked into Australia enter on visitor, student or working-holiday visas. Hundreds of thousands of applications for these three visa types are processed by DIAC every year (see Table 11 for a breakdown by visa type).

Table 11 Type of visa granted by financial year (n)

Visa type	2004–05	2005–06	2006–07	2007–08
Visitor	3,588,947	3,563,372	3,627,803	3,609,928
Student	174,787	190,674	228,592	278,184
Working holiday	104,605	112,619	130,106	148,742

Source: DIAC 2005–08

In 2004–05, nearly four million visitor, student or working holiday visas were granted. Of the 159 suspected cases of trafficking referred to the AFP by DIAC (DIMA 2005):

- 122 were related to persons who arrived in Australia on visitor visas
- 12 were related to persons who had been issued business visas
- 7 were related to persons who had been issued working holiday visas
- 4 were related to persons who had been issued student visas.

Table 12 lists the top 10 countries from which persons granted student visas by DIAC originate. Several known source countries for trafficked persons are listed, which indicates that the number of persons trafficked into Australia via student visas constitutes a very small proportion of all student visas granted to persons from those countries of interest (ie primarily from within the southeast Asian region).

Table 12 Top 10 source countries of overseas student visas granted (n)

Country	2004–05	2005–06	2006–07
China	17,506	15,877	24,915
United States	10,367	9,635	9,289
India	10,000	15,396	28,949
Republic of Korea	9,328	11,657	12,910
Malaysia	6,609	6,446	7,175
Japan	5,829	5,406	4,806
Hong Kong	4,838	4,561	4,609
Thailand	4,818	5,391	5,986
Indonesia	4,751	5,059	5,403
Singapore	3,368	–	–
Brazil	–	4,439	5,223

Source: DIAC 2005–08

The detection and identification of trafficked persons is one of the key practical challenges facing law enforcement. Others include the investigation of trafficking cases which are often transnational, and therefore complex, and challenges in contributing towards effective prosecutions (see David 2007a for a detailed discussion of these issues). Best-practice strategies suggested to improve the effectiveness of law enforcement responses include approaches which respect the rights of victims, cooperate with NGO's, establish specialist investigative units, build a broad base of evidence and provide support for victims during the count process (David 2007a).

Prosecution of trafficking in persons

Although trafficking is not necessarily transnational in nature as it can involve movement from regions/cities within a country, the Australian experience has been of cases involving the movement of people across international borders. Prosecuting transnational cases is quite complex and involves a myriad of complicating factors. Here, in particular, the prosecution of trafficking in persons is fraught with difficulties.

Successful prosecutions are difficult to secure even when relevant legislation is in place, law enforcement agencies are well trained and resources are available. Some factors which have an impact on trafficking prosecutions include (see David 2008b for a detailed discussion of these issues):

- arguments that legal frameworks need to criminalise acts that are related to trafficking and ensure protection for victims and witnesses in and out of court
- the transnational nature of trafficking cases in Australia leads to complications in obtaining evidence or seeking the extradition of suspects or the defendant from foreign countries

Number of defendants	State	Charges	Year	Outcome	Additional information
Table 13 People trafficking matters prosecuted in Australia					
3	Vic	Two defendants were charged with 5 counts of possessing a slave and 5 counts of using a slave pursuant to the Criminal Code (Cth). One defendant was charged with aiding and abetting	2003	All charges withdrawn against 1 defendant. One defendant acquitted on 8 counts. The CDPP discontinued the other 2 counts. One defendant found guilty on all counts and sentenced to 10 years imprisonment with a non-parole period of 6 years	One defendant appealed her conviction and sentence. The Court of Appeal upheld her appeal, overturned her convictions and ordered a retrial. The CDPP appealed this decision to the High Court. Appeal heard before High Court on 13 and 14 May 2008. On 28 August 2008, the High Court affirmed the convictions and remitted the matter to the Court of Appeal to consider the defendant's application for leave to appeal against sentence. Judgment has been reserved in the sentence appeal
1	Vic	Three counts of possessing a slave and 2 counts of engaging in slave trading pursuant to the Criminal Code (Cth)	2003	Sentenced to 9 years imprisonment with a non-parole period of 3 years	Sentence reduced to 6 years imprisonment on appeal
3	NSW	Criminal Code (Cth)	2005	The jury was unable to reach a verdict on all charges except 1, where an acquittal was returned. All remaining charges withdrawn against each defendant	
2	NSW	One count each of conducting a business that involved sexual servitude pursuant to the Criminal Code (Cth)	2006	One defendant sentenced to 4 years imprisonment to serve 2 years, and 1 defendant sentenced to 5 years imprisonment to serve 2.5 years	In December 2006, both lodged appeal. Appeal dismissed for both
3	NSW	Criminal Code (Cth)	2006	All charges withdrawn against each defendant	
4	Vic	Criminal Code (Cth)	2006	All charges withdrawn against each defendant	
2	NSW	Each defendant was charged with 6 counts of possessing a slave and 6 counts of using a slave, pursuant to the Criminal Code (Cth)	2007	Both convicted on 10 counts of slavery and acquitted of 2 counts of slavery. One defendant sentenced to 11 years imprisonment with a non-parole period of 7 years; other defendant sentenced to 12 years imprisonment with a non-parole period of 7.5 years	
5	Vic	Criminal Code (Cth)	2007	Currently before the courts	
1	NSW	One count of trafficking in persons offence (s. 271.2 (1B)), 1 count of dishonestly influencing a public official pursuant to the Criminal Code (Cth)	2007	Acquitted at trial of the trafficking offence and convicted of 1 count of dishonestly influencing a public official. Sentenced to 4 months imprisonment (to be released forthwith upon entering a recognisance to be of good behaviour for 12 months and provision of security in the amount of $5,000)	

Table 13 continued

Number of defendants	State	Charges	Year	Outcome	Additional information
1	Qld	Two counts of organising another person to provide sexual servitude offences in Australia and 1 count of money laundering offences pursuant to the Criminal Code (Cth) and 4 counts of present false documents pursuant to the *Migration Act 1958* (Cth)	2007	Pleaded guilty to all counts	Sentenced to 5 years imprisonment with non-parole period of 22 months
2	Qld	Each defendant was charged with 1 count of possessing a slave, 1 count of using a slave pursuant to the Criminal Code (Cth) and 1 count of organising a contrived marriage pursuant to the *Migration Act 1958* (Cth)	2007	Sentenced to 8 years (3 years 9 months of non-parole period) and 4 years (18 months of non-parole period) imprisonment respectively. On 23 December 2008, Court of Appeal overturned slavery convictions; conviction on arranging a contrived marriage still stands	
5	NSW	Criminal Code (Cth)	2007	All charges withdrawn against each defendant	
2				All charges withdrawn against each defendant	

Source: CDPP 2009 unpublished data

- several issues of concern relating to the trafficking victim, who is often the key witness. Many do not wish to testify due to fear of the traffickers or because of the resultant shame for their families or communities. Also, their credibility is often attacked on the basis of prior inconsistent statements and their motives questioned for claiming to be a victim.

The successful prosecution of trafficking cases can also be affected by juror biases. Previous research investigating the way in which juror beliefs and attitudes towards sexual assault victims influenced the judgements made in relation to victim credibility and guilt of the accused indicated that pre-existing biases had a significant impact on outcomes (Taylor 2007; Taylor & Joudo 2005). Of the trafficking cases tried in Australia to December 2008, all have been jury trials. Jury members are drawn from the community and the level of awareness, attitudes and perceptions of community members towards trafficking in persons and related issues is important

to assess. In terms of victim credibility, trafficking cases share some commonalities with sexual assault cases and much can be learnt from the sexual assault literature on dealing with victims, attitudes towards them and the impact of such attitudes on trial outcomes.

Cases prosecuted in Australia

As at December 2008, 14 matters relating to trafficking in persons have been presented in Australian courts. Exploitation in the sex industry has been the most commonly prosecuted form of trafficking in Australia, with two cases of alleged trafficking for forced labour; although in one case the defendant was acquitted at trial (cf *Fryer v Yoga Tandoori House Pty Ltd* [2008] FMCA 288; *R v Yogalingham Rasalingham* 2007, NSWDC, unreported) and in the other the defendants' convictions were overturned and a retrial ordered (*R v Kovacs* [2008] QCA 417).

Most of the prosecutions have utilised the offences contained in Division 270 of the Criminal Code (Cth) involving slavery, sexual servitude and deceptive recruiting. Two of the above matters were pursued under Division 270 of the Criminal Code (Cth). One of these matters involved offences under Victorian legislation.

Of the 34 people charged with trafficking and related offences, seven have been convicted. Of these seven convictions, four related to slavery offences, two to sexual servitude offences and one related to trafficking in persons offences. Table 13 details the cases of trafficking in persons prosecuted in Australia since 2003. Penalties of imprisonment for those convicted have ranged from four to 12 years.

As at December 2008, defendants have included both males and females ranging in age from 27 to 60 years, with the majority over 40 years of age. A large proportion of those convicted were brothel owners and managers.

Conclusion

Although the number of trafficked persons detected in Australia by immigration and law enforcement authorities is relatively small, much can be learned from these cases regarding the nature and trends in trafficking, including the characteristics of victims and offenders and the trafficking process itself.

In an area where few accurate statistics exist, it is essential to make best use of available information. A great deal of information regarding the level of government and non-government activity in relation to trafficking in persons is recorded by agencies. The AIC is exploring opportunities to collate this information through its data monitoring activities to contribute to a comprehensive understanding of the nature and extent of trafficking in persons in Australia.

Trends and issues in the southeast Asian region

Trends and issues in the Asia–Pacific region

Australia's closest neighbours are comprised of the numerous countries in the Pacific and Asia regions. Transnational crime in these regions is likely to have a significant impact on Australia. The southeast Asia and Pacific regions are examined in this report, while the south and east Asia regions will be the focus of the second trafficking in persons monitoring report. Southeast Asia has been identified as a region of origin, transit and destination for trafficking in persons and the movement of people intra- and inter-regionally is common (UNODC 2006). Australia, the United Kingdom and the United States are reported as the most frequent destinations for Asian victims of trafficking (UNODC 2006).

Much research has been conducted on the nature and extent of trafficking in Asia, particularly southeast Asia, however, very little is known about trafficking into, through and out of the Pacific region. According to the UNODC analysis of its database of information for the period 1996 to 2003, Thailand rated very highly as a transit, source and destination country for trafficking. Only three nations in the Oceania region were given a rating—New Zealand, Australia and Fiji—the former two as destination countries and Fiji as a source and destination

country (see Table 14). These ratings may only be due to sufficient information being publicly available for these countries during this period.

From an Australian perspective, there are several key international initiatives involving Australian Government departments that contribute to knowledge about potential risks and detection and prosecution of people trafficking cases in Australia. The AFP has an international liaison network involving 85 international liaison officers, located at 34 posts in more than 28 countries. Recognising that the 'global criminal economy today is complex, borderless and fluid' (AFP 2009), the network seeks to foster collaboration in investigations, support bilateral and multilateral cooperation, facilitate the collection and exchange of intelligence and contribute to capacity building. The majority of the posts are in Asia–Pacific countries including the Solomon Islands, Papua New Guinea (PNG), Vanuatu, Fiji and New Zealand. Posts in the Asia region include the Philippines, Vietnam, Cambodia, Thailand, Burma, Malaysia, Singapore, East Timor, China, Hong Kong, India, Bangladesh and Pakistan (AFP 2009).

Another important network of overseas officers is employed by DIAC and plays an important role in protecting against and detecting travel document fraud in overseas countries, as all persons other than Australian and New Zealand citizens require a visa to

Table 14 Type of trafficking activity in southeast Asia and the Pacific				
Very high	**High**	**Medium**	**Low**	**Very low**
Source				
Thailand	Cambodia	Malaysia		Fiji
	Laos	Indonesia		
	Burma	Singapore		
	Philippines			
	Vietnam			
Transit				
Thailand	Burma	Singapore	Indonesia	Cambodia
		Malaysia	Laos	Vietnam
			New Zealand	Philippines
Destination				
Thailand	Australia	Vietnam	Indonesia	Fiji
	Cambodia	Burma	Laos	
		New Zealand		
		Philippines		
		Singapore		
		Malaysia		

Source: UNODC 2006

enter Australia. These DIAC postings include Airport Liaison Officers (ALOs) and an Overseas Compliance Officer Network, which includes three Senior Migration Officer Compliance (Trafficking) positions located in the identified 'hotspots' of Bangkok, Beijing and Manila. In 2006–07, there were 21 ALOs located at 16 key overseas posts. During this period, ALOs intercepted 180 people attempting to enter Australia using forged or fraudulent documents (DIAC 2007). The Overseas Compliance Officer Network consists of approximately 31 officers stationed at 23 Australian diplomatic missions, with the majority posted in the Asia region and two in the Pacific (PNG and Fiji).

Although only three of these international network positions exclusively target people trafficking, both the AFP network (with its focus on transnational crime) and the DIAC compliance networks are well placed to collect and exchange information and potentially detect individuals in source countries who are victims or facilitators in the trafficking process. As shown in Table 10, victims who are intercepted or contact authorities in Australia, report countries

in the Asian region as their country of origin. Figure 4 shows the primary source countries in southeast Asia identified by victims and the location of both DIAC and AFP posts.

Representatives of these networks were contacted during consultations undertaken by the AIC in the Asia–Pacific region in 2008. Several were involved in the regional research and data forums convened during the year. Others played a crucial role in facilitating contact and involvement of representatives from significant regional bodies, such as the Pacific Transnational Crime Network and the Pacific Immigration Directors' Conference. When visiting New Zealand, Fiji, the Solomon Islands, Thailand, Malaysia, Indonesia and Singapore, interviews and meetings were also held with representatives from international organisations, NGOs and academia (a list of the agencies consulted is attached as Appendix A). The information obtained during these consultations has been incorporated where possible into the regional reviews in this section and the one which follows. However, much knowledge is based on

Figure 4 Source countries of identified victims and overseas DIAC and AFP posts in southeast Asia

Note: ■ denotes the location of Senior Migration Officer Compliance (Trafficking)

● denotes the location of an Australian Diplomatic mission where an Overseas Compliance Officer is stationed

▲ denotes the location of AFP International Liaison Officers

Source: based on AFP 2005–08, DIAC 2005–08

perceptions and/or intelligence and there were often caveats placed on how the information could be used.

People trafficking and related issues in southeast Asia

The picture of trafficking in southeast Asia is quite different to that in the Pacific. In the case of trafficking in persons, southeast Asia has been identified as being a large source of trafficked persons and as both an origin and destination region with a great deal of movement of persons occurring (UNODC 2006). Intra-regional trafficking is high, with Thailand ranked very highly as an origin, transit and destination country. Other localities also rank highly as countries of origin, with most trafficking destinations being other Asian countries. However, Australia, the United Kingdom and the United States are reported to be frequent destinations for Asian victims of trafficking. In fact, as of December 2008, a southeast Asian country was the origin of almost three-quarters (n=77) of trafficking victims identified in Australia, with a similar number (n=78) claiming citizenship to a country within the region.

There are various factors in the region which are relevant to discussions relating to trafficking in persons such as transnational and organised crime networks, corruption and the sex industry. However, it is the movement of people in, out and through the region which is most significant. Asia, and the southeast Asian region in particular, has seen a high level of predominantly intra-regional migration since the 1980s (Kaur 2007a). These high levels of people movement have been driven by various economic and political push and pull factors operating throughout the region (IOM 2008c). Push factors include poverty, education, lack of employment opportunities and civil conflict. Pull factors include the large demand for cheap labour in manufacturing, construction, fishery, agricultural and service industries. Combined, these factors have seen large numbers of migrants move through the region via regular and irregular channels. These push and pull factors are not unlike those reported for other regions, but in recent decades, the labour market

conditions in the region have had a significant impact on migration patterns and on trafficking (Piper 2005).

Transnational crime in the region

Many representatives of government departments, international and non-government agencies consulted by AIC researchers stated that transnational crimes such as child sex tourism, drug trafficking, money laundering and financing of terrorism were of greatest concern in the southeast Asian region. Trafficking in persons is certainly a concern, but it is not considered a priority over the other crimes listed. The region has had historical difficulties with drug trafficking. The Golden Triangle region (Burma, Laos and Thailand) produces a significant proportion of the world's supply of heroin (Zhang 2007) and in recent years, concerns have grown in relation to money laundering, alternative remittance systems and the financing of terrorism (Abuza 2004; Dupont 2004; Financial Action Taskforce 2005). The financing of terrorism has emerged as a significant issue, as southeast Asia appears to be a base for terrorist groups (Frost, Rann & Chin 2002; Gersham 2002). Southeast Asia is considered vulnerable to such criminal activity due to porous borders, endemic corruption, lax financial supervision and weak administration and immigration control (Abuza 2004; Frost, Rann & Chin 2002). The latter is evident in immigration arrangements, such as Malaysia's one-time policy of visa free entry for persons from countries with membership to the Organisation of Islamic Countries. The region has long had economic ties with the Middle East and many financial transactions between southeast Asian nations and Middle Eastern countries are believed to operate outside regular channels. As a result, they are not readily monitored by governments and this can facilitate the transfer of money to terrorist groups (Frost, Rann & Chin 2002). Two key factors which facilitate transnational crimes and are important in understanding the extent of trafficking in the region is the role of organised crime and the corruptibility of officials.

Involvement of organised crime groups in transnational crimes

One concern in relation to transnational crime in the region is the involvement of organised crime groups.

The type of networks involved in trafficking migrants are said to exist on a spectrum from the 'cottage industry' style (Marshall 2001) to the more sophisticated Chinese Triad and Japanese Yakuza organisations (Di Nicola 2005). The extent of involvement by organised criminal networks remains unclear, although it has been surmised that the greater the number of countries through which a person must pass to reach the destination, the more sophisticated and organised the criminal network is required to be (Di Nicola 2005). A mixed picture regarding the involvement of organised criminal networks emerged from the interviews with government officials and NGOs. While some contacts in Thailand reported the involvement of organised crime groups in trafficking girls from Thailand to Japan, UNODC stated that most trafficking in the region, particularly in the GMS, does not involve organised criminal networks, but small scale operators who are more akin to the 'cottage industries' identified by UNIAP (Marshall 2001), with trafficking occurring in the context of illegal migration.

According to a leading Malaysian NGO, among the most discernible changes over the years is that trafficking seems to be increasingly more organised and structured. Organised criminal networks are becoming increasingly involved in moving people as well as other products such as drugs (NGO pers. comm., March 2008). However, other agencies working in Malaysia found little evidence of involvement of organised criminal networks in trafficking of persons in the country. Within Indonesia, the trends identified by government officials indicate that trafficking is a highly organised activity undertaken by syndicates who are also involved in smuggling (Government official, pers. comm., April 2008). Information provided by law enforcement representatives indicated that although many venues and locations where sexual servitude cases have been identified are owned by known drug traffickers or known to be establishments for drug distribution suggests a link between the two, there is no concrete evidence that organised criminal networks responsible for activities such as drug trafficking are also trafficking people (Law enforcement representative, pers. comm., April 2008).

Corruption

Corruption is a significant issue at all levels of government in many of southeast Asian countries, particularly among staff at border crossings. Since the 1990s, a great deal of research has examined this issue in the region (Kidd & Richter 2003; Lindsey & Dick 2002; Quah 2003) and it is one which remains a significant problem (Quah 2006). In the Asian region, Singapore and Hong Kong in particular are held up as examples of good practice in addressing corruption and rank the highest in the region on Transparency International's annual Corruption Perceptions Index (CPI) of 180 countries (Transparency International 2007; see Table 15).

It is clear from Table 15 that the majority of the countries which comprise southeast Asia received low rankings. The primary cause of corruption in the region is attributed to the low wages of civil servants (Quah 2003; 2006). Other causes include the many opportunities for administrative discretion, low risk of detection and punishment, the cultural elements of gift giving, the importance of family relationships, a lack of political will to address corruption and ineffective anti-corruption strategies (Quah 2006).

Corruption among civil servants, particularly immigration and border control officers in the source, transit and destination countries, acts as a facilitator for trafficking in persons and is particularly important when the movement of people involves crossing international borders (Richards 2004; Schloenhardt 1999). Reports from trafficked persons to an NGO dealing with migrant workers and trafficked persons in Malaysia indicate a high level of complicity between traffickers and immigration officers. Illegal migrants who have served a term of imprisonment/detention for entering the country without documents report being returned to the Thai border and handed over to traffickers known to the immigration officers. They then claim to be charged approximately RM1700–2000 to return to Malaysia. If they can pay this fee, they are returned to Malaysia and the traffickers make arrangements with border officials to facilitate the return of the migrant. If they cannot raise this money, men are sold to trawler/fishing companies and women are sold for prostitution (NGO, pers. comm., March 2008).

Table 15 Corruption Perceptions Index scores for the Asia region in 2007 and 2008			
Country	World rank	Regional rank	CPI score 2008
Singapore[a]	4	2	9.2
Hong Kong	12	4	8.1
Japan	18	5	7.3
Taiwan	39	6	5.7
South Korea	40	7	5.6
Macao	43	8	5.4
Bhutan	45	9	5.2
Malaysia[a]	47	10	5.1
China	72	12	3.6
Thailand[a]	80	13	3.5
India	85	14	3.4
Sri Lanka	92	15	3.2
Nepal	121	20	2.7
Vietnam[a]	121	20	2.7
Indonesia[a]	126	22	2.6
Pakistan	134	23	2.5
Philippines[a]	141	25	2.3
Bangladesh	147	27	2.1
Laos[a]	151	28	2.0
Cambodia[a]	166	30	1.8
Afghanistan	176	31	1.5
Burma[a]	178	32	1.3

a: Denotes that the country falls in the southeast Asia region

Note: The table is adapted from Transparency International's Asia–Pacific regional highlights

Source: Transparency International 2007

Sex industry in southeast Asia

The sex industry in southeast Asia is believed to be vast (Lim 1998) and primarily illegal (WHO 2001). In Thailand, the industry is reported to be three times as profitable as the drug trade (Phongpaichit, Piriyarangsan & Treerat 1998). The continuing confusion around the definition of trafficking and its conflation with migration is believed to have obscured the fact that many sex workers within the region are increasingly mobile and migrate in search of work (WHO 2001).

Another factor of importance when considering the sex industry in southeast Asia is the growth of a sex tourism industry. Sex tourism is a major source of revenue for local economies and although not officially recognised, it is officially tolerated (Singh & Hart 2007). There are no accurate statistics on the size of the sex industry in the region, nor at country level, but it is well known to be a significant industry in some parts. For example, in Thailand it caters for both local and international clients (Singh & Hart 2007).

Of relevance when discussing trafficking for the purpose of sexual exploitation is the motivation of women who enter the industry. Women entering the Thai industry often cite a desire to improve the 'standard of living for themselves and their families' (Singh & Hart 2007: 160; Steinfatt 2002) as a motivator and are often strongly driven by a sense of responsibility to provide for their families (Steinfatt 2002). Daughters often feel a duty to repay the debt owed to parents who have raised them and the earnings of one young woman working in Bangkok can support her entire family living in rural areas of Thailand (Bishop & Robinson 1998). It has been estimated that 1.2 million people in Thailand are connected to the sex industry through family members who remit an average of $150 per month home (Boonchalaski & Guest 1998).

The Thai sex industry is said to account for two-thirds of an estimated $33–44b per year underground economy and has a steady stream of women attracted by the comparatively higher incomes offered by sex work (Lim 1998). A study of the Thai sex industry found that the median monthly income for sex workers ranged from 5,825 to 7,950 baht according to the duties of the role (eg dancing, hostessing etc); the average salary in Thailand at the time was about 6,000 baht per month (Steinfatt 2002). The study also reported that some of the bar workers surveyed were earning more than professionals such as engineers. This highlights the opportunities available to sex workers and underscores the strength of money as a motivator.

There is ongoing debate regarding the impact of sex work and the sex industry in providing a market for trafficking. While some commentators argue that abolition of the sex industry will prevent trafficking, others claim this is false logic and cite the United

States as an example of a country with a strong anti-sex work stance which continues to be a destination country for women trafficked into the sex industry. Discourse around trafficking for the purpose of sexual exploitation is fraught with moral debates on sex work. The conflation of trafficking and sex work challenges responses developed to address the former. The idea that most sex workers have been trafficked is not supported by the research literature (Weitzer 2007).

Although it is important to acknowledge the role played by organised criminal networks, official corruption and the size of the sex industry in facilitating transnational crimes in the Asian region, it is the high level of inter- and intra-regional migratory flows and the exploitation of migrants in this process which are most significant when examining trafficking trends and patterns in southeast Asia.

Mobility across southeast Asia

A common issue raised during consultations undertaken in the southeast Asian region was the exploitation of migrants. While neighbouring regions such as east Asia and south Asia are primarily regions of destination (with the exception of China) and of origin respectively, migration in southeast Asia is a two-way process with countries of origin, countries of destination and countries of both origin and destination in the region (Ananta & Arifin 2004). The region is characterised by a long history of the movement of people driven by better economic opportunities elsewhere (Rallu 2002). Since the 1980s, the southeast Asian region has experienced high levels of migration, particularly

intra-regional migration (Kaur 2007a). In large part, this is a result of economic and political instability in the region. The region experienced significant economic and political change in the 1970s which led to the emergence of two groups: Vietnam, Cambodia, Laos and Burma which largely withdrew from the global economy and experienced economic stagnation as a result; and Singapore, Malaysia, Thailand, the Philippines and Indonesia which maintained open economies (Kaur 2006).

Rapid economic growth in countries such as Singapore and Malaysia has led to a high demand for labour, both skilled and unskilled, which is readily met from neighbouring, economically disadvantaged countries. In fact, of the ASEAN countries Brunei, Malaysia, Singapore and Thailand are destination countries for labour migrants and Burma, Cambodia, Indonesia, Laos, the Philippines and Vietnam are primarily source countries. Malaysia and Thailand both send and receive labour migrants, although Thailand is a primary destination for people in the GMS (Kaur 2006). Figure 5 illustrates major labour migration patterns for Indonesia, Thailand, Singapore and Malaysia.

The differences in economic and political approaches led to 'disparities in levels of economic and social development' (Kaur 2006: 5) between the countries and migration issues, particularly irregular migration, increasingly became a focus in the region with most governments establishing tighter border controls to address this issue. Anecdotal information obtained through consultations highlighted the difficulty that the extensive, porous land borders Thailand, Malaysia and Indonesia share with neighbouring countries pose for addressing problems around illegal migration and combating

Country	Population (million)	Land borders	Other points of interest
Thailand	65.49	Burma, Cambodia, Laos and Malaysia	The only land route from Asia to Malaysia and Singapore runs through Thailand
Malaysia	25.27	Indonesia, Thailand and Brunei	Estimated 19,153 Indonesian and 14,208 Burmese refugees
Singapore	4.6	None	Financial and transport hub in the region and vulnerable to some forms of transnational crime such as money laundering
Indonesia	237.5	East Timor, Malaysia and PNG	Illegal fishing and logging also issues of concern

Table 16 Relevant demographic and geographic information

Source: CIA 2008; IOM 2008c

Figure 5 Labour migration in the region

Note: ──────▶ denotes movements out of Malaysia
‑ ‑ ‑ ‑▶ denotes movements out of Indonesia
– – – ▶ denotes movements out of Thailand
········▶ denotes movements out of Singapore

Source: based on MPI 2008

trafficking in persons (see Table 16 for a list of the countries).

The combination of geography and limited capacity of government authorities to adequately monitor and patrol these extensive borders (both land and sea), renders the region vulnerable to transnational crime and illegal migration. According to IOM estimates, 30 to 40 percent of all migration in the region is through irregular channels, with Malaysia and Thailand as the primary destinations in the region hosting somewhere in the vicinity of three million undocumented migrants (IOM 2008c; Wickramasekera 2002). Controlling the migration of people, both documented and undocumented, is an inherently complicated goal given that 'migratory movements, once started, become self-sustaining social processes' (Castles 2004: 860). As a result of migration, informal networks are established among migrants in different countries through which information is disseminated to prospective migrants and further migration facilitated (Pécoud & de Guchteneire 2005).

Push and pull factors in the region

Although the movement of persons is commonly rooted in poverty, particularly within the southeast Asian region, poverty:

> is not the principal determinant of migration in the source countries [as] the migrants are also not from the 'poorest' category, as they have to put up substantial amounts of money to get to their destinations [and] have access to loans in their local communities and from intermediaries in the migration industry (Kaur 2006: 6).

Instability in the southeast Asian region has been an important factor leading to increased people movement. For example, many people in Burma are fleeing oppression and seeking employment in neighbouring countries, particularly in Thailand. In 2006, an estimated 116,499 Burmese refugees were believed to be in Thailand (CIA 2008), although the actual figure is believed to be much higher (approximately 1.2 million; IOM 2008c).

In terms of employment and economic opportunities, disparities in employment conditions between countries, particularly in wages, is a strong factor leading to labour migration. High rates of

unemployment, such as those found in Indonesia (Suryadama, Suryahadi & Sumarto 2007), operate as a push towards seeking overseas employment. High levels of unemployment combined with higher wages offered abroad are a strong incentive leading persons to seek employment outside their country of origin. This offers the opportunity to improve a family's economic position through remittance of wages. Remittance flows have proved to be of great economic benefit to several southeast Asian countries, with the Philippines (US$17b), Indonesia (US$6b), Vietnam (US$5b), Thailand (US$1.7b), Malaysia (US$1.7b), Cambodia (US$0.3b) and Burma (US$0.1b) all ranking among the top 10 remittance recipients within the Asia–Pacific region in 2007 (Ratha & Xu 2008).

Recent forecasts indicate that income disparities in the Asia–Pacific region will remain pronounced and will continue to underpin the economic incentives for the 'poor and low skilled' to migrate (EIU 2007). That is not to suggest that this should necessarily be an issue of concern. There are many benefits to labour migration for both sending and receiving countries. Remittances become an important source of foreign capital in sending countries and excess labour in labour-surplus countries, such as Indonesia and Burma, is relieved by the emigration of workers (Hugo 2008). Not all individuals who seek work overseas are trafficked, but they are certainly vulnerable to poor conditions and exploitative situations which make them more vulnerable to trafficking.

Characteristics of labour migration in the region

Traditionally, labour migration into sectors considered 'undesirable' by nationals was dominated by men (Asian Development Bank 2006). However, in recent decades, the flow of migrants for labour has increasingly involved women in domestic service situations. In fact, in recent years, intra-regional migration flows comprise mainly females (Asian Development Bank 2006). This is particularly the case for migrant workers from Indonesia and the Philippines. Table 17 is taken from the Asian Development Bank's study into worker remittances in southeast Asia. It shows the proportion of the migrant worker population from Indonesia, Malaysia

and the Philippines that are female in the main labour receiving countries of Hong Kong, Japan, Malaysia and Singapore (Asian Development Bank 2006). This 'feminisation' of migration has emerged as a significant trend in emigration of workers from southeast Asian countries (Hugo 2008; Wee & Sim 2003). It poses a concern for trafficking, as women along with children are considered most vulnerable to becoming victims (UNODC 2008b).

Table 17 Female migrants in destination countries (%)				
Country	Hong Kong	Japan	Malaysia	Singapore
Indonesia	94	18	29	100
Malaysia	–	50	–	26
Philippines	97	68	58	88

Source: Asian Development Bank 2006

Although it is commonly believed that the poorest and least educated people are most vulnerable to trafficking in the region, it is in fact the emerging middle class who are more vulnerable in some respects. This more educated group appears more willing to take risks to attain wealth and are believed to be more susceptible to being trafficked (NGO, pers. comm., March 2008). Political conflict and lack of employment opportunities are two key factors which play a significant role in influencing movements within the region.

The Asian Development Bank survey also found that a majority of migrants surveyed were relatively well educated, with 84 percent having completed high school (Asian Development Bank 2006). Lower skilled migrants are likely to find themselves in less regulated employment sectors where they receive lower wages and are subject to poorer working conditions. Low-skilled workers account for a large proportion of labour emigrants from Asian countries, with these workers being employed in low paid '3D' jobs, that is, dirty, dangerous and difficult (Hugo 2008: 19; Joly 2000).

It is not possible to accurately estimate the scale of migratory movements in the Asian region. Hugo (2008: 19) cites a number of reasons for this, including but not limited to, the following:

- a high incidence of irregular migration both as a result of clandestine migration as well as people entering a country legally but without permission to work

- lack of comprehensive and efficient data collection systems

- a neglect of temporary migration in data collection systems which focus on permanent migration.

Those figures which are available support anecdotal evidence which points to very high levels of migration in the region. However, it is believed the true figure of migratory movements is vastly underestimated due to so little being known of irregular or undocumented migration.

Undocumented migration

Another factor which is characteristic of labour migration in southeast Asia is the growing phenomenon of undocumented migration (Asian Development Bank 2006). Undocumented migrant workers are believed to outnumber documented migrant workers (Kaur & Metcalfe 2007) in the region, particularly in Malaysia and Thailand, and are believed to make up a large proportion of migrant workers in the east Asia region more broadly (Morris-Suzuki 2007). It is estimated that there are two million migrant workers in Thailand alone, many of whom have no legal status or Thai documentation. This creates a large supply of potential workers who are willing to work under conditions much worse than those accepted by Thai nationals. The eschewing of low paid 3D jobs by nationals has a significant influence on the need for low-skilled migrant labour (Hugo 2008). In recent years, Thailand has experienced a labour shortage as many Thai workers seek better paying jobs overseas. It is estimated that approximately 75 to 80 percent of illegal workers in Thailand originate from Burma and an estimated 1,840,000 Burmese migrant workers are employed in Thailand (Hugo 2008).

In terms of the impact of migratory flows in the region on trafficking in persons, the supply of migrant labour throughout the region has exceeded the demand for labour. Together with the emergence of new source countries such as Vietnam and Cambodia, this has resulted in increased competition and the increased involvement of recruiters (Piper 2005). Although there is some risk inherent in all movements, those migrants moving through irregular channels are most vulnerable to human rights abuses. The undocumented status

of a large proportion of migrants serves to remove them from the supervision of regulatory bodies leading to greater vulnerability (Marshall 2001). Of known cases where persons have been trafficked to Australia, many report having used a broker. Undocumented migration brokers may initially offer a

> safe and trusted network because (they) start in the home village with a recruiter who has to bear the results of a failure in the system or of exploitation of the migrant (Hugo 2008: 35).

Exploitation can occur at any point in the process during which the migrant is passed from one person to another in the chain. Migrants may be assisted in reaching their destination through various stages with the assistance of 'labour recruiters, agents, immigration officials, document forgers and travel providers' (Hugo 2008: 35).

Use of informal networks and/or brokers

Increased competition among labour surplus countries has also had the effect of building an 'immigration industry' (Hugo 2008: 33). Labour migration in southeast Asia often operates within informal networks in the source and destination countries with families, friends and village-based groups playing an important role in disseminating information about employment opportunities in the region (Kaur 2007c). These networks become conduits for future emigrants and 'inject a self-perpetuating dynamism into flows of population, which allows movements to continue long after the original economic reasons for the flow have been superseded or rendered redundant' (Hugo 2008: 36).

There remains a role for brokers, who are relied upon to facilitate the employment of both undocumented migrants, particularly from Cambodia, Burma and the ethnic or hill-tribe populations of Thailand. In Cambodia and Burma, without the relevant documents, a broker is essential in negotiating with the police and military at various checkpoints to facilitate cross-border migration. In Thailand, few opportunities exist to choose employment or to travel to find work as few have been granted full citizenship and subsequent rights such as voting, accessing health care and employment, and a broker is essential in facilitating employment and

travel for that employment (Pollock 2007). In some countries, such as Thailand, private brokers are preferred over the Thailand Overseas Employment Agency as they are 'faster and more efficient' (Pollock 2007: 173). The 'immigration industry' has come to play a significant role in the Asian region with rapid growth reported in the number of immigration agents and lawyers dealing with both legal and illegal movements (Hugo 2008).

Legal migration is, however, not necessarily a smooth and flawless process. Government regulation of the migrant recruitment process, such as that which is taking place in Indonesia, can render the process complex and lengthy. Hugo (2008) highlighted the following implications of official processes, particularly where intermediaries are involved:

- The process is long with many delays as each step takes time. It is exacerbated by the fact that on occasion, the worker can spend months working for the recruiter without pay while waiting to go overseas.
- With each step there are transaction costs to be met by the migrant worker. These are not official costs and involve graft and exploitation of various kinds.
- The amount of time and expense involved may encourage potential workers to bypass the official system and move through informal systems.

Although governments may set average costs or 'brokerage fees', recruiters and other intermediaries are known to charge fees far in excess of these official figures (Pollock 2007). They are able to do so due to the expansion of their role beyond recruitment to include provision of accommodation, support and training (Hugo 2008). The involvement of intermediaries renders the process vulnerable to exploitation, despite government intentions.

Efforts have been made to provide protection to migrants and the establishment of the National Board for Placement and Protection of Indonesian Overseas Workers (BNP2TKI) by the Indonesian Government is one example of this. BNP2TKI was established in response to concerns regarding the exploitation of labour migrants and is tasked with providing better protection and services for Indonesians emigrating for work.

Similarly, receiving countries have long been concerned with addressing undocumented migration and the introduction of work permits and specific legislation relating to foreign workers, such as is the case in Thailand and Malaysia, have sought to control the undocumented flows (Narayanan & Lai 2005; RTWGIM-HT 2008). As with the process introduced in sending countries, the strategies put into place in receiving countries (eg Thai work permits) can place migrants at a disadvantage and limit opportunities for regular migration which operates as a push towards avoiding legal frameworks (Pollock 2007; RTWGIM-HT 2008).

The effective management of migration is a priority for sending and receiving countries and can benefit economic growth and building of human capital (Katseli, Lucas & Xenogiani 2006). A primary area of concern has been the mode of recruitment of migrants, which is open to exploitation. Transparency International Malaysia is advocating for changes in the mode of recruitment, from outsourcing to direct recruitment, whereby the recruitment companies take direct responsibility for the welfare of foreign workers, with the aim of eliminating corruption in the recruitment process.

More effective regulation of labour migration processes, particularly of agents and brokers, has been advocated on humanitarian, as well as economic, grounds (Ishida & Hassan 2000). Advancing the rights of migrants by improving living conditions and ensuring wages are commensurate with their work; advocating for similar terms and conditions of employment for migrant workers as for local employees; ensuring migrants are protected by legislation and comprehensive policy frameworks; and ensuring they undergo proper orientation and training programs in both the sending and receiving countries are among the goals of NGOs that advocate for migrants' rights (NGO, pers. comm., 2008).

Labour exploitation in the region

The industries in which most labour migrants from southeast Asia work are poorly regulated and monitored, leading to an elevated opportunity for exploitation. Although exploitation and trafficking are not necessarily synonymous, poorly regulated industries where exploitation is likely to occur, create

the conditions under which trafficking in persons is also likely. The situation is further complicated by the lack of rights granted to migrants, particularly low-skilled and domestic workers, in several countries in the Asia–Pacific region (Kaur 2007b) which serves to increase the risks for these migrant worker groups.

Most labour migrants in southeast Asia are employed in either the agricultural, industrial, construction, domestic or service industries (RTWGIM-HT 2008). In a study of migrant workers' remittances conducted by the Asian Development Bank (2006), the employment types for female migrants were that of domestic helper and entertainer (primarily for southeast Asians moving into Japan for work). With regards to male workers, Malaysian and Indonesian men in particular were more likely to be employed in the agricultural, construction and manufacturing industries.

Thailand has had a well-publicised issue with the exploitation of men and children in the seafood and fishing industries. In September 2007, a police raid on a seafood factory in the Thai province of Samut Sakhon revealed approximately 800 Burmese men, women and children working under harsh conditions (*Child labourers toil in Thai seafood factories*, Reuters 26 April 2008). Other cases of Burmese workers, many of whom are children and teenagers, have been discovered working under highly exploitative conditions in the seafood processing industry (ILO 2008a).

Similarly, cases of Cambodian men exploited in the Thai fishing industry have been gaining attention in recent years. One such case involved 10 Cambodian men and one boy recruited by a local broker to work on fishing boats in Thailand for two years. The group was forced to work long hours, were not adequately fed, did not have access to medical treatment and frequently suffered physical and verbal abuse. The group gave themselves up to police in order to be deported back to Cambodia which they judged to be the best option under the circumstances (UNIAP 2007a).

Cases such as those described above highlight the difficulties faced by migrants, especially undocumented migrants, who seek employment outside their provinces and often find themselves directed into poorly regulated industries. Incidents

such as the 'Phuket Tragedy' in April 2008, in which 54 people from a group of 121 illegal Burmese migrants suffocated while being smuggled into Phuket in a cold-storage truck (Panpetch 2008), illustrate the risks migrants are prepared to accept in search of better economic opportunities.

As a source country for migrant labour, the Indonesian Government is concerned with the trafficking and exploitation of its citizens. Article 4 of law number 21 on the *Eradication of the Criminal Act of Trafficking in Persons* specifies that the removal of an Indonesian citizen from the country with the intention of exploiting that person is an offence punishable by up 15 years imprisonment and a maximum fine of six hundred million rupiah. The establishment of BNP2TKI, as noted earlier, was also a means of addressing concerns around the exploitation of Indonesians.

Estimates of Indonesians working overseas vary. Officially, there are some 400,000 who migrate for work each year (Idris 2005) but it has been acknowledged that the actual figure may be closer to three million (NGO, pers. comm., April 2008). There are many issues around labour rights, exploitation, work hours and wages which BNP2TKI is seeking to address through regulation of the recruitment process and provision of training (Indonesian Government, pers. comm., April 2008).

As stated previously, Malaysia is a popular destination for Indonesian workers, with most finding employment as domestic workers or in the construction industry. Immigration statistics from 1997 to 2002 indicate that Indonesians consistently accounted for over two-thirds of immigrants in the Malaysian construction sector (Narayanan & Lai 2005) and the exploitation of Indonesian workers in this sector is of primary concern for the Indonesian Government (Indonesian Government, pers. comm., April 2008). Also of concern are increasing reports of Indonesians finding themselves victims of trafficking in the Middle East (Indonesian Government, pers. comm., April 2008), which is another popular destination for Indonesian migrants along with Hong Kong, Singapore, South Korea and Taiwan (Hugo 2008; RTWGIM-HT 2008). There are an estimated 1.5 million Indonesians employed throughout the Middle East, 90 percent of whom work as domestic helpers (Indonesian Government, pers. comm., April 2008).

It is known that most Indonesians working illegally in Middle Eastern countries are subject to extremely poor working conditions. The main forms of exploitation faced by Indonesians abroad are in forced labour and it is estimated that about 20 percent of people leaving Indonesia are trafficked (Indonesian Government, pers. comm., April 2008). The situation is difficult to control as in the majority of cases, the victim sought the services of a recruitment agency to help find a job (Indonesian Government, pers. comm., April 2008).

Most trafficking cases, particularly in the Mekong subregion, involve the initial 'voluntary' movement of a person who decides to travel for work (Marshall 2001). The agency fee is expected to be paid once a job has been secured and reports of cases to the Department of Women's Empowerment indicate that it is within the broader context of irregular labour movements in the region that trafficking occurs (Indonesian Government, pers. comm., April 2008). Upon arrival, passports are usually taken and the debt must be repaid before passports are returned. In these situations, the wages are often much lower than promised (eg $20 per month rather than $100 per month; Indonesian Government, pers. comm., April 2008).

Trends and issues in trafficking in persons across the region

Although government and non-government activities to combat trafficking have predominantly focused on addressing the issue of sexual exploitation, there is increasing awareness of the need to address trafficking for the purpose of labour exploitation. Given the movements described in the southeast Asian region, it follows that labour trafficking is potentially more extensive throughout the region than sex or other forms of trafficking. It is widely believed that there is a need to create more opportunities for legal migration for unskilled workers in order to prevent exploitation of migrants. Many countries in the region have agreements which attempt to regulate the flow of migrants, for example, the Medan agreement between Malaysia and Indonesia (Narayanan & Lai 2005). In the same way that most migration of southeast Asians is intra-regional, most trafficking is believed to occur within the region (Indonesian Government, pers.

The trafficking of persons for the purpose of organ harvesting is an international concern, with people from poor socioeconomic backgrounds within developing countries likely to be victimised (UN ECOSOC 2004). The removal of organs is defined in the UN Trafficking Protocol as one form of exploitation which can amount to trafficking in persons. In 1991, WHO developed Guiding Principles on Human Organ Transplantation which identified the processes member states should undertake to procure organs effectively and, most importantly, legally (WHO 1991). Although both the UN Protocol and the WHO guidelines are important in helping prevent organ trafficking, neither can be policed, nor can penalties be imposed if member states act in a manner which contravenes the instruments.

In 1977, the Australian Law Reform Commission published organ removal model legislation which all states and territories have since adopted with few variations. This supports a nationally consistent and streamlined system of organ donation.

The WHO estimates that, globally, trafficked organs account for as much as 10 percent of all transplants. In 2005, a total of about 100,000 kidney, liver and heart transplants were conducted worldwide (Kuchinsky 2007; WHO 2007), leaving an estimated 10,000 transplants involving trafficked organs. To date, there have not been any victims of organ trafficking identified in Australia, nor have there been charges laid against Australians for being the recipient of a trafficked organ. There have been media reports of Australians embarking on international 'transplant tourism' in order to obtain an organ—in most cases a kidney (NHMRC 2007). Despite such incidents occurring overseas, the offence could be successfully prosecuted in Australia due to the extraterritorial powers of arrest under s. 270 of the Criminal Code (Cth).

comm., April 2008; NGO, pers. comm., March 2008). Indonesia remains a key source country, with Malaysia, Thailand and Singapore key destinations in the region (see Table 18).

Table 18 Role in and response to trafficking in persons

Country	Role in trafficking in persons	National plan of action	Ratified UN trafficking protocol
Thailand	Source, transit and destination	Yes	No
Malaysia	Destination, and to a lesser extent, source and transit	No	No
Singapore	Destination	No	No
Indonesia	Source, transit and destination	Yes	No

Source: US Department of State 2008c

Thailand ranks highly as a source, transit and destination country (UNODC 2006). Thai women comprise almost two-thirds (n=67) of trafficked persons in the Australian Government-funded support program and anecdotal evidence suggests an increasing number of Thai women are trafficked to Malaysia, Japan, Singapore and South Africa for the purpose of sexual exploitation. The increase in women trafficked to South Africa has been seen as purely opportunistic and attributed largely to the establishment of a direct flight from Bangkok to Johannesburg (Thai Government, pers. comm., March 2008). Similar trends may be happening involving flights to Australia where, since August 2007, there are now three direct flights per week from Macau to Sydney. Outside the southeast Asian region, Macau is a known destination for women trafficked from within the southeast Asian region, Central Asia and Russia (US Department of State 2008c), and it has the potential to become a transit point into other countries, including Australia. Given the well-established existence of transnational crime and weak administrative controls in the region, such links to Australia are open to exploitation by traffickers.

During consultations with government and non-government representatives in Bangkok, it emerged that trafficking for sexual exploitation is no longer of primary concern given high numbers of persons in situations of labour exploitation, many of which

amount to trafficking. The identification of such cases was attributed to a heightened awareness of labour exploitation. Having said this, concerns were expressed in consultations that the Thai sex industry has become more hidden. Instead of working in brothel-based settings, sex workers are increasingly operating out of hotels and there has also been an increase in the number of clubs (sporting, karaoke etc) and restaurants that 'offer girls' to clients. A similar trend was reported during consultations with Malaysian non-government representatives where the concern was that many of these entertainment clubs are licensed by local councils and are further removed from the remit of police agencies (NGO, pers. comm., March 2008).

In Indonesia, the exploitation of women recruited for overseas marriages is an emerging issue. It was claimed there are many cases of Indonesian women who travel to Hong Kong, Macau and Taiwan for marriage and find themselves in situations of forced labour and prostitution. In such cases, a recruiter often enters an Indonesian village and recruits young women for overseas marriages. The recruitment process often includes making false promises regarding good jobs. In investigation of such cases, a great deal of collaboration has been found to occur between Indonesians and foreigners in organising and arranging brides for foreigners (Indonesian Government, pers. comm., April 2008). This is also known to occur in the Philippines and in other southeast Asian countries as the view of Asian women as 'subservient and docile' has begun to drive demand for trafficked women for marriage (Heyzer 2007: 4).

Internal trafficking is also a concern in Indonesia due to socioeconomic inequalities. There are many poor people in the central islands compared with outlying areas, which are more attractive to tourists. In recent years, there has been an increase in the number of women moving towards outlying areas for prostitution (Indonesian Government, pers. comm., April 2008). In Indonesia, young men and boys are trafficked into the fishing and agricultural sectors, while internal trafficking of women and girls is primarily for sexual exploitation (Wahyuningrum 2007). IOM data cited in Table 16 shows that, of trafficked persons interviewed, Indonesians trafficked internally were the second largest

group of victims behind Indonesians trafficked into Malaysia. Many of those trafficked internally are trafficked out of east Indonesia and travel west through to Surabaya or Sumatra and then onto Medan and Jakarta (Indonesian Government, pers. comm., April 2008). Some of those trafficked internally are destined for the large sex industry operating in Surabaya.

Thailand also experiences a high level of internal movement, with the migration of Indigenous peoples through the country. Within this process, many hill-tribe women and girls who are not afforded Thai citizenship become vulnerable to exploitation through lack of legal status and are known to be trafficked for both labour and sexual exploitation (NGO, pers. comm., March 2008; Physicians for Human Rights 2004). Statelessness has been highlighted as an issue of concern due to the increased vulnerability of stateless persons (Refugee International 2009; Vital Voices Global Partnership 2007). Without citizenship, such persons 'have limited or no access to healthcare services, education, travel, employment or political representation' (Vital Voices Global Partnership 2007: 11) and are thereby largely excluded from obtaining both government benefits and protections.

Rural trafficking is also reported in Malaysia, with a small number of women and girls reported to be trafficked from rural areas to other parts of the country for both labour and sexual exploitation (US Department of State 2008c).

Data on trafficking in persons in the region

It is very difficult to quantify the extent of trafficking in the region for the same reason irregular migration is so common. Porous borders and a low level of immigration control combined with corruption among low paid officials makes it likely only a small portion of trafficked persons will be identified. Of those who are, it is likely many would be treated as illegal immigrants and returned across the border. Furthermore, data collection within the region suffers from inconsistent and unclear definitions which leads to the issues being conflated with 'migration issues, prostitution, the worst forms of child labour and also domestic worker abuse cases' (Wahyuningrum 2007: 3).

Due to definitional and operational differences underpinning data collections, statistics from government, non-government and international organisations should be interpreted with caution. Of the four countries visited by AIC researchers, two are signatories to the UN Trafficking Protocol. It became clear during the consultations that confusion remains regarding the definition of trafficking, with many officials referring to trafficking and smuggling interchangeably.

The Singapore Government for example is not a signatory to the UN Trafficking Protocol and does not have national trafficking legislation in place. Singapore has long been a transit point for people movement out of the region and it is foreseeable that traffickers could make use of this well-known path. Singapore is primarily a destination country for sexual and labour exploitation, although the latter is not defined as trafficking in Singapore if the victim migrated willingly (Ministry of Home Affairs, pers. comm., March 2008). This poses a difficulty for determining the extent of trafficking in Singapore, as cases of trafficking may be treated as immigration matters.

During the period from 2004 to 2007, 111 cases of trafficking for sexual exploitation were reported to the police (Singapore Government, pers. comm., March 2008). Among the cases considered unsubstantiated were those where persons have sought assistance at embassies, police stations etc; where persons have been willing to enter the country; and those cases involving disputes over money, location of work and holding of passports by employers. Many alleged cases of sexual exploitation are not considered genuine if the individual entered the country willingly and had numerous opportunities to contact the authorities.

Statistics collected by foreign embassies show a much higher number of trafficked persons in southeast Asia than indicated by government statistics. In early 2008, the Philippines embassy in Singapore reported that the number of trafficking cases involving Filipino women increased from 125 in 2006 to 212 in 2007. Of the 212 persons in 2007, 57 had engaged or were coerced to engage in prostitution, while smaller numbers worked in pubs and as escorts, among other occupations. Concerns were also expressed over the exploitation of foreign

brides in Singapore who have no legal status and usually arrive from comparatively less developed countries such as Thailand, India, China, Indonesia and the Philippines (NGO, pers. comm., March 2008). As is the case for domestic workers, foreign brides are unlikely to have a great deal of contact outside of the home and are highly vulnerable to exploitation (Yea 2006).

Royal Thai Police reported that 144 sex trafficking cases were prosecuted over a two year period ending June 2007 (US Department of State 2008c), although there are reports of hundreds of migrants in Thailand experiencing exploitation which may amount to trafficking. There are no official statistics available from the Malaysian government on trafficked persons, however foreign embassies, which have been the instigator of the 'rescue' of many persons, provide an indication of the level of trafficking in the country. Indonesians are the largest group of identified trafficked persons in Malaysia and the Indonesian embassy in Kuala Lumpur supports more than 150 victims of employer abuse and trafficked persons.

Malaysian police statistics estimate that almost 400 women have been rescued between 2004 and 2006 (NGO, pers. comm., March 2008), but it is believed that this may be inaccurate as the sex industry in Malaysia has, as is the case in Thailand, become more hidden. A leading NGO estimates that thousands of people are trafficked into the country each year (Kuppusamy 2007; NGO, pers. comm., March 2008). There is little information available on Malaysia as a source country, although there are reports of small numbers of Malaysians trafficked outside the region. In 2006, 19 Malaysian women forced into the sex industry were detected by Scotland Yard, many of whom chose not to return to Malaysia in order to continue to work and send money home (NGO, pers. comm., March 2008).

Indonesia, a key source of trafficked persons in the region, has a considerable problem with trafficking and smuggling along the Malaysian border. It is relatively easy to cross the border on a tourist or visitor visa and change that to a working visa upon arrival. Between 1999 and 2005, 729 suspected cases of trafficking have been investigated by Indonesian police and of those, 554 were referred to the public prosecutor (Table 19).

Table 19 Trafficking in person (human trafficking) cases in Indonesia (n)		
Year	Cases	Cases submitted to the public prosecutor's office
1999	173	143
2000	24	16
2001	179	129
2002	155	90
2003	125	125
2004	43	43
2005	30	8
Total	729	554

Source: Indonesian National Police 2006

Statistics provided by the Indonesian Social Department and Manpower Department (collected from the police force, judiciary and other government departments) indicate a 29 percent increase in cases against traffickers in recent years, where 110 cases were investigated in 2006 and 142 cases in 2007. There has also been a corresponding increase in prosecutions, from 30 in 2006 to 56 in 2007. Between January 2007 and March 2008, 218 trafficking cases have been recorded, with slightly more for forced prostitution than forced labour. As of April 2008, 56 cases had been prosecuted. Of course, as has been noted previously, official statistics often capture only a small proportion of total existing cases.

Many victims of trafficking are identified through the migration process. That is, they are caught as illegal immigrants in Malaysia and deported to Indonesia, at which point it is sometimes identified that they were trafficked to Malaysia (NGO, pers. comm., April 2008). IOM Indonesia gathers data on Indonesian victims of trafficking and holds information relating to 3,042 persons identified between March 2005 and January 2008. Of this number, 89 percent (n=2,702) were female and 26 percent (n=785) were children. Of these, 54 percent had been exploited as domestic workers and 16 percent as sex workers. Tables 20 and 21 show the number of persons by age, sex and the destination to which they were trafficked. Just over three-quarters of trafficked persons recorded by IOM were trafficked to Malaysia (n=2,305), with the next largest proportion being of persons trafficked internally (n=587).

Table 20 Persons of trafficking by age and sex, March 2005 – January 2008				
	Persons of trafficking			
Sex	Infants	Children	Adults	Total
Female	5	651	2,046	2,702
Male	0	134	206	340
Total	5	785	2,252	3,042

Source: IOM Indonesia, pers. comm., 2008

Table 21 Indonesians trafficked by destination country, March 2005 – January 2008	
Country	Numbers
Malaysia	2,305
Indonesia	587
Saudi Arabia	49
Singapore	28
Japan	27
Syria	11
Kuwait	10
Taiwan	6
Iraq	4
Others	15
Total	3,042

Source: IOM Indonesia, pers. comm., 2008

Summary

It is difficult to obtain a clear picture of trafficking in the southeast Asia region as it primarily revolves

around the large scale of undocumented or irregular labour migration, which results in a blurred distinction between trafficking and smuggling; the widespread movement of women as wives and domestic workers, in addition to sex and entertainment work; the trafficking of children for labour, sexual exploitation, and adoption; and the strong link between prostitution, [and] sex tourism (Piper 2005: 208).

The conflation of irregular migration, trafficking and sex work also undermines the collection of reliable

data in the region which suffers from inconsistent and unclear definitions.

An important issue which arose from consultations in southeast Asia was the increasing awareness of labour exploitation and the identification of numerous cases which amounted to trafficking. Until recently, the focus of anti-trafficking efforts in the region was on addressing sex trafficking, which resulted in labour trafficking and male victims of trafficking being overlooked. Had there been a closer link between the trafficking and irregular migration literature, it is likely that trafficking for the purpose of labour exploitation and male victims would have received attention sooner (Piper 2005). Although trafficking is a concern throughout the region, it is in fact the broader issue of exploitation of migrants which is a priority, alongside transnational crimes such as child sex tourism, drug trafficking, money laundering and financing of terrorism.

Other issues that impact on trafficking or on our knowledge of it in the region include the high level of corruption at various levels of government in many southeast Asian countries (particularly among officials at border crossings) and the lack of knowledge regarding internal trafficking. Many countries within the region are very willing to discuss trafficking in, through and out of the country but are very reluctant to discuss domestic trafficking (NGO, pers. comm., March 2008). An important emerging issue of regional concern was the increasing movement of workers to the Middle East and

subsequent reports of the exploitation of workers in the construction and domestic work sectors.

As noted at the outset of this section, southeast Asian countries are the origin for a majority of trafficked women found in the Australian sex industry. This is to be expected given that most foreign women who travel to Australia for sex work are from southeast Asia (Tailby 2001). It is unlikely that Australia will experience a significant growth in trafficked persons from the region for a variety of reasons. Most migration in southeast Asia is intra-regional and the trafficking of persons seems to follow this path. Further, most trafficked people are in search of better economic opportunities of which there are many within the region or in other neighbouring regions such as east Asia and the Middle East. Next, undocumented movement throughout the southeast Asian region carries fewer risks of detection and is far less expensive (thereby incurring smaller debts for the trafficked person) than travel to the well-protected Australian sea and airports. Despite this, Australia's strong socioeconomic position in the Asia–Pacific region, together with plentiful job opportunities in low skilled sectors, will ensure it remains an attractive destination within the region. Finally, the strong role played by informal networks of migrants and brokers/recruiters within the region in facilitating migration should be considered in attempts to prevent trafficking in persons.

Trends and issues in the Pacific region

The Pacific Islands are dotted within the wide expanse of the Pacific Ocean and each island nation differs from the next. Despite their socio-cultural diversity, the countries of the Pacific region face similar issues associated with poverty, geographical isolation and fragile governance (with the exception of New Zealand).

The region's vulnerability to transnational crime, mainly as a transit point, has been highlighted in a range of forums, but to date there are few documented cases and these primarily relate to illicit drugs (McCusker 2006).

Based on the literature review and consultations, issues which were identified as contributing to the risk of trafficking in persons in the region were economic development; labour mobility and exploitation; sexual exploitation and sex work; and the vulnerability of children. These issues will be examined later in the section after first considering the evidence of trafficking and regional responses to trafficking.

Data on trafficking in persons

Porous borders and low level border control renders much of the Pacific unprotected and open to illegal activities. Transnational crimes, such as importing and exporting contrabands including wildlife and illicit drugs, have been known to occur in the region due to minimal border control (McCusker 2006, 2008). Despite the region's vulnerability to transnational crime and aside from isolated criminal justice cases and reports in the media, there is very little in the public domain that would indicate the nature and extent of transnational crime in the region.

The most important regional collection of data relevant to people trafficking is undertaken by the PIDC. Each year, the PIDC (of which Australia is a member) produces an annual report on people smuggling, human trafficking and illegal migration in the Pacific. The data in the report is drawn from two sources, the PIDC annual collection plan (for which 18 countries provided returns for 2007) and the monthly immigration intelligence bulletin. Although the most recent report notes that caution must be applied in reading the data, it does claim to present 'the most accurate and wide-ranging information on immigration in the region' (PIDC 2008: 9).

To place the regional challenges of tackling transnational and immigration crime in context, the most recent report refers to the scale of international movements in people compared with the size of immigration departments. An estimated

two million people passed through Pacific Island borders in 2007, with 1.9 million estimated to be visitors. As Australia and New Zealand are estimated to have had seven million visitors, the total estimate of visitor arrivals to the region in 2007 is nine million (PIDC 2008). The report stresses that most arrivals are lawful and beneficial to the recipient country, with estimates of unlawfully residing populations equating to just one percent of total visitor arrivals. The limited capacity of Pacific Island nations to detect unlawful entry or victims of people trafficking is illustrated by the size of immigration departments; for Pacific Island members there is one immigration employee for every 5,000 arrivals, while for Australia and New Zealand combined, the ratio is one employee for every 1,000 arrivals (PIDC 2008).

It might be expected that the Melanesian or Micronesian Islands would be vulnerable to certain kinds of transnational crime because of their proximity to Asia. However, there is no real evidence that this is the case with trafficking in persons. Over a six year period, the following PIDC members reported they had reason to believe people were trafficked into their country or territory—Australia, Fiji, the Marshall Islands, Palau, PNG, Vanuatu, Commonwealth of the Northern Mariana Islands (CNMI), Guam, New Caledonia, Samoa and Tonga.

As shown in Table 22, the number of member states reporting they believed people were being trafficked into their country or territory has remained relatively stable. In 2007, six PIDC members reported they had reason to believe people were trafficked into their country or territory, but all except Australia indicated that those trafficked were in transit. In 2007, there were a total of 11 prosecutions reported—five in Australia and six in Palau (see Box 5).

Table 22 Member states reporting people trafficking in the Pacific (n)

	Trafficking	No trafficking	Total members
2003	3	7	10
2004	8	7	15
2005	8	9	17
2006	6	9	15
2007	6	11	17

Source: PIDC 2008

There were a further two convictions in CNMI in 2005 on charges of engaging in prostitution activities in a case involving the sexual exploitation of two women recruited from the Philippines for work in a restaurant. Guma Esperansa, a shelter for victims of domestic violence and human trafficking operating in Saipan, provided shelter and support for 30 victims of trafficking in 2006 after receiving their first trafficking victim in 2005 (Ogumoro 2007).

Perceived routes of human trafficking among PIDC members were similar to those identified for people smuggling, with routes originating in south, southeast and east Asia transiting through the Pacific to more developed countries. However, the cases in Palau and CNMI indicate that the Pacific Island nations are also destination countries. In a map of reported common routes, Australia is shown as a destination country, with routes into the country transiting through the Pacific, particularly through PNG, Vanuatu and Fiji (PIDC 2008).

A small number of cases of Pacific Islanders finding themselves in Australia in exploitative situations that appear to amount to trafficking have been documented by researchers, trade unions and the media. One such case was documented in the GAATW report, *Collateral Damage* (Pearson 2007) and involved a young man from the Cook Islands who was recruited to work in the Australian construction industry. During his term of employment, lasting 18 months, the man was forced to work long hours for six days a week, paid only $50 per month and subjected to regular beatings. He eventually escaped and reported the matter to local police. The employer was convicted of causing grievous bodily harm and sentenced to two years imprisonment in 2005. Four other Cook Islanders were also subjected to similar conditions by the same employer.

Regional response to trafficking in persons

Table 23 shows the acceptance of international anti-trafficking instruments and domestic legislation in the Pacific. The relevant instruments include the United Nations Transnational Organised Crime Convention (UNTOCC) and its supplementary

Table 23 International anti-trafficking instruments and domestic legislation in the Pacific			
Country	UNTOCC	UNTIPP[a]	Domestic legislation
American Samoa			n/a
Australia	Ratified	Ratified	Yes
Commonwealth of the Northern Mariana Islands			Yes
Cook Islands	Accession		Yes
Federated States of Micronesia (FSM)	Accession		No
Fiji			Yes
French Polynesia			Yes
Guam			n/a
Kiribati	Accession	Accession	Yes
Marshall Islands			No
Nauru	Signatory	Signatory	Yes
New Caledonia			Yes
New Zealand	Ratified	Ratified	Yes
Niue			Limited
Norfolk Island			Limited
Palau			Yes
PNG			No
Samoa			No
Solomon Islands			Limited
Tonga			Yes
Tuvalu			n/a
Vanuatu	Accession		Yes
Wallis and Futuna			n/a

a: United National Trafficking in Persons Protocol

Source: PIDC 2008; UN 2004, 2009

protocols against trafficking in persons and people smuggling. Twelve of 23 nations have included trafficking in persons offences into national legislation. However, it has been stated that a number of PIDC country members need to update their legislation to meet international standards. This process is being aided by the work on model legislation targeting counter-terrorism and transnational organised crime being undertaken the Pacific Islands Forum Legal Drafting Unit (PIDC 2008). At the research forum, it was noted that New Zealand had just gone through an extensive consultation process about its proposed anti-trafficking plan and this included 34 formal submissions (NZDOL 2008a).

During the consultations and at the regional research forum, a recurring theme was the lack of awareness and understanding of people trafficking that no doubt also contributes to underreporting and in some countries, the absence of legislation or policy aimed at tackling trafficking in persons. According to some key informants, the lack of clarity around the concept and legislative provisions continues to prevent law enforcement agencies from correctly identifying and recording cases of trafficking in persons and there is widespread confusion as to the distinction between trafficking, smuggling and irregular migration—a problem that is not confined to the Pacific region.

The responses to transnational crimes, particularly to trafficking in persons, among some Pacific Islands governments are complicated by political instability (World Bank 2008), limited resources and porous borders. Such issues have a significant impact on the capacity to respond to transnational crime. Given these issues, and the problem of poverty across the region, priorities are focused around addressing governance and development issues (SPC 2005) rather than combating transnational crimes, including trafficking.

In a presentation at the Pacific Research and Data Forum, Heather-Latu (2008), based on her experience in Samoa, concluded that 'capacity' is the key factor affecting the adequacy and effectiveness of individual Pacific countries' responses to people trafficking and other forms of transnational crime. She also posed practical questions, mainly regarding local capacity in relation to the anticipated prosecution of people traffickers, including:

• Does the country have relevant offences?

• Is there local capacity to detect and investigate this particular criminal activity, including whether local agencies are connected to other countries' intelligence, multinational cooperation and resource networks?

• Can the country use the information and evidence gathered to support any prosecution in terms of admissibility of forensic evidence, extraterritoriality of elements of the offences, cost of witness to travel and be accommodated in the country and protection for witnesses?

• Is there sufficient direct evidence in addition to circumstantial and indirect evidence to warrant bringing the charges?

• Is there capacity to care for and ensure the safety of the victims?

• Will local juries understand the nature of the crime?

The challenges of prosecution and victim support during the criminal justice process for small nation states with new or untested legislation, limited institutional capacity and NGO presence, was demonstrated by the 'Carnival Restaurant' case in Palau (see Box 5).

The Republic of Palau consists of about 300 islands, eight of which are inhabited. The population is about 20,000 (including 5,000 foreign workers, the majority of whom are from the Philippines) and the annual budget approximately US$59m. Anti-trafficking legislation was enacted in 2005 and charges were brought under it in 2006. The problems of prosecuting the 'Carnival Restaurant' defendants and providing adequate victim support during the criminal justice process, which extended over a year, were highlighted by the Attorney General of Palau in a presentation at the regional research forum. They included:

• *evidence*—documents that seemed to be ledger accounts were written in Chinese and it took some time to locate a translator who could read Chinese

• *intimidation of witnesses*—the victims were watched and followed by the 'boss' and his accomplices and there was an attempt to forcibly remove them from the safe house

• *securing lodging and financial support for victims*—no government service could assist and there is only a small non-government sector. The Catholic Mission agreed to house the victims

• *victims wanted to return home*—there were delays in the trial and eventually six were allowed to leave

• *interpreters*—there were difficulties in finding Chinese interpreters. When some were located, some refused to assist because they were afraid and others were unsuitable because of connections with the 'boss'

• *new law*—as the anti-trafficking law was new, judges were not familiar with the concept.

Organisations including the Secretariat of the Pacific Community (SPC), Pacific Islands Chiefs of Police (PICP), the Pacific Islands Forum Secretariat (PIFS), PIDC and the Oceania Customs Organisation (OCO) are regional coordination bodies in place to respond to issues that affect the region, including addressing transnational crime. Each organisation has a distinct and significant role in protecting the region, encouraging growth and development and streamlining responses to regional issues.

Region-wide initiatives to prevent and reduce transnational crime were discussed at the forum

and during consultations and several of these are described here. The first is the Pacific Region Immigration Identity Project, conducted by Immigration New Zealand under the umbrella of PIDC, which aims to reduce identity fraud through interagency cooperation in five pilot countries: Palau, Kiribati, the Cook Islands, Samoa and PNG (PIDC 2008).

The second is the Pacific Transnational Crime Coordination Centre (PTCCC) based in Samoa, which acts as the coordinating hub for Transnational Crime Units in Fiji, PNG, Samoa, Tonga, Vanuatu and the FSM. The network was originally established in 2002 in response to the increasing presence of transnational organised crime which was highlighted by large of seizures of heroin and cocaine that were being transhipped through the region. A key role of the PTCCC is facilitating the collection, collation, analysis and dissemination of intelligence throughout the Pacific region and the creation of a secure database and network increases, monitoring of 'events' of concern and tracking suspicious individuals across the Pacific.

A third initiative is still in development and involves the OCO examining how to regionalise legislation to empower individual nation's customs agency to act on behalf of the region, mainly in relation to the interception of vessels. Although there are now more patrol boats in the region, the existence of an estimated 3,500 yachts in the region highlights the potential of undetected people movement involving trafficked victims and the difficulties of tracking and intercepting suspicious vessels.

Economic development

In consultations throughout the region and discussions at an AIC research forum held in Samoa in 2008, the increasing economic engagement with China, increasing presence of Chinese nationals and a perceived corresponding increase in ties to international criminal networks, was raised as being of concern. The Pacific Immigration Director's Conference (PIDC) 2008 report notes that China continues to be the one country most referenced by members in relation to perpetrators and victims of immigration crime. However, it urges caution to

ensure profiling does not become self-fulfilling. Furthermore, such concerns must be weighed against the economic benefits, such as increased investment and tourism.

Visa-free programs and free-trade agreements may increase the risk of transnational crime, although there is no concrete evidence to support such a claim (Ratuva 2008). Many Pacific Islands have visa-free programs for citizens of participating countries. For example, Fiji has in place visa-free programs for Chinese and Indian citizens and free trade blocs in an effort to improve Fijian industry. Reports of exploitation indicate the potential for trafficking to occur within the context of economic development (Ratuva 2008; Rokoduru 2008). Another example is that New Zealand signed a free-trade agreement with China in October 2008, thereby allowing freer entry into New Zealand for approved Chinese nationals conducting legitimate business activities.

Labour mobility and exploitation

Push and pull factors for outward migration

Poverty is a major concern in much of the Pacific (AusAID 2006) and has been identified globally as a risk factor for being trafficked (US Department of State 2008b). Traffickers may target vulnerable people who are facing poverty and live in areas where there are limited employment opportunities, as people in such situations may be prepared to take significant risks in search of better opportunities overseas (US Department of State 2008b).

A major push factor in the Pacific is the limited employment opportunities and low education which has created an over-supply of low skilled workers. In Kiribati for example, approximately 2,000 students graduate annually from school, however only 450–500 jobs are available in the same period which leads many students to seek employment overseas (Asian Development Bank 2002). At the research forum in Samoa, the drain of skilled and unskilled people out of the region was discussed, particularly the growing outward

Box 4 New Zealand Recognised Seasonal Employment Work Policy

The Recognised Seasonal Employment (RSE) Work Policy is geared towards Pacific states. Employers will be able to recruit from eligible Pacific Islands Forum member nations. These are:

- FSM
- Kiribati
- Marshall Islands
- Nauru
- Palau
- PNG
- Samoa
- Solomon Islands
- Tonga
- Tuvalu
- Vanuatu

Employers may be allowed to recruit from a country not listed above if the RSE Unit is satisfied employers:

- have made a reasonable attempt to recruit from the Pacific, or
- have a pre-established relationship with a particular country not listed above.

The RSE allows workers to be employed for seven out of 11 months in horticulture and viticulture industries to plant, maintain, harvest and pack crops.

Workers arriving in New Zealand under the RSE Work Policy will be eligible to receive the following:

- salary not below minimum wage
- half of the return airfare between homeland and New Zealand paid by employer
- transport to and from port of arrival and departure
- induction
- suitable accommodation
- transport to and from worksite
- access to personal banking
- provisions of personal protective equipment
- provision of onsite facilities
- necessary language translation
- opportunity for recreation and religious observance.

Source: New Zealand Visa Bureau 2006

labour migration to New Zealand and Australia, Fijian women going to the United States as carers, Fijian security personnel going to the Middle East and young men from the Cook Islands and Kiribati signing up as ship crew.

In recent years, there has been a marked increase in the number of Pacific Island migrants in search of work (AusAID 2006). According to the Migration Policy Institute (2008), many Pacific Islanders migrate intra-regionally to Australia and New Zealand before migrating beyond the Pacific. However, due to ties between some islands and France or the United States, these are also popular destination countries.

Seasonal worker schemes, whereby Islanders work in New Zealand and Australia, are initiatives that actively seek to 'pull' people from Pacific Island nations into these countries, but not as migrants— rather as visitors on short-term work contracts. New Zealand's seasonal labour shortage led to the introduction of the RSE Work Policy and sought to

minimise people from entering the country though irregular channels for low-skilled employment. As a starting point, 5,000 visas were to be allocated to the RSE Work Policy and reassessed over time (New Zealand Visa Bureau 2006). An estimated 75,000 people have migrated to New Zealand through the RSE Work Policy scheme since its launch (NZDOL 2008b). The Department of Labour does not impose a cap on the number of workers it can accept from one location; instead it is the responsibility of each Pacific Island government to ensure no detriment will be caused due to the scheme (NZDOL 2008b).

In late 2008, the Australian Government, in partnership with the governments of Kiribati, Tonga and Vanuatu, launched the Pacific Seasonal Worker Pilot Scheme (Kerr 2008). Modelled on the New Zealand scheme, memoranda of understanding were signed to establish a pilot program providing Pacific Islands workers an opportunity for employment in the Australian agricultural industry (Kerr 2008). The three year trial program will provide

up to 2,500 visas to citizens from these specific islands for a period of up to seven months to meet the labour demand in this industry, with PNG scheduled to join the pilot in 2009 (Kerr 2008).

Inward labour migration

Illegal immigration for labour is a concern in the Pacific, especially in the logging industry. Loggers can have a negative effect on a country and villages near logging camps due to over-logging, under-declaring their loads, illegally bringing in their own workers (which also reduces opportunity for local labourers) and exploitation of the women and children in the village through prostitution, CSEC and child marriage. So far, they have largely escaped scrutiny (Herbert 2007). Due to the porous borders, interception of illegal workers is low and usually occurs upon departure with a penalty of deportation.

Labour exploitation within the region

The main economic sources of the Pacific are the tourism and primary industries, including mining, agriculture, logging and fisheries. Agriculture, both subsistence and commercial, is the main source of employment and export across the region (AusAID 2006). Anecdotal information obtained through consultations highlighted exploitation occurring within agriculture, logging and fishing industries throughout the Pacific. Low economic growth experienced across the region is believed to be due, in part, to foreign loggers and fishermen exploiting the resources of the Pacific (AusAID 2006). This exploitation of resources may also impact on the workers in the region where there may be weak employee protection and conditions, including low wages and long hours.

Internal trafficking in persons—that is, within a region or within a country—is likely to occur within sectors

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Box 5 Palau 'Carnival Restaurant' case

In July 2006, seven Filipino waitresses left Carnival Restaurant and went to the Philippine Embassy. In August 2006, nine Chinese waitresses left the same restaurant and went to the Catholic Mission. The waitresses reported their circumstances to the Office of the Attorney General in August 2006.

The Filipino women paid US$900 to be recruited to a waitress job in a restaurant/bar, earning US$250 per month. The Chinese women paid US$5,000 with an expectation to earn US$2,000 per month for the same job.

On arrival at Carnival Restaurant, their passports were confiscated and they were given six packets of condoms and told their salary would be subject to deductions. Some of the deductions included a US$100 'fine' for refusing to have sex with a customer.

They were required to work seven days a week and allowed to leave the restaurant for two hours per day. They were required to sell at least 150 'lady drinks' and every drink below quota attracted a US$5 deduction.

Further, a US$100 was deducted monthly until a US$1,000 bond was reached, not to be returned until the two year contract was completed. The women were fed once a day to ensure they

remained slim and fined (through a deduction from their pay) US$50 if caught eating.

Based on the statements of the waitresses, a search was executed on the restaurant where legal ledgers and a large supply of condoms were found. The ledgers were in Chinese and upon translation, found to contain written rules for employees and deductions for each employee, which confirmed the statements.

The four offenders—the owner, manager, recruiter and 'mamasan' were convicted for a range of offences relating to people trafficking, prostitution and violation of labour laws. In April 2007, the owner and manager were both sentenced to a minimum of 20 years imprisonment on the people trafficking offences, with the remainder of their sentences suspended. The recruiter was convicted of seven counts of people trafficking and the 'mamasan' was found guilty on seven counts of exploiting a trafficked person. Both were sentenced to one year imprisonment on each of the seven counts, suspended except for one year and three years, respectively.

On appeal, the convictions of the owner and manager were reversed and they were remanded for a new trial. The Office of the Attorney General has appealed the decision.

Source: Adapted from Beattie 2008; *Pamintuan, Chiang, Wang and Manio v Republic of Palau* [2008] Supreme Court of the Republic of Palau (14 November 2008)

renowned for their exploitative work conditions, for example sugar mills, garment and sex industries. It has been argued that the Fijian garment industry, in particular, exposes workers to exploitation. With poor conditions for workers, the vast majority being women, the garment industries have been flagged as a potential destination for trafficked victims (Storey 2006). Lack of job security and low wages creates dependence on the employer and increased risk of harsh treatment (Storey 2006).

Sexual exploitation and sex work

The Pacific is well known as a tourist destination, which sustains an active sex industry in many of the Island nations. In many cases, prostitution remains illegal, however it often operates under the guise of 'karaoke bars' or the like. Fiji, for example, was downgraded to Tier 3 in the US TIP Report, purportedly because the country had no commitment to the prosecution of prostitution, which is illegal in Fiji. Significantly, in 2007, the Republic of Palau prosecuted traffickers exploiting victims in the sex industry using its anti-trafficking legislation in a benchmark case for the Pacific. The details of the case are outlined in Box 5. A case involving the trafficking of women for the purpose of sexual exploitation was also uncovered in American Samoa although this was tried in Hawaii under the US Federal *Trafficking Victims Protection Act 2000*, as the small island nation does not have anti-trafficking legislation. Further details of the case can be found in Box 6. The victims were not from the Pacific region and although persons trafficked into the region are an important consideration, the main concerns raised in consultations and at the regional research forum related to the potential vulnerability of women and children from within the Pacific region to a range of exploitative situations, including trafficking.

The fishing industry in the Pacific is known to generate an informal sex trade, where local women may become involved in sex work in exchange for fish. Several law enforcement representatives at the regional research forum indicated that they believed there were instances of trafficking occurring within the fishing industry, whereby women board fishing boats and are transported to other parts of the Pacific.

The logging industry which operates throughout this region also raises concerns regarding the vulnerability of women and children. International loggers deployed in the Pacific Islands may engage young women and children to act as their 'wife', despite no formal union. Upon leaving, the wife may be taken with the loggers or left in her home country. Although there are no reported cases, this kind of relationship could result in bonded labour or enslavement, commercial sexual exploitation and violence (UNICEF 2006b).

The Christian Care Centre (CCC) based in the Solomon Islands undertook research in 2004 and 2007 which uncovered CSEC occurring in Malaysian logging camps in the Solomon Islands (Herbert 2007).The CCC continues to raise awareness of the issues of CSEC and child abuse in general (Herbert 2007). According to a presentation given at the regional research forum, the Ministry of Women, Youth and Children is seeking to raise the awareness of the risks of trafficking, particularly within the logging camps. The Ministry undertakes a coordination role of the non-government agencies and church groups to ensure that resources are being utilised adequately. To help effectively direct the minimal resources that are available, it was argued that it is important to understand the emerging issues relevant to trafficking, such as the flow of trafficking (whether the Solomon Islands

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Box 6 Ringleaders of American Samoan prostitution racket sentenced

On 7 January 2008, two Chinese prostitution brokers were sentenced to just over five years imprisonment in a federal court in Hawaii, as American Samoa does not have anti-trafficking laws. Four Chinese and one American Samoan were involved in the conspiracy to import Chinese women and force them into unpaid prostitution in American Samoan nightclubs and brothels. The women were denied access to their passports, return airline tickets and the opportunity to leave until they had repaid their debts. The offenders will be deported back to China after serving their sentences in Hawaii.

Source: PIFS 2008

would be a potential transit country), indications of trafficking and opportunities for trafficking to occur due to the narrow-based economy. A representative of the Solomon Islands Ministry of Health and Medical Services identified the risks of CSEC (and young women) as being exacerbated by:

- high population growth
- 75 percent of secondary school aged children not in school
- urban drift (despite high unemployment in the urban centre)
- children coming to town to live with distant relatives
- breakdown in traditional family structures
- silence surrounding family violence
- presence of foreign employees (in fishing and logging) create 'hot spots' where underage girls are more likely to enter into sex work.

Children

The Pacific region is characterised by a largely youthful population, with almost 37 percent of the region's population aged less than 15 years (UNSTATS 2007 http://unstats.un.org/unsd/demographic/products/indwm/statistics.htm). It is clear from these population figures that children and young people play a significant role in future development within the region and, in turn, issues such as health and education are important to address (UNICEF 2006c). Children are a highly vulnerable population (UNICEF 2006c) and are susceptible to a range of exploitative and criminal activities, including commercial sexual exploitation, sex tourism, labour exploitation, illegal adoption, customary marriage and billeting. Such activities and crimes are known to occur within the Pacific and all have the potential to lead to trafficking, although a lack of data on the occurrence of these activities renders it difficult to measure the extent of the problem (UNICEF 2006a).

Levels of youth education and employment are often low in the Pacific due to the high cost of education and the lack of employment opportunities available to young people (UNICEF 2006c). As a result of these factors and the 'youth bulge' (Goldstone 2002), young people looking for work in the region may choose to migrate and in doing so may become vulnerable to trafficking. Similarly, limited schooling options in outlying islands has led to an increase in the number of students seeking to attend school in urban areas or overseas (Asian Development Bank 2002). Other areas of risk relate to cultural practices around children in the region, including the billeting of children within regional-wide familial networks. Many children and young people seeking access to education or better employment prospects are sent to live with relatives in urban areas in order to attend school. Relatives may be distant and the pressure of having an additional member of the household or lack of access to funds may lead to children being exploited, or engaging in risky activities which may increase vulnerability to trafficking.

As noted, poverty is a real concern in many Pacific Islands and there is pressure on many families to generate income and create opportunities for children. Such circumstances increase the risk of

Box 7 American Samoa adoption scam

An adoption scam occurred based on adoptions between March 2002 and June 2005 involving a Mormon Church in Utah, United States and American Samoan families. The American adoptive parents were allegedly told the children were abandoned or were unable to be cared for by their birth parents, while the birth parents were told their children would be placed overseas temporarily to gain an education before returning home at 18 years of age.

It is alleged that the adopting parents paid an agency a fee of US$13,000 to facilitate the adoption and immigration of an American Samoan child. More than 80 children aged up to 12 years were involved in the scam.

A 135 count federal indictment led to charges being laid against the two operators and their five staff for persuading American Samoan parents to place their children for adoption under false pretenses through their agency.

Source: Adapted from Rosetta 2007

Box 8 Inter-country adoption and Australia

A review of legislation and literature was conducted to examine the potential for trafficking of children for adoption within Australia's inter-country adoption process. Some of the issues examined included:

- the process for adoption in Australia
- the existence of safeguards to protect the child, the biological parents and adopting parents
- the existence of vulnerabilities for the trafficking of children within the inter-country adoption process.

Adoptions take place in two ways:

- when an Australian living overseas for at least 12 months adopts a child
- through Australian Central Authorities where an Australian, residing in Australia, wishes to adopt a child from another country.

Expatriate adoptions occur through the relevant authorities in the expatriate's country of residence and do not fall under the responsibility of Australian Central Authorities. The second pathway occurs through Australian states and territories which are designated Central Authorities under *The Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption*. Although each state and territory is primarily responsible for inter-country adoptions, the Australian Government is the designated Australian Central Authority and through the AGD, ensures that Australia meets its obligations under the Convention. Each Australian jurisdiction must adhere to the guidelines outlined by the Convention, which aims to protect children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad, particularly in

prevention of the abduction, sale or trafficking of children (AGD 2008a).

In addition to The Hague Convention, Australia has a number of bilateral inter-country adoption arrangements with non-Hague signatories, some of which are longstanding. As part of a review of inter-country adoption programs, the Australian Government will review these existing programs to ensure they are 'effectively and efficiently maintained and developed' (AGD 2008a: 4). The *Intercountry Adoption Strategic Plan 2008* also seeks to identify and explore opportunities for new programs. New adoption programs will be established once the federal, state and territory authorities have ensured that the program will meet the standards set out in the Convention.

From 1997–98 to 2007–08, 3,306 inter-country adoptions took place. Fiji is the only Pacific Island country to have an inter-country adoption program with Australia (AIHW 2008). Only 28, or almost one percent, of the total number of adopted children are Fijian (AIHW 2008). The AGD has been investigating possible new adoption programs and 17 of the 34 countries identified reported concerns about child trafficking or people trafficking more generally (AGD 2008a). In many cases, no further action is being taken to secure an adoption program with these countries at present (AGD 2008a).

Although few cases of fraudulent or irregular adoptions have been the subject of allegations that could amount to possible trafficking in Australia in recent years, it is important to examine the existence of vulnerabilities in the adoption processes available to Australians.

CSEC and of children being trafficked into adoptive homes. Traditional and customary adoption practices associated with kin networks mean that children may be offered support and protection, but there is no guarantee that extended families will always adequately provide for these children (UNDP, pers. comm., March 2008). Cases of fraudulent inter-country adoption schemes have been uncovered in American Samoa in recent years. Box 7 highlights details of an adoption scam.

Although there are few known cases of children trafficked for the purpose of adoption in the Pacific and none of trafficked children adopted into Australia, the American Samoan cases raise the probability of risk for, and vulnerability of, children. A key issue raised during the research forum relates to the risks inherent in cultural practices around care for children, particularly informal adoptions between family members and billeting of children

with extended family which are common in parts of the Pacific region.

More generally, in relation to child protection, a number of impediments were raised at the forum primarily in relation to the Solomon Islands:

- lack of communication between government and NGOs and between NGOs themselves. Government services have fewer resources than the non-government sector (eg in the Solomon Islands, no one government department deals with children and there are two workers in child protection)

- knowledge of services are minimal, especially outside the urban centre, except for church networks

- lack of people/infrastructure/information and communication technology to provide services.

In response to research on the CSEC, a Train the Trainer workshop was held in the Solomon Islands in 2007 and a resource kit was developed in 2008. It was reported that inadequate legislative controls around adoption exist in the Solomon Islands, but it is not known what type of legislative controls exist in other island nation states.

Summary

There are many challenges in understanding and addressing trafficking in persons in the Pacific, due in part to its geographic isolation, educational, social and cultural diversity and low population (McCusker 2006).

There are many root causes of trafficking in persons, however poverty, discrimination, social exclusion and violence are a primary concern in the region and form many of the UN Millennium Development Goals (UN Millennium Development Goals 2008).

Additionally, at the AIC Pacific research and data forum held in Samoa, some of the issues raised in relation to trafficking in the region included:

- impact of labour mobility

- impact of changes in telecommunications which is facilitating crime in the region

- capacity issues—particularly law enforcement and prosecution capacity problems such as interpreters, witness protection, lack of familiarity with trafficking laws

- need for anti-trafficking legislation

- need for raising awareness among the community regarding trafficking and other related issues.

Due to the lack of awareness of trafficking within the region, training for relevant migration and law enforcement officers and information dissemination will be integral in raising awareness of the issue. As it is presently unknown whether the Pacific will primarily be a source, transit or destination region, identifying cases of trafficking will be challenging. Various regional initiatives which seek to improve capacity to respond to and monitor transnational crime are likely to lead to improved opportunities for detection of people trafficking cases.

Conclusion

Trafficking in persons has gained international recognition as an issue of importance and this recognition has led to strong responses in numerous countries, including Australia. The Australian Government ratified the UN Trafficking Protocol and made corresponding changes to national legislation, law enforcement, victim support and prosecution activities. Although Australian research into trafficking in persons has addressed issues such as law enforcement, prosecution and protection of victims, little has been done in terms of data collection and there remains much to learn about trends, traffickers, male and child victims and labour trafficking.

Activities in the first year of the AIC Trafficking in Persons Research Program focused on identifying data sources and establishing an ongoing data monitoring program; consulting with key stakeholders in the Asia–Pacific region to identify emerging issues; and conducting targeted projects on trafficking for adoption, responding to victims and organ trafficking.

Trafficking cases in Australia

Victims of trafficking in persons detected in Australia up to December 2008 have primarily been women from Thailand, although smaller numbers have also come from other southeast Asian countries.

Since 1999, 14 matters relating to trafficking in persons have been brought before Australian courts. Most of the prosecutions have utilised s. 270 of the Criminal Code (Cth) involving slavery, sexual servitude and deceptive recruiting with two prosecutions under the 2005 amendment.

Of the 34 people charged with trafficking and related offences, seven have been convicted. Of these seven convictions, four related to slavery offences, two to sexual servitude offences and one related to trafficking in persons offences.

Identifying and monitoring emerging trends in the Asia–Pacific region

Australia's closest neighbours are comprised of the numerous countries in the Pacific and southeast Asian regions. Transnational crime in these regions is likely to have a significant impact on Australia and in fact, as at December 2008, southeast Asia has been the primary source of persons trafficked to Australia (UNODC 2006).

Much research has been conducted about the nature and extent of trafficking in Asia, particularly southeast Asia, however, very little is known about

trafficking into, through and out of the Pacific region. Within Oceania, Australia is ranked highly as a destination country and New Zealand as medium-level desirable destination, with most victims reportedly originating from Thailand and the Philippines (UNODC 2006). The nature and extent of trafficking in the Pacific is largely unknown.

Key issues relating to trafficking in the Pacific region

The issues identified as relevant to discussions relating to trafficking within the Pacific region include transnational crime, labour mobility, the sex industry and the vulnerability of children. Attendees of the Pacific research forum also added the following:

- important impact of labour mobility issues on trafficking
- impact of changes in telecommunications which is facilitating crime in the region
- issues around capacity to respond to trafficking in persons in the region
- need for legislation to address trafficking
- need for raising awareness among the community regarding trafficking and other related issues
- need to clarify confusion regarding trafficking, smuggling and irregular migration
- need to collect data more rigorously in the Pacific
- need to determine the vulnerabilities to trafficking across the region.

Key issues relating to trafficking in the southeast Asia region

An important issue which arose from consultations in southeast Asia was the shift in focus from trafficking for the purpose of sexual exploitation to trafficking for the purpose of labour exploitation. As stated earlier, although trafficking is a concern throughout the region, the more significant problem of exploitation of migrants is deemed a priority.

Australia's comparatively strong socioeconomic position within the Asia–Pacific region, combined with plentiful job opportunities in low-skilled industries, will ensure it remains a key destination for trafficked persons. However, it is unlikely that the number of persons trafficked from southeast Asia will increase

significantly as the pull of Australia's strong economic position is mitigated by better economic opportunities in other regions such as east Asia and the Middle East. Further, undocumented movement within southeast Asia carries fewer risks of detection and is far less expensive than travel to the relatively well-protected Australian sea and airports.

Future research directions

In the AIC Trafficking in Persons Research Program's second year, the major theme is trafficking for the purpose of labour exploitation. Several stand alone projects are being undertaken on:

- community attitudes in Australia to trafficking in persons
- trafficking in children
- labour mobility in the Pacific.

Several other priorities for future research were identified during the national research and data forum held in Canberra in mid-2008. Several of these will be addressed through current and ongoing AIC activities. The list of priorities produced by attendees included:

- a need to shift the focus on trafficking into the sex industry to consider trafficking into other industries
- development of a core set of indicators based on victim assistance programs
- examination of the physical and mental health outcomes of victims of trafficking to determine the effects of the experience and best practice responses
- examination of the reasons for which some victims of trafficking decline assistance to determine the precise needs of victims in these situations
- examination of the potential for, and experiences of, labour exploitation of migrants in various Australian industries and consider labour trafficking as a subset of that exploitation
- examination of the national precursors to becoming a source country for trafficking in persons, with a focus on the Pacific region.

Other suggestions arising during the various AIC activities conducted during 2008 included that limited funding in the area of trafficking is best addressed by using existing datasets held by

government and NGOs as effectively as possible. Agencies including immigration, law enforcement, sex worker organisations and union bodies were all identified as potentially holding information that would be valuable in building an accurate picture of trafficking activity in Australia.

It is clear from recent scoping work that although much data is collected for operational purposes by government and NGOs, there remains a need and much value in establishing a centralised dataset for research purposes. The AIC is exploring opportunities to draw this information together

and undertake comprehensive and systematic analysis. During the AIC Trafficking in Persons Research Program's second year, the focus remains on various methods of data collection and on monitoring emerging issues and trends in the Asia–Pacific region.

Collaborations with regional partners, such as the IOM, will continue to be pursued and activities around communicating and disseminating research will also continue through regular publication of AIC publications as well as the hosting of roundtables and forums.

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Appendixes

Appendix A Organisations interviewed during regional consultations

New Zealand

Organised Crime and Intelligence Unit, New Zealand Police

Victim Support

PICP

Salvation Army

New Zealand Department of Labour and Immigration

Crime Investigation Bureau, New Zealand Police

Asian Crime Unit, New Zealand Police

Human Rights Commission

University of Canterbury

MP for Christchurch Centre and Senior Government Whip

New Zealand Prostitutes Collective

Fiji

AFP, DIAC—Australian High Commission

UNDP

Save the Children Fiji

Legal drafting team, Pacific Islands Forum Secretariat

PIDC Secretariat

Fiji Immigration

Solomon Islands

AFP, DIAC—Australian High Commission

Save the Children

Ministry of Justice and Legal Affairs

Director Public Prosecutions

Participating police force

Solomon Islands Law Reform Commission

Social Welfare Division Ministry of Health

Financial Intelligence Unit, Central Bank

Children's Development Division Ministry of Women Youth and Children

Office of the Special Coordinator, RAMSI

International Cooperation and Europe, Ministry of Foreign Affairs

UNICEF

Thailand

AFP, AusAID, DIAC—Australian Embassy

ARTIP

US Embassy

IOM

UNODC

GAATW

UNIAP

Trafficking and Child Labour Program, ILO

Office of the Attorney General

Thailand Criminal Law Institute

Appendix A (continued)

Combating Child Sex Tourism & Trafficking for Sexual Purposes Program, ECPAT International

Anti-Trafficking and Advocacy Program Co-ordinator, World Vision Foundation of Thailand

UNESCO

FACE

Crime against Women and Juveniles Division and Foreign Affairs Division, Royal Thai Police

Malaysia

US Embassy

Women's Aid Organisation

Tenaganita

The Asia Foundation

AFP, DIAC—Australian High Commission

Transparency International

Singapore

AFP, DIAC—Australian High Commission

Policy and Ops Div, Ministry of Home Affairs

Special Crimes Experts' Branch and Special Crimes Investigation Branch, Singapore Police Force

Association of Women for Action and Research (AWARE)

Indonesia

AFP, DIAC, AusAID, Customs—Australian Embassy

Directorate of International Security and Disarmament; Directorate of Indonesian Citizen protection and Legal Entities; Directorate of Human Rights, Department of Foreign Affairs

Sub Directorate of Detention and Deportation, Immigration

Children Protection, Department of Women's Empowerment

International Law, Department of Law and Human Rights

Care Foundation Indonesia

Confederation of Indonesian Prosperity Trade Union

Corruption Eradication Commission

ASEAN

IOM

Transnational Crime Coordination Centre

Taiwan

Deputy Director, International Operations Office

Criminal Investigation Bureau

Taipei District Prosecutors' Office

Graduate School of Criminology/National Taipei University

Criminal Investigation Bureau, National Police Administration

National Police Administration, Ministry of the Interior

Foreign Affairs Division, National Police Administration

Interpol Taipei, Criminal Investigation Bureau

ECPAT Taiwan

Department of Criminology, National Chung Cheng University

Central Police University

Appendix B Organisations/agencies represented at the AIC Trafficking in Persons Research and Data Forum, 24 June 2008, Canberra, Australia

Name	Organisation
Anders Lisborg	ILO
Dr Teresa Zakaria	IOM
Elena Jeffreys	President, Scarlett Alliance
Letisha Norris	Executive Member, Scarlett Alliance
Maria McMahon	ACON/Sex Workers Outreach project
Jum Chimkit	Sex Workers Outreach project
Shelle Mulvay	Scarlett Alliance
Jennifer Burn	Anti-Slavery Project, University of Technology, Sydney
Jordan Welke	University of Queensland
Dr Marie Segrave	University of Western Sydney
Dr Sallie Yea	IDEALS consulting
Bernadette McMenamin	Child Wise
Ellen Hansen	UNHCR
Christine Carolan	ACRATH
Fiona McLeod	President, Australian Women Lawyers Association
Associate Professor Satish Chand	Australian National University
Robert O'Neil	Australian Workers Union
Amanda Hall	Australian National Audit Office
Sally Moyle	Gender Advisor, AusAID
Dr Katherine Anderson	Oceania Branch, Office of National Assessments
Vanessa Lai	Transnational Issues Branch, Office of National Assessments
Frances Simmons	Human Rights and Equal Opportunity Commission
Anne Barrie	Victim Support Australasia Inc
Jennifer Cullen	AFP
Lauren Hutchinson	AusAID
Kathryn Haigh	CDPP
Sharon Watts	DIAC
Kev Thorburn	DIAC
Sonya Koppe	DFAT
Luke Heilbuth	DFAT
Dylan Foucher	ACC
Dr Dianne Heriot	Strategic Policy Coordination Branch, AGD
Scott Wilson	Strategic Policy Coordination Branch, AGD
Carlo Malaca	Strategic Policy Coordination Branch, AGD

Appendix B (continued)

Name	Organisation
Daniel Mossop	Strategic Policy Coordination Branch, AGD
Katie Whitting	Strategic Policy Coordination Branch, AGD
Chris Wagner	Public Affairs, AGD
Caroline Rebaque	Public Affairs, AGD
Emma Swinbourne	Criminal Law Branch, AGD
Dr Judy Putt	AIC
Jade Lindley	AIC
Jacqueline Joudo	AIC
Dr Larissa Sandy	AIC

Appendix C Organisations/agencies represented at the AIC Trafficking in Persons Research and Data Forum, 21–22 August 2008, Apia, Samoa

Name	Organisation
Gregory White	PTCCC, Apia Samoa
Poloma Komiti	Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants, Apia Samoa
Roina Vavatua	SUNGO Management, Apia Samoa
Brenda Heather-Latu	Latu, Ey & Clarke Lawyers, Samoa
Loretta Afamasaga	Office of the Attorney General, Apia Samoa
Dean Blakemore	NZDOL, New Zealand High Commission, Apia Samoa
Rani Ravudi	Fijian Sex Work Representative, Suva Fiji
Tevita Lesu	Fiji Police Force, Suva Fiji
Marika Ravula	Fijian Department of Immigration, Suva Fiji
Avelina Rokoduru	UN AIDS, Suva Fiji
Iris Low	Save the Children, Suva Fiji
Dr Steven Ratuva	University of the South Pacific, Suva Fiji
David Stewart	DIAC, Fiji High Commission, Suva Fiji
Adriel Tahisi	Solomon Islands Ministry of Women, Youth and Children
Erin Hiesley	Solomon Islands Ministry of Health
Jeffrey Beattie	Office of the Attorney General Palau
Steve Watson	NZDOL, Wellington New Zealand
Shaun Evans	NZDOL, Wellington New Zealand
Hannah Malloch	NZDOL, Wellington New Zealand
Alan Collin	NZDOL, Wellington New Zealand
Lance Bonneau	IOM, Bangkok Thailand
Dr Judy Putt	AIC
Jacqueline Joudo	AIC
Jade Lindley	AIC

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